



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
MOBILE SOURCE COMMITTEE

COMMITTEE MEMBERS

SCOTT HAGGERTY - CHAIR  
TOM BATES  
YORIKO KISHIMOTO  
ERIC MAR

GAYLE B. UILKEMA – VICE CHAIR  
JENNIFER HOSTERMAN  
CAROL KLATT  
MARK ROSS

**MONDAY**  
**DECEMBER 7, 2009**  
**9:30 A.M.**

**4<sup>TH</sup> FLOOR CONFERENCE ROOM**  
**939 ELLIS STREET**  
**SAN FRANCISCO, CA 94109**

AGENDA

1. **CALL TO ORDER - ROLL CALL**

2. **PUBLIC COMMENT PERIOD**

*(Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Committee's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.*

3. **APPROVAL OF MINUTES OF NOVEMBER 5, 2009**

4. **REPORT ON THE COMPLIANCE PLAN FOR ENFORCEMENT OF CARB MOBILE SOURCE REGULATIONS**

**K. Wee/4760**

[kwee@baaqmd.gov](mailto:kwee@baaqmd.gov)

*Staff will present the Air District's Compliance Plan for enforcing CARB mobile source regulations at all CARE areas and Bay Area ports.*

5. **UPDATE ON SHORE POWER AT THE PORT OF OAKLAND**

**Damian Breen/5041**

[dbreen@baaqmd.gov](mailto:dbreen@baaqmd.gov)

*The Committee will receive an informational update on the issues and costs of compliance with Air Resources Board (ARB) shore power regulation at the Port of Oakland.*

6. **CONSIDERATION OF PROPOSED REVISIONS TO TRANSPORTATION FUND FOR CLEAN AIR REGIONAL FUND PROJECT APPROVAL PROCESS**

**K. Schkolnick/5070**

[kscholnick@baaqmd.gov](mailto:kscholnick@baaqmd.gov)

*The Committee will consider recommending Board of Directors approval to authorize the Executive Officer/APCO to execute Grant Agreements for projects funded by the Transportation Fund for Clean Air (TFCA) Regional Fund, with individual grant awards up to \$100,000; and to execute no-cost amendments for TFCA Regional Fund projects, provided each project continues to meet all applicable Board-approved Policies.*

7. **COMMITTEE MEMBER COMMENTS/OTHER BUSINESS**

*Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2).*

8. **TIME AND PLACE OF NEXT MEETING:** 9:30 a.m., THURSDAY, JANUARY 28, 2010 at  
939 ELLIS STREET, SAN FRANCISCO, CA 94109

9. **ADJOURNMENT**

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET  
SAN FRANCISCO, CA 94109**

**(415) 749-5130  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://www.baaqmd.gov)**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities notification to the Executive Office should be given at least three working days prior to the date of the meeting so that arrangements can be made accordingly.
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the District's website ([www.baaqmd.gov](http://www.baaqmd.gov)) at that time.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

**EXECUTIVE OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**

**DECEMBER 2009**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
<b>Board of Directors Public Outreach Committee</b> <i>(Meets 1<sup>st</sup> Thursday each Month)</i> <b>CANCELLED</b>	Thursday	3	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	Monday	7	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets 2nd Thursday each Month)</i> <b>RESCHEDULED TO FRIDAY, DECEMBER 11, 2009</b>	Thursday	10	9:30 a.m.	4th Floor Conf. Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets 2nd Thursday each Month)</i>	Friday	11	9:30 a.m.	4th Floor Conf. Room
<b>Board of Directors Personnel Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	16	9:00 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> – <i>(Meets 4<sup>th</sup> Thursday of each Month)</i> - CANCELLED	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**JANUARY 2010**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	6	9:45 a.m.	Board Room
<b>Board of Directors Public Outreach Committee</b> <i>(Meets 1<sup>st</sup> Thursday each Month)</i>	Thursday	7	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Advisory Council Regular Meeting</b>	Wednesday	13	9:00 a.m.	Board Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets 2nd Thursday each Month)</i>	Thursday	14	9:30 a.m.	4th Floor Conf. Room
<b>Board of Directors Legislative Committee</b> <i>(Meets 2<sup>nd</sup> Thursday each Month)</i>	Thursday	14	Following Board Climate Protection Cme. Mtg.	4 <sup>th</sup> Floor Conf. Room

## JANUARY 2010

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Joint Policy Committee</b> <i>(Meets 3rd Friday Every Other Month)</i>	<b>Friday</b>	<b>15</b>	<b>10:00 a.m.</b>	<b>MTC Auditorium 101 8<sup>th</sup> Street Oakland, CA 94607</b>
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	<b>Wednesday</b>	<b>20</b>	<b>9:45 a.m.</b>	<b>Board Room</b>
<b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>	<b>Thursday</b>	<b>28</b>	<b>9:30 a.m.</b>	<b>4<sup>th</sup> Floor Conf. Room</b>

HL – 11/30/09 (9:39 a.m.)

P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and Members  
of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 30, 2009

Re: Mobile Source Committee Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Mobile Source Committee meeting of November 5, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the November 5, 2009 Mobile Source Committee meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared By: Lisa Harper  
Reviewed by: Jennifer Chicconi

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109  
(415) 749-5000

**DRAFT MINUTES**

Summary of Board of Directors  
Mobile Source Committee Meeting  
Thursday, November 5, 2009  
9:30 a.m.

**CALL TO ORDER:** Chairperson Scott Haggerty called the meeting to order at 9:34 a.m.

Roll Call: Scott Haggerty, Chairperson; Tom Bates, Jennifer Hosterman, Carol Klatt, Eric Mar and Mark Ross

Absent: Vice Chairperson, Gayle Uilkema and Yoriko Kishimoto

Also Present: Pamela Torliatt

**Public Comments:** There were no public comments

**Approval of Minutes:**

**Committee Action:** Director Hosterman made a motion to approve the October 5, 2009 minutes; seconded by Director Klatt; carried unanimously without objection.

**Consideration of Approval for Carl Moyer Program Year 11 Projects with Proposed Grant Awards Over \$100,000**

Supervising Environmental Planner Anthony Fournier gave the staff presentation, provided background information regarding the Carl Moyer Program (CMP) and the Mobile Source Incentive Fund (MSIF). He said the Board previously approved the Carl Moyer Program Year 11 on February 4, 2009 and on April 15, 2009 applications were made available. The Board allocated projects over \$100,000 on the following dates and in the following amounts:

June 3, 2009	\$5,789,626
July 1, 2009	\$6,844,216
October 7, 2009	\$2,344,567

Mr. Fournier presented projects evaluated, said \$2,962,895 was awarded in funding, presented total Year 11 CMP/MSIF funding distribution, and reported a funding balance of approximately \$10 million.

**Committee Action:** Director Mar made a motion to recommend that the Board of Directors: 1) approve Carl Moyer Program Year 11 projects with proposed grant awards over \$100,000; 2) authorize the Executive Officer/APCO to execute all necessary agreements for the recommended Carl Moyer Program Year 11 projects; seconded by Director Klatt; unanimously approved without objection.

## **Consideration of Extension of Contracts and Request to Reserve \$4.5 Million in Mobile Source Incentive Funds for Vehicle Buy Back Program**

Supervising Environmental Planner David Wiley gave the staff presentation, a background of the Vehicle Buy Back Program (VBB) which is funded primarily through the Mobile Source Incentive Fund. The program has experienced a 95% increase in the monthly rate since April 2009; eligible model years are 1989 and older, and the program pays \$1,000 for qualifying vehicles.

### Committee Discussion/Comments:

Director Haggerty suggested considering the miles per gallon threshold instead of looking at model years.

Board Chairperson Torliatt suggested having vehicle buy back based on low miles per gallon for any vehicle up to 1995.

Mr. Wiley continued his presentation, stating that the Board had approved contracts of \$7 million with three (3) contractors to handle dismantling. One contractor has relocated out of the Bay Area and two remain. He discussed the program's success and presented a graph showing vehicle retirement rates for July through October 2008 (1,716 vehicles) and the increase for 2009 (3,436 vehicles).

Board Chairperson Torliatt confirmed with Mr. Wiley that two vehicle years were added to the program, which represents 32% of the increase.

Mr. Wiley discussed expansion of the State Bureau of Automotive Repair's (BAR) program which will include vehicles that fail smog check or have been identified as "high emitters". The program will pay between \$1,000 and \$1,500 for qualifying vehicles depending on income levels. Staff's recommendation is to extend the current contracts until April 2010 and to bring a proposal to restart the program to the Committee if and when State BAR program funding is no longer available.

Public Comments: Receipt of letter received from Jan Daniels, Pick-N-Pull Auto Dismantlers, requesting approval of the recommendation.

Directors discussed advantages of the Air District restarting its VBB program when the State's BAR program funds are exhausted and differences in funding based on income levels, and requested an explanation of suspension of the program.

Mr. Wiley said the District funds the program to get to the point in time when the California Bureau of Automotive Repair (BAR) program expands dramatically and covers many of the same vehicles. It is at this time that the District's program is suspended until such time that the BAR program runs out of funding.

Board Chairperson Torliatt and Director Haggerty suggested this be called out in the recommendation to the Board of Directors. Mr. Wiley also reported that the Air District confirms, through DMV records, that the owner participating in the program has owned the vehicle for at least one year.

**Committee Action:** Director Bates moved to recommend that the Board of Directors authorize the Executive Officer/APCO to execute contract extensions for vehicle scrapping and related services with Environmental Engineering Studies, Inc and Pick-N-Pull, which will distribute, on a

reimbursement basis, up to approximately \$4.5 million in Mobile Source Incentive Funds until April 1, 2010, at which time the Air District's Vehicle Buy Back (VBB) program will cease temporarily and be reactivated in the likely event that the California Bureau of Automotive Repair (BAR) program runs out of funding; and allocate an additional \$4.5 million in Mobile Source Incentive Funds (MSIF) to fund the VBB Program during fiscal Year 2009/2010 and increase the VBB Program FY 2009/2010 budget accordingly; seconded by Director Hosterman; carried unanimously without objection.

