July 6, 2016

State of California
Sacramento, CA 95814
Submitted electronically at www.casustainablefreight.org

COMMENTS OF THE PACIFIC MERCHANT SHIPPING ASSOCIATION REGARDING THE DRAFT "CALIFORNIA SUSTAINABLE FREIGHT ACTION PLAN" (MAY 2016 DISCUSSION DOCUMENT)

These comments on the Draft "California Sustainable Freight Action Plan" (May 2016 Discussion Document) are respectfully submitted on behalf of the members of the Pacific Merchant Shipping Association (PMSA), including ocean carriers and marine terminal operators conducting international trade at all of California's public ports.

PMSA supports the adoption of a final California Sustainable Freight Action Plan which is consistent with the goals of Executive Order B-32-15: to protect and grow California's freight-based economy while simultaneously setting the state on an enhanced pathway to the reduction of GHG emissions through improvements in efficiency and transition to zero-emissions and near-zero-emissions equipment.

PMSA believes that the goals of B-32-15 are attainable, and need not be mutually-exclusive, but only if the State of California makes an affirmative and significant commitment of public resources toward the creation of new investments in freight infrastructure. The Executive Order's multiple goals recognize that a truly sustainable path to zero emissions requires such investments, and that the creation of new infrastructure and zero-emission transition cannot occur in a manner which is mutually-exclusive with continuous growth in the freight sector.

With respect to the maritime industry, PMSA member companies are committed to supporting the state's economy and environment, and are prepared to continue to invest billions of dollars into the California freight system. However, in order to foster economic growth which is faster and more robust than the status quo (i.e. increase competitiveness), and to finance and underwrite infrastructure and equipment which is much more costly than under the status quo, the state must be committed to a partnership with our industry. The private sector alone cannot be relied upon to fund and finance all of the outsized investments in California's freight and port infrastructure. As our partner, the State must be willing to accelerate public investments and incentivize private investments in our Ports that go beyond our current market capacity, foster growth in intermodal volumes, and enhance California's global competitiveness.

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PMSA supports B-32-15 because it creates the opportunity for the state to achieve a unique “win-win”: growing trade volumes, jobs, and business opportunities which in turn provide the essential financing necessary for industry investments in the transportation and environmental infrastructure of the future. This win-win facilitates our shared goals of increases in trade volumes, economic activity and competitiveness with the introduction of zero emissions technology equipment and infrastructure.

A partnership and shared vision is imperative as the alternative is a continuation of the current marketplace’s “lose-lose” outcomes: where the state of California continues to lose volumes and market share to competitors, and in the long term, the state loses the financing for new investments in infrastructure and environmental projects.

To evaluate how we might achieve the goals of the Executive Order, PMSA studied the levels of investment that would be necessary to take the next steps towards “zero-emissions” seaport operations at the Ports of Long Beach, Los Angeles and Oakland. This study was conducted by Moffatt & Nichols over a multi-month period, was released in December 2015, and shared with the Administration during the development of this draft Plan. A copy of the Moffatt & Nichols study can be accessed online at: http://www.pmsaship.com/pdfs/PMSA%20Sustainable%20Freight%20Strategy%20Impact%20Study%20Tech%20Memo%208918%20Final.pdf

The Moffatt & Nichols study concluded that zero-emissions equipment investments can drive either “win-win” outcomes for our economy and the environment or result in the “lose-lose” of larger costs and lower levels of efficiency and throughput. Every solution requires extremely high levels of increased capital investment in the state’s container ports, but only the solution which makes it possible to achieve greater trade volume capacities, lower costs per total container capacity on terminal, and the complete transition of all marine terminals’ container handling equipment to zero-emissions is truly sustainable.

This is the outcome sought by the Executive Order and the Sustainable Freight Action Plan, and is a result which we hope can be successfully implemented with state participation in paying for the additional costs of capital and terminal investment. To realize this specific win-win, PMSA respectfully requests that the final Sustainable Freight Action Plan include the following policy recommendation: *“Work with marine terminal operators and their public port authority landlords to grow cargo volumes, reduce costs, enhance intermodal competitiveness, and identify new, creative, and innovative public funding and financing mechanisms in order to underwrite the integration of zero-emissions equipment and infrastructure investments.”*

Conversely, fewer investments in California’s ports, generally, will both negatively impact California’s economy and defeat the goal of reducing emissions. This outcome must be consciously avoided by the Plan, as only greater seaport investment will help the State achieve its goals and foster the investment necessary to a successful transition.

Regarding the Plan generally, the State must vigorously embrace economic competitiveness goals and affirmatively drive investment into the state's freight system. Success will be rooted in an unavoidable tautology: Robust investment in our freight infrastructure system is necessary to remain competitive; and, without enhanced competitiveness, the system will not produce robust freight infrastructure.

Economic competitiveness is embraced by the Executive Order, and the draft Plan should reflect this by placing the same level of commitment to economic competitiveness as it does to other Plan components. The Plan must acknowledge the baseline breadth of the freight industry's true economic impacts and set broad aspirational goals for improving the economic health of the state's freight system and create Action items consistent with this economic baseline. The Plan should enunciate the state's economic goals, and affirm the desire to develop the policies to support these goals, in lieu of staying silent or leaving this to future work by the Administration.

PMSA supports, and applauds the commitment of the state, to require that all subsequent applications and implementation of the Plan will be subject to economic review. To further bolster this position, the Plan should formalize an Action which commits to a "Do No Harm" framework and economic impact modeling maintained going forward as state policy. By filling these gaps, reflecting the commitment to economic improvement, growth and competitiveness which we know are embraced by the Administration, the Plan will set clear and unambiguous state goals.

To further embrace the development of an economically viable and successful Sustainable Freight system, PMSA supports the continued engagement of the Governor's Office of Business and Economic Development (GO-Biz) as a partner at the table to provide critical feedback to the plan's implementation. GO-Biz can be affirmatively tasked with assuring that economic rigor and analysis is embedded throughout the plan's implementation phases. Moreover, GO-Biz needs to be provided with the full complement of staffing and administrative resources necessary to support its efforts as a full partner at the table with the other state agencies tasked with Plan implementation.

The final Plan should also affirmatively set Investment goals and explain the relationship with its development and the California Freight Mobility Plan completed last year. In setting its Investment goals, it is important to note that the state has historically relied on private sector funding and financing for nearly all freight infrastructure, through the use of leases and revenue bonds at its seaports, private investment of railroads and warehouses, and the fees and taxes paid by trucks for highways.

