

Advanced Clean Fleets Regulation  
Proposed Draft Regulation Language

Drayage Truck Requirements

California Air Resources Board  
Advanced Clean Fleets Workshop  
September 9, 2021

**POTENTIAL DRAFT REGULATORY LANGUAGE FOR STAKEHOLDER REVIEW:** This document provides potential draft regulatory language for the Advanced Clean Fleets rulemaking. This document is only intended to encourage public feedback and should not be construed as a formal regulatory proposal.

DRAFT PROPOSED REGULATION ORDER  
Advanced Clean Fleets Regulation

Adopt new section 95691, title 17, California Code of Regulations (CCR) to read as follows:

[The text set forth below is new language in "normal type" proposed to be added to the California Code of Regulations.]

**Section 95691. In-Use On-Road Heavy-Duty Drayage Trucks**

- (a) *Applicability.* Beginning November 1, 2023, this regulation applies to owners and operators of on-road heavy-duty drayage trucks operated at California seaports and intermodal railyards. This regulation also applies to drayage motor carriers, marine or seaport terminals, intermodal railyards, and railyard and seaport authorities.
- (b) *Definitions.* The following definitions apply for section 95691.
  - (1) "Beneficial Cargo Owner" means a cargo owner, the person or entity for whose account the ocean or rail transportation is provided, the person to whom delivery is to be made, a shippers' association, or an ocean or rail transportation intermediary that accepts responsibility for payment of all applicable charges.
  - (2) "Bill of Lading" means a document that states the terms of the contract between a shipper or consignor and a receiver or consignee. It serves as a document of title of the goods shipped, a contract of carriage, and a receipt for goods.
  - (3) "Broker" means any person that, as a principal or agent, sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by a motor carrier for compensation. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.

- (4) "CARB" means the California Air Resources Board.
- (5) "CARB Online System" means a CARB online system that allows drayage truck owners or entities with common ownership or control to electronically submit specified information regarding their drayage trucks to CARB.
- (6) "Class I Railroad" means a railroad that is defined as Class I by the Surface Transportation Board.
- (7) "Class 7" vehicle means an on-road vehicle with a GVWR that is between 26,001 pounds to 33,000 pounds.
- (8) "Class 8" vehicle means an on-road vehicle with a GVWR that is 33,001 pounds or greater.
- (9) "Common Ownership or Control" means being owned, being dispatched, or being managed on a day-to-day basis by the same person or entity. Vehicles managed by the same directors, officers, or managers, or by distinct corporations that are controlled by the same majority stockholders are considered to be under common ownership or control, even if their titles are held by different business entities or they have different taxpayer identification numbers. Furthermore, a vehicle is considered to be under an entity's control if that entity operates the vehicle using that entity's state or federal operating authority or other registration. Vehicles owned by different entities but are operated by using common or shared resources to manage the day-to-day operations using the same drayage motor carrier number, displaying the same exact brand or trade name, or whose agents represent the same company are considered to be under common ownership or control. Common ownership or control of a federal government vehicle shall be the primary responsibility of the governmental agency that is directly responsible for the day-to-day operational control of the vehicle.
- (10) "Controlling Party" means the drayage motor carrier, broker, or entity that dispatches, directs, or otherwise manages the day-to-day operation of multiple fleets under common ownership or control to serve the customers or clients of the controlling party.
- (11) "Dedicated Use Vehicles" means uni-body vehicles that do not have separate tractor and trailers and include but are not limited to:
  - (A) Dedicated auto transports;

- (B) Dedicated fuel delivery vehicles;
  - (C) Concrete mixers;
  - (D) On-road mobile cranes.
- (12) "Dispatched" means provided direction or instruction for routing a specific vehicle(s), whether owned or under contract, to specified destinations for specific purposes, including but not limited to delivering or receiving cargo, property, or goods, or providing a service.
- (13) "Drayage Motor Carrier" means any person or entity, or broker, that contracts with a beneficial cargo owner, ship companies, seaport terminals, Class I railroads, or others for pick-up and delivery of goods with a drayage truck owner, or who dispatches drayage trucks to seaports and/or intermodal railyards to pick up and/or deliver goods.
- (14) "Drayage Truck" means any in-use on-road vehicle with a gross vehicle weight rating (GVWR) greater than 26,000 pounds, that is operated on or that transgresses through California seaport or intermodal railyard property to load, unload, or transport cargo, such as containerized, bulk, or break-bulk goods, empty containers, and chassis; or
- (A) Off seaport or intermodal railyard property transporting cargo or empty containers or chassis that originated from or is destined to a seaport or intermodal railyard property.

Drayage trucks are not:

- (B) Vehicles operating off of seaport or intermodal railyard properties that transport cargos that have originated from a seaport or intermodal railyard property but have been off-loaded from the equipment (e.g., a trailer or container) that transported the cargo from the originating seaport or intermodal railyard.

Or

- (C) Vehicles operating off of seaport or intermodal railyard properties that transport cargos that are destined for a seaport or intermodal railyard but will be subsequently transferred into or onto different equipment (e.g., a trailer or container) before being delivered to a seaport or intermodal railyard.

- (15) "Drayage Truck Owner" means:
- (A) The person registered as the owner of a drayage truck as indicated by the Department of Motor Vehicles, or its equivalent in another state, province, or country; or the International Registration Plan; or
  - (B) The lessee of the truck, as indicated on the drayage truck's registration pursuant to California Vehicle Code (CVC) section 4453.5.
- (16) "Drayage Truck Operator" means the driver of a drayage truck or any person, party or entity that controls the operation of a drayage truck at a California seaport or intermodal railyard facility.
- (17) "Drayage Truck Registry (DTR)" means a CARB database that contains information on all drayage trucks that conduct business at California seaports and intermodal railyard facilities.
- (18) "DTR Compliant" means that a drayage truck is currently compliant with the requirements of this regulation, including the requirements for DTR and emissions standards.
- (19) "DTR Identification Number" means a unique identifier issued to the owner of a drayage truck upon registering in DTR that corresponds to the drayage truck registered.
- (20) "Emergency" means any of the following times:
- (A) When the President of the United States or the Governor of the State of California declares a state of emergency related to any type of disaster where drayage trucks provide services to incident responders, including but not limited to, forest fires and earthquakes; or
  - (B) When the Executive Officer has determined that an emergency event has arisen from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other unforeseen events that threaten public health and safety.
- (21) "Executive Officer" means the Executive Officer of the California Air Resources Board, or his or her authorized designee.
- (22) "Gross Vehicle Weight Rating (GVWR)" means the same as CVC section 350, as indicated by the characters in the 4-8 positions in a standard 17-character Vehicle Identification Number (VIN).

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- (23) "Heavy-Duty" means a manufacturer's gross vehicle weight rating of greater than 26,000 pounds.
- (24) "Intermodal Railyard" means a facility owned or operated by a railroad that receives both drayage trucks and locomotives.
- (25) "International Registration Plan (IRP)" means a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.
- (26) "Legacy Drayage Truck" means a non-zero-emissions drayage truck with a 2010 or newer engine model year that was registered in DTR on or before November 1, 2023.
- (27) "Lessee" has the same meaning as in CVC section 371.
- (28) "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.
- (29) "Military Tactical Support Vehicles" are defined in title 13, California Code of Regulations (CCR), section 1905.
- (30) "On-road" means a vehicle that is designed to be driven on public highways and roadways and that is registered or is capable of being registered by the California Department of Motor Vehicles (DMV) under CVC sections 4000 et seq. or DMV's equivalent in another state, province, or country; or the International Registration Plan. A vehicle covered under CARB's In-Use Off-Road Regulation, title 13, CCR, section 2449 is not an on-road vehicle.
- (31) "Railyard Authority" means those entities, either public or private, that are responsible for the operation of Class I railyards.
- (32) "Railyard Property" means the property constituting the physical boundaries of intermodal railyards. For the purposes of this

regulation, railyard property also includes privately owned property located within intermodal railyard boundaries.

- (33) "Receiver" means the person, party, or entity that receives shipped goods, cargo, or commodities.
- (34) "Repower" means to replace an older engine with a newer model engine.
- (35) "Seaport" means the property where marine and seaport terminals are typically located for the loading and unloading of water-borne commerce onto and from ocean-going vessels. For purposes of this regulation, seaport does not include seaport property that is not primarily used to engage in water-borne commerce. Seaports covered by this regulation include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburg, and the Port of Benicia.
- (36) "Seaport or Port Authority" means those entities, either public or private, that are responsible for the operations of seaports.
- (37) "Seaport Property" means publicly or privately owned property where a seaport is located. It is the property that includes the physical boundaries, either contiguous or non-contiguous, of the seaport and may include other properties owned by the seaport. For the purposes of this regulation, seaport property includes privately owned property located within a publicly or privately owned seaport property's boundaries.
- (38) "Shipper" means the person, party, or entity who owns or supplies the commodities shipped by a drayage motor carrier.
- (39) "Shipping paper" means a shipping order, bill of lading, manifest or other shipping document.
- (40) "Vehicle" is as defined in CVC section 670.
- (41) "Vehicle Identification Number (VIN)" means an alpha numeric code which has been permanently assigned by the manufacturer to a vehicle. The VIN is unique to each vehicle and may contain information deemed necessary by governing agencies. If a manufacturer cannot obtain a federal VIN from the National Highway Traffic Safety Administration for their vehicles, an alternative VIN approved by the Executive Officer of CARB may

be used. Unless otherwise noted, the VIN and alternate VIN will follow formats specified in the Code of Federal Regulations 49, Chapter V, Parts 565, 566, and 571, which are incorporated herein by reference.

- (42) "Yard Truck" means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as a utility tractor rig, yard tractor, yard goat, yard hustler, or prime mover.
  - (43) "Zero-Emissions Vehicle" means an on-road vehicle with a drivetrain that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.
  - (44) "Zero-Emissions Powertrain" means an all-electric or hydrogen fuel-cell powertrain assembly, which includes (if applicable) the electric traction motor, system controller, generator, on-board charger, battery management system, thermal management systems, energy storage system (batteries, capacitors, and flywheels), inverter, fuel-cell stack, and the interface at which electrical power is converted to tractive mechanical power or vice-versa (in the case of a regenerative braking system), certified pursuant to the requirements incorporated by reference in section 1956.8, title 13, CCR.
- (c) *Exemptions.* The following vehicles are exempt from the requirements of sections 95691:
- (1) Dedicated use vehicles;
  - (3) Emergency vehicles as defined in the CVC section 165;
  - (4) Military tactical support vehicles;
  - (5) Yard trucks;
  - (6) Vehicles that operate at seaport or intermodal railyard properties that have been granted an exemption by CARB's Executive Officer;
  - (7) Vehicles operating pursuant to an emergency, shall be exempt from the requirements of this regulation for 30 days from the first day of operation. Drivers operating heavy-duty vehicles operating under these emergency orders shall keep copies of dispatch records and/or contracts verifying support of emergency operations in the vehicle. The driver and/or vehicle owner shall make the records available to CARB staff or appropriate California

official, such as a California Highway Patrol officer, within 72 hours upon request.

(d) *Requirements and Compliance Deadlines.* Drayage trucks subject to this regulation must meet the following requirements by the compliance deadlines detailed in both Phase 1 and Phase 2.

(1) Phase 1 Requirements

(A) Beginning November 1, 2023, all drayage trucks registering for the first time in DTR must be equipped with and operate a zero-emissions powertrain as a zero-emissions vehicle.

(B) Beginning November 1, 2023, a legacy drayage truck that is currently registered in DTR must visit a regulated seaport or intermodal railyard at least once each calendar year, to remain in DTR.

(C) Beginning November 1, 2023, a legacy drayage truck that is currently registered in DTR will be excluded from DTR after the later of the time periods specified below in subsection 1. or 2.

1. 13 years from the model year that the original engine and emissions control system of that drayage truck was first certified for use by CARB or U.S. EPA, or

2. The date that the drayage truck exceeded 800,000 vehicle miles traveled or 18 years from the model year that the original engine and emissions control system of that drayage truck was first certified for use by CARB or U.S. EPA (whichever comes earlier).

(2) Phase 2 Requirements

(A) Beginning January 1, 2035, all drayage trucks must be equipped with and operate a zero-emissions powertrain.

(3) Drayage Truck Owner Requirements

Drayage truck owners must:

(A) Submit drayage truck registration information by one of the following methods:

1. Mail to CARB at the address listed directly below:

California Air Resources Board

Transportation and Toxics

Division (TTD/Drayage)

P.O. Box 2815

Sacramento, CA 95812

or

2. Electronically submit through CARB's online DTR system, or
  3. Electronically submit by email to: XXX
- (B) Beginning January 1, 2024, annually report verifiable odometer mileage for all legacy drayage trucks 12 years or older. Odometer reporting shall be given to, and in a manner and format prescribed by, CARB annually on or before February 15<sup>th</sup> of each calendar year. Documentation must include the following information: VIN, engine family name, license plate, odometer reading, and date. Acceptable documentation may include:
1. Unaltered photograph;
  2. Smoke opacity test;
  3. California Highway Patrol-Truck and or Tractor Maintenance and Safety Inspections Forms (108-Form);
  4. Basic Inspection of Terminals (BIT) Inspection forms;
  5. Maintenance or service work orders, invoices or receipts;
  6. Driver logs or Inspection sheets.
- (C) Demonstrate that the hiring entity has informed the drayage truck operator about the information required under 95691(d) and provided documentation, such as an annually signed affidavit or contract to any CARB staff or the Executive Officer, upon request.

- (E) Beginning November 1, 2023, the controlling party with common ownership or control of drayage trucks shall ensure that drayage trucks under their control are compliant with all provisions of this regulation.

(4) Drayage Truck Operator Requirements

Drayage truck operators shall, upon request:

- (A) Provide documentation of the dispatching drayage motor carrier's contact information to CARB staff or the Executive Officer upon request.
- (B) Identify and provide documentation on the origin and destination of the cargo, chassis, and intermodal equipment (container, etc.) to CARB staff or the Executive Officer. Documentation can include a:
  1. Delivery receipt;
  2. Pick up receipt;
  3. Equipment interchange receipt;
  4. Release number; or
  5. Shipping paper or other documentation that identifies the origin and destination of the cargo and the pickup and termination destination of the chassis and intermodal equipment.

All information collected in 95691(4) shall be made available to CARB staff or the Executive Officer within 72 hours of an official written or oral request.

(5) Drayage Motor Carrier and Common Owner or Controller Requirements

Each drayage motor carrier shall do the following:

- (A) Provide a copy of this regulation or a CARB approved summarized version to each drayage truck owner that it contracts with for deliveries to seaports and intermodal railyards.

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- (B) Only contract or dispatch drayage trucks that meet the requirements and compliance deadlines set forth in 95691(d)(1) and (2).
- (C) Only contract or dispatch drayage trucks to seaports and intermodal railyards that are registered and in are DTR compliant.
- (D) Demonstrate that it has only contracted or dispatched drayage trucks whose operators have been informed that they must provide the drayage motor carrier information listed below, upon request, to CARB staff or the Executive Officer:
  - 1. The drayage motor carrier's business name;
  - 2. Contact person's name;
  - 3. Drayage motor carrier's street address, city, state, and zip code; and
  - 4. Contact person's business phone number;
  - 5. U.S. Department of Transportation Number;
  - 5. Motor Carrier Number;
  - 7. Signed contract;
  - 8. Signed Affidavit that notification was given to the hired entity as required above, if not in the contract.
- (E) Keep a record of all contracted or dispatched drayage trucks sent to a seaport or intermodal railyard containing the information below for a minimum of five years from the contracted or dispatched date:
  - 1. Truck dispatch date and time;
  - 2. Shipping paper or tracking number;
  - 3. Truck license plate number and issuing state; and
  - 4. DTR identification number.

All detailed and summary dispatch records are to be made available to CARB staff or the Executive Officer within 72 hours of an official written or oral request.

(6) Marine and Seaport Terminal and Intermodal Railyard Requirements

Each marine or seaport terminal and intermodal railyard shall do the following:

(A) Beginning November 1, 2023, collect the following information for each drayage truck subject to this regulation that enters the facility or property:

1. Entry date and time;
2. Exit date and time;
3. Drayage truck's license plate number and state of issuance;
4. Drayage truck's VIN.

(B) Beginning November 1, 2023, collect the following information for each drayage truck that is subject to this regulation, that enters the facility or property, and is not compliant as determined by information or status contained within DTR:

1. Dispatching drayage motor carrier:
  - a. Business name of dispatching drayage motor carrier;
  - b. Contact person's name;
  - c. Street address, city, state, zip code;
  - d. Phone number of the dispatching drayage motor carrier; and
  - e. Shipping paper or tracking number.
2. Drayage truck:
  - a. Entry date and time;
  - b. Exit date and time;
  - c. Registered owner's name;
  - d. Operator's name;

- e. Operator's license number;
- f. Drayage truck's license plate number and state of issuance; and
- g. Drayage truck's VIN.

All information collected in 95691(d)(6)(B) shall be kept for a period of not less than five years from the truck entry date and is to be made available to CARB staff or CARB Executive Officer within 72 hours of an official written or oral request.

- (C) Report the information collected in 95691(d)(6)(A) above to, and in a manner and format prescribed by CARB annually on or before February 15<sup>th</sup> of each calendar year.
- (D) Report the information collected in 95691(d)(6)(B) above to their respective authorities according to Schedule A below and in a format acceptable to their respective authorities.

Schedule A: Marine and Seaport Terminal and Intermodal Railyard Reporting Schedule

<b>Date Truck Enters Terminal or Intermodal Railyard</b>	<b>Date by which Information is to be Reported to Seaport or Railyard Authority</b>
January 1 – March 31	April 15
April 1 – June 30	July 15
July 1 – September 30	October 15
October 1 – December 31	January 15

- (E) Beginning November 1, 2023, seaport and railyard authorities shall report the respective information collected by the seaport terminals and intermodal railyards, as detailed in 95691(d)(6)(B) and (D), to, and in a manner and format prescribed by, CARB according to Schedule B below. Reporting parameters are detailed on CARB's website <http://www.arb.ca.gov/drayagetruck>

Schedule B: Seaport and Railyard Authority Reporting Schedule

<b>Date by which Information is to be Reported to the California Air Resources Board</b>
May 15
August 15
November 15
February 15

- (F) Seaport or port and railyard authorities shall ensure their respective terminals and/or intermodal railyards abide by all Schedule A reporting requirements and deadlines.

(7) CARB Drayage Truck Registry Requirements

Drayage Truck Owner Requirements:

- (A) Beginning November 1, 2023, drayage trucks intending to begin operations at a seaport or intermodal railyard must be registered with DTR prior to commencing operations.
- (B) Submit drayage truck reporting information by one of the following methods:

- 1. Mail to CARB at the address listed directly below:

California Air Resources Board  
Transportation and Toxics  
Division (TTD/Drayage)  
P.O. Box 2815  
Sacramento, CA 95812

or

- 2. Electronically submit through CARB's online DTR system, or
  - 3. Electronically submit by email to: XXX
- (C) Owners of all legacy drayage trucks covered by the regulation and doing business at a seaport or intermodal railyard must register the truck through the CARB DTR. The information shall include:

1. Truck owner name, address, and contact information (e.g., phone number, email address, fax number);
  2. Engine make and model year;
  3. Truck Manufacturer and model year;
  4. VIN; and
  5. Vehicle license number and state of issuance.
- (D) Owners of all zero-emissions drayage trucks covered by the regulation and doing business at a seaport or intermodal railyard must register the truck through CARB DTR. The information shall include:
1. Truck owner name, address, and contact information (e.g., phone number, email address, fax number);
  2. Zero-emissions powertrain make and model year;
  3. Truck manufacturer and model year;
  4. VIN; and
  5. Vehicle license number and state of issuance.
- (E) After registering the truck, the drayage truck owner is required to make updates to the registry within 30 days of any change to the information above in 95691(d)(7)(C) and (D).
- (F) Registration cannot be transferred between truck owners.
- (G) Legacy drayage trucks, that are not zero-emissions, shall not remain in DTR and cannot reregister after they are sold.
- (H) Trucks in drayage service shall not be repowered to extend compliance. After November 1, 2023, repowered vehicles will be prohibited from conducting drayage activities in California. However, vehicles with internal combustion engines that have been upgraded to have zero-emissions powertrains may be eligible to register in CARB DTR.
- (e) *Penalties.* Any person who fails to comply with the performance requirements of this regulation, who fails to submit any information, report, or statement required by this regulation, or who knowingly submits any false statement or representation in any application, report,

statement, or other document filed, maintained, or used for the purposes of compliance with this regulation may be subject to civil or criminal penalties under sections 39674, 39675, 42400, 42400.1, 42400.2, 42402.2, and 43016 of the Health and Safety Code.

- (f) *Right of Entry.* For the purpose of on-road vehicles covered in this regulation, and their records to determine compliance with these regulations, an agent or employee of CARB, upon presentation of proper credentials, has the right to enter any motor carrier, broker, or hiring entity facility (with any necessary safety clearances) where on-road vehicles are located or on-road vehicle records, including hiring and brokering records, are kept to verify compliance with requirements outlined in this chapter.
- (g) *Enforcement.* Enforcement of this section may be carried out by authorized representatives of CARB, seaport, and railyard authorities; peace officers as defined in California Penal Code, Title 3, chapter 4.5, sections 830 et seq. and their respective law enforcement agencies; and authorized representatives of air pollution control or air quality management districts.
- (h) *Relationship to Other Law.* Nothing in this section allows drayage trucks to operate in violation of other applicable law.
- (i) *Severability.* If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

Note: Authority cited: Sections 39600, 39601, 39602.5, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42402.2, 42410, 43013, 43016, 43018, and 43023 Health and Safety Code. Reference: Sections 39600, 39601, 39602.5, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42402.2, 42410, 43013, 43016, 43018, and 43023 Health and Safety Code.