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Latest CA clean air rule undermines industry trust

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Without public notice, in the absence of any staff analysis, contrary to the direction of the South Coast Air Quality Management District, the California Air Resources Board (CARB) adopted a resolution that will drive up the cost of delivering goods to market and harm the competitiveness of California's ports.

On Thursday, March 23 following the closure of public comments, the CARB adopted a resolution that will require moving forward with regulations limiting business activity by placing "facility caps" on warehouses, railyards and distribution centers, and mandate that billions of dollars be spent at California's ports. A facility cap is an artificial limit on business activity in order to reduce air emissions. From a port and supply chain perspective, it is a state-imposed cargo diversion mandate.

The resolution was part of CARB's approval of their State Implementation Plan (SIP) — only it wasn't in the SIP, until it was.

Over the past two years CARB has taken the lead in the development of a Sustainable Freight Plan mandated by the Governor in an Executive Order in 2015. That plan, which was the product of the work of multiple state agencies and hundreds of meetings, enjoyed the support of the business community.

CARB staff stated repeatedly that the development of the Sustainable Freight Plan was a "collaborative process." And the Sustainable Freight Plan had multiple goals — to reduce emissions from freight activities but also, as the governor demanded, to "increase competitiveness of California's freight system."

In good faith, representatives of the state's seaports, trucking companies, railroads, distribution centers, cargo owners, and other industries that comprise California's vital supply chain dutifully attended countless meetings all over the state of California with CARB staff, environmentalists, and academics. Studies were done and reviewed. Opinions were sought. Ideas were exchanged.

It was a collaborative process, until the CARB meeting of March 23.

The resolution put forth and adopted by the CARB wasn't on the agenda. It wasn't in the draft SIP. There was no language for the public to review. Not one CARB member asked staff for

input. No one raised a concern about the economic impacts. No one questioned why CARB was adopting a policy directive rejected by the SCAQMD. It was brought up after the public comment period was closed.

The Legislature ceded much of its authority to CARB several years ago. The latest adoption of the SIP, with requirements that were withheld from public scrutiny and debate, is as much a demonstration of bureaucratic arrogance as it is of the Legislature's irrelevance. Now CARB is moving forward with regulations that will seriously damage the ability of California ports to remain competitive gateways for international trade.

If the CARB has information to the contrary about the economic consequences of the resolution they jammed through an otherwise deliberative policymaking process, they haven't shared it with the public. While California's supply chain acted in good faith in the development of a Sustainable Freight Plan, that faith in CARB was misplaced. In fact, it was all a sham.

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