While voters did pass Proposition 1B in 2006 which initially capitalized the Trade Corridor Improvement Fund, with the full support of PMSA and other freight stakeholders, public freight funding at the state, federal or local levels has never reached a level of significance to rival private investment. If the State wants to grow the levels of investment which are necessary to achieve the goals outlined in the draft Sustainable Freight Plan, it is going to need to find billions of dollars more in public investment from local self-help funds, state sources (such as the GHG Reduction Fund), and leverage what freight funding is provided by the federal government. In addition to finding new revenues to direct to the TCIF, the state needs to also get creative and help develop new financing and underwriting tools to incentivize and leverage significant new private sector and non-state public sector infrastructure investments.

Consistent with this need and the Moffat & Nichol study, PMSA has supported or sponsored numerous bills in the Legislature to advance the proposition that the state should be investing in the infrastructure necessary to proceed down the path laid out in this draft California Sustainable Freight Action Plan. We would encourage the final Plan to affirmatively propose policies which support these types of innovative new state initiatives to leverage public and private investment in the state's freight infrastructure.

In conclusion, PMSA is proud to have contributed to the development of this draft Plan and looks forward to an even more robust and comprehensive final Plan. PMSA has been deliberate in its participation in every available forum for industry input, spent hours reviewing and providing feedback to the Administration during the construction of this plan, and we have a vested interest in its success. We submit the balance of our comments on specific elements, sections, and Actions in the draft Plan in Appendix to this letter in that same vein of constructive criticism.

We look forward to continuing our work in partnership with the State of California. Together, both through the finalization of the Sustainable Freight Action Plan and its implementation, we can create a successful path forward for the transition to zero-emissions operations at California's public ports in a manner which grows trade, enhances economic competitiveness, and incentivizes private investment.

Sincerely,

Mike Jacob
Vice President & General Counsel

cc: Hon. Jerry Brown, Governor
Mr. Wade Crowfoot, Deputy Cabinet Secretary, Gov. Brown
Mr. Mike Rossi, Economic Advisor to Gov. Brown
Sec. Brian Kelly, California State Transportation Agency
Sec. John Laird, Natural Resources Agency
Sec. Matt Rodriguez, Environmental Protection Agency
Dir. Panorea Avdis, Governor's Office of Business & Economic Development
Exec. Ofc. Richard Corey, California Air Resources Board
Dir. Malcolm Dougherty, California Department of Transportation
Exec. Dir. Rob Oglesby, California Energy Commission

Comments Regarding Specific Plan Components

- **Draft Plan, II. B.1. "TCIF/GMERP - Phase II" (pg. 13-15)**

"Support Economic Competitiveness and Growth" should be added to the list of project selection criteria. PMSA proposes a new bullet:
"• Investing in projects which boost California's Economic Competitiveness, Jobs and Tax Revenues: *Using state metrics to evaluate total economic impacts resulting from the construction and continued operation of a project, funding should support investments with the greatest overall state return on investment from direct and indirect tax revenues, generate the highest number of permanent jobs, and facilitate overall state economic competitiveness."*

- **Draft Plan, II. B.2. "State Investment Goals" (pg. 15)**

Section II. B. should add a subsection "2. State Investment Goals" in order to highlight state efforts to work with the private sector to meet Investment goals for the freight system in addition to the specific public funding sources identified in A and B. This section should describe the state's historic reliance on private sector funding and financing for nearly all freight infrastructure and how the state intends to maximize future private investment in California, affirm the state's desire to get creative at finding new revenues, develop new financing and underwriting tools for those private sector and non-state public sector players which are willing to make infrastructure investments.

- **Draft Plan, III. A., "State Agency Actions" (pg. 17-18)**

In addition to references to "funding" for freight transportation system improvements and investments in Actions # 1, 3, please add components for "innovative state finance" and "private sector investment incentives" to these Actions.

- **Draft Plan, III. A.10. "State Agency Actions" (pg. 18)**

An innovative funding and financing mechanism for the support of economic growth and zero-emissions equipment investments at marine terminals and public port authorities should be added as Number 10. PMSA proposes:
"10. Work with marine terminal operators and their public port authority landlords to grow cargo volumes, reduce costs, enhance intermodal competitiveness, and identify new, creative, and innovative public funding and financing mechanisms in order to underwrite the integration of zero-emissions equipment and infrastructure investments."

- **Draft Plan, III. C. "Discussion " (pg. 20)**

This section, and Action Item 3.B.5 in correlation, should affirmatively propose policies which support creative and innovative infrastructure financing proposals which aim to re-establish funding for the TCIF, direct Cap & Trade funding towards freight projects, and create new state initiatives to leverage public and private investment in the state's freight system infrastructure.

PMSA's work in the Legislature this year to advance creative and innovative infrastructure financing reflect these potential Sustainable Freight components. These bills included: AB 1591 (Frazier) regarding new TCIF Freight funding dedication, AB 1657 (O'Donnell) Port cap & trade funds, AB 1780 (Medina) TCIF cap & trade funds, AB 2055 (Gipson) Cal Competes tax credits for Zero Emissions equipment, AB 2170 (Frazier) for Fast ACT funding into TCIF, AB 2348 (Levine) PERS infrastructure investments, AB 2841 (Allen) Infrastructure Bank seaport infrastructure investments, and SB 1338 (Lara) Zero-Emissions equipment sales tax exemptions.

- **Freight Targets, Appendix B, Sec. A, "System Efficiency" (pg. B-1 – B-3)**

The Freight Target labeled "System Efficiency" needs to be revised, clarified, and possibly renamed to better reflect what it is measuring.

With respect to the proposed Target calculation, PMSA has several reservations regarding the composition of the metric as proposed, and would suggest alternative metric composition:

1) The metric used to measure total Freight economic activity must be consistent with Executive Order B-32-15's enunciation of total freight system value. ("California's freight transportation system is responsible for one-third of the State's economy and jobs, with freight dependent industries accounting for over $700 billion in revenue and over 5 million jobs in 2013.") Likewise, the metric of total economic activity must reflect the Target as understood and described parenthetically by the Plan. ("the value of goods and services produced from the freight sector")

   We would respectfully suggest that the Plan consistently utilize a State Freight Economic Baseline (see Appendix B, Sec C, and Action Item #6, below) for all macro-level calculations regarding Freight Targets.