### **Consideration of Approval of Proposed Revisions to Transportation Fund for Clean Air Regional Fund Projects**

Supervising Environmental Planner David Wiley gave the staff presentation and the recommendation for approval of revisions to three (3) Transportation Fund for Clean Air (TFCA) Regional Fund projects previously approved on November 7, 2007, October 1, 2008 and October 7, 2009. He said the District received new information from project sponsors for two projects in FY 07/08 and FY 08/09 after the Board of Directors had approved awards. Mr. Wiley noted that the project useful life before regulatory deadlines would decrease and the cost-effectiveness value would rise. With a reduction in award, projects will continue to meet TFCA policies. He then provided an explanation of the TFCA Regional Fund projects and proposed revisions table, as presented in the staff report.

#### Committee Discussion/Comments:

Directors confirmed that because of CARB regulations, some vehicles were no longer eligible for funding for retrofits. It was noted that there were 19 original vehicles as part of the project and staff grouped vehicles into three tiers. One of those tiers fell out and there were a handful of vehicles the program could no longer fund.

Ms. Schkolnick explained that the reason the request is being brought to the Committee is that staff states what the cost effectiveness is; the project was approved on the basis that it scored approximately \$12,000 per ton of emissions. This number triggered its ranking and scoring and the dollar amount has changed, which is less. In addition, there are public transit fleet rules that go into effect which are more stringent, and this would be the maximum amount of funding the Air District could provide to keep the projects within the \$90,000 threshold.

**Committee Action:** Board Chairperson Torliatt moved to recommend that the Board of Directors approve proposed revisions to three (3) Transportation Fund for Clean Air Regional Fund Projects; seconded by Director Groom; unanimously approved without objection.

### **Consideration of Approval of Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Expenditures and Effectiveness Report**

Acting Director of Strategic Incentives, Karen Schkolnick gave the staff presentation and background of TFCA funding.

Staff has prepared the Fiscal Year (FY) 2008/2009 TFCA Expenditures and Effectiveness Report and key findings are identified in Attachment A of the staff report. Regional Fund expenditures totaled \$7.16 million: \$4.99 million for projects, \$930,000 for Air District programs, and \$1.24 million in administrative costs which is based on total revenue received (Regional and Program Manager Fund).

Reduction in criteria pollutant emissions over the project lifetimes totaled 743 tons; 161 tons of reactive organic gases, 521 tons of nitrogen oxides, and 62 tons of particulate matter. Additionally 12,600 tons of carbon dioxide was reduced.

Committee Discussion/Comments:

Chairperson Haggerty questioned how Bay Area results measure up to other regions. It was noted that the Bay Area was very different from other regions; overall, the District is able to determine cost effectiveness for projects. Results are meeting expectations of when projects were originally awarded and, in most cases, are coming in better than estimated. Ms. Schkolnick added that many regions do not have the extent of funding and portfolio to reduce emissions that the Bay Area has and she discussed examples.

Director Groom questioned the overall percentage of reduction from the previous year. Ms. Roggenkamp explained that any one thing the Air District does is a fairly small percentage of the overall region, but reductions are now comparable to District's rules and a lot of progress has been made on how much emissions reductions can be achieved for the numbers of dollars.

Director Hosterman confirmed that the telephone number to report smoking vehicles is 1-800-Exhaust, and Ms. Schkolnick briefly explained the reporting and notification process.

**Committee Action:** Director Hosterman moved to recommend that the Board of Directors approve Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air (TFCA) Expenditures and Effectiveness Report; seconded by Director Ross; unanimously approved without objection.

**Consideration of Proposed Revisions to Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010**

Acting Director of Strategic Incentives, Karen Schkolnick, gave the staff presentation, stating that on May 6, 2009 the Board of Directors adopted supplemental FY 09/10 TFCA Regional Fund policies and evaluation criteria for alternative fuel vehicle and infrastructure projects, which were developed to be compatible with funding opportunities available in 2009 from the California Energy Commission and the U.S. Department of Energy. These outside funding opportunities are not currently available and staff proposes revisions to streamline the existing policies, which include reducing minimum annual mileage requirements, expanding the types of eligible vehicles, requirement for an on-going maintenance plan that applicants provide at the time of application, amendments to minimum score and evaluation requirements, and removal of the requirement that vehicle projects covered by TFCA regional policies 21-24 not be subject to criterion 6 which relates to Priority Development Areas (PDA's).

Ms. Schkolnick reviewed the proposed revisions, which affect the following policies:

- Policy 21-23 – Alternative Fuel Vehicles Projects
- Policy 25 – Alternative Fuel Infrastructure Projects
- Policy 2b – Minimum Score
- Evaluation Criteria
- Criterion 1b Point Scale

Committee Discussion/Comments:

Directors confirmed with Ms. Schkolnick that numerous written and verbal comments were received at the time original policies were proposed in April and May 2009. Since that time, many cities and counties have indicated that they would not be able to apply for TFCA funds because they cannot meet certain requirements. Removal of such requirements would allow potential applicants to meet the \$90,000 per ton criteria which has led to the recommendation.

Ms. Roggenkamp and Ms. Schkolnick noted that the call for alternative fuel vehicle and infrastructure projects is open, extensive solicitation for input was conducted, and feedback has been received from those wanting to apply but have been prohibited based on certain policies.

Board Chairperson Torliatt asked that when staff returns with changes in the future, any suggestions or feedback made from those wanting to apply be provided to the Committee.

Chairperson Haggerty acknowledged that the recommendation will assist cities and counties in the application process. He thanked staff for their foresight and agreed it would be helpful for staff to include and present the additional information, and Directors agreed.

**Committee Action:** Director Bates moved to recommend that the Board of Directors approve proposed revisions for FY 2009/2010 Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria; seconded by Director Hosterman; unanimously approved without objection.

**Committee Member Comments:** None

**Next Meeting:** 9:30 a.m., Monday, December 7, 2009  
939 Ellis Street, 4<sup>th</sup> Floor Conference Room

**Adjournment:** Meeting adjourned at 10:19 a.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 16, 2009

Re: Report on the Compliance Plan for Enforcement of Mobile Source Regulations

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

Diesel particulate matter (PM) poses the largest air toxic health risk to Bay Area residents. In 1998, the California Air Resources Board (CARB) identified diesel PM as a toxic air contaminant (TAC) based on its potential to cause cancer, premature death and many other health problems. The Air District's CARE program studies have shown that diesel PM accounts for over 80% of the TAC cancer risk, with on-road and off-road mobile sources responsible for the majority of the risk. In addition, the comprehensive West Oakland health risk assessment determined that the community is exposed to diesel PM concentrations that are nearly 3 times higher than the average background diesel PM in the Bay Area (with about 1,200 in a million excess cancers per million over a 70 year lifespan).

The District has a strong stationary source enforcement program which spans more than 5 decades. However, mobile source enforcement has traditionally been under CARB's purview. Only recently, CARB's diesel PM air toxic control measures (ATCMs) allowed air districts the opportunity to have a larger role in mobile source regulation enforcement.

Following up on presentations in March and July 2009 to the Ad Hoc Committee on Port Emissions, staff completed the District's Mobile Source Compliance Plan. Staff presented the completed Plan to the Ad Hoc Committee on October 26, 2009. The goal of the Plan is to reduce diesel particulate matter health risk in all CARE impacted areas, with special focus on the Port of Oakland and West Oakland, using a robust enforcement program.

Staff have completed several logistical actions to ensure timely and effective Plan implementation, including: obtaining security clearances for Port access; attending mobile source training and conducting monthly familiarization inspections with CARB; beginning outreach; inspecting trucks that will receive District grant funds; and continuing to enforce mobile source requirements already under District purview. Plans are underway for a strong enforcement presence at the Port of Oakland to ensure compliance with the January 1, 2010 Drayage Truck Rule (DTR) compliance deadline.

## DISCUSSION

The Mobile Source Compliance Plan (MSCP) lays out the District's comprehensive strategy for enforcement of specified CARB ATCMs and related mobile source statutes and/or agreements. The MSCP includes the following key elements: an overview of the Compliance Assistance & Enforcement Program; the Memorandum of Understanding (MOU) between CARB and the District; discussion of Diesel PM and Mobile Source(s) impacts on CARE Areas; the Mobile Source Regulations addressed in the Plan; and an Implementation Schedule. The MOU is a critical component of the MSCP as it serves to clarify our authority and define the roles and responsibilities of each agency.

The District has prioritized its current efforts and those planned based on the overall level of emissions and their contribution to elevated health risk posed by a particular mobile source category. Included are several regulations (or statute or agreement, collectively "rules") which address categories which represent the highest emission sources/risks: trucks (3 rules); ships and boats (4 rules); diesel equipment (5 rules); and locomotives (1 rule).

The Air District is the first in the State to enter into a comprehensive mobile source enforcement partnership agreement with CARB. The MOU is a critical component of the MSCP; it clarifies the District's authority for mobile source enforcement and defines the roles and responsibilities of each agency. By implementation of the MOU and the Compliance Plan, the District will reduce diesel PM exposures, can provide leadership on mobile source enforcement, and improve air quality for the communities we serve. The MOU was finalized on November 4, 2009.

Staff will present the Completed Mobile Source Compliance Plan to the Committee.

## BUDGET CONSIDERATION/FINANCIAL IMPACT

The FY 2010 estimated costs for implementation of the MSCP are two FTE inspectors. The FY ending 2010 budget allocated \$ 201,347 in General Revenue for conducting CARB Mobile Source regulations enforcement in CARE impacted areas with focus on the Port of Oakland.

