



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
AD HOC COMMITTEE ON PORT EMISSIONS

COMMITTEE MEMBERS

NATE MILEY – CHAIRPERSON  
TOM BATES  
SCOTT HAGGERTY  
MARK ROSS

DAN DUNNIGAN – VICE CHAIRPERSON  
JOHN GIOIA  
YORIKO KISHIMOTO  
GAYLE B. UILKEMA  
BRAD WAGENKNECHT

THURSDAY  
JANUARY 22, 2009  
9:30 A.M.

4<sup>TH</sup> FLOOR CONFERENCE ROOM

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 17, 2008**

4. **UPDATE ON ACTIVITIES RELATED TO THE PORT OF OAKLAND**

J. Roggenkamp/4646  
[jroggenkamp@baaqmd.gov](mailto:jroggenkamp@baaqmd.gov)

*The Committee will discuss and receive an update on actions related to the Port of Oakland.*

5. **CLOSED SESSION: POTENTIAL LITIGATION (Government Code Sections 54956.9(b) and 54956.9(c))**

*Pursuant to Government Code Sections 54956.9(b) and 54956.9(c), a need exists to meet in closed session to discuss potential litigation regarding two matters.*

6. **OPEN SESSION**

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 - AT THE CALL OF THE CHAIR**

9. **ADJOURNMENT**

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

**(415) 749-5073  
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 Clerk's 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 AIR DISTRICT MEETINGS**

**JANUARY 2009**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Advisory Council Retreat	Wednesday	14	10:00 a.m.	Board Room
Joint Policy Committee	Friday	16	10:00 a.m.	MTC Auditorium 101 8 <sup>th</sup> Street Oakland, CA 94607
Board of Directors Regular Meeting/Retreat <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Claremont Hotel & Spa 41 Tunnel Road Berkeley, CA 94705
Board of Directors Ad Hoc Cme. on Port Emissions – <i>(At the Call of the Chair)</i>	Thursday	22	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Mobile Source Committee – <i>(Meets 4<sup>th</sup> Thursday of each Month)</i>	Friday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets 4<sup>th</sup> Wednesday of each month)</i>	Wednesday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**FEBRUARY 2009**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 4<sup>th</sup> Monday of the Month)</i>	Monday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets 4<sup>th</sup> Wednesday of each month)</i>	Wednesday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
Board of Directors Mobile Source Committee – <i>(Meets 4<sup>th</sup> Thursday of each Month)</i>	Thursday	26	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## MARCH 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	4	9:45 a.m.	Board 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	18	9:45 a.m.	Board Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets 3<sup>rd</sup> Thursday of every other Month)</i>	Thursday	19	9:45 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Joint Policy Committee</b>	Friday	20	10:00 a.m.	MTC Auditorium 101 8 <sup>th</sup> Street Oakland, CA 94607
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets 4<sup>th</sup> Wednesday of each month)</i>	Wednesday	25	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 of each Month)</i>	Thursday	26	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
HL - 1/13/09 (8:20 a.m.) P/Library/Forms/Calendar/Calendar/Moncal				

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Miley and Members  
of the Ad Hoc Committee on Port Emissions

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 9, 2009

Re: Ad Hoc Committee on Port Emissions Draft Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Ad Hoc Committee on Port Emissions meeting of November 17, 2008.

DISCUSSION

Attached for your review and approval are the draft minutes of November 17, 2008 Ad Hoc Committee on Port Emissions meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

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

**DRAFT MINUTES**

Summary of Board of Directors  
Meeting of the Ad Hoc Committee on Port Emissions  
9:30 a.m., Monday, November 17, 2008

1. **Call to Order – Roll Call:** Acting Chairperson Pamela Torliatt called the meeting to order at 9:40 a.m.

**Present:** Mark Ross, Tim Smith and Pamela Torliatt

**Absent:** Tom Bates, Scott Haggerty, Liz Kniss and Gayle B. Uilkema

**Arrived After Roll Call:** Nate Miley; Chairperson; John Gioia, Vice Chairperson

2. **Public Comment Period:** There were none.

3. **Approval of Minutes of July 2, 2008:** Deferred; action taken later in the meeting.

4. **Overview of the Port of Oakland Maritime Air Quality Improvement Plan (MAQIP):**  
*Staff provided an overview of the Port of Oakland Maritime Air Quality Improvement Plan (MAQIP).*

Deputy APCO, Jean Roggenkamp, gave a brief overview and update of the Port of Oakland's Maritime Air Quality Improvement Plan (MAQIP), the Port's master plan for air quality policies and goals for sea port operations. Ms. Roggenkamp described the goals and strategies of the plan which are to reduce the health risks from Port sources by 85% by the year 2020 through all practicable and feasible means and adopt funding mechanisms, including the imposition of fees, to fund air emissions reduction measures.