   Using "NAICS 48-49 minus passenger components" is much too narrow of a basis to be used as a proxy for total system economic value. NAICS Sections 48-49 describe only Sectors which are in the actual business of "providing transportation" and "using transportation equipment or …facilities as a productive asset." These do not capture the value of goods and services derivative of the freight system nor of the dependent industries accounting for 1/3 of the state's economy.
   The draft Plan itself acknowledges that this proposed metric captures less than 7% of the total $700 billion in economic value associated with freight. (See pg. B-2, which identifies the value of these NAICS Sections as only $43.9 billion in 2014.) While this sector is, in and of itself, quite substantial and an impactful one which needs to be fostered, protected, analyzed, and preserved, it represents only one component of the economic value identified in B-32-15.

The Executive Order captures "freight dependent industries" and this metric should as well. The benefits of freight are multi-faceted, multiplicative, generate network effects of value, and touch many sectors of the economy. The consistent use of a State Freight Economic Baseline for all macro-level calculations would capture the entirety of this economic value. (See Appendix B, Sec. C, and Action Item #6, below)

2) The "GDP" metric should not be substituted for a State Freight Economic Baseline (see Appendix B, Sec C, and Action Item #6, below) for all macro-level calculations regarding Freight Targets.

GDP as a whole discounts the economic value and contributions of California's international trade, because GDP is based on Domestic product it is "net foreign trade." This means that the total GDP value associated with California's seaports will be negative when using this tool as a result of the nation's Balance of Trade. In other words, utilizing traditional GDP would lead one to believe that the California economy would improve if we shuttered the Ports of LA and Long Beach. This is not the case, as studies demonstrate (Martin, 2007), the economic value of Port operations are substantial:

Exhibit I-1
Economic Impact of the Port of Los Angeles in the State of California by Line of Business
2006

	MARINE TERMINALS	CRUISE	FISHING	REAL ESTATE	MARINAS	TOTAL
JOBS						
DIRECT	43,398	1,254	806	1,162	705	47,325
INDUCED	60,204	609	370	557	354	62,093
INDIRECT	18,618	649	228	2,053	522	22,071
USER JOBS	943,688	NA	NA	NA	NA	943,688
TOTAL JOBS	1,065,907	2,512	1,404	3,772	1,580	1,075,176
PERSONAL INCOME (millions)						
DIRECT	$2,222.6	$44.6	$20.3	$41.4	$28.6	$2,357.5
RE-SPENDING/CONSUMPTION	$6,944.6	$32.1	$18.1	$29.8	$20.6	$7,045.2
INDIRECT	$844.5	$22.7	$11.5	$101.8	$21.0	$1,001.5
USER INCOME	$35,018.0	NA	NA	NA	NA	$35,018.0
TOTAL INCOME AND CONSUMPTION	$45,029.7	$99.4	$49.9	$173.0	$70.1	$45,422.2
VALUE OF ECONOMIC ACTIVITY (millions)						
BUSINESS SERVICES REVENUE	$7,066.0	$240.5	$83.8	$132.0	$48.2	$7,570.4
USER OUTPUT	$152,749.6	NA	NA	NA	NA	$152,749.6
TOTAL VALUE OF ECONOMIC ACTIVITY	$159,815.6	$240.5	$83.8	$132.0	$48.2	$160,320.0
LOCAL PURCHASES (millions)	$1,945.4	$41.4	$20.0	$183.1	$45.1	$2,235.1
STATE & LOCAL TAXES (millions)						
DIRECT, INDUCED AND INDIRECT	$1,131.3	$11.2	$5.6	$19.6	$7.9	$1,175.7
USER TAXES	$3,957.0	NA	NA	NA	NA	$3,957.0
TOTAL STATE AND LOCAL TAXES	$5,088.4	$11.2	$5.6	$19.6	$7.9	$5,132.7

The metrics selected by the state to measure the health of the freight sector must illustrate these impacts if they are to be accurate representations of value. Indeed, every measure must capture the economic values associated with California's international commerce via its Seaports, land ports of Entry from Mexico, and Air freight.

Using a State Freight Economic Baseline for all macro-level calculations regarding Freight Targets would avoid this problem. (See Appendix B, Sec. C, and Action Item #6, below)

3) Table B-1 is described in the draft as depicting "historic and projected gross domestic product and carbon dioxide emissions equivalent levels and the resultant efficiency calculation. Future projections indicate the need for more work to meet the State's target of a 25 percent reduction."

This Table raises more questions than it answers. The projections are clumsy, not cited with any authority, and certainly should not be relied on for any sweeping policy conclusions or state target-setting exercises.

First, regarding the GDP projections, these are noted as: "2015-2050 gross domestic product estimated assuming a two percent average increase in gross domestic product for the period." There is no explanation for why 2% was used. The historic linear annual average from 2000-2014 in the same chart shows an annual average growth rate of 1.31%.

Second, these projections do not say whether they do or do not account for inflation. If one assumes that they are inflation adjusted, then applying today's historically low rates of inflation at a 2% rate of growth per year would result in a 0% growth rate in real economic terms from 2014-2050. By the same measure, if any real rate of growth is anticipated over the ensuing 3½ decades, it has not been included. On the other hand, if the application of the 2% rate of growth was intended to be applied as actual economic expansion, then the chart was made without any inflationary accommodation whatsoever.

Third, the Chart itself begs the question of why this Table is so inaccurate vis-à-vis historical trends. From 2000-2014 the GDP/CO2e ($/Metric Ton) measure went from $1,283 to $1,550, an improvement in the Target Efficiency Metric over 15 years of 20.8%. Yet, the projection for 2030 is that the system will grow only 3.8% more efficient. In other words, total system efficiency in Table B-1 is projected to grow at less than 1/5 of its recent historic rate.

Fourth, Table B-1 demonstrates another remarkable trend: that in 2014 the entire California Freight sector had a CO2 Emissions Equivalent that was less than it was in the year 2000. Yet, again in contrast to the historic trend, the projection is that CO2e will be nearly double its 2010 value in 2050. There is no explanation for why CO2e growth is expected to grow so quickly and out of proportion with its historic growth rates. This acceleration of CO2e growth is especially perplexing since all signs within the industry are towards higher efficiency per freight move and lower overall emissions with higher future projections of zero- and near-zero-emissions equipment integration.

