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**VIA ELECTRONIC MAIL**

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**Re: Proposed Rule 2306 - Freight Railyards Indirect Source Rule Draft Language**

Dear Mr. MacMillan and Dr. Shen:

The undersigned organizations write to comment on the latest draft rule for the Freight Railyard Indirect Source Review (ISR) Rule, Proposed Rule (PR) 2306. While the rule offers a framework for a strong ISR, we remain concerned that the current draft lacks the rigor needed to meet the region’s non-attainment and public health needs.

We offer these comments in the hope that staff will strengthen PR 2306 before it is finalized and brought to a vote in August.

**I. Summary of Recommendations to Improve the Rule**

As further explained in this letter, PR 2306 must be strengthened in the following specific ways:

1. The District must use its authority over stationary sources to develop more aggressive, *facility-wide*, emission reduction targets —not limited to just locomotives and trucks governed by state rules.
2. PR 2306 should eliminate unnecessary regulatory off-ramps for railyard facilities claiming reduced throughput.

3. PR 2306’s infrastructure component should require commitments supporting broadscale, facility-wide, transitions to zero-emissions, not just for locomotives and trucks.
4. PR 2306 should require new rail yard facilities to start at zero-emissions operations.
5. PR 2306 should empower environmental justice communities with information access and a role in making decisions on how to best address the impact of offending facilities.

The following sections provide our reasoning for these requests to improve the draft language.

## **II. The Railyard ISR Must Set Facility-Wide Emissions Reduction Targets that Address All Health-Harming and Polluting Mobile Sources at Railyard Facilities,**

The Railyard ISR must set emissions reduction targets for railyard facilities as a whole to address the impact that entire railyard facilities have on local public health and regional nonattainment of federal and state standards. By setting emission reduction targets on the stationary source, the Railyard ISR will account for all sources of air pollution from railyards rather than arbitrarily limiting these targets to locomotives and trucks.

As currently drafted, the Rule would allow already heavily polluting railyards to merely do what they will already be mandated to do statewide and nothing else. Yet the SCAQMD has the legal authority to use the ISR to protect public health and control air pollution from stationary sources like railyards.<sup>1</sup> The Ninth Circuit has interpreted this authority as requiring emissions reductions that are “site-based” rather than “engine” or “vehicle-based.”<sup>2</sup> Utilizing this authority, PR 2306 should use a **site-based** approach to set emission-reduction targets looking at all emissions the facility draws to the region, not just locomotives and trucks.

Railyards are major hubs of activity and significant sources of nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), and other pollutants contributing to the region’s poor air quality. Several polluting mobile sources operate at these facilities, including trains, trucks, transportation refrigeration units (TRUs), and cargo handling equipment — each contributing to overall emissions (see Table

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<sup>1</sup> 42 U.S.C. § 7410(a)(5)(D).

<sup>2</sup> Nat’l Ass’n of Home Builders v. San Joaquin Valley Unified Air Pollution Control Dist., 627 F.3d 730, 737 (9<sup>th</sup> Cir. 2010)

5-1 below showing railyard DPM emissions by source type known in 2005).

TABLE 5-1 RAILYARD DPM EMISSIONS BY SOURCE TYPE (TONS/YEAR) AND PERCENT CONTRIBUTION, 2005									
Railyard	Locomotives		Cargo-Handling Equipment		On-Road Trucks		Off-Road Trucks and Stationary Sources		Total
	TONS/YEAR	PERCENT	TONS/YEAR	PERCENT	TONS/YEAR	PERCENT	TONS/YEAR	PERCENT	
BNSF San Bernardino <sup>38</sup>	10.6	48%	3.7	17%	4.4	20%	0.75	3%	22.0
UP Colton <sup>39</sup>	16.3	99%	NA	NA	0.2	1%	0.05	0.3%	16.5
UP City of Industry <sup>40</sup>	5.9	54%	2.8	26%	2.0	18%	0.3	3%	10.9
UP ICTF/ Dolores <sup>41</sup>	9.8	41%	4.4	19%	7.5	32%	2.0	8%	23.7
UP Commerce <sup>42</sup>	4.9	40%	4.8	40%	2.0	17%	0.4	3%	12.1
UP LATC <sup>43</sup>	3.2	44%	2.7	37%	1.0	14%	0.50	7%	7.3
UP Mira Loma <sup>44</sup>	4.4	90%	NA	NA	0.2	4%	0.2	4%	4.9
BNSF Hobart <sup>45</sup>	5.9	25%	4.2	18%	10.1	42%	3.7	15.5%	23.9
BNSF Watson <sup>46</sup>	1.9	100%	NA	NA	<0.01	<1%	0.04	<1%	1.9

The vast majority of this technology is currently powered by diesel or the combustion of other fossil fuels, which is exacerbating local poor air quality and contributing to the toxic stew that neighboring communities are forced to breathe.

