



April 7, 2023

The Honorable Eloise Gómez Reyes  
California State Assembly  
1021 O St. Ste. 8210  
Sacramento, CA 95814

**SUBJECT: AB 1000 (REYES) QUALIFYING LOGISTICS USE PROJECTS  
HEARING SCHEDULED – TBD  
OPPOSE/**JOB KILLER** – AS AMENDED ON MARCH 30, 2023**

Dear Assembly Member Reyes,

The California Chamber of Commerce respectfully **OPPOSES** your **AB 1000**, as amended on March 30, 2023, which CalChamber has labeled as a **JOB KILLER** because it will lead to the elimination of high paying jobs, quash critically needed housing associated with mixed use developments, increase vehicle miles traveled for heavy duty vehicles coming to and from California ports, incentivize frivolous litigation with a new private right of action in California law, and exacerbate supply chain issues and increase goods movement costs that will have the practical effect of increasing the cost of living for every Californian.

**AB 1000** is the third attempt in three years proposing a statewide setback of 1,000 feet from “sensitive receptors” for all new or expanded logistics use facilities 100,000 square feet or larger in California. Like all prior versions, **AB 1000** will in effect create a statewide de facto ban on warehouses throughout California. **AB 1000** differs from prior versions by creating for the first time a new private right of action that empowers virtually anyone to act as a prosecutor to sue to block any facility they disagree with. Further, the bill provides limited authority to local governments to reduce the setback from 1,000 feet to 750 feet if a project applicant can meet ten prohibitively expensive, and in some cases literally impossible, mitigation measures under an unrealistic timeframe. These mitigation measures are in addition to the California Environmental Quality Act (CEQA) imposed mitigation measures, as well as a plethora of rules and regulations required by the California Air Resource Board (CARB) and the South Coast Air Quality Management District (SCAQMD) that are leading the nation in air quality management and have reduced heavy duty truck particulate matter emissions by 99% since 2005.

For all the reasons discussed below, the Legislature should again reject **AB 1000** to avoid realizing these negative economic and community outcomes for California and instead allow the state agencies to continue regulating emission reductions and transition trucks to zero emission.

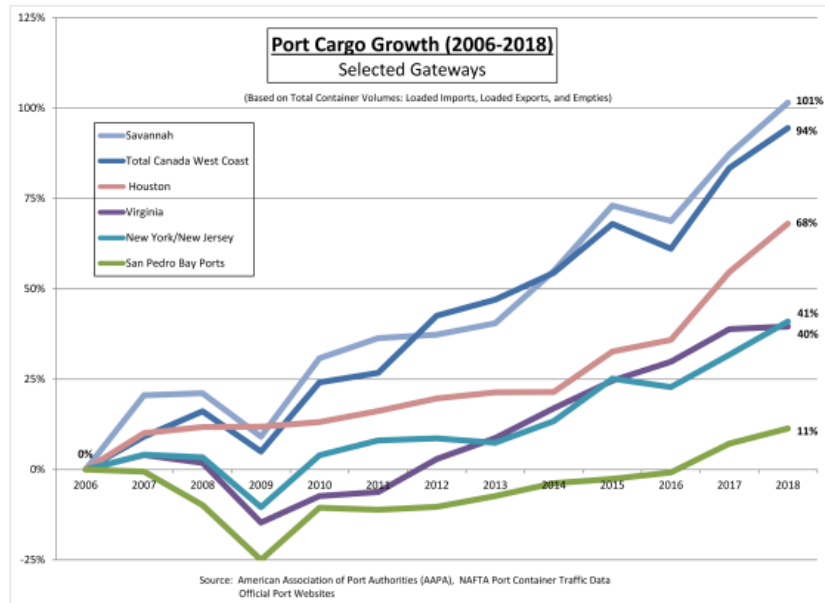
### **Eliminates Good Paying California Jobs**

