

## **APPENDIX A**

### **Ground Rules**

## **Ground Rules**

### **Port of Oakland Maritime Air Quality Task Force**

*(Adopted by Task Force members June 11, 2007)*

The following ground rules have been informed by confidential interviews conducted with a cross section of Port Maritime Air Quality stakeholders, as well as CONCUR's professional experience in convening other multistakeholder planning efforts. These ground rules are intended to foster and reinforce constructive interaction and deliberation among the Port Maritime Air Quality Task Force ("Task Force") members. They emphasize clear communication, trust building, respect for divergent views, creative thinking, collaborative problem solving, and the pursuit of mutual gains. The Task Force may decide to reconsider and revise these ground rules if they appear not to be serving the Maritime Air Quality Improvement Plan (MAQIP) process.

### **Task Force Nomination, Recruitment, and Representation**

**Task Force recruitment.** Task Force nominations were invited from a broad cross section of interests. The nomination process was described at the April 10 Public Kick-off Meeting for the planning process.

Descriptions of the nomination process and nomination forms were also:

- Posted on the CONCUR and Port of Oakland websites;
- Made available in several locations in West Oakland;
- Distributed via e-mail to several West Oakland community list-serves and to Port tenants.

**Task Force Selection.** Members have been appointed by the Executive Director of the Port of Oakland (Port). Task Force Co-Chairs Omar Benjamin and Margaret Gordon reviewed nominations and recommended nominees for appointment. (Task Force Co-Chair Jack Broadbent reviewed nominations but did not make specific recommendations on nominees.) Taken together, appointments were made to achieve a diversity of stakeholder perspectives, expertise, and ability to represent an important set of stakeholder interests, in accordance with the stated Task Force selection criteria.

#### **Representation**

- **Task Force Members.** Task Force members are appointed by Port Executive Director Omar Benjamin. Once appointed, Task Force members may choose to identify one alternate to participate on their behalf when unavailable. Alternates are expected to meet the same selection criteria as primary members, and will be confirmed by Port Executive Director Omar Benjamin.
- **Port and Bay Area Air Quality Management District (BAAQMD) Staff.** The Port and the BAAQMD are primarily represented through their Co-Chairs. Additional Port and BAAQMD staff will not be formally appointed as members of the Task Force, but will actively participate to inform and support Task Force deliberation.
- **Seating at Task Force Meetings.** During Task Force meetings, the following participants will be seated at the main table: Task Force members, Co-Chairs and their alternates, selected Port of Oakland and Bay Area Air Quality Management District staff as appropriate, technical consultants as appropriate, and project facilitators. Support staff, members of the public, and Task Force alternates in attendance will be seated adjacent to the main table.

## Participation and Collaboration

### Task Force members.

- Task Force members will make every effort to attend all of the Task Force meetings. Alternates are also encouraged to attend meetings in order to stay current with Task Force deliberations.
- Task Force members will work with their alternates to ensure that alternates are informed regarding Task Force deliberations. This will enable alternates to step in effectively as needed and keep the planning process moving forward. Task Force members will notify and coordinate with their alternates well in advance if they know they will miss a Task Force meeting.
- Discussion at Task Force meetings will principally involve Task Force members, Port and BAAQMD staff as appropriate, and technical consultants as appropriate.
- **Active, focused participation.** Every participant is responsible for communicating his/her perspectives and interests on the issues under consideration. Voicing these perspectives is essential to enable meaningful dialogue. Everyone will participate with no one dominating. Only one person will speak at a time. Everyone will help keep the meetings on track.
- **Respectful interaction.** Participants will respect each other's personal integrity, values and legitimacy of interests. Participants will avoid personal attacks and stereotyping.
- **Integration and creative thinking.** In developing, reviewing and revising work products, participants will strive to be open-minded and to integrate each other's ideas, perspectives and interests. Disagreements will be regarded as problems to be solved rather than battles to be won. Participants will attempt to reframe contentious issues and offer creative solutions to enable constructive dialogue.
- **Mutual gains approach.** Participants will work to satisfy not only their own interests but also those of other Task Force members. Participants are encouraged to be clear about their own interests and to recognize the important distinction between underlying interests and fixed positions.
- **Commitment to ground rules.** As a set of mutual obligations, Task Force members will commit to adhere to these ground rules once they are ratified. Task Force members are encouraged to help uphold and enforce these ground rules. If a Task Force member consistently deviates from these ground rules, that member may be replaced by another person upon confirmation by the Executive Director of the Port of Oakland.

### Commitment to process

- Participants will make a good faith effort to achieving the goals of the planning process according to the proposed schedule. Goals of the process include developing for the Port Commission's consideration a MAQIP, which will articulate goals and objectives, identify candidate air quality improvement actions, and identify implementation and ongoing strategies for monitoring and adaptive management.

- Task Force members may suggest future Task Force meeting agenda topics either at or between meetings:
  1. At Task Force meetings: by making the suggestion during discussion of Next Steps at the end of the meeting.
  2. Between Task Force meetings: by contacting CONCUR and the Co-Chairs.
- Participants will review available meeting materials in advance of the meetings and come prepared to address the meeting objectives.
- Meetings will start on time to make full use of the allotted time. Task Force members agree to participate for the full duration of Task Force meetings. Participants who know that they will be absent will coordinate with their alternates as needed.
- Cell phones and pagers will be turned off or set to “silent” mode during Task Force meetings.

### **Task Force Decision Rules**

- Task Force members recognize the need to make simple process agreements to move the effort forward. Task Force facilitators may use “straw votes” to track progress and help the group arrive at short-term decisions to propel the process forward in an efficient fashion.
- Task Force members will strive to achieve a high level of consensus in developing and advancing recommendations for the Port MAQIP. The intent is to strive for recommendations that earn broad support across Task Force members’ interests, not to accord Task Force members a “de facto” veto on substantive issues. Unanimity will not be required, and the objection of a few Task Force members will not be grounds to impede movement.
- Documents that will be subject to Task Force adoption will be provided to Task Force members in advance of meetings.

### **Multi-interest Work Teams**

- The Task Force Co-Chairs recognize that cross-interest group Work Teams may be an essential way to develop constructive, integrative work products between Task Force meetings. The aim of such Work Teams is to encourage multi-interest options and work products rather than work products put forward by a single bloc or interest group.
- Work Teams will be composed to include appropriate knowledge and balance of interests.

### **Media Contact**

- The Task Force may convene a multi-interest media subcommittee to work with Port staff to present briefings for the media. Until the Task Force has fully considered the merits of this approach, Task Force members will direct general media inquiries about the Task Force to the Co-Chairs.
- Task Force members recognize the need to maintain a balance between informing others of their work and making statements to the media that could undermine the success of the MAQIP process. Appropriate topics for Task Force members to address in speaking to the media include their own group’s or personal interests. Task Force members agree not to: a) make statements to the media that may prejudice the planning outcome, b) represent another group’s point of view or characterize

their motives, c) state positions on preliminary proposals while they are still in development or refinement by work teams or by the Task Force, or d) attempt to represent or speak for the entire Task Force.

- In sharing information about Task Force progress, Task Force members are encouraged to rely primarily on the Key Outcomes Memoranda for the meetings, produced by the CONCUR facilitation team.

## **Public Comment**

- Designated times at each Task Force meetings will be agendized for public comment. Efforts will be made to hold public comment at consistent time slots and keyed to important Task Force work product discussions.
- To the extent possible, public comments will be directed toward the work effort, products, or process of the Task Force. Comments on subjects external to the Port MAQIP should be directed to other forums.
- Members of the public are encouraged to convey their comments to relevant colleagues who serve as Task Force members. Members of the public are also encouraged to submit comments directly to the Port in writing as outlined in the Stakeholder Involvement Plan. Written comments will be distributed to Task Force members.
- The Task Force facilitation team will exercise flexibility in allocating speaking time during public comment periods to optimize opportunities to hear a range of views.

## **Information Sharing and Joint Fact-Finding**

- Task Force members recognize that the MAQIP planning process relies on using the best readily available information.
- Task Force meetings will present multiple opportunities for data sharing and joint fact-finding, either in plenary or in Work Team meetings.
- Task Force members agree to be specific in identifying types of information they believe will be useful support the development of recommendations. Task Force members commit to share, and not withhold, relevant information to inform Task Force deliberations.
- Task Force Work Teams may develop preliminary recommendations, which should be treated as tentative and private until they have been presented to the Task Force.
- In the event that two or more data sets or interpretations appear to conflict, participants will work collaboratively with each other and with participating technical consultants to narrow and clarify the basis of disagreement.

## **Role of Facilitation Team**

- The Task Force facilitation team is non-partisan. A broad-based selection committee unanimously chose the facilitation team; they have no stake in any particular recommendations of the Task Force. They will not act as an advocate for particular outcomes. The facilitators will strive to ensure that all Task Force members clearly articulate their respective interests and to assist members to complete their work in a well-informed and efficient fashion.
- The facilitation team will use its discretion in guiding meetings and may propose agenda adjustments. The facilitation team may also use straw voting to track a range of preferences on emerging issues. The facilitation team will also exercise flexibility in allocating speaking time.
- The Task Force facilitation team will prepare Key Outcomes Memoranda to summarize the main results of the Task Force meetings. These Key Outcomes Memoranda will not strive to serve as a transcript of the meetings; rather, they will endeavor to summarize key decisions made, issues discussed, and the next steps identified for moving the planning process forward. The facilitators will strive to prepare Key Outcomes Memoranda within 7-10 days of the meetings.

## **APPENDIX B**

### **Guiding Principles and Goals**

## GUIDING PRINCIPLES

**Seek Economic Growth:** The Port of Oakland is an economic engine for the City of Oakland and the region. As such, it is vital that the seaport strengthen and grow in a fiscally responsible manner while addressing public health and environmental impacts. We recognize that the seaport's ability to operate, grow, and be a good neighbor depends on adequately addressing the adverse public health and environmental impacts of seaport activities, while remaining viable and competitive.

**Promote Public and Environmental Health:** The Port of Oakland holds social responsibility and environmental stewardship as core organizational values. We are committed to assuring that seaport activities are carried out in an environmentally and socially responsible manner, minimizing adverse impacts on our neighbors and the environment. With our partners, we strive to improve the environmental and public health conditions in the seaport area, for the benefit of both present and future generations.

**Promote Environmental Justice:** The Port of Oakland seeks to prevent adverse impacts to communities that experience disproportionate environmental and economic effects. We commit to developing and implementing plans and policies in a manner that ensures (a) mutual respect free of discrimination or bias, (b) participation of stakeholders as equal partners, and (c) safe, healthy, and economically viable employment. We recognize the need for urban development policies that contribute to the economic, social, and environmental betterment of West Oakland in particular and of the entire City of Oakland.

**Apply Concept of "Fair Share":** The Port of Oakland seaport commits to achieving its fair share of air emission reductions, recognizing that it alone does not have the resources needed to subsidize the entire effort and cost of emission reductions. Therefore, the seaport will solicit the action and support of our private industry and government partners, and the commitment of all companies engaged in and benefiting from goods movement at, to, and from the Port of Oakland, to achieve and fund their fair share of emission reductions in an equitable manner. The Port will pursue air quality and public health improvements through a variety of mechanisms that work in conjunction with and rely upon local, state, and federal regulations.

**Exercise Authority:** The Port of Oakland seaport commits to using its legal authority and influence to maximize air quality improvement within market and legal constraints. Seaport operations produce emissions, but the Port does not own or operate the sources that produce those emissions. Where the Port may not have authority over an emission source, the Port will strive to develop voluntary partnerships or agreements with its partners to reduce emissions. The Port of Oakland will aggressively pursue the MAQIP goals in its capacity as landlord.

**Engage Stakeholders:** The Port of Oakland seaport commits to actively engage and partner with its diverse stakeholder community in developing, implementing, and monitoring the MAQIP. This engagement will take place through a variety of formats, including public meetings and workshops. We recognize the need to especially collaborate and partner with those who are most affected by seaport operations, including, but not limited to all workers, tenants, customers, and impacted neighboring residents.



**Build Knowledge:** The Port of Oakland believes that good planning builds knowledge and educates, and thus results in informed decisions. To this end, the Port strives to create a plan that educates and adds value and in which knowledge is built, shared, and used by all stakeholders as a basis for informed and accountable decision-making. The Port and its stakeholders will rely on the best available information, indicators, science, and technology in all aspects of maritime air quality planning. The Port and its stakeholders will remain flexible in their approaches to improving air quality, in order to respond and adapt to, and incorporate new advancements, information, and evolving regulatory programs.

## **GOALS**

The MAQIP (“the Plan”) is a master plan intended to meet the following two overarching goals:

- 1) Reduce the adverse public health impacts of the Port of Oakland’s seaport-related air emissions at the seaport area and in neighboring communities that are most affected by goods movement at the seaport (in particular West Oakland) and on workers in the maritime area, as expeditiously as feasible.
- 2) Reduce the adverse impacts of the Port of Oakland’s seaport-related air emissions on ambient air quality in West Oakland and more generally in the San Francisco Bay Area Air Basin, as expeditiously as feasible.

In setting forth a framework for achieving these goals, the MAQIP covers the following major topics:

- a) Geographic and jurisdictional boundaries of seaport emission sources and the affected neighboring areas to which air quality improvement efforts will be primarily targeted. (The geographic scope of the Plan has been defined as the Port of Oakland seaport for emissions and West Oakland for impacts);
- b) Pollutants that will be targeted for reductions, and the impacts of those pollutants on the environment and public health;
- c) Regulations affecting seaport operations;
- d) Quantification of baseline and projected emissions, and the linkage between emissions and risk;
- e) Quantitative performance objectives for reducing the adverse public health and environmental impacts of seaport air emissions;
- f) Potential measures and related initiatives for reducing emissions from seaport operations that build upon the regulatory and voluntary efforts of others to reduce emissions and the health impacts associated with these emissions. These potential measures may also be included in specific mitigation plans that may be adopted as part of CEQA review for future development projects at the Port of Oakland seaport;

- g) Timelines, standards, and strategies for implementing the Plan, monitoring and measuring the progress of such implementation, performing adaptive management, and addressing progress shortfalls; and
- h) Public health and regulatory agency leadership and coordination to assist the Port in tracking risk reduction, by providing routine updates to risk studies.

## **APPENDIX C**

### **Screening Criteria for Air Quality Initiatives**

## SCREENING CRITERIA

*Document Overview:* The screening criteria will be used to screen the potential emission and risk reduction initiatives suggested by the Task Force, including the initiatives included in the Source Document Work Team report.

### How the Criteria Will be Used

1. Only initiatives that have a direct relationship to emission and risk reductions (i.e. reduce emissions/risk) will be subject to screening. One example of an initiative that would not be subject to screening is: "Create an agency caucus to monitor emission and risk reduction over time."
2. A work team of the Task Force, with support from Port staff and technical consultants, stakeholder technical consultants, and staff from the Bay Area Air Quality Management District, will determine which initiatives are subject to screening. Initiatives not subject to screening will be combined separately and considered by the Task Force for potential inclusion in the Plan.
3. The work team will screen the remaining initiatives using the criteria shown on page 2 of this document. The screening criteria are intended to categorize initiatives into two groups: primary and secondary interest for achieving reductions above and beyond regulatory requirements.
  - **Primary Interest Initiatives:** A "yes" response to each criterion is required for inclusion of the proposed initiative in the Plan as an initiative of primary interest. Primary interest initiatives will be included in the Plan.
  - **Secondary Interest Initiatives:** A "no" response to any of the criteria categorizes the proposed initiative as an initiative of secondary interest. Secondary interest initiatives will be included in the Plan, along with a brief summary of which criteria were not met.
4. Primary and secondary interest initiatives, as determined by the work team, will be presented to the Task Force for confirmation.
5. The "initiatives of primary interest" list would be consulted first when the Port or its tenants and business partners are considering actions to reduce emissions and risk. It is possible, however, that an initiative of secondary interest may be implemented before an initiative of primary interest if, for example, changes in technology render one more practicable than another. The implementation of any initiative is subject to economic, legal, and technological feasibility.
6. The screening criteria are not intended to set forth a framework for funding, implementation, monitoring, and tracking of the initiatives. These issues will be considered by the Task Force separately from the screening criteria.

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<b>Criterion</b>	<b>Description</b>
1. Regulatory Duplication	Does the proposed initiative achieve “surplus” emission reductions, defined as emission reductions in advance of or beyond an existing regulation or other commitment (for example, an existing MOU)?
2. Air Quality and Health Benefit	Does the proposed initiative contribute to non-negligible local emission and health risk reduction and/or regional ambient air quality improvement?
3. Location	Does the benefit of the proposed initiative occur primarily in the designated ‘primary impact geographic area’ of the MAQIP (i.e. West Oakland)?
4. Measurement and Tracking	Can the emission reductions from implementation of the proposed initiative be estimated quantitatively and therefore tracked over time?
5. Technological Practicability	Can the proposed initiative be implemented with existing or foreseeable technology?
6. Side effects	Does the proposed initiative avoid or at least minimize foreseeable negative environmental, economic, or social side effects?
7. Operational Practicability	Can the proposed initiative be implemented without significant disruption to the movement of freight or compromising safety?

## **APPENDIX D**

### **Proposed Lists of Primary Interest and Secondary Interest Air Quality Initiatives for Potential Implementation**

**Background:**

The following text is proposed to be incorporated as Section 6.4.2 of the Draft MAQIP, in reference to the Table of Contents posted on the Port's website dated August 7, 2007.

*(Note to Reviewers: We acknowledge that the section numbering related to the Table of Contents could change and that some additional introductory and/or transition language may need to be added when the MAQIP is drafted in full to help with flow and context. Please note that this portion of the MAQIP will be preceded by a section that provides an overview of the Screening Criteria. The text describing the Screening Criteria and Process was reviewed and approved by Task Force in August 2007.)*

**Development and Use of Potential Air Quality Initiatives**

The Air Quality Initiative Screening Work Team of the MAQIP Task Force was charged with reviewing and categorizing numerous potential air quality initiatives that offer a potential to achieve emissions and risk reductions that go beyond regulatory requirements. The initiatives were compiled from two sources: (1) a report prepared by the Source Document Work Team of the Task Force, which included initiatives drawn from a wide range of existing documents; and (2) initiatives provided by Task Force members and members of the public present at the August 14, 2007, MAQIP meeting.

The eleven-member Work Team reviewed 355 initiatives first to identify those that directly reduce air emissions and health risk ("round 1"). These initiatives moved on to "round 2," which involved screening the initiatives using the seven screening criteria adopted by the Task Force on August 14, 2007. The "Round 2" screening effort generated two lists for each seaport emission source category: (1) Initiatives of Primary Interest and (2) Initiatives of Secondary Interest. The initiatives that did not move to "round 2" were, where possible, grouped into the following categories:

- Key concepts
- Policy
- Forum/collaboration
- Funding
- Health risk
- Incentives/penalties
- Research/further study/technology advancement
- Too vague
- Not applicable

We note that the Work Team also decided to identify those initiatives that duplicate existing regulatory or MOU requirements; they are summarized after the Primary and Secondary Interest Lists for each source category evaluated.

**Primary Interest Initiatives ("Primary List")**

The Primary Interest Initiatives list includes those measures that 8 or more work team members identified as meeting all seven criteria. This list represents those initiatives that, according to the work team's review, are of primary interest for reducing emissions and health risks associated with Port of Oakland seaport activities. This list is not exhaustive and presents an overview of

the types of actions that may be taken over time. We anticipate that, over time, other initiatives that meet all seven criteria could be suggested or pursued by the Port, its business partners, its agency partners, or other stakeholders.

The list is intended to function as a suggestive or guidance instrument for actions that may be taken by the Port, its business partners, its agency partners, or other stakeholders. The Port plans to give preference to actions that are (1) identified on this list, (2) equivalent to or better than initiatives identified on this list, (3) generally consistent with measures on this list, or (3) other measures that may be suggested over time that meet all seven criteria. The Port will generally exercise such preference when the Port (1) itself selects an initiative for implementation, (2) provides incentives for implementation by others, or (3) provides other support for implementation by others. Because the Port cannot implement all the initiatives reviewed by the Work Team, we expect that our business, agency, and community partners will follow the same approach, to the maximum extent possible.

To the maximum extent feasible given schedule constraints (for example, funding application deadlines) the on-going MAQIP Stakeholder Group will be advisory and will provide input on the development and implementation of initiatives, particularly those actions that may be suggested over time but are not reflected in the MAQIP at the time of publication.

### **Secondary Interest Initiatives (“Secondary List”)**

The Secondary Interest Initiatives list includes those initiatives that 8 or more work team identified as worthy of pursuit, but which did not meet all seven criteria. As with the Primary List, the Secondary List is intended to function as suggestive or guiding instrument for actions that may be taken by the Port, its business partners, its agency partners, or other stakeholders. Generally, we expect that an initiative, or its equivalent, on the Secondary List would be implemented only if it can meet all seven criteria. However, there may be exceptions to this general rule. Some examples of exceptions include:

- (1) An initiative whose benefits cannot be easily tracked over time (criterion # 4) could be implemented because of a shared understanding that emission and/or risk reductions would result from implementation (for example, prohibition on overnight truck parking in residential areas of West Oakland).
- (2) Recognizing that other agencies (for example, the BAAQMD) may be legally bound by criteria that are different than those used by the MAQIP Work Team, agency funding may become available for an initiative with benefits that are *primarily* regional rather than local (Criterion #3); the Port or other implementing entity may therefore pursue an initiative on the Secondary List ahead of an initiative on the Primary List.
- (3) Limitations of funding, time or other resources could allow for complete implementation of a Secondary List initiative while they could only result in partial implementation of a Primary List initiative. Similarly, a stakeholder may determine that an initiative on the Secondary List can be realized in advance of an initiative on the Primary List, without precluding the implementation of Primary interest initiatives and while providing local benefits.



Exceptions should be evaluated carefully so as seek maximization of local emission and risk reduction, in accordance with the Guiding Principles of the MAQIP. To the maximum extent feasible given schedule constraints (for example, funding application deadlines) the on-going MAQIP Stakeholder Group will be advisory and will provide input on the development and implementation of initiatives, particularly those actions that may be suggested over time but are not reflected in the MAQIP at the time of publication.

#### **Initiatives that Duplicate Existing Regulatory/MOU Requirements**

Initiatives in the regulatory duplication section represent potential opportunities for early implementation (e.g. accelerate) or opportunities to build upon (e.g. exceed) regulatory requirements.

#### **Other Considerations**

The Work Team performed its review and categorization of the 355 initiatives to the best of its ability, given its combined knowledge and expertise. As outlined in the Screening Criteria document adopted by the Task Force on August 14, 2007, the implementation of any initiative on either the Primary or Secondary List is subject to economic, legal, and technological feasibility. Acceleration and/or exceedance of actions required by regulatory or MOU requirements are similarly subject to economic, legal and technological feasibility. We expect that the entity intending to implement and/or fund the initiative will perform a feasibility analysis at the appropriate time. Furthermore, because the initiatives reviewed by the Work Team are broadly defined, and in some cases conceptual, we expect that additional development of the initiatives will be needed prior to feasibility analysis. Again, we expect that the entity intending to implement and/or fund the initiative will perform this feasibility analysis at the appropriate time, since such details are best fleshed out by the entity accountable for implementation. We expect that the selection of initiatives will be made, to the maximum extent possible, in consultation with the CARB West Oakland human health risk assessment, such that initiatives shown to have the greatest potential to reduce health risk are prioritized within the bounds of feasibility.

Additionally, we note that the numbering of the initiatives within each category (e.g. Trucks) and sub-category (e.g. Primary List) does not indicate ranking or priority of any sort.

Finally, we note that some of the initiatives, or actions generally consistent with the initiatives identified on the Primary and Secondary lists, may be recently completed, under way, or planned. These initiatives are outlined in Section 6.4.3 of this plan. The remaining initiatives (e.g. those initiatives on the lists but not identified in Section 6.4.3) are, as discussed above, informational for the purpose of identifying additional actions that may be taken in the future by the Port or other stakeholders.

## **Proposed Lists of Primary Interest and Secondary Interest Air Quality Initiatives for Potential Implementation**

*(Initial Revisions Proposed by the MAQIP Supplemental Work Team on January 10, 2008)*

### **Introduction**

The Work Team performed its review and categorization of the 355 initiatives to the best of its ability, given its combined knowledge and expertise. Additional development of the initiatives, some of which are currently drafted as general concepts, will be needed prior to any feasibility analysis and the implementation of any initiative on either the Primary or Secondary Lists of Initiatives is subject to economic, legal and technological feasibility. All the measures on this list are intended to represent actions that offer a potential to go beyond existing state and federal regulations and/or MOUs. Initiatives in the regulatory duplication section represent potential opportunities for early implementation (e.g. accelerate) or opportunities to build upon (e.g. 'exceed') regulatory requirements. Acceleration and/or exceedance are similarly subject to economic, legal and technological feasibility. The numbering of the initiatives within each category (e.g. Trucks) and sub-category (e.g. Primary List) does not indicate ranking or priority of any sort.

### **I. Emission Source Category: Truck**

#### **A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Institute a collaborative effort among the West Oakland community, the Oakland Police Department, trucking companies/truckers and the Port for increasing public, trucker, and terminal operator education on safety and neighborhood issues.
2. State a goal of replacing or retrofitting 1,500-2,500 trucks over 5 years to meet a "clean truck" standard. Ban older trucks from Port terminals in a phased 5-year schedule. The owner of the old truck will be paid for the truck.
3. Create a buy-back program for old trucks based on established criteria (buy worst trucks first) similar to or consistent with the Truck Incentives Working Group of the West Oakland Toxics Reduction Collaborative (WOTRC).
4. Implement standardized mandatory web-based reservation systems.
5. Continue to design and build terminal gate and roadway efficiencies for congestion relief, with input from all users.
6. Identify and retrofit in collaboration with various users fuel saving devices that would also reduce greenhouse gas emissions.
7. Provide electrified parking spaces for trucks and/or for reefer units to reduce unnecessary idling.
8. Institute a collaborative effort among the West Oakland community, the Oakland Police Department, trucking companies/truckers and the Port to increase enforcement & penalties on prohibited truck routes in West Oakland and evaluate/establish alternate truck route to reduce emissions and exposure.
9. By 2011, require all trucks calling at the port frequently or semi-frequently to meet or exceed the EPA 2007 on-road particulate matter (PM) emissions standards (0.01 G/BHP-HR for PM), and be the cleanest available oxides of nitrogen (NOx) at the time of

- replacement or retrofit.
10. Provide incentives for early implementation for cleaner trucks. An example incentive could be a decreased or increased concession fee.
  11. Adopt and implement ARB rule to modernize (replace and/or retrofit) private truck fleet.
  12. Implement idle reduction education, technology, and policy program with provisions to assure terminal adherence to anti-idling policies and procedures (ref: AB 2650).
  13. Install traffic barriers on streets where trucks are prohibited (City of Oakland)
  14. Pass an ordinance prohibiting overnight truck parking in residential areas (City of Oakland).
  15. Support acquisition and use of more LNG & CNG trucks.
  16. Provide truck services (fueling, truck repair, food and beverages) at the Port of Oakland.

