



June 16, 2022

VIA EMAIL

Chair Kracov and Members of the Mobile Source Committee
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765
Email: gkracov@aqmd.gov

Re: Item No. 1 – Update on Indirect Source Rules- Mobile Source Committee June 17, 2022

Dear Chair Kracov and Members of the Mobile Source Committee:

On behalf of the undersigned community, environmental justice, health, and environmental organizations, we respectfully submit this letter regarding the South Coast Air Quality Management District's (Air District) Proposed Rules 2304 and 2306. These rules will regulate indirect sources of emissions from Commercial Marine Ports and New Intermodal Railyard facilities, respectively, and offer what are perhaps two of the best opportunities for the region to achieve substantial emissions reduction in the years ahead.

Below we offer a few observations concerning the progress of rule development to date and express our hope to continue engaging with staff to ensure that a robust and effective set of rules are adopted to meet the needs of impacted communities.

I. The Air District Should Explicitly Incorporate Improved Public Health Outcomes as Goals for Both Indirect Source Rules

As an air regulator whose mission it is to “clean the air and protect the health of all residents in the South Coast Air District through practical and innovative strategies,”¹ the Air District's number one priority for this set of rules should be protecting public health. This is especially critical for both the port and railyard ISR development as it is well known that the trucks, trains, vessels, and on-site equipment that service these facilities release large amounts of pollution that create detrimental health outcomes for residents of the surrounding areas.

We appreciate staff starting the last two working group meetings with a focus on the public health impact of railyard and port activity on surrounding communities. The presentations

¹ South Coast Air Quality Management District website, Goals & Priority Objectives, available at: <https://www.aqmd.gov/nav/about/goals-priority-objectives#:~:text=South%20Coast%20AQMD's%20Mission%20is,through%20practical%20and%20innovative%20strategies>. (last visited June 15, 2022).

from Dr. Nichole Quick have offered more detail about the public health consequences from the various sources of emissions and made clear that we cannot maintain status quo. Dr. Quick's informative presentations in many ways confirm what community advocates have been saying for decades—that the particulate matter and ozone pollution stemming from freight activity in our region continues to have dire health consequences and disproportionately impacts frontline communities. This overview highlights the need for a comprehensive set of rules that not only reduce emissions from railyards and port facilities, but also aims to improve health outcomes.

We therefore reiterate our call to have a permanent public health expert advise on the rulemaking for both rules moving forward. While we appreciate the preliminary analysis offered thus far, Dr. Quick is currently only engaged as a consultant. The rulemaking for these two vital rules will benefit from having a permanent public health expert assigned to help support staff in gathering and analyzing the data that will better inform strategies for addressing public health harms caused by the indirect sources tied to these facilities. Having a more permanent public health expert counsel staff throughout the whole rulemaking process will make it more likely that health impacts are thoughtfully considered and evaluated.

We also strongly suggest incorporating a public health assessment tool into both rules—one that will aid in monitoring the impact that air pollution from these two types of facilities will have on communities over time and measure improvements as the rules are implemented. This will be one way to build accountability for enforcement and compliance with the rule. This may require deploying enhanced monitoring in and around the target facilities to ensure the necessary data is appropriately captured and analyzed to measure progress over time. These rules are long overdue but have the potential to move the region towards significant improvements in emissions reduction, but will only be effective if expected outcomes are verified.

II. Relying on Renewable Diesel Raises Serious Health and Climate Concerns

Staff's presentation to this committee proposes "renewable diesel" as one of three "Potential Pathways for Reducing Emissions from Locomotives,"² in addition to hydrogen fuel cell and battery electric locomotives. Including "renewable diesel" as an option here is unacceptable. This dirty fuel presents a whole host of challenges not only to meeting local air quality needs and standards, but also to meeting the state's greenhouse gas goals. Advocates and researchers have been noting since the beginning of this rulemaking that zero-emission line-haul and switcher locomotives are already available. We urge staff to ensure this rule has the most significant impact possible by supporting a transition to zero-emission locomotive technology, including overhead catenary, battery-electric, and hydrogen fuel cells.

² South Coast Air Quality Management District, Mobile Source Committee Agenda for June 17, 2022, Agenda Item 1- Staff Presentation, Slide 6.

Currently, the U.S. has limited commercial-scale production of renewable hydrocarbon biofuels like renewable diesel.³ This has led to renewable diesel being produced, stored, and utilized in ways that are not sustainable. In fact, the demand for renewable fuel has incentivized the production of biomass which in turn incentivizes the conversion of land to produce certain crops to increase supplies of these alternatives. These production methods have the potential to lead to severe environmental and climate harms, including harms to threatened species and their critical habitats.

On top of this, by promoting the use of so-called renewable diesel, the Air District will divert much needed resources and energy away from further developing and implementing zero-emissions options, which are the only solution we have to aggressively reduce the amount of pollution in the region. Indeed, in many sectors including transportation, the promotion of “renewable diesel” has not displaced existing fossil fuels but has instead led to an expansion of infrastructure for combustible fuels across the sector. If the Air District is well aware that aggressive emissions reductions are needed through the broad deployment of zero-emissions technology, then prioritizing the utilization of renewable diesel as a pathway to reducing emissions is counterproductive.

We have known for some time that the freight sector must swiftly move to zero-emissions to meet not only our greenhouse gas reduction targets, but also be consistent with the directives and plans adopted at the regional, State, and even global level. The Air District would be wise to develop rules that clearly and unequivocally make zero-emissions a priority. We therefore urge the Air District to prioritize available zero emissions solutions rather than turning to health-harming fuels which carry the potential of further harming communities and the environment and thwarting the region’s air pollution and GHG reduction goals.

