

<p>In the Matter of a Controversy</p> <p>Between</p> <p><b>INTERNATIONAL LONGSHORE AND WAREHOUSE UNION, LOCAL 63</b></p> <p><b>AND</b></p> <p><b>PACIFIC MARITIME ASSOCIATION</b></p> <p>RE: Application of Group Codes at APM Terminals, Pier 400</p>	<p>SCAA-0012-2025 INTERIM Opinion and Decision</p> <p>Of</p> <p>Southern California Area Arbitration Panel</p> <p>Walter Daugherty, Chairperson Mark Mascola Ron Merical</p> <p>August 21, 2025</p> <p>Long Beach, California</p>
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The hearing was held at 9:00 a.m. on August 21, 2025, at One World Trade Center, Long Beach, California. Each party was afforded full opportunity for examination and presentation of relevant arguments, documents, and testimonies of witnesses. A Certified Shorthand Reporter was in attendance and recorded a transcript of the hearing.

APPEARANCES:

FOR THE UNION:	Joe Gasperov, ILWU Local 63 Dane Jones, ILWU Local 40
FOR THE EMPLOYER:	Andrew Prickett, Pacific Maritime Association
ALSO PRESENT:	Various Others
WITNESSES:	Dennis Skoblar, ILWU Local 63 Dane Jones, ILWU Local 40 Peter Fierro, APM Terminals Deanna Tartaglia, APM Terminals

ISSUE:

The jointly submitted issue was as follows: Shall the work of applying and removing group codes for the direction of the flow of cargo at APM Terminals, Pier 400, be assigned to marine clerks?

BACKGROUND:

On December 18, 2023, the Union filed a jurisdiction claim and information requests regarding group codes at APM Terminal, Pier 400 (“APMT”) (Joint Exhibit 2). At its regular meeting of September 24, 2024 (Meeting No. 49-24), the Coast Labor Relations Committee (“CLRC”) reached disagreement on the work of applying group codes to cargo and cargo moving equipment at APMT (Joint Ex. 2). By letter dated December 31, 2024, the Union requested that the matter be referred to the Southern California Area Arbitration Panel (“Panel”) under Section VI.B.8 of the Technology Framework (Joint Ex. 2).

A group code is a digital record that is a presorted list of containers with specific criteria that is assigned a specific code for easy reference. The most recent list of group codes provided by APMT listed 1,345 such codes, with some 1200 codes identified as “ACT” or active (Joint Ex. 5). Many codes have the same description, but each code has its own unique “id.” At APMT, an automated facility, group codes are applied by employees in the Office Clerical Unit (“OCU”).

Dennis Skoblar (“Skoblar”), a steady yard planner at APMT, testified that the purposes of the group codes used at APMT mirror those of the group codes found to be marine clerk work in Coast arbitration decision C-03-07 (Union Ex. 3). Skoblar stated that the MOUNT group code are used to identify and move refrigerated boxes from the automated side to the conventional side of the yard for pretrip inspection.

Dane Jones (“Jones”), the Union Chair of the Joint Coast Technology Committee, testified that the various “peel off” codes provide a service that allows certain customers, beneficial cargo owners, to make an appointment to pick up cargo, expediting the service of the customer’s cargo. He said that the peel off code allows a customer with a large amount of cargo to have this cargo placed in a specific place in the yard, eliminating the need to sort through all the cargo in the general inventory. Jones testified that his understanding of the peel-off process at APMT is based on discussions at technology committee meetings, website postings, and his knowledge of the operations at APMT’s Pier 400.

APMT Operations Director Peter Fierro (“Fierro”) testified that group codes are primarily used for billing purposes and that they do not determine a particular place or area where cargo is placed and have nothing to do with the flow of cargo.

Fierro stated that the MOUNT codes are used in the process where asset maintenance has determined that work needs to be done on certain containers, which are then placed on a chassis. He testified that the peel-off process is a service that allows customers to make an appointment to pick up cargo and helps expedite the service of the customer’s cargo. According to Fierro, the peel-off codes are not involved in the movement of cargo, but are used for “visibility” and billing purposes. He acknowledged that peel-off codes expedite any such identified cargo through the

terminal and allow the customer to be billed for that service, and that under the “Maersk Accelerate” code a customer may receive an earlier appointment, which gets the container out of the terminal quicker.

Fierro further testified that the HOT1 group code is specifically for rail service. It allows for the movement of cargo so identified to the container exchange grid area for later loading on rail.

Deanna Tartaglia (“Tartaglia”), a member of the OCU and employed as a steady in APMT’s Export Department, testified that group codes are primarily used for billing; some codes are used for internal communications within the Rail Department. Tartaglia stated that the HK code used for housekeeping functions is automatically inserted based off of an algorithm within the system and that the “US Customs – Dock Exams” code is another automatically applied group code.