Based on the MAQIP goals, the Port is committed to a three-fold emissions reduction strategy:

1. Target emissions reductions earlier than required by regulations;
2. Support enforcement of regulations; and
3. Target emissions reductions above and beyond those required by law.

She reported that the development of the MAQIP began in 2006 at which time a task force of 35 members was formed. Four co-chairs served on the Committee representing the Port of Oakland, the Air District, the West Oakland Environmental Indicators Project, and GSC Logistics, Inc. Eight meetings were held. The MAQIP is scheduled for adoption by the Port in December 2008.

The main features of the plan include:

- A container fee of \$25 per 40 foot container;
- Clean trucks in advance of ARB regulations;
- The support for enforcement of ARB mobile source regulations;

- Shore power for container ships;
- Terminal redesign/efficiency improvements;
- A Stakeholder Advisory Committee.

Ms. Roggenkamp then outlined next steps and a schedule of key Committee and Commission meetings.

Director Ross questioned the gap in the schedule between the spring 2009 selection of the stakeholder advisory group for implementation of the MAQIP and the 2010 timeframe for update of emission inventory and health risk analysis. He suggested a quicker timetable be provided for updates.

Ms. Roggenkamp noted that emissions inventory work is very thorough and takes a significant amount of time. Staff is supportive of moving more quickly and could work further with the Port of Oakland. She noted that the interagency group will continue to meet and urge the Port to move quickly, as well.

Mr. Broadbent said staff is complimentary of the multiple stakeholder process the Port undertook and applauded them for hearing concerns. The draft plan was released in June and staff felt it did not contain sufficient commitments to show the Port will be moving forward to address the risk in the West Oakland community. The District's largest concern is that the plan will be adopted by the Port and it will not necessarily move forward. He noted that a high priority will be the adoption of additional agreements relating to enforcement of CARB regulations to ensure commitment of the MAQIP takes place.

Mr. Broadbent, in responding to Director Smith, confirmed that after a fully vetted public process, legally enforceable agreements identifying the District's role in enforcing CARB regulations would be developed and available monies would be made for retrofits and replacements.

Director Torliatt thanked the Port of Oakland, the community, and District staff for all work to date, said she hoped that implementation of the plan will move forward and requested a report back from the Executive Officer at the Board of Directors meeting on December 3<sup>rd</sup>.

There were no public comments. Vice Chairperson Gioia arrived and led the meeting. Due to a continued lack of a quorum, Vice Chairperson Gioia asked to hear Item 6 ahead of Item 5 on the agenda.

**6. Discussion of Comprehensive Truck Management Plan:** *Staff discussed developments regarding potential comprehensive truck management plan at the Port of Oakland.*

Executive Officer/APCO, Jack Broadbent said the Comprehensive Truck Management Plan (CTMP) is considered to be part of an overall strategy dealing with drayage trucks. The plan is an important element in terms of emissions reductions at the Port, and he said Chair Hill had requested agendaizing the item for discussion.

Mr. Broadbent said the CTMP is a solution for the future of the trucking industry for the Port of Oakland. It contains elements of security, operations, truck routes, parking, community involvement, local jobs and it addresses contributions the truck have in terms of impacts for the West Oakland community and Bay Area as a whole.

The CTMP multi-stakeholder process began in February 2007. It incorporates elements vital to air quality improvement such as a user fee. The District is the recipient of I-Bond monies, a portion of which are directed towards reducing emissions in and around the Port, including from drayage trucks.

Mr. Broadbent described actions to date by the District which included submittal of a plan to expend funding which was approved by the ARB in May 2008. The District conducted extensive outreach and a call for projects in August. The District received 1,954 applications for \$63,335,000.

Mr. Breen reported that \$6 million of these funds were segregated for drayage truck clean up. In addition, the Port of Oakland provided \$5 million additional dollars and the Committee and Board acted to approve \$5 million in TFCA funding to match the Port of Oakland and I-Bond funding. He then discussed projects and applications recommended by category and the amount recommended, noting that the bulk of the funding will go towards retrofit and replacement of trucks.

Outstanding issues include:

- The availability of 2009 NOx-compliant ARB certified retrofit devices;
- Confusion for drivers of the CTMP not being in place; and
- LA Port having a CTMP that requires “employee drivers”.

Next steps of the Air District are to take recommendations for projects to the Mobile Source Committee following the November 19<sup>th</sup> Board of Directors meeting, and then the matter will be addressed by staff with the Port of Oakland Board of Commissioners on November 19<sup>th</sup> where they will be encouraged to move forward with user fees and adoption of a CTMP program.