Respectfully submitted,

Jack Broadbent  
Executive Officer/Air Pollution Control Officer

Prepared by: Barbara Coler  
Reviewed by: Kelly Wee

# MOBILE SOURCE COMPLIANCE PLAN

Updated November 16, 2009



939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109

PREPARED BY:

BARBARA COLER, AIR QUALITY PROGRAM MANAGER  
BRENT RUDIN, SUPERVISING AIR QUALITY INSPECTOR

REVIEWED BY:

KELLY WEE, DIRECTOR OF COMPLIANCE AND ENFORCEMENT  
JEFFREY MCKAY, DEPUTY AIR POLLUTION CONTROL OFFICER

## **BACKGROUND**

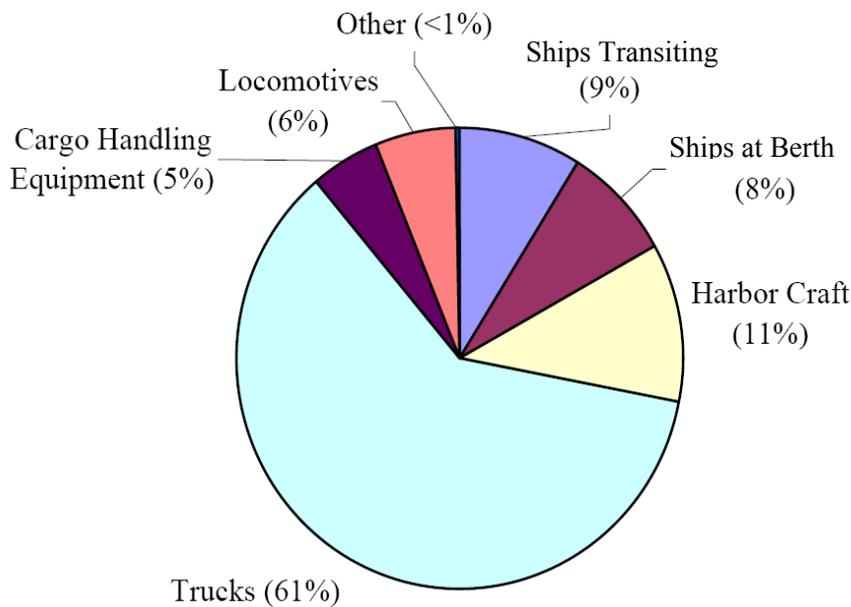
In 1998, the California Air Resources Board (CARB) identified diesel particulate matter (PM) as a toxic air contaminant (TAC). CARB conducted an assessment of the need for regulations and in 2000, adopted a *Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-fueled Engines and Vehicles*. The plan included recommendations for control measures and a goal of reducing California's diesel PM emissions and associated cancer risks by 85% by 2020 from 2000 levels. Subsequently, in April 2006, CARB adopted its *Emission Reduction Plan for the Ports and Goods Movement in California* which proposed adopting regulations to reduce PM and ozone precursor emissions from ships, commercial harbor craft, cargo handling equipment and trucks.

In 2004, the Air District began the Community Air Risk Evaluation (CARE) Program to evaluate and reduce health risks from TACs in the Bay Area, with an emphasis on diesel PM. The results of CARE analyses show that diesel PM accounts for over 80% of the TAC cancer risk and that on-road and off-road mobile sources are responsible for the majority of the risk. Subsequent District studies included a partnership with CARB, the Port of Oakland and the Union Pacific Railroad to develop a comprehensive health risk assessment to evaluate the health risks from diesel PM in West Oakland. This study determined that the West Oakland community is exposed to diesel PM concentrations that are nearly 3 times higher than the average background diesel PM in the Bay Area (with about 1,200 in a million excess cancers over a 70 year lifespan).

In response to these studies and to implement the plans, CARB adopted a series of mobile source regulations to reduce diesel PM emissions. Diesel particulate matter poses the largest air toxic health risk to Bay Area residents. The goal of the District's Mobile Source Compliance Plan is to reduce diesel particulate matter health risk in CARE impacted areas, with special focus on the Port Of Oakland and West Oakland, using compliance assistance tools and a robust enforcement program.

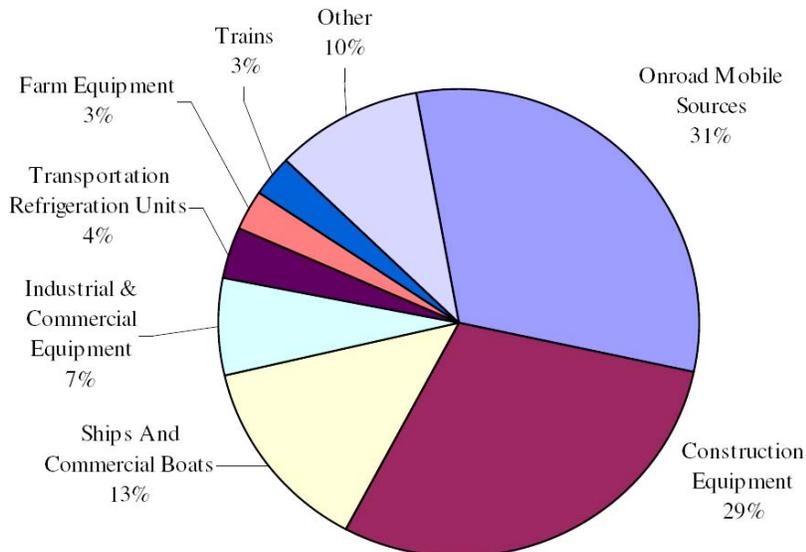
## **DIESEL PM AND MOBIL SOURCE(S) IMPACTS ON CARE AREAS**

The District has prioritized its current efforts and those planned based on the overall level of emissions and their contribution to elevated health risk posed by a particular mobile source category. For example, in West Oakland, the diesel PM emissions from mobile source categories is reflected below.



*Sources of population-weighted cancer risk from diesel PM, based on West Oakland Health Risk Assessment adjusted to reflect BAAQMD truck-traffic survey findings*

For all other CARE areas, ships are largely not present. However, trucks, off-road diesel vehicles and equipment, and to a lesser extent, boats and locomotives, will pose diesel PM risks to these impacted communities. The chart below depicts diesel PM and other emissions throughout the entire Bay Area from mobile source categories.



*CARE Area Cancer Toxicity-Weighted Emissions: Bay Area (BAAQMD, 2005)*

## **MOBILE SOURCE RULES SUBJECT TO THE PLAN**

This Mobile Source Compliance Plan (MSCP) lays out the District's comprehensive strategy for enforcement of specified CARB air toxic control measures (ATCMs), regulations and related mobile source statutes and/or agreements (collectively termed "rules"). This MSCP is a "living" document and will change as needs arise and as mobile source rules are revised and augmented. For some of these rules, District implementation has been underway for a few years.

Since 2003, District staff have been enforcing Health and Safety Code section 40720, which restricts idling by port trucks outside terminal gates at the Port of Oakland, the only port in the Bay Area to which the idling restrictions apply. These restrictions were added to state law in 2002 by AB 2650, authored by then Assemblymember Alan Lowenthal. BAAQMD is the only air district in the state that has conducted enforcement actions pursuant to the statute.

Additionally, District staff have been enforcing the CARB Statewide Railroad MOU<sup>1</sup> since September 2006 along with CARB staff. This rule limits idling of diesel locomotives at specified railyards in the Bay Area. Staff have also been conducting inspections pursuant to the CARB Portable Equipment Registration Program ("PERP", a voluntary registration program for portable diesel engines and equipment units) since January 2007 throughout the Bay Area. To complement these mobile source activities, staff have evaluated CARB regulations and ATCMs and included rules for enforcement in the MSCP for the source categories which pose the highest diesel PM risk. See Table 1, following page.

Also included is the ATCM which prohibits Onboard Incineration on Cruise Ships and Oceangoing Ships within 3 nautical miles of the California coastline; this rule ensures that incineration activities from ships do not pose additional health risks to Bay Area communities.

For further information, see Appendix A (Summary of Rules subject to the Mobile Source Compliance Plan).

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<sup>1</sup> On December 21, 2006, to implement the MOU, the Air District, CARB, and the railroads (BSNF and UPRR) entered into an agreement, the "Bay Area Implementation Protocol for ARB/Railroad Statewide Agreement."