#### RELEVANT CONTRACTUAL PROVISIONS:

### **FRAMEWORK FOR SPECIAL AGREEMENT ON APPLICATION OF TECHNOLOGIES AND PRESERVATION OF MARINE CLERK JURISDICTION Item VI November 23, 2002 Memorandum of Understanding**

#### **A. Controlling Principles**

*4.e) In exchange for the Employers’ right to introduce new technologies, the following work and functions shall be assigned to marine clerks at all facilities covered by the PCL&CA*

##### i) Yard Planning Operations.

*Marine clerks shall be assigned yard planner duties and functions generally identified as directing and executing the flow of cargo, planning and determining the particular place or area on a terminal dock or container yard facility where cargo is to be placed or relocated and involving the preparation, confirmation, distribution and reconciliation of all documents required by the employer for such work, including the input of data or the utilization of computer programs. It is understood that the practice of direction of supervisors by management is recognized and shall not be disturbed.*

#### UNION POSITION:

Previous arbitration decisions have awarded the work of applying group codes to the marine clerks. In decision C-03-2007, the Coast Arbitrator held that the YP code, a group code, and container holds involved the execution of the flow of cargo and comprised marine clerk work. Similarly, the peel-off codes at APMT, which give priority to selected containers, affect the execution of the flow of cargo for these containers. The record evidence shows that other codes, such as MOUNT and HOT1, are also directly related to the execution of the flow of cargo. The fact that the group

codes routinely appear in the instructions given to the yard planners comprises further proof that they serve a function in the execution of the flow of cargo and the related elements of its handling.

In Coast decisions C-10-2004 (Union Ex. 4) and C-14-2009 (Union Ex. 7), the Coast Arbitrator concluded that the terminal-by-terminal language of the Technology Framework contract provision is inapplicable to cases such as the instant dispute that do not involve new technologies. As such, marine clerk jurisdiction over yard planner duties and functions is coast wide. In C-10-2004, the Coast Arbitrator also dispelled any work jurisdictional claim based on the assignment history of the disputed work, holding that the Technology Framework takes precedent over any prior work history assignments.

Any reliance by the Employer on the “principle of finality” to avoid payment for any lost work opportunity is misplaced, for the jurisdiction of marine clerks over yard planner duties and the issue of the assignment of applying group codes to marine clerks are both well established and long settled.

The Union closed asking that the Panel rule in favor of the following motions:

1. APMT violated the PCCCD by assigning the yard planning duty of applying and removing group codes related to the execution of the flow of cargo to non-bargaining unit personnel in violation of Section A.4.e.i of the Technology Framework, SCAA-0029, SCAA-0040, and C-03-2007
2. APMT shall make the Union whole for all lost work opportunities for every day this has occurred.
3. APMT shall immediately assign the work of applying group codes related to the execution of the flow of cargo to marine clerks.

#### EMPLOYER POSITION:

The arbitration decisions cited by the Union are distinguishable and not controlling, for here the group codes are applied primarily by OCU employees and a few are automatically applied. Unlike the facts in these prior decisions, the codes at issue do not create work orders or instructions and are not used for the movement of cargo. The group codes are used by APMT only for customer service, billing purposes, housekeeping, and allow OCU employees to track the work of other OCU employees. Therefore, absent any decision regarding these group codes, the principle of finality is applicable to any request for lost work opportunities.

The assignment of the group codes at APMT is not based on the history of their assignment, but on the basis that this work is OCU work and not marine clerk work. Of the many group codes used at the APMT terminal, only a few were discussed and the evidence record was limited to these codes. The Panel is bound by what the parties put before them and, as such, the Panel's decision is limited to those codes where evidence was received on the record. In such regard, the Union has failed to meet its burden of proof that these codes are concerned with or involved in the execution of the flow of cargo.

The Employer made the following closing motions:

1. The PCCCD does not require marine clerks to apply the group codes currently applied by non-marine clerks at APMT.
2. Arbitrator Kagel's principle of finality applies and no lost work opportunities are owed.

DISCUSSION:

The Panel has considered the entire evidentiary record as well as the parties' proffered arguments in deciding the dispute as presented. However, only those matters that ultimately contributed to and informed the Panel's decision will be discussed below.

The parties are in sharp disagreement whether the application of the group codes constitutes marine clerk work within the language and meaning of the PCCCD's MOU: Framework for Special Agreement on Application of Technologies and Preservation of Marine Clerk Jurisdiction, Item VI, Section A.4.e.i. As of the promulgation of the most recent list of APMT's group codes in evidence, some 1,200 codes were in ostensible use. Testimony was received regarding five specific codes. While these were individual or singular codes, they are included in groups or families of codes. As an example, approximately 640 group codes were identified as "peel off" codes for various customers. A reasonable inference drawn from the record evidence is that all codes within a specific group or family of codes involve the same application and perform the same functions. Further, no evidence was found to refute this conclusion in such regard. Therefore, the discussion to follow and the decisions reached will treat the individually addressed codes within the context of groups or families of codes.

It is first noted that the Union has based its claim of a contractual violation on the assignment of marine clerk work, here the group codes, to non-bargaining unit and management employees. The evidence regarding the HK code is undisputed that this code is automatically inserted based off of an algorithm within the system and that the "US Customs dock exams" group code is also automatically applied. Since this work is not being performed by non-bargaining unit or management employees, the Panel does not need to address and decide the issue of these codes.

