



\*\*\*\*\* Submitted Electronically \*\*\*\*\*

April 20, 2015

Mary Nichols, Chairman  
California Air Resources Board  
1001 "I" St.  
Sacramento, CA 95812

Re: Discussion Draft "Sustainable Freight: Pathways to Zero and Near-Zero Emissions"

Dear Chairman Nichols:

The Pacific Merchant Shipping Association (PMSA) represents marine terminal operators and ocean-carriers that operate at ports on the west coast of the United States. PMSA appreciates the opportunity to give input on the Discussion Draft "Sustainable Freight: Pathways to Zero and Near Zero Emissions." PMSA has participated in all phases of the Sustainable Freight Strategy (SFS) and we are committed to the success of this long-term process.

We share your goal of transitioning the freight movement system in California to the most efficient system possible at the earliest possible date. And we believe that improved efficiency will result in an improved California competitiveness in the global market. We look to CARB, and others, to partner with us and to assist us in making the epic transformations which will be necessary to meet these goals. We have no expectation that this will be easy, but it is critical if we are to have a truly sustainable freight system in California. And finally, CARB must be aware of the inherent conflict between innovation and the local regulation of global commerce. Our experience is that you can achieve more emissions reductions results with voluntary programs supported by incentives, and you can do it much sooner and more successfully, than you can with regulations.

PMSA also fully supports the process to include other state agencies which will contribute their expertise in developing the SFS. In particular we believe that an independent economic analysis, overseen by the Governor's Office of Business and Economic Development (GO-Biz), is critical to addressing this key element of sustainability. In order to expedite the process, we recommend that CARB commit to provide funding directly to GO-Biz so that they may begin on this important work at the earliest possible date.

As you are well aware, we offer these comments while PMSA members are already undergoing a transition from the previous generation of diesel engines and fuels to the cleanest equipment and fuels currently available. These efforts have already resulted in an 80% reduction in particulates, and over

50% for oxides of nitrogen, as reported by the ports in their most recent inventories. These efforts have been expensive, and are not yet fully implemented, but nonetheless, PMSA believes that this experience is invaluable to CARB and must be relied on as we look forward to the next steps in the evolution of freight movement in California.

We offer the following comments with that experience and our shared goals in mind:

### **Equipment Inventories and Growth Forecasts are Flawed and Need Revision**

In reviewing the background documents used for estimating current and future inventories we see the same problems we have seen with previous inventories and forecasts: they fail to recognize the fundamental changes in how freight is being moved in California. As a result, CARB is applying an overly-optimistic growth rate. The current inventories should be relatively easy to reconcile but the forecasts are much more challenging. While we appreciate that CARB is adjusting the rate of growth from 6.8% to 4.8% going forward, recent history doesn't support that level of growth. More importantly, because the data shows that cargo operations are becoming more efficient, it is improper to use a direct correlation to container volumes when forecasting the future number of vessels or equipment used. What we have seen is a steady and constant decline in the number of vessels calling at California ports, even as cargo volumes increase, resulting from the introduction of larger, newer, more efficient, and cleaner vessels. We have also seen a dramatic decrease in the number of drayage trucks as a direct result of the Clean Truck Program. Other efficiency measures, like the gray chassis pools, will further increase the efficiency of trucks at the ports. These trends are only going to increase in the future. Another flawed assumption used is that we will continue to use the same equipment in the same ways and all we need is cleaner equipment. Nothing could be further from our goals to improve efficiency. Our members don't want the same old system, with cleaner equipment; they want the most efficient means of moving cargo that will improve their competitive position. If California is to succeed it will have to find a way to build this innovation and constant evolution of the freight movement system into the forecasting process.