**Table 1 - BAAQMD Mobile Source Compliance Plan**

	<b>RULE (MOU/Statute/Regulation/ATCM)</b>	<b>REQUIREMENTS</b>	<b>MODE</b>	<b>Applicable Areas</b>	<b>BAAQMD Implementation Date</b>
1	<b>Railroad Strategies</b> Statewide MOU & BAAQMD Protocol	<b>Idling Time and Excessive Visible Emissions Restrictions</b>	Locomotives	Specified Railyards	Ongoing Since 2006
2	<b>Port Truck Terminal Idling</b> H&S Code 40720 AB 2650, Lowenthal	<b>Idling Time Restrictions while queuing</b>	Trucks	Port of Oakland	Ongoing Since 2003
3	<b>Heavy-Duty Drayage Trucks</b>	<b>Engine emissions standards Phase-out of specified engines Reporting Requirements</b>	Trucks	Ports and Intermodal Railyards	Outreach: 2009 - 4th QTR Enforcement: January 1, 2010
4	<b>Commercial Vehicle/Sleeper Berth Idling</b>	<b>Idling Time Restrictions</b>	Trucks	Throughout Bay Area	2010 - 1st QTR
5	<b>In-Use Off-Road Diesel Vehicles (In-use Construction Equipment)</b>	<b>Idling Time Restrictions Fleet emissions standards Greater than or = 25 HP</b>	Trucks & Equipment	Throughout Bay Area	2010 - 1st QTR
6	<b>"PERP" Registration Program</b>	<b>Voluntary registration program</b>	Equipment	Throughout Bay Area	Ongoing Since 2007
7	<b>Portable Engines</b>	<b>Emissions standards Phase-out of specified engines Greater than or = 50 HP</b>	Equipment	Throughout Bay Area	2010 - 1st QTR
8	<b>Mobile Cargo Handling Equipment</b>	<b>Emissions standards Phase-out of specified engines Reporting Requirements</b>	Equipment	Ports and Intermodal Railyards	2010 - 2nd QTR
9	<b>Transport Refrigeration Units</b>	<b>Certified engines emission stds Use of DPM filters State registration</b>	Equipment	Throughout Bay Area	2010 - 3rd QTR
10	<b>Commercial Harbor Craft</b>	<b>Emissions standards Phase-out of specified engines State registration</b>	Boats	Adjacent to the Bay, Coastal areas & within 24 nautical miles of the California coastline	2010 - 2nd QTR
11	<b>Ocean-Going Vessels While at Berth</b>	<b>Reduction of at-berth emissions using shore power &amp; other strategies</b>	Ships	Adjacent to the Bay, Coastal areas & within 24 nautical miles of the California coastline	2010 - 2nd QTR
12	<b>Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels</b>	<b>Low-Sulfur Fuel Requirements Recordkeeping Requirements</b>	Ships	Adjacent to the Bay, Coastal areas & within 24 nautical miles of the California coastline	2010 - 2nd QTR
13	<b>Limiting Onboard Incineration on Cruise Ships and Oceangoing Ships</b>	<b>Prohibits Incineration Recordkeeping Requirements</b>	Ships	Adjacent to the Bay, Coastal areas & within 3 nautical miles of the California coastline	Ongoing Since 2007

## LEGAL AUTHORITY

The District has a strong stationary source enforcement program which spans more than 5 decades. However, mobile source enforcement has traditionally been under CARB's purview. Only recently, CARB's diesel PM air toxic control measures (ATCMs) allowed air districts the opportunity to have a larger role in mobile source regulation enforcement.

Pursuant to Health and Safety Code sections 39002 and 4000, the Air District's primary responsibility is the control of air pollution from all sources other than vehicular sources. Furthermore, pursuant to Health and Safety Code section 40001, the Air District is required to enforce rules and regulations, including applicable state and federal law, to achieve and maintain the state and federal ambient air quality standards. CARB's primary responsibility is the control of emissions from vehicular sources (pursuant to Health and Safety Code sections 39002, 4000, 43013 and 43018). In addition, CARB's authority for adoption of mobile source regulations is: (1) one or more provisions related to its authority to adopt standards and other requirements for motor vehicle and off-road or non vehicular engines or vehicles, including, but not limited to, Health and Safety Code sections 39618, 43013, and 43018; and/or (2) one or more provisions related to its authority to adopt Airborne Toxic Control Measures, including, but not limited to, Health and Safety Code sections 35658, 39666 and 39667. In Health and Safety Code section 39001, the Legislature declared that a coordinated state, regional, and local effort to protect and enhance ambient air quality should be encouraged whenever possible.

To meet these statutory and regulatory objectives, the District and CARB entered into a partnership agreement, a Memorandum of Understanding (MOU), for enforcement of specified mobile source regulations. The purposes of the MOU are the following:

- The agencies share a common goal of protecting the People of the State of California through regulation and enforcement of air pollutant emissions reductions. By entering into the MOU, they commit to pursuing air pollution emission reductions in a manner most efficient to their respective financial constraints and available resources and most beneficial to achieving this common goal; and
- To further their shared goal of ensuring compliance in the San Francisco Bay Area with certain regulations adopted by CARB for motor vehicles and off-road or non-vehicle engine or vehicle categories, and to establish a collaborative enforcement model that builds upon their collective extensive enforcement experience.

The MOU is a critical component of the Mobile Source Compliance Plan as it serves to clarify the District's authority and defines the roles and responsibilities of each agency. This is the first comprehensive mobile source enforcement MOU between CARB and an air district. CARB has informed staff that it will serve as the "model" or template for similar agreements with other air districts for mobile source and/or greenhouse gas emissions enforcement. The MOU was finalized on November 4, 2009 and is included as Appendix B.

## IMPLEMENTATION PLANNING AND SCHEDULE

To date, in addition to conducting the mobile source inspections discussed above, staff completed several operational and logistical steps to ensure timely and effective Plan implementation. Key steps are outlined below.

- **Security Clearances:** All District inspection staff have obtained security clearances (known as “TWIC cards”) required by Homeland Security to access Ports.
- **Staffing:** In mid-2008, the Air Toxics Inspection group was created within the Compliance and Enforcement Division (CED). In addition to other air toxics enforcement, inspectors within this group are responsible for mobile source compliance assistance and enforcement, primarily at the Port of Oakland and West Oakland. Additional CED inspectors who are assigned to specific locations throughout the Bay Area will be conducting these activities in their respective CARE areas. CED Subject Matter Experts (SMEs) have also been assigned to conduct air program development activities, in coordination with District inspectors and CARB.
- **Training:** Training is a critical component of the MSCP, specifically due to the complex (and dynamic) nature of many of the mobile source rules. To date, CARB conducted training for District staff for the PERP and commercial vehicle idling rules; recently they provided a Diesel Vehicle Regulation Overview course for industry and regulatory agencies. The District is currently working with CARB to develop a mobile source training program; pursuant to the program, CARB will soon conduct trainings for staff for all the remaining rules in the District’s Plan.
- **“Side-by-side” CARB/BAAQMD training inspections:** In summer 2009, staff began conducting monthly mobile source familiarization inspections with CARB which have included to date, ships, harbor craft, transport refrigeration units and other mobile sources addressed in the MSCP.
- **Steps to Drayage Truck Rule enforcement:** Drayage trucks represent highly significant sources of diesel PM, therefore plans are underway for a strong enforcement presence at the Port of Oakland to ensure compliance with the January 1, 2010 Drayage Truck Rule (DTR) deadline. In September, District staff began extensive DTR outreach activities in partnership with the Port Of Oakland. Staff also continue to inspect all trucks that will receive District grant funds for engine retrofits or replacements required under DTR (approximately 1,000 trucks by early December).

- Implementation Projections: Implementation of commercial vehicle and off-road vehicle idling restrictions enforcement will commence in early 2010. Portable engines enforcement is projected for the 1<sup>st</sup> quarter of 2010; staff will coordinate with CAPCOA and CARB on the appropriate enforcement approach (and implementation start). Implementation of the mobile cargo handling equipment and transport refrigeration unit (TRU) rules are planned to commence the 2<sup>nd</sup> and 3<sup>rd</sup> quarters of 2010, respectively. Enforcement will commence for commercial harbor craft and ship rules in the 2<sup>nd</sup> quarter of 2010. A key component of the MSCP implementation is conducting compliance assistance activities (including outreach) for each rule subject to the Plan.

See Table 1 above (and Appendix A) for implementation dates for each rule within the Mobile Source Compliance Plan.

## **SUMMARY**

The Bay Area Air Quality Management District is the first air district in the State to enter into a comprehensive mobile source enforcement partnership agreement with CARB. By implementation of the MOU and the Mobile Source Compliance Plan, the District will reduce diesel PM exposures, can provide leadership on mobile source enforcement, and will improve air quality for the communities we serve.

**APPENDIX A — Summary of Rules subject to the Mobile Source  
Compliance Plan**

# Mobile Source Compliance Plan – *The Rules in Brief*<sup>1</sup>

## Trains

**Railroad Strategies**  
*Statewide MOU limited to rail operator signatories on June 2005*

### APPLICABILITY

Locomotive idling limitations (15 minutes) at specified railyards agreed to by signatories (Union Pacific Railroad (UPRR) and BNSF Railway (BNSF)).

### CORE PROGRAM

Quarterly inspections for idling compliance alternating between State and District staff in Richmond and Oakland.

### STATUS

Operational - BAAQMD Implementation September 2006. On December 21, 2006, the Air District entered into the *Bay Area Implementation Protocol for the ARB/Statewide Agreement* with CARB, UPRR and BSNF.

### KEY DEADLINES

Automatic Idling-Reduction Devices (IRD) shall be installed in locomotives with automatic shutdown devices.	35% by 2006 70% by 2007 >99% by 2008
At least 80% of the Locomotive fuel supplied in CA must be ultra-low sulfur content diesel fuel (CARB diesel).	12/31/2006

<sup>1</sup> Collectively termed “rules,” these include air toxic control measures (ATCMs), regulations and mobile source statutes and/or agreements.

# Trucks

**Port Truck  
Terminal  
Idling**  
*Health and  
Safety Code  
Section  
40720  
(AB 2650,  
Lowenthal)*

## **APPLICABILITY**

Each marine terminal in the State shall operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to enter the gate of any marine terminal. Applicable to specified California Ports (in the Bay Area, only applicable to the Port of Oakland).

## **CORE PROGRAM**

Enforcement of the 30 minute idling standard.

## **STATUS**

Operational - BAAQMD Implementation January 2003.

## **KEY DEADLINE**

Legislation effective date January 1, 2003.

# Trucks

**Heavy-Duty  
Drayage  
Trucks**  
*Title 13, CCR,  
Section 2027*

## APPLICABILITY

This regulation applies to owners and operators of on-road diesel-fueled heavy-duty drayage trucks operated at California ports and intermodal rail yard facilities. This regulation also applies to “motor carriers,” “marine or port terminals,” “intermodal rail yards,” and “railyard and port authorities.”

## CORE PROGRAM

Requires State registration and compliance with emission standards. By December 31, 2009, all trucks must meet the equivalent of the on-road 2004 emission standard via newer trucks or verified diesel emission control strategies (VDECS). All pre-1994 engines are phased-out January 1, 2010. After December 31, 2013, drayage trucks must meet the 2007 engine emissions standards. Reporting requirements for marine and port terminals and intermodal railyards. Motor Carriers may not dispatch non-compliant trucks to ports or intermodal railyards.