Mr. Broadbent re-emphasized that the District is getting the question regarding support of the employee-based model which is in place in the Port of Los Angeles. Meanwhile, CARB has statutory requirements for retrofit that become effective January 2010 for drayage trucks for an 85% diesel particulate emissions reduction. He said the Port is going through debate and discussions relating to an employee-based model. They are conducting an economic study for completion in February of 2009 and those recommendations will go to the Port Commission where a decision will be made in the February/March timeframe.

Vice Chairperson Gioia confirmed that the State funding requirements do not require a particular model and it is within the discretion of the Port. Mr. Broadbent said because deadlines are imminent, it is prudent to move forward with applications received and he believes the Port and unions will work out the matter in the spring. He said this recommendation would be made to the Mobile Source Committee on Wednesday.

Director Ross questioned what would happen if the model changes, assuming the Port catches up with the rest of the State and the District has already awarded grants. Mr. Broadbent said the Port is not definitive as to how this will be laid out. Once the study is completed and after discussions and deliberations take place, if they decide to go to an employee-based model, companies that provide drayage truck service would need to be sure to utilize retrofitted trucks.

Director Smith questioned if the lack of an adopted CTMP would prevent the retrofits from occurring and also questioned what would occur if deadlines were not met. Mr. Breen said there has not been interaction between them, but because of the impending deadline, the District must move forward to obtain the air quality benefit. Therefore, one is not dependent upon another. If deadlines were not met, and if a trucking firm retrofit/replaced its truck and



then a model is put into place at the Port and those drivers are not made available to provide service, the District would need to talk to CARB so that those trucks could still be utilized in the Bay Area.

Director Torliatt questioned how the District differentiates whether or not to retrofit or replace a drayage truck. Mr. Breen said this is left up to applicants' discretion and those emitting the most get funded first. He confirmed truckers are required to submit their VIN numbers; they also must be registered in California for two years prior to being considered, and the ARB is currently compiling a registry of all drayage trucks in California which will be completed in March 2009.

Director Torliatt asked for a way to ensure those retrofitted trucks actually remain in the Bay Area. Mr. Breen said there is a requirement for documentation by truckers to qualify by doing at least 150 trips to the Port annually. Mr. Broadbent said this requirement would also be included in the agreement in order to ensure those trucks are making trips to the Port.

Public Comments:

Doug Bloch, Director of the Coalition for Clean and Safe Ports, asked that the trucking system at the Port be sustainable, efficient, and deliver benefits to the Port and its customers. He voiced concern that without structural reforms, efforts to clean up the truck fleet will fail because independent truck drivers are asked to shoulder all costs, and they cannot afford equipment upgrades. He asked for the Port to adopt a CTMP to ensure money is well spent, and thanked District staff for their work.

Valerie Lapin, Change To Win/Coalition for Clean and Safe Ports, spoke on behalf of the independent truckers who she said are waiting for loads and could not be present. She spoke of trucks idling and polluting, trucker's costs and take home pay, and asked that the Port require trucking companies to hire drivers as employees.

Diane Bailey, Scientist with the Natural Resource Defense Council (NRDC), said she is grateful for the District's involvement and leadership on the issue and urged continued involvement. NRDC fought hard for a strong Port regulation with the Air Board and hopes to see the regulation enforced, citing tremendous health impacts if the regulation is not timely enforced. She spoke of increasing levels of asthma, the Port of LA's employee-based model, significant reductions in emissions, and urged continued leadership on the issue.

Ray Kidd spoke of West Oakland health impacts and urged adoption of the CTMP.

Milton Lewis, Vice President, Teamsters Local 70, spoke of his work in the Port and compared union drivers with independent truckers who have poor wages, live in their trucks, breath bad fumes, have no health benefits, and believed the situation was a significant economic impact on those drivers and on their families.

Tom McKibbin, Teamsters Local 70, said drivers are struggling; they have many concerns and are confused about the retrofit/replacement project. They do not speak English as a first language and he believed none of the drivers would be able to pay for retrofits. He confirmed with Director Torliatt that they are working to inform drivers and agreed to contact District staff to further receive assistance.

Christine Cordero, Center For Environmental Health, believes clean air regulations set up to protect communities are linked to the truck system at the Port and are the biggest source of

pollution. She supported trucking companies paying for the retrofits and hiring drivers as employees, and she thanked the District for their efforts.

Joel Ramos, Trans Form, supported the District's work to address the issue. He felt truckers are suffering, wanted a long-term solution and felt it was wrong to ask truckers to shoulder the cost in such a strained economy.

Zachary Goldman, Coalition for Clean and Safe Ports, shared details of the Port of Los Angeles' incentive program and said they fund replacements completely from their container fee. The total cost of a new truck is \$30,000; the Port has also told trucking companies that if they bring in a new 2007 truck, they will give truckers \$20,000 upfront and over the year as they use the truck, they will provide a discount on the container fee of \$10,000 every time they use the Port.

