



FINAL 2006
**San Pedro Bay Ports
Clean Air Action Plan**
COMMENTS COMPENDIUM



California Environmental Protection Agency
Air Resources Board



Prepared with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.

WHAT'S IN THE CLEAN AIR ACTION PLAN?

- ✓ Final 2006 San Pedro Bay Ports Clean Air Action Plan Overview
- ✓ Final 2006 San Pedro Bay Ports Clean Air Action Plan Technical Report
- ✓ **FINAL 2006 SAN PEDRO BAY PORTS CLEAN AIR ACTION PLAN COMMENTS
COMPENDIUM**

For additional information see:

Port of Los Angeles website: www.portoflosangeles.org

Port of Long Beach website: www.polb.com

FINAL 2006
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Prepared with the participation & cooperation of the staff of:



November 2006

FOREWORD

To effectively integrate common goals for air quality in the South Coast Air Basin, the Port of Los Angeles (POLA) and the Port of Long Beach (POLB) have worked together in close coordination with the staff of the South Coast Air Quality Management District (SCAQMD), the California Air Resources Board (CARB), and the United States Environmental Protection Agency Region 9 (EPA Region 9) to develop the San Pedro Bay Ports Clean Air Action Plan. This plan is the first of its kind in the country, linking the emissions reduction efforts and visions of the two largest ports in the United States with similar efforts and goals of the regulatory agencies in charge of ensuring compliance with air quality standards. The collaborative effort will continue in the years to come with the review and update of the Clean Air Action Plan on an annual basis.

The air agencies have extensively reviewed and commented on the draft plan, support the collaborative process that has been established, and support of the goals delineated in the plan. By participating in the development and annual review of this plan, these regulatory agencies do not waive or forfeit their rights or obligations to continue to regulate emissions sources under their control. Participation in this process is voluntary by all parties and does not in any way inhibit or preclude agencies from any legal authorities and responsibilities to meet federal, state, and local air quality standards. Participation does not mean that the agencies necessarily endorse each of the measures and concepts proposed in the plan.



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Acronyms Used in the Comments Response Documents

AM	Air Monitoring
Calc	Calculation-related
CE	Cost-effectiveness
CHE	Cargo Handling Equipment
CLAC	(Comment Letter Association-Community)
CLAE	(Comment Letter from an Association - Environmental)
CLAI	(Comment Letter Association - Industry)
CLI	(Comment Letter - Individual)
CLIC	(Comment Letter Individual Company)
CLICM	(Comment Letter Individual Company-Marketing)
CLPA	(Comment Letter Public Agency)
EI	Emissions Inventory
Fund	Funding
GC	General Comment
GHG	Greenhouse Gas Emissions Related
HC	Harbor Craft
HDV	Heavy-Duty Vehicle
HE	Health Effects
IMP	Measure Implementation Specific
IOEI	Infrastructure and Operational Efficiency Improvements
LA	Legal Authority
LR	Lease Requirements/Tariffs
Mark	Marketing (usually associated with a specific product being proposed)
MB	Market Based (Credit Trading)
NNI	No Net Increase Plan Related
OGV	Ocean Going Vessel
PP	Public Process
RL	Railroad Locomotives
SO _x	Oxides of Sulfur
TAP	Technology Advancement Program
UFP	Ultrafine Particles



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INTRODUCTION

The Public and Stakeholders were given opportunity to comment on the Draft San Pedro Bay Ports Clean Air Action Plan during four Public Meetings conducted by the Ports staff and by allowing 60 days of review period to submit written comments on the Technical Report released to public on June 28, 2006.

During the four Public Meetings:

- There were 60 speakers.
- A total of 239 comments received and discussed.
- The Ports staff categorized those 239 comments into 62 major topics.
- Responses to the oral comments are included in the document entitled “San Pedro Bay Ports Clean Air Action Plan (CAAP) Responses to Public Comments/Questions Received at Four Public Meetings”. See Attachment D.

Written Comments:

- A total of 367 comment letters from public, environmental associations, industry associations, community associations and industry were received.
- The Ports staff extracted a total of 1,092 individual comments.
- All comments were organized by the entity that submitted the comments and broad topic area.
- Responses to written comments are included in the document entitled “Final 2007 San Pedro Bay Ports Clean Air Action Plan (CAAP) Responses to Written Public Comments/Questions”. See Attachment E.

Comments received after the release of San Pedro Bay Ports Clean Air Action Plan Technical Report and during the four Public Meetings were answered as follows:

The Ports have attempted to provide a detailed response for most commonly occurring comments (Attachment C) and the others for first time each comment appears. For consistency, the Ports have referred back to previous responses when similar comments appear subsequently. If your comment appears towards the end of the compendium, we apologize for the repeated references to prior responses.

Several comments received express the opinions regarding various issues. To acknowledge the opinion, the response will indicate “Comment Noted”.



San Pedro Bay Ports Clean Air Action Plan Comments Compendium

Attachments A and B are the Acronyms used to categorize each entity and to classify each of the comments.

Attachment C is the compendium of common comments and responses.

Attachment D is the compendium of ORAL comments and responses.

Attachment E is the compendium of WRITTEN comments and responses.

Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
FL1 (The first Form Letter Received, without Modifications)	See Attachment A for a list of Individuals that submitted this letter to POLA and/or POLB.	I	8	114
FL1M (The first Form Letter Received, but with Personal Modifications)	See Attachment B for a list of Individuals that submitted this letter to POLA and/or POLB.	I	0	19
FL2	See Attachment C for a list of Individuals that submitted this letter to POLA only.	I	2	121
FL2	Asthma Coalition of LA County (Jim Mangia); Sierra Club, CA (Kenneth Ryan, Transportation Issue Chair); Phiippine Action Group for the Environment (P.A.G.E.) (Fe P. Koons); People for Parks (Jim Stewart); Earth Day LA (Jim Stewart); Concerned Residents Against Airport Pollution (Martin Rubins)	I	0	6
FL2M	Tarin Olsen; William Vaughan; Edward Hummel; Carol Skiba; Steve Ellis; Jim Odling	I	0	6



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Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLAE (Comment Letter from an Association - Environmental)	Natural Resources Defense Council	NRDC1	3	1
CLAE	Long Beach Alliance for Children with Asthma	LBACA	3	1
CLAE	Coalition for Clean Air	CCA1	3	1
CLAE	NRDC et.al. (22 groups) See Attachment D for a list of Associations or Individuals that signed onto this joint letter.	NRDC2 + ATT A and ATT C	175	1
CLAE	Sierra Club Angeles Chapter Harbor Vision Task Force	SC	48	1
CLAE	Coalition for Clean Air, Candice Kim, Campaign Associate	CCA2	3	1
CLAE	Coalition for a Safe Environment, Jesse Marquez, Executive Director	CSE	26	1
CLAE	Los Angeles Working Group on the Environment: Port Work Group (LAWGE)	LAWGE	15	1
CLI (Comment Letter - Individual)	Senator Alan Lowenthal	SenAL	3	1
CLI	Sohrab Tanavoli	ST	1	1
CLI	George Downer	GDowner	1	1
CLI	Gehl Davis	Gdavis	3	1
CLI	Dave Hall	DH	2	1
CLI	Marco Romero	MR	2	1
CLI	Edith Pollach	EP	4	1
CLI	Bill McLaughlin (7/14/06)	BM1	7	1
CLI	Bill McLaughlin (7/19/06)	BM2	3	1
CLI	Bill McLaughlin (7/21/06)	BM3	3	1
CLI	Todd Walden	TW	1	1



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Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLI	Dan Rodriguez	DR	3	1
CLI	Richard Havenick	RH	4	1
CLI	Peter Warren (7/18)	PW1	12	1
CLI	Peter Warren - 2nd submittal (7/23/06)	PW2	15	1
CLI	Peter Warren - 3rd submittal (8/2/06)	PW3	1	1
CLI	Joan Hemphill	JH	7	1
CLI	Delphine Trowbridge	DT	1	1
CLI	Gary Dolgin	GD	1	1
CLI	John Mattson	JM	1	1
CLI	Amy Thornberry	AT	3	1
CLI	Kathleen Woodfield	KW	9	1
CLI	Janet R. Gunter	JRG	5	1
CLI	Daniel Nord	DN	15	1
CLI	John G. Miller, M.D. FACEP	JGM	17	1
CLI	Carrie Scoville	CS	11	1
CLI	Alfred Sattler	AS	10	1
CLI	Ernesto Nevarez	EN	8	1
CLI	Eric P. Donald	ED	1	1
CLI	Howard Brown	HB	2	1
CLI	Chaz Shields, Long Beach Resident	ChS	2	1
CLI	Robert L. Rodine, The Polaris Group	RR	9	1
CLI	Rick Grajeda	RG	1	1
CLI	Richard McPherson	RM	4	1



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Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLAC (Comment Letter Association-Community)	Point Fermin Residents Association, June Burlingame Smith, President	PFRA	4	1
CLAC	PCAC Air Quality Subcommittee, Richard Havenick, Chair	PCAC-AQS	18	1
CLAC	Northwest San Pedro Neighborhood Council	NSPNC	23	1
CLAC	Long Beach Marina Boat Owners Association, Joseph Towers	LBMBOA	7	1
CLAC	South Coast Interfaith Council, Carl Farrington, Chair	SCIC	3	1
CLAC	USC, Community Outreach and Education Program, Andrea Hricko, Director	USC	20	1
CLAC	Coastal San Pedro Neighborhood Council, Douglass Epperhart, President	CSPNC	4	1
CLAC	Greater Long Beach Inter-Faith Community Organization	ICO	4	1
CLAC	Los Angeles Alliance for a New Economy (LAANE), Change to Win, Clergy and Laity for Economic Justice, Coalition for Clean Air, Coalition for Humane Immigrant Rights of Los Angeles, Communities for a Better Environment, Harbor Watts Economic Development Corporation, International Brotherhood of Teamsters, Los Angeles County Federation of Labor, NRDC.	LAANE	27	1
CLAI (Comment Letter Association - Industry)	California Hydrogen Business Council	CHBC	14	1
CLAI	California Trucking Association, Stephanie Williams, Senior Vice President	CTA1	5	1



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Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLAI	California Trucking Association, Stephanie Williams, Senior Vice President (2nd Submittal)	CTA2	23	1
CLAI	Port Drivers Association, Lorenzo Modesto, President and Salvador Abrica, VP	PDA	13	1
CLAI	The San Gabriel Valley Economic Partnership, William Carney, President and CEO	SGVEP	5	1
CLAI	FuturePorts, Elizabeth Warren	FP	12	1
CLAI	Pacific Merchant Shipping Association (PMSA), John McLaurin, President	PMSA1	2	1
CLAI	Pacific Merchant Shipping Association (PMSA), T.L. Garrett, Vice President	PMSA2	27	1
CLAI	Construction Industry Air Quality Coalition	CIAQC	5	1
CLAI	Western States Petroleum Association, Catherine H. Reheis-Boyd, COO and Chief of Staff	WSPA	19	1
CLAI	California NGV Partnership, Gunnar Lindstrom, Chair	CaNGVP	8	1
CLAI	NGV America, Richard Kolodziej, President	NGVA	13	1
CLAI	California NGV Coalition, Michael L. Eaves, President	CNGVC	11	1
CLAI	Wilmington Chamber of Commerce	WCoC	7	1
CLAI	Los Angeles Area Chamber of Commerce	LACoC	4	1
CLAI	Long Beach Area Chamber of Commerce	LBCoC	10	1
CLAI	Maritime Goods Movement Coalition	MGMC	3	1
CLAI	Harbor Association of Industry & Commerce	HAIC	5	1
CLAI	Pasadena Chamber of Commerce	PCoC	4	1
CLAI	South Bay Latino Chamber of Commerce	SBLoC	9	1



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Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLAI	Waterfront Coalition, Robin Lanier, Executive Director	WC	18	1
CLIC (Comment Letter Individual Company)	VYCON, Inc., Octavio Solis, Technical Sales Manager	VI	6	1
CLIC	Pasha Stevedoring & Terminals L.P., Jeff Burgin, Senior Vice President	PST	4	1
CLIC	Pareto Energy LTD, Tim Tyler	PEL	10	1
CLIC	Holden Fleet Services, Terry Holden	HFS	1	1
CLIC	Donaldson Company, Inc. , Fred Schmidt	DON	12	1
CLIC	BNSF, Carl Ice, Executive VP and COO	BNSF	43	1
CLIC	SSA Terminals, LLC, John DiBernardo	SSA	6	1
CLIC	Primafuel, Inc., Richard Root Woods, President	PF	16	1
CLIC	Shurepower LLC, Jeff Kim	SP	5	1
CLIC	APM Terminals, James Flanagan, General Mangager of Regulatory Affairs	APM	25	1
CLIC	APL Limited and Eagle Marine Services Ltd., Scott A. Smith, Director of Corporate Relations	APL	5	1
CLIC	Pacific Harbor Line, Andrew Fox, President	PHL	20	1
CLIC	Union Pacific Railroad Company, Carol Harris	UP	20	1
CLIC	Valero Wilmington Refinery (Ultramar), Jason R. Lee, Director of HSE	ULTRA	24	1
CLIC	Pacific Energy Partners, L.P. , David E. Wright, Executive VP	PEP	20	1
CLIC	Marine Terminals Corporation, Jay Halsch	MTC	1	1
CLIC	Eco-Energy Solutions	EES	5	1
CLIC	General Atomics	GA	6	1



San Pedro Bay Ports Clean Air Action Plan Comments Compendium

Letter Type	Name/Organization	Entity Abbreviation	No. of Itemized Comments	Frequency
CLIC	Clean Energy, Mitchell W. Pratt, Senior Vice President	CE	15	1
CLIC	Sea Launch Company, LLC	SL	6	1
CLPA (Comment Letter Public Agency)	City of Seal Beach, Bill Hurley, Acting Chairman, Environmental Quality Control Board	CoSB	3	1
CLPA	Texas Transportation Institute, Dr. Stephen S. Roop	TTI	3	1
CLPA	Gateway Cities Council of Governments	GCCOG	8	1
CLPA	Southern California Association of Governments, Hasan Ikhata, Director of Planning and Policy	SCAG	8	1
CLPA	South Coast Air Quality Management District	SCAQMD	25	1
CLPA	Long Beach Unified School District	LBUSD	10	1
CLICM (Comment Letter Individual Company-Marketing)	W. Guy Fox and Assoc., Inc. for JUON MOL Good Air Purification System	GFA	0	1
CLICM	Hydrogenics Corporation, Kevin Harris	HC	0	1
CLICM	H4 Power Systems, Inc., Graham Fraser	H4	0	1



FREQUENTLY OCCURRING COMMENTS RESPONSES

1: Support a strong, aggressive Clean Air Action Plan from the Port of Los Angeles and Port of Long Beach.

Response: The Ports recognize that their ability to accommodate the projected growth in trade will depend upon their ability to address adverse environmental impacts (and, in particular, air quality impacts) that results from such trade. The Clean Air Action Plan (CAAP) identifies mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. The San Pedro Bay Ports are committed to expeditiously and constantly reduce the public health risk associated with port-related mobile sources, and implement a program within five years that will achieve this goal.

2: The Ports are a significant contributor to Southern California's air pollution and this is one of the reasons for the South Coast Air Basin being in "non-attainment".

Response: The Ports acknowledge that port-related operations contribute significantly to Southern California's air pollution. Figures 1.6 through 1.8 in the Technical Report identify port-related source contributions to Basin emissions for the baseline year. The Ports recognize that in the future their contribution to the Basin emissions will increase over time if uncontrolled as other sources like stationary and area sources are further regulated. Based upon the recently released draft 2007 AQMP from SCAQMD, Figures 1.9, 1.10, and 1.11 in the Technical Report show the estimates for 2020 of the port-related sources compared to all other emissions in the basin. These projections predict that port related contributions will be significantly higher than the figures shown for the baseline year. Therefore, action must be taken now in order to help the basin meet its air quality goals and to protect public health.

3. The Plan requires revision to require immediate implementation of the strategies through tariffs, fees, or otherwise without delay.

Response: The ports are proposing aggressive emissions reduction requirements that in most cases accelerate regulatory requirements. It relies primarily on leases. However, the Plan also proposes other implementation mechanisms such as tariffs, fees and other strategies to accelerate emission reductions. The Ports believe this plan represents their most aggressive approach available for addressing emission reductions.

4. Writing of the CAAP failed to include the Public, Stakeholders, Medical and Scientific experts.

Response: The Ports have provided for significant public/stakeholder involvement in the development of the CAAP. In addition, this plan was built upon earlier work, including the public efforts of the No Net Increase Task Force.



The public was invited to a series of four public meetings that were attended by representatives from each Port as well as representatives from EPA, ARB and SCAQMD. This panel listened to extensive public comment and addressed specific questions from the public that were submitted in writing at each meeting. These public comment meetings were recorded and/or transcribed by court recorder for the record, which is available for public review upon request. Written summaries of each meeting were developed by Port staff and these meeting summaries were compiled into this comments response document, formalizing the Ports' response to the comments received.

In addition to the oral comments and questions received at the public meetings, the Ports accepted written comment submittals for staff consideration through August 28, 2006. Each port established an e-mail address to facilitate the submittal of written comments. A separate response document similar to this was prepared to address written public comments. In addition, follow-up meetings were conducted by Port staff upon stakeholder request as appropriate.

The Ports sought input from stakeholders through the conduct of above mentioned public meetings and extended comment period after the release of the draft plan. The changes in the revised draft plan reflect many of these comments that the Ports have received. In addition, the revised draft final along with the Ports responses to oral and public comments are being released for stakeholders review prior to Harbor Commissioners meeting to consider adoption of the plan.

As noted in the CAAP, periodic updates to the plan will be issued, at a minimum, on an annual basis, to track measure implementation progress and stakeholders review and comments. These updates will include annual updates to the Ports' emissions inventory, the best measure of the CAAP's effectiveness. All of these actions will be taken with public disclosure.

5: The Ports must provide backstop measures in the event that the assumptions prove false. The backstop measures should achieve the same estimated emissions reductions as the CAAP measure.

Response: The Ports intend to work cooperatively with EPA, CARB and SCAQMD to make sure that the goals of the plan are met. The Ports expect that the Clean Air Action Plan will be the basis of control measures incorporated into the State Implementation Plan through the SCAQMD's AQMP. Due to the close coordination with SCAQMD and CARB, the Clean Air Action Plan will, it is hoped, represent the joint approach for reducing the "fair share" of emissions associated with port-related operations. It is the Ports' understanding that the SCAQMD's AQMP will include backstop measures to ensure emissions reductions in the CAAP are achieved in the event that the estimates fall short. In addition, CARB has announced several rulemaking processes that will also serve to backstop the CAAP.



6: The Ports must estimate the emissions reductions from every control measure, including those for locomotives and harbor craft.

Response: At this time, based on a number of variables, emissions reductions from locomotives and harbor craft cannot be quantified. There are uncertainties related to the implementation of line haul locomotive measures (RL2 and RL3). As stated under the RL2 milestones in Section 5.5, once the plan is approved, the Ports will meet and confer with representatives of the rail industry to draft a strategy for implementing the line haul locomotive measures. RL3 will be implemented for new and redeveloped rail yards, for which no schedule is currently defined. Once the implementation mechanisms are finalized and the 2005 locomotive emissions inventory is available, emissions reductions will be quantified and incorporated into future updates of the plan under the “living document concept”.

7: CAAP must support user fees as a funding mechanism for the Plan.

Response: At present, significant portions of the Clean Air Action Plan remain underfunded. As a result, the Ports are exploring various mechanisms to achieve the goals outlined in the Clean Air Action Plan. One mechanism that could alleviate the funding shortfall is the application of impact fees associated with the movement of cargo or sources (i.e., trucks, locomotives, vessels, etc.). Staff is committed to evaluate the use of fees to accelerate emission reductions from all source categories. However, for fees to achieve the desired results, they must be structured appropriately. Outlined below are principles that the Ports will consider when crafting any fee with the goal of reducing pollution.

- 1) The fee should target the source of pollution, not cargo in general, and the fee must be higher for those individual sources that cause the greatest impact, while bypassing those sources that meet clearly defined goals/standards. For instance, a truck that does not meet the goals of the Clean Air Action Plan could be assessed a fee based on how old and/or dirty that truck was; while a clean truck meeting the goals could be assessed no fee or a small administrative fee necessary to cover the costs of monitoring compliance.
- 2) Fees collected should be used to clean up the source that generated the fee (i.e., fees assessed against a dirty truck should fund a retrofit or replacement truck).
- 3) Costs should ultimately be borne by those who benefit from goods movement. To the extent possible, fees should be shifted to the beneficial cargo owners (BCO). Programs similar to the successful PierPass program provide an example of how this can be done.
- 4) When a specific program achieves its goal, the fee must end. Broad-based fees that have no defined use may fail to garner sufficient support to be successful. In addition, they undermine the goals of the program by not rewarding those who achieve the goals.



These principles establish a framework for the successful use of fees. They ensure success in two ways. First, the program generates the funding necessary to achieve the emission reduction goals. Second, it holds the BCO accountable for their shipping decisions, making them pay the price for dirty modes of shipping and financially encouraging them to make more environmentally sound shipping decisions. While these principles are not absolute, adherence to them will more likely result in reduced emissions and increase the chances of broad-based support.

8: In order to maximize reductions in health risk, the Ports must commit to adopting SCAQMD and CARB land-use policies in their lease agreements and CEQA projects.

Response: Land-use decisions are an important factor in mitigating impacts from port operations. However, the Ports do not make land-use decisions outside their respective Harbor Districts. Outside the Harbor Districts, land-use authority is vested in Planning Commissions and Cities.

9: The Ports must adopt resolutions that favor on-dock rail over near-dock rail facilities.

Response: The Ports share a goal of maximizing the use of on-dock rail as demonstrated through the Ports investments in on-dock infrastructure. Approximately 40% of the containers (imports/exports and westbound empty containers) are transported to/from the Ports of Long Beach/Los Angeles via train, via either on-dock or off-dock facilities (current on-dock usage is about 25% of total throughput through the Ports). Approximately 10% of all containers are transloaded for ultimate non-local delivery either via truck or rail. Consequently, 60% of the containers need to come through the POLB/POLA simply because of their origins/destinations, and need to move via truck.

The Ports plan is to maximize the use of on-dock rail as an effective way to limit emissions associated with operation of on-road trucks and rail yards near residential areas. Several factors effect use of on-dock rail, such as: shipper and steamship line logistics (e.g. transloading, transportation costs, etc.), railroad operations (equipment availability, train schedules, and steamship line contracts/arrangements), terminal operations/congestion, rail infrastructure outside the terminals within the Ports area, and on-dock railyard capacity. To accommodate projected increases in intermodal traffic, additional rail infrastructure beyond what currently exists needs to be constructed in both Ports. Rail infrastructure consists of on-dock railyards and trackage outside the terminals that connect with the Alameda Corridor. This additional rail capacity is important to maximize use of the Alameda Corridor, and consequently reduce truck trips.

Some of the rail infrastructure improvements can be constructed within the existing land area to marginally increase capacity. These projects include mainline track improvements where feasible, centralized train control (CTC) where feasible, and other in-port facilities (e.g., Alameda Corridor Terminus/Pier B Street Railyard expansion in the Port of Long Beach). Capacity of the existing on-dock railyards, can also be increased through expanded hours of



operations and improved efficiency in operational procedures. However, these minor physical improvements and operational changes are inadequate to accommodate the long-term cargo forecasts. Existing railyards need to be expanded, and new yards need to be constructed. However, the existing railyards cannot be expanded without additional land area. It is also important to note that although railyard expansions are needed, there is also a practical limit. The maximum potential size of an on-dock railyard is finite and dependent upon the size and shape of the overall terminal, which requires a balance between container yard acreage and rail yard acreage. The railyard cannot impinge upon the other terminal areas/operations (e.g., container cranes, gates, etc.).

If the proposed rail infrastructure is constructed within the Ports, it is estimated that approximately 30% of the proposed future throughput (which represents capacity) can be accommodated via on-dock rail. Therefore, approximately 10% of total throughput would move via off-dock rail.

10: Any HRAs conducted as part of CEQA or under CAAP should assess the level of cancer risk, as well as non-cancer risks from port operations, and evaluate cumulative risk.

Response: Under CAAP it is the Ports' goal to establish standards to reduce toxic pollutants such as DPM to acceptable levels and criteria pollutants to the levels that will assure that port-related sources decrease their "fair share" of regional emissions to enable the South Coast Air Basin to attain state and federal ambient air quality standards. Inclusion of toxic as well as criteria pollutants will ensure reduction in cancer as well as non-cancer related risk. Since, one of the foundations of CAAP is the focus on lease amendments/renewals and California Environmental Quality Act (CEQA) evaluations as mechanisms to establish provisions and requirements in leases consistent with meeting the CAAP goals, the Ports are ensuring that any HRA conducted as part of CEQA or under CAPP will maximize the reduction of public health risk, criteria pollutant mass emissions reductions, and meet the stated goals.

In order to evaluate cumulative risk, the Ports, first, need to establish San Pedro Bay Standards for reduction in health risk and "fair share" of criteria pollutants. Discussions between the Ports and the regulatory agencies to better define both a toxics health risk standard and the criteria emissions reduction standard ("fair share") for the San Pedro Bay have already begun. The goal of these discussions is to develop and present the agreed upon San Pedro Bay Standards to the Ports' Boards for their approval by Spring 2007. It is the goal of the Ports to establish these standards as soon as possible in order that they may be considered in the CEQA documents for a number of upcoming development projects. Due to the critical nature of these standards, the Ports and regulatory agencies will work together expeditiously to deliver sound proposals to the Boards as soon as possible



11: CAAP's Project Specific Standards to reduce criteria pollutants should go above and beyond what CEQA requires to help achieve attainment and health protective emissions levels.

Response: The "San Pedro Bay Standards", "Project Specific Standards" and "Source Specific Performance Standards" as described in Section 2.2, are inter-related. Compliance with the Project Specific Standards may require that an individual terminal go beyond the Source Specific Performance Standards or advance the date of compliance with those performance standards. In addition, projects that meet the Project Specific Standard associated with health risk, must also meet the criteria pollutant emissions reductions associated with their "fair share" of regional emissions, and health risk reductions, as stated in the San Pedro Bay Standard. Since, the Ports have identified CEQA is one of the primary implementation mechanism for CAAP measures for new leases or upcoming redevelopment projects, in some cases CEQA requirements might be more stringent than what is required under normal CEQA guidelines, in order to meet the Port's Standards.

12: The Ports need to define what constitutes an appropriate "fair share" as articulated in Principle (4) of Section 1.5 in the Technical Report.

Response: The Ports and the agencies anticipate building upon modeled 2007 AQMP estimates for developing overall San Pedro Bay emissions targets for NO_x, SO_x and PM, with targets and milestones for 2014 and 2020. These targets will establish the San Pedro Bay Ports' "fair share" of regional emissions reductions. These targets will be a valuable tool for long-term air quality planning, aiding the Ports and the agencies with evaluating the long-term cumulative effects of future projects.

Discussions between the Ports and the regulatory agencies to better define both a toxics health risk standard and the criteria emissions reduction standard ("fair share") for the San Pedro Bay have already begun. The goal of these discussions is to develop and present the agreed upon San Pedro Bay Standards to the Ports' Boards for their approval by Spring 2007. Due to the critical nature of these standards, the Ports and regulatory agencies will work together expeditiously to deliver sound proposals for these standards to the Boards as soon as possible in order that they may be considered in the CEQA documents for a number of upcoming development projects.

13: Make polluters pay their fair share.

Response: Through the implementation strategies, this Plan shifts the cost of emissions reductions to the goods movement industry. Through leases, tariff changes, and fees, the Ports expect that terminal operators, shippers, and beneficial cargo owners will need to expend significant funds to achieve the goals of the Plan. The Ports themselves will also be contributing substantial funds particularly related to on-road heavy duty trucks and shore-side electrical power infrastructure.



14: Blanks should be filled in.

Response: The draft plan had placeholders for timelines. The Final Plan has set the schedule and defined the implementation timelines based on additional evaluation and review. These implementation timelines are identified as “Milestones” in the Technical Report.

15: To revise the CAAP every year is important but not enough. We need a long-term vision. Indeed, without a viable long-term vision, many measures that take years to implement may be precluded from consideration because they do not fall within the five-year window of this Plan.

Response: The primary purpose of the Plan is to address the near term needs to address immediate emissions reductions. The Plan evaluates all potentially feasible measures available in the immediate term, and has a program (Technology Advancement Program) to address emerging technologies as they are developed that can be integrated into the Plan as it is updated annually.

In addition, the Ports have a longer term vision. As defined in the CAAP, through the San Pedro Bay Standard, the long term vision is to reduce criteria pollutant emissions to levels that will assure that port-related sources decrease their “fair share” of regional emissions to enable the SoCAB to attain state and federal ambient air quality standards and to reduce public health risk from toxic air contaminants associated with port-related sources to acceptable levels.

16: The CAAP, as currently outlined, will not achieve enough reductions to return port emissions back to 2001 levels.

Response: When fully implemented, the CAAP is estimated to reduce emissions below 2001 levels of emissions before 2010 for NO_x and DPM. These emission reduction estimates include the effect of growth by using the growth rate assumptions from the CARB’s Goods Movement Plan. Please refer to Tables 6.1 through 6.2 and Figures 6.1 through 6.2 in the Technical Report. For further information, the CAAP also includes a comparison to the No Net Increase Task Force Report, detailed in Table 6.5 of the Technical Report.

17: Principles and Standards: In order to ensure reductions in criteria pollutants, and prevent an over-reliance on HRAs to gauge air quality and public health, CAAP’s Principles and Standards must include clear, measurable goals to reduce health risk both on and off port lands from toxic air contaminants and criteria pollutants. These goals must be at least as ambitious as those articulated by CARB and SCAQMD, and may include: (1) reducing air pollution levels to 2001 levels by 2010; (2) reducing the health risk from diesel PM by 85%, as compared to 2000 levels by 2020; (3) reducing NO_x emissions by at least 30% by 2015; and (4) further reducing NO_x emissions by 50% by 2020.



Response: All of the measures, by source category, included in the plan, are designed to achieve the maximum possible emissions reductions given the status of various emissions control strategies and the Ports' authority to require the implementation of those measures. Thus the goals for the reduction in criteria pollutants are tied to unit-based replacements or conversion to better technology. As identified in Section 6 of the Technical Report, using the growth assumptions from CARB's GMP and the CAAP assumptions for unit-based improvements, by the fifth year (2011), targeted emissions reductions due to implementation are at least 47% reduction in DPM, 45% reduction in NO_x, and 52% reduction in SO_x from OGV, CHE, and HDV source categories. Currently, there are no health risk standards defined by agencies such as USEPA, CARB or SCAQMD. The Ports have started discussions with the Technical Working Group (TWG) to define San Pedro Bay-wide health risk standards with these agencies as identified in the expanded discussion in Section 2.2. The Clean Air Action Plan contains a milestone for the Ports to develop a San Pedro Bay wide health risk standard with cumulative health risks goals by Spring 2007.

18: The Ports have the legal authority to require control measures through tariffs to maximize emissions reductions under the Plan. Because tariffs can be used to implement uniform rules applicable to all tenants, they can achieve emissions reductions faster than other approaches, and can serve as "backstop" measures in the event that lease-based measures, incentives, or voluntary programs fail to provide the reductions needed.

Response: The Ports will pursue all implementation options available to meet the goals of the CAAP. For example, the Ports are committed to exploring the use of tariffs for implementation of vessel fuel requirements, as stated in the milestone sections for measures OGV3 and OGV4.

It is important to note that many comments were received regarding legal issues, which demonstrates the complexity of the legal issues and the broad dichotomy of legal positions on those issues. For example, some comments take a broad view of the market participant doctrine while others take an exceptionally narrow view, especially as it relates to Tidelands trustees. The ports believe that the market participant doctrine does apply to some of the measures proposed in the CAAP. However, like many of the legal issues raised in the comments, the market participant doctrine analysis is fact-specific and must be looked at measure by measure.

Several comments question the authority of the ports to impose some of the measures within the CAAP. As clearly stated in the CAAP, each individual measure will be further defined and then analyzed from various perspectives, including economic, political and legal, before being adopted and implemented. The legal analysis will include careful consideration of all applicable constitutional and statutory provisions.



The CAAP also clearly states that it is a living document. Some measures may be changed or rejected as they are further investigated and other measures may be introduced. Many comments expressed a preference for detailed legal analysis of specific measures before adoption of the CAAP and before these measures have even been fully developed, but this is clearly not required prior to planning or policy development.

19: The ports have failed to provide a legal analysis of their authority to impose the control measures in the plan. In fact, the Ports acknowledge in the CAAP that “All control measures and implementation strategies/mechanisms are subject to further legal analysis by the City Attorneys of the respective ports.”

Response: See Response #18

20: We have numerous concerns regarding trading schemes, especially that of MGMC, and urge the Ports not to consider trading as an implementation mechanism for CAAP. Pollution trading programs generally limit public participation in the environmental decision making process.

Response: Many mechanisms are being considered for implementing the CAAP. Given the breadth and scope of the Plan, more than one mechanism will need to be used. Although, the Ports do not currently anticipate using market trading mechanisms for Plan implementation, the Ports will consider all mechanisms based on their ability to achieve the necessary emission reductions as rapidly and cost-effectively as possible.

21: The HDV1 measure should establish clear interim as well as final emissions reduction goals. Interim goals will allow this measure to be evaluated each year. Inserting goals will provide a clear indicator of progress and will provide feedback if a change in strategy is necessary.

Response: The goal of the HDV1 measure is to expedite the fleet transformation to “clean trucks” by replacing all frequent and replacing or retrofitting semi-frequent caller container trucks servicing both ports by the end of 2011. This measure, like all measures in the CAAP, does not establish arbitrary goals. Rather, it focuses on unit-based goals that define achievable emission reductions from each source category. The benefits of this program will be quantified and reflected in the annual updates to the Ports’ HDV emissions inventories. Further, progress toward achieving the truck fleet modernization unit-based goals will be monitored each year as part of the Ports’ CAAP performance tracking and reporting.



22: The Ports should ensure that the 0.1% S requirement on auxiliary engines is implemented.

Response: The Ports believe that taken together, OGV3 and OGV4 go substantially beyond the requirements of CARB's auxiliary engine rule. OGV3 requires 0.2% S fuel in auxiliaries during the early years of the Plan, when the CARB rule requires use of 0.5% S fuel in auxiliary engines only. Once CARB's rule requires 0.1% S in 2010, vessel operators will be required to comply with that level. The Plan does not take credit for this change. Under measure OGV3, the Ports will be performing a feasibility study and will make sure that the fuel necessary under this measure is available. The CARB and the Ports' share the same goal of ensuring that 0.1% S fuel is available in 2010 to be utilized in auxiliary engines. In order to avoid duplication of effort and resources, the Ports will work with CARB staff on their feasibility assessment study.

23: Will requirements be implemented on a case by case basis or will uniform requirements based on fixed percentages be established (for any of the measures)?

Response: When measures are implemented through leases, each lease will be negotiated on a case-by-case basis. Every port facility has unique operations, and this approach allows for the greatest flexibility for achieving the goals of the CAAP. Setting fixed percentages for uniform application will not always achieve the greatest emissions reductions. For example, requiring a fixed percentage of calls to cold-iron does not necessarily achieve the greatest emission reductions and can even work against the goals of the CAAP. Where uniform application of a measure is appropriate, tariffs are being considered.

24: Pollution from all regional goods movement activities, including those in the inland distribution centers, warehouses and intermodal railyards, should be addressed together with the equipment at the Ports of Los Angeles and Long Beach.

Response: Inland distribution centers, warehouses and intermodal railyards are outside the control of the Ports. Port authority is applicable to tenant operations within the harbor districts. The USEPA, ARB, and SCAQMD are the agencies who have jurisdiction over broader regions. It is the Ports' hope that these agencies will continue to build upon the Clean Air Action Plan process to formulate regional measures. In addition, it is important to note, much of the emissions reductions from the control measures within the Plan will have benefits over the broader region.



25: Will Green House Gases be addressed in the CAAP?

Response: In addition to the focus on DPM, oxides of nitrogen (NO_x), and oxides of sulfur (SO_x), greenhouse gases (such as carbon dioxide, methane, etc.) are also an important consideration when evaluating emissions from mobile sources, since they potentially have a global effect. While the immediate purpose of this Clean Air Action Plan is to address emissions that affect public health risk on a local basis, it is important to note that none of the emissions mitigations measures proposed in this plan will cause an increase in greenhouse gas (GHG) and that some, in fact, will reduce GHGs. Further, state-wide greenhouse gas emission reductions are expected to be achieved through AB 32, which was signed into law in September 2006, requiring CARB to develop regulations and market mechanisms to implement a cap on greenhouse gas emissions from stationary sources that will reduce California's greenhouse gas emissions to 1990 levels by 2020. In addition, the Port of Los Angeles has joined the California Climate Registry which requires the Port to estimate Green House Gas Emissions from various port operations by 2007.

26: The CAAP should maximize the utilization of alternative fuels like LNG to reduce the mobile emissions problems of NO_x, PM, and toxics.

Response: The Ports' Plan is generally fuel neutral and the choice of whether or not to convert from diesel to alternative fuels like LNG is ultimately the decision of the equipment or vehicle operators. Through the Plan, the Ports are attempting to ensure that whatever the choice, that the lowest emitting technology, within a specific fuel type, is purchased. That being said, the monetary incentives offered by the Ports, the SCAQMD and the federal government, as well as the establishment of LNG fueling infrastructure, should be sufficient to make LNG a viable option.

27: How will our input be incorporated into the Plan?

Response: Please refer to response #4 . In addition, the CAAP clearly states that it is a "living document". The CAAP will be updated annually and stakeholder input will be encouraged during each update. Based upon the input received and the Port's tracking of the performance of each measure, some measures may be changed to make them more effective and other measures may be introduced.

28: The CAAP needs to consider public health and industry costs.

Response: The Ports did not quantify: 1) new equipment, infrastructure, or increased operational and maintenance costs that the industry may incur or 2) air pollution related health impacts and cost to the public. The CAAP was developed primarily as a tool for the Ports to identify measures to be implemented for reducing air quality impacts from port operations. Therefore, in the context of a planning document for the Ports, only the costs that needed to be considered for the Ports' future budget planning were estimated.



29: The CAAP should be consistent with other state, regional, or local emission reduction plans and rules.

Response: The Ports agree and are working closely with representatives of the Environmental Protection Agency, California Air Resources Board, and the South Coast Air Quality Management District. While the Ports will ensure that the CAAP will not conflict with state, regional or federal rules, specific CAAP measures may go beyond the requirements within those other rules. The Ports also expect that the Clean Air Action Plan will be the basis of control measures incorporated into the State Implementation Plan through the SCAQMD's AQMP. Due to the close coordination with SCAQMD and CARB, the Clean Air Action Plan will, it is hoped, represent the joint approach for reducing the "fair share" of emissions associated with port-related operations. It is expected that CARB's Good Movement Plan and SCAQMD's 2007 AQMP will complement the CAAP.

30: The Ports should work cooperatively with the all of the regulatory and oversight agencies.

Response: The Ports agree and are worked closely with representatives of the Environmental Protection Agency (EPA-Region-9), California Air Resources Board, and the South Coast Air Quality Management District to develop the scope and the breadth of the San Pedro Bay Clean Air Action Plan. The CAAP document is the prime example of cooperation between regulatory agencies and the regulated community where, for the first time, these three government agencies and the two Ports have worked so closely together, to develop a joint plan of action to reduce Port related emissions.

31: The Ports should make a commitment to engage international partners to target pollution from port sources.

Response: Ports have already taken steps to reach out to international trading partners. As an example, Port of Los Angeles has developed a Pacific Ports Air Quality Collaborative initiative with the Shanghai Municipal Port Administrative Center. In addition, the Port of Los Angeles, Long Beach and Rotterdam are taking a leading role to provide an environment and work platform in developing a shore-to-ship power standard through the International Organization of Standards (ISO) Technical Committee 8, Sub-Committee 3.

32: The Port's should consider new technologies (e.g. Maglev, fuel cells, etc.)

Response: A major focus of the CAAP is the Technology Advancement Program, as detailed in Section 5.7 of the Technical Report. It is envisioned that the Technology Advancement Program would be the catalyst for identifying, evaluating, and demonstrating/piloting new and emerging emissions reduction technologies/strategies that could then be utilized in future updates to the Clean Air Action Plan as new control measures, alternatives to existing strategies, or as additional mitigation options for new projects that will ultimately result in significant reductions of DPM, NO_x, and other criteria pollutants.



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San Pedro Bay Ports Clean Air Action Plan Comments Compendium

An additional component of the Technology Advancement Program is development of Green Container Transport Solutions. The two Ports have already released a joint RFP for advanced cargo transportation technology evaluation and comparison with regards to container transport to near dock rail facilities. Advance technologies included for evaluation include: linear induction motor systems, electric container conveyor systems including “mag-lev,” freight shuttle systems, aerospace freight options, etc. As part of the scope, the Ports will develop an RFP to undertake design and construction of prototype systems.

The Ports have committed a minimum of \$15 million to this program over the next five years.



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RESPONSES TO PUBLIC COMMENTS/QUESTIONS RECEIVED AT FOUR PUBLIC MEETINGS

ORAL Comment #1: Support for container fees; Shippers should pay for pollution related to goods movement; SB 760 is good idea; Container fees should be listed in the plan as a funding mechanism.

Response #1: There were 26 speakers that commented on one or more of the above topic ideas; this was the most common topic area discussed at the public meetings. See Frequently Occurring Comments Response #7.

ORAL Comment #2: Appreciation for the cooperation between the two Ports and the air agencies.

Response #2: There were 16 speakers that shared this appreciation. Comment noted.

ORAL Comment #3: The CAAP is not as aggressive as the No Net Increase (NNI) Task Force report; In general, the CAAP is not aggressive enough.

Response #3: There were 14 comments related to this topic area. See Frequently Occurring Comments Responses #16 and #17.

ORAL Comment #4: Suffering with health problems due to port pollution; black soot everywhere.

Response #4: There were 14 comments related to this topic area. Section 1 of the Technical Report addresses the need for emission reductions and health risk reduction. The ports recognize that the links between air emissions and health impacts are complex and that significant emission reductions from all sectors, including "Goods Movement" are necessary for the South Coast Air Basin to reach attainment with the health-based National Ambient Air Quality Standards. Further, the CAAP identifies a health risk based project specific standard and the development of a San Pedro Bay wide standard between the ports and the agencies by Spring of 2007 to address public health risk associated with port related mobile sources.

ORAL Comment #5: Do not support the use of public Bond money; Public should not have to pay for cleanup.

Response #5: There were 13 comments related to this topic area. The public bond measure was not initiated by the Ports to help fund the CAAP. Instead, it is part of Governor's Goods Movement Action Plan. Under this plan, one of the options considered is bond funding for goods movement infrastructure improvement and goods movement related air quality mitigation. Further, the final draft proposal, as written, requires infrastructure improvement bond funds be matched in a 1:4 ratio and clean air projects be matched in a 1:1 ratio with matching funds from private or other appropriate local or federal funds. However, if the bond measure is ultimately approved, then the Ports will rightfully seek their proportional allocation



(i.e., fair share) of funding from this bond to help fund the Plan. In addition, the Ports are evaluating alternative funding mechanisms, as described in Frequently Occurring Comment Response #7.

ORAL Comment #6: Why aren't other alternative fuels such as biodiesel, Mag Lev, Electric Trains, Wind, Solar or Tidal Power highlighted in the CAAP?

Response #6: There were 10 speakers that raised ideas related to one or more of the above alternative fuels/technologies. See Frequently Occurring Comments Response # 32.

With regard to biodiesel, it is important to realize that while biodiesel fuel use does provide measurable diesel particulate matter (DPM) emission reductions, biodiesel does not achieve the significant NO_x reductions of other fuels such as LNG. In fact, some studies have shown that biodiesel increases NO_x emissions, so clearly, if public health priority is to be maximized, further study on biodiesel and its potential impacts is required.

ORAL Comment #7: Funding not adequate; Need to address it further in the Plan; The Plan can't rely on bond money.

Response #7: There were 9 speakers indicating these concerns. See Frequently Occurring Comment Response #7.

ORAL Comment#8: Need clear and enforceable standards/goals and timelines.

Response #8: There were 8 speakers indicating these concerns. See Frequently Occurring Comments Responses # 14 and #17.

ORAL Comment#9: Do not support port expansion without decreasing current pollution level or the use of a zero emissions cargo transport system.

Response #9: There were 7 speakers indicating a variant on these concerns. **The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue.** As background, the Ports have a legal responsibility to support goods movement, as required by Chapter 8 of the Coastal Act, which recognizes the benefits to the State of goods movement commerce, and also limits such commerce to existing port locations. It is important to realize that the Ports' primary ability to reduce emissions is tied to renegotiation of existing leases or negotiation of new leases. CAAP implementation primarily relies on the opportunity to negotiate lease modifications or new leases, for in-use and new categories, respectively. In addition, the Ports are committed to exploring and incorporating new technologies into port operations. See Frequently Occurring Comment Response #32.



ORAL Comment #10: How will the public comments be addressed, how will responses to public comment be reviewed by the public and progress be reported?

Response #10: There were 6 speakers with this question. See Frequently Occurring Comments Responses # 4 and #27. .

ORAL Comment #11: Do not support credit trading; or if you do credit trade - make sure to reduce more than you add; Credit trading is not appropriate for toxics.

Response #11: There were 6 speakers with this issue. Many mechanisms are being considered for implementing the CAAP. Given the breadth and scope of the Plan, more than one mechanism will need to be used. The Ports will consider all mechanisms based on their ability to achieve the necessary emission reductions as rapidly and cost-effectively as possible. However, the Ports are not pursuing credit trading programs at this time.

ORAL Comment #12: Supports Clean Air Action Plan as “living document”.

Response #12: There were 6 speakers on this topic. Comment noted.

ORAL Comment#13: Question on Air Monitoring Stations near Ports to track progress; expressed need for a daily or weekly map of air quality in the area.

Response #13: There were 6 speakers with this question/point. Both Ports are implementing air quality monitoring stations within their facilities and in San Pedro and Wilmington communities. In addition, the SCAQMD is planning to conduct an enhanced air monitoring program in the port community area. Special air monitoring studies conducted by other organizations indicated their desire to coordinate with the port community monitoring program. In particular, CARB is implementing a project entitled “Harbor Communities Monitoring Project”. The primary goal of this project is to develop improved tools to measure air pollutant concentrations and detect areas with high concentration of these pollutants. This project consists of three types of air pollution sampling: a network of passive samplers (stationary), a mobile platform, and a network of particle counters. The project team has contacted the SCAQMD to coordinate the location of their measurement program. The communities being studied include Wilmington, parts of Carson, West Long Beach, and San Pedro.

The objective of the SCAQMD program is to characterize the ambient air toxic and criteria pollutant concentrations and potential exposures in the port-community area. As part of this effort, the SCAQMD plans to deploy air monitoring equipment at several locations that complements the existing air monitoring stations operated by the ports (four by POLA and two by POLB). In addition, the SCAQMD has set up a technical working group which includes the two ports, ARB, U.S. EPA, community representatives, labor union, academia, and industry representatives to provide input into the process. Six fully instrumented sites are proposed for this program. Proposed sites include: North Long Beach, MATES II Wilmington Site, Hudson School, Drake Park or North, Wilmington Community, Carson



(Del Amo Elementary) and two additional fully instrumented monitoring platforms to be deployed to measure community impacts of I-710.

The two Port of Long Beach stations are located at: 1) the tip of the Navy Mole (in Gull Park), and 2) on Canal Ave., near Anaheim. The stations provide real-time emissions data that is reported on a website for public review (www.polb.com/air-monitoring). The website displaying the real-time data from the POLB stations have been operational since first week in October 2006. The website is linked from the POLB home page and includes information on air quality and meteorological parameters measured at the stations, both current and historical. Future updates to the website will include a comparison of the two stations to other regional air monitoring stations. These stations monitor meteorological conditions and nitrogen dioxide (NO₂), ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), as well as real-time PM₁₀ and PM_{2.5}. Filter-based PM₁₀ and PM_{2.5} samples will be collected for side-by-side comparison, and the first year will include speciation of the PM_{2.5} samples for metals, ions, elemental carbon/organic carbon (EC/OC) and polycyclic aromatic hydrocarbons (PAHs.)

The Port of Los Angeles currently operates four air monitoring stations that monitor PM₁₀ and PM_{2.5}, as well as meteorological parameters. POLA conducts PM speciation for EC/OC, ions and metals. These stations are located at: Berth 47, Terminal Island, Liberty Hill Plaza (San Pedro Community site), and Saints Peter and Paul School (Wilmington Community site); a map of the station locations is provided on the POLA website. POLA is currently conducting filter-based sampling and posts the results on the POLA website periodically.

ORAL Comment #14: Do not support liquefied natural gas (LNG); Ultrafine PM from LNG a concern; Ensure that after further study, if UFPs are a problem, be sure to add them to CAAP.

Response #14: There were 6 speakers with one or both of these issues. The Port of Long Beach is currently evaluating the construction and operation of a LNG storage terminal. The issues associated with this project are distinct and separate from the CAAP's proposed use of LNG as a transportation fuel, and are part of a separate EIR process.

LNG-fueled vehicles have been in operation throughout the world for several years and have proven to be a reliable alternative transportation fuel that provides important environmental improvement benefits. Although EPA and CARB currently monitor and regulate PM₁₀ and PM_{2.5}, new research is being conducted on UFPs, which are particles classified as less than 0.1 micron in diameter. UFPs are usually formed by a combustion cycle, independent of fuel type. With diesel fuel, UFPs can be formed directly from the fuel during combustion. With gasoline and natural gas (liquefied or compressed), the UFPs are derived mostly from the engine's lubricant oil. UFPs are emitted directly from the tailpipe as solid particles (soot—elemental carbon and metal oxides) and semivolatile particles (sulfates and hydrocarbons) that coagulate to form particles.



Tailpipe emissions are significantly reduced compared to conventional diesel fueled vehicles and fuel supplies are not contingent upon the aforementioned storage facility. According to the SCAQMD, natural gas engines inherently have 70 percent less particulate (including UFP) emissions when compared to diesel (without after-treatment controls). However, diesel particulate emissions (including UFPs) are reduced to comparable levels with aftertreatment (particulate traps for diesel and oxidation catalysts for alternative fuels). While engines with aftertreatment devices have low UFP emissions, only the newer engines have verified aftertreatment devices available. More recently, all natural gas engines certified for sale in California in 2005 includes oxidation catalysts, which further reduce particulate emissions including UFPs. New diesel engines are not required to have aftertreatment until 2007 in order to meet new emissions standards. Also of note, if a post-combustion treatment fails on a diesel engine, the UFP emissions are higher than on an alternative fuel engine with a failed aftertreatment device. Nonetheless, UFPs are a serious new issue and consideration of UFP emissions impacts will be incorporated into the plan as new information is obtained and existing data are further studied.

Current UFP research primarily involves roadway exposure. Preliminary studies suggest that over 50 percent of an individual's daily exposure to UFPs is from driving on highways. Exposure levels appear to drop off rapidly as one moves away from major roadways. Little research has been conducted directly on ships and off-road vehicles. ARB will be commencing a study this summer at the San Pedro Bay Ports to measure pollutants including UFPs. Additional work effort is being conducted on filter technology, including filters for ships, which appears promising. The Ports actively participate in all CARB testing programs at the Ports and will comply with all future regulations regarding UFPs. Finally, it should be noted that measures included in the CAAP aim to reduce all emissions, port-wide.

ORAL Comment#15: Non-Cancer related health issues not addressed.

Response #15: There were 5 speakers with this concern. See Frequently Occurring Comments Response #10.

ORAL Comment#16: Plan should address how to pay for an individual's health care costs that result from Port pollution.

Response #16: There were 5 speakers with this comment. The Ports are included within a region (the South Coast Air Basin) that is in severe nonattainment. There are a large variety of sources that contribute to the region's air pollution, and it is impossible to assign any one source a proportional share of the responsibility for the health effects of this pollution. Air pollution is a regional problem that the Ports are a part of, and the CAAP was created to address our role in this problem. The CAAP is designed to reduce exposure of local residents to pollution caused by port activity. It is noteworthy that the agencies whose key responsibility



is to protect public health (i.e., SCAQMD, ARB, EPA) do not spend direct funding on health care costs.

The SCAQMD primary charge is to monitor air pollution and develop approaches to reduce emissions (either regulatory or incentives) to meet state and federal air pollution laws. To assist in understanding the effects of air pollution, the SCAQMD sponsors and co-sponsors research to reduce emissions as expeditiously as possible.

ORAL Comment #17: How will the CAAP's progress be monitored and reported to public? Who is accountable if the Clean Air Action Plan does not work?

Response #17: There were 5 speakers with this comment. Progress reporting on implementation of the CAAP measures will be conducted on an annual basis, at a minimum. This reporting will be coupled with annual port-wide emissions inventory updates will provide excellent tools to measure the progress and effectiveness of CAAP implementation. Also, see Frequently Occurring Comments Response #5.

ORAL Comment #18: Current truck system is broken, need to address societal issues related to trucking as well as the pollution issues; need a results oriented approach (limit emissions while letting truck companies choose how to do so).

Response #18: There were 4 speakers with this comment. See revised and expanded control measure SPBP-HDV1 description in the Technical Report. In the short term, the CAAP addresses trucking emissions by ensuring that the old high-emitting trucks are replaced by newer low-emission trucks or retrofit to achieve significant emissions reductions. The CAAP recognizes that reducing emissions from container transport trucks has unique considerations, including the diverse nature of vehicle ownership, as well as affordability. Mechanisms to address these issues will be explored during development of the implementation plan for this measure.

ORAL Comment#19: Penalties for noncompliance should be included, turn away dirtiest 10% OGVs, trucks etc.

Response #19: There were 4 speakers with this comment. The primary implementation mechanisms will be lease requirements and tariff actions, both of which have noncompliance penalties. Any other mechanisms (i.e., incentive programs) that are developed for specific measures will have implementation requirements that will ensure that participants meet their obligations under the programs, with penalties for noncompliance (such as revocation of incentive funding). These requirements and penalties will be specified directly in the implementing leases, tariffs, and other programs rather than in the CAAP.

ORAL Comment#20: Does the Clean Air Action Plan need to be considered under a CEQA process?



Response #20: There were 4 speakers that addressed this comment area. The Boards of Harbor Commissioners for both Ports will make appropriate CEQA findings as required by the law before adopting the CAAP. Staff will recommend findings, including findings to the effect: (1) that the CAAP is a "general policy and procedure making" action, which is not a project for CEQA purposes, 14 California Code of Regulations, Section 15378(b)(2); and (2) that the CAAP is statutorily exempt from CEQA as a "feasibility and planning study" Section 15262; see also Section 15061(b)(3) and Section 15306.

ORAL Comment#21: The Ports should not invoke "overriding considerations" within CEQA.

Response #21: There was 1 speaker that addressed this comment area. The ability to use overriding considerations is vested in the Board of Harbor Commissioners. CEQA law allows this authority for lead agencies to use at their discretion, as necessary, in order to allow flexibility in policy making.

ORAL Comment#22: Ports should pay for the plan out of their operating budget.

Response #22: There were 5 speakers with this comment. Ports are paying a significant amount of funding from Port budgets for air quality improvement programs that include direct emission reduction projects, periodic emissions inventory updates, real-time air monitoring, etc. (See ORAL Comment # 23) The major source of funding for implementation of these measures however is placed on industry. See Frequently Occurring Comment Responses #7 and #13.

ORAL Comment#23: What percent of the Ports' operating budget is used to address pollution? It's too small an amount.

Response #23: There was 1 speaker with this comment. The Port of Los Angeles 2006-2007 operating budget is \$259 million. Of this, \$42 million is allocated for environmental programs. This represents 17 percent of POLA's operating budget. The Port of Long Beach 2006-2007 budget includes \$90 million for environmental programs including \$20 million for the CAAP. This represents nearly 19 percent of POLB's \$474 million 2006-2007 total budget.

ORAL Comment#24: PierPass not a good thing - increases pollution.

Response #24: There were three speakers expressing this opinion. The PierPass Program was designed as a congestion relief strategy. PierPass' goal is to reduce peak congestion on freeways and roads serving the Ports by redistributing some of the truck trips that would normally occur between 8am-5pm to off-peak hours. By redistributing existing trips, PierPass improves traffic conditions particularly on Interstate 710. Since its inception, PierPass has moved approximately one-third of all truck trips to off-peak hours. While air quality improvement is not a primary goal of PierPass, congestion relief strategies like PierPass have real and significant air quality benefits. Reducing congestion results in better traffic flow,



which can significantly reduce emissions. PierPass does not increase air pollution since the program does not generate any new or additional trips, but reduces air pollution by improving traffic conditions on freeways and roads used by trucks servicing the Ports. The Ports are not aware of any emissions impact analysis specific to this program. Also, risks may differ due to nighttime emissions under more stable meteorological conditions.

ORAL Comment #25: Clean Air Action Plan inadequate in addressing public health crisis and costs. Where are the health protective goals?

Response #25: There were four speakers that addressed this comment area. See Frequently Occurring Responses #10 and #11.

ORAL Comment #26: Need extension for comments.

Response #26: Three speakers requested an extension of the comment period. The Ports granted a 30-day extension for written comments (August 28, 2006). However, stakeholders should keep in mind that the CAAP is a “living” document, and there will be many opportunities to participate in the evolution of this plan and the programs that it generates. See Frequently Occurring Comments Response #4.

ORAL Comment#27: Lease based implementation not aggressive enough.

Response #27: There were three speakers that addressed this comment area. Regulatory agencies (SCAMQD, CARB and EPA) have indicated a strong desire that the Ports utilize the lease negotiation/renegotiation mechanism as an enforceable measure. Lease-based implementation was also one of the key recommended approaches from the No Net Increase Task Force as a leading enforceable emissions reduction measure implementation strategy. The CAAP is designed to use a mix of strategies though, and all legal options are being explored in detail to maximize the success of CAAP measure implementation. CAAP has been amended to include schedules to develop tariffs, where feasible, to expedite controls.

ORAL Comment #28: Health Risk Assessment goal of 10 in million is not stringent enough.

Response #28: There were three speakers that addressed this comment area. The 10 in 1,000,000 excess residential cancer risk threshold proposed in the CAAP is an aggressive criterion, consistent with SCAQMD CEQA guidance. A risk threshold of 0 in 1,000,000 is not a realistic criterion since it would essentially create a prohibition on development not only at the Ports, but basin-wide. All combustion sources emit pollutants that increase risk, and as a result, any project that involves any mobile source has the potential to increase health risk. The Ports will take aggressive action, as detailed in the CAAP, to minimize health risks to the extent possible.



ORAL Comment#29: Support for more on-dock terminal facilities because it reduces truck traffic; Why does the plan only say “we favor on-dock rail” instead of requiring it; Port to rail infrastructure should be required and paid by rail industry.

Response #29:

There were three speakers that addressed this comment area. See Frequently Occurring Response #9.

With regard to financing, it is expected that improvements to on-dock yards inside the terminals would be paid for through terminal leases. See Frequently Occurring Comment Response #13. Improvements outside the terminals will require alternate funding sources. The ports will be seeking contributions from the proposed state General Obligation Bonds through SB 1266 and contributions from industry stakeholders.

ORAL Comment #30: Need a port-wide pollutant significance level, not project-by-project, what will be done about the cases (5,000) that are already experienced at current pollutant levels?

Response #30: There were three speakers that addressed this comment area. This issue will be addressed during development of the San Pedro Bay Standard (SPBS). The SPBS is a cumulative standard for the port area and will facilitate application of a port-wide significance level as requested in this comment. At this time, there is no existing model which to base this San Pedro Bay wide standard and the Ports will be working with the agencies through Spring 2007 to determine the appropriate threshold. In addition, see Frequently Occurring Comment Response #13.

ORAL Comment#31: Questions on Truck retrofit/replacement program and how it will work.

Response #31: There were two speakers that requested additional information on the truck replacement program. The CAAP was revised to provide additional information that better describes measure SPBP-HDV-1 in section 5 of the Technical Report.

ORAL Comment #32: Stated asthma and cancer rates are higher for near port residents than average.

Response #32: There were two speakers that addressed this comment area. Asthma and cancer have multiple and complex causes. The purpose for implementation of the San Pedro Bay Ports Clean Air Action Plan is to reduce emissions and health risks to local residents from pollution caused by port activity.

ORAL Comment #33: Ports should have their own bunkering to provide low sulfur fuels.

Response #33: There were two speakers that addressed this comment area. The marketplace can provide fuel more efficiently to tenants than a public agency; this suggestion is not an efficient way to supply fuel to tenants in that costs and logistics would be higher/more



complex than letting market forces provide supplies. The CAAP measures SPBP-OGV3 and SPBP-OGV4 will require the use of low sulfur fuels for vessels. These measures include a fuel availability analysis, to be completed by the end of 2007.

ORAL Comment #34: Lot of loophole wording for commitment but strong statement about support for growth in the plan.

Response #34: There were two speakers that addressed this comment area. The CAAP is being implemented to ensure that inevitable growth in port throughput does not adversely impact neighboring communities and the region beyond. See response to ORAL Comment #9. Each CAAP measure is a commitment to pursue emission reductions in the respective category, where some categories are new equipment and others address in-use, or existing, equipment. The CAAP was revised to complete the placeholder blanks in the draft version, providing firm timelines and targets for CAAP measure implementation. See Frequently Occurring Comment Response #14. The stringent and sometimes technology-forcing nature of many of the measures requires that a certain amount of flexibility is built into them to allow the ports to react to new information. For example, new technologies (or new uses for existing technologies) may become available or proposed technologies or methods may be proven infeasible. The plan has been written to include commitments to implement effective emission reduction measures and also to include the flexibility to adjust the measures as needed to meet equivalent or greater emissions reductions.

ORAL Comment #35: Would AMP aggravate residential power supply shortage during hot summer days?

Response #35: There were two speakers that addressed this comment area. The Ports are working with their respective electricity suppliers to address this issue.

ORAL Comment#36: Support Aggressive use of Tariff.

Response #36: There were two speakers that addressed this comment area. See Frequently Occurring Response #3.

ORAL Comment#37: What is the impact of Clean Air Action Plan on other Ports' Environmental Plans?

Response #37: There was one speaker with this comment. The CAAP is a policy document that will be a road map to guide future projects to address any air quality mitigation requirements.

ORAL Comment#38: Truckers and public are getting the short end.

Response #38: There was one speaker with this comment. A huge percent of the budget for CAAP implementation is dedicated to achieving emission reductions from trucks. Further, the CAAP itself was designed to maximize the benefit to the public of the emission reduction strategies therein.



ORAL Comment#39: Public outreach not good.

Response #39: During the first public meeting, one speaker said that not many public members had heard about the first public meeting. However, the four public meetings that were held were very well attended and the Ports received hundreds of written comments in addition to the oral comments received at the meetings. Further, the CAAP was issued in six languages in order to maximize its exposure and the Ports extended the public comment period by an additional 30-days to accommodate public requests. Further, copies of the CAAP were available at public libraries throughout the local community and the first Long Beach public workshop was televised on local access cable and webcast from the City of Long Beach website.

ORAL Comment #40: Gateway Cities Program not effective.

Response #40: There was one speaker that addressed this comment area. The Ports disagree with this comment. The Ports believe that the Gateway Cities Program has been successful within the constraints it is required to work within. CAAP measure SPBP-HDV1 will investigate all available options for implementation, including the Gateway Cities Program and the need to eliminate existing constraints in order to ensure that the program is scalable. Any deficiencies in the program that are found would be addressed in the new program that is ultimately implemented for this measure.

ORAL Comment #41: Support port expansion with flexible mitigation measures.

Response #41: There was one speaker that addressed this comment area. The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. The range of measures listed in CAAP indicates the flexibility in the plan to better assist the Ports and their customers in their consideration of new and redeveloped projects. In the CAAP, the Ports have compiled all currently feasible emissions control measures to reduce emissions from various Port-related emissions sources. Of course, Ports will consider additional measures or future new technologies that may emerge and provide equivalent or greater emissions reduction results.

ORAL Comment #42: Alameda Corridor concept not working-no reduction in truck traffic.

Response #42: Containers that are transported through on-dock rail systems have to go through the Southern Pacific San Pedro Branch along Alameda Street. The pre-Alameda corridor rail system would not have been able to handle the increased on-dock rail use. The Alameda Corridor (Corridor) has resulted in several environmental mitigation and capacity enhancement features as described below:



- The Corridor is 22 miles of track with train speeds of 40 miles per hour. The Corridor consolidated four branch lines with speeds near 10 miles per hour.
- Train traffic along the corridor has increased from 39 trains per day in 2002 to 47 trains per day in 2005.
- The ratio of container transport by train versus truck along the corridor has increased from 2:1 to 3:1.
- The corridor eliminated 200 grade crossings which in turn eliminated vehicular idle emissions at those crossings.
- The Corridor has reduced train stops which in turn reduced train emissions by 75%.
- The Alameda corridor is the primary mitigation measure for increased on-dock rail use. In 2005, the on-dock container traffic exceeded the pre-Alameda Corridor capacity and without the Corridor there would have been a significant increase in truck traffic.

According to Alameda Corridor Transportation Authority, the Corridor has resulted in a 518 tons per year reduction of NO_x and 21 tons per year reduction in PM emissions in the year 2005.

ORAL Comment #43: The CAAP should also reduce CO₂ and other greenhouse gas (GHG) emissions.

Response #43: There was one speaker that specified this comment area. See Frequently Occurring Comments Response #25.

ORAL Comment #44: Would like to see an independent consultant or environmentalist group on the panel to judge the Plan and participate in public meetings.

Response #44: There was one speaker with this suggestion. See Frequently Occurring Comment Response #4.

ORAL Comment #45: Plan progress should be measured in terms of "more healthy people".

Response #45: There was one speaker with this suggestion. The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks to the local communities. The plan will be monitored by a combination of the milestones specified in each plan measure and the periodic emissions inventory updates that will be developed for port operations.

ORAL Comment #46: Why are NNI and ARB Growth rates higher than Clean Air Action Plan Growth rates?

Response #46: There was one speaker with this question. CAAP uses the CARB growth factors contained in the Goods Movement Plan (GMP), which is based on the most up-to-date information available to CARB at the time they completed their work on the GMP. It is



noteworthy that the growth factors used for Ocean Going Vessels, currently the biggest contributor towards emissions from all ports sources, are same as used in NNI.

ORAL Comment #47: IMO Standards are not stringent and shouldn't be relied upon for meaningful reductions; speaker quoted many other sources to support this.

Response #47: There was one speaker with this comment. The Ports agree that the IMO standards are not stringent enough. Under CAAP, the Ports will be pushing for more stringent IMO standards, since IMO is the only option for international standards that will lead to global reductions. It may not currently promulgate the most stringent standards, but it is the only mechanism through which the Ports may work for more stringent standards that apply globally. As noted in the CAAP, there are a number of different approaches, including the support of more stringent IMO standards, being implemented to ensure a successful CAAP result. However, the Ports are not waiting for IMO to develop standards to meet CAAP air quality goals.

ORAL Comment #48: How much smoke/steam coming out of OGV breather pipes; what is the exposure of this to workers?

Response #48: There was one speaker with this question. It is believed that the speaker is referring to "breather pipes" or pressure relief systems for fuel tanks. Generally, this system is to allow venting/breathing of the fuel tanks when they are filled and additionally for pressure relief should the pressure (due to heat) in the tank become higher than the pressure relief valve on the breather pipe. It is believed that bunkering would be the primary reason for emissions to be discharged through this system. Due to the low volatility of bunker fuels, the volatile organic compounds (VOCs) levels associated with the limited bunkering at the ports is minimal.

ORAL Comment #49: Public Education is needed regarding pollution sources and how, as consumers, people pollute

Response #49: There was one speaker with this comment. The Ports agree public education is important in this area.

ORAL Comment #50: Rail industry has contributed significant effort to reduce emissions and looks forward to working with the team.

Response #50: There was one speaker with this comment. Comment noted.

ORAL Comment #51: Supports the use of LNG.

Response #51: There was one speaker with this comment. Comment noted.

ORAL Comment #52: Support for truck engine retrofit systems.

Response #52: There was one speaker with this comment. Comment noted.



ORAL Comment #53: Reservations expressed about the efficiency of fuel switching and availability of low sulfur fuel.

Response #53: There was one speaker with this comment. Implementation of SPBP-OGV3 and SPBP-OGV4 will include an analysis of market availability and technical and safety issues. These measures will require some work on the part of affected parties to implement, and some market adaptation will have to take place regarding availability of the appropriate fuels. However, the Ports believe these are workable measures and will take steps to implement them accordingly.

ORAL Comment #54: Supports truck fleet turnover.

Response #54: There was one speaker with this comment. Comment noted.

ORAL Comment #55: Do not support tweaking of Plan; need to begin implementation now.

Response #55: There was one speaker with this comment. The Ports received significant comments from the general public, community groups, environmental associations and industry stakeholders that deserve response and the CAAP will be revised as appropriate to address these comments. However, implementation of the CAAP will not be stalled by this process.

ORAL Comment #56: Include other technologies such as urban forestry, nano-technology, etc.

Response #56: There was one speaker with this comment. The Ports will consider all technologies that could potentially contribute to the overall CAAP goals. The key mechanism to evaluate such technologies is the CAAP's Technology Advancement Program as described in section 5 of the Technical Report and in Frequently Occurring Comment Response #32.

ORAL Comment #57: Question on documents mailed to residents by www.cleanports.org, do the Ports know about this group?

Response #57: There was one speaker with this comment. Question noted. The Ports are not knowledgeable about this group beyond the information provided in the mailers.

ORAL Comment#58: Long Beach City Council was not briefed prior to this public briefing.

Response #58: There was one speaker with this comment. A special presentation on the plan was made to the Long Beach City Council on August 1, 2006.

ORAL Comment#59: Likes and support the Clean Air Action Plan, challenges neighbors to get involved and support the plan.

Response #59: There was one speaker with this comment. Comment noted.



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San Pedro Bay Ports Clean Air Action Plan Comments Compendium

ORAL Comment#60: Los Angeles Alliance for a New Economy (LAANE) is an organization that expressed a willingness to work with Ports to develop a better HDV program that considers the truckers.

Response #60: There was one speaker with this comment. Comment noted.

ORAL Comment#61: The Federal government should pay for this plan since the whole country benefits from goods moved through these ports.

Response #61: There was one speaker with this comment. The Ports agree that the federal government should share in the burden of reducing emissions from port-related sources. However, in the absence of such funding, other mechanisms must be developed to expeditiously reduce emissions. See Frequently Occurring Comment Responses #7 and #13.



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San Pedro Bay Ports Clean Air Action Plan Comments Compendium

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RESPONSES TO WRITTEN PUBLIC COMMENTS/QUESTIONS

FORM LETTER 1

The Ports received two major form letters, the first of which indicates general support for the CAAP effort, but requests more aggressive action. Each key comment is addressed below.

There were 118 individuals that submitted this form letter to POLA, POLB or both. In addition, there were 15 individuals that submitted this form letter with modifications that generally included personal experiences with air pollution or health effects resulting from living within the Port communities.

CLI-FL1-I-1GC: For far too long, we have been forced to pay the full price for pollution - in health, environmental and economic costs - while industry profits by transporting goods through our communities. As a result, our communities suffer disproportionately from serious health ailments like cancer, lung disease and dangerous childhood asthma. And it slows economic growth - because so long as port-related trade is poisoning people, we will aggressively fight efforts to expand it.

Response: The purpose for implementation of the San Pedro Bay Ports Clean Air Action Plan is to reduce emissions and health risks to local residents from pollution caused by port activity. The ports recognize that the links between air emissions and health impacts are complex and that significant emission reductions from all sectors, including “Goods Movement” are necessary for the South Coast Air Basin to reach attainment with the health-based National Ambient Air Quality Standards. Further, the CAAP identifies a residential health risk based Project Specific Standard and the development of a San Pedro Bay-wide Standard between the ports and the agencies by Spring of next year to address public health risk associated with port related mobile sources.

CLI-FL1-I-2GC: Support a strong, aggressive Clean Air Action Plan from the Port of Los Angeles and Port of Long Beach.

Response: See Frequently Occurring Comments Response #1.

CLI-FL1-I-3GC: Require industry to drastically reduce pollution - before they can get new or renegotiated leases.

Response: Implementation of Clean Air Action Plan Measures during new leases or lease renegotiations is the primary method the Ports are using to accomplish emissions reduction from sources that operate at the ports.

CLI-FL1-I-4OGV: Require that ships use 'cold-ironing' - plugging into cleaner electric power while in the harbor - instead of burning 'bunker fuel'.

Response: The two Ports' strategy to implement cold-ironing is detailed in Control Measure Number SPBP-OGV2 entitled “Reduction of At-Berth OGV Emissions”.



CLI-FL1-I-5HDV: Replace the thousands of old, dirty trucks with new models using clean alternative fuels and technologies;

Response: The two Ports' strategy to implement a truck modernization program is detailed in Control Measure Number SPBP-HDV1 entitled "Performance Standards for On-Road Heavy-Duty Vehicles".

CLI-FL1-I-6CHE: Use the cleanest engines and alternative fuels for cargo-handling equipment (i.e., 'yard tractors' or 'yard hostlers')

Response: The two Ports' strategy to implement a performance requirements for cargo handling equipment is detailed in Control Measure Number SPBP-CHE1 entitled "Performance Standards for CHE".

CLI-FL1-I-7RL: Require cleaner locomotives - via alternative fuels and advanced emission controls;

Response: The two Ports' strategy to implement a cleaner locomotives is detailed in Control Measures SPBP-RL1 entitled "Rail Switch Engine Modernization"; SPBP-RL2 "Operational Controls for Line-Haul Locomotives" and SPBP-RL3 entitled "Clean Rail Yard Standards".