## STATUS

BAAQMD outreach 4<sup>th</sup> Quarter 2009; Implementation with strong BAAQMD enforcement presence January 1, 2010.

## KEY DEADLINES

Register with the Drayage Truck Registry (DTR) database.	9/30/2009
Phase 1, Must have a 1994 or newer model year engine that meets or exceeds 2004 model year California or Federal emission standards.	12/31/2009
Quarterly reporting requirements for Marine Terminals and Railyards to Port or Rail Authority.	1 <sup>st</sup> Report 4/15/2010
Quarterly reporting reports to CARB by Port and Rail authorities to CARB.	1 <sup>st</sup> Report 5/15/2010
Phase 2, All drayage trucks must be equipped with a 1994 or newer model year engine that meets or exceeds 2007 model year California or Federal emission standards.	1/1/2014

## AMENDMENTS PENDING

Requirements for 2004 and 2005-2006 trucks for retrofit/replacement by 2011 and 2012, respectively.

# Trucks

**Commercial Vehicle and Sleeper Berth Idling**  
*Title 13, CCR, Section 2485*

## APPLICABILITY

Applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. This specifically includes California-based vehicles and Non-California-based vehicles.

## CORE PROGRAM

Enforcement of the 5 minute idling standard.

## STATUS

BAAQMD Implementation 1<sup>st</sup> Quarter 2010.

## KEY DEADLINES

Prohibits driver from idling of subject vehicle's primary diesel engine for greater than 5 minutes at any location.	2/1/2005
Five minute idling restriction for the operation of diesel fueled APS to power a heater, air conditioner or auxiliary equipment during sleeping or resting in a sleeper berth.	Delayed by CARB until 1/1/2008

# Trucks and Equipment

**In-Use Off-Road Diesel Vehicles (In-Use Construction Equipment)**  
*Title 13, CCR, Sections 2449, 2449.1-2449.3*

## APPLICABILITY

Applies to any person, business, or government agency who owns or operates (within California) any diesel fueled or alternative diesel fueled off-road compression ignition vehicle engine (with maximum power of 25 horsepower (hp) or greater) that is used to provide motive power in a workover rig or to provide motive power that cannot be registered as an on-road vehicle and the vehicle is not an implement of husbandry or recreational off-highway vehicle. Specifically excluded are all on-road vehicles.

## CORE PROGRAM

5 minute idling standard for equipment not engaged in work. Complex fleet emissions standards strategy that requires equipment replacement and/or retrofitting of emission controls.

## STATUS

BAAQMD Implementation 1<sup>st</sup> Quarter 2010.

## KEY DEADLINES

Prohibits idling for more than 5 consecutive minutes.	6/15/2008
Requires fleet owner to provide a written idling policy to vehicle operators that informs them of the 5-minute idling limitation.	3/1/2009
Prohibition against adding vehicles/equipment with Tier 0 engines to fleets.	3/1/2009
Requires labeling of vehicles with a CARB-issued Equipment Identification Number (EIN).	4/1/2009
Requires large fleets to meet the fleet average emission rate target for PM by March 1 of each year or apply VDECS to 20% of its horsepower.	2010
Requires medium fleets to meet the fleet average emission rate target for PM by March 1 of each year or apply the highest level VDECS to 20% of its horsepower.	2013
Requires small fleets to meet the fleet average emission rate target for PM or apply the highest level VDECS to 20% of its horsepower.	2015

# Equipment

**PERP  
Registration  
Program**  
*Title 13, CCR,  
Section 2450*

## **APPLICABILITY**

Established a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units). Registration under this regulation is voluntary for owners of portable engines or equipment units.

## **CORE PROGRAM**

Inspection of registered sources, surveillance for unpermitted equipment.

## **STATUS**

Operational – BAAQMD Implementation January 2007.

## **KEY DEADLINES**

Use California motor vehicle fuels (low sulfur diesel).	1/1/2006
Registration identification device shall be affixed to registered portable equipment.	9/12/2007

# Equipment

## Portable Engines

*Title 17, CCR.*  
*Section*  
*93116 -*  
*93116.5*

### APPLICABILITY

All portable engines having a maximum rated brake horsepower of greater or equal to 50 (bhp) and fueled with diesel are subject to this ATCM. Exceptions include engines: used to propel mobile equipment or a motor vehicle; using an alternative fuel; used for tactical support and limited specified engines.

### CORE PROGRAM

Fuel and emissions standards, complex fleet emissions averaging strategy with tiered engine standards. First fleet emission compliance date is January 1, 2013.

### STATUS

BAAQMD implementation 1<sup>st</sup> Quarter 2010.

### KEY DEADLINES

Use fuels that meet standards for California motor vehicle fuels.	1/1/2006
Diesel-fueled portable engines shall only use CARB approved fuels, alternative fuels or additives.	9/12/2007
Enforceable recordkeeping and non-resettable hour-meter requirements.	1/1/2008
Portable diesel engines may be permitted or registered by a district until January 2010.	12/31/2009
All portable diesel-fueled engines shall be certified to meet a federal or California non-road engine emission standard. Phase-out of Tier 0 engines.	1/1/2010
Fleet record retention requirements.	3/1/2011
Fleet recordkeeping requirements.	1/1/2012
Statements of compliance are due to the Executive Officer for fleet standards that become effective January 1, 2013.	3/1/2013 3/1/2017 3/1/2020

# Equipment

**Mobile  
Cargo  
Handling  
Equipment**  
*Title 13, CCR,  
Section 2479*

## APPLICABILITY

Applies to any person who conducts business in California who sells, offers for sale, leases, rents, purchases, owns or operates any diesel mobile cargo handling equipment that operates at any California port or intermodal railyard. Exemptions include but are not limited to fuel delivery trucks, vans and buses used for personnel transport, military tactical support equipment and portable compression ignition (CI) engines.

## CORE PROGRAM

Complex fleet averaging engine tier strategy, phased in through 2017. Currently operators of equipment are required to comply by installing compliant engines, retiring equipment, or by retrofitting non-yard truck equipment with verified diesel emission control strategies (VDECS).

## STATUS

BAAQMD Implementation 2<sup>nd</sup> Quarter 2010.

## KEY DEADLINES

Recordkeeping and annual reporting requirements.	1/31/2007
Complex specified compliance schedules for in-use yard truck fleets of 3 or less (with/and with out VDECS).	12/31/2007 – 12/31/2015
Complex specified compliance schedules for in-use yard truck fleets of 4 or more (with/and with out VDECS).	12/31/2007– 12/31/2017

## AMENDMENTS PENDING

Workshop level discussions regarding including idling limitations.

## Equipment

**Transport  
Refrigeration  
Units (TRU)**  
*Title 13, CCR,  
Section 2477*

### APPLICABILITY

The TRU ATCM requires all TRUs and TRU generator sets (“gen sets”) that operate in California, regardless of where they are based (including out-of-state and out-of-country), to meet in-use performance standards that are phased in beginning December 31, 2008. Facilities where TRUs operate (with 20 or more loading doors) also have reporting and other standards to meet under this ATCM.

### CORE PROGRAM

All TRUs and TRU gen sets must eventually meet the most stringent in-use standard. Requires compliance by using a CARB – certified engine or equipping the engine with the required level of VDECs. Standards require use of a diesel particulate filter that reduces DPM exhaust emissions by at least 85 percent. Owners of California-based TRUs and TRU gen sets must apply for CARB identification numbers (IDN) by January 31, 2009. Operators of California-based TRUs must submit Operator Reports by January 31, 2009.

### STATUS

BAAQMD Implementation 3<sup>rd</sup> Quarter 2010. CARB/BAAQMD Joint familiarization inspections began late Summer 2009.

### KEY DEADLINES

TRU Facility reporting requirements.	1/31/2006
Requires applications for CARB ID number.	1/31/2009
Operator Reporting requirements.	1/31/2009
In-Use Compliance Dates Tier strategy phasing requirements for TRUs with less than, equal to or greater than 25 hp.	12/31/2007 – 12/31/2020

### AMENDMENTS PENDING

Draft regulatory concepts prohibit the use of internal combustion engines to power TRUs on trucks, trailers, shipping containers, and railcars used for extended cold storage at California facilities.

## Boats

**Commercial Harbor Craft**  
*Title 13, CCR, Section 2299.5 & Title 17, CCR, Section 93118.5*

### APPLICABILITY

Any person who sells, supplies, offers for sale, purchases, owns, operates, leases, charters, or rents any new or in-use diesel fueled Harbor Craft for use within California waters (24 nautical miles of the coast).

### CORE PROGRAM

Requires State registration and compliance with fuel sulfur content, non-resettable hour meters and Tier 2/Tier 3 engine emission standards. Exemptions include but are not limited to, recreational vessels, temporary emergency vessels, U.S Coast Guard vessels or registered historic vessels.

### STATUS

BAAQMD Implementation 2<sup>nd</sup> Quarter 2010. CARB/BAAQMD Joint familiarization inspections began late Summer 2009.

### KEY DEADLINES

State Registration with reporting requirements.	February 28, 2009
Fuel sulfur requirements.	January 1, 2009
Non-resettable hour meters.	January 1, 2009
New engine requirements.	January 1, 2009
Tier Emission Standards	2009-2022

### AMENDMENTS PENDING

Proposals to bring crew and supply vessels up to the same standards as other harbor craft.

## Ships

### Ocean-Going Vessels While at Berth

**APPLICABILITY**  
*Title 13, CCR, Section 2299.3 & Title 17, CCR, Section 93118*

**APPLICABILITY**  
 Any person who owns, operates, charters, rents, or leases any U.S. or foreign-flagged container vessel, passenger vessel, or refrigerated cargo vessel that visits a California port, relating to the operation of auxiliary diesel engines on ocean-going vessels at-berth in a California port within California regulated waters (within 24 miles of the coast).

