



October 15, 2023

Chair Delgado and Members of the Board
South Coast Air Quality Management District
21865 Copley Dr. Diamond Bar, CA
cob@aqmd.gov

Re: Request for Board Leadership in Adoption of Mandatory Indirect Source Rules

Dear, Chair Delgado and Members of the Board:

On behalf of the undersigned environmental justice organizations and allies, we write regarding the urgent need to move forward with indirect source rulemaking at the South Coast Air Quality Management District. Unfortunately, despite the Air District identifying indirect source programs for marine ports and railyards as essential control measures needed to address air pollution as far back as the 2016 Air Quality Management Plan, nearly 8 years have elapsed with little progress in making these regulations materialize. In fact, we believe staff's resolve to pursue mandatory rules to reduce toxic pollution from marine ports and railyards is waning. The Board must provide political leadership to let staff understand that mandatory programs to battle deadly freight pollution are desperately needed and long overdue.

In 2005, then State Senator Alan Lowenthal acknowledged in a public hearing where he opposed a backroom Memorandum of Understanding deal between the California Air Resources Board (CARB) and the Class 1 Railroads that "we live in a diesel death zone." The sad reality is that in the close to two decades since this phrase was uttered, communities near ports and railyards continue to be plagued by pollution.

The indirect source rules for ports and railyards, together, form a vital component for alleviating the devastating levels of pollution caused by freight in our region. Ports often tout their reductions in pollution since 2005 but refuse to mention that there has largely been no progress on pollution reductions in the last decade. Meanwhile, San Pedro Bay Ports continue to be the region's largest fixed source of pollution. Railyards also continue to exact a large toll on our communities. In fact, even with a backroom voluntary 1998 MOU with California, California has amongst the dirtiest locomotive fleets in the country serving our state.

We want to be crystal clear that our organizations reject efforts to negotiate a voluntary agreement in lieu of mandatory regulations. We recognize that the industry would prefer voluntary programs and receiving public dollars to pay for them to stop poisoning our communities. But, these efforts at negotiating "voluntary agreements" are ineffective in addressing the systemic pollution that plagues our communities.

History teaches us that voluntary agreements have largely failed, and communities across the region continue to suffer as a consequence. By way of example, when the agency took a 6-

month pause to explore an MOU with the Ports in 2021 and 2022, it lost much of its credibility as the Ports were unwilling to seriously and in good faith negotiate an agreement. Instead, the Ports made offers laden with poison pills that would constrain this agency's regulatory power. That six-month pause ended up having a ripple effect—effectively derailing the rulemaking process. Two years later, staff are again proposing to stall this rule for yet another six months. To date, no draft language has been published on the Port ISR regulation. This failed MOU attempt should raise alarm bells and remind the Board that this regulatory agency must stick to the fundamentals of regulating air pollution and avoid the distraction of negotiating deals with polluters—no matter how enticing or expedient they may seem.

Finally, this agency has in the past proclaimed wanting to be transparent and foster greater public engagement. Yet nothing erodes public trust in the agency's commitment to these values than actions that make it seem as if agency is already engaging in backroom deals with the railroads and the ports for eleventh-hour MOUs while abandoning regulation. These actions include hosting a “stakeholder” meeting where the railroad companies co-presented the case for an MOU alongside staff. It also created a deeper sense of distrust when industry and their allies were allowed unlimited time to address the Mobile Source Committee while community voices demanding regulation have been strictly limited to one minute of public comment. This imbalance shrouds the agency's commitment to hearing from all sides. The agency can and must do better.

At a recent meeting, community groups were criticized for failing to meet with polluting industries. We have sat at meetings with these industries for decades. The industry has already taken so much from our communities, and the lack of dialogue is on the industry because they prefer discussion in backrooms instead of in the open regulatory process. We have participated in the ISR rulemaking process for the last two years and will continue sharing our recommendations for the rule in these forums.

We recognize it can be hard to have the courage to regulate when such powerful interests are opposed. But, the health of the most overburdened communities in the country requires you to have the courage to place our health above the parochial interests of billion-dollar freight corporations. We appreciate your consideration of these comments.

Sincerely,

Theral Golden
Treasurer and Environment
West Long Beach Association