**B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Develop a virtual container yard (off Port property) with compliance by all terminal operators to create more efficient movement of goods. This requires a 3rd coordinating party & central database to design & implement or a better relationship between data developers and the Port.
2. Require terminal operators to implement "paperless gate;" such as RFID in combination with web-based booking systems to prevent gate congestion and idling and use OCR for gate efficiency.
3. Implement Pier Pass drayage truck fleet emission reduction program as implemented in LA/LB with extended gates & daytime congestion fee.
4. Improve labor work rule flexibility to enable increased daily truck turns.
5. Establish inland container pools where trucks can drop-off and pick-up empty containers, to minimize deadhead truck runs (chassis pool).
6. Create more efficient queues; Call trucks to the Port when needed to reduce idle time.
7. Create an electrified truck stop (cold ironing the trucks) so that trucks do not idle in the queue.
8. Accelerate software upgrade for trucks (i.e. adjust the software in certain trucks that are "gamed" to allow for greater emissions at higher speeds)
9. If applicable, concessionaires will be required to establish maintenance and training programs to reduce emissions.
10. Use design/operational measures such as parking, synchronized traffic signals, and driver training.
11. Encourage the use of biodiesel and other alternative fuels.
12. Decrease truck traffic by increasing the percentage of containers moved by rail.
13. Create a trucker mobility program so that they do not need to drive trucks out of the Port unnecessarily (i.e. - use a shuttle, BART, or other public transportation).

**C. Duplication with Existing Regulatory or MOU Requirement:**

1. Pass anti-idling rules and enforce anti-idling at terminal gates.
2. Take steps to limit the impact of Port construction operations related to the Oakland Army Base redevelopment.

3. Develop a Port-run vehicle inspection and maintenance program for port drayage trucks. This would be periodic and random inspection program, and could also be imposed on terminal operators. (State has heavy duty truck inspection rule program).
4. Identify and retrofit eligible equipment such as diesel particulate filters (DPF) or diesel oxidation catalysts (DOC).
5. Utilize CA low sulfur diesel for trucks.
6. Conduct smoke inspections for trucks in communities.
7. Enforce 5-minute idling limit for trucks.
8. Adopt and implement ARB rule to require international trucks to meet US emission standards.
9. Enforce CA rule for transport refrigeration units on trucks, trains, and ships.
10. Restrict entry of trucks new to port service unless equipped with diesel PM controls.

## **II. Emission Source Category: Ocean Going Vessels**

### **A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Collaborate with other ports (LA/LB and/or Seattle) to coordinate the movement of clean ships through incentives rather than mandates.
2. Ensure the best technologies are incorporated into new equipment purchases.
3. Implement additional at-dock (e.g. stack after-treatment) and during voyage (e.g. electrification or scrubbing) emissions reduction options deemed viable.
4. Use of diesel particulate matter (DPM) and/or NOx control devices on auxiliary and main engines on new vessel builds and existing frequent callers.
5. Create incentives for cold-ironing beyond regulations.
6. Create incentives for all ships to use low sulfur fuel (0.1%) in both vessel main and auxiliary engines.
7. Support ratification of MARPOL Annex 6 for international shipping.
8. Obtain SOx Emission Control Area (SECA) designation or alternative for North America.
9. Retrofit existing main engines on ships during major maintenance.

### **B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Implement operational efficiency improvements during Port development to reduce time at anchor and at dock.
2. Increase "destination loading" on ships from the Far East.
3. Dedicate cleanest vessels to California service.

### **C. Duplication with Existing Regulatory or MOU Requirement:**

1. Implement ARB ship auxiliary engine rule to use lower sulfur fuel (0.1% by 2010) (OAL review) (note: rule currently under litigation)
2. 100% use of cleaner fuels, such as 0.1% sulfur content, in the auxiliary engines at anchor and at dock for vessels with adequate tank capacity. Assess the feasibility for vessels other than frequent callers, including vessels at anchor and vessels with smaller tank capacity. This

is a partial duplication of CARB's auxiliary engine fuel regulation currently under legal challenge but being temporarily enforced.

3. Use < 0.2% Sulfur Marine Gas Oil (MGO) Fuel in vessel auxiliary engines at berth and during transit out to a specified distance from the Port. This is a partial duplication of CARB's auxiliary engine fuel regulation currently under legal challenge but being temporarily enforced.
4. Standardize the use of marine gas oil (MGO)(less than 1.5% Sulfur (S)) fuels in the main engines during transit and maneuvering out to a specified distance from the Port, moving towards a 0.1% S standard as appropriate fuels become available.
5. Use "Cold-Ironing" technology to shut down auxiliary engines on ocean-going ships while in port by connecting to electrical power supplied at the dock, or equivalent alternative.

### **III. Emission Source Category: Harbor Vessels**

#### **A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Use ultra low sulfur diesel and/or bio-fuel blends for cleaner emissions (this is a partial duplication with CARB's ultra low sulfur fuel rule).
2. Adopt tighter USEPA or ARB emission standards for harbor craft.
3. Implement incentives to accelerate introduction of new harbor craft engines.

#### **B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Offer a subsidy for tugs that use cleaner-burning, but more expensive, soy diesel. Provide the subsidy if the equipment uses the fuel and stays in Oakland. This model could also be expanded to other businesses.
2. Use ultra low sulfur diesel and/or bio-fuel blends for cleaner emissions (this is a partial duplication with CARB's ultra low sulfur fuel rule).

#### **C. Duplication with Existing Regulatory or MOU Requirement:**

1. Require all home-based harbor craft to meet most EPA Tier II standards for harbor craft of equivalent reductions.
2. By a specified time, require all previously re-powered home based harbor craft to be retrofitted with the most effective CARB verified NOx and/or PM emissions reduction technologies. When Tier III engines become available, all home based harbor craft will be re-powered with new engines.
3. Utilize CA low sulfur diesel for harbor craft.
4. Clean up harbor craft through replacement, retrofit, or alternative fuels.

### **IV. Emission Source Category: Cargo Handling Equipment**

#### **A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Seek ways to accelerate compliance with CARB's Container Handling Equipment rule.
2. Encourage the use of ultra low-sulfur diesel and/or biofuel and promote the use of other cleaner fuels and lubricants where appropriate.

3. Increase fuel efficiency by using CHE with hybridization or full-electrification technologies, as feasible.
4. Replace equipment with lighter, more efficient straddle carriers, rubber tired gantries (RTG), or fully-electric rail mounted gantry (RMG) cranes, and use Tier 4 engines for yard tractor fleet.
5. Identify opportunities for and maximize the use of regenerative energy technologies for CHE.
6. Maximize operational efficiency and terminal design as port development occurs and negotiate cleaner alternatives at the time of major modifications and lease negotiations.
7. Use lease measures and project reviews to drive continuous improvements and emissions reductions.
8. Use electrification in much more Port/terminal operations equipment.

**B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Complete retrofits of suitable CHE with exhaust treatment equipment.
2. Use crankcase emission reduction systems equipment.
3. Increase penetration of zero emission or near zero emission cargo handling equipment.

**C. Duplication with Existing Regulatory or MOU Requirement:**

1. Finalize ARB inter-modal cargo equipment rule (OAL)
2. Complete full-scale fleet upgrade to the best available technology.
3. Require all yard tractors to meet a minimum EPA 2007 On-road or Tier IV engine standard by the end of 2010.
4. Require all CHE with engines with > 750 hp to meet, at a minimum, the EPA Tier IV of road standards by the end of 2014. Starting 2007, require all CHE with engines < 750 hp be equipped with cleanest available VDEC verified by CARB.
5. Implement ARB rule for cleaner cargo handling equipment through replacement, retrofit, or alternative fuels.
6. Adopt and implement ARB forklift rule for gas-fired equipment.
7. Require green equipment for goods movement related construction and maintenance.
8. Implement US Tier 4 equipment emission standards.
9. Upgrade cargo-handling equipment to 85% diesel PM control or better.

**V. Emission Source Category: Rail**

**A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Identify all existing switching locomotives in service at the Port of Oakland that may be potential candidates for replacement or retrofit.
2. Specify a date by which any new switch engine acquired must meet EPA Tier III standards.
3. Implement efficiency improvements to switchyards such as electrification of lift equipment and RFID system implementation when consistent with existing rail yard configuration and operations.

4. Require any new rail yards developed or significantly redesigned to operate the cleanest available rail yard technology.
5. Use lower emitting switch engines within rail yards, where traditionally the oldest locomotives are used.
6. Upgrade engines in switcher locomotives by 2010.
7. Retrofit existing locomotive engines with diesel PM controls when certified by EPA and CARB.

**B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Implement freight car productivity improvements, incorporating technologies that reduce train resistance (drag).
2. Increase port-wide rail and switching yard efficiencies and identify the feasibility of on-dock rail as alternative to near dock rail.
3. Create infrastructure for another level of rail traveling north & East.
4. Utilize more rails for long haul.
5. Concentrate Tier 3 locomotives in California.
6. Over a voluntary transition period, require the fleet average for Class I Long Haul Locomotives calling at port properties to be Tier III equivalent PM and NOx and to use 15 minute idle restrictors.
7. Implement Tier 3/Tier 4 US standards for line haul locomotives at time of purchase (new engine and rebuild standards).
8. Encourage the use of biofuel or other cleaner fuels in switchyard and line haul locomotive engines.

**C. Duplication with Existing Regulatory or MOU Requirement:**

1. Utilize CA low sulfur diesel for captive instate locomotives.
2. Eliminate non-essential locomotive idling both inside and outside of rail yards by installing automatic idling-reduction devices on 99% of unequipped intrastate locomotives by June 30, 2008.
3. Dispense lower-sulfur diesel in 80% of locomotives operating in California by January 1, 2007.
4. Ensure that the incidence of locomotives with excessive visible emissions is very low through the Visible Emission Reduction and Repair Program.
5. Conduct early review of air emissions impacts from designated yards – with ensuing feasible mitigations.
6. Use ultra low sulfur diesel in switchyard and line haul locomotive engines.
7. Implement 2005 Statewide MOU for Rail Yard Risk Reduction.
8. Conduct training on locomotive idling restrictions.

**VI. Emission Source Category: Other**

**A. Primary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Develop a biodiesel consortium (City of Oakland, Port of Oakland, City of Berkeley, West

- Oakland community).
2. Establish employee programs to facilitate sustainable commuting.

**B. Secondary List of Potential Initiatives Subject to Economic, Legal and Technological Feasibility:**

1. Create a position for a public health officer at the Port to take the lead on health impact assessment, and inform staff on community & worker health.
2. Sponsor a Healthy Homes Project utilizing technology and design practices to reduce the amount of dangerous pollution residents breathe inside their homes. (Alameda County Public Health Department and the California Department of Health Services.)
3. Conduct mitigation and pollution prevention.
4. Increase enforcement of traffic and vehicle safety laws and regulations.
5. Establish construction staging areas in locations to minimize impact on local circulation with appointment system.
6. Retrofit freight vehicles with probes and smart sensors to measure speed, weather, pollution, lane departure, cargo location, customs data, container RFID information, and vehicle/frame condition inspection dates.

**C. Duplication with Existing Regulatory or MOU Requirement**

1. Regulate criteria pollutant and toxic emissions from stationary sources and indirect sources based on Phase I findings.
2. Expand enforcement of commercial vehicle laws already adopted.
3. Use green equipment for construction of infrastructure projects (as available).



**APPENDIX E**  
**Interagency Matrix**  
**(to be revised)**

**Summary of Existing and Upcoming Regulations Affecting  
Emissions from Port of Oakland Seaport Operations  
Sources of Particulate Matter, Sulfur Oxides and Nitrogen Oxides**

*Document Purpose:* This document is intended to summarize regulations and other measures currently adopted, pending, or under consideration, and the roles of the agencies and other parties in implementing and enforcing these measures.

<b>Rule</b>	<b>Agency<sup>1</sup></b>	<b>Description</b>	<b>Enforcement Entity</b>	<b>Compliance Dates</b>	<b>Status (Adoption Date)</b>
<b><i>Source Category: Ocean Going Vessels</i></b>					
Auxiliary engine low sulfur fuel rule	ARB	Requires low sulfur fuel for use with auxiliary engines. Effective 2007 within 24 nm of coast; marine fuel must be Marine Gas Oil or Marine Diesel Oil containing less than 0.5% sulfur (must be Marine Gas Oil containing less than 0.1 % sulfur starting in 2010)	ARB	January 1, 2007	In place – and currently enforced – under litigation 2007 and 2010 phase-in period (I)
Main engine and boiler low sulfur fuel rule	ARB	Requires low sulfur fuel use in main engines and boilers similar to auxiliary engine requirements.	ARB	Proposed effective date January 1, 2009	Proposed rule to be presented to Board in Spring 2008.
Cold ironing rule	ARB	Control hoteling emissions via one of several possible methods	ARB	January 1, 2010	In place. Phase in 2010-2020
Vessel Speed reduction (VSR)	ARB	Evaluating need for VSR measure at major ports and along coastline.	ARB	TBD	Under evaluation for mid 2008
Clean Ship program	ARB	Evaluating measure or incentive program to require cleaner or retrofitted vessels in CA ports	ARB	TBD	Under development for late 2008. Likely phase in from 2010-2020

<sup>1</sup> Unless otherwise noted, this is the agency or other party responsible for overseeing and enforcing the listed measure.

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SUMMARY OF REGULATIONS AND AGENCY ROLES  
*Revised on June 5, 2008*

Rule	Agency <sup>1</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
New marine compression-ignition (diesel) engine rule	EPA	National exhaust emission standards for new engines at or above 30 liters per cylinder ("category 3" marine diesel engines)	EPA	1. Voluntary in 2003, mandatory in 2004. 2. Tier 2 NOx could begin as early as 2011 and Tier 3 could begin as early as 2016. 3. See number 2.	1. Feb 28, 2003 (68FR9746) 2. December 7, 2007 (72FR9521), Advanced Notice of Proposed Rulemaking, comments due 2/29/08 3. Dec 5, 2007 (72FR68518), Final rule to change the deadline to Dec 17, 2009 setting more stringent standards for Category 3 engines.
MARPOL Annex VI Tier 2 and Tier 3 exhaust emission standards	International Maritime Organization (US Coast Guard lead)	Any engine > 130kW installed on a vessel constructed on or after 1/1/2000 and any engine that undergoes a major conversion on or after 1/1/2000.	US Coast Guard	Possible Tier 2 standards by 2011; possible Tier 3 standards by 2015/2016. Possible standards for Sox and PM.	Ongoing negotiations from a US delegation (including EPA) for amendments to MARPOL, Annex VI)
MARPOL Annex VI 2000 Tier 1 NOx standard	International Maritime Organization (US Coast Guard lead)	Any engine > 130kW installed on a vessel constructed on or after 1/1/2000 and any engine that undergoes a major conversion on or after 1/1/2000.	US Coast Guard	May 2005, (Voluntary in 2000)	Ship builders are complying; US has not yet ratified the treaty
MARPOL Annex VI SOx Emissions Control Area (SECA) for North America	US Designated (EPA/ARB lead)	US application for a SECA. Sulfur levels capped at 1.5% potentially out 200 nm from shore as defined by Exclusive Economic Area (EEA)	US Coast Guard		US preparing justification and other background materials
<b>Source category: Harbor Craft</b>					
Commercial Marine Diesel Engine emission standards: Tier 1 & 2	EPA	New engine standards for Category 1 & 2 marine diesel engines	EPA	Phase in 2004/2007	In place
Marine Diesel Engine Rule: Tier 3 & 4	EPA	Affects engines up to 30 liters per cylinder; relies on catalytic after-treatment technologies with less than 15 ppm sulfur fuel. (This rule is coupled with the locomotive Tier 3 & 4 exhaust standards.)	EPA	Possible Tier 3 beginning in 2008/2009; possible Tier 4 in 2015.	Final rule expected by Jan 2008

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Rule	Agency <sup>1</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
ARB Harbor Craft low sulfur fuel rule	ARB	Requires Ultra-low Sulfur Diesel (ULSD) fuel use in harbor craft	ARB	January 1, 2006 for CCAQMD; January 1, 2007 for rest of state.	In place
ARB In-Use Harbor Craft rule	ARB	Reduce PM and NOx from in-use ferries, tugs, tows and new commercial harbor craft	ARB	December 31, 2009	Phase in 2009-2022
ARB Crew and Supply Vessel rule	ARB	Similar to In-Use harbor craft rule.	ARB	TBD	Proposed rule likely in Fall 2008
<b>Source Category: Cargo Handling Equipment</b>					
ARB Cargo Handling Equipment regulations	ARB	Retrofit or accelerated turnover to meet Best Available Control Technology (BACT) for newly purchased, leased or rented equipment (2007 or later on-road engine or Tier 4 off-road engine or cleanest verified PM/NOx retrofit)	ARB	January 1, 2007	In place.
EPA non-road and ARB off-road diesel engine standards	EPA ARB	Both EPA and ARB have adopted exhaust emission standards for Tier 1/Tier 4 engines. Two separate rules.	EPA:  ARB:	Tier 1-3: 1999/2008; Tier 4: 2008-2015	In place Phase in 2008 – 2015
Ultra-low Sulfur fuel	ARB  Separate rule for EPA	Require less than 15 ppm sulfur diesel fuel (EPA requires a cap of 15 ppm for nonroad, phasing in 2010-2014, currently at 500 ppm.)	ARB  EPA	June 2006	In place

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Rule	Agency <sup>1</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
<b>Source category: <i>On-Road Trucks: Drayage Trucks</i></b>					
Port of Oakland Idling Trucks California Health and Safety Code Section 40720 (AB 2650 & AB 1971)	State of California	Existing law requires each marine terminal in the State to operate in a manner that does not cause the engines on trucks to idle or queue for more than 30 minutes while waiting to enter a terminal gate. Existing law specifies that if a marine terminal implements a scheduling or appointment system, the terminal shall only be subject to a fine for a truck that makes use of the appointment system and that idles for more than 30 minutes outside the terminal gate.  <a href="http://www.baaqmd.gov/enf/idlingtruck/idlingtrucks.htm">http://www.baaqmd.gov/enf/idlingtruck/idlingtrucks.htm</a>	BAAQMD	Ongoing	Added to the CA H&SC in 2002, amended 2004. Currently being enforced by the BAAQMD.
ARB Port Truck Rule	ARB	Replace/retrofit trucks to meet emission standards	ARB	Phase 1 – January 1, 2010 Phase 2 – January 1, 2014	In place
ARB Statewide Heavy-Duty (in-use) Truck Rule	ARB	Require private fleet operators to replace/retrofit diesel trucks greater than 14,000 GVWR to meet emission standards. Requirements applicable to port truck fleets would likely be superseded by the ARB Port Truck Rule	ARB		Potential rule Proposal scheduled for late 2008; full implementation by 2020 (2014 for PM emissions)
<b>Source category: <i>On-Road Trucks: All</i></b>					
ARB on-road Heavy Duty Truck emission standards	ARB	New MY 2007 and later on-road Heavy Duty Trucks			In place 2007 – 2010 phase-in period
EPA has separate federal standards for new trucks and buses	EPA		EPA		
Ultra-Low Sulfur Fuel Rule	ARB	Require less than 15 ppm sulfur diesel fuel	ARB	Effective June 2006	In place
EPA has separate rule	EPA	Same for EPA	EPA		

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Rule	Agency <sup>1</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
<b>Source category: Locomotives</b>					
Tier 0, 1 and 2 Emission Standards for Locomotives	EPA	Original (1998) standard: Emission standards for new and remanufactured engines (Tier 2 standards result in more than 50% emission reductions for NO <sub>x</sub> , PM, CO & HC)  New (2008) standard: More stringent Tier 0 and 1 remanufacturing standards in 2010, Tier 2 engines subject to Tier 3 PM standards in 2013 (note: standards become applicable earlier than the dates shown if “kits” are available earlier at a “reasonable cost”)	EPA	Tier 0: 1973-2001; Upon remanufacture beginning in 2000-2001  Tier 1: 2002-2004  Tier 2: 2005	In place (Original standard adopted 1998; new standard adopted March 2008)
Tier 3 and 4 Emission Standards for Locomotives	EPA	Additional emission standards for new and remanufactured locomotive engines  Additional emissions standards for previously remanufactured and existing locomotive engines	EPA	Revised Tier 0 and 1: 2010 or later at time of remanufacture Revised Tier 2: 2013 or later at time of remanufacture Tier 3: 2012-2014 Tier 4: 2015 for PM and 2017 for NO <sub>x</sub> NOTE: locomotives manufactured in 2015 and 2016 are subject to the Tier 3 NO <sub>x</sub> standards when manufactured, but subject to the Tier 4 NO <sub>x</sub> standards when remanufactured	Final Rule March 2008

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Rule	Agency <sup>2</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
<i>Source category: Locomotives</i>					
2005 Rail Yard Particulate Matter Reduction Program (2005 MOU)	ARB Railroads	<p>Estimated to reduce PM around rail yards by at least 20% statewide</p> <p>Agreement includes provisions to:</p> <ul style="list-style-type: none"> <li>• install idle control devices on intrastate locomotives</li> <li>• limit/quickly repair smoking locomotives</li> <li>• maximize use of low sulfur fuel</li> <li>• conduct Health Risk Assessments at 16 major rail yards</li> <li>• develop/review mitigation plans at 16 major yards</li> <li>• evaluate remote sensing technology</li> <li>• evaluate new technology</li> </ul>	ARB	<p>Agreement effective June 2005</p> <p>June 30, 2008</p> <p>June 30, 2005</p> <p>January 1, 2007</p> <p>Various 2006 &amp; 2007</p> <p>Annually</p> <p>Beginning 2005</p> <p>Semiannual meetings</p>	In place (Agreement signed June 2005)
ARB intrastate locomotive low sulfur fuel rule	ARB	Requires the use of CARB fuel (less than 15 ppm sulfur) for locomotives used 90% in state (mostly switcher)	ARB	January 1, 2007	In place (Adopted November 2004)

<sup>2</sup> Unless otherwise noted, this is the agency or other party responsible for overseeing and enforcing the listed measure.

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Rule	Agency <sup>3</sup>	Description	Enforcement Entity	Compliance Dates	Status (Adoption Date)
<i>Source category: All/Other Port - Related Sources</i>					
Regulation 12, Rule 13: Port Inventories and Emission Reduction Plans (aka: Green Ports Initiative)	BAAQMD	Treat Bay Area seaports as indirect sources of air emissions (entities that attract sources of pollution). Would set a seaport emission reduction goal and require each seaport to submit an Action Plan that would detail how seaport-related emissions will be reduced to achieve the goal.			Potential rule Formal proposal expected by March 2008 <a href="http://www.baaqmd.gov/pln/ruledev/workshops.htm">http://www.baaqmd.gov/pln/ruledev/workshops.htm</a>

**[MAQIP Interagency Matrix rev5; 6/5/08]**

**Notes**

ARB: California Air Resources Board

EPA: United States Environmental Protection Agency

BAAQMD: Bay Area Air Quality Management District

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<sup>3</sup> Unless otherwise noted, this is the agency or other party responsible for overseeing and enforcing the listed measure.



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County: Alameda County

City: City of Oakland

Port: Port of Oakland

**SUMMARY OF MEASURES ASSUMED IN PROJECTED EMISSIONS REDUCTIONS FROM ALL SOURCE CATEGORIES**

NOTE: A further refinement of the above chart is still under development. One of the anticipated uses of this chart is to provide information as to which measures are assumed and relied upon in projections of overall emission reductions. For instance, if a reduction of 81% in emissions is projected for 2020, the projection should be able to be readily cross-referenced to this list of measures at a level of detail allowing identification of which specific measures have been relied upon in those projections. One way of doing this would be to add a column in which annotation could be provided as to whether the measures had been presumed in a specific set of projections. There are other options and this issue should be considered by a wider set of stakeholders than have developed this initial chart.

## **APPENDIX F**

### **2005 Emissions Inventory**

**Please refer to the following Web Address:**

**<http://www.portofoakland.com/environm/airEmissions.asp>**

**APPENDIX G**  
**Future Year Emissions Projections for all Pollutants and Growth Scenarios**

Table G-1. Baseline (year 2005) emissions.

Emission Source	Emissions, TPY				
	ROG	CO	NOx	PM	SOx
	2005				
<b>Total Off-Shore</b>	<b>138</b>	<b>252</b>	<b>2062</b>	<b>172</b>	<b>953</b>
OGV - Off-Shore	116	169	1717	158	950
Harbor Craft	22	83	345	13	3
<b>Total On-Shore</b>	<b>135</b>	<b>638</b>	<b>1948</b>	<b>102</b>	<b>475</b>
OGV - Berth	24	65	767	61	464
CHE	53	408	766	22	7
Truck	52	154	339	17	2
Locomotive	6	11	76	2	2
<b>Grand Total</b>	<b>273</b>	<b>890</b>	<b>4010</b>	<b>273</b>	<b>1428</b>

Table G-2. Projected emissions for 2012 and 2020 (with percent change for 2005 emissions) assuming **no growth**, i.e., Port container throughput volume remains constant at 2005 level with all existing and likely regulations from Table 5-2 taken into consideration.

