

SAN PEDRO BAY PORTS CLEAN AIR ACTION PLAN

October 11, 2022

Tony Brasil, Chief
Transportation and Clean Technology Branch
California Air Resources Board
1001 I Street, Sacramento, CA 95814

(Submitted to docket:

https://www.arb.ca.gov/lispub/comm/iframe_bcsbform.php?listname=acf2022&commperiod=A)

Dear Mr. Brasil:

**SUBJECT: PROPOSED ADVANCED CLEAN FLEETS REGULATION
REQUIREMENTS FOR DRAYAGE TRUCKS**

Thank you for the opportunity to provide comments on the proposed California Air Resources Board (CARB) Advanced Clean Fleets (ACF) regulation requirements¹. The Ports of Los Angeles and Long Beach (Ports) support the intent of the proposed ACF regulation, which memorializes our shared goal of a zero-emission (ZE) drayage fleet by 2035 as laid out in the 2017 Clean Air Action Plan Update and the Governor's Executive Order N-79-20. The Ports and CARB have successfully partnered for over a decade on projects and programs to reduce emissions from drayage trucks, resulting in substantial emission reductions in the South Coast Air Basin. It is in this spirit that we are sharing the following constructive comments on the proposed ACF regulation in order to minimize unintended consequences, such as supply chain impacts, and to maximize efficient reporting and clarity of rule requirements. These comments are listed in the order that they occur in the ACF regulation.

¹ Comments herein are in response to the "Advanced Clean Fleets Regulation -Proposed Draft Regulation Language -Drayage Truck Requirements" for the Advanced Clean Fleets posted on August 30, 2022



Port of **LONG BEACH**
THE GREEN PORT

Port of Long Beach | Environmental Planning
415 W. Ocean Blvd | Long Beach, CA 90802
562.283.7100



Port of Los Angeles | Environmental Management
425 S. Palos Verdes Street | San Pedro, CA 90731
310.732.3675

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.

Definition of Marine or Seaport Terminal

The proposed California Code of Regulations Title 13 Section 2014 targets cargo moved by drayage trucks. However, there are portions of the definition of “Marine or seaport terminals” that create more confusion than clarity by including properties that either do not relate to cargo movement or are not under the control of the seaport or port authority. Of primary concern is the inclusion of the loading or delivery of passengers, which would result in the inclusion of terminals that do not have drayage truck operations on their property such as cruise or ferry terminals. Additionally, the definition includes a confusing reference to “*entities located on or surrounded by seaport property*”. Ports have no authority or connection with entities that are not located on port property even if they are “surrounded by” seaport property. As such, the Ports recommend the following revisions to the “Marine and seaport terminal” definition:

“Marine or seaport terminals” means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or goods from vessel to shore or shore to vessel, including structures which are devoted to receiving, handling, holding, consolidating, and loading or delivery of waterborne shipments ~~or passengers~~, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this regulation, the term includes but is not limited to production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on ~~or surrounded by~~ seaport property.

One Visit Per Year Requirement

As the ACF regulation is currently proposed, beginning January 1, 2024, a truck must be registered in the state drayage registry and visit a port or intermodal railyard at least once per year in order to remain registered as a compliant legacy drayage truck in the State’s registry. This requirement is intended to ensure that only trucks actively involved in drayage services remain in the legacy fleet. However, an unintended consequence of this requirement is likely to be a negative impact to the transport of certain cargo segments (break bulk cargo) not trucked by the local resident drayage fleet at the Ports. Today, many trucks transporting break-bulk goods are infrequent-user, out-of-state trucks and not a local resident fleet. This could have interstate commerce implications. These trucks are not registered in the San Pedro Bay Ports Drayage Truck Registry (PDTR); they gain temporary access to Ports’ terminals by use of the “day pass” system at the Ports, which is received after Clean Truck Program administrators verify compliance with the state Truck and Bus rule, as well as the Ports’ Clean Truck Program.

Under the proposed ACF requirements, these out-of-state trucks would not be part of the legacy fleet beginning in 2024 and would have no ability to conduct single, one-off transactions because there are no proposed “low-use exemptions.” Without a low-use exemption for these types of trucks, break-bulk transport out of the San Pedro Bay Ports would be significantly hampered, resulting in further supply chain disruptions. As such, the Ports request that CARB add an exemption to the ACF regulation requirements for trucks that conduct drayage services on an extremely low-use basis.

Drayage Fleet Turnover

The Ports conducted an analysis of the annual fleet turnover of drayage trucks in the PDTR to better understand the impacts of the proposed ACF regulation on the legacy fleet starting in 2024. The Ports discussed the analysis with CARB staff in a virtual meeting and provided the data results electronically on August 31, 2022. While it is impossible to predict how behavior will change after adoption of the ACF regulation, examining current trends in fleet turnover helps identify the degree to which the legacy fleet may contract starting in 2024, as well as identify potential ZE truck manufacturing and infrastructure requirements in the early years. Table 1 below shows the percentage of trucks in the PDTR that lost access (i.e., was no longer up to date on all requirements for conducting drayage service or had not paid annual fees) or gained access (i.e., newly registered or brought up to date on all requirements for conducting drayage service including fees) each year from 2013 through 2021. These data show that, despite implementation of the CARB Truck and Bus Rule and Port Clean Truck Program requirements, the number of trucks that lost access to the Ports remained relatively constant over time and averaged 15% of the truck fleet in the PDTR in a given year. Correspondingly, the number of trucks gaining access to the Ports was similar year over year, averaging 17%.

