



American Legion Post 6
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 California Kids IAQ
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NAACP San Pedro-Wilmington Branch
 #1069
 San Pedro & Peninsula Homeowners
 Coalition
 St. Philomena Social Justice Ministry
 Wilmington Improvement Network

March 19, 2018

VIA ELECTRONIC MAIL

Chair Nichols and Members of the Board
 California Air Resources Board ("CARB")
 1001 "I" Street
 Sacramento, CA 95814
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Re: Agenda Item No. 18-2-6 – Community Health Impacts from Freight Facilities

Dear Chair Nichols and Members of the Board:

One year ago, this Board adopted Resolution 17-8 directing Staff to report back by March 2018 "with concepts for an Indirect Source Rule to control pollution from large freight facilities including ports, railyards, warehouses and distribution centers, as well as any identified alternatives capable of achieving similar levels of emissions reductions..." This resolution grew out of the failure of the current State air plan to identify sufficient real emission reduction measures to address ozone and particulate matter pollution. The three important takeaways from the adoption of this resolution were: (1) the current strategy of relying heavily on voluntary incentive measures was

not a sufficient strategy for addressing the state's "worst-in-the-nation" air pollution problems; (2) air pollution from large freight facilities must be a priority; and (3) Staff must look for alternatives capable of actually reducing emissions.

The undersigned organizations have worked with Staff on this important effort over the last year. At the outset, we want to thank the Staff and Board members for their hard work to prioritize addressing pollution from freight facilities. Specifically, the undersigned strongly support the proposal for new regulations for drayage trucks, cargo-handling equipment, locomotives and harbor craft. We also appreciate the inclusion of other strategies, including enforcement and a new freight handbook. The handbook is especially important because there is a lack of leadership on the local level to tackle pollution from sources like warehouses, which are proliferating throughout the State with no base level of requirements that must be implemented.

Over the course of the past year, however, several things have become clear that threaten to stall meaningful progress to filling the gaps in the State air plan and addressing freight pollution:

1) We Cannot Rely On Local Agencies To Address Freight Facilities.

While some local agencies have demonstrated leadership in tackling deadly freight pollution, we cannot rely on these local efforts to advance mandatory programs to clean up this industry. In particular, we are seeing throughout the state a failure of leadership on the local level to put forward requirements such as indirect source rules – despite requirements in California law that they include these measures in their air plan. They are often choosing voluntary and incentive-based programs to clean up large freight facilities. Meanwhile, large freight expansion projects are being approved that promise to create immense new risks to surrounding communities on top of the burdens already created by existing facilities.

CARB staff have been vital in commenting on the environmental review of local projects, and the proposed freight handbook will be an important tool in achieving better outcomes for these facilities. But CARB needs to go further, specifically when it comes to directing local air districts to use their authority to regulate freight operations. CARB may not feel free to dictate the specific actions that District's must take, but it can reject the current voluntary incentive-based approaches that the districts continue to pursue in lieu of mandatory programs. CARB is not obligated to accept these unenforceable plans that fail to include meaningful commitments to address freight sources of pollution let alone a realistic path toward attainment of national and state air quality standards.

2) CARB Must Prioritize Freight Regulations.

Ample evidence demonstrates that freight activities continue to create unacceptable impacts in communities around freight facilities and along freight corridors. Serious efforts to regulate freight activities are required to meet basic health-based air quality standards and to curb greenhouse gas emissions. While we are pleased to see additional regulations proposed such as a zero emissions drayage truck rule, staff has offered a phased-in approach to rulemaking that will delay necessary regulatory actions well into the future. While we understand that regulations cannot be crafted overnight, the freight pollution crisis that continues to plague communities requires CARB to allocate significant staff to protecting communities harmed by freight. Internal resource decisions should not be used as an excuse to delay these important rules.

