



July 6, 2016

To: California Air Resources Board, California Department of Transportation, California Energy Commission, California Environmental Protection Agency, California Natural Resources Agency, California State Transportation Agency, Governor's Office of Business and Economic Development

SUBMITTED ONLINE (www.casustainablefreight.org)

Re: Goods Movement Industry Comments on the Draft Sustainable Freight Action Plan
 The undersigned coalition of major freight-dependent and trade-related businesses and organizations offer the following comment on the Draft California Sustainable Freight Action Plan.

Review of Competitiveness Workgroup Priorities

On April 14th, our coalition sent the attached letter to memorialize the five competitiveness principles the Competitiveness Workgroup discussed with you at an April 1st meeting in San Francisco. Those principles are:

- 1. The Sustainable Freight Action Plan should strike all reference to, and affirmatively reject, a facility emissions cap.**

While not specifically called for in the Draft Sustainable Freight Action Plan, CARB's Executive Officer recently stated that:

“One of the options we [CARB] will further discuss with stakeholders is an emissions performance target for freight facilities like railyards and ports that cover all mobile emission sources serving the facility. With this approach, the owner of the facility or

equipment will have the flexibility to determine the best way to meet the emissions target. This is in contrast to a potential approach where several new measures are developed to meet the same target, thereby reducing on-site flexibility for the owner on how best to meet the target.

This type of facility performance target could be achieved through regulation, through enforceable agreements and incentives, or through a combination of approaches. In a prior ARB document, we labeled this concept as a facility emissions cap, unfortunately.”¹

Our coalition strongly rejects the characterization that either Facility Emission Cap or Facility Performance Target would provide regulatory “flexibility.” In fact, these concepts would represent an unprecedented expansion of California’s regulation of the freight industry at a time when California’s freight industry is already spending billions of dollars to reduce key pollutants by as much as 99%.

The wording conflicts with the Governor’s Executive Order and the Draft Sustainable Freight Action Plan and, for that reason, has been strongly opposed by freight-dependent industries throughout the State. Such a regulatory approach would raise serious competitiveness concerns as regions and states without a cap will have a competitive advantage over those that do. The rate of technology advancement may also result in a facility cap becoming a de facto cap on economic growth. If technology advancement proceeds more slowly than the state anticipates, a facilities cap will become a straitjacket rather than providing flexibility as posited by Mr. Corey.

It may also lead to decreases in efficiency and increases in emissions as goods movement facilities locate further away from population centers to avoid a cap. Longer, less efficient, moves would burn more fuel and increase emissions. Such an approach may even result in the proliferation of warehousing simply to avoid complex compliance options needed to address a facility emissions cap, countering the current industry trend to consolidate operations in order to improve efficiency. Further, such an approach would create an undue burden on third-party logistics providers (3PLs) that often have no operational fleet control. Often providing dynamic warehousing, 3PLs provide a key node in the logistics network. Without operational control, a facility cap is essentially unworkable for a large portion of the logistics network. Already major retailers avoid California for much of their logistics services; this approach could also drive 3PLs to neighboring states.

The Sustainable Freight Action Plan should affirmatively reject a facility emissions cap, including any data collection efforts, and focus instead on collaboration to bring about advanced, zero and near-zero emission technology.

¹ Statement of Richard Corey at the Assembly Transportation Committee Hearing. June 20, 2016. See: http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=3823

- 2. The State must partner with industry to provide funding, financing, or incentives for investments in ZE/NZE equipment and infrastructure that will lower greenhouse gases and/or lower criteria pollutants while simultaneously resulting in higher capacity operations, higher operational efficiency, and improved competitiveness of California's freight system.**

While we appreciate the call for future stakeholder work to determine commercially viable strategies, the State is already suggesting it will mandate non-commercial technologies in the plan [for example, see Appendix C, Page C-53]. We believe agencies and stakeholders must agree on a definition of commercial viability before any state agencies require the use of any new technology.

