

**Natural Resources Defense Council · Coalition for Clean Air · California Kids IAQ  
Coalition for a Safe Environment · Community Dreams · Environmental Health Coalition  
Friends of the Earth · Los Angeles Alliance for a New Economy · Regional Asthma  
Management & Prevention (RAMP) · Union of Concerned Scientists**

June 17, 2011

Mary Nichols, Chair  
Members of the Board  
California Air Resources Board  
1001 "I" Street  
P.O. Box 2815  
Sacramento, CA 95812

**Re: Comments on Proposed 2011 Amendments to ARB's Ocean-Going Vessel Regulation**

Dear Ms. Nichols and Members of the Board:

We write on behalf of the Natural Resources Defense Council, Coalition for Clean Air, California Kids IAQ, Coalition for a Safe Environment, Community Dreams, Environmental Health Coalition, Friends of the Earth, Los Angeles Alliance for a New Economy, Regional Asthma Management & Prevention (RAMP), Union of Concerned Scientists and our hundreds of thousands of California members in support of the proposed amendments to strengthen the 2008 regulation requiring cleaner fuels in the engines of ocean-going vessels (OGVs) visiting California's commercial ports. We greatly appreciate this effort to prevent shipping companies from undermining the health protections of this regulation by re-routing ship traffic to avoid clean fuel requirements. Thus, we strongly support the staff proposal for an extended Clean Fuel Zone to regain lost emission reductions. However, we have a number of concerns surrounding other aspects of the proposed amendments.

**I. ARB should maintain the current noncompliance fee schedule except for instances of ships that arrive without clean fuel but make every effort to take on the required clean fuel at the first California port of call.**

The proposed reductions to the noncompliance fee schedule unnecessarily weaken a policy that works well as an incentive to comply with the OGV regulation. In the first 22 months of regulation, ship operators paid the noncompliance fee instead of using cleaner fuels only five times. Such infrequent use demonstrates that the policy is effective and that changes are unnecessary. We are concerned that reducing the fees may trade this success for a "pay to pollute" approach. The original fee structure created sufficient flexibility for rare, unexpected

situations out of the ship operator's control. Reducing the fines for using cleaner fuel sends the wrong signal to shippers.

However, where noncompliant shippers make an effort to bunker with the cleaner fuel as soon as they arrive at a California port, a reduced fine to encourage increased use of cleaner fuel is warranted. We support the proposal to halve noncompliance fees for vessel operators who purchase and use a compliant fuel immediately after arriving in a California port. This will maximize health gains by aligning economic incentives in favor of using clean fuel as much as possible in California waters.

*Recommendation: ARB should eliminate proposed amendments to reduce the noncompliance fee structure. ARB should retain the proposed amendment to halve fees for ships that immediately refuel with clean fuel upon arriving at a California port.*

## **II. Minimize Phase 2 implementation delays with a proactive plan to address technical issues.**

We are concerned that ARB is considering a two year delay of the Phase 2 start date requiring the use of 0.1%S low sulfur fuel for main and auxiliary engines of OGVs. The staff report notes that due to the proposed delay, the San Francisco Bay Area and South Coast (areas in Los Angeles near the Ports of Los Angeles and Long Beach) are expected to experience a small emissions increase. This emissions increase is small due in part to the expectation of greatly improved compliance, but also as a result of reduced shipping activity caused by the recession. We are concerned that the staff report relies on trade data that is not up to date, under-estimating future pollution impacts from shipping, as discussed below.

Although trade traffic in California ports decreased during the recent recession, throughput levels are clearly on the rise. Container traffic in the ports of Los Angeles and Long Beach has nearly recovered to 2007 levels. Nearly 14.1 million twenty-foot equivalent units (TEUs) passed through San Pedro Bay ports in 2010, which is a 19% increase over 2009 and significantly higher than the 12.8 million TEU estimate from the staff report.<sup>1</sup> We believe this unexpectedly quick recovery will have significant health impacts.

