

# SAN PEDRO BAY PORTS CLEAN AIR ACTION PLAN

November 15, 2021

Mr. David Quiros, Manager  
Freight Technology Section  
California Air Resources Board

**SUBJECT: PORT OF LOS ANGELES AND PORT OF LONG BEACH COMMENTS ON THE CALIFORNIA AIR RESOURCES BOARD'S PROPOSED AMENDMENTS TO THE COMMERCIAL HARBOR CRAFT REGULATION RELEASED ON SEPTEMBER 21, 2021**

Dear Mr. Quiros,

The Port of Los Angeles and Port of Long Beach (Ports) appreciate this opportunity to provide comments on the California Air Resources Board (CARB) Proposed Amendments to the Commercial Harbor Craft (CHC) Regulation released on September 21, 2021. CARB staff has worked diligently on this regulation for over two years. We thank you for the continued communication between CARB and Port staff throughout the CHC Regulation rulemaking process.

As stated in previous comment letters, the Ports are landlord ports that lease out the land to our tenants/facility operators. The facility operators wholly control their operations. With these distinctions between facility owner/operator in mind, the Ports offer the comments below on the recently released CHC regulatory language and supporting remarks.

## **Facility Infrastructure**

We appreciate the changes that have been made to section (i).1, specifically, the removal of facility owners bearing responsibility for facility operators to obtain the necessary permits for zero emission infrastructure. However, the Ports continue to assert that the facility operator be solely responsible for initiating any infrastructure improvements since the Ports do not control their operations. The Ports already have leases with the facility operators that require them to apply for land improvements including infrastructure,<sup>1</sup> as previously discussed with CARB staff. For the

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<sup>1</sup> Port of Long Beach HDP, <https://thehelm.polb.com/download/170/reference-materials/2525/guide-for-harbor-development-permits-hdp-brochure-071118.pdf>;

Port of Los Angeles APP, <https://permits.portoflosangeles.org/application-type>



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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.*

Port of Long Beach (POLB), tenants are allowed to install infrastructure after they successfully complete the required Harbor Development Permit (HDP) process. The Port of Los Angeles (POLA) has a similar Application for Port Permit (APP). The Ports provide the permit, ensuring environmental regulations/requirements are followed, that all necessary Port departments are aware, and that inspections occur, as required. Thus, the responsibility of deploying infrastructure should fall on the facility operator, as the Ports will still be involved in the infrastructure process and provide the approval for such work through their respective permit processes.

Under section (i).1, the regulatory language continues to place the responsibility on both facility owners and operators to jointly install infrastructure < 99 kW. The Ports still believe that joint responsibility will cause confusion regarding who will be responsible for purchasing, constructing, and maintaining the infrastructure; who will own the infrastructure; and who would face potential enforcement action from CARB if noncompliant. The Ports do not control CHC operations, so would not know the necessary power requirements. As stated earlier, this section conflicts with the Ports' currently established procedures and contractual obligations for any tenant improvement.

#### **Facility Compliance, Recordkeeping, and Reporting Requirements**

The Ports are encouraged by the removal of the requirement for facility owners/operators to check vessel compliance and reducing the burden of reporting on a quarterly basis to an annual basis. We greatly appreciate that the annual reporting deadline has been set to July 1<sup>st</sup> to avoid reporting at the beginning of the year when multiple agencies prepare and submit end of the previous year reports.

Section (j).2 needs further clarification as it only states "facilities" and does not differentiate if the reference is to the facility owner or facility operators that are required to report on land side infrastructure. The Ports encourage CARB staff to change this reporting requirement to be only for the facility operators, and that any obligation regarding infrastructure should not be jointly or solely delegated to the facility owners, as it conflicts with our existing leases.

#### **Funding and Compliance Schedules**

Many of the vessels that will need to meet new engine emissions requirement will not be able to repower their engines due to lack of space or structural integrity constraints. This will force vessel owners to have to replace their vessels. The Ports again would like to stress the high cost of replacing harbor craft. A new harbor craft vessel can cost in the tens of millions of dollars, well above many funding thresholds of existing grant funding opportunities. For this reason, new vessel builds will be cost prohibitive, and compliance with the regulation infeasible. There are too many vessels operating within California regulated waters than can possibly be funded through existing grant programs. Thus, the Port encourages CARB to create dedicated CHC grant programs and provide additional funding allocations for CHC. We also request that CARB delay compliance schedules to allow operators to take advantage of funding opportunities, as grant dollars cannot pay for compliance. Some compliance deadlines begin in the next few years, and there is very limited time for operators to secure funding and deploy compliant CHC.

The Ports still believe additional time allowances should be given for recently purchased CHC, as harbor craft purchases are major long-term investments that take years to build. As currently written, the regulation would result in stranded assets. As an example, the Ports have newer harbor craft, less than 10 years old that were designed for an approximate 40 to 50-year lifespan. As there is no room to perform Tier 3 or 4 retrofits with diesel particulate filters (DPF) and exhaust gas

scrubbers, CHCs with many decades of useful life still available would have to be turned over, making the recent large investment mostly futile.

While there are currently feasibility extensions, these extensions are two-year increments with a maximum of up to six years. This is still not nearly enough time to justify the investment. The as-built lifespans of all vessels should be seriously considered for compliance schedules. Each extension requires extensive research and an analysis from a marine architect. If CARB requires a new analysis from a marine architect for every extension request, as soon as one extension request is provided to CARB, the marine architect would have to start another analysis. Two-year extensions are far too short. CARB should set the extension to 6-year extensions. This reduces the burden for CARB staff to be reviewing multiple extension requests for the same vessels that have the same information and for vessel operators in preparing extension requests.

The Ports look forward to continued collaboration with CARB on our shared clean air goals and endeavors. The Ports are available to discuss with CARB staff any of these proposed comments to the CHC Regulation. Please feel free to contact Port staff, Amber Coluso at [acoluso@portla.org](mailto:acoluso@portla.org) (POLA) and/or Leela Rao at [leela.rao@polb.com](mailto:leela.rao@polb.com) (POLB), with any questions or concerns regarding this letter.

Sincerely,



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