

## McReynolds, Rana@ARB

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**From:** Adrian Martinez <amartinez@earthjustice.org>  
**Sent:** Monday, September 19, 2016 5:27 PM  
**To:** ARB Clerk of the Board  
**Subject:** Agenda Item No. 16-8-6 - Public Meeting to Consider the 2016 State Strategy for the State Implementation Plan  
**Attachments:** ARB State Strategy Comment Letter 9-16-2016 Final.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Clerk of the Board,

I have attached comments directed to the Board on Agenda Item No. 16-8-6. Please contact me if there are any questions.

All the best,  
Adrian

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**SIERRA  
CLUB**



September 19, 2016

Chair Nichols and Members of the Board  
California Air Resources Board ("ARB")  
1001 "I" Street  
Sacramento, CA 95814

**Re: Comments on 2016 Draft State Implementation Plan (Agenda Item No. 16-8-6)**

Dear Chair Nichols and Members of Board:

On behalf of the undersigned organizations, we submit comments on the Proposed 2016 State Strategy for the State Implementation Plan ("Draft Plan"). Overall, this clean air plan is the most important plan of the last two decades. The difficulties in meeting deadlines that are rapidly approaching like the 2023 deadline to meet the 1997 8-hour ozone standard in the South Coast air basin and San Joaquin Valley and the 2031 deadline to meet the 2008 8-hour ozone standard in those same regions have really become apparent by air agencies. As the South Coast Air Quality Management District conceded in its recent draft Air Quality Management Plan, we understand what technologies will get us to attainment in the State's most persistently polluted air basin. As such, the debate is only around how do we ensure the wide spread deployment of these technologies. It is critically important that the California Air Resources Board ("CARB") not fall back into the strategies of past plans that now have made it so difficult to achieve federal National Ambient Air Quality Standards ("NAAQS") and California Ambient Air Quality Standards ("CAAQS") by relying on section 182(e)(5) black box commitments. While these statutory flexibilities provide short-term relief from identifying strategies to clean up our notoriously polluted "extreme" ozone areas, ultimately they provide an unfavorable tradeoff by delaying regulatory mechanisms to push the technology transformation to zero-emission

technologies, which is required to attain the NAAQS and CAAQS. The following comments provide additional details on the draft plan and ways to improve it.

## **I. California Needs a Real Attainment Plan.**

There should be more urgency in developing a State Implementation Plan that actually demonstrates attainment of the 1997 8-hour ozone standards, the 2008 8-hour ozone standard and the 1979 1-hour ozone standard. Currently, the Draft Plan is too vague to fully show how the state will attain these standards. Much of the future commitments come in the form of “Further Deployment of Clean Technologies.” By all appearances, this represents voluntary and low funded incentive programs.

While we are not opposed to incentive programs per se, the amount of incentive funding that is required for attainment of clean air standards, in addition to the South Coast Air Quality Management District’s plan, has no basis in actual funds available. These incentives will only pass legal muster when coupled with enforceable mandates. Beyond issues associated with the enforceability of voluntary incentive programs, the fact that much of this funding has not been raised means there is no indication of how these programs or commitments will be met under “Further Deployment of Clean Technologies.” As such, we suggest that CARB couple incentives with regulatory mandates that push technology to zero-emissions in more categories than currently committed in the plan. While we are sympathetic to the more immediate deadline of 2023, we cannot continue this cycle of kicking the can down the road to achieve the 2008 8-hour ozone standard by 2031. Measures committing to zero-emission vehicles and equipment must be adopted in the near term to bear fruit within the next 15 years. The longer we wait, the harder it will be to meet clean air standards.

