



February 28, 2020

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Submitted Electronically to: freight@arb.ca.gov

Subject: Comments on Concept Paper for the Freight Handbook

Dear Mr. Freeman:

On behalf of the Pacific Merchant Shipping Association, thank you for the opportunity to comment on the Concept Paper for the Freight Handbook (Concept Paper). Properly weaving together necessary land uses in a compatible manner is an important effort for local communities that can only be successfully done based on community-specific information. As a result, it is important that any handbook developed at a State-wide level must recognize the limitation of incomplete information and provide broad guidance rather than a prescriptive approach to inform land use planning and future project approvals. As you are well aware, CARB's production of the Freight Handbook is an Action Item of the California Sustainable Freight Action Plan, and PMSA was a proud supporter of that final Plan as adopted. As a component of that Plan, it is imperative that the Handbook also reflect all of the balanced goals of the Plan and the underlying Executive Order to not just address air quality impacts but also to promote economic competitiveness and improvements in freight efficiency.

PMSA is concerned that the Concept Paper has missed that balance of promoting multiple goals and is instead providing only prescriptive tools without promoting a process which incorporates the context of or the benefits of project-specific detailed information necessary for proper evaluation.

Freight Handbook Should Encourage Site-Specific Assessments Using Existing Planning Tools

Under current state law, existing land use decisions by local governments already require and rely on a host of assessments prior to a city or county making its determinations regarding land use. The entitlement and California Environmental Quality Act (CEQA) processes already require the consideration of all the issues raised in the Concept Paper, and the conclusions and actions taken by local officials must be informed by site-specific and community-specific considerations. The Concept Paper should reinforce and complement this process that considers site-specific information.

Unfortunately, instead the Concept Paper proposes a number of one-size-fits-all conclusory approaches to issues, like setback and accelerated conversion to zero-emissions equipment, without consideration of the role that site-specific information must play in land use decision making. Thus, the Concept Paper is encouraging poor planning.

The CEQA process, particularly as informed with the assessments required by local air quality districts and upon which CARB may also comment with respect to individual projects, already address the impacts CARB is seeking to mitigate. The Freight Handbook should point to these tools, such as the risk evaluation or assessments like Local Significance Thresholds (utilized by South Coast Air Quality Management District) rather than creating meaningless state-wide criteria. To that end, the Freight Handbook should eliminate prescriptive criteria, such as setbacks of a specific distance, and instead promote the use of comprehensive assessment tools, many of which are already in use.

Freight Handbook Should Focus on Processes to Reduce Air Quality Impacts and Increase Economic Competitiveness and Freight Efficiency

The Freight Handbook should also not consider impacts that are beyond the scope of the Sustainable Freight Action Plan, not related to air quality or economic competitiveness. CARB should focus on its expertise in this area and coordinate with other state agencies to create sections of the Freight Handbook focused on improving the economic conditions for freight facility entitlement.

The Concept Paper should also acknowledge other existing State land use policies, as articulated through legislation like SB350, which are encouraging densification of our communities. These policies inevitably mean that local distribution facilities will be part of highly densified urban cores, where transitions between residential, commercial, and light industrial do not exist. Only local planning officials are capable of considering all the multiple issues, such as noise or lighting, necessary to make an informed decision. In this context, for example, establishing arbitrary setbacks, especially for zero-emissions facilities, would be both counter-productive and poor planning.

Freight Handbook Must Not Show Preference for Residential Land Uses

The Concept Paper demonstrates a clear preference for residential land uses over industrial land uses. Both industrial and residential land uses are necessary for functioning, well-balanced communities. However, the concept paper recommends outright prohibitions on new industrial land uses near residential land uses, but only mitigation for new residential land uses near industrial uses. This mismatch in approach cannot be supported by information presented in the concept paper or by common sense.

The Concept Paper takes the preference for residential land uses further regarding existing industrial uses, recommending that consideration be given to “update zoning” and “rezone and remove nonconforming uses” with respect to existing freight facilities, but no similar consideration be given for residential land uses near existing freight facilities. The concept paper’s approach to land use would see the encroachment of residential land uses into industrial areas, followed by subsequent zoning changes that would impair or eliminate existing freight operations. This is the antithesis of thoughtful, long-term land use planning.

The Freight Handbook should treat industrial and residential land uses reciprocally. If impacts are significant enough to prevent development of freight facilities, then those same impacts are significant enough to prevent development of residential facilities. Similarly, if impacts can be mitigated for one development type, they can be mitigated for another development type.

It may be further helpful in this regard for CARB to further explore the difference between the actions undertaken by local governments when considering a general plan update on one hand and a site-specific project approval on the other. Vastly different planning considerations apply to these two exercises in authority; for instance, in the prior, it would be very important to make considerations for industrial and residential buffering and the elimination of conflicts of land use, while in the latter, the project entitlement with respect to the proximity of non-conforming uses will focus more on operational mitigations and site design. While buffering is likely an appropriate conversation in the general plan it is just as likely irrelevant to a project-level approval determination.

Recommendations for Addressing Existing Land Uses are Extraneous to the Purpose of the Handbook and the Activities Listed, Including Support for Indirect Source Rules, Should be Eliminated

Scenario III.B of the Concept Paper regarding the treatment of existing uses is inconsistent with the Freight Handbook's goals for identifying potential practices to be implemented by local governments and project developers and should be deleted.

There are few planning tools identified for the treatment of existing land uses in the Concept Paper. In fact, except for the item encouraging local government to develop and enforce local truck routes, idling limits, and parking requirements (which could arguably be included in Scenario III.A), none of the activities in Table 3 are even actionable by a local government considering a land use. Petitioning and lobbying for authorities which don't exist are simply not a helpful component of this proposed Handbook.

The lack of direction to be provided in this regard is reasonable because, aside from the implementation of existing rules or enforcement of development agreements already executed, there are very few ways in which to inject new planning requirements on existing and lawful uses and entitlements aside from the use of eminent domain. As such, there is little to no value offered by Scenario III.B and it should be removed the Freight Handbook.

In many respects, this section is also likely counter-productive to gaining consensus with respect to the development of the Handbook. In particular, the recommendation for indirect source rules (ISRs) should be eliminated. ISRs do not provide meaningful impact reduction from facilities and are ineffective tools when compared to traditional new engine emission standards and in-use vehicle requirements. In addition, not only are ISRs highly controversial and legally problematic, but the Sustainable Freight Action Plan did not advocate for their use with respect to addressing freight issues.

State and Local Agencies Do Not Have Authority to Implement a Rate Structure

Likewise, the Freight Handbook should not include any recommendation on rate structures. The regulation of rate structures is specifically preempted by federal law. Inclusion of such a recommendation would only serve to confuse both local agencies and community stakeholders as to what authority is vested in State and local agencies.

Conclusion

As an important component of the Sustainable Freight Action Plan, PMSA looks forward to continuing to work with CARB staff on the development of the Freight Handbook. The freight and logistics industry have successfully and significantly reduced emissions from related operations. With 1 in 3 jobs in California tied to goods movement, it is important that California moves toward additional emissions reductions in a manner that is consistent with maintaining the competitiveness of the industry.

As California loses freight jobs to other states, high on the list of competitiveness is avoiding a patchwork of mobile source regulations. The Freight Handbook can serve a tool to acknowledge and reinforce importance of State regulation over mobile sources and local regulation of local land use decisions, while ensuring the proper tools and assessments are brought to the decision-making process for both.


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