

# SAN PEDRO BAY PORTS CLEAN AIR ACTION PLAN

April 27, 2020

Cari Anderson  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Submitted electronically via  
[https://www.arb.ca.gov/lispub/comm2/bcsubform.php?%20listname=truregulation-  
ws&comm\\_period=1](https://www.arb.ca.gov/lispub/comm2/bcsubform.php?%20listname=truregulation-<br/>ws&comm_period=1)

RE: Port of Long Beach and Port of Los Angeles Comments on the California Air Resources Board Updated Draft Regulatory Concepts for Transport Refrigeration Units

Dear Ms. Anderson,

The Ports of Long Beach and Los Angeles (Ports) appreciate the opportunity to provide comments on the updated draft regulatory concept for Transport Refrigeration Units (TRU). The development of this new TRU regulation exemplifies the California Air Resources Board (CARB) commitment to achieve near-term emission reductions and reduce health risks from goods movement activities, especially in the local communities most impacted by seaport operations. In revising the Airborne Toxic Control Measure (ATCM) for In-Use Diesel-Fueled TRUs, TRU Generator Sets, and Facilities where TRUs Operate, CARB is providing an important signal to the goods movement sector that the future is zero-emissions, while supporting the local air districts in meeting State Implementation Plan attainment goals. Supporting the regional and local regulatory agency efforts to mitigate impacts on the disadvantaged communities surrounding the harbor districts is a top priority for the Ports. Further, the Ports recognize this effort, in conjunction with CARB's other regulatory developments underway, supplements the Ports clean air goals.

Since 2018, the Ports have collaborated with CARB on the development of the updated TRU regulation. This collaboration has entailed discussions with CARB staff, submission of comment letters, and facilitation of a site visit to the terminals with CARB staff to promote a more granular understanding of TRU operational feasibility. The Ports sincerely appreciate the time CARB staff has invested into this rule development, and the availability of CARB staff to receive feedback during this regulatory process.



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*The San Pedro Bay Ports Clean Air Action Plan was developed with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.*

The Ports participated in CARB's March 19<sup>th</sup> teleconference meeting which presented updates to the draft regulatory concepts for TRUs. Below, please find recommendations which the Ports believe will allow for a TRU regulation that secures real emission reductions, while promoting greater operational feasibility. These comments are in line with previous comments submitted by the Ports, and are considered a top priority for us.

**Revise the definition, roles, and responsibilities of “applicable facility operators” and “applicable facility owners” to reflect legal authority.** Under the updated draft regulation language, Ports are defined to include any landlord port, operational port or independent marine terminal. As such, Ports are considered an applicable facility owner and our marine terminal operators (MTO) the applicable facility operators. Inherently, this will lead to conflict between the MTOs and the Ports regarding responsibility for rule implementation. The Ports act as landlords that lease land to MTOs and do not own, operate, or control mobile sources used in moving cargo, including how, where, or when TRUs are utilized. MTOs maintain control over cargo entering and exiting a terminal, and thus have legal responsibility for the emissions associated with goods movement at the terminals. The draft language is written so the applicable facility owner and operator are equally liable for non-compliance and violations; however, the Ports do not have legal authority over TRU operations.

The Ports recognize that other ports throughout the state have diverse lease relationships with their MTOs that control cargo movement. Furthermore, the issue of legal authority is also reflected in the current infrastructure requirements to support zero-emissions (ZE) operations of TRUs. As described above, the entity responsible for operating the facility must be the one responsible for deploying the supporting TRU infrastructure. The Ports have historically provided infrastructure to allow MTOs to amortize their costs over time by paying for the infrastructure over the course of a lease term. However, this is always a negotiation, and financing of infrastructure through this mechanism is not guaranteed. For example, many of the MTOs who lease the land at the Ports already pay for other infrastructure and construction projects, including zero-emission infrastructure deployments.

Since landlord ports are not legally responsible for producing TRU emissions at the marine terminals or for providing the supporting TRU infrastructure, the Ports request revising the definition of Port to only include operational port or independent marine terminal operator. The At-Berth Rule attempts to address similar issues regarding the supply of infrastructure. We would be happy to discuss how this might be addressed for this Rule. In addition, applicable facility owner responsibilities, such as Stationary Operating Time Limit (SOTL) Compliance Plans, should be required of MTOs at landlord ports.

**100% compliance with the proposed TRU Regulation is not operationally feasible or cost effective.** Our experience with MTO operations is that unanticipated circumstances often arise, whether due to equipment performance issues, maintenance or other special situations. This can lead to the occasional inability of certain equipment to comply with a particular regulation, even when the MTO is doing everything it can to be a good faith actor. As a result, a less than 100% compliance requirement would be more realistic in order to help accommodate these kinds of circumstances.

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In addition, designing infrastructure to support 100% zero-emissions operations for TRUs would result in significant redundancy and excess cost. This is largely due to the fact that the number of TRUs at the terminal, entering, or exiting fluctuates unpredictably, and the MTO is largely unaware of these TRU counts at any one time. The amount of cargo throughput also naturally fluctuates throughout the year; as seen during the peak and demanding time for seaports leading up to holiday seasons or in unique situations such as COVID-19 where TEU throughput is especially low and potentially volatile. Thus, the infrastructure requirements to meet 100% zero-emissions operations would require scaling up to the maximum throughput for special and short-term circumstances, resulting in high costs for relatively low incremental emission reductions. The cost for the marine terminal operators to comply with the proposed regulation at a lower compliance rate would make this rule more economically feasible.

For these reasons, the Ports request that CARB either provide special exemptions for unusual circumstances, or reduce the compliance level to 95%.

**Clarify the 15-minute rule.** Beginning in 2024, it is proposed that Trailer TRUs and TRU Gen Sets must be in ZE mode within 15 minutes, the “Stationary Operating Time Limit” (SOTL), once stationary in the geofence area; however, the Ports are concerned this timing does not allow for normal operations, and a multitude of instances of unintentional non-compliance will occur. This requirement should not apply to TRUs in transit, queueing, or on rail in or near terminal real estate boundaries. A TRU being “stationary within one mile of a facility boundary for more than 15 minutes” is not necessarily evidence of an attempt of non-compliance; often, drayage trucks can be waiting or in queue along multiple MTOs real estate boundaries to enter a terminal, not attempting to circumvent any regulation.

The Facility Area Exemption, which creates a mechanism for applicable facility owners to apply for an exemption for defined areas, is strongly appreciated as it allows for extenuating circumstances, such as maintenance and staging.

Thank you to CARB staff for their recent workshop, continued partnership, and the opportunity to provide comments on the updated draft regulatory concepts for TRUs. The Ports invite CARB staff to additional field visits in the future when the stay-at-home orders have sunset, and look forward to additional discussions on this effort. If you have any questions please contact Teresa Pisano at [tpisano@portala.org](mailto:tpisano@portala.org) or Jacqueline Moore at [Jacqueline.Moore@polb.com](mailto:Jacqueline.Moore@polb.com).

Respectfully,



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