Emission Source	Emissions, TPY (□)									
	2012					2020				
	ROG	CO	NOx	PM	SOx	ROG	CO	NOx	PM	SOx
<b>Total Off-Shore</b>	<b>134 (-3□)</b>	<b>238 (-6□)</b>	<b>1945 (-6□)</b>	<b>148 (-14□)</b>	<b>783 (-18□)</b>	<b>124 (-10□)</b>	<b>227 (-10□)</b>	<b>1725 (-16□)</b>	<b>32 (-81□)</b>	<b>42 (-96□)</b>
OGV - Off-Shore	115	169	1702	137	781	115	169	1612	28	42
Harbor Craft	19	69	243	11	2	9	58	113	4	0
<b>Total On-Shore</b>	<b>92 (-32□)</b>	<b>613 (-4□)</b>	<b>1416 (-27□)</b>	<b>26 (-75□)</b>	<b>23 (-95□)</b>	<b>50 (-63□)</b>	<b>515 (-19□)</b>	<b>567 (-71□)</b>	<b>8 (-92□)</b>	<b>9 (-98□)</b>
OGV - Berth	24	65	738	14	22	8	22	238	5	8
CHE	28	426	313	8	1	23	420	102	2	1
Truck	37	115	309	3	0.2	17	68	182	1	0.2
Locomotive	3	7	56	1	0	1	6	46	1	0
<b>Grand Total</b>	<b>226 (-17□)</b>	<b>851 (-4□)</b>	<b>3361 (-16□)</b>	<b>174 (-36□)</b>	<b>806 (-44□)</b>	<b>174 (-36□)</b>	<b>742 (-17□)</b>	<b>2292 (-43□)</b>	<b>40 (-85□)</b>	<b>50 (-96□)</b>

Table G-3. Projected emissions for 2012 and 2020 (with percent change for 2005 emissions) assuming increase in Port container throughput volume follows the “**low growth**” scenario shown in Figure 5-1 and with all existing and likely regulations from Table 5-2 taken into consideration.

Emission Source	Emissions, TPY (□)									
	2012					2020				
	ROG	CO	NOx	PM	SOx	ROG	CO	NOx	PM	SOx
<b>Total Off-Shore</b>	<b>134 (-3□)</b>	<b>238 (-6□)</b>	<b>1945 (-6□)</b>	<b>148 (-14□)</b>	<b>783 (-18□)</b>	<b>154 (12□)</b>	<b>283 (12□)</b>	<b>2148 (4□)</b>	<b>40 (-77□)</b>	<b>52 (-95□)</b>
OGV - Off-Shore	115	169	1702	137	781	143	210	2007	34	52
Harbor Craft	19	69	243	11	2	11	72	141	5	0
<b>Total On-Shore</b>	<b>118 (-12□)</b>	<b>791 (24□)</b>	<b>1832 (-6□)</b>	<b>33 (-67□)</b>	<b>30 (-94□)</b>	<b>101 (-25□)</b>	<b>1038 (63□)</b>	<b>1202 (-38□)</b>	<b>17 (-83□)</b>	<b>17 (-96□)</b>
OGV - Berth	31	84	951	18	28	16	44	476	10	15
CHE	36	549	403	10	1	46	839	203	4	1
Truck	47	148	398	4	0.3	34	135	364	2	0.4
Locomotive	4	10	80	2	0	5	20	159	2	0
<b>Grand Total</b>	<b>252 (-8□)</b>	<b>1029 (16□)</b>	<b>3777 (-6□)</b>	<b>182 (-33□)</b>	<b>813 (-43□)</b>	<b>256 (-6□)</b>	<b>1321 (48□)</b>	<b>3350 (-16□)</b>	<b>57 (-79□)</b>	<b>69 (-95□)</b>

Table G-4. Projected emissions for 2012 and 2020 (with percent change for 2005 emissions) assuming increase in Port container throughput volume follows the “**medium growth**” scenario shown in Figure 5-1 and with all existing and likely regulations from Table 5-2 taken into consideration.

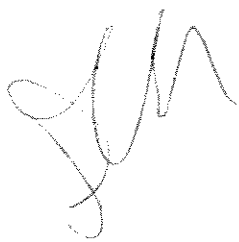
Emission Source	Emissions, TPY (□)									
	2012					2020				
	ROG	CO	NOx	PM	SOx	ROG	CO	NOx	PM	SOx
<b>Total Off-Shore</b>	<b>159 (15□)</b>	<b>282 (12□)</b>	<b>2301 (12□)</b>	<b>175 (2□)</b>	<b>926 (-3□)</b>	<b>217 (57□)</b>	<b>397 (58□)</b>	<b>3018 (46□)</b>	<b>56 (-67□)</b>	<b>73 (-92□)</b>
OGV - Off-Shore	136	200	2013	163	924	201	296	2821	48	73
Harbor Craft	22	82	287	13	2	16	101	198	8	0
<b>Total On-Shore</b>	<b>127 (-6□)</b>	<b>841 (32□)</b>	<b>1964 (-1□)</b>	<b>36 (-65□)</b>	<b>32 (-93□)</b>	<b>114 (-16□)</b>	<b>1160 (82□)</b>	<b>1375 (-29□)</b>	<b>20 (-81□)</b>	<b>19 (-96□)</b>
OGV - Berth	33	89	1008	19	30	18	49	529	11	17
CHE	38	582	427	11	1	51	934	226	4	2
Truck	50	157	422	4	0.3	38	151	405	2	0.4
Locomotive	6	13	107	2	0	7	26	215	3	0
<b>Grand Total</b>	<b>285 (4□)</b>	<b>1123 (26□)</b>	<b>4265 (6□)</b>	<b>211 (-23□)</b>	<b>958 (-33□)</b>	<b>331 (21□)</b>	<b>1557 (75□)</b>	<b>4394 (10□)</b>	<b>76 (-72□)</b>	<b>92 (-94□)</b>

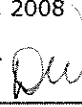
Table G-5. Projected emissions for 2012 and 2020 (with percent change for 2005 emissions) assuming increases in Port container throughput volume follows the “**high growth**” scenario shown in Figure 5-1 and with all existing and likely regulations from Table 5-2 taken into consideration.

Emission Source	Emissions, TPY (□)									
	2012					2020				
	ROG	CO	NOx	PM	SOx	ROG	CO	NOx	PM	SOx
<b>Total Off-Shore</b>	<b>217 (57□)</b>	<b>386 (53□)</b>	<b>3153 (53□)</b>	<b>240 (40□)</b>	<b>1269 (33□)</b>	<b>327 (137□)</b>	<b>599 (138□)</b>	<b>4551 (121□)</b>	<b>84 (-51□)</b>	<b>110 (-88□)</b>
OGV - Off-Shore	186	274	2759	223	1266	303	446	4253	73	110
Harbor Craft	31	112	394	18	3	24	153	298	11	0
<b>Total On-Shore</b>	<b>150 (11□)</b>	<b>999 (57□)</b>	<b>2336 (20□)</b>	<b>43 (-58□)</b>	<b>38 (-92□)</b>	<b>135 (0□)</b>	<b>1377 (116□)</b>	<b>1636 (-16□)</b>	<b>23 (-77□)</b>	<b>23 (-95□)</b>
OGV - Berth	39	105	1196	22	36	21	58	628	13	20
CHE	45	691	507	13	2	61	1108	268	5	2
Truck	59	187	501	5	0.3	45	179	481	2	0.5
Locomotive	7	16	131	3	0	8	32	259	3	0
<b>Grand Total</b>	<b>368 (35□)</b>	<b>1385 (56□)</b>	<b>5489 (37□)</b>	<b>283 (4□)</b>	<b>1307 (-8□)</b>	<b>462 (69□)</b>	<b>1976 (122□)</b>	<b>6187 (54□)</b>	<b>108 (-61□)</b>	<b>133 (-91□)</b>

## **APPENDIX H**

### **Air Quality Policy Statement and “Early Actions” to Reduce Air Pollutant Emissions and Related Human Health Risk**



March 18, 2008  
O-2  
DWW/lhr 

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 08057**

**RESOLUTION ADOPTING AND IMPLEMENTING A  
MARITIME AIR QUALITY POLICY STATEMENT  
PERTAINING TO HEALTH RISK REDUCTION GOAL  
AND "EARLY ACTIONS" TO REDUCE AIR  
POLLUTANT EMISSIONS**

**WHEREAS**, under the Oakland City Charter, the Board of Port Commissioners ("Board") has the complete and exclusive power to "make provisions for the needs of commerce, shipping and navigation of the port . . . and to establish, equip and operate all other facilities or aids incident to the development, protection and operation of the port, as may be deemed proper and desirable in its judgment";

**WHEREAS**, as part of its powers and obligations to ensure the efficient and safe operation of the seaport and to provide for the needs of commerce, shipping and navigation, the Board finds it necessary to improve air quality and reduce the health risks to workers at the Port and residents of neighboring communities related to exposure of people to diesel particular matter emissions;

**WHEREAS**, as part of its capital development projects, the Board has historically adopted measures to mitigate significant impacts of these projects on the environment and the neighborhoods around the Port operations;

**WHEREAS**, most recently, the Port implemented a broad suite of capital facilities design, construction and operational measures to improve air quality and to enhance the quality of community environment, including a truck replacement program and the creation of the Middle Harbor Shoreline Park;

**WHEREAS**, the Port has completed its 2005 Seaport Emissions Inventory and has cooperated with the California Air Resources Board ("CARB") in completing CARB's West Oakland Health Risk Assessment which will show that air emissions from Port operations is one of many contributors to increased health risk (expressed as increase in cancer risk) for people at the Port and in West Oakland;

**WHEREAS**, CARB has established a goal to reduce statewide diesel particulate health risks from goods movement 85% from 2000 levels by 2020 and it, along with the Bay Area Air Quality Management District



("BAAQMD"), has or will adopted regulations to regulate air emissions levels from goods movement sources such as trucks, ships and equipment;

**WHEREAS**, the State of California will be awarding certain funding as part of the "Statewide Infrastructure Bond" (2006 Proposition 1B) for air quality improvement measures at California Ports;

**WHEREAS**, The Port, at the Board's direction, has engaged community, customer, industry and neighborhood stakeholders for input in the development of a Maritime Air Quality Improvement Plan ("MAQIP") to serve as the policy and master plan for air quality improvement measures and funding at seaport operations and a Comprehensive Truck Management Program ("CTMP") under which the Port will implement measures to reduce air quality and environmental impacts of Port-related trucking;

**WHEREAS**, the Board desires to set forth a policy that shall establish a goal for the Port's efforts, including the MAQIP and CTMP, to reduce the health risks related to people's exposure to diesel particulate matter emissions from Port sources, to establish funding mechanism for funding of air emissions reduction measures (including matching funds for the California Infrastructure Bond funding) and to implement certain "Early Action" measures that would implement certain CARB regulatory requirements prior to their compliance deadlines through incentive and other measures;

**THEREFORE, BE IT RESOLVED THAT:**

The Board of Port Commissioners affirms that it has the social responsibility to minimize exposure of neighboring residents to air pollution from Port sources and to support and rights of community, local businesses and workers to clean air and fair working conditions. Therefore, the Board is committed to improving air quality, safety and quality of life for neighboring residents and workers by reducing environmental impacts of Port operations, while fulfilling the Port's basic obligations to maximize commerce and to provide economic and job opportunities. To these ends, the Board hereby adopts the following policy principles that shall guide the Port's plans and actions, including the adoption of the Port's Maritime Air Quality Improvement Plan (MAQIP), Comprehensive Truck Management Plan (CTMP) and Early Actions (as defined below).

1. The Port adopts the goal of reducing the health risks to our neighboring communities (expressed as increase in cancer risk) related to exposure of people to diesel particulate matter emissions from Port sources by 85% by the year 2020 through all practicable and

feasible means. Reduction will be calculated based on the Port's 2005 Seaport Emissions Inventory baseline.

2. The Board commits to adopting funding mechanisms, including the imposition of fees, to fund air emissions reduction measures. To the maximum extent possible, Port fee revenues shall leverage matching federal, state and private funds. Fees for the purpose of funding the measures shall be evaluated for legality and be enacted to the extent that they do not damage the Port's or its customers' market competitiveness.
3. The Port will implement certain air emissions reduction measures prior to the dates that such measures are required by state or federal regulations, in order to reduce the duration of people's exposure to emissions that may cause health risks ("Early Actions"). The Port shall implement, beginning in 2008, Early Action measures for the purpose of immediately reducing the impacts of Port-serving trucks and other Port operations on West Oakland and surrounding communities. These measures shall include (a) incentives for Early Action replacement and/or retrofit of older polluting truck engines, (b) mechanisms for enforcing the prohibition of Port truck parking or operation on neighborhood streets, including truck registration and tracking and c) feasible and cost-effective means of reducing ship idling emissions. In order to fund these Early Action measures, the Board will adopt truck or containers fees and apply for matching state and federal funds;

**and be it**

**FURTHER RESOLVED**, that all measures adopted pursuant to the principles set forth above (a) shall be consistent with the guidelines and criteria set forth in the MAQIP or as otherwise adopted by the Board, (b) may be adopted as part of capital-project environmental mitigation, (c) shall be undertaken only when practicable and technologically, legally and economically feasible, (d) shall be funded contingent upon receipt by the Port of fee revenues and State of California Infrastructure Bond funding (California Proposition 1B (2006)), and (e) shall not be contrary to the Port's obligations as

State tidelands trustee and under the City of Oakland Charter, state law or federal law; and be it

**FURTHER RESOLVED**, that the Executive Director shall be authorized to take all necessary actions, including engaging professional services, (a) to prepare and submit application (including any application submitted jointly with the BAAQMD) for State Infrastructure Bond funds for air quality improvement measures, (b) to present appropriate ordinances and resolutions to adopt fees or other funding mechanisms to fund air quality measures and infrastructure funding, (c) to complete the MAQIP for Board adoption and approval and (d) to arrange for and conduct a forum or conference open to the public to consider the full spectrum of issues related to the alternative components of the CTMP, including certain requirements for trucker qualifications as part of a truck concession program; and be it

**FURTHER RESOLVED**, that the Executive Director is authorized to negotiate and execute a professional service contract in a contract amount not to exceed \$220,000 without further approval by the Board for the study of the economic, business, competitiveness, operational and other impacts of various alternative components of the CTMP, including requirements for trucker qualifications as part of a trucker concession program; and be it

**FURTHER RESOLVED** that this resolution represents the Board's policy on Port's efforts on Air Quality Improvements. It is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on March 18, 2008

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Gordon, Katzoff, McClure,  
Scates, Uno and President Batarse – 7

Noes: None

## AGENDA REPORT

Item: O-2

**TITLE:** Adoption and Implementation of "Maritime Air Quality Policy Statement" and "Early Actions" to Reduce Air Pollutant Emissions and Related Human Health Risk

**AMOUNT:** See Budget and Financial Impact Section (below)

**PARTIES INVOLVED:**

Corporate Name/Principal	Location
Board of Port Commissioners	530 Water Street, Oakland, California

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** Omar Benjamin 

**COMMITTEE ASSIGNED:**

**SCHEDULED FOR COMMITTEE:**

**APPROVED BY:** Omar Benjamin, Executive Director

**SUMMARY**

Pursuant to Board's direction to take all feasible measures to reduce air pollutant emissions from Port operations, this report sets forth a "Policy Statement" that would establish the Port's official commitments. If adopted, the Policy Statement would commit the Port to (a) an 85% health risk reduction goal related to exposure to diesel particulate matter emissions by the year 2020 (b) "Early Actions" to immediately implement air pollutant reduction measures, including the replacement and retrofit of "dirty" trucks and (c) establish feasible funding mechanisms for such measures..

The Maritime Air Quality Policy Statement would be:

*"The Board of Port Commissioners affirms that it has the social responsibility to minimize exposure of neighboring residents to air pollution from Port sources and to support and rights of community, local businesses and workers to clean air and fair working conditions. Therefore, the Board is committed to improving air quality, safety and quality of life for neighboring residents and workers by reducing environmental impacts of Port operations, while fulfilling the Port's basic obligations to maximize commerce and to provide economic and job opportunities. To these ends, the Board hereby adopts the following policy principles that shall guide the Port's plans and actions, including the adoption of the Port's Maritime Air Quality Improvement Plan (MAQIP), Comprehensive Truck Management Plan (CTMP) and Early Actions (as defined below)."*

1. *"The Port adopts the goal of reducing the health risks to our neighboring communities (expressed as increase in cancer risk) related to exposure of people to diesel particulate matter emissions from Port sources by 85% by the year 2020 through all practicable and feasible means. Reduction will be calculated based on the Port's 2005 Seaport Emissions Inventory baseline."*
2. *"The Board commits to adopting funding mechanisms, including the imposition of fees, to fund air emissions reduction measures. To the maximum extent possible, Port fee revenues shall leverage matching federal, state and private funds. Fees for the purpose of funding the measures shall be evaluated for legality and be enacted to the extent that they do not damage the Port's or its customers' market competitiveness."*
3. *"The Port will implement certain air emissions reduction measures prior to the dates that such measures are required by state or federal regulations, in order to reduce the duration of people's exposure to emissions that may cause health risks ("Early Actions"). The Port shall implement, beginning in 2008, Early Action measures for the purpose of immediately reducing the impacts of Port-serving trucks and other Port operations on West Oakland and surrounding communities. These measures shall include (a) incentives for Early Action replacement and/or retrofit of older polluting truck engines, (b) mechanisms for enforcing the prohibition of Port truck parking or operation on neighborhood streets, including truck registration and tracking and c) feasible and cost-effective means of reducing ship idling emissions. In order to fund these Early Action measures, the Board will adopt truck or containers fees and apply for matching state and federal funds"*

## **FACTUAL BACKGROUND**

### **Context**

The policy context for adoption of the Maritime Air Quality Policy Statement is comprised of the Port's past and current environmental planning, and environmental justice, and commercial programs and practices. For the Port maritime activities, the key efforts currently underway are the Maritime Air Quality Improvement Plan ("MAQIP") and the Comprehensive Truck Management Program ("CTMP.")

### **Air Quality and Environmental Justice Measures: Past and Current Practices**

Historically, the Port of Oakland has analyzed the environmental effects of its projects and operations as part of its capital projects development process, as required by state and federal environmental statutes. Where impacts to the environment were deemed potentially significant or significant, the Port adopted and implemented environmental measures to mitigate these impacts.

In the mid-1990s, the Port expanded the scope of its environmental efforts to address community air quality concerns that arise from Port operations. For example, the Port adopted the "Vision 2000 Air Quality Mitigation Program" to mitigate the significant air quality effects resulting from redevelopment of the former Fleet Industrial Supply Center (FISCO) into Berths 55-59 and the Joint Intermodal Terminal. In the Vision 2000 Air Quality Mitigation Program, the Port also included neighborhood air quality measures and equipment replacement, repower, and retrofit measures.

Additionally, the overall Vision 2000 Maritime Development Program and the -50 Channel Deepening Program included a broad suite of capital facility design, construction, and operational features intended to improve the environmental performance of the Port's maritime facilities and to

enhance quality of life and community health. For example, the Port and the community collaborated on the design and planning of Middle Harbor Shoreline Park and the Middle Harbor Enhancement Area, which led to the creation of over 40+ acres of new public open space and 188 acres of shallow-water habitat at the center of the seaport and adjacent to the neighborhoods of West Oakland. The Port pays the East Bay Regional Park District to maintain and operate Middle Harbor Shoreline Park.

Largely as a result of community input on the Vision 2000 Maritime Development Program and on other Port projects and activities, the Port now plans its projects, programs, and operations with an enhanced focus on a broad spectrum of environmental and environmental justice concerns and values. This focus involves on-going and sustained collaboration, consultation and dialogue with the Port's diverse constituencies and stakeholders. By these means, the Port and its stakeholders identify key environmental, business, and environmental justice concerns and collaborate on the crafting of applicable policies, plans, and feasible measures and initiatives.

### **The Maritime Air Quality Improvement Plan (MAQIP) and the Comprehensive Truck Management Plan (CTMP)**

The Board and the Executive Director have continuously affirmed and stated that the Port is wholly committed to the principles of sustainability in Port development and operations. In terms of current and future maritime facilities and operations, this means addressing air quality and Port goods movement in a manner tailored to the particular needs and concerns of the neighboring residents, tenants, workers, and businesses who form the Port of Oakland community of stakeholders; that reflect sustained collaboration and consultation with community stakeholders regarding environmental quality and environmental justice issues; and that promotes the viability of the Port as a major producer of jobs and economic activity in the Bay Area and Northern California. To this end, the Port has engaged in two parallel public participation processes: one to develop the Maritime Air Quality Improvement Program (MAQIP) and the other to develop a Comprehensive Truck Management Program (CTMP.)

The Maritime Air Quality Improvement Plan (MAQIP) serves as the policy and master plan document that (a) sets an overall health risk reduction goal related to exposure to diesel particulate matter emissions, including interim health risk reduction goals, and associated emission reduction targets; (b) outlines specific air pollutant reduction goals; and (c) provides a set of "screening criteria" for prioritizing air emission reduction measures that the Port would implement when such measures become practicable and feasible. The MAQIP process has been guided by a multi-stakeholder Task Force and by a steering committee (i.e. "Co-Chairs Group") comprised of the Port's Executive Director, Mr. Omar Benjamin; the Executive Officer/Air Pollution Control Officer of the Bay Area Air Quality Management District, Mr. Jack P. Broadbent; Mr. Brian Beveridge, West Oakland Environmental Indicators Project, as "community chair" and Mr. Andy Garcia (of GSC Logistics) as "industry chair". The Co-Chairs Group has met at least 15 times and the entire MAQIP Task Force has held 5 meetings since inception of the MAQIP Process in April 2007. Staff proposes to bring the MAQIP to the Board for adoption in Summer 2008. It is envisioned that a subset of the stakeholder group (or a different committee) would continue to inform the Port's air quality efforts during drafting, adoption, and on-going implementation of the MAQIP.

The Comprehensive Truck Management Program (CTMP) is a broad, over-arching plan initiated by the Port of Oakland Maritime Division, with significant collaborative multi-stakeholder involvement, that addresses the business, air quality, environmental justice, worker, and community quality of life effects of Port-related trucking. The CTMP stakeholder group has met 10 times during 2007, including an additional 21+ meetings held as part of stakeholder involvement activities.

The objectives of the CTMP are to improve the quality of trucking services to shippers utilizing Port facilities, enhance Port security and safety, improve traffic flow in the Port and surrounding neighborhoods, improve coordination between truckers, terminal operators, shippers, and shipping lines, contribute to improved trucker productivity, quality of life and working conditions, reduce emissions from Port drayage trucks, support the Port's environmental initiatives, and mitigate the impacts of Port-related trucking neighborhoods immediately adjacent to the Maritime Area.

### **CONCURRENT EVENTS**

Concurrent with the Port's community and stakeholder process to develop the MAQIP and the CTMP, various state agencies have been engaged in parallel efforts that would be integrated with the Port's commitments. The California Air Resources Board (CARB) has adopted regulations to mandate air pollutant reduction measures. Most notably, regulations now require the phase-out of older drayage trucks and the phase-in of shoreside power to supply power to idling ships. Later this month, CARB is expected to release a "health risk assessment" of the health risks posed to West Oakland residents from exposure to various sources of diesel particulate matter emission, including those emanating from Port operations. The Bay Area Air Quality Management District is proposing a system of monitoring of and incentive funding for air pollutant reduction measures. Finally, the state is now poised to release funds from the statewide Infrastructure Bond to match Port's funds committed to air pollutant emissions reduction.

### **ANALYSIS**

#### **Health Risk Reduction Goal, Early Action Measures and Funding Mechanism**

The Policy Statement would serve as the guiding principles for the Port's own measures and integration with other statewide efforts.

First, the Policy Statement would commit the Port to a goal of reducing overall health risk from diesel particulate matter emissions by 85% by the year 2020 – a goal that complements CARB's goal to reduce the statewide diesel particulate health risk from goods movement 85 percent from 2000 levels by 2020.

Second, the Port would commit to taking early actions that address health risk and exposure, prior to formal completion of both the MAQIP and CTMP processes and prior to the effective dates of any state or federal regulations ("Early Actions"). This directly responds to stakeholder requests that Early Actions be taken to reduce residents' exposure to particulate matter emissions while more comprehensive measures are planned and as regulations take effect over time. The Early Actions would specifically address the impact of Port drayage trucks on our community. As the initial phase of the CTMP, the Port would implement a program to retrofit and replace older polluting trucks with low-emission engines and to better enforce the prohibition on truck parking and operation in neighborhoods.

Third, Port staff will recommend the adoption of fees in amounts that would not adversely affect the market competitiveness of the Port and of its tenants and customers. The funds raised from these fees would match the I-Bond funds for which the Port will apply. One of the fees will be a "truck fee" to fund truck retrofit and replacement.

## **Future Policy Considerations**

The Board's adoption of the proposed health risk reduction goal and the Early Actions is an essential step to reducing air pollution emissions and to remove trucks from the West Oakland neighborhood as soon as feasible. However, staff recognizes that, during meetings with stakeholder regarding the Policy Statement, many commented that the Policy Statement does not go far enough to address the social equity aspects of the trucking drayage system while others claim that the proposed commitments exceed the Board's legal authority. These criticisms merit preliminary discussions here. Staff proposes also to study the economic, legal and social implications of these stakeholder suggestions in order to recommend to the Board more detailed and better-supported policy actions at future Board meetings.

The specific issues to be studied include, but are not limited to: (a) *should the Board adopt a policy requirement that all truckers serving the Port must be employed by trucking companies ("Employee Trucker Requirement")?*; and (b) *does the proposed Policy Statement exceed the Port's authority?* Below is some preliminary discussion of the issues:

### *"Employee Trucker Requirement"*

Advocates of the Employee Trucker Requirement argue that, with an Employee Trucker Requirement, it would be easier for the Port to enforce air quality, safety and operational standards since only a relatively small number of established trucking companies would be qualified to operate at the Port. Port staff have met with and consulted with the advocates of the Employee Trucker Requirement. These advocates have stated to Port staff and in public meetings that there is an inextricable link between the Employee Trucker Requirement and the achievement of the environmental and health risk reduction goals. On the other hand, critics would argue that trucking drayage costs to cargo owners and shipper are likely to rise significantly, thereby making the Port a less competitive choice for cargo throughput. Additionally, certain independent contractor truckers complain that an Employee Trucker Requirement would deprive them of the opportunity to run and direct their own businesses. The Employee Trucker Requirement is being considered by the Port of Los Angeles; while the Port of Long Beach has deferred consideration of the requirement until such time that other elements of its Clean Truck Program has been implemented and tested. Other West Coast ports have not implemented such a model.