CLI-FL1-I-8-GC: Enforce existing environmental, zoning and public health laws - to end the 'underground economy' that shortchanges truckers and pollutes local communities.

Response: The Ports agree that the regional planning agencies and the agencies promulgating environmental and health laws should enforce environmental, zoning and public health laws.



FORM LETTER 2

The Ports received two major form letters, the second of which indicates agreement with the comments made in the August 18, 2006 letter by the NRDC, CCA et.al. and join that letter. Each key comment in this second Form Letter is addressed below.

There were 127 individuals that submitted this form letter to POLA, POLB or both. In addition, there were 6 individuals that submitted this form letter with modifications that generally included personal experiences with air pollution health effects resulting from living within the Port communities.

CLI-FL2-I-1GC: Diesel pollution from port operations causes severe health impacts, and thus it is critical that the Ports of LA and LB become leaders in the fight for clean air.

Response: Comment noted. The Port's believe that the CAAP and associated process, including coordination with the regulatory agencies, exemplifies this leadership.

CLI-FL2-I-2GC: Ports must ensure the CAAP is as strong and specific as possible. Concerned that the draft is too vague and under funded, thus I strongly urge the Ports to implement the recommendations of the NRDC et.al. to effectively address port pollution and protect public health.

Response: The Ports have responded to NRDC's comments, as detailed in CLAE-NRDC1 and CLAE-NRDC2, below.



COMMENT LETTER FROM ASSOCIATION-ENVIRONMENTAL (CLAE)

NATURAL RESOURCES DEFENSE COUNCIL (1st Submittal)

CLAE-NRDC1-1GC: Request a 30-day extension for comments.

Response: This request was granted, and the comment period was extended an additional 30 days to August 28, 2006.

CLAE-NRDC1-2GC: The CAAP finalization process needs a meaningful public process beyond comment letter solicitation and 3 minutes to talk at public meetings; Ports should meet with community groups (as they did with customers)

Response: The public was invited to a series of four public meetings that were attended by representatives from each Port as well as representatives from EPA, ARB and SCAQMD. This panel listened to extensive public comment and addressed specific questions from the public that were submitted in writing at each meeting. These public comment meetings were recorded and/or transcribed by court recorder for the record, which is available for public review upon request. Written summaries of each meeting were developed by Port staff and these meeting summaries were compiled into an "ORAL comments response" document, formalizing the Ports' response to the comments received.

In addition to the oral comments and questions received at the public meetings, the Ports accepted written comment submittals for staff consideration through August 28, 2006. This document addresses written public comments. In addition, follow-up meetings were conducted by Port staff upon stakeholder request as appropriate.

CLAE-NRDC1-3GC: Would appreciate the chance to meet with Port staff.

Response: Port of Los Angeles and Port of Long Beach staff met with representatives of NRDC, Coalition for Clean Air, and Los Angeles Alliance for a New Economy on September 28, 2006.



LONG BEACH ALLIANCE FOR CHILDREN AND ASTHMA

CLAE-LBACA-1GC: Request a 30-day extension for comments.

Response: See Response for CLAE-NRDC1-1GC.

CLAE- LBACA -2GC: The CAAP finalization process needs a meaningful public process beyond comment letter solicitation and 3 minutes to talk at public meetings; Ports should meet with community groups (as they did with customers)

Response: See Response for CLAE-NRDC1-2GC.

CLAE- LBACA -3GC: Would appreciate the chance to meet with Port staff.

Response: Port of Long Beach staff met with a LBACA representative on August 30, 2006.

COALITION FOR CLEAN AIR (1st Submittal)

CLAE-CCA1-1GC: Request a 30-day extension for comments.

Response: See Response for CLAE-NRDC1-1GC.

CLAE- CCA1 -2GC: The CAAP finalization process needs a meaningful public process beyond comment letter solicitation and 3 minutes to talk at public meetings; Ports should meet with community groups (as they did with customers)

Response: See Response for CLAE-NRDC1-1GC.

CLAE- CCA1 -3GC: Would appreciate the chance to meet with Port staff.

Response: See Response for CLAE-NRDC1-1GC.

NATURAL RESOURCES DEFENSE COUNCIL (2nd Submittal)

CLAE-NRDC2-1GC: On behalf of the undersigned groups, we write to comment on the San Pedro Bay Ports Clean Air Action Plan (CAAP or the Plan). We are excited that the Ports of Los Angeles and Long Beach (the Ports) are on the verge of adopting what could be a landmark plan to address port pollution. Considerable efforts over the years by environmental, public health, and community organizations, in addition to recent efforts by the California Air Resources Board (CARB), South Coast Air Quality Management District (SCAQMD), and the Ports, have all demonstrated the necessity and timeliness of such a plan. Indeed, in June 2005, the No Net Increase Plan (NNI Plan) for the Port of Los Angeles concluded that by 2025, implementation of the NNI Plan would prevent approximately 2,200 premature deaths. In March 2006, CARB estimated that ports and



goods movement activities cause 2,400 premature deaths and over 1 million school absences in the state every year, and that by 2020, pollution from such activities will have an aggregate health impact of approximately \$200 billion. Further, approximately half of these costs are projected to occur in our air basin as a direct result of trade through the Ports. Accordingly, it is abundantly clear that a strong clean air plan is needed to protect public health and the environment, especially in light of the Ports' large-scale expansion plans.

Response: Comments noted.

CLAE-NRDC2-2GC: Further, we acknowledge the ground-breaking efforts that this Plan represents, and appreciate the time and resources that the Ports, as well as federal, state, and local air quality agencies, have spent to develop CAAP. With that said, however, we are concerned that there currently are too many "blanks" in the Plan in terms of goals, timing, and implementation. How these blanks are filled will make the difference between a plan that is merely a bureaucratic exercise and one that truly protects the health of port-adjacent communities and all Southern California residents.

Response: See Frequently Occurring Comments Response #14. In addition, the goals of the CAAP are defined as three sets of standards: 1. San Pedro Bay Standards; 2. Project Specific Standards and 3. Source Specific Standards. Staff has further strengthened the text of the Section 2.2 of the Technical Report that explains these standards. Further, the goals and timing of the source specific measures are defined in terms of the number of units that will be either replaced with the newest and cleanest available units (HDV and CHE) or ship calls that will use shore power or low sulfur fuel within the next five years. Implementation strategies (lease, incentives or tariff) are also noted against each source specific measure. Please see milestones and various tables within each measure description that provide expected emissions reductions.

CLAE-NRDC2-3GC: We are also concerned that a fully implemented CAAP, as currently outlined, will not achieve enough reductions to return port emissions back to 2001 levels. We acknowledge that this target emissions level, the basis for the NNI Plan and related policies, is certainly only an interim goal on the road to a safer port environment as opposed to an end in itself. In fact, President Freeman and many of the signatories to this letter have made such comments on a number of occasions. With that said, the goals of NNI represent an important starting point and CAAP can and must be strengthened to achieve maximum pollution reductions, with the ultimate objective of reducing pollution beyond 2001 levels. Moreover, we believe that our comments will, if addressed and incorporated into the CAAP, improve the Plan in its scope, implementation, accountability, and effectiveness. We are eager to continue working with all stakeholders to achieve cleaner, more responsible port operations and thereby literally save the lives of thousands of people suffering from port and goods movement pollution.



Response: See Frequently Occurring Comments Response #16. We agree that achieving 2001 levels is not the ultimate goal of the CAAP. The Ports appreciate NRDC and other stakeholders' input and reiterate their commitment to keep the public involved by posting progress of CAAP through periodic Harbor Commissioners Board Meetings and other public meetings as appropriate.

CLAE-NRDC2-4GC: Principles and Standards: In order to ensure reductions in criteria pollutants, and prevent an over-reliance on HRAs to gauge air quality and public health, CAAP's Principles and Standards must include clear, measurable goals to reduce health risk both on and off port lands from toxic air contaminants and criteria pollutants. These goals must be at least as ambitious as those articulated by CARB and SCAQMD, and may include: (1) reducing air pollution levels to 2001 levels by 2010; (2) reducing the health risk from diesel PM by 85%, as compared to 2000 levels by 2020; (3) reducing NOx emissions by at least 30% by 2015; and (4) further reducing NOx emissions by 50% by 2020.

Response: See Frequently Occurring Comments Response #17.

CLAE-NRDC2-5GC: The Ports should also amend Principle (4) to ensure that other important factors are considered when determining what emissions reductions to undertake. In addition, any HRAs conducted as part of CEQA or under CAAP should assess the level of cancer risk, as well as non-cancer risks from port operations, and evaluate cumulative risk. We also urge the Ports to embrace the ultimate goal of "no risk" from port operations. Lastly, CAAP's Project Specific Standards to reduce criteria pollutants should go above and beyond what CEQA requires to help achieve attainment and health protective emissions levels.

Response: See Frequently Occurring Comments Responses #10, #11, #12, and #17. .

CLAE-NRDC2-6GC: Long Term Plan: The Plan must require the Ports, SCAQMD, CARB, EPA, and other stakeholders to work together to expeditiously create a long-term vision for addressing air pollution from port operations. This work must commence immediately and be concurrent with the implementation of the five-year Plan.

Response: See Frequently Occurring Comments Response #15. The Ports are working closely with members of Technical Working Group (TWG). Working together on annual updates to the plan will provide a flexible, and therefore more effective, long range strategy for reducing emissions from Port related activities.



CLAE-NRDC2-7GC: The Ports must revise CAAP's control measures by:

- ✦ **Providing clear time lines and implementation schedules for each of the control measures. All blanks must be filled in.**

Response: See Frequently Occurring Comments Response #14.

CLAE-NRDC2-8GC: The Ports must revise CAAP's control measures by:

- ✦ **Providing, for each control measure, the percentage of participation/compliance by the targeted source and compliance dates.**

Response: Appendix A includes the percentage of participation/compliance by measure by calendar year.

CLAE-NRDC2-9GC-AF: The Ports must revise CAAP's control measures by:

- ✦ **Providing preferences for alternative fuels when feasible.**

Response: See Frequently Occurring Comments Response #26. In addition, the CAAP includes a comprehensive Technology Advancement Program (TAP), which will be the forum to consider and evaluate new fuels/technologies for port applications. All viable fuels/technologies are eligible to participate in the TAP and the Ports agree that all viable fuels/technologies will be studied for their ability to support CAAP goals.

CLAE-NRDC2-10GC: The Ports must revise CAAP's control measures by:

- ✦ **Disclosing, for each control measure, all assumptions made to reach the emissions reductions reported, and providing backstop measures in the event that the assumptions prove false. The backstop measures should achieve the same estimated emissions reductions as the CAAP measure.**

Response: See Frequently Occurring Comments Response #5. In addition, Appendix A includes the information used to estimate the emissions reductions.

CLAE-NRDC2-11GC: The Ports must revise CAAP's control measures by:

- ✦ **The Ports should work with EPA, CARB, and SCAQMD to develop regulations that could further accentuate the emissions reductions goals in the CAAP.**

Response: See Frequently Occurring Comments Responses #5, #29, and #30.

CLAE-NRDC2-12EI-Calc: The Ports must revise CAAP's control measures by:

- ✦ **Estimating the emissions reductions from every control measure, including those for locomotives and harbor craft.**

Response: See Frequently Occurring Comments Response #6.



CLAE-NRDC2-13GC: The Ports must revise CAAP's control measures by:

♦ Ensuring that, for each control measure, the “Elements to be Tracked” include emissions reductions and percentages of compliance/participation rates.

Response: See comment CLAE-NRDC2-8GC. In addition, the estimated emissions reductions for each control measure are listed in Section 5 of the Technical Report.

CLAE-NRDC2-14GC: The Ports must revise CAAP's control measures by:

♦ Ensuring that the Plan break out, in tabular form, the annual reductions expected to be achieved through each measure, and include consistent, easy-to-understand summaries that describe the timeline, emission reductions, and measure requirements for each measure.

Response: Section 5 of the CAAP Technical Report contains this information. The tables in Appendix A provide annual emission reduction estimates based on participation rates. All measures are based on lease renewal, tariffs or incentives. Those assumptions are also listed in appendix A for each measure

CLAE-NRDC2-15GC: The Ports must revise CAAP's control measures by:

♦ Ensuring that when lease-based approaches are utilized to implement CAAP measures, the Ports incentivize compliance with the measure ahead of lease renewal. For example, the Ports should make lease renewal contingent on early compliance with specific interim goals related to the measure.

Response: While the Ports will be working with tenants to achieve early compliance, every lease will be negotiated on an individual basis. In addition, the Ports are exploring many implementation options, including recognition programs to award tenants who implement early emission reduction efforts that go beyond requirements.

CLAE-NRDC2-16GC: The Ports must revise CAAP's control measures by:

♦ Reviewing Attachment A to this letter and addressing the specific comments we make to each control measure.

Response: See responses under CLAE-NRDC2-AttchA. In addition, the Ports have reviewed the comments made during their four public meetings and in the 367 comment letters submitted. All comments were evaluated and modifications were made to the plan where deemed appropriate.

CLAE-NRDC2-17EI: Emissions Inventory: For each source of pollution, the Ports should provide a graph of estimated emissions over time that clearly highlights and differentiates the emission reductions expected from current regulations, natural turnover (if any) versus CAAP measures.

Response: The Ports have updated and revised Section 6 of the Technical Report to address these comments.



CLAE-NRDC2-18GC: The Ports must clarify the basis for their growth projections and should not rely on the most conservative growth projections.

Response: See response to ORAL comment #46.

CLAE-NRDC2-19GC: CAAP should include emission estimates and measures to address the movement of non-containerized cargo through the Ports.

Response: The emissions inventory estimates and the measure specific requirements included in the CAAP for OGV, CHE, Harbor craft and Locomotives, are applicable to containerized as well as non-containerized cargo movement. The only exception is for trucks (HDV1 measure) where the emissions inventory was estimated only for those trucks that move containers, which represent the majority of truck moves. However, the requirements of the HDV1 measure apply to all trucks that move containers or non-containerized cargo from the ports. In future updates to the plan, the Ports will attempt to collect activity data for trucks that move non-containerized cargo through and update truck emissions inventory accordingly.

CLAE-NRDC2-20EI: CAAP must clearly explain emission projection assumptions under the unabated growth scenarios and properly account for the relatively long equipment life for all equipment servicing the Ports.

Response: The Ports have updated and revised Section 6 of the Technical Report to address these comments.

CLAE-NRDC2-21HDV-GC: CAAP must include a sufficiently representative geographic scope of truck emissions that considers all goods movement related truck emissions in the South Coast Air Basin whether they are pick-ups or drop-offs directly to the Ports or not.

Response: The Ports are devoting their resources to reducing emissions from trucks that visit the port terminals. CARB is developing their GMP and SIP, and the SCAQMD is developing their AQMP, which will consider emissions reductions from non-port-related truck activities that occur within the South Coast Air Basin, as well as the rest of the state.

CLAE-NRDC2-22GC: Implementation: The Ports must provide up-to-date information on leases and upcoming projects to ensure an accurate portrayal of emissions reductions. In addition, the Ports can and must utilize tariffs to obtain accelerated reductions from emissions sources, and as backstop measures. Alternatively, if the Ports believe further evaluation of tariffs is necessary, CAAP must include deadlines for when this evaluation should be complete. The Ports should also not divert resources to develop trading mechanisms to reduce pollution.

Response: Tables A-1.5 and A-1.6 in Appendix A provided up-to-date information on leases and upcoming projects that were current at the time the CAAP report was published. As mentioned before, the CAAP is a "living document". The Ports will be updating these tables, if the status of leases changes, as a part of periodic updates to the CAAP. Currently, the



Ports are looking into the feasibility of tariffs as an implementation mechanism on a measure by measure basis and will provide the status as soon as this study is complete. Where tariffs are being explored, such as for Control Measures OGV3 and OGV4, a specific timeline is included in the milestone section. The Ports are not currently expending any resources to develop trading mechanisms to reduce emissions.

CLAE-NRDC2-23Fund: Container Fees: CAAP must support user fees as a funding mechanism for the Plan. In particular, we strongly urge the Ports to support SB 760 (Lowenthal), which would collect \$30 from every container processed through the Ports of Los Angeles and Long Beach to improve rail infrastructure, security programs, and air quality.

Response: See Frequently Occurring Comment Response #7.

CLAE-NRDC2-24GC: Support Regulatory Efforts: The Ports must work with EPA, CARB, and SCAQMD to develop regulations aimed at reducing pollution from the goods movement system that can serve as backstop measures. The Ports must also commit to implement the CAAP control measures in conjunction with similar regulations, unless the regulation is equally or more stringent than the CAAP measure.

Response: See Frequently Occurring Comment Responses #5 and #29.

CLAE-NRDC2-25HE: Cost/Health Benefit Analysis: CAAP must include a discussion of the public health and environmental benefits of adopting the Plan in order to provide the foundation for why a strong clean air plan must be adopted, and to justify the expenses associated with implementing the Plan. We also strongly urge the Ports to work with CARB and SCAQMD to undertake a cost/health benefit analysis of the Plan to inform future port decision-making. This latter analysis however, should not delay implementation of CAAP.

Response: See Frequently Occurring Comments Response #28. In addition, The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. The Foundations for adopting the CAAP are outlined in Section 2.1 of the Technical Report.

CLAE-NRDC2-26GC: Land-Use Policies: In order to maximize reductions in health risk, the Ports must commit to adopting SCAQMD and CARB land-use policies in their lease agreements and CEQA projects, and adopt resolutions that favor on-dock rail over near-dock rail facilities.

Response: See Frequently Occurring Comments Responses #8 and #9.



CLAE-NRDC2-27GC: Public Process: The Ports must fully consider comments by the public and provide responses to these comments in a revised Plan. Additionally, the public must be provided sufficient time to review any revised Plan before agency action is taken. The Ports should release frequent progress reports on the implementation of the Plan. Moreover, the Ports should convene a stakeholder group to discuss future revisions to the CAAP that includes community representatives, environmental groups, and academics along with SCAQMD, CARB, and EPA.

Response: The Ports, with the Agencies, have considered all comments received and have revised the plan accordingly. The final Plan will be released two weeks prior to consideration by the respective Boards. Progress reports on CAAP implementation will be presented to each Port's Board during the public Harbor Commission meetings. Future updates to the Plan will include a public process and opportunity for public comment.

CLAE-NRDC2-28GC: The Ports need to define what constitutes an “appropriate fair share” as articulated in Principle (4). As you know, our region consistently suffers from the worst air quality in the nation. In fact, SCAQMD reports that the Ports are the largest fixed source of air pollution in the Los Angeles Basin, and that they are responsible for more than 100 tons per day of smog- and articulate-forming nitrogen oxides—more than the daily emissions from all 6 million cars in the region. Accordingly, our region will never reach compliance with federal clean air standards unless the Ports effectively control emissions of these pollutants. Thus, Principle (4) should be revised, or additional Principles or Standards should be added, to include clear, measurable goals to reduce criteria pollutants and health risk. These goals should be consistent, if not more ambitious, than the goals articulated by CARB and SCAQMD, which are discussed in the CARB

Emission Reduction Plan .

Response: See Frequently Occurring Comments Response #12.

CLAE-NRDC2-29GC: While the Plan states that the Ports will reduce their “fair share” of criteria pollutant emissions, it fails to define what constitutes a “fair share” or the timeframe in which those reductions will be achieved. Indeed, given that the Los Angeles region has the worst smog problem in the country, is in nonattainment for NO_x and PM 2.5, and the Ports are a large contributor to the region's nonattainment status, the Ports must aggressively pursue reductions of criteria pollutants in addition to toxic air contaminants at every opportunity. A commitment to simply reduce one's “fair share” of criteria pollutants is not good enough.

Response: See Frequently Occurring Comments Response #12.



CLAE-NRDC2-30GC: Third, without measurable goals to reduce criteria pollutants, the “San Pedro Bay Standards” and the “Project Specific Standards” evidence an over-reliance on health risk assessments (HRA) as a means of measuring improved air quality and public health. Risk assessments rely upon assumptions about emissions inventories, as opposed to direct monitoring measurements, and thus can lead to inaccurate and understated assessments of health risks. Also, risk assessments are based largely on self-reporting, and can lead to biased findings.

Response: Comment noted.

CLAE-NRDC2-31GC: Fourth, as part of any goal to reduce health risk, the Ports should assess the level of cancer risk, as well as non-cancer risks from port operations, and ensure that any project-specific HRA conducted as part of the CEQA process evaluates cumulative risk. Currently, the “Project Specific Standards” are focused only on cancer risk and do not provide assurances that cumulative risk will be considered.

Response: See Frequently Occurring Comments Responses #10 and #12.

CLAE-NRDC2-32GC: In addition, we also recommend that the Ports place community monitoring stations in various locations near the port that would monitor fine and ultrafine particles. These stations and the data emanating from them should be accessible to the public on a real-time basis via the Ports' web sites as a matter of public safety.

Response: See Response to ORAL Comment #13.

CLAE-NRDC2-33GC: Recommendation: In order to ensure reductions in criteria pollutants, and prevent an over reliance on HRAs to gauge air quality and public health, CAAP's Principles and Standards must include clear, measurable goals to reduce health risk both on and off port lands from toxic air contaminants and criteria pollutants. These goals must be at least as ambitious as those articulated by CARB and SCAQMD, and may include: (1) reducing air pollution levels to 2001 levels by 2010; (2) reducing the health risk from diesel PM by 85%, as compared to 2000 levels by 2020; (3) reducing NOx emissions by at least 30% by 2015; and (4) further reducing NOx emissions by 50% by 2020.

Response: See Frequently Occurring Comments Responses #17.

CLAE-NRDC2-34GC: The Ports should also amend Principle (4) to ensure that other important factors are considered when determining what emissions reductions to undertake. In addition, any HRAs conducted as part of CEQA or under CAAP should assess the level of cancer risk, as well as non-cancer risks from port operations, and evaluate cumulative risk. We also urge the Ports to embrace the ultimate goal of “no risk” from port operations. Lastly, CAAP's Project Specific Standards to reduce criteria pollutants should go above and beyond what CEQA requires to help achieve attainment and health protective emissions levels.



Response: See Frequently Occurring Comments Responses #10, #11, #12, and #17.

CLAE-NRDC2-35GC: The Ports already actively plan for long-term growth and economic activity, and it is clear this approach should be taken for environmental considerations as well. For example, the Ports claim that the demand for cargo movement through the ports will “more than double by the year 2020.” Moreover, a short-term plan for pollution is contrary to the Port of Los Angeles’ new motto of “Grow, Green, and Greatness,” and the Port of Long Beach’s Green Port Policy, which provides as a guiding principle “promot[ing] sustainability in terminal design, development and operations.” It makes more sense to take a tiered approach that involves approval and implementation of this short-term plan, while concurrently creating a long-term component. Otherwise, the Ports will be playing a constant game of “catch-up,” which is a losing, business-as-usual approach. Another crucial reason for a long-term plan stems from the myriad leases up for renegotiation beyond five years. At the Port of Los Angeles, there are seven leases that will be negotiated outside of the five-year period. At the Port of Long Beach, there are sixteen leases outside of this five-year period. A long-term vision will aid in determining effective mitigation for these future leases, which may not be renegotiated for another 30 years.

To revise the Plan every year is important but not enough. We need a long-term vision. Indeed, without a viable long-term vision, many measures that take years to implement may be precluded from consideration because they do not fall within the five-year window of this Plan. NNI relied on measures that will result in great reductions beyond a five-year window and that required planning upon adoption.

Response: See Frequently Occurring Comment Response #15.

CLAE-NRDC2-36GC: Recommendation: The Plan must require the Ports, SCAQMD, CARB, EPA, and other stakeholders to work together to expeditiously create a long-term vision for addressing air pollution from port operations. This work must commence immediately and be concurrent with the implementation of the five-year Plan.

Response: Comment noted. See Frequently Occurring Comment Response #15.

CLAE-NRDC2-37GC: The Ports must revise CAAP’s control measures by:

♦ Providing clear time lines and implementation schedules for each of the control measures. All blanks must be filled in.

Response: See Frequently Occurring Comment Response #14.

CLAE-NRDC2-38GC: The Ports must revise CAAP’s control measures by:

♦ Providing, for each control measure, the percentage of participation/compliance by the targeted source and compliance dates.

Response: See response to comment CLAE-NRDC2-8GC.



CLAE-NRDC2-39AF: The Ports must revise CAAP's control measures by:

- ♦ **Providing preferences for alternative fuels when feasible.**

Response: See response to comment CLAE-NRDC2-9GC-AF.

CLAE-NRDC2-40GC: The Ports must revise CAAP's control measures by:

- ♦ **Disclosing, for each control measure, all assumptions made to reach the emissions reductions reported, and providing backstop measures in the event that the assumptions prove false. The backstop measures should achieve the same estimated emissions reductions as the CAAP measure.**

Response: See response to comment CLAE-NRDC2-10GC.

CLAE-NRDC2-41GC: The Ports must revise CAAP's control measures by:

- ♦ **The Ports should work with EPA, CARB, and SCAQMD to develop regulations that could further accentuate the emissions reductions goals in the CAAP.**

Response: See Frequently Occurring Comments Responses #5, #29, and #30.

CLAE-NRDC2-42EI-HC-RL: The Ports must revise CAAP's control measures by:

- ♦ **Estimating the emissions reductions from every control measure, including those for locomotives and harbor craft.**

Response: See Frequently Occurring Comments Response #6.

CLAE-NRDC2-43GC: The Ports must revise CAAP's control measures by:

- ♦ **Ensuring that, for each control measure, the "Elements to be Tracked" include emissions reductions and percentages of compliance/participation rates.**

Response: See response to comment CLAE-NRDC2-13GC.

CLAE-NRDC2-44GC: The Ports must revise CAAP's control measures by:

- ♦ **Ensuring that the Plan break out, in tabular form, the annual reductions expected to be achieved through each measure, and include consistent, easy-to-understand summaries that describe the timeline, emission reductions, and measure requirements for each measure.**

Response: See response to comment CLAE-NRDC2-14GC.

CLAE-NRDC2-45GC: The Ports must revise CAAP's control measures by:

- ♦ **Ensuring that when lease-based approaches are utilized to implement CAAP measures, the Ports incentivize compliance with the measure ahead of lease renewal. For example, the Ports should make lease renewal contingent on early compliance with specific interim goals related to the measure.**

Response: See response to comment CLAE-NRDC2-15GC.



CLAE-NRDC2-46GC: The Ports must revise CAAP's control measures by:

♦ **Reviewing Attachment A to this letter and addressing the specific comments we make to each control measure.**

Response: Please see response to comment CLAE-NRDC2-16GC and responses under CLAE-NRDC2-AttchA.

CLAE-NRDC2-47GC: For each source of pollution, the Ports should provide a graph of estimated emissions over time that clearly highlights and differentiates the emission reductions expected from current regulations, natural turnover (if any) versus CAAP measures.

Response: See response to comment CLAE-NRDC2-17EI.

CLAE-NRDC2-48GC: The Ports must clarify the basis for their growth projections and should not rely on the most conservative growth projections.

Response: See response to ORAL comment #46.

CLAE-NRDC2-49GC: CAAP should include emission estimates and measures to address the movement of non-containerized cargo through the Ports.

Response: See response to comment CLAE-NRDC2-19GC.

CLAE-NRDC2-50GC: CAAP must clearly explain emission projection assumptions under the unabated growth scenarios and properly account for the relatively long equipment life for all equipment servicing the Ports.

Response: See response to comment CLAE-NRDC2-20EI.

CLAE-NRDC2-51GC: CAAP must include a sufficiently representative geographic scope of truck emissions that considers all goods movement related truck emissions in the South Coast Air Basin whether they are pick-ups or drop-offs directly to the port or not.

Response: See response to comment CLAE-NRDC2-21HDV-GC.

CLAE-NRDC2-52LR: We are especially pleased to see the Ports commit to using lease-based approaches to address port pollution. However, CAAP is missing up-to-date information on how and when lease negotiations or new projects will occur. In particular, the Plan provides charts of the Ports' major leases, expiration dates, and currently-anticipated Board action dates related to Environmental Impact Reports and/or lease actions. These charts purportedly convey when control measures could be implemented as lease requirements. However, these charts appear extremely outdated and incomplete. For example, the Port of Los Angeles' chart indicates that board action was taken on the TraPac terminal in June 2006 and on the Evergreen terminal on July 1, 2006. Also, the chart for the Port of Long Beach fails to list Pier J as an upcoming project. The Plan must be revised to provide accurate data, including lists of upcoming projects.



Response: Tables 3.1 and 3.2 have been updated since the draft CAAP and show the anticipated board action dates, current at the time of release of the Final 2006 CAAP. The Pier J South Redevelopment project is no longer being considered at this time and the Port of Long Beach currently has no plans to move the project forward.

CLAE-NRDC2-53LR: The Ports must make better use of tariffs (our use of the term “tariff” in this section includes port-wide rules such as requirements related to cold-ironing, use of cleaner cargo handling equipment, etc.) to ensure that CAAP is at least as strong as the NNI Plan. Indeed, the NNI Plan merely attempted to reduce pollution back to 2001 levels—not health-protective levels. Consequently, if CAAP is less stringent than the NNI Plan, that means that port pollution will continue to grow beyond 2001 levels and health risks will continue to increase, regardless of whether every aspect of CAAP is implemented. This is entirely unacceptable given the encouraging statements made by President Freeman that the NNI Plan’s goal to reduce emissions back to 2001 levels was not health protective enough, and the fact that the public has waited over one year since NNI in the hopes of obtaining a stronger plan.

Response: See Frequently Occurring Comments Responses #16 and #18.

CLAE-NRDC2-54LR-LA: Moreover, as discussed below, the Ports have the legal authority to require control measures through tariffs to maximize emissions reductions under the Plan. Because tariffs can be used to implement uniform rules applicable to all tenants, they can achieve emissions reductions faster than other approaches, and can serve as “backstop” measures in the event that lease-based measures, incentives, or voluntary programs fail to provide the reductions needed.

Response: See Frequently Occurring Comments Responses #18.

CLAE-NRDC2-55LR-LA: To the extent that the Ports believe further evaluation of tariffs is necessary, they must perform an expedited analysis of this important implementation scheme. With that said, additional “evaluation” of tariffs is unnecessary because, as discussed below, the Ports have the legal authority to impose tariffs to implement CAAP measures, and must utilize that authority to accelerate emissions reductions under the Plan.

1. Port Tariffs that Impose “In-Use” Requirements Fall Outside of the Scope of Preemption Under the Clean Air Act.

While section 209(e) of the Clean Air Act preempts state and local governments from adopting or enforcing standards and other requirements relating to the control of emissions from new and used nonroad sources,⁶¹ EPA recognizes that limits on the use and operation of existing non-road engines, including “hours of usage, daily mass emission limits, or sulfur limits on fuel” burned in non-road engines are not preempted by the



Clean Air Act. 62 Consequently, a Port tariff that includes “in-use” requirements for existing non-road engines is not preempted by the Clean Air Act.

Response: See Frequently Occurring Comments Responses #18.

CLAE-NRDC2-56LR-LA: Port Tariffs Are Legally Enforceable Under the Market Participant

Exception to Federal Preemption. As stated, OGV 3 and OGV 4 can be implemented as tariffs and are not subject to federal preemption because they qualify as “in-use” regulations. However, if such measures somehow fail to qualify as in-use regulations, or result in retrofits, the Ports could still implement the measures through tariffs under the market participant exception to federal preemption. Moreover, this exception can also be utilized to implement all other CAAP control measures as tariffs. Indeed, the same authority upon which the Ports rely to implement CAAP through lease agreements extends to tariffs.

Response: See Frequently Occurring Comments Responses #18.

CLAE-NRDC2-57LA: In determining whether the market participant exception applies, the Supreme Court has made clear that the essential inquiry is whether the government action is “proprietary” in nature as opposed to “regulatory.” In advancing this inquiry, the Supreme Court has expressly acknowledged that “[w]hen a State owns and manages property . . . it must interact with private participants in the market place, and in so doing, it is not subject to preemption simply because it acts within an otherwise preempted area.” Further, the Supreme Court has determined that protection of the environment is a legitimate proprietary motive for taking action. Thus, the fact that the CAAP measures were developed to protect public health and the environment is consistent with the application of the market participant exception. Moreover, implementing the control measures under, for example, a tariff applicable to all tenants would not transform the measures into “regulations.” Indeed, federal courts have specifically rejected the notion that government action is necessarily regulatory when it acts through blanket rules, rather than ad hoc contracting decisions, and have upheld a federal Executive Order and state statutes having wide application under the market participant exception. Thus, while the Ports can require control measures through lease agreements, leases are hardly the only implementation scheme available to the Ports that fall within the market participant exception.

Response: See Frequently Occurring Comments Response #18.

CLAE-NRDC2-58LR-GC: We have numerous concerns regarding trading schemes, especially that of MGMC, and urge the Ports not to consider trading as an implementation mechanism for CAAP. Pollution trading programs generally limit public participation in the environmental decision making process.



Response: Many mechanisms are being considered for implementing the CAAP. Given the breadth and scope of the Plan, more than one mechanism will need to be used. The Ports will consider all mechanisms based on their ability to achieve the necessary emission reductions as rapidly and cost-effectively as possible. However, the Ports are not pursuing credit trading programs at this time.

CLAE-NRDC2-59LR-GC: A market-based approach is not appropriate for the Ports. A program of the magnitude offered by the MGMC (Maritime Goods Movement Coalition) will take a long time to develop and implement.

Response: See the response to CLAE-NRDC2-58LR-GC

CLAE-NRDC2-60GC: The Ports Must Make a Greater Commitment to Work With Regulatory Agencies to Reduce Port Pollution. As noted above, we strongly urge the Ports to work with EPA, CARB, and SCAQMD to expeditiously develop regulations that could serve as backstop measures in the event targeted emissions reductions are not achieved. This will provide increased assurance that targeted emissions reductions will be achieved and will benefit the Ports by applying standards to operations outside of Los Angeles and Long Beach. While the Plan states that the Ports will partner with SCAQMD and CARB to jointly urge EPA to adopt Tier 3 emission standards for locomotives, such partnerships should go beyond advocating for Tier 3 standards for locomotives. The Ports must make this same type of commitment with respect to other international, federal, state, and local rules that target port sources for pollution reductions.

Response: The Ports agree. See Frequently Occurring Comments Responses #5, #29 and #30.

CLAE-NRDC2-61GC: Further, to the extent that international, federal, state or local regulations overlap with CAAP control measures, the Ports must commit to continuing implementation of the CAAP measure unless the regulatory measure is equally stringent or more stringent than the CAAP measure. For example, if CARB requires ships to cold-iron, the Ports should not terminate the mandatory elements of OGV2 unless the regulatory measure achieves equivalent or greater emissions reductions than the CAAP measure.

Response: Comments noted.



CLAE-NRDC2-62CE-HE: Recommendation: CAAP must include a discussion of the public health and environmental benefits of adopting the Plan in order to provide the foundation for why a strong clean air plan must be adopted, and to justify the expenses associated with implementing the Plan. We also strongly urge the Ports to work with CARB and SCAQMD to undertake a cost/health benefit analysis of the Plan to inform future port decision-making. This latter analysis however, should not delay implementation of CAAP.

Response: See response to comment CLAE-NRDC2-25HE.

CLAE-NRDC2-63GC: Recommendation: In order to maximize reductions in health risk, the Ports must commit to adopting SCAQMD and CARB land-use policies in their lease agreements and CEQA projects, and adopt resolutions that favor on-dock rail over near-dock rail facilities.

Response: See Frequently Occurring Comments Responses #8 and #9.

CLAE-NRDC2-64GC: Recommendation: The Ports must fully consider comments by the public and provide responses to these comments in a revised Plan. Additionally, the public must be provided sufficient time to review any revised Plan before agency action is taken. The Ports should release frequent progress reports on the implementation of the Plan. Moreover, the Ports should convene a stakeholder group to discuss future revisions to the CAAP that includes community representatives, environmental groups, and academics along with SCAQMD, CARB, and EPA.

Response: See response to comment CLAE-NRDC2-27GC.

**NRDC-DETAILED COMMENTS TO CAAP CONTROL MEASURES
(ATTACHMENT A)**

CLAE-NRDC2-AttA-1GC: Plan lacks timelines and implementation schedule. Need to fill in blanks for milestones for all control measures.

Response: See Frequently Occurring Comments Response #14..

CLAE-NRDC2-AttA-2GC: Most of the control measures fail to include mandatory participation rates. For example, OGV2—Reduction of At-Berth OGV Emissions—includes data on the number of berths that will be equipped with cold-ironing infrastructure, estimates on the number of shore-powered ship calls, and projected reductions achieved by this measure. However, the measure does not include any information on the percentage of ships that will be required to plug in by a certain deadline.



Response: All lease based requirements are enforceable. Emissions reductions are calculated based on the number of ship calls that are going to utilize AMP/Shore-Power by berth. As described in control measure SPBP-OGV2, in addition to making the terminal infrastructure available, it is imperative that requirements be placed on individual terminals to ensure that vessels use the shore-power facilities. Lease requirements will include specific performance requirements for maximum feasible utilization of the available shore-power infrastructure. Tables 5.10 and 5.11 show the Port of Los Angeles schedule of berths that will be AMP ready and the number of ship calls that will utilize AMP by berth. Similarly, Tables 5.12 and 5.13 show the Port of Long Beach schedule of berths that will be Shore-Power ready and number of ship calls that will utilize Shore-power by berth.

CLAE-NRDC2-AttA-3GC: Accordingly, the Ports must ensure that each of the control measures includes information on the percentages of compliance and deadlines for such compliance.

Response: See the response to comment CLAE-NRDC2-13GC..

CLAE-NRDC2-AttA-4AF: Thus, when alternative fuel models certify to comparable standards as conventional models, their use should be mandated at the Ports and at intermodal yards and distribution centers within the South Coast Air Basin, where fleets are centrally fueled and managed, allowing for the use of specialized fuels.

Response: The intent of the plan is to be fuel neutral and provide flexibility in meeting the Clean Air Action Plan standards by allowing Port tenants to choose the best method for their particular operations. However, the Ports will help to promote a promising technology. For example, the Ports are providing incentives to heavy-duty truck drivers to purchase liquefied natural gas powered trucks and develop LNG fueling/maintenance infrastructure.

CLAE-NRDC2-AttA-5GC: Many of the control measures rely on assumptions such as lease renewals, bond funding, and technological developments to achieve emissions reductions. Thus, for each control measure the Ports must: (1) clearly identify any assumptions upon which emissions reductions rely and (2) include “backstop” measures (or back-up funding mechanisms when appropriate) that will result in the same estimated emissions reductions as the CAAP measure, if for example, a lease renewal is delayed, the bond measures do not pass, or if a certain technology proves infeasible.

Response: See Frequently Occurring Comments Response #5. In addition, Appendix A includes the information used to estimate the emissions reductions.

CLAE-NRDC2-AttA-6GC: CAAP must provide estimated emissions reductions for each control measure. Currently, the Plan fails to fully estimate emissions reductions from the harbor craft measures and all but one of the locomotive measures. Further, it is unclear whether the Ports included emissions reductions from these sources in assessing the



amount of DPM and NO_x reductions achievable under CAAP. If reductions were assumed, the document must reveal the amount of those reductions.

Response: See Frequently Occurring Comments Response # 6.

CLAE-NRDC2-AttA-7GC: Each of the measures includes a list of “Elements to Be Tracked,” but “emissions reductions” and “percentages of compliance” do not appear to be on those lists.

Response: Emissions reduction will be tracked as a part of the annual emissions inventory updates which is one of the milestones for each of the measures included in the plan.

CLAE-NRDC2-AttA-8GC: To assist the public in better understanding the Plan’s proposed control measures, we strongly urge the Ports to present the control measures in a more “user friendly” manner. In particular, we ask that: (1) for each measure, the Plan break out, in tabular form, the annual reductions expected to be achieved through lease-based approaches and any other additional implementation mechanisms such as tariffs, and (2) the Ports create consistent, easy-to-understand summaries that describe the timeline, emission reductions, and measure requirements for each measure. We refer port staff to the control measures in the NNI Plan by way of example.

Response: See response to comment CLAE-NRDC2-14GC.

CLAE-NRDC2-AttA-9GC: The Plan appears to include different compliance schedules for different measures. For example, CHE 1 appears to have a set compliance schedule that will apply to all yard equipment at the Ports, whereas OGV3 has a compliance schedule that “kicks-in” only upon negotiation (or renegotiation) of a lease. As discussed below (in Section V), the Ports should maximize their use of tariffs to achieve rapid and extensive emissions reductions whenever possible. However, when lease-based approaches prove to be a better implementation vehicle than tariffs, we strongly urge the ports to incentivize compliance with the measure ahead of, for example, lease renewal. In fact, if feasible, the Ports should make lease renewal contingent on compliance with specific interim measure goals that can be outlined in CAAP

Response: All measures are based on either lease renewal, tariffs or incentives. See also Frequently Occurring Comment Response #18 and comment CLAE-NRDC2-15GC.

CLAE-NRDC2-AttA-10HDV1: First, community, public health, environmental, and labor representatives must be integral participants in the development of a program to clean up the trucking fleet servicing the Ports. These representatives must be involved in creating the criteria, such as the types of trucks, retrofit technologies, and timelines required that would ultimately be used in leasing requirements or bidding documents. We suggest that an advisory group representing all these constituencies be created to develop a viable program to reduce truck pollution.



Response: The Ports are working with several groups such as agencies, industry representatives, engine manufacturers, and tenants to design the program to implement the HDV1 measure to meet CAAP goals. In addition, the implementation plan will be presented to each Port's Board, which will provide an opportunity for additional public comment.

CLAE-NRDC2-AttA-11HDV1: Second, the Ports should also help ensure that any program that seeks to modernize the truck fleet also improves the quality of life/wages of the truck driver. For example, the Ports could ensure that livable wages are an element of any RFP developed to implement a truck modernization program. Furthermore, as noted in CAAP, most truckers serving ports have very limited ability to afford newer trucks or retrofits. Creating a contractual relationship between the Ports and, for example, a trucking company that owns the "cleaner" truck and employs the truck driver could simultaneously improve the quality of life of drivers while ensuring continued oversight for the maintenance of the truck and compliance with clean truck standards. In addition, the Ports should consider a program to increase trucker awareness of less polluting, more health protective options and their ability through additional funding to make the switch to newer, cleaner trucks.

Response: The Ports' respective Boards are aware of economic conditions of truck drivers that serve the ports. The Ports' Boards have directed the ports' staff to look into various options to address this issue.

CLAE-NRDC2-AttA-12HDV1: Third, in the future as the truck fleet expands and more trucks serve the ports, we urge the Ports to also include provisions which would allow additional truckers to afford trucks which meet the mandatory new truck requirements.

Response: Comment noted.

CLAE-NRDC2-AttA-13HDV1-EI: Fourth, with respect to the truck inventory, CAAP should include any assumptions and necessary calculations made to arrive at the estimated fleet characteristic figures. CAAP should also include a comparison to ARB's recent analysis and report on cleaning-up the trucking fleet in California to ensure the estimates are roughly consistent. Additionally, based on the estimated age distribution of the trucking fleet, CAAP should include an annual emissions breakout based on total number of trucks of a given model year.

Response: A memorandum describing the methodology used to arrive at the estimated on-road truck fleets that visit the ports will be posted to Ports' CAAP page on their respective websites. The information on truck visits is based on more up-to-date and specific information than that contained in the CARB's recent analysis. CARB is planning to take Ports Truck related regulation to their Board in the fall of 2007 and is currently in the midst of performing public outreach and stakeholder meetings. Therefore, CARB's final estimates are likely to be updated with the latest Port data and may differ from what is in their draft



report. CARB staff and the Ports have discussed the truck fleet characteristics estimation methodology contained in the CAAP.

CLAE-NRDC2-AttA-14HDV1-EI: Fifth, CAAP should identify the emissions contribution from the frequent, semi-frequent and non-frequent truck categories. Assuming the CAAP estimates are correct and non frequent visitors comprise 20% of the truck visits, we are concerned that a disproportionate number of older trucks could fall into the non-frequent category. Although they might only comprise 20% of the overall truck visits, they could be among the dirtiest. The current approach does not address this issue. Additionally, all truck replacements and retrofits should be prioritized by cleaning up the oldest vehicles first and the least priority given to current 2003 and newer trucks. This will allow retrofit technologies to develop and become even more effective so they can be used in post-2003 trucks. At a minimum, the measure should include the following requirements:

- 1) Prioritize and replace all pre-1994 model year trucks with vehicles that meet a 0.01 g/bhp-hr PM standard. This should be completed within three years, or by the end of 2009. The truck replacement program must move forward ahead of, or at least simultaneously with, any retrofit program;
- 2) Retrofit with level 3 PM controls (achieving 85% or higher reductions) all trucks not previously retrofitted with level 3 PM controls and that do not meet a 0.01 g/bhp-hr PM standard (for example, most pre-2007 model years). This should commence upon completion of the above priority with a goal of requiring no more than two years to complete; and
- 3) Retrofit all pre-2003 model year trucks with the best available NO_x controls, where feasible and where cost-effectiveness thresholds would be met according to Carl Moyer Program guidelines. This should commence in tandem with the above priority and require not more than two years to complete.

Response: The analysis of OCR data indicated that model year distribution of frequent, semi-frequent and non frequent trucks is very similar. As identified in SPBP-HDV1 in the Technical Report, the goal is to seek out all frequent and semi-frequent caller truck operators to encourage them to take advantage of incentives available to modernize their trucks as soon as possible.

CLAE-NRDC2-AttA-15HDV1-AF: Sixth, to reiterate, we are pleased that the CAAP includes incentives to replace diesel equipment with cleaner alternatives, such as alternative fuels. Alternative fuels should be strongly incentivized as the preferred method of compliance when they are the cleanest option available and suitable for the end-use/application. For captive drayage trucks that predominantly operate in a given



area, we support the CAAP's consideration of incentives for cleaner alternatives to diesel. We also recommend that the CAAP specifically include longer-term targets for fleet composition which ensure that the alternative-fuel portion of the fleet will grow over time so that LNG trucks will comprise the vast majority of the trucking fleet into the future. While we fully support the use of the cleanest alternative fuels and technologies for trucks, such a program must not delay or in any way impede the replacement and/or clean up of the older, highly polluting trucks. Additionally, we are also pleased to see LNG trucks incorporated into the measure, as LNG products can provide significant emission benefits over its diesel counterparts. It is our understanding that in 2007, the US EPA Heavy-Duty Highway Engine Standards allow for NO_x averaging (i.e., engine families only need to meet a NO_x average of approximately 1.2 g/bhp-hr instead of the originally proposed standard of 0.2). To date, no engine manufacturer has certified a diesel engine that meets US EPA's 2007 emission standards for both NO_x and PM, nor has any manufacturer committed to meet the 0.2 g NO_x standard for diesel engines by 2007. Instead, engine manufacturers are targeting the interim 1.2 g NO_x average for diesel products. Manufacturers of natural gas engines, however, have committed to meet the final 0.2 g NO_x standard in 2007; nearly 3 years ahead of US EPA requirements. Both Cummins Westport Innovations and John Deere Power Systems have made this public commitment to deliver 2010 technology to operators by planning to make the ISL G and 9.0L natural gas engines available, respectively, for the 2007 model year.

Response: See response to comment CLAE-NRDC2-AttA-4AF. In the case of the HDV1 program, the Ports and SCAQMD are contributing significant amount of incentive funds toward converting current diesel trucks to alternative fueled trucks. See Table 5.7: "Cost for SPBP-HDV2 by Ports by Fiscal Year".

CLAE-NRDC2-AttA-16HDV1: Seventh, given the need for further development of a truck fleet program and participation from a wide array of stakeholders, it would be wise to clearly commit to an emission reduction goal for this measure. We suggest that the 80% PM and 60% NO_x reductions achieved through this measure by 2010 become the set goal for this trucking program. We also recommend that the measure include interim goals that will allow this measure to be evaluated each year. Inserting goals will provide a clear indicator of progress and will provide feedback if a change in strategy is necessary.

Response: The goal of the HDV1 measure is to expedite the fleet transformation to "clean trucks" by replacing and retrofitting all frequent and semi-frequent caller container trucks servicing both ports by the end of 2011. This measure, like all measures in the CAAP, does not establish arbitrary goals. Rather, it focuses on unit-based goals that define achievable emission reductions from each source category. The benefits of this program will be quantified and reflected in the annual updates to the Ports' HDV emissions inventories.



CLAE-NRDC2-AttA-17HDV1-Fund: Eighth, CAAP indicates that this control measure will require “additional funding on a massive scale.” As mentioned on pages 23 and 24 of our main letter, successful implementation of CAAP requires securing adequate funding. Given the impacts from goods movement are truly statewide, proposed bond funding for air quality mitigation due to goods movement impacts should be appropriately allocated to regions across the state. In light of the significant actions outlined in the CAAP for all sources of pollution, the Ports cannot rely on an uncertain pool of funding from a proposed bond measure to accomplish the CAAP’s short- and long-term measures. We again strongly urge the Ports to support user fees as a mechanism to fund CAAP. In particular, the Ports should support Senate Bill 760 (SB 760) authored by Senator Lowenthal. Finally, a budget scenario which includes revenues generated through a user fee must be included.

Response: See Frequently Occurring Comment Response #7.

CLAE-NRDC2-AttA-18HDV1: Ninth, we are concerned that the number of drayage trucks serving the Ports and in need of replacements and retrofits may easily overwhelm existing administrative systems such as Gateway Cities, the Carl Moyer Program, and SECAT. We urge the Ports through the CAAP to make every effort to ensure that sufficient administrative infrastructure for these programs are established in order to efficiently process the thousands of trucks that will need to be replaced and retrofitted.

Response: Comment Noted.

CLAE-NRDC2-AttA-19HDV1-EI: Tenth, a program to clean up the trucking fleet must also ensure that in the future the fleet does not deteriorate and that any ultimate reductions in emissions are maintained and exceeded into the future.

Response: Comment noted. In the absence of emission control component malfunction or mal-maintenance, the emissions of heavy-duty diesel vehicles are not assumed to increase with usage or time. The Ports will include in the HDV1 implementation program requirements for periodic maintenance for trucks that are replaced or retrofitted with Port-funding to ensure that emissions deterioration is kept to a minimum. However, fleet deterioration is a state-wide issue that must be comprehensively addressed in a manner similar to the Smog Check program.

CLAE-NRDC2-AttA-20HDV1: Eleventh, CAAP states that the Gateway Cities program would be used for targeting independent owner/operators, and the Ports would work with the fleets’ owner/operators. CAAP does not clearly identify how many trucks would be targeted by each approach. CAAP should identify how many trucks servicing the ports are independent owners versus fleet operators. That said, we already know that a significant number are independent owner/operators. If the decision is made to move forward with an updated Gateway Cities-esque incentive program with additional funds,



CAAP must clearly explain how it will be able to ensure the significant turnover projected and the timeline outlined. We want to highlight this concern and recognize that the CAAP raises this as a key milestone on page 59. Even on the incentive path, we encourage the Ports to consider a mandatory timeline for when the incentive funding must be used. While most truck drivers cannot afford to meet clean-up requirements without financial assistance, they may not opt to accept that financial assistance without a mandatory deadline for clean-up.

Response: Comment noted. The Ports are considering various mechanisms to address these concerns, such as an emblem program, which would establish a timeline by which cleaner trucks calling at the ports are compelled to meet certain standards.

CLAE-NRDC2-AttA-21GC: Twelfth, while we are in full support of the scenario that maximizes PM and NO_x emission reductions, we strongly recommend that a backstop provision be included for this measure that would ensure the same estimated emission reductions from the targeted source if either path of implementation is slower than anticipated.

Response: See Frequently Occurring Comments Response #5.

CLAE-NRDC2-AttA-22HDV1: Thirteenth, CAAP must ensure enforcement of idling rules as well as anti-idling legislation currently aimed at reducing idling times. These issues remain problematic as reports of violations of these rules have continued. The Ports must improve their commitment to enforcing these important rules. We recommend that a task force be formed to accomplish improved enforcement. This task force should include at a minimum, interested community members, labor representatives, air district representatives, and local and state law enforcement personnel.

Response: - The Ports are not aware of any report of violations of truck idling rules at the port property. The truck idle limitations rules are promulgated by CARB and the enforcement provisions are part of those regulations. In addition, SCAQMD is responsible for enforcing the requirements of AB2650 and have an inspector in the Ports to ensure compliance.

CLAE-NRDC2-AttA-23HDV2: We agree that alternative fuel infrastructure is critical to the success of a significant deployment of LNG trucks and therefore support the overall goal of this measure. We have outlined a few concerns below: First, the measure should include a specific timeline that will anticipate the significant deployment of LNG trucks outlined in HDV1. Based on the goal to phase-in over one thousand LNG trucks by FY2007/2008, this measure should be completed by the end of the prior fiscal year.

Response: See the revised and expanded SPBP-HDV1 and SPBP-HDV2. The ultimate number of LNG trucks funded by Port-incentives is at the discretion of the Ports' Boards.



The Ports have identified potential locations for the alternative fuel infrastructure and are working proactively to develop the RFP to solicit bids.

CLAE-NRDC2-AttA-24HDV2: Second, it is our understanding that multiple fueling station locations may be necessary. We are concerned that one Terminal Island location will be insufficient to conveniently supply the LNG needs for the terminal equipment and trucks throughout the Ports. The Ports should consider additional strategic locations for fueling stations and will necessarily have to provide the land.

Response: As the CAAP can be considered a “living document”, the need for additional LNG fueling stations will be assessed future revisions of the plan.

CLAE-NRDC2-AttA-25HDV2: Third, it is unclear why the Ports will be contributing \$2 million to this measure. The siting, sizing, design, construction, supply and operation of these facilities can be met through providers that stand to make a profit. It is likely that the private sector will front all of these costs, and they should be invited to do so.

Response: We agree. Although private industry will hopefully devote funds toward building infrastructure, the Ports are committed to ensure that if that does not occur, the funding necessary to complete the project has been budgeted.

CLAE-NRDC2-AttA-26OGV1: In part because this measure is so heavily relied upon for NO_x reductions in CAAP, we have a number of concerns regarding implementation of this measure outlined below: First, CAAP should not assume emissions reductions resulting from high rates of compliance with this strategy. Indeed, to date, vessel speed reduction programs have relied on “voluntary” participation, and it is unclear whether implementation through lease-based approaches would yield the compliance rates envisioned by CAAP.

Additionally, although the Port of Long Beach has made headway through incentives, the Port of Los Angeles has not. Nevertheless, in Appendix A, CAAP envisions an expected 100% compliance rate starting next fiscal year for both ports out to 20 nautical miles. In the absence of mandatory requirements and a strict program to enforce such a measure, CAAP should realistically consider the percentage of ships that are expected to participate in the program to achieve the reductions assumed under this strategy. It should also detail how it intends to pursue compliance.

Response: This program will be implemented through leases. Once the lease is renewed for a terminal, VSR compliance will become enforceable through the lease. The implementation schedule based on lease renewal is shown on page 48 of Appendix A. In addition, the Ports will explore the use of tariffs to implement this measure if the desired compliance rate is not achieved. See the milestone section in SPBP-OGV1.



CLAE-NRDC2-AttA-27OGV1-TAP: Second, CAAP should consider and disclose whether speed reduction programs will result in any increases in PM or NO_x emissions both within and outside of the VSR zone. As is highlighted in CAAP, Appendix A on page 61, PM and NO_x logically increase due to extended use of auxiliary engines. Additionally, there is concern that PM from main engines may increase at slower speeds. Although we are pleased this measure aims to extend the VSR boundary to 40 nm, before continuing or enhancing this program, CAAP must first ensure that pollutant increases will not occur. Although CAAP includes a point on page 67 to investigate this issue at the end of the list of elements to consider, this should be the number one priority on the list. Additionally, this should be prioritized on the separate 'milestone' list. We are disappointed that this issue has not been resolved given it was under discussion during the NNI process, and it appears the programs at the two ports have continued independent of this information.

Response: Increases in auxiliary engine emissions due to slower vessel speeds was taken into consideration when calculating the overall emission reductions for this measure. See Appendix A of the Technical Report for further information. The Ports agree that uncertainty regarding PM emissions due to slower vessel speeds should be resolved as soon as possible. However, CARB has recently released the results of testing that address this concern. The results indicate that the program has the potential to achieve significant PM emission reductions. While additional work will certainly need to be done, those results provide a positive basis for moving forward with the program.

CLAE-NRDC2-AttA-28OGV1-LR:Third, we are pleased to see that CAAP is considering leases and tariff incentives to carry out this measure. However, if NO_x and PM benefits can truly be achieved through VSR, OGV1 should be implemented as a tariff applicable to all tenants in order to achieve even greater reductions. At the very least, OGV 1 should include a backstop measure that mandates vessel speed reductions through a tariff if lease-based approaches fail to provide sufficient emissions reductions. In fact, mandatory VSR programs would not only ensure higher compliance rates, but also provide revenue for other mitigation programs through fines to those who violate the measure. In addition, the Ports should work with CARB to develop a speed reduction regulation program that requires oceangoing vessels to reduce their cruising speed to no more than 12 knots within 40 nautical miles of the San Pedro breakwater. CARB's Emission Reduction Plan proposes a mandatory VSR Program, and CAAP stakeholders could pursue these requirements through CARB's VSR rulemaking that is currently under development.

Response: See Frequently Occurring Comments Response #18. In addition, the Ports will explore the use of tariffs to implement this measure if the desired compliance rate is not achieved. See the milestone section in SPBP-OGV1.



CLAE-NRDC2-AttA-29OGV1: Fourth, this measure indicates that increases in auxiliary engine emissions use due to longer transit times will be mitigated by CARB's auxiliary engine rule. The Ports need to refine their calculations and not assume that the 0.1% sulfur fuel requirement in 2010 CAAP. In this attachment, we use the term "tariff" to include port-wide rules will take effect. The current CARB regulation requires a feasibility study of the 0.1% sulfur fuel requirement in 2008. That said, as discussed further under OGV3, the Ports should be taking steps to ensure that the 0.1% requirement is implemented.

Response: Under measure OGV3, the Ports will be performing a feasibility study will make sure that the fuel necessary under this measure is available. The CARB and the Ports' Clean Air Action Plan share the same goal of ensuring that 0.1% S fuel is available in 2010 to be utilized in auxiliary engines. In order to avoid duplication of effort and resources, the Ports will work with CARB staff on their feasibility assessment study. However the emissions reduction calculations for SPBP-OGV3 measure do not take credit for the 0.1% sulfur requirement.

CLAE-NRDC2-AttA-30OGV1: Finally, we would like to recognize and commend the Ports for incorporating the dockworker gang preference given at the boundary of the VSR zone which we have supported in the past.

Response: Comment noted.

CLAE-NRDC2-AttA-31OGV2: First, as mentioned on page 12 of our main letter, this measure fails to identify clear deadlines by which emission reductions will be achieved. Additionally, the measure fails to identify a required percentage of ship visits that will be required to use dockside power. Without these two critical pieces, which is a recurrent theme throughout many measures in CAAP, there are no specifics to 1) ensure emission reductions on a set schedule and 2) convey to all stakeholders the expectations they will need to meet in order to carry out the requirements.

Response: See Frequently Occurring Comment Response 14. In addition, the standards included in the CAAP have been developed to provide a clear indication of the Port's expectations for emissions reductions.

CLAE-NRDC2-AttA-32OGV2-LR: Additionally, it appears that even the Ports are unclear as to what future lease agreements will require of tenants in terms of shore side power. Indeed, page 75 of the technical report indicates that the AMP calls at Berths 206-209 will be determined upon lease negotiation. This implies that requirements will be negotiated on a case by case basis and that uniform requirements based on a specific percentage of ship visits at each berth using dockside power by a specific date will not be instated. Although we are heartened that a few specific percentages of ship visits outlined in Appendix A for certain Port of Los Angeles berths are included and are pleased that the port has moved away from a frequent visitor approach, it is not clear what the comprehensive requirement will be through lease or tariff implementation mechanisms.



Response: See response to comment CLAE-NRDC2-AttA-2GC..

CLAE-NRDC2-AttA-33OGV2: Additionally, it is unclear whether the percentage of ship visits highlighted on page 50 of Appendix A are current requirements, future lease requirements, or suggested targets.

Response: Page 50 of Appendix A present anticipated future lease requirements based on the current information that the Ports have on number of ship calls and the type of ships that visit various terminals at San Pedro Bay Ports.

CLAE-NRDC2-AttA-34OGV2: Also, for the Port of Long Beach, specific percentages of ship calls are not indicated in the report or Appendix A. Although a number of estimated shore side power ship calls are provided, it is unclear if these are based on a specific percentage of potential lease requirements.

Response: See response to comment CLAE-NRDC2-AttA-2GC. In addition, for the Port of Long Beach, the ship call requirements for three terminals are based upon existing requirements.

CLAE-NRDC2-AttA-35OGV2: Further, on page 75 of the technical report, the assumptions/limitations list states that the dockside power rollout program is based on a number of assumptions, one of which reads “[t]here will be enough AMP equipped vessels to reach 50% of all vessel calls at an AMP-ready berth.” This is not scripted as a requirement, but rather seems to leave an easy way out for an operator. We were extremely disappointed to see these types of statements throughout this. Although this statement implies certain percentages of ship visits, these are not stated as requirements and are only found under the Port of Los Angeles section. Finally, only focusing on “enough AMP equipped vessels” to reach a certain percentage of all vessel calls at AMP ready berths merely ensures (at most) that there will be certain vessels capable of cold-ironing, not that they will actually cold-iron.

Response: See response to comment CLAE-NRDC2-AttA-2GC.

CLAE-NRDC2-AttA-35OGV2: Second, more specifically on infrastructure, while we are pleased that CAAP appears to prioritize the development of AMP infrastructure, we have a number of concerns. We are particularly concerned about the significantly longer timeframe (a roughly five year delay), which the Port of Long Beach appears to have taken. Although we understand the need for upfront infrastructure improvements, we strongly recommend that CAAP prioritize these improvements, explore alternatives (e.g. a joint agreement with the Port of Los Angeles for electrical transmission) and work to reduce this significant lag time.

Response: Comment noted.



CLAE-NRDC2-AttA-36OGV2: Additionally, the plan states that cold-ironing infrastructure cannot be provided to Pier H because the City of Long Beach serves as the landlord. Similarly, the Plan states that it needs to further analyze the extent to which it can require shore-power for cruise ships because cruise operations at the Port of Long Beach are managed and leased by another department at the City of Long Beach and are not directly under the control of the Port. However, it is important to note that the City of Long Beach may also require cold ironing as part of any lease agreement concerning the land it manages as a landlord. There is no reason to omit these terminals from CAAP, and they must be folded in.

Response: The City of Long Beach can require cold-ironing as part of a lease agreement. However, the Port of Long Beach does not have the authority to make commitments for the City of Long Beach to require cold-ironing infrastructure at Pier H. Nonetheless, the Port will work with the City to provide infrastructure to the facility as soon as possible.

CLAE-NRDC2-AttA-37OGV2: Additionally, CAAP needs to better articulate why cold-ironing cannot occur at the five terminals listed in Table 5.14.18 For example, a former Final Environmental Impact Report for Pier J envisioned cold-ironing infrastructure at that pier. While the certification of that report has since been rescinded, it is not clear what circumstances, if any, have changed since that FEIR was released that would preclude a commitment to install cold-ironing infrastructure for Pier J now. Similarly for the remaining berths identified in Table 5.14, the Ports should better explain why it cannot install cold-ironing infrastructure at these terminals. In order to maximize the benefits of dockside power and achieve aggressive emission reductions through this measure, it is imperative that all implementation mechanisms are utilized.

Response: The Ports envision constructing cold-ironing infrastructure in conjunction with lease amendment, renewals, or redevelopment. In those facilities identified in Table 5.14, one of those triggers will not occur. As a result, the Port of Long Beach will have to negotiate with each facility listed in Table 5.14 in order to make the improvements. While the Pier J South EIR did envision cold-ironing infrastructure, the construction period for that project covered 15 years. In addition, the Port of Long Beach is not anticipating lease renewal for Pier J facility within next five years.

CLAE-NRDC2-AttA-38OGV2: Third, also with respect to infrastructure, we are pleased that CAAP appears to prioritize the development of AMP infrastructure; however, without actual ships using the dockside power capability, no emission reductions will result. As mentioned earlier, the Maersk terminal has a berth equipped with AMP capability; however, it is our understanding that ships have yet to plug into the terminal. Therefore, developing infrastructure without clear requirements for ship visits is a major omission from this measure, particularly at terminals that may not be subject to lease renewal. This measure must be developed further to ensure all terminals are addressed with specific requirements and timelines.



Response: In fact, emission reductions are based on lease renewal, an enforceable mechanism. A review of Appendix A reveals that no credit was taken for facilities such as Maersk. As a note, Maersk does not currently have functioning cold-ironing infrastructure. For those facilities that the Ports will not be able to capture as a result of lease renewal, the Ports will work cooperatively with CARB to ensure their proposed cold-ironing regulation serves as a backstop.

CLAE-NRDC2-AttA-39OGV2: Fourth, CAAP should include specific targets that are no less than the statewide targets CARB has laid out in the ERP - 20%, 60% and 80% of all vessels for the 2010, 2015, and 2020 timeframes respectively. Currently, CAAP appears to target the 20% goal by 2010 for the Port of Los Angeles, but only a 10% goal for the Port of Long Beach – well below the ERP targets. Given the Ports of Los Angeles and Long Beach are far and away the two largest ports in the country and they comprise the largest fixed source of pollution in the South Coast Air Basin, the ports should be actively pursuing more aggressive penetration rates. Additionally, in conjunction with CARB and/or SCAQMD, the Ports should support the immediate development of a statewide regulation and work closely with key air districts as necessary to develop local rules that require significant usage of shore-based power.

Response: In this plan, the estimated number of ship calls that will be using AMP or shore power are based on upcoming lease renewals for various terminals at both Ports. The Ports will certainly work closely with CARB and SCAQMD during the development of any regulation that may mandate a higher percentage of ship calls than what is currently assumed in the plan.

CLAE-NRDC2-AttA-40OGV2: Fifth, as previously mentioned, CAAP should clearly outline a tracking mechanism that will track emission reductions including percentage of ship calls using dockside power per berth.

Response: Emissions reductions will be tracked as a part of the annual emissions inventory updates which is one of the milestones for each of the measures included in the plan.

CLAE-NRDC2-AttA-41OGV2: Ultimately, CAAP should include a schedule to require 70% to 80% of all ships – both frequent and non-frequent visitors – to use shore-side power at every terminal by 2010 as exemplified by the China Shipping terminal and the RFP for Berths 206-209 at the Port of Los Angeles. This requirement should apply to all ocean-going vessel types (e.g. tankers, container vessels, etc.). Further, we recommend that all cruise liner ships coldiron regardless of frequency of calls at both Ports. Under such a strategy, shipping companies have the flexibility to determine how best to achieve this percentage while ensuring lower emissions. Further, shipping companies should be required to comply with this requirement within two years of entering a new lease or renewing a lease. Alternatively, ports could mandate cold-ironing through a tariff.

Response: See response to comment CLAE-NRDC2-AttA-2GC.



CLAE-NRDC2-AttA-42OGV2-TAP: With respect to the “alternative hotelling emissions reduction technologies implementation” section, we support alternative technologies that would be verified to ensure equivalent or better emission reductions as dockside power. Furthermore, any measure that promotes the use of control devices must be coupled with a mandate for ships to use low sulfur diesel fuel. In fact, certain after-treatment technologies will not work if the sulfur content of the fuel used is too high. For example, 2,000 ppm sulfur fuel (ideally lower) should be used with SCR, 500 ppm sulfur fuel must be used with DOCs, and 15 ppm sulfur fuel must be used with DPFs. This measure should include a commitment that the port immediately fund demonstration projects using these control technologies. Because the feasibility of various control technology is as of yet uncertain, this measure should require at least 50% combined NO_x and PM reductions (as opposed to specifying the control technology to be used) in all OGVs that are not cold ironing by 2010.

Response: See Frequently Occurring Comment Response #32. In addition, with the exception of SCR, the after-treatment technologies envisioned in the comment above are not appropriate for reducing vessel emissions for a number of technical reasons. However, a number of other technologies exist that are not dependent on fuel sulfur content. Nonetheless, low sulfur fuel requirements for main and auxiliary engines are addressed under the OGV3 and OGV4 measure descriptions.

CLAE-NRDC2-AttA-43OGV2: Furthermore, ships making a single call should not be exempted given the significant number of single ship visits and the potential to encourage additional single ship calls.

Response: As stated in the plan, the AMP or shore-power approach is generally best suited for vessels that make multiple calls per year. This consistent with the conclusions of the CARB Cold Ironing Feasibility Study. Shore-power requires extensive infrastructure improvements onboard ships that would use the system, as well as on the terminal side for supplying the appropriate level of conditioned electrical power. Therefore, this measure envisions alternative hotelling emissions reduction technologies, such as Exhaust Stack Scrubber technology for vessels or Shore-powered dockside electrical pumps for tankers that are not good candidates for shore-power.

CLAE-NRDC2-AttA-44OGV2: Finally, in lieu of the identified implementation mechanism, the measure should include a backstop that mandates a 50% NO_x and PM reduction by 2010 regardless of which technologies are found to be feasible.

Response: See Frequently Occurring Comments Response #5. However, it is important to note that technological feasibility is a vital component to the ability to achieve the emissions reductions goals of the CAAP, which is why the Ports have placed such a large focus on development of technologies the Technology Advancement Program, as detailed in Section 5.7 of the Technical Report.



CLAE-NRDC2-AttA-45OGV3: We are pleased to see CAAP targeting the use of 0.2% sulfur fuel and aiming to be more stringent than CARB's Auxiliary Engine Regulation's 0.5% requirement. In light of the recent Maersk decision, information provided by marine engine manufacturers and CARB's recent Auxiliary Engine Regulation, we have substantial evidence that any technological concerns regarding the use of cleaner fuels in auxiliary engines have been addressed. Thus, CAAP must prioritize this measure to maximize feasible emission reductions in the immediate timeframe.

Response: The feasibility and supply of lower sulfur fuel for the main engines of ships and the associated emission reductions are being assessed in the technology assessment measure which is an integral part of the CAAP, and will be conducted in cooperation with CARB.

CLAE-NRDC2-AttA-46OGV3: First, while we support 0.2% sulfur MGO in this measure, we strongly recommend that this sulfur content fuel serve as a requirement for all vessels visiting the Ports of Los Angeles and Long Beach. A San Pedro Bay-wide standard requiring vessels to utilize cleaner diesel fuels that contain a sulfur content level no higher than 0.2% would result in about a 70% decrease in PM pollution in a cost-effective manner. This measure must be prioritized for implementation immediately. The current implementation schedule is based solely on leases and slowly ramps up to only 42% to 44% implementation at the end of five years. Furthermore, it is unclear why the port chose the implementation phase-in percentages for renegotiated leases in FY1, 2 and 3 - 50%, 70% and 90% respectively. In comparison to regulatory requirements such as the CARB Auxiliary Engine Rule, which requires 100% compliance within one year of adoption for ALL ships, these requirements appear to be extremely weak. A lease based approach alone, without requiring 100% of ship visits to use a cleaner fuel, leaves significant reductions still to be achieved with a switch to lower sulfur fuel by employing other implementation mechanisms, such as tariffs must be employed to achieve maximum pollution reductions.

Response: A lease-based approach is one of the options that the Ports could use to implement the various measures of the plan. A 50%, 70% and 90% phase in was allowed to give flexibility to the terminal operators to adjust their operations and work through any hurdles they may encounter due to the uniqueness of their operations. While the Ports believe that the measure is achievable, that does not mean each vessel line will not have its own technical challenges to deal with. As the measures are implemented and experience is gained, the ports will tighten the requirements through the "living document" concept. In addition, the Ports will explore the use of tariffs to expedite implementation of this measure.

CLAE-NRDC2-AttA-47OGV3: Second, we are also concerned that this measure will be further delayed due to the recommended additional lower sulfur fuel availability assessment. In our previous comments on the Port of Los Angeles lower sulfur fuel availability assessment (submitted on June 30, 2005), we noted that many countries



surveyed around world have the ability to provide these fuels but are not doing so because there is no current demand. Furthermore, the study found that a number of ports already in fact supply MGO at 0.2%, including at the San Pedro Bay port complex itself. We therefore strongly recommend that the Ports move forward with this measure and allow for the supply to grow with increased demand.

Understanding the need for coordination with fuel suppliers, we commend the Ports for inserting as milestone #1 a plan to address this issue. The Ports must play a significant role in ensuring that a supply of lower sulfur marine fuels is available. CAAP should prioritize those necessary steps to ensure suppliers of marine fuel and shippers themselves are prepared for the immediate short term requirement of 0.2% sulfur marine fuel and to ensure no delay in implementing this measure.

Response: Comments noted.

CLAE-NRDC2-AttA-48OGV3: Third, as mentioned under our comments on OGV2, it should not be assumed that CARB will adopt the 0.1% standard by 2010 due to the scheduled feasibility assessment in 2008. That said, in conjunction with CARB as it continues implementing its Auxiliary Engine Rule, CAAP should be structured to ensure that 0.1% sulfur marine fuel is available and fully demonstrated well ahead of the CARB timeline. Through CAAP, the Ports have the opportunity to avoid the catch-22 of potentially inadequate clean marine fuel supplies in 2010, by securing the use of cleaner marine fuels early. It is our strong sentiment that the Ports must aggressively pursue demonstration of the 1,000 ppm sulfur requirement in auxiliary engines well in advance of the 2008 technology review for lower sulfur fuels. Notably, the NNI auxiliary engine fuel measure required use of 0.1% sulfur fuel in 2008.