## **II. Strong Support for Regulatory Measures.**

At the outset, we want to express our support of the commitment to undertake new regulations and revise existing regulations. In particular, we are pleased to see commitments to undertake amendments to the clean car regulations, the Advanced Clean Transit rule, and the at-berth regulations. In addition, we are pleased to see commitments to push zero-emission technologies for last-mile delivery, airport shuttle busses, airport ground support equipment, and forklifts. Generally, we think the commitments in the plan for these categories could be strengthened by moving for a quicker implementation schedule given that many of these technologies exist today. Forward-looking regulations are vital to the success of any strategy California undertakes because spurring zero-emissions technologies is critical to achieving our air quality and climate goals.

## **III. Stationary Sources Continue to be Important.**

We appreciate the draft plan’s acknowledgement that stationary sources must continue to do their part to achieve emissions reductions. While some air districts have claimed they have controlled stationary sources in every way possible, the evidence does not support these claims. For example, the South Coast Air Quality Management District’s recent Best Available Retrofit

Control Technology (“BARCT”) Assessment shows that refineries in the South Coast air basin have failed to install Selective Catalytic Reduction (“SCR”) on many pieces of equipment. The Regional Clean Air Incentive Markets (“RECLAIM”) has been the primary culprit in allowing these large emitters to evade installing life-saving controls. Thus, CARB serves as an important check to make sure air districts are doing their part to control pollution from stationary sources.

This is particularly important because CARB already has the authority to check local air district’s efforts to clean up stationary sources in the Health and Safety Code. Moreover, new laws like AB 197 provide additional oversight from CARB to make sure stationary sources are achieving criteria pollutant reductions, particularly in disadvantaged communities. As such, we will be calling on CARB to provide meaningful input to air districts and potentially even reject inadequate plans coming from local air districts.

#### **IV. Several Commitments Must Be Strengthened and Some New Specific Commitments Should Be Included in the SIP.**

##### **A. The Advanced Clean Car Standard Commitment Must Be Strengthened.**

We are very supportive of further regulatory action to clean up NO<sub>x</sub> emission from light duty automobiles. The Draft Plan includes three strategies to achieve reductions from this sector. First, it plans to adopt Advanced Clean Cars 2 regulatory amendments. Second, it commits to Lower In-Use Emission Performance Assessment. Third, it commits to “Further Deployment of Cleaner Technologies.”

##### **1. Advanced Clean Cars 2.**

We support the inclusion of commitments to increase the sales of ZEVs and PHEVs in years 2026 and beyond. This is a critical commitment. In fact, the technology has matured in such a way for these products, that we suggest shifting some of the emissions reductions from the “Further Deployment of Cleaner Technologies” (i.e. 5 tons per day commitment in 2031) to the Advanced Clean Cars 2 (i.e. currently 2 tons per day commitment by 2031).<sup>1</sup>

In addition, the Board should undertake actions to make sure the ZEV program operates in a robust manner between now and 2025, in order to meet the SB 1275 goal of 1 million EVs by 2023 and the Governor’s target of 1.5 million EVs by 2025. The current program has been successful in bringing more than 25 models of plug-in electric and fuel cell vehicles to market. The technology has advanced more quickly than expected and as a result, manufacturers are earning more credits per vehicle than anticipated. Without making adjustments to the program, far fewer than 15 percent of sales are likely to be required by 2025. Fixing this system will be vital to ensuring the program achieves its targets in 2025 and beyond. ARB should fine tune the ZEV credits by:

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<sup>1</sup> ARB, Proposed 2016 State Strategy for the State Implementation Plan, at p. 32, Table 7 (hereinafter “Draft SIP”).

- a. Adjusting credit values for future vehicle sales to reflect recent technology innovation (performance and cost reductions have greatly exceeded expectations – which is a good thing – but overly generous credits mean too many credits and not enough cars).
- b. Ensure manufacturers can not solely rely on credits to comply with program requirements in future years.