Clearly, the debate over the Employee Trucker Requirement is multi-faceted, involving considerations of economic feasibility, labor policies, politics and legal feasibility. The trucking industry was federally deregulated and many of the independent-contractors truckers operating at the Port have little market power to negotiate for better pay or benefits. However, the Port is a minor part of the trucking system, for which federal law has preempted local regulation.

In the face of the complexity of this issue, staff is researching creative ways to address Port truck management tailored to the needs of the Oakland community as part of its CTMP. While it is clear that the current truck drayage system promotes disparity in trucker compensation and working standards for the mostly independent truck owner-operators, it is unclear how enacting an Employee Trucker Requirement would impact the Port's cost competitiveness, drayage availability, and operating capacity. For example, there has been no definitive study of how an Employee Trucker Model would affect the supply of drayage services that would be available to continue efficient Port operations.



Because the Port's chief legal obligations under the City Charter, tidelands trust principles and federal law are to promote the efficient carrying out of commerce, it is incumbent upon the Port to carefully gather evidence showing whether enacting the Employee Trucker Requirement would promote or impede commerce. Staff proposes to immediately study this issue and to document the possible impacts of an Employee Trucker Requirement. In the meantime, staff will also examine other creative means of improving the safety and efficiency of the truck drayage system that are tailored to Oakland's unique circumstances. Staff intends to return to the Board with a recommendation for the next phase of the Comprehensive Truck Management Program by the end of June, 2008.

### *The Port's Authority*

Aside from the potential obstacles to enactment of an Employee Trucker Requirement, certain stakeholders also claim that the Port lacks legal authority to adopt even the proposed Early Actions to reduce air pollutant emissions. Staff believes that the Board has such authority.

Charging a reasonable fee that does not adversely affect the Port's competitiveness in order to fund truck replacement and retrofit to reduce air pollutant emissions is a legitimate exercise of the Port's market participant or proprietary interest. Through its air emissions inventory and the forthcoming CARB health risk assessment, the Port has demonstrated that it has a legitimate business interest to ensure that trucks entering the Port area do not contribute to diesel particulate matter air pollution and to raise revenues to the extent feasible in order to fund cleaner equipment.

Since CARB has already set a standard through its study and regulatory process of what constitutes a "clean truck" for purposes of federal and state law, it would certainly be reasonable for the Port to exclude or to charge a practicable and reasonable fee of trucks that do not meet CARB standards.

Staff proposes to further investigate the limits of the Port's authority in proposing any future air pollutant reduction measures. The Proposed Policy Statement makes it clear that all measures and fees adopted must be practicable and feasible and are to be reviewed for their legality.

### **BUDGET & FINANCIAL IMPACT**

The Maritime Division plans to impose a container fee to address the three key needs for the environmentally sustainable growth of cargo into the future:

- The Ports Comprehensive Truck Management Program (CTMP);
- Infrastructure modernization and improvements;
- Environmental Programs as envisioned in the Maritime Air Quality Improvement Program (MAQIP).

The Maritime Division staff is working on details of the level of fees, where the fees would be imposed, and the method of collection. The Maritime Division staff proposes to set a fee level that preserves and enhances the Port's competitive position.

As part of the initial phase of the CTMP, the funding will provide for the retrofit of approximately 75% of all the trucks that operate at the Port with Diesel Particulate Filters (DPF). Each of those trucks will see an approximately 75-80% reduction in diesel particulate matter (the major driver of health risk). Further, the life of these trucks will be extended till 2014 when the Port will be

implementing a "Phase II" program of truck replacement. Additionally, the Port intends to collaborate with California Air Resources Board (CARB) and the Bay Area Air Quality Management District (BAAQMD) to fund the replacement of approximately 400 older drayage trucks.

The Port will provide \$50 million for this program which will be funded by user fees and will seek I-Bond funding for \$20 million over three years.

The other two components of the Port-generated user fees consist of required match funding for Infrastructure modernization, 7<sup>th</sup> street grade separation (\$300 million total cost, 50% I-Bond grant); and environmental initiatives, such as cold ironing (\$150 million.)

Over the next several years, the Port can expect to spend about \$200 million of Port-generated funds for retrofitting and replacing trucks and implementing other air quality initiatives such as alternative marine power sources which would address the two biggest contributors to health risk from Port activities.

### **STAFFING IMPACT**

Adoption of the Policy Statement and Early Actions, including funding mechanisms is not expected to result in a change in FTEs in the near-term. However, as part of the Port of Oakland's process of long-term strategic alignment and business planning, it is expected that full implementation of environmental commitments and programs arising from the Policy Statement and related MAQIP, CTMP, and other environmental commitments, may require additional staffing.

### **SUSTAINABILITY**

Adoption of the Maritime Air Quality Policy Statement and Early Actions supports the Port of Oakland's Sustainability Policy (Port Resolution No. 20467.) Among many Sustainability criteria evaluated, the Adoption of the Maritime Air Quality Policy Statement is supportive of the Sustainability Policy because 1) both the MAQIP and CTMP involve active and on-going collaborative community participation; 2) the Early Actions promote community health, social equity and stronger communities; and 3) the Adoption of the Policy Statement and Early Actions have the likelihood to promote the use of alternative sources of energy, including alternative fuels.

### **ENVIRONMENTAL (CEQA) DETERMINATION**

This action by the Board is exempt from the requirements of the California Environmental Quality Act (CEQA), Public Resources Code Section 2100 et seq. and Title 14, Chapter 3 of the California Code of Regulations (the CEQA Guidelines), for the following three reasons.

First, this action by the Board is not a "project" that is subject to CEQA. CEQA only applies to projects, as defined by applicable provisions of State statutes (Public Resources Code Sections 2100 et seq., including Section 21065) and the CEQA Guidelines (15378). CEQA Guidelines Section 15378(b)(2) indicates that the term "project", as used in the State's Public Resources Code and the CEQA Guidelines, does not include "continuing administrative or maintenance activities, such... general policy and procedure making...." This action by the Board involves the adoption of a general policy aimed at protecting the environment. In this case, the policy relates to the adoption of a policy statement and early action items, including the creation of funding mechanisms. Thus, the Board's action, as indicated by CEQA Guidelines Section 15378(b)(2), is not a "project" under CEQA.

Moreover, CEQA Guidelines Section 15378(b)(4) provides that the term "project" also does not include "the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." CEQA Guidelines Section 15382 defines "significant effect (impact) on the environment" to mean "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project ..." The current action by the Board potentially creates "funding mechanisms" to fiscally support the Board's policy regarding health related to diesel particulate matter emissions from Port sources. As indicated, that policy will have a beneficial effect, not an adverse effect, on the environment. As such, the Board's action, pursuant to CEQA Guidelines Section 15378(b) (4), is not a "project" under CEQA.

Second, this action by the Board is also exempt from CEQA by CEQA's "general rule." To the extent the Board's action is a "project" under CEQA, Section 15061(b) (3) of the CEQA Guidelines provides that such "project" is exempt from CEQA in that CEQA applies only to "projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Here, the Board's action will have a beneficial effect, not an adverse effect, on the environment, including community health. Thus, to the extent the Board's action herein is a "project" under CEQA, it is exempt by the CEQA "general rule" that is stated in CEQA Guidelines Section 15061(b) (3).

Third, this resolution is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15308: *Actions by Regulatory Agencies for Protection of the Environment*, which consists of actions taken by regulatory agencies, as authorized by state law or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment.

Because Section 15308 exempts actions taken by regulatory agencies to protect the environment, and because the Port, acting in its regulatory capacity as the planning agency within the Port Area, is such a regulatory agency, it can be seen that the Port's adoption of the Policy Statement, and early actions, is exempt from the requirements of CEQA. (City of Oakland Charter Sections 106, 701, and 706(6), and California Constitution, Article IX, Section 6.

**MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

N.A.

**OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

N,A,

**GENERAL PLAN**

N,A,

**LIVING WAGE**

N,A,

## **OPTIONS**

The Board can consider the following options:

- Option #1: Approve adoption and implementation of the Maritime Air Quality Policy Statement and Early Actions to Reduce Air Pollutant Emissions and Related Health Risk. Option #1 would promote 1) the Port's ability to secure matching grant funds for early air quality improvement measures; 2) near-term reduction in diesel particulate matter exposure duration and proximity; and 3) phased implementation of the Comprehensive Truck Management Program.
- Option #2: Disapprove adoption and implementation of the Policy Statement and Early Actions to Reduce Air Pollutant Emissions and Related Health Risk. Option #2 has the potential to compromise the Port's ability to secure matching grant funds, particularly in the early grant funding cycles, which might adversely affect the Port's ability to implement near-term air quality improvement measures.

## **RECOMMENDATION**

Port staff recommends:

Option #1: Adoption and Implementation of Air Quality Policy Statement and "Early Actions" to Reduce Air Pollutant Emissions and Related Human Health Risk.

To implement Option #1, Port staff to prepare and submit applications to the CARB for air quality funds, prepare Port fee ordinances, convene a public forum in late Spring (May-June 2008) to consider the full spectrum of issues related to Employee Trucker Requirement, authorize and retain a professional services consultant and prepare a detailed report for Board consideration by the consultant to inform decision-making regarding the Employee Trucker Requirement. These implementation steps are targeted for completion following Board action on the Maritime Air Quality Policy Statement BY June 30, 2008.

## **APPENDIX I**

### **Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)**

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

<b><u>KEY CONCEPTS</u></b>	
5)	Make every feasible effort to reduce localized risk in communities adjacent to goods movement facilities as expeditiously as possible.
6)	Establish a shared assumption that "further growth of the ports and shipping could not proceed without dealing with community impacts."
7)	Place impacted communities at the center of decision-making on the growth of freight transport and make community health concerns front and center ("ground zero").
9)	Incorporate environmental justice principles and analysis in freight transport planning.
37)	Make the Port of Oakland a model for achieving reductions through creative initiatives that are not regulatory driven.
48)	Share accountability among the Port, the City, and the County with the support and involvement of all three.
255)	Give more latitude to the Port to improve performance standards.
314)	Draw on knowledge and experience from the community.
315)	Integrate port and city planning/promote use of buffer zones between ports and surrounding communities.
<b><u>POLICY</u></b>	
1)	Reduce goods movement emissions at least back to 2001 levels by 2010.
4)	Adapt and incorporate the state's findings and resolutions for goods movement (including ARB Resolution 06-14) and apply them at the local level as a starting point for clean up at the Port of Oakland. At a minimum, this would require an 85% reduction in diesel risk from goods movement related activities by 2020.
10)	Apply a "best available green technology" standard to all measures in the Port of Oakland MAQIP.
11)	Subject all final project plans for freight transport expansion to CEQA review and perform mitigation for every infrastructure project both independently and as an entire system to account for system wide impacts.
13)	The Port Commission must be very involved, set policies and drive the process.
26)	Enact public-private partnership legislation.
53)	Require importers, exporters, shippers, rail companies and other industries to pay the full costs of moving goods through California, including the health costs from pollution that are borne by California Residents. (Example: Companies pay a charge per container)
141)	Increase compliance with vessel speed reduction requirements out to a specified distance from the Port.
201)	Utilize a uniform statewide approach in addressing emissions at rail yards to provide the greatest and most immediate health and welfare benefits to the people of California.
216)	Standardize routine stack opacity tests on locomotives.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

245) Encourage common-sense regulations on land-use – CARB land-use guidelines clearly indicate approving new housing within 500 feet of major sources of diesel pollution is not recommended due to health risk, yet city councils continue this practice.
246) Regulate hubs in the freight transportation system as large fixed sources, similar to factories.
251) Develop model ordinances on issues such as idling of diesel equipment for adoption by local jurisdictions.
253) Sponsor and/or support legislation to reduce criteria pollutant and toxic emissions, such as SB 1601 which would have required Best Available Control Technology to reduce emissions at California ports. Phase I findings will help identify and advocate for additional legislation.
254) Develop a local/regional policy to give stakeholders more say in implementation of new technologies.
256) Revise the Jones Act to optimize goods movement, and thus minimize emissions and fuel used. ("Short-Sea Shipping")
257) Create a national policy for goods movement that applies to ports to level the playing field and reduce emissions.
<b><u>FORUM/COLLABORATION</u></b>
14) Ensure Port staff is well organized and aggressive about getting needed information; the Port must involve the relevant agencies with technical expertise, including the Air Resources Board, Air District and U.S. EPA.
15) Create an "agency caucus," with a role that is transparent to the community and other sectors.
21) Initiate a discussion with labor and industry to reduce emissions and increase efficiency, including increasing the times when trucks and ships can access the terminals.
91) Convene a stakeholder process to create a designated truck route that does not travel through the West Oakland neighborhood.
165) Commit to working with owners and operators to implement pilot projects, including educational campaigns.
243) Provide clear direction. (Oakland Mayor's office)-Involve the community in selecting replacements for Port Commission vacancies.
249) Engage affected communities through continued public involvement efforts. Work with local Resource Teams to encourage public involvement and use public workshops to explain new regulations and communicate findings.
250) Continue collaboration with other governmental agencies such as Cal/EPA, the ARB, the Metropolitan Transportation Commission, and the Port of Oakland to reduce air quality impacts.
303) Consult community members regarding infrastructure plans throughout the planning process.
304) Establish Community Advisory Committee for the EIR /EIS stage of an infrastructure project (for projects that have not already gone through the environmental review process).
308) Establish a community forum to address community concerns during construction.
312) Hold public meetings when members of the affected community can attend (e.g., in the evening).

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

<b><u>FUNDING</u></b>	
8)	Include mitigation funding for community impacts with all new infrastructure projects.
50)	Collect a fee (from the Port itself, shipping lines, or terminal operators) to establish and support a community fund. Community members would then use the fund to support pollution reduction efforts and health initiatives such as an asthma clinic and health education program.
72)	Funding for the Clean Trucks Program is shared among the Ports, the local Air Quality Management District, Proposition 1B Funds, and the "Truck Impact Fee"
128)	Where possible, provide grants, in-kind monies, and other financial support to owners/carriers to encourage them to test new technologies on their vessels.
207)	Fund mitigation programs through sources such as railroads and industries, the Carl Moyer program and US EPA.
330)	Develop a Federal, State, and Local funding strategy.
<b><u>HEALTH RISK</u></b>	
51)	Develop an inventory of toxic air contaminants (TAC) and identify locations and populations with a relatively high health risk.
52)	Use the findings of the Bay Area Air Quality Management District's CARE program to design and implement measures for exposure reduction.
206)	Identify the risks from toxic air contaminants that rail yards represent in affected communities through Health Risk Assessments of Toxic Air Contaminants at designated California Rail Yards.
295)	Track emission reductions and estimated cancer risk reduction in communities.
<b><u>INCENTIVES/ PENALTIES</u></b>	
17)	Determine how to bring the beneficial cargo owners into the process. For example, provide incentives or recognition to beneficial cargo owners that use carriers exceeding regulatory requirements.
18)	Explore penalties for beneficial cargo owners who do not use carriers exceeding, regulatory requirements.
19)	Place a public billboard that recognizes companies who excel in reducing emissions and/or improving the efficiency of their operations.
32)	Conduct energy audits and implement feasible improvements.
34)	Provide corporate recognition to companies that go above and beyond regulatory requirements. Develop the program within the Oakland community, and provide recognition as a valuable community partner.
45)	Implement incentives to limit container dwell time.
85)	Allow alternative fuel trucks to the front of the truck queues.
105)	Establish a system that allows cleaner trucks move to front of the line.
61)	Charge a license fee to obtain a trucking company concession



## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

67) Clean Truck Replacement and Retrofit Grants are given only to licensed concessionaires, with the amount based on miles driven and frequency of Port calls.
<b><u>RESEARCH/ FURTHER STUDY/TECHNOLOGY ADVANCEMENT</u></b>
16) Review the existing system for distributing information about required actions (both laws and Port rules) to Port business operators, such as individual truck drivers. If that system isn't functioning well, seek ways to improve it so that operators are aware of existing requirements. This applies to all businesses, including trucks, railroads, ocean carriers, and others.
24) Improve communications of fluctuating demand forecasts for labor and equipment among carriers, railroads, and terminal operators.
25) Develop comprehensive goods movement data collection methodologies, modeling, and data evaluation.
28) Continue to test cleaner fuels and technologies
36) Use IT technology to link industries working at the port - increase the IT capacity for the trucking industry, and implement common systems across industries. Increased digital capacity and efficiency in communication will reduce emissions.
49) Involve this Department in developing and implementing mitigation measures and other aspects of addressing health impacts of goods movement.
70) All trucks in the program will be issued radio frequency identification (RFID) tag for tracking.
78) Conduct terminal efficiency studies and improvements.
83) Study the feasibility of a heavy-duty truck test station.
89) Perform feasibility study of short sea shipping as an alternative to truck transport.
95) Determine standards for a reasonable queuing time.
98) Assemble a database of truck ages to reduce the use of old trucks.
99) Explore registration rules for DMV for trucks to determine if there are mechanisms to establish a vehicle inspection and maintenance program for trucks, similar to what exists for passenger cars.
108) Work with manufacturers to design engines that can run on alternative fuels such as bio-diesel.
118) Accelerate software upgrade for trucks.
134) Study feasibility of hybridization or electricity generation during voyage.
139) Conduct feasibility studies for other types of shore power or other at-dock treatment infrastructure.
140) Evaluate and update environmentally preferable vessel design considerations for future new builds and prepare a list of such vessel design features to promote with owners, carriers, yards, and the general industry.
144) Explore technological alternatives to cold ironing, such as the Wittmar Project.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

146) Evaluate short- sea shipping – including environmental impacts.
164) Run pilot programs to test hybridization.
170) Seek ways to go above and beyond CARB's yard tractor programs.
208) Evaluate "Remote Sensing" technology to identify high-emitting in-use locomotives along the tracks. (Page 11)
209) Evaluate medium-term and longer-term alternatives such as diesel particulate filters and oxidation catalysts and the use of lower-emission technologies such as LNG or CNG fueled locomotives.
213) Complete the evaluation of switch- yard electrification for long-term objectives.
214) Evaluate and pilot the use of a hybrid -switching engine.
220) Actively pursue pilots and demonstration projects of existing technologies such as switch-engine anti-idling and recapturing electricity during line haul.
226) Explore increasing the capacity of on-dock rail movement.
227) Evaluate shuttle train pilot project performance.
259) Assign Danny Wan (Port legal counsel), and UC Berkeley Boalt law students to develop a legal analysis that defines the maximum authority to require compliance via lease agreements through (1) Port actions only, and (2) the joint effort of the Port and partner agencies.
282) Monitor performance of systems employed and practices implemented in previous terms and revise plans or practices as needed.
354) Establish three integrating centers for all data and system managements at the ports, Mexican border, and the Inland Empire using the Metrolink model.
<b><u>VAGUE</u></b>
3) Apply emissions reductions strategies for ports and goods movement statewide.
22) Improve operations and technology.
29) Include an alternative fueling station in redevelopment design
31) Provide leadership in energy and environmental design.
63) Do not limit the number of concessionaires to start
64) Give preference to existing owner/operator drivers
68) Subsidized trucks must be concessionaire owned and are contractually required to stay in Port service for a specific period of time or mileage
73) It is envisioned that a third party will administer the Clean Trucks Program
284) Ongoing implementation of intermediate actions.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

302) Expand public outreach.
323) Replicate model across California.
<b><u>NOT APPLICABLE</u></b>
12) Environmental impacts should be measured against the short- and long-term environmental gains of the Port Redevelopment Project. Short-term gains would be achieved through increased public access to open space, accompanying recreational opportunities.
23) Employ better trade and transportation forecasting.
42) Expand labor force at the ports.
62) Require employee drivers rather than owner/operators (after a transition period)
65) Require concessionaires to participate in City workforce development initiatives
66) Require concessionaires to certify drivers and adhere to national and local security standards
90) Evaluate dedicated terminal to rail yard routes.
111) Provide visual messaging to route local traffic during times that local routes are congested with idling trucks.
145) Spread out vessel sailings and arrivals in the trans-Pacific trade.
150) Implement vessel speed reduction MOU in Southern California.
258) Collaborate with refineries and distributors to explore ways of increasing supply, access and availability through increased distribution locations and price subsidies.
261) Apply thoroughly and enforce existing water quality requirements (e.g., permits, certifications, etc.) on projects, and treat complaints, tips and violations (noncompliance with requirements) as a high priority – particularly at port operations areas, truck traffic idling areas, and upland disposal areas of any dredged materials.
262) Identify waste load allocations (pollutant level targets, in terms of mass discharge allowed) for port-area water bodies currently listed as impaired [pursuant to Clean Water Act section 303(d)].
263) Review current ballast water exchange practices and identify opportunities to further mitigate exotic species introduction.
264) Initiate studies to better understand relationship between airborne emissions in port areas and water quality and beneficial use impacts.
265) Initiate studies to identify community impacts from project-related activities with regards to water quality and beneficial use of the waters (with special attention to potential environmental justice impacts and subsistence consumption and recrea
266) Identify sources of marine debris discharges in port areas and begin to eliminate them.
267) Implement better land planning practices that employ the key principles of Low Impact Development (LID). For example: use site hydrology as the organizing principle for all others.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

268) Match the initial abstraction and mimic natural water balance.
270) Decentralize controls and disconnect impervious surfaces.
271) Minimize land disturbance and connected, impervious cover.
272) Incorporate natural site elements into design.
273) Establish redundant systems to eliminate or reduce discharges of marine debris and other pollutants causing impairments.
274) Establish performance measures to measure effectiveness of mitigation activities and overall mission to protect enhance and restore beneficial uses of waters in project areas.
275) Continue to thoroughly apply and enforce existing water quality requirements (e.g., permits, certifications, etc.) on projects, and treat complaints, tips and violations (noncompliance with requirements) as a high priority – particularly at port o
276) Apply waste load allocations (pollutant level targets, in terms of mass discharge allowed) for port-area water bodies approved and in force.
277) Continue to identify waste load allocations (pollutant level targets, in terms of mass discharge allowed) for port-area water bodies currently listed as impaired [pursuant to Clean Water Act section 303(d)].
278) Implement better ballast water exchange practices and identify opportunities to reduce and further mitigate exotic species introduction.
280) Implement recommendations from studies to enhance and restore water quality and beneficial use of the waters (with special attention to potential environmental justice impacts and subsistence consumption and recreational uses) in communities surro
281) Continue to implement better land planning practices that employ the key principles of Low Impact Development (LID).
283) Ongoing implementation of short-term actions.
285) Develop a statewide Hazardous Waste and Contaminated Media Management Plan for goods movement-related infrastructure projects to ensure the integrated, safe management of hazardous wastes and substances encountered during project design and constr
286) Account for the costs of any required management of contaminated soils, mitigation of other hazardous substances contamination, and oversight of compliance with related regulatory requirements in the planning and execution of infrastructure projects.
287) Design infrastructure projects with an effort to minimize exposure to hazardous substances and to manage hazardous substances to minimize public health and environmental impacts of any removal, transportation, treatment, and onsite management.
288) Ensure that hazardous substances mitigation approaches (such as on-site management, deed restrictions, etc.) will remain protective of public health and the environment for the life of the infrastructure project and that operations and maintenance
289) Develop project specific Hazardous Waste and Contaminated Media Management Plans to ensure the integrated, safe management of hazardous Wastes and substances encountered during project design and
293) Develop community benefit agreements when desired by the community.
294) Conduct targeted community assessments including monitoring as appropriate.
296) Preserve existing parks, open space, and natural areas.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

297) Coordinate with local city redevelopment departments to identify priority enhancement areas in adjacent communities.
298) Develop and implement community enhancement projects.
299) Emphasize landscaping and aesthetic improvements using local native plants.
309) When considering operational changes to extend hours (including during construction), evaluate noise and light impacts on adjacent communities.
310) Mitigate noise impacts in adjacent communities.
311) Mitigate light impacts in adjacent communities.
313) Include language translation where appropriate.
316) Partner with the California Community Colleges Economic and Workforce Preparation Division, the California State University System and other institutions of higher learning, K-12, and employers to respond to the demand for qualified workers and co
317) Provide goods movement job training within affected communities.
318) Develop industry driven and industry recognized certificate programs (and curriculum) in the areas of transportation, logistics support, warehousing and storage, supply chain management and safety and security.
319) Provide logistics (goods movement) training to incumbent workers to enhance productivity and create higher skilled higher wage jobs in this sector.
320) Placement of workers into logistics industry by creating awareness of job opportunities and preparing job seekers with employable traits as required by industry.
321) Provide goods movement job training within affected communities.
325) Create an educational continuum by articulating curriculum from K-12 through graduate school to provide incumbent workers, employers, and job seekers with continuous educational opportunities.

## Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

326) Align CHP Foreign Export and Recovery (FEAR) efforts with Federal Homeland Security
327) Establish a multi-jurisdictional Port Security Task Force
328) Evaluate cross-sector vulnerability of ports (power, water, etc).
329) Evaluate all truck and rail routes out of port districts and air basins to determine long-term velocity, security, and environmental opportunities.
331) Evaluate the "Agile Port" concept for public safety/homeland security advantages.
332) Use the NAFTA model to understand the public safety and security issues.
333) Evaluate lane departure technology to identify driver fatigue and safety scoring of operators.
334) Continue support and implementation of safety improvement programs.
335) Increase enforcement of traffic and vehicle safety laws and regulations.
337) Urge US Coast Guard District Eleven Command to adopt the Automated Secure Vessel Tracking System (ASVTS) developed by the Maritime Information Services of North America (MISNA).
338) Evaluate new freight transportation technologies (maglev, SAFE shuttle, etc.) for Homeland Security and public safety applications.
339) Evaluate <i>Green Freight Corridor</i> road and rail infrastructure with integrated sensor network for Homeland Security and public safety applications.
340) Construct commercial vehicle enforcement facilities around the LA/LB and Oakland ports to enhance highway safety and security.
341) Establish a pilot test program using hazardous materials movement of containers and a short haul rail system that "flushes out" the containers in the ports and rail yards.
342) Develop a pilot project for creating a physical communication grid in the corridor.
343) Use intelligence and automated info to identify and target high-risk containers.
344) Pre-screen high-risk containers at point of departure.
345) Use new detection technology to quickly prescreen.
346) Develop joint inspection stations in the port districts and at the border crossing.
347) Develop community web portal to provide real or near real time information on goods movement and freight mobility conditions across road and rail network within the region.