Response: The CARB and the Ports Clean Air Action Plan share the same goal of making sure that 0.1% S fuel is available in 2010 to be utilized in auxiliary engines. In order to avoid duplication of effort and resources, the Ports will work with ARB staff on their feasibility assessment study.

CLAE-NRDC2-AttA-49OGV3: As noted above, CAAP can require steps necessary to ensure that suppliers of marine fuel and shippers themselves will begin preparing for the January 2010 deadline so that this important opportunity to achieve further emission reductions from this significant source is not lost. We recommend that CAAP include a phase in of 1,000 ppm sulfur fuel ahead of the 2010 CARB deadline. This should be included as either a requirement or an incentive. Our recommendation is 25% of all ship visits should use 1,000 ppm sulfur by 2008 and 50% by 2009, moving to 100% in 2010 to fall in line with the CARB regulation. These activities and this commitment should be included in CAAP.

Response: The Ports will consult with CARB to determine if the feasibility study can be expedited. The 0.1% sulfur fuel requirement for CARB is contingent upon the successful results of the feasibility study.



CLAE-NRDC2-AttA-50OGV3: Fourth, as previously mentioned in our main letter, CAAP acknowledges that the NNI Plan achieved greater emissions reductions under its auxiliary engine fuel measure than CAAP. CAAP tries to explain this outcome by stating that “the NNI report assumes that the change to cleaner fuels would be based on a broad-based deep penetration assumption with no details on how that would actually be implemented. This assumption is significantly different than the implementable lease-based approach assumed in the Clean Air Action Plan.” We are perplexed at this explanation because the NNI Plan did provide detail on how its auxiliary engine fuel measure should be implemented. The NNI Plan stated that in order to achieve the participation rates indicated for this measure, tariffs must be utilized, and specifically noted that the incentives and disincentives must be action-forcing and stringent, with disincentives including a potential fee assessment for non-participating vessels. The NNI Plan also suggested that the fuel measure be implemented through lease agreements, and stated that if participation rates were not achieved, the measure would be implemented as a mandatory program. Thus, to the extent that CAAP will not achieve the same, or better, reductions as the NNI Plan, the Ports must provide clearer explanations for this discrepancy. Whatever the analysis of the NNI measure, CAAP’s fuel measure can and should be implemented more forcefully, more broadly, and more quickly. Indeed, as discussed in Section V of the main letter, the Ports can and must utilize tariffs to accelerate emissions reductions for this proposed control measure.

Response: The Ports are considering all available options to expedite the implementation of the CAAP measures including tariffs. In addition, see Frequently Occurring Comments Responses #18.

CLAE-NRDC2-AttA-51OGV3: Fifth, CAAP states that technical issues such as tankage usage associated with using cleaner fuels would be resolved by 2007. We are concerned that CAAP is setting the stage for an unnecessary delay. CARB has thoroughly analyzed this issue through their development of the auxiliary engine rule and made the educated decision to approve a regulation for cleaner fuels for all ships visiting California for implementation January 1, 2007. The Ports should follow suit on this timeframe and not delay an additional year.

Response: The CARB’s requirement is for the use of 0.5% sulfur or less in auxiliary engines only whereas under OGV3 and OGV4 of the CAAP, the fuel requirement is 0.2% in both main and auxiliary engines. The availability of 0.2 % sulfur fuel is an issue that needs to be studied further, however it is expected that the study will be conducted in cooperation with CARB and will be expedited to the extent feasible.

CLAE-NRDC2-AttA-52OGV3: Sixth, this measure also suggests in the “Milestone” section that the Ports will evaluate moving the measure boundary to 40nm. However, this



element of the measure is not included in the “Measure Description” on page 84 and should be.

Response: Comment noted.

CLAE-NRDC2-AttA-52OGV3: Seventh, as previously mentioned, CAAP should clearly outline a tracking mechanism that will track emission reductions and the percentage of ship calls using each type of sulfur content fuel per berth.

Response: The benefits of this program and the percentage of ship calls using each type of sulfur content fuel per berth will be quantified and reflected in the annual updates to the Ports’ OGV emissions inventories.

CLAE-NRDC2-AttA-53OGV3: Finally, eighth, the 20 nm boundary should be extended to 24 nm to be consistent with the provisions outlined in CARB’s Auxiliary Engine Regulation. We also support the move out to 40 nm in the near future.

Response: The Ports envision the enforcement of OGV related measures via the Vehicle Traffic System managed by the Marine Exchange and coordinated with the US Coast Guard. Currently this system tracks vessel speeds out to 20 nm from Point Fermin. It should be noted that CARB’s 24 nm boundary is measured from the coastline whereas the 20 nm boundary in the Clean Air Action Plan measure is defined from Point Fermin which covers most of the area defined under CARB’s 24 nm boundary. Under this plan, the Ports will work with the US Coast Guard to extend vessel traffic surveillance to 40 nm from Point Fermin. Once the technological and administrative issues are finalized, the Ports will extend the requirements of this measure to 40 nm, as identified in the milestones section of measure SPBP-OGV1.

CLAE-NRDC2-AttA-54OGV3: On a separate note, we would like to acknowledge that, different than the approach approved in the CARB auxiliary engine regulation, we agree that any requirements that fall out of OGV3 should not be waived if the same ship is using dockside power. In sum, we recommend that CAAP include the following with regard to this strategy:

- ♦ By January 1, 2007, ensure 100% compliance and enforcement of the 2,000 ppm requirement for auxiliary engines; and
- ♦ By January 1, 2010, take necessary steps to ensure 100% compliance and enforcement of the 1,000 ppm requirement for auxiliary engines (interim deadlines for 1,000 ppm sulfur fuel should require 25% using 1,000 ppm by 2008; and a 50% requirement by 2009).

Response: The Port expects a 100% compliance rate for those faculties that enter into a contractual agreement with the Ports. Those agreements will be based on lease renewals or amendments. The Ports will also explore implementation of a tariff, as identified in the milestone sections of SPBP-OGV3 and SPBP-OGV4. With regard to the 0.1% sulfur requirement, CARB will be the responsible agency for enforcement in 2010.



CLAE-NRDC2-AttA-55OGV4: We are pleased that CAAP includes an emissions reduction strategy for the main engines of ocean-going vessels that is in line with the Plan's auxiliary engine requirements. This strategy, if employed aggressively, can significantly narrow the current gap between CAAP and NNI emission reduction projections. As you may know, Kjeld Aaabo, Senior Manager with MAN B&W publicly stated during the Faster Freight Conference earlier this year that main propulsion engines on ocean going vessels such as container ships can run on lower-sulfur fuels at or below 1,000 ppm sulfur content. He further pointed to an example of where these levels are currently being used. Given a) the magnitude of the emissions from main engines, b) the current availability of a feasible strategy to significantly reduce PM and SO_x from propulsion engines, and c) the shortfall that exists between CAAP and NNI emission reductions, it is imperative CAAP pursue lower sulfur distillate fuels in main engines. As evidenced by the MAN B&W statement and reinforced by the Maersk decision, the implementation of cleaner fuels in main engines is an excellent approach to achieve significant emission reductions in a cost-effective manner. Additionally, in conjunction with OGV3, CAAP should quickly lay the groundwork necessary for a sufficient supply of lower sulfur marine fuels. In addition to these applicable concerns which are raised in more detail under OGV3, we would like to emphasize the following additional concerns and recommendations:

Response: We agree and applaud the efforts of MAN B&W and Maersk. The availability of fuel is still an issue that needs to be addressed and resolved as identified in SPBP-OGV3 and SPBP-OGV4.

CLAE-NRDC2-AttA-56OGV4: First, because of the current discrepancy between CAAP and NNI, and the significant reductions that can be achieved through this measure, OGV 4 should be implemented through tariffs to ensure rapid and extensive penetration.

Response: .The Ports are considering all available options to expedite the implementation of the CAAP measures including tariffs. See Frequently Occurring Comments Reponses #18.

CLAE-NRDC2-AttA-57OGV4: Second, in the absence of a statewide port requirement, the Ports should work with CARB and SCAQMD to pursue comprehensive statewide requirements in the near term targeting significantly cleaner fuels in the main engines. This should be pursued as a backstop measure to ensure the emission reductions ultimately projected by this measure.

Response: The Ports are committed to moving forward with implementation of SPBP-OGV4 as outlined in the Technical report. In addition, see Frequently Occurring Comments Response #5, #29 and #30.



CLAE-NRDC2-AttA-58OGV4: Third, CAAP cites that technical issues associated with using cleaner fuels would be resolved by 2007. We are concerned that CAAP is setting up an unnecessary delay. We urge the Ports to work with shipping lines such as Maersk and with manufacturers such as MAN B&W, both of whom have already implemented this approach to resolve any outstanding technical issues. Additionally, a simultaneous timeline for lower-sulfur fuels in both the main and auxiliary engines will minimize the types of fuels a ship will have to carry. Again, this measure must be a priority and must maintain an aggressive implementation timeline.

Response: See response to comment CLAE-NRDC2-AttA-51OGV3.

CLAE-NRDC2-AttA-59OGV4: Fourth, similar to OGV3, CAAP acknowledges that the NNI Plan achieved greater emissions reductions under its main engine fuel measure than CAAP. CAAP tries to explain this outcome by stating that “the NNI report assumes that the change to cleaner fuels would be based on a broad-based deep penetration assumption with no details on how that would actually be implemented. This assumption is significantly different than the implementable lease-based approach assumed in the Clean Air Action Plan.” However, this explanation makes little sense because the NNI Plan did provide detail on how its main engine fuel measure should be implemented. The NNI Plan stated that in order to achieve the participation rates indicated for that measure, tariffs must be utilized, and specifically noted that the incentives and disincentives must be action-forcing and stringent, with disincentives including a potential fee assessment for non-participating vessels.²⁹ The NNI Plan also suggested that the fuel measure be implemented through lease agreements, and stated that if participation rates were not achieved, the measure would be implemented as a mandatory program. Thus, to the extent that CAAP will not achieve the same, or better, reductions as the NNI Plan, the Ports must provide clearer explanations for this discrepancy. More importantly, even if the NNI Plan’s fuel measures were somehow unclear, this does not provide an excuse for the Ports to implement CAAP’s fuel measure, which is substantially weaker. Indeed, as discussed in Section V of the main letter, the Ports can and must utilize tariffs to accelerate emissions reductions for this proposed control measure.

Response: See Frequently Occurring Comments Responses #18.

CLAE-NRDC2-AttA-60OGV4: Fifth, as previously mentioned, CAAP should clearly outline a mechanism to track emission reductions and the percentage of ship calls using each type of sulfur content fuel per berth. The benefits of this program and percentage of ship calls using each type of sulfur content fuel per berth will be quantified and reflected in the annual updates to the Port’s OGV emissions inventories.

Response: These benefits will be tracked in the annual updates to the Ports’ emissions inventory which in turn will be reflected in the CAAP.



CLAE-NRDC2-AttA-61OGV4: Finally, sixth, for consistency purposes, the 20 nm boundary should be extended to 24 nm to fall in line with the provisions outlined in CARB's Auxiliary Engine Regulation. We also support the move out to 40 nm in the near future. In sum, main engines, at a minimum, should fall under the same requirements and timetable as we suggest under OGV 3 and, by 2010, main engines should be required to use 1,000 ppm fuel.

Response: See response to comment CLAE-NRDC2-AttA-53OGV3. The Ports will assess the availability and feasibility of the use of 1,000 ppm sulfur fuel in main engines under the Technology Advancement Program of the Clean Air Action Plan and will coordinate with CARB on their feasibility study for the 1,000 ppm sulfur fuel for the auxiliary engine rule.

CLAE-NRDC2-AttA-62OGV4: We are pleased the Ports are moving aggressively to employ readily available technologies such as slide valves; however, we strongly encourage CAAP to utilize all technologies upon validation through the Technology Advancement Program on a clear and expedient timeline. The timeline for implementation for slide valves and future validated technologies should be explicitly defined in the CAAP. We also strongly encourage the Ports to use tariffs to ensure that the benefits of these promising technologies are implemented fully. Outside of slide valve technology, the success of this measure relies on technology not yet commercially available. We highly commend the Ports for proposing "technology forcing" measures. Such measures should be additionally strengthened to ensure that emission reductions are achieved by, for example, including a back-stop measure that will achieve the same estimated emissions reductions from the targeted source if the technology proves infeasible. We support the installation of emission control devices such as SCRs on ocean-going vessels. We encourage the Ports to expedite the completion of any demonstration testing as soon as possible and strongly recommend that CAAP include an implementation mechanism and schedule for applying this technology to vessels visiting the Ports. As we have stated in the past, in order to properly reduce emissions from ocean going vessels, we strongly believe that emission control devices will be necessary and must be coupled with the cleanest sulfur fuels in auxiliary and main engines as well as dockside power. In fact, strategies that promote the use of control devices must be coupled with a mandate for ships to use low sulfur diesel fuel. Certain after-treatment technologies will not work if the sulfur content of the fuel is too high. For example, 2,000 ppm sulfur fuel (ideally lower) should be used with SCR, and 500 ppm sulfur fuel must be used with DOCs. Further, 15 ppm sulfur fuel must be used with DPFs. Additionally, we agree that new vessels provide a very significant opportunity to ensure accommodation of the cleanest technologies, including cleaner engines and emission control devices such as SCR. Hundreds of vessels are slated to come on line every year. It is our understanding that the marine subgroup of the EPA West Coast Diesel Collaborative is currently strategizing an approach to ensure shippers are incorporating the cleanest technologies in all new vessels. Unfortunately, the CAAP measure as currently outlined does not identify a time frame, implementation



mechanisms, targeted percentage of the vessel fleet, methods that the Ports plan to use to bring potential emission reductions to fruition, or the key locales where the Ports plan to apply and advocate for this strategy. Finally, in addition to new vessels, CAAP should outline goals that target the fleet as a whole and serve as a target for both ports. We recommend the following standards and timeline for OGV vessel engines serving Ports:

- ♦ 25% of OGVs must meet “Blue Sky Series” Category 3 ship engine standards (those are 80% below current IMO NO_x standards) by 2010, either OEM or through SCR, or other add-on controls.
- ♦ 50% of OGVs must meet “Blue Sky Series” Category 3 ship engine standards (those are 80% below current IMO NO_x standards) by 2015, (OEM or add-on).
- ♦ 100% of OGVs must meet Blue Sky Series standards by 2020 (OEM or add-on).

Response: The intent of measure OGV5 is to integrate emissions control technologies as they successfully pass through the Technology Advancement Program. The purpose of the Technology Advancement Program is to evaluate, demonstrate, and incorporate new strategies into the suite of control measures that will ultimately result in significant reduction of DPM, NO_x and other criteria pollutants. The Public will have the ability to track the progress of integration of new strategies into various measures through future updates of the plan. The plan proactively included integration of slide valve technology and claimed a conservative annual emission benefit. The implementation schedule used to estimate the emission reductions is shown in Appendix A.

CLAE-NRDC2-AttA-63CHE1: First, it is important from the outset to clarify that CARB’s Cargo Handling Equipment regulation does not require BACT. The final rule adopted allows several different “compliance options” that create a variety of possible levels of emission reductions. We recognize that not all types of cargo handling equipment are compatible with the same level of control technology. However, as we emphasized in detailed comments to CARB, it is imperative for each type of equipment to employ the cleanest option of control, which will obtain the greatest emission reductions (i.e. BACT), unless SCAQMD or CARB find it technically infeasible or unavailable. For example, under CARB’s rule, basic container handling equipment, bulk cargo handling equipment, and rubber-tired gantry cranes can use one of four options to comply with the CARB rule. The rule allows an owner to select an option that allows a Tier 1 engine to be retrofitted with a level 1 control, reducing PM 25%, until 2015 when further clean up would be required. Before 2015 however, this compliance option is several orders of magnitude more polluting than the cleanest option. The final regulation created a situation where owners have no incentive to choose the cleanest option. The Ports have the opportunity to truly require BACT through CAAP. We strongly encourage the Ports to identify the cleanest available technology for each type of cargo handling equipment and incorporate this approach. In addition, we encourage the Ports to accelerate the implementation of



CARB's cargo handling equipment rule requirements through the lease and tariff approach in this measure.

Response: Measure SPBP-CHE1 requires that upon lease renewal: By end of 2011, all pre-2007 yard tractors will be replaced with yard tractors meeting 2010 on-road engine standards. By the end of 2012, all pre-2007 top picks, forklifts, reach stackers, RTGs, & straddle carriers will be replaced with engines meeting 2010 on-road or Tier IV off-road engine standards. By the end of 2014, all remaining CHE will be replaced with equipment with engines meeting Tier IV standards. Until replaced with equipment meeting Tier IV standards, these pieces of CHE will be equipped with the cleanest VDEC systems available. These requirements are more stringent than required under CARB's cargo handling equipment regulation.

CLAE-NRDC2-AttA-64CHE1-AF: Second, petroleum alternative options were not listed or mentioned as a compliance option for new equipment or in-use standards for yard trucks in CARB's regulation (as evidenced by the performance standards on page 96 of CAAP). Instead, these requirements refer to diesel emission standards, while it is known that alternative fuel models are available and can meet more stringent emission standards. CHE 1 should require the use of alternative fuel models for available applications. For example, any new container handling equipment purchased on or after 2007 should (a) run on alternative fuels such as natural gas or (b) meet EPA Tier IV standards applicable to the year 2013, whichever has lower emissions. Furthermore, as is currently the case in the CARB cargo handling equipment rule, alternative fuel vehicles, including electric equipment, should not simply be a form of compliance with BACT. Instead alternative fuels should be strongly incentivized as the preferred method of compliance. Alternative fuel vehicles, such as natural gas can emit half the nitrogen oxides (NO_x) and an order of magnitude less of particulate matter emissions as conventional diesel vehicles. In addition to lower emissions, alternative fuels provide other benefits to the state of California, including fuel diversity, petroleum replacement, and potentially lower greenhouse gas emissions. When alternative fuel models certify to comparable standards as conventional models, their use should be encouraged through incentives in order to reduce petroleum dependence and increase fuel diversity. These benefits should be strongly encouraged, if not mandated, not only at the Ports but also at intermodal yards and distribution centers within the South Coast Air Basin, where fleets are centrally fueled and managed, allowing for the use of specialized fuels. Currently, the performance standards for CHE on page 96 do not mention alternative fuels. Interestingly, page 81 of the Appendix cites 50% of the new equipment will be LNG. This major discrepancy needs to be clarified. Also, please see attached letter previously submitted to the Port of Los Angeles that discusses in more detail the benefits of natural gas versus diesel.

Response: The Ports have a policy of fuel neutrality and have no intention of subsidizing terminal equipment purchases, regardless of fuel type. However, as evidenced by the HDV1 measure, the Ports will encourage the penetration of LNG equipment. Further, based on discussions with SCAQMD staff, the Ports believe that LNG equipment will be available for



the 2007+ model years. Therefore, the estimation of the emission reductions from this program is based upon the assumption that 50% of the 2007+ yard tractors, top handlers and side handlers will be LNG. However, regardless of the fuel, the Ports assume that similar emission reductions will be achieved.

CLAE-NRDC2-AttA-65CHE1: Third, this measure relies on a lease-based approach and potential tariff changes similar to other measures; however, CHE1 outlines specific performance standards with specific timeframes. We commend the Ports for including specifics such as these; however, it is unclear if these are the standards and deadlines that will be applied through leases regardless of when they are renewed or negotiated. We recommend that the specific timeframes highlighted on page 96 of CAAP are adhered to. Terminals that will not undergo a lease renewal until, for example, 2009 should still act in anticipation of these requirements and timetables. On a similar note, it is not clear why the Ports appear to have two separate strategies for the various measures in the plan: 1) performance standards that include a set compliance schedule and 2) for other measures, such as OGV3, identify a compliance schedule that only would 'kick-in' upon renegotiation of a lease. As discussed in our main letter (Section V), the Ports should maximize their use of tariffs to achieve rapid and extensive emissions reductions whenever possible. However, when lease-based approaches prove to be a better implementation vehicle than tariffs, we strongly urge the ports to incentivize compliance with the measure ahead of, for example, lease renewal. In fact, if feasible, the Ports should make lease renewal contingent on compliance with specific interim measure goals that can be outlined in CAAP. For these reasons, although we are pleased that this measure expedites the timeframe for yard tractors as compared to the CARB CHE rule, it is unclear how many yard tractors will actually be forced to meet the outlined requirements by 2010.

Response: CHE1 is a lease-based measure with clearly defined goals. The Ports will negotiate with terminals on a case-by-case basis to achieve the goals of the CAAP. It is also important that each measure in the CAAP is distinct and must be implemented according to the constraints surrounding that source category. It is also important to note that many terminals are planning equipment purchases to be consistent with these standards voluntarily, outside of any lease requirements.

CLAE-NRDC2-AttA-66CHE1: Fourth, as briefly mentioned above, we recommend that the Ports and regulatory agencies consider how this measure could apply to other facilities where the Ports' operations extend. Equipment such as yard trucks are commonly used at distribution centers, warehouses, and intermodal rail yards, significantly impacting surrounding communities. The impacts are magnified in communities such as Mira Loma that have a large concentration of distribution centers. Pollution from cargo-handling equipment at these facilities should be addressed together with the equipment at the Ports of Los Angeles and Long Beach.



Response: The Ports' authority is applicable to tenants' operations. The USEPA, ARB, and SCAQMD are the agencies who have jurisdiction over broader regions. It is the Ports' hope that these agencies will use the experience gained during the Clean Air Action Plan process to formulate regional measures.

CLAE-NRDC2-AttA-67CHE1: Fifth, this measure should incorporate idling limits, which would save fuel as well as cut pollution from these terminals, and reduce a significant source of worker exposure to diesel fumes. Idling limits for these captive fleets would be much easier to manage and enforce than for other off-road equipment. We urge the Ports to add idling restrictions into this measure.

Response: There is no data available to indicate that there is excessive, unnecessary idling of cargo handling equipment at the terminals. The Ports will look further into this matter.

CLAE-NRDC2-AttA-68HC1-EI: First, this measure must be revised to identify the current levels of air pollution from harbor craft as well as reductions estimated through this measure. Additionally, an emissions comparison should be provided between the proposed measure and CARB's proposed harbor craft rule.

Response: See Frequently Occurring Comment Response #6.

CLAE-NRDC2-AttA-69HC1: Second, while we agree that certain, priority harbor craft must be identified and a proper inventory identified, the performance standards should apply to all harbor craft on the proposed timeline effective immediately. The Port should also prioritize for replacement a subset of the harbor craft not meeting the Tier II standards for replacement in the next year rather than wait two years for all replacements. Additionally, the most effective verified NO_x and PM emission reduction standards should be phased-in on top of the Tier II engine requirement so that within four years of CAAP's adoption, all harbor craft are at a minimum using Tier 2 engines and retrofitted with devices that at a minimum achieve an additional 50% NO_x and PM reduction. We suggest the following timetable for ensuring Harbor Craft are equipped with the highest emission reduction NO_x and PM technologies: within 2 years – 25%; within 3 years - 50%; within 4 years – 100%. Similarly, when Tier 3 engines become available, CAAP should have specific phase-in requirements for these engines, as suggested above, building up to 100% within 4 years (instead of 5 years) of their initial availability.

Response: Once the emission inventory of harbor craft is completed, the Ports will develop specific guidelines for "clean harbor craft" for both existing vessels and new builds. At that time the Ports will consider accelerated introduction of Tier 3 engines.



CLAE-NRDC2-AttA-70HC1-TAP: Third, to facilitate the utilization of retrofit technologies, this measure should require the Ports to fund demonstration projects using such technologies in FY06/07. Specifically, the Ports should fund one-year demonstration projects on at least five harbor craft per retrofit technology by the end of 2007. The Ports should work in conjunction with ARB to ensure the results and subsequent validation facilitates statewide efforts.

Response: The suggestion will be considered under the Technology Advancement Program.

CLAE-NRDC2-AttA-71HC1: Fourth, we also urge the Ports to incorporate measures that go beyond the Tier II standards for harbor craft with newer engines and those that present the greatest health risk to individuals. These vessels may include passenger ferries, excursion vessels, charter fishing vessels, or other vessels that operate almost exclusively near the shore and carry groups of people. These more stringent measures could also apply to engines year 2000 and newer and those that have been repowered within the last five years.

Response: Once the emission inventory of harbor craft is completed, the Ports will develop specific guidelines for “clean harbor craft” for both existing vessels and new builds.

CLAE-NRDC2-AttA-72HC1: Fifth, as mentioned in our main letter, the Ports must make a stronger commitment to advocate for a strong statewide regulation for harbor craft that would reduce port pollution. Also, EPA is expected to develop Tier III standards for marine engines within the next two years. The Ports should increase their role in working with EPA to ensure stringent and timely Tier III standards are adopted. We also recommend that the Ports work with CARB to develop standards for new marine engines in the event that the US EPA’s new regulatory process for commercial marine vessels does not produce satisfactory results. The state would then be in a position to quickly implement state regulations.

Response: Comment noted.

CLAE-NRDC2-AttA-73HC1: Sixth, this measure should require that any dredge used in the San Pedro Bay be electrified.

Response: As stated in Section 5.6 of the Technical Report, cutter-suction head dredging and all clamshell dredging will be shore-powered.

CLAE-NRDC2-AttA-74HC1: Seventh, it is not clear why the CAAP has not incorporated shoreside power for tugs as it was included in the NNI report. We recommend that this strategy be included under the harbor craft measures. All tugs should be required to utilize shoreside power at the Ports of Los Angeles and Long Beach by the end of 2007.

Response: The majority of the harbor craft that serve at the Ports of Los Angeles and Long Beach utilize shore power at their home berths. HC1 has been updated to include shoreside



power for harbor craft. The use of shore power at remote locations was considered and was determined not to be a viable option due to issues of safety and security.

CLAE-NRDC2-AttA-75RL1-TAP: *First*, we are pleased that retrofit technologies will be tested as part of this measure. However, as currently drafted, this measure does not include a specific timeline for when the testing will be completed and, pending the results, when the retrofit technologies will be installed. These are critical elements and must be included. Additionally, we strongly recommend that DPFs, DOCs, LNCs, diesel emulsions, and SCR are all tested. These are potential retrofit technology candidates for this measure, and all information from previous testing of these technologies should be incorporated. The combination of retrofit controls that maximize NO_x and PM reductions should be employed. *Second*, by 2009, all switchers should be retrofit with a successfully-demonstrated technology (which may include using diesel emulsion fuel) or combination of technologies that can achieve a combined PM and NO_x reduction of at least 50%.

Response: Measure RL1 is specific to an existing agreement between the PHL and the Ports of Los Angeles and Long Beach. By 2008, it requires all existing switch engines in the Ports to be replaced with Tier 2 engines and use emulsified fuel as available. Although a demonstration study for a DPF was not included in the original agreement, the Ports have committed to secure funding to conduct a feasibility study of retrofitting DPFs on switch engines. As a part of this agreement, PHL has conducted demonstration testing of a hybrid electric and will conduct testing on LNG and gen-set locomotives. The milestone section has been updated to include a timeline for all implementation components of this measure.

CLAE-NRDC2-AttA-76RL1: *Third*, the commitment to test DOC or DPF on one locomotive is wholly inadequate. Both active and passively regenerated diesel particulate filters must be tested in a variety of configurations from a range of manufacturers to ensure that the most compatible controls are selected for future use. For all locomotives serving port or affiliated facilities such as the East Yard in Commerce and the Intermodal Container Transfer Facility (ICTF) in Long Beach, the Ports must fund demonstration projects of various retrofit technologies, including DPFs, DOCs, LNCs, diesel emulsions and SCR. Each type of technology should be installed on at least one switcher by the end of 2006 for a demonstration period of at least one year.

Response: See response to comment CLAE-NRDC2-AttA-75RL1-TAP.

CLAE-NRDC2-AttA-77RL1-AF: *Fourth*, this measure should require more than one LNG and one hybrid switcher given the additional emission reduction benefits from these technologies. In fact, the first ten switchers should be replaced with the cleanest technologies such as “green goats,” run on alternative fuels, or achieve comparable emissions levels to the cleanest switcher locomotives. Hybrid switchers, like the Green



Goat, have built-in idling controls. The Ports should be aggressively working to ensure these technologies become a significant part of the overall fleet.

Response: See response to comment CLAE-NRDC2-AttA-75RL1-TAP.

CLAE-NRDC2-AttA-78RL2: *First*, again, clearly this measure needs to be developed to demonstrate current baseline levels and the emission reductions estimated.

Response: Comments noted. Currently, the Ports' staff is involved in the first step of establishing the 2005 baseline emissions level. In addition, see Frequently Occurring Comment Response #6.

CLAE-NRDC2-AttA-79RL2: *Second*, while this measure lists lease-based approaches and CEQA to implement this measure, the primary implementation strategy for this measure seems to be securing an MOU with line-haul operators. MOUs are disfavored implementation mechanisms for many reasons. In particular, because MOUs are by their nature "freely negotiated" agreements, it is possible that the Ports could achieve greater emissions reductions by implementing this measure via other avenues (i.e., leases, tariffs, CEQA). Also, it has been our experience that MOUs generally contain "termination clauses" that can operate to impede more stringent regulations. For example, the recent CARB/Rail MOU contains a termination clause that substantially hinders legislation or regulations that seek to reduce emissions from the targeted source. Also, in most cases, MOUs preclude public input. Notably, the CARB/Rail MOU was negotiated to the exclusion of the SCAQMD, which was actively involved in creating rules addressing railroad pollution. Community groups near railyards and other key stakeholders were also excluded.

Response: As identified in SPBP-RL2, an MOU or other contractual agreements will be pursued to implement this measure to address existing operations. Measure SPBP-RL3 is designed to address new and modified rail yards, when options such as leases and CEQA are available.

CLAE-NRDC2-AttA-80RL2: *Third*, the measure requirements, as currently written, are unclear. It appears there are two sets of requirements which are supposed to be met by 2011, but it is unclear if both requirements must be met with 100% compliance. This should be clarified.

Response: SPBP-RL2 has been revised to make the requirements clearer.

CLAE-NRDC2-AttA-81RL2: *Fourth*, CAAP should clarify the implementation mechanisms and technologies scheduled to be employed in order to meet the 2011 requirement that all line-haul locomotives entering Port facilities will be 90% below Tier 2 engine standards for PM and NO_x by 2011 using ULSD and idling devices.

Response: SPBP-RL2 has been revised to make the requirements clearer.



CLAE-NRDC2-AttA-82RL2: *Fifth*, although we are pleased that anti-idling devices will be employed, the timeline should be tightened so that within 2 years all line-haul locomotives have these devices in place. It is the responsibility of the railway companies to furnish these devices for their locomotives.

Response: The anti-idling device installment schedule is the same as agreed between CARB and the line-haul railroads under their existing MOU.

CLAE-NRDC2-AttA-83RL2-TAP: *Sixth*, in line with our recommendations under RL1, all line haul locomotives serving the Ports should be retrofit (or use diesel emulsion fuel) with a successfully-demonstrated technology or combination of technologies that can achieve a combined PM and NO_x reduction of at least 50% by 2009.

Response: The goals of SPBP-RL2 are: by 2011, all diesel-powered Class 1 switcher and helper locomotives entering Port facilities will be 90% controlled for PM and NO_x, will use 15-minute idle restrictors, and after 1 January 2007, the use of ULSD fuels; and starting in 2012 and fully implemented by 2014, the fleet average for Class 1 long haul locomotives calling at Port properties will be Tier III equivalent (Tier 2 equipped with DPF and SCR or new locomotives meeting Tier 3) PM and NO_x and will use 15-minute idle restrictors. Class 1 long haul locomotives will operate on USLD while on Port properties by the end of 2007. Technologies to get to these levels of reductions will be validated through the Technology Advancement Program..

CLAE-NRDC2-AttA-84RL2-TAP: *Seventh*, for all locomotives serving port or affiliated facilities such as the East Yard in Commerce and the Intermodal Container Transfer Facility (ICTF) in Long Beach, the Ports must fund demonstration projects of various retrofit technologies, including DPFs, DOCs, LNCs, diesel emulsions, and SCR. Each type of technology should be installed on at least one line-haul locomotive by the end of 2006 for a demonstration period of at least one year.

Response: The Ports will pursue technology demonstration projects for all source categories, including locomotives, under the Technology Advancement Program.

CLAE-NRDC2-AttA-85RL2-AF: *Eighth*, this measure does not mention cleaner technologies such as alternative fuels. Natural gas locomotives have been used in the U.S. and abroad for many years. This measure should be technology-forcing and require all short-haul locomotive lines be converted to LNG or an equivalently clean alternative by 2010. The CAAP should also consider full electrification of the Alameda Corridor and Alameda Corridor East.

Response: : This measure seeks to reduce emissions from Class 1 (or long-haul locomotive lines), not short-haul lines. The Ports do not have regulatory authority over railroads; however, the Ports will seek opportunities to reduce emissions through other mechanisms. For switchers owned by long-haul locomotive lines, RL2 is performance based and seeks to



significantly reduce emissions through new technology or alternative fuels. New technologies options will be developed and demonstrated under the Technology Advancement Program.

CLAE-NRDC2-AttA-86RL3: The requirements in this measure should not be limited solely to new or modified rail facilities. Many of the technologies listed under this measure can be employed now and others must be demonstrated in the immediate future as discussed in our comments on RL1 and RL2. There are many rail facilities and intermodal centers throughout the region that would benefit from the measures in CAAP. We recommend that the Ports identify all intermodal facilities in the region and articulate a plan for incorporating the rail, truck and cargo handling measures.

Additionally, as discussed in Section IX of our main letter, we strongly urge the Ports to incorporate SCAQMD and ARB Land Use Guidelines in lease agreements and facility sittings to reduce health risks from port operations, including rail yard operations. The Ports must also develop policies that favor on-dock rail over near-dock rail to reduce health impacts from future rail projects.

Response: Measure SPBP-RL2 is designed to address existing line-haul rail operations. In addition, see Frequently Occurring Comment Responses #8 and 9.

CLAE-NRDC2-AttA-87LR: While we commend the Ports for ensuring that all future leases and lease renewals include environmental and public health measures, we have concerns with the “Project Specific Standards” outlined in CAAP, and offer a number of suggestions to make these standards stronger. Please refer to our comments in Section I.B of our main letter which describe in detail our concerns with cancer risk thresholds and the Project Specific Standards.

Response: Comment noted.

CLAE-NRDC2-AttA-88GC: We appreciate the inclusion of mitigation measures for construction air quality impacts in the Plan. We also commend the Ports for requiring that all dredging be shore-powered.

Response: Comment noted.

CLAE-NRDC2-AttA-89GC: Further, we encourage the Ports and the regulatory agencies to develop aggressive “best management practices” (“BMP”) associated with construction activities that include the following:

First, all construction equipment between 50 - 750 HP should meet US EPA Tier II Standards, and alternative fuels should be used where possible.



Second, the highest level of Verified Diesel Emission Control devices (“VDECs”) for diesel PM reductions should be installed on each piece of equipment used for more than 20 cumulative project hours, where compatible.

Third, the highest level of VDECs for NO_x reductions should be installed on each piece of equipment used for more than 20 cumulative project hours, where compatible both with the equipment and the PM retrofit requirement above.

Fourth, no construction equipment should be permitted to idle for more than five minutes, except for emergency purposes or while operating auxiliary functions necessary to the project.

Fifth, all dust suppression measures provided in SCAQMD CEQA guidelines must be followed, and any construction activity that could disrupt neighboring communities must not occur outside of regular business hours (i.e. 8am to 5pm).

Sixth, to the extent possible, power needs for the construction site should be met by providing access to the power grid rather than using generators. Where generators are necessary, they must be alternatively fueled or meet the most recent US EPA standards if diesel.

Response: CARB is proposing an In-Use Off-Road Equipment regulation that covers construction equipment. This rule will be applicable to all construction equipment including those used at the ports properties. In addition, the Ports will continue to mitigate construction-related emissions.

CLAE-NRDC2-AttA-90TAP: We commend the Ports for including this program focused on advancing technologies that can address emissions from goods movement sources. Throughout this Attachment we have identified a number of technologies that require demonstration in the immediate term (e.g. retrofit technologies for locomotives, 1,000 ppm sulfur fuel and lower for container ships, etc.). We strongly recommend that this program include these additional technologies for evaluation and demonstration.

Response: See Frequently Occurring Comment Response #32.

CLAE-NRDC2-AttA-91TAP: We also recommend that the coordination committee include a full range of stakeholders that does not preclude community, public health, or environmental representatives from participating.

Response: See Frequently Occurring Comment Response #4.



CLAE-NRDC2-AttA-92TAP: This initiative is intended to be undertaken by the same group and structure as the Technology Advancement Program. It is critical again that this group include interested representatives from the full range of stakeholders as discussed above.

Response: . See Frequently Occurring Comment Response #4. In addition, the Technical Working Group for the Technology Advancement Program will be comprised of the various funding partners and will report to the each Port's Board.

CLAE-NRDC2-AttA-93TAP-RL: We support many of the examples listed in this measure, some of which should be pursued aggressively in the short term. For example, CAAP should propose a measure requiring shipping companies to transport 75% of their cargo by on-dock rail, as opposed to truck, by the end of 2008, and that they meet an interim requirement of 65% by the end of 2007. The port can require this measure as a lease condition. For example, in the RFP for berths 206 to 209 (prior Matson terminal), in which the port required that 65% of the cargo be transported by on-dock rail within two years.

Response: See Frequently Occurring Comment Response #9.

CLAE-NRDC2-AttA-94Fund: The CAAP lists the Port Air Quality Mitigation Incentive Program (PAQMIP) as an initiative that could fund control measures under CAAP. While we agree that PAQMIP funds may be available to mitigate existing or future impacts of Port of Los Angeles operations on the surrounding communities, it is important that the Ports understand that there are express restrictions on how such funds can be used. These restrictions are not mentioned in control measure 5.10. Specifically, the China Shipping Settlement Agreement states: The mitigation funds disbursed by the Port shall not be used for (a) mitigation measures committed to in [the Settlement Agreement]; (b) funds already committed to in any prior settlement or other document by the Port or City; (c) funds already budgeted for the current or future fiscal year by the Port or City or in any amount and type allocated for mitigation of Port impacts in prior years; (d) measures identified in future CEQA documents to mitigate impacts from projects not yet approved by the Port, except for aesthetic mitigation of Port impacts in prior years (although future CEQA documents may consider programs and activities funded pursuant to this provision in the baseline discussion); or (e) used as a substitute for existing budgeted municipal functions or programs. In particular, the fund cannot be used to pay for control measures that could be required as CEQA mitigation. Indeed, PAQMIP funds were created in large part to mitigate "existing" impacts, and to prevent the Port of Los Angeles from double-dipping. The settlement agreement also contains other important restrictions on the use of funds from this lawsuit. For example, any project proposing to be funded must "submit a proposal simultaneously to the PCAC and to the Port's Environmental Mitigation Coordinator." In addition, the funds must be expended to reduce emissions that affect San Pedro and Wilmington. Further, the Ports



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must scrupulously follow the intent of the settlement agreement by proposing projects that comport with the examples laid out on Amended Stipulated Judgment, Modification of Stay and Order Thereon, *Natural Resources Defense Council, et al. v. City of Los Angeles, et. al.*, Superior Court of the State of California County of Los Angeles, Case No. BS 070017, at 29, page 25. Accordingly, it is important that this control measure make clear that funds from PAQMIP are restricted, and that the Ports will comply with the settlement agreement in using funds from this settlement.

Response: Comment noted. The Ports intend to follow the guidelines already in place if PAQIMP funds are sought.

SIERRA CLUB ANGELES CHAPTER HARBOR VISION TASK FORCE

CLAE-SC-1GC: This plan correctly brings together the nation's two largest ports. Together, these ports moved seven million containers in 2005. The next largest port in California moved only 1.4 million. A genuine effort to address shipping throughput and environmental issues must begin here. The cooperation between the two ports is essential. In terms of their ability to facilitate shipping and their impact on the environment, they function like a single entity. It's not possible to fully address problems nor provide optimal solutions unless the two ports cooperate. This plan represents one of the most significant areas of cooperation to date.

Response: Comment noted.

CLAE-SC-2GC: In 2001, the Sierra Club had cautiously endorsed the idea that the two ports should be merged into a single entity and run under a joint powers arrangement between the County of Los Angeles, the cities of Los Angeles and Long Beach, and possibly the State of California. This, with recognition of the local, regional and transregional importance of the ports. The primary concerns voiced with this idea was just how such a joint powers agencies would be created, and how it might be more responsive to environmental concerns while meeting the needs of goods movement. With sufficient cooperation with the two ports, such a joint-powers agency may be both more feasible and less necessary. Port volume has grown to such an extent, we can no longer hope to address environmental and infrastructure issues in optimal ways unless the ports cooperate.

Response: This Plan exemplifies the cooperation between the two largest ports in the United States, the Port of Los Angeles and Port of Long Beach, to develop these emissions reduction measures.



CLAE-SC-3GC: The plan smartly involves the California Air Resources Board, Southern California Air Quality Management District and the U.S. Environmental Protection agency. Past efforts to deal with environmental problems posed by the ports has resulted in inter-agency finger pointing and jurisdictional issues.

Response: Comment noted.

CLAE-SC-4GC: It is our hope that as this plan advances to be more comprehensive, additional agencies may find themselves contributing to the plan and help move it to be a national, Pacific Coast, Pacific Rim, and eventually a worldwide plan. Along the way, the cooperation and input of the California Department of Fish and Game, the California Environmental Protection Agency, and the California Coastal Commission may be appropriate. In long run, such a plan may involve working with the International Maritime Organization and MARPOL Annex 6.

Response: Comment noted.

CLAE-SC-5GC: We also look very positively that this is an action plan, intended to get the work done. The proof of any action plan will be its measure of progress on the ground. All the expertise that goes into writing it, all the fabulous press events, glossy literature and persuasive slideshows are for naught if the environment doesn't improve and health risks don't decrease.

Response: Comment noted. See Frequently Occurring Comment Response #1.

CLAE-SC-6GC: This is called a living document, and it should be that. The document should live permanently on web sites hosted by each of its participating agencies — and be easy to find. As it is updated, a library of back versions should be available as well. As written, the CAAP is wearing worn and wobbly dentures. We need to give it shark's teeth if we hope to get anywhere. It may be a good start, but it has to get a lot stronger if it is to clean up our air.

Response: Comment noted.

CLAE-SC-7GC: We should not be preoccupied with some setbacks in the process, or failing to meet some of our objectives. If we meet all our objectives 100%, it is possibly a better indicator that we didn't set our marks high enough rather than we did a perfect job. If every project comes in on time and on budget — certainly the manager's dream — it may likewise indicate that we weren't trying hard enough. Perhaps the first shortcoming apparent in the CAAP is that is only a clean air plan. Though this may be an excellent starting point for a first draft, we will promptly need to get beyond this and consider comprehensive commercial, security, labor and environmental considerations if we are to come up with good solutions that can stick.

Response: See Frequently Occurring Comment Response #1.



CLAE-SC-8GC: For example, we can move to natural gas (as CNG or LNG) to provide much of the transport power we need. But, in doing so, we will not address global warming, noise, sprawl, infrastructure capacity, cargo throughput, and trucking labor issues in a meaningful way. Worse yet, we may spend a lot of money swapping out equipment, which, in the end we'll need only to swap out all over again.

Response: Comment noted.

CLAE-SC-9GC: The CAAP should evolve into a Model Ports Action Plan, which should take actions that improve industry, labor and environmental issues comprehensively. Starting with the public health issues caused by air pollution and moving on to global warming are good strategies into dividing the work.

Response: See Frequently Occurring Comment Response #1 and #25..

CLAE-SC-10GC-Fund: As we start with what is necessarily an incomplete effort, we need to be cautious of two things. First, that we don't spend a lot of money on a solution that boxes us into a corner and precludes better solutions in the future. Second, that we don't take on answers that aggravate other problems. For example, that we don't sacrifice noise levels or industrial sprawl as we clean the air, or that we don't rely on unstable conditions, such as the continued underpayment of port truckers and their poor working conditions. This is important not just environmentally. It is fiscally important as well. Neither the taxpayer nor the industry should invest large sums for solutions that need to be shortly thrown out. Large investments in partial solutions could have a dampening effect on subsequent projects to clean up the environment or improve labor conditions.

Response: Comment noted. Further, a major focus of the CAAP is the Technology Advancement Program which seeks to develop and demonstrate and prove the feasibility and emission reduction effectiveness of technologies in port operations.

CLAE-SC-11GC: We should seek solutions which address as many of these as possible at the same time:

- ♦ **Toxic air pollution:** already addressed in the CAAP, needs more, bigger, sharper teeth.
- ♦ **Climate changing air pollution:** largely missing in the CAAP, almost to the point of negligence. There are solutions for climate change which have strong areas of overlap with air pollution. They should at least be cursorily considered together as soon as we can.
- ♦ **Worker health & safety:** there are newer studies which show ear protection for noise isn't as effective as we thought. New technologies, like transponders, may help reduce accidents involving unseen workers in hazardous locations.
- ♦ **Job security:** in the face of new technologies. How do we safeguard jobs or provide for "just transitions" or buyouts? How do we ensure pension and health care security.



- ♦ **Livable / family wages:** we should not put in place new infrastructure that depends on substandard compensation. We may find ourselves incurring large costs for structures that become under-utilized. Worse yet, we may inadvertently increase the pressure to use the existing infrastructure—making needed labor reform less likely.
- ♦ **Noise pollution:** which has adverse impacts on people and wildlife. Other studies show the impact noise can have in causing degradation in sleep quality and sleep deprivation. These have measurable negative health impacts on health, and can cause loss in productivity, aggressive behavior and increase accident rates. Noise can disrupt predator-prey relationship for wildlife by destroying auditory queues.
- ♦ **Light pollution:** which has adverse impacts on wildlife by upsetting diurnal predator-prey relations. Light pollution also interferes with astronomy.
- ♦ **Soil and sediment pollution, street, parking lot or staging area runoff** which contains lubricants and trash.
- ♦ **Water pollution:** which comes from ships and land-based port vehicles and operations.
- ♦ **Sprawl:** removes natural habitat and impinges on human neighborhoods and other commercial uses. Goods movement produces few jobs per acre, so it does not compete well for employment potential per acre compared to other industries.
- ♦ **Security:** from natural disasters, accidents and terrorism. Past performance shows accidents are the most likely scenario.
- ♦ **Invasive species:** which come as stowaways in cargo, on ships hulls and in ballast.

Response: See Frequently Occurring Comment Response #1.

CLAE-SC-12GC: There is only one class of solution which is up to the task of fully cleaning the air, reducing global warming, reducing noise, and helping deal with many of the other environmental problems that arise from goods movement. Any form of port growth based on using internal combustion engines cannot be made green. Even the engines that run on the cleanest fuels are neither clean enough nor quiet enough. Moreover, conventional transportation models use sprawling acreage, and cannot be considered green for that reason as well.

Response: Comment noted. The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. It is important to note however, that as new projects and terminal redevelopments move forward, new opportunities arise to increase operational efficiency, expand on-dock rail capabilities, and reduce emissions from equipment/vehicles, to potentially reduce overall emissions below existing levels.



CLAE-SC-13GC: Medallion Port Checklist:

- ✦ Electric cranes
- ✦ Electric trains
- ✦ Electric or greenest-available power (see below) for yard hustlers.
- ✦ Electric or greenest-available power for short-haul trucking
- ✦ Long-term capacity growth in rail
- ✦ Near elimination of long haul truck trips
- ✦ Container stowing optimized for unloading.
- ✦ Container delivery to the ports optimized for stowing using just-in-time delivery methods.
- ✦ Dedicated rights-of-way for rail (freeways for trains, no grade crossings).
- ✦ On dock power for ships (cold ironing).
- ✦ Land use provides 1000' buffers between industrial and residential areas with open space, green space and commercial buffers.
- ✦ On-dock time for each container is minimized using improved technology and management practices
- ✦ Maximize use of on-dock rail
- ✦ Green power for ship propulsion.
- ✦ Control of invasive species
- ✦ Increase cargo throughput per acre as method of increasing total capacity without building new islands.
- ✦ Provide for significantly cleaner and quieter operations.

Response: Comment noted. See Frequently Occurring Comment Response #32. Under the Technology Advanced Program the Ports will be evaluating emerging technologies and the use of alternative fuels including those mentioned in the comment.

CLAE-SC-14CHE: For yard hustlers and short haul trucks, the greenest available power would be all electric. Where that isn't possible, then hybrid systems using the greenest available fuels and cleanest and quietest available engines. These should be designed to minimize the amount of time the engines need to operate. The engines should not be required to drive the vehicle, but simply to help maintain battery power.

Response: See Frequently Occurring Comment Response #32. In addition, the Ports have recently initiated a diesel-hybrid yard tractor demonstration project to evaluate the potential benefits of hybrid technology in port-related applications.



CLAE-SC-15AF: Electric power for the ports would be obtained from renewable sources, such as solar, wind, geothermal and wave power. The appropriate economic, engineering and environmental studies would rank these options. These would be phased in, as opportunity permitted, to replace fossil fuel, nuclear and hydro power.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-16AF: For ship propulsion, the greenest possible power may be hydrogen derived from renewable sources. A synthetic fuel made from renewable sources after that (including bio-fuels). The cleanest available fossil fuel would be the last choice. With a large growth expected in world shipping, it is important to reduce the carbon emissions caused by shipping. If shipping grows four-fold, we will need a four-fold reduction just to net out. To achieve a 50% reduction, we'd need an eight-fold decrease.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-17AF: Water borne vessels are already the most efficient form of transit available. It is hard to imagine how we'll be able to reduce carbon emissions without at least moving to fossil/bio-fuel mix. The size of a bio-fuel's carbon advantage depends on the fuel and how it's made (there may be carbon emissions involved in making the fuel). That in turn, determines how much bio-fuel needs to be in the fuel mix to achieve a desired carbon reduction.

As shipping grows, we should progressively increase bio-fuel mixes to first cap global warming emissions and then later to begin decreasing them. As mentioned earlier, capping net-carbon emissions is also important to preserve the oceans' acid-base levels.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-18 OGV3-OGV4: Marine fuels will need to become ultra low sulfur and rely on at bio-fuel mixes, or migrate to hydrogen (which may pose some safety concerns of its own, because of the amount of hydrogen which would be stored in one location.) No matter what, the cost of these fuels will rise. Taken on a per ship cost, this will seem significant. However, if one looks at the cost per container, and compares it to the fuel cost to moving a container over a similar distance by land the increase is not out of line.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-19HDV: We should create a ZEV trucking zone within about a three mile radius of all our ports. Trucks which use internal combustion engines should be all but banned from operating in this area—if they are moving port cargo. ZEV trucking would be done with fleet vehicles, owned by the ports, consortia or drayage companies. Fleet operations, compared to individual owner-operators, also present other advantages. If a driver is delayed for an unforeseen reason at the end of his shift, the next driver to use that truck can use a reserve truck instead. This helps us minimize the number of trucks we



need without having truckers be idle. Another advantage of fleet operations, is that a short-haul truck driver can pick up the next short-haul can in the port. This reduced the logistics needed to match a specific driver up with a specific truck.

Response: Measure SPBP-HDV1 of the plan presents the details of how the Ports are planning to reduce emissions from on-road trucks that visit the ports. The goal of the HDV1 measure is to expedite the fleet transformation to “clean trucks” by replacing and retrofitting all frequent and semi-frequent caller container trucks servicing both ports by the end of 2011. See also Frequently Occurring Comment Response #32..

CLAE-SC-20HDV: A green ports plan should have a traffic optimization element that looks at the most efficient way we can move trucks over existing streets and highways. Three possible approaches uses transponders, convoys and improved circulation patterns to help move trucks more efficiently. These are part of a greener solution than building new roadways or expanding existing ones, because they help us make better use of existing infrastructure.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-21HE: A green action plan for the port needs to take on zoning problems, which are particularly prevalent in neighborhoods like Wilmington. Using whatever approaches we can find, we need to separate residential from industrial uses by 1000' wide buffers. This will necessarily involve moving some residences out of heavily industrial areas and visa versa.

These plans consider traffic circulation plans as well, to help ensure that residences are not placed immediately next to major truck routes, even if the trucks are clean and quiet. (It is generally a good community design objective to keep residential neighborhoods where children cross streets, play and ride bikes away from busy streets by some form of separation.)

Response: See Frequently Occurring Comment Response #8.

CLAE-SC-22HDV-RL: We need to cap the number of truck trips per hour from the port to levels which can be handled by current infrastructure. This means, not expanding any freeways or ramps to them.

We need to shift goods movement growth to rely more heavily on rail. Programs to modernize rail and stow containers in an optimized manner can help us make more effective use of our rail.

Response: See Frequently Occurring Comment Response #9.



CLAE-SC-23GC: Another approach to help green our ports is to use fleet drivers for moving goods in and out of the ports, rather than independent owner-operators. The action plan should call for the use of fleet-based drivers, zone drivers for efficient cargo pickup at the ports and provide for the same equipment being used on multiple shifts. It should also help improve public safety and add to security measures.

Fleet drivers can work in zones. When they arrive in the port to pick up a container, they only need to be matched with a container for their particular destination zone—rather than the one specific container they need to take

By fully eliminating complex matching and chassis flips, we can reduce the amount of time any truck (ZEV or polluting) must spend in the port before it leaves.

We can also reduce the amount of land needed within the port to store containers as they are removed from a ship, because we can match cans to drivers much faster.

With a reasonable number of zones for a ship, and advance knowledge from the ships manifest, of how many containers are in each zone, the work of unloading containers can be expedited—as can the task of matching drivers to containers.

Response: Comment noted.

CLAE-SC-24GC: A green ports action plan should cap the total land area used by the ports, and use improvements in logistics to increase capacity within the current framework. Technology used to help make the ports run quietly and more cleanly can help extend after-hour operations to further increase throughput efficiency per acre.

Response: Comment noted. See Section 5.9 entitled “Infrastructure & Operational Efficiency Improvements Initiatives”.

CLAE-SC-25GC: Changes in management techniques and port/tenant relations should also be used to help move goods more efficiently. Over the long term, a port greening plan should change from a terminal leasing plan to a facility use plan. A ship arriving to port should be able to dock at the first available berth, and load or unload cargo there. Its fees would be based on how long the ship was berthed, how many containers it moved, and how green the operations were.

For example, a discount could be provided for “smart stowed” containers, compared to poorly organized containers. A ship that arrived in port using “green” power (as defined by a sliding standard that gets stricter over the years) would be eligible for lower rates.

Response: Comment noted.

CLAE-SC-26GC: We need to develop programs that let us stow containers on ship in a way that makes them quick and easy to load and unload. This sort of program is necessarily done on both sides of the ocean.



Response: See response to comment CLAE-SC-24GC.

CLAE-SC-27AM: Environmental monitoring won't directly help clean the air, reduce noise, or deal with other environmental issues. However, it is an important tool for us to know how well we are doing. Without it, we are working blind—or are left to speculation as to what the impact on an area is, based on atmospheric models and release inventories. These have led to significant disputes in the past, all of which can easily be resolved by monitoring. An widespread environmental monitoring program should be part of a plan to monitor progress of the CAAP and other environmental issues. A comprehensive score card should be issued annually and updated quarterly. Real time monitoring for all public health index values and weather conditions should be available on line. Current and all historical data should be available there in easy to download formats.

Response: See Response to ORAL Comment # 13. Real-time monitoring data from the two Port of Long Beach stations is available at www.polb.com/air-monitoring

CLAE-SC-28AM: Environmental monitoring stations should be set up in the ports, at the Angel's Gate Lighthouse, and within the communities surrounding San Pedro Bay. For purposes of comparison, one monitoring station should be set up on the far side of the Palos Verdes Peninsula. In San Pedro, Wilmington and in West and South Long Beach, monitoring stations should be set up as far as three miles up and down the coast from the ports, and three miles inland—further in the Carson-West Long Beach area. For example, in San Pedro, there should be a monitoring station set up around South Shores Elementary School or Bogdanovich Park. These outlying stations would help us determine what the drop off rate is from the ports. Outlying coastal locations along the path of entry to the ports (along San Pedro's coast) would help monitor the impact of ships on these areas.

Response: See Response to ORAL Comment# 13.

CLAE-SC-29AM: Monitoring should include criteria pollutants. It should be able to distinguish between coarse, fine and ultrafine particulate matter, and provide mass values for each category, as well as counts for ultrafines. In addition, monitoring should include full weather station reporting (temperature, wind speed and direction, humidity, air pressure).

Response: See Response to ORAL Comment# 13

CLAE-SC-30AM: It should also include ambient noise monitoring, able to record sound levels from above, and four directions. RMS averages and short term peak values should be recorded.

Response: The CAAP is focused on improving air quality in and around the Ports and does not include a program to reduce noise. However, it is possible that noise may be reduced as a result of some of the Plan's implementation strategies. For example; idle-reduction



technologies such as auxiliary power units (APUs) reduce the idling time of a locomotive's main engine by utilizing a small diesel engine to power the locomotive's cabin (or to provide automatic shut off and start up of the main engine while keeping fluids at appropriate temperatures). This strategy will ultimately reduce noise if a locomotive is stationed in an area within or near the Ports for an extended period of time. In addition, noise impacts are evaluated through the CEQA process.

CLAE-SC-31AM: Lastly, it should record ambient light levels from a wide vertical axis by day and night.

Response: The CAAP is focused on improving air quality in and around the Ports and does not include a program to reduce ambient light.

CLAE-SC-32AM: Recording increments should be every one to five minutes—and should be reported to servers over the internet (either wired or wireless, as appropriate).

Response: See Response to ORAL Comment # 13. In addition, the Port of Long Beach real-time monitoring data is reported to the website over 1-hour, 8-hour or 24-hour averaging periods as appropriate for comparison to state and federal ambient air quality standards.

CLAE-SC-33GC: Pricing structures can help reward shippers for being green by offering discounts or rebates for various fees based on how green shippers operate.

Response: Comment noted. See Frequently Occurring Comment Response #7.

CLAE-SC-34RL: We've built freeways for cars and trucks. We need to build them for trains with the same vengeance. A "freeway" for trains is a track that gives trains unimpeded access, without grade level crossings (for vehicles or other tracks). The Alameda corridor is a good start, but a truly effective network, needs to link the ports in San Pedro Bay with all primary destinations, between the ports and East Los Angeles, and on to our Inland Valleys in San Bernardino, Riverside and Victorville.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-35RL: Solar power generation along the track lines could provide a significant percentage of the electrical needs of such a system.

Response: See Frequently Occurring Comment Response #32.

CLAE-SC-36RL: Using new track (which would be more expensive to lay), such an operation could be far quieter and cause less vibration than current steel-on-steel technology. (Continuous weld track is one such example used to make train tracks quieter.) If maglev works, operational noise would be reduced to wind sounds. At modest speeds, those would be negligible as well.

Response: See Frequently Occurring Comment Response #32.



CLAE-SC-37RL: Instead of building freeways, we should be looking at how we can expand our rail systems, and complete the Alameda Corridor East without grade crossings, using clean, quiet, electrified technology.

Response: See Frequently Occurring Comment Response #32 and See Section 5.9 entitled “Infrastructure & Operational Efficiency Improvements Initiatives”..

CLAE-SC-38TAP: Perhaps the greatest area where the current CAAP is lacking is innovation. It is not normally the task of agencies like ports to do innovation, but rather of universities and private companies. However, it needs to be the task of the Harbor Commission and a central objective of the CAAP to spur innovation, and to help create an environment where it occurs.

Those innovations may be small, such as finding someone to design and build short-haul ZEV trucks. Or it may be major, seeking regional (or global) improvements to cargo scheduling and tracking to improve logistics efficiency. It could be incremental, seeking stepwise advancements to conventional rail, or involve big jumps, such as moving to maglev transportation.

Without a firm commitment to necessary innovation, the CAAP will need to scale back port growth to within the means of current methods to provide greening. Since we cannot possibly grow the port green using freeway-based approaches, the CAAP will need to set limits to port capacity which are not much above those currently being moved, except to the extent that modest changes can be put in place to increase rail use.

Response: See “Technology Advancement Program” section of the Technical Report. This program is a firm commitment and is designed to support and expedite the advancement of innovative technologies that will ultimately significantly reduce air pollution.

CLAE-SC-39TAP: Maglev technology may finally be reaching the day where it is operable. Given the large benefits it can provide in energy efficiency, clean and quiet transport, much faster start and stops than conventional rail, it should be examined very closely.

It will take a commitment to a trail project to get something like this moving, and successful operation of that project in actual shipping use, to demonstrate the technology for wider application. We shouldn’t beat around the bush on this—if it shows any promise. It may well take doing some initial installations to help get the kinks out of a system.

Energy efficient, clean and quiet, fast stops and starts, very low maintenance arising from the way maglev is powered and the way it carries loads, maglev should be looked at very carefully.



Response: See Frequently Occurring Comment Response #32.

CLAE-SC-40GC: These comments don't address when this should all be done. We are concerned, given the rate of growth in the ports, that the current CAAP will not net out. More importantly, that it will not lead to solutions that will give us an end-game of a truly clean port by 2015 or 2020.

Response: See Frequently Occurring Comments Response #15.

CLAE-SC-41GC: It can be hard to grasp the impact of exponential growth. In 2000, our ports were 5 to 20 times dirtier than they should be. By 2020, they will be 20 to 80 times dirtier, if we do nothing. We'll need to make everything four times more environmentally efficient just to end up right where we started. We need to be perhaps 100 times cleaner if we really want to do the job right and know we have some room for future growth beyond that point.

Response: See Frequently Occurring Comment Response #17.

CLAE-SC-42GC: The clean air action plan needs to think far enough into the future, so that we know we will reach the objective of clean air attainment and global warming reduction by 2020, along with addressing other environmental concerns, such as noise and sprawl.

Response: See Frequently Occurring Comment Response #15 and #25.

CLAE-SC-43GC: This report doesn't give any dates. However, the choice of dates should be obvious. Just as soon as we can—taking only the time we need to be sure we are going in the right direction.

Response: See Frequently Occurring Comment Response #14.

CLAE-SC-44GC: 2400 people a year are dieing as a result of the obstinance of this industry to do something about air quality. Millions are affected by health issues that range from minor irritations to asthma, cancer and death. As decent citizens, they should be appalled at their impacts. They should be mortally embarrassed and profusely apologetic. Instead, they give excuses and denials, just like asbestos, car, cigarette, paint and pesticide manufactures and others have before them. This is not good company to be in.

Response: See Frequently Occurring Comment Response #1. This is an extremely ambitious and comprehensive Plan (more aggressive than that proposed by federal and state agencies). Industry is already responding and has adopted emission reductions into their existing operations prior to any regulatory requirements. As an example Maersk has announced that they will, voluntarily, start using 0.2% S fuel in all of their main and auxiliary marine engines.



CLAE-SC-45GC: Weak initial progress is more acceptable, if it is part of an action plan that will really get rolling.

The Sierra Club, community groups and other environmental groups are serious about caps on the environmental footprint of the port: the dirty air, the climate changing gases, the sprawl, the noise, the roadway infrastructure. The Club is fine with the port increasing its throughput as long as its environmental footprint does not grow, and as long as we are effectively using that increase to green operations which are already far too brown for our health and the environment.

Response: Comment noted. See Frequently Occurring Comment Response #1.

CLAE-SC-46GC: We have no ideas about this industry's portion of global warming. We know it is contributing to the death of trees in our forests through air pollution. We know it has contributed to worse forest fires by weakening trees. We know it has contributed to the decline of our fisheries by taking habitat and introducing invasive species. We know it has contributed intangibly to the decline of the quality of life to millions of people. But, far as I know, no one has even tried to tally up all these costs.

Response: See Frequently Occurring Comments Response #25.

CLAE-SC-47Fund-GC: The California Air Resources Board, however, has estimated air pollution health costs from this industry at \$200 billion by 2020. Given the projected number of containers, that's about \$850 per 40' container (if prorated exclusively against containers. Perhaps \$550 per FEU if 1/3 is assigned to bulk cargo.)

Response: Comment noted.

CLAE-SC-48HE-Fund: The health bill for 2005 for the San Pedro Bay Ports is about \$5.5 billion.

Response: Comment noted.

COALITION FOR CLEAN AIR (2nd Submittal)

CLAE-CCA2-1GC: The POLA/LB should use their Harbor Commission Agenda/Minutes electronic distribution lists to publicize public workshops and new releases such as the extension of the comment period.

Response: Comment noted. The suggestion has been shared with the appropriate division at each port.



CLAE-CCA2-2GC: The names of the Staff responsible for receiving/replying to comments should be publicized.

Response: The Ports are provided the name and contact information for the appropriate staff in all Ports related correspondence on the CAAP. In all of the Ports' CAAP related documents, Dr. Ralph Appy and Dr. Robert Kanter's email, addresses and phone numbers were listed.

CLAE-CCA2-3GC: I wrote a letter requesting an extension of the comment period—I neither received a response confirming that my letter had been received nor did I receive a reply to let me know the comment period was extended. Please reply to comments received, at the very least to confirm receipt of comments.

Response: On July 24, 2006, a press released announced the extension of the comment period by the additional 30 days. In addition, on that same day, reply letters were mailed directly to the five organizations requesting the extension period. One of the letters was sent to Ms. Candice Kim of Coalition For Clean Air. The extension date of the comment period was also posted on both ports' websites.

COALITION FOR A SAFE ENVIRONMENT

CLAE-CSE-1PP:

Writing of The CAAP Failed To Include The Public, Stakeholders, Medical & Scientific Experts

The plan has significant inadequacies, errors and omissions because it failed to have a transparent public participation process. There was no participation from the public, environmental justice, environmental, homeowners, community, public health, union organizations, academic & private institutions, medical and scientific experts such as that in the NNI Plan.

Request: CFASE requests that the final draft of the CAAP be made available for a minimum 60 day public review period. CFASE requests that the Ports provide an explanation for the rejection of any public and Environmental Justice Organization recommendations and requests.

Response: See Frequently Occurring Comments Response #4.

CLAE-CSE-2GC:

POLA Harbor Commission President Freeman's Claim That This Plan Would Go Beyond The NNI Is Not True

The new proposed Clean Air Action Plan does not achieve the emission reductions as low as that proposed in the original POLA No Net Increase Plan.



Request: CFASE requests that the CAAP include all the previous NNI recommendations. CFASE further requests that the CAAP comply with its Board of Harbor Commissioners October 2001 Policy of achieving no net increase in air emissions from future POLA projects and business operations. CFASE requests that the CAAP establish a plan to reduce air pollution to 2001 levels by 2010, reduce the 2001 levels by 90% by 2020, 95% by 2025 and 99% by 203.

Response: See Frequently Occurring Comment Responses #16 and #17..

CLAE-CSE-3HE-Fund:

The CAAP Fails To Address The Current Public Health Crisis

The Ports, the Goods Movement Industry, WalMart, Kmart, Costco and Disneyland etc. are responsible for over:

- 6.5 Premature Deaths Per Day
- 3.1 Respiratory Hospital Admissions Per Day
- 1.3 Cardiovascular Hospital Admissions Per Day
- 98.5 Asthma & Other Lower Respiratory Symptoms Per Day
- 8.1 Acute Bronchitis Symptoms Per Day
- 572 Work Loss Days Per Day
- 6,197.2 Minor Restricted Activity Days Per Day
- 1,747.9 School Absence Days Per Day

Ports Clean Air Action Plan did not commit one dime for public health care. The plan did not even include a proposal to address current public health care and the skyrocketing costs that are being dumped by the Ports, the Goods Movement Industry and retail giants like WalMart etc. onto the public.

Request: CFASE requests that the CAAP include the establishment of a Ports & Goods Movement Industry Public Health Care Trust Fund. CFASE recommends that the Ports create a Public Health Care Mitigation Tariff Container Fee in the amount of \$ 20.00 per import container which will create a fund of \$ 300 million annually and a \$ 100 per ton cargo/liquid bulk fee. CFASE recommends that a minimum of \$ 50% to be allocated each year to Harbor-UCLA Medical Center, Martin Luther King Jr./Drew Medical Hospital, USC Medical Center, UCLA School of Medicine and USC Keck School Medicine. CFASE recommends that a minimum of 3% be allocated each year to the Wilmington Community Clinic, San Pedro Free Clinic and the Long Beach Alliance For Children With Asthma. CFASE further recommends that the balance of annual funds be made available to other non-profit hospital and community clinics in the South Coast Air Quality Management District and for public reimbursable medical expenses. CFASE further request that the public health risk factor be zero (0) cancer cases per 1,000,000 not 10 per million or any other higher reference.

Response: The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. For more information, see Frequently Occurring Comment Response #28. Funding mechanisms are being considered in order to address the shortfall for implementing various control measures. See Frequently Occurring Comment Response #7 for more information. For the appropriate health risk factor, the Ports intend to follow



SCAQMD's CEQA guidelines on a project by project basis. Further, the Ports will work with the agencies to develop an appropriate San Pedro Bay Standard by Spring of 2007. See Frequently Occurring Comments Responses ##11 and #12.

CLAE-CSE-4RL:

The CAAP References the CARB and Railroad MOU Has Failed To Achieve 20% Pollution Reduction

The CAAP references the California Air Resources Board (CARB) MOU that was illegally and secretly signed with the railroad industry that claims a 20% reduction in locomotive pollution in 15 months, which is a another government agency fraud, because it is now 12 months later and there has been no reduction. The real truth is that air pollution has increased over 10% in the last 12 months.

Request: CFASE requests that any reference to the CARB MOU be removed from the CAAP and the POLA not endorse or support a non-public approved and supported CARB MOU.

Response: CARB and the Class 1 railroads entered into agreements in 1998 and 2005. CARB's Board has approved the railroad MOUs. Measure SPBP-RL2 is consistent with, but more aggressive than, the requirements of the CARB MOU.

CLAE-CSE-5GC:

The CAAP References Market-Based Emission Reduction Programs Which Fail To Reduce Pollution In Environmental Justice Communities

The CAAP discusses a Market-Based Emission Reduction Program which has been rejected by every Environmental Justice Organization in the State of California. Market Based Programs create an air pollution emissions trading program by allowing major polluters to purchase credits that allow them to continue polluting in the most impacted communities that border ports, transportation corridor and distribution center communities.

Request: CFASE requests that any reference to a Market-Based or Credit Trading Program be removed from the CAAP and that the POLA not endorse or support these type of programs.

Response: See response to CLAE-NRDC2-58LR-GC

CLAE-CSE-6HE:

The CAAP fails to state that the Ports intentionally failed to disclose to the public and bordering Port communities the environmental and public health impacts of their business operations. Plan fails to mention that Wilmington, San Pedro & West Long Beach were identified as the highest risk of cancer due to Ports & Goods Movement, but instead leads the reader to believe that there were only concerns raised and of non-significance.

Request: CFASE requests that the CAAP reference all major scientific, medical, governmental



and non-profit organization medical research studies that discuss public health impacts from public exposure to on-port and off-port owned property or port tenant owned, leased, rented or contracted properties and services diesel fuel emissions, VOC's, fumigation facilities and other port related toxic chemical releases, land and water contamination so that the public has an accurate description and assessment of dangers.

Response: : See Frequently Occurring Comment Responses #1 and #2.

CLAE-CSE-7GC:

The CAAP References California Goods Movement Plan Which Has Not Been Adopted

The CAAP references the California Goods Movement Plan (CGMP) which has not been adopted by the current Governor and has a high probability of never being adopted by the potentially new Governor in the upcoming November 2006 election. None of the proposed CGMP policies, plans, projects or funding has been approved.

Request: CFASE requests that the CAAP not reference the CGMAP because it has not been adopted by the current Governor and will probably never be adopted. There has been no GMMAP meeting in over six months. CFASE request that the CAAP incorporate the best recommendations from the CGMAP.

Response: All of the CAAP measures are either complimentary or go beyond the emission reduction strategies listed under the California Goods Movement Plan (CGMAP). CGMAP is mentioned in the technical document so that public is aware of the ongoing efforts to reduce air pollution from all ports in California. See Frequently Occurring Comment Response #29.

CLAE-CSE-8CE:

The CAAP Makes Port Economic Benefits Reference That Have Never Been Validated

There has never been a comprehensive independent third party validation of the benefits of the Ports and Goods Movement Industry. There has never been a Cost-Benefit Analysis or a Performance Analysis prepared on the Port, any Port terminal lease or proposed project.

Request: CFASE requests that the CAAP include the requirement that all Port projects include a Cost-Benefit Analysis and a Performance Analysis.

Response: As stated in Section 1.1 of the Technical Report, the San Pedro Bay Ports (SPBP) comprise a huge regional and national economic engine. The Los Angeles Customs District accounts for approximately \$300 billion in annual trade. More than 40% of all containerized trade in the nation flows through the San Pedro Bay Ports.



CLAE-CSE-9GC:

The CAAP References That Terminal Development Plans Have Been Challenged & Delayed But Fails To Disclose The Ports Failure To Comply With CEQA

The CAAP insinuates that Terminal Development Plans have without reason been challenged and delayed, when in fact the Ports have intentionally conspired to circumvent and illegally not-comply with CEQA requirements to protect the environment and public health.

Request: CFASE requests that the CAAP include information, descriptions and references based on actual facts and complete information not staff interpretations or limited information summaries.

Response: The Ports prepare CEQA documents on all projects in accordance with CEQA guidelines. The Ports are legally bound by CEQA guidelines, and by definition, any CEQA related documents prepared for a project are disclosure documents.

CLAE-CSE-10GC:

The CAAP Fails To Acknowledge Off-Port Property Impacts

The CAAP fails to acknowledge that it is responsible for numerous Off-Port and Tidelands Property community, public health and public safety impacts. The Port operates and its tenants contract with direct Port and Goods Movement related activities.

There is a contracted Port of LA off-port tidelands property Container Inspection Facility in Carson, Warehouses in designated Custom Zones in Wilmington and San Pedro, Fumigation Facilities in Wilmington & San Pedro, 48 Container Storage & Staging Yards in Wilmington & Carson, Port Oil & Gas Pipeline go to Wilmington, San Pedro & Carson, the Alameda Corridor passes through numerous cities and communities, Port trucks pass through hundreds of cities etc..

