



July 2, 2012

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Pacific Merchant Shipping Association Comments on the 15 Day Notice for Proposed Amendments to California's Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation**

The Pacific Merchant Shipping Association (PMSA), a maritime trade association representing shipping companies servicing regular trade routes into California ports, appreciates the work done by California Air Resources Board (CARB) staff in the development of these proposed amendments to the Cargo Handling Equipment Regulation. PMSA appreciates this opportunity to provide input to these important amendments marine terminal operations.

**Section 2479(e)(2)(A)5.j. and (e)(3)(A)3.k.**

While we appreciate the provision to exempt new equipment from opacity testing for four years we remain greatly concerned about the opacity testing requirements that remain in place.

As we commented back in September 2011, we are compelled to object to this amendment to add an annual opacity testing requirement for all equipment more than four years old. While we appreciate that poor maintenance of both the engines and the exhaust systems are prime contributors to opacity we must point out that regular maintenance is critical for them to perform the rigorous tasks required to move cargo on a marine terminal. Marine terminal operators simply cannot afford to have substandard equipment as it adds additional costs in lost productivity and increase fuel consumption. Further, we are not aware of any existing opacity issue associated with the running of Cargo Handling Equipment that prompted CARB staff to propose this opacity requirement, and CARB staff have offered no additional information on this point. Further, we are not aware of any other off-road category of vehicles that are subject to a similar requirement.

Annual opacity testing would place a huge burden on terminal operators to contract for and to provide time out-of-service for the equipment subject to the testing. Since CARB already requires extensive annual reporting on the subject Cargo Handling Equipment this appears to be another requirement arbitrarily imposed with little explanation on the expected air quality benefits that would result. It also appears to be another situation where the deficiencies of the Original Equipment Manufacturers and the after-market VDECS providers are passed onto the end-users of the equipment. If the OEMs and

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VDECS provided are not performing as warranted then those providers should be held responsible during the certification process. Only if it can be demonstrated that the owner/operator or the Cargo Handling Equipment has failed to properly maintain the equipment per the OEM or VDECS provider specification should they have the burden to provide this additional opacity testing to ensure that the equipment is performing per the original certification specifications.

At the very minimum, as we previously requested, CARB staff should do some statistical sampling of existing Cargo Handling Equipment to demonstrate the need for opacity testing before moving forward with this amendment.

**Section 2479(e)(2)(A)5.f.** – Individuals conducting opacity tests must have completed training conducted by the California Council on Diesel Education and Technology and obtained certification on the proper administration of the SAE J1667 test procedure.

PMSA is also concerned that this provision has been proposed without fully examining whether or not potential issues with respect to the existing labor structure that is in place at most west coast marine terminals is compatible with this requirement. This overly-prescriptive mandate on a marine terminal to conduct this testing on equipment could prove to be extremely problematic for both the terminals and their labor force if these requirements lead to significant disruptions. At the very least, CARB should first discuss with marine terminal operators ways to achieve the goal intended by this requirement prior to determining how we should be conducting our day-to-day operations in this matter. While we are convinced that mutually acceptable solutions can be found, it is often not possible for terminal operators to quickly and simply hire contractors to perform these tasks outside of existing labor agreements, and likewise it is neither quick, inexpensive or simple for the existing terminal labor force to constantly retool itself to address new certification protocols outside of their core jobs and training regiments. The need to train appropriate labor to administer the SAE J1667 test procedures or find new manners in which to employ the existing contractors skilled in this area may require an extension of the timelines for opacity testing outlined in Section 2479(e)(2)(A)5.f.

PMSA appreciates the opportunity to comment on the proposed amendments to the Cargo Handling Equipment Regulation. If you have any questions or need clarification of our comments, please feel free to contact me at (562) 432-4042, or by e-mail at [tgarrett@pmsaship.com](mailto:tgarrett@pmsaship.com).

Sincerely,



T.L. Garrett  
Vice President