

THE CALIFORNIA RAILROAD INDUSTRY

August 11, 2008

Robert DuVall
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Re: Railroad Industry Comments on ARB's Draft Scoping Plan Appendices released on July 22, 2008

Dear Mr. DuVall:

The Association of American Railroads, on behalf of its member railroads operating in California -- BNSF Railway, Union Pacific Railroad, and Pacific Harbor Lines (the Railroads) -- appreciate the opportunity to provide comments on ARB's AB 32 Draft Scoping Plan Appendices released on July 22, 2008. In order to achieve cost effective greenhouse gas (GHG) reductions early under AB 32, the Scoping Plan measures should include the best options available now, even as ARB continues to push for innovations in the future. Maximizing freight rail can achieve GHG reductions in the goods movement system across the state now while benefiting the economy and containing costs in the early years of the AB 32 program. As a result, GHG emissions from freight rail may actually grow to a limited degree while the overall emissions from goods movement declines due to the greater efficiency of freight rail compared to other modes of freight transportation.

The Railroads recently submitted comments on the AB 32 Discussion Draft Scoping Plan on July 31st, and in May commented on Preliminary Concepts proposed by staff on reducing GHGs from goods movement. As mentioned in our previous letter, the Railroads are pleased ARB staff acknowledged the significant concerns described in our May comments, specifically our concerns about the concept of restricting the growth of intermodal rail yards and ports. Thank you for recognizing the flaws in this preliminary proposed measure and therefore not including a GHG cap for intermodal rail yards in the Draft Scoping Plan or in the Appendices.

In this letter we submit to ARB staff our comments on the Appendices, with primary focus on "Appendix C—Sector Overviews and Emission Reduction Strategies." The main concept for reducing GHGs from goods movement in the Appendices is described as "system-wide efficiency improvement measures" and has two primary components. The near term component "focuses locally on California's four key goods movement corridors with particular emphasis on ports and intermodal rail operation and that would achieve improvements in efficiency prior to 2020." The second component has a longer timeline and would be developed through the establishment of "a Goods

Movement Vision 2050 taskforce that would be charged with developing the steps needed to move toward a low-carbon, sustainable goods movement network in California by 2050.”¹

1. Appendix C lists as a Key Element under the near term goods movement system efficiency measures, “assign emission reduction goals to the key contributors with particular emphasis on ports and intermodal rail operations.”² This Appendix does not provide further detail and it is not clear what kind of “emission reduction goals” would be “assigned” to “ports and intermodal rail operations” or how they would be “assigned.” As stated in our May and July comment letters, any measure that caps railroad growth could actually cause an increase in the total transportation system emissions. A cap on railroad growth could substantially increase system GHG and criteria air pollutant emissions by forcing modal shift to less efficient transportation modes.
2. AB 32 requires ARB to minimize leakage when developing the Scoping Plan to ensure that emissions reductions achieved in California are not merely displaced to a neighboring state. The same principle applies to the goods movement system. The railroad tracks do not end at California’s borders and therefore system efficiency measures must consider the effects beyond California, and even beyond the Western Climate Initiative jurisdictions. GHG reduction measures that, for example, effectively restrict fueling practices or growth at California rail yards, could more than increase GHG emissions outside California. They could also have unintended negative consequences throughout the national goods movement system.
3. If GHG measures limit railroad operations, the Railroads might be forced to devote resources to their most fuel efficient and more profitable freight traffic, which would not be intermodal containers. This would force more of the containers to move out of the ports by some other means, most likely less fuel efficient trucks. Since rail is three times more fuel efficient than trucks with only a fraction of the GHG emissions, this would not only substantially increase GHG emissions but would have the “co-detriment” of increasing criteria pollutants as well, since rail also produces lower PM and NOx than trucks per ton mile moved.
4. The Railroads have worked with ARB, USEPA and locomotive manufacturers to reduce criteria pollutants through retrofit and after-treatment devices. Some of these devices, like those that control NOx, come with at least a 2% fuel penalty and therefore potentially increase GHGs. The Railroads have invested a significant amount of resources in reducing NOx from locomotives consistent with regulations from USEPA and voluntary agreements with ARB, and should not be penalized for these or any future investments in reducing criteria pollutants.

¹ P. C-29

² P. C-30

5. While ARB staff continues to develop its strategies and potential measures to reduce GHG from ports and intermodal rail operations, they should propose only the control measures or strategies (long term and short term) that they have legal authority to impose. Measures that interfere with interstate commerce, conflict with federal law or are otherwise preempted should not be included.
6. California is considering including transportation fuels under its cap and trade program. While linked regionally to the Western Climate Initiative, this initiative has potential for leakage. Driving up costs through constraining fuel purchases in California or the WCI states through a cap and trade program, would potentially have the effect of driving locomotive fueling into neighboring states.

In summary, rail is a critical part of a large, multi-modal goods movement system and ARB should encourage the development of additional clean and efficient rail transport by 2020. ARB should not limit the amount of freight that could be processed at or through specific rail yards.

The Railroads look forward to speaking with ARB staff on the Draft Scoping Plan and Appendices in the future. You can reach me at 415-421-4213 x12 or Kirk@ceaconsulting.com if you have any questions.

Sincerely,



Kirk Marckwald
Association of American Railroads (AAR)

cc:

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