Aditi Vaidya, East Bay Alliance for a Sustainable Economy, thanked the District for its leadership in reducing emissions from trucks. They understand and respect the role to enforce CARB regulations and spoke of trucker salaries, the inability to pay for retrofits, and she said she supported hiring drivers as employees and believed it is the Port's responsibility to adopt a comprehensive plan as soon as possible.

Mr. Broadbent noted that on November 19<sup>th</sup>, the item will be considered on the Port Commission's agenda. The Port has invited him and a CARB member to specifically discuss this issue and the MAQIP discussion, as well. The District will push the Port to move toward a long-term, sustainable solution and the Port needs to implement a container fee because all grant monies will only be able to provide initial funding.

Mr. Broadbent noted that it is critical for the Port to move forward with adoption of a container fee, the MAQIP, an economic study which would provide recommendations for a trucking model and reiterated CARB requirement deadlines. He further discussed the need for the Port to move swiftly, discussed deadlines to avoid the Port not having enough trucks to service ships coming in. He also said the District has received applications for retrofits, this is a viable alternative in the short term for drayage trucks; however, the way CARB guidelines read, if someone elects to retrofit their truck, they cannot avail themselves of future monies for purchasing a new truck, and the District would like to convince CARB to change that guideline. He said also, because there is a future lower emissions standard for drayage trucks and a filter device is only good for about 4 years, it is only short term solution at best. Therefore, the District believes CARB should revisit this standard as well. The better solution is, of course, to replace the truck fleet, which is a cleaner and longer term solution.

Directors requested Mr. Broadbent report to the Mobile Source Committee about what the Port of Los Angeles is doing with their program at the meeting of November 19, 2008. Mr. Broadbent said CARB has implemented an additional NOx requirement, which was not contained in the guidelines until recently and it somewhat limits the number of retrofit control devices, which he said will also be covered in more detail. Regarding whether it makes sense to retrofit trucks in general, he believes that it does represent a viable option for some trucks, but the District will need to communicate with the state for those trucks to be used elsewhere. A second round of I-Bond funding will need to go out as well, which may or may not be able to be utilized for retrofits. But, because they represent a viable alternative, they have as many as 300 viable retrofit applications currently, which will be recommended to the Mobile Source Committee. If successful and they are recommended to the full Board of Directors, staff will need to have CARB to change some of the guidelines to use some of those trucks in a longer type of situation. He said CARB has indicated they would be willing to consider changing their guidelines at their January Board meeting, but if they do not, the backup plan would be to work

with CARB to allow those retrofitted trucks to be utilized in the Bay Area as a whole. He said CARB seem to be willing to consider some of the changes. If not allowed, the District will pursue the Mobile Source Committee recommending that the Board speak with the CARB representative and write a letter to undertake this.

3. **Approval of Minutes of July 2, 2008:** Director Gioia moved approval of the minutes, seconded by Director Smith; carried unanimously without objection.
5. **Green Ports Initiative Implementation Plan:** *The Committee considered recommending Board of Directors approval to the accompanying "San Francisco Bay Area Green Ports Initiative – Program Description and Plan"*

Mr. Broadbent recommended that the Committee consider the Green Ports Initiative and forward it to the Board of Directors for their consideration on November 19, 2008. He introduced Bill Guy who would present the item.

Assistant Counsel, Bill Guy, said there is a need for an overriding document for a Green Ports Initiative program description and plan. The matter was discussed last year at the Board Retreat and the Port agreed to proceed with the initiative in January 2007, which was intended to reduce diesel PM emissions using regulations and grants. He discussed developments since that time, gave a background on the West Oakland HRA and its findings, a background on ARB regulations by source category and expected statewide diesel PM emission reductions, the effect of ARB regulations at the Port, benefits of ARB regulations, enforcement of ARB regulations, and Prop 1 B grant funding of \$35 million. Mr. Guy then described 2005 Port activity data by Port, numbers of ocean-going vessel arrivals, and associated truck trips and he noted that staff is working with the Bay Planning Commission to assess the impact of additional emissions.

He noted that the three program elements of the Green Ports Initiative include:

- Enforcement of ARB regulations on Port mobile sources;
- Grants for earlier or greater emission reductions than required by regulations;
- Targeting and evaluation of efforts through inventories, monitoring and outreach.

Mr. Guy said progress towards attainment of emissions reductions requires quick action and compliance. The grants would be for emissions reductions which are sooner or greater than those required by the regulation. The third element is targeting and evaluation of this effort in moving forward. The three elements for this are inventories, monitoring and outreach. The District has already spoken with ARB on working some issues out such as elements within the regulations that do not clearly grant the District specific authority, as well as how we target violators, how to schedule inspections, where they are and a written agreement will need to be worked out.