- 3. Improve the California Environmental Quality Act (CEQA) so that California infrastructure projects can be completed in a timely manner and California's freight system can remain competitive, without compromising environmental quality.**

We look forward to further discussions with the Administration along with our federal and regional partners regarding how to streamline project permitting.

- 4. Identify public sources of long-term, dedicated freight infrastructure funding.**

We continue to work towards solutions to bring long-term, dedicated revenue to California's freight infrastructure.

- 5. Formally direct the Governor's Office of Business and Economic Development (GO-Biz) and industry to continue to work together after the Sustainable Freight Action Plan is submitted to the Governor in order to ensure "No Harm" and to monitor progress toward increasing competitiveness.**

Because the economic growth target, unlike the other two targets, does not contain a quantifiable goal, we highlight the importance of proposed State Agency Action #6:

- 6. Convene stakeholders to identify and deploy strategies that consider commercial viability and promote the competitiveness of California's statewide and local freight transport system, develop tools and share data to analyze benefits and impacts of actions, including costs, and develop and implement a quantitative metric to track progress.*

It is imperative that this plan send a positive signal to cargo owners and other supply chain interests about the viability of investing their resources in California. These interests have more options than ever before which will challenge California's competitiveness as a global trade gateway.

Therefore, the State must put forth a serious effort to understand both how the regulatory strategies proposed in the CSFAP will impact competitiveness (*Specifically, the cost of each regulation, who will pay, and impact to the economy, competitiveness, discretionary cargo,*

etc.) as well as how the state should proactively pursue the goal of increasing the competitiveness of the State's freight system through investments in more efficient infrastructure and regulatory or permitting process improvements.

Accordingly, we state our **strong** support for and look forward to participating in the workgroup on competitiveness as called for by State Agency Action #6 and believe that this work should be supported appropriately by the State budget and should begin as soon as possible. The undersigned industries are committed to ensuring that the State has the necessary expertise to understand the role its public policy plays in driving business to or from the State.

Executive Order Calls for Increased Competitiveness, Not Economic Growth

While we expect that metrics to measure competitiveness will be developed in the future, the State target for competitiveness should continue to reflect the original charge of the Executive Order, which was to "increase the competitiveness" of the State's freight sector, not to simply allow for economic growth. This small but important distinction should be spelled out in the Plan and the Plan should recognize that freight dependent industries compete for investment and business on a global scale and that the State's policy focus is to help the industry remain competitive in the global market. It is important that the "Vision for a Sustainable Freight Transport System" be revised to include the "increase competitiveness" element of the Executive Order, and we therefore suggest the following revision:

"Utilize a partnership of federal, State, regional, local, and industry stakeholders to move freight in California on a modern, safe, integrated, and resilient system that continues to support California's economy and livability, and grows the economic competitiveness of California's freight sector. Transporting freight reliably and efficiently by zero-emission equipment everywhere feasible, and near-zero emission equipment powered by clean, low-carbon renewable fuels everywhere else."

Land Use

There are various references throughout the Plan to concepts that encroach into local land use decisions. (For example Appendix C, pages C-13-15). Land use is a complex process that is legally in the control of cities and counties. Their authority has been repeatedly upheld in statutory and case law, and must not be infringed upon. Additionally, any such encroachment could result in far reaching unintended consequences.

Cities and counties prepare general plans and zoning, which is itself a lengthy legal process with extensive interaction with the communities they serve and the property owners. The entire process is focused on what type of land uses are compatible, needed, and desired for a balanced community that will meet the local and regional needs in terms of housing, jobs and services. One size does not fit all. The general plan sets out the areas where various types of developments will be located and their relationship to each other. It is thoroughly

analyzed and that analysis includes an environmental impact report laying out what impacts may exist as a result of the plan. Additionally, state laws require the general plans, and zoning that is consistent with the general plan, to be updated periodically, so there is always the opportunity to update them should the people in the community feel changes need to be met to protect their quality of life.