> Fifth, consistent with the comments in above regarding the use of the NAICS 48-49 as much too narrow, the GDP/CO2e ($/Metric Ton) valuation should be adjusted to match the State Freight Economic Baseline (see Appendix B, Sec C, and Action Item #6, below).

Finally, the state's desire to measure and set goals for total economic output per units of emissions is reasonable, but this is a measurement of the total system's macro-level success at achieving the Executive Order's goals, not a discrete measure of system "efficiency" per se. This measurement may be of some significance to policymakers broadly, but it will not be a tool which will help anyone measure or manage traditional notions of system efficiency – whether they are at a sector, supply chain, or individual facility level. To avoid confusion with more traditional efficiency measures, for example regarding productivity and profitability on a smaller scale, perhaps this should be given a more macro-focused title.

- **Freight Targets, Appendix B, Sec. C, "Economic Growth" (pg. B-4)**
  The Freight Target labeled "Economic Growth" functionally does not exist in the draft Plan. We would respectfully suggest that the Plan direct the development of a State Freight Economic Baseline for the calculation of this Freight Target. (See proposed Action Item #6, below)

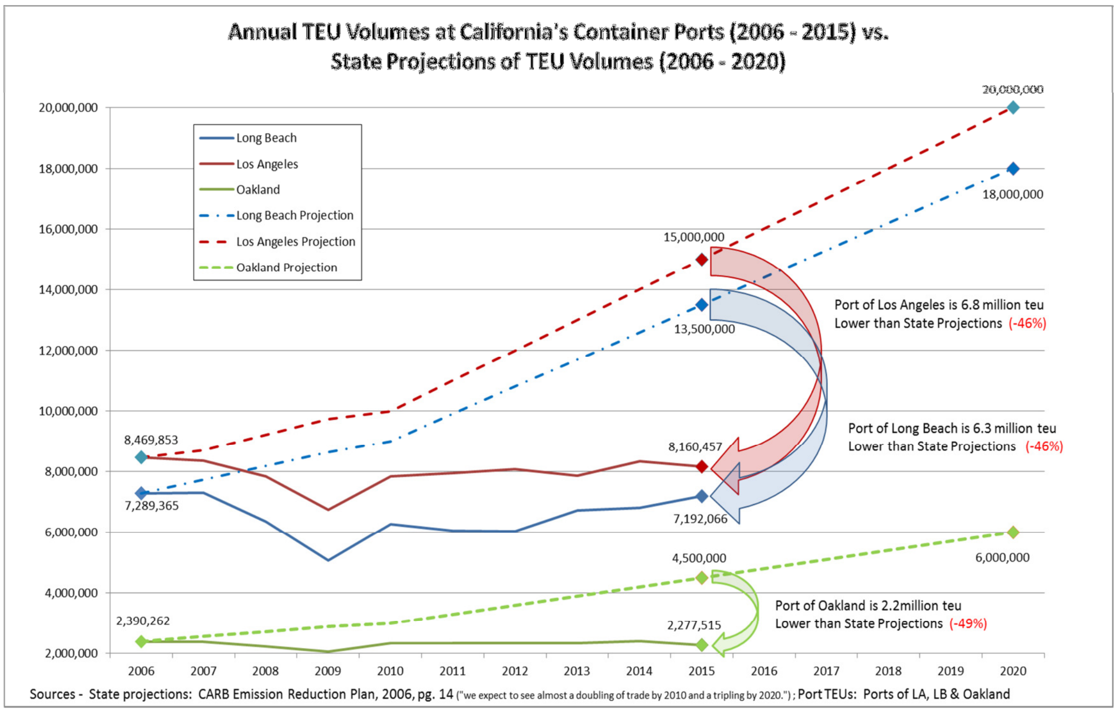
  Total macro-level Freight System economic activity was identified in Executive Order B-32-15 as "responsible for one-third of the State's economy and jobs, with freight dependent industries accounting for over $700 billion in revenue and over 5 million jobs in 2013." In order to measure growth in this sector of the economy, and to account for improvements in our competitiveness by revenue and jobs, a baseline evaluation consistent with the Executive Order must be fixed and compared against. PMSA respectfully proposes a "State Freight Economic Baseline" be established to capture the entirety of this economic impact.

  Economic analysis of the current California Freight System will establish a total macro-economic baseline which includes the current economic contribution of the state's freight industry, and the current condition of its supply chain infrastructure, freight system suppliers, markets, sectors, and industries which rely on freight transportation infrastructure. This evaluation, which does not currently exist on a statewide basis, would be a complete metric upon which to judge success or failure of the Plan to meet its Freight Targets.

  Upon fixing the State Freight Economic Baseline, the State should embrace aspirational Economic Growth targets. Just as it does for Efficiency and for Zero-Emissions Equipment, aspirational Targets for economic growth need not be unrealistic but may be ambitious based on what the state would consider reasonable, full implementation. As described for the "Efficiency" target, a 2030 Target should be set which would "indicate overall statewide success toward the goal" of improving statewide competitiveness.

Growth targets are important metrics for industry to measure itself against the expectations of the state and for the state to measure the success of its programs against its projections of how the economy will interact with them.

For instance, in the 2006 state's Goods Movement Emissions Reduction Plan multiple projections had been made with respect to total economic activity at our state's seaports. Through 2015, our port volumes have been almost 50% lower than the state projected – significantly impacting our economic contributions, impacting state tax revenues, and changing the cost-benefit analyses associated with regulations.



For all of its flaws, Table B-1 also makes a projection of nominal total economic growth of 37.4% (inflation adjusted or not) from 2015 to 2030. Is this projection the state's Target for Economic Growth? If the state is projecting future "GDP" growth for the Efficiency Target, is there a reason why the same rate of growth should not be applied to its Economic Growth Target consistently?

- **<u>Appendix C. "State Agency Actions" (C-1 – C-3) – "Do No Harm"</u>**
  PMSA supports and recommends that the final Plan more effectively highlight and restate its "Do No Harm" policies, which are fundamentally important to the Plan's integrity. However, as this is not affirmatively listed as an "Action" or otherwise identified as a stand-alone Policy, we are afraid the Plan runs the risk of state Agencies avoiding, ignoring, or being unaware of these important principles as potential implementation moves forward.