He said enforcement of the drayage rule has the potential to cause disruption at the Port, and the District will insist on compliance with rules; however, an agreement is needed as to how enforcement will take place. There are many opportunities for grants, but they are all coming up very soon. At the July meeting, work on inventories is being done for the Port of Oakland and Ports of Benicia, Redwood City, Richmond and San Francisco. Currently they are working on a West Oakland Measurement Study and establishing a permanent monitoring site. Outreach has been done with regard to grants, and this will be continued.

Staff's recommendation is that the Committee adopts the Green Ports Initiative Program description and plan and forward the document to the full Board with a recommendation for approval.

Director Torliatt requested a timeline be prepared as to how the District will achieve this, and Mr. Guy said the timeline is dictated by regulatory requirements, but staff can periodically discuss how they are moving forward. He said they have been talking with community groups and they want the District to play the enforcement role so that everyone knows there is a consequence for not taking steps necessary to get clean trucks or shore power.

Chairperson Miley questioned sources that were non-port related, and Mr. Guy said many of these will be subject to CARB's on-road truck rule, and similar reductions will be mandated.

Public Comments:

Anne Whittington, Port of Oakland, Supervisor of the Maritime Group of the Environmental Program and Planning Division, supported the Green Ports Initiative, believed with CARB and the Port, it will help move along emissions reductions according to regulatory deadlines and in advance of those deadlines and expects the Port to especially work quickly toward compliance efforts. Ms. Whittington thanked the District for TFCA funding, and on December 2<sup>nd</sup> their Board will likely adopt the container user fee and MAQIP. They also added an agenda report to revise the MOU to allow their money and I-Bond money to be used for replacements instead of retrofits, and

John Berge, Pacific Merchant Shipping Association, said they have been active participants in the multi-stakeholder MAQIP process and supported the Green Ports Initiative, and welcomes the Air District's assistance in achieving compliance. He also noted there have been significant international efforts and amongst those targets is set up of emission control areas for low sulfur fuels. They envision it could be out as far as 200 miles from the coast. They are also looking at reductions of 1% sulfur content by 2010 and reaching .1% in 2015. In addition, the requirements being established are dictating engine retrofits to achieve NOx reductions from ship engines.

Rogert Lowther, Clean Air Logix, Inc., discussed cold ironing of ships, noting the Air District has been an early supporter of technology to the electrical power grid. He supported early adoption and the MAQIP, and while there has been a lot of opportunity for truck retrofits and replacements, there is also a huge opportunity for the ship side. They have ships coming into the Port that will be retrofitted with liquid gas generators as a result of the District's and Port's assistance. He thanked the Air District staff and closed with a statistic that one ship day powered by their technology and solution is worth thousands of short haul truck trips.

Mr. Broadbent echoed Mr. Lowther's comments, but voiced concern that the technology is not yet being utilized and the Port needs to avail itself and make this happen.

**Committee Action:** Director Ross made a motion to recommend that the Board of Directors approve the accompanying "San Francisco Bay Area Green Ports Initiative – Program Description and Plan" and forward the recommendation and plan for approval by the Board of Directors plan with the inclusion of a timeline of documents and agreements that need to be in place during the coming year; seconded by Director Torliatt; carried unanimously without objection.

7. **Committee Member Comments/Other Business:** There were none.

8. **Time and Place of Next Meeting:** At the Call of the Chair.
9. **Adjournment:** The meeting adjourned at 11:26 a.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Miley and Members of the  
Ad Hoc Committee on Port Emissions

From: Jack P. Broadbent  
Executive Officer/APCO

Date: January 15, 2009

Re: Update on Activities Related to the Port of Oakland

RECOMMENDED ACTION:

Informational report; receive and file.

BACKGROUND

At the Board of Directors meeting on December 3, 2008, the Board discussed actions by the Port of Oakland related to air quality. Specifically, the Port decided to:

- Postpone adoption of the Maritime Air Quality Improvement Plan (MAQIP), intended to be the Port's master plan for air quality goals and policies for seaport operations;
- Postpone action on a container fee, intended to fund air quality and infrastructure improvement projects;
- Postpone use of Port funding (\$5 million) for the joint Port/Air District drayage truck retrofit program until after the Port adopts a Comprehensive Truck Management Program.

Given these events, the Board directed staff to schedule a meeting with the Mayor of the City of Oakland, draft a letter to the Mayor for the Chair's signature, and convene a meeting of the Ad Hoc Committee on Port Emissions to discuss next steps.