Yet, this is actually only the beginning. Once the overall concept is created and approved by the elected representatives, then a second round of review occurs when any project is proposed to be built. That project also has an environmental review to see what impacts that particular project might create. If there are significant impacts, the environmental impact report includes mitigation measures. The siting, design and operation of the project is all considered by the community, interested parties and the local elected officials. This is also a very public process and it is well known the people in the community make their concerns known.

All this does not occur in a vacuum. In addition to CEQA, SB 375 already requires the development of Sustainable Communities Strategies (SCS) that not only impacts local planning decisions, but the Regional Transportation Plans and local Air Quality Management Plan. The SCS is also updated every few years. So, the idea of developing sustainable communities is a planning tool that is already imbedded in the current planning efforts. In light of all the above, it is difficult to understand what another layer of regulations, a “siting handbooks,” or any data collection would add to a well developed system governing land uses.

Zero-Emission Freight Targets

We understand that staff has received comments suggesting that the target to deploy 100,000 zero-emission pieces of equipment by 2030 is too low.

First, our understanding based on numerous discussions with the interagency workgroup is that the freight targets are meant to be aspirational goals for 2030, not hard regulatory targets. As such, there has not been an extensive review of the economic or technological feasibility of any of the metrics to date.

However, we believe further analysis of the 100,000 zero-emission capable pieces of equipment metric would reveal that reaching such a goal with the technology available for deployment today is unlikely, no matter what the cost borne by industry and the State. Therefore, we do not believe the aspirational goals should be adjusted unless a more rigorous review of the technological and economic feasibility or reaching a new target is conducted.

Further, it is important that CARB specifically delineate the costs to various transportation sectors in making adjustments to zero-emission technology. This should include:

- identification of “stranded assets” value owners have incurred in already upgrading diesel technology;

- added cost to transfer to zero-emission technology, and;
- the value lost on diesel vehicles that will need to be sold or retired to adjust for the new vehicle utilization.
- the cost for renewable fuel technologies and appropriate consideration of incentive and compensation opportunities for infrastructure development.

Efficiency Target

Many members of our coalition do not feel that the freight efficiency metric is reflective of efficiency as the industry thinks about it. We encourage the efficiency workgroup, as called for in proposed State Agency Action #7, to additionally consider efficiency goals that are more reflective of priorities for infrastructure investment (i.e. velocity, throughput, reliability and congestion relief) that are well understood to increase the efficiency of the freight system. In addition, the Action Plan should be clear that, like the zero-emission equipment target, the efficiency target is an aspirational goal.

We look forward to reviewing the final Action Plan when it is released, and working collaboratively with you and your agency to implement a plan that fulfills the mandate of the Executive Order.

Sincerely,

Agricultural Council of California
 American Trucking Associations
 Association of American Railroads
 BizFed
 California Association of Port Authorities
 California Business Properties Association
 California Business Roundtable
 California Citrus Mutual
 California Chamber of Commerce
 California Cotton Ginners Association
 California Cotton Growers Association
 California Farm Bureau Federation
 California Fresh Fruit Association
 California Independent Oil Marketers Association
 California League of Food Processors
 California Manufacturers and Technology Association
 California Refuse and Recycling Council
 California Retailers Association
 California Trucking Association
 Coalition for Responsible Transportation
 Construction Industry Air Quality Coalition
 Chemical Industry Council of California
 Engineering Contractors' Association

Foreign Trade Association
Harbor Trucking Association
Home Depot
Inland Empire Economic Partnership
International Warehouse Logistics Association
Los Angeles Area Chamber of Commerce
Maersk
NAIOP - So Cal Chapter
Orange County Business Council
Owner Operator Independent Drivers Association
Pacific Merchant Shipping Association
San Gabriel Valley Economic Partnership
Southern California Contractors Association
Target
West Coast Lumber & Building Materials Association
Western Agricultural Processors Association
Western Wood Preservers Institute