PMSA agrees with the current Action summary which advises the following:

> "Originally, the State agencies planned to develop quantified cost and savings for each of the proposed actions included in the Action Plan and then use that information to model how the Action Plan could influence the behavior of California's economy. …
> "Without developing detailed costs and savings for all of the potential actions, the State agencies cannot apply an economic model to the Action Plan. …
> "Subsequent implementation will be conditional on successful completion of applicable public processes, necessary financing approvals, and economic and environmental reviews."

The current draft of the Plan leaves the costs for too many of the proposed actions as unknowable, and therefore there must be a policy in place requiring that subsequent implementation may only occur after detailing costs and savings for individual actions and applying models to show their economic impacts.

The State is embarking on a comprehensive planning effort with regard to improving the economic and environmental aspects of freight. It is entirely reasonable to use the Sustainable Freight Action Plan as a tool which will require the state to conduct the due diligence of comparing benefits of proposed Actions to the costs and judge its economic impacts accordingly.

PMSA proposes adding a new paragraph on Page C-2 after #9:
"To preserve the State's economic competitiveness, all State agencies must develop costs and savings analyses for each proposed Action and model how the Action will impact the State's economy. The implementation of each State Agency Action is conditional on the successful completion of a cost-benefit analysis and economic impact review."

Moreover, it is important to clarify (on an Action-by-Action basis) when the Action Plan confuses benefits with the costs to prepare the plan. For example, Action 3.A.3 states "These planning efforts will help reduce additional costs…" The costs of the planning are the money and resources the State will use to develop the plans. The benefits are potentially reduced costs that will hopefully flow from such planning. Throughout the document, the Action Plan should clarify estimates of costs or benefits to avoid such confusion.

- **<u>Action Item 3.B.1. "Freight Transportation and Land Use Coordination" (C-13)</u>**
  Action Item 3.B.1. tends to focus only on the potential negative externalities of Freight infrastructure development, and it entirely ignores the positive local, regional, and statewide benefits of such investment. This Action Item would be better served by following its own admonition that there should be a balance to ensure that it meets "freight business needs." The implementing agency for this action is CalTrans, and

CalTrans should emphasize local, statewide, and regional benefits when working with local agencies on the development of freight transportation projects.

PMSA proposes adding a bullet in the *Proposed Actions* section:
"• *Identify Regional, Statewide & National Benefits of proposed projects, and promote such projects when the benefits exceed mitigatable costs*."

Promotion of freight project developments with regional, statewide, and national benefits should also be listed in the *Benefits* section.

- **<u>Action Item 3.B.2. "Freight Handbook" (C-14)</u>**
  In Action Item 3.B.2 the State is veering into local land-use planning which should remain the domain of local cities and counties. In siting any development, local officials must consider their needs and goals, changing local development patterns, economic and financial issues, and a host of other issues. Since the State cannot approach siting guidelines from any specific local community perspective it will either be nearly useless in the real-life planning that local officials face or applied inappropriately across-the-board. Other issues such as noise, aesthetics, and land-use compatibility are always the responsibility of local agencies because they will vary from community to community and from project site to project site.

  The promotion of a Freight Handbook will not be without costs to local cities and counties. First, any facility siting handbook from the State will inevitably be used as a cudgel by project opponents in the CEQA process creating more costs and hurdles for local agencies to overcome in their planning. Worse, such a handbook will still hold sway in such challenges even if it becomes outdated; for instance, as the State moves toward zero and near-zero technologies, the exposure to toxics and pollutants from any one source will greatly diminish, yet the handbook "best practices" will not reflect such a change in overall conditions. Further, as our cities become denser, cleaner freight will remain an integral part of the functioning of cities, and as good land-use planning may necessitate tighter integration, something that cleaner transportation technologies will more easily allow, a handbook advising the opposite will be counter-productive.

  Moreover, if a Handbook is to nevertheless be developed, Action Item 3.B.2. also tends to focus only on potential negative externalities of Freight infrastructure development, and ignores the positive economic benefits of such investment. This Action Item would be better served if the proposed Handbook also demonstrated best practices for identifying all the economic benefits of freight facility development.

  If the Handbook proceeds, PMSA proposes adding a bullet in the *Proposed Actions*:
  "• *Identify Economic Impacts modeling which should be used to analyze the economic benefits of proposed projects, and promote the development of such projects when the expected economic benefits exceed mitigatable costs*."

Promotion of freight project economic benefits through the provision of economic benefit models should also be listed in the *Benefits* section.

- **<u>Action Item 3.B.5. ADD "Marine Terminals and Ports Zero-Emissions Equipment and Infrastructure Incentives" (C-16)</u>**
  The inclusion of innovative funding and financing mechanism for the support of economic growth and zero-emissions equipment investments at marine terminals and public port authorities should be added as Action Item 3.B.5.
  PMSA respectfully proposes:

  *"5. **Marine Terminals and Ports Zero-Emissions Equipment and Infrastructure Incentives***
  Overview: The California maritime industry has taken significant steps to identify which viable zero-emissions equipment investments can drive improvements to efficiency and economic competitiveness. Every solution requires significantly higher levels of capital investment in the state's container ports over and above existing capacity for such investment. The state maintains an interest in providing incentives to ports and marine terminal operators to make these new investments.

  Implementing Agency: CalTrans, ARB, Energy Commission, GO-Biz
  Type of Action: Policy Development, Funding/Incentives
  Timing: Agency Development Work: 2016-2017
  Implementation: 2017+

  Proposed Action: Work with marine terminal operators and their public port authority landlords to identify new, creative, and innovative public funding and financing mechanisms in order to grow cargo volumes, reduce costs, and enhance intermodal competitiveness as the basis for additional underwriting of the costs to make zero-emissions equipment and infrastructure investments."

  Estimated Cost: Because these proposed activities consist of unknown future actions, estimated costs are not identified at this time.

  Benefits: Facilitates projects which meet the objective of Executive Order B-32-15 to achieve zero-emissions, economic and efficiency goals. Successful incentive programs will grow cargo volumes, jobs, and business opportunities which in turn provide the essential financing necessary for industry investments in the transportation and environmental infrastructure of the future. This win-win facilitates economic activity and competitiveness along with the introduction of zero emissions technology equipment and infrastructure at a rate faster than that which would otherwise occur under current non-incentivized market conditions."