Response: See Frequently Occurring Comment Response #8..

CLAE-CSE-11GC:

The CAAP Implies That The Ports Have Prepared Good Environmental Impacts Reports

A public review of past Port of Los Angeles and Port of Long Beach EIR's has disclosed that not one has ever complied with CEQA law.

Request: CFASE requests that the CAAP acknowledge that it has not in the past complied with CEQA EIR requirements and describe how its future EIR's will comply with CEQA.

Response: The Ports disagree with this comment. See response to comment CLAE-CSE-9GC.



CLAE-CSE-12GC:

The CAAP Implies that The Ports Have Adopted Appropriate Mitigation Measures

A public review of past Port of Los Angeles and Port of Long Beach EIR Mitigation measures has disclosed that they failed to mitigate over 99% of their environmental and public health impacts.

Request: CFASE requests that the CAAP acknowledge that it has not in the past mitigated all of its impacts and describe how its future EIR's and Mitigation Plans will comply with CEQA.

Response: The Ports disagree with this comment. See response to comment CLAE-CSE-9GC.

CLAE-CSE-13GC:

The CAAP Fails to Acknowledge Public Exposure To Volatile Organic Compounds (VOC's)

The CAAP fails to acknowledge and mitigate public exposure from VOC's, carcinogenic and toxic chemicals from Oil Refinery Bulk Loading Terminals and Storage Tank Facilities on Port property.

Request: CFASE requests that the CAAP acknowledge, address and mitigate other toxic and hazardous emissions from oil and gas company facilities located at Ports. CFASE requests that the CAAP contain plans to relocate all toxic and hazardous oil & gas facilities near bordering communities be relocated to Pier 400 (ie. Amerigas). CFASE requests that the CAAP include a moratorium on the building of new oil and gas terminals at the Ports. CAAP include a plan that requires all floating roof tanks on-port property and off-port property to have permanent roofs and vapor recovery systems.

Response: The focus of the CAAP is on NO_x, SO_x and DPM emissions from the maritime goods movement industry.

CLAE-CSE-14GC:

The CAAP Fails to Acknowledge Public Exposure To Fumigation Facilities

The CAAP fails to acknowledge and mitigate public exposure from Methyl Bromide a toxic chemical from On-Port and Off-Port contracted Fumigation Facilities.

Request: CFASE requests that the CAAP acknowledge, address and mitigate other toxic and hazardous emissions from on-port property and off-port property fumigation facilities. CFASE requests that the CAAP contain plans to relocate all toxic and hazardous fumigation to Pier 400. CFASE requests that the CAAP include a moratorium on allowing tenants to operate off-port property fumigation facilities. CAAP includes a plan to immediately halt out-door fumigation of containers in Wilmington.

Response: See response to CLAE-CSE-13GC.



CLAE-CSE-15GC:

The CAAP Fails To Acknowledge Ports Contribution To Green House Gases Impacts Public Health, Marine Life, Wildlife & Agriculture

The CAAP fails to acknowledge and mitigate public exposure to Green House Gases which are increasing the earth temperature, changing the climate, causing premature public deaths, destruction of aquatic life, wildlife and agriculture.

Request: CFASE requests that the CAAP acknowledge, address and mitigate its contribution to Green House Gases and global warming from on-port property and off-port property operating ships, trucks, locomotive trains and operating equipment. CFASE requests that the CAAP includes a plan to prevent Green House Gases and Global Warming.

Response: See Frequently Occurring Comments Response #25.

CLAE-CSE-16GC-LR-Fund:

The CAAP Fails To Reference the Southern California Association of Governments (SCAG) Port of Los Angeles Elasticity Study

The CAAP fails to reference the SCAG Port of Los Angeles Elasticity Study which concluded that the Port of Los Angeles could charge up to \$ 196.00 per container before the Port would lose any significant business. \$ 196 x 15 million containers would generate annual revenues of \$ 2,940,000,000 which is \$ 2.94 billion. Other percentage and dollar references made in prior numbers above shall be deducted from the \$ 196. The CAAP only states that it will evaluate tariffs etc. which is unacceptable, the public wants tariffs to be adopted and implemented immediately.

Request: CFASE requests that the CAAP include a reference to the SCAG Port of Los Angeles Elasticity Study. CFASE requests that the Port of Los Angeles and the Port of Long Beach create a tariff of \$ 196 per imported container.

Response: See Frequently Occurring Comments Response #7.

CLAE-CSE-17Fund:

The CAAP Fails To Reference That The Funding Of All New Truck Purchases and Truck Retrofits Can Come From The \$ 196 Per Container Fee.

The CAAP fails to mention that the funding of all older polluting truck replacements and retrofits can come from the \$ 196 per container fee and eliminate the need of any state bond which would be paid by the public. The CAAP fails to mention that Shipping Companies, Importers, distributors and billion dollar retailers like WalMart will pay almost nothing towards the public bonds.

Request: CFASE requests that the CAAP include a proposal for a \$ 196 per container fee and that \$ 20.00 per container be allocated for new trucks and retrofits.



Response: See Frequently Occurring Comments Response #7.

CLAE-CSE-18OGV:

The CAAP Fails To Adequately Address Foreign Flag Ship Emissions

Foreign flag ships account for approximately 60% of Port air pollution and the plan fails to include measures that will guarantee any significant reduction of foreign flag ship emissions. Although Maersk recently announced its voluntary conversion to low sulfur fuels and retrofitting of its shipping fleet tanks, there is no guarantee any other shipping company will do so in the near future. There is no incentive to do so. The shipping company industry claim that there is insufficient low sulfur fuel available is a lie. BP/ARCO Marine at the Port of Long Beach is the manufacturer and supplier of low sulfur diesel fuel.

Request: CFASE requests that the Port establish a policy and requirement in its lease agreements that all shipping companies doing business at the Ports must use the lowest sulfur fuel available in auxiliary and main engines. CFASE requests that the Ports establish a policy and lease agreement requirement that all foreign flag ships use low sulfur diesel fuel when entering California's international boundaries.

Response: The OGV measures would apply to all vessels.

CLAE-CSE-19RL-Fund:

The CAAP Fails To Reference Air Polluting Locomotive Train Alternatives

The CAAP fails to mention that electric trains and alternative electric transportation systems can replace diesel fuel and petroleum fuel based locomotive air polluting train engines. It is only the refusal of Union Pacific and BNSF railroad to use electric trains and alternative electric transportation systems that prevents the use of cleaner technologies. Railroad claims that electric engine trains can not carry a load of 200-250 cars is only an excuse. They do not have to haul 200-250 cars at one time, they can just as easily haul smaller number of cars with more electric engines trains or change to new and emerging technologies that are clean. All they have to do charge WalMart and all importers the true cost of clean transportation. The CAAP fails to mention that the Alameda Corridor is currently designed to be converted to electric trains. It already has built-in the required electric junction terminal locations and the height if they use overhead electric wires.

Request: CFASE requests that the Ports establish a plan to replace all diesel fuel and petroleum fuel based locomotive engine technology with new and cleaner technologies. If the railroad industry refuses to replace them with new alternative technology companies and eminent domain railroad properties for public benefit use. New and emerging technologies will create more jobs and manufacturing companies than the current out dated polluting railroad industry. CFASE requests that the CAAP include a proposal for a \$ 196 per container fee and that \$ 20.00 per container be allocated for new electric trains and new clean alternative transportation systems. This will create a fund of \$ 300 million annually to finance and maintain a public Goods Movement Transportation System.

Response: See Frequently Occurring Comment Responses #7 and #32.



CLAE-CSE-20GC:

The CAAP Fails To Comply With AQMD, CARB & Protective Public Land Use Guidelines For Citing On-Port Property and Off-Port Property Facilities

The Port CAAP fails to include prohibitions of citing new facilities and allowing tenants and subcontractors of tenants to propose, build, expand and occupy facilities near communities and residential areas. The AQMD and CARB have adopted new land use guidelines in which the Ports, its tenants and subcontractors are failing to comply with. The Port of LA's Southern California International Gateway (SCIG Intermodal Facility), Union Pacific ICTF expansion, Wilmington California Cotton Fumigation Facility etc. are examples.

Request: CFASE requests that the Ports, their tenants and subcontractors comply with AQMD and CARB land use guidelines and not propose, build, expand or contract with facilities that pose a toxic or hazardous threat to the environment, public health or public safety off-port tidelands property. CFASE requests that the CAAP adopt a policy and new lease requirements that will protect the environment and public.

Response: See Frequently Occurring Comment Response #8..

CLAE-CSE-21GC:

The CAAP Fails To Reference Non Air Polluting Intermodal Handling Systems Alternatives

The CAAP fails to mention that new and emerging electric intermodal container handling, storage and transportation systems can replace air polluting diesel fuel and petroleum fuel based trucks, container handling vehicles and locomotive trains at the Ports. The CAAP fails to mention that new and emerging intermodal handling, storage and transportation systems technology can achieve a higher throughput than the current systems. Although the plans mentions dedicating \$ 15 million to support the building of a alternative prototype(s) it needs to make a commitment to embrace new and emerging technologies with a goal to replace 100% the current antiquated Port systems which has been loading and unloading containers the same way for the last 100 years. The CAAP should mention that near future container handling, storage and transportation systems will be automated with conveyor systems like those used in parts and product storage warehouses.

Request: CFASE requests that the Ports establish a plan to replace all diesel fuel and petroleum fuel based container handling and transportation systems by 2010 with cleaner new and emerging technologies. CFASE recommends increasing the \$ 15 million to \$ 50 million. CFASE requests that the CAAP include a proposal for a \$ 196 per container fee and that \$ 20.00 per container be allocated for new electric intermodal handling, storage and transportation systems. This will create a fund of \$ 300 million annually to finance and maintain a 100% clean Ports Intermodal Handling, Storage and Transportation System.

Response: See Frequently Occurring Comment Responses #7 and #32.



CLAE-CSE-22GC:

The CAAP Fails To Mention That The Federal Clean Air Act, National Environmental Protection Act (NEPA) and the California Environmental Quality Act (CEQA) Grants the Ports Full Authority To Mitigate All Environmental And Public Health Impacts

The CAAP gives the impression that the Ports hands are tied and that they have limited authority Heavy Duty Vehicles (Trucks) Pollution to enact air pollution reduction measures and mitigate environmental and public health impacts which is not true. Ports have full authority under the above quoted acts to adopt policies, procedures, regulations, requirements, plans and to mitigate all environmental and public health impacts.

Request: CFASE requests that the CAAP contain mandatory requirements for Ports to identify, adopt and implement policies, procedures, regulations, requirements, plans and mitigation necessary to guarantee reductions in air pollution and public health impacts at the earliest timelines possible.

Response: See Frequently Occurring Comment Response #18

CLAE-CSE-23HDV1:

The CAAP Fails To Adequately Address And Eliminate Heavy Duty Vehicle (Trucks) Air Pollution

The CAAP fails to acknowledge why trucks are major air polluters and why nothing has been done in the past to reduce truck air pollution. The CAAP does not mention that Ports and Governmental Regulatory Agencies have failed to mandate clean truck engine manufacturing standards, establish Port driver & truck entry requirements, best air pollution control technologies, clean petroleum fuel standards and support alternative fuels development and usage.

Request: CFASE requests that the CAAP and Ports must mandate via policy, procedures, regulations, lease agreements and co-sponsored legislation for the adoption of the best engine manufacturing technologies, best performance standards, establish driver & truck entry requirements, best pollution control technologies and the use of clean fuels.

Response: See the revised and expanded SPBP-HDV1 measure description in section 5.1 of Technical Report. The revised HDV1 measure addresses these issues.



CLAE-CSE-24HDV1-LA:

The CAAP Fails To Mention That Current State of California Tax Codes Prevent Independent Owner Operators (Truck Drivers) From Wanting To Participate In Any Truck Replacement or Retrofit Program

The CAAP fails to include information that truck drivers will and are currently given a 1099 form to declare any funds received as income which makes it taxable. This creates no incentive for the truck owner and will cause any future Port truck replacement or retrofit program proposal to fail. If a truck owner is given \$ 25,000 to purchase a new truck he must declare it as income. The Harbor Gateway Program has had limited success and has alienated 99% of all truck drivers who will never participate in its program.

Request: CFASE requests that the CAAP mandate that the Ports must sponsor state legislation to change the California Tax Codes so that Drivers are not given a 1099 for any funding received toward the purchasing of a new truck, prior owned truck or retrofitting of a truck. The Ports/Shipping Companies/Motor Carriers/Brokers/Importers/Distributors/Retailers must be responsible for all replacement or retrofitting costs and pay for Truck Driver lost wages during truck retrofitting. CFASE requests that the CAAP include a proposal for a \$ 196 per container fee and that \$ 10.00 per container tariff/fee be allocated for a truck replacement or retrofit program. This will create a fund of \$ 150 million annually to finance and maintain a 100% clean Ports truck fleet.

Response: The Ports are aware of this issue and will be evaluating mechanisms to address this issue as the implementation plan for SPBP-HDV1 is developed.

CLAE-CSE-25HDV1:

The CAAP Fails To Mention That Shipping Companies/Motor Carriers Fail To Pay Truck Drivers Adequate Compensation For Hauling Containers Thereby Causing Them Not To Be Able to Afford New Trucks, To Adequately Maintain Their Trucks Or Afford Adequate Insurance

The CAAP fails to acknowledge the real problems associated with Truck Drivers and that Ports have traditionally protected shipping companies, motor carriers, importers, the Goods Movement Industry and retailers like WalMart etc. by lying to the public and misrepresenting the truth of the industry. Truck Drivers are paid by the load and make between \$ 20,000-\$ 25,000 after expenses. They can barely support their families let alone purchase new trucks. The Goods Movement Industry and Retailers do not want to pay their fair share or fair wages to truckers.

Request: CFASE requests that the CAAP mandate that the Ports establish policies, rules, regulations and standards for all shipping companies and motor carriers doing business at the Ports. CFASE requests that the Ports require Shipping Companies/Motor Carriers to declare Truck Drivers as employees and require they pay a minimum wage of \$ 25.00 per hour.

Response: See revised and expanded SPBP-HDV1 measure description of the Technical Report. The following implementation options are discussed and evaluated in the revised SPBP-HDV1 measure:



- Emblem Program
- Incentives/Impact Fees
- Franchise Approach
 - Global (Tariff-Based)
 - Terminal (Lease-Based)
- Joint Powers Authority Trucking Entity (Nonprofit)
 - Port-Owned Leasing Company
 - Employee Drivers
- Ports Buy Trucks w/City Employed Drivers

Following a meeting of members of the Boards of Harbor Commissioners and senior management, staff from both Ports evaluated not only the deployment of clean diesel and alternatively-fueled heavy-duty trucks, consistent with the draft Clean Air Action Plan, but also considered the issues associated with “wages/quality of life” for individuals serving the Ports through trucking. With this direction, each of the implementation options (list above) was evaluated as to meeting Clean Air Action Plan emissions reductions and addressing “wages/quality of life” issues associated with the drivers. The Ports will explore methods for addressing these issues as the implementation plan is developed

CLAE-CSE-26HDV1:

The CAAP Fails To Mention That Shipping Companies/Motor Carriers Do Not Pay Truck Drivers Fuel Costs, Workers Compensation, Pension Plans or Health Insurance Benefits Thereby Causing Over 130% Truck Driver Turnover, Unreliable and Unsafe Truck Fleet

The CAAP fails to acknowledge the real problems associated with Truck Drivers and that Ports have traditionally protected shipping companies, motor carriers, importers, the Goods Movement Industry and retailers like WalMart etc. by lying to the public and misrepresenting the truth of the industry. Shipping Companies/Motor Carriers do not pay Truck Driver fuel costs, workers compensation, pension plans or health insurance benefits thereby causing over 130% Truck Driver Response: See the response to CLAE-CSE-25HDV1.

LOS ANGELES WORKING GROUP ON THE ENVIRONMENT: PORT WORK GROUP (LAWGE)

CLAE-LAWGE-1GC: The adoption, implementation and enforcement of a comprehensive plan to reduce air emissions at the Port and in the related “goods movement system” to the most health protective levels technologically feasible. We recommend an initial goal of reaching 2001 pollution levels by 2010, while working towards an 85% reduction of 2001 pollution levels by 2020. This plan should include annual benchmarks and a wide array of measures, such as use of 21st century non-polluting innovative technologies (e.g., converting to maglev or other electric intermodal



transportation systems on the I-710 Freeway instead of adding truck lanes), dockside electric power, engine retrofits, fume hoods, alternative fuels, etc.

Response: See Frequently Occurring Comment Response #16 and #17.

CLAE-LAWGE-2GC: Over the past year, Port of Los Angeles (POLA) Harbor Commissioner Freeman repeatedly stated that the justification for not endorsing and implementing the No Net Increase Plan (NNI) was because the current POLA Harbor Commission sought to create a plan with an even more aggressive emission reduction goal than that of NNI. We are disappointed to see that overall the CAAP is weaker than the No Net Increase plan. Of particular concern is the plan's heavy reliance on health risk assessments—there must be more clear and quantifiable goals to reduce criteria pollutants. If the CAAP cannot be made at least as health protective as the NNI plan—with specific action plans that consist of enforceable measures that provide measurable benefits within a set timeline—the Ports should curtail any expansion of trade that would result in increased port emissions and public health impacts.

Response: See response to comment CLAE-NRDC2-3GC.

CLAE-LAWGE-3GC: In addition to requiring control measures through lease agreements—the Ports should use tariffs to drive faster and more aggressive implementation of control measures.

Response: See Frequently Occurring Comment Responses #3 and #18.

CLAE-LAWGE-4GC: The plan should also commit the ports to pursue and support local, state, federal, and even international regulations on the pollution sources at hand. This will serve as a backstop to achieving targeted emissions reductions and to apply standards to ports and operations outside LA and Long Beach.

Response: See Frequently Occurring Comment Responses #5, #29 and #30.

CLAE-LAWGE-5GC: The CAAP does not adequately account for implementation and enforcement of control measures. Further, many of the control measures lack important details, such as timelines and implementation schedules.

Response: See Frequently Occurring Comment Response # 14. In addition, the Ports will be using implementing the control measures in the CAAP through enforceable mechanisms such as leases, tariffs and agreements.

CLAE-LAWGE-6GC: Interim goals must be included to continuously evaluate the effectiveness of the control measures. This is particularly important if the CAAP is truly meant to act as a “working document” that can be changed—having interim goals with which to judge the effectiveness of control measures is very important.

Response: The milestone section in each control measure in Section 5 of the Technical Report outlines the interim goals and schedules. In addition, the Ports will be tracking and



monitoring progress on implementation of the CAAP, with updates to each Ports Board at least annually.

CLAE-LAWGE-7GC: The CAAP has a brief mention of the tracking and reporting of progress—the plan should include a firm commitment by the ports to provide regular monthly updates and progress reports to the public. Additionally, the Ports should clearly define the process through which the CAAP may be changed in the future.

Response: The Ports will be tracking and monitoring progress on implementation of the CAAP, with updates to each Ports Board at least annually. The CAAP will also be updated on an annual schedule, and opportunity will be provided for public input. See Frequently Occurring Comment Response #4.

CLAE-LAWGE-8GC: The CAAP discusses the Port and industry cost of participating in the plan—while there is only a brief and inadequate overview of the public health and environmental impacts of the emissions generated by the Ports in our region. The Ports should include in the CAAP a detailed analysis of the public health and environmental costs and impacts of present and projected port emissions.

Response: See Frequently Occurring Comment Response #28.

CLAE-LAWGE-9HE: Also, the CAAP health impacts assessment primarily touches on cancer—this analysis should also cover non-cancer health effects—such as pollution related asthma attacks, decreased lung function, respiratory illness and premature deaths.

Response: See Frequently Occurring Comment Response #10.

CLAE-LAWGE-10Fund: The CAAP acknowledges that the Ports and regulatory agencies will not have sufficient funds to carry out all the measures of the plan. It is of great concern that the CAAP relies on potential bond funding to carry out some of the measures of the plan. What would happen should the infrastructure bond fail to pass or should the Ports fail to receive funding from the bond? A container fee funding mechanism, such as that proposed by Senator Lowenthal's SB 927 container fee bill, must be immediately instituted to fund air quality improvement measures. It is an appropriate, fair, and responsible way of securing the funding necessary to carry out the CAAP.

Response: See Frequently Occurring Comment Response #7.

CLAE-LAWGE-11Fund: The LAWGE Port Sub-Team strongly supports the use of container fees and tariffs in the CAAP—in contrast, it strongly opposes the proposal of a market trading program and requests that this strategy be removed from the plan entirely.

Response: See response to comment CLAE-NRDC2-58LR-GC.

CLAE-LAWGE-12GC: The prevention and full mitigation of off-port community impacts by adopting health protective land use policies, including a) use of AQMD and



ARB Land Use Guidelines in lease agreements and facility siting; b) a policy that favors “On-Dock Rail” (as opposed to “Off Port” or “Near Port” rail) with standards that promote the use of new and emerging non-polluting technologies); and c) by relocating port-related industrial uses (such as container storage yards in Wilmington) away from residential neighborhoods to appropriate alternative locations.

Response: See Frequently Occurring Comment Responses #8 and #9.

CLAE-LAWGE-13LR: The LAWGE Port Working Group supports the use of lease agreements to require enforceable environmental mitigation measures to the fullest extent. The CAAP states that within the next five years, the Ports of Los Angeles and Long Beach will be renegotiating a majority of its leases—we recommend that AQMD and ARB land use guidelines should be incorporated into all future leases. Incorporation of these already existing guidelines would be a great addition to the Clean Air Action Plan and in line with the CAAP’s goal of reducing health risk.

Response: See Frequently Occurring Comment Response #8.

CLAE-LAWGE-14LR: Furthermore, the ports should declare and implement a policy directive prioritizing on-dock rail improvements over near and off dock rail improvements.

Response: See Frequently Occurring Comment Response #9.

CLAE-LAWGE-15PP: The LAWGE Port Working Group does not feel that there has been adequate opportunity for public participation in the formation of the CAAP. In moving forward toward finalization of the plan and implementation of the plan—the Ports must ensure a fair and open public process that makes meaningful use of the comments provided by the public. Additionally, the Ports must ensure that the public and impacted community members have the access to the final draft of the plan well in advance of the joint harbor commission vote to accept the CAAP.

Response: See Frequently Occurring Comment Response #4. The Ports plan to release the final draft of the plan two weeks in advance of the joint harbor commission meeting for adoption of the Final CAAP.



COMMENT LETTERS FROM INDIVIDUALS (CLI)

SENATOR ALAN LOWENTHAL

CLI-SenAL-1GC: Commend ports for proposing a plan based on the principle that clean air is not an option, but a necessity.

Response: Comment Noted.

CLI-SenAL-2Fund: How will the CAAP be realistically funded? For our region to receive the 80% of bond proceeds, our region will have to identify a much greater match than proposed by the Ports and SCAQMD. The private sector, which benefits from the use of our infrastructure, must be a full financial partner in CAAP for it to be successful. Ports should incorporate SB 760 (container fee bill) into CAAP.

Response: See Frequently Occurring Comment Response #7.

CLI-SenAL-3GC: What measures of accountability will be in place? Measurable goals should be clearly stated with consequences for reaching, or not reaching these goals. Ports should incorporate SB 764 (requires ports to be accountable to specific air quality standards or suffer significant financial penalties) into CAAP.

Response: Progress reporting on implementation of the CAAP measures will be conducted on an annual basis, at a minimum. This reporting will be coupled with annual port-wide emissions inventory updates. Emissions inventories are excellent tools to measure the progress and effectiveness of CAAP implementation. The 2007 Air Quality Management Plan (AQMP) and the State of California State Implementation Plan (SIP) are in the development process, with submittal to EPA due no later than June 2007. These plans will include “back stop” measures that will ensure that the emission reductions needed from Port sources will be achieved through the regulatory process. For further information, see Frequently Occurring Comment Response #5.

SOHRAB TANAVOLI

CLI-RG-1GC: Have you noticed the strong smell of sulfur in Long Beach all Sunday? Has anyone checked the close by refineries lately?

Response: South Coast Air Quality Management District has the jurisdiction over refineries.



GEORGE DOWNER

CLI-GDowner-1GC: Provided suggestion to negotiate with Mitsubishi (since they own SES) to use LNG trucks to haul containers. This could help mitigate emissions/noise and offset other LNG terminal concerns.

Response: Comment noted. The Measure SPBP-HDV1 and SPBP-HDV2 in Section 5 of the Technical Report include the use of LNG trucks..

GEHL DAVIS

CLI-Gdavis-1Fund: Polluters should pay to clean up their mess—ocean-going vessels from overseas should be responsible for preventing their diesel emissions. “Polluter Pays” container fees, to stop industry from forcing our communities to pay all the health and economic costs of port-related pollution.

Response: See Frequently Occurring Comment Responses #13 and #7.

CLI-Gdavis-2GC: The cleanest engines and clean, renewable alternative sources of energy for vehicles moving merchandise and containers at the ports must be used.

Response: The CAAP includes a comprehensive Technology Advancement Program (TAP), which will be the forum to consider and evaluate new fuels/technologies for port applications. Liquefied natural gas (LNG) is the first to be fully considered under this program, since it has a significant market penetration, several emissions and durability studies and real-world in-use experience with on-road trucks. In addition, LNG fueled yard hostlers are being evaluated currently in both ports. However, all viable fuels/technologies will be eligible to participate in the TAP and the Ports agree that all viable fuels/technologies will be studied for their ability to support CAAP goals. See Frequently Occurring Comment Response #32.

CLI-Gdavis-3GC: Anything idling at the port and spewing emissions should be eliminated as soon as possible. Use instead clean plug-in electric power (hopefully generated by clean, renewable, alternative energy sources).

Response: Comment noted. See Section 5.7 of the Technical Report for more information on the Technology Advancement Program, which identifies the need to electrified equipment adequate to meet the demands of terminal operations.



DAVE HALL

CLI-DH-1GC: The CAAP must include disincentives as well as incentives for the shipping and transportation industries to comply.

Response: Comment noted. Please see 3.1.4 of the revised Technical Report for more information. In addition, see Frequently Occurring Comment Response #7.

CLI-DH-2Fund: Concerned about adequate funding of the plan. If bond doesn't pass, how will the plan be funded? Need to explore various avenues of funding.

Response: See Frequently Occurring Comment Response #7.

MARCO ROMERO

CLI-MR-1GC: Requested a map of SCAB.

Response: Please refer to Figure 1.1 in Section 1.0 of the Technical Report.

CLI-MR-2GC: Will port initiatives that reduce emissions in the greater LA air shed, but don't necessarily reduce emission in the port, be viewed positively in the context of the CAAP?

Response: The focus of the CAAP is on measures that can be implemented by the Ports to address emission reductions by their tenants. That said, however, several of the proposed measures will result in benefits over the broader region. See Frequently Occurring Comment Response #24.

EDITH POLLACH

CLI-EP-1GC: Replace old dirty trucks with new models using clean alternative fuels and technologies.

Response: Comment noted. See the description of SPBP-HDV1 in section 5.0 of the Technical Report.

CLI-EP-2HDV: Use the cleanest engines and alternative fuels for CHE.

Response: Comment noted. See the description of SPBP-CHE1 in section 5.0 of the Technical Report.

CLI-EP-3Fund: Require container fees.

Response: See Frequently Occurring Comment Response #7.



CLI-EP-OGV: Require shore-power for ships in the harbor, instead of burning dirty “bunk fuel”.

Response: Comment noted. See the descriptions of SPBP-OGV2, SPBP-OGV3 and SPBP-OGV4 in section 5.0 of the Technical Report.

BILL MCLAUGHLIN (1st Submittal 7/14/06)

CLI-BM1-1Fund: Why can’t we make polluters pay their fair share? Trade is about \$400 billion/year – is it really outrageous to expect the polluters to chip in 0.1% to clean up their act? Should only the victims pay with both \$\$ and soaring health problems?

Response: See Frequently Occurring Comment Response #13.

CLI-BM1-2Calc: Page 30: The sum of the reductions in NO_x from various sources is quite a bit greater than “Total Annual Reductions”. On the other hand, the sum of the DPM reductions is less than “Total Annual Reductions”. Why don’t numbers add up?

Response: See the revised emission reduction tables in Sections 5.10 and Section 6 of the Technical Report.

CLI-BM1-3Calc: How are trucks able to achieve a 728 ton DPM reductions after 5 years when (all) “Heavy-Duty Vehicles” now produce only 188 tons of DPM?

Response: See response to comment CLI-BM1-2Calc.

CLI-BM1-4Calc: Why does CHE category, now producing 259 tons DPM only achieve an 11 ton reduction? All the charts need to be proofread.

Response: See response to comment CLI-BM1-2Calc.

CLI-BM1-5OGV: Look at how little we expect of shippers: Of their total DPM emissions (2001/2 baseline) of 1136 tons, we require that shippers reduce only 448 tons. Other sources now contributing a total of 756 tons must reduce by 742 tons. So at the end of 5 years, ships will be contributing virtually all of the DPM rather than the 59% they now contribute.

Response: See response to comment CLI-BM1-2Calc.

CLI-BM1-6OGV: Will the DPM contribution from shippers really drop 448 tons, or would this projected decrease be swamped out by the increases that have already occurred since 2001/12 and those that will certainly come as container traffic skyrockets?

Response: See the revised future emission projection information in Section 6 of the Technical Report. The emission reduction estimates incorporate the growth assumptions used by CARB for the Goods Movement Plan. Emission reductions from the CAAP with



growth are targeted at 47% reduction in DPM, 45% reduction in NO_x and 52% reduction in SO_x from OGV, CHE and HDV source categories.

CLI-BM1-7OGV: Do we really expect a voluntary program that shippers will fight tooth and nail will really achieve these inadequate goals?

Response: Significant emissions reductions have already been achieved through voluntary implementation. Preliminary estimates of emissions from cargo handling equipment indicate that emissions in 2005 were significantly less than the 2001/2002 baseline estimates. The VSR measure as described under SPBP-OGV1 has also been implemented successfully on a voluntary basis. In addition, the recent announcement from Maersk that they will use low sulfur fuel (0.2% S) in all of their auxiliary and main engines is another example of success with voluntary action. The Ports wish to continue to encourage these voluntary actions and will develop a recognition program, to award terminals who successfully accelerate emission reductions beyond regulatory requirements.

BILL MCLAUGHLIN (2ND Submittal 7/19/06)

CLI-BM2-1GC: In looking into the detailed reports, I found that the reductions that will be achieved in 5 years are relative to doing nothing for 5 years. If we compare the end result of the plan to current levels, the reductions are more modest, i.e., 20% for DPM. Even after a multi-billion \$\$ effort, So Cal will remain an extremely unhealthy place to live. We can and should do better.

Response: See the revised future emission projection information in Section 6 of the Technical Report. The emission reduction estimates incorporate the growth assumptions used by CARB for the Goods Movement Plan. Emission reductions from the CAAP with growth are targeted at 47% reduction in DPM, 45% reduction in NO_x and 52% reduction in SO_x from OGV, CHE and HDV source categories.

CLI-BM2-2GC: We need to network with other ports throughout the nation and simply refuse as a group to do business with those who refuse to clean up their act...at their expense.

Response: Comment noted.

CLI-BM2-3GC: We are in a deadly race to the environmental bottom...but people in responsible positions such as those in the Ports of LA can make a difference if they are so motivated.

Response: Comment noted.



BILL MCLAUGHLIN (3rd Submittal 7/21/06)

CLI-BM3-1GC: Repeat of Comment CLI-BM2-1GC.

Response: See response to the comment CLI-BM2-1GC.

CLI-BM3-2GC: Pollution from shipping is a worldwide problem. The world needs to band together and not let the shoppers destroy our environment to save a few measly bucks.

Response: Comment noted.

CLI-BM3-3GC: Your plan is in desperate need of a significant upgrade that will provide real benefits. Let's not study the problem for another 5 years, let's do something real NOW.

Response: See Frequently Occurring Comment Response #1.

TODD WALDEN

CLI-TW-1GC: Concerned about air and water pollution due to port activity. Blamed on the port leadership that "can't seem to put an end to the money hungry and corrupt businesses that can't sacrifice a few cents on the dollar to do the right thing for all of us affected.

Response: Comment noted.

DAN RODRIGUEZ

CLI-DR-1GC: Need cleaner engine attachments now, not years from now. A simple device to contain crankcase vapors would have saved a lot of pollution over the years.

Response: Comments noted. Crankcase filters are currently being used on cargo handling equipment operating in the ports.

CLI-DR-2HE: Asthma is like having a stuffy nose in your lungs before you know it and the medicine can give you a heart attack, among other problems.

Response: Comment noted.

CLI-DR-3GC: Don't be gradual - make a lot of effort to make a cleaner difference. It will be great when all who haul cargo use new engines.

Response: Comment noted. See control measure SPBP-HDV-1 in Section 5 of the Technical Report.



RICHARD HAVENICK

CLI-RH-1OGV4: I support both Ports in immediate implementation of the CAAP with the following exception: The Control Measure SPBP-OGV4 (Main Engine Fuel Improvement Standards in Ocean Going Vessels) requires immediate implementation without delay. The Ports' strategy for implementation of OGV4 must include tariff measures and/or other strategies as required to ensure immediate benefit from the significant pollution reduction that will result.

Response: See Frequently Occurring Comment Response # 18..

CLI-RH-2HDV1: I support both Ports in immediate implementation of the CAAP with the following exception: The Control Measure SPBP-HDV1 (Control Measures for Heavy-Duty Vehicles) requires implementation and funding from Port generated funds rather than from debt planned for the State of California.

Response: See Frequently Occurring Comment Response #7.

CLI-RH-3Calc: The pollution reduction benefits for the Control Measures SPBP-RL1 and -RL2 require calculation and inclusion in the CAAP; the reduction benefit for -RL3 requires estimation for inclusion in the CAAP.

Response: See Frequently Occurring Comment Response # 6. In addition, emission reduction benefits for the Control Measures SPBP-RL1 are included in Section 5.0 of the plan.

CLI-RH-4HE: The CAAP must be revised to include the plan for the establishment of the health risk standard for combined Port operations, to include dates for completion of defined tasks and plan for Public comment and input.

Response: See Frequently Occurring Comment Response #12.

CLI-RH-5GC: The CAAP must be revised to include the plan to include dates for completion of defined tasks.

Response: See Frequently Occurring Comment Response # 14.

CLI-RH-6GC: The CAAP must be revised to include the plan for Public comment and input.

Response: See Frequently Occurring Comment Response #4.



PETER M. WARREN (1st Letter)

CLI-PW1-1GC: The industry has externalized its costs and not paid the true cost of doing business. We ship jobs overseas and what comes back is goods and dirty air. The industry lives in the past. Much as the auto industry resisted seat belts, catalytic converters and other health and safety devices in the 1950s and 1960s, the shipping industry refuses to be a willing partner in cleaning up its nest and protecting the public.

Response: Comment noted. See Frequently Occurring Comment Response # 13.

CLI-PW1-2GC: I urge the Ports of Long Beach and Los Angeles to act now to reduce pollution. We cannot wait five and ten years to require cold ironing. We must not wait for lease expirations to tell shippers to do what Maersk has already agreed to do: use 0.2% LSF within 20 and 40 miles of the port.

Response: See Frequently Occurring Comment Responses #1. In addition, the Ports will be exploring other implementation strategies where appropriate to expedite emission reductions. See Section 3 of the Technical Report..

CLI-PW1-3OGV: The Clean Air efforts TALKED about in the plan are just that talk, unless action is taken immediately. If the proponent of the SUPERTANKER Terminal for LA wants to proceed, there must be no exception to the cold ironing rules or the LSF rules for their plan targeting the PORT of LA.

Response: Comment noted.

CLI-PW1-4HE: For far too long, we have been forced to pay the full price for pollution - in health, environmental and economic costs - while industry profits by transporting goods through our communities. As a result, our communities suffer disproportionately from serious health ailments like cancer, lung disease and dangerous childhood asthma.

Response: See response to comment CLI-FL1-I-1GC.

CLI-PW1-5GC: The industry resistance is counterproductive. It slows economic growth - because so long as port-related trade is poisoning people, we will aggressively fight efforts to expand it.

Response: Comment noted.

CLI-PW1-6GC: I heartily endorse Port of Los Angeles and Port of Long Beach efforts to draft and implement an aggressive Clean Air Action Plan. This can be done with the following actions: (see following comments)

Response: Comment noted.



CLI-PW1-7LR: Require industry to drastically reduce pollution - before they can get new or renegotiated leases.

Response: See response to comment CLI-FL1-I-3GC. .

CLI-PW1-8OGV: Require that ships use 'cold-ironing' - plugging into cleaner electric power while in the harbor - instead of burning 'bunk fuel' (which is 50-100 times dirtier than diesel) while idling in the harbor for days and days.

Response: See response to comment CLI-FL1-I-4OGV.

CLI-PW1-9HDV: Replace the thousands of old, dirty trucks with new models using clean alternative fuels and technologies.

Response: See response to comment CLI-FL1-I-5HDV.

CLI-PW1-10CHE: Use the cleanest engines and alternative fuels for cargo-handling equipment (i.e., 'yard tractors' or 'yard hostlers').

Response: See response to comment CLI-FL1-I-6CHE.

CLI-PW1-11RL: Require cleaner locomotives - via alternative fuels and advanced emission controls.

Response: See response to comment CLI-FL1-I-7RL.

CLI-PW1-12HDV: Enforce existing environmental, zoning and public health laws - to end the 'underground economy' that shortchanges truckers and pollutes local communities.

Response: See response to comment CLI-FL1-I-8-GC.

PETER M. WARREN (2nd Letter)

CLI-PW2-1GC: The drafters of the plan provide extremely limited input for the public and it remains unclear what form public input will take in the future. The process used for creating the plan and for modifying is undefined and follows no established process. Port of LA officials told the Port Community Advisory Committee that the CAAP is an ongoing plan. Yet, the process is completely unstructured and controlled by the PORTs. There exists no system or rule for replying to public comments or modifying the plan.

Response: See Frequently Occurring Comment Response #4.

CLI-PW2-2GC: New projects and new leases should be required to meet all aspects of the plan. Already, Ralph Appy, the lead environmental engineer for the PORT of LA, has stated publicly that the PORT is discussing with the Pier 400 supertanker developers



ways they can significantly bypass the stated intent of the plan, which is that all new terminals and leases will require 0.2% Low Sulfur Fuels and cold ironing of ships. While Appy may disagree with that characterization, he has publicly stated at the PCAC that it would be an acceptable PRT strategy to provide a phase in by percentage for some leases and some new developments, and further stated or indicated that this is precisely what is being discussed by PORT officials with the Supertanker terminal developers. This rule bending and special accommodation is not acceptable to the general public.

Response: As stated in the CAAP each lease will be negotiated on a case-by-case basis. See response to comment CLAE-NRDC2-AttA-2GC.

CLI-PW2-3GC: Recently, the PORT of LA executive director Geraldine Knatz spoke in public about the need to expand cruise ship terminals, and spread them to the Outer Harbor. The debate about expansion of the cruise ship terminals and their location is at the very heart of the environmental process currently underway. It prejudices and prejudices the process for the top PORT official to take a position on it now.

Response: Comment noted.

CLI-PW2-4HE: CAAP needs to add a full section on the health impacts of air pollution, including historic and the most current morbidity and mortality data. This section of the report is essential if the PORTS are to sell to their various constituencies the reasons for doing the Clean Air Plan.

Response: Section 1 of the Technical Report addresses the need for emission reductions to reduce exposure of local residents to pollution caused by port activity. See response to comment CLI-FL1-I-1GC.

CLI-PW2-5HE: The CAAP report must detail and illustrate in the harshest terms the negative health impacts that come from the current systems employed by the goods movement industry. Without a full and complete section on health impacts and health goals, progress cannot be measured. More importantly, without a full and complete section on health impacts, the PORTS will be inadequately committed to the program.

Response: See response to comment CLI-PW2-4HE.

CLI-PW2-6GC: Unlike NNI, which set a cap on pollution, the CAAP plan allows for increased pollution. It sets broad goals with loose time frames for the trucks, ships, trains, etc., but with the doubling and tripling of cargo it can be expected that under CAAP pollution will actually increase. CAAP must be as strong as NNI in setting pollution limits, not merely accept a reduction in the rate of increase. The public was told that NNI would not be adopted because it was not “strong enough.” However, CAAP is far weaker than NNI. The CAAP should clearly state that it is not as aggressive as the NNI Plan. NNI Plan sought to reduce pollution to 2001 levels. If CAAP is less stringent than the NNI Plan that means that pollution from the PORTS will continue to grow beyond 2001



levels and health risks will continue to increase, regardless of whether every aspect of CAAP is implemented.

Response: See Frequently Occurring Comment Response #16 and ORAL Comment Response #3. Also, Section 6.2 of the Technical Report includes a comparison between the CAAP and the NNI Task Force Report.

CLI-PW2-7GC: “Growth is not a goal unto itself.” That statement must be part of CAAP. Growth must be predicated on capping pollution. If the Ports implement all control measures, and do it on a tight time frame, and it is determine that CAAP does not meet NNI, then growth must be re-evaluated.

Response: The emissions reductions detailed in Section 6.1 of the Technical Report include the affects of growth, consistent with the assumptions of the CARB Goods Movement Plan. It should be noted that the growth assumptions for OGVs were the same for the Goods Movement Plan and the NNI Task Force Report.

CLI-PW2-8GC: CAAP is a short-term plan, a 5-year plan with no clear process for updating it, amending it or responding to new realities or issues. While it is important for the Ports to have short-term objectives for immediately reducing pollution, they must start working on a long-range plan. If the Ports engage in long-term planning for growth, they should also engage in long-term planning for mitigation.

Response: See Frequently Occurring Comment Response #15.

CLI-PW2-9GC: The Supertanker proposal for Pier 400, which is being fully discussed between the PORT of LA and Supertanker (Pacific Energy Partners) officials in preparation for an EIR, is omitted from the plan’s discussion of rules for oceangoing vessels. This is particularly evident because crude carrier rules are laid out for the PORT of LB.

Response: The Port of Los Angeles is preparing an EIR/EIS for Pacific Energy Partners for a crude oil receiving facility at Pier 400. While not specifically mentioned in the Clean Air Action Plan, the subject facility is not 'omitted' from the Plan. All new facilities will be subject to the standards detailed in the Clean Air Action Plan.

CLI-PW2-10GC: Virtually every control measure lacks time tables and implementation schedules

Response: See Frequently Occurring Comment Response #14.

CLI-PW2-11GC: Most the control measures fail to include mandatory participation rates. The discussion of which and what percentage of oceangoing vessels will be required to cold iron is phrased in ambiguous and unclear language. The OGV Emissions (cold-ironing measure)—does not include any information on the percentage of ships that will be required to plug-in by a certain deadline. By way of comparison, the NNI Plan



included measure “OGV16,” which provided information on the percentage of ship calls subject to the AMP measure, as well as the proposed participation rate and compliance dates for ships calling on the Port of Los Angeles.

Response: See Frequently Occurring Comment Response #23 and the updated and expanded discussion in measure SPBP-OGV2 in the Technical Report.

CLI-PW2-12GC: Similarly, the LSF issue and commitment is left unclear.

Response: See Frequently Occurring Comment Response #23 and the updated and expanded discussion in measures SPBP-OGV3 and SPBP-OGV4.

CLI-PW2-13GC: CAAP fails to estimate emissions reductions from the measures targeting harbor craft and locomotives. CAAP at 121-123. Given the significant pollution generated by these sources, especially when combined, the Ports must provide all information on how emissions from these sources will be reduced; projected emissions reductions from proposed control measures are an essential component of that information.

Response: See Frequently Occurring Comment Response #6.

CLI-PW2-14GC: CAAP states that the Ports will partner with SCAQMD and CARB to jointly urge EPA to adopt Tier 3 emission standards for locomotives. However, such partnerships should go beyond advocating for Tier 3 standards for locomotives. The Ports must make this same type of commitment with respect to other international, federal, state and local rules that target port sources for pollution reductions.

Response: Comment noted. See Frequently Occurring Comment Responses # 29 and #30. In addition, the Ports have already taken steps to reach out to international ports. As an example, Port of Los Angeles has developed a Pacific Ports Air Quality Collaborative initiative with the Shanghai Municipal Port Administrative Center. In addition, the Port of Los Angeles, Long Beach and Rotterdam are taking a leading role to provide an environment and work platform in developing a shore-to-ship power standard through the International Organization of Standards (ISO) Technical Committee 8, Sub-Committee 3.

CLI-PW2-15Fund: CAAP notes that reducing port pollution will be extremely costly, more funding is needed, and that legislative efforts may be required. The port also supports the use of bonds (which have not yet passed) to fund the program. Given the need for funding, the Ports must support SB 760, which would require shippers to bear or pass on the cost of the pollution they create. Externalizing these costs is unacceptable.

Response: See Frequently Occurring Comment Responses # 7 and 13



PETER M. WARREN (3rd Letter)

CLI-PW3-1HE: Provided remarks to G.K. that were presented at a meeting prior to Dr. Froines talk. "CAAP is a flawed public relations document with NO Health Statistics." CAAP needs to add section on health impacts and health goals; else progress can not be measured. Not clear why engineers are running public meetings; public relations and outreach effort is a detriment to what you are trying to accomplish.

Response: See response to comment CLI-FL1-I-1GC and Frequently Occurring Comments Responses #4 and #17.

JOAN HEMPHILL

CLI-JH-1GC: I applaud the collaboration of the ports with each other and with the agencies in drafting the CAAP.

Response: Comment noted.

CLI-JH-2GC: I believe, in fact, that the ports ought to be restricted to their current level of activity until the measures described in the CAAP have been implemented and the levels of reductions in pollutants projected have in fact been realized. Thereafter, further growth should be tied to further overall reduction in pollutants. Factoring in expected growth or "development" of the ports should occur only as the total quantities of pollutants—as opposed to their percentages—diminish from where they are today.

Response: See Frequently Occurring Comment Response #17 and Section 6.1 of the Technical Report, which estimates emission reduction while accounting for the effects of growth, consistent with the assumptions in the CARB's Goods Movement Plan. In addition, the Ports will be working with the agencies through Spring of 2007 to develop appropriate San Pedro Bay Standards for criteria pollutant and health risk reductions. See Frequently Occurring Comment Response #15..

CLI-JH-3GC: At present the CAAP (at least the overview) does not chart the effectiveness of the measures to be implemented against projected growth of the port. As a citizen concerned about my health, I insist upon seeing a steady reduction in actual pollutants in the air I breathe, not just a reduced percentage of pollutants allowed to be emitted.

Response: See Section 6.0 of the revised Technical Report for Future Emission Projections that include the effects of growth, consistent with the assumptions in the CARB's Goods Movement Plan. See Frequently Occurring Comment Response #17.



CLI-JH-4Fund: I am quite disappointed to see funding relegated to the ports and the taxpayer. Those who benefit most from overseas trade should pay to guarantee the health of citizens which that trade is currently undermining. I would like to see hefty tariffs imposed on containers, and right away.

Response: See Frequently Occurring Comments Responses #7..

CLI-JH-5GC: Similarly, I would like to see less in the CAAP about inducements and incentives and more about industry responsibility and prohibitions.

Response: Comment noted. See Frequently Occurring Comment Response #13.

CLI-JH-6GC: The ports ought not to do business with confirmed polluters. Period. Standards should be written into leases that prohibit ocean-going vessels spewing diesel exhaust from docking at our ports. I was puzzled by attitude expressed at the hearing I attended that ocean-going vessels cannot be constrained to follow the speed limits set in our waters. I believe that this is a false statement, and I would urge the ports and agencies to make it clear to foreign traders that they must abide by our laws and conditions of trade or be excluded from our ports.

Response: The Vessel Speed Reduction Program is a voluntary program targeted at reducing emissions from vessels by slowing to 12 knots within 20 nm of Point Fermin, and therefore reducing the load on the vessel engines. This program is implemented in addition to the speed limits vessels must comply with in the Precautionary Zone.

CLI-JH-7GC: I agree with your statement at the hearing, Dr. Kanter, that the time for action is now.

Response: Comment noted.

DELPHINE TROWBRIDGE

CLI-DT-1GC: I am glad the Ports are on the verge of adopting this landmark plan to address port pollution. Reducing air pollution and protecting public health is important to me and my family.

Response: Comment Noted.

GARY DOLGIN

CLI-GD-1GC: Please add my name as a signatory to the CAAP.

Response: Comment Noted.



JOHN MATTSON

CLI-JM-1GC: The CAAP is weak, needs strong financing, and needs assurance that the money will actually be spent on Clean Air. Please strengthen this measure to accomplish more than it does in its present form.

Response: See Frequently Occurring Comment Response #7.

AMY THORNBERRY

CLI-AT-1GC: Growth must not be encouraged; don't forget about light and noise pollution in addition to air pollution; how Big is big enough?

Response: Economic forecasts suggest that the demand for containerized cargo moving through the San Pedro Bay region will grow. The purpose of the CAAP is to decrease emissions and reduce public health risk while allowing the ports to continue to grow. See Section 6.1 of the Technical Report, which describes the future emissions projects while accounting for the potential affects of growth, based upon the growth assumptions used in the CARB's Good Movement Plan.

CLI- AT -1GC: Please convert to Biodiesel.

Response: See Response to ORAL Comment #6.

CLI- AT -1GC: Plan should be specific.

Response: Comment noted.

KATHLEEN WOODFIELD

CLI-KW-1GC: The CAAP is tied to growth and relies too heavily on the EIRs associated with expansion/improvements projects in order to invoke CAAP requirements. The CAAP requirements should be invoked immediately and across the board using tariffs. This would avoid possible lawsuits from tenants who believe they are being put at a competitive disadvantage as compared to the other tenants operating in the twin ports of POLA/POLB.

Response: See Frequently Occurring Comments Reponses #18.



CLI-KW-2HE: The CAAP is tied to growth and therefore does not address CURRENT health impacts, pollution levels and pollution sources. As the CAAP is currently written, the rate of increased pollution and health impacts is slowed, but the current health impacts and levels of air pollution are not reduced. The current levels of air pollution cause a wide range of health impacts to local and regional residents which must be remedied. CURRENT health impacts and pollution levels must be addressed and should be addressed using tariffs in order to insure immediate and broad reform.

Response: See Frequently Occurring Comment Response #16 and #18.

CLI-KW-3HE: Dr. Appy, when addressing the PCAC and other public meetings, has indicated that a tenant who wishes to expand/improve must mitigate to a level that decreases their total pollution output to a level BELOW their output level prior to the expansion/improvement. He refers to this as "decreasing pollution output to a level below their (the tenant's) current baseline." This "stated" requirement is not reflected in the CAAP, and it should be. In order for this statement to be credible, it must be clearly outlined in the CAAP as a requirement. Any tenant that wishes to expand/improve should be required to mitigate below their current baseline in order to address CURRENT health impacts and air pollution levels.

Response: The Plan envisions the use of all measures identified, as appropriate, to reduce facility emissions in the case of expansion/improvement. In addition, each new project will be evaluated based upon the Project Specific Standards outlined in Section 2.2 of the Technical Report.

CLI-KW-4OGV: Dr. Appy, when addressing the PCAC and other public meetings, has indicated that the Pacific Energy project, proposed for the pier 400 site, will abide by all rules identified in the CAAP. However, there are no rules in the CAAP that address supertankers. Is this an oversight or an omission by design? Supertankers are the 2nd largest pollution emitting vessels, and should not be exempt from cold ironing or using low sulfur fuels.

Response: See response to comment CLI-PW2-9GC.

CLI-KW-5OGV: All ships, including supertankers and cruise ships, should be required to use low sulfur fuel, which we now understand is feasible and immediately available. This should be required through use of tariffs.

Response: See Frequently Occurring Comment Response #18.

CLI-KW-6HE: President Freeman confirmed that "all air quality impacts are considered significant." This is not reflected in the CAAP, which indicates a level of significance to be 10 cancer cases per million. If all air quality impacts are considered significant, then the CAAP should reflect a level of significance of zero cancer cases per million. Therefore, the CAAP should use a standard of significance level of zero cancer cases per



million. Also, in line with President Freeman's statement, all other health impacts caused by air pollution emitted by port operations should be included as significant, such as but not limited to, heart disease, asthma, respiratory disease distress and dysfunction, birth defects, diminished lung growth in children, lung diseases, neurological diseases and auto-immune diseases.

Response: See Frequently Occurring Comment Response #10.

CLI-KW-7HE: The port region currently has air pollution significance levels as high as 5,000 cancer cases per million. This is unconscionable and needs to be addressed through the CAAP. Currently, the CAAP does not address the existing cumulative impact to air quality caused by port operations and the failures of past EIRs, for which the ports were the lead agency. The ports need to remedy this by appropriating significant budgetary funds to clean the air. This should be a requirement of the two ports and should be addressed and outlined in the CAAP. A port-wide level of significance needs to be established and clearly stated in the CAAP. This port-wide level of significance must be met within 5 years and should be monitored. This level of significance should include all health impacts associated with port-generated air pollution.

Response: See Frequently Occurring Comment Response #15.

CLI-KW-8GC: The CAAP fails to address global warming. The massive port operations of LB and LA are large contributors to air pollution around the world, and therefore, global warming should be addressed in the Clean Air Action Plan. Global warming has the potential to cause great destruction to the ports themselves, which obligates the ports to take mitigating actions.

Response: See Frequently Occurring Comment Response #25.

CLI-KW-9TAP: The CAAP fails to electrify its operations, but rather, uses a "band aid" approach to cleaning the air. The CAAP continues to rely on, and expand the use of, old technology. The CAAP must use all new available technologies to reach the goal of clean air, and this must include electric rail.

Response: See Frequently Occurring Comment Response #32.

JANET R. GUNTER

CLI-JRG-1GC: Agree with and signed on to the NRDC et. al. letter.

Response: Comment noted.

CLI-JRG-2GC: CAAP has no commitment to the issue of global warming.

Response: See Frequently Occurring Comment Response #25.



CLI-JRG-3Fund: Plan relies on passage of bond money to address pollution controls. This is an unlikely assumption. Feels insulted the Ports believe the public should fund solutions to the damage perpetrated on them by the shipping industry. Funds for the remediation of this problem should come from the shipping industry.

Response: See Frequently Occurring Comment Response #7.

CLI-JRG-4GC: The Ports are very willing to cover costs for infrastructure expansion, which only guarantees that port business can be expanded, thereby increasing pollution. The plan should actually be called the “Infrastructure and Cargo Expansion Action Plan...with an aside to potential reduction in air emissions.”

Response: Comment noted.

CLI-JRG-5Fund: The plan is not aggressive enough and needs serious funding to be committed to air pollution reduction prior to investment of capital into expansion (infrastructure). Unless this occurs, there will never be any credibility given to any Port’s stated efforts to reduce air pollution.

Response: See Frequently Occurring Comment Responses #1 and #7.

DANIEL NORD

CLI-DN-1GC: I waited with great anticipation for the release of the Draft CAAP, and was alarmed and disturbed by the document. It is clear that without a significant overhaul, the business-driven Plan will do little, if anything to protect my health and that of my community. I am asking you to modify and strengthen the plan to leave a legacy of protection to your fellow human beings.

Response: Comments noted.

CLI-DN-2GC: Agree with and signed on to the NRDC et. al. letter.

Response: Comment noted.

CLI-DN-3GC: Please pay attention to the letters from community members who are unpaid for their efforts. They have no business agenda, but are simply concerned about the acknowledged dangers of your operations and want to make things better. In the past, the Ports seemed to request public comment in order to satisfy a legal requirement, but the input was largely ignored. If you would simply analyze and implement the comments provided by those outside of the shipping industry, the Plan would move much further towards its mission to clean the toxic air that we have no choice but to breathe.

Response: See Frequently Occurring Comment Responses #4 and #27. It should be noted that numerous revisions were made in the Final CAAP based upon input received during the public comment period.



CLI-DN-4GC: The language in the CAAP is weak, non-committal, and largely discretionary. Many important details have been left out altogether, as outlined in the NRDC letter and others. As a specific example, by leaving out language and regulations from the plan, POLA paves the way for fast-tracked projects like the proposed Pier 400 Oil Terminal. There is no regulatory language regarding Supertankers except one vague sentence on page 36 that there will be "a case by case" evaluation regarding shore power. But the CAAP does specify that Tankers are the 2nd and 3rd largest pollution emitting vessels, depending on whether it's LA or LB. How can there be no rules for such admittedly massive polluters? If language is left out, it would appear that CAAP is designed so that projects like fast-tracked Supertanker terminals can proceed more easily. Particularly in light of POLA Staff's circling the issue at meetings and talking about concessions for the PEP project, while assuring concerned residents that the Port will abide by all the rules set forth in CAAP -which they, you, and I know are non-existent. There are so many examples of omissions and weak language. To be viable, the Clean Air Action Plan needs well-defined standards, clear baseline criteria, accurate health impact data, thorough methods of implementation, up to date technology options, et cetera. Again, if you incorporate and implement the comments provided to you by those outside of your industry, the Plan will be significantly stronger.

Response: Comments noted. See the updated and expanded Section 5 in the Technical Report and Frequently Occurring Comment Response #14.

CLI-DN-5GC: The current Plan seems to be based on an overall strategy of growth and expansion, rather than mitigation of our current health crisis. The first phase of the plan should deal with cleaning up the existing operations and adjusting systems and infrastructure so that in Phase 2, business can proceed and grow in a safe and responsible manner.

Response: Comment noted.

CLI-DN-6HDV: Pier Pass was touted as a mitigation measure, but it is simply an open door for 24/7 expansion. The freeways are still just as crowded during the day, but the Ports have grown substantially since its inception. Most of that growth has taken place at night – enabled by Pier Pass. The idea of making the air cleaner by encouraging growth is implausible.

Response: See Response to ORAL Comment #24.

CLI-DN-7GC: The CAAP is overly dependent on using leases as leverage to achieve many of its goals. Many of the leases are not up for renewal during the short term of this plan. Some tenants are asking for EIR approval for 'improvements', but may decide not to make those improvements in light of new requirements. In short, the lease leverage strategy should be less heavily emphasized, as it does not create a clear path toward overall Port-wide cleanup. In fact, the strategy could create an uneven playing field and an



awkward set of problems for the Ports. Port wide tariffs and container fees would provide a much more immediate and fair method of implementation. If the goal is cleaning the air, the Ports should support these concepts, despite the protestations of their tenants.

Response: See Frequently Occurring Comment Response #3.

CLI-DN-8Fund: Another important issue is that the Plan is 80% unfunded. Reliance on uncertain bond measures is not a reasonable strategy. And bond measures, if passed, would force our communities to subsidize the highly profitable shipping industry and pay for our own poisoning as well. It's already criminal that we'll have to spend billions of dollars to offset the health effects of your business. Again, the Ports should support and implement tariffs and container fees in order to fund the Plan with certainty. An unfunded Plan is simply an empty PR opportunity, a verbal greenwashing while the Ports go about building their business.

Response: Impact fees are being considered to help fund the CAAP. See Frequently Occurring Comments Responses #7.

CLI-DN-9GC: The five-year plan is far too short. It should be part of a longer-term plan.

Response: See Frequently Occurring Comment Response #15..

CLI-DN-10HE: There must be a comprehensive health study as part of the plan. Additionally, diseases and health effects other than cancer must be acknowledged.

Response: The Plan's focus is reducing air emissions. Health effects have many possible causes and the impacts of air pollution are complex.

CLI-DN-11GC: The Ports must quantify and disclose. How many projects are there? What are their current emission levels? Of which pollutants? What are the criteria/standards for measurement?

Response: See Tables 3.1 and 3.2 in the Technical Report for anticipated Board action dates for port terminals. Current emission levels will be quantified in each port's emissions inventory, which will be updated on an annual basis. The port's emissions inventories are developed in cooperation with the regulatory agencies.

CLI-DN-12HE: David Freeman promises 10 cancer deaths total per project, but it's not written in the Plan. Beyond that, if there are 50 projects (the number has not been specified) then are 500 annual cancer deaths acceptable? Using 'per project' standards is a divide-and-conquer growth strategy. The cumulative affects of both Ports as stationery sources must be considered as a whole, and should be far closer to zero deaths, as per EPA standards for other stationery sources.

Response: One of the Project Specific Standards is 10 in a million excess residential cancer risk threshold, as identified in Section 2.2 of the Technical Report. In addition, the ports will



be working with the regulatory agencies to develop a San Pedro Bay-wide Standard by Spring of 2007 to address cumulative impacts. See Frequently Occurring Comment Response #15.

CLI-DN-13AM: There must be publicly accessible air quality monitoring stations and data. Up to date equipment measuring dangerous Ultrafine particles must be installed in multiple locations. The public has a right to information, and the Ports should willingly provide it.

Response: The Port of Long Beach has created a publicly accessible real-time monitoring data website for their two stations. Data can be accessed at www.polb.com/air-monitoring. Ultrafines particle data is not currently part of the real-time monitoring system as monitoring equipment is not currently available. However, PM10 and PM2.5 are both monitoring on a real-time basis. See Response to ORAL Comment #13.

CLI-DN-14RL: Freeway and truck oriented operations will never create clean and sustainable Ports. The CAAP must address a logistics overhaul that includes efficient and environmentally sound rail options.

Response: Comment noted. See Frequently Occurring Comment Responses #9 and #32.

CLI-DN-15GC: It is important to note that I am not suggesting to 'hold off' on cleanup while crafting the 'perfect plan'. The Ports should move forward immediately in a proactive way, spending their allocated funds on mitigation measures using currently available technologies. And they should set aside a larger percentage of their profits to continue these efforts. Again, without funding, the Plan is simply rhetoric.

Response: Comments noted. See Frequently Occurring Comment Response #7.

JOHN G. MILLER, M.D. FACEP

CLI-JGM-1GC: Glad to see the Ports moving to adopt what may turn out to be a landmark plan to address port activity related air pollution. Thanks to the individuals and agencies that have worked on this. The overwhelming medical evidence that present levels of Port-related air pollution are adversely affecting the health of the 15 million SCAB residents calls for immediate implementation of an effective plan to dramatically reduce this problem.

Response: Comments noted.

CLI-JGM-2GC: One strength of the plan is both Ports working together. CAAP rightly acknowledges that the two ports function in pollution terms as one single giant source of airborne toxins from port-related activity.

Response: Comments noted.



CLI-JGM-3GC: Another strength is the active agency (SCAQMD, ARB, EPA) involvement; the CAAP must guarantee continued active agency involvement as it progresses.

Response: Comment noted. See Frequently Occurring Comment Response #30.

CLI-JGM-4GC: But, I am concerned that this plan is more a design to allow Port growth to continue than a plan to protect the health of the public the Ports allegedly serve.

Response: The Ports recognize that their ability to accommodate the projected growth in trade will depend upon their ability to address adverse environmental impacts (and, in particular, air quality impacts) that result from such trade. The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue.

CLI-JGM-5NNI: The plan fails to meet the standard set for it by the LA BOHC. Mr. Freeman said to the public that the NNI plan was not good enough and the Port would develop a new plan that would go well beyond NNI.

Response: See Frequently Occurring Comment Response #16 and the revised Section 6.2 in the Technical Report.

CLI-JGM-6NNI: After a waiting a year for this new plan, with significant Port growth in the meantime, CAAP is under-performing NNI. Figure 6.1 (p. 124) shows CAAP under-performing NNI in 2008 by approximately 2100 tons vs 1400 tons (700 tons or 50% worse than NNI!). At 2011 CAAP is still almost 50% worse than “not good enough” NNI!

Response: See Frequently Occurring Comment Response #16 and the revised Section 6.2 in the Technical Report.

CLI-JGM-7NNI: Even if fully implemented, this plan makes a mockery of the promises made by Mr. Freeman. It does not meet the standard he set and it also fails to meet previously established Board policy (Oct. 2001) of having a no net increase in air emissions from future Port operations with 2001 as the baseline year.

Response: See Frequently Occurring Comment Response #16 and the revised Section 6.2 in the Technical Report.

CLI-JGM-8Fund: The huge range of estimated funding needed to implement the CAAP carries significant implications. The range seems to be \$194 million to \$2.6 billion (largest being 13.4 times the smallest estimate. Is this typical for Port projections of costs?). This gives the appearance of numbers that have been pumped up to discourage any real implementation of this plan. This also implies that many components of the plan are already quietly being assumed to never be done.



Response: See Frequently Occurring Comment Response #7. In addition, the range of costs presented are based upon various potential implementation strategies available for SPBP-HDV1, as detailed in the Appendix to the Technical Report.

CLI-JGM-9Fund-HDV: The plan must be revised to ensure that the investment of \$1.8 billion described for HDVs will be paid through a per container fee to be collected by the Ports from cargo owners. The public should not have to shoulder the financial burden through bond measures to pay for a toxic mess that has been created by private industry. This is “corporate welfare” at taxpayer expense. CAAP should not promote this. The vague language in the plan of “fair share” is not sufficient to get the major polluters doing business via the Port to clean up the messes they continue to make. It is not the taxpayer’s responsibility to give these polluters a free ride.

Response: See Frequently Occurring Comment Responses #7 and #13. In addition, it should be noted that the infrastructure bond package was recently passed by the California Legislature and specifically includes monies for port infrastructure and trade related air quality improvements. If approved by California voters in November 2006, the San Pedro Bay Ports will seek their fair share of the funds to supplement Port and SCAQMD funding for implementing SPBP-HDV1.

CLI-JGM-10HDV-Fund: The issue of how to pay for lower emission HDVs could be largely resolved by ensuring that the truckers who serve the Ports get paid fair wages and benefits for their vital work. At present, we see a “latter day sharecropping” system at work to oppress the Port’s truckers. They could buy proper trucks if they got a living wage.

Response: See response to comment CLAE-CSE-25HDV1.

CLI-JGM-11MB: The Ports should not consider market trading as a potential implementation scheme for CAAP.

Response: See Frequently Occurring Comment Response #20.

CLI-JGM-12Fund: Request that the SCAG Elasticity Study (may not be correct title) be included in the public record on this matter. As I recall the fundamental finding was that per container fees could be raised by as much as \$196 per 40 foot box before any business would go elsewhere.

Response: Your comment is included in the public record and by reference the SCAG Elasticity Study is included in the public record. Ports staff will consider the SCAG Elasticity Study along with other information when considering fees as an implementation option. See Frequently Occurring Comment Response #7.



CLI-JGM-13OGV: CAAP must focus on immediately requiring the use of low sulfur fuel (0.2%) in ship auxiliary and propulsion engines, as per the recent plan announced by Maersk Lines. This is the single near term big gain move that can be made.

Response: See Frequently Occurring Comment Response #3.

CLI-JGM-14GC: There is way too much vague language in the CAAP. Who defines “fair share”? I suggest AQMD rules should be applicable here. Who determines “cost effective” and “feasible”? Get some attorneys to put in language which is strong and clear.

Response: Comment noted. See the revised and expanded Section 2.2 of the Technical Report.

CLI-JGM-15HE: The use of “project specific standards” of “10 excess cancer cases per million” is a wide open loophole whereby business as usual can be done in which individual projects meet the “standards” but the cumulative impact remains huge and continues to grow. It certainly gives the appearance of a willful effort to provide industry with the means to ignore their cumulative effects. Overall public health risks from all Port related operations must be reduced to less than 25 per million as per existing AQMD rules for existing stationary sources. This is a much more “real world” way to approach the problem. After all, the breathing public can’t choose to “only be affected by a single low impact project.” The public experiences the sum of the effects of all projects, which has become a major toxic nightmare. This is the same concept as the recognition that the two Ports function as one giant pollution source.

Response: Comments noted.

CLI-JGM-16HE: I request that the attached paper entitled, “Air Pollution and Infant Deaths in Southern California, 1989-2000” be included in the public record. This paper is part of the constant drumbeat in the medical literature that makes it clear that we have a toxic emergency. Port related air pollution is killing infants via respiratory deaths and sudden infant death syndrome.

Response: Your comment is included in the public record and by reference the paper entitled “Air Pollution and Infant Deaths in Southern California, 1989-2000” is included in the public record.

CLI-JGM-17GC: The history of Port related pollution cleanup efforts are littered with failed plans and broken promises. It is time to do better.

Response: Comments noted.



CARRIE SCOVILLE

CLI-CS-1GC: While I applaud the effort, the CAAP is off to a weak start. Considering the forerunning NNI and Goods Movement Plan documents, I would expect this Plan to build on them and go much further.

Response: Comment noted.

CLI-CS-2GC: CAAP implementation is based on future Port growth. This does nothing to improve the air quality today, and ties air quality improvement efforts to Port expansion.

Response: Comment noted.

CLI-CS-3GC: Although it is titled San Pedro Bay Ports CAAP, the implementation is EIR project specific. This limits proposed efforts to confined geographic areas only, not the San Pedro Bay community where the air quality impacts will occur.

Response: The Ports will be working with the regulatory agencies to develop appropriate San Pedro Bay Standards by Spring 2007. See Frequently Occurring Comment Response #12.

CLI-CS-4HE: The Plan is health effect specific, it defines air quality impact in terms of cancer risk only. Air quality affects vision, smell, throat, heart, asthma, leukemia, vegetation, pets, and clean-up of particulate matter fall-out.

Response: See Frequently Occurring Comment Response #10.

CLI-CS-5OGV: The Plan places an overwhelming emphasis on trucks, rail and cargo handling equipment. It does not adequately address the major contributor to air pollution – ships. Cold Ironing is not enough, it only is effective while the ship is at the dock and plugged in. It does nothing to reduce emissions while ships enter/exit the Port, are in the turning basin, or at sea.

Response: to the CAAP includes five measures for addressing emissions from vessels, which will result in emission reductions during transiting, maneuvering and while at-berth. See the measure descriptions of SPBP-OGV1, SPBP-OGV2, SPBP-OGV3 ,SPBP-OGV4 and SPBP-OGV5 in Section 5.0 of the Technical Report.

CLI-CS-6TAP: The Plan relies heavily on the Technology Advancement Program as diagrammed on page 95 where it discusses the OGV Main and Auxiliary Engine Emissions Improvements: *New Technology* → *Technology Advancement Program* → *SPBP OGV5*. The Program could be an obstacle if the technology has already been proven in the field but is unfamiliar to the local CAAP panel (e.g. innovations tested in a foreign port, privately tested, etc.). “Fast track” implementation is recommended for these situations.



Response: Comment noted.

CLI-CS-7GC: The plan focuses on almost exclusively on cleaning up or reducing airborne diesel particulates. That is not a CAAP effort that is an EIR mitigation effort. The only way to achieve substantial emissions reductions is to change the system that relies on the internal combustion engine. This is where the EIRs leave off and the CAAP can step in. EIRs are restricted to consider only technologies and systems that are already in existence. The CAAP has the ability to examine and fund alternative goods movement systems that may not exist yet, but with some direction and assistance from the Port they may be attainable in the near term. The CAAP addresses this in section 5.8 Technology Advancement Program under “Green Container Transport Solutions” on pages 114-115. If the 415 page Plan was on this section, and only 2 pages were dedicated to diesel systems that would be a *real* Clean Air Action Plan.

Response: See Frequently Occurring Comment Response #32.

CLI-CS-8GC: The CAAP is implementing a “Market-Based Emission Reduction Program” (page 27) in the form of “... emission reduction credits for sale outside local impact zones and could obtain additional flexibility for implementing controls within their boundaries”. **Read:** emissions reduction from one source could offset another gross polluter in the same area. That form of incentive is unacceptable. Emissions trading is one of the reasons the San Pedro Bay has some of the most toxic air in the nation and this practice needs to stop now.

Response: See Frequently Occurring Comment Response #20.

CLI-CS-9GC: To limit this Plan to improving air quality within the immediate vicinity of the Port of Los Angeles/Long Beach (POLA/LB) does not address the range of other problems associated with traditional truck/rail cargo movement such as: regional and global climate change; expansion and maintenance of the highway/rail infrastructure; expanding acreage requirements; increased traffic congestion; and delays in cargo throughput due to supply chain backup (as in 2003).

Response: See Frequently Occurring Comment Response #24.

CLI-CS-10GC: In closing, this CAAP is written with the POLA/LB’s assumptions of a need for unlimited growth, anxieties over the EIR process, and continued reliance on traditional truck/rail cargo movement. The result is a CAAP that is EIR-centric and diesel-centric.

Response: Economic forecasts suggest that the demand for containerized cargo moving through the San Pedro Bay region will continue to grow. The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. The CAAP includes a variety of implementation mechanisms for achieving the goals. See Frequently Occurring



Comment Responses #3. In addition the CAAP is performance-based and fuel neutral. Further, the Ports will be making a significant commitment to promoting LNG-fueled trucks and detailed in SPBP-HDV1 and SPBP-HDV2 in the Technical Report. Additional alternatives will be developed through the Technology Advancement Program. See Frequently Occurring Comment Response # 32.

CLI-CS-11GC: That is not an action plan, that is simply the POLA/LB cleaning up after itself - which should be part of the normal operating budget. The resulting CAAP is little more than a PR effort with no opportunity for real change, just reshuffling the same truck/rail/ship configuration.

The Port is the main cause of the air quality situation here in the Los Angeles Basin; the Port has a responsibility not just to clean up after itself, but to find real and lasting alternatives to the problem.

Response: Comments noted. The sole purpose of the San Pedro Bay Clean Air Action Plan is to reduce pollution caused by port activity.

ALFRED SATTLER

CLI-AS-1GC: Congratulations to the Ports for a 1st draft for a unified plan. It needs improvement, but is a start.

Response: Comments noted.

CLI-AS-2HE: Time to stop subsidizing shipping by allowing air pollution that affects our health. This is not news to you, and you are to be commended for taking steps to reduce emissions. However, it is not sufficient to simply do some cleanup. It is necessary to reduce emissions to a level that will stop impacting our health.