DISCUSSION

The following Port-related actions have been taken since the December 3, 2008 Board of Directors meeting. The Executive Officer met with Mayor Dellums' staff to indicate the Board's serious concerns about the Port's postponement of key air quality initiatives. The Board Chair sent the Mayor a letter outlining the Board's concerns (see attached letter). The Port's Executive Director sent Jack Broadbent a letter requesting refund of the \$2 million payment the Port had already transmitted for the drayage truck retrofit program (see attached letter). The California Air Resources Board (ARB) notified the Air District that I-Bond funding has been postponed due to the State's current budget crisis (see attached letter). This postponement includes \$5 million in I-Bond funding

committed to the drayage truck retrofit program, The Port of Oakland has experienced reduced activity and has dropped from 4<sup>th</sup> largest to 5<sup>th</sup> largest U. S. seaport. The Port has implemented layoffs and furloughs. The Port's revised Maritime Air Quality Improvement Plan is scheduled to be heard at the Port's Maritime Committee meeting on January 29, 2009. Air District staff continues to prepare for enforcement of ARB mobile source rules applicable to sources at the Port of Oakland.

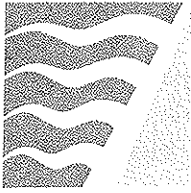
At the Ad Hoc Committee on Port Emissions meeting on January 22, 2009, staff will discuss these actions with the Committee.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT  
SINCE 1955

ALAMEDA COUNTY  
Tom Bates  
(Secretary)  
Scott Haggerty  
Janet Lockhart  
Nate Miley

CONTRA COSTA  
COUNTY  
John Gioia  
Mark Ross  
Michael Shimansky  
Gayle B. Uilkema

MARIN COUNTY  
Harold C. Brown, Jr.

NAPA COUNTY  
Brad Wagenknecht  
(Vice-Chairperson)

SAN FRANCISCO  
COUNTY  
Chris Daly  
Jake McGoldrick  
Gavin Newsom

SAN MATEO COUNTY  
Carol Klatt

SANTA CLARA COUNTY  
Erin Garner  
Yoriko Kishimoto  
Liz Kniss

SOLANO COUNTY  
John F. Silva

SONOMA COUNTY  
Tim Smith  
Pamela Torliatt  
(Chairperson)

Jack P. Broadbent  
EXECUTIVE  
OFFICER/APCO

December 5, 2008

Mayor Ron Dellums  
**City of Oakland**  
1 Frank Ogawa Plaza, 3rd Floor  
Oakland, CA 94612

Dear Mayor Dellums,

I am writing to you on behalf of the Bay Area Air Quality Management District (District) Board of Directors to express our serious concerns about the Port of Oakland's (Port) recent actions which will delay and reduce air quality and public health improvements in West Oakland. Specifically, the Port decided to postpone: 1) their financial commitment of \$5 million to a joint Port/District drayage truck cleanup program; 2) approval of the Maritime Air Quality Improvement Plan (MAQIP) which targets an 85% reduction in health risk from Port operations by 2020; and 3) approval of a container fee to provide funds for cleanup of toxic diesel particulate material (PM) emissions from trucks, rail and shipping associated with Port operations.

Actions that reduce and delay improvements in air quality and public health in West Oakland are not acceptable. As you may know, a recent Health Risk Assessment conducted by the California Air Resources Board (ARB), in cooperation with the District and the Port, concluded that West Oakland experiences an increased cancer risk from diesel PM that is approximately 3 times higher than the Bay Area average. This increased cancer risk is due to Port operations, railyard operations, and other trucking activities in West Oakland. The District's Community Air Risk Evaluation (CARE) Program has identified West Oakland as the Bay Area community that is most seriously impacted by diesel PM emissions. The Port must do its part to reduce diesel PM emissions.

On November 19, 2008, the Port Commissioners decided to postpone \$5 million in funding they had already committed to a partnership with the District to rapidly reduce diesel PM emissions from drayage trucks operating at the Port. The Port's funding, along with \$10 million committed by the District, would provide incentives to retrofit 1,000 trucks or 50% of the current drayage truck fleet by July 1, 2009, to provide for early compliance with the ARB drayage truck cleanup regulation. Given the deadlines in the ARB regulation, a delay in the Port's funding is equivalent to withdrawal of the funding. The Port's action contravenes a memorandum of understanding (MOU) between the Port, representing the City of Oakland, and the District executed on August 12, 2008. Due to the urgent need for health risk reduction in the West Oakland community and the need for a drayage truck fleet to serve the Port that complies with the ARB regulation, the District has decided to insist that the Port follow through on its financial commitment contained in the MOU.



Additionally, on November 20, 2008, the Port Maritime Committee withdrew two actions from the Port Commission's December 2, 2008 meeting agenda, specifically adoption of the MAQIP and institution of a container or "user" fee to assist with the further cleanup of diesel PM emissions. These actions, coupled with the drayage truck cleanup program decision, indicate to the District that the Port is retreating from its commitment to reduce health risk in the West Oakland community.

