

THE CALIFORNIA RAILROAD INDUSTRY

Darcy Wheelers
11-7-5

September 22, 2011

Mary Nichols
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND INTERMODAL RAIL YARDS – September 22, 2011 – Agenda Item 11-7-5

Dear Chair Nichols and ARB Board members:

As the Board and ARB staff know, the Railroads have participated in ARB's Cargo Handling Equipment (CHE) rulemaking and CHE program from the outset in 2005. While we have reserved certain rights regarding the CHE rules, both Railroads are working with ARB staff to comply with the CHE rules and introduce the lowest emitting technologies available in accordance with the letter and spirit of the rules. Each Railroad has prepared technical comments on issues identified in the ARB's July 26, 2011 NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR MOBILE CARGO HANDLING EQUIPMENT AT PORTS AND INTERMODAL RAIL YARDS.

It has come to our attention that ARB has received comments from South Coast Air Quality Management District proposing that the CHE rule amendments be expanded to "serve as a backstop should the actions being taken to have the Class I railroads commit to additional PM emission reductions at the four rail yards in the South Coast Air Basin do not come to fruition or if the Class I railroads do not meet such commitments in the future."

The Railroads oppose adding such provisions to the currently proposed CHE amendments and believe that they would be outside the scope of the current CHE rulemaking and the ARB July 26, 2011 Notice of Public Hearing.¹ The Rail Yard Commitments are the subject of an entirely separate and independent ARB action, which does not currently include any ARB rulemaking. It would be premature for ARB to start any rulemaking at this time to enforce or "backstop" the Rail Yard Commitments as proposed by SCAQMD.

¹ The July 26, 2011 notice states: "The proposed amendments were designed to provide additional compliance flexibility, maintain the anticipated emission reductions, and clarify several provisions in the regulation. The proposed amendments address several areas including: retrofit requirements, operational requirements, emission standards, compliance provisions, definitions, and other clarifying language."

Please contact Michael Barr or me if you or your staff have any questions.

Sincerely,



Kirk Marckwald
on behalf of BNSF Railway and Union Pacific Railroad

Cc: Lanny Schmid, UPRR
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