

MEMORANDUM

To: Task force members of the Marine Air Quality Improvement Plan (MAQIP) Task Force

From: Swati Prakash, Pacific Institute
Brian Beveridge, West Oakland EIP
Margaret Gordon (advisory role), West Oakland EIP
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Date: November 5, 2007

Re: A proposal for a comprehensive framework for the Maritime Air Quality Improvement Plan to ensure maximum reductions of community health risks

CC: Hon. Mayor Ronald Dellums, City of Oakland
Hon. Assemblymember Sandre Swanson
Port of Oakland Board of Commissioners

Overview / Summary

This memo serves to detail concerns about the ability of the Maritime Air Quality Improvement Plan (MAQIP), as it is currently being developed, to achieve the goal of significant reductions in community health risks caused by air pollution from the Port of Oakland. We also provide concrete recommendations for the “Implementation, Monitoring, and Enforcement” portion of this plan.

From the beginning of our participation in the Maritime Air Quality Improvement Plan (MAQIP) process, we have been clear about the goals we believe need to be achieved through this air plan: to reduce community health risks caused by air pollution associated with the Port of Oakland. Many of the most significant requests that have come out from any one of us have not been accommodated by this process thus far. These include requests to include a quantitative goal for the overall MAQIP of reducing community health risk by 85%, and to reach out to relevant agencies, including the City of Oakland, Alameda County Department of Public Health, the California Air Resources Board, and the US Environmental Protection Agency Region 9, to leverage the expertise and regulatory authority of those agencies by creating an inter-agency task force to begin meeting prior to our November 5th task force meeting.

Prior to and at the last task force meeting several of us raised the concern that the entire MAQIP process appears to now be an exercise in developing a list of “surplus” pollution reduction measures (i.e. reductions that are above and beyond what is required by law) that will be implemented entirely through voluntary or incentive-based actions. This belief is strongly reinforced by the absence of a quantitative health risk reduction, or at least an overall emissions reduction, goal for the MAQIP, and the absence of the word “enforcement” from the draft

“Implementation, Monitoring, and Reporting” framework that is being presented today. [See the section at the end of this memo that differentiates an incentives-based pollution reduction plan from a comprehensive and integrated air quality improvement plan.]

The MAQIP task force is now tasked with helping define what this “Implementation, Monitoring, and Reporting” framework could look like. We see this as the final opportunity to return the MAQIP process and outcomes to its original bold vision and potential as being an aggressive and attainable master plan for reducing the significant adverse community health impacts of port-related air pollution. The following framework outlines the specific elements that we believe MUST be included in this framework.

Proposed framework for “Implementation, Monitoring / Reporting, and Enforcement” of the Marine Air Quality Improvement Plan

Implementation Mechanisms

Adoption of pollution reduction requirements through:

- 1) Creating specific standards at various levels of Port activity including:
 - a. Port-wide standards (including an overall goal of reducing air pollution from all Port-related sources by 85% from a baseline year of 2001).
 - b. Source-specific standards
 - c. New project standards
- 2) Utilizing the following mechanisms to attain these standards
 - a. Port-wide rules or “tariffs”
 - b. Lease agreements
 - c. Standards in concession agreements
 - d. CEQA mitigations for new projects
- 3) Leveraging authority of other agencies, in particular the Bay Area Air Quality Management District’s authority to regulate indirect sources.

Monitoring and Reporting Mechanisms

- 1) Work with the California Air Resources Board West Oakland Health Risk Assessment team to model predicted reductions in health risks as a result of implementing the measures adopted by the air plan.
- 2) Update the health risk assessment every five years to ensure timely progress towards risk reduction goals.
- 3) Monitor compliance with requirements stated in the MAQIP through a standing committee that:
 - ✓ Includes designated seats for environmental, community, labor and other groups (as voting members);
 - ✓ Includes government agency and inter-agency representatives (as non-voting members) including CARB Enforcement; CARB Regulatory Representatives; BAAQMD; City of Oakland Traffic Enforcement/Commercial Vehicles Department; Alameda County Health Department; Representatives of County Supervisors (esp. 880 Corridor representatives); City of Oakland Public Works

- Department; Representatives from Mayor's Office;
- ✓ Has the power to set violations, penalties, grievances, compliance and monitoring.

Enforcement Mechanisms

- 1) Concrete enforcement provisions can and should be spelled out in each of the implementation mechanisms described before, including port-wide rules (“tariffs”), lease agreements, and concession agreements with trucking companies. Enforcement provisions may include, but should not be limited to:
 - a. Regular reporting requirements and clear penalties for failure to meeting deadlines or information content of reports
 - b. Disinterested third party review of reporting and underlying data
 - c. Independent periodic inspections to confirm reported actions are being undertaken
 - d. Clear and significant financial penalties for failure to meeting reporting requirements or to undertake planned actions

What is the difference between an “incentives-based pollution reduction plan” and a comprehensive, integrated and meaningful “air quality improvement plan”?

Features of a comprehensive and meaningful Air Quality Improvement Plan include, at a minimum:

1. The central feature is a specific community health risk reduction goal would be the starting point, from which emission reduction measures are then identified. While 85% has been suggested several times, our task force meetings have not yet accommodated discussion of this or any number. The current approach continues to propose identifying emission reduction measures and then adding up their impact to gauge the health risk reduction.
2. A willingness by involved agencies and authorities to truly use all authority, regulatory, and enforcement power to enforce implementation of measures identified in the air plan.
3. Outcome must be accomplished through a broad, multiple stakeholder process, with a special ongoing collaboration role for the involved agencies and authorities and a select set of other stakeholders to monitor implementation and enforcement.

Features of an Incentives-based Pollution Reduction plan:

1. The central feature is the identification of emission reduction measures that help meet community health risk reduction goals while remaining politically and economically expeditious.
2. Implementation strategy is defined largely in terms of identifying incentives, funding and voluntary opportunities, rather than mandatory or enforceable strategies.
3. Outcome can be accomplished through working meetings conducted by a narrow group of stakeholders who are most familiar with emission reduction technologies, measures, policies and the broader pollution control landscape, as well as with community health desires.