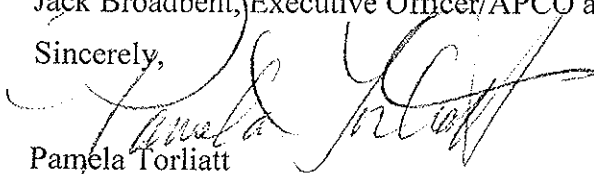
In order to ensure that this is not the case, I encourage you to consider utilizing your authority as Mayor of Oakland to see that the following actions are taken by the Port:

1. **Ensure that the \$5 million committed by the Port to the drayage truck cleanup program is transferred to the District.** This action will ensure the success of the program, immediately reduce health risk in West Oakland and provide the Port with the necessary clean trucks for cargo transportation in 2010.
2. **Institute a container fee or another funding mechanism at the Port** to provide funds for the further cleanup of diesel PM emissions from trucks, rail and shipping. The Port funds are needed to leverage District and State incentive funding.
3. **Enact a Comprehensive Truck Management Plan (CTMP)** that clarifies the Port's vision for the future of the trucking industry and that ensures the cleanup of 100% of the trucks engaged in drayage activities.
4. **Redraft and approve the Maritime Air Quality Improvement Plan (MAQIP)** to include specific near term actions to reduce emissions from Port operations that will provide confidence in the Port's commitment to improving air quality and public health.

The District's Ad Hoc Committee on Port Emissions will be meeting in January 2009 to discuss the District's options for addressing the Port's recent decisions. We recognize that the Port is grappling with economic difficulties, but we hope that you agree with us that public health considerations can not be put aside. We urge you to assist in getting the Port back on track to contribute its part to improving public health.

If you have any questions regarding my comments, please feel free to call me or contact Jack Broadbent, Executive Officer/APCO at (415) 749-5052.

Sincerely,



Pamela Torliatt  
Chair, Board Of Directors  
Bay Area Air Quality Management District

CC: Darlene Ayers-Johnson  
President, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
P.O. Box 2064  
Oakland, CA 94604-2064

Victor Uno  
First Vice President, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
P.O. Box 2064  
Oakland, CA 94604-2064

Margaret Gordon  
Second Vice President, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
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Oakland, CA 94604-2064

Anthony A. Batarse, Jr.,  
Commissioner, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
P.O. Box 2064  
Oakland, CA 94604-2064

Kenneth S. Katzoff  
Commissioner, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
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Mark McClure  
Commissioner, Board of Port of Oakland Commissioners  
**Port of Oakland**  
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Patricia A. Scates  
Commissioner, Board of Port of Oakland Commissioners  
**Port of Oakland**  
530 Water Street, Jack London Square  
P.O. Box 2064  
Oakland, CA 94604-2064

Omar Benjamin  
Executive Director  
Port of Oakland  
530 Water Street, Jack London Square  
P.O. box 2064  
Oakland, CA 94604-2064



## PORT OF OAKLAND

December 19, 2008

Jack P. Broadbent  
Executive Officer/Air Pollution Control Officer  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

**Re: Agreement between Port of Oakland ("Port") and Bay Area Air Quality Management District ("BAAQMD")**

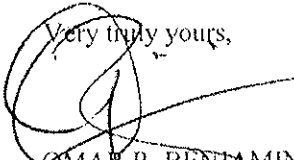
Dear Mr. Broadbent:

On November 19, 2008, the Board of Port Commissioners passed a resolution postponing the use of any Port of Oakland funds on truck retrofit programs until approval and adoption of the Comprehensive Truck Management Program (CTMP). A copy of the resolution is attached for your review and reference. By the Board's action, the funds committed pursuant to the Agreement Between the Port of Oakland and the Bay Area Air Quality Management District Regarding Port Fund Contribution To a Truck Retrofit Program ("Funding Agreement") have become legally unavailable.

Paragraph 9 of the Funding Agreement provides that either party may terminate the agreement for cause by written notice specifying an enumerated cause for termination, including legal unavailability of the anticipated funds source (Paragraph 9.1). Therefore, pursuant to paragraph 9.1 of the Funding Agreement, the Port of Oakland hereby provides this notice of termination.

Paragraph 11 of the Funding Agreement requires that the Air District refund any Port funds not used for the purposes set forth in the Agreement upon termination. The Port tendered the first payment in the amount of \$2,000,000 to the Air District on or about August 27, 2008. Please immediately provide an accounting of any Port funds used for truck retrofits pursuant to the Funding Agreement and provide payment of the unused amount to the Port.

Although the specifics of how we implement air quality projects are changing as needed, please be assured that the Port remains committed to improving air quality and reducing the environmental effects of drayage trucks in the West Oakland community. We look forward to continuing to work with you and the Air District on air quality projects, including the CTMP. Please contact me should you need additional information.