## **2. Lower In-Use Emission Performance Assessment.**

We support efforts to fix the in-use emissions performance of California's vehicles. But, the plan should include some commitment to strengthen the program in a manner that achieves emissions reductions. The measure notes that 20% of the light duty vehicles are responsible for 50% of the Nitrogen Oxide ("NOx") emissions from this sector. This is a staggering amount of pollution from a limited number of vehicles. In-use requirements should target these vehicles and should match owners of highly polluting vehicles who also are low income with incentive programs to provide resources to purchase, lease, or car share cleaner vehicles.

## **3. Further Deployment of Cleaner Technologies**

This measure is the vaguest commitment and constitutes the vast majority of emissions reductions in the light-duty sector. Importantly, the scope of this measure is staggering, including proposing to place 500,000 to 600,000 LEV III or better vehicles on the road in the South Coast Air Basin by 2023. This massive uptick in car replacement is unprecedented, and the plan does not provide actual details on how this program would work. Replacing 5 to 6% of the South Coast air basin's vehicles in six to seven years is an exceptionally ambitious task, and we would like to understand exactly how ARB will ensure this will actually happen.

### **B. The Board Must Adopt a Strong Commitment for the Advanced Clean Transit Rule.**

Ensuring a clean statewide bus fleet is of paramount importance as California shifts to zero-emission vehicles. Thus, we are pleased to see a commitment to enhance the Advanced Clean Transit Rule in the Draft Plan. Now is the time to start converting our public transportation system into a cleaner and more efficient one. Transforming California's transit buses are one of the best applications for zero-emission heavy-duty vehicles and a necessary step in CARB's strategy to accelerate adoption of zero-emission technologies. The technology for these vehicles exists and is already cost-competitive with diesel and natural gas vehicles. Since zero-emission buses are clearly demonstrated, we suggest that the proposed purchase requirement of 20% in 2018 be increased to 100% by 2030 and apply to all instances where zero-emission transit buses are feasible. Existing natural gas vehicles should not be exempt from replacement with zero-emission vehicles.

CARB can and must require more of our transit agencies, particularly in places like the South Coast air basin and the San Joaquin Valley. Aggressive targets for buses will also help

advance zero-emission technologies for other heavy-duty applications, which has been articulated in several studies on how to move to zero-emissions from the heavy-duty sector.<sup>2</sup>

**C. The Commitment on Last Mile Delivery Trucks Must be Strengthened.**

Last mile delivery trucks provide an incredible opportunity to push zero-emission technologies. Right now, the proposed measure envisions a very low purchase requirement (2.5% of new Class 3-7 trucks sales in local fleets starting in 2020; 10% of new purchases in 2025; staying constant through 2030). This schedule phases in too slowly. The ARB has already identified the last mile delivery market as particularly prime for zero-emission technologies. For example, ARB determined that urban drive cycles are ideal for battery electric vehicles. In particular, ARB identified “parcel, linen, and food delivery vehicles” as particularly good places to pursue battery electric vehicles. Overall, this approach must include significantly higher purchase requirements particularly in the South Coast air basin and the San Joaquin Valley.

**D. The Draft Plan Should Include a Zero-Emission Cargo Handling Equipment Rule.**

The Ports of Los Angeles and Long Beach are already moving to zero-emission cargo handling equipment. In fact, the Port of Los Angeles has identified cargo handling equipment as a strong priority for zero-emissions because of “its relative technical simplicity and its widespread use around the world in goods movement related activities.”<sup>3</sup> Thus, California can have a real impact on the market globally by requiring and fostering developing of these zero-emissions technologies.

The importance of pushing forward a regulation that addresses new purchases of cargo handling equipment is especially important given that the Ports of Los Angeles and Long Beach have fought so vigorously against backstopping their voluntary commitments. The Ports have a clear preference for EPA or CARB regulations:

The backstop measure should instead require EPA or CARB to enact applicable regulations under their air regulatory authority applied uniformly to the national ports or state ports, or to find the shortfall emission reductions from other sources in the SIP.<sup>4</sup>

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<sup>2</sup> CALSTART, I-710 Project Zero-Emission Truck Commercialization Study Final Report, at p. 5-18 (November 20, 2013). The report notes that to help build more markets for zero-emission trucks, California should build supporting markets for vehicles and components in other types of similar vehicles (i.e. vocational trucks and buses).