**AB 1000** takes for granted that California’s twelve ports serve as an economic engine for the state, processing approximately 40 percent of all containerized imports and 30 percent of all exports in the United States.<sup>1</sup> There are over 1.6 million trade-related jobs in Southern California alone directly associated with California ports, and millions more California jobs in manufacturing, retail and wholesale trade, construction, transportation and warehousing sectors that rely on a healthy goods movement. **AB 1000’s** de facto ban on logistics use facilities will undermine California’s ability to remain competitive, especially as the state already struggles to find adequate off-docking facilities to move goods from the port.<sup>2</sup>

<sup>1</sup> <https://lao.ca.gov/Publications/Report/4618>

<sup>2</sup> <https://www.supplychainedive.com/news/charts-california-inland-empire-warehouse-capacity-real-estate-labor/610321/>

Ramped up competition from Canadian and Mexican ports, as well as other seaports in the U.S. and abroad, are challenging California's position as the international trade leader of the nation and taking jobs out of California.



American Association of Port Authorities (AAPA): Traffic Data

As more and more cargo once bound for California heads instead to places like Virginia, Georgia, New York or Texas, more than one out of seven Southern California jobs tied to logistics is threatened, as well as jobs at the other ports.<sup>3</sup> The loss of California's market share means the permanent loss of these high-quality logistics jobs that stretch from California ports to the boundaries of the state.

**AB 1000** will exacerbate these job losses and threaten the very heart of California's economic competitiveness, eliminating jobs and tax revenues, and increasing costs for Californians as goods become harder and more expensive to move.

**Prevents Construction of Housing Associated with Mixed Use Development**

**AB 1000** will set back the construction of new housing in California at a time when the state still faces an affordability crisis. Median home prices in the Golden State still exceed \$735,000, even with interest rates double where they were last year. **AB 1000** essentially eliminates the ability to locate housing near job sites, which will stymie mixed-use development projects from moving forward. For example, the District at Jurupa Valley project proposes the development of up to 1,192 residential units and seven acres of open space and parks alongside commercial, retail and logistics use facilities. The housing associated with the Jurupa Valley project is feasible only because of the underlying infrastructure that the commercial, logistics uses and retail bring. Additionally, these land uses buffer the residential housing from the 60 Freeway and drastically reduce vehicle miles traveled, consistent with California's climate change goals. If **AB 1000** were law, these projects would never come to fruition, which is why every prior version of this bill has been labeled a "Housing Killer" by the California Building Industry Association.

<sup>3</sup> <https://www.pmsaship.com/publications/lost-opportunities-for-the-california-economy-at-the-ports/>



Jurupa Valley Project – 1,192 residential units near job centers, buffered from 60 Freeway, lowering VMTs

**Inflates Benefits of a Setback While Failing to Account for Existing and Proposed Regulations That Substantially Reduce Air Emissions, and Will Continue to Reduce Emissions Going Forward**

**AB 1000** attempts to address truck emissions associated with goods movements to and from warehouses using a rudimentary and outdated 1,000 foot setback concept that dates back to a 2005 CARB advisory document.<sup>4</sup> Since 2005, however, CARB has implemented rules and regulations to eliminate diesel particulate matter on nearly all diesel-powered equipment, including trucks and refrigeration units. As of January 2023, all trucks statewide are required to be equipped with diesel particulate filters and catalysts that reduce smog forming emissions.