Very truly yours,  
  
OMAR R. BENJAMIN  
Executive Director

Cc: D. Alexander, J. Kwon, R. Sinkoff

216681  
530 Water Street ■ Jack London Square ■ P.O. Box 2064 ■ Oakland, California 94604-2064  
Telephone: (510) 627-1100 ■ Facsimile: (510) 627-1826 ■ Web Page: [www.portofoakland.com](http://www.portofoakland.com)

November 19, 2008  
M-1  
MCR/lhr *MCR*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 08228**

**RESOLUTION ADOPTING AN ALTERNATIVE FOR  
THE AGREEMENT WITH BAY AREA AIR  
QUALITY MANAGEMENT DISTRICT (BAAQMD).**

**WHEREAS**, on August 5, 2008, pursuant to Resolution No. 08189, the Board of Port Commissioners authorized execution of an agreement with Bay Area Air Quality Management District ("BAAQMD") for funding an "early action" truck retrofit program; and

**WHEREAS**, in response to the Board's discussion, Port staff analyzed the current "early action" retrofit program in collaboration with the BAAMQD and presented five (5) alternatives for the Board's consideration; and

**WHEREAS**, the fifth alternative provides for postponement of use of Port funds for truck retrofit and/or replacement program until after adoption and approval of the Comprehensive Truck Management Program, as further described in Agenda Report Item: M-1, dated November 19, 2008 ("Agenda Report").

*DM*  
**RESOLVED** that the Board of Port Commissioners ("Board") hereby adopts the fifth alternative and directs the Executive Director and/or his designee to postpone use of Port funds under the BAAQMD Agreement until after adoption and approval of the Comprehensive Truck Management Program, as further described in Agenda Report Item: M-1, dated November 19, 2008 ("Agenda Report").

**FURTHER RESOLVED** that the Board finds and determines that it is in the Port's best interest to adopt the fifth alternative for various reasons, including the downturn in the global economy and the resulting impacts on the Port's financial condition.

**FURTHER RESOLVED** that this resolution 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) any obligation or liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 19, 2008

Passed by the following vote:

Ayes: Commissioners Batarse, Gordon, McClure, Scates  
Uno, and President Ayers-Johnson – 6  
Excused: Commissioner Katzoff – 1



Linda S. Adams  
Secretary for  
Environmental Protection

# Air Resources Board

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

## URGENT NOTICE: PROPOSITION 1B GRANTS FOR GOODS MOVEMENT AND SCHOOL BUS PROGRAMS

December 23, 2008

TO: Local Air Districts and Seaports Implementing Proposition 1B Grants

Due to the delay in enacting solutions to the current fiscal year budget crisis, the State Treasurer's Office has been unable to access the bond market to generate funds for General Obligation (GO) bond programs such as the Proposition 1B: Goods Movement Emission Reduction Program and the Lower Emission School Bus Program. As a result, until there is an effective resolution to this crisis, and a restoration of the State's ability to access the bond market, all State agencies and departments must cease entering into grants or agreements that commit the expenditure of GO bond funds.

In addition, as a grant recipient of GO bond funds, we must instruct you to suspend entering into any new equipment project or other contracts that would be funded from Proposition 1B grant monies or expending funds for contracts that you have already signed. The Air Resources Board is not authorized to approve any payments for expenditure requests until such time as we have access to funds to cover the Proposition 1B programs.

We understand and appreciate that you have been working hard to implement the grants and have deadlines that are required by program guidelines or by the grant agreements that might not be met due to the suspension of funding for these programs. We are prepared to extend the deadlines for the early grants and for contract execution under the main grants. If needed, we will also reduce the six-month "early" period for truck retrofits.

Once Proposition 1B funds can be generated, program implementation and expenditures can continue without further disruption. Rest assured we will be keeping you informed of progress as it unfolds.

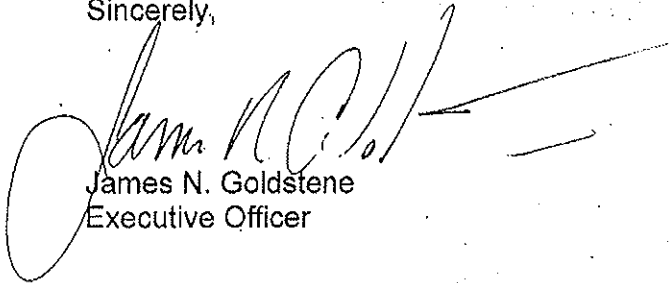
*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency

December 23, 2008  
Page 2

If you have questions, please contact Ms. Cynthia Marvin, Assistant Division Chief, Planning and Technical Support Division, at (916) 322-7326 for the Goods Movement Program or Mr. Jack Kitowski, Chief, On-Road Control Regulations Branch, at (916) 323-6169 for the School Bus Program.

Sincerely,



James N. Goldstene  
Executive Officer

cc: Cynthia Marvin  
Assistant Division Chief  
Planning and Technical Support Division

Jack Kitowski, Chief  
On-Road Control Regulations Branch  
Mobile Source Control Division