Proposed Initiatives that Did Not Pass the Round One Screening (Organized by Category)

348) Clear U.S. Customs at inland destinations.
350) Use smarter, tamper-evident containers with RFID e-seals.
351) Develop a container loading and unloading program (similar to CTPAT) that addresses homeland security issues like peaking for local California businesses.
352) Develop a Green Freight Corridor (similar to Customs Green Lane) program and system.
353) Install sensors and environmental monitoring equipment along corridor to communicate between operators, vehicles, containers and the command center.
355) Provide data feeds from corridor system to County Emergency center, the Command and Control Center at Camp Pendleton, the CHP command centers, and NORTHCOM.

## **APPENDIX J**

**Comment Letters on June 2008 MAQIP Draft  
(submitted by August 7, 2008)**





**Linda S. Adams**  
Secretary for  
Environmental Protection

# Air Resources Board

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**Mary D. Nichols, Chairman**  
1001 I Street • P.O. Box 2815  
Sacramento, California 95812 • [www.arb.ca.gov](http://www.arb.ca.gov)



**Arnold Schwarzenegger**  
Governor

July 14, 2008

Mr. Omar Benjamin  
Executive Director  
Port of Oakland  
530 Water Street  
Oakland, California 94604-2064

Dear Mr. Benjamin:

The Air Resources Board (ARB) and the Maritime Port of Oakland (Port) have begun to work in partnership with each other and the Bay Area Air Quality Management District to quickly reduce air pollution from Port operations. To protect the residents of nearby West Oakland and surrounding communities, reducing the associated health risks must be a high priority for each of our agencies through State and local rules, enforceable agreements, and incentives. The Port can and must be a proactive leader in this effort by using its full authority via lease agreements, tariffs, cargo fees, and other means.

We support the Oakland Board of Port Commissioners' overarching goal for an 85 percent reduction in community health risks from exposure to diesel particulate matter (PM) emissions from the Port's maritime operations by 2020. The Maritime Air Quality Improvement Plan (MAQIP or Plan) in development is the ideal vehicle to both recognize the on-going activities to cut pollution and, most importantly, to set the path and schedule for critical new actions to further decrease the health risk. The unprecedented level of public involvement to date demonstrates the willingness of community residents and businesses to seek common ground based on the opportunity for a clean, growing port as a good neighbor.

We understand the Port's intention to recast the draft Plan as a "master plan" or vision statement, with details to be developed in the future through stakeholder working groups. However, we believe it is essential that this Plan deliver what the community and air agencies expect – a document that articulates the air quality goals, then clearly defines and quantifies a comprehensive emission reduction strategy that will be implemented to meet those goals. A credible plan must include firm commitments by the Port to pursue specific actions within its authority, on a set schedule, similar to the commitments made by air agencies in their own planning processes. A strong, clear Plan also provides certainty for the shipping industry to make its own long-range investment decisions.

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

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California Environmental Protection Agency

Mr. Omar Benjamin  
July 14, 2008  
Page 2

The comprehensive strategy must depend on the combined efforts of the Port and the air regulatory agencies. ARB has adopted or is developing ambitious statewide regulations for port and other trucks, cargo equipment, harbor craft, and ship fuels that will compel the majority of the emission reductions from Port operations. We are counting on the Port's application of its landlord authority to help ensure its tenants and customers fully comply with State rules. Certainly, the Port can apply the benefits of ARB's strategies as the foundation for the Plan's emission reductions. However, we urge you to focus on what the Port will do to both aid implementation of those rules and go beyond State requirements to accelerate the localized risk reduction.

We appreciate the fact that some of the potential strategies or projects under the Port's authority may have a degree of uncertainty or controversy about how quickly they can be developed, adopted, and implemented. As an agency that regularly faces similar constraints, we encourage the Port to boldly meet this challenge by pursuing the most effective strategies to the limits of its authority, periodically assessing progress, and revising course as needed to reach the goals. We find it useful to include all potentially feasible strategies to reduce emissions, but to "tier" or categorize those strategies based on the level of certainty, timing, or other key factors.

ARB strongly urges the Port to evaluate, categorize, and include commitments to pursue each of the potential Port projects outlined in the draft Plan. In doing so, the Port should show the emission reductions that will be achieved and the progress made toward the goals. The Plan should also more fully define the most certain projects with specific timeframes and budgets. We understand the limited planning resources available and the concurrent demand on Port staff to help implement incentive programs for cleaner trucks this year. To minimize the resources needed to put these recommendations into practice, we believe the Port could effectively present clear commitments for action in an expanded Executive Summary to the Plan.

Thank you for the opportunity to comment on the draft Plan. If you or your staff would like to discuss these recommendations, please contact me at (916) 322-5350.

Sincerely,

/s/

Cynthia Marvin  
Assistant Division Chief  
Planning and Technical Support Division

cc: See next page.

Mr. Omar Benjamin  
July 14, 2008  
Page 3

cc: Mr. Brian Beveridge, Co-Chair  
MAQIP Task Force  
West Oakland Environmental  
Indicators Project  
1747 14<sup>th</sup> Street  
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Mr. Jack Broadbent, Co-Chair  
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Mr. Andy Garcia, Co-Chair  
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Oakland, California 94607

Ms. Deborah Jordan, Director  
Air Division, Region 9  
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75 Hawthorne Street  
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Mr. Richard Sinkoff  
Director of Environmental Programs  
and Planning  
Port of Oakland  
530 Water Street  
Oakland, California 94604-2064



# Board of Supervisors

Nathan A. Miley

Supervisor, District 4

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July 14, 2008

MEMORANDUM TO: Ann Whittington  
Port Environmental Supervisor  
Port of Oakland

FROM: Nate Miley

RE: Draft Maritime Air Quality Improvement Plan  
(MAQIP) Comments

As an active advocate for strong, healthy communities and quality of life matters in Alameda County, I commend the Port of Oakland for taking significant and forward steps to address community ills while remaining a vital member of our economic base.

To that end, I submit to you these comments on the Maritime Air Quality Improvement Plan (MAQIP) *Draft* based on my work as Board member on the Bay Area Air Quality Management District and thru my staff's participation on the MAQIP Task Force.

While the entire document was a good first start, I would like to focus my comments on the following Sections:

**Section 6: Air Quality Improvement Goals**

The draft should not have broad goals and be unsure of what it can accomplish. Per the document, it is written in this section that "goals are ambitious, but achievable." For the stakeholders and the community, is not an effective approach to finding solutions. It is going backward. The Port should have defined goals that have projected and stated outcomes. Given that there will be uncertainties and wavering challenges, the Port should obligate itself to craft concrete goals, be responsible for oversight, identify a path that allows for the adoption of new criteria within a projected timeframe but highlight their designated timeframe all uncertainty is eliminated.

To accomplish this, the Port should create an Air Pollution Reduction Policy Subcommittee out of the MAQIP. The goal and objective are to monitor and track measures and goals for air quality and risk reduction strategies as outlined in the final Air Plan. Make recommendations to the MAQIP related to criteria, projections, policy implementation and/or changes/triggers that can negatively affect the Air Plan. In addition, they should oversee all timelines, report discrepancies and compliance issues, research and recommend new technologies and help set strategic next steps.

**Section 7: Emissions Reduction Strategies**

The Port should step away from a "hodgepodge" way of trying to reduce emissions and employ the guidance of the Interagency Task Force to help develop a strong infrastructure for capturing the necessary funding needed to support the implementation of reduction strategies. Local, state and federal elected officials staff should be more engaged so that policies, mandates and legislation are solid.

The environmental community should be afforded the opportunity to continue to provide oversight and monitoring in partnership with the Division of Environmental Programs on a level that is separate but equal to the Interagency Task Force.

**Section 8: Air Quality Improvement Initiatives**

The Continuum is an excellent approach as is the Screening Process Flow Chart. The last sentence on page 8-2 of section 8 says, "The air quality initiatives selected and prioritized through this process were intended to achieve emission reductions above and beyond those required by law."

While the list of Primary and Secondary Air Quality Initiatives is thorough and informative in its descriptions, the revised draft should define the port's role and reveal the criteria and monitoring it will use to go "above and beyond." Further, the port should define for the reader what its level of accountability will be as well as what the penalty will be for those who do not comply and state the incentive for those who do.

The Programs and Projects by Source Category are also informative and useful but needs to have outcomes stated as well.

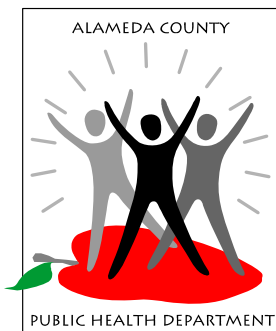
**Section 9.1: Implementation**

The Port should define what its existing authority is and what enforcement mechanisms will be used to insist conformity as well as identify what penalties or incentives will be

used. Further, outline stronger strategies, roles and responsibilities, how the Port will handle implementation, accountability and oversight levels and timelines.

In closing, I concur with many of the Task Force member's comments that continue to address the Port's levels of accountability and how imperative it is to use the resources and people currently seated at the table. To me, this collaborative process continues to be a wonderful tool for moving forward in a comprehensive way and keeping the Port in the top tier of international business portals for commerce and trade.

Please feel free to contact me or my staff, Robyn Hodges at 510-272-3691 with any questions or concerns you may have at your convenience.



ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY  
PUBLIC HEALTH DEPARTMENT

David J. Kears, Director  
Anthony Iton, Director & Health Officer

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Oakland, CA 94607

(510) 267-8000  
(510) 267-3223

July 14, 2008

Ms. Anne Whittington  
Port of Oakland  
530 Water St.  
Oakland, CA 94607

**RE: Comments on the draft Port of Oakland Maritime Air Quality Improvement Plan**

Dear Ms. Whittington:

As Deputy Director of Planning, Policy, and Health Equity for the Alameda County Public Health Department, and as a member of the Maritime Air Quality Improvement Plan (MAQIP) Task Force, I commend your leadership in working with many stakeholders to put together a plan for reducing air pollution – and as a result improving health conditions – in the neighborhoods surrounding the Port of Oakland. However, the draft MAQIP leaves me concerned that this plan does not fully harnesses its pollution reduction potential, as it does not include clear measurable targets, a commitment to specific action steps, or appear to respond to previous concerns and recommendations articulated by MAQIP members and by CARB. In the interest of the health of those living and working around the Port of Oakland, I urge you to revise the current plan using the points laid out in this letter.

As a MAQIP Task Force member, in our meetings and in a letter sent to Mr. Richard Sinkoff and carbon copied to MAQIP Task Force members on February 4, 2008, I have highlighted the public health crisis confronting West Oakland: residents living in the shadow of the Port of Oakland can expect to die, on average, more than a decade before residents of the Oakland Hills and that, appallingly, this gap may be increasing. It is increasingly clear that one of the underlying causes of this disturbingly large health disparity is the extremely high rates of environmentally-linked disease in West Oakland. People living in West Oakland breathe in 3 times more diesel particles than other Bay Area residents. As a result of the exposure, West Oakland residents experience high rates of diseases such as cancer and asthma. As demonstrated in the West Oakland Health Risk Assessment, West Oakland residents experience 2.5 times greater lifetime risk of cancer than Bay Area residents in general and 80% of this excess cancer risk is attributed to diesel trucks. They have the highest rates of asthma hospitalization in the county – 2.3 times the average – and West Oakland children under five years of age have emergency department visits rates due to asthma nearly three times the county average.

The asthma rates among children are particularly alarming. Asthma is a chronic disease that can lead to irreversible changes in the architecture of the airways in the lungs. The irreversibility of these lung changes is one of the prime reasons that preventing asthma in children by reducing exposure to environmental triggers such as diesel is so critical to avoiding a life plagued by chronic disease. Additionally, asthma places a burden on the respiratory muscles and heart, therefore potentially

exacerbating heart disease, producing heart failure and ultimately increasing the likelihood of heart attacks, the number one killer of West Oakland residents.

The impact of the concentration of environmental hazards in West Oakland is particularly devastating to residents' health because of their social vulnerability. Due to high poverty levels and the prevalence of other psycho-social stressors, as well as a lack of access to healthcare, West Oakland residents are already at risk for poor health outcomes. Additionally, while the Port of Oakland is not the only source of air pollution in West Oakland, there is increasing recognition that multiple hazards interact and have a cumulative impact on residents. Port actions can either exacerbate or mediate these existing conditions. In order to confront these multiple assaults to West Oakland residents' health, we must maximize the health promoting potential of every decision impacting the community.

It is because of the extent and urgency of the health problems plaguing West Oakland that we urge you to consider our feedback on the draft MAQIP.

- By adopting as policy the goal of an 85% reduction from 2005 to 2020 in community health risk related to exposure to diesel particulate matter emissions from the Port's maritime operations, the Port of Oakland has acted a leader in the effort to improve health in West Oakland. However, the mounting evidence regarding the extreme health impacts of PM 2.5, such as CARB's recent study indicating that there is no scientific evidence that there is a safe level below which PM 2.5 has no health effect, necessitate a more aggressive timeframe and measures for achieving this goal. The draft MAQIP's interim goal for PM reduction (DPM Goal 1, listed on page 6-2) is 65% by 2012. In order to adequately protect health of the Port of Oakland's neighbors, we strongly urge you to a more aggressive timeline.
- In order to achieve the goal of an 85% reduction from 2005 to 2020 in community health risk related to exposure to diesel particulate matter emissions from the Port's maritime operations, the Port of Oakland needs an aggressive plan with clear action steps. The draft MAQIP relies heavily on CARB and other potential state and federal regulations to achieve its health risk reduction goal. However, the plan also states that a number of the regulations may not be implemented and that 100% compliance with regulations is improbable. To account for this discrepancy, the draft MAQIP should be adjusted as follows:
  - Analyze each current and future regulation not only for its current status, as you do in Table 5-2, but also indicate both your expectation regarding actual approval of the regulation and your ability to ensure compliance. Subsequently adjust your 2012 and 2020 emissions reductions forecasts to account for these realities.
  - Given these new forecasts, identify specific projects from the list of Air Quality Improvement Initiatives that the Port of Oakland will definitively commit to implementing. Demonstrate this commitment through a concrete timeline for these projects (not an estimated timeline, as currently included on page 9-12). Additionally, demonstrate that these additional projects will indeed achieve the health risk reduction goal by including a transparent analysis of the expected emissions reduction contribution of these projects. Translate the expected emission reduction impacts of these projects into long-term emission reduction goals for the project, as well as short-term interim goals.
  - Commitment to a realistic plan with a timeline, interim, and long-term health risk reduction goals is essential for monitoring of the final MAQIP's efficacy in reaching the 85% reduction by 2020 target. Furthermore, including these components in the final plan will increase transparency, a characteristic all government agencies should strive to embody, and facilitate community stakeholder partnership in not only identifying problems reaching the goals, but in identifying viable solutions.



- There is building consensus that a majority of the health risks confronting West Oakland residents can be attributed to trucking. However, there is dispute regarding whether the trucks are related to the Port of Oakland. It appears that CARB's West Oakland Health Risk Assessment and the draft MAQIP's emission inventory significantly underestimate the level of trucking activity attributable to the Port of Oakland, as well as trucking's total contribution to regional air pollution. To account of these underestimates, we recommend that the final MAQIP more explicitly discuss the impact of truck emissions, the uncertainties associated with the CARB study, and lay out a research plan, with details such as a timeline and objectives, for better understanding this issue and for identifying and committing to specific action steps. The Comprehensive Truck Management Program (CTMP) could be such a program, but the current uncertainty surrounding this program requires that in the final MAQIP do more than refer the issue to the CTMP for a resolution.
- The final MAQIP should identify a back-up plan, or at the very least a concrete plan for creating a back-up plan, that can be implemented in the event that the Port of Oakland is unable to meet the expected reduction targets.
- Regardless of the final specificity of the MAQIP, it could be rendered meaningless if it does not include an enforcement plan. The final MAQIP should clearly spell out how the Port of Oakland will address problems achieving the stated goals. The enforcement plan should include the following:
  - Lease-based approaches that will ensure compliance with all measures. This strategy will have the secondary benefit increasing the probability of early emission reduction.
  - A community engagement process for identifying and solving problems.

Before closing, there is one more important issue that merits your attention as you move forward. As discussed in the letter submitted to Mr. Sinkoff on February 4<sup>th</sup>, 2008 specifically regarding public participation, historical exclusion from decision-making venues has resulted in communities of color and low income communities that are disproportionately burdened by environmental hazards and the associated adverse health outcomes. Furthermore, the impacts of marginalization affect a community's sense of wellbeing and hopefulness for the future. We believe that decision makers can counter and begin to correct the ill health effects of systematic injustice by creating a truly empowering public process. The Port of Oakland has been responsive to community feedback, such as the extension for public comment on the draft MAQIP, granted due to the complexity of the analysis necessary for informed feedback. In addition to creating opportunities for public comment, we ask that as we move forward, you respond more explicitly to our comments. For instance, please indicate – through footnotes or utilizing another convenient tool – when and where content has been adjusted as a result of public comment. Additionally, we ask that you provide another opportunity for meaningful public participation before the MAQIP is finalized.

Thank you for your hard work on this plan and for your consideration of our comments. The extreme health threats facing the Port of Oakland's neighbors – neighbors already vulnerable to poor health outcomes and assaulted by many health hazards – are numerous and life threatening. As a result, we must all accept the weight of this public health crisis and use every measure available to ensure that our decisions reduce health risk to the fullest extent possible. We submit these comments, and strongly urge you to revise the draft MAQIP accordingly, to ensure that the final product demonstrates the Port of Oakland's strong commitment to reducing the health risks facing the surrounding community. Thank you again for the opportunity to comment and please contact us with any questions or concerns.

Sincerely,

Sandra Witt, MPH, PhD  
Deputy Director of Planning, Policy and Health Equity  
Alameda County Public Health Department

cc: MAQIP Task Force Members, including representatives of:  
Mayor Ron Dellums  
Assemblymember Sandre Swanson

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# Alameda Labor Council AFL-CIO

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Garrett Contreras, IAFF 1909  
Don Crosatto, IAM 1546  
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Brenda Wood, AFSCME DC 57  
Darin Woodard, ILWU 6

## **Trustees**

Rich Benson, UFCW 5  
Bill Schechter, IAM 1546

July 15, 2008

Anne Whittington  
Port of Oakland  
530 Water St.  
Oakland, CA 94607

Via Email

## **Re: Draft Maritime Air Quality Improvement Plan**

Dear Ms. Whittington,

The Alameda Labor Council, AFL-CIO represents 125 local unions with 100,000 members in Alameda County. We support the Port's potential to develop a comprehensive and rigorous Maritime Air Quality Improvement Plan but believe the current draft misses the mark.

Our members both work and live in West Oakland and along the impact corridor. We pay the price of poor air quality and poor health as workers, as residents, and as taxpayers.

I participated in MAQIP planning sessions and raised concerns verbally throughout the process. We join allied organizations in the Coalition for Clean and Safe Ports in urging the Port to set a stronger pace and reach higher for higher goals – with a means to meet them.

**In its March 18 Policy Statement, the Commission set clear health risk reduction goals. MAQIP needs to extend this "can-do" attitude, not backpedal.** The draft MAQIP lacks key components of an air quality improvement plan, as defined by planners. The Plan does fail to present clearly defined strategies for meeting the goal; a description of how strategies will be implemented, tracked, monitored and/or enforced; and a budget.

**MAQIP should focus on what the Port can do, not what it can't.** The Port of Los Angeles and even the Port of Long Beach have taken more aggressive steps to reduce emissions. Just as "public-private partnerships" represent outreach to beneficial external resources, regulatory agencies should be considered partners in pooling or leveraging authority to deliver real results.

**MAQIP should start with a baseline of state regulations and build forward from there.** The current draft neither affirms nor extends state requirements. We concur with the conclusion reached by analysts at the Pacific Institute:

*Even though the projected emission reductions described in the plan, and the strategies for attaining plan goals rely heavily on the assumption that State regulations will be implemented and complied with in a timely fashion, the draft plan expresses a deep and contradictory pessimism about the "feasibility" of these regulations being implemented. In fact, Section 6.3, the detailed description of the many challenges faced by the Port's air quality improvement goals, goes so far in describing the challenges facing the timely implementation of CARB regulations as to have the effect of severely undermining the regulatory efforts of this State agency. "(N)ew emission reduction regulations adopted and proposed by CARB. . . are extremely aggressive. . . Technological, economic, or legal factors may result in suspension or postponement of certain requirements or deadlines," and "experience tells us that 100% compliance is rarely achieved." There is also no clear statement that the Port will cooperate with or coordinate in any way the implementation of state regulations.*

We understand and respect the many challenges currently faced by the Port of Oakland. Improving air quality is an issue with significant and long-term impacts, deserving of a stronger effort more consistent with the Port's commitment to excellence.

Thank you for your consideration and your work on this important process.

Sincerely,



Sharon Cornu  
Executive Secretary-Treasurer

Cc: Hon. Ronald V. Dellums  
Hon. Sandré Swanson, Loni Hancock, Mary Hayashi, Alberto Torrico

opeiu:29/afi-cio vjc



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT  
SINCE 1955

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Liz Kniss  
Ken Yeager

SOLANO COUNTY  
John F. Silva

SONOMA COUNTY  
Tim Smith  
Pamela Torliatt  
(Vice-Chair)

Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

August 7, 2008

Mr. Omar Benjamin  
Executive Director  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

RE: Draft Maritime Air Quality Improvement Plan

Dear Mr. Benjamin:

Thank you for the opportunity to provide comments on the draft Maritime Air Quality Improvement Plan (MAQIP). The Bay Area Air Quality Management District staff compliments Port staff and the consulting teams from Concur, Inc. and Environ International Corporation for the hard work put into the draft document and the transparent and productive process with the MAQIP Task Force. The broad participation in the Task Force by representatives of the local community and companies doing business at the Port lays a very strong foundation for implementing projects and policies for emission reductions. In addition to Air District staff's comments below on the overall content and direction of the draft MAQIP, a number of technical corrections to the draft document are listed in Attachment A.

Air District staff supports the health based goal adopted by the Port Commission to reduce by 85% the contribution from the Port and its tenants to the health risks from air toxics experienced by residents of and workers in West Oakland. However, the draft MAQIP does not provide clear and sufficient commitments to meet the goal, nor does it convey a sense of urgency to do so expeditiously. The draft MAQIP does not meet Air District staff's expectations -- as made clear at the MAQIP Task Force and Co-Chair meetings -- of clearly explaining which actions will be taken when by whom and how each of the actions will contribute towards the Port Commission's goal. Air District staff is disappointed that the draft MAQIP does not demonstrate the leadership that the Port can and should provide to ensure the clean up of diesel particulate matter emissions from port-related activities.

Air District staff urges that the following changes be made to the MAQIP prior to its consideration by the Port Commission:

- A timeline that describes each specific measure that will be implemented by the Port and/or its tenants, and an estimate of that measure's contribution to the Commission's health goal. Air District staff recommends that the most detail be given to the priorities for the period of 2009-2013.

*Spare the Air*

- A clear explanation of how the Port will monitor and report on its tenants' and customers' compliance with the Goods Movement regulatory program adopted by the California Air Resources Board (CARB). In the draft MAQIP, Port staff indicates that the lease agreements with the terminal operators require compliance with all applicable laws. The draft MAQIP should explain the steps the Port will take to determine compliance with its leases and its actions if lease terms are not met.
- A set of contingency measures that the Port will implement to achieve the emission reductions if any federal, state or local regulations are less effective than forecast, or if voluntary measures identified in the MAQIP do not achieve positive results.
- A timeline for developing and accessing user fees to cover some or all of the costs to implement the MAQIP strategies. Air District staff recommends that the Port Commission adopt the user fees in advance of or at the same time as it adopts the MAQIP. Air District staff also recommends that the Port include the following concepts in developing any user fee: 1) that collected revenues are prioritized towards emission reductions first, infrastructure second; and 2) the fee(s) be on a sliding scale that rewards Port customers that undertake voluntary action to reduce emissions.
- In establishing the Stakeholder Advisory Committee to assist the Port in implementing the MAQIP, Air District staff recommends that the role of elected officials and other community representatives from communities outside of West Oakland -- communities such as Richmond, San Leandro and Livermore that are located along key freight corridors -- be clearly explained. Inclusion of these communities will help the Port achieve the goals presented in Chapter 6 of the draft document.

In preparing the final MAQIP document, the Port should also take into account the future direction of the Air District's Green Ports Initiative, which will include aspects of (1) ensuring compliance with CARB regulations; and (2) providing funding for activities that achieve earlier or greater emission reductions than required by the regulations. Throughout the draft MAQIP document, the Port suggests that full compliance with CARB regulations will not occur because the Port "has neither the authority nor the resources to monitor its tenants," because "regulations are ... costly to implement," because "achieving full compliance with each regulation will likely be difficult," and because "experience tells us that 100% compliance is rarely achieved." Yet the document also states that compliance is "essential to meeting the MAQIP emissions and health risk reduction goals." Inventory projections by the Port's consultants show that compliance with CARB regulations would achieve an 81% reduction in emissions and health risk, which is most of the 85% reduction to be achieved through the MAQIP.

Under state law, the Air District has independent authority to enforce the CARB regulations and will work with CARB to ensure full compliance. The Port should expect stringent enforcement

and should incorporate that expectation into the final MAQIP document and into its activities. In particular, Air District staff believes that agreements between the Air District and the Port describing concrete steps to be taken by the parties regarding compliance with each CARB regulation are critical to ensuring that the Port will avoid disruptions in the flow of goods that could otherwise come from enforcement of the CARB regulations. Air District staff believes the final MAQIP document should include commitments to develop these agreements and other mechanisms to ensure that the Port and its tenants are in a position to comply when regulatory requirements take effect.

