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September 14, 2017

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To: Ports of Los Angeles & Long Beach Harbor Commissioners and staff
Subject: San Pedro Bay Ports Clean Air Action Plan, July 19, 2017 – Comments

We appreciate the continuing efforts of the Port of Los Angeles and Port of Long Beach (PORTS) through the CAAP process to reduce health impacts to the public from the shipping and goods movement industry, and submit the below COMMENTS, as well as various numbered RECOMMENDATIONS, for which we request specific responses.

COMMENTS

- Please recognize that all CAAP references to public funding (e.g., “government subsidies,” federal, state, and local government) are costs that will be paid by the public and not by the private interests that benefit directly from port operations.
- Please note that we greatly appreciate the PORTS’ advocacy with regulatory agencies in efforts to develop and implement the most effective emission reduction rules as well as the PORTS’ efforts to require that source specific strategies developed by the PORTS be implemented as state and federal mandates.
- We note the strategies proposed for On-Road Trucks, Terminal Equipment, the Vessel Speed Reduction and Vessel At-Berth Emissions Reduction Programs, Harbor Craft, Freight Infrastructure Planning and Investments, Freight Efficiency, and Energy Resource Planning, and we request that alternative strategies be developed as backstop measures in event the plans for public funding or hoped regulatory actions do not happen.
- It is profoundly significant that the PORTS have concluded that it is cost efficient to implement the CAAP program, declaring in the CAAP that the cost of implementation are less than the public health costs of not doing so.
- Please recognize that the PORTS operate tidelands under the authority assigned by the State of California and the PORTS thus are responsible to the people of California first and foremost under the Tidelands Trust so that health impacts from port operations should never be borne by the public.

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RECOMMENDATIONS

1. Past errors must be acknowledged and explained

The PORTS are responsible to the State of California for the effective business management of operations on the tidelands and for holding tenants to the requirements defined in leases and for mitigation plans filed under California Environmental law. Notably, the CAAP will only be as successful if the PORTS are capable and willing to hold tenants to its requirements. Accordingly, we ask that the Port of Los Angeles define the specific root causes and the respective corrective actions it has taken to prevent recurrence of POLA's continuing failure to hold its tenant, China Shipping Company, responsible for meeting court-approved mitigation requirements.

2. Requirements needed for public meetings and transparency

We request that the following future meetings be conducted in public and in accordance with the Brown Act:

- a. CAAP Implementation Stakeholder Group;
- b. Updates on CAAP specific projects' implementation applicable to Technology Advancement Program, Green Ports Collaborative, Freight Infrastructure Planning and Investments, Freight Efficiency, and Energy Resource Planning; and,
- c. Convene a committee to include specifically assigned/appointed representatives from the following organizations to encourage greater public understanding of the PORTS' efforts to reduce public health impacts and to increase the PORTS' credibility through oversight and participation by the representatives knowledgeable and responsible for the subjects to be discussed:
 - a. Port staff with the technical knowledge to discuss impacts, technologies, leases, operations, etc.;
 - b. South Coast Air Quality Management representative;
 - c. California Air Resources Board representative;
 - d. U.S. Environmental Protection Agency representative;
 - e. Community representatives assigned by recognized agencies such as the City of Los Angeles Neighborhood Councils, whose stakeholders are impacted by port operations;
 - f. Industry representatives as subject matter experts who may be required for the varying subjects to be discussed (e.g., engine manufacturers, fuel distributors, business agents, etc.); and,
 - g. Labor representatives as subject matter experts who may be required for the varying subjects to be discussed (e.g., scheduling, classification limitations, etc).

3. PORTS pollution baselines are outdated and distort the truth

The PORTS must stop relying on data points that compare current reductions in air pollution factors to a baseline in 2005.

The PORTS are justifiably proud of initial improvements to air quality since 2005 and the first CAAP. But this was the low-hanging fruit. The area's air remains dirty and dangerous and this is substantially due to pollutants continually being generated by the goods movement and shipping industry.