III. The Piecemealing of ISR Rulemaking will Prevent a Comprehensive Strategy for Addressing Indirect Sources, Cause More Delay, and Ultimately Dilute the Impact of Both Rules

We are deeply concerned by the suggestion that the rules may be split into multiple indirect source rules covering different “types” of operators as is being suggested for the Port ISR. Splitting the rulemaking as suggested may make it harder to develop a cohesive and comprehensive strategy for addressing indirect sources by breaking up the process for setting targets and identifying emission reduction strategies across the entire sector. In the case of the San Pedro Bay Ports, for example, staff have already identified the consolidation in ownership and control of operations as an ongoing trend. This has likely led to more centralized decision-making. Therefore, splitting the rules seems to only add an unnecessary layer of complexity that will slow implementation and stall emissions reductions. We call on staff to develop comprehensive rules that address indirect sources for the entire port complex and the region’s

³ See, Department of Energy; Alternative Fuels Data Center, available at: https://afdc.energy.gov/fuels/emerging_hydrocarbon.html (last visited June 15, 2022)

railyard network before reverting to a patchwork of rules that may not maximize emissions reductions.

Both the Railyard and Port ISR's present much needed opportunities to aggressively reduce emissions across a broad swath of the freight movement system in a region currently in severe nonattainment. The prospect of splitting rules into multiple "mini" rulemakings to accommodate different terminal types runs the risk of not only diluting the impact of the ISR, but also causing even more delay. If staff has already expressed being challenged to deliver two indirect source rules by the end of this year, bringing multiple rules to the Board for each of the various terminal types (i.e., tanker, container, ro-ro, etc.) at the port complex will likely take an inordinate amount of additional time.

Moreover, in amending the rule forecast at the last Governing Board meeting to delay rule finalization by 6 to 9-months, the Air District cited the need to gather more information, perform site visits, and engage with stakeholders as the primary reason for extending the time. While we understand that staff want to learn more about port and railyard operations, industry business models, and infrastructure, past rulemaking has made us wary of repeated calls to develop rules that prioritize accommodating industry business models over focusing on the impacts to neighboring communities and achieving aggressive and measurable emissions reductions. We are deeply concerned that this focus on industry needs will ultimately water down the impact of these rules and continue delaying the rulemaking process. We cannot afford any further delay or distractions that prevent aggressive emissions reductions strategies from being deployed.

IV. Incorporate Top Community and Health-Centered Goals Into the Port and New Railyard Indirect Source Rules

Under the California Health and Safety Code, the Air District is expressly required to promulgate facility-based measures that will address "high-level, localized concentrations of pollutants" from facilities like railyards and port terminals throughout the South Coast Air Basin. ⁴ As we have pointed out before, it is low-income communities and communities of color that often suffer the most from industry operating at railyards and ports. These communities not only suffer from the legacy of harmful air pollution and environmental degradation caused by the freight industry, but also face the significant economic barriers that leave them vulnerable to housing instability, displacement and poor healthcare options. For this reason, we ask that future rule development embrace the following key principles:

- Both rules should prioritize protecting public health above all else.
- The rules must prioritize the deployment of zero-emissions technology over all other solutions and set a clear path towards a complete transition to zero-emissions across the

⁴ Health & Saf. Code, § 40440(b)(3).

goods movement sector, including by requiring the build out of zero-emission charging infrastructure.

- The rules should require enhanced monitoring around facilities, including at sensitive receptors.
- The rules should target the reduction of emissions while avoiding strategies that might trigger displacement of communities near these facilities.
- The rules should not facilitate or support the expansion of railyards and port facilities into communities.
- The rules should create accountability to communities through robust public engagement and information sharing throughout the development, implementation, and monitoring phases of these rules.

With these overarching goals in mind, we hope to continue working with staff to identify new strategies and further develop some of the preliminary concepts already presented for both the Port and the New Railyard ISR that are aligned with these core principles.

We appreciate your consideration of these comments and reiterate our support for the vital work being done by staff to develop a meaningful set of rules to address indirect sources from railyards and commercial marine ports. We look forward to our continued work with the Air District to lift up community member voices and tackle the harms caused by the movement of freight and goods across our region.

Sincerely

Fernando Gaytan
Yasmine Agelidis
Earthjustice

Jan Victor Andasan
East Yard Communities for Environmental Justice (EYCEJ)

Sylvia Betancourt
Long Beach Alliance for Children with Asthma (LBACA)

Nemmi N. Cole, Ph.D.
Postdoctoral-Scholar Research Associate
Dept. of Population and Public Health Sciences, USC Keck School of Medicine

Cc:

Mobile Source Committee Staff: Angela Kim, AKim@aqmd.gov;
Mobile Source Committee: Hon. Sheila Kuehl, skuehl@aqmd.gov;
Hon. Larry McCallon, lmccallon@cityofhighland.org;
Hon. V. Manuel Perez, vmanuelperez@rivco.org;

Hon. Nithya Raman, Nithya.raman@lacity.org;

Hon. Carlos Rodriquez, crodriguez@yorbalingca.gov;

Wayne Natri, Executive Officer, WNatri@aqmd.gov;

Ian MacMillan, Assistant Deputy Executive Officer/ Planning, Rule Development and Implementation, IMacMillan@aqmd.gov;

Elaine Shen, PhD, Planning and Rules Manager, EShen@aqmd.gov;