Once the MAQIP contains a clearer picture of the Port's and its tenants' priorities, the Air District is prepared to assist the Port through its regional role as a funding agency and expertise in enforcement of air quality regulations. A very positive first step in this direction is the Port's and the Air District's collaboration on the clean truck program; a program with a clear goal and timeline that deserves to be extended to other pollution sources at the Port. The Air District would like to pursue a continuation of the truck program, implementation of shore power, and expansion of the usage of low sulfur marine fuels in the container ships calling at the Port.

In closing, I would like to reconfirm the Air District's commitment to assisting the Port of Oakland in reducing the impacts of its operations on the residents of West Oakland in the near term and the greater Bay Area over the longer term. Air District staff looks forward to continuing our partnership towards these mutual goals. In the meantime, please do not hesitate in contacting me at 415/749-5052 to further discuss the Air District staff's comments on the draft MAQIP.

Sincerely,



Jack P. Broadbent  
Executive Officer/APCO

cc: Members, BAAQMD Ad-hoc Committee on Port Emissions  
Brian Beveridge, Co-Chair, MAQIP Task Force  
Andy Garcia, Co-Chair, MAQIP Task Force  
Cynthia Marvin, California Air Resources Board  
Deborah Gordon, United States Environmental Protection Agency, Region 9  
Ann Whittington, Port of Oakland

## ATTACHMENT A

### BAAQMD Technical Corrections

1. The emissions inventory presented in Table 4-1 differs from that presented in the *CARB Diesel Particulate Matter Health Risk Assessment for the West Oakland Community: Preliminary Summary of Results* in two ways. Firstly, PM includes more than diesel PM; it also includes PM from boilers. This difference was well explained in the MAQIP. Secondly, diesel PM emissions from Port trucks on the freeways was included in the CARB summary but not in the Port's emissions inventory. Specifically, Table 4-1 shows 17 tons of PM from trucks in 2005, while ARB Table 2 shows 20 tons for the same year.

Since the health risk assessment showed that trucks are an important source of risk, this point deserves explanation and discussion in the MAQIP. The MAQIP should explain that there was an estimated 3 tons per year from Port trucks on freeways, but that good information for deriving this estimate was lacking, that more needs to be done to survey trucks in the area and to conduct origin/destination surveys to better estimate the Port's contribution to risk from on-road trucks in the West Oakland community.

2. The Air District found the data collected through the Port's global positioning system pilot program to be valuable for improving characterizations of Port truck activity. We also believe that a broader implementation of the program will be highly useful for future inventory needs, for monitoring compliance with truck routes, and for reducing emissions by reducing queuing times and improving throughput efficiencies at the terminals. Discussion of this important program and its benefits should be included in Section 7: Emission Reduction Strategies.
3. On p. 3-2, 1<sup>st</sup> paragraph: the sentence "Exposures to DPM are highest at locations closest to sources of DPM emissions" is poorly worded. Exposure is dependent on both proximity to a source and the magnitude of the source. One can be close to a small source and have a lower exposure to it than to a greater source further away. We recommend this paragraph more clearly explain the difference between proximity and magnitude.
4. On p. 3-3, 5<sup>th</sup> paragraph: Since PM<sub>10</sub> includes PM<sub>2.5</sub>; it is not true that diesel particulate matter contributes to PM<sub>10</sub> to a lesser extent than to PM<sub>2.5</sub>. This discussion needs rewording to more clearly indicate that most diesel PM is made up of particles 2.5 microns or less in size.
5. Table 3-1: The "Ocean Going Vessel (Ships)" header is repeated twice.
6. Page 3-9: In the discussion under "Shipping," the text is missing the amount of emissions reduced from the use of low-sulfur fuel by the Maersk Shipping Line.
7. Page 3-9: Tugboat engine replacement should read "0.9" for clarity sake.
8. Figure 5-1 and descriptive paragraph directly underneath: the time scales do not match; the Table states "2020" while the text says "2027."



>>> "Lautze, Steve" <[SLautze@oaklandnet.com](mailto:SLautze@oaklandnet.com)> 7/15/2008 4:06 PM >>>

To all: with apologies to Richard S., Richard G., Anne W., and Miguel for the duplicate msg., I thought I'd copy the rest of the interagency group with my comments on the Draft MAQIP (below). See you tomorrow.

Steve Lautze  
City of Oakland  
238-4973

---

From: Lautze, Steve  
Sent: Monday, July 14, 2008 5:36 PM  
To: 'Richard Sinkoff'; 'Anne Whittington ([awhittin@portoakland.com](mailto:awhittin@portoakland.com))'  
Cc: Bustos, Miguel; 'Brian Beveridge ([bbeveridge@paradigmthree.com](mailto:bbeveridge@paradigmthree.com))'; 'Swati Prakash'; 'Margaret Gordon'; 'Richard Grow ([grow.richard@epa.gov](mailto:grow.richard@epa.gov))'; 'Diane Bailey'; '[bill@abtruck.com](mailto:bill@abtruck.com)'; '[jfine@edf.org](mailto:jfine@edf.org)'  
Subject: MAQIP comments

Happy Bastille Day Richard and Anne:

As the alternate for the City of Oakland on the MAQIP and current City representative to both the Comprehensive Truck Management Plan (CTMP) Technical Advisory Committee and the West Oakland Toxics Reduction Collaborative (WOTRC), I am writing with a few substantive - if not quite comprehensive - comments on the DRAFT MAQIP that is dated June, 2008.

The truth is that I have not been able to make the time to extensively review and analyze the document in the 30 calendar days allotted for that purpose, partly due to a long planned vacation in late June and the crush of other work projects. Having said that, I have read over some of the comments submitted by others with whom I have worked in the context of MAQIP, CTMP, and WOTRC (including MAQIP Co-chair Brian Beveridge, Swati Prakash, Diane Bailey, and Dr. Jamie Fine), and write to echo some of their salient and well-considered comments.

First of all, I must compliment you, Delphine Prevost, and other Port and CONCUR staff for convening a broad set of stakeholders and assembling a report that represents a mammoth work effort and a major step forward toward cleaner air in West Oakland and the region at large. The report is very well organized and comprehensible, if not quite comprehensive. The draft is a solid foundation to build on.

Having said that, it also seems clear that the plan needs more work, and because of that, that the official 30 day window for input is too limited. Given the concerns that many have registered about the "underachieving" (as opposed to "will do") tone of the document, and the future need for the broadest group of stakeholders to advocate funding and other resources to implement the MAQIP, allowing some more time to "get it right" seems prudent.

The Port would seem to be somewhat vulnerable on this point, given that the

draft was initially promised verbally and in writing as being available "2 weeks ahead" of the "final" full MAQIP meeting, but then was delivered only 3 working days before that meeting. This seriously limited the productivity of that June 19 meeting, since the impressive array of stakeholders had for the most part not had a chance to review the document, meaning that there was effectively no real "discussion" of the draft between the key players on that day.

I hope that you and the management team at the Port of Oakland will consider a modest extension to the comment period and also convene at least one more meeting of the full group, ideally with a short list of goals for changing the document that will gain the broadest possible support. This will not only build trust among the diverse set of interests involved, but will also serve the Port well politically in its future efforts to obtain funding and other resources -- whether from ARB or the Port's own customers -- to implement the MAQIP.

Please keep me updated on developments with MAQIP, both on the plan and its implementation. I remain committed to doing all that I can to foster cooperation and results on this huge effort, as well as in the context of my ongoing work with the CTMP TAC and WOTRC.

Sincerely,

Steve Lautze  
City of Oakland  
Economic Development Division  
510-238-4973



## ENVIRONMENTAL DEFENSE FUND

finding the ways that work

July 14, 2008

Anne Whittington  
Port of Oakland  
[awhittington@portoakland.com](mailto:awhittington@portoakland.com)

Re: Comments on draft dated MAQIP

Dear Anne,

Thank you for convening meetings of a community Task Force (TF) to inform the development of the Port of Oakland Maritime Air Quality Plan (MAQIP). Having participated in every TF meeting, initially as a faculty member in the Department of Science at the University of San Francisco, and currently as an Economist in Environmental Defense Fund's California Climate Initiative, I submit these comments on the draft MAQIP to acknowledge successes and to highlight major needed improvements. My comments are based on my technical training in atmospheric science and planning, and on my perspective as a resident in East Oakland and technical advisor to the West Oakland community. I identify several critical issues to be addressed prior to the finalization of the MAQIP with the intent of moving forward constructively toward healthy air for all residents and workers in Oakland. Three points merit highlight:

- The MAQIP TF and plan writing processes represent an important commitment by the Port of Oakland to acknowledge its air quality environmental impacts, to establish health-based air quality goals for the proximate residential community, and to plan to meet those goals. It has also strengthened a network of Port staff, tenants, goods movement operators and community social justice advocates that will need to work together to achieve air quality goals.
- The draft MAQIP is not a "master plan" because it does not address two significant criteria air pollutants, reactive organic gases and nitrogen oxides, nor does it address greenhouse gas emissions, notably carbon dioxide.
- The draft MAQIP several essential components of an air quality plan, notably the identification of specific emissions control measures, quantification of associated emissions reductions, and a time-delimited forecast of progress toward emissions reductions goals. Though not altogether absent, the Monitoring and Reporting chapter is insufficient since it relies entirely on voluntary actions and thus lacks substantive plans for enforcement.

### **The draft MAQIP Goals are Significant and Important**

While the draft MAQIP does not currently do justice to the potential created by TF process, there are several notable accomplishments including the establishment of measurable health-based goals. Of equal importance is the clear demonstration of agreement and commitment by the Port, and through the TF process, goods movement operators, tenants and labor to achieve planning goals.

### **The Task Force did not achieve Consensus**

Concur, Inc. did an admirable job of facilitating TF meetings. Though Concur did facilitate consensus amongst co-chairs in setting the agenda, it did not mediate the public TF meetings toward consensus outcomes. Co-chairing should not be taken as implicit consensus. The Task Force was never organized or mediated to arrive at consensus. As such, any reference to "agreement" by the Task Force should be removed from the plan. Any "majority" opinion expressed in the plan should be accompanied by a discussion of the minority opinion(s).

### **The draft MAQIP is not a "Master" Air Quality Plan**

The Planning Continuum concept offered in Figure 1-1 (pg 1-2), is a useful construct (though my copy is very hard to read). The Master Plan concept is a new framing since 2008, but was not a highlighted in the originating materials. The Master Plan concept does not generally apply to air quality, rather to land use, so it is not clear why this reframing is used.

The reframing the MAQIP as a Master Plan creates an evaluative challenge since there are no examples of air quality master plans. Examples offered in Fig 1-1 are insufficient and unsatisfying. The Program Level examples should provide for comparison with adopted Master Air Quality Plans so we might compare them as part of our review of the MAQIP. The Project Level examples are vacant, since the CTMP program is not yet developed, and the V2K truck retrofits program resulted mostly in tugboat and rail projects without critical community feedback. The public process of V2K project was a poor example of what should occur at the Project Level. Therefore the "promise" of environmental review and public process in the Program and Project levels remains an empty commitment and is not persuasive.

The draft document is missing major, significant components needed to give readers confidence that the goals of the plan will be met or that the plan is in fact a Master Plan. The overall goals are well-articulated and clear; more attention should be given toward methods of monitoring progress toward goals, identifying specific enforceable reductions strategies, and demonstrating how those strategies will result in goals attainment.

The lack of commitment to specific implementable and enforceable actions is particularly disappointing since Concur identified this essential outcome at the initiation meeting of the MAQIP.<sup>1</sup> The draft MAQIP does not accomplish this fundamental step despite continued and continual expression of this need by myriad participants in the MAQIP TF. For example, a letter dated January 28, 2008 signed by several community health representatives calls for several plan Key Components (in bold italics) that remain missing from the draft MAQIP:

1. Concrete health risk reduction goal and *interim* goals
2. *Specific, clearly-defined measures* for reaching the health-based goal
3. Plans to implement these measures, including *enforcement mechanisms*
4. Timetable and *monitoring plans* for measuring progress on implementation of measures and on reaching *interim* and final goals
5. Funding plan that provides a *blueprint for financing measures* in the plan.

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<sup>1</sup> See Stakeholder Assessment Memorandum, Appendix A, April 6, 2007, Page 2, written by Concur. See also Concur presentation at MAQIP kickoff meeting on April 10, 2007, Slide 9 titled Findings: Stakeholder Interests – Plan Content: "establish specific actions targeted to each source of Port Maritime emissions".

The draft MAQIP contains parts of items 1 and 5, but they are incomplete. The draft MAQIP does not contain any specific, enforceable measures, nor timetables for interim progress, so items 2, 3 and 4 are missing from the draft MAQIP.

In addition to the major structural omissions in the draft MAQIP, control strategies are needed for nitrogen oxides, reactive organic gases and greenhouse gases. Attention is rightly focused on diesel PM emissions, but NOx is a dangerous pollutant and is forecasted to increase, not decline. Therefore, the plan needs to devote attention to addressing NOx emissions. Completely absent from the plan are ROG and CO, which comprise significant health risk in West Oakland and were on the list of pollutants to be addressed in Port Planning Documents (pg. 5) distributed at the June 2007 MAQIP TF. The absence of these two pollutants, and a GHG inventory and management strategy, are additional reasons why this is an incomplete Master Plan.

### Detailed Comments

In addition to the above overarching concerns, several details merit mention.

- **Reorder Guiding Principles:** The primary motivation for this planning effort is air quality and community health, not economic growth. Therefore, the Guiding Principles (Appendix B) should be reordered to place environmental quality and public health principles at the top of the list, and economic principles toward the end of the list.
- **More Background on local air quality conditions:** The Local Perspective (Section 3.2.2) does not acknowledge the Filbert Street monitoring station that has been measuring PM2.5 and air toxics since 2001.<sup>2</sup> This site has measured unhealthy levels of PM2.5 and the draft MAQIP should provide a detailed summary of these measurements, as well as discussion of expected changes in observations obtained from the Filbert Street monitoring station after implementation of the MAQIP. In addition, this section should contain a summary of the findings of the CARB Health Risk Assessment. Also missing from this section, or the chapter more broadly, is reference to and discussion of the considerable body of research by the Environmental Indicators Project and the Pacific Institute. Pacific Institute research, such as Deluged by Diesel and Clearing the Air, merit acknowledgement, and the recommendations of these studies should be addressed directly in the draft MAQIP. As well, Neighborhood Knowledge for Change by the West Oakland Environmental Indicators Project provides a baseline for thinking about community health and for measuring progress to health-based goals.

The second half of paragraph two on Page 3-5 starting with "A very rough estimate of the Port's contribution..." is an unfair comparison, is not-relevant to health-risk and exposure in Oakland, is unnecessary and thus should be deleted.

- **Need details about drayage truck emissions in the West Oakland community:** The draft plan gives no legitimate treatment of Port-related truck emissions within the West Oakland neighborhood. This issue needs to be addressed directly and clearly, including a

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<sup>2</sup> See BAAQMD at [http://www.baaqmd.gov/tec/maps/dam\\_sites.htm#](http://www.baaqmd.gov/tec/maps/dam_sites.htm#). Details about the Filbert Street monitoring station include:

**BAAQMD Air Monitoring Site**  
**Site Name:** Oakland-Filbert St.

**Operator:** BAAQMD  
**Start Date:** 9/14/2001  
**End Date:** current  
**Sensors:** PM2.5, Toxics

**Longitude:** 122.2805  
**Latitude:** 37.8172  
**UTM - East:** 563.328  
**UTM - North:** 4185.771  
**County:** Alameda

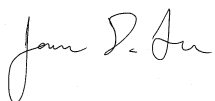
discussion of uncertainties associated with the CARB Health Risk Assessment and research/analysis plans for understanding better this dangerous source of emissions exposure in West Oakland. More than just emissions, the plan should acknowledge the socioeconomic and labor challenges associated with this source of emissions. Addressing truck emissions in West Oakland is the most important element of the MAQIP; the quality and utility of the MAQIP will be determined largely by the extent to which it tackles this major source of health risk. It is not acceptable to "pass off" this issue to the anticipated Comprehensive Truck Management Plan since it is nonexistent.

- **Better treatment of emissions estimate uncertainties:** The plan correctly notes, in a few poorly organized statements, the uncertainty associated with estimating emissions, planning reductions, and associating these actions with health-based goals. Given this well-understood uncertainty, the plan should utilize a risk management decision framework. Doing so will engender confidence in the overall plan, and will provide sound metrics for evaluating emissions and progress toward goals.

It is acceptable that the plan focuses on a middle-growth scenario, but it should include specific measures to be utilized in the event of high growth, as well as a clear set of measures to be used to determine growth rate (and associated differences between forecasted and actual emissions/growth). Put differently, readers need reason to believe that achieving the high growth scenario will not be at the expense of the MAQIP health-based goals. The tables and figures in Chapter 5 should include High Growth scenarios. Figure 5-2 is incomplete since not all of the categories in the legend are shown in the graph. Table 5-3 should have an additional column that compares the 2020 forecasts to the 85% health-risk reduction goal.

- **Use the findings of the CARB HRA:** Also missing from Chapter 5 is a discussion of the completed CARB HRA findings. They ought to be used to establish more rigorous links between emissions and exposure, and to quantify health-risk reductions goals in terms of exposure from specific sources on and near the Port property.
- **Lack of reductions goals quantification:** Chapter 7 – Emissions Reduction Strategies – should be the heart of the MAQIP, but is incomplete at only 3 brief pages in length. This is the section that should quantify reductions to be achieved from specific strategies as needed to achieve MAQIP goals.
- **Connect Initiatives with Reductions Goals and Strategies:** Chapter 8, Section 8.3, Selected Initiatives, though a very promising list, is not being utilized constructively in the MAQIP. Rather, it is being used along with "feasibility" criteria and other "constraints" to define what cannot be done (and why not) rather than to identify precisely what will be done. Most importantly, the list needs to be connected to the timeline for enforceable actions, and reductions from the measures need to be calculated to determine if they – in aggregate – will be sufficient to meet MAQIP goals.

Sincerely,



James Fine, Ph.D.

Economist, Environmental Defense Fund

[jfine@environmentaldefense.org](mailto:jfine@environmentaldefense.org); (916) 492 - 4698



**TO:** Anne Whittington  
Port of Oakland  
530 Water St.  
Oakland, Ca. 94607

July 14, 2008

**FROM:** Brian Beveridge,  
Co-Convener – Mayor’s Port Task Force  
Co-Director - West Oakland Environmental Indicators Project (WOEIP)  
Community Co-Chair – Port of Oakland Maritime Air Quality Improvement Plan  
Co-Lead – West Oakland Toxics Reduction Collaborative (WOTRC)  
Community Representative, West Oakland Community Advisory Group for  
Redevelopment of Oakland Army Base (WOCAG)

**RE: COMMENTS ON THE PORT OF OAKLAND MARITIME AIR QUALITY  
IMPROVEMENT PLAN (MAQIP)**

It is now a commonly understood fact that the Port of Oakland’s Maritime Air Quality Improvement Plan (MAQIP) is not an air quality mitigation plan in the formal sense as defined by regulators and academia, but a broad vision statement now called, the “Master Plan”. In essence, it is a framework for planning and not a plan in itself. While the MAQIP process has been an admirable exercise in public engagement, and we at WOEIP are proud to have brought the collaborative model of our Toxics Reduction Collaborative (WOTRC) to the process, it became apparent early on that Port management and staff had no intention of creating a plan for action. Much was offered, by regulators and non-profit science groups, in the way of assistance in creating a meaningful plan. Many methods were put forth to move the document toward a productive approach to real health risk reductions, but all were ultimately rejected in favor of a vision statement painted in the broadest of strokes.

We recognize that the Port of Oakland lacks the capacity to produce and implement a detailed emissions reduction plan. Therefore, Port management must enlist the assistance offered by Federal, State and regional agencies in writing a meaningful plan that will achieve predictable air emissions reductions. The Port must cease its systematic delaying tactics in which it has deflected specifics, protected its business partners and defended its right to do nothing.

**PROBLEMS WITH THE “PLAN”**

- **No stated intention.** The Master Plan states an admirable goal of 85% reduction in health risk for the residents of West Oakland, but nowhere does it say what the

Port will do to achieve that goal. The Port of Oakland must clearly state its intention to achieve specific air quality improvement targets.

- **The “plan” lacks important components.** The Port’s own consultants, Environ, are professionals at writing air quality remediation plans, but even their contributions, rewritten by Port staff, show little in the way of concrete details.
- **No stated role for the Port.** The Master Plan contains many lists of possible actions, lists of possible authority, lists of funding programs and lists of constraints on both actions and authority, however, nowhere does it state a specific action the Port of Oakland will take or authority that the Port intends to exercise to achieve measurable air quality improvements.

The Port could define its role as a solutions incubator, a funding conduit, a project evaluator, or it could systematically track project success in a transparent public process; but it has defined no such specific role for itself. The Master Plan shows the Port, in essence, as *an interested non-participant hoping for the best*.

- **Overt abdication of authority to its business partners.** The Plan is fundamentally “self-neutering” when in Section 1.2.2 it states: “The Port has neither the authority nor the resources to monitor its tenants and business partners or enforce compliance... called for by current or anticipated regulations.”

This patently false because the Port’s own attorney has stated publicly that the Port has the authority, and presumably the resources, to place whatever terms it wishes in its lease agreements with its tenants. The Port can also use concession agreements to set terms of operation and compliance for its contracted vendors. Port-wide tariffs are commonly used to establish even-handed requirements for all tenants and customers.

The MAQIP representative for the Pacific Maritime Shipping Association stated publicly at a task force meeting that lease terms were a practical approach to setting standards at the ports. Still, the Port of Oakland has not committed to such action in the language of the MAQIP.

- **Inadequate commitment to staffing.** Port management has consistently understaffed the environmental mitigation and planning departments. More than half-way through the MAQIP process the lead staff person on the Plan was transferred and another staffer, unfamiliar with the Task Forces deliberations, was assigned the task of drafting the final document. This added many weeks to the drafting process.

Port management has stated that program level work, as appears in the Comprehensive Truck Management Program, is where the real details for community risk reduction will be determined and yet only one planner is assigned



to that process. The Port of Los Angeles by comparison has 20 staff people assigned to its Air Plan development and implementation.

- **Using economics as a constraint on risk reduction and environmental justice.** State guidelines in the Goods Movement Action Plan declare that economic constraints shall not be considered when implementing air quality improvement programs. In spite of this, the Port of Oakland has consistently listed market competitiveness as its number one concern in air quality planning. This sends the clear message that public health and air quality improvements are secondary concerns of this port.
- **“All volunteer” air quality improvement.** The core of the Port’s Air Plan is the request that its business partners voluntarily “do the right thing” and the expectation that all concerned will “follow the law.” The regulators on the MAQIP Task Force have said both publicly and privately that voluntary measures are not dependable and generally fall short of gains achieved through regulatory pressure. We, the tax-payers of California, have committed billions of dollars to help the goods movement industry clean-up and grow, simultaneously, the Port of Oakland must commit to helping prove we are all getting our money’s worth.
- **Port as public trustee.** The Port of Oakland has a legal obligation to use tideland areas for the public good. It follows that the Port must not use those assets to the detriment of the public. The public health risk from port operations has been clearly defined by regulators and academia alike. The US Environmental Protection Agency declared petroleum particulate matter to be a carcinogen and the California Air Resources Board Health Risk Assessment of West Oakland found extremely elevated risk of cancer to residents of our fence-line community. The Alameda Department of Public Health has declared that West Oakland residents face a lifespan that is ten years shorter than that of residents in the near-by Oakland hills neighborhoods. In light of this clearly defined public health crisis, the Port Commission, through the Executive Director, has both the authority and the responsibility to act to assure port-related health risks in the community are reduced as soon as technologically possible.
- **Public asset at put at risk by inaction.** Due to the fact that the Port has accepted Federal funds for expansion projects like the channel deepening, failure to act on emissions reductions may open the agency to a Federal Title VI complaint. Failure to act in the face of this knowledge may violate the Tidelands Trust Doctrine and put control of the Oakland shoreline at risk of State seizure.

## **NEED FOR ACTION**

If financial support for the Port is needed during these difficult economic times, then the Port Commission and Mayor of Oakland must bring their combined power to bear on this critical issue. But first, the MAQIP must be rewritten to clearly declare the City and Port’s intention to stop polluting the flatland neighborhoods of Oakland. Both public health and legal liability hang in the balance. The Port of Oakland is an agency of the

City of Oakland, expressed in the Oakland City Charter, and must end its isolationist policy, which attempts to hold the public at bay while defending the interests of business.

The City Council, as Oakland policy makers, also has a vital role to play and possibly a position of legal liability, if its Port does not adequately address the life and death impacts of the freight industry on the people of Oakland.

Sincerely,

BRIAN BEVERIDGE, Co-director  
West Oakland Environmental Indicators Project

Athena Applon, resident – West Oakland  
Adim. Ass't, WOEIP

WOEIP Coordinating Team  
Tim Thomas  
Dorothy Paine  
James Fine  
Swati Prakash

Frank Gallo, resident  
San Leandro, CA.

Ray Kidd, resident – West Oakland  
West Oakland Neighbors



# HEALTHY SAN LEANDRO ENVIRONMENTAL COLLABORATIVE

Davis Street Family Resource  
Center  
3081 Teagarden Street  
San Leandro, CA 94577  
(510) 217-1620

Anne Whittington, Port of Oakland

Via email: [awhittington@portoakland.com](mailto:awhittington@portoakland.com)

July 10, 2008

Dear Ms. Whittington,

The Healthy 880 communities-Healthy San Leandro, is submitting the following comments on the draft Maritime Air Quality Improvement Plan released on June 13, 2008. Our organization is working with communities living along the 880 Freeway covering, East Oakland, San Leandro, s San Lorenzo and Hayward cities. We are interested in seeing the Port develop a comprehensive and rigorous Maritime Air Quality Improvement Plan because the considerable efforts over the years by Statewide environmentalists, public health, and community organizations, in addition to recent efforts by the California Air Resources Board (CARB), South Coast Air Quality Management District (SCAQMD), and the Ports of Los Angeles and Long Beach, have all demonstrated the necessity and timeliness of the port air quality improvement plan.