- **<u>Action Item 3.D. "Freight Data Collection" (C-17 – C-19)</u>**
  PMSA agrees with this item to the extent that the State seeks data for the purposes of planning transportation infrastructure and managing that infrastructure, its use, and

the enforcement of safety and security rules. The title of this section is properly notated as Data Collection and Modeling "for Freight Corridor Improvement and State Investments."

To the extent that this Freight Data Collection is intended to manage the operations of private companies, PMSA does not support the inclusion of this Action Item. The State's inquiry into data which may be proprietary is one concern, but the suggestion that the state should be developing "applications that can enable increased coordination amongst truck drivers, cargo owners, marine terminals, etc." is more alarming still. These entities along the supply chain all maintain commercial relationships governed by contracts and agreements subject to state, federal and international laws and treaties prescribing the carriage of goods.

This Action Item should be restricted to state-planning and analysis for infrastructure enhancements, etc., and specifically disclaim any intent to impact commercial relationships, direct operations, or manage interstate or international commerce.

- **Action Item 3.G. "Inland Facility, Short-haul Rail Shuttle, and Inland Seaports Utilization" (C-25 – C-26)**
  It is PMSA's experience with these proposals that they require greater capital and operational subsidies than are practicable when compared to potential emissions and congestion relief benefits (with respect to the potential public benefits) and when compared to the efficiency of the existing system at distributing cargo as demanded and supplied over short distances (with respect to potential private benefits). As a general rule, the State should prioritize investments in improving existing, well-established, and undoubtedly commercially viable supply-chains prior to engaging in efforts to change, modify, or create new competitors to existing infrastructure and business models, which have a track record of little to no success when implemented in prior attempts. For instance, when the prior TIGER grant was awarded to the Ports of Oakland, Stockton, and West Sacramento for environmental programs, including a container barge program and cold-ironing infrastructure, PMSA advocated for all discretionary funds to be spent on cold-ironing at Oakland.

  If this Action Item is retained, the Overview and Proposed Actions sections should be limited only to "Assessing the feasibility of projects" and the Estimated Cost section should eliminate all reference to potential affirmative state assistance.

- **Action Item 3.H.2. "Freight Rail Efficiencies" (C-25 – C-26)**
  The Plan proposes to improve efficiency throughout the goods movement system. This is a laudable goal and PMSA supports efforts to remove artificial constraints from the logistics network. For example, the removal of infrastructure bottlenecks is a good example of how the state can improve efficiency in the logistics network. However, PMSA is concerned where the State identifies strategies that do not tackle artificial or funding constraints, but rather aims at impeding competition or freight handling operations within the network. Action Item 3.H.2, seeks to both support

new infrastructure improvements, which PMSA supports, but also to direct efforts and interject non-operational stakeholders into specific rail operations, including on-dock rail activities.

Throughout the plan, all the measures that address efficiency should be examined to determine if they are properly targeting artificial constraints (as opposed to the proposed action focusing on an internal industry Operational issue) and whether the action is likely to subjectively or inadvertently pick winner and losers. As the Plan is sweeping in its scope, it should be careful when evaluating efficiency and examining constraints; the state must ensure that it is not making dictates about how the logistics network "should" operate instead of providing actual supply chain participants with the framework to ensure the most operationally efficient system possible.

- **Action Item 4.A. "Investments in Advanced … Equipment Technology … Deployment .. and other Freight Technologies" (C-34 – C-36)**
  This Action Item should be integrated with and cross-reference new Action Item #3.B.5. ***Marine Terminals and Ports Zero-Emissions Equipment and Infrastructure Incentives***

- **Action Item 4.C.1. "Freight Hub Data Collection" (C-41 – C-42)**
  See Comments to Action Item 3.D, above. To the extent that this Freight Hub Data Collection is intended to manage the operations of private companies, PMSA opposes the inclusion of this Action Item. The State's inquiry into data which may be proprietary is one concern, but the suggestion that this data would be utilized by the state to develop "freight facility performance targets" is alarming. The state should not be dictating performance targets to any individual facility with respect to efficiency, emissions, or planning.

- **Action Item 4.D.3. "Marine Fuels in Post 2020 Cap-and-Trade" (C-44 – C-45) &**
- **Action Item 4.D.4. "Marine Fuels in Post 2020 LCFS Program" (C-45 – C-46)**
  PMSA has a longstanding interest in all state policies which may impact the availability, cost, utilization, composition, and taxation of marine fuels. Marine fuels are mainly consumed out-of-state and mainly purchased out-of-state, are governed by multiple international, federal and state laws (including an existing vessel fuel rule subject to future CARB Sunset), have been subject to litigation between PMSA and the State in the past, and are exempt from various state sales and use taxes.

  PMSA respectfully requests that they Proposed Actions on both of these items direct that as CARB moves forward with their evaluation of these Actions that it be specifically directed to "*communicate and work closely with the maritime industry to avoid all unnecessary costs, operational concerns, and potential legal concerns.*"

- **<u>Action Item 4.G.1. "Tier 4 Vessel Standards" (C-44 – C-45)</u>**
  PMSA applauds the State's recognition of the proper role of the International Maritime Organization at setting vessel standards and that the highest and best jurisdictional forum for discussions regarding vessel emissions and efficiency is through the IMO. Furthermore, we support the Action Item's direction that CARB work directly with the U.S. EPA and U.S. Coast Guard with respect to the development of positions at the IMO. As the State is well aware, the federal government, through the U.S. State Department, U.S. EPA, and USCG, maintains standing at the IMO and sub-national agencies do not have standing to "lobby" the IMO directly. We encourage the State, no matter what the topic, to work with the federal government if it believes that it can contribute to the development of a U.S. position on any issue before the IMO.