Turning to the MOUNT group code, the relevant testimonies are in essential agreement that this code is used in the identification and movement of containers from one location to another for pre-trip inspection. The movement of equipment involved in the transportation of the cargo itself is inextricably intertwined with the flow of cargo and, as such, the application of MOUNT codes is marine clerk work as set forth in Section A.4.e.i of the PCCCD. This conclusion is consistent with that reached by Arbitrator John Kagel in Coast decision C-03-2007, wherein he held that the application of "YP Codes" in the premounting process comprises marine clerk work (Union Ex. 3, p. 6).

The record is in conflict whether the peel-off codes affect or control the placement of cargo within the yard. Even assuming solely for purposes of analysis that these codes do not do so, the evidence nevertheless preponderates that their application is involved in the direction and execution of the

flow of cargo within the meaning of PCCCD Section 4.A.e.i. In such regard, review of the record persuades that the peel-off codes expedite the movement of cargo through and out the terminal, an element inherent in the direction of its flow through the terminal. The Panel notes that in Coast decision C-03-07 the Arbitrator concluded that the application of a container hold involves the flow of cargo as it prevents it from “flowing from the terminal” (Union Ex. 3, p. 7). The Panel is persuaded that the converse here is equally true, and codes which expedite the movement of cargo through and out the terminal are involved in the execution of the flow of cargo. As such, it is concluded that the application of the peel-off group codes comprise marine clerk work under PCCCD Section 4.A.e.i.

Because the evidence demonstrates that under the “Maersk Accelerate” code containers move out of the terminal quicker, the above analysis is equally applicable to the determination whether this code involves the direction of the flow of cargo. Since it therefore follows that this code is involved in the direction of the flow of cargo, the Panel concludes that the application of the Maersk Accelerate code is marine clerk work under Section 4.A.e.i.

Review of the record discloses that application of the HOT1 group codes effectuates the movement of cargo so identified to the exchange grid area for its later loading on rail. This code clearly concerns the direction of the flow of cargo and, as such, is marine clerk work under the relevant contractual provision.

For the foregoing reasons, the work of applying and removing MOUNT, Peel-Off, Maersk Accelerate, and HOT1 group codes is marine clerk work, for these codes are all concerned with the direction of the flow of cargo at APM Terminals, Pier 400. In assigning this work to non-bargaining unit personnel, APMT has violated Section 4.A.e.i of the PCCCD Technology Framework.

Regarding the other group codes identified in the most recent list promulgated by the Employer (Joint Ex. 5) not discussed and addressed above, this matter will be remanded to the parties for discussion in such regard, with the Panel retaining jurisdiction if the parties cannot resolve the matter.

The Union has requested that APMT make the Union whole for all lost work opportunities. The parties disagree whether the application of Arbitrator Sam Kagel’s principle of finality is applicable to the facts of this dispute. The Panel’s reading of the decision in which this principle was first articulated (Union Ex. 10) persuades that it does not serve as a bar to the Union’s requested make whole remedy. For under its application to the facts herein, once it has been determined that the group codes specifically discussed and addressed above are involved in the direction of the flow of cargo, prior Coast precedents mandate that this work is marine clerk work. Since this matter has therefore been previously decided, a make whole remedy is appropriate for any lost work opportunities attributable to the assignment of this work to OCU employees. Because the record is insufficiently developed in such regard, the determination of the amount, if any, owed the Union will be remanded to the parties, with the Panel retaining jurisdiction if the parties cannot resolve the matter.

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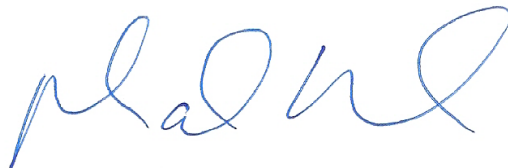
For the reasons as discussed above, the following decision is hereby rendered.

DECISION:

1. The work of applying and removing MOUNT, Peel-Off, Maersk Accelerate, and HOT1 group codes involves the direction of the flow of cargo at APM Terminals, Pier 400. In assigning these codes to non-bargaining unit employees, APMT has violated Section 4A.e.i of the Technology Framework.
2. The work of applying the MOUNT, Peel-Off, Maersk Accelerate and HOT1 group codes shall be immediately assigned to marine clerks.
3. The matter of the group codes identified in the most recent list promulgated by the Employer (Joint Ex. 5 ) not addressed in Item No. 1 above is remanded to the parties for discussion whether their application is marine clerk work. The Panel retains jurisdiction in the event the parties are unable to resolve this matter.
4. APMT is to make the Union whole for any lost work opportunities attributable to the improper assignment of the application of the group codes identified in Item No. 1 above. This matter is remanded to the parties for the determination of the amount of any such money owed the Union. The Panel retains jurisdiction in the event the parties are unable to resolve this matter.



Walter Daugherty  
Southern California Area Arbitrator



Mark Mascola  
Southern California Area Arbitrator

A handwritten signature in black ink, appearing to read "Ron Merical". The signature is fluid and cursive, with a large initial "R" and a stylized "M".

Ron Merical  
Southern California Area Arbitrator

Dated: November 24, 2025