CARB itself has noted, the agency's "analysis indicates PM filters are effective and are operating as designed. Testing programs conducted by the ARB and many other organizations all demonstrate that properly functioning PM filters virtually eliminate PM from truck exhaust and that the majority of PM filters in operation are undamaged and in good condition."<sup>5</sup> The Port of Los Angeles, for example, has reported a 98% reduction in diesel PM10 and PM2.5 from heavy duty trucks since 2005.<sup>6</sup>

<sup>4</sup> <http://www.aqmd.gov/docs/default-source/ceqa/handbook/california-air-resources-board-air-quality-and-land-use-handbook-a-community-health-perspective.pdf>

<sup>5</sup> [https://ww2.arb.ca.gov/sites/default/files/2020-08/dpfeval\\_0.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-08/dpfeval_0.pdf)

<sup>6</sup> [https://kentico.portoflosangeles.org/getmedia/f26839cd-54cd-4da9-92b7-a34094ee75a8/2021\\_Air\\_Emissions\\_Inventory](https://kentico.portoflosangeles.org/getmedia/f26839cd-54cd-4da9-92b7-a34094ee75a8/2021_Air_Emissions_Inventory)

Table ES.10: Maritime Industry-related 2021-2005 Emissions Comparison by Source Category

	PM <sub>10</sub> tons	PM <sub>2.5</sub> tons	DPM tons	NO <sub>x</sub> tons	SO <sub>x</sub> tons	CO tons	HC tons	CO <sub>2e</sub> tonnes
<b>2021</b>								
Ocean-going vessels	127	117	83	5,956	248	605	255	504,842
Harbor craft	15	15	15	565	1	112	29	53,521
Cargo handling equipment	6	6	5	414	2	780	86	184,837
Locomotives	27	25	27	751	1	187	42	65,216
Heavy-duty vehicles	6	6	6	1,042	4	356	52	444,814
<b>Total</b>	<b>182</b>	<b>168</b>	<b>136</b>	<b>8,729</b>	<b>255</b>	<b>2,040</b>	<b>464</b>	<b>1,253,229</b>
<b>2005</b>								
Ocean-going vessels	609	489	449	5,160	4,683	468	215	280,853
Harbor craft	33	32	33	706	4	209	49	44,996
Cargo handling equipment	54	50	53	1,573	9	822	92	134,621
Locomotives	57	53	57	1,712	98	237	89	82,201
Heavy-duty vehicles	248	238	248	6,307	45	1,865	368	474,877
<b>Total</b>	<b>1,001</b>	<b>861</b>	<b>840</b>	<b>15,459</b>	<b>4,839</b>	<b>3,601</b>	<b>813</b>	<b>1,017,549</b>
<b>Change between 2005 and 2021 (percent)</b>								
Ocean-going vessels	-79%	-76%	-81%	15%	-95%	29%	19%	80%
Harbor craft	-54%	-54%	-54%	-20%	-88%	-46%	-41%	19%
Cargo handling equipment	-88%	-88%	-91%	-74%	-78%	-5%	-7%	37%
Locomotives	-52%	-53%	-52%	-56%	-99%	-21%	-53%	-21%
Heavy-duty vehicles	-98%	-98%	-98%	-83%	-91%	-81%	-86%	-6%
<b>Total</b>	<b>-82%</b>	<b>-80%</b>	<b>-84%</b>	<b>-44%</b>	<b>-95%</b>	<b>-43%</b>	<b>-43%</b>	<b>23%</b>

Since 2005, Heavy Duty Trucks Have Reduced 98% of Particulate Matter

Existing laws and adopted regulations in California continue to lead the nation and will continue to reduce these emissions even further as more stringent targets phase in.

For example, pursuant to SB 210 (Leyva – 2019), CARB’s Heavy-Duty Inspection and Maintenance (HD I/M) Program requires periodic vehicle emissions testing and reporting on nearly all heavy-duty vehicles operating in California. The regulation will combine this periodic vehicle testing with roadside emissions monitoring to screen for potential high-emitting vehicles and expanded enforcement strategies, to ensure that vehicles’ emissions control systems are properly functioning when traveling on California roadways. The phased implementation of the HD I/M regulation began in January 2023. When fully implemented, the regulation is projected to cut statewide NOX emissions by over 81 tons per day and PM emissions by 0.7 tons per day.

