Western States Petroleum Association
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Catherine H. Reheis-Boyd
Chief Operating Officer and Chief of Staff

April 19, 2006

Clerk of the Board
Air Resources Board
California Environmental Protection Agency
1001 I Street, 23rd Floor
Sacramento, CA 95814

Re: Western States Petroleum Association Comments on ARB's *Proposed* Emission Reduction Plan for Ports and Goods Movement in California

Dear Clerk of the Board:

The Western States Petroleum Association (WSPA) is a trade association whose members conduct much of the producing, refining, transporting, and marketing of petroleum and petroleum products in the western United States. We appreciate the opportunity to provide comments on the Air Resources Board (ARB) *Proposed* Emission Reduction Plan (*Proposed* ERP) for Ports and Goods Movement in California.

The *Proposed* ERP was released on March 21, 2006 with comments due to ARB by April 19, 2006. This new document (175 pages including appendices) has substantially changed from the prior version as it contains: (1) an expanded scope including additional emission inventories and (2) a new health risk assessment (as acknowledged in the *Proposed* ERP "What's New in This Plan" section). Furthermore, the ARB web site recently posted two new documents: Technical Supplement on Health Analysis (108 pages) and Technical Supplement on Emission Inventory (108 pages). At the same time, only 21 working days have been allowed for the public to review and provide comment on the ERP. In light of the limited comment period and the substantial amount of new material to review, WSPA is submitting this letter to highlight ***key concerns*** we have identified based on a cursory review of the *Proposed* ERP. However, WSPA believes that the changes made to the *Proposed* ERP warrant a longer period for thoughtful review and comment than provided for with the April 19, 2006 deadline.

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I. Revised Health Risk Assessment

Chapter 1 of the *Proposed* ERP (Public Health Impacts) indicates that more than 95% of all costs due to annual PM and ozone health effects are related to "premature deaths." A comparable percentage has been assigned to the value of health benefits for the Proposed ERP emission control strategies. Clearly, the category "premature death" not only drives the health risk assessment but the entire *Proposed* ERP. This new health risk assessment is based upon a "more recent publication" (referenced as Pope et.al., 2002) that "increased the number of deaths associated with exposure to particulate matter by 25%." In addition, the *Proposed* ERP also states that "several new epidemiology studies have been recently published which may also be relevant to the health impacts analysis."

It must be recognized that this new health risk assessment is a complex and sophisticated model that introduces significant uncertainty. This is clearly illustrated in Table I-2 of the *Proposed* ERP where the mortality rate (number of deaths) ranges from 720 to 4,100 (a difference of nearly a factor of 6). The fact that the health risk assessment focuses to such a large degree on a single element (diesel PM-related premature deaths) certainly justifies further review of the validity of the recent and new study information utilized in the health risk assessment. WSPA believes that it is incumbent upon ARB to allow sufficient time for stakeholders and health experts alike to review and understand the key assumptions that have yielded such a significant predicted health impact. As mentioned previously, allowing for only 21 working days for the public to review the ERP, and an even less amount of time for the newly posted supplemental information, is simply inappropriate. WSPA strongly recommends ARB should provide additional time to allow the public and regulated industry additional time to review the *Proposed* ERP.

With regard to the emission inventory, it is acknowledged in the *Proposed* ERP that "about 70 percent of the cancer risk from toxic air contaminants in California is due to diesel PM." Figure II-4 in the *Proposed* ERP indicates that approximately 66 percent of 2001 statewide goods movement diesel PM emissions are from trucks. Assuming that this latter value is accurate, it is clear that reducing truck emissions is the primary ARB control strategy and key to health risk reduction. However, no clear evidence is found in the *Proposed* ERP to support cost of implementation ($/ton estimate of the program) or any definitive estimate of the cancer cases avoided from diesel PM reductions.

In fact, the Executive Summary of the *Proposed* ERP states that "the primary new strategies in this plan are to apply best available control technology to the entire truck fleet in private ownership..." This strategy is definitely not new. Rather, it reinforces the same costly approach (as characterized by the *Proposed* ERP's own cost estimates at approximately $9-16 billion) that has compelled WSPA and others to develop viable alternative programs such as market-based incentive strategies.

II. Need to Ensure the Goals of Emission Reductions and Infrastructure Needs are met Simultaneously.

In addition to our concerns regarding the amount of documents and recent posting (last week) of supplemental reports and insufficient time allowed to review, WSPA also would like to express its concern that ARB the emission reduction plan is moving forward without the simultaneous adoption of the final Goods Movement Action Plan. Clearly, both the ERP and the Action Plan are intricately linked in that reductions of emissions must be balanced with infrastructure projects and the improvement of goods movement at the Ports.

We understand the ARB's desire to move forward with the ERP, and would ask that the plan remain "fluid" enough to allow additional linkage to occur as we move toward adoption of the Goods Movement Action Plan later this year.

As the ERP does not adequately identify the impact of the Goods Movement Plan on emissions related to the construction of new or upgraded infrastructure or the resulting emission impacts from a more efficient infrastructure system, allowing a fluid process will provide for a smooth incorporation of these elements as we go foward

III. Alternatives to Traditional Control Strategies

Section V.D (Other Market-based Approaches) of the *Proposed* ERP indicated that "ARB staff has been approached by a least one coalition that proposes to use a market-based incentive program to accomplish most, if not all of the emission reductions envisioned in this plan. The Maritime Goods Movement Coalition, of which WSPA is an active member, submitted a conceptual proposal that is included as Appendix G in the *Proposed* ERP. Market-based programs are very attractive methods to reduce emissions and improve environmental impacts, particularly where regulatory authority is limited by either legal or practical constraints." The *Proposed* Plan further states that "ARB staff believes that it is important to keep the market-based trading option on the table for goods movement, but has not endorsed any particular approach at this time."

WSPA continues to believe that the MGM GMAP proposal offers the most effective and efficient way to improve air quality at and near the ports. We also believe that creative regulatory approaches, such as those presented in the MGM GMAP proposal, are superior to traditional "command-and-control" methodology and should become the cornerstone of the ERP. It is imperative that the regulated community has flexibility in emission control strategies in order to maintain and expand essential goods movement infrastructure into the future.

If ARB decides to move forward with the proposed ERP, at a minimum, we would strongly recommend ARB adopt a simultaneous rulemaking process that includes not only the command and control approach as outlined in the ERP, but also the proposed MGM Alternative Plan. The Board at a later date, can then evaluate and weigh the advantages and disadvantages of each proposal and decide which emission reduction methodology is superior.

In closing, WSPA appreciates the opportunity to provide our comments on the *Proposed* ERP. If you have any questions regarding our comments, please do not hesitate to contact me or my staff, Steven Arita at (916) 498-7753.

Sincerely,

cc: Mr. Dan Skopec – Undersecretary, Cal-EPA
Ms. Sunne McPeak – BTH
Ms. Cindy Tuck – Cal-EPA
Mr. Barry Sedlick – BTH
Mr. Joe Sparano – WSPA

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