### CORE PROGRAM

Reduce berthed ship emissions by 80% through the use of shore power and other strategies by 2020. There are two options to achieve the reductions: reduced onboard power generation (ROPG, a.k.a. “shore power” or grid power); or equivalent emissions reduction (EER). There are tiered deadlines beginning in 2010 for EER and 2014 for ROPG.

### STATUS

BAAQMD Implementation 2<sup>nd</sup> Quarter 2010.

### KEY DEADLINES

Marine Terminal Operator Plans to CARB.	7/1/2009
EER Annual Compliance Statement Reports.	3/1/2011 – 3/1/2019
ROPG Annual Compliance Statement Reports.	3/1/2015 - 3/1/2019
EER % reductions – tiered (NOx & PM)	1/1/2010 - 10% 1/1/2012 - 25% 1/1/2014 - 50% 1/1/2017 - 70% 1/1/2020 - 80%
ROPG % reductions – tiered	1/1/2014 1/1/2017 1/1/2020

# Ships

**Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels**

*Title 13, CCR, Sections 2299.2 & Title 17, CCR, Section 93118.2*

**APPLICABILITY**

Applies to any person who owns, operates, charters, rents, or leases any ocean-going vessel that operates in any of the Regulated California Waters, which include interior waters and within 24 nautical miles of California's coast.

**CORE PROGRAM**

Clean fuel standard (sulfur content) cleaner-burning marine fuel to power the ships main engines and the auxiliary boilers/engines in regulated waters.

**STATUS**

BAAQMD Implementation 2<sup>nd</sup> Quarter 2010. CARB/BAAQMD Joint familiarization inspections began mid Summer 2009.

**KEY DEADLINES**

Recordkeeping requirements.	6/28/2009
Fuel Sulfur Content Limits (FSCL) – auxiliary engines.	6/28/2009
Fuel Sulfur Content Limits (FSCL) – main engines.	7/1/2009
Ultra-low FSCL for auxiliary and main engines.	1/1/2012

## **Ships**

**Limiting  
Onboard  
Incineration  
on  
Cruise Ships  
and  
Oceangoing  
Ships**

*Title 17, CCR,  
Section  
93119*

### **APPLICABILITY**

Applies to any person who owns or operates a cruise ship with 250 passengers or more or any ocean-going vessel of 300 registered tons or more.

### **CORE PROGRAM**

Prohibits operation of shipboard incinerators within 3 miles of the California coast unless directed by the Coast Guard.

### **STATUS**

Operational – BAAQMD Implementation since 2007. CARB/BAAQMD joint inspections in July and August 2009. Upcoming BAAQMD inspections November 2009.

### **KEY DEADLINES**

Recordkeeping requirements.	11/28/2007
Incineration prohibitions.	11/2007

**APPENDIX B — Memorandum of Understanding (MOU) between  
CARB and BAAQMD**

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CALIFORNIA AIR RESOURCES BOARD AND  
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
REGARDING ENFORCEMENT OF SELECTED  
AIR RESOURCES BOARD REGULATIONS**

**1. PARTIES**

This Memorandum of Understanding is entered into by and between the California Air Resources Board (ARB or Board) and the Bay Area Air Quality Management District (BAAQMD). ARB and BAAQMD are collectively referred to herein as "the Parties."

**2. PURPOSE**

- 2.1 The Parties, two government agencies, share a common goal of protecting the People of the State of California through regulation and enforcement of air pollutant emission reductions. In entering into this Memorandum of Understanding (MOU), the Parties are committed to pursuing air pollution emission reductions in a manner most efficient to their respective financial constraints and available resources and most beneficial to achieving this common goal.
- 2.2 This MOU is intended to (1) further the Parties' shared goal of ensuring compliance in the San Francisco Bay Area with certain regulations adopted by ARB for motor vehicles and off-road or nonvehicle engine or vehicle categories, and (2) establish a collaborative enforcement model that builds upon the Parties' extensive enforcement experience.
- 2.3 This MOU does not create any binding legal obligations between the Parties or modify or supersede any laws or regulations.

**3. BACKGROUND**

- 3.1 Powers of ARB. Pursuant to California Health and Safety Code section 39603, ARB may enter into agreements for services as necessary for the performance of its powers and duties.
- 3.2 Powers of BAAQMD. Pursuant to California Health and Safety Code section 40701, BAAQMD may enter into agreements with a state agency as necessary or proper to accomplish the purposes of Division 26 of the Health and Safety Code. Division 26 is the division that creates, authorizes, and establishes ARB and BAAQMD and establishes all of their respective duties and responsibilities pertinent to the matters set out herein.
- 3.3 Responsibilities Under State Law. Under California law, each Party is assigned primary authority over particular types of the air pollution emission sources covered by this MOU. Pursuant to Health and Safety Code sections 39002 and 40000, BAAQMD's primary responsibility is the control of air pollution from all sources other than vehicular

sources. Pursuant to Health and Safety Code sections 39002, 40000, 43013, and 43018, ARB's primary responsibility is the control of emissions from vehicular sources.

3.4 Coordinated Effort. In California Health and Safety Code section 39001, the Legislature declares that a coordinated state, regional, and local effort to protect and enhance ambient air quality should be encouraged whenever possible.

3.5 Emission Reduction Plans

3.5.1 In 1998, pursuant to Health and Safety Code sections 39650 through 39675, ARB identified diesel particulate matter (PM) as a toxic air contaminant (TAC) with no specified threshold exposure level. After identifying diesel PM as a TAC, ARB conducted an assessment of the need for regulation pursuant to Health and Safety Code sections 39658, 39665, 39666, and 39667. In 2000, ARB completed this assessment and adopted a *Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles*. The plan included recommendations for the development of control measures for diesel sources. It also established a goal of reducing California's diesel PM emissions and associated cancer risks by 85% by 2020 from 2000 levels.

3.5.2 Because much of the activity at large ports relies on diesel equipment, ports have been a particular focus of ARB diesel PM regulatory activities. To guide these activities, ARB adopted its Emission Reduction Plan for the Ports and Goods Movement in California in April 2006. The plan identified strategies for reducing emissions of diesel PM and other pollutants created by the movement of goods through California ports and was part of the broader Goods Movement Action Plan being jointly carried out by the California Environmental Protection Agency and the Business, Transportation, and Housing Agency.

3.5.3 ARB's *Emission Reduction Plan for the Ports and Goods Movement in California* proposed, among other things, the adoption of regulations to reduce particulate matter and ozone precursor emissions from ships, commercial harbor craft, cargo handling equipment, and trucks.

3.6 ARB Regulations. In implementing its plans and carrying out its responsibilities under state law, ARB adopted, among others, the following regulations:

3.6.1 "Regulation to Establish a Statewide Portable Equipment Registration Program" (California Code of Regulations, title 13, sections 2450 through 2466) and "Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater" (California Code of Regulations, title 17, sections 93116 through 93116.5) (Portable Equipment Regulations).

3.6.2 "Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling" (California Code of Regulations, title 13, section 2485) (Commercial Vehicle Idling Regulation).

- 3.6.3 “Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards” (California Code of Regulations, title 13, section 2479) (Cargo Handling Equipment Regulation).
  - 3.6.4 “Regulation for In-Use Off-Road Diesel Vehicles” (California Code of Regulations, title 13, sections 2449, 2449.1, 2449.2, and 2449.3) (In-Use Construction Equipment Regulation).
  - 3.6.5 “Emission Limits for Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline” (California Code of Regulations, title 13, section 2299.5) and “Airborne Toxic Control Measure for Diesel Engines on Commercial Harbor Craft Operated Within California Waters and 24 Nautical Miles of the California Baseline” (California Code of Regulations, title 17, section 93118.5) (Commercial Harbor Craft Regulations).
  - 3.6.6 “Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port” (California Code of Regulations, title 13, section 2299.3 and title 17, section 93118.3) (Shore Power Regulations).
  - 3.6.7 “Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks” (California Code of Regulations, title 13, section 2027) (Drayage Truck Regulation).
  - 3.6.8 “Airborne Toxic Control Measure for Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels Within California Waters and 24 Nautical Miles of the California Baseline” (California Code of Regulations, title 17, section 93118.2) and “Fuel Sulfur and Other Operational Requirements for Ocean-Going Vessels Within California Waters and 24 Nautical Miles of the California Baseline” (California Code of Regulations, title 13, section 2299.2) (Vessel Fuel Sulfur Regulations).
  - 3.6.9 “Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate” (California Code of Regulations, title 13, section 2477) (Transport Refrigeration Regulation).
  - 3.6.10 “Airborne Toxic Control Measure Limiting Onboard Incineration on Cruise Ships and Oceangoing Ships” (California Code of Regulations, title 17, section 93119) (Vessel Onboard Incineration Regulation).
- 3.7 Legal Authority for ARB Regulations. For each of the regulations listed above, ARB’s authority for adoption of the regulations is (1) one or more provisions related to its authority to adopt standards and other requirements for motor vehicle and off-road or non

vehicular engines or vehicles, including, but not limited to, Health and Safety Code sections 39618, 43013, and 43018, and/or (2) one or more provisions related to its authority to adopt Airborne Toxic Control Measures, including, but not limited to, Health and Safety Code sections 35658, 39666 and 39667.