PR 2306 should use the latest inventory of emissions by source type to discern the appropriate facility-wide emission-reduction targets. The Air District has clear authority to reduce emissions from stationary sources. The Railyard ISR should address facility-wide emissions, and in doing so, it will also ensure a more comprehensive approach to protecting communities from the health harms of railyards.

### III. The Railyard ISR Should Not Offer Regulatory Off-Ramps for Any Facility.

The suggested compliance exception for reduced throughput facilities contradicts the ISR's original intent and should be removed. The District has no justification for providing this concession to heavily polluting industries, particularly when the South Coast must decrease emissions by an astounding 67 percent above current regulations and air plans to comply with the existing 70 part per billion federal ozone standard. Allowing regulatory carve-outs for any facility also undermines the shared objectives of SCAQMD, CARB, and AB 617 communities by enabling polluting facilities to maintain the status quo while avoiding any action that would help them transition to zero emissions.

As staff are aware, railyard facilities in our region have already wreaked havoc on local air quality and harmed the health of thousands living in overburdened neighboring communities. The pollution caused by railyards is a clear environmental justice issue that the District should prioritize resolving. Reduced throughput at a railyard should not result in disproportionately impacted communities being exposed to a steady stream of pollution. No facility should have the option to continue polluting without taking action to clean up their operations.

At the beginning of the rulemaking process, the staff identified the threefold purpose of the rule as follows: 1) to minimize public health impacts on surrounding environmental justice communities; 2) to ensure that projects do not interfere with federal air quality standards; and 3) to ensure that projects meet federal conformity requirements.<sup>3</sup> Now that PR 2306 will cover both new and existing railyards, the rule offers the opportunity to more comprehensively address their public health impacts and impediments to NAAQS (National Ambient Air Quality Standard) attainment. Whether a railyard has seen a shift in activity to other facilities is irrelevant as achieving these goals will require comprehensive actions to reduce pollution at every railyard, not just a subset. If a facility experiences a slowdown in operations, it should still be required to participate in coordinated infrastructure planning and take steps towards a zero-emissions transition to further reduce existing pollution and prevent future spikes as throughput returns.

It is also unclear how the District will measure the average annual throughput for a facility to qualify for the reduced throughput option, as the draft language does not specify a metric. The only suggestion is that a facility can demonstrate reduced throughput in a milestone year preceded by two calendar years of lower throughput compared to the base period.<sup>4</sup> This compliance exemption could potentially apply to some of the heaviest polluting railyards and could perpetuate existing harm and undermine the District's commitments to environmental justice and public health. There is no justification for this exemption, and it should be eliminated.

#### **IV. The Railyard ISR Should Require Facilities to Build Electric Charging Infrastructure to Support Facility-wide Transition to Zero-Emissions.**

We are pleased to see that the draft language includes an infrastructure component to support the deployment of zero-emissions technology at railyard facilities. However, the current draft misses an opportunity to catalyze a broad-scale transition to zero-emission infrastructure by only focusing on compliance with the CARB's In-Use Locomotive and ACF rules. We urge the staff to broaden the scope of this component to include infrastructure planning and commitments that can facilitate a transition of the stationary sources to zero emissions.