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<sup>1</sup> In July 2009 the TIOGA group forecast San Pedro Bay ports would handle 12,814,000 twenty-foot equivalent units (TEU). ARB used this forecast to inform its estimates for future ship traffic. The American Association of Port Authorities reports the actual number in 2010 was 14,095,401 TEU. See: Tioga, 2009. The Tioga Group for the Ports of Los Angeles and Long Beach, San Pedro Bay Container Forecast Update, July, 2009. Available at:

[http://www.portoflosangeles.org/pdf/SPB\\_Container\\_Forecast\\_Update\\_073109.pdf](http://www.portoflosangeles.org/pdf/SPB_Container_Forecast_Update_073109.pdf)

“North America: Container Port Traffic 1990-2010.” American Association of Port Authorities.

The use of low sulfur fuel (0.1% S) will result in tremendous emission reductions and health benefits to the most heavily impacted California communities. According to the initial staff report on the Ocean-Going Vessels regulation, phase 2 of the regulation would have achieved an additional 2 tons per day of PM reductions. With the more recent inventory adjustments, it is unclear precisely what the PM reductions are between phase 1 and 2, but we expect a significant benefit. We therefore urge a much more proactive approach to minimizing any delays to this clean fuel requirement.

While we understand that loss of propulsion (LOP) has been raised as a serious concern, we are concerned that ARB does not have a suitably detailed and proactive plan to address any potential LOP matters that could in any way be related to the switch to 0.1%S low sulfur fuel. We ask ARB to develop a detailed plan to work with vessel operators and the U.S. Coast Guard to address any legitimate LOP risks, so that the Phase 2 transition to 0.1%S low sulfur fuel is not delayed beyond 2014.

It is important that phase 2 of this regulation be in place by 2014, which is an important SIP target year for Southern California. The South Coast regions cannot afford to lose any emission reduction commitments from its SIP.

*Recommendation: ARB should proactively work with the US Coast Guard and other agencies to develop a plan to ensure that any potential technical issues that could be caused by the use of low sulfur shipping fuel (0.1% S) and related to any Loss of Propulsion incidents are adequately addressed well ahead of the proposed two year window.*

### **III. ARB should not delay passage of a regulation on ship vessel speed reduction (VSR)**

Speeding ships waste fuel, endanger marine life, are a major source of global warming pollution, and emit toxic air pollutants that are harmful to human health. At a 2009 workshop for the vessel speed reduction (VSR) regulation, a preliminary review of emissions reductions showed that 1,500 tons of CO<sub>2</sub>, 5.2 tons of particulate matter, 40 tons of NO<sub>x</sub>, and 43 tons of SO<sub>x</sub> would be eliminated per day if ships complied with a mandatory speed limit of 12 knots within 40nm of shore.<sup>2</sup> We are concerned that regulatory activities for VSR are delayed and urge you to bring a regulation including a mandatory enforceable speed limit for OGVs this year.

*Recommendation: ARB should develop and adopt a vessel speed reduction regulation immediately.*

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<http://aapa.files.cms-plus.com/PDFs/CONTAINER%20TRAFFIC%20NORTH%20AMERICA%201990%20-%202010%20for%20the%20web.pdf> .

<sup>2</sup> “Public Workshop Vessel Speed Reduction for Ocean-Going Vessels, Sacramento.” California Air Resources Board, July 29, 2009.

<http://www.arb.ca.gov/ports/marinevess/vsr/docs/072909speakingnotes.pdf>

**Conclusion**

When the OGV regulation was considered in 2008, an expanded range beyond 24 nautical miles was widely supported by environmental and public health advocates. We strongly support the proposed amendment to expand the Clean Fuel Zone for OGVs to an additional 24 nautical miles past the Channel Islands. We also support the measure to halve the noncompliance fee for ship operators who bunker with clean fuel as soon as possible after entering a California port.

We urge the ARB not to weaken the OGV regulation by reducing noncompliance fees. We strongly encourage ARB to develop a detailed plan for addressing any potential loss of propulsion incidents to minimize delays to Phase 2 clean fuel implementation.

OGV pollution is a serious public health threat in California. We appreciate the efforts of ARB to mitigate this threat, and urge a continuing commitment. Thank you for considering our comments on the proposed 2011 amendments to ARB's Ocean-Going Vessel Regulation.

Sincerely,

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