### 3.8 Enforcement Authority

#### 3.8.1 ARB Enforcement Authority

- 3.8.1.1 Health and Safety Code section 39515 directs the Board to appoint an Executive Officer, who shall serve at the pleasure of the Board, and provides that the Board may delegate any duty to the Executive Officer that the Board deems appropriate, except that certain statutory reviews by the Executive Officer of district attainment plan activities are subject to the California Administrative Procedure Act.
- 3.8.1.2 Health and Safety Code section 39516 provides that any power, duty, purpose, function, or jurisdiction which the Board may lawfully delegate shall be conclusively presumed to have been delegated to the Executive Officer unless it is shown that the Board, by affirmative vote recorded in its minutes, specifically has reserved the same for the Board's own action.
- 3.8.1.3 Resolution 78-10, adopted by the Board on February 23, 1978, identifies powers, duties, purposes, functions and jurisdictions that the Board has specifically reserved unto itself.
- 3.8.1.4 Resolution 05-40, adopted by the Board on July 21, 2005, specifically reserves to the Board authority to ratify or amend any memorandum of understanding with air pollution sources unto itself.
- 3.8.1.5 Enforcement of ARB regulations is not a power or function that the Board has specifically reserved to itself under Resolution 78-10 or Resolution 05-40 and is therefore conclusively presumed to have been delegated to the ARB Executive Officer.
- 3.8.1.6 In carrying out ARB enforcement responsibilities, the ARB Executive Officer may delegate the performance of ministerial tasks, including the investigation and determination of facts preliminary to agency action. (*California School Employees Assn. v. Personnel Com. of Pajaro Valley Unified School Dist.* (1970) 3 Cal.3d 139.)

- 3.8.2 BAAQMD Enforcement Authority Pursuant to Health and Safety Code section 40001, BAAQMD is required to enforce rules and regulations, including applicable state and federal law, to achieve and maintain the state and federal ambient air quality standards.

3.9 Need for Enforcement of ARB Regulations

- 3.9.1 BAAQMD has identified, through modeling in connection with its Community Air Risk Evaluation (CARE) program, various geographical areas within the San Francisco Bay Area that have higher-than-average emission density and concentration of diesel particulate matter.
- 3.9.2 Compliance with the ARB regulations is necessary to achieve significant reductions in emissions of diesel PM and other pollutants in these areas and throughout the Bay Area.

**4. AGREEMENT**

4.1 Authorization to Enforce

- 4.1.1 ARB authorizes BAAQMD to conduct investigations to determine compliance with the regulations listed in section 3.6 of this MOU, as well as any subsequent amendments to those regulations.
- 4.1.2 ARB authorizes BAAQMD to issue Notices of Violation (NOV)/citations for violations of any of the regulations listed in section 3.6 of this MOU, as well as any subsequent amendments to those regulations.
- 4.1.3 ARB retains enforcement authority to enforce the regulations listed in section 3.6, and this MOU shall not be interpreted to diminish in any manner ARB authority to enforce its regulations, either alone or jointly with BAAQMD.
- 4.1.4 This authorization shall not be interpreted to impose upon BAAQMD any obligation to enforce any of the regulations listed in section 3.6 of this MOU.
- 4.1.5 Variances from state law are prohibited under Health and Safety Code section 42350. Nothing in this MOU shall be interpreted to allow variances from the regulations listed in section 3.6 or any other state regulation.

4.2 Standards of Performance

- 4.2.1 BAAQMD shall carry out enforcement activities pursuant to this MOU in accordance with ARB regulations, rules, policy, guidance, and training.
- 4.2.2 BAAQMD enforcement activities pursuant to this MOU shall be carried out by qualified inspectors or trained enforcement staff.
- 4.2.3 ARB shall provide BAAQMD with periodic training as needed.

4.2.4 In the event of a disagreement between BAAQMD and a third party regarding the interpretation of an ARB regulation, ARB will be notified and will provide assistance.

4.3 ARB Oversight

4.3.1 ARB personnel may accompany BAAQMD personnel on all inspections and other enforcement activities and may review any BAAQMD records related to enforcement of the regulations listed in section 3.6. BAAQMD personnel may accompany ARB personnel on inspections for purposes of training, ensuring consistency, and joint enforcement.

4.3.2 ARB may periodically evaluate the performance of BAAQMD in enforcing the ARB regulations and shall review and discuss any evaluations with BAAQMD with a primary aim of ensuring consistency between ARB and BAAQMD enforcement activities.

4.3.3 For all inspection activities conducted pursuant to this MOU, BAAQMD shall submit to ARB semiannual reports describing the number of inspections conducted and listed by type, date and location, the number of NOV/citations issued, and the date, recipient, and regulation cited for each NOV/citation.

4.4 Enforcement Coordination

4.4.1 BAAQMD shall use ARB-approved inspection, NOV/citation, and recordkeeping forms, developed either by ARB or BAAQMD.

4.4.2 ARB and BAAQMD will coordinate all enforcement activities and may conduct joint inspections and investigations.

4.4.3 BAAQMD will refer all NOV/citations to ARB for resolution, unless otherwise agreed to by both parties. ARB may pursue litigation or settlement using the authority, mechanisms, and remedies available to it under California law.

4.4.4 Either Party may pursue compliance initiatives aimed at particular classes of violations or facilities. The Parties will cooperate in the execution of any such initiatives.

4.5 Civil Penalties. When BAAQMD issues a NOV/citation for violation of a regulation listed in section 3.6 and refers the violation to ARB for litigation or settlement, any civil penalties for the violation shall be shared equally between the Parties.

4.6 Term. This MOU shall be effective upon full execution by both Parties and shall continue in full force and effect unless terminated by either Party pursuant to the terms of the MOU.

- 4.7 Termination. Either Party may terminate this MOU for any reason by providing a written notice of its intent to terminate no later than 60 days before the date of termination.
- 4.8 Indemnification. Each Party agrees to indemnify, defend and hold harmless the other party, and the officers, employees, agents and contractors of the other, from and against any claims, liabilities, costs or losses of any kind that arise from, or are alleged to arise from the Party's actions under or the performance of this MOU, except for any such loss, damage, injury or death to the extent caused by the active negligence or other wrongful conduct of the other Party.
- 4.9 Entire Agreement. This MOU represents the entire agreement of the Parties, and merges and supersedes any prior written or oral representations, discussions, understandings or agreements by or between the Parties relating to the subject matter of this MOU.
- 4.10 Modification. No addition to or modification of any term or provision of this MOU will be effective unless set forth in writing and signed by an authorized representative of each of the Parties.
- 4.11 Authority. Each Party represents and warrants that it has the right, power, and authority to execute this MOU. Each Party represents and warrants that it has given any and all notices, and obtained any and all consents, powers and authorities, necessary to permit it, and the persons executing this MOU for it, to enter into this MOU.
- 4.12 Third Parties. This MOU shall not be construed to bind any Party in any manner with respect to any person or entity that is not a Party to this MOU, or a successor or assign of a Party.
- 4.13 Notices. Any notice or report required or permitted to be given under this MOU shall be in writing and shall be deemed to be given when served personally, or on the third day after mailing if mailed in the United States mail, postage prepaid, addressed to the address for each Party set forth below:

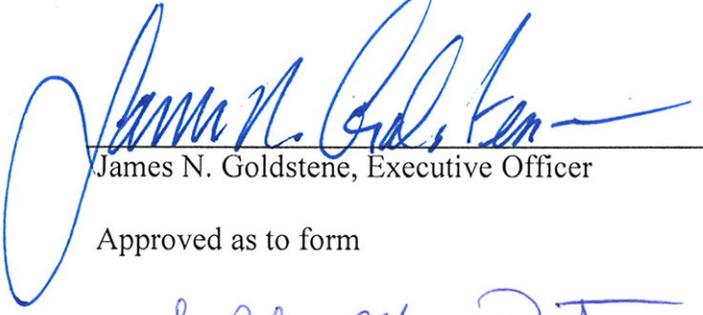
To ARB:                      Attention: James Ryden  
   Chief of the Enforcement Division  
   California Air Resources Board  
   1001 "I" Street  
   P.O. Box 2815  
   Sacramento, CA 95812

To BAAQMD:                Attention: Kelly Wee  
   Director, Compliance and Enforcement Division  
   Bay Area Air Quality Management District  
   939 Ellis St.  
   San Francisco, CA 94109-7714

IN WITNESS WHEREOF, this MOU has been executed by the parties hereto.

CALIFORNIA AIR RESOURCES BOARD

BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

  
James N. Goldstene, Executive Officer

  
Jack P. Broadbent, Executive Officer/APCO

Approved as to form

Approved as to form

  
Ellen M. Peter, Chief Counsel

  
Brian C. Bungler, District Counsel

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and  
Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 19, 2009

Re: Update of Shorepower at the Port of Oakland

RECOMMENDED ACTION

None, Information only.

BACKGROUND

As part of its efforts to reduce emissions at California ports, the California Air Resources Board (CARB) enacted an Air Toxics Control Measure (ATCM) for "*Auxiliary Diesel Engines Operated on Oceangoing Vessels At Berth in a California Port*" in December, 2007. This regulation requires that vessel owners, marine terminal operators and California ports work together to reduce the emissions caused when ships run/idle their engines to provide power for onboard activities while docked. The regulation offers a number of different compliance scenarios to terminal operators and vessel owners and requires reporting from each affected port. As part of this report, staff will give an overview of the regulation, discuss the costs and issues with compliance at the Port of Oakland (Port), and review Bay Area Air Quality Management District (District) actions regarding shorepower at the Port to date.

DISCUSSION

***Who Is Subject to the Regulation at the Port?***

The Port's operation depends on the import and export of cargo. While the regulation offers a number of different exemptions, cargo fleets whose vessels visit Oakland more than 25 times in a year are subject to the requirements of the regulation. This means that all of the major terminals and vessel fleets visiting Oakland are subject to the rule's requirements. In many cases the vessel fleets and terminals in Oakland are owned by the same parent companies.

***What Does the Regulation Require?***

The regulation requires that vessel owners and terminal operators choose between two emissions reductions options, these options are as follows:

**Grid-based Shorepower** - This is where a ship is hooked up directly to the California electrical grid system and is drawing power directly from a utility company.

**Alternative Compliance** - Ships have the ability to:

- Get power from onshore generators (such as the LNG generator funded by the District as a demonstration project in 2007). These generators have to be equivalent to the electrical grid in terms of emissions.

