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Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

SUBJECT: BNSF Railway's Submittal of Additional Comments to the Proposed Amendments to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Railyards

Dear Sir or Madam:

The BNSF Railway appreciates the California Air Resources Board's (ARB) efforts to consider the regulatory amendments to the existing Regulation for Mobile Cargo Handling Equipment (CHE) at Ports and Intermodal Railyards. BNSF also appreciates the opportunity to comment on the proposed amendments and would like to provide the following comments in response to two (2) specific items:

1. CHE Opacity Based Monitoring Program

The BNSF Railway operates its cargo handling equipment fleet at eight intermodal yards in California. BNSF and its partners have a well-defined CHE maintenance program that has been in use prior to the enforcement of the CHE regulation. The CHE maintenance program addresses the important issues of operational safety, optimum performance, minimal equipment downtime, and maximum equipment utilization. Additionally, the CHE maintenance program ensures that the equipment and engine are operated at an optimum capacity level and indicates the health of equipment in terms of performance parameters. Opacity measurement on the other hand provides only a brief snapshot of the engine health taken at the time of testing, and does not possess the scope to indicate if preventive maintenance is required nor can it predict the time for which the equipment will remain in healthy condition.

BNSF believes that for facilities with an established and proven equipment maintenance program there are no significant benefits of implementing an opacity monitoring program. This program, on the other hand, will have a detrimental effect on operational costs and equipment downtime. The costs of each opacity test as well as any retrofitting required to perform the tests on each of our more than 80

pieces of equipment will be a tremendous additional compliance cost. Opacity measurement is not part of the BNSF's routine business, so this task will need to be outsourced which adds significantly to cost, coordination with contractors, and administrative requirements. Another equally important factor during opacity testing is the significant amount of equipment downtime that will affect the flow of daily business operations. The burdens associated with an opacity monitoring program are clearly not justifiable in terms of benefits received from this program.

Due to the benefits, we request that BNSF be allowed to continue utilization of its lower cost, more efficient and proven CHE equipment maintenance program in lieu of the proposed opacity monitoring program.

2. Third and Fourth Year Extension of Compliance Deadlines

This is with reference to the Update on Amendments to Cargo Handling Equipment Regulation dated September 15, 2011, as given below:

ARB Staff will be proposing for the Board's consideration at the September 22, 2011, Air Resources Board hearing, additional conditions for the third and fourth years of a "No VDECS Available" compliance extension, and for the proposed "Low-Use Equipment" compliance extension, as described below.

Application requirements for the proposed third and fourth years of the "No VDECS Available" compliance extension, in addition to those specified in the current regulatory language (Section 2479 (f)(2)), are being proposed to include the following:

- Equipment owners or operators would agree to replace the equipment for which a third or fourth year of "No VDECS Available" compliance extension was granted with either electric or hybrid equipment, **if available**, at the end of the extension period.*
- Equipment, for which the basic reason a VDECS is not available is high engine exhaust opacity, would not be eligible for a third or fourth year of "No VDECS Available" compliance extension.*

BNSF is requesting the ARB to define the scope of "If Available" in terms of technical and economic feasibility as well as allow for other technologies besides only electric and hybrid equipment. BNSF believes that the technological feasibility of an electric or hybrid application for Rubber Tired Gantry (RTG) Cranes is currently unproven. BNSF is concerned with committing scarce capital towards such equipment replacements without adequate understanding of the performance of the equipment and its interaction with our current operations. Implementing newer technologies without data on technical feasibility and operational success could compromise intermodal operations. Additional two (2) year compliance extensions for "No VDECS Available" beyond the original two year extensions will enable BNSF to evaluate feasible options and invest in the optimal application while maintaining safety and compliance within its intermodal railyards.

The above regulatory language appears to limit BNSF to replacing many of our

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RTGs with only hybrid or electric systems should we receive a "No VDECS Available" extension for a third or fourth year due to inadequate options for retrofit. It is our belief that this language requires the implementation of untested and speculative technology that is significantly different than anything in current operations at our facilities and would result in an immense capital expense. We request that the language be amended to define "If available" in terms of technological and economic feasibility and allow for other repower options such as Tier IV, which BNSF is actively considering.

BNSF is committed to operating its equipment in compliance with the applicable regulation and therefore will implement all necessary actions to ensure compliance as soon as technically and economically feasible.

Thank you for your consideration of the above concerns. If you have any questions, please do not hesitate to contact me at 913.551.3990.

Sincerely,
BNSF Railway,



Ryan Mills
Manager Environmental Operations

CC: Michele Houghton- ARB
Cherie Rainforth-ARB
Barry Russell/Tom Ison/Mike Stanfill- BNSF Railway