Response: Comments noted.

CLI-AS-3Fund: Taxpayers should not have to pay for bond acts to further subsidize shipping. Instead, money should come from directly from shippers to pay for port improvements. The Ports should support the container fee legislation (SB 760).

Response: See response to comment CLI-JGM-9Fund-HDV and Frequently Occurring Comment Response #7.

CLI-AS-4GHG: I urge you to take action to reduce emission of CO₂ as well as PM and NO_x. It will be expensive, but the cost of inaction would be more expensive. For example, how would the ports cope with a significant rise in sea level? GHG emissions reduction needs to be one of the Foundations of the CAAP.

Response: See Frequently Occurring Comment Response #25.



CLI-AS-5GHG: Specifying that all electrical power used for the ports shall be generated from sources not producing CO₂ would be a start. Electrifying the railroads, and powering them from sources not producing CO₂ would be another steps. Renewable energy to power the ships would be a goal to work toward, although I confess I don't know how to do it.

Response: Comment noted.

CLI-AS-6EI-GHG: One initial step would be to do an inventory of GHG emissions related to shipping.

Response: Port of Los Angeles has recently become a member of the California Climate Action Registry. As members, it is required to submit annual GHG emission inventories to the Registry.

CLI-AS-7LR: A CAAP weakness is the extent to which it relies on lease renewals for requiring terminals to change practices. This seems to give some preference to those terminals which have leases expiring in the dim future.

Response: See Frequently Occurring Comment Response #3.

CLI-AS-8GC: There should be full public disclosure of which terminals and shippers are reducing emissions and which are not. There should be significant publicity for pollution, such that the cleanest shippers are rewarded. On the other hand, the dirtiest shippers should be labeled with something like a black P.

Response: Comment noted. The Ports are developing a recognition program to award terminals who are voluntarily adopting measures to reduce emissions beyond any regulatory requirements.

CLI-AS-9OGV: A majority of DPM emissions are from OGVs. Go after the biggest source. Push for international laws to require rapid cleanup from ships.

Response: Comments noted. The CAAP includes five measures to address emissions from OGVs, as detailed in Section 5 of the Technical Report. See Frequently Occurring Comment Response #31.

CLI-AS-10MB: A market-based emission reduction program is not appropriate for toxic emissions which have local effects, such as diesel particulate. Allowing increases in localized toxic air pollution in one area at the expense of another is a violation of Environmental Justice principles. However, a market-based emission reduction program could be appropriate for less-toxic air pollution components, such as CO₂, or perhaps NO_x and SO_x, and long as local TACs are not increased.

Response: See Frequently Occurring Comment Response #20.



ERNESTO NEVAREZ

CLI-EN-1HDV1: The Plan must be based on accurate data and a comprehensive understanding of the drayage industry. There will be many environmental submissions, with fancy and colorful charts, citing accepted studies, all promoting their agendas to benefit clean air. Most submissions will include to some degree an attempt to clean up the 12,000 diesel trucks that operate in the terminals, Their statistics and suggestions will use as a foundation the status quo in the dray industry which has been self-propelled and institutionalized by the very same studies and not as a product of law 01 legal competition.

Response: Comments noted.

CLI-EN-2HDV1: Misconceptions and Misnomers. The most notorious of misconceptions is that the 12,000 port truck drivers are independent contractors and the use of the slanderous misnomer "owner-operators" to describe, refer, identify, or to categorize these workers, A search of "owner-operator" at www.gpo.gov under section 49 will only bring an short mil fines and a similar search of the TWC program of the Department of Homeland Security will refer to a specific type of shipper. The 80% of truck drivers that own the truck that they drive must lease them to the authorized motor carriers, about 300 main carriers in this combined port, as required in cfr49 section 376.12. Then the individual drives the vehicle and in NO way operates it as the motor carrier has the operating authority and is the operator. The correct term for these workers is LESSOR-DRIVER. Another 18% drive a truck owned by a third person which is then leased to a motor carrier. Only as little as 2% of the drivers drive a truck directly owned by a trucking company. All of these individuals has one thing in common, they all. Drive trucks owned by or leased to a licensed motor carrier and are employees and not independent contractors.

Response: Comments noted.

CLI-EN-3GC: The Underground Economy. Just as there is no good without evil there has been a financially healthy port for the privileged at the cost of an underground economy, Adjacent to the mega-infrastructure of the combined ports is a world unknown and unimaginable to most, one which is outside the reach of the law and which dictates it's own economy much like a wildfire creates it's own self-promoting weather. In 1988 I spoke before the POLA Harbor Commission and warned of the existence and growth of the underground economy. Throughout the years I have appeared before the Harbor Commissioners and community advisory groups and other public meetings and have offered my services (pro bono) to the Commissioners to better understand the underground economy. Over the past 20 years I have fought to expose and rectify the underground economy, a campaign which has become the foundation of port truck driver



organizing drives, and which is now receiving similar attention in the construction industry. See www.carpenters.org/misclassification/ Let us not continue in denial, the Port has created the financial fiasco, feeds it, and will further institutionalize it by denying that it exist or that it is even considered in planning.

Response: Comments noted.

CLI-EN-4HDV: "Lil' White Lies". One of the most notorious examples of the Ports' direct involvement in promoting "little white lies" is the manner in which the port h d e d clean air program, the Gateway Program, funds the replacement trucks. The program prohibits the lessor-drivers from transferring the purchased vehicles to another entity yet the majority of the trucks, if not all of the diesel big rigs are leased by the participants to the motor carriers for which they work as required by federal law. At funding, knowing that the trucks are leased to the motor carriers, the Gateway program ignores Motor Vehicle Code section 4453.5, the registration of leased vehicles section, and does not include the names of the lessees on the registration. It isn't just troquero and union activists complaining but the community as well. The transportation committee of the Wilmington Neighborhood Council, has taken a position that the registration of leased vehicles must be enforced. Another major violation of rules or objectives being done by the Gateway program with Port funding is that the insurance coverage required to protect the Ports' interest in the transaction is not being provided by the participants but by the motor carriers that they work for. The lessor-drivers are not parties to the insurance contracts which are being filed with Gateway as proof of insurance! All of these "li'l' white lies" aren't meant to hurt anyone but only to make the transaction possible. What the program does is subsidize and institutionalize the underground economy. Unfortunately, most submissions in response to the CAAP will be based on such "li'l' white lies" and will be un-authoritive and basically, useless.

Response: Comments noted.

CLI-EN-5HDV: Environmental Justice. The community, workers, unions and legitimate competitors to the underground economy are beginning to speak out. In the early 1990's we had the Port Hazardous Footprint Plan which clearly showed that Wilmington was receiving the brunt of pollution. I would like it to be part of this planning process. In the mid-1990s Wilmington activist, Skip Baldwin, appeared before the US DOT and the Coast Guard and asked that the lea-sing regulations be enforced which requires the motor carriers to fake full responsibility for all of the vehicles, As stated earlier, the Wilmington Neighborhood Council took it a step further and asked that the leased vehicles be properly registered. The community is beginning to realize why it is that lessor-drivers get fed up and occasionally shut down the Ports of LA/LB! !

Response: Comments noted.



CLI-EN-6HDV-GC: A Legitimate Industry is Essential. Funding programs with foundations in the underground economy will only further fuel the problems and will not alleviate the pollution created by the ports. Requiring that recipients of funding be respectable players in the local industry supplemented by a true effort to rid "bottom feeders," those whose only ability to exist is depended upon industrial obscurity and governmental denial of their existence. Once the trucking industry is rectified the productivity of the funds spent on clean air will actually make a great impact. Most important, by requiring a law abiding economy, the cost to find clean air will be redistributed back to the industry which will be able to generate the capital required.

Response: Comments noted.

CLI-EN-7HDV-GC: Landlord Rights and Responsibilities. Several decades ago, during a time when tenants would turn rental units into drug Jabs and retail outlets, the city passed a law that provided for the seizure of the property from the landlord, As landlords the Ports must take responsibility for the activities on their property by their tenant terminal operators. The Coast Guard has some rules pending which would require that the terminal operators be responsible for all vehicular movement on its' premises. Due to the need for safety; worker and environmental, operational efficiency, and National Security the terminals must control and direct the operations of the lessor-drivers while on their property. The ports not only have the right to require such an operation but have an environmental responsibility to do so.

Response: Comments noted.

CLI-EN-8HDV: The King Wears No Clothes! There, I said it! All the studies, facts, and good intentions are useless if one of the basic variable is inaccurate, something as simple as the operations of the dray industry. In reviewing the other submissions please take into consideration as to whether the conclusions, facts, or results were based on data from the underground economy and as to how such submissions would fare in a healthy, legitimate, and very much needed mainstream existence. The time has come to admit that the dray industry is broken and is the cause for much of the pollution and the misclassification of the truck drivers denying the workers their labor rights and burdening the adjacent communities with unneeded and inexcusable pollution.

Response: Comments noted.



ERIC P. DONALD

CLI-ED-1HDV: Provided a detailed paper regarding the use of roundabouts in lieu of traffic signals to move goods/traffic more smoothly and safely. No specific CAAP comments, but did offer this paper as a summary of suggestions in pollution reduction.

Response: Concepts Noted.

HOWARD BROWN

CLI-HB-1GC: Move the ports to less populated areas or slow down usage soon.

Response: Comment noted.

CLI-HB-2GC: Clean air plan with the growing concern of increased trade. We are doing a paper on the effects of pollution on the south bay area. I have lived in the area for all my life 47 years, why does it take the pollution levels to get this bad to get help. If you look at Russia and West Germany the pollution will take 10-15 years to get cleaned up on the Minus River in Ukraine from coal mining. Why do we let pollution have a grip, I have read all the info for weeks about your plans. They are flawed it will take fines to the shipping lines or cargo vehicles like the oil companies. The buck keeps getting passed from an outsiders view ours. None of us work in the cargo business. Some of us work in aircraft or what's left of it, all the Douglas a/c, Lockheed a/c are gone out of here better for California. Why is the shipping industry any different than the aircraft industry? Aircraft industry built the trade or got the population of people here to have the shipping business kill them with pollution especially the women, and children. If the trade industry were to be restricted then it would have to move to a less populated area. The AQMD has restricted our pollution, why does this major pollution still exist in the south coast district? Think about this the jobs are still growing that is using our resources faster until we run out of oil, do you want to wait till it runs out? Your amount of usage is affecting our gas prices making our economy unstable think about that. Please fix the amount of pollution before the gas prices, and oil prices go any higher. Pollution will take a while to clean up after you fix the source. We are a group of University of Phoenix students trying to help.

Response: Comments noted.



CHAZ SHIELDS

CLI-ChS-1GC: Supports the CAAP; relayed personal story of chemical sensitivity and need for efficient AC, then noticeable reduction in black, greasy dust in the house, once windows were always kept closed. Not fair that poorer families that can't afford AC have to be exposed to more pollution.

Response: Comment noted.

CLI-ChS-2Fund: It is not fair that taxpayers who live/work near ports "pay" for increased pollution with their health. The costs of cleaning up the air needs to be paid for by the shippers and receivers.

Response: See Frequently Occurring Comment Response #13.

ROBERT L. RODINE, THE POLARIS GROUP

CLI-RR-1GC: Oppose CAAP adoption due to issues discussed below.

Response: Comment noted.

CLI-RR-2PP: CAAP developed over eight months, but impacted businesses were never brought to the table, as reflected in the number of requirements for which it is virtually impossible for certain operators to comply.

Response: See Frequently Occurring Comment Response # 4 and #27.

CLI-RR-3OGV: Regarding CI, some visiting tankers do not make recurring calls to Ports if LA/LB to CI in this case may be too expensive for just periodic calls. Also, these vessels call on ports world wide with differing electrical service, thereby rendering it impossible to have a single onboard system just for the SP Bay Ports.

Response: The Ports recognize and acknowledge in the plan the fact that not all ships visiting the ports are good candidates for shore power. Please see description of SPBP-OGV2 measure in section 5.0 of the Technical Report.

CLI-RR-4PP: Disconcerting that a plan developed over 8 months allowed only 30 days review, especially with the technical and economic issues. Also, the plan was released for this review during the dark period of summer, so it was impossible to develop a comprehensive organizational reply.

Response: All of the stakeholders were given 60 days to respond to the draft plan. In addition, this Plan is a "living document" and will be updated, with public input, on and annual basis.



CLI-RR-5Fund: Plan cost is \$10 billion, but it is unclear where the funding beyond the ports' contribution will come from, and in what magnitude the other financial supporters will be required to contribute.

Response: Ports are paying a significant amount of funding from Port budgets for air quality improvement programs. The major source of funding for implementation of these measures however is placed on industry. See Frequently Occurring Comment Responses #7 and #13.

CLI-RR-6HE: Plan only addresses Ports' emissions contribution, but this is only about 25% of the emissions that are a serious health hazard basin-wide (at a cost of \$10 billion). A more reasoned approach would be to address the most serious hazard on a priority basis across the region, not just from the one source, and to then progressively refine the effort to remove contaminants. The plan to do this should be developed in coordination with all of the cognizant regulatory bodies to insure that the greatest possible cleanup benefit from a health standpoint will be achieved for each dollar spent.

Response: The 2007 Air Quality Management Plan (AQMP) and the State of California's State Implementation Plan (SIP) are in the development process, with submittal to EPA due no later than June, 2007. These plans will include "backstop" measures that will ensure that the emission reductions needed from Port sources will be achieved through the regulatory process, if the CAAP is not meeting its goals. See Frequently Occurring Comment Response #29.

CLI-RR-7EI: The CAAP does not provide the exact baseline of existing contaminants and a comparable statement about what it to be removed, so that the percentage of success and efficacy of the plan can be computed.

Response: Please see the various tables under each CAAP measure in Section 5, the revised Section 6.1, and Appendix A for baseline and proposed emission reductions.

CLI-RR-8HE: Federal guideline for excess cancer risk is 100 in 1,000,000, not 10 in 1,000,000. Setting a local threshold at 1/10th the federal standard seems to be moving too aggressively in the area, especially when the burden for accommodating this excess will fall on businesses.

Response: The 10 in 1,000,000 excess residential cancer risk threshold is consistent with SCAQMD CEQA guidance for individual facilities. In addition, the ports will work with the regulatory agencies through Spring 2007 to develop an appropriate San Pedro Bay Standard. For further information, see Section 2.2 of the Technical Report.

CLI-RR-9PP: There are too many issues of concern to be considered and addressed in a cogent reply. In the time allotted, the above is the best to be offered. The plan in its entirety is unacceptable. Response date should be extended to October 31, to enable a comprehensive response reflecting on all of the details so a constructive solution to SPB sourced atmospheric contaminants can be sensibly addressed.



Response: Comment noted. The CAAO is a “living document” and will be updated, with public input, on and annual basis. See Frequently Occurring Comment Response #4.

RICK GRAJEDA

CLI-RG-1GC: My son and I are born and raised in San Pedro. Clean air initiatives must be implemented.

Response: Comment noted.

RICHARD MCPHERSON

CLI-RM-1HDV: The plan calls for California taxpayers to fund somewhere between \$2.072 billion to \$2.872 billion for 16,000 new either "LNG" or "Cleaner Diesel" trucks. Spending that same amount of funds (\$2.072 billion to \$2.872 billion) would supply enough Dipetane to fuel those 16,000 trucks for between 228 to 316 years. At the same time returning annually an estimated \$1,927.58 to each of the 16,000 truck owners.

Response: Comments noted.

CLI-RM-2HDV: Over the past 6-years, the Dipetane Treated Fuels San Pedro Bay Ports Clean Air opportunity for 27,000 trucks (11,000 more trucks) would have reduced CO2 by an estimated 1,488,654 tons; NOx by an estimated 40,182 tons; Particulates by an estimated 2,8267 tons; and SOx by an estimated 2,640 tons. All while returning an estimated \$10,000 to each truck owner.

Response: Comments noted.

CLI-RM-3Fund: The spending of over \$2.0 billion of taxpayers hard earned dollars for new trucks makes NO sense to us.

Response: Comment noted.

CLI-RM-4Mark: Our truck owners need economic relief, while we need to reduce emissions and fuel usage. That ability has been in the hands of port employees since 1999. We cannot help but wonder why they choose to avoid taking advantage of such a simple opportunity that does not cost taxpayers, and would have reduced the CO2 that is damaging our reefs, when over 50% of the world's people depend on the Sea for food.

Response: Comments noted.



COMMENT LETTERS FROM ASSOCIATION – COMMUNITY (CLAC)

POINT FERMIN RESIDENTS ASSOCIATION

CLAC-PFRA-1GC: What is the “San Pedro Bay” area that will be measured and monitored for results?

Response: See response to ORAL Comment # 13.

CLAC-PFRA-2GC: What are the goals for reduction in the overall air pollutants in the San Pedro Bay region, not just the Project specific goals?

Response: See response to Frequently Occurring Comments Response #17 and ORAL Comment # 30.

CLAC-PFRA-3GC: The plan promulgated by the ports must include monitoring the air quality for the residents in this area, and the plan must set goals to reduce those disease causing pollutants immediately. Five years or ten years as a target date for real reductions are not acceptable.

Response: See Responses to ORAL Comment # 13 and Frequently Occurring Comments Response #17.

CLAC-PFRA-4GC: Urge Ports to step forward to make sure that the vast amounts of money you plan to spend improve the health and safety of all who not only work in the ports but for all the citizens in the Los Angeles basin who are directly affected by the proposed CAAP.

Response: Comment noted.

PCAC AIR QUALITY SUBCOMMITTEE

CLAC-PCACAQS-10GV: The Plan must include implementation of targeted incentive funding, fees, tariffs, or other means to immediately require or encourage use of LSF in ship auxiliary and propulsion engines. Immediate implementation of a low sulfur fuel (LSF) program (.2% sulfur-content) in ship propulsion and auxiliary engines will result in an immediate 60% reduction in particulate matter (PM) from ships, a 35% reduction in PM from total Port operations, and an approximate 10% reduction of total PM in the South Coast Air Basin. Public health cannot be sacrificed or delayed until lease revisions are imposed to require current tenants to use LSF in ship auxiliary and propulsion engines. The degree of health risk caused by current ship fuel-use and the recent plan announced by Maersk Lines for the use of .2% sulfur-content fuel in auxiliary and



propulsion engines compels the Port and terminal operators to immediately implement LSF in ship auxiliary and propulsion engines as Maersk announced.

Response: See Frequently Occurring Comments Responses #18.

CLAC-PCACAQS-2GC: The Plan requires revision to more closely meet the emission reduction goals defined in the No Net Increase Plan over the same five year period, possible through more immediate implementation of LSF (.2% Sulfur content) programs for ship auxiliary and propulsion engines.

Response: See Responses to comment CLAE-NRDC2-3GC and ORAL Comment # 3.

CLAC-PCACAQS-3HE: The Plan requires revision to specifically state the goal (and means of achievement) to reduce the current threshold of significance for cancer risk to an acceptable level for total/combined Port operations. Determination of Acceptable Risks should be based on cumulative impact rather than project specific impacts as reliance on project-specific thresholds of significance does not adequately consider impacts from combined Port operations from multiple projects.

Response: See Frequently Occurring Comments Response #17 and ORAL Comment #30.

CLAC-PCACAQS-4HE: The Plan must include implementation of a policy to ensure that future project evaluations are based on cumulative impact, not project specific impact, and to specifically require no net increase in air pollution resulting from future terminal expansion or construction.

Response: See Frequently Occurring Comments Response #17 and ORAL Comment # 30.

CLAC-PCACAQS-5Fund: The Plan requires revision to ensure that the investment described for Heavy Duty Vehicles at roughly \$1.8 Billion will be paid through business operations such as a per-container fee or other means without reliance on the State or Public subsidy. As Port operations serve business interests and not the Public, each respective Port function, operation, and service must be priced and managed in a manner that is economically sustainable for the respective business interests, functions, and services without reliance on public funding or subsidy. Note that the total per-container fee necessary to fund the Plan's Heavy Duty Vehicle program is less than \$23 per-container over the Plan's five-year term and the Ports should evaluate other strategies to ensure the truck operations serving the Ports are economically viable without financial support from the Public such as the currently referenced subsidy program. If the Ports rely on the State of California for funding of any clean air strategy, the State's investment should be repaid 100% through a per-container fee until the State/Public debt and interest resulting from Port operations is retired.

Response: See Frequently Occurring Comment Response #7 and ORAL Comment # 5.



CLAC-PCACAQS-6GC: The Plan's growth projections require explicit definition of the calculated growth percentage, such as six percent (6%) per year, as was explicitly stated and calculated in the No Net Increase Plan.

Response: See response to comments CLI-BM1-6OGV and CLI-PW2-7GC.

CLAC-PCACAQS-7HE: The Plan requires revision to address non-cancer related health impacts resulting from Port operations such as asthma, heart disease, reduced lung function, and as listed in the attached summary document, "Health Effects of Diesel Exhaust Air Pollution," compiled by the Air Quality Subcommittee.

Response: See Frequently Occurring Comments Response #10.

CLAC-PCACAQS-8HE: The Plan requires revision to define the long term commitment to reduction in health impacts resulting from air pollution from Port operations and should specifically state the actions to be completed prior to the end of the current Plan's five-year term to define the plan for the subsequent five years.

Response: See Frequently Occurring Comments Responses #14 and #15 .

CLAC-PCACAQS-9HE: The Ports should immediately complete analysis to determine acceptable levels of public health risk that may result from Port operations and the Plan requires revision to state the actions and plan to specifically define the acceptable level of risk to the Public. Further note that the Ports' analysis to determine acceptable risk to the Public must be conducted in a manner that provides opportunity for public input.

Response: See Frequently Occurring Comments Response #17.

CLAC-PCACAQS-10GC: The Ports should revise all references to "fair share" concepts to a policy as follows: "The Ports will implement all available demonstrated emission reduction technologies and strategies based on regulatory criteria for cost effectiveness."

Response: Comment noted.

CLAC-PCACAQS-11Fund: The Ports should consider supporting State legislation that may require a per-container fee to fund air quality initiatives at the Ports.

Response: Please see response to CLAE-NRDC2-AttA-17HDV1-Fund and Frequently Occurring Comment Response #7.

CLAC-PCACAQS-12HDV: The Ports should consider implementation of pollution standards for Heavy Duty Vehicles whereby all trucks operating within the Ports of Long Beach and Los Angeles must meet threshold requirements for pollution controls or emission levels.

Response: See the revised and expanded discussion of control measure SPBP-HDV1 Section 5.1 of the Technical Report and Frequently Occurring Comment Response #7.



CLAC-PCACAQS-13OGV: The Ports should determine specifically by what amount Particulate Matter emission is increased (if any) as a result of the Vessel Speed Reduction program.

Response: Recent information developed by the California Air Resources Board through vessel stack source testing indicates that particulate matter may also be substantially reduced through the Vessel Speed Reduction program. See the expanded discussion in Section 5.2.

CLAC-PCACAQS-14OGV: The Plan requires revision to define the specific degree of implementation or penetration (by percentage or specific quantities) applicable to Ocean Going Vessels for use of low sulfur fuel in auxiliary and main engines, transition to shore power, and for installation and use of DPM and NO_x control devices.

Response: Participation rate by measure is included in Appendix A. See also response to comment CLAE-NRDC2-AttA-46OGV3.

CLAC-PCACAQS-15RL: The Plan requires revision to Railroad strategies to include implementation at the rail yards that serve Port traffic at Colton, downtown Los Angeles, and San Bernardino.

Response: See response to comment CLAE-NRDC2-AttA-66CHE1.

CLAC-PCACAQS-16CHE: The Plan requires revision to require immediate implementation of the strategies applicable to Cargo Handling Equipment through tariffs, fees, or otherwise without delay.

Response: See Frequently Occurring Comment Response #18.

CLAC-PCACAQS-17HE: The Port of Long Beach should commit to completion of a port wide health risk assessment, as the Port of Los Angeles planned, and the specific actions and target dates applicable should be stated for public knowledge.

Response: The California Air Resources Board (CARB) has already prepared a Health Risk Assessment of the two Ports called the "Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach". The Port of Los Angeles believes that additional information may improve the results of that report. The Port of Long Beach believes that all future studies should be coordinated with the CARB since they have the technical resources to conduct such a study. The Port of Long Beach intends to work with the CARB on any future revisions to that report.

CLAC-PCACAQS-18GC: We respectfully expect that our revision recommendations will be reflected in the subsequent release of the Port's Clean Air Action Plan and that the Plan will be implemented immediately.

Response: See response to comment CLAE-NRDC2-27GC.



NORTHWEST SAN PEDRO NEIGHBORHOOD COUNCIL

CLAC-NSPNC-1GC: Appreciate the leadership of the Ports and the agencies to develop an integrated plan to improve air quality.

Response: Comment Noted.

CLAC-NSPNC-2TAP: It is our understanding that implementation of new technologies will only occur after CARB has certified the technology. The CAAP should include assisting promising technology in the certification process in a shorter time frame. Alternative could be for Ports to establish a cooperating agreement with CARB that allows Ports to act on CARB's behalf for purposes of testing and evaluation of new emission control technologies.

Response: For several years, the Ports have been working closely with CARB staff and all agencies in the process of verifying promising emissions reduction technologies quickly, including technologies like diesel oxidation catalysts, emulsified diesel, and diesel particulate filters for use in port applications.

CLAC-NSPNC-3GC: The CAAP asks each Port tenant and infrastructure user to develop individual CAAPs. These are due 12/31/06 and will overwhelm Port staff. It may be more efficient to require these by industry type, and working with associations such as WSPA and PMSA to assist.

Response: Comment noted.

CLAC-NSPNC-4GC: Need a definition of "green" in the term "green Container Transport system", and how far from the Ports it will extend. (see Page 15 of Overview)

Response: See the expanded "Green Container Transport Solutions" under the Technology Advancement Program description of Section 5.

CLAC-NSPNC-5GC: Pie charts on page 17 of the Overview should indicate that emissions by source category are a sum of two different baseline years and emission inventories. A brief discussion of the possible error in the emission estimates should be provided to benchmark future emissions reductions and compare future SPB wide emission inventories. If EI techniques used by the two ports are different, a notation should be provided.

Response: Paragraph above the pie charts on page 17 of the Overview does indicate that two different baseline years were used for the two ports. Those were ports' best emissions inventory estimates at the time. Both ports are in the midst of updating their 2005 baseline emissions inventories. Following updates to the plan will have consistent baseline years.



CLAC-NSPNC-6GC: A baseline year pie chart for Sox should be provided, since Sox emissions reductions are part of CAAP goal.

Response: The revised plan includes a pie chart for SO_x.

CLAC-NSPNC-7GC: Emission source category emissions standards should extend to all construction equipment used for Port projects and these standards should be included with all proposals/contracts issued for construction by the Ports.

Response: See response to comment CLAE-NRDC2-AttA-89GC.

CLAC-NSPNC-8HE: CAAP should state if a project will go forward if it exceeds the 10 in 1,000,000 cancer threshold after BACT is modeled.

Response: See response to comment CLAE-NRDC2-34GC.

CLAC-NSPNC-9GC: Ports should require every project approved to actually reduce air pollution.

Response: Comment noted.

CLAC-NSPNC-10HDV: Set a numerical standard that all trucks will be required to meet by a certain date, rather than using frequent and semi-frequent truck calls as the guide. For instance, a goal of 80% for all trucks calling at the Ports by 2011 will meet EPA 2007 ON standard and best available NO_x emissions. This would be more easily measured and verified.

Response: See the revised and expanded discussion of control measure SPBP-HDV1 Section 5.1 of the Technical Report and Frequently Occurring Comment Response #7.

CLAC-NSPNC-11OGV: Regarding VSR, recommend an evaluation as to the individual speed for lowest emissions per ton of fuel combusted should be evaluated for ships (or similar classes) frequently calling at Ports.

Response: SPBP-OGV1 includes an alternative compliance program that allow vessel lines to propose alternative speeds if they achieve equivalent or greater emission reductions than the program speed of 12 knots.

CLAC-NSPNC-12OGV: CAAP needs to include a timeline for OGVs to use only low sulfur marine diesel fuel for ship propulsion within 20km of coast.

Response: See response to comment CLAE-NRDC2-AttA-46OGV3.



CLAC-NSPNC-13OGV: VSR is currently voluntary. CAAP should discuss incentives and possible penalties for compliance/non-compliance.

Response: The Port of Long Beach has already adopted an incentive program in regard to the VSR program. The Ports are proposing for the Port of Los Angeles to adopt a match program, while also looking to include VSR as an requirement upon lease renewal. Further the Ports are evaluating the potential of incorporating the VSR program as part of the tariff.

CLAC-NSPNC-14OGV: CAAP should include a timetable for phasing out OGV not using shore-power or equivalent emission control during hotelling.

Response: All of the OGVs that call at the two ports do not fit the shore-power model. The shore-power approach is generally best suited for vessels that make multiple calls per year, require a significant electrical demand while at berth, and vessels that will continue to call at the same terminal for multiple years. CAAP proposes the application of alternative hotelling emissions reduction technologies such as “Exhaust Gas Scrubbing Technology” for vessels that do not fit shore power.

CLAC-NSPNC-15OGV: In addition to the use of NO_x and PM control devices on Main and Aux engines for new vessels and frequent callers, the CAAP should also include the phasing out of all ship calls by OGVs that do not meet specific NO_x and PM limits.

Response: Ultimate goal of CAAP is to ensure that all OGVs calling at the two ports use the cleanest fuels, cleanest emissions control technology and conform to VSR speeds.

CLAC-NSPNC-16LR: CAAP needs to provide more detail on specific terms to be included in new agreements issued by Ports. At a minimum, these terms should also include the use of shore power for OGVs and specific standards on how each lessee will meet the CAAP.

Response: See Frequently Occurring Comment Response #23.

CLAC-NSPNC-17LR: Each new lease agreement/renewal should include a clause that provides an incentive if a tenant reduces emissions below those agreed to in the lease agreement.

Response: Comment noted.

CLAC-NSPNC-18LR: Future lease agreements should include a clause that defines what will happen should total TEU volume exceed projects and it should require the tenant to reduce total emissions to levels below those forecast in the approved CEQA documents.

Response: The Ports recognize that their ability to accommodate the projected growth in trade will depend upon their ability to address adverse environmental impacts (and, in particular, air quality impacts) that results from such trade. CAAP is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks



while allowing port development to continue. In addition, see Section 1.1 “The Ports’ Mandate” of the plan.

CLAC-NSPNC-19GC: Ports should include working towards CAAP goals as part of the annual performance review for all employees.

Response: Comment noted.

CLAC-NSPNC-20GC: Ports should involve ILWU in evaluating cargo handling improvements to determine system efficiencies that result in emissions reductions.

Response: Comment noted.

CLAC-NSPNC-21GC: CAAP should include a discussion on how the Ports will work with EPA to create a SECA along the west North American Coast.

Response: The Ports are already working closely with the USEPA, CARB and SCAQMD in developing the clean air goals and appropriate control measures to achieve such goals. The ports also recognize that emissions control measures if implemented beyond the boundaries of the Ports will achieve much greater emissions reduction and will be looked upon more favorably by its stake holders. Therefore, the Ports are committed to work with USEPA on SECA.

CLAC-NSPNC-22GC: The CAAP should have an assessment of its environmental and economic impacts.

Response: See Frequently Occurring Comment Response #28.

CLAC-NSPNC-23GC: The CAAP should include a timeline and plan in which reductions in GHGs and other criteria pollutants will be included.

Response: See Frequently Occurring Comment Response #25.



LONG BEACH MARINA BOAT OWNERS ASSOCIATION

CLAC-LBMBOA-1GC: We have carefully reviewed the Plan documents and conclude that while the Plan is a forward step for the twin ports in recognizing their responsibility to abate the pollution they create, it falls far short of what is required to safeguard the health and welfare of the substantial urban population surrounding the ports.

Response: See Frequently Occurring Comment Responses #1 and #17.

CLAC-LBMBOA-2GC: At the outset, we are concerned that the Plan weakens and sabotages its own clean air goals. We find at paragraph 1.1, “The Port’s Mandate”, the disquieting language that the Plan really has twin goals. The other goal is “economic growth”. In the area of greatest interest to LBMBOA, OGV (Ocean Going Vessels), we again see the goal of OGV-2 as, among other things, “maintain competitiveness”.

Response: See response to comment CLAC-NSPNC-18LR.

CLAC-LBMBOA-3GC: Current data now establishes that over a 5 year period (the period emphasized in the Plan) the twin port’s operations will be responsible for 12,000 deaths in the SCAQMD. There will be hundreds of thousands of non-fatal illnesses resulting from these activities. It is obvious to us that clean air and port “competitiveness” cannot share the same stage. The people of our communities are not concerned whether the ports move 10 or 10 million containers. The harbor commissioners of both ports are like heroin addicts that cannot give up their addiction. The Plan must jettison its economic growth and competitiveness goals and concentrate on one goal - abating air pollution.

Response The Clean Air Action Plan is being implemented to aggressively reduce this risk and goes beyond any federal, state or local requirement to do so. The data referred to comes from the California Air Resources Board’s Goods Movement Report refers to the impact throughout the entire state of California from all goods movement activity, both international and domestic, not the Ports of Long Beach and Los Angeles only. See response to comment CLAC-NSPNC-18LR.

CLAC-LBMBOA-4GC: In fact, the only significant abatement of air pollution over the immediate five year period owes nothing to the Plan but to the 2007 implementation of the California Air Resources Board’s (CARB) new regulations to reduce DPM and other pollutants emanating from cargo handling equipment operation and auxiliary dockside vessel engine operation (“the CARB regulations”).

Response: The plan accelerates the implementation of various emissions control regulations including those mentioned in the comment above and in other areas, such as main engine fuel requirements (SPBP-OGV4) goes beyond the measures outlined in the CARB’s Goods Movement Plan.



CLAC-LBMBOA-5Calc: According to Plan statistics, these two sources are responsible for 75% of DPM in the Plan's baseline year, with ocean going vessel DPM production set at an estimated 1,136 tons per year. CARB data for the new CARB regulations indicate this Plan estimate for total OGV DPM production may be unrealistically low. CARB estimates that auxiliary diesel engine emissions regulation enforcement alone will reduce ocean going vessel emissions by 23,000 tons between 2007 and 2020 or a yearly reduction of 1769 tons, more than the Plan's estimated baseline year total DPM production resulting from all ocean going vessel operations.

Response: The Ports have worked closely with USEPA, CARB and SCAQMD to develop the plan which includes review of emissions estimates included in the plan and growth assumptions. See response to comments CLI-BM1-6OGV and CLI-PW2-7GC.

CLAC-LBMBOA-6GC: The Plan is essentially a public relations exercise containing suspicious data, unenforceable proposals, feel-good prognosis, questionable aspirations, and hopeful wishing. For this reason, LBMBOA supports Senator Lowenthal's proposed legislation establishing a statutory basis for port pollution regulation, setting forth parameters of accountability and assessing a container fee to cover part of the billions of dollars that will be required.

Response: Comment noted.

CLAC-LBMBOA-7HE: We believe the twin ports have created a health emergency that must be dealt with in bold and perhaps painful ways. We note the Plan cites a cancer risk assessment of 10 per million for a normal population but studies have shown that areas adjacent to the Shoreline marina may have cancer risk assessments as high as 1400 per million. LBMBOA believes that such numbers dictate an immediate cessation of all port development projects and a gradual reduction in vessel calls through all the noted methods (lease modifications, tariffs, voluntary action, etc.) until toxic air emissions are brought down to levels acceptable to federal and state regulatory authorities.

Response: See response to comment CLAC-NSPNC-18LR.



SOUTH COAST INTERFAITH COUNCIL

CLAC-SCIC-1GC:

The Social Concerns Committee of the South Coast Interfaith Council commends your effort in proposing a Clean Air Action Plan for the ports of Los Angeles and Long Beach. A Priority Goal of our committee approved by SCIC's membership in March of this year was to study and take action regarding Goods Movement and Public Health.

Response: Comment noted.

CLAC-SCIC-2OGV-HC:

The Social Concerns Committee recommends giving attention to the health hazards produced by ships coming into the harbors. In the long term it is to be hoped that legislation and international agreements can force all ships to burn cleaner fuel in the proximity of harbors. In the short term steps must be taken to reduce the burning of bunker fuel in the harbor areas, not only by forcing the use of shore-supplied electric power but also by maximal use of clean-fueled tug boats to move ships to and from their berths. Consideration should be given to requiring offending ships to be moved between the entrance to the breakwater and their berths by LNG or super clean diesel powered tub boats.

Response: The Clean Air Action Plan does address emissions from vessels coming into the harbor through control measures SPBP-OGV3 and -OGV4 that require low-sulfur distillate fuel for main and auxiliary engines. Control measure SPBP-HC1 proposes to reduce emissions from tugs operating in San Pedro Bay.

CLAC-SCIC-3HDV-RL:

We also recommend efforts to convert from trucks to rail cars as the means of moving containers to and from ships. Wherever feasible you should require shipping companies to convert to on-dock rail as a condition for renewal of their licensing agreements. If all or many of the shipping companies were being forced to make this conversion over a period of years, an overall plan could be developed to phase in the building of the rail facilities and evening out the cost burdens. Although improvements are being made in the engines of both trucks and locomotives, the greater efficiency of moving many containers with few locomotives can greatly reduce the damage being done to the health and length of life of residents along the routes of transit.

Response: See Frequently Occurring Comment Response #9.



USC COMMUNITY OUTREACH AND EDUCATION PROGRAM (KECK SCHOOL OF MEDICINE)

CLAC-USC-1GC-HE: BACKGROUND ON OUR CENTER

Our Center is composed of scientific researchers from USC and UCLA, many of whom conduct exposure assessment, toxicologic or epidemiologic studies on the health impacts of air pollution. I direct the Center's outreach program, which is designed, in part, to ensure that the research findings of our Center investigators are understood by the public and considered in public policy decisions. For more than 10 years, USC investigators in our Center have been conducting the Children's Health Study, which examines the health effects of air pollution on the respiratory health of school children. (See Appendix A, List of Scientific Articles on the CD-ROM that accompanies these comments).

Response: Comment noted.

CLAC-USC-2GC-HE: 1. NEED FOR A COMPREHENSIVE AIR POLLUTION EMISSION REDUCTION PLAN THAT ADEQUATELY ADDRESSES BOTH ON-PORT AND OFF-PORT POLLUTION; CONCERNS OVER PROPOSED REDUCTION LEVELS IN THE CAAP IN LIGHT OF FUTURE GROWTH

We are pleased that the Ports of Los Angeles and Long Beach (the Ports) plan to adopt a joint Plan to address port pollution and that other federal, state and local air quality agencies are joining them in this effort. We applaud the time that everyone from the involved agencies has taken, and the energy they have spent, in developing the CAAP. A Plan to reduce the health impacts of ports and goods movement is urgently needed to protect the health of residents and workers who are impacted by the Ports or goods movement activities.

Response: Comment noted.

CLAC-USC-3HE: In March 2006, the California Air Resources Board (CARB) estimated that ports and goods movement activities cause 2,400 premature deaths and 4.4 million school absences in the state of California every year. Further, approximately half of these costs are projected to occur in the South Coast Air Basin as a direct result of trade through the Ports. (See Appendix B)

Appendix B is a power-point presentation from CARB's staff entitled "Proposed Emission Reduction Plan for Ports and Goods Movement in California" discussed on April 20, 2006 public meeting.

Response: The Clean Air Action Plan is being implemented to aggressively reduce this risk and goes beyond any federal, state or local requirement to do so. The impacts identified in the CARB report are not limited to port-related activity, but covers all goods movement activity, both domestic and international.



CLAC-USC-4GC-HE: For several years, there has been discussion about reducing Port emissions to 2001 levels. We are concerned that a fully implemented CAAP, as currently outlined, does not lay out measurable goals and will not achieve even the 2001 emission levels with the growth that is envisioned. We acknowledge that this “target emissions level” is only an interim goal. In fact, Harbor Commission President S. David Freeman has said many times that the 2001 levels are only an interim goal, not an endpoint. We have observed health effects in the USC Children’s Health Study (CHS) in children exposed to air pollution at the levels present in 2001.³ (Reference #3 summarizes some of the CHS research findings; many of the CHS articles can be found on the CD-ROM.)

Response: See Frequently Occurring Comment Response #16.

CLAC-USC-5GC-AM: The Ports are a significant contributor to Southern California’s air pollution and this is one of the reasons for the South Coast Air Basin being in “non-attainment” for several pollutants, meaning it exceeds allowable federal standards. The South Coast Air Quality Management District’s (AQMD) monitoring stations nearest the Ports also show many exceedances of the PM₁₀ and PM_{2.5} standards. (See Appendices C-E). We are concerned that the Port is proposing significant future growth at a time when it does not even meet current standards. Appendices C-E contain data from the SCAQMD and CARB. It can be accessed from <http://www.arb.ca.gov/adam/cgi-bin/db2www/polltrends.d2w/start> on 08/28/06.

Response: See Frequently Occurring Comment Response #2 and response to comment CLAC-NSPNC-18LR.

CLAC-USC-6HE: The impacts of the Port’s air pollution, however, are not limited to the Harbor area. In our USC studies, we see air pollution-related health effects in children who go to school and live in a “harbor community” (Long Beach). Effects are also observed, however, in children who live in other parts of the air basin far from the Ports, where air pollution levels are high. In this case, there are localized sources of air pollution from trucks, automobile, traffic and industry. The children are also exposed to regional air pollution, such as ozone, to which Port pollution has been a significant contributor.

Response: Comment noted.



CLAC-USC-7HDV-RL: Port trucks transporting cargo containers traverse miles of freeway to and from the ports, to and from rail yards, from rail yards to distribution centers and from distribution centers to other rail yards. At many of these facilities, both locomotives and yard equipment are also sources of emissions. All along these routes and destinations, residents are impacted by “Port-related” pollution, for example:

- ❖ The Union Pacific and BNSF intermodal facilities in City of Commerce/East L.A. are large sources of pollution from trucks, locomotives and yard equipment. Trucks going to and from the Ports to those facilities along the I-710 freeway create pollution along that 18-mile stretch of highway. This type of “Port pollution” is not adequately addressed in the CAAP. For example, non-polluting technology and alternative fuels must be considered.

- ❖ The Union Pacific Intermodal Container Transfer Facility (ICTF) in Carson/West Long Beach is a major source of pollution for residents living in those communities. The trucks traveling to that facility up Alameda Street or along the Terminal Island Freeway from the Ports are major sources of pollution for the residents and school children who live in that area.⁵ In July 2005, a team consisting of a USC faculty member and several staff members from the Long Beach Alliance for Children with Asthma counted nearly 600 big-rig trucks in one hour on the Terminal Island Freeway near Hudson School. This is a “Port pollution” issue that is not adequately addressed in the CAAP since alternative technology and alternative fuels are not addressed thoroughly.

Response: Control measures SPBP-HDV1, SPBP-HDV2, SPBP-RL2 and SPBP-RL3 directly deal with the pollution addressed in the comment. The control measures envision the use of clean diesel, after-treatment controls, and alternative fuels such as liquefied natural gas.

CLAC-USC-8HDV: In July 2006, staff from the Center for Community Action and Environmental Justice, with training in methodology from USC, counted 845 big-rig trucks in one hour passing through a residential community in Mira Loma – with the trucks on their way to and from a distribution center in that community. These trucks are not addressed in any way in the CAAP yet they are all transporting cargo containers from the Ports and are therefore “Port pollution” issues.

Response: Under SPBP-HDV1 and SPBP-HDV2, trucks that originate from the Ports are addressed. The Ports are taking aggressive actions to modernize all trucks that frequently call at ports’ terminals. Any truck with a call that begins or ends at a port terminals would be subject to the SPBP-HDV1. As a part of CARB’s emission reduction plan for goods movement in California, CARB’s staff is working on a regulation to control emissions from trucks dedicated to goods movement at all California Ports. The Ports’ staff is working closely with CARB’s staff. CARB’s regulation will address regional emissions from trucks that call at various ports.



CLAC-USC-9OGV: Emissions from ships impact other communities, such as Santa Barbara) as the ships travel down the shipping corridor.

Response: Comment noted.

CLAC-USC-10GC: Recommendation for the revised CAAP:

- The CAAP needs to have measurable goals to reduce health risks from toxic air contaminants and criteria pollutants, both on and off port lands.
- The CAAP needs to specifically state how it will reduce health risks from toxic air contaminants and criteria pollutants as soon as possible so that there are no longer continued exceedances of the state and federal standards.
- The CAAP needs to offer specific measures for what it will do to require emission reductions in Port-related goods movement activities affecting residents who do not live in close proximity to the Ports, such as those near intermodal facilities and distribution centers described above or in communities such as Santa Barbara.

Response: See Frequently Occurring Comment Responses #17 and #24, CLAC-USC-7HDV, and CLAC-USC-8HDV.

CLAC-USC-11HE: The CAAP should describe all the potential health effects of both noise and air pollution related to Ports and goods movement expansion and the benefits of adopting the Plan. Health effects of noise include loss of hearing for workers, cardiovascular disease, learning problems for school children, and difficulty concentrating. For air pollution, the health effects include cardiovascular disease, respiratory disease (including asthma and cancer), premature births and infant mortality.

Section 2 entitled “Health Impacts Of Exposure To Air Pollution And Noise” provides summary of various studies that show multiple other health endpoints besides cancer related to exposure to pollutants and health effects. (See Appendix A for a list of relevant scientific articles on air pollution and health effects).

Response: See response to comment CLAE-SC-30AM.

CLAC-USC-12GC-HE: The CAAP, surprisingly, has calculated all future emissions and need for mitigation on the basis of a doubling of Port growth by 2025. Yet all other predictions previously made by the Ports themselves, by economic development associations, by the California Air Resources Board or others have been much higher. As a result, we believe that all future anticipated emissions are greatly understated – as are the required actions that need to be taken to mitigate the effects. The CAAP should clarify the basis for their growth predictions and accurately assess the anticipated growth of the Ports, and they should err on the side of safety when predicting future emissions, thereby describing the mitigation measures that would need to be in place to protect workers, school children and residents from at least a tripling of the Ports throughput by 2020.



Response: See response to comments CLI-BM1-6OGV and CLI-PW2-7GC.

CLAC-USC-13AM: Elemental Carbon (EC) levels are measured as a surrogate for diesel particulate matter. Thus, it is instructive to look at the levels of Elemental Carbon measured at sites in Long Beach and Wilmington. (See Appendices G-H) Levels of Elemental Carbon appear to be the best indicator of traffic related emissions close to mobile sources at the Ports, freeways and rail yards. Even though there are no federal or state standards on EC, we recommend that -- at the very least -- the Port establish a baseline from the 2005 data and view as exceedances any averages that go above the 2005 levels, while working to significantly reduce these levels.

Appendix G. Elemental carbon monitoring data from Port of Los Angeles monitors as accessed at: http://www.portoflosangeles.org/environment_aqm.htm

Appendix H. Elemental Carbon data from Port of Los Angeles monitors as accessed at: http://www.portoflosangeles.org/environment_aqm.htm

Response: See Response to ORAL Comment # 13.

CLAC-USC-14HE: It is also important for the CAAP to examine the levels of EC at other off-port sites, such as at Hudson School in West Long Beach. During fall-winter measurements by the South Coast Air Quality Management District (AQMD) in 2004, the levels of EC were 1 ½ times higher at Hudson School than at the North Long Beach station raising significant concerns about the potential for reduced lung function in children and other health effects among residents of this West Long Beach community.(See Appendix I)

Steps must be taken to reduce the exposure of ILWU members, truck drivers and any other workers frequenting the Ports. In particular, the levels of EC exposure for ILWU members may be of greatest concern and we urge the Ports to consider steps to reduce exposure of these workers who are breathing diesel exhaust/bunker exhaust during their full shifts.

Appendix I. Elemental carbon levels at Hudson School compared to other schools in area. Data from: SCAQMD Rule 1458 reports, 1998-2004.

Response: One of the main goals of CAAP is to reduce diesel particulate matter from all ports related operations which includes operations that affect ILWU members, truck drivers and any other workers frequenting the Ports.



CLAC-USC-15GC-LR: The Ports should require that each new CEQA analysis or renewal of a lease agreement should demonstrate that a new or expanded project will reduce the current levels of air pollution at the site where the project is being built, through use of strict emission controls, not just that it meets the 10 in a million test.

Response: See Frequently Occurring Comments Responses #10, #11, #12, and #17.

CLAC-USC-16GC: This requires that the CAAP Principles and Standards include clear, measurable goals to reduce health risk both on and off port lands from toxic air contamination and criteria air pollutants, as articulated by others in NNI, CARB ERP, or by the SCAQMD, including:

- Reducing air pollution levels to 2001 levels by 2010;
- Reducing the health risk from diesel PM by 85% as compared to 2000 levels by 2020;
- Reducing NO_x emissions by at least 30% by 2015; and
- Further reducing NO_x emissions by 50% by 2020.

Response: See Frequently Occurring Comment Responses #16 and #17.

CLAC-USC-17EI-Calc: All new CEQA analyses should immediately incorporate changes that ARB is making in the EMFAC model, to more accurately predict the future emission levels, especially of NO_x. That is, consultants preparing new CEQA analyses this fall should incorporate the changes in EMFAC to more accurately portray the emissions.

Response: The Ports guidance for their consultants preparing new CEQA analyses is used the latest official EMFAC model unless CARB's staff suggests otherwise.

CLAC-USC-18GC: The Port of Long Beach should adopt a policy favoring on-dock rail over near-dock and off-dock rail. The Port of Los Angeles should amend its existing rail policy to favor on-dock rail over near-dock. The Ports should commit to adopting SCAQMD and CARB land-use policies in their lease agreements and CEQA projects.

Response: See Frequently Occurring Comment Response #8 and #9.

CLAC-USC-19GC: The Ports are responsible for an estimated 25% of the diesel particulate emissions in the South Coast Air Basin, yet the Plan repeatedly discusses reducing the Ports' "fair share" of pollution, without defining what the term "fair share" means. By all accounts, pollution from the Ports has very significant negative impacts on the health of residents in many different communities in Southern California and every possible effort needs to be employed to reduce emissions. Remove all references in the Plan and in PowerPoint presentations made describing the Plan to the Ports' "fair share" of pollution reductions, unless the phrase is defined.

Response: See Frequently Occurring Comment Response #12.



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CLAC-USC-20GC: The CAAP states that only those projects that exceed the 10 in a million excess cancer risk threshold for criteria pollutants need to implement the maximum available controls and feasible mitigations for any emission increases. Since there are many other health risks besides cancer, and since we want the Port to err on the side of health and safety for all pollutants, we believe that these criteria must be strengthened.

All new projects and all renewed leases should implement the maximum available controls and all feasible mitigations to reduce emissions. New projects should add no additional air pollution emissions to those already existing at the Ports.

Response: See Frequently Occurring Comment Response #11.



COASTAL SAN PEDRO NEIGHBORHOOD COUNCIL

CLAC-CSPNC-10GV: The Plan must include a requirement for immediate implementation of a low sulfur fuel (LSF) program in OGVs applicable to both propulsion and auxiliary engines. The degree of health risk caused by current ship fuel-use and the recent plan announced by Maersk for the use of .2% sulfur-content fuel in auxiliary and propulsion engines compels the Port and terminal operators to immediately implement LSF in ships.

Response: See Frequently Occurring Comments Responses #18.

CLAC-CSPNC -2GC: The Plan must be revised to more closely meet the emission reduction goals defined in the No Net Increase Plan.

Response: See Responses to Comment CLAE-NRDC2-3GC and ORAL Comment # 3.

CLAC-CSPNC -3HE: The Plan must be revised to specifically state the goal and means to achieve the goal to reduce the current threshold of significance for cancer risk to an acceptable level for total Port operations. Determination of Acceptable Risks should be based on cumulative impact rather than project specific to adequately consider impacts from combined Port operations.

Response: See Frequently Occurring Comments Response #17 and ORAL Comment #30.

CLAC-CSPNC -4HE: The Plan must be revised to define the long term commitment to reduction in health impacts resulting from air pollution from Port operations and should specifically state the actions to be completed prior to the end of the current Plan's five-year term to define the plan for the subsequent five years.

Response: See Frequently Occurring Comments Responses #14 and #15.



GREATER LONG BEACH INTER-FAITH COMMUNITY ORGANIZATION (ICO)

CLAC-ICO-1Fund: Commend both ports for their new improved perspective of working together on this difficult issue. The plan has many well-reasoned goals, but currently fails to identify sufficient funding to achieve these goals.

Response: Comment noted. See Frequently Occurring Comment Response #7.

CLAC-ICO-2Fund: This November's bond measure, if passed, would be a huge help. However, it might fail, so the Ports need to work proactively with us in the community and with the legislature to pass the funding mechanisms needed to implement the plan. The days of the Ports siding with corporate interests on issues such as container fees must end. A measure such as SB 760 is sorely needed to raise the dollars needed to clean up port pollution.

Response: See Frequently Occurring Comment Response #7.

CLAC-ICO-3OGV: On the issue of ship cold ironing, the Port of Long Beach must aggressively address their electrical grid infrastructure. It must be expanded and upgraded so that cold ironing can be implemented at every berth.

Response: Comment noted. It is Port of Long Beach's goal to shore-power all container terminals and one crude terminal within five to ten years. In addition, through the Technology Advancement Program, the Ports will demonstrate the application of alternative emissions reduction technologies for non-shore-power ships. The Port of Long Beach is already conducting a demonstration project to evaluate an exhaust stack scrubbing technology that could potentially have similar emissions reductions as shore-power. For further information, see the description of SPBP-OGV2 in section 5 of the revised CAAP document.

CLAC-ICO-4GC: Finally, the control measures in the plan must become enforceable requirements that have the force of law. The ports must work with the legislature to implement regulations with financial and other penalties for failure to attain the mitigation measures in the plan. Severe financial penalties must be levied on any entity in the ports that chooses not to implement their share of the plan's strategies.

Response: The Ports are considering several implementation strategies such as Lease requirement, Tariff Changes, CEQA Mitigations and Incentives/Impact Fees. All of these mechanisms have enforceable requirements. For further details, see section 3.0 of the revised CAAP document. If the opportunity arises, the Ports will work with agencies such as USEPA, CARB and SCAQMD to implement regulations with financial and other penalties that can be enforced if an entity fails to implement the mitigation measures. In addition, It is the Ports' understanding that the SCAQMD's AQMP will include backstop measures to ensure emissions reductions in the CAAP are achieved in the event that the estimates fall short.



LOS ANGELES ALLIANCE FOR A NEW ECONOMY (LAANE), with Change to Win, Clergy and Laity for Economic Justice, Coalition for Clean Air, Coalition for Humane Immigrant Rights of Los Angeles, Communities for a Better Environment, Harbor Watts Economic Development Corporation, International Brotherhood of Teamsters, Los Angeles County Federation of Labor, NRDC.

CLAC-LAANE-1GC: The proposed Clean Air Action Plan (CAAP) is a far-ranging and ambitious document, unprecedented in terms of the coordination of the organizations behind it. It begins to address the goals of those Port officials who have been promising dramatic and fundamental change in the way Port operations are conducted in order to mitigate the Ports' environmental impact on the people and environment of Southern California. We applaud the aim of the document and the elected and appointed officials — as well as industry leaders — who helped craft the Plan. We wholeheartedly agree that significant changes are needed in order to (a) safeguard and improve the health of workers, neighbors and the greater Southern California community, (b) ensure the continued contribution of the Ports to our economy, and (c) guarantee that future growth and development is sustainable and beneficial to all stakeholders.

Response: Comments noted.

CLAC-LAANE-2HDV: Along with local community members, the truck drivers at the Ports receive the brunt of the negative effects of Port-related pollution. Port truck drivers spend more time in these two areas than anyone else, not only because it is where they work, but also because many drivers live in the communities adjacent to the San Pedro Bay Ports. Drayage drivers are significantly affected by the deleterious impact of diesel-related pollution and they are therefore committed to cleaning the air. It is the right thing to do, and drivers' health depends on it.

Response: Comment noted.

CLAC-LAANE-3HDV: Reforming the way that Ports operate is a serious undertaking and it is critical that it be done correctly. The goals of the CAAP, as well as the methods of its implementation and maintenance, must be clear and, as we will continue to stress, must benefit all Port stakeholders. It is in this spirit of improving a well-intentioned Plan that we bring forth these comments. We will address only those parts of the plan concerning the Heavy Duty Vehicle (HDV) Control Measures.

Response: Comment noted.

CLAC-LAANE-4HDV: While we enthusiastically support the goal of truck fleet modernization, we strongly believe that the current Plan does not go far enough in terms of a comprehensive approach to the trucking sector or in its temporal scope. The CAAP does not fully take into account major issues unique to Port drayage, creating weaknesses



that limit the Ports' ability to improve air quality as dramatically as may be possible. In particular, the Plan must reckon not only with the real market forces operating on the Port truckers, but also with the significant and persistent structural problems in the industry. Without addressing these issues, the CAAP will, at best, be a temporary, one-time fix.

Response: Comment noted.

CLAC-LAANE5Fund: Finally, the Plan fails to demand appropriate participation by all stakeholders in the cost of remediation. As written, the CAAP appears over-reliant on public financing. Especially troubling is the assumption that the bulk of the financing would derive from the proposed transportation bond package— should it fail at the ballot box, the Plan risks becoming an unfunded shell.

Response: See Frequently Occurring Comment Response #7.

CLAC-LAANE6HDV: Port truck drivers are essential to the functioning of the San Pedro Bay Ports. As is the case for all Port workers, without these drivers, international trade as we know it would quite simply not work: Port drayage drivers are an indispensable link in the chain of commerce. Despite their critical role, however, these workers exist in a quasi-underground economy. As the CAAP notes, no one knows how many unique trucks service the Ports. No one knows how many drivers work at the Ports on a regular basis. These drivers operate in a chaotic, fragmented market, dominated by hundreds of tiny, undercapitalized motor carriers and brokers contracting directly with either shipping lines or shippers. Massive consolidation within the retail sector and among ocean carriers, along with other market forces, has resulted in a dramatic shift in bargaining power toward the shippers, who demand ever-lower transportation costs.

Response: Comments noted.

CLAC-LAANE-7HDV: The only way that many of these carriers can get work is to undercut market standards, creating a race to the bottom. The experience of other North American Ports with similar market dynamics suggests that rates received by motor carriers are chronically below the actual cost of operations. These workers are paid by the trip and on average earn roughly \$25,000 a year, generally receiving no health care or pension benefits. From these meager earnings, drivers must pay for maintenance and insurance on their truck. This means that drivers often have to choose between replacing their tires and paying their rent. Drivers also typically work eleven to twelve hours per day. Because of Port congestion and inefficiencies, drivers regularly spend approximately 50% of their day simply waiting to pick up or drop off a container. The jobs are “pursued only by the economically desperate,” a fact reflected in the high turnover rate for Port truckers, which exceeds 130%.

Response: Comments noted.



CLAC-LAANE-8HDV: There are two large-scale problems in how the Port trucking market is structured. Each of these will impede the implementation of the air quality improvements envisioned by the Plan. The first problem lies in the nature of the relationship between the Ports and the trucking companies, namely, the absence of any direct relationship. Because of this structural problem, no one at the Ports can account for drivers or their trucks in a coherent way.

Response: Comment noted.

CLAC-LAANE-9HDV: Port trucking is a highly fragmented market, with over 600 trucking companies operating at the Ports. This fragmented trucking market has obvious implications for the Ports' goal of getting all stakeholders to "sign on" to the CAAP because no clear means exist to achieve sector-wide agreement or participation. This lack of accountability would make it difficult for the Ports to enforce any source-specific standards; in the best-case scenario, it would be an administrative nightmare, and in the worst-case scenario, it would be an invitation for fraud and manipulation. Some entity must take responsibility for the trucking sector and provide the oversight needed for change.

Response: Comment noted.

CLAC-LAANE-10HDV: The second structural problem lies in the employment status of drayage drivers. Most motor carriers treat their drivers as "independent contractors" — the relationship is governed by a lease under which drivers accept virtually all of the risk of operation. The leases may be cancelled on short notice, and drivers change carriers frequently. It would be challenging enough to get agreement from trucking companies on any policy change, but the independent contractor system is designed to allow companies to disclaim responsibility for the ownership, condition, maintenance and operation of the trucks. Because of the independent contractor status, there is no incentive for the trucking companies to bring any efficiency to a chaotic system. Drivers are paid only by the load, and it makes no difference to the trucking companies if the drivers have to wait hours in a line, inching forward with their engines running and polluting the air. It does, however, make a big difference to both the drivers and the surrounding communities. Annually, the inefficiencies associated with HDV idling alone account for over 3,100 tons of NO_x (34% of all HDV-related NO_x) and over 86 tons of DPM (46% of all HDV-related DPM).

Response: Comment noted.

CLAC-LAANE-11HDV: If drivers were employees, their employers — the actual trucking companies under whose operating authority they carry loads — would have an immediate financial incentive to reduce wait times and improve efficiencies. Changing the status of drivers to employees would also require trucking companies to invest in and maintain the trucks they operate. Under the status quo, trucking companies can avoid



taking responsibility for the maintenance of the fleet, which has not only environmental implications, but safety implications as well. Currently, the entire cost of maintaining vehicles in a safe condition and replacing them when they wear out is entirely born by one-truck independent contractors without access to capital. These drivers do not possess the economic power in the marketplace to demand reasonable rates for their services, let alone to demand rates which would allow them to purchase and maintain environmentally clean and safely maintained trucks. Indeed, the Port drayage system operates almost totally within the “underground economy.” The independent contractor status makes it impossible for the drivers to break out of this underground economy.

Response: Comment noted.

CLAC-LAANE-12HDV: These structural defects in the trucking sector, coupled with the aforementioned realities of the drayage market, all but doom the HDV portion of the CAAP to failure. The Ports recognize one manifestation of the problem, that these drivers “do not have the financial resources to acquire cleaner trucks on their own.” But it is by no means a corollary that the solution is to simply provide trucks for the drivers. Unless drivers can make a decent living hauling containers to and from the Ports, even the newest, cleanest, most environmentally-friendly equipment will not be properly maintained. Given the overwhelming size of this workforce and the projected growth of Port traffic, it is easy to see that within five or ten years, the Ports will be back where they started— a major source of pollution in Southern California.

Response: Comment noted.

CLAC-LAANE-13HDV: The seeds of a more comprehensive solution to the problem of pollution in the Port trucking sector are contained within the CAAP itself. First, the Plan states that the most effective method for implementing mitigation measures is to tie those measures to a lease or permit, such that failure to abide by those measures would be a contractual violation. Second, the Plan recognizes that “new relationships and business paradigms” are needed. Given the structural problems endemic in the drayage sector, the only way to achieve meaningful, long-term solutions to HDV-related pollution problems is by designing a new business model. Third, it is imperative that the system be designed in such a way that the cost of operating an economically viable and environmentally responsible Port trucking system is financed through the transportation rate structure. While subsidies and loan programs may be useful short-term tools, dependence on taxpayer-generated revenue to maintain truck fleets is unsustainable and bound to fail.

Response: Comment noted.

CLAC-LAANE-14Legal: It is worth noting that the Ports have very broad authority over the operations in their purview. As explained by the California Harbor and Navigation Code, “notwithstanding the enumeration and specific statements herein of particular powers, the district may do and perform all acts and things necessary and appropriate to



carry out the purposes of this part and the powers of the district.” At least one California court has stated that the Legislature, in creating these powers, “intended to give the District(s) broad regulatory power over docking and harboring facilities.” Additionally, the Cities of Los Angeles and Long Beach have each explicitly granted broad powers to the Ports, including the power to regulate, to provide for the needs of commerce, and to grant concessions.

Response: See Frequently Occurring Comments Reponse #18.

CLAC-LAANE-15GC: More important than the regulatory power of the Ports, the Harbor Commissions are stewards of some of the public’s most valuable assets and have a powerful interest in maximizing their value. Air pollution and the related political opposition to expansion have prevented the Ports from maximizing the return on these assets. As landlords, the Ports have an obvious interest in safe and efficient trucking operations.

Response: Comment noted.

CLAC-LAANE-16HDV: Improved efficiency on the docks — reducing the hours- or days-long waits to move containers — would make the Ports more attractive to customers and would prevent the possibility of ocean carriers shifting services to less-congested Ports, resulting in a loss of revenue. It is certainly within the fiduciary responsibility, as well as the statutory authority, of the Ports to do whatever possible to bring order to the current chaotic system. The best way to achieve efficiency, as well as the desired environmental mitigation measures, is to enter into some sort of direct contractual relationship with the trucking sector. We propose that the Ports of Los Angeles and Long Beach jointly enter into a direct contractual relationship with responsible motor carriers to provide drayage services at both Ports, utilizing the same model employed by airports to provide food and other services to air travelers. The Ports should issue a competitive Request for Proposals (RFP) to all interested carriers or industry associations. By creating a direct contractual relationship with motor carriers, the Ports will be able to use the most effective tool at their disposal for addressing pollution control— a direct contract with a responsible entity. The RFP should then include clear standards concerning capitalization requirements, revenues paid to the Ports, environmental standards for trucking equipment operating at the Ports, other environmental mitigation measures and benchmarks, employee status for drivers, employment preferences for the current workforce of owner-operators, and labor peace requirements to ensure that revenue streams to the Ports are uninterrupted. We would also recommend that other important provisions be included in the RFP, such as homeland security standards, small and minority business enterprise participation rules, driver training and truck safety/maintenance standards. This model has several benefits:



(1) By creating a direct contractual relationship, the Ports will be able to mandate cleaner trucks as a condition for obtaining the right to conduct drayage operations.

(2) By including capitalization requirements in the RFP, the Ports will be able to assure that companies providing drayage services will have the ability to maintain their own equipment.

(3) Through a direct contractual relationship, the Ports can ensure greater stability not only of operations in general, but also of the new, cleaner fleet of vehicles. The Plan is currently vague on the topic of how it will ensure that new or retrofitted vehicles, once purchased, will stay in operation at the Ports. Merely providing substantial public subsidies for new or retrofitted vehicles to impoverished drivers risks creating a secondary market in which the new or retrofitted trucks are resold at a discount to large carriers, leaving the driver with badly needed cash, but the clean truck operating in a non-Port trucking market. A contractual agreement with trucking companies will provide the necessary assurances.

(4) A direct contractual relationship will help reduce pollution. By rationalizing the marketplace and ensuring that all motor carriers compete on a level playing field, the use of such agreements would mean that carriers would compete on the basis of service and reliability, rather than by undercutting safety and environmental standards. This, in turn, would motivate carriers to maximize efficiency by reducing the number of hours that trucks spend idling, waiting in line to pick up or drop off a container. The reduction in idling time alone would significantly reduce pollution in the communities surrounding the Ports.

(5) The revenues generated by the contract will provide additional funding for all of the costs associated with the Plan. The nearly \$1.8 billion proposed for HDV-related controls represents only the costs of replacing or retrofitting the trucks. As the Plan explains, “[b]eyond the cost of truck or retrofit incentives, additional funding will be needed for administrative costs associated with operating the program, public outreach, tracking, monitoring, and reporting.”

(6) Mandating employee status would also assist in the reduction of emissions because under this model, owner-operators would make more money and be better able to maintain their vehicles. This is because the driver would receive wages for his or her labor and a separate payment for the rental of his or her vehicle. The driver would no longer have to choose between paying the rent and buying new tires, because the cost of the tires would be taken care of in the equipment rental payment.



(7) Employee status would also clarify who is responsible and accountable for the drivers. As it stands now, no one takes responsibility for ensuring that drivers have proper credentials, etc. A recent report by the Department of Homeland Security found that the current system allows for massive gaps in security. Under the proposed model, the drayage employer would take responsibility for seeing to it that employee owner-operators perform the necessary maintenance on their vehicles. Additional benefits would likewise accrue concerning the ability to ensure safety training and other security measures.

(8) Employee status also impacts the implementation of the Plan. The Plan refers to an expectation concerning trucking industry “buy into” the Plan. Given the state of the market, however, it will be impossible to obtain “buy in” from a constantly changing set of independent contractors. Indeed, even the identification of individual trucks — a required first step in order to be sure that the oldest frequently calling trucks get replaced first — will be difficult under the current system.

(9) Employee status also allows drayage companies to effectively coordinate maintenance operations, one of the “significant hurdles” identified by the Ports in implementing any model.

Response: The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-17HDV: One example of how such a model could be implemented would involve using available public funds to create low-interest loans, or combinations of loans and grants. These would be accessible to qualified carriers for the purposes of the upgrade or retrofit of vehicles and equipment to be used at the Ports (once the respective carriers have been selected through an RFP process and have executed a contractual agreement with the Ports).

Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-18HDV: The creation of a direct contractual relationship between the Ports and motor carriers will not alter the manner in which motor carriers interact with their customers. Motor carriers will still contract with shippers, brokers and shipping lines to move containers. The creation of a direct contractual relationship between the Ports and motor carriers simply means that the motor carriers providing drayage services will meet the conditions outlined in the RFP. In other words, those carriers will provide drayage services in a secure, environmentally-friendly fashion.



Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-19HDV: It will be important that any model keep the current driver workforce; indeed, that is one of the strengths of this model. Current drayage drivers and companies understand Port operations, practices, protocols and tariffs, and are familiar with the surrounding areas. The dearth of qualified truck drivers nationally would make any loss of the current workforce a difficult challenge, therefore every effort must be made to retain current drivers and responsible motor carriers as the business model shifts.

Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-20HDV: We think it is imperative that the RFP contain provisions requiring motor carriers who successfully bid on the right to provide drayage services to give employment preference to the current drivers.

Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-21HDV: A loan program, available to current market participants, will ensure that they can continue to service the Ports. Another strength of the loan program is that it can be available not only to large companies who will own their own fleets, but also to employee owner-operators. Any manner of qualified drayage company should have access to these loans, whether a traditional fleet-owing employer or some sort of industry association.

Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.

CLAC-LAANE-22HDV: For changes in the Port drayage system to be sustainable in the intermediate- and long-term, all market competitors must include the fully allocated cost of providing transportation — including environmental compliance costs — in the transportation rate structure. These standards should be included in the RFP and bind all trucking companies who are awarded the right to provide drayage services within the Ports.

Response: Comment noted. The Ports will be developing the detailed implementation plan for heavy-duty trucks by the first quarter of 2007. See the revised and expanded description of SPBP-HDV1 measure in section 5 of the Technical report.



CLAC-LAANE-23Fund: We also believe that more attention should be paid to the various funding sources for this vast outlay of capital. We believe that the public does have a role in financing pollution controls for this vital economic engine. It is not reasonable, however, that taxpayers shoulder the lion's share of the costs. All stakeholders who benefit from the Ports, and who will benefit from the future growth made possible by these proposed pollution controls, must share in the costs.

Response: See Frequently Occurring Comment Response #7.

CLAC-LAANE-24Fund: One of the strengths of our proposed model is that it would generate a revenue stream that the Ports could use to defray the expenses associated with the abatement and control of Port-generated pollution. Aside from the taxpayers and trucking industry, shippers and ocean carriers should bear their fair share of the costs as well. There are many ways to design a method of cost-sharing, including, for example, a small per-container fee required of shippers.

Response: Please see responses to CLAC-LAANE-16HDV and Frequently Occurring Comment Response #7.

CLAC-LAANE-25GC: First, we applaud the Ports' focus on achievable implementation strategies as a basis for taking action. However, the Ports too often create a false dichotomy between the CAAP and the Ports' depiction of the No Net Increase plan, faulting the latter for providing goals without a clear methodology. We believe that the two are not mutually exclusive: a comprehensive plan should have clear and ambitious goals as well as a clear methodology. In that light, the CAAP could benefit from a statement of goals, which would complement the thorough treatment given to methodology. We would support a very strong set of goals. In fact, we believe that the results projected by the CAAP should provide the absolute minimum in terms of goals.

Response: See Frequently Occurring Comment Response #17.

CLAC-LAANE-26GC: Second, we believe that a more ambitious plan would benefit from a longer timeline. We agree with the notion of the Plan as a living document with a rolling timeline. As with a statement of goals, however, the Plan should communicate a vision for what the Ports will look like not only five years in the future, but longer. For instance, while it seems reasonable to focus on the 16,800 most frequently calling trucks in the first five years of the Plan, it should also be a long-range goal of the Plan to eventually address every truck that visits the Ports.

Response: See the revised and expanded control measure SPBP-HDV1, which includes a proposal for a comprehensive truck replacement program.



Final 2006

San Pedro Bay Ports Clean Air Action Plan Comments Compendium

CLAC-LAANE-27GC: The Los Angeles Alliance for a New Economy and our coalition partners appreciate this opportunity to comment on this critical issue. By working with all stakeholders — workers, industry and business leaders, community and environmental groups, elected and regulatory officials — we hope to continue to play a role in this process. We also hope to continue to work with Commissioners and staffs at both Ports to better develop our model. We are available to discuss any of our concerns or proposals in more depth and to answer any questions regarding these comments.

Response: Comment noted.



COMMENT LETTERS FROM ASSOCIATION - INDUSTRY (CLAI)

CALIFORNIA HYDROGEN BUSINESS COUNCIL

CLAI-CHBC-1GC: The California Hydrogen Business Council (CHBC) applauds the efforts of the Port of Los Angeles (POLA) and Port of Los Angeles to jointly focus their efforts on activities relating to reducing undesirable air emissions resulting from on-going operations of the two ports.

Response: Comment noted.

CLAI-CHBC-2GC: There are numerous sources of emissions described in The Plan. We believe that all of them are capable of having their emissions reduced significantly. While some would like this to happen tomorrow, that is not realistic. This is a five-year Plan that appears to be realistic and achievable. And considering the public comment supporting this Plan by various Port officials at public board meetings, we believe it is reasonable to expect that The Plan's goals will be achieved.

Response: Comment noted.

CLAI-CHBC-3HE: It is important that emission levels be reduced significantly since studies have shown that the health of those living in proximity to The Ports in particular and throughout the region is being severely impacted.