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<sup>3</sup> South Coast Air Quality Management District presentation, *Proposed Rule 2306- Indirect Source Rule for New Intermodal Facilities*, (July 30, 2021), slide 24; [https://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/pr-2306/pr2306\\_wgm\\_1\\_final.pdf?sfvrsn=10](https://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/pr-2306/pr2306_wgm_1_final.pdf?sfvrsn=10)

<sup>4</sup> PR2306 2024 Draft Language (as of April 12, 2024), p.6; <https://www.aqmd.gov/docs/default-source/planning/fbmsm-docs/pr2306-draft-rule-language-clean-final.pdf?sfvrsn=6>

To ensure a complete shift towards zero-emissions, a facility-wide approach to infrastructure planning is necessary. It is not just locomotives and trucks that need to be considered, as other components of railyard operations like cargo handling equipment and TRU's must also be electrified. Therefore, to address pollution sources from an entire railyard facility, we recommend that in addition to stronger emissions-reduction targets, infrastructure requirements should also focus on a facility-wide approach.

The Railyard ISR is a powerful tool that can help accelerate the development of electric charging infrastructure to move towards zero emissions. We have already seen how effective this approach can be with the District's Warehouse ISR rule, which has successfully led to infrastructure planning and the creation of custom plans, including the development of zero-emission vehicle charging stations. The Railyard ISR needs a similar approach, but not one that is arbitrarily limited to just two technology categories. By broadening the scope of infrastructure planning to cover entire railyards, the rule can better serve its purpose of delivering the cleanest technology at these facilities, as required by the 2022 Air Quality Management Plan<sup>5</sup>, by making it mandatory to have the necessary infrastructure to support it.

To ensure that the rule is robust enough to meet the various demands of the South Coast, it should mandate operators to provide precise timelines for when they request utilities to support infrastructure installation and provide evidence that these requests were submitted. This level of detailed planning will ensure that facilities are taking the necessary steps to fulfill commitments made towards ensuring compliance.

## **V. All New Railyards Should be Zero-Emissions From Day One.**

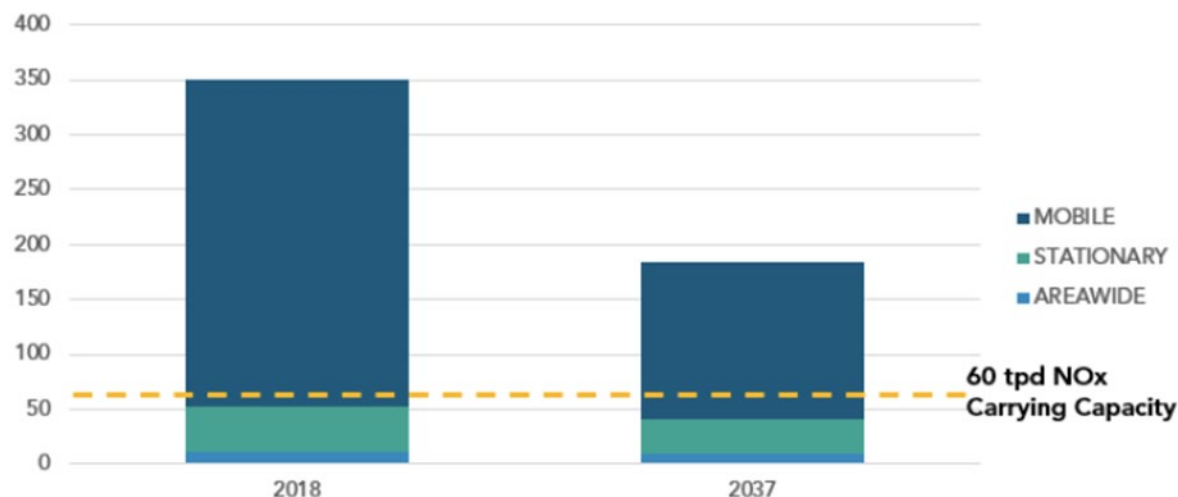
For PR 2306 to be effective, any new railyard built in the District must be zero-emissions from the start. As stated earlier, the South Coast needs to comply with federal mandates to meet the current 70 part per billion ozone standard. To achieve this, the Air District needs to reduce emissions by 67 percent more than the current regulations adopted and approved in previous air plans. The chart below shows the challenge faced by the South Coast in providing clean air to its residents. The gold dotted line represents the range of emissions reductions that must be achieved by 2037 to meet clean air standards in the South Coast Air Basin.

According to the 2022 State Implementation Plan, even after adopting several regulations, the South Coast would still have 196 tons per day of NOx emissions in its air. To meet the federally mandated air quality standards, California estimates that it needs to reduce 124 tons per day of NOx emissions, bringing it down to a carrying capacity of 60 tons per day. This reduction is necessary to ensure a healthy environment with clean air.