<sup>3</sup> Port of Los Angeles, Draft Zero Emissions White Paper, at 21 (July 2015).

<sup>4</sup> Letter from Heather Tomley, Port of Long Beach, and Chris Cannon, Port of Los Angeles, to Weinke Tax, U.S. EPA Region 9, re Docket No. EPA-R09-0AR-2015-0204 U.S. Environmental Protection Agency *Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California, South Coast Moderate*

While this type of regulation has been met with resistance from some in the freight industry, commencing a regulation now makes sense. First, it will create the regulatory certainty that California's ports need to transition to zero-emission technologies for equipment that generally stays on port property. Second, it builds upon the efforts currently underway at the Ports of Los Angeles and Long Beach to develop, push and implement zero-emissions technology for a wide range of cargo handling applications. Third, the regulation could be designed to continue to allow California ports to receive state and federal incentive funding for early compliance. Finally, it helps provide the enforceability that is lacking from the wholly voluntary efforts that ports take to clean up their operations. This type of regulation is also particularly important for communities disparately impacted by port pollution. As such, this is a vital regulation to add to the plan to ensure a shift to zero-emission cargo handling equipment at California's seaports and beyond.

**E. The Draft Plan Should Include a Zero-Emission Drayage Truck Rule.**

The Draft Plan notes that it includes “targeted introduction of zero-emission technologies in heavy-duty applications that are suited to early adoption of ZEV technologies.”<sup>5</sup> Drayage trucks fit this description, and as such should be included for regulatory actions. Importantly, CALSTART produced a report that concluded the following:

The marketplace does not like ambiguity and unclear goals. Strong signals, including robust regulatory requirements, shape the framework for successful long-term investment. Innovative technologies prosper best when clear long-term requirements are set. In an era when rapid technology improvement and innovation is necessary to meet global climate and urban emissions needs, innovators feared their offerings were less likely to break through to OEMs without such strong requirements.<sup>6</sup>

There is perhaps no more important space to push technology than in the drayage truck sector. Many of the trucks in this sector make short loops throughout the day to near-dock railyards, warehouses, and other locations near California seaports. But, even more importantly, they emit NOx and other pollutants in communities adjacent to these seaports. Thus, this type of regulation is vital to ensure that ports in nonattainment areas do their part to make sure their truck fleets shift to zero-emission technologies.

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*Area Plan and Reclassification as Serious Nonattainment for the 2006 PM2.5 NAAQS*, at p. 4, (Nov. 19, 2015).

<sup>5</sup> Draft SIP, at 4.

<sup>6</sup> CALSTART, *US Heavy Duty Vehicle High Efficiency Technology Suppliers: An Industry Segment Spanning America*, at p. 28, July 2016.

**F. The Small Off-Road Equipment Should Be Strengthened.**


A large portion of off road equipment emissions comes from small off-road equipment. We support regulatory approaches to shift to zero-emission units in lawn and garden equipment. While incentives can be structured to aid in the transition for small businesses, we think a robust regulatory framework to shift to zero-emission technologies will have large benefits, particularly in places like the South Coast air basin and the San Joaquin Valley.

**G. The Draft Plan Should Include a Commitment to an Indirect Source Rule.**

In the Sustainable Freight Action Plan, there is an effort underway to gather data about freight hubs. While this is an important first step, efforts should be undertaken to control pollution at large sources of freight emissions. This includes railyards and maintenance facilities. We would like to see a commitment in the Draft Plan to swiftly start a rulemaking on this type of regulation.

We appreciate your consideration of these comments. Please do not hesitate to contact Adrian Martinez at [amartinez@earthjustice.org](mailto:amartinez@earthjustice.org) if you have any questions about these comments.

Sincerely,



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