Response: Comment noted. See Frequently Occurring Comment Response #2.

CLAI-CHBC-4TAP: The Ports should include in The Plan mechanisms and procedures by which these new technologies can and will be incorporated into the Ports' emission reduction strategies.

Response: Under the CAAP, the Ports have created the "Technology Advancement Program", which is an integrated component that will evaluate, demonstrate, and incorporate new strategies into the suite of control measures that will ultimately result in significant reductions of DPM and criteria pollutants. For more detailed information, see section 5.8 of the Technical Report.

CLAI-CHBC-5HE: The standards established to which ultimate emission reduction requirements will be tied need to be health based. There are hundreds of studies available that can be used as the source of standards to be established. All technically feasible solutions should be applied.

Response: See Frequently Occurring Comments Responses #10, #11, #12, and #17.



CLAI-CHBC-6AF: Also, all of the vehicles of any type – trains, trucks, fork lifts, cranes, tractors, etc. – used at the ports are capable of having their emissions significantly reduced and steps to achieve these goals should be initiated immediately. For these sources, merely speeding implementation of CARB measures does not appear to meet the needs of the massive emissions reductions necessary for The Ports to meet their objectives. The Ports could achieve their goals with the development of a short-, medium- and long-term move toward hydrogen, consistent with the Governor's Hydrogen Blueprint Plan.

Response: Comment noted. Under the “Technology Advanced Program”, the Ports are committed to investigating other technologies that can significantly reduce emissions.

CLAI-CHBC-7OGV: Also slated for early attention is the issue of electrification of the docks where the ships are unloaded and loaded. There are many existing methods that can be initiated today to help reduce those emissions.

Response: Comment noted.

CLAI-CHBC-8AF: To reduce the need for construction of new polluting power plants, consideration should be given to construction of solar panel farms, similar to those currently being constructed in Germany and Italy, to satisfy the additional power needs at POLA. While the Port of Long Beach has no similar restrictions, they should also consider construction of solar panel farms to meet their growing electricity needs. The electricity generated by these solar farms could be used for a variety of purposes: meeting peak power demands, meeting on-going operational needs, or when not needed, it could be run through an electrolyzer to generate hydrogen which can be stored and always be available for use in hydrogen internal combustion engines or in fuel cell engines operating inside the ports.

Response: Comment noted.

CLAI-CHBC-9AF: The CHBC believes that wherever feasible, hydrogen should be used as the ultimate fuel of choice. Its clean burning characteristics are well known when used in internal combustion engines, and with the addition of a NO_x trap catalyst, zero emissions can be achieved. Hydrogen's zero emission results are well known when used in fuel cells. Therefore, as a general statement we believe that hydrogen fuel should be the fuel of choice wherever feasible since its use will result in zero emission operating engines.

Response: Comment noted.

CLAI-CHBC-10GC: The CHBC supports and endorses all efforts by The Ports addressed in the Plan for cleaning up the Port emissions.

Response: Comment noted.



CLAI-CHBC-11TAP-Fund: A specific approach we would like to see described and discussed in the "Final" Plan is near term subsidies for truckers who install and maintain an on-board electrolyzer to inject hydrogen into the intake air duct of the engine. These devices, available today, provide a reasonable and measurable reduction in particulate matter (50%) and NO_x (14%) according to a program underway in Canada.

Response: See response to comment CLAI-CHBC-6AF.

CLAI-CHBC-12TAP: A specific approach we would like to see described and discussed in the "Final" Plan is Large-scale introduction of solar PV farms for hydrogen production should be considered. Elevated PV systems similar to those installed at the Los Angeles Convention Center and at the LADWP building would not only provide clean electricity, they would also provide vehicle shade, resulting in a reduced need for engine idling for air conditioning, while at the same time producing hydrogen fuel for other vehicles in the Port area.

Response: See response to comment CLAI-CHBC-6AF.

CLAI-CHBC-13TAP: A specific approach we would like to see described and discussed in the "Final" Plan is Consideration should be given to repowering of all cargo handling equipment with either hydrogen internal combustion engines, fly wheel energy systems, or fuel cell power packs. This technology is available for use today.

Response: See response to comment CLAI-CHBC-6AF.

CLAI-CHBC-14TAP: A specific approach we would like to see described and discussed in the "Final" Plan is Incorporation of electrolyzer/fuel cell systems into locomotives, cargo handling equipment, and other vehicles to handle hotel power situations would permit shorter idling periods while maintaining all critical on-board functions.

Response: See response to comment CLAI-CHBC-6AF.



CALIFORNIA TRUCKING ASSOCIATION (1st Submittal)

CLAI-CTA1-1GC: CTA represents the largest number of intermodal trucking companies in the US. However, CTA was not invited to participate in the preparation of the CAAP. The result of our exclusion from the planning discussions is that the CAAP contains serious breaches of anti-trust and federal pre-emption, which have the effect of making the CAPP unenforceable and unrealizable. It is difficult to understand why the CAAP was developed with no input from the trucking industry. CTA's input could help your agencies with the challenge of increasing the capacity of port complexes while simultaneously reducing net pollution associated with port operations.

Response: See Frequently Occurring Comment Responses #4 and #18.

CLAI-CTA1-2LA: Many, but not all, of the measures contained in the Plan could be implemented with state authority through MOUs or changes in state law. However, your agencies do not have the authority to re-regulate the trucking industry or set emission standards.

Response: See Frequently Occurring Comments Responses #18. The USEPA and CARB have adopted regulations that require stringent emissions standards for diesel trucks. The Ports can not wait for natural turn over of the truck fleet to those that will meet the most stringent emissions standards (USEPA's 2007+ emissions standards). The Ports are working closely with the agencies to provide a mechanism to accelerate the introduction of cleaner trucks to meet the Ports' goal.

CLAI-CTA1-3LA: States are pre-empted from interfering in interstate commerce such as the container freight operations you seek to regulate. It is clear that such structural flaws in the Plan will invite certain litigation and consequently delay implementation.

Response: See Frequently Occurring Comments Responses #18.

CLAI-CTA1-4GC-LA: In connection with analyzing the Plan, CTA has requested the underlying data for "The Truck License Plate Study" three times and has yet to receive the data. Holding a hearing involving information that has not been released to the public and yet was used to arrive at conclusions regarding the role of trucking at the ports is a clear violation of the Brown Act.

Response: The underlying data for the Truck License Plate Study will be made available to the public at the same time as it is made available to Board members.

CLAI-CTA1-5GC: The trucking industry is prepared to work constructively with your agencies to develop a model plan that can be used at ports nationally.

Response: Comment noted.



CALIFORNIA TRUCKING ASSOCIATION (2nd Submittal)

CLAI-CTA2-1GC-HDV:

The California Trucking Association (CTA) appreciates the opportunity to comment on the San Pedro Bay Ports Clean Air Action Plan (Plan). CTA is a non-profit trade organization representing nearly 2,400 member companies and suppliers operating in and out of California. We represent the largest number of intermodal trucking companies in the United States. The trucking industry provides 1 out of every 12 jobs in the state of California.

The California Trucking Association supports the San Pedro Bay Ports Clean Air Action Plan's goals of reducing emissions related to port operations. However, CTA believes that the heavy duty truck elements of the Plan are infeasible, unnecessarily expensive and technologically misdirected and unless reconsidered will only delay the clean up of port operations.

Response: Comment noted.

CLAI-CTA2-2HDV1-LA:

- 1. The Plan erroneously assumes that the Ports of Los Angeles and Long Beach (Ports) have the authority to limit the number of trucks serving those ports if the trucks do not meet the Plan's emission standards.**

Trucks that carry containers to or from the ports are, by definition, carrying interstate loads and involved in interstate commerce regardless of whether they actually leave the state. A significant number of interstate trucks that are registered in other states also serve the ports. When Mexican trucks gain the ability to move beyond the border area to which they are currently restricted, they also will be able to service the ports. Any interstate truck has the right under Federal law to transport cargo to or from any port. A port rule that attempted to restrict entry to only those private trucks meeting the port's emission standards would violate the interstate regime currently sanctioned under federal law and enforced via federal preemption.

Response: See Frequently Occurring Comment Response #18.

CLAI-CTA2-3HDV1-LA:

A further barrier to the San Pedro Ports Plan is the deregulated status of the trucking industry. The Plan proposes to regulate a segment of the trucking industry, specifically port service, by establishing entry requirements, in the form of emission standards. However, since state entry and exit regulation was explicitly prohibited by the Motor Carrier Act of 1980, no state or political subdivision thereof can establish entry or exit standards.

Response: See Frequently Occurring Comment Response #18.



CLAI-CTA2-4HDV1-LA:

Moreover, the regulatory partners of the San Pedro ports are also federally preempted from establishing private fleet emission standards on heavy duty vehicles that serve the port. That federal preemption was most recently upheld by the US Supreme Court in Engine Manufacturers Association v. South Coast Air Quality Management District, 124 S. Ct. 1756 (2004) in which the court concluded that Section 209 of the Clean Air Act preempted the adoption or attempted enforcement of SCAQMD fleet standards¹.

Response: See Frequently Occurring Comment Response #18.

CLAI-CTA2-5HDV1:

Recommendation No. 1: The Ports should abandon their plan to regulate local private interstate truck emissions and join with CTA in sponsoring California legislation to establish statewide emission standards for heavy-duty trucks, enforceable on all interstate trucks via the International Registration Program, through which interstate trucks gain the right to drive on California highways.

CTA proposes that the statewide standard be set so that all vehicles currently registered to a particular owner would have until 2010 to meet 1994 emission standards. All newly registered vehicles, including previously registered vehicles registered to new owners, would immediately have to meet 1998 vehicle NOX standards and have particulate traps installed so the trucks meet the 2007 particulate standard. This proposal would capture and remove from the fleet the many older vehicles transferred between owners through the frequent movement of companies into and out of the trucking business.

Response: The Ports intent to develop a comprehensive heavy-duty truck program as described in control measure SPBP-HDV1.

CLAI-CTA2-6HDV1-LA:

- 2. The Plan mistakenly assumes that the Ports can duck the problems of their limited authority by delegating the enforcement of emission standards to port terminals through lease agreements.**

If the Ports have no authority to promulgate and enforce such standards, they have none to delegate. However, even if they had such authority they would not be able to delegate the police power to enforce emission standards to a private entity such as a port terminal because they would not be able to immunize the private entity against liability under 42 U.S.C. sec. 1983 if the port terminal attempted to limit trucks from serving the ports.

Response: See Frequently Occurring Comment Response #18.



CLAI-CTA1-2LA: CLAI-CTA2-7HDV1-LA:

Recommendation No. 2: A statutory, statewide registration requirement would be enforced by the appropriate California public agencies and officials and not subject terminals to liability.

Response: See Frequently Occurring Comment Response #18.

CLAI-CTA2-8HDV-LA:

3. The Plan's calculations of costs and benefits are heavily based upon "The Truck License Plate Study" (Study) which is not publicly available.

CTA has requested the underlying data for the Study four times and has yet to receive the data. It appears the Study is a draft and not available to the public. Yet the data ostensibly collected by the study claims that the number of vehicles serving the port is 60 percent higher than CARB data on the same phenomenon. The credibility of the Study as well as that of the potential effectiveness of the plan and its projected costs have been seriously undermined by the Ports' refusal to make the study available for public review. From a legal perspective the Ports are already in violation of the Brown Act (Gov. Code, § 54950 et seq.) by holding a hearing involving information that has not been released to the public and yet was used to arrive at significant conclusions regarding the role of trucking at the ports.

Response: See response to comment CLAI-CTA1-4GC-LA.

CLAI-CTA2-9HDV1:

Recommendation No. 3: We request that this Study and its data be finalized and publicly released. Further action and hearings on the Plan should be delayed a further 30 days after the study is released so CTA and other interested parties have an opportunity to analyze the study data and underlying assumptions.

Response: See response to comment CLAI-CTA1-4GC-LA.



CLAI-CTA2-10HDV1:

- 4. The Plan inappropriately proposes that public money be used to purchase emission compliant trucks.**

Public money from the state budget or infrastructure bonds should not be used to perpetuate the meager rates paid for drayage services by beneficial owners of cargo. Port-transiting cargo is the fundamental reason for transportation-related port emissions. Drayage rates charged to beneficial owners and shared by motor carriers with owner-operators must be sufficient for owner-operators to purchase emission compliant equipment. The public should not be asked to pay to mitigate the emissions associated with goods movement undertaken for private purposes.

Any plan should also exclude truck welfare in the form of subsidized truck purchases. Trucks should not be provided either free or at discounted rates to drivers or companies for service in any particular vocation. Free or discounted trucks impact the rate structure for the entire trucking industry and discourage fleet modernization.

The trucking industry is not a utility. Owners must cover their costs of operation through their individual rate structures. Government plans to buy trucks and provide the equipment for virtually nothing would create serious inequities for operators who have made the choice to upgrade voluntarily and shouldered a truck payment to do so. The government cannot and should not interfere with the cost structure of trucking. Any programs to do so would cripple the trucking industry for years.

Fleet modernization associated with statewide emission standards must be sustainable and uniform across the industry. A statewide emission requirement would place upward pressure on the rates charged for all goods movement activities in the state reflecting the

higher capital costs of emission compliant equipment and facilitate the financial ability of companies to acquire cleaner equipment.

Response: Comments noted.

CLAI-CTA2-11HDV1:

Recommendation No. 4: The purchase of emission compliant vehicles should be funded by increased drayage charges levied on the beneficial owners of cargo.

Response: Comment noted.



CLAI-CTA2-12HDV1:

- 5. The Plan's objective of creating an LNG fueling infrastructure should not include the expectation of fueling heavy-duty trucks.**

The development of ultra clean diesel engines beginning with the 2007 model year heavy-duty trucks in combination with the nationwide introduction of ultra-low sulfur diesel means that diesel-fueled heavy-duty trucks will remain the preference of companies buying new vehicles to meet upgraded emission standards, especially since by January 1, 2007, all new heavy-duty on-highway vehicles will be equipped with particulate traps to comply with a PM emission standard of 0.01 g/bhp-hr, the same level of cleanliness as LNG trucks.

Part of the reason for this industry preference is to be able to take advantage of the ability of truck owners to exercise the free movement of vehicles into and out of different vocations that is safeguarded under federal law. The long-term driver shortage and continuing high driver turnover rates will motivate owner-operators to move their heavy-duty trucks into those activities where they can realize the highest return on their labor and capital investments. Thus, it is likely that owner-operators will continue to move between port service and other vocations and will require that their vehicles not be equipped with technology that would inhibit that movement.

Response: See response to comment CLAE-NRDC2-AttA-4AF.

CLAI-CTA2-13HDV1:

While captive port-based equipment owners may be more open to substituting LNG-fueled equipment if a local fueling infrastructure is developed, the vocational flexibility of diesel-fueled heavy-duty trucks exists primarily because they do not require a dedicated fueling infrastructure and require a substantially smaller capital investment.

Response: Comment noted.

CLAI-CTA2-14HDV1:

The enhanced performance of 2007 diesel heavy-duty trucks is probably one reason that the manufacture of onroad alternative fuel heavy duty vehicles is expected to decline. A recent report by the Department of Energy on the number of onroad alternative fuel vehicles made available by both original equipment manufacturers and aftermarket vehicle conversion facilities for 2005 claims that only 68 out of 1899 alternative-fuel heavy-duty trucks used LNG. However, the projected total of alternative fuel heavy-duty trucks slated for production in 2006 is expected to be only 1281².

Response: Comment noted. The Ports are working with LNG truck manufacturers who have provided assurance that enough LNG trucks will be available to meet the goals of the plan.



CLAI-CTA2-15HDV1:

Recommendation No. 5: The Port plan should adopt a fuel-neutral policy toward heavy-duty trucks.

Response: See response to comment CLAE-NRDC2-AttA-4AF.

CLAI-CTA2-16HDV1-AF:

- 6. The Ports' uncritical preference for LNG heavy duty trucks adds unnecessary costs to the Plan but doesn't improve particulate emissions since particulate emissions from 2007 LNG trucks and 2007 diesel trucks are identical and particulate emissions from LNG trucks are no less toxic than particulates from diesel trucks.**

Response: See response to comment CLAE-NRDC2-AttA-4AF.

CLAI-CTA2-17HDV1-AF:

The San Pedro Ports uncritical preference for LNG heavy-duty vehicles is reflection of the South Coast Air Quality Management District's (SCAQMD) role in helping the Ports develop their plan and the Ports' own lack of environmental expertise. The preference also appears to be based upon the Ports' belief that they and their regulatory partners could impose the same fleet rule purchase requirement standards on the private fleets that provide port service as SCAQMD has been able to impose on public fleets. However, the courts have not supported SCAQMD desire to extend its fleet rules to private fleets. Moreover, SCAQMD's preference for LNG vehicles is not supported by any superiority, with respect to toxicity of the particulate emissions, of LNG heavy-duty vehicles over diesel heavy-duty vehicles.

Response: The Ports are not imposing any fleet rule. The use of LNG trucks doing business at the ports is an option being encouraged by both the Ports and the SCAQMD through the use of incentive funds. In addition, Federal Energy Policy also promotes the use of LNG trucks through tax incentives. See response to comment CLAE-NRDC2-AttA-4AF.

CLAI-CTA2-18HDV1-AF:

SCAQMD's own data comparing particulate emissions from buses equipped with catalyzed diesel particulate filters (DPF) and emissions from CNG buses shows that: (i) PM emissions (including ultra-fine nanoparticles) are higher from CNG buses (even those equipped with oxidation catalysts) than from DPF-equipped diesel buses; (ii) emissions of carbonyles (specifically, acetaldehyde and formaldehyde) are substantially higher from CNG buses (even those equipped with oxidation catalysts) than from DPF-equipped diesel buses; and (iii) the potency-weighted emissions from CNG buses (even those equipped with oxidation catalysts) are not less than those from DPF-equipped diesel buses.

Response: Comment noted. See response to comment CLAE-NRDC2-AttA-4AF.



CLAI-CTA2-19HDV1:

Recommendation No. 6: In order to ensure that their Plan is cost-effective and appropriate for their objectives, the Ports need to establish their own capacity to evaluate costs and benefits of environmental options and not rely upon partner agencies that may have different agendas.

Response:

Comment noted. The Ports value the input from staff of the USEPA, CARB and SCAQMD because these are the lead agencies at the national/state/local level with a common goal of protecting public health by implementing measures that reduce air pollution.

CLAI-CTA2-20HDV1-GC:

- 7. The failure by the San Pedro Ports to include private stakeholders in the development of the Plan has resulted in a plan that in its current form can never be implemented.**

The current Plan appears to have been developed solely with the input of public agencies and suffers from a clear lack of understanding. CTA was not invited to participate in the preparation of the Plan. The result of our exclusion from the planning discussions is that the Plan contains serious breaches of anti-trust and federal pre-emption, which have the effect of making the Plan unenforceable and unrealizable.

Response: See Frequently Occurring Comment Response #4.

CLAI-CTA2-21HDV1-GC:

It is difficult to understand why this Plan was developed with no input from the trucking industry. We not only serve the ports, but our trucking companies and their employees are your constituents. CTA's input could help your agencies with the challenge of increasing the capacity of the port complexes while simultaneously reducing net pollution associated with port operations.

Response: See Frequently Occurring Comment Response #4.

CLAI-CTA2-22HDV1-LA:

Some, but not all, of the measures contained in the Plan might be implemented through memorandums of understanding or changes in state law. However, your agencies do not have the authority to re-regulate the trucking industry or set emission standards for private fleets. In addition, states are pre-empted from interfering in interstate commerce such as the container freight operations you seek to regulate.

Response: See Frequently Occurring Comments Reponse #18.



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CLAI-CTA2-23HDV-GC:

Recommendation No. 7: The Ports should postpone their scheduled adoption of the current Plan until a plan has been developed that 1) conforms to the public authority vested in the ports and their regulatory partners, 2) can pass scrutiny with public and private stakeholders, and 3) can be implemented without triggering litigation.

Response: See Frequently Occurring Comments Responses #4 and #18.



PORT DRIVERS ASSOCIATION

CLAI-PDA-1HDV: Truck Drivers are not the cause of air pollution, it is the failure of Ports and Governmental Regulatory Agencies to mandate clean truck engine manufacturing standards, the best air pollution control technologies, clean petroleum fuel standards and support alternative fuels development are the primary cause. The Ports must mandate via policy and sponsor legislation for the adoption of the best engine manufacturing technologies, best performance standards, best pollution control technologies and the use of clean fuels.

Response: The USEPA and CARB have adopted regulations that require stringent emissions standards for diesel trucks. The Ports can not wait for natural turn over of the truck fleet to those that will meet the most stringent emissions standards (USEPA's 2007+ emissions standards). The Ports are working closely with the agencies to provide a mechanism to accelerate the introduction of cleaner trucks to meet the Ports' goal. Control measure SPBP-HDV1 of the CAAP is designed to modernize the truck fleet that operate at the Ports properties by utilizing the cleanest retrofit technologies, trucks that meet the most stringent emission standards and fuels.

CLAI-PDA-2HDV: It is not the responsibility of Truck Drivers to pay for the replacement or retrofitting of their trucks or to be penalized in any way. The Ports/Shipping Companies/Motor Carriers/Brokers/Importers/Distributors/Retailers must be responsible for all replacement or retrofitting costs and pay for Truck Driver lost wages during truck retrofitting. The Ports via policy should establish mandatory requirements and enforce federal and state regulations. The Ports must sponsor legislation to change the Tax Codes so that Drivers are not given a 1099 for any funding received toward the purchasing of a new truck, prior owned truck or retrofitting of a truck.

Response: Comment noted. See the revised and expanded control measure SPBP-HDV1 in section 5.1 of the Technical Report, which has been modified to address these issues.

CLAI-PDA-3HDV: The Port Drivers should not be responsible for Shipping Companies/Motor Carriers/Brokers/Distributors/Importers/Retailers container and cargo transportation and trans-loading fuel costs. The Port should require all Shipping Companies/Motor Carriers/Distributors/Importers/Retailers to pay or reimburse all fuel costs as a cost of doing business via new port policy and new lease conditions.

Response: Comment noted.



CLAI-PDA-4Fund: Since the responsible parties ie. Shipping Companies/Motor Carriers/Brokers/Distributors/Importers/Retailers have and will refuse to do their fair share of paying for retrofitting of trucks we recommend that the Port impose a new Truck Purchase & Retrofit Tariff/Container Fee etc. of \$ 10.00 per import/export container and \$ 1.00 empty export container until all older trucks have been replaced and/or retrofitted.

Response: Comment noted. See Frequently Occurring Comment Response #7.

CLAI-PDA-5HDV: Port Drivers should not be responsible for Shipping Companies/Motor Carriers/Brokers/Distributors/Importers/Retailers traditional truck fleet maintenance costs and to meet new Governmental Regulatory Requirements. The Port should require all Shipping Companies/Motor Carriers/Distributors/Importers/Retailers to pay or reimburse all truck maintenance and new governmental regulatory costs as a cost of doing business via new port policy and new lease conditions.

Response: Comment noted.

CLAI-PDA-6HDV: The Port must establish a mandatory minimum wage policy for all Motor Carriers/Brokers servicing the Port of Los Angeles and Port of Long Beach. We recommend a Mandatory minimum hourly rate of \$ 25.00 plus benefits with an annual cost of living increase.

Response: Comment noted. See the revised and expanded control measure SPBP-HDV1 in section 5.1 of the Technical Report, which has been modified to address these issues.

CLAI-PDA-7HDV: Port Drivers are misclassified as independent operators which allow Motor Carriers/Brokers to pay poverty level wages and therefore not having the financial ability to afford to purchase newer technology trucks. Motor Carriers/Brokers do not pay Workers Compensation or pay any Health Insurance Benefits for Truck Drivers. Due to low salaries Truck Drivers can not afford to pay for these benefits. This contributes to high rates of missed work, high driver temporary and permanent disabilities and increased driver-public safety risk. The Port must establish a mandatory policy for all motor carriers to classify all truck drivers as employees, pay into the state Workers Compensation Program and pay for a Truck Driver Health Insurance Benefits Program if they are to service the Port of Los Angeles and Port of Long Beach. If they refuse, we recommend that the Port impose a new Truck Driver Workers Compensation & Health Insurance Benefits Program Tariff/Container Fee etc. of \$ 10.00 per import/export container.

Response: Comment noted. See the revised and expanded control measure SPBP-HDV1 in section 5.1 of the Technical Report and Frequently Occurring Comment Response #7.



CLAI-PDA-8HDV: Truck Drivers are currently averaging 10-14 hour shifts without adequate breaks and without over time compensation. The Port must establish a mandatory policy for all truck drivers as employees of Motor Carriers work a standard work shift or 8hrs. a day, with breaks, rest periods and overtime compensation if they are to service the Port of Los Angeles and Port of Long Beach.

Response: Comment noted. See the revised and expanded control measure SPBP-HDV1 in section 5.1 of the Technical Report.

CLAI-PDA-9HDV: The Port must establish a plan and implementation date that eliminates truck idling or cue time outside/inside the Ports to no more than 30 minutes, whether waiting for a load or delivering an empty container. Delivering an empty container has a lower priority than picking up a load and a waiting time of 2xs to 3xs more.

Response: See response to comment CLAE-NRDC2-AttA-22HDV1.

CLAI-PDA-10HE: The Ports are responsible for protecting Truck Drivers from diesel pollution and other port toxic and safety hazards. The plan fails to acknowledge Ports negative impacts on Truck Drivers and to mitigate the Ports impacts on Truck Drivers.

Response: See Frequently Occurring Comment Response #1.

CLAI-PDA-11HE: The Ports CAAP fails to mitigate the current health problems that they cause on many of our Truck Driver members. We recommend that the Port establish a Health Fund Trust for Truck Driver health care.

Response: See response to comment CLAE-CSE-3HE-Fund.

CLAI-PDA-12HDV: The Ports and CAAP must establish new policies, requirements and a certification plan for all Motor Carriers if they are to do business and service the Port of Los Angeles and Port of Long Beach.

Response: Comment noted. See the revised and expanded control measure SPBP-HDV1 in section 5.1 of the Technical Report, which has been modified to address these issues.

CLAI-PDA-13HDV: If the Motor Carriers refuse to cooperate we recommend that the Port of Los Angeles and the Port of Long Beach become a Motor Carrier and Truck Driver Employer.

Response: Comment noted.



SAN GABRIEL VALLEY ECONOMIC PARTNERSHIP (THE PARTNERSHIP)

CLAI-SGVPEP-1GC: We applaud the ports for recognizing the need for a coordinated strategy of partnership between both themselves and the South Coast Air Quality Management District. This spirit of cooperation will be critical to the success of the CAAP.

Response: Comment noted.

CLAI-SGVPEP-2Fund: The ports and SCAQMD have shown their commitment to the CAAP through their voluntary investment pledges totaling nearly \$400 million. This total does not take into account significant additional sums that the Port of Long Beach expects to incur during the completion of its Cold Ironing facilities. The CAAP is also dependent upon significant sums of state bond funding and other identified sources, with CAAP's needs totaling just under \$1.6 billion. This funding will constitute 80% of the total cost requirements of the CAAP. This funding will be essential the planned CAAP investments in new technology. However, current state policy and language within Proposition 1B (SB 1266) prohibit public funding for technologies mandated by regulation. Changing the current CAAP mandates into guidelines will insure that the needed public funds will be available to carry out the CAAP.

Response: These issues will be addressed during the implementation stage of individual measures. Additionally, the Ports will explore alternative mechanisms for funding such as fees.

CLAI-SGVPEP-3GC: A flexible emission credit/trading system will allow for a less constrained use of public funds while maximizing private investment and encouraging the development of the most cost-effective compliance technologies.

Response: See Frequently Occurring Comment Response #20.

CLAI-SGVPEP-4GC: We have additional concerns about the risk standard currently contained within the CAAP. A 10 in 1,000,000 risk standard for the San Pedro Bay will likely impair future port growth and development which would otherwise occur at risk levels far below current standards. The US EPA recognizes a 100 in 1,000,000 risk standard as acceptable and this in and of itself would be vast improvement over current conditions, since CARB has identified port-adjacent communities with risks exceeding 500 in 1,000,000. Unfortunately, the 10 in 1,000,000 proposal would likely be excessively burdensome, and fails to balance the economic feasibility of projects with the associated health risks. More than anything else, the deficiencies of an overall 10 in 1,000,000 risk standard highlight the need for some flexibility in CAAP's implementation. Using the USEPA standards seems to be acceptable within current lower risk areas, while more stringent standards might be employed in current high-risk areas. However, enacting a burdensome standard that deters or prevents projects



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operating at risk standards far below current conditions and at or below USEPA standards seems burdensome and counterproductive.

Response: Currently the Ports follow SCAQMD's CEQA guidelines for new projects or during changes to existing facilities. In addition, see Frequently Occurring Comment Response #17.

CLAI-SGVPEP-5GC: We encourage your respective Harbor Commissions to adopt the Clean Air Action Plan and implement it in a way that protects the port environment and local communities while also allowing for economic expansion.

Response: See response to comment CLAC-NSPNC-18LR.



FUTUREPORTS

CLAI-FP-1GC: It is without question that the San Pedro Bay Ports (SPB Ports) of Los Angeles and Long Beach provide 500,000 jobs to the Southern California region - more than any other industry or individual employer. When multiplier effects are taken into consideration, virtually every business and home in California, and especially in Southern California, receives a direct benefit from the SPB Ports. The reach of the SPB Ports goes even further than the California's borders – our ports are the economic engine of the United States and are truly the nation's ports. FuturePorts recognizes the SPB Ports as regional assets, and advocates for balance between economic growth and environmental stewardship. We embrace the philosophy that the Ports must grow, and must grow cleanly. These concepts are not mutually exclusive and must be adopted simultaneously in order for healthy economic and geographic environments to occur.

Response: Comment noted. See Frequently Occurring Comment Response #1.

CLAI-FP-2GC: FuturePorts commends the Ports and Agencies on your collaborative and ground-breaking efforts to reduce emissions related to port operations through the CAAP.

Response: Comment noted.

CLAI-FP-3PP: It is our expectation that all comments received from FuturePorts and other industry stakeholders will be taken into serious consideration, so a better and more practical CAAP will evolve throughout its implementation. It is in the best interest of the ports and the community that we improve our air quality and reduce health risks while not causing deterioration in economic activity.

Response: See Frequently Occurring Comment Response #27.

CLAI-FP-4Fund: The business community has made substantial investments over the years in the research and development, procurement, and installation of emission-reduction measures, and is expected to continue making investments at an unrealistic rate. The business community should be invited to provide input on the real costs and timeframes required to meet the emission reduction standards in order to support the CAAP.

Response: See Frequently Occurring Comment Responses #4 and #27.

CLAI-FP-5CE: As a public agency, the ports need to ensure each dollar spent will provide the largest reduction in air emissions. The CAAP should include a detailed cost-effectiveness evaluation of all the measures.

Response: See Frequently Occurring Comment Response #28.



CLAI-FP-6GC: We appreciate the eagerness to embrace new technologies when they are developed, such as shore power for ships, or alternative fuels. However, when mandates are brought forth that create competitive disadvantages for companies to do business here; it causes more economic harm than environmental good. This tactic impedes short-term growth and jeopardizes the creation of sustainable long-term growth. The CAAP outlines very specific source standards and measures (refer to CAAP pages 33-112) that do not allow for flexibility and innovation. Businesses should be rewarded for technological advancements by providing incentives for growth and flexibility in achieving emission-reduction goals instead of mandates for specific technologies that may or may not be best for the operations of that company. Best available technologies should be implemented within a realistic time frame that affected stakeholder businesses agree upon.

Response: See Frequently Occurring Comment Response #23. The Ports are concerned about discouraging early action and, in the revised Section 2.2, have proposed investigating ways to recognize early action..

CLAI-FP-7GC: Federal and state standards have been established to allow for a reasonable timeframe for high value, long lead-time equipment to be available in the marketplace. The CAAP provides specific compliance dates that are inconsistent with federal (e.g., locomotive standards) and state (e.g., cargo handling equipment) regulations in both timing and emissions performance. As currently drafted this would result in the CAAP requiring companies to purchase equipment in a timeframe that will not be available in the market. The CAAP must be consistent with federal and state standards, and should also be consistent with the implementation deadlines to ensure the availability of the technologies. The implementation of low sulfur fuels for Ocean Going Vessels (OGVs) should also be included in these standards, as this fuel is only available in a few areas in the world, and not necessarily where most of the ships originate.

Response: The CAAP measures are more aggressive than the state or federal regulations to address the emissions local port-related sources. The Ports did take into account the availability of cleaner equipment and low sulfur fuel while designing various measures. One of the significant initiative of the CAAP is the Technology Advancement Program which would serve as the catalyst for identifying, evaluating, and demonstrating/piloting new emissions reduction technologies/strategies that could then be utilized in future updates to CAAP as new control measures, alternatives to existing strategies, or an additional mitigation options for new projects.



CLAI-FP-8IOEI: Increasing rail infrastructure and improving operational efficiencies are critical to reducing traffic congestion in Long Beach. The railroads and the marine terminals have been innovative in changing business practices to absorb some of the container growth through the SPB Ports. PierPass is an excellent example of changing business practices to reduce congestion on the I-710 freeway. Near-dock facilities, such as BNSF Railway's proposed SCIG facility will reduce over 1 million truck trips off the I-710 freeway and is an important project that will increase the efficiency of moving cargo through Long Beach. The SPB Ports, industry stakeholders, and the business community should work together to develop innovative cost-effective strategies in the area of reducing congestion on our freeways.

Response: Comment noted.

CLAI-FP-9HE: We are concerned the requirement that projects must meet the 10 in 1,000,000 excess cancer risk threshold before the respective Boards of Harbor Commissioners may approve it, is a "no growth" policy. The SCAQMD uses 10 in a million as their "significance threshold" for CEQA analysis, although there is currently no generally accepted significance risk threshold for diesel particulate emissions. For permitting of stationary sources (such as refineries) SCAQMD uses 25 in a million as their risk goal and their Board can approve permits with risks less than 100 in a million based on lack of technology and other factors. In addition, the ports are using California's very conservative diesel risk factor in their analysis. EPA has not yet adopted a diesel risk factor. There is a very real possibility that setting the thresholds too low could have the unintended and counterproductive impact of discouraging projects that cannot meet the extremely low level, but would still operate at risk levels significantly below those of existing operations at the ports. The ports should revise this policy to one that allows the Boards of Harbor Commissioners to evaluate each project on its own merits and not one that disqualifies the project based on an overly restrictive 10 in 1,000,000 standard.

Response: See response to comment CLI-RR-8HE and Frequently Occurring Comment Response #17, and ORAL Response #30.

CLAI-FP-10HDV: We support the goal of transforming the fleet of trucks that service the SPB Ports to "clean trucks," however we are concerned that by passing a regulation that trucks in the ports may only operate on alternative fuel could disqualify thousands of owner-operator drivers whose living depends on port business. The data proving alternative fuel trucks are "cleaner" than the new diesel technology has not been disseminated to the industry. The SPB Ports should consider alternatives to passing regulation by setting targeted goals for emission reductions, and remove mandates that trucks only operate on alternative fuels.

Response: See response to comment CLAE-NRDC2-AttA-4AF.



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CLAI-FP-11Fund: FuturePorts has endorsed and supports Rebuilding California, the infrastructure bond initiative on the November, 2006 ballot. However, it should be noted that bond funds can not be used for mandated technology, e.g. trucks with alternative fuels, and can disqualify the ports from receiving matching funds from the bond. In addition, there is no clear plan as to where additional funding beyond the SPB Ports' contribution for the implementation of the CAAP will come from. The SPB Ports should adopt the Governor's Goods Movement Action Plan in order to be more competitive on a state-wide level for available funding. The CAAP should also include guidelines to identify alternative sources of funds, should bond money not be available.

Response: See response to comment CLAI-SGVPEP-2Fund.

CLAI-FP-12GC: The comments from FuturePorts also include a detailed summary of voluntary actions taken by the Ports and their tenants which have reduced emissions to date.

Response: The Ports acknowledge and appreciate the voluntary actions taken by their tenants to reduce emissions.



PACIFIC MERCHANT SHIPPING ASSOCIATION (1st Submittal)

CLAI-PMSA-1GC: Requests a 60-day extension of the comment period.

Response: This comment period was extended an additional 30 days to August 28, 2006.

CLAI-PMSA-2GC: Requests a meeting with staff prior to submitting our comments.

Response: The Ports staff met with members of PMSA on August 15, 2006.

PACIFIC MERCHANT SHIPPING ASSOCIATION (2nd Submittal)

CLAI-PMSA2-1GC:

The good news is that, as the Plan points out our existing and previous partnerships together through voluntary programs, incentives, and commercially-feasible lease negotiations made in good faith between the Ports and their tenants, have already markedly improved air quality around the ports. While there is still much to be done, the initial inventory results show that emissions from cargo handling equipment have already exceeded their No Net Increase goals through reductions of over 50% - and are a great example of the power of our work together. This is just one example of how working together we can achieve the goals of the Plan.

Response: The Ports acknowledge the continuing effort of the Pacific Merchant Shipping Association's (PMSA) members to work toward additional emission reductions.

CLAI-PMSA2-2GC:

Some of the voluntary projects undertaken by our members:

- Voluntary Vessel Speed Reduction Program.
- Construction of vessels capable of using shore-power.
- Construction of vessels that have heli tanks and fuel delivery systems that enable the use of cleaner fuels.
- Installing clean air injectors (slide valves) into existing vessel engines.
- Use of low sulfur fuel in main and auxiliary engines
- Retrofitting of Cargo Handling Equipment with after combustion technology
- Purchasing on-road certified equipment for terminal operations
- Use of cleaner fuels including emulsified diesel (Proformix), ethanol blended diesel (02 Diesel) and ultra-low sulfur diesel in advance of regulatory requirements.
- Liquefied Natural Gas (LNG) Yard Tractor demonstration projects
- Liquefied Petroleum Gas (LPG/propane) Yard Tractor demonstration and implementation



- PierPass Program to spread out the volume of truck traffic and terminal operations to reduce congestion and emissions

Response: Comments noted. The Ports want to acknowledge all of the emissions mitigation projects voluntarily undertaken by PMSA's members.

CLAI-PMSA2-3GC:

On the regulatory front we have also supported:

- CARB's Cargo Handling Equipment Regulation
- Sponsored Assembly Joint Resolution 8 (Canciamilla), that was adopted this session by the California State Legislature supporting the Ratification of IMO Annex VI to MARPOL 73/78 and the designation of a North American Sulfur Emission Control Area (SECA)

Response: Comments noted.

CLAI-PMSA2-4GC:

However, the development of this Plan, although a living document, did not include the key stakeholders who are expected to implement the measures included. Although we share your goal to reduce emissions and improve the quality of life we believe the Ports would have a much more workable process had this not been the approach. We find ourselves in the unfortunate position of having to request the Ports to reconsider some of the elements of the Plan instead of focusing on how we can move forward together. It is our hope that these comments will be taken in that spirit and that the Plan will be revised prior to approval by the respective Harbor Commissions.

We agree that the maritime industry and the entire goods movement system.

Response: See Frequently Occurring Comment Responses #4 and #27.

CLAI-PMSA2-5GC:

We agree that the maritime industry and the entire goods movement system must provide there "fair share" of emissions reduction. However, the industries "fair share" is undefined in this Plan.

Response: See Frequently Occurring Comment Response #12.

CLAI-PMSA2-6EI:

The revised emission inventory under preparation by the Ports will provide invaluable insight on the effectiveness of the measures implemented between 2009 and 2005, and we have reason to believe that the improvements, in spite of the growth, have been substantial. Therefore we would like to Port to include a comparison of the previous and updated inventory in the final version of the Plan.

Response: While the 2005 emissions inventories will not be completed in time to incorporate them into the final Plan, once completed and reviewed by the staffs of SCAQMD and CARB,



the Ports plan to include the latest emissions inventory by source category into updates of the plan.

CLAI-PMSA2-7EI:

We would like to see a strong commitment from the Ports that they will do everything in your power to provide the updated inventory to the South Coast Air Quality Management District (SCAQMD), CARB, and the Southern California Association of Governments (SCAG), to include in the upcoming State Implementation Plan since that will be the ultimate source defining the "fair share" for the maritime industry.

Response: The Ports agree. It is in everyone's best interest to work with one emissions inventory. The ports have set up a system where once the draft emission inventory is done for a source category, they are sent for review and consensus to SCAQMD and CARB staff. The ports believe that this peer review system should result in only one set of emissions estimates for the San Pedro Bay Ports.

CLAI-PMSA2-8LR:

While we understand that the preferred method to implement the Plan is through lease negotiations. This approach requires that the Ports complete the necessary environmental documents, approve the project, complete lease negotiations, acquire the necessary permits, contract for construction, and complete the construction of the facilities and necessary infrastructure within the designated 5-year time frame. While we support and will offer all possible assistance to achieve the objective it must be acknowledged that ultimately all of these elements are outside of the tenants' control. The Ports should provide a schedule that shows when all of these actions must be complete for each proposed lease negotiation to meet the stated schedule of Plan. The Ports must also disclose how they will be flexible in achieving the goals of the Plan when the failure to meet this schedule is beyond the control of their tenants.

Response: See Frequently Occurring Comment Response #3 and #23 See response to comment CLAE-NRDC2-AttA-2GC.

CLAI-PMSA2-9LR-LA:

While there is some advantage for implementation of the measures through a Port tariff because it

avoids competitive disadvantage issues, the Ports face significant jurisdictional and legal issues using this approach. We would suggest that the Ports work with industry to find strategies that can be achieved by working together. One example that would appear to be a model is the Port of Long Beach tariff to reduce dockage fees for vessels that comply with the vessel speed reduction program. This incentive has already shown positive results in improving participation levels and allowing for all parties to participate thus avoiding competitive issues and jurisdictional claims.



Response: Comment noted. See Frequently Occurring Comments Responses #3 and #18. Additionally, the Ports appreciate industry's desire to work together to implement various emissions control strategies and are fully prepared to engage industry in finding unique public-private partnerships to address these issues. However, it is important to keep in mind that it is ultimately the shipping industry and the cargo owners that will bear the burden of reducing emissions from the goods movement sources.

CLAI-PMSA2-10GC:

We believe that more focus should be placed on this approach. Unfortunately what we see in the Plan is a significant departure from previous incentive programs offered by the Ports that are listed above. We fully understand and accept that incentives cannot be open-ended and must sunset upon implementation of regulations or when there is no longer additional cost for going beyond current regulations and lease requirements. However, until regulations catch up with the opportunities to achieve emission reductions beyond what is required, incentives offer the most cooperative means of obtaining the maximum air quality benefits at the earliest possible date. Creating a situation where improvements will only be supported when a lease is negotiated or a regulation is passed could result in emission reductions being delayed. Further, eliminating incentives and relying on regulations and lease negotiations could result in reducing innovation, research, and development, of needed future technologies.

Response: At this time, the Ports are proposing to direct the majority of their funds toward reducing the emissions from heavy-duty diesel trucks that serve the two ports and towards the Technological Advancement Program which will promote innovation, research and development of future technologies needed to achieve the goals of the Clean Air Action Plan. The Ports are also concerned about discouraging early action and, in the revised Section 2.2, have proposed investigating ways to recognize early action. See also response to comment CLAI-PMSA2-9LR-LA.

CLAI-PMSA2-11GC:

The "Standard" of 10 in a Million Excess Cancer Risk for Project Approval

We understand and accept that the Ports have a responsibility under the California Environmental

Quality Act (CEQA) to adopt and evaluate projects based on significance thresholds for environmental impacts. However, the requirement that a project must meet that threshold in order to be approved is inconsistent with CEQA. CEQA does allow for projects to exceed significance thresholds so long as they disclose the impact, implement all feasible mitigation measures, and adopt a statement of overriding considerations that describe how the benefits of the project balance the impacts that result. To make a significance criteria a "'standard' is not only inconsistent with CEQA it also eliminates the discretion of the Harbor Commissioners to make the determination that the benefits of the project outweigh the impacts. While the current commissioners may find that



acceptable they should seriously consider the impacts of such a policy on future Harbor Commissions. Accordingly, we believe that the second bullet point (on page 19 of the Plan) is the appropriate project specific standard and should be applied to all categories of impacts.

Response: Ultimately, the CAAP does not limit the discretion of the Boards of Harbor Commissioners, rather it reflects their current policies. See also response to comment CLI-RR-8HE.

CLAI-PMSA2-12Calc-LA-OGV1:

Ocean going Vessels

OGV-1 - While the industry has supported the voluntary Vessel Speed Reduction Program there needs to be a demonstration of the additional benefits of extending the measure to 40 nautical miles. There also needs to be a discussion of how compliance with the measure will be achieved since the current Marine Exchange radar does not currently have adequate range to monitor compliance. There is also an overwhelming jurisdictional and legal issue of extending and mandating the program beyond the boundaries of the Ports and State waters that must be considered if the implementation is to be accomplished outside of a voluntary program.

Response: The Ports calculations indicate that additional emission reductions of NO_x are achieved when comparing the benefits of the Vessel Speed Reduction Program at 20 nautical miles and 40 nautical miles. As shown in Table 5.9, the Ports are committed to working with the Marine Exchange to upgrade its radar system. In addition a technical review of this measure is a key milestone (See) prior to the extension of the VSR program.

CLAI-PMSA2-13OGV2:

OGV-2 -As discussed above we believe that the Ports should disclose the schedule for implementation that includes the key milestones of CEQA certification and construction.

Response: As leases are renewed, or new projects come up, the Ports will schedule implementation including key milestones of CEQA certification and construction. Tables 1.X and 1.Y show anticipated dates of action for lease renewals or consideration of a CEQA document by the Boards of Harbor Commissioners. These dates represent the key milestone for moving forward with incorporation of mitigation and redevelopment. At this time, it would be speculative to determine project-specific construction dates.

CLAI-PMSA2-14OGV2:

Ports must make a realistic evaluation of how many ships will be constructed or retrofitted in order to comply with the goals of the Plan.

Response: Comments noted.



CLAI-PMSA2-15OGV2:

As we are sure you are aware, it is most cost effective to cold iron vessels that have frequent visits to the Ports, have significant loads while at berth and stay in service at the Ports for an extended period of time. Vessels that visit infrequently, don't have much refer cargo or are on limited charters probably would not be good candidates for this measure. Equivalence with shore power must also be carefully defined in order to create incentives for the development of other technologies such as the ACTI Barge concept or on-board SCR units.

Response: The Ports acknowledge that vessels that visit infrequently probably are not cost-effective candidates for shore power. The definition and criteria for equivalent emission reductions will keep in mind the importance of other technologies in attaining the CAAP goals. See also response to comment CLAC-NSPNC-14OGV.

CLAI-PMSA2-16OGV3:

OGV-3 - This measure exceeds the pending CARB regulation that would require 0.5% sulfur content for marine diesel oil and any marine gas oil for use in vessels within 24 nm of the California coast. Further, this measure does not acknowledge that the pending regulation proposes to require 0.1% sulfur content MGO beginning in 2010 at which time we assume this measure will sunset.

Response: There is a description of CARB's Marine Auxiliary Engine Regulation in Section 5.2.3 entitled "OGV Auxiliary Engine Standards". This description does mention CARB's requirement for 0.1% sulfur fuel use beginning in 2010. The Ports acknowledge that the state standard in 2010 will supersede OGV3. The emission reductions calculated for OGV3 do not account for emissions benefits after 2009 as all of the reductions are attributable to CARB's rule.

CLAI-PMSA2-17CE-OGV3:

This measure also directly impacts the cost-effectiveness of OGV-2. According to CARB the use of the MDO and MGO fuels alone will reduce particulate emissions 75 to 83 percent. Therefore, the emission reduction capability of cold-ironing will be significantly reduced with the use of low-sulfur fuels at berth. This interaction from the measures should be disclosed in the final version of the plan.

Response: Hotelling emissions occur in proximity to the community. As a result, there is greater concern regarding its impact. However, the Ports are willing to consider technologies that achieve equivalent emission reductions. Those technologies might include MGO fuel coupled with additional PM and NO_x controls.



CLAI-PMSA2-18OGV4:

OGV-4 - CARB has indicated that they intend to move forward on the development of a similar

measure for main propulsion engines this year through the approved Emission Reduction Plan (April 2006). Again it appears that there was no consideration of the future CARB regulation. This should also be disclosed in the final Plan.

Response: The Ports plan to work closely with CARB to development of the main propulsion engine regulation. However, until it is developed, it is impossible for the Ports to speculate on its form or impacts.

CLAI-PMSA2-19OGV5:

OGV-5 - Main and auxiliary engine improvements of the types included in this measure may offer the most cost-effective means of achieving significant emission reductions at the earliest possible date. However, the Ports must create an atmosphere where these advancements are encouraged. If the perception is generated that any of the proposed measures will not achieve the "standard" then there will be little motivation to pursue these technologies.

Response: The Ports are attempting to create an atmosphere that fosters technological innovation through the establishment of their Technology Advancement Program. This program will consider any technology that can achieve significant NOx and PM emission reductions.

CLAI-PMSA2-20OGV6:

We recommend that incentives and flexibility to allow new technology development that may not reduce the emissions to the equivalence of cold-ironing be included as a guiding principle above absolute requirements to achieve an undefined goal. It is only by making continuous incremental progress that the goal will ultimately be achieved.

Response: The Ports' ultimate goal is to achieve emissions reductions similar to cold-ironing during hotelling for ships that are not good candidates for cold-ironing. The Ports agree that it may be a combination of various emerging technologies or incremental progress that will lead to the ultimate goal, which is addressed in the Technology Advancement Program (in the updated Technical report section 5.7) by evaluating existing and emerging technologies. Additionally, the Ports are currently involved in a jointly funded project that looks at potential incremental progress outside of Cold ironing that incorporates two technologies, slide valves and emulsified fuels, in an OGV to determine the emission reductions achievable.



CLAI-PMSA2-21CHE1:

CHE-I - As stated above, our members supported the CARB Cargo Handling Equipment Regulation. Our concern with this measure isn't just that it goes significantly beyond that regulation but that it includes a requirement to replace some of the most expensive equipment within one year of the engine becoming available. Because of the short period of time allowed to replace this equipment we suggest that the Ports include flexibility for operators that cannot comply due to the inability of manufacturers to provide the equipment.

Response: The final approval of this plan is one of the keys to the success of CHE1. The Ports hope to send a message to equipment manufacturers that there will be demand for the new engines so that they can invest their resources early on to meet the demand. In case the equipment is not available, the Ports do allow use of the cleanest available Verified Diesel Emissions Control Equipment (VDEC) available. In addition, CHE1 has been revised to address some of the issues identified regarding the availability of engines.

CLAI-PMSA2-22CHE1:

We also would like to point out that this measure will result in operators delaying replacement of existing equipment until they can purchase compliant equipment. In some cases, hanging on to older, higher polluting equipment for even a year could create an emissions deficit that cannot be paid back. Care consideration of the value of near-term incremental benefits should be included in the final Plan.

Response: The Ports agree there is a risk of delayed equipment purchases. However, the Ports are prepared to work with each tenant to develop an equipment replacement plan that will achieve the results of the CAAP while achieving near-term reductions. See also response to comment CLAI-FP-6GC.

CLAI-PMSA2-23Fund:

Through the implementation of this Plan the industry is expected to make substantial investment in procuring equipment, paying for infrastructure, and incurring increased operational and maintenance costs that are not included. While the contributions of the Ports and SCAQMD are highlighted we believe that those cost are minor compared to the costs that will be imposed on our members. This is especially true since it is clear that many of the Ports cost, such as the shore-side power infrastructure, will be repaid to the Ports by our members through the lease agreements.

Response: See Frequently Occurring Comment Response #28.

CLAI-PMSA2-24CE-Fund:

Further, there is no consideration of cost effectiveness of various measures. Although the Ports have committed \$200 million to the replacement of on-road trucks there is no indication that this is the best use of the money from a public health impact perspective. We believe that it is essential that the Ports provide detailed cost-effectiveness



evaluations in the final version of the Plan and prioritize the use of funds to obtain the maximum air emissions benefits for the investment. As we pointed out for cold-ironing, if the use of low-sulfur fuel provides the majority of public health benefits then using the monies or something other than cold-ironing may make more sense and result in benefits being obtained sooner.

Response: In addition, the Ports have committed their funds toward reducing emissions from on-road trucks because: 1) technologies to reduce emissions from trucks are currently available and proven; 2) because Port truckers represent a group uniquely unable to deal with impacts caused by their operation and Ports do not intend to aggravate the current social justice issues regarding independent owner-operators; 3) truck emissions tend to have a direct adverse health effect on the population surrounding the Ports while driving through various neighborhoods.

CLAI-PMSA2-25GC:

PMSA and our member agree and support the goal of reducing air emission impacts on the local communities and the region. Based on the positive efforts of the Ports and its tenants to reduce air emissions we believe that our members have demonstrated their willingness to address this issue and have had considerable success in the past. While we recognize that much remains to be done we do have significant concerns that must be addressed before this Plan can be endorsed.

Response: Comment noted.

CLAI-PMSA2-26GC:

We reiterate our interest in having a working dialogue with the ports' staff prior to the anticipated

September hearings where formal consideration of the plan will be taken up by the board. We are glad that the Ports have repeatedly stated that this must be a living document. As such, we are available to work with the Ports to continue to process to improve the environment in a way that maintains the economic viability of the maritime and goods movement system.

Response: The Ports meeting with PMSA and some of its members on August 15, 2006. In addition, the Ports appreciate PMSA members' offer to work cooperatively with the Ports and stand ready to work with their tenants to achieve the goals of the CAAP.



Final 2006

San Pedro Bay Ports Clean Air Action Plan Comments Compendium

CLAI-PMSA2-27GC:

These are our preliminary comments on the San Pedro Bay Clean Air Action Plan and are being made now in order to satisfy the comment period. However, given the extensive and sweeping nature of this plan, our concerns and process considerations noted above, we, on behalf of our membership, are reserving our administrative rights to submit additional, and more extensive formal comments, prior to any formal action to adopt or implement this plan taken by the respective Boards of the Ports of Long Beach and Eos Angeles.

Response: The San Pedro Bay Ports Clean Air Action Plan is a “living document”. PMSA members will have ongoing opportunities to provide additional comments. See also Frequently Occurring Comment Response #27.



CONSTRUCTION INDUSTRY AIR QUALITY COALITION

CLAI-CIAQC-1GC: CIAQC supports clean air goals of Ports and commends this collaborative effort.

Response: Comment Noted.

CLAI-CIAQC-2GC: CAAP indicates that construction activity emission will be assessed through CEQA process. CIAQC believes this must result in a feasible construction process and not one that contains unrealistic or unachievable control strategies limiting otherwise qualified contractors performing essential construct services for the ports. Ports should solicit input form the construction industry about potential practices that might be considered as emission reductions strategies in future planning efforts.

Response: See Frequently Occurring Comment Responses #4 and #27.

CLAI-CIAQC-3GC: Request a CIAQC representative should be added to the Port Technical Advisory Committee (TAC).

Response: The Port TAC serves to provide technical support to evaluate and recommend projects to be funded by the Port or Los Angeles Air Quality Mitigation Incentive Program. This Port-TAC does not support either port in the CAAP effort. The addition of a CIAQC representative to the Port-TAC is not warranted in the context of this entity's role.

CLAI-CIAQC-4GC: CAAP indicates that cutter-suction head and clamshell type dredges will be required to be shore-powered. The emission reduction benefit and cost-effectiveness should be considered before finalizing this requirement.

Response: Comment noted. See Frequently Occurring Comment Response #28.

CLAI-CIAQC-5Fund: A portion of the \$10 million Port mitigation settlement funding should be committed to ARB to accelerate VDECS R&D of specific technologies that can be applied to the SPBP area.

Response: The Port of Los Angeles' \$10 million budget for truck emission reductions is stipulated by court judgment to be allocated to the Gateway Cities Program. POLA has no authority to re-program these funds. However, the CAAP includes a Technology Advancement Program to which advanced technologies, including potential retrofit systems on track to becoming VDECS, may be submitted for consideration. Also, there recently was an RFP soliciting R&D projects at POLA for the Air Quality Mitigation Program and projects of the type you propose are eligible to compete in this program. There is likely to be two additional RFP cycles for this program in the future.



WESTERN STATES PETROLEUM ASSOCIATION

CLAI-WSPA-1GC: WSPA recognizes the importance of reducing the impact the ports have on the air quality in the region and in the surrounding communities. Our members have been very supportive of initiatives designed to improve air quality, provided they are based on sound science, utilize proven technology, do not compromise safety, do not jeopardize timely delivery of petroleum products, and are economically efficient versus other alternatives. WSPA looks forward to working cooperatively with the ports to design such an approach.

Response: Comment noted.

CLAI-WSPA-2GC: WSPA believes consistency in state, regional, or local emission reduction plans being proposed for the Ports is very important. It can be confusing for all stakeholders to be addressing three different regulatory programs for the Ports: POLA/POLB San Pedro Bay Ports CCAP, CARB's Mitigation Plan for the Ports under the Governor's Goods Movement Initiative and CARB's Auxiliary Engine Rule.

Response: See Frequently Occurring Comment Response #29.

CLAI-WSPA-3GC: WSPA suggests a matrix be developed that compares the three plans such that any inconsistencies can be identified and addressed. We also support consistency between all ports to avoid giving a competitive advantage to projects in one port over another.

Response: See Section 6.0 of the Technical Report for comparison of the three plans. See also Frequently Occurring Comment Response #29.

CLAI-WSPA-4GC: The CAAP contains several measures that specify certain technologies to be implemented at the ports. WSPA believes that it is important to build flexibility into the plan. Measures should be expressed as goals, and lessees should be allowed the flexibility to determine which measures will work best for each lessee.

Response: In general, the CAAP is technology and fuel neutral. However, wherever the Ports can identify technologies or alternative fuels with a potential to reduce emissions, the Ports have assumed those technologies to estimate emissions reductions. The ports agree that lessees should be allowed the flexibility to determine which measures will work best for each lessee as long as they meet the specified emissions reduction goals. See also Frequently Occurring Comment Response #23.

CLAI-WSPA-5GC: As documented in the Draft CAAP Technical Report and listed below, the CAAP would require measures for ocean going vessels (OGVs) that would have significant operational and financial impacts on Port users and ocean-going vessels of U.S. and international registry.

Response: Comment noted.



CLAI-WSPA-6GC: Of significant concern to WSPA is that these requirements mandate that tanker owners and charterers make almost immediate commitments to use currently unproven processes and technologies that may have substantial safety and economic implications. Tanker owners and charterers have no way of identifying within the proposed CAAP what is regulation versus voluntary.

Response: Through individual measure implementation, whether through leases, tariffs, or other mechanisms, the Ports will make clear what groups are subject to the proposed requirements and the timelines for compliance. Also, in section 5.0 of the draft revised plan, under each measure, there are milestones which requires ports staff to meet with carriers and classification societies to evaluate the technical and safety issues.

CLAI-WSPA-7GC: Furthermore, it is not clear as to whether there will be credits and/or offsets for early actions. WSPA suggests that the Ports develop a matrix that matches the specific control measures to the appropriate compliance mechanisms and/or voluntary approaches. These concerns are discussed in more detail in the following sections.

Response: The Ports are concerned about discouraging early action and, in the revised Section 2.2, have proposed investigating ways to recognize early action.

CLAI-WSPA-8GC: WSPA understands the urgency to implement the CAAP. However, the premature rush toward prescribed standards that are currently technically infeasible can result in serious unintended consequences. There must be serious consideration and necessary time for companies to evaluate the technical feasibility of these prescribed standards, availability of ULSD fuels at 0.2%, and the task of facilitating the retooling of many independent ship owners' equipment. WSPA believes the answer lies in working together to balance the use of cleaner petroleum and renewable products with emerging engine and after-treatment products and technologies in a flexible manner.

Response: See response to comment CLAE-NRDC2-AttA-46OGV3, Frequently Occurring Comment Response #23, and response to comment CLAI-PMSA2-19OGV5.

CLAI-WSPA-9GC: POLA has acknowledged that "We don't want to dictate, we want to have flexibility and give options ... use cost effectiveness". Unfortunately, at this point, WSPA does not see that essential flexibility in the CAAP.

Response: The Ports believe that there is flexibility provided and willing to work with terminal operators and ship carriers to achieve the goals of the CAAP. As an example, under SPBP-OGV2 measure, the Ports acknowledge that tankers probably do not fit shore-power model thus encourages use of alternative technologies to achieve emissions reductions. The Ports also acknowledge that emerging new technologies need to go through "Technology Assessment Program" for feasibility and emission reduction estimation purposes. See also response to comment CLAE-NRDC2-AttA-46OGV3, Frequently Occurring Comment Response #23, and response to comment CLAI-PMSA2-19OGV5.



CLAI-WSPA-10GC: Marine equipment, from its very nature and use, is difficult to modify. WSPA is concerned that these proposed emission reduction measures are currently infeasible and present technical and safety issues. Therefore, there exists the potential for unintended consequences if these unproven measures were adopted for all categories of vessels.

Response: See response to comment CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLAI-WSPA-11GC: WSPA believes that development of the CAAP would benefit through initiation of a “technical advisory group” concept that would provide a forum for vetting the issues and providing alternatives for consideration and preventing the premature selection of mitigation strategies. The above proposed CAAP emission reduction measures – cold-ironing, fuel switching, and implementation of alternative technologies are all complicated undertakings.

WSPA recommends that the Port establish a Technical Advisory Group for the purpose of bringing together fuel providers, engine manufacturers, ship operators, after-treatment manufacturers and air quality experts to work with the Ports. The clear objective of the Technical Advisory Group would be to provide a cohesive technical source of information for the CAAP effort.

A Technical Advisory Group would provide a centralized forum for specific marine operations expertise that is currently not available to the Ports and their key stakeholders. This Group will serve to expedite the CAAP process by providing a “one-stop” forum for authoritative answers to critical technical questions.

For example, the Technical Advisory Group would review, the feasibility of fuel switching and cold-ironing in a transparent, interactive manner; thus allowing all parties to fully understand the realities of such a complex measure.

It is envisioned that the Technical Advisory Group would develop a realistic time frame to research and conduct pilot studies or demonstration projects and modification schedules that will provide adequate time to work vessel modifications around the industry standard vessel maintenance schedules.

WSPA is keenly aware of the need for the CAAP process to move forward in a timely fashion. The Technical Advisory Group provides a transparent venue for direct dialogue to review and assess feasibility of technical approaches already identified in the CAAP as well as evaluation and recommend other technological options that would enhance the CAAP. WSPA stands ready to work with the POLA/POLB to establish such a Technical Advisory Group.



Response: Comments noted.

CLAI-WSPA-12OGV: Safety is paramount for tanker operations and the industry has established stringent guidelines over the past decades for tanker design and operations.

Response: Comment noted.

CLAI-WSPA-12OGV3-OGV4: Fuel switching while under way in tanker main engines, auxiliary engines, or boilers presents serious safety concerns that include (1) shut down due to vapor lock, (2) leaks due to thermal shock, or (3) boiler explosions due to flameouts. Any practice that increases the risk of fire or explosion, no matter how minute, is unacceptable for a tanker with millions of gallons of hydrocarbon on board.

Also, a shut down or failure occurrence in the main engine of a typical single engine tanker presents a significant problem. A tanker adrift at sea increases the risk of a collision or the potential to ground the vessel on the California coast. An incident of this nature could result in significant adverse environmental impacts and billions of dollars of clean up costs and damages.

WSPA believes that the risk of these potential problems is not a reasonable trade off for the relatively modest gains in air quality for fuel switching. Fuel switching also has some of the same application issues as AMPing as tankers may require the addition of tanks and fuel system piping for low sulfur fuels.

Any of the proposed CAAP emission reduction measures must allow a master of a vessel the ability to determine if regulatory compliance would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination, or extraordinary reasons beyond the master's reasonable control. This is similar to CARB's Proposed Regulation Order Airborne Toxic Control Measure for Auxiliary Diesel Engines and Diesel-Electric Engines Operating on Ocean-Going Vessels within California Waters and 24 Nautical Miles.

WSPA highly recommends that fuel switching and any other new emissions reduction processes and technologies proposed by the CAAP be thoroughly evaluated by appropriate regulatory/industry groups for operational safety and technical feasibility. Only after a final determination of feasibility is made should proposed emissions reduction measures be implemented.

Response: See responses to comments CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.



CLAI-WSPA-13OGV3-OGV4: WSPA supports that the CAAP recognizes the importance of global commerce and distinguishes tankers from container ships. However, in many cases, the CAAP is not clear on whether the proposed control measures will be applied differently to tankers and other vessels such as container ships.

Response: See the revised draft plan which has been strengthened in this regards and Frequently Occurring Comment Response #23. In addition, the Ports staff will be available to work with the industry to clarify issues.

CLAI-WSPA-13OGV3-OGV4: Unlike the container trade with its dedicated fleets, the petroleum industry is heavily dependent on a large, global, and predominantly third-party owned tanker fleet. On-board emission mitigation measures specific to POLA/POLB become impractical to implement due to the large numbers of vessels that will only call on the San Pedro ports on an infrequent basis. The diversity of the global tanker fleet is in fact why tankers are regulated at the international level through the IMO.

This is further complicated by the fact that low sulfur fuels are not available in all of the ports where tanker trips will originate. POLA has specifically acknowledged this by stating that “while ULSD in vessel engines is an excellent option, many terminals do not have control over ships, and many only make one call a year-the ports need more tools to deal with this”.

Moreover, the July 2005 Starcrest Report commissioned by POLA entitled “Evaluation of Low Sulfur Marine Fuel Availability – Pacific Rim,” concludes that currently 0.2% sulfur fuel is of very limited availability, and providing such fuel on a larger basis in remote ports where tankers are likely to originate from will require significant new infrastructure, which will take time to construct. It should be noted that the Starcrest Report focused on the availability of low sulfur MDO/MGO only from the Pacific Rim and European countries where container vessels are likely to originate.

Considering the above issues and that the Ports’ prescribed ULSD standard (0.2%) is based upon a single port tenant “voluntary pilot” feasibility study, which has not yet been proven feasible or safe, it is premature for the Ports’ to mandate such a requirement until evaluated by appropriate regulatory/industry oversight and accreditation groups for operational safety and technical feasibility. Only after a final determination of feasibility is made should proposed emissions reduction measures be implemented.

At least one marine terminal operator has begun an evaluation of its contracted ships to determine the number of independent shippers willing to fuel switch and complete the retooling necessary, the time frames needed and at what cost. In addition, the oil industry must determine the impact on the worldwide inventory of CAAP compliant tanker



availability to protect against any disruption to oil imports and refinery fuel production and supply to California, Nevada, and Arizona.

WSPA suggests that this measure be deleted from the CAAP until such time as a complete evaluation of the feasibility of this measure has been conducted. Furthermore, WSPA recommends that the Ports review the work done by IPIECA on the implementation of MARPOL Annex VI. This work points out the issue of lower sulfur fuel availability and the impact to refining worldwide to find an outlet for higher sulfur materials.

Response: The Ports recognize that fuel availability issues remain to be resolved. However, the Ports feel that in light of CARB auxiliary engine fuel regulation coming into effect on January 1, 2007, and the measures outlined in the CAAP, the bunker market will respond to increased demand for marine distillates. In addition, the Ports are prepared to work with key stakeholders to ensure that sufficient quantities of marine distillate are available to meet the goals of the CAAP.

CLAI-WSPA-15OGV2: Due to the infrequent and variable nature of the international fleets, the Alternative Maritime Power (AMP) option for auxiliary engines is considered not to be a feasible emission reduction measure for most tankers. AMPing will only provide a small incremental reduction in emissions for most tankers because the electrical service loads are small.

As noted in the CAAP, AMPing may provide a greater reduction in emissions for diesel-electric tankers with electric discharge pumps. However, the numbers of such vessels are extremely limited. Further, there is a need to develop globally acceptable standards for AMPing facilities to ensure compatibility should the practice achieve wider acceptance and to address significant safety concerns.

Response: The Ports will evaluate the need for shore-side electrification or alternative emission control technology on a case-by-case basis.

CLAI-WSPA-16GC: WSPA believes one of the best and most effective ways to address growth while still achieving environmental goals is to set performance based health protective emission reduction limits and allow industry the flexibility to meet those limits in a manner that encourages development of new technology, and promotes competition.

One way to provide that flexibility is to allow the use of flexible market-based programs. Such flexible programs are better at allowing for sustaining operation of critically needed existing petroleum infrastructure at the ports as well as planning for additional infrastructure to meet future consumer energy supply needs.



While the market-based emission reduction program approach is noted in the CAAP Technical report (Section 3.1.6, pages 27-28 with reference to the Maritime Goods Movement Coalition proposal), the concept was not further developed in the CAAP. WSPA believes that the CAAP should address the market-based concept in a more explicit fashion.

That program has the potential to provide ship owners and operators needed flexibility. The CAAP should also include the possibility of providing a source of funding for the investments required to achieve the Plan goals. Allowing sources to tailor their own compliance strategies and permitted sources to access emission reduction opportunities outside their control can result in significant cost savings and jumpstarting technological investments.

Response: See Frequently Occurring Comment Response #20.

CLAI-WSPA-17GC: Today, the Port is experiencing congestion that has impacted the delivery schedule of petroleum products. Congestion issues are not expected to be alleviated anytime in the near future, as California becomes increasingly dependent on imports. Port congestion may reduce the availability of crude oil to the southern California refineries.

Insufficient crude oil deliveries will result in reduced transportation fuel supply that could in turn impact market prices for refined petroleum products. WSPA requests that the Port carefully assess the potential impact of the CAAP measures on port congestion and the unintended consequences of contributing even further to port congestion.

Response: Comment noted.

CLAI-WSPA-18HE: WSPA understands that there is significant concern for the risk resulting from exposure to diesel PM and ambient PM in general. In order to ensure we don't discourage development of otherwise beneficial projects, WSPA supports the application of current ambient air standards for PM and other existing state-wide risk programs that define acceptable risk levels. We do not support the suggestion that the Ports need to develop a unique acceptable risk level for the region. We support the Port's running sample simulations of estimated risk for anticipated projects. The proposed Technical Advisory Group could help with that evaluation and determining how best to apply existing risk threshold numbers to those estimated exposures.

Response: See Frequently Occurring Comment Responses #10, #11, #12, and #17.

CLAI-WSPA-19LA: The ports have failed to provide a legal analysis of their authority to impose the control measures in the plan. In fact, the Ports acknowledge in the CAAP that *"All control measures and implementation strategies/mechanisms are subject to further*



legal analysis by the City Attorneys of the respective ports.” WSPA believes the Ports must conduct this analysis before adopting the plan.

WSPA has serious concerns regarding the legal implications of the CAAP. Key issues include:

- The Ports lack the authority to impose emission-related requirements.
 - (a) Beyond the 3-mile limit.
 - (b) Beyond the 12-mile limit.
- The CAAP contains tank vessels operational and equipment requirements that are federally preempted.
 - (a) The Federal Ports and Waterways Safety Act (PWSA).
 - (b) The Clean Air Act (CAA).
- The CAAP contains requirements that would impose an impermissible burden on commerce.
- The use of lease agreements to impose OGV standards does not overcome the jurisdictional, preemption and commerce clause problems.
- The use of CEQA mitigation measures to impose OGV standards does not obviate the jurisdictional, preemption and commerce clause problems.
- The CAAP cannot be adopted without preparing the appropriate environmental analysis pursuant to CEQA.
(See Attachment A-Legal Implication of CAAP-CLAI-WSPA-ATTA)

Response: See Frequently Occurring Comments Responses #18.



CALIFORNIA NGV PARTNERSHIP

CLAI-CaNGVP-1GC: Express strong support for CAAP and our industry is committed to supporting your efforts. Also, commend all five agencies since this effort will surely improve the regions working/living conditions currently impacted by the Goods Movement Industry.

Response: Comment noted.

CLAI-CaNGVP-2GC: The draft plan correctly points out that, “the economic benefits of the Ports are felt throughout the nation” and yet “the environmental impacts of trade are more locally concentrated.” The CaNGVP wholeheartedly agrees with this statement and therefore believes that the Final CAAP should commit to and adopt Best Available Control Technology (BACT) strategies and clearly identify financial mechanisms needed to secure sustained funding for CAAP implementation.

Response: See the description of “Technology Advancement Program” in section 5.0 of the plan and Frequently Occurring Comment Response #7.

CLAI-CaNGVP-3GC:

Firm targets for criteria air pollutant reductions and a clear policy that (a) requires BACT when authority exists or (b) provides incentives or disincentives that strongly encourage the use of BACT when authority is lacking - for all emission source categories associated with the Goods Movement Industry;

Response: The Clean Air Action Plan proposes San Pedro Bay Standards, Project-Specific Standards, and Source-Specific Standards in Section 2 of the Technical Report.

CLAI-CaNGVP-4GC:

A timeline outlining when each measure will be fully implemented, paired with a requirement that a port-wide rule be adopted when measures fail to be fully realized by a date certain outlined in the Final CAAP;

Response: The revisions to the Clean Air Action Plan include a schedule of implementation for all measures. In most cases, implementation is tied to lease negotiations. Both the ARB and SCAQMD are crafting backup measures for inclusion in the SIP and AQMP that will achieve emissions reductions in the event that the CAAP falls short of its goals.



CLAI-CaNGVP-5GC-AF:

The consideration of partnering with third party fuel providers for the installation, maintenance and operation of proposed liquefied natural gas (LNG) or compressed natural gas (CNG) fueling stations;

Response: The ports will issue an RFP for the development of alternative fuel infrastructure in line with control measure SPBP-HDV2.