- Capture and treat emissions from the vessel's auxiliary engines as an alternative to utilizing electricity for onboard operations.
- The vessel itself can have an onboard engine that can provide power to the vessel but this engine has to be equivalent to the electrical grid in terms of emissions.
- The vessel could possibly use a special fuel, has to meet an equivalent emission standard to the electrical grid.
- Other methods that would reduce emissions equivalent to the ship being powered by the electrical grid.

Under the regulation, terminals and vessel fleets were required to report to the CARB by July 2009, if they were going to choose an alternative compliance path. Based on the reports submitted, all of the facilities at the Port of Oakland have chosen to utilize grid-based shorepower to comply with the regulation. Additionally, by choosing this option, 50% of the vessels visiting the Port of Oakland must be able to plug into grid-based shorepower by July 2014.

### *Costs*

The Port estimates that the cost to meet the first regulatory requirement is approximately \$90 million. This expenditure would provide at least one grid-based electrical berth to all but two terminals at its facilities. The two terminals not included in the calculation are Ports America, who are required to provide their own electrical infrastructure under a concession agreement with the Port and the APL shipping line who is utilizing a combination of private funding (\$6.2 million) and District funding (\$4.8 million - \$2 million from the Carl Moyer program, \$2.8 million in Goods Movement Bond funding) to electrify their berths and vessels.

### *Issues*

#### Infrastructure:

Installation of shorepower infrastructure is complicated at the Port of Oakland due to a number of factors. These include the fact that both the Port and PG&E are the electrical utility providers for the majority of terminals in Oakland. This requires both entities to negotiate on the provision of power to the dock. In November 2009, the Port executed a contract with Moffat & Nichol, an engineering consultant, to provide design specifications for a comprehensive shorepower system at their Oakland terminals. A preliminary design specification is expected from them in the March/April 2010 timeframe.

In addition to design complexities, there is a long lead time (up to 2 years) associated with planning and purchase of the infrastructure equipment, construction and equipment placement. To date no equipment has been specified or ordered for this project.

#### Grant Funding:

*District Funding* - The District has made Carl Moyer Program (CMP) and Mobile Source Incentive Funding (MSIF) available to Port terminals via its annual solicitations in these programs. While staff has had several meetings with terminal operators and vessel owners, to date only APL has chosen to avail itself of District funding. Due to the surplus to requirements of the CMP and MSIF programs, this funding will no longer be available to applicants following December 2010. In October 2009, the District again contacted all of the terminal operator and vessel owners at the Port to inform them about this funding. A number of terminals have expressed interest in the funds but no applications have been filed with staff to date.

In addition to this funding, shorepower is an eligible category under the California Goods Movement Bond (I-Bond). This funding source has different surplus requirement to the programs mentioned above which could provide additional time for funds to be used at the Port. However, due to a California state budget crisis funding from this revenue stream has been uncertain. The District continues to work with CARB to secure more of these funds for this and other projects.

*Federal Funding:*

*United States Department of Transportation (USDOT) TIGER:* In order to fund some of the \$90 million required, the Port has applied for \$26 million in USDOT TIGER monies. These dollars are being leveraged against \$51 million from the Port's own capital improvements budget. However, the USDOT solicitation is nationwide and expected to be very competitive. The Port will not be notified until February 2010, as to whether or not it has been successful in this application. In the event that they are successful, they will have only until 2012 to spend this funding, a short turnaround for projects of this magnitude. In support of this application, the District has provided the Port of Oakland with a letter recommending their project to the USDOT.

*United States Environmental Protection Agency (USEPA) DERA:* Based on input received at the Ad Hoc Committee on Port Emissions meeting on October 26, 2009, District and Port staff has been working on an application to fund a number of Oakland terminals. However, awards under this program are limited to a maximum of \$3 million and are not enough to close the current gap in funds available to the Port for the entire shorepower project.

Terminal owners are very interested in this funding and a number of application proposals are currently under review by staff. Each of these proposals includes the entire electrical infrastructure necessary to plug ships in by 2012, providing emissions reductions two years earlier than required by CARB regulations. Matching funding for USEPA dollars will be provided by both the Port and the private entity for which the District will apply under this solicitation. Staff will update the Committee on the final scope of its application to USEPA which is scheduled to be submitted on December 8, 2009.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None; Informational report.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Damian Breen  
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: November 18, 2009

Re: Consideration of Proposed Revisions to Transportation Fund for Clean Air  
Regional Fund Project Approval Process

RECOMMENDED ACTION

Request that the Committee recommend the Board of Directors (Board) authorize the Executive Officer/APCO:

1. To execute Grant Agreements for projects funded by the Transportation Fund for Clean Air (TFCA) Regional Fund, with individual grant awards up to \$100,000; and
2. To execute no-cost amendments for TFCA Regional Fund projects, provided each project continues to meet all applicable Board-approved Policies.

BACKGROUND

In 1991, the California State Legislature authorized the Air District to impose a \$4 surcharge on motor vehicles registered within the San Francisco Bay Area to fund projects that reduce on-road motor vehicle emissions. The Air District has allocated these funds to its Transportation Fund for Clean Air (TFCA) to fund eligible projects. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

Sixty percent (60%) of TFCA funds are awarded directly by the Air District through a grant program known as the Regional Fund. The remaining forty percent (40%) of TFCA funds are forwarded to the designated agency within each Bay Area county and distributed by these agencies through the Program Manager Fund. Portions of the TFCA Regional Fund (Regional Fund) are allocated to eligible programs implemented directly by the Air District, including the Smoking Vehicle Program and the Spare the Air Program. The balance is allocated on a competitive basis to eligible projects using Board-adopted policies and evaluation criteria.

DISCUSSION

For previous TFCA Regional Fund cycles, the Air District utilized a Request for Proposal (RFP) approach to project solicitation, evaluation, and selection. Under this system, applications could only be made for a limited period during a set time of the year, and could not be considered outside of this narrow window. In many cases, this caused good emissions reductions projects to have to either wait until following funding cycles or fall out of the program altogether.

In March 2009, the Air District shifted to a phased “on-going” call for Regional Fund projects, starting with the projects that are most dependent on timely notification of award (i.e., shuttles and rideshare projects). This change allows greater flexibility to project sponsors who can now make an application to the Regional Fund on a year-round basis. To build on this flexibility, staff is proposing that the Board authorize the Executive Officer/APCO to approve grant awards for projects up to \$100,000. This would enable the Air District to expedite the process by which it evaluates applications, makes awards, and enters into contracts without compromising the accountability of the program. Approval of the proposed change would bring multiple benefits including the following:

- One of the major criticisms of the current program is the four to six-month turnaround for funding approval. With many cities, counties and private entities having to comply with California Air Resources Board regulatory requirements, timely disbursement of funding can increase surplus emissions reductions and reduce the costs and burdens of early as compliance.
- An open call with delegated Executive Officer/APCO approval provides more opportunities and flexibility for grantees (especially cities, counties, and small businesses) to apply for and get Air District funding quickly.
- An increase the volume of eligible applications and successfully implemented projects.

### **Sources of Funding Requiring Expedited Action**

The proposed changes will also help to leverage other funding opportunities from sources such as CALSTART and the California Energy Commission (CEC). Both of these sources will begin to provide Assembly Bill (AB) 118 funding for projects in early January of 2010. However, much of this money will be available on either a first-come first-served basis or will require an aggressive (four to six weeks) application turnaround.

In response to flexibility requested by Bay Area cities and counties, the District plans to allow Regional Fund applicants the ability to request that the District seek matching funds from these sources. Preconditions for such applications to CALSTART and the CEC are that projects would have secured TFCA Regional Funding and that that funding could be used as match against AB 118 monies. This lessens the budgetary burden on many cities and counties and will ultimately increase the funding available for alternative fuels and infrastructure projects. In order to ensure opportunities are not lost, staff is recommending the streamlined Executive Officer/APCO approval process.

### **Other District Programs Using Streamlined Approval**

A streamlined approval process is currently used in several other Air District incentive programs (e.g., Carl Moyer Program, Goods Movement Program, Lower Emission Schoolbus Program (LESBP), Bicycle Facility Program) to deliver faster turnaround and to ease program administration for both applicants and Air District staff. Additionally, the recommendation to authorize the Executive Office/APCO to approve grant awards is comparable to the authority granted by other air districts of similar size, to approve projects under an open call project solicitation processes. With Board approval of the staff recommendation staff would begin the delegated process of project selection beginning in late December 2009.

## **No-Cost Amendments**

Staff is also proposing a delegated approval process to the Executive Officer/APCO for no-cost amendments to TFCA Regional Fund agreements that meet the TFCA policy criteria defined by the Board. This streamlined approval process would benefit project sponsors by expediting the amendment process.

## **Executive Officer/ APCO Approval Criteria**

Grant Agreements and amendments executed by the Executive Officer/APCO would meet the following requirements:

1. Projects must meet the requirements of the TFCA Regional Fund guidance and Board-adopted policies, including cost-effectiveness and minimum point score against the Evaluation Criteria.
2. No single project with a grant amount greater than \$100,000 would be authorized by the Executive Officer/ APCO. Projects with grant awards greater than \$100,000 will be brought to the Air District's Board of Directors for approval quarterly.
3. No-cost amendments meeting Board-adopted policies would be executed by the Executive Officer/APCO.

Grant Agreements authorized by the Executive Office/APCO for funding will be reported to the Mobile Source Committee quarterly and posted on the Air District's website.

## **BUDGET CONSIDERATION / FINANCIAL IMPACT**

The TFCA Regional Fund Program distributes "pass-through" DMV funds to public agencies and private companies for qualifying, eligible projects. Staff costs for the administration of the TFCA Regional Fund Program is included under Program 308—Transportation Fund for Clean Air—in the current FY 2009/2010 budget, and will be included in the upcoming FY 2010/2011 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Karen M. Schkolnick  
Reviewed by: Damian Breen