Table 1. 2013-2021 Truck Turnover Statistics

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021	Average
% of Trucks Lost Access	11%	12%	14%	17%	17%	17%	15%	16%	15%	15%
% Increase of new trucks	15%	17%	22%	20%	17%	15%	14%	16%	19%	17%

These data suggest that there is significant turnover in the drayage fleet irrespective of regulatory requirements, most likely due to changes in trucking vocation. However, with the proposed ACF requirement to visit a port or intermodal railyard at least once per year, the legacy fleet may contract more quickly than initially anticipated by CARB, whose analysis did not consider this type of drayage turnover and instead assumed a 95% survival rate of drayage trucks 10 years and older (compared with actual survival rate of 62% from drayage truck DMV registration data). Based on the actual data, the Ports are concerned that the once per year visit requirement may result in drayage capacity problems for the Ports going forward.

On the flip side, the steady number of new entrants into the PDTR each year suggest that the demand for ZE Class 8 trucks and the associated infrastructure may be higher than anticipated by the ACF regulation and may outstrip the supply as required by the Advanced Clean Truck regulation. The Advanced Clean Truck sales percentage schedule has set a 5% sales of ZE Class 8 tractors in 2024 (~230 trucks), which is far below what is necessary to meet the likely demand for trucks as shown in Table 1 above (~3,500 trucks). As a result, the Ports request that CARB consider an off-ramp for the proposed zero emission entry requirement if the zero-emission drayage truck supply or infrastructure availability begins to negatively impact the ability to service the Ports. Potential off-ramps could include exemptions for owner-operators or fleets without a

depot until public infrastructure reaches a certain threshold, or exemptions due to a lack of ZE Class 8 truck availability.

Terminal Gate Movements Recordkeeping and Rule Enforcement

Of greatest concern to the Ports, the proposed Marine and Seaport Terminal and Intermodal Railyard Requirements would obligate the responsible entity (terminal operator) to record all trucks that enter and operate on their property. In addition, terminal operators receiving trucks that are non-compliant with the ACF regulation are required to provide additional information to CARB to support rule enforcement. Placing terminal operators in a position of enforcement is inappropriate, and imposes substantial administrative burden, particularly for non-container terminals, chassis yards, and free flow yards (i.e., peel-off yards), which lack electronic gate access systems such as RFID readers. In order to identify compliance for trucks at a non-container terminal, terminal operators without electronic gate systems would need to manually check each truck to determine compliance, which is a change in their operation and would delay entry into the terminal, causing unnecessary terminal gate congestion. This unintended, negative outcome is due to the fact that non-container terminals use a sticker-based system to determine if a truck is registered in the Ports' Clean Truck Programs (CTP). Trucks that call to non-container terminals must have their stickers replaced at our Terminal Access Center (TAC) annually. Trucks with the current year's CTP sticker are allowed to enter into the facility without recording information about truck entry/exit, VIN, etc.

This issue was first brought to light, and satisfactorily addressed, within the initially-proposed CARB Heavy-Duty Inspection and Maintenance (HD I/M) regulation. The Ports met with CARB staff working on the HD I/M regulation to discuss this issue. Afterwards, the proposed 15-Day Changes to the HD I/M language released on May 11, 2022 included a new "alternative compliance verification terminal" definition. Using this alternative compliance verification pathway, terminals will be able to verify truck compliance to the HD I/M at least annually through the sticker verification process. Alternative compliance verification terminals do not need to record truck data as the trucks were verified for compliance upon receiving the annual CTP sticker. The Ports request a similar revision on the proposed ACF regulation language that would count the sticker verification visit to the TAC as the truck's annual visit to a port. This would satisfy CARB's ACF requirement that a truck must visit a port or intermodal railyard at least once a year without severely impacting non-container terminal operations.

Seaport Reporting

The proposed ACF regulation requires marine and seaport terminals to submit truck data to CARB and the ports. Ports in turn report the truck data to CARB. The Ports ask that CARB only request the data directly from the marine terminals. Port reporting is an unnecessary administrative reporting burden since the Ports would only be acting as a middleman for the data that originates from the terminals. Therefore, the Ports request a revision of section 2014.1(a)(6)(D) for terminals to report directly to CARB and a strike out of section 2014.1(a)(6)(E).

Manufacturer and Infrastructure Delay Extensions

It is unknown how long supply chain disruptions will remain after the effects of the COVID-19 pandemic. The Ports are encouraged to see that CARB staff has included in-use extensions for truck manufacturer and infrastructure delays. However, the Ports are concerned that the infrastructure extension for truck delivery is limited to one year and only allows for construction-related delays. Infrastructure projects could be delayed for more than one year due to delayed parts delivery or necessary utility service upgrades, and may be delayed further prior to construction due to the slow pace of utility transportation electrification (TE) programs and prolonged permitting processes. The Ports request that CARB reserve the authority to approve more than one year-long infrastructure extension, for up to three years, and to allow for infrastructure delays beginning with an executed contract with a utility-based TE program or design project start date.

The Ports appreciate CARB staff's willingness to meet with port staff on these issues over the past few months and look forward to continuing discussions going forward. If you have any questions about our comments here, please contact Leela Rao via email at leela.rao@polb.com or Amber Coluso via email at acoluso@portla.org.

Sincerely,



MATTHEW ARMS
Director of Environmental Planning
Port of Long Beach



CHRISTOPHER CANNON
Director of Environmental Management
Port of Los Angeles