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<sup>5</sup> South Coast Air Quality Management District, 2022 Air Quality Management Plan, p.4-25.

**Figure 9 – South Coast Air Basin NOx Emissions under Current Control Program (emissions out to 100 nautical miles)<sup>9</sup>**



The South Coast Air Basin is in dire need to reduce emissions. Therefore, no new railyards should be allowed to add to this pollution. It is imperative that any new railyards operate with zero emissions from the beginning. Anything less would only make the federal compliance challenge even more massive, and burden communities with even more pollution.

It is entirely possible to require new railyards to begin operations with zero-emissions locomotives. Recent analysis by the California Air Resources Board (CARB) has shown that the use of zero-emissions trains along routes with steep inclines in the Port of Los Angeles to Barstow region is not only feasible, but in some cases, even more advantageous due to the reduced number of locomotives required to complete the journey.<sup>6</sup> Studies have also demonstrated that electric rail can offer billions of dollars in cost savings due to the reduced cost of electricity compared to diesel.<sup>7</sup> The Biden Administration has also recognized the advantages of zero-emissions (ZE) locomotives, leading to the release of the first-ever national goal for a zero-emissions freight sector and the National Blueprint for Transportation Decarbonization, which recommends the broad electrification of U.S. rail.<sup>8</sup> New railyards in the South Coast region should be equipped with the necessary infrastructure for ZE operations to accommodate this technology.

<sup>6</sup> California Air Resources Board Locomotive Authorization Request to U.S. Environmental Protection Agency (April 22, 2024), Docket ID No. EPA-HQ-OAR-2023-0574, Exhibit A- ZE Locomotive Feasibility Analysis Port of LA to Barstow Report; available at: <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0574-0153>.

<sup>7</sup> Popovich, N.D., Rajagopal, D., Tasar, E. et al. Economic, environmental and grid-resilience benefits of converting diesel trains to battery-electric. *Nat Energy* 6, 1017–1025 (2021). <https://doi.org/10.1038/s41560-021-00915-5>.

<sup>8</sup> Office of Energy Efficiency & Renewable Energy, *The National Blueprint for Transportation Decarbonization: A Joint Strategy to Transform Transportation*, <https://www.energy.gov/sites/default/files/2023-01/the-us-national-blueprint-for-transportation-decarbonization.pdf>.

It is therefore counterproductive to have a two-year lag time for new railyards to demonstrate zero-emissions infrastructure planning and reporting. Instead, new railyards should be required to report on infrastructure planning at the inception, as soon as the owner has notified the District of the potential new facility for the region.

**VI. Reporting Should be Publicly Available, and Environmental Justice Communities Should Help Decide How Harms Are Addressed.**

The District should share all reports and recordkeeping documents with the public to ensure transparency and accountability. If these documents contain private or proprietary information, the entity seeking to protect the information should provide evidence to support their claim. Entities claiming privacy can redact only the information necessary to protect their interests and make the remaining information public to ensure transparency and accountability.

Public access to monitoring and reporting data will make the Rule enforcement more effective by expanding opportunities to identify non-compliance. The current draft lacks a streamlined mechanism for the public to stay informed about changes in ownership and operation, construction of new facilities, initial reporting on facility operations and infrastructure plans, and milestone reporting on emissions reduction targets. Currently, recordkeeping data to verify reports is only available at the District's Executive Officer's request. Staff should change this in the final draft to ensure public access.

Freight-impacted communities have demanded a Railyard ISR for a decade to address the harmful emissions from railyards. Community Emission Reduction Plans (“CERPs”) for four AB 617 communities identify the Railyard ISR, the expansion of zero-emissions infrastructure, and expanded fenceline monitoring and reporting as critical mechanisms to address the acute localized dangers these facilities pose. There is no reason to prevent the public from accessing key reports and recordkeeping data.

Finally, the District should use fines for non-compliance or failure to meet targets to create community-advised funds. The Rule should incorporate a program that allows impacted communities to have a say in how the District uses these funds to support the deployment of zero-emissions solutions and to address a railyard’s impact on public health.

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We look forward to continuing to work with staff to further strengthen this important life-saving rule. Thank you for considering our comments and recommendations.

Thank you,

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