  In prior actions, PMSA has supported revisions to MARPOL and other IMO Annex developments which have resulted in significant emissions reductions at the International level. These agreed upon ocean-going vessel emissions improvements fostered through IMO facilitate far greater overall emissions reductions, and at lower overall expense to the supply chain, than individual patchwork regulations implemented on a national or sub-national basis. PMSA respectfully requests that as CARB moves forward with their evaluation of these Actions that it be specifically directed to "*communicate and work closely with the maritime industry prior to advocating for specific IMO positions.*"

  With respect to the content of the suggestion, we are uncertain as to whether the timeframes and expectations established under Action Item 4.G.1 reflect the economic realities of the shipping industry today. Currently, the container shipping industry suffers from a worldwide glut in vessel capacity. This overcapacity is currently driving trans-Pacific freight rates down to historically-low, unsustainable levels, with some estimates for total industry losses of between $6 billion and $10 billion in 2016. It is not clear when this glut will end, but the additional capacity which has been built into the system with the advent of the largest classes of container ships reaching 18,000 – 20,000 TEUs is undeniable. In the near term there will be little incentive for new vessel orders for years. Combined with the useful life of the existing vessel fleet, a time period measured in decades, it is unlikely that a Tier 4 standard even if passed on CARB's timeline would result in any meaningful penetration of new ships between the years 2020-2025.

- **<u>Action Item 4.G.2. "Incentivize Super Low Emission Efficient Ship Visits" (C-51 – C-52)</u>**
  PMSA supports this Action. PMSA generally encourages the State and Ports to work with vessel owners and operators to achieve emissions benefits, and has long supported, and its member vessels participate in, local vessel incentive programs at the Ports of LA and Long Beach with great success. We look forward to partnering with CARB on the creation of incentives which are realistic, easily implementable, and effective.

For this Action Item to be successfully deployed it must reflect the marketplace and economic realities of the shipping industry today. With regard to new incentives for new vessel types, when there is a glut of new vessel capacity, vessels are going to be deployed based on demand and ability to fill a ship. Incentives may be unlikely to affect a carrier's deployment decisions in the short term. Moreover, with the re-juggling of vessel alliances and other carrier consolidation, it hard to predict how vessel redeployment will respond to incentives without close scrutiny. Given the historically low shipping rates which are costing the industry billions a strategic incentive of proper size may prove justifiable in some respects, yet the short-term and long-term reactions to incentives is impossible to guess without study.

In short, PMSA shares the state's motivation to maximize all effective vessel incentives. As an initial step, this Action Item should be amended to add "*CARB will study the necessary levels of incentives most likely to achieve successful utilization of state incentive programs by ocean carriers.*" For instance, what level of incentive is necessary to modify behaviors in an industry where a single asset may cost $140 million to deploy, but where the entire market faces operating losses of between $6 billion and $10 billion this year? The numerous market dynamics and how they may interact with the potential costs and benefits to the State are not straightforward and should be analyzed.

Consistently, we would respectfully request that the Action Item delete the suggestion of a "green lane" and avoid any other references to types of coordination across multiple Ports to control such new and novel incentives. Multi-state or sub-national incentive programs have the potential for raising numerous legal and operational concerns for the shipping industry, but would also add numerous market complexities regarding costs and competitiveness to any study of how incentives can be effectively deployed. We are committed to working with CARB and other Port stakeholders on the development of incentives that are effective.

- **Action Item 4.G.3. "At-Berth Regulation Amendments" (C-52 – C-53)**
  PMSA is already working directly with CARB on this Action Item and reserves the balance of its comments to the informal and formal rulemaking processes currently underway or contemplated.

- **Action Item 4.H.4. "Transport Refrigeration Units" (C-56)**
  PMSA is working directly with CARB on this Action Item and reserves the balance of its comments to the informal and formal rulemaking processes currently underway or contemplated.

- **Action Item 4.J.2. "Off-Road Federal and International Sources" (C-59)**
  The Sustainable Freight Action Plan is being developed in order to guide statewide policy development, and this South Coast-only measure should be removed. From a sustainability perspective, if these measures are effective, they should be applied

statewide. Unless, the State can articulate why the rest of California would not benefit from GHG emission reductions contained in Action 4.J.2. (as well as Action 4.J.1 and 4.J.3), the Action Plan should remove this Section altogether and revise the application of these strategies in other existing Action Items.

If this Action is retained, the term "regulatory approaches" should be removed from the Type of Action description. As detailed, none of the Proposed Actions included in this Item are regulatory: expanding incentives and funding; partnering to incentivize; seeking funding for new demonstration projects; and encouraging industry based initiatives. Therefore the "regulatory approach" language is misleading and an inaccurate description of the types of measures which would be employed under this Action Item by CARB and the South Coast AQMD.

- **Action Item 4.K.1. "Seaport Electrification Demonstration Projects" (C-61)**
  PMSA views this Action Item as Complementary to its proposed new innovative funding and financing mechanism for the support of zero-emissions equipment investments at marine terminals, Action Item 3.B.5. To the extent there is any confusion or overlap, we would note that this Action Item contains many similar, yet distinct items which should be clarified: while the Overview and Proposed Actions focus on plug-in and hybrid electric vehicles, the Estimated Cost discusses advanced mobile and stationary technologies, and the Benefits section discusses cost-effective building and lighting efficiency efforts.

  PMSA supports all of these efforts, but they are distinct and should be provided with separate treatment under this Action Item, or given separate Action Items. We would recommend that the final Plan reflect specific action on the provision of funding for energy efficiency and renewable energy development at marine terminals, including a review of PMSA-sponsored AB 678 (O'Donnell)(2015) and PMSA-supported AB 1657 (O'Donnell)(2016) which promoted the development of a program similar to this one, to be managed by the Energy Commission.

  Moreover, while certain aspects of on-road vehicle plug-in hybrid technology investments may best be described as Demonstration Projects, the point of the proposed Seaport Energy Efficiency Action Item should be to deploy mature technology, not just to run another demonstration.

- **Action Item 4.K.2. "Terminal Cost-Sharing" (C-61 – C-62)**
  PMSA vehemently opposes any effort by the State which would circumvent existing marine terminal leases, contracts or agreements. Action Item 4.K.2 should be deleted in its entirety or clarified to express the creation of a true incentive program to develop Port electrical infrastructure.

  PMSA also rejects the Benefits analysis of this Action Item in its entirety. ("Benefits: By eliminating contractual barriers preventing cost-effective technologies from being deployed, California seaports can work with tenants to expedite the deployment of clean and efficient technologies.")

Rather than proposing to force contract and lease amendments on marine terminals in order to subsidize their competitors, the State should be seeking to make its electricity costs more affordable or provide real, understandable and clear incentives to achieve electrical infrastructure goals. California has among the highest electricity costs in the nation; rather than focus its efforts on how to make marine terminals pay even greater costs for electrification infrastructure, the State should be focused on how to strategically reduce costs or work with industry and the Ports through incentives.