### **Consideration for the Cumulative Impacts of CARB California-only Regulations**

In response to our air quality challenges, port operations in California have already undergone an incredible transformation over the last decade. With leadership from industry, CARB, and the ports, we are experiencing unprecedented improvements of over 80% reduction in particulates, 50% for NO<sub>x</sub>, and nearly 90% for SO<sub>x</sub>. These improvements are being made at considerable expense. Using the cost estimates from the CARB regulatory process, the current suite of port operations regulations are estimated to cost the freight movement system in California approximately \$5 billion. With additional phases of many of these regulations still to be implemented, we have even more investments to make in improved air quality. Some consideration of cost recovery and the life-cycles of this existing and future equipment acquired for compliance of current regulations is needed.

### **Incentives**

PMSA welcomes the proposed modifications to existing incentive programs. However, many of the modifications will require changes to the underlying legislation. In addition, none of these programs have sufficient resources to deal with the transformational changes of the scale contemplated by the SFS. Clearly a new dedicated funding source is needed. The program needs to be a robust, long-term commitment to support the transformation through its ultimate

implementation. In addition, please remain mindful of the fact that regulations have in the past made, and will continue to make, qualification for grants and incentives impossible. In the early stages, when innovation, trial and error, and failures are most likely to occur, using a voluntary incentive based approach is much more likely to succeed than a regulatory approach. Regardless, the transformation will be very expensive, and if this truly is the “preeminent policy objective for the State of California” then it deserves the funding and resources to support it.

### **Economic Analysis is needed for Near-Term Actions**

To begin the transformation of the freight movement system CARB should not begin by proposing additional regulations without first doing a comprehensive economic analysis of the impacts of those regulations. While PMSA supports taking a holistic approach to vessel emissions in California’s ports, that is a subject better suited to a sustainability analysis, not a near-term regulation. For instance, we see no commitment to look at the Ocean Vessel Action 3, from a sustainability perspective. Therefore, we request that CARB provide the resources needed to GO-Biz to do the necessary economic analysis on an expedited basis.

### **Expansion of the At-Berth Regulation**

PMSA has been working with CARB staff for almost two years to correct the deficiencies of the current regulation. To date, CARB has released two separate Regulatory Advisories in an attempt to minimize the problems created by the current regulation, however those problems still exist and the current regulation limits what can be done without amendments. Our members have already been subject to over a year of trying to comply with this regulation and they need relief now from its provisions which can be unfairly punitive. These fixes for the existing fleets subject to the rule must not be further delayed as a result of this proposal to further expand the scope to include additional fleets and categories of vessels. We need relief from the counterproductive implementation of this regulation now. PMSA’s recommendation is to proceed with the amendments to fix the current regulation immediately while an evaluation of a more comprehensive and sustainable approach to deal with emissions for vessels in California’s ports continues in parallel as part of the Sustainable Freight Strategy.

### **Facility Cap Concept**

There are inherent problems with a facility cap process, the biggest being the definition of a “facility.” This challenge will become apparent during the evaluation of even how to implement a reporting requirement, much less an actual emissions control regulation. While this data collection has been identified for near term action in support of a potential future regulation, without first committing to fully assess the sustainability aspects of this type of regulatory approach without an economic and legal context, we would recommend that CARB better define the concept first and then submit it to the appropriate evaluations before seeking to implement a reporting requirement.

PMSA members have already demonstrated our ability and commitment to reducing emissions, and our record of success speaks for itself. We understand the benefits of adopting new technologies and methods to move cargo more efficiently and believe that such investments can produce a win-win scenario for business competitiveness and environmental quality. For instance, investments in electrification of cargo movement are already being implemented in ports in California and around the world, and there is a real need to do more to stay competitive. The transformation of the freight movement system in California into the system of the future is an exciting and challenging opportunity

that will be full of surprises. PMSA looks forward to working with CARB to find ways that we can cooperate on achieving our mutual goals. PMSA is optimistic that the Sustainable Freight Strategy represents an opportunity to define a truly sustainable freight system for California's future.

I am at your service for any questions or if additional information is required.

Sincerely,

A handwritten signature in black ink, appearing to read "T.L. Garrett". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

T.L. Garrett  
Vice President