CLAI-CaNGVP-6HDV-AF:

The aggressive deployment of clean LNG/CNG trucks transporting containers from the Ports;

Response: Both the Ports and the SCAQMD have set aside a sizable portion of the budget of the plan toward incentivizing the replacement of conventionally fueled heavy-duty vehicles with those powered by LNG. The Ports also believe that by establishing infrastructure, a significant obstacle to the implementation of this strategy will be eliminated. See response to comment CLAE-NRDC2-AttA-4AF.

CLAI-CaNGVP-7AF:

A recognition of the important leadership role the Ports can play in advancing the country's use of alternative transportation fuels that help clean the air;

Response: Comment noted.

CLAI-CaNGVP-8Fund:

The identification and scheduled adoption of a financial mechanism (i.e., container fees) by the Ports that can augment the November bond initiative and sustain the significant financial obligations that will be required to clean up Southern California's Goods Movement system;

Response: An in-depth discussion of this topic can be found in the revised Plan and in Frequently Occurring Comment Response #7.

NGV AMERICA

CLAI-NGVA-1GC: The Port of Los Angeles and Port of Long Beach are to be commended for the development of their Clean Air Action Plan. NGVAmerica believes that, although ambitious in scope, the Plan is nevertheless critical to the continued economic growth of the ports and the surrounding areas, and to ensuring the health of the air in and around the ports. NGVAmerica supports this aggressive effort to accelerate the introduction of cleaner technologies, and the recognition of the benefit of alternative fuel



technologies as evidenced by the alternative fuel pathway. The natural gas industry stands ready to support this endeavor and to ensure its success.

Response: Comment noted.

CLAI-NGVA-2AF: As proposed, this plan would accelerate the introduction of more than 5,000 natural gas powered trucks. Without question, these vehicles will begin providing significant emission benefits as soon as they begin operating since natural gas heavy-duty vehicles already have demonstrated the ability to certify to and provide the lowest emission levels in the heavy-duty vehicle market today. In addition, these vehicles will help America address its reliance on petroleum motor fuels. Fuel diversity is consistent with California's stated objective of reducing its reliance on foreign petroleum. Fuel diversity also provides added assurance that the technology and vehicles needed for the Plan will be available and increases the likelihood of success.

Response: Comment noted.

CLAI-NGVA-3GC: The primary concern that NGV America has with the current Plan is the lack of details on the specific incentives (aside from the vehicle purchase incentives), and the timing of the incentives that will be implemented to encourage truck operators to accelerate the use of the cleanest available technologies. As currently drafted, the Plan anticipates the adoption of incentives such as green lanes and sliding tariffs and other preferential treatment for the cleanest vehicles, but the details for these incentives have not yet been fully developed. We believe it is critical to the successful launching of the Plan that these details be developed as soon as possible and that these measures be put in place sooner rather than later. The adoption of such measures is critical to ensuring the use of the cleanest technologies.

Response: See the revised and expanded discussion of control measure SPBP-HDV1 for a discussion of key milestones for implementation.

CLAI-NGVA-4HDV: Emission Requirements for Vehicle Technologies Should be More Clearly Spelled out. The draft Plan states that clean trucks will meet or exceed the 2007 on-road PM standard (0.01 g/bhp-hr) and "must be the cleanest available NO_x at time of replacement or retrofit." The requirement as currently written for NO_x emission is not clear. Cleanest available could refer to the required emission standard for a particular year, optional low-emission levels, the full 2010 NO_x level of 0.2 g/bhp-hr (since some engines will soon be available that meet this level), or it could even refer to demonstrated levels below 0.2 g/bhp-hr. It also is less than clear whether diesel replacement vehicles will be held to the same level of emission performance that alternative fuel engines must meet. Will diesel vehicles have to demonstrate that they can meet the levels already achievable by natural gas engines in order to qualify for funding under the replacement program? It is almost certain that diesel replacement vehicles and retrofit technology will not meet the levels currently demonstrated with natural gas



engines. The scenario that is the focus of the technical plan currently anticipates or projects a 50/50 implementation of vehicle replacements with diesel and alternative fuel replacements sharing equally but notes that budgeting decisions made by the individual ports will determine the actual mix of vehicles funded.

Response: As stated earlier, the Ports' Plan is generally fuel neutral and the choice of whether or not to convert from diesel to LNG is ultimately the decision of the heavy truck owner/operators. Through the Plan, the Port's are attempting to ensure that whatever the choice, that the lowest emitting technology within a specific fuel type, are purchased. Incentives offered by the Ports, the SCAQMD and the federal government, as well as the establishment of LNG fueling infrastructure should be sufficient to make LNG a viable option. See also response to comment CLAE-NRDC2-AttA-4AF.

CLAI-NGVA-5HDV: NGVAmerica supports the adoption of requirements that specify the acquisition of the cleanest available technologies. This should encompass evaluating actual (not just certification) emission performance levels of available technologies and requiring operators to acquire the cleanest technology. We believe natural gas engines, if they emit lower emissions than readily available diesel engine/vehicles, should be declared the cleanest available technology. This way natural gas and diesel engines will be treated equally in terms of emission performance.

Response: See response to comment CLAI-NGVA-4HDV.

CLAI-NGVA-6HDV: If natural gas engines in fact are held to more demanding levels and the ports strive to maintain a 50/50 pathway approach, natural gas vehicles should qualify for greater incentive. Stated a different way, diesel vehicles should not be fully funded at 100 percent of acquisition cost if they do not meet the same emission requirements as natural gas engines. In this way, the program at the point of acquisition will provide an upfront incentive for truck owners to select the cleanest technology.

Response: See response to comment CLAI-NGVA-4HDV.

CLAI-NGVA-7HDV: The final Plan also should clarify the NO_x emission levels required for retrofit systems. As noted above, cleanest available is open to interpretation. Moreover, the draft Plan gives the impression in some places that retrofit technology must meet all the 2007 requirements. It is highly unlikely that any diesel retrofit systems will be capable of improving emissions of pre-2007 diesel vehicles so that they meet either the 2007 phase-in level or the 2010 final level for NO_x emissions.

Response: See response to comment CLAI-NGVA-4HDV. With regard to retrofit technology, the Ports do not expect to meet the full 2007 requirements, rather the Ports expect the use of technology that would achieve results similar to a diesel particulate filter with a lean NO_x catalyst.



CLAI-NGVA-8CE: The technical report on page 54 implies that diesel strategies are more cost-effective when it comes to reducing diesel particular matter. However, this statement does not take into account recent studies comparing the likely cost of new natural gas and diesel engines. These studies show that actual lifecycle costs of natural gas engines are expected to be quite competitive with diesel engines that are certified to the 2007 engine standards and that operate on lower-sulfur fuels. The complexity of these newer engines, the higher initial costs, the higher maintenance costs and the higher cost of diesel fuel all are expected to improve the operational economics of natural gas engines compared to diesel engines. This in turn should improve the economics of emission reductions as well. Another environmental advantage of natural gas engines is reduced greenhouse gas emissions, another important objective of the state of California.

Response: The Plan's measures are designed to reduce diesel particulate matter, a known toxic air contaminant, as expeditiously as practicable. See also Frequently Occurring Comment Response #25.

CLAI-NGVA-9CE: In addition, cost-effective comparisons that only look at achievement of certification standards ignore that in-use emissions might actually be different. Recent studies have shown that, in-use, newer diesel engines produce far more emissions than the standards to which they are certified. According to these studies, natural gas engines appear to produce emissions much closer to their certification numbers. Another important point to consider is the potential ability of natural gas engines to be even cleaner than the 2010 standards. Since some natural gas engines have already demonstrated the ability to meet these levels way a head of schedule, it is reasonable to predict that with additional technological advancements that natural gas engines will be even cleaner in the future.

Response: The Ports are aware of the modifications to the heavy-duty emission rates proposed by the ARB. However the emission rates of vehicles yet to be built remain unknown. As the Clean Air Action Plan was designed to be a living document, the plan will be adjusted as additional information, such as the actual emission rates of heavy-duty diesel trucks certified to 2007 standards, the Plan will be adjusted accordingly.

CLAI-NGVA-10Fund: The technical report says the recent federal energy policy incentives are 40% of incremental cost of the vehicle and 30-cents per gallon. These incentives are actually even larger than this.

For tax paying entities, the tax credit for natural gas is actually 35.2 cents per diesel gallon equivalent for CNG and 43.5 cents per diesel gallon equivalent for LNG. As approved by Congress, the tax credit is 50-cent per gasoline-gallon-equivalent for compressed natural gas (CNG) and 50-cents per liquid gallon for liquefied natural gas (LNG) when used as motor vehicle fuels. The excise tax will be increased at the same time the tax credit goes into effect to 18.3 cents per gasoline-gallon-equivalent for CNG and 24.3 cents per liquid



gallon of LNG. On a diesel-gallon-equivalent basis, the net excise tax credit for taxpaying entities is 35.2 cents for CNG and 43.5 cents for LNG. Since non-paying entities are exempt from paying the excise tax, their excise tax credit would be far greater – i.e., 55.6 cents per DGE for CNG and 84.5 cents per DGE for LNG. The fuel tax credits were adopted as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109 – 59, § 11113, 119 Stat. 1144, 1946 - 1949 (Aug. 10, 2005) – also known as the Highway Bill. Because of concern over America’s dependence on foreign oil, Congress included in the excise tax credit (referred to as the Volumetric Energy Excise Tax Credit for Alternative Fuels or VEETC) to sellers of CNG or LNG. In situations where there is no seller (e.g., where the CNG fueling facility is owned and operated by the entity using the fuel), the customer or user of the fuel is eligible for the credit. The credit goes into effect on October 1, 2006 and is scheduled to expire on September 30, 2009. However, it is widely expected that Congress will extend the credit beyond 2009.

The tax incentives for dedicated natural gas vehicles were adopted as part of the Energy Policy Act of 2005, Pub. L. No. 109-58, § 1341, 119 Stat. 594, 1045 –1049 (Aug. 8, 2005). These tax incentives are currently in effect and extend through the end of 2010. The tax credit goes to the buyer of a new, dedicated natural gas vehicle, and is worth 50 percent of the incremental cost of the vehicle, plus an additional 30 percent if the vehicle meets more demanding emission standards. Since the ports will be requiring the best available technology, it should be assumed that the natural gas vehicles purchased under the ports program will qualify for the 80 percent incentive – not the 50 percent. For heavy-duty vehicles over 26,000 lbs., the credits can be applied to the first \$40,000 of the incremental price. In other words, the maximum tax credit for these vehicles is \$32,000 (80 percent of \$40,000). For non-tax-paying entities (such as municipalities), the seller of the vehicle can take the credit, with some or all of the incentive passed to the buyer in the form of a lower vehicle purchase price.

Response: Comment noted.

CLAI-NGVA-11GC: According the draft Plan, the ports plan to adopt a number of different incentives, beyond paying the purchase price of a new truck, in order to encourage acquisition of cleaner trucks, including: “lease requirements to require the use of ‘clean trucks’; a green lane program to expedite clean trucks; a medallion program to limit ‘dirty trucks’; tariff changes; or a sliding fee mechanism that favors ‘clean trucks.’ See Draft Plan, p 27. NGVAmerica supports the adoption of the contemplated measures and urges the ports to expedite the introduction and implementation of such measures. We believe that they will be critical to ensuring that truck operators acquire the cleanest vehicle technologies available. Our concern is that, if the plan is rolled out without these incentives or provisions already in place, truck operators will be less inclined to choose the cleanest available technologies. As noted elsewhere, we think the merits of natural gas



will convince many truck operators to switch to natural gas. The federal tax incentives and the financial incentives for the purchase of a new truck, along with the initiative to develop fueling, will go a long way toward convincing operators that natural gas is the best choice. However, some operators will still be reluctant. These additional incentives, particularly those non-financial incentives that assist in the day-to-day operation of alternative fuel vehicles, can help to overcome this initial reluctance. We, therefore, again urge the ports move quickly to adopt these other incentive measures.

Response: Comment noted.

CLAI-NGVA-12HDV: NGVAmerica believes that fueling infrastructure can and should be privately developed at the ports. The economic incentive exists for private operators to come in and build and operate fueling for alternative fuel vehicles. We believe that this will result in better maintained and operated fueling station since these businesses know first-hand how to build and operate such stations and will have an incentive to keep them operating smoothly. Also, this will mean that additional funding is available to devote to vehicle replacements and retrofits.

Response: The Ports will issue an RFP for the development of alternative fuel infrastructure in line with control measure SPBP-HDV2.

CLAI-NGVA-13HDV: The plan to pay for the purchase of vehicles should include some guarantee or commitment that truck operators will continue to operate their vehicles at the port for a minimum period of time, and perhaps require any operators that take their vehicles out of state to refund a portion of the fee.

Response: Owner/operators who take advantage of the Plan incentives will be required to continue to service the Ports.



CALIFORNIA NGV COALITION

CLAI-CNGVC-1GC: For more than 16 years, the natural gas vehicle (NGV) industry has led the way in reducing emissions from vehicles. NGVs in the future represent not only a solution to today's environmental problems but an economically viable fuel option. The Coalition would like to go on record to express its strong support for the CAAP.

Response: Comment noted.

CLAI-CNGVC-2GC: The Port of Los Angeles and Port of Long Beach are to be commended for the development of an aggressive Clean Air Action Plan. The Coalition is pleased that both ports have been able to work closely together in preparation of the plan and have solicited input and review of major regulatory agencies like CARB, EPA, and SCAQMD.

Response: Comment noted.

CLAI-CNGVC-3GC: While the CAAP is certainly comprehensive, aggressive and broad in scope it is obvious from attending the public meetings that the communities surrounding the ports would like to see even more aggressive measures implemented sooner. The Coalition recognizes the ports as a major economic engine for California and U.S., but the environmental consequences are severe to the communities surrounding the ports and the Los Angeles basin in general.

Response: Comment noted.

CLAI-CNGVC-4GC: The Coalition strongly recommends that the Final CAAP include a commitment to adopt the Best Available Control Technology (BACT). BACT comes with a price and therefore it is essential that the CAAP clearly identify financial mechanisms for sustained funding to aggressively implement CAAP provisions. If BACT requirements can't be mandated, then appropriate incentives should be offered to assure BACT implementation. Incentive mechanisms should not be as generous for technologies not meeting BACT. The public noted their interest in implementing the best (lowest emission) technologies immediately.

Response: The Clean Air Action Plan proposes San Pedro Bay Standards, Project-Specific Standards, and Source-Specific Standards in Section 2 of the Technical Report. In addition, the Ports have committed to a Technology Advancement Program in section 5.0 of the plan.

CLAI-CNGVC-5Fund: The Coalition strongly recommends that the Final CAAP include identification of long term, sustainable funding for the CAAP. The public was very emphatic that it wanted to see container fees vs. bond issues as the primary financial mechanism to implement the CAAP. The ports have indicated that potential tariff modifications are also a source of funding for the plan. Regardless of the outcome of the bond initiatives, the ports need to look forward to long term sustainable financial support



for the CAAP. The sooner this happens, the greater confidence the public will have that the ports mean business.

Response: See Frequently Occurring Comment Response #7.

CLAI-CNGVC-6AF: The Coalition strongly recommends that the Final CAAP include maximizing the utilization of alternative fuels like LNG to reduce the mobile emissions problems of NOX, PM, and toxics. The current plan calls for potentially 5,000 LNG trucks for the port container handling and transfer operations. LNG technology has been shown to be the lowest emission technology for both criteria pollutants and toxics. The Final CAAP should investigate how to maximize the penetration of this technology into port operations. The ports need to consider partnering with engine and vehicle manufacturers and third party fuel providers to maximize the penetration of LNG technology into cargo handling operations.

Response: See response to comment CLAI-NGVA-4HDV.

CLAI-CNGVC-7GC: The Coalition strongly recommends that the Final CAAP include definition of an aggressive timeline for implementing measures in the plan. The public is skeptical that the ports will implement the plan in an aggressive manner. The ports therefore need to develop a timeline and report progress to the public with implementation metrics that the public can understand.

Response: The revised plan includes the details for the implementation of each measure.

CLAI-CNGVC-8GC: The Coalition strongly recommends that the Final CAAP include development of an option for port-wide rules and regulations. The ports are counting on renegotiation of leases as the mechanism to implement many of the mitigation provisions. However, as the ports have noted, it may take years for a particular lease to come up for renegotiation. The timing of these negotiations could result in inequities – being more stringent in future negotiations depending on shortfalls in achieving near-term goals. It is therefore incumbent upon the ports to plan for port-wide rules and regulations to establish the baseline for future lease negotiations.

Response: See Frequently Occurring Comment Response #3.

CLAI-CNGVC-9GC: The Coalition and the NGV industry should be viewed as committed partners to assist the ports achieving their goals.

Response: Comment noted.

CLAI-CNGVC-10AF: The ports' commitment to LNG and alternative fuel trucking are supportive of a state goal to reduce petroleum consumption. We believe that LNG is going to offer an attractive economic proposition for the ports as well as providing the cleanest emission technology – something the public has vocally supported in the public meetings.



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Response: Comment noted.

CLAI-CNGVC-11Fund: Achieving success for the CAAP will require far more funding that has been identified in port budgets, SCAQMD co-funding, or proposed bond measures. The ports must therefore look to other funding options, such as container fees, to provide long-term sustainable funding for the program. We think that development of these funding strategies is needed immediately and should be independent of current ballot bond initiatives.

Response: See Frequently Occurring Comment Response #7.



WILMINGTON CHAMBER OF COMMERCE

CLAI-WCoC-1GC: No business or industry should suffer a sudden change in their financial condition as a result of CAAP implementation. This includes the belief that no business should suffer a decline in financial condition relative to its competitors in the same marketplace due to CAAP.

Response: See response to comment CLAC-NSPNC-18LR..

CLAI-WCoC-2GC: CAAP mitigation measures should be applied locally where the greatest need for mitigation exists. The communities most directly impacted by port operations should also be the beneficiaries of local projects' benefits.

Response: Comment noted.

CLAI-WCoC-3HE: CAAP should not conflict with federal, state or local laws/regulations in order to avoid delay of CAAP implementation due to litigation (or threat thereof). A key concern is the 10 in 1,000,000 threshold, which appears to exceed even CEQA's requirements and would likely lead to the unintended consequence of delaying emission reducing projects, or abandonment of such projects altogether.

Response: See Frequently Occurring Comment Response #29.

CLAI-WCoC-4HDV: An immediate change in the trucking model would be unfair and economically devastating to the entire industry.

Response: Comment noted.

CLAI-WCoC-5HDV: Regulations requiring truck fleets to use alternative fuels could jeopardize the use of funds from public bonds as noted in SB 1266.

Response: See response to comments CLAE-NRDC2-AttA-4AF and CLAI-SGVEP-2Fund.

CLAI-WCoC-6LR: Careful consideration must be given to the use of leases to implement CAAP measures since terminal leases renew at widely varying times. Even a short period of time between the imposition of a measure for one terminal, and not the others, could have a devastating effect on the financial condition of the terminal burdened with the additional cost.

Response: Comment noted. See also Frequently Occurring Comment Response #3.

CLAI-WCoC-7GC: Strongly supports emission reductions and AQ improvement in the region, as well as managed growth that results in an increase of employment of well paying jobs. These goals are not mutually exclusive, but will be expensive. It is the obligation of the CAAP agencies to ensure that all money spent, public and private, will result in an effective use of funds.



Response: Comment noted.

LOS ANGELES CHAMBER OF COMMERCE

CLAI-LACoC-1GC: Strongly supports the inclusion of market mechanisms instead of burdensome mandates.

Response: See Frequently Occurring Comment Response #20.

CLAI-LACoC-2HDV: The proposed CAAP mandates trucks run on alternative fuels. But state policy and language in bond measure SB1266 prohibit public funding of technology required by regulation. Changing this regulation to a guideline will preserve public funding.

Response: See responses to comments CLAI-SGVPEP-2Fund and CLAE-NRDC2-AttA-4AF.

CLAI-LACoC-3GC: CAAP should include emissions credit and trading opportunities to allow greater flexibility to use/develop the most cost-effective compliance strategies. This provides an incentive to accelerate clean technology and will also prevent potentially costly litigation.

Response: See Frequently Occurring Comment Response #20.

CLAI-LACoC-4HE: The 10 in 1,000,000 risk standard for DPM will impede port growth and discourage projects that would operate at risk levels significantly below current standards. EPA recognizes a 100 in 1,000,000 level as presumptively acceptable while ARB has identified port-adjacent areas with risks exceeding 500 in 1,000,000. A threshold lower than EPA's is worth considering but the current proposal is excessively burdensome and fails to balance economic feasibility with health risks.

Response: See response to comment CLI-RR-8HE and Frequently Occurring Comment Responses #10, #11, #12, and #17.



LONG BEACH CHAMBER OF COMMERCE

CLAI-LBCoC-1GC: Long Beach Chamber shares Port's goal of improving air quality. Congratulates the Port and Harbor Commissioners for taking the bold step to develop this plan and please to see the actions taken by ports and their tenants have reduced emissions over 50% from all CHE at the terminals. Also please to see voluntary efforts of railroads via the MOU. These are examples of the power of business working together to improve air quality.

Response: Comment Noted.

CLAI-LBCoC-2Fund: The final CAAP should provide an estimate of the costs imposed on the business community to support the plan.

Response: See Frequently Occurring Comment Response #28.

CLAI-LBCoC-3GC: The final CAAP should provide a detailed cost-effectiveness evaluation of all the measures.

Response: See Frequently Occurring Comment Response #28.

CLAI-LBCoC-4GC: The CAAP must be consistent with federal and state standards. The draft CAAP provides specific compliance dates that are inconsistent with federal (locomotives) and state (CHE) regulations in both timing and emission performance. As drafted the CAAP would require companies to purchase equipment in a timeframe that will not be available in the marketplace.

Response: See Frequently Occurring Comment Response #29.

CLAI-LBCoC-5GC: Concerned that portions of the CAAP will impede growth. The CAAP does not currently allow for flexibility and innovation. Recommend that incentives and flexibility in achieving the goals be used instead of specific mandates of technology.

Response: See response to comment CLAC-NSPNC-18LR and Frequently Occurring Comment Response #23.

CLAI-LBCoC-6RL: Encourage continued innovation in the area of reducing congestion on freeways. Increasing rail infrastructure and improving operational efficiencies are critical to this goal. PierPass has been a very good example of changing business practices to reduce congestion.

Response: Comment noted. Refer you to section 5.9 entitled "Infrastructure & Operational Efficiency Improvements Initiatives" of the revised draft plan and Frequently Occurring Comment Response #9.



CLAI-LBCoC-7HE: The 10 in 1,000,000 excess cancer risk threshold is a no growth policy. SCAQMD uses this as a “significance threshold” for CEQA analysis. But for permitting of stationary sources SCAQMD uses 25 in a million as their risk goal, and their Board can approve permits with risk less than 100 in a million based on lack of technology and other factors. In addition, the port is using California’s very conservative diesel risk factor in their analysis. EPA has not yet adopted a diesel risk factor. Request Ports to revise this policy to one that allows Boards of the Harbor Commission to evaluate each project on its own merits and not one that disqualifies the project based on the overly restrictive 10 in a million standard.

Response: See response to comment CLI-RR-8HE and Frequently Occurring Comment Responses #10, #11, #12, and #17.

CLAI-LBCoC-8HDV: Support the transformation to clean trucks, but are concerned that the alternative fuel mandate will disqualify thousands of owner operator drivers whose living depends on port business. We have not seen the data that shows alternative fuel trucks are “cleaner” than the new diesel technology.

Response: See response to comment CLAI-NGVA-4HDV.

CLAI-LBCoC-9HDV: Also, this regulation could disqualify the port from receiving matching funds from the Bond, should it pass in November.

Response: See response to comment CLAI-SGVEP-2Fund.

CLAI-LBCoC-10RL: Supports the use of a combination of on-dock and near-dock rail infrastructure as well as operational efficiencies to improve air quality.

Response: See Frequently Occurring Comment Response #9.



MARITIME GOODS MOVEMENT COALITION

CLAI-MGMC-1GC: We strongly support the inclusion of market mechanisms in the CAAP. There are many advantages to using market mechanism, including the possibility of providing a source of private funding for many, if not most, of the investments that will be required to give life to the plan's aspirations. By allowing sources to tailor compliance strategies to their own individual circumstances and by permitting sources access to emission reduction opportunities outside of their control, a well-designed market approach also can reduce costs significantly - usually by over 25% relative to traditional approaches and often by as much as 50%. A market approach can dramatically accelerate participation by regulatory sources by jump-starting technology investment and accelerating engine turnover once credit-generating protocols are approved. This can be accomplished much more quickly than lease revisions, but it can also provide an additional incentive for sources to consider lease revisions. Finally, a market approach can bridge gaps in legal authority that may exist and potentially avoid years of contentious lease negotiations or litigation. Because the elements of a market-based approach will be vital to the success of the CAAP, we urge the ports to work with the air quality agencies promptly to develop the necessary regulations to implement a market program.

Response: See Frequently Occurring Comment Response #20.



CLAI-MGMC-2HE: The Draft CAAP suggests that each project should be evaluated, among other indicators, by reference to an estimated significant risk threshold of 10 in 1,000,000. Although the Draft CAAP refers to this level as the “generally accepted” threshold, in fact there is as yet no generally accepted significance risk threshold for diesel particulate emissions.¹ We are concerned that setting this threshold as low as 10 in 1,000,000 could have the unintended and counterproductive impact of actually discouraging projects that cannot meet that extremely low level but that nevertheless would operate at risk levels significantly below those of existing operations at the ports. Given that ARB has identified areas near the ports that are exposed to estimated risk in excess of 500 in 1,000,000, would it not make sense to set a project risk threshold more in the 25 or 100 in 1,000,000 range? This would still ensure a reduction in estimated risk of over 80-95% in the high risk areas and would be consistent with both the SCAQMD’s definition of “significant risk” in Rule 1402 for total facility emissions and the 100 in 1,000,000 level that EPA considers to be presumptively acceptable. It also would be much less likely to discourage the development of otherwise beneficial projects at the ports.

Response: See response to comment CLI-RR-8HE and Frequently Occurring Comment Response #10, #11, #12, and #17.

¹ The South Coast uses 10 in 1,000,000 as an upper-bound risk level for new sources of specified toxic air contaminants in its Rule 1401 (“New Source Review of Toxic Air Contaminants”), but the rule applies that risk level only to individual permit units, not as an aggregate risk cap on multiple sources. To apply that same risk threshold to an entire project at the port would seem inappropriately stringent, particularly given that Rule 1401 does not even include diesel particulate emissions among its covered pollutants. SCAQMD Rule 1402 is perhaps a more analogous regulation because it addresses risk from the grouping of sources found at a facility. It sets an “action” risk level for total facility emissions at 25 in 1,000,000, but notably defines “significant risk” to occur at the higher risk level of 100 in 1,000,000. See SCAQMD Rule 1402(c)(2) and (14). Likewise, Rule 1402 does not include diesel particulate emissions as a covered pollutant. Finally, although EPA’s residual risk guidelines aspire to protect the maximum number of people at the lowest practical risk levels, similar to Rule 1402, the guidelines identify 100 in 1,000,000 as the presumptive upper-end range of acceptable risk, subject to consideration of a variety of risk assessments factors, including the conservatism and uncertainties of the risk assessment process and the weight of evidence that a pollutant is harmful to health. As part of the second of EPA’s two-step process for setting residual risk levels to provide an “ample margin of safety,” the agency also considers a variety of other factors, including “costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors.” See, EPA Residual Risk Report to Congress (March 1999) at 8, 127. The 10 in 1,000,000 risk level proposed in the Draft CAAP thus is neither consistent with other air quality agency determinations nor is it warranted based on consideration of the economic and risk factors that should be considered as part of any reasonable risk management process.



CLAI-MGMC-3GC: At a minimum, before selecting a final risk benchmark, we urge the ports to run some sample simulations of estimated risk to evaluate the extent to which anticipated projects can actually meet the proposed risk level and to determine whether such a stringent level could unintentionally discourage or prevent projects that could implement appropriately updated and advanced technologies and perform well below current risk levels, yet still not meet the 10 in 1,000,000 benchmark.

Response: Comment noted.

HARBOR ASSOCIATION OF INDUSTRY & COMMERCE

CAAP needs to consider a balance between health and economic factors.

Response: See response to comment CLAC-NSPNC-18LR.

CLAI-HAIC-1HE: The 10 in 1,000,000 risk standard for risk threshold is excessively restrictive. This risk standard will likely discourage projects that would operate at risk levels significantly below current standards. EPA recognizes a 100 in 1,000,000 level as presumptively acceptable while ARB has identified port-adjacent areas with risks exceeding 500 in 1,000,000. It would be counterproductive to prevent projects that would perform well below existing risk levels, but fail to meet the 10 in 1,000,000 standard.

Response: See response to comment CLI-RR-8HE and Frequently Occurring Comment Response #10, #11, #12, and #17.

CLAI-HAIC-3GC: Cost and technological feasibility are required considerations under CEQA and the Clean Air Act. It is state policy to create and maintain conditions under which human beings and nature can exist in productive harmony to fulfill social and economic requirements of present and future generations. (Cal. Pub. Res. Code Section 21001(e)). Additionally, state policy requires government agencies at all levels to consider qualitative environmental factors, as well as economic and technical factors in public decision making. (Cal. Pub. Res. Code Section 21001 (g))

Response: See response to comment CLAC-NSPNC-18LR and Frequently Occurring Comment Response #28.

CLAI-HAIC-4Fund: The final CAAP should provide an estimate of the costs imposed on the business community to support the plan.

Response: See Frequently Occurring Comment Response #28.

CLAI-HAIC-5GC: The final CAAP should provide a detailed cost-effectiveness evaluation of all the measures.

Response: See Frequently Occurring Comment Response #2.



PASADENA CHAMBER OF COMMERCE

CLAI-PCoC-1C: We have reviewed the CAAP and applaud your efforts to develop a plan to make our ports cleaner and more efficient. However, we would hope that the business community throughout the greater Los Angeles area would be involved in developing such a plan, and so we appreciate the opportunity to provide the following comments.

Response: Comment noted.

CLAI-PCoC-2C: Our primary concern is that the business community, which has already made substantial investments in improving air quality, be involved in developing realistic goals and timeframes. We are concerned that this plan, as written, places burdensome mandates on several elements in the goods movement process that could prove to impede the progress already made toward a cleaner environment. We think that putting more emphasis on an incentive-based program with a more flexible timeframe would better achieve the goals sought by CAAP.

Response: See response to comment CLAI-PMSA2-9LR-LA.

CLAI-PCoC-3C: Although our organization is not deeply immersed in the federal regulations regarding the ports, after a cursory review, it appears that there are some areas in the CAAP that are not consistent with federal and, perhaps, state standards. If that is correct, and unrealistic goals and timeframes are mandated, we are concerned that the hard work you have put forth will result in chaos and confusion when, truly, all stakeholders have the same goals...improved air quality, reduced health risks and more efficient goods movement.

Response: See Frequently Occurring Comment Response #29.

CLAI-PCoC-4C: The Pasadena Chamber of Commerce appreciates all that you are doing to ensure that LA County achieves these goals. We appreciate the opportunity to submit comments and hope that you will consider actively involving the business community as you move forward. If you have any questions, please feel free to contact me at 626-795-3355.

Response: Comment noted.



SOUTH BAY LATINO CHAMBER OF COMMERCE

CLAI-SBLCC-1GC: Commends Ports and the agencies on the collaborative and ground-breaking effort to reduce emissions related to port operations through the CAAP.

Response: Comment noted.

CLAI-SBLCC-2GC: It is our expectation that all comments received from SBLCC and other industry stakeholders will be taken into serious consideration, so a better and more practical CAAP will evolve throughout its implementation.

Response: See Frequently Occurring Comment Response #27.

CLAI-SBLCC-3GC: It is in the best interests of the ports and the community that we improve our air quality and reduce health risks while not causing deterioration in economic activity.

Response: See response to comment CLAC-NSPNC-18LR.

CLAI-SBLCC-4GC: Businesses have made substantial investment in R&D, procuring equipment, and installation of emission-reduction measures and are expected to continue at an unrealistic rate. Business should be invited to provide input on the real costs and timeframes required to meet the emission reduction standards in order to support the CAAP.

Response: See response to comment CLAI-PMSA2-9LR-LA.

CLAI-SBLCC-5GC: When mandates are brought forth that create competitive disadvantages for companies to do business here, it causes more economic harm than good. Businesses should be rewarded for technological advancements by providing incentives for growth and flexibility in achieving emission-reduction goals instead of mandates for specific technologies that may or may not be best for the operations of that company. BACT should be implemented within a realistic time frame that affected stakeholder businesses can agree upon.

Response: See response to comment CLAI-PMSA2-9LR-LA.

CLAI-SBLCC-6RL: The railroads and the marine terminals have been innovative in changing business practices to absorb some of the container growth through the ports. Pier Pass has been a very good example of changing business practices to reduce congestion on the I-710. Near-dock facilities, such as BNSF's proposed SCIG facility will reduce over 1 million truck trips off the I-710 freeway and is an important project that will improve the movement of goods through Long Beach. The SPB Ports, industry stakeholders, and the business community should work together to develop innovative cost-effective strategies in the area of reducing congestion on our freeways.



Response: Comment noted. The Ports recognize and appreciate all of the voluntary emissions reduction projects that industry has initiated.

CLAI-SBLCC-7HE: The 10 in 1,000,000 excess cancer risk threshold that a project must meet before a BOHC can approve it is a no growth policy. SCAQMD uses this as a “significance threshold” for CEQA analysis, although there is currently no generally accepted significance risk threshold for DPM. For permitting of stationary sources SCAQMD uses 25 in a million as their risk goal, and their Board can approve permits with risk less than 100 in a million based on lack of technology and other factors. In addition, the port is using California’s very conservative diesel risk factor in their analysis. EPA has not yet adopted a diesel risk factor. There is a very real possibility that setting the thresholds too low could have the unintended and counterproductive impact of discouraging projects that cannot meet the extremely low level, but would still operate at risk levels significantly below those of existing operations at the ports. Request Ports to revise this policy to one that allows Boards of the Harbor Commission to evaluate each project on its own merits and not one that disqualifies the project based on the overly restrictive 10 in a million standard.

Response: x See response to comment CLI-RR-8HE and Frequently Occurring Comment Response #10, #11, #12, and #17.

CLAI-SBLCC-8HDV-AF: Support the transformation to clean trucks, but are concerned that the alternative fuel mandate will disqualify thousands of owner-operator drivers whose living depends on port business. The data proving alternative fuel trucks are “cleaner” than the new diesel technology have not been disseminated to the industry. Ports should consider alternatives to passing regulation by setting targeted goals for emission reductions, and remove mandates that trucks only operate on alternative fuels.

Response: See response to comment CLAI-NGVA-4HDV.

CLAI-SBLCC-9Fund: SBLCC supports Rebuilding California, the November 2006 Bond Initiative. However, it should be noted that since bond funds can not be used for mandated technology, the alternative fuel truck regulation could disqualify the port from receiving matching funds from the Bond, should it pass in November. In addition, there is no clear plan as to where additional funding beyond Port’s contribution for CAAP implementation will come from. The Ports should adopt the Governor’s Goods Movement Action Plan in order to be more competitive on a state-wide level for available funding. The CAAP should also include guidelines to identify alternative sources of funds should bond money not be available.

Response: See responses to comments CLAI-SGVEP-2Fund.



WATERFRONT COALITION

CLAI-WC-1GC: Our members are responsible for paying this revenue and moving this commerce. As such we make an enormous contribution to the health and vibrancy of southern California's economy and we have an interest in insuring that southern California's ports continue to handle freight efficiently and in an environmentally responsible manner. The Waterfront Coalition supports efforts to insure that continued growth in cargo volumes through southern California does not significantly harm the environment.

Response: See response to comment CLAC-NSPNC-18LR.

CLAI-WC-2HDV: The Action Plan calls for the complete replacement or upgrade, by 2011, of more than 16,000 harbor trucks that currently call the port to guarantee that these trucks use the cleanest burning technologies available at the time of replacement or upgrade. To achieve this goal the Action Plan states that the ports may: (1) require terminal operators to deny entry of any harbor trucker that is not in possession of a permit indicating the use of approved clean burning equipment (the "Medallion" proposal), (2) pursue a lease buy-back option whereby the ports or trucking companies purchase new trucks and lease the equipment back to individual drivers, (3) mandate that terminal operators create a separate gate entry lane devoted solely for the use of new clean burning trucks (the "Green Lane" proposal), or (4) institute a new schedule of fees whereby drivers of older trucks that have not purchased clean burning retrofit equipment would pay a larger fee compared to that imposed on a newer truck ("Sliding Fee" proposal). The Waterfront Coalition feels that many of these approaches are a needlessly complex means for mandating new emission standards for intra-state California trucking. We believe these proposals will have many unintended consequences that could be avoided if the ports were merely to support a state mandate with respect to truck diesel emissions that would let the private sector find the ways and means to improve the quality of the harbor drayage fleet.

Response: See revised and expanded discussion of control measure SPBP-HDV1 description in section 5 of Technical Report.

CLAI-WC-3HDV: If truck emissions are a problem, then the best solution would be for the state to mandate a requirement on all intra-state trucks that would give them until a specific time to either retrofit or replace equipment.

Response: As a part of CARB's emissions reduction plan for ports and goods movement in California, staff of ARB is proposing a control measure to reduce emissions from on-road heavy-duty diesel trucks dedicated to goods movement at California ports. Since this measure is in planning phases, the Ports need to move ahead. However, by working together with CARB, the Ports will ensure that the two programs will be complimentary.



CLAI-WC-4HDV: Because most of these proposals attempt to bypass market forces, the Coalition is deeply concerned that they may fundamentally change the trucking industry in a manner that alters competition for drayage services, potentially leading to costly congestion delays for. These unintended consequences could be avoided by simply supporting and seeking state-wide mandates on intra-state diesel truck emissions.

Response: See response to comment CLAI-WC-3HDV.

CLAI-WC-5HDV: Of all the identified options, the “Medallion proposal” has the strongest potential to interfere with normal competitive forces at the waterfront. It would put terminal operators and the ports into the business of issuing operating authority for truckers accessing port terminals. While the goal here is to drive change in the equipment, the Waterfront Coalition believes that this means of driving change puts other businesses in the position of dictating winners and losers. This proposal could fundamentally alter who gets the franchise to provide trucking services within the port, driving up transportation costs higher and faster than simple regulation of tail pipe emissions. More important, it would put entities such as terminal operators and the port in the role of enforcers and regulators who would decide who gets to do business at the port and who does not. We think the potential for abuse is high. We do not think this proposal is appropriate in any way or shape. In particular, we believe this proposal will lead more directly to a consolidation of trucking entities within the port. Smaller companies, who may not have an “in” with particular terminals, will find themselves cut out of business. Ocean carriers who also manage terminals might be inclined to impose their own house carriers on shippers. In addition, of course, putting terminals in charge of deciding who gets the truck business opens the door for various contract disputes with longshore labor that could needlessly reduce the competition among trucking firms, thereby driving up costs even higher than a state mandate on emissions.

Response: The Ports are aware of many issues regarding the implementation of a comprehensive truck program. However, the “Medallion” implementation option is not a franchise. Instead it would allow all participants who met the “Medallion” performance standards. The discussion in the Technical Report has been updated to clarify this.

CLAI-WC-6HDV: In addition, of course, this proposal does nothing about other kinds of trucking that might impact regional air pollution. Indeed, by banning certain truckers from doing business within the port district, the “Medallion proposal” has the potential to force these independent owner-operators into other types of businesses within the state. The proposal is a means to impose a regulation on only one segment of the California trucking industry, and that is not wise or effective. We understand the frustration of the ports, but the solution to this problem is for the state to set performance standards, and for the industry to meet them in the time frames specified.

Response: See response to comment CLAI-WC-3HDV.



CLAI-WC-7HDV: Finally it is worth noting, that the port is pursuing these options using the flimsiest of evidence to suggest that harbor trucking is the root source of the state's diesel emission woes. The plan provides no justification for singling out this one form of intra-state trucking, except that it's the trucking over which the port thinks it can exert regulatory control. We believe this raises a number of legal issues for trucking within the state.

Response: See Frequently Occurring Comments Responses #18.

CLAI-WC-8HDV: More important, of course, the evidence suggests that harbor trucking is not any "dirtier" than other kinds of trucks operating in the state. The Action Plan asserts that there is a direct relation between truck age and air pollution impacts, and attempts to suggest that the fleet of harbor drayage trucks is so old and decrepit that it represents a major state problem requiring separate regulation and the expenditure of many millions of tax payer dollars to retrofit and/or buy back trucks. In fact, a study conducted in 2001 found that the average age of all trucks operating in California was 19.2 years. The average age of harbor trucks was almost identical to the state average -- 19.7 years. This is hardly a distinction worth noting. It certainly does not recommend that the state should invest millions of dollars in taxpayer funded bond money to retrofit these particular trucks at the expense of other kinds of trucks, or other competing environmental projects with much longer useful lives, such as grade crossings and sound barriers.

Response: Trucks that visit the ports are a source of pollution and truck modernization is a priority for the Ports because they travel on freeways and residential streets near ports' sensitive receptors.

CLAI-WC-9Fund: The Waterfront Coalition does not have any particular problems with the concept of providing tax credits, reduced leasing options, or truck retrofit assistance for owner-operated truckers. Our main concerns about these programs are related to the funding of them. With respect to public money, we think that it is highly inappropriate to use long term financing instruments like bonds to fund short term investments in retrofits and truck purchases.

Response: See Frequently Occurring Comment Response #7.

CLAI-WC-10OGV: The Waterfront Coalition supports efforts to make vessel operations more environmentally sound and to reduce emissions related to dockside efforts.

Response: Comment noted.

CLAI-WC-11OGV: Once again, we believe that the best way to achieve more environmentally sound business practices is not to mandate specific types of technologies such as "cold ironing." Instead, we support the establishment of performance standards



for terminal and vessel operators. Such standards would set reduction targets that the companies could meet by a variety of technology improvements. By focusing on performance, instead of prescriptive standards, the ports can drive technological innovation, and allow shipping companies and terminal operators to decide for themselves how best to meet environmental challenges.

Response: See responses to comments CLAE-NRDC2-AttA-46OGV3, CLAI-PMSA2-17CE-OGV3, CLAI-PMSA2-20OGV6, and Frequently Occurring Comment Response #23.

CLAI-WC-12OGV: For this reason, we think it's inappropriate for the Action Plan to call for universal shoreside cold ironing capabilities for all ocean vessels. While cold ironing capabilities may be operationally feasible for some vessel operators and terminal operators, this technology may not be feasible for others. Meanwhile, other technologies and business practices such as the use of cleaner burning fuels, new engine technology, and other kinds of environmental mitigation options can also deliver significant shore side emissions reductions for ocean vessels. The ports should not limit investment in these other alternatives, by forcing everyone to adopt a single, prescriptive standard.

Response: See responses to comments CLAI-WSPA-15OGV2, CLAE-NRDC2-AttA-46OGV3, CLAI-PMSA2-17CE-OGV3, CLAI-PMSA2-20OGV6, and Frequently Occurring Comment Response #23. In addition, the Ports need to consider all of the technologies mentioned above to achieve the goal of reducing the public health risk by reducing maximum amount of air pollution feasible from various sources that operate at the ports in the shortest amount of time. There is flexibility built in each of the measures as described in measure specific descriptions in section 5.0 of the revised draft plan.

CLAI-WC-13OGV: As an alternative to mandating the use of specific technology, the Waterfront Coalition supports performance standards to achieve shore side ocean vessel emissions. A performance standard allows steamship operators to choose the business practice and technology that achieves this emission standard at the least cost.

Response: See response to comment CLAI-WC-12OGV.

CLAI-WC-14Fund: As noted above, the Coalition also has concerns about the private sector funding included for the Action Plan's truck emissions plans. Clearly, the policies to replace and retrofit all trucks on the waterfront are the most costly features of the plan. To offset this cost, both ports hope to receive about \$800 million earmarked for goods movement emission reductions identified in the Governor's bond package. As noted above, this funding may not be appropriate for short-term investments like trucks. The rate of return on such investments suggest that long-term financing instruments are simply inappropriate.

Response: See Frequently Occurring Comment Response #7.



CLAI-WC-15Fund: Even if the port could get significant bond money for this purpose, the document admits that “a sizeable infusion of additional funding will be required to execute the plan just to ensure turnover of the frequent caller truck fleet.” Waterfront Coalition shippers and transportation providers are concerned that the ports intend to impose fees and charges on ocean carriers and terminal operators (and potentially on cargo owners although there is no nexus for the port to do so) to help meet unfunded portions of the plan to update the fleet of harbor trucks.

We believe that a fee to improve truck fleets imposed on terminal operators and/or ocean carriers (or shippers) is inherently unfair. Such a fee imposes a financial burden on one industry to subsidize another, without imposing any burdens whatsoever on the trucking industry or the owner-operators. Harbor truckers must be responsible for their own capital equipment. Why should the cost of such capital improvements fall on ocean carriers or terminal operators, who are, themselves, investing many millions of dollars on new yard and vessel technologies.

Response: See Frequently Occurring Comment Response #7.

CLAI-WC-16Fund: The only way to achieve improved truck fleets is to mandate standards on them and then let them determine how best to finance the new capital expenditure. Ultimately, the costs of such capital improvements will ultimately be reflected in the rates paid by shippers such as those represented by the Coalition. While no one wants to see their shipping costs rise, the fact is that the free market will allow trucking companies, and independent truckers, to recapture the cost of new equipment. While the Waterfront Coalition is concerned about the availability of harbor truckers, the bottom line is that if the ports allow market forces to handle this issue, sufficient trucking will be available. It will undoubtedly cost more, but it will be available.

Response: Comment noted.

CLAI-WC-17GC: We recognize that many owner-operator harbor truckers do not have the financial wherewithal to purchase new equipment. Nevertheless, if the state of California believes that trucks are the cause of significant air pollution and concomitant illness, it ought to regulate. And the trucking industry *throughout the state, not just harbor trucks*, should be required to meet such standards.

Response: See response to comment CLAI-WC-3HDV.

CLAI-WC-18Fund: We would support tax credits for investment in new capital equipment. And several Waterfront Coalition members are working on private arrangements to make low-cost leasing available to port truckers. However these programs should not be funding by container fees imposed on industries that do not own or operate trucks.

Response: Comment noted.



COMMENT LETTER INDIVIDUAL COMPANY (CLIC)

VYCON, INC.

CLIC-VI-1GC: The Action Plan is a tremendous political and technical achievement. The Ports have developed a joint document in cooperation with the staffs of several air quality agencies, with a goal of healthful air quality in conjunction with expected growth.

Response: Comment noted.

CLIC-VI-2Mark: VYCON has developed an air pollution control technology that we believe will be an asset to the Action Plan and its implementation. Briefly, the technology relies on flywheels as an energy storage device to reduce peak energy needs in RTG cranes at port terminals. When the crane conducts hoisting cycles, regenerative (free) energy, which is available on the lowering cycle, is produced by the large diesel engine on the crane. Normally, this energy is sent off to resistors which dissipate the energy as waste heat. VYCON's REGEN technology collects this wasted energy, saving it on flywheels. When the crane needs big amounts of energy while hoisting, the saved energy is released, reducing the peak energy needs from the diesel engine. This can be roughly compared to the way a hybrid automobile works. The end result is that diesel fuel usage decreases by 20-25%, and emissions are reduced.

Response: The Ports are aware of the VYCON REGEN technology and of the demonstrations currently underway to prove its effectiveness at reducing emissions and ability to meet the demands of port operations. The Clean Air Action Plan includes a Technology Advancement Program designed to demonstrate and evaluate new technologies, as described in Frequently Occurring Comment Response #32 and Section 5.7 of the Technical Report.

CLIC-VI-3TAP: VYCON believes that the draft Action Plan can be improved by including require installation of peak-reducing flywheel technology on all RTG and similar cranes with AC hoist motors that have regenerative braking capabilities by December 31, 2008.

Response: The Source Specific Standards for cargo handling equipment are detailed in SPBP-CHE1, in Section 5 of the Technical Report. If the emissions reductions achieved by using the VYCON REGEN technology are shown to meet or exceed those standards, the technology would be eligible to be used as an alternative compliance strategy.

CLIC-VI-4TAP: VYCON believes that the draft Action Plan can be improved by including policies and procedures to incorporate new, innovative technologies into the field quickly.



Response: Comment noted. The goal of the Technology Advancement Program is to expedite the introduction of emerging technologies into field use. See Section 5.7 of the Technical Report.

CLIC-VI-5GC: VYCON believes that the draft Action Plan can be improved by including incentives for early and "excess" emission reductions.

Response: Comment noted. The Technology Advancement Program will provide funding for the demonstration of new and emerging technologies to reduce emissions. See Section 5.7 of the Technical Report.

CLIC-VI-6GC: VYCON knows that CARB verification will be important, and we are working with CARB and your staff in moving through the lengthy certification process. The verification will determine the exact reductions that regulators will assume for the technology. However, most people downwind don't care whether the REGEN technology reduces emissions by 50% or by 70% - they want the reductions to occur right away. It's a reasonably available control technology today. That is why we believe that the Ports should seek the early reductions that the REGEN technology can provide, and include this strategy as a specific measure in the Action Plan.

Response: The CARB verification process was established to ensure that claimed emission reductions are both achievable and sustainable. Although the Technology Advancement Program will be designed to help facilitate the verification of new and emerging technologies, the ports feel it is essential for technologies to undergo this verification prior to recommending their use to the terminal operators.



PASHA STEVEDORING & TERMINALS L.P.

CLIC-PST-1LR: Pasha Stevedoring & Terminals L.P. (PST) recognizes the need to reduce diesel emissions in the port area and supports reasonable efforts to accomplish this. However, diesel emissions reduction requirements that are unilaterally inserted in landlord-tenant lease agreements for port terminals that are inequitable in application, overzealous in compliance timeframe, and require technology that does not currently exist is not reasonable.

Response: Each lease will be negotiated on a case-by-case basis to account for each port facilities unique operation. See Frequently Occurring Comment Response #23. The imposition of unreasonable requirements would threaten the success of the Plan. Therefore the Ports have been very careful in the crafting of the plan to require reductions that are achievable by the use of identified measures or available or emerging technologies. In addition, in the case of cargo handling equipment, measure SPBP-CHE1 is “backstopped” by the CARB cargo handling equipment rule which will phase-in similar requirements on all terminals, outside of a lease negotiation process.

CLIC-PST-2GC: CARB has developed an aggressive set of regulations to accomplish diesel emissions reductions after more than a year of public hearings, studies, public comment, and financial impact considerations, as well as significant legal review. CARB emissions regulations are considered very “accelerated” in our business environment. The proposed port CAAP compliance schedule, which further reduces the compliance timeframe by nearly 50% while requiring technology that does not exist, is not reasonable. PST suggests the CAAP be modified to adopt the aggressive CARB emissions reduction regulations in lease agreements that have been developed through the established state regulatory process.

Response: The ports agree that SPBP-CHE1 does present an aggressive schedule for equipment turnover, however the ports and the agencies believe that the timelines included in the measure are achievable. .

CLIC-PST-3GC-LA: Establishing what amounts to environmental regulations based on local political pressure without the benefit of long-established, legally tested, regulatory processes is likely to do more harm than good to local businesses, may result in loss of jobs, and be subject to extensive and costly legal challenges.

Response: The CAAP is a policy document, not a regulation. The Ports hope that the flexibility of the plan will avoid the consequences mentioned in the above comment. The Ports have developed the Clean Air Action Plan in close consultation with local, state and federal regulators and relied heavily upon their expertise and long history of the regulatory process in crafting the measures included in the Plan.



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CLIC-PST-4GC: We appreciate the opportunity to comment and the efforts by the port staff to solicit input from port tenants. We understand and support the urgency associated with reducing diesel emissions and simply want to ensure that regulations impact the myriad industry components equitably and reasonably. Requiring extraordinary investment in questionable technology and purchases of millions of dollars of equipment within an unreasonable timeframe based upon the arbitrary timing and nature of lease negotiations may appease some vocal activists but will have potentially devastating financial impact on some businesses.

Response: Comment noted. The Ports recognize the potential financial impact on business, however the stated purpose and ultimate goal of the Plan is to reduce air pollution and the risk to public health. It is this objective which both determines the schedule and cost. The Ports are committed to continue working with their tenants to achieve this goal. In addition, the Ports share your concern about requirements to adopt unproven and undemonstrated technologies and therefore have made demonstration and verification of these new and emerging technologies a priority, to be implemented under the Technology Advancement Program. See Section 5.7 of the Technical Report.



PARETO ENERGY LTD

CLIC-PEL-1GC: The San Pedro Bay Ports CAAP represents a landmark effort. The simple fact that the SCAQMD, CARB, EPA and the Ports could work together so effectively holds great promise for improving the environment in the region and for ushering in new levels of public-private cooperation to improve air quality in the San Pedro Bay area. The plan represents real progress in response to the issues raised by the National Resources Defense Council in its energizing legal action.

Response: Comment noted.

CLIC-PEL-2GC: We believe that the CAAP as presented imposes unnecessary and harmful delays to the actual implementation of cold-ironing/alternative marine power at the Port of Long Beach.

Response: The Port of Long Beach needs to bring new electrical service lines from Interstate 405 into the Harbor District to supply the appropriate power, which will require significant infrastructure improvements and thus delay implementation timelines compared with the Port of Los Angeles. That said however, the Port of Long Beach is committed to implementation of cold-ironing as rapidly as possible and, as indicated in Table 5.16 of the Technical Report, expects to spend \$130 million over the next five years toward development of cold-ironing infrastructure. It should also be noted that the number of berths for the Port of Long Beach that are expected to have cold-ironing infrastructure available and operational within 5 years has increased since the release of the draft CAAP. See control measure SPBP-OGV2 in the Technical Report.

CLIC-PEL-3AF: The POLA has in place grid-based electrical power infrastructure that can be used to support AMP implementation now. The POLB does not. The CAAP notes that the POLB should have cold-ironing in place “within ten years” citing the POLB’s “more extensive infrastructure development schedule.” The CAAP notes that the POLB will be reliant on new electrical transmission lines to be run down I-405 if it is to implement cold-ironing. Has anyone looked at the map and looked at the “electric company’s” long-term plans? It is questionable that that the CAAP takes into account the electric utilities’ long-term plans in positing a ten year horizon for cold-ironing in the POLB.

Response: The Ports have been in contact with electric service providers regarding this issue and the results of these discussions are incorporated into the schedules listed in the CAAP.

CLIC-PEL-4OGV-TAP: Surely the citizens of Long Beach and Los Angeles are not sanguine that a new electrical transmission and distribution (T&D) system that will siphon off power from an already burdened electrical grid will be built as soon as ten years. While the Port might benefit from a new T&D system...the communities that would be adversely affected by the construction, disruption and perturbations of the new



system might well disagree. It is not beyond the realm of imagination to posit that there will law suits and protests associated with such an infrastructure development. Permitting will not happen without obstacles, nor will construction. And, if the total power needs projection for cold-ironing when weighed with normal, planned economic growth mandates the introduction into the equation of even a small, supplemental grid-oriented electrical generation facility, then the delays will very likely stretch into the more distant future. Meanwhile tons and tons of NO_x and SO_x and particulate matter will be emitted and will continue to threaten the health of the community. Pareto Energy, Ltd., proposes an alternate approach to cold-ironing that could bear fruit within 18 months. It employs an incremental approach that complements the rebuilding of the local electrical grid infrastructure, while avoiding many up-front capital costs associated with new T&D systems and central power plant construction.

Response: The Ports encourage development of alternatives that can expedite achieving the goals of the CAAP and are receptive to reviewing any information that you may wish to provide on this topic. The Technology Advancement Program will be the forum for evaluating and demonstrating new and emerging technologies.

CLIC-PEL-5OGV-Mark: A real question is what does the Pareto Energy approach do for the Port of Long Beach? The answer is interesting:

- It provides much faster implementation of cold-ironing
- It provides a solution to the conundrum of how to provide highly reliable, high quality electrical power for digital-age economic development in the Port area
- Because it can be implemented faster, it removes tons of pollutants much sooner that would continue to harm public health
- If natural gas is used in the DG(CHP) installations, the gas is purchased from the local source it would provide a vital, new income stream to the City of Long Beach
- The Pareto approach is environmentally friendly and sustainable...even the cleanest, newest “smoke stack” electrical generation facility would need to burn 75% more natural gas to produce the same end-uses as a Pareto DB(CHP) installation
- The solution can be made even “greener” by installing hybrid configurations that include hydrogen fuel cells
- The Pareto solution can be implemented incrementally as terminal operators and ship owners create the demand

Response: Comment noted..



CLIC-PEL-6OGV-Mark: Pareto Energy LTD and its strategic partners know that a cold-ironing solution that uses on-site power to provide thermally efficient “cooling heating and power” (DG(CHP)) is an optimal solution and can be started immediately. The Pareto approach:

1. Provides shore power to ships at any terminals that have access to installed DG(CHP) capability
2. Provides electrical power to operate terminal equipment
3. Provides cooling for refrigerated warehouses/offices and reliable electrical power for refrigerated containers, plus providing steam for heating where and when needed
4. Provides back-up electrical power through long-term power purchase agreements to local utility companies (e.g. as demonstrated in San Diego, CA); as noted by Southern California Edison in 2004: “The capacity provided by distributed generation facilities can, if located where needed and available to (the) utility on a reliable basis, be used to reduce a utility’s distribution system infrastructure costs.”
5. Provides incremental, just-in-time electrical infrastructure modernization that responds to local growth
6. Provides highly reliable quality power for a Port Energy District™ (PED™) that can enable increased ship days in selected ports and economic expansion in around port districts. (A PED™ is an organizational concept analogous to an Energy Improvement District—but managing port emissions issues as well as power. A PED™ is particularly recommended when a port area operates under a court restraining order or under court directed palliatives to pollution/emissions.)

Response: Comments noted.

CLIC-PEL-7OGV-Mark: There will be guaranteed “negative net emissions” using this approach and if appropriate there will be opportunities for carbon credit trades. Pareto’s solution provides a standardized approach to DG(CHP) deployment/employment that can be keyed to ship conversion and “new construction” that utilizes shore-side power. The approach is scaleable and can be implemented in other US ports and world-wide.

Response: Comment noted.



CLIC-PEL-8OGV-Mark: A key factor here is that the Pareto approach enables a solution that overcomes the very real economic obstacle faced by both shipping companies and terminal operators. In plain English, we have a way to bridge the gap between the theory of cold-ironing (with all the foreseen environmental benefits) and practical implementation of cold-ironing.

Response: Comment noted.

CLIC-PEL-9OGV-Mark: The Pareto solution addresses the linked problems of the ship owners, the terminal operators and the set of local stakeholders. The immediate challenge is structuring an integrated approach with the shipping companies and terminal operators in multiple ports in order to maximize the economic benefits of converting ships to cold-ironing/AMP. Actual implementation will vary between and among shipping companies and terminal operators at disparate ports.

Response: Comment noted.

CLIC-PEL-10Fund: We note that successful cold-ironing implementation may well require new economic incentives for the ship owners and terminal operators.

Response: See Frequently Occurring Comment Response #13.



HOLDEN FLEET SERVICES

CLIC-HFS-1Mark: I would like to introduce my company, holdenfleetservices.com. Much of our work deals with alternative fuel vehicles. There is no doubt that alternative fuel vehicles such as natural gas is the way to go in restoring the environment the way it should be: CLEAN.....Much of the port pollution caused by the work vehicles used at the port could easily be corrected by using natural gas vehicles.

Response: Comment noted.

DONALDSON COMPANY, INC.

CLIC-DOC-1HDV: Replacement costs to implement the requirement that all frequent caller trucks, and semi-frequent caller container trucks model year (MY) 1992 and older will meet or be cleaner than the EPA on-road emissions standard (0.01 g/bhp-hr for PM) and the cleanest available NO_x at time of replacement are very high since it involves replacement of 1992 MY and older trucks with new cleaner diesel trucks (\$126,000 per truck). Consideration should be given to other scenarios which consider use of CARB Verified Level 1, Level 2 and Level 3 PM reduction technologies for 1988 to 1992 MY engines. Vehicle/engine replacement would then focus on 1987 and older MY engines. This provides a balanced, cost effective use of CARB Verified retrofit technologies and engine/vehicle replacement for the oldest engine/vehicles.

Response: In order to meet the goals of the CAAP, a high priority has been placed on truck fleet modernization. As detailed in SPBP-HDV1, all model year frequent caller container trucks and all semi-frequent caller container trucks model year 1992 and older are candidates for replacement in order to maximize both DPM and NO_x emission reductions. Level 3, plus NO_x aftertreatment devices are identified for use on semi-frequent caller model year 1993-2006 container trucks.

CLIC-DOC-2HDV: The requirement that semi-frequent caller container trucks will be equipped with the maximum CARB verified emissions reduction technologies installed) (which generally defines use of "maximum CARB verified emission reduction technologies") for MY 1993-2003 engines needs further specific definition and clarification of intent. Donaldson review of Section 5 Plan Initiative-Details (pages 43 – 62) and Tables 5.2 and 5.3 (Budget Scenario 7, Retrofit Assumptions/Details) indicates specific use of Cleaire technology (Longview system), DPF + Lean NO_x Catalyst w/installation (\$15,500 per truck). It is unclear concerning the linkage between "maximum CARB verified technologies" and the addition of NO_x control to existing CARB Level 3 PM BACT control. What are the specific PORT rules or requirements around retrofit NO_x control. Is there a requirement for any use of CARB verified



technologies to have a minimum of 15% NO_x control in addition to the normal PM BACT considerations? Rule development should not be specific to one company's existing technology – Claire, Longview system, but should define specific performance requirements (PM and/or NO_x control) and allow industry technology development to meet the requirements.

Response: The ports agree that the CAAP should not be specific to one technology, but instead should provide performance based specifications. These references have been removed from the CAAP. Should an alternative technology be developed which achieves the same or greater emission reduction (CARB verified to 85% PM & 25% NO_x reductions), it will also be eligible for implementation of this measure.

CLIC-DOC-3HDV: Review of CARB's Executive Orders DE-03-001-03 and DE-04-004-02 and associated attachments for the Longview System (DPF + Lean NO_x Catalyst) indicate Level 3 PM reduction ($\geq 85\%$) and 25% NO_x reduction, along with the following verification terms and conditions:

- Application to On-road model year 1993 – 2003 engines which do not employ exhaust gas recirculation (EGR)
- Application must have duty cycle of 260°C for at least 25% of the time
- Longview system might incur a fuel economy penalty between 3 and 7% depending on application

Response: Comment noted.

CLIC-DOC-4HDV: Longview verification coverage (with Level 3 PM and 25% NO_x control) is limited to non-EGR 1993 – 2003 engines, and does not allow for verified retrofit control of On-road 1988 – 1993 engines or 2002 – 2006 EGR engines. Port container truck engine retrofit verification coverage for 1988 – 1992 engines and 2002 – 2006 EGR engines is or will be available and should be utilized for cost effective emission control.

Response: The Ports are aware of the acceptable applications of the Longview technology and have crafted the measure accordingly.

CLIC-DOC-5HDV: Longview's application limit of 260°C for 25% of the time may have significant limitations for broad application. Both the passive DPF and the active Lean NO_x catalysts require adequate temperature to perform to specified verification levels. Low temperature engine applications may significantly reduce the number of truck applications where Longview may be applied. Port vehicles are known to operate at low exhaust temperatures.

Response: The Ports are aware of the acceptable applications of the Longview technology. Data logging of the port truck exhaust temperatures is currently underway to verify that adequate temperatures will be achieved for the device to function properly.



CLIC-DOC-6HDV: Longview's active lean NO_x reduction system uses diesel fuel injected periodically over the lean NO_x catalysts to provide NO_x reduction. This leads to a 3 to 7% fuel penalty depending on the application. In present to future considerations of fuel prices, this may not be acceptable to a significant number of end users.

Response: Comment noted..

CLIC-DOC-7HDV: The Longview system is an integrated passive DPF and active lean NO_x reduction system which is quite complex given associated installation, operation and ongoing maintenance requirements. Imposing this complex system on a broad variety of end-users may create significant issues.

Response: Comment noted. An estimate of the installation and maintenance cost associated with the use of this technology were included in the development of the measure.

CLIC-DOC-8HDV: A technical assessment of CARB's NO₂/NO_x requirements of 30% (by 1/1/07) and 20% (by 1/1/09) should be reviewed and published concerning whether the Longview system will have ongoing CARB verification approval.

Response: Comment noted.

CLIC-DOC-9Mark: Donaldson has a growing range of CARB verified PM reduction technologies which provide cost effective PM approaches for Port container truck emission control.

Existing CARB verifications include:

- Level 1 (25%+ PM control)
 - DOC: for 1988 – 1990 MY on-road engines
 - DOC + Spiracle (crankcase control): for 1988 – 2002 MY on-road engines
 - Meets 30% and 20% NO₂/NO_x limits
- Level 2 (50%+ PM control)
 - DMF (Flow Through Filter) with or without Spiracle (crankcase control): for 1991 – 2002 MY on-road engines
 - Meets 30% and 20% NO₂/NO_x limits
- Level 3 (85%+ PM control)
 - DPF: for 1993 -2004 MY on-road engines
 - Meets 30% NO₂/NO_x limits



CARB Level 3 technology option request by Donaldson for 1994 – 2006 MY on-road engines:

- Level 2 DMF Tailpipe + Spiracle Crankcase PM Technology = Equivalent Level 3 PM technology. Based on TOTAL PM control = Tailpipe PM + Crankcase PM.

Data assessments:

- Engine/Vehicle MY 1994 -2006
 - + Tailpipe PM (.10 g/bhp-hr)
 - + Crankcase PM (.025 g/bhp-hr AVG)
- DPF Tailpipe PM Control (85%+)
 - + .85(.10) = .085 g/bhp-hr reduced
- DMF Tailpipe PM Control (70%+) + Spiracle Crankcase Control (100%)
 - + .70(.10) + 1.00(.025) = .095 g/bhp-hr reduced
- Donaldson Level 3 equivalent DMF Tailpipe PM + Spiracle Crankcase Technology
 - Provides high efficiency cost effective technology solutions for PM control
 - Improves in-cabin air quality
 - Meets CARB's NO₂/NO_x requirements (< 20%)

Response: Comment noted. The Ports encourage development of more options for achieving the goals of SPBP-HDV1.

CLIC-DOC-10HDV: Port authorities should specifically define the general requirements for “maximum CARB verified emission reduction technologies” for MY 1993 – 2003 engines.

Response: The Ports are seeking to achieve the maximum emission reductions available through use of an aftertreatment device on the candidate semi-frequent caller trucks. To meet this goal, the ports will pursue use of aftertreatment devices that can achieve at least 85% DPM reduction and 25% NO_x reduction. Specific implementation will be defined in the SPBP-HDV1 implementation plan, to be developed by 1st quarter 2007.

CLIC-DOC-11HDV: Port authorities should specifically define Port rules or requirements concerning retrofit NO_x control.

Response: Specific implementation will be defined in the SPBP-HDV1 implementation plan, to be developed by 1st quarter 2007.



CLIC-DOC-12HDV: Consideration should be given to utilize the full range of CARB Verified Level 1, Level 2 and Level 3 PM reduction technologies for all 1988 to 2006 MY on-road engines. This provides a balanced, cost effective use of CARB Verified retrofit technologies and engine/vehicle replacement for the oldest vehicles.

Response: Comment noted.

BURLINGTON NORTHERN SANTA FE RAILWAY

CLIC-BNSF-1GC: BNSF Railway (BNSF) appreciates the opportunity to submit comments on the San Pedro Ports' June 2006, Draft Clean Air Action Plan Technical Report (CAAP). BNSF is a leading U.S. railroad which acts as a major transporter of goods to and from the Ports of Los Angeles and Long Beach (collectively "the Ports"). BNSF's railroad serves as a primary east-west mainline link for the Ports to access U.S. Midwestern, Southwestern and Eastern markets.

Response: Comment noted.

CLIC-BNSF-2GC: BNSF supports the foundational goals of concurrently expanding critical infrastructure, significantly improving velocity and reducing emissions within the Ports' facilities. BNSF continues developing its environmental stewardship in partnership with the Environmental Protection Agency, ("EPA"), the California Air Resources Board ("CARB") and the Ports.

Some ongoing BNSF environmental activities include:

- Pioneering the use of electric cranes at intermodal yards,
- Demonstration of liquefied natural gas (LNG) yard tractors,
- Expanded use of on-dock facilities,
- Development of multi-engine gen-set switchers with low emissions,
- Development of line-haul hybrid locomotives using dynamic brake energy for traction, and
- Implementation of a metered access system for the Hobart Yard (a form of appointment system which accelerates turnover and reduces idling time).

Response: Comment noted.

CLIC-BNSF-3GC: BNSF is also midway in its implementation of the railroad fleet average Memorandum of Understanding of 1998 with CARB, which will reduce nitrogen oxide emissions from rail locomotives by 67 percent. In addition, we continue to reduce our particulate emissions through various implementing actions under the 2005 Memorandum of Understanding with CARB.

Response: Comment noted.



CLIC-BNSF-4GC: BNSF generally supports the first three principles of the CAAP, but believes the fourth Principle of the Plan, the third San Pedro Bay Standard, the Project Specific Standards, the Source Specific Performance Standards, and certain proposed source specific measures (See CAAP pages 33-112) are in conflict with the Ports' stated objectives. In fact, inflexible adherence to the proposed standards and source specific measures is likely to impede Port growth, undermine velocity enhancements and delay environmental improvements. More specifically, an unintended consequence of the rail measures may be to force an intermodal shift from rail to truck transport. Not only does rail relieve local and freeway congestion, it is unquestionably the environmentally superior mode of transportation. BNSF has particular concerns about operational controls for line haul locomotives, the use of leases and contracts to implement social policy, the 10 in a million risk threshold and the imposition of a regulation requiring port truck fleets to operate on alternative fuels, as such a regulation may jeopardize the availability of funds from public bonds.

Response: The Ports agree that rail is currently environmentally preferred method of goods movement compared to trucks, and as stated in the CAAP, seek to maximize use of on-dock rail. Regarding the various proposed standards in CAAP, see Frequently Occurring Comments Responses #12. Regarding the legal issues, see Frequently Occurring Comments Responses #18

CLIC-BNSF-5GC: It is critical that CAAP control measures are consistent with federal standards and compliance dates, and allow a timeframe for availability in the marketplace. Otherwise the CAAP cannot be a living document and meet the principle of continual improvement. The current Ports' designation of specific compliance dates inconsistent with EPA federal rail standards in both timing and emissions performance could result in CAAP control measure requirements that are not available in the locomotive marketplace. This result would mean locomotives would not be available to serve the Ports and consequently Port growth would be foreclosed or would require a shift to truck transport, with the resulting anomaly that the CAAP source specific measure detrimentally causes negative air quality impacts.

Response: See Frequently Occurring Comment Response # 29 and the revised discussion in SPBP-RL2.

CLIC-BNSF-6RL2-LA: Operational Controls for Line-Haul Locomotives are Preempted by Federal Regulations.

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-7RL2-LA: The courts and the Surface Transportation Board (STB) have held that preemption extends to all rail transportation, regardless of whether the STB directly regulates the particular operation at issue. In the ICC Termination Act of 1995 (ICCTA), 49 U.S.C. §§ 10101-11908, Congress created the STB, a new regulatory



agency within the U.S. Department of Transportation, and broadened the express preemption provision of the former Interstate Commerce Act. ICCTA makes the STB's jurisdiction over rail transportation "exclusive." 49 U.S.C. § 10501(b). As the courts have observed, "[i]t is difficult to imagine a broader statement of Congress's intent to preempt state regulatory authority over railroad operations" than this statutory provision. *City of Auburn v. United States Government*, 154 F.3d 1025, 1030 (9th Cir. 1998), quoting *CSX Transp., Inc. v. Ga. Pub. Serv. Comm'n*, 944 F. Supp. 1573, 1581 (N.D. Ga. 1996).

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-8RL2-LA: Under Section 209 and 213 of the Federal Clean Air Act, EPA retains the exclusive authority to "promulgate regulations containing the standards applicable to emissions from new locomotives and new engines used in locomotives."

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-9RL2-LA: A patchwork of different state and local programs will disrupt rail movement of interstate commerce. The U.S. Supreme Court recently restated the consequences of state and local fleet average mandates: "...if one State or political subdivision may enact such rules, then so may any other; and the end result would undo Congress' carefully calibrated regulatory scheme." *Id.* at 225 (2004).

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-10RL2-LA: These regulations will significantly interfere with rail operations and the free flow of interstate commerce, and tread on EPA's exclusive regulatory authority.

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-11RL2-LA: CARB has acknowledged, most recently in its April 2006 Ports' Emission Reduction Plan, that it has limited jurisdiction over rail. As CARB stated, "[f]ederal law limits the abilities of states and local jurisdictions to control locomotive emissions, or to enforce rules that affect national railroad transportation. Due to these statutory restrictions, states and local agencies have limited authority to require the reduction or mitigation of emissions from locomotives. Rules have to be narrowly and carefully crafted to survive federal preemption, limiting the emission reductions that can be obtained. Attempts to adopt broader regulatory requirements would likely be subject to court challenges that could delay or eliminate the emission benefits." Emission Reduction Plan for Ports and Goods Movement in California, p. 95-96. BNSF concurs with this position.

Response: See Frequently Occurring Comments Responses #18



CLIC-BNSF-7RL2: As noted above, EPA is currently promulgating beyond Tier 2 locomotive regulations. The Ports' calculation of emission reductions to be anticipated by the rail sector should be consistent with these federal rail standards in both timing and emissions performance.

Response: Comment noted. See the revised discussion in SPBP-RL2.

CLIC-BNSF-8RL2: As regards the use of ultra-low sulfur diesel fuel, both the railroad 2005 memorandum of understanding and the CARB intrastate locomotive fuels rule address the dispensing of ultra-low sulfur diesel fuel in California. The provisions of these two documents should be the only reference in this Clean Air Plan. There is no reasonable way to accomplish more and insistence upon more in this regard will take away from other, more cost effective practices to which BNSF has committed. BNSF will provide the quality of fuel needed for the emissions technology employed on our equipment to those units that possess that technology.