Additionally, CARB’s Airborne Toxic Control Measure (ATCM) to Limit Diesel-Fueled Commercial Motor Vehicle Idling<sup>7</sup> was amended to require 2008 or newer model year heavy-duty diesel engines to be equipped with a non-programmable engine shutdown system that automatically shuts down the engine after five minutes of idling or optionally meet a stringent oxide of nitrogen (NOX) idling emission standard. CARB’s ATCM for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities was amended in 2010, 2011, and 2022, each year getting more stringent, to require the transition of diesel-powered truck to 100% zero-emission (ZE) technology by 2029.<sup>8</sup> The implementation of a much more stringent PM emission standard of 0.02 grams per brake horsepower-hour or lower for model year 2023 and newer non-truck TRU engines and requiring the use of refrigerants with lower global warming potentials (less than or equal to 2,200), is wholly ignored by AB 1000.

CARB’s Truck and Bus Regulation<sup>9</sup> adopted in 2008 also regulate and reduce diesel particulate matter, NOX, and other criteria air pollutions from the statewide truck and bus fleets by requiring nearly all trucks and buses to have 2010 or newer model year engines by January 1, 2023. This is one of the most far-reaching and important tools that CARB has implemented to reduce smog-forming and toxic emissions and protect public health in disadvantaged communities.

CARB’s Low NOx Heavy-Duty Omnibus Regulation adopted in 2021 requires 2024 and newer model year engines in trucks and buses to meet more stringent NOx (up to 90% lower) and PM (up to 50% lower)

<sup>7</sup> California Air Resources Board (CARB). Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. Available at: <https://ww2.arb.ca.gov/our-work/programs/atcm-to-limit-vehicle-idling/about>.

<sup>8</sup> New Transportation Refrigeration Unit Regulation in Development. Available at: <https://ww2.arb.ca.gov/our-work/programs/transport-refrigeration-unit/new-transport-refrigeration-unit-regulation>

<sup>9</sup> CARB. 2008. Truck and Bus Regulation. Available at: <https://ww2.arb.ca.gov/our-work/programs/truck-bus-regulation/truck-and-bus-regulation-fact-sheets>.

standards as compared to the 2010 model year engines. The regulation also lengthens the useful life and emissions warranty of heavy-duty engines to help minimize occurrences of tampering and ensure emission controls are well-maintained and repaired when needed.

CARB also adopted the Advanced Clean Trucks Rule in 2021, which requires manufacturers of all Class 2b-8 trucks to begin meeting escalating zero emission sales starting in 2024, and by 2035 requires Class 2b-3, Class 7-8, and Class 4-8 trucks to be 55%, 40%, and 75% zero emission by 2035. Governor Newsom's Executive Order N-79-20 requires CARB to continue that rulemaking, making 100% of all trucks and buses zero emission by 2045 everywhere feasible, and for all drayage trucks to be zero emission by 2035.<sup>10</sup>

Finally, CARB is proposing the Advanced Clean Fleets Rule which will require that large public and private fleets be 100% zero emission by 2035. Under that rule, CARB plans to ban the registration of any new non-zero emission vehicle from California's ports and intermodal railyards after 2023. CARB is also developing the Transportation Refrigeration Unit Rule to address cold storage trucks.<sup>11</sup>

In a similar vein, local air management districts are also passing rules to directly regulate warehouses. For example, the South Coast Air Quality Management District's (SCAQMD) Warehouse Indirect Source Rule (ISR) will reduce emissions from day-to-day warehouse operations, including trucks transporting goods to and from warehouses. This rule applies to owners and operators of warehouses with at least 100,000 square feet of indoor floor space in a single building, exactly what **AB 1000** is targeting. Warehouse operators are required to earn a certain number of points for actions and investments in clean technologies annually (called WAIRE points) depending on the number of trucks visiting their facility. Examples of actions and investments that can generate WAIRE points under this rule include acquisition and use of near-zero-emission (NZE) and ZE trucks, acquisition and use of ZE yard tractors, acquisition and use of ZE fueling infrastructure for on-road vehicles, and acquisition and use of solar panels for on-site electricity generation. SCAQMD estimates that this rule will result in NOX and DPM reductions of 0 to 5.1 tons per day (tpd) and 0 to 0.012 tpd, respectively, in 2023.<sup>12</sup> By 2031 the NOX and DPM reductions are expected to increase to 0 to 20.3 tpd and 0 to 0.025 tpd, respectively.