To better reflect the data and current conditions, all reporting on pollution data MUST include a comparison to the previous year. In other words, we need data that clearly shows how the PORTS have performed year-to-year in reducing AQ pollution factors. The historic, 2005 data, may also be appropriate, but cannot be used in isolation or stand alone.

The truth is that while the PORTS have reduced air pollution dramatically since 2005, there has been very little improvement in the past five years. In fact, some AQ factors have declined or shown almost no improvement in the past five years. Data and discussion MUST reflect this fact.

4. Deadlines and milestones needed for zero-emission future

The CAAP must include interim deadlines that would implement zero-emission technology in the near term, and milestones that will ensure that the PORTS **will achieve full zero-emissions for cargo handling equipment by 2030 and trucks by 2035**, in line with the directives issued by the Mayors of Los Angeles and Long Beach.

5. SB1 is not a shield against cleaner trucks programs by PORTS, says CARB

The PORTS must abandon the trucking industry view that SB1 somehow limits how the Ports can address the dirty trucks issue. CARB has said SB1 places no **restrictions on PORTS efforts to control truck pollution.**

6. Cancer acceptable-risk level is inadequate and needs improvement

We request that the PORTS recognize that cancer risk is the result of cumulative impacts from all port operations. Accordingly, the PORTS must revise and improve the CAAP goal for reduction in health risk for additional port projects from the currently stated increment threshold of 10 in a million (excess residential cancer risk) to five in a million.

7. Alternative planning for funding and regulatory contingencies

We request the CAAP be revised to provide alternative actions as may be necessary to achieve planned emission reductions applicable to the following sources:

- a. Locomotives, in the event of the following:
 - i. The US Environmental Protection Agency refuses the Air Resource Board's Petition to amend emission standards for newly built locomotives and locomotive engines and to lower emission standards for remanufactured locomotives and locomotive engines; and,
 - ii. The federal government refuses to limit federal preemption on locomotive engines to the initial useful life.
- b. Ocean-going vessels, in the event of the following:
 - i. The Green Ships Incentive Program and the Clean Ships Program are effective to the extent as was POLA's Low Sulfur Fuel Incentive Program, which failed to increase LSF use appreciably;
 - ii. The federal government denies the State's request for new engine tier levels;
 - iii. The State of California is not successful at implementation of statewide vessel speed reduction rule;
 - iv. Rule-making is not filed applicable to at-berth emission controls from non-regulated vessels.
- c. Heavy Duty Trucks, in event of the following:
 - i. The federal government denies the SCAQMD petition for a national near-zero emissions engine standard for trucks;
 - ii. The PORTS' incentive-based strategies to promote voluntary turnover to cleaner technologies are unsuccessful.
- d. Harbor craft, in event rule-making is not filed applicable to fleet turnover requirements.
- e. Cargo Handling Equipment, in event rule-making is not filed applicable to idling restrictions and fleet turnover.

8. Funding required for CAAP program

CAAP lacks and must have a specific funding plan, including the funding sources that will achieve zero emissions goals.

9. Assess Health Risk and the Externalized Costs of Goods Movement

To improve public health and reduce the industry practice of placing extraordinary externalized costs on the community, the CAAP must include a health risk assessment tied to the CAAP measures. This assessment would present and analyze the costs of legacy and continued pollution on the community, as well as the health benefits of required emissions reducing technologies. This will ensure that the costs of doing business are shifted to industry rather than borne by the community in the form of health costs.

10. Update and maintain as current key data and web pages

Update and provide the detail associated with the projects currently active under the Technology Advancement Program as well as all CAAP web pages. For example, the current TAP pages appear outdated, including no information on the current four projects listed (one from 2014) and with a reference to "preparation for grant opportunities anticipated over the 2016–2017 fiscal year."

We look forward to your response. Please feel free to contact us should you have any questions.



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