Response: The Ports worked closely with the agencies when developing the CAAP. Measures SPBP-RL2 and SPBP-RL3 were designed to be compatible with CARB's requirements.

CLIC-BNSF-9RL2: When the US EPA promulgates its rules, there will be time to evaluate our operations and determine what accelerated reductions reasonably could be achieved over and above the fleet average memoranda of understanding. Because the plan is a living document and has a five year planning horizon, waiting until more is known before agreeing to some speculative measure is totally within the spirit and the letter of this Clear Air Plan.

Response: The Ports agree that the CAAP is a living document, which will be updated on an annual basis to reflect the latest information. The timelines included in the CAAP are based upon the Ports understanding of the status of the EPA schedule and discussion with the regulatory agencies on the accelerated reductions that could reasonably be achieved. In addition, there are several technology demonstration programs aimed at reducing emissions from locomotives currently underway, which may also accelerate the availability of lower emission locomotives. If proven to be effective and feasible, the Ports will seek to implement these technologies in operations on port properties.

CLIC-BNSF-10RL2-LA: The Use of Leases and Contracts to Implement Control Measures is an Invalid Attempt to Implement a General Social Policy and Interferes with Rail Operations in Violation of ICCTA.

Response: See Frequently Occurring Comments Responses #18



CLIC-BNSF-11RL3-LA: Rail operations both inside and outside the Ports are an integral part of the interstate rail network, and measures being proposed with respect to rail interfere with those operations, in violation of the ICCTA. The courts have specifically held under the ICCTA that the fact that a state or locality controls land or easements used or required for railroad operations does not entitle the state or locality to use its control to impose regulatory conditions on interstate rail operations. See e.g., *Dakota, Minnesota & Eastern Railroad Corp. v. State of South Dakota*, 236 F. Supp. 2d 989, 1005-08 (D.S.D. 2002). More generally, courts have held that states and localities cannot escape federal preemption by using their proprietary or contractual control of property to attempt to impose federal regulatory conditions on interstate commerce. See, e.g., *Western Oil and Gas Assoc. v. Cory*, 726 F.2d 1340, 1342-43 (9th Cir. 1984) (state's proprietary control of tidelands did not permit it to use its leasing activities to escape Commerce Clause scrutiny); *Olympic Pipe Line Company v. City of Seattle*, 437 F.3d 872 (9th Cir. 2006) (city's attempt to condition renewal of franchise agreement to operate in the city only upon compliance with the City's safety demands was preempted by the Pipeline Safety Act); *Western State Bldg. & Trade Council v. Spellman*, 684 F.2d 627, 631 (9th Cir. 1982) (state's proprietary control of waste disposal site did not permit it to impose regulatory constraints on interstate commerce); *Air Transport Assoc. of America v. City of San Francisco*, 992 F. Supp. 1149, 1163-64, 1179-80 (N.D. Cal. 1998) (city's proprietary control of airport did not permit it to impose contractual conditions on airlines that conflicted with dormant Commerce Clause and ERISA).

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-12RL3: The Ports may not adopt a sweeping set of preempted control measures through its contracts and leases in order to implement broad social policy regarding air quality. BNSF believes, more specifically, that a sweeping set of control measures requiring alterations to its locomotive fleets and fuel supplies, as a condition to picking up and dropping off interstate commerce, implemented through the Ports' contracts and leases has more than an incidental impact, well beyond the contract or lease, and also indicates an intent to implement a general social policy.

Response: See Frequently Occurring Comments Responses #18

CLIC-BNSF-13GC: Use of the 10 in a Million Standard for Risk Threshold is Inappropriate and Undermines the Objectives of CEQA. We concur that there is no appropriate San Pedro Bay Standard related to a health risk standard at this time, as is stated by the Ports on page 20 of the CAAP.

Response: The Project Specific Standard of 10 in a million excess residential cancer risk is consistent with SCAQMD CEQA Guidelines. In addition, the Ports are committed to working with the agencies to develop an appropriate San Pedro Bay Standard by Spring of 2007. See Frequently Occurring Comment Response #12.



CLIC-BNSF-14GC: We concur that attainment of the NAAQS for the entire SoCAB is not appropriate as a San Pedro Bay Ports standard because the NAAQS are national standards designated for broad areas and apply to concentrations resulting from all source categories' emissions, not just particular industries or source types (such as Port or rail operations).

Response: Comment noted.

CLIC-BNSF-15GC: We concur with Ports discussing potential health standards with CARB. However, the process for adoption should be public and transparent, with adequate peer review by credentialed scientists and it should follow California requirements for development of such standards.

Response: The Ports will work with the regulatory agencies to develop and appropriate San Pedro Bay Standard by Spring of next year. The proposed Standard will be available for public comment through each Port's Board adoption process.

CLIC-BNSF-16GC: Because of the conservative nature of toxic risk assessment modeling, and in particular the California risk factor for diesel particulate matter ("DPM"), which EPA has rejected, we believe it is inappropriate to use 10 in a million as an absolute standard (because risk will be driven by DPM assumptions).

Response: As stated in the revised Section 2.2 of the Technical Report, the 10 in a million excess residential cancer risk threshold, for any emissions increases associated with a new project, is consistent the SCAQMD's CEQA Guidelines.

CLIC-BNSF-17GC: The CAAP should be consistent with CEQA. As stated on page 20, the SCAQMD uses 10 in a million as their "significance threshold" for CEQA analysis; and they use 10 in a million as the level requiring community notification in their District under AB2588. For permitting of stationary sources (i.e., under Rule 1401/1402), they use 25 in a million as their risk goal. Even then the SCAQMD Board has the authority to approve emissions associated with risks up to 100, subject to Board reevaluation every two years. As noted in the CAAP, even the SCAQMD Board can approve permits with risks up to 100 in a million based on lack of technology and other factors. The Ports should create a policy, consistent with the legal requirements of CEQA, which allows them flexibility to permit projects where further mitigation is not feasible. Feasibility, pursuant to CEQA, is both a legal and technical issue. The Ports have an obligation under State law to preserve their ability to balance objectives and issue Statements of Overriding Consideration.

Response: The primary purpose of the CAAP is to reduce air emissions and health risks while allowing port development to continue. In order to meet these goals and to allow for timely achievement of the San Pedro Bay Standard the Ports are committed to the Project Specific Standards listed in Section 2.2 of the CAAP, including the 10 in a million excess



residential cancer risk threshold for evaluating any emissions increases associated with a new project.

CLIC-BNSF-18GC: SCAQMD policies note that if CEQA significance thresholds are exceeded for criteria pollutants, Maximum Available Control Technologies must be applied and feasible mitigations must be applied. The Ports appear to give themselves less flexibility than the SCAQMD allows for situations in which lifetime incremental cancer risks exceed 10 in a million. Although not explicitly stated, the Ports' CAAP could be interpreted as implying that failure to meet the 10 in a million risk goals would necessarily provide a basis for not proceeding with a project.

Response: See response to comment CLIC-BNSF-17GC and Frequently Occurring Comment Response #11.

CLIC-BNSF-19GC: Cost and technological feasibility are required considerations under CEQA and the Clean Air Act. In enacting CEQA, the Legislature declared that it is the state policy to create and maintain conditions under which human beings and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations. Cal. Pub. Res. Code § 21001(e). Additionally, it is state policy to require government agencies at all levels to consider qualitative environmental factors, as well as economic and technical factors in public decision making. Cal. Pub. Res. Code § 21001(g). By adopting an absolute standard regarding health risk, the Ports will not be in a position to perform the balancing of health, social and economic interests required by CEQA. The CAAP needs to be written consistent with State law.

Response: See response to comment CLIC-BNSF-17GC.

CLIC-BNSF-20GC: Additionally, the California Public Resources Code requires that public agencies take into account feasibility, defined as a measure "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Cal. Pub. Res. Code § 21061.1. The code also acknowledges that legal considerations may be relevant. Cal. Pub. Res. Code § 21081. Moreover, under Section 202(a)(3) of the Clean Air Act, as amended in 1990, the EPA must set heavy-duty engine standards reflecting the "greatest degree of emission reduction achievable" from available technology giving appropriate consideration to "cost, energy, and safety factors" associated with such technology. The Ports should take such considerations into account in crafting the CAAP.

Response: See response to comment CLIC-BNSF-17GC.

CLIC-BNSF-21Fund-LA: Passing a Regulation that Port Truck Fleets Operate on Alternative Fuel could Jeopardize the Use of Funds from Public Bonds. BNSF supports the Ports' goal of expediting the transformation of the fleet of trucks servicing the Ports to



“clean trucks” with the use of public funds. Transportation Bond measure SB1266, limits the use of its funds to initiatives which are not otherwise required by law or regulation. “Funds made available by this paragraph are intended to supplement existing funds used to finance strategies and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the states airports, seaports and land ports of entry.” (SB 1266, Page 9)

Response: SPBP-HDV1 is performance based and fuel neutral. Use of LNG is one of the options available for the truck modernization program, however a requirement to use LNG trucks is not a component of the CAAP. The Ports will be seeking bond funding, if passed in November, for the truck modernization program. The Ports will work closely with the agencies when developing the implementation plan for SPBP-HDV1 to ensure that port trucks are not precluded from use of the funds. Additionally, the Ports will explore alternative mechanisms for funding such as fees.

CLIC-BNSF-22Fund-LA: While the state of California and the Ports have the same goals (i.e., trucks that run on alternative fuel), their methods of achieving such goals are in conflict. The state disqualifies from funding any clean technology required by regulation while the Ports seek to pass regulations mandating clean truck technology, to be funded in large part by public funding. The largest potential form of public funding will be the bonds. The bonds, like the state, prohibit the use of public funds for mandated technology.

Response: See response to comment CLIC-BNSF-21Fund-LA and Frequently Occurring Comment Response #7.

CLIC-BNSF-23GC-HDV: The Ports should consider alternatives to passing a port truck regulation.

Response: Comment noted. The revised measure SPBP-HDV1 includes information on the various implementation strategies being considered for the truck modernization program.

CLIC-BNSF-24GC: One alternative is awaiting passage of the Bonds and the adoption of the Governor’s Goods Movement Action Plan. The Ports will then be in a better position to assess how to best coordinate its programs with those of the state.

Response: The Ports timeline to achieve emissions reductions from various sources that operate at the ports are more aggressive than the truck modernization measure proposed in the Governor’s Goods Movement Action Plan. That said, the Ports will continue to work closely with CARB during the implementation of their Good’s Movement Plan and the Ports Clean Air Action Plan. See Frequently Occurring Comment Response #29.



CLIC-BNSF-25GC-HDV: Another alternative is to propose guidelines instead of regulations. A guideline could provide "special consideration, operational advantages, given to trucks that run on alternative fuels."

Response: Comment noted. The revised measure SPBP-HDV1 includes information on the various implementation strategies being considered for the truck modernization program.

CLIC-BNSF-26LA: The City Attorney should be asked to provide opinions on bond funding and proposed alternatives.

Response: Comment noted.

CLIC-BNSF-27LA: We request the City Attorney analyze whether use of implementation strategies in the Clean Air Plan (such as tariffs discussed in Clean Air Action Plan Technical Report on pages 25, 34,& 44) will jeopardize ability of clean trucks to qualify for bond funds.

Response: These issues will be addressed during the implementation stage of individual measures.

CLIC-BNSF-28LA: If Bond money is not available, the Ports' goal is likely to be unattainable. We request the City Attorney make a recommendation as to how best to achieve this goal without disqualifying the independent operators from receiving bond money for their common carrier equipment.

Response: See response to comment CLIC-BNSF-27LA. In addition, the Ports are exploring several options for funding the truck modernization program detailed in SPBP-HDV1 in the Technical Report. See Frequently Occurring Comment Response #7.

CLIC-BNSF-29LA: BNSF, therefore, requests that the City Attorney clarify whether the CAAP does or does not establish rules or regulations of general application to those doing business with the Ports. Similarly, BNSF believes a requirement that those doing business with the Ports sign a statement by January 1, 2007, agreeing to comply with the plan in general and, specifically making the use of a clean truck fleet a condition of a lease, is inconsistent with the CAAP not being a rule or regulation of general application. As such, the time for compliance requirement on page 10 should be eliminated.

Response: See Frequently Occurring Comment Response #18.

CLIC-BNSF-26LA: BNSF Supports many of the Programs Found in the CAAP. BNSF Encourages Research into Technological Advances.

Response: Comment noted.



CLIC-BNSF-31TAP-RL: BNSF continues to support research into locomotive-engine technology to reduce air emissions

Response: BNSF's contribution towards research into locomotive-engine technology to reduce air emissions is appreciated by the Ports.

CLIC-BNSF-32TAP-RL: BNSF is the only US railroad operating LNG locomotives.

Response: Comment noted.

CLIC-BNSF-33TAP-RL: BNSF has co-founded a 5 year R&D project investigating performance, durability and applicability of diesel particulate filters to older switching locomotives.

Response: Comment noted.

CLIC-BNSF-34TAP-GC: BNSF, in our proposed SCIG near-dock facility, will use state of the art wide span electric cranes and LNG yard tractors which will greatly reduce emissions associated with standard cranes and cargo handling equipment.

Response: Comment noted.

CLIC-BNSF-35TAP-RL: BNSF in partnership with numerous suppliers will develop the first fuel cell powered locomotive in the US.

Response: Comment noted.

CLIC-BNSF-36TAP-RL: BNSF supports the future study of "Green Container Transport" solutions, and looks forward to working with the Ports and third parties for mid and long term alternatives to incorporate into Port operations.

Response: Comment noted.

CLIC-BNSF-37-RL: BNSF has been particularly innovative in changing its intermodal business practices to effectively and sensitively absorb the surge of container traffic through the Ports. In both 2003 and 2004, virtually all intermodal growth in the study area was on BNSF. BNSF has adopted a strategy of operating 8,000-foot container trains, whereas it operated 5,000-foot to 6,000-foot trains in the past. This operation change has allowed BNSF to absorb all new business over the last two years without increasing train starts. This is a tremendous productivity achievement. In addition, BNSF has changed its business practices at Hobart Yard, where it established an appointment system. The system accelerates inventory turnover and reduces chassis storage. It also is converting container storage from a wheeled operation (container on a chassis) to stacked operation (containers set one atop another, thus reducing space requirements for storage) – a practice that is more expensive than a wheeled operation. These steps are innovative departures from the operation of most railroad intermodal facilities.



Response: Comment noted.

CLIC-BNSF-38-RL: While on-dock facilities are seen as an important solution to congestion in the region, they present significant challenges from a capacity standpoint. A significant benefit of on-dock rail is the elimination of truck traffic on the local roadway system. However, as on-dock facilities tend to be part of marine terminals, they are de facto in competition with the marine operations for a finite commodity, i.e. terminal footprint space. It is unlikely that marine terminals have the option to sacrifice space needed to support marine operations for more track. Thus, opportunities for optimum track configurations at on-dock facilities are probably very limited. Increased track length and working space allows for a more efficient process for loading trains. With limited potential for expansion, on-dock throughput is limited as well.

Response: Comment noted. See Frequently Occurring Comment Response #9.

CLIC-BNSF-39-RL: Another significant operation constraint for on-dock facility throughput is a restriction on train movements in and out of the facilities, while trains on adjacent tracks are being loaded and unloaded. This restriction was implemented to address safety concerns for marine terminal workers who load and unload the trains at on-dock facilities. In comparison, railroad-owned and operated near-dock and off-dock facilities do not have this constraint, and as a result see higher productivity. Railroads feel their safety procedures allow them to both load and unload trains and arrive and depart trains at the same time in the same facility. As a result, while on-dock rail presents significant environmental and congestion relief benefits, this type of operation presents significant operational constraints that impact railroad productivity.

Response: Comment noted.

CLIC-BNSF-40-RL: BNSF is working with the Ports of Los Angeles and Long Beach on an “On-Dock” Team to maximize on-dock loading of rail. BNSF has successfully increased its on-dock loading 26% in 2005 and are on pace to increase on-dock rail this year. Some of the improvements advanced by BNSF include introduction of BNSF’s Business Exchange concept to enhance information communication for marine cargo. BNSF has proactively worked with marine terminals and shipping lines for co-load on-dock opportunities. In addition BNSF has improved train profiles providing increased units per train, increased train lengths, and improvements in slot utilization. BNSF is also working with the Ports to develop short, medium, and long term measures to address the Ports’ rail needs.

Response: Comment noted.



CLIC-BNSF-41GC: BNSF has designed SCIG to use state of the art optical character recognition at the terminals and designed the proposed near-dock to minimize the handling of containers by hostlers, reduce truck idling time and maximize container balancing into and out of the facility.

Response: Comment noted.

CLIC-BNSF-42AM: BNSF Supports the Tracking and Monitoring of Air Quality in and around the Ports. BNSF has consistently and actively advocated for the actual monitoring of air emissions related to the Port's facilities and, therefore, supports the expansion of the Bay-wide ambient air quality monitoring network to monitor actual air pollution concentrations.

Response: Comment noted. See Response to ORAL Comment #13.

CLIC-BNSF-43GC: BNSF believes the use of actual data to evaluate modeling results derived during the permitting process, will significantly enhance the Ports decision-making processes and provide actual data to better assess conservative risk assessment results and their real world application.

Response: Comment noted.

SSA TERMINALS, LLC

CLIC-SSA-1Fund: Private businesses are expected to make substantial investment in procuring equipment, paying for infrastructure, and incurring increased operational costs that are not included in the Plan. While the contributions of the Ports and SCAQMD are highlighted, we believe that these contributions will be a small compared to the costs that will be imposed on businesses. The final version of the plan should provide an estimate of the costs imposed on the business community to support the plan.

Response: See Frequently Occurring Comment Response #28.

CLIC-SSA-2CE: We do not see in the plan a cost effectiveness evaluation for the various measures. As a public agency, the ports need to ensure each dollar spent will provide a reduction in emissions that is reasonably commensurate with cost. We request the final plan include a detailed cost-effectiveness evaluation of all the measures.

Response: See Frequently Occurring Comment Response #28.

CLIC-SSA-3GC: It is critical for businesses to have the CAAP be consistent with federal and state standards. These federal and state standards have been established to allow for a timeframe for the equipment to be available in the marketplace. The draft CAAP provides specific compliance dates that is inconsistent with federal and state regulations in both timing and emissions performance. As currently drafted the CAAP



require companies to purchase equipment in a timeframe that may not make it available in the market. The CAAP must provide flexibility to operators making their best efforts to acquire new equipment.

Response: SPBP-CHE1 outlines requirements that are consistent with but accelerated from the requirements of the CARB's cargo handling equipment rule. See the revised discussion in measure SPBP-CHE1 of the Technical Report. In addition, see Frequently Occurring Comment Response #29.

CLIC-SSA-4GC: We are concerned portions of this plan will impede growth. As stated earlier, the ports have proven through their existing efforts that you can grow and reduce emissions concurrently. Unfortunately, the CAAP outlines very specific source standards and measures (See CAAP pages 33-112) that do not allow for flexibility and innovation. It is critical the Ports must create an atmosphere where advancement in technology is encouraged. We recommend that incentives and flexibility in achieving the goals be used instead of specific mandates of technology.

Response: The Ports agree that operations can grow without a corresponding increase in emissions. In fact, the CAAP is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue. The Ports also encourage the development of new alternative technologies available to meet the performance standards identified in the CAAP. A major focus of the CAAP is the Technology Advancement Program, which will see to identify, develop and demonstrate new and emerging technologies for use in the port environment. See Frequently Occurring Comment Response #32.

CLIC-SSA-5RL: Increasing rail infrastructure and improving operational efficiencies are critical to reducing traffic congestion in Long Beach. The railroads and the marine terminals have been innovative in changing business practices to absorb some of the container growth through the ports. Pier Pass has been a very good example of changing business practices to reduce congestion on the I-710. We encourage continued innovation in the area of reducing congestion on our freeways. Near-dock facilities, such as BNSF's proposed SCIG facility will reduce over 1 million truck trips off the I-710 freeway and is an important project that will improve the movement of goods through Long Beach. On-dock rail usage is being negatively impacted by a severe shortage of storage tracks within the harbor area and must be augmented to ensure the continued efficient use on the on-dock assets.

Response: Comments noted. See Frequently Occurring Comment Response #9.

CLIC-SSA-6HDV: We support the goal of transforming the fleet of trucks that service the Ports to "clean trucks". Here is a potentially huge budget item within the CAAP with the least detail of strategy and implementation. A Public-Private partnership or industry solution such as the PierPass model may offer a better alternative.



Response: See the revised discussion in SPBP-HDV1 for more information on the implementation strategies being considered for the truck modernization program. The Ports encourage public-private partnerships for implementing all strategies included in the CAAP.

PRIMAFUEL, INC.

CLIC-PF-1GC: Primafuel congratulates the Ports and the agencies on this landmark achievement. Strongly support the CAAP's focus on reducing cancer causing DPM, and GHG emissions. Our team of engineers and scientists also support the CAAP's call for increased use of clean low sulfur fuels.

Response: Comments noted.

CLIC-PF-2AF: Improving the quality of fuel has proven to be one of the most cost effective ways to reduce airborne criteria emissions such as DPM, CO and hydrocarbons.

Response: Comment noted.

CLIC-PF-3GC: The CAAP must consider GHG emissions as part of its long term commitment to sustainability. As global warming becomes a more pressing issue worldwide, public agencies must take a leadership role in reducing GHG emissions.

Response: See Frequently Occurring Comment Response #25.

CLIC-PF-4AF: Disappointed that CAAP almost entirely overlooks biofuels as a near-term, low-cost option for wide-spread DPM, CO, HC and GHG emissions reductions. As a near-term solution, increased use of biodiesel does not preclude using other solutions (repowers, retrofits, hybrid trains, AMP).

Response: See ORAL Comment Response #6.

CLIC-PF-5AF: In fact, biodiesel's technical characteristics often improve the effectiveness of emissions clean-up systems. Also, biodiesel can be cost-effective today at a price less than or equal to ULSD, and does not require costly and controversial infrastructure like LNG.

Response: See Response to ORAL Comment #6.

CLIC-PF-6AF: Because biodiesel is available now at competitive price, and can be used in conventional diesel trucks to reduce cancer causing PM by a substantial percentage, we believe increased use of biodiesel is critical to meeting CAAP goals.

Response: See Response to ORAL Comment #6.



CLIC-PF-7AF: DOE concluded biodiesel emits 75% less GHG than petroleum diesel on a life-cycle basis. In light of California's new GHG regulations requiring a reduction to 1990 levels by 2020, the increased use of biodiesel will be critical to comply with these toughening standards.

Response: Comment noted..

CLIC-PF-8AF: There is dramatic support for biodiesel, stemming from issues of price, politics and pollution. Comment letter included a number of citations for this support.

Response: Comment noted.

CLIC-PF-9AF-HDV: The promotion of biodiesel fuel could be integrated into the CAAP for SPBP-HDV1 (all non-replaced or non-retrofit vehicles and/or vehicles scheduled for retrofit in program out years).

Response: See Response to ORAL Comment #6

CLIC-PF-10AF-OGV2: The promotion of biodiesel fuel could be integrated into the CAAP for SPBP-OGV2 (as an alternative hotelling emission reduction technology).

Response: See Response to ORAL Comment #6.

CLIC-PF-11AF-OGV3OGV4: The promotion of biodiesel fuel could be integrated into the CAAP for SPBP-OGV3 and SPBP-OGV4 (as a superior low sulfur distillate fuel which further reduces emission characteristics of existing engines and enhances the lubricity characteristic of the low sulfur fuels that will improve the adoption rate of vessels using these fuels).

Response: See Response to ORAL Comment #6.

CLIC-PF-12AF-CHE1: The promotion of biodiesel fuel could be integrated into the CAAP for SPBP-CHE1 (by reducing near-term emissions prior to replacement). This measure as written does not recognize this potential.

Response: See Response to ORAL Comment #6.

CLIC-PF-13AF-HC1RL1RL2: The promotion of biodiesel fuel could be integrated into the CAAP for SPBP-HC1, SPBP-RL1 and SPBP-RL2 (to enhance near term emissions prior to and in addition to upgrades).

Response: See Response to ORAL Comment #6.

CLIC-PF-14TAP: The promotion of biodiesel fuel could be integrated into the CAAP for the TAP, where the TAP could be used to recognize biodiesel blends as an alternative diesel fuel for all five port related source categories and not be limited to harbor craft.

Response: Comment noted.



CLIC-PF-15GC: As national ULSD standard is implemented, the Ports have an opportunity to lead the country beyond ULSD toward increased use of biodiesel. Advanced technologies for new fuels will be critical to creating a more sustainable future and the Ports should take a more active role in supporting early adoption of these technologies.

Response: Comment noted.

CLIC-PF-16GC: Our team of engineers, scientists, and business people are at your disposal.

Response: Comment noted.

SHUREPOWER LLC

CLIC-SP-1GC: We believe there is a great opportunity to reduce (or nearly eliminate) truck emissions at the ports. Since most of the emission from trucks at the ports come from idling, it seems that idle reduction will be an important part of the plan.

Response: Based on the truck activity data available to Ports, the Ports did not find that most of the emission from trucks at the ports come from idling. However, elimination or reduction of truck idling emissions could provide a significant air quality benefit. The Ports will explore the feasibility and effectiveness of anti-idling technologies through the Technology Advancement Program.

CLIC-SP-2GC: If anti-idling rules are to be enforced, there should be an alternative available to the drivers. Auxiliary power units (APUs) and generators are a great solution, but still produce noise and emissions, and consume fuel. 2007 emission standards will greatly reduce truck criteria emissions, but it will not eliminate them. Green house gasses and fuel consumption will still be an issue.

Response: Comment noted.

CLIC-SP-3HDV: Our idea would be to install shore power connections for driver's cabs and trailer refrigeration units (TRUs), thus totally eliminating truck emissions other than the short drive into and out of the ports. Driver's would enter the port, stop at a booth (for less the 15 seconds), and receive a pager. The trucks would then park near the shore power connections and shut down their engines. Driver's would have the option of using shore power or not. Once the load is ready for unloading or loading, the driver would be notified with the pager. The driver's could also give the booth attendant his/her cell phone number as an alternative to the pager.

Response: Comment noted.



CLIC-SP-4HDV: A slight variation of this program could allow priority service or reduced PierPass fees to those using the system and/or reducing emissions. These fleets could even enter through a separate "express" line, thus further reducing emissions.

Response: Comment noted.

CLIC-SP-5TAP: This plan would reduce emissions from all trucks, not only those that are replaced or retrofitted. A plan such as this could be implemented for less than \$1 to 2 million dollars, including any on-board equipment required. A demonstration of this concept could be completed for a fraction of that cost. This type of system is also applicable to border crossings.

Response: Comment noted.

APM TERMINALS (APM)

CLIC-APM-1GC: Maersk Inc., Maersk Line, APM Terminals and our related businesses are committed to continual improvement in air quality and reducing the environmental impact of container shipping. This is demonstrated by our recent voluntary commitment to run our shops (main and aux. engines) on low-sulfur fuels while within 24 nm of coast, our "replace, don't retrofit" program to upgrade CHE, our commitment to maximum usage of our on-dock rail capabilities and our investments in high-efficiency gate systems to maximize truck idling. The experience gained from these programs and our on-going new technology evaluations is reflected in the following comments.

Response: Comments noted.

CLIC-APM-2GC: The most effective approaches combine setting challenging goals with flexibility in how to achieve them, rather than specifying certain approaches/technologies.

Response: The CAAP is designed to set performance based standards. Alternatives that achieve the same or greater emissions reductions will be considered. See Frequently Occurring Comment Response #23.

CLIC-APM-3GC: Flexible implementation encourages innovation, enhances the ability to improve programs and performance to reflect changes in circumstances and technology and allows for differences in equipment and business models.

Response: Comment noted.

CLIC-APM-4GC: Pollution prevention and source reduction programs will be most effective if individual organizations can tailor the programs to their particular equipment, sites and situation. One size fits all programs rarely produce the best results

Response: Comment noted.



CLIC-APM-5GC: Good decisions are data-based. The evaluation of alternative technologies and energy sources must take into account the full life cycle or environmental footprint of the alternatives, rather than simply focusing on the environmental consequences at the point-of-use.

Response: Comment noted.

CLIC-APM-6GC: For our businesses, the best environmental solutions are achieved through energy-efficiency improvements, efficient terminal design and mobile solutions. “Mobile solutions” travel with the vessel or vehicles and provide improvements in environmental performance wherever they travel.

Response: Comment noted.

CLIC-APM-7HDV: Solutions for independent truck owner-operators must be clear, easily implemented, low-risk, consider fuel costs and other fluctuations and be designed for their extremely narrow profit margins and low cash reserves.

Response: Comment noted. We refer you to the revised description of SPBP-HDV1 measure in section 5.0.

CLIC-APM-8OGV: As of 3/31/06, we began an aggressive trial program of using 0.2% S MDO in both main and aux. engines within 24 nm of the coast. When all vessels have fully implemented this program later this year, we estimate the following reductions: 92% SO₂, 73% PM, 10 % NO_x (over 400 tpy total pollutant emission reductions per year).

Response: Comment noted.

CLIC-APM-9OGV: This strategy (0.2%S fuel in both main and aux engines) does increase our operating costs; however the cost is considerable lower than the capital and operating costs of other proposed reduction strategies and the benefits are being achieved now.

Response: Comment noted.

CLIC-APM-10OGV: Maersk’s efforts will not end with the use of low sulfur distillates. Our technical organization continues to work around the world to develop the next technology generations. Examples include: new and innovative technologies for use in marine vessels, work with SCR, waste heat recovery systems, SO_x filters, new PM filters.

Response: Comment noted.



CLIC-APM-11OGV: Maersk believes global solutions that reduce vessel emissions while in transit and at port have the far greatest benefit. Doing so affords the company the opportunity to transfer the benefits of any vessel-implemented solution to all other ports where the vessel calls. Other companies may have a different philosophy and in these cases AMP may be the preferred solution for their respective organizations.

Response: Comment noted.

CLIC-APM-12OGV: Maersk Line supports mobile solutions over AMP or cold ironing because other reduction methods address vessel and landside emissions holistically rather than focus on only the shore side aspect at one port. CI is only effective at the pier and does not reduce emissions as a vessel is moving from place to place.

Response: As detailed in SPBP-OGV1 through SPBP-OGV5, the ports will be seeking emissions reductions from vessels in transit, during maneuvering and at-berth.

CLIC-APM-13OGV: Maersk Line supports mobile solutions over AMP or cold ironing because other approaches have so far proven to be just as effective and can be implemented more rapidly than CI, yielding benefits faster. (i.e., look at our low-sulfur program)

Response: Comment noted.

CLIC-APM-14OGV: Maersk Line supports mobile solutions over AMP or cold ironing because there are no standards for CI among ports, and lack of consistent technology will be a major problem if each port/state/country requires a different protocol. IMO standards development has been initiated, but will be a lengthy process.

Response: The Ports are aware of the issue of standardization and in response, the Port of Los Angeles and Long Beach have agreed to take a leading role in an effort to develop shore-to-ship power standard under the environment and work platform provided by the International Organization of Standards (ISO) Technical Committee 8, Sub-Committee 3. For a more detailed description see the description of SPBP-OGV2 measure in section 5.0 of the revised draft plan.

CLIC-APM-15OGV: Maersk Line supports mobile solutions over AMP or cold ironing because CI has major infrastructure requirements and shifts emissions to where the power is generated. Need to evaluate CI benefits on a life-cycle basis.

Response: Comment noted.

CLIC-APM-16OGV: Maersk Line supports mobile solutions over AMP or cold ironing because safety is a major concern. Handling high power cables is very hazardous work due to cable size and electrical energy involved.

Response: Comment noted.



CLIC-APM-17OGV: Maersk Line supports mobile solutions over AMP or cold ironing because of the impact on are electrical infrastructure. Connection to shore power systems will impact both the power availability and quality for all other users dependent on that area of the grid. The immediate surge in load is significant, representing a challenge during peak grid load. Harmonics can be a significant concern for power quality of the grid potentially impacting electronic equipment and controls. Ships could use interruptible power, but cannot make the change quickly and so are reluctant to depend on reliability of the electric grid, especially at times of highest loading.

Response: Comment noted.

CLIC-APM-18CHE: APM has an aggressive replacement policy for CHE. This policy exceed the CAAP and we are confident (though under no obligation) that we will achieve the goals proposed in the draft CAAP well in advance of the timeframes outlined.

Response: Comment noted.

CLIC-APM-19RL: Maximizing use of on-dock rail benefits both air quality and highway congestion. Air programs should be designed to encourage the use of rail.

Response: Comment noted. See Frequently Occurring Comment Response # 9.

CLIC-APM-20Fund-LA: Acknowledge that Ports and SCAQMD will not be able to fund CAAP in its entirety. Mutually agreeable funding solutions must be sought to make CAAP a success. Maersk believes in public-private partnerships. Maersk would not support fees imposed on terminal or vessel operators. One solution would be third-party billing and collection of a user-fee. We recommend using tools similar to PierPass. Research must be performed to determine if this is a workable idea and to make certain there are no legal barriers.

Response: See Frequently Occurring Comments Reponse #7.

CLIC-APM-21Fund: The success or failure of the Inf. Bond in November will have a major impact on funding and infrastructure for the CAAP.

Response: See Frequently Occurring Comments Response #7.

CLIC-APM-22IEOI: Infrastructure improvements are critical to the overall success to the draft CAAP. In order to be successful, a dialogue with the stakeholder should be initiated to identify and prioritize key infrastructure projects. These improvements can reduce emissions by reducing truck waiting time. Improved on-dock rail capabilities will eliminate thousands of truck moves per week, increase efficiency and reduce dwell time of cargo to/from port.

Response: Comment noted. See Section 5.8 of the Technical Report.



CLIC-APM-23HDV: We encourage government programs to assist independent truck owner-operators to upgrade their equipment. Such programs must be very clear in explanation and cost-benefit analysis, designed for easy implementation, with low risk to the small business/individual. Also need to have minimal additional record keeping; program should consider fuel costs and other business fluctuations.

Response: Comment noted. These issues will be addressed during development of the implementation plan for measure SPBP-HDV1.

CLIC-APM-24HDV: The economic analysis of a truck program must also consider the macro-economic issues, particularly the challenges posed by the decreasing pool of available short-haul owner-operators to move the ever increasing volume of goods. Final plan should not decrease the availability of short-haul owner-operators necessary to move goods out of the port area.

Response: Comment noted.

CLIC-APM-25GC: Maersk and APM will continue its efforts toward eliminating diesel fuel emissions. We are confident our on-going partnership with the Port, regulatory agencies and the local communities will lead us to our mutual goal...zero emissions.

Response: Comment noted.

APL LIMITED AND EAGLE MARINE SERVICES LTD. (APL)

CLIC-APL-1GC: APL and Eagle Marine (as both customer and tenant of the Port) generally support the end goal of the Plan, which is to improve air quality through port mobile source emission reductions.

Response: Comment noted.

CLIC-APL-2GC: Delineation of several existing and previous productive partnerships between ports and tenants (i.e., VSR, CHE retrofitting, Tier 3 on-road engines for terminal operations, LNG equipment, PierPass, support of legislation for ratification of IMO Annex VI to MARPOL 73/78).

Response: Comment noted.

CLIC-APL-3GC-LA: Have numerous concerns regarding the draft CAAP. These include the legality of the measures, their associated timetables, handing of existing terminal leases, funding unknowns, private sector financial impacts, and equipment availability.

Response: See Frequently Occurring Comment Responses #7, #18, and #28.



CLIC-APL-4GC-LA: We believe an important feature overlooked in the CAAP is the use of incentives. Use of incentives will likely achieve earlier, fairer, and more comprehensive results, compared with the ports' proposal to approach the problem piecemeal through lease negotiations and regulation, both of which are subject to a great deal of legal uncertainty.

Response: Please see section 3.1.4 entitled "Incentives" of the Technical Report for more information.

CLIC-APL-5GC: While we participated in the public workshops and meetings around the CAAP, we were not included in any portion of its drafting, policy making, or in the development of discussion of any of the technical appendices. We would like to reiterate our interesting in establishing a working dialogue with the port's staff, either as a company or an industry (through PMSA) prior to the hearings where the Board will take up formal consideration of the CAAP and continuing as the CAAP evolves.

Response: See Frequently Occurring Comment Reponse #4. In addition, the Ports met with PMSA on August 15, 2006.

CLIC-APL-6GC: In this vein, we applaud the ports' recent "Public Private Partnership" infrastructure initiative, which is entirely consistent with the goal of closer industry/port collaboration.

Response: Comment noted.

CLIC-APL-7GC: These are our preliminary comments on the CAAP and are submitted now to meet the 60-day comment period. However, given the extensive and sweeping nature of this plan, our concerns and process considerations noted above, we are reserving our rights to submit more extensive, formal and additional comments in the future.

Response: As clearly stated in CAAP, this is a living document. There will be annual updates to the plan, with opportunities for further input and comment. See Frequently Occurring Comment Response #4.



PACIFIC HARBOR LINE (PHL)

CLIC-PHL-1GC: PHL applauds the efforts of the Port of Los Angeles and the Port of Long Beach to improve air quality in the area.² To this end, PHL has worked closely with the Ports regarding improvements to its rail operations. PHL will be replacing its entire fleet of older, higher-polluting locomotives with new, EPA-certified Tier 2 locomotives over the coming years. In addition, PHL has been an active participant, along with the Ports and the South Coast Air Quality Management District, in testing programs designed to improve the emissions profiles of existing locomotives. We look forward to continued participation with the Ports, the SCAQMD, and others in improving the port environment.

Response: Comment noted.

CLIC-PHL-2GC: It should be noted that PHL and, presumably, other tenants and port-related businesses have made and are making substantial investments in reducing emissions. PHL has stepped up, so to speak. While these efforts were made in advance of the Action Plan, they should be recognized and acknowledged in the Plan. Truly, the Draft Action Plan builds on many of the voluntary efforts of the port business community.

Response: The Ports have and will continue to acknowledge voluntary effort towards reducing air pollution. These emissions reductions are also reflected in the Ports' Emissions Inventory updates. Further, the Ports will be developing a recognition program to award port operations that reduce emissions beyond regulatory requirements, as identified in Section 3.1.12 in the Technical Report.

CLIC-PHL-3GC: In January of this year, the Ports completed and signed extensions of PHL's operating agreements (the "Second Amendments"). The Second Amendments provide a complete set of environmental requirements to which PHL must adhere as a condition of its continued operation at the port. The Second Amendments also require that specific types of locomotives be obtained and operated by PHL. Any obligation imposed on PHL by the Ports in the proposed Action Plan must already exist in the original Operating Permit or the Second Amendments, or must be the subject of future negotiation and agreement.

Response: Comment noted.

CLIC-PHL-4GC: Finally, the Ports must not allow any element of the Action Plan to interfere with PHL's contractual obligations to provide rail service to the port. For example, all locomotives operated by PHL must be able to operate interchangeably within

² The term "Ports" herein refers to the governmental entities operated by the City of Long Beach and the City of Los Angeles. The word "port" refers generically to the geographic region of the Ports.



the port without limitation. There cannot be locomotives that are limited to use at a particular terminal or pier since such a limitation would interfere with PHL's obligation to serve port customers in a neutral and non-discriminatory manner, and would present tremendous operational problems and unanticipated costs. The Ports must not pursue limitations on rail services that could encumber PHL's current obligations.

Response: Comment noted.

CLIC-PHL-5GC: As a general comment, PHL recommends that the Action Plan refer to railroad "locomotives" and not railroad "engines." The word "engine" has been assigned different meanings within the Action Plan, and its use in the rail-related sections is inconsistent with other uses in the Action Plan and is potentially misleading. In addition, USEPA has designated certain *locomotives* as Tier 0, Tier 1 or Tier 2. The engines within these locomotives are not so designated. For these reasons, we encourage the Action Plan to use the term "locomotive" throughout.

Response: Comment noted.

CLIC-PHL-6EI: The Action Plan states, "Locomotive emissions are considered to be port-related between the port terminals and the edge of the SoCAB landside boundary." (Section 1, Page 11). PHL will soon have what is probably the cleanest fleet of diesel locomotives operated by any railroad in the United States. While PHL's contribution toward the port emission inventory is already extremely low, its contribution will shrink in the next few years to de minimis levels with the introduction of new locomotives. PHL requests that future emissions inventories recognize PHL's investment and the commensurate reduction of emissions from locomotives.

Response: Future emissions inventories will be based upon activity data and fleet information for that year. Therefore, lower emissions equipment and operations will be reflected in the annual updates.

CLIC-PHL-7LA: The Action Plan states, "This measure implements an existing MOU between the Ports and PHL..." (Page 104) PHL has entered into the Second Amendments, which are in fact two separate contracts and not MOUs, between the Port and City of Long Beach and the Port and City of Los Angeles regarding its operation within the port. Please change this section to read, "This measure implements existing contracts between the Ports and PHL..."

Response: Comment noted. The Ports have modified the text accordingly.

CLIC-PHL-8RL: The Action Plan states, "By 2008, all existing switch engines in the Ports will be replaced with Tier 2 engines and will use emulsified fuels as available or other equivalently clean alternative diesel fuels." (Page 104) Regarding the deadline for placing new locomotives into service, PHL has provided the Ports with a delivery schedule that calls for the last switch locomotive to be delivered by December 2007.



However, the manufacturer has a contractual right to deliver the locomotives within six months after the due date without penalty if production problems are encountered. Therefore, the 2008 date requires clarification because it may be mid-2008 before all locomotives are delivered.

Response: Comment noted. The Ports are aware of the contractual obligation, but are hopeful the locomotives will be delivered as scheduled.

CLIC-PHL-9RL: PHL currently uses CARB-verified emulsified fuel in its older conventional fleet and its continued use is predicated on its continued availability and technical feasibility. The Second Amendments contain no provisions allowing the use of “other equivalently clean alternative diesel fuels” other than ultra-low sulfur diesel, although PHL remains open minded about the use of other alternative diesel fuels.

Response: Comment noted.

CLIC-PHL-10RL: In addition, there may be certain locomotives operated by PHL that do not utilize diesel fuel. For example, PHL will be testing a liquefied natural gas (LNG)-fueled locomotive in the future. Thus, the Action Plan should not limit locomotives in PHL’s fleet to diesel locomotives operating with diesel fuels. Please change this section (p. 104) to read, “By 2008, all existing switch locomotives in the Ports will be replaced with Tier 2 locomotives. Locomotives requiring diesel fuel will use emulsified fuels to the extent required by PHL’s operating agreements with the Ports.”

Response: Comment noted. The Ports have modified the text accordingly.

CLIC-PHL-11TAP-LA: The Action Plan states, “The DPF trial and retrofits will be separately funded by the Ports as an additional item not in the current MOU.” (Page 104) PHL is open-minded to testing DPF technology, and has discussed this possibility with the SCAQMD and the Ports. However, PHL has not entered into an agreement with the Ports regarding the testing of the DPF. Therefore, it must be clear that any testing of DPF technology on PHL’s locomotives is predicated on receiving adequate funding from the Ports and/or other governmental entities and resolving any contractual issues, including warranty and maintenance issues, that may arise. Also, see the section above regarding PHL’s current operating contracts (and not MOUs) with the Ports. Please change this section to read, “The DPF trial and retrofits will proceed only upon adequate funding by the Ports or other governmental agency.”

Response: Comment noted. The Ports will work with PHL to resolve these issues.

CLIC-PHL-12RL: The Action Plan states, “This program will replace sixteen of PHL’s switch engine fleet with newer and significantly cleaner Tier 2-compliant railroad locomotive engines equipped with idling controls. Emissions associated with switch engine activities are significant and generally occur within Port boundaries.” (Pages 104-105) PHL suggests that the final sentence be removed. This sentence may present an



erroneous picture of the emissions caused by PHL within the port boundaries. The first sentence deals with PHL, but the following sentence attempts to address all switch locomotive activity within the port boundaries, which may include operations in addition to PHL's. In addition, it must be recognized that locomotive emissions represent only 6–13% of the overall port emissions inventory, and this includes all port-related locomotive operations within the SCAB. The Action Plan does not provide any definition for or demarcation between “significant” and “insignificant” emission sources, and further does not identify PHL's operations as significant. According to POLA's Portwide Baseline Air Emissions Inventory, all on-port switching activity contributes less than 1% of NO_x and PM. For these reasons, this paragraph should be changed. Please change this section to read, “This program will replace sixteen of PHL's switch locomotive fleet with newer and significantly cleaner Tier 2-compliant railroad locomotives equipped with idling controls. The emissions reductions associated with the switch locomotive replacements generally occur within port boundaries.”

Response: Comment noted.

CLIC-PHL-13RL: PHL does not understand the discussion of “tariff charges” as an element of this section entitled “Rail Switch Engine Modernization.” Tariff charges and infrastructure appear unrelated to rail switch locomotive modernization. Therefore, PHL recommends that this discussion be removed from this section and placed elsewhere in the Action Plan or deleted entirely. In addition, and for reasons discussed above, PHL suggests the following revisions to this section:

- 1) According to the terms of the contracts between PHL and the Ports, PHL will procure and replace sixteen older technology locomotives with locomotives that meet or surpass the most stringent applicable emission standards.
- 2) Ports' staff will track the progress of locomotive replacement, testing of a locomotive DOC or DPF (should such tests occur), demonstrations of LNG and hybrid locomotives.
- 3) If the DOC or DPF testing is successful, and provided any contractual issues are resolved (and, in the case of DPFs, provided adequate funding is available from the Ports and/or other governmental agencies for DPF installations), DOCs or DPFs may be installed on all the Tier 2 locomotives.
- 4) If PHL purchases additional locomotives, they will meet or exceed Tier 2 standards or meet the most stringent standards in effect at the time of their purchase.



5) Emulsified diesel fuel will be used in all locomotives requiring diesel fuels, where such use is available, technically feasible and permissible under operating agreements with the Ports.

Response: Comment noted. With regards to the tariff comment the Ports have modified the text accordingly.

CLIC-PHL-14Fund: The Action Plan states, “The Ports have approved the funding for this modernization program. Carl Moyer grant funds have also been awarded to PHL for a portion of the fleet modernization costs.” (Page 105) This statement is misleading to the extent that it does not recognize that the greater portion of the funding for locomotive fleet modernization comes from PHL. Please revise this section to read, “PHL is paying the greater portion of the locomotive fleet modernization effort. The Ports have also approved the funding for this modernization program. Carl Moyer grant funds have also been awarded for a portion of the fleet modernization costs.”

Response: Comment noted. See Frequently Occurring Comment Response #28.

CLIC-PHL-15TAP-Fund: The Action Plan states, “If the DPF test is successful, they will be installed on the remaining Tier 2 locomotives.” (Page 105) Per the discussion above, PHL recommends that this sentence be revised to state, “If the DPF test is funded and proves successful, DPFs may be installed on the remaining Tier 2 locomotives, providing Ports’ and/or other governmental funding for installations is available and any contractual issues are resolved.”

Response: Comment noted. The Ports will work with PHL to resolve funding issues.

CLIC-PHL-16RL: The Action Plan states, “The emission reductions associated with limiting idle times from switch engines included in the MOU between the CARB and the Rail industry have been quantified and the figures in the table have been adjusted to reflect these reductions.” (Page 105) PHL is not a signatory to the MOU between CARB and the rail industry. However, PHL has voluntarily implemented an idle-reduction strategy that mimics the larger railroads’ programs.

Response: Comment noted.

CLIC-PHL-17Fund: Regarding “Table 5.23: Costs for SPBP-RL1 by Port by Fiscal Year.” (Page 105) This table does not state PHL’s contribution toward locomotive modernization, nor does it state the SCAQMD’s contribution via the Carl Moyer Program.

Response: The Table has been updated to include SCAQMD’s contribution. PHL’s costs were not included. See Frequently Occurring Comment Response #28.

CLIC-PHL-18RL: The Action Plan states, “Milestone 1. Meet and confer with representatives of PHL in order to track progress, discuss expediting the scheduled



modernization and/or expansion of the modernization plan to encompass the remaining switch engines.” (Page 106) It is unclear what is meant by “remaining switch engines.” Further, the schedule for locomotive delivery is set contractually and cannot be accelerated without amendment to the existing contract. For these reasons, PHL recommends that this Milestone be amended to read, “Milestone 1. Meet and confer with representatives of PHL in order to track progress.”

Response: The milestone section for SPBP-RL1 has been revised.

CLIC-PHL-19RL: The Action Plan states, “Financial Costs – At this time there are no anticipated costs to the Ports associated with this control measure.” (Page 110) In this section, the Action Plan contemplates construction of new or modified rail yards, and imposes new and stringent obligations on the owners and operators of such yards. PHL operates what is referred to as the Pier A rail yard under its contract with the Port of Los Angeles. The San Pedro Bay Harbor Rail Operating Permit (dated December 1, 1997) gives the Port of Los Angeles has the right to remove from service the Pier A rail yard, so long as it provides PHL with a substitute rail yard. The Port of Los Angeles may move the Pier A rail yard at any time prior to the termination of the agreement in 2018. Should the Port of Los Angeles decide to pursue this course of action, PHL must be able to utilize its newly-purchased Tier 2 locomotives, ports-wide, for their entire life span. Indeed, since these locomotives were purchased in part with SCAQMD Carl Moyer funds, PHL is obligated to continue operation of these locomotives until at least 2018. It would be inappropriate and illogical for the Port of Los Angeles to use the moving of the Pier A rail yard as a means of rendering obsolete the very state-of-the-art locomotive fleet the Ports and PHL are jointly procuring.

Response: Comment noted.

CLIC-PHL-20HE: The Action Plan states that new or renewed leases must meet the 10 in 1,000,000 excess cancer risk threshold, and that projects that exceed the AQMD CEQA significance thresholds for criteria pollutants must implement the maximum available controls and feasible mitigations for any emissions increases. PHL is concerned that leaseholders or the Ports might attempt to meet these thresholds, or make other emission reductions, by requiring that locomotives serving the leased site meet emission requirements more stringent than the requirements for Tier 2 locomotives that PHL will be operating. Limitations on the types of locomotives that can serve a particular port customer will result in a patchwork of service, create cargo-handling inefficiencies and bottlenecks, increase congestion and ultimately increase emissions and other negative environmental consequences. PHL’s existing network of tracks and facilities was not designed to provide substitute locomotives for certain customers. In addition, any future demand that a leaseholder utilize locomotives cleaner than Tier 2 could be viewed as interference with the obligations that PHL has to service the Ports and its customers in a neutral fashion. The Action Plan must recognize that whenever additional emissions



reductions are required at a leased site, the Ports and the leaseholder must not look to specialized, facility-specific, rail equipment to obtain emission reductions.

Response: Comment noted. These issues will be addressed during the implementation stage of the individual measures.

UNION PACIFIC RAILROAD COMPANY (UP)

CLIC-UP-1GC: UP is proud of its role as a critical part of the solution to the air quality issues the Ports are trying to address. Rail is the cleanest means of shipping freight to and from the Ports. Shipping freight by truck results in three times the emissions when compared to moving the same freight by rail. An increased reliance on rail can eliminate substantial truck emissions and reduce congestion of area freeways, thus further enhancing air quality. UP is working closely with the U. S. Environmental Protection Agency, the State, and a number of local districts to ensure that rail continues to be a viable, low-polluting mode of freight transportation in the years to come.

Response: Comment noted.

CLIC-UP-2GC: Many of the draft CAAP implementation strategies and other mitigation measures for emissions reductions are already being evaluated or implemented by UP, while other measures suggested by the CAAP are still conceptual and require extensive further analysis to determine feasibility.

Response: Comment noted. New and emerging technologies will be evaluated for all source categories under the Technology Advancement Program. See Frequently Occurring Comment Response #32.

CLIC-UP-3GC: We recognize that the CAAP is a work in progress, as acknowledged by its drafters. The Ports are to be commended for their recognition of the critical role played by federal and state authorities and for their commitment to work with industry and other stakeholders to further develop the draft plan.

Response: Comment noted.

CLIC-UP-4GC: We look forward to working together to help the Ports gain a better understanding of how UP can assist in achieving the CAAP objectives and to jointly explore solutions that will promote the efficiency of our rail operations in the South Coast Basin, as well as our ability to meet the needs of the Ports and our customers.

Response: Comment noted.

CLIC-UP-5GC: California freight railroads are already working on a wide range of measures and initiatives that address the air quality concerns expressed in the CAAP. UP and BNSF Railway (collectively referred to as "Railroads") have taken affirmative steps to



respond to Clean Air Act requirements and to address environmental and public health concerns relating to NO_x and diesel particulate matter. For example:

♦ According to the California Air Resources Board (CARB) and the U. S. Environmental Protection Agency (EPA), the Railroads' South Coast Locomotive Fleet Average Emissions Program under the 1998 Memorandum of Understanding (MOU) between the Railroads and CARB will reduce average NO_x emissions by 2010 from all railroad operations in the SCAQMD by 67% from 2000 levels.

♦ By the end of 2007 at least 50% of the switch locomotives serving the Los Angeles region are expected to have Ultra Low Emissions Level certification by CARE. As compared to the older switch locomotives, the ultra low emitting switch locomotives will provide about a 90% reduction in diesel PM emissions.

♦ CARE estimates that by 2008 the 2005 rail yard MOU will reduce diesel PM emissions by 20% from 2005 levels around major rail yards statewide.

♦ CARE staff also determined that by 2010 emissions in and around one typical rail yard (Commerce) will be reduced by about 65% from 2005 levels due to State regulations already adopted, the two railroad MOUs, plus some additional future investments from the Moyer or other funding incentive programs. (Source: CARE staff presentation, January 21, 2006, see Table 1 below.)

♦ In addition, the Railroads are currently working with CARE and others to create an end- user research and development program for new technologies. Technologies include:

- A \$5 million dollar rail investment to develop and test diesel particulate filters for switch locomotives. BNSF and UP have each agreed to retrofit one switch locomotive with a diesel particulate filter configuration in the third quarter of 2006. Southwest Research Institute will then evaluate the performance of the retrofitted devices. Assuming this technology shows promise, an additional two units will be retrofitted.
- The Railroads are participating with CARB and several local air districts in a demonstration of remote sensing technology for locomotives. UP and BNSF have committed up to \$200,000 in funding for this project. The initial phase of this demonstration project is expected to begin in late September 2006, with initial evaluation of remote sensing technology to be performed at the Transportation Technology Center in Pueblo, Colorado.
- UP is participating with EPA, CARB, the Placer County Air District, the City of Roseville, and Advanced Cleanup Technologies, Inc., among others, in a demonstration of advanced experimental emission control technology "hood"



originally designed for ships. UP hosted the first public demonstration of the Advanced Locomotive Emission Control System (ALECS) at UP's Roseville rail yard on August 2, 2006. After two weeks of testing at the rail yard, the ALECS was moved to the Port of Long Beach to test its potential effectiveness in capturing and treating exhaust for ships.

- UP was the first railroad to demonstrate the prototype and the first production model of the "Green Goat", California's first low-emission, diesel-hybrid locomotive, which is used in switching service. UP has ordered 10 more Green Goats from Railpower Technologies of Vancouver, BC for use in its Southern California rail yard operations. Some arrived late last year and deliveries will continue through 2006.
- In 2004, UP developed specifications for converting an existing 4-axle switch engine into an ultra low emitting refurbished switcher ("Gen Set" switcher). The prototype was placed in service in November 2005 and is currently operating in the South Coast. UP has ordered an additional 60 Gen-Set switchers for use in the South Coast.
- Using the concepts developed for the Gen-Set switcher described above, UP is developing specifications for a 6-axle locomotives that would be capable of classifying traffic at hump yards. Four units will be built and placed in service at Roseville by the end of 2007.

Response: Comments noted.

CLIC-UP-6LA: As noted in the CAAP, restrictions on the Ports' legal authority limit the availability of implementation methods. Under the ICC Termination Act of 1995 (ICCTA) Congress conferred on the Surface Transportation Board exclusive authority over rail transportation. The Federal Clean Air Act gives EPA exclusive authority to set standards for emissions from new locomotives and new engines used in locomotives. Thus, the authority of the State or local agencies to require the reduction or mitigation of emissions from locomotives is very limited.

Response: See Frequently Occurring Comments Responses #18.

CLIC-UP-7EI: UP has demonstrated its commitment to identifying innovative solutions to reduce its emissions and will continue those efforts in the future. As an industry, railroads have done more on a voluntary basis than any other source category. As noted in the CAAP, railroads account for the smallest share of diesel PM, which has been designated by CARB as a surrogate for total emissions. Rail emissions will be further reduced by programs already in place.

Response: Comment noted. The CAAP is designed to reduce emissions and public health risk from sources operating at the Ports. The CAAP lays out the Ports' strategy for achieving emissions reductions from all source categories. Each source will be expected to reduce emissions to a level that will allow for the timely achievement of the San Pedro Bay Standard.



CLIC-UP-8GC: In addition to working with EPA, CARB, and local air districts, UP has actively participated in initiatives across the state. This includes the City of Los Angeles' No Net Increase (NNI) process and the Goods Movement Action Plan (GMAP) effort, which included special consideration of California ports' needs. UP has also participated in numerous meetings in local communities to describe our operations, to explain what we are doing to reduce emissions at major facilities, and to receive feedback on local concerns. UP has also sponsored several demonstrations of new technology to reduce emissions.

Response: Comment noted.

CLIC-UP-9PP: However, the specific rail "control measures" proposed in the CAAP, while building on work done in NNI and GMAP, are still in a conceptual stage and were formulated without input from the Railroads.

Response: See Frequently Occurring Comment Response #4. In addition, the Ports met with representatives of UP on September 14, 2006..

CLIC-UP-10TAP: Additional evaluation is necessary to ensure each element incorporates proven technology, is commercially and technically viable, and will not unduly impact UP's rail operations or its ability to serve customers at the Ports and elsewhere on its system.

Response: Comment noted. The timelines and technologies included in the CAAP are based upon the Ports understanding of the status of the EPA schedule for implementing Tier 3 standards and discussion with the regulatory agencies on the accelerated reductions that could reasonably be achieved. In addition, there are several technology demonstration programs aimed at reducing emissions from locomotives currently underway, which may also accelerate the availability of lower emission locomotives. If proven to be effective and feasible, the Ports will seek to implement these technologies in operations on port properties.

CLIC-UP-11GC: In particular, we have concerns regarding the proposed "Project Specific Standards," which would require all new projects to meet the 10 in 1,000,000 excess cancer risk threshold, as determined by health risk assessments conducted during California Environmental Quality Act (CEQA) review and implemented through required CEQA mitigations associated with lease negotiations. Also, the related determination of "maximum available controls and feasible mitigations for any emissions increases" raises potential concerns because it could potentially place rail at a competitive disadvantage with respect to trucks and result in "negative" modal shift from rail to truck.

Response: The Project Specific Standard of 10 in a million excess residential cancer risk is consistent with SCAQMD CEQA Guidelines. The primary purpose of the CAAP is to reduce air emissions and health risks while allowing port development to continue. In order to meet these goals and to allow for timely achievement of the San Pedro Bay Standard the Ports are committed to the Project Specific Standards listed in Section 2.2 of the CAAP, including



the 10 in a million excess residential cancer risk threshold for evaluating any emissions increases associated with a new project. See Frequently Occurring Comment Responses #12.

CLIC-UP-11GG: We believe that mitigation for future projects to provide needed expansion of rail infrastructure to keep pace with anticipated traffic growth should be evaluated based on the individual merits of the project, the impacts of alternatives, and other relevant circumstances. The rote application of a predetermined set of criteria and assumptions will not necessarily result in the most environmentally beneficial outcome.

Response: Comment noted. The Ports are committed to developing needed rail infrastructure and maximizing the use of on-dock rail as indicated in Section 5.8 of the Technical Report. See Frequently Occurring Comment Response #9.

CLIC-UP-12GG: In order to be successful, emission reductions strategies will require the cooperation of the affected railroads; thus, the Ports must work with the railroads to develop and implement any source specific or project specific measures.

Response: Comment noted.

CLIC-UP-13GG: Railroad measures already in place to reduce emissions must be taken into account determining the appropriate pollutant emission reduction targets for our industry.

Response: Comment noted.

CLIC-UP-14GC: New measures must be compatible with the existing regulatory scheme and build upon efforts already underway. This includes steps already being taken by the railroads to reduce emissions in the entire Basin, including emissions that might be construed as Port-related. The CAAP does not accurately reflect the breadth and scope of the railroads' commitments and understates the emission reductions that will be achieved under the 1998 and 2005 MOU's with the California Air Resources Board.

Response: The Ports worked closely with CARB to ensure measures SPBP-RL2 and SPBP-RL3 were compatible with the commitments of the existing MOUs. See the revised measure descriptions in Section 5 of the Technical Report and Frequently Occurring Comment Response #29.

CLIC-UP-15TAP: Proposed rail emissions reduction strategies must be shown to be technically feasible; required technologies must be proven; and technologies must be commercially available at a reasonable price and implemented in a manner that does not impair the efficiency of the rail carrier or its ability to provide essential rail services.

Response: See response to comment CLIC-UP-10TAP. In addition, the Ports will seek to partner with the Class 1 railroads to develop, and demonstrate new and emerging technologies through the Technology Advancement Program.



CLIC-UP-16CE: Proposed rail emissions reduction strategies must also be cost effective and must be justified by the anticipated benefits. This principle should apply equally to each of the individual measures, particularly those that will not receive public funding. Currently, the CAAP includes cost estimates only for proposed programs funded by the public sector. The significant costs the Class 1 Railroads would incur to implement the two rail measures discussed below (SPBP-RL2 and -RL3) were not considered at all in the draft CAAP. We submit that all relevant costs, direct and indirect, associated with each of the individual measures should be identified and quantified to assess cost effectiveness.

Response: See Frequently Occurring Comment Response #28.

CLIC-UP-17RL2: The railroads have already committed to operate a fleet of locomotives in the South Coast Air Basin with a fleet average emission rate equivalent to the Tier 2 engine standards by 2010, a year earlier than the CAAP would require (1998 MOU or Fleet Average Agreement). EPA has approved the resulting reductions as part of the California SIP. As a result of the 1998 MOU with CARB and EPA's SIP approval, locomotives serving the Ports will meet the emission reduction objective through averaging.

The CARB and EPA-approved fleet average requirements utilize a performance-based standard, rather than a prescriptive standard, that guarantees, on average, the Tier 2 levels emission levels will be achieved. This method provides flexibility to the railroads and allows each company to develop compliance strategies for achieving those standards based on its respective rail system and operations.

Response: The Source Specific Standards for measures SPBP-RL2 and SPBP-RL3 in Section 5.0 have been revised and updated to meet a fleet average for Class 1 long haul locomotives calling at Port properties to be Tier 3 equivalent by 2014.

CLIC-UP-18RL2: Line haul, or "road", locomotives propel freight trains between major terminals such as Los Angeles-Houston, Los Angeles-Chicago, or Los Angeles-Roseville, while switcher locomotives are used for switching operations inside yards and around terminals. UP has four routes serving the Los Angeles Basin, all of which handle traffic moving to and from the San Pedro ports on trains that are powered by line haul locomotives that could potentially enter Port facilities. UP does not have sufficient support track or staging areas at locations where UP could swap out locomotives as trains enter and depart the San Pedro ports. In addition, locomotives will not necessarily depart from the Basin on the same route as they entered.

Response: The Source Specific Standards for measures SPBP-RL2 and SPBP-RL3 in Section 5.0 have been revised and updated to address these issues.



CLIC-UP-19RL2: The Tier 2 locomotives UP committed to purchase under the 1998 MOU just came on the market in 2005 and they represent the cleanest engines available for this line haul service. UP is aggressively purchasing these Tier 2 high horsepower locomotives to meet its obligations under the 1998 MOU. However, UP's implementation plan also contemplates the use of lower horsepower ultra low emitting units that would remain in the Basin for switching and local service. This should allow UP to retain some critical flexibility in the selection of line haul locomotives to be operated on its through trains, at least in the early years, as contemplated by the parties to the 1998 MOU.

Response: Comment noted.

CLIC-UP-20RL2: The CAAP proposal to require that all diesel powered line haul locomotives entering Port facilities must meet Tier 2 standards by 2011 is extremely burdensome because of the long lead times for turning over a fleet that includes thousands of locomotives. In effect, it would require UP to maintain a separate fleet of high horsepower Tier 2 locomotives within the Basin dedicated to Port service. Through trains would have to be held at various locations away from the Ports while the locomotives are changed out. This would needlessly tie up locomotives and produce inordinate delays to trains carrying time-sensitive freight traffic. The service disruptions would have rippling effects across UP's entire system and would adversely impact the efficiency of its rail operations in other areas.

Response: See response to comment CLIC-UP-18RL2.

CLIC-UP-21RL2: EPA has already acknowledged that the fleet average is a unique program to achieve additional NO_x reductions for the South Coast ozone nonattainment area. (63 Federal Register 18979, lb. 1.) Given that only a limited number of Tier 2 locomotives are currently in service nationwide, the MOU's performance standard is aggressive. The imposition of Port specifications for individual line haul locomotive units that are already subject to the 1998 MOU would impede UP's implementation planning efforts and jeopardize UP's ability to provide needed rail service to Port customers.

Response: See response to comments CLIC-UP-14GC and CLIC-UP-18RL2.

CLIC-UP-22RL2: RL1, which deals with the modernization of switch engines that belong to Pacific Harbor Lines (PHL), also contains provisions for application of DOC or DPF retrofits, but it is contingent upon the successful demonstration of the technology. RL2 does not recognize the fact that the feasibility of this technology has not yet been demonstrated for locomotives used in line haul service to the Ports. This is a serious omission.

Response: The Ports recognize that demonstration of the feasibility and effectiveness of new and emerging technologies will be necessary, and will work with the Class 1 rail operators through the Technology Advancement Program to address this need.



CLIC-UP-23RL2: In RL1, the CAAP proposes to implement an existing MOU between the ports and PHL, which calls for PHL to conduct a series of feasibility tests that will include DOC or DPF retrofits. The CAAP also provides that both the DPF trial study and retrofits will be funded as a separate item by the Ports in addition to the financial obligations the Ports have assumed under the MOU.

Response: Comment noted.

CLIC-UP-24RL2: The apparent lack of parity between the requirements for PHL and the other railroads is troubling. The Ports should approach negotiation of the need for installation of DOC or DPF technology on Class 1 railroads in the same spirit of accommodation that it has exhibited in the case of PHL. Specifically, RL2 should recognize that the same need for feasibility testing exists with respect to line haul locomotives operated by Class 1 railroads. In addition, it should take into account the fact that unlike PHL, which operates only in the immediate vicinity of the Ports, UP can not easily or efficiently deploy a dedicated fleet of line haul locomotives to service the Ports. Thus, any requirement to apply particular retrofit technology to UP's line haul locomotives must be framed in a manner that is compatible with UP's fleet operation under the fleet average agreement.

Response: See response to comment CLIC-UP-22RL2. In addition, the Source Specific Standards for measures SPBP-RL2 and SPBP-RL3 in Section 5.0 have been revised and updated to address these issues.

CLIC-UP-25RL2: Through the 2005 MOU with CARB, UP has committed to install idling reduction devices on all intrastate locomotives by June 2008 and it is on schedule to achieve this objective. Additionally, the newer Tier 0, Tier 1, and Tier 2 units UP is bringing into the Basin are equipped with factory installed idling reduction devices. Therefore, all intrastate locomotives and most of the interstate locomotives serving the Ports will meet this requirement. However, it is unreasonable to require that every locomotive be so equipped. UP must preserve its flexibility in the selection of locomotives to be operated in the Basin, including foreign power (locomotives supplied by connecting railroads that occasionally run on UP tracks), in meeting its obligations under the Fleet Average Agreement.

Response: See response to comment CLIC-UP-18RL2..

CLIC-UP-26RL2: EPA's national fuel standard for locomotives, which was adopted by EPA pursuant to its May 2004 New Clean Diesel Rule, will be 15ppm starting in 2012. This measure, which would move up the compliance date by one year to 2011, will not yield substantial additional air quality benefits. CARB has recently adopted requirements for all intrastate locomotives to use ULSD fuels beginning January 1, 2007. Additionally,



the Railroads are already dispensing more than 90% ULSD fuels into locomotives fueled in the Basin under the terms of the 2005 MOU.

If line haul locomotives entering the Ports area were required to use low sulfur fuel exclusively before a standard become effective, this would entail the draining of fuel tanks on locomotives entering the Basin, installation of separate tanks or baffling, or adding a dedicated fuel tender car containing ULSD fuels, because, as explained previously, UP can not maintain a captive fleet of locomotives to serve the Ports. However, in view of the fact that EPA fuel is getting cleaner over time and UP already purchases a considerable amount of CARB diesel for all locations dispensing fuel to locomotives operating in the State of California, the emissions benefit from the measure would be very small. Clearly, this proposal should be modified so the dates are aligned with existing state and federal requirements and the 2005 MOU.

Response: See response to comment CLIC-UP-18RL2. The Ports will work with the Class 1 rail operators during the development of the implementation plan for this measure.

CLIC-UP-27RL2: The construction of this requirement is not consistent with any other measure in the CAAP that establishes source category reduction requirements from federally regulated engines. Similar measures for other mobile sources incorporate the federal standard and base the timeframe for implementation on the availability of the new technology, consistent with the federal standard. For example, CHE-1 establishes a requirement for cargo handling equipment engines to be “equivalent or cleaner than either the EPA 2007 on-road or Tier 4 off-road standards”. Also, HC-1 provides “when Tier 3 engines become available, *within five years* all HC (harbor craft) home-based at San Pedro Bay Ports will be repowered with new engines”.

EPA issued an advance notice of proposed rulemaking, Docket ID No. OAR-2003-0 190, to consider new emission standards for both new and existing diesel engines used in locomotives and new marine vessels.

Response: See response to comment CLIC-UP-18RL2.

CLIC-UP-28GC: It is unrealistic to attempt to impose future requirements that are pegged to an engine standard that does not yet exist or to a percentage reduction that may not be attainable. Similarly, it is unrealistic to set a deadline for achieving the reduction at this early stage of the federal rulemaking. Finally, any standard for locomotive technology that is adopted for line haul locomotives cannot be Ports-specific because, as explained previously, the affected locomotives can not remain captive to the Basin; locomotives must be employed to move freight to and from major terminals in distant states, including Texas, Illinois, and Tennessee.

Response: See response to comments CLIC-UP-10TAP and CLIC-UP-18RL2.



CLIC-UP-29LA-RL3: This measure would establish criteria for new or modified existing rail facilities on Port property. It assumes mitigation associated with future projects would be imposed through the leasing process or as part of a subsequent review process as new projects are proposed. It raises important legal and public policy concerns.

Response: See Frequently Occurring Comments Responses #18.

CLIC-UP-30RL3: Although we would expect to work closely with the Ports on any major initiatives involving facilities or significant modifications to existing facilities on Port property, the analysis of the environmental impacts and required mitigation should take into account all of the relevant circumstances and available alternatives instead of adhering to a regime of rigid predetermined control measures. In this respect, RL3 appears to be patterned after the “tool box of vetted control measures” that were proposed in the NNI plan for project mitigation. As CARB noted there, “the application of the NNI measures as mitigation may or may not be appropriate depending on the specific project and the feasibility of the measures being proposed.”

Response: Comment noted.

CLIC-UP-31RL3: While UP welcomes the opportunity to explore new, promising technologies, insistence on the cleanest locomotive technology may be infeasible or impractical for some applications. For example, the Green Goat switchers can not pull large cuts of cars for long distances at a high rate of speed. An effort should be made to reach consensus on the best available technology from the standpoint of emissions, availability, cost, reliability, and whether it is suitable for the required tasks.

Response: Comment noted.

CLIC-UP-32RL3: So long as these applications are limited to switch engines, this portion of the measure would not present problems of the same magnitude as those associated with having to maintain a dedicated fleet of line haul locomotives (see discussion of the RL2 measure above). However, as explained previously, the feasibility of the DPF retrofits has yet to be proven. This also applies to SCR (selective catalytic reduction), which require an extensive and entirely new infrastructure to support dispensing of urea as well as locomotive retrofits to provide on-board storage capabilities.

Response: Comment noted. See response to comment CLIC-UP-22RL2.

CLIC-UP-33RL3: UP is participating in a collaborative project involving local air districts, EPA, CARB, and Advanced Cleanup Technologies, among others, to demonstrate the effectiveness of stationary control equipment on locomotive exhaust at UP’s Roseville yard. Impacts on rail operations and fluidity of yard operations will be assessed as part of the demonstration project, as well as capital and life cycle costs and requirements for infrastructure and support utilities. Also, we have yet to demonstrate a



practical means of capturing the exhaust from the locomotive and conveying it to the control equipment for some proposed applications involving moving equipment.

Response: Comment noted.

The CAAP proposes to impose this requirement “if such hoods are shown to be effective emission control devices by testing currently underway.” In addition to reducing emissions, the technology must be capable of being integrated with the efficient performance of essential transportation services, including yard operations. Cost effectiveness is also an important consideration.

Response: Comment noted.

CLIC-UP-34HE: The proposed “Project Specific Standards” which would require all new projects to meet the 10 in 1,000,000 excess cancer risk threshold, as determined by health risk assessments conducted during later project review and implemented through required mitigations, is a matter of considerable controversy. The CAAP acknowledges that the modeling used to measure this risk is imperfect. It has also been challenged on multiple other grounds. It is almost certain that any proposed project, particularly one that is designed to accommodate future growth, could not meet this standard. It is also unclear what is meant by “maximum available controls and feasible mitigations for any emissions increases” which would apply under the CAAP to projects that exceed the 10 in 1,000,000 excess cancer risk threshold.

Response: See response to comment CLIC-UