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EPA Stepping up Enforcement of CARB Truck and Bus and Drayage Truck Rules

It appears that within the last week or so, Region IX of the Environmental Protection Agency (“EPA”) has significantly stepped up existing efforts to vet carrier (and in some instances broker) compliance with the Truck and Bus Regulation and the Drayage Truck Regulation of the California Air Resources Board (“CARB”). The CARB regulations have been adopted as a means of meeting California’s obligations under the federal Clean Air Act, hence the involvement of the EPA. Generally stated, the EPA asserts those regulations require that certain commercial vehicles operating in California, or to and from intermodal facilities in California, meet certain emission standards or be subject to penalties. The EPA further asserts the regulations impose obligations both on the vehicle “owner” and on carriers (and in some instances, brokers) that might hire or dispatch such vehicles.

The firm has been contacted by multiple clients in the past week that have received similar letters from EPA. You should be aware that none of these carriers are headquartered or otherwise “based” in California. Rather, EPA seems to be vetting compliance indiscriminately across the country. Companies receiving these letters should be aware that they have 10 days to request an extension of time to provide the detailed information that EPA seeks. Requests for extension must be supported by sworn declarations regarding the need for the extension. This tight timeframe puts significant pressure on companies to decide whether and to what extent they are required to respond substantively so they can then determine whether and to what extent extensions may be required. Thus, it is imperative to take immediate action if and when faced with such a request from EPA. If your company has been approached by EPA, or if you have questions regarding your obligations under the truck and bus or drayage truck regulations, feel free to reach out to Nathaniel Saylor (nsaylor@scopelitis.com) or Chris McNatt (cmcnatt@scopelitis.com).