In light of these laws and regulations addressing impacts associated with logistics use facilities and the trucks to and from them, all passed and adopted *after* 2005, it is wholly inappropriate for **AB 1000** to continue using an arbitrary 1,000-foot buffer as a proxy for reducing air emissions when such a policy is unnecessary and would have devastating impacts on local, regional and state economic development.

### **Ignores the California Environmental Quality Act (CEQA) in Favor of Arbitrary Buffers**

In addition to all of the above noted laws and regulations required by logistics use facilities and trucks that travel to and from them, every proposed logistics use facility must also comply with the most rigorous environmental law in the country, the California Environmental Quality Act (CEQA). CEQA is also triggered by not only new facilities, but expansions to existing facilities, forcing analysis and feasible mitigation of all significant impacts across 18 resource categories: Aesthetics, Agriculture and Forest Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation Traffic/Transportation, Utilities and Service Systems, and Cumulative Impacts/Human Impacts.<sup>13</sup>

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<sup>10</sup> CARB. 2022. Heavy-Duty Inspection and Maintenance Program. Available at: <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-inspection-and-maintenance-program> and <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-inspection-and-maintenance-program/about>.

<sup>11</sup>CARB. 2021. Advanced Clean Trucks. Available at: <https://ww2.arb.ca.gov/our-work/programs/advanced-cleantrucks>; and CARB. 2021. Advanced Clean Trucks Fact Sheet. Available at: <https://ww2.arb.ca.gov/resources/factsheets/advanced-clean-trucks-fact-sheet>.

<sup>12</sup> <https://ww2.arb.ca.gov/our-work/programs/transport-refrigeration-unit/new-transport-refrigeration-unit-regulation>

<sup>13</sup> <https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/ab52/final-approved-appendix-G.pdf>

California is infamous as one of the hardest jurisdictions in the country to build a project. Instead of layering onto CEQA, CARB and SCAQMD rules and regulations with an arbitrary 1,000-foot setback throughout the state, the California Legislature should allow the existing policies and state agencies to reduce impacts and reduce VMTs, as they are doing, while preserving millions of jobs and ensuring a healthy and vital goods movement sector throughout California.

### **Creates a New Private Right of Action Leading to Frivolous Lawsuits**

**AB 1000** creates a brand-new private right of action in California under section 5098.9. With an ignoble track record of unintended consequences and increased frivolous litigation, California should avoid creating another law providing plaintiff's attorneys with an additional avenue to "act" as the Attorney General and sue project applicants in order to enrich themselves, slow projects and drive-up development costs.

Millions of California jobs depend upon a healthy goods movement system for their livelihoods and necessities. This complex supply chain is jeopardized by **AB 1000's** de facto ban on logistics use facilities. Instead of forcing trucks to and from the ports to increase their vehicle miles traveled, which only further increases greenhouse gas emissions across the state and contradicts California's Climate Change goals of building denser and more connected communities, it makes far more sense to regulate the source of emissions as numerous agencies are already doing at unprecedented rates with tremendous success. Incentivizing frivolous litigation, as this bill proposes to do, with a new private right of action will only enrich trial attorneys and hurt businesses of all sizes. Prohibiting mixed use developments that bring new housing online will only deepen California's housing crisis. Finally, exacerbating supply chain issues and increasing the cost to move goods will hurt every Californian at a time when the cost of living is already high.

For all of these reasons, the California Chamber of Commerce **OPPOSES** your **AB 1000**.

Sincerely,



Adam Regele  
California Chamber of Commerce