- **Action Item 6. "Economic Competitiveness" (C-65 – C-66)**
  PMSA supports, generally, the proposed Action Items under Action 6.

- **Action Item 6.A. "Competitiveness Data Development" (C-65 – C-66)**
  The Plan needs to direct the development of a State Freight Economic Baseline as a component of its Competitiveness Data Development. (See Freight Targets, Appendix B, above)

  The Plan, if it is going to be creating a Freight Handbook, also needs to demonstrate how to model positive Economic Impacts which will result from the development of freight project investments. (See Action 3.B.2., above)

  PMSA proposes adding the following bullets in the Action Item's Proposed Actions:
  "• *Establish a "State Freight Economic Baseline" metric. Economic analysis of the current California Freight System will establish a total macro-economic baseline which includes the current economic contribution of the state's freight industry, and the current condition of its supply chain infrastructure, freight system suppliers, markets, sectors, and industries which rely on freight transportation infrastructure. This evaluation, which does not currently exist on a statewide basis, would be a complete metric upon which to judge success or failure of the Plan to meet its Freight Targets.*
  • *Identify Economic Impacts modeling which should be used to analyze the economic benefits of proposed projects, and promote the development of such projects when the expected economic benefits exceed mitigatable costs*."

  The Action Item's Benefits section should also reflect that the total macro-level Freight System economic activity was identified in Executive Order B-32-15 as "responsible for one-third of the State's economy and jobs, with freight dependent industries accounting for over $700 billion in revenue and over 5 million jobs in 2013." In order to measure growth in this sector of the economy, and to account for improvements in our competitiveness by revenue and jobs, a baseline evaluation consistent with the Executive Order must be set and compared against.

Once this baseline is set, then the State can conduct assessments and forecasts of industry growth and evaluate where our freight system will be in 10 and 20 years from today, based on a rational forecast of where the state's economy will be in one and two decades from now. The baseline model would be able to project changes in economic activities in California related to freight transportation and logistics, including changes in asset value, employment, and tax revenue.

These projections and the above types of analyses must be conducted to determine the most rational "Freight Strategy" to maximize the environmental and economic sustainability goals envisioned in B-32-15.

The overview of economic activities in California must be related to the contribution of freight transportation and logistics, including asset values, and the direct, indirect and induced output, job and fiscal impacts of the state's freight sector, including upstream impacts (e.g., supply chain and supply chain multiplier effects) and the downstream effects (the impacts on industry users that rely on an efficient, secure and affordable freight system). Economic impact models have already been developed which can evaluate the economic implications of the entire transportation and freight systems, including the evaluation of state goods movement plans, new and expanded highway corridors, airports, seaports, rail, freight and multimodal developments.

The methodology and toolset developed in this Action Item for evaluating the ex-ante economic impacts of proposed changes in condition vis-a-vis the current economic baseline will become the basic model for Economic Analysis. This Dynamic Modeling does not currently exist on a statewide basis and where these models do exist they are not readily employed by the state or local government with respect to the development of freight projects or regulations.

As noted in Appendix C (above), once the freight strategy is in-place and being implemented, an ex post economic impact analysis must be conducted to analyze the *actual* direct, indirect and induced economic impacts of the state's implementation of the final Plan's Action Items. These models will accommodate this requirement.

- **Action Item 6.B. "Marketing Campaign for California's Freight Transportation System" (C-66)**

  PMSA supports this Action Item. PMSA sponsored legislation which would have required the development of a similar marketing plan in 2011 (SB 460 (Price)) and 2013 (SB 592 (Price)). Since the demise of the Trade and Commerce Agency, no state agency has been dedicated to growing this important sector of our economy and the jobs that come with it through trade promotion.

  One success story that we may learn from is that of the Tourism and Travel Commission, which now may spend its own funds outside of the Legislative charter that it has been given, and successfully markets a California brand to the world; such a model could potentially be built around Trade. The supply chain and business community wants to work with the State to improve the competitiveness of California's ports and create jobs, and we can all work together on to find creative and cost-effective ways to promote California's trade economy.

- **<u>Action Item 7.A.5. "Drayage Truck Optimization" (C-72)</u>**
  It is unclear what the scope or management of this Action Item entails, whether from CalTrans or private industry, to whom or by whom "incentive fees and taxation" would be collected or paid, and how the provision of "dynamic truck travel information" would increase container velocity and truck turn times. PMSA asks for clarification of this item, and would oppose any suggestion that the state should proceed to implement any fees, taxes, or regulations on either, or both, drayage truck operations and any marine terminal operations regarding the provision of services to drayage trucks. Moreover, providing "container visibility to entire supply chains" raises numerous questions over proprietary data, safety, and competitiveness between terminal, ocean carrier, and drayage company competitors.

- **<u>Action Item 7.C. "Off-Hour Delivery/Pick-Up Strategy" (C-75 – C-76)</u>**
  PMSA supports the development and expansion of additional off-peak hour strategies by CalTrans for the state highway system, in general, and the continuation of successful, existing marine terminal off-peak terminal management, PierPass, in particular. ("Supporting the use of traffic mitigation fee programs such as PierPass.") The overview points out that most truck traffic occurs during the most congested times of the day; this is true on-road, but, at marine terminals in LA and Long Beach, the successful implementation of the PierPass congestion mitigation pricing scheme has moved a majority of cargo transactions to night gates off-peak. The Port of Oakland has also recently implemented an extended gate hours program, although this market is more appropriately supported by the imposition of an across-the-board fee. PMSA looks forward to working with CalTrans to assess strategies for wider deployment of these congestion management tools at these Ports and across the supply chain.

- **<u>Action Item 9. "Expedited Delivery of Projects Meeting Plan Objectives"</u>**
  PMSA looks forward to the creation of Action Items implementing Action 9, as described in the Action Plan. The infrastructure improvements required to achieve the goals outlined in the previous Action Item sections will take years of planning at a local level, cost billions, and require extensive permitting. Today, development opponents use the California Environmental Quality Act to delay projects in the hope that delay will kill the project. As recently outlined in the report "In the Name of the Environment," projects challenged under CEQA are typically government-sponsored, infill, and challenged for non-environmental reasons. The delays presented by CEQA represent a real threat to the goals outlined in the plan. Unless a serious approach is adopted to address CEQA abuse, environmental goals sought by the State may, ironically, not be achieved due to the abuse of the Act.