Commenters continue to urge CARB to pursue direct, technology-forcing controls on trucks, locomotives, vessels, and other freight equipment. Such direct controls will drive the innovation of new technology (especially zero-emission technology) and ensure emission reductions will occur no matter how or where this equipment is used. Almost three years ago, many of our organizations presented to the Board on the need to push regulations that advance zero emission equipment. Since then, no rules have been brought to the Board. Staff committed to bring several freight-related measures to the Board for approval in 2018 (i.e. last mile delivery and at-berth regulatory amendments), but none of these rulemakings appears to be on track for approval this year. Resolution 17-8 directed staff to bring a zero-emission cargo handling equipment rule to the Board for approval in 2019, but the proposal before the Board is to push that rulemaking back until 2022. These delays are unacceptable.

The following chart outlines the freight-related regulations with the CARB Board action date from the State Strategy compared to Staff revised date in the concept document before the Board. The regulations in bold show where a Board approval date has been moved or an implementation date has been pushed back.

Freight-Related Regulations Proposed As Part of State Strategy and Freight Facility Update

Proposed Measure	ARB Action Date from Revised Proposed 2016 State Strategy for the State Implementation Plan ¹	Implementation Begins	Staff Revised ARB Action Date ²
Drayage Trucks at Seaports and Rail Yards	N/A	N/A	2022
Commercial Harbor Craft at Seaports	N/A	N/A	2020
Cargo Handling Equipment at Seaports and Rail Yards³	2019	N/A	2022
Advanced clean local trucks regulation (last-mile delivery)	2018	2020⁴	2018
Medium and Heavy-Duty greenhouse gas phase 2	2017-2019	2018+	2018
Low-Oxides of nitrogen standard for truck engines	2019	2024	2019
Transportation Refrigeration Units	2018-2019	2020+	2019
Ship At Berth Regulation Amendments	2017-2018	2023	2019
Zero Emission Forklift Regulation Phase 1	2020	2023	2020

¹ CARB, Revised Proposed 2016 State Strategy for the State Implementation Plan (March 7, 2017), available at <https://www.arb.ca.gov/planning/sip/2016sip/rev2016statesip.pdf>.

² CARB, Update on Concepts to Minimize the Community Health Impacts from Large Facilities: Advanced Materials (Revised) (3/14/2018), available at https://www.arb.ca.gov/gmp/sfti/revised_freight_facility_concepts_advance_materials_03142018.pdf.

³ This commitment was made in Resolution 17-8 from the March 2017 approval of the State Strategy.

⁴ For the Last-Mile Delivery truck, it appears staff is recommending pushing back the implementation start date to 2023, instead of 2020 in the State Strategy.

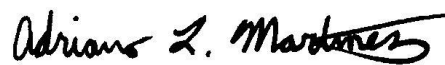
In addition to the specific examples where deadlines have been pushed back, we also remain concerned about getting regulations with future compliance dates over the finish line. To the extent a lack of staffing is an issue, we highly recommend making sure the agency can fulfill its existing promises and move forward quickly on the additional commitments to advance additional regulations on zero emissions drayage trucks and commercial harbor craft. If this delay is a staffing issue, the Board should direct more staff to allow more expeditious completion of these life-saving regulations.

3) CARB Must Commit to Achieving Emission Reductions.

Resolution 17-8 directed staff to explore indirect source regulations on various freight facilities as alternatives “capable of achieving similar levels of emissions reductions.” To date, staff have not provided any analysis of potential emission reductions achievable through freight regulations, let alone any commitment to achieve these emission reductions. This lack of accountability for achieving actual emission reductions from this sector feeds the delay in rulemakings and allows for future rules to avoid meaningful controls.

In the meantime, there is no actual plan to achieve the emission reductions necessary to meet any of the national ambient air quality standards for ozone. EPA’s ability to perpetually extend Clean Air Act deadlines with no consequences is coming to an end as a result of the recent D.C. Circuit’s decision in *SCAQMD v. EPA*, Case No. 15-1115 (D.C. Cir. Feb. 16, 2018). CARB and SCAQMD are running out of time to identify specific control measures to “fill in” the black boxes that have been used for decades to defer controls. The Board should direct staff to begin identifying what emission reductions will be achieved, when and how. The failure to get specific about these details not only undermines meaningful protections in impacted communities but will now begin to trigger legal consequences as well. We appreciate your consideration of these comments. Please do not hesitate to contact us if you have questions about this letter.

Sincerely,



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