In April 2006 I participated in the Governor's Goods Movement Action Plan, CARB estimated that pollution from California ports and goods movement activities causes 2,400 premature deaths and over 1 million school absences every year, costing the state approximately \$200 billion by 2020.<sup>1</sup> With growing evidence of greater health impacts from air pollution, CARB recently updated those estimates, noting that diesel-powered freight transport in California each year causes over 3,700 premature deaths and many thousands of hospital admissions, missed workdays and missed days of school.<sup>2</sup> It is very clear that a strong air quality plan is needed to protect public health and the environment along the 880 corridor as we are South of Port of Oakland Maritime activity. We have mapped and counted this activity

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<sup>1</sup> CARB Goods Movement Emission Reduction Plan at 2, April 2006. (hereinafter "CARB ERP").

<sup>2</sup> [www.arb.ca.gov/Research/Health/pm-mort/pm-mortdraft.pdf](http://www.arb.ca.gov/Research/Health/pm-mort/pm-mortdraft.pdf)

twice in 2007-2008. The diesel-powered freight transport business has increased in San Leandro and other cities

along the 880 corridor. The mapping and counting was done in October 2007, and February 2008 the increase was approximately 43 percent difference. We are gravely disappointed with the lack of specificity and commitment in the MAQIP. Plan fails to make any new commitments to reduce air pollution, and no commitment to the communities that continue to be impacted and compromised with their lives.

#### **BROAD OBSERVATIONS:**

1) While it was encouraging to see the passage by the Port's Board of Commissioners on March 18<sup>th</sup> a Policy Statement that sets clear, health risk reduction goals, this is seriously undermined by the equivocating language and pessimistic tone found throughout the draft MAQIP. There is a conspicuous absence of even a single affirmation of commitment or intent on the part of the Port to take action to reduce emissions. This raises serious questions about the value and purpose of this document as an actual master plan or even as a policy statement. The draft clearly states that the emission reduction goals set forth are only "potentially achievable," and has the net effect of lowering expectations to such depths as to make emission reductions from the Port appear to be an insurmountable task. This overemphasis on challenges and constraints rather than possibilities and leadership strengthens the observation that this is not an air quality plan. <sup>[1]</sup>

2) The draft MAQIP is not an air quality improvement plan, as usually defined by air quality planners. The only element of a plan that this document includes is a clear, quantitative goal. However, the rest of what typically constitutes an air quality plan is missing: a commitment to meeting the goal, clearly defined strategies for meeting the goals, a description of how strategies will be implemented, tracked, monitored and / or enforced, and a budget.

3) We are disappointed that the Port has changed the parameters of the MAQIP mid-course and engaged in a unilateral drafting process. The section in the introduction presenting the Port's planning continuum, and defining the plan as a "master plan" with less detail, more vision, and more stakeholder participation, is very useful and certainly puts this end product in perspective. However, we can't help but wonder why now, at the end of 15 months of planning and MAQIP task force meetings, this is the first time the task force is seeing this planning continuum. While we are aware of the changing nature of planning processes, we are disappointed that the Port has taken so much time of so many task force members during the planning process, only to change the parameters of the end product mid-course, and have gone into a unilateral drafting process to produce a document that can hardly be recognized as an air quality improvement plan.

4) It is disturbing and inappropriate that the primary message of the MAQIP document is that the Port has far too little authority, and far too many constraints to realistically require or leverage significant reductions in emissions from its customers and tenants. This message is contrary to the description of the Port's legal authority presented by the Port's own lawyer in public meetings, and contrary to the actions taken by the Ports of Los Angeles and Long Beach to reduce their emissions. We are concerned that the Port has chosen not to pool or leverage the authority of and cooperating with those agencies that do have the authority to require and enforce emission reductions.

5) The draft MAQIP undermines the efforts of State regulatory agencies in several instances, while at the same time relying on the full implementation and compliance with State regulations to meet its stated goals. The plan has a confusing and contradictory relationship to the implementation of State regulations for reduction emissions. Even though the projected emission reductions described in the plan, and the strategies for attaining plan goals rely heavily on the assumption that State regulations will be implemented and complied with in a timely fashion, the draft plan expresses a deep and contradictory pessimism about the "feasibility" of these regulations being implemented. In fact, section 6.3, the detailed description of the many challenges faced by the Port's air quality improvement goals, goes so far in describing the challenges facing the timely implementation of CARB regulations as to have the effect of severely undermining the regulatory efforts of this State agency. "New emission reduction regulations adopted and proposed by CARB. . . are extremely aggressive. . . Technological, economic, or legal factors may result in suspension or postponement of certain requirements or deadlines," and "experience tells us that 100% compliance is rarely achieved." There is also no clear statement that the Port will cooperate with or coordinate in any way the implementation of state regulations.

The recent health risk assessment (HRA) done by CARB for West Oakland indicates a new urgency that air pollution from the Port of Oakland must be addressed. This assessment showed elevated cancer risks of 190 per million directly from Port of Oakland operations and countless other health impacts including hundreds of asthma and respiratory illnesses.<sup>3</sup> We in the Healthy 880 Communities feel that Port of Oakland's operation fell short with the HRA. Not all operations (Air Cargo, jet Fuel) were inventoried to assess the impacts South of West Oakland. We need to know the health impacts, where can we get the data that reflects what the air pollution is doing to the neighboring communities. This is just the tip of the iceberg in terms of health impacts from Port of Oakland pollution, since this assessment only looked at impacts of diesel PM, excluding other pollutants such as nitrogen oxides and other air toxics. Additionally, we believe pollution from trucks

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<sup>3</sup> CARB, Diesel Particulate Matter Health Risk Assessment for the West Oakland Community, March 2008.

serving the Port of Oakland was misallocated, vastly under-estimating impacts from the Port.

Given the pressing health concerns from Port of Oakland operations, the significant increases in container traffic slated for the coming decade, and the fact that measures to reduce Port pollution are readily available, we urge the Port to commit to discrete actions to reduce air pollution from its operations in addition to those actions occurring outside of the Port's control. This Plan must be strengthened to achieve maximum pollution reductions, with the ultimate objective of preventing all negative health impacts from Port of Oakland activities. As one of the largest ports in the nation, the Port of Oakland must take responsibility for the impacts of its operations on nearby communities and accelerate mitigation of air pollution to the maximum extent feasible. Our recommendations for improving the Plan are laid out below with more detailed comments to follow separately.

The current draft does appear to be a useful background document or statement of purpose for the Port's preparation and planning of programs and projects. However, it cannot be accurately described as an air quality improvement plan, a "master plan", or even a policy statement. A Statement of Potential Goals and Constraints would be a far more accurate and fair description. Unless significant changes will be made to the final plan.

Sincerely,

Wafaa Aborashed

Executive Director

**Port of Oakland  
Maritime Air Quality Improvement Plan (MAQIP)**

**COMMENT SHEET**

Please use this form for comments on the draft MAQIP document and send to Anne Whittington, Port of Oakland, 530 Water St., Oakland, CA 94607. E-mailed comments to [awhittington@portoakland.com](mailto:awhittington@portoakland.com) (510-627-1559) are also welcome; please include the information below in your email.

Submitted by: Kent Lewandowski, Sierra Club Date: 6/19/08  
510-625-5831 kent.lewandowski@yahoo.com

	Section no.	Page and paragraph no.	Comment	Comment type 1. typo/factual 2. specific content 3. general remark
1.	6-3	6-4	"The Port would not wish..." - not a strategic comment - transmits sense of fear by the Port, encourages lawsuits	2
2.				
3.	<del>9-3</del>	9-1	Document is missing a comprehensive legal overview of the Port's rights as landowner in enforcing new regs.	3
4.				
5.	9-3	9-3	I would have hoped this section would outline which alternatives are recommended for action.	2/3
6.				
7.	9.5.1	9-9	Would like more extensive study of container fee and potential to leverage ARB funding (SB 974)	2/3
8.				
9.	—	—	Would have liked to see habitat/wetlands improvement measure studied by this document.	3
10.				
11.	9.1	9-2	"One size fits all" nature "this sentence is duplicated."	1
12.				
13.				

Diane Bailey et al.  
Health and Environment Program  
Natural Resources Defense Council  
111 Sutter St, 20th Floor  
San Francisco, CA, 94104

***Via Email and U.S. Mail***

July 14, 2008

Ms. Anne Whittington  
Port of Oakland  
530 Water St.  
Oakland CA 94607

**Re: Comments on the Port of Oakland Maritime Air Quality Improvement Plan**

Dear Ms. Whittington,

On behalf of the undersigned groups, we write to comment on the Port of Oakland Maritime Air Quality Improvement Plan (MAQIP or the Plan). We are pleased that the Port of Oakland together with the Bay Area Air Quality Management District (BAAQMD) and other stakeholders has progressed on a plan to address port pollution; however, we are gravely disappointed with the lack of specificity and commitment in the MAQIP.

Considerable efforts over the years by environmental, public health, and community organizations, in addition to recent efforts by the California Air Resources Board (CARB), South Coast Air Quality Management District (SCAQMD), and the Ports of Los Angeles and Long Beach, have all demonstrated the necessity and timeliness of the port air quality improvement plan. In April 2006 as part of the Governor's Goods Movement Action Plan, CARB estimated that pollution from California ports and goods movement activities causes 2,400 premature deaths and over 1 million school absences every year, costing the state approximately \$200 billion by 2020.<sup>1</sup> With growing evidence of greater health impacts from air pollution, CARB recently updated those estimates, noting that diesel-powered freight transport in California each year causes over 3,700 premature deaths and many thousands of hospital admissions, missed workdays and missed days of school.<sup>2</sup>

It is abundantly clear that a strong air quality plan is needed to protect public health and the environment, especially given the fact that the Port of Oakland container throughput has grown by more than fifty percent over the past ten years.<sup>3</sup> While much attention has been focused on

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<sup>1</sup> CARB Goods Movement Emission Reduction Plan at 2, April 2006. (hereinafter "CARB ERP").

<sup>2</sup> [www.arb.ca.gov/Research/Health/pm-mort/pm-mortdraft.pdf](http://www.arb.ca.gov/Research/Health/pm-mort/pm-mortdraft.pdf)

<sup>3</sup> [http://www.portofoakland.com/maritime/facts\\_cargo.asp](http://www.portofoakland.com/maritime/facts_cargo.asp)



the Ports of Los Angeles and Long Beach, these ports already adopted a far reaching Clean Air Action Plan in November 2006. The recent health risk assessment (HRA) done by CARB for West Oakland indicates a new urgency that air pollution from the Port of Oakland must be addressed. This assessment showed elevated cancer risks of 190 per million directly from Port of Oakland operations and countless other health impacts including hundreds of asthma and respiratory illnesses.<sup>4</sup> This is just the tip of the iceberg in terms of health impacts from Port of Oakland pollution, since this assessment only looked at impacts of diesel PM, excluding other pollutants such as nitrogen oxides and other air toxics. Additionally, we believe pollution from trucks serving the Port of Oakland was misallocated, vastly under-estimating impacts from the Port.

Given the pressing health concerns from Port of Oakland operations, the significant increases in container traffic slated for the coming decade, and the fact that measures to reduce Port pollution are readily available, we urge the Port to commit to discrete, measurable actions to reduce air pollution from its operations in addition to those actions occurring outside of the Port's control. This Plan must be strengthened to achieve maximum pollution reductions, with the ultimate objective of preventing all negative health impacts from Port of Oakland activities. As one of the largest ports in the nation, the Port of Oakland must take responsibility for the impacts of its operations on nearby communities and accelerate mitigation of air pollution to the maximum extent feasible. Our recommendations for improving the Plan are laid out below with more detailed comments to follow separately.

## **Recommendations**

- I. **Health Protective Goals:** In order to ensure adequate health protections in surrounding communities, provide reductions in criteria pollutants, and prevent an over-reliance on HRAs to gauge air quality and public health, the Plan's goals must include clear, measurable targets to reduce health risk from toxic air contaminants and criteria pollutants. These goals must be at least as ambitious as those articulated by CARB, and should include: (1) reducing the health risk from diesel PM by 70%, as compared to 2000 levels by 2010; (2) reducing the health risk from diesel PM by 85%, as compared to 2005 levels by 2020; (3) reducing NOx emissions by at least 30% by 2015; and (4) further reducing NOx emissions by 50% by 2020.

While the second health risk reduction goal was already adopted by the Port Board of Commissioners in a March 2008 policy statement, we see no evidence of support for the remaining goals outlined above. Further, it appears that the Port relies solely on CARB regulations to meet the goals stated in the Plan, rendering the Plan unhelpful at best. The Plan appears to elaborate in great detail on the challenges in merely complying with state regulations. The Port would be better served shifting the voluminous details of challenges into efforts towards removing barriers to achievement of greater emission reductions. The Port must include commitments to health protective goals, including the measures and concrete steps that the Port will take to meet these goals.

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<sup>4</sup> CARB, Diesel Particulate Matter Health Risk Assessment for the West Oakland Community, March 2008.

In addition, any HRA's conducted as part of CEQA or under the MAQIP should assess the level of cancer risk, as well as non-cancer risks from port operations, and evaluate cumulative risk. We also urge the Port to embrace the ultimate goal of "no risk" from port operations. Lastly, the MAQIP should include assurances that any future expansion projects will include reductions in criteria pollutants above and beyond what CEQA requires to maintain compliance with air quality standards and health protective emissions levels.

**II. Initiatives and Control Measures:** The MAQIP must include discrete commitments to control measures and emission reduction programs by:

- Providing clear commitments, time lines and implementation schedules for each of the control measures necessary to meet the above goals.
- Providing for each control measure, the percentage of participation/compliance by the targeted source and compliance dates.
- Estimating the emission reductions from every control measure and disclosing all assumptions made to reach the emission reductions reported.
- Providing backstop measures in the event that the Port is unable to meet expected emission reduction targets.
- Utilizing lease-based approaches to maximize early emission reductions and ensure compliance with all measures.

**III. Emissions Inventory:** The current emission inventory significantly underestimates the emissions from port trucks and thus significantly underestimates the Port of Oakland's total contribution to regional air pollution. The Port must rectify the omission of vast amounts of truck related pollution from its emission inventory, as urged by many stakeholders previously.<sup>5</sup>

For each source of pollution, the Port should graph estimated emissions over time that clearly highlight and differentiate the emission reductions expected from current regulations, natural turnover (if any) versus MAQIP measures.

**IV. Global Warming Impacts:** The absence of any discussion or commitment to address the Port's contributions to global warming impacts demonstrates an alarming lack of leadership and comprehension of the gravity of climate change. It is incumbent upon the Port, which fundamentally bases its business on global warming pollution producing fossil fuel, to recognize global warming as one of the greatest challenges currently facing humanity, and incorporate measures to reduce global warming pollution in all Plans.

Climate change already had and will continue in greater severity to negatively impact the Bay Area as well as the rest of the world. Not only will the direct health impacts of

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<sup>5</sup> See: Coalition for Clean and Safe Ports, Seaport Emissions Inventory comment letter addressed to Omar Benjamin, August 20<sup>th</sup>, 2007.

global warming be severe, hotter temperatures and altered climate patterns will also lead to significant increases in air pollution. A projected sea level rise of up to 3 feet or more by 2100 will create turmoil in the Port's day-to-day operation. Thus it stands to reason that the Port would have every incentive, both economic and for health justice principles, to include measures to reduce greenhouse gas (GHG) emissions in the MAQIP. Finally, it is highly likely that measures will be developed to require GHG reductions from ports under California's Global Warming Solutions Act of 2006, AB 32. The Port of Oakland should take a proactive approach to meeting AB 32 goals.

- V. **Port Responsibility and Legal Authority:** As the "fourth busiest" container port in the nation,<sup>6</sup> the Port of Oakland must take responsibility for pollution from its operations and assert its authority to mitigate this pollution. The Ports have the legal authority to require control measures through tariffs to maximize emissions reductions under the Plan. Because tariffs can be used to implement uniform rules applicable to all tenants, they can achieve emissions reductions faster than other approaches, and can serve as "backstop" measures in the event that lease-based measures, incentives, or voluntary programs fail to provide the reductions needed.
- VI. **Funding:** Improving air quality and protecting public health should remain the central goals of this Plan. Financial predictions and constraints are irrelevant to this process. The Port must take responsibility to ensure that any necessary funding is in place to support the goals of this Plan, including container or cargo fees whether Port initiated, or required by the state.
- VII. **Enforcement:** Without proper enforcement, it cannot be assumed that the health goals will be met, despite best intentions. A clear enforcement plan is missing from the MAQIP and must be added to ensure real emission reductions.
- VIII. **Land-Use Policies:** In order to maximize reductions in health risk on and off port lands, the Port must commit to adopting CARB health-protective land-use policies in its lease agreements and CEQA projects.<sup>7</sup>
- IX. **Public Process:** The Port must fully consider comments by the public and provide responses to these comments in a revised Plan. Additionally, the public must be provided sufficient time to review a revised Plan before agency action is taken. The Port should release frequent progress reports on the implementation of the plan. Moreover, the Port should continue the MAQIP stakeholder group on an ongoing basis to discuss future revisions to the Plan.

In closing, we agree with the following assertions made by CARB on the effectiveness of this Plan:<sup>8</sup>

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<sup>6</sup> <http://www.portofoakland.com/maritime/factsfig.asp>

<sup>7</sup> See: CARB, Air Quality and Land Use Handbook: A Community Health Perspective, April 2005.  
<http://www.arb.ca.gov/ch/handbook.pdf>

- Emissions related to activities at the Port are significant and contribute to adverse public health impacts in nearby and surrounding communities.
- Voluntary measures are [*not*] sufficient to meet public health protection goals.
- The Port [should]...instead adopt *firm* commitments to actions that have interim goals and specific time-frames in the MAQIP.
- Actions can be taken sooner than ARB regulations require that will result in emission reductions prior to the 2020 time-frame.
- ...The Port...[should] review this List [of initiatives in the MAQIP] and select those that will result in *real* emission reductions.
- Once [effective measures are] chosen, we recommend the Port establish a *firm* commitment to these initiatives...

We thank all of the members of the MAQIP as well as Port and Air District staff for their hard work on this Plan. However, it appears that the draft Plan fails to incorporate many important recommendations made by MAQIP members or to utilize the extensive technical resources of many members and stakeholders. Thus, we strongly urge the Port to remediate this flawed Plan to address the many concerns raised here. We appreciate this opportunity to comment and would welcome any follow up conversations to clarify our concerns more with you or your staff.

Sincerely,  
Diane Bailey  
Senior Scientist  
Natural Resources Defense Council

Candice Kim  
Program Associate  
Coalition for Clean Air

Rupal Patel  
Director  
Communities for Clean Ports

Nicole Lee  
Project Director  
Ella Baker Center

Christine G. Cordero  
Community Health Program Coordinator  
Center for Environmental Health

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<sup>8</sup> Robert Fletcher, CARB, Letter to Delphine Prevost, Port of Oakland, January 7, 2008. *Emphasis added.*

John Kaltenstein  
Marine Program Manager  
Friends of the Earth

Kent Lewandowski  
Chair, Executive Committee  
Sierra Club, Northern Alameda County Chapter

Vivian Chang  
Executive Director  
Asian Pacific Environmental Network

Andy Katz  
State Government Relations Director and Director of Air Quality Advocacy  
Breathe California

Suzanne Murphy  
Executive Director  
Worksafe

Brian Beveridge, Co-Chair  
Athena Applon  
West Oakland Environmental Indicators Project

Ray Kidd  
Board Member  
West Oakland Neighbors

Teri Shore  
Program Director  
Turtle Island Restoration Network

Frank Gallo

Cc: Port of Oakland Maritime Air Quality Improvement Plan Co-chairs  
Omar Benjamin, Port of Oakland  
Jack Broadbent, Bay Area Air Quality Management District  
Brian Beveridge, West Oakland EIP  
Andy Garcia, GSC Logistics

MAQIP Task Force members, including representatives of:  
Mayor Ron Dellums  
Assemblymember Sandre Swanson  
Senator Don Perata  
Congresswoman Barbara Lee

City Councilmember Nancy Nadel  
County Supervisor Nate Miley  
County Supervisor Keith Carson  
Swati Prakash, Pacific Institute  
Ray Kidd, West Oakland Neighbors  
Doug Bloch, Change to Win  
Kent Lewandowski, Sierra Club  
Athena Applon, West Oakland Environmental Indicators Project  
Jamie Fine, University of San Francisco  
Sharon Cornu, Alameda Labor Council



PACIFIC  
INSTITUTE

*Research for People and the Planet*

Anne Whittington, Port of Oakland  
Via email: [awhittington@portoakland.com](mailto:awhittington@portoakland.com)

July 14, 2008

Dear Ms. Whittington,

Please accept the following detailed comments on the draft Maritime Air Quality Improvement Plan released on June 13, 2008, submitted by The Pacific Institute.

<b>BROAD OBSERVATIONS:</b>
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- 1) **The policy statement affirmed by the Port of Oakland's Board of Commissioners setting clear, health risk reduction goals for the Port is seriously undermined by the equivocating language and pessimistic tone found throughout the draft MAQIP.** There is a conspicuous absence of a single affirmation of commitment or intent on the part of the Port to take action to reduce emissions. This raises serious questions about the value and purpose of this document as an actual master plan or even as a policy statement. The draft clearly states that the emission reduction goals set forth are only "potentially achievable," and has the net effect of lowering expectations to such depths as to make emission reductions from the Port appear to be an insurmountable task. This overemphasis on challenges and constraints rather than possibilities and leadership strengthens the observation that this is not an air quality plan.
- 2) **This draft of the MAQIP is unacceptable as an air quality improvement plan at all but simply a statement of goals and constraints. This draft does not meet four out of five of the criteria in the "Key Components Checklist" provided in January by several MAQIP task force participants.** (See Attachment A). This draft air plan is not what the MAQIP task force signed up to help create. The only element of a plan that this document includes is a clear, quantitative goal. However, the rest of what typically constitutes an air quality plan is missing: a commitment to meeting the goal, clearly defined strategies for meeting the goals, a description of how strategies will be implemented, tracked, monitored and / or enforced, and a budget. In fact, the plan as currently drafted may do more harm than good. The overall impact after reading the plan is to perceive the author as an institution incapable of defending its own stated concepts and principles, which has the net effect of undermining any public confidence in the Port whatsoever.

It is also of great concern that there is tremendous specificity as to what the Port will not do in pursuit of emission reductions, with no corresponding specificity as to what it will do. This undermines the description of this draft plan as a Master Plan (section 1.2.1) that sets forth policy direction and establishes a framework for future action, rather than providing specific details as to how the goals will be reached. If this document is indeed a Master Plan, then there would appear to be no place for statements such as "The Port would not wish to pursue

action that is certain to result in litigation,” (section 6.3) “the Port has neither the authority nor the resources to monitor its tenants and their business partners,” (section 1.2.2) and, in reference to Port-wide emission reduction requirements, “for a variety of reasons, this tactic is not desirable” (section 9.1).

- 3) **It is deeply disappointing that the Port has changed the parameters of the MAQIP mid-course and engaged in a unilateral drafting process.** The section in the introduction presenting the Port’s planning continuum, and defining the plan as a “master plan” with less detail, more vision, and more stakeholder participation, puts this end product in clear perspective that should have been provided at the beginning. It is demoralizing that the MAQIP task force is only seeing this planning continuum, at the end of 15 months of planning and MAQIP task force meetings. While we are aware of the changing nature of planning processes, we are disappointed that the Port has taken so much time of so many task force members during the planning process, only to change the parameters of the end product mid-course, and have gone into a unilateral drafting process to produce a document that can hardly be recognized as an air quality improvement plan.
- 4) **It is disturbing and inappropriate that the primary message of the MAQIP document is that the Port has far too little authority, and far too many constraints to realistically require or leverage significant reductions in emissions from its customers and tenants.** This message is contrary to the description of the Port’s legal authority presented by the Port’s own lawyer in public meetings, and contrary to the actions taken by the Ports of Los Angeles and Long Beach to reduce their emissions. The fact that the Port has chosen not to pool or leverage the authority of and cooperating with those agencies that do have the authority to require and enforce emission reductions, as many task force members encouraged them to do throughout the process, is very disappointing. The current draft does appear to be a useful background document or statement of purpose for the Port’s preparation and planning of programs and projects. However, it cannot be accurately described as an air quality improvement plan, a “master plan”, nor even a policy statement. A Statement of Potential Goals and Constraints would be a far more accurate and fair description.
- 5) **The draft MAQIP undermines the efforts of State regulatory agencies in several instances, while at the same time relying on the full implementation and compliance with State regulations to meet its stated goals.** The plan has a confusing and contradictory relationship to the implementation of State regulations for reduction emissions. Even though the projected emission reductions described in the plan, and the strategies for attaining plan goals rely heavily on the assumption that State regulations will be implemented and complied with in a timely fashion, the draft plan expresses a deep and contradictory pessimism about the “feasibility” of these regulations being implemented. In fact, section 6.3, the detailed description of the many challenges faced by the Port’s air quality improvement goals, goes so far in describing the challenges facing the timely implementation of CARB regulations as to have the effect of severely undermining the regulatory efforts of this State agency. “(N)ew emission reduction regulations adopted and proposed by CARB. . . are extremely aggressive. . . Technological, economic, or legal factors may result in suspension or postponement of certain requirements or deadlines,” and “experience tells us that 100% compliance is rarely achieved.” There is also no clear statement that the Port will cooperate with or coordinate in any way the implementation of state regulations.



Detailed comments
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**1) *Introduction***

- Section 1.2.2 “Opportunities and Challenges” – briefly describes (4 sentences) the benefits of creating a MAQIP, and then spends three paragraphs describing challenges. These include the statement that “reaching those goals is only possible with strong statewide – and preferably national and international – regulations. This plan counts on the benefits of regulations to reduce emissions to levels close to the MAQIP goals.” This raises the question of why we should be creating a master plan if we can just rely on regulations to achieve our goals? The sentiment expressed in this paragraph, of needing strong regulations, is undermined several times later in the document when the authors repeatedly cite the likelihood that regulations will not meet 100% compliance.
- This section also reads in several places like a justification for non-action rather than an air quality improvement plan. The sentence “The Port has neither the authority nor the resources to monitor its tenants and their business partners” sets a tone of low expectations that is reinforced throughout the document.
- The description of the process presents a procedural history that makes it seem as if the Port came up with the process on its own. There should be some acknowledgement of the leadership of impacted community residents in creating the community co-chair method.

**2) *Port of Oakland and its Seaport Operations***

- This section is long and seems marginally relevant. Why are there five pages dedicated to this book report-style description?
- There is no description of what this plan is actually focused on, which is air pollution from seaport operations.
- The tone of this section continues the dispiriting theme that runs throughout this document, “Although the Port of Oakland would really really like to reduce diesel pollution, we just can’t commit to doing because things are really hard for us.”
- This would be an appropriate place to acknowledge why the Port is developing this plan: the impacts (health and otherwise) of Port operations on local and regional communities.

**3) *Technical and regulatory background***

- This section provides a summary and laundry list of state regulations related to goods movement, but does not commit the Port to cooperating to implement these regulations, or even set a goal of making sure these regulations are met.

**4) *Port of Oakland Baseline Emissions and Health Risk***

- This section does not acknowledge that the Seaport Emissions Inventory has been soundly criticized for not accurately estimating emissions from Port trucks. It is simply not accurate to refer to section 3 of their Health Risk Assessment as “non-Port sources.”
- Page 4-4 presents “key findings from CARB’s study” which includes the CARB finding that elevated cancer risk from all sources of diesel pollution is 1200 in a million, and

provides a frame of reference that “the expected cancer rate from all causes, including smoking, is about 200,000 to 250,000 per million.” Nowhere in CARB’s documents do they include the reference to smoking as a background cause of cancer. The reference to smoking is misleading and is falsely attributed to CARB.

#### 5) *Port of Oakland Future Emissions and Health Risk*

- It is great to see that this section discusses the development of weighting (aka “incremental risk”) factors that account for the fact that sources of pollution that are closer to where people live and breathe contribute more to health risk, than sources of pollution that are further away. This section acknowledges that “on-road trucks generate the greatest potential cancer risk per ton of diesel PM emissions,” and give on-road trucks a weighting / incremental risk factor of 2.1 excess cancer cases in a million, per ton of PM emissions, as compared to ocean-going vessels at berth, which have a factor of 0.9. However (see notes for next section), the fact that these incremental risk factor are then essentially discarded in the creation of actual air quality improvement goals is extremely disappointing.
- The projection of future emissions relies on the assumption that Federal and state regulations related to goods movement will be implemented, although later in the document the author expresses clear pessimism that these regulations will in fact be implemented and receive full compliance. In other words, **in this section the Port takes credit for full implementation of regulations, and in a later section the Port undermines the goal of full implementation.** At the very least this suggests that the Port should project out future emissions assuming that some regulations will not in fact be complied with.

#### 6) *Air Quality Improvement Goals*

- The useful calculation that was presented in the previous section, of a weighting or incremental risk factor for different sources of diesel pollution, is completely ignored in this section. Despite having done the work to actually come up with the weighting factor, the report author states “the Port assumed a one-to-one correspondence between emissions and risk.” (Note that this section falsely states that the Task Force also made this assumption, despite a clear memo presented at the December 10 meeting by a substantial number of task force members calling attention to the fact that “a 1:1 relationship between emissions reduction and risk reduction should not be assumed.”<sup>1</sup>)
- The presentation of diesel PM reduction goals (section 6.2.1) is prefaced as “The following goals are ambitious , but potentially achievable.” This is not even setting a goal, let alone making a commitment to meeting that goal. It is a way of sending a loud and clear message of extremely low expectations and preparation for failure.
- Section 6.3, Challenges, is bizarre, out of place, excessively detailed and inappropriate for this, or indeed any section of this document.

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<sup>1</sup> “Sample Outline of a Comprehensive Maritime Air Quality Improvement Plan, December 10, 2007. Presented by Swati Prakash, Pacific Institute.

- It begins with a declaration that CARB regulations are not likely to be complied with in a timely fashion. **For a semi-public entity like the Port of Oakland to directly and in writing undermine the efforts of another public agency like the Air Resources Board in this detailed manner is astonishing.** This declaration is also tantamount to the Port declaring that it may not cooperate with the implementation of these regulations, as they expect that “technological, economic, or legal factors may result in suspension or postponement of certain requirements or deadlines,” or that some of the CARB regulations “may be contested” through the legal system. This section also undermines the statement in section 1.2.2 that reaching the goals of the MAQIP is only possibly with strong regulations.
- The document states that “The Port would not wish to pursue action that is certain to result in litigation,” which is tantamount to telling external stakeholders that the threat of a lawsuit is all that is needed to stop any potential action by the Port to reduce air pollution emissions associated with Port operations.
- Taken as a whole, **this sub-section codifies the Port’s commitment to low expectations, and has the effect of rendering this draft plan actually worse than no plan at all.**
- This section does acknowledge that the CARB Health Risk Assessment “indicates that even more ambitious emissions reductions may be needed to reach the MAQIP risk reduction goals.” However, this observation is just depressing given that it is squeezed between so many statements indicating that even the modest emission reduction goals set forth in the MAQIP may be impossible to achieve in light of the many challenges.

#### 7) *Emission Reduction Strategies*

- This section references “examples” of emission control strategies that “can potentially be applied to Port-related sources of diesel emissions.” This is not a description of what strategies *will* be used to reduce emissions, which is what a standard air plan would have. It is more of a laundry list appropriate for book report style writing, and in no way defines what strategies the Port intends or expects to pursue.
- This section states that “achieving the intended emissions reductions benefits will require enforcement by regulatory agencies including CARB and BAAQMD, with cooperation from the Port.” This sentence seems out of place considering the implications in the previous section that the Port is reluctant to cooperate.

#### 8) *Air Quality Improvement Initiatives*

- If the list of “selected initiatives” had been collaboratively selected, defined and designed, this section would be the closest thing to the commitment to specific emission reduction measures that many task force members have been asking for in this MAQIP. In other words, section 8.3 is the closest thing to an actual air plan, yet it lacks the following traits of a collaboratively developed air plan:

- The initiatives were not really selected with input from community stakeholders
- There is no estimation of expected emission reduction benefits
- There is no actual commitment to implementing any of the programs or plans.

## **9) *Implementation***

- The language and tone in this section continues the theme of “why the Port of Oakland can’t actually do very much to effect pollution emission reductions.” In describing lease provisions, the document states that “success depends largely on market and competitive conditions,” which seems like another obvious but internal observation, not something to include in an air quality improvement plan.
- Similarly, the document states clearly that imposing “emission reduction requirements or projects by the Port, if and when necessary. . . is not desirable.” This statement, which is effectively a public promise not to impose such requirements, does not belong in this document.

## **10) *Monitoring and Reporting***

- The section describing a goal of updating CARB’s West Oakland health risk assessment as a way to track progress towards diesel PM cancer risk reduction is a good addition. This subsection is more in line with how air plans are typically written.
- There is a sub-section on “adaptive management,” which is a term first put forward by some task force members (Pacific Institute, EPA) to describe the possible need to correct course during the process of implementing the MAQIP, if it seems that the implementation is not likely to lead to achieving the goals of the plan. In this sub-section, this common understanding of what adaptive management means is turned inside-out to refer instead to a process of managing down to meet low expectations, rather than managing up to attain goals: “(A)n adaptive management approach could dictate changes that range. . . to canceling a project entirely.”

In closing, I would like to extend my appreciation to all of the staff at the Port of Oakland, and to all the participants on the MAQIP task force, who worked hard for many many hours over the past year and a half to pull together an air quality improvement plan. As one of the MAQIP task force participants, I also have to express my deep disappointment in the Port as an institution which has chosen to produce a draft of an air plan that few people would be proud of. I believe that the Port is capable of much more, and that the hundreds of hours of time that has gone into this product will not have been a waste. If the Port’s overriding consideration at this point is that an air quality plan with any more substance than this draft will result in a massive loss of customers (a contention that is backed only with rhetoric and has yet to be substantiated with any data whatsoever), then perhaps it should consider reframing and retitling this document as something other than a Maritime Air Quality Improvement Plan. But to attempt to portray this document as a plan to protect community health, a plan that is worthy of public acceptance is completely unacceptable.

Sincerely,

Swati Prakash

Program Director, Community Strategies for Sustainability & Justice

<p style="text-align: center;"><b>Attachment A</b> <b>Evaluation of June 2008 Draft MAQIP against “Key Components Checklist”</b></p>
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1. **Goals.** Does the plan set clear, quantitative goals and timelines, and commit to meeting them?
  - a. Does the plan define clear quantitative goals (emissions, risk, dates)? **Yes**
  - b. Is there a clear commitment to meet the goals? **No.**
  
2. **Strategies.** Does the plan clearly define how the goals will be met? **No. The plan presents possibilities, but no clear definition of how goals will be met.**
  - a. Does the plan clearly define what specific measures\*\* will be implemented to meet the goals? **No. The plan describes “examples” of emission control strategies that “can potentially be applied,” and presents air quality improvement initiatives that “have been selected for further study and probably implementation,” but does not clearly define what measures will be implemented, not even to affirm that regulatory measures will be implemented.**
  - b. Does the plan clearly define strategies / measures for each sector of Port activity, and for new projects? **Yes, strategies and measures are described, but without any commitment to implementation.**
  - c. Does the plan define the process in which additional measures will be considered and incorporated in the future? (What will trigger consideration of additional measures; what criteria will be used; who will decide?) **No.**
  - d. Does the plan include a technical demonstration that the strategies will attain the goals, including a projection of emissions reductions that come about as a result of implementing the measures adopted in the **plan**? **No.**
  
3. **Implementation**
  - a. Does the plan clearly describe how each strategy will be implemented? **No. The plan describes the general process for developing emission reduction strategies, and refers to the development of programs and projects as the appropriate levels at which these strategies will be designed, including an implementation plan. The document does have a section on “implementation” which does describe a broad and generic implementation approach. This section devotes more lines to defining limits of authority than to describing anticipated methods for implementing actual pollution reduction measures / strategies.**
  
4. **Tracking, monitoring and reporting.**
  - a. Measures: Does the plan define how implementation of each measure will be tracked, including:
    - ✓ What recordkeeping will be required? **No**
    - ✓ What indicators of compliance and progress will be required? **No**
    - ✓ Who will do this, and what are the key compliance dates? **No**

**It appears that the plan refers to the development of programs and projects as the appropriate levels of planning at which these questions are answered.**
  - b. Tracking: Does the plan clearly define how progress towards, and attainment of, the goals will be tracked? (What indicators are tracked, reported to whom, when?) **Yes.**

- c. Plan revision / adaptive management: Does the plan describe adaptive management measures and what corrective actions will be taken should there be a shortfall in progress? **Partial yes. While a short adaptive management strategy is described, it appears oriented towards managing feasibility constraints, rather than addressing the question of what corrective actions will be taken should there be a shortfall in progress. (How will the plan be revised, by whom, on what timeline? What are the consequences for failure to meet the goals, or failure to correct the plan? This question is not answered. )**
- d. Plan budget: Does the plan include estimates of adopting plan strategies and measures, **No** and lay out strategies for generating sufficient income / revenue to fund the plan? **Partial yes. There is a section on funding strategies, but these are not quantified, and do not answer the question of whether sufficient revenue will be raised to fund the plan.**

## 5. Enforcement.

Does the plan clearly spell out, for each measure, the enforcement responsibilities and mechanisms? (Who will oversee and determine whether each measure is being complied with? Who has enforcement and penalty authority?) **No. Appendix E does appear to be a matrix of agency responsibilities, but this appendix is not referenced in the body of the document.**

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\* The reader/reviewer of the plan should be able to say where in the plan each of the questions are answered. If the answers are located in other documents, how are those documents referenced/incorporated in the plan?

\*\* The terms “strategies” as used here is interchangeable with “measures”, and are applicable to specific sources, source categories, or new projects.



July 14, 2008

Port of Oakland  
530 Water Street  
Oakland, CA 94607

Attn: Ann Whittington  
*Delivered Via Email*

**Regarding: Port of Oakland “Maritime Air Quality Improvement Plan”**

On behalf of the Pacific Merchant Shipping Association (PMSA) and its members we appreciate the opportunity to provide comments on the contents of the Port of Oakland’s Maritime Air Quality Improvement Plan (“MAQIP”). PMSA represents the ocean carriers and terminal operators that operate in West Coast Ports moving approximately 90% of the containerized cargo that moves through California and Washington, including most of the tenants and customers operating at the Port of Oakland.

We broadly and generally support the end goal of the Policies, which is to improve air quality through the reduction of emissions impacts by mobile sources operating at the Port while not compromising the Port’s competitiveness and economic viability. We have been proud to work as a member of the stakeholder process that has been ongoing for some time and appreciate the commitment that the Port has made to maintaining the development of the MAQIP in a fair, open and collaborative forum.

We preface our comments today be reminding the Port that, while there is certainly still much to be done, PMSA member companies and the Port of Oakland have already exceeded the clean air efforts of most other ports in North America. Our efforts to date are a great example of the progress that can be made to improve our trade and environment concurrently when we are able to harness the maritime industry’s ability to work together cooperatively and voluntarily with California’s landlord ports.

We generally believe that by partnering together, through the use of voluntary and incentive based improvements, that we can achieve the Port’s MAQIP goals. This confidence stems from our existing and previous partnerships together through voluntary programs, incentives, and commercially-feasible lease negotiations made in good faith between the Port and its tenants, which have already markedly improved air quality around the ports. We look forward to more partnerships in the future.



Some of these voluntary projects already undertaken by PMSA members in California that are Port of Oakland tenants include:

- Use of low sulfur fuel in vessels' main and auxiliary engines
- Retrofitting of Cargo Handling Equipment with after combustion technology
- Purchasing on-road certified equipment for terminal operations
- Installing clean air injectors (slide valves) into existing vessel engines
- Use of cleaner fuels including emulsified diesel (Proformix), ethanol blended diesel (O2 Diesel) and ultra-low sulfur diesel in advance of regulatory requirements.
- Liquefied Natural Gas (LNG) Yard Tractor demonstration projects
- Liquefied Petroleum Gas (LPG/propane) Yard Tractor demonstration and implementation
- Use of appointment systems to spread out the volume of truck traffic and terminal operations to reduce congestion and emissions resulting from truck idling and gate congestion
- Demonstration and feasibility projects with alternative shore-power technologies
- Construction of vessels capable of using shore-power
- Planning to introduce dockside shore-power projects
- Construction of vessels that have fuel tanks and fuel delivery systems that enable the use of cleaner fuels

In addition, on the regulatory front we have also supported:

- CARB's Cargo Handling Equipment Regulation which went into effect on January 1, 2007
- Assembly Joint Resolution 8 (Canciamilla), sponsored by PMSA, adopted by the California State Legislature supporting the Ratification of IMO's Annex VI to MARPOL 73/78 and the designation of a North American Sulfur Emission Control Area (SECA)
- The US EPA delegation's proposal at IMO to amend stricter fuel use limits into MARPOL Annex VI along with the World Shipping Council

All of these existing, past and ongoing efforts have been accomplished with the participation of the industry groups affected and have resulted in meaningful and feasible measures to reduce emissions.

In addition, PMSA and our members have also consistently supported regulatory efforts that can be applied in a uniform manner that will not result in competitive issues or conflicting enforcement. It is for that reason that we are pleased with the action by the IMO Marine Environmental Protection Committee (MEPC) forwarding very stringent regulations for approval in October of this year. More importantly, the U.S. Senate and House of Representatives have recently passed the necessary implementation legislation for the U.S. to enforce the provisions of Annex VI of MARPOL. This historic legislation, that now only needs the President's signature, will allow the U.S. to be a full partner in the international community in reducing emissions for vessels. PMSA suggests that future drafts of the MAQIP be modified to reflect the benefits of Annex VI.

Underlying our shared goal of reducing emissions and improving quality of life, we believe the Port has done the right thing by starting the MAQIP process with the establishment of goals that acknowledge consideration of the business and environmental needs of the Port of Oakland. By requiring consideration of the legal, business and financial implications of strategies in the formation

of the MAQIP, we hope that the Port will be able to maintain sustainability and balance as it moves down the path of developing cleaner operations while growing throughput and trade.

This balance is especially important given the fact that the MAQIP is principally built around the expectation that the industry will make substantial investment in procuring equipment, paying for infrastructure, and incurring increased operational and maintenance costs, that are not included in current costs, through the imposition of regulations, user fees and partnership on incentive programs.

Given this commitment to balance, we are pleased that we need not remind the Port that they are a discretionary gateway for most major importers and nearly all intermodal cargo. For non-discretionary cargo, represented by the majority of the Port's export shippers, this trade is primarily in commodities which are extremely low-margin products generally priced by worldwide marketplaces, leaving them no ability to share or pass-along costs. This position, given the current fiscal situation at the Port, its flat growth in overall volumes, and the ongoing development of competitive, alternative gateways for intermodal cargo, only reinforces our appreciation for the consideration of balance in the MAQIP and the goals under which it was developed.

In addition to the above general comments, please find our additional, and more extensive formal comments attached.

In conclusion, PMSA and our members support your goals of reducing air emission impacts on the local communities and the region while simultaneously growing trade. Based on the positive efforts to-date of the Port and its tenants to reduce air emissions we believe that our members have demonstrated their willingness to address this issue and have had considerable success in the past. While we recognize that much remains to be done, we applaud the economic and environmental balance goals of the MAQIP and its ambitious vision for the future of the Port of Oakland.

If you have any questions regarding these comments, please feel free to contact me at (415) 352-0710, or via e-mail at [jmclaurin@pmsaship.com](mailto:jmclaurin@pmsaship.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "John McLaurin".

John McLaurin  
President

cc: Members, Board of Port Commissioners, Port of Oakland  
Omar Benjamin, Executive Director, Port of Oakland  
James Kwon, Maritime Director, Port of Oakland

COMMENTS ATTACHED

## **PMSA Comments To June 2008 MAQIP Draft**

As noted in the draft, there is no executive summary. This needs to be completed and include a summary of the guiding principles.

### **Page 1-2**

The box on page 1-2 states that the “input” should come from the Steering Committee Advisory Group. This is a misnomer as Section 9 of the Draft Plan lays out the participation of a Maritime Stakeholder Advisory Group, which should be advisory to port staff.

### **Page 1-8**

It should be noted that the guiding principles were signed off on by all Task Force members.

### **Table 3-1**

Expand the discussion of IMO for large marine engines and add SO<sub>x</sub> as a Pollutant Most Effected. Also note that the US ratified MARPOL Annex VI.

### **NO<sub>x</sub> Engine Standards**

- Tier 1 – 17.0 g-NO<sub>x</sub>/kW-hr, vessels 1990 - 2010
- Tier 2 – 14.4 g-NO<sub>x</sub>/kW-hr January 1, 2011 , 15% reduction from 2005 level
- Tier 3 – 3.4 g-NO<sub>x</sub>/kW-hr January 1, 2016, 60% reduction from 2005  
In ECA, Tier 2 outside ECA

### **Global Sulfur Cap**

- 4.5% reduced to 3.5% in 2012
- 0.5% as early as 2020 but no later than 2025\*

\* based on fuel availability study to be done in 2018.

### **SECAs to ECAs**

- 1.5% sulfur reduced to 1.0% on March 1, 2010, 60% SO<sub>x</sub> reduction from 2005\*
- 0.1% on January 1, 2015 . 96% SO<sub>x</sub> reduction from 2005P

### **PM Reductions under an ECA**

30% reduction in PM in 2010 from the 2005 levels\*

83% PM reduction in 2015 from 2005 levels\*

\*Using the CARB sulfur average of 2.5% sulfur

The list of proposed or adopted regulations does not include the thermal refrigeration union (TRU) regulation that was adopted and enforced by the end of 2008.

## Section 5

The growth scenario's and estimates are probably overly optimistic.

### Page 6-3 and 6-4

Modify the DPM, SOx and NOx reduction goals to be consistent with the proposed amendments of Annex VI.

### Page 6-4

The challenges laid out here are valid. We have already heard from marine terminal operators that they are having difficulty getting orders filled for new Cargo Handling Equipment (CHE).

Include the need for CARB to work with the U.S. EPA in designating an ECA that will include California, and hopefully, the entire North American continent.

### Page 7-1

With regard to LNG powered CHE as an emission control technology, it should be noted that on-road LNG engines are having difficulties meeting state standards for off-road duty cycles.

### Page 8-18

To Programs add compliance with Annex VI

To Projects for ships include the slide valve and fuel emulsification project by APL and the voluntary use of 0.2% distillate fuel in the MAIN engines by Maersk.

### Page 9-12

Update the Timeline for 2010 and later under SHIPS to reflect the amendments to Annex VI

### Appendix E:

Update the MARPOL Annex VI discussion to reflect the MEPC pending amendments and the recent activity of the U.S. Congress.

# THE CALIFORNIA RAILROAD INDUSTRY

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July 14, 2008

Richard Sinkoff  
Manager, Port Environmental Planning & Permitting  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: Freight Railroad Comments on Draft MAQIP**

Dear Mr. Sinkhoff:

On behalf of the Association of American Railroads and its Class 1 member freight railroads operating in California (BNSF Railway and Union Pacific Railroad, or the Railroads), we appreciate the opportunity to comment on the Draft Maritime Air Quality Improvement Plan released on June 13, 2008.

While we do not have specific comments at this time, we will continue to participate in ongoing stakeholder meetings and may submit written comments at a later date. If you have any questions or concerns, please call me at 415-415-4213 x12 or Darcy Wheelles at 415-602-4213.

Sincerely,

Kirk Marckwald  
Principal, California Environmental Associates  
On behalf of the California Railroad Industry



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street**

**San Francisco, CA 94105-3901**

**JUL 14 2008**

Richard Sinkoff, AICP  
Director of Environmental Programs  
Port of Oakland  
530 Water St., #3  
Oakland, CA 94607

Dear Mr. Sinkoff:

The U. S. Environmental Protection Agency (EPA) is pleased to have the opportunity to provide comments on the June 2008 Port of Oakland's Draft Maritime Air Quality Improvement Plan. The Draft plan falls below our expectations of an air quality improvement plan. It lacks firm commitments, specifically regarding strategies, milestones and enforcement. At a minimum we recommend implementing the 2006 CARB Emission Reduction Plan for Ports and the State's Goods Movement Action Plan and, where possible, considering going beyond these two state-wide plans.

We had hoped that the draft plan would include a clear embodiment of a shared commitment by the Port and other agencies in an integrated effort to enforce the full suite of available regulations and other measures. While the plan includes the Interagency Matrix listing regulations under the agencies' jurisdiction, there is not a clear statement in the Draft plan to include these measures and commitments from the Port (see Appendix E, "Summary of Existing and Upcoming Regulations").

We do, however, want to recognize the Port for establishing a multi-stakeholder Task Force to advise the preparation of the plan. The Task Force's co-chair structure, which included representatives of the community and industry, as well as the Port and the Bay Area Air Quality Management District, was the kind of open approach needed to ensure the involvement of key stakeholders. The Interagency Group was a valuable addition midway through the planning process and we would like to continue our involvement in the future. We also remain committed to carrying out measures under our jurisdiction.

We look forward to the completion of this phase of the planning process, and are supportive of requests that there be an opportunity for comment and full Task Force discussion of the final draft plan before it is submitted to the Maritime Committee or the Board of Commissioners.

Thank you for this opportunity to provide comments. If you have any questions, please feel free to contact me or to call Mike Bandrowski, Chief of our Air Toxics Program, at 415-947-4194.

Sincerely,

A handwritten signature in black ink, appearing to read 'Deborah Jordan', with a long, sweeping horizontal line extending to the right.

Deborah Jordan  
Director, Air Division

**From:** <kidd@att.net>  
**Sent:** 10/15/2008 5:01:02 PM  
**To:** Anne Whittington  
**CC:**  
**BCC:**  
**Subject:** Fw: MAQIP comments

Hi Anne

I hope this one has a better fate than the one in July. Please let me know if this one came through so I'll know if the address is ok. Thanks.

Ray

----- Original Message -----

**From:** kidd@att.net  
**To:** anne.whittington  
**Cc:** becky@concurinc.net ; kathy.kuhner ; johnnygatlin@yahoo.com ; ray.kidd  
**Sent:** Monday, July 14, 2008 4:53 PM  
**Subject:** MAQIP comments

July 14, 2008

Anne Whittington

Port of Oakland

Dear Ms Whittington:

We, the Board of Directors of West Oakland Neighbors, are sick at heart over the most recent draft(June 2008) of the Maritime Air Quality Improvement Plan. After so much time, effort and thoughtful discussion by so many qualified stakeholders and observers, the product that resulted is hollow of the substantive steps and procedures needed to clean up the air we breath in our neighborhoods. The goal of 85% reduction in diesel particulate matter from Port related activities by 2020, is worthy, but it becomes a deceptive facade when there's nothing behind it that allows it to be brought into being. We were hoping the Port, having dealt with WON and the community in recent years about air quality issues, and with its admirable commitment to the MAQIP process, would have understood the kinds of commitments and actions that are necessary to undo the harm that is being done every day to our communities. We will not try to detail all the deficiencies of this plan, this is done very competently in submissions from the West Oakland Environmental Indicators Project, the Pacific Institute, the Natural Resources Defense Council and others, and we subscribe to those critiques. We are just very disappointed that the Port would squander the communities' resources and its own on this effort that leaves us searching to find some way we are better off than when we started 15 months ago. With this plan it is impossible to see how the Port will play any significant role whatsoever in cleaning up the pollution that continually streams thru West Oakland and then thru the rest of Oakland and points east, and the Port should be deeply ashamed and embarrassed by this. We are making these comments with the hope that the Port can still voluntarily take the corrective action that will be right for itself, right for the community, and right for the environment. We try to be good neighbors, and we expect no less from the Port.

Sincerely,

Kathy Kuhner

Johnny Gatlin



**Ray Kidd**

**West Oakland Neighbors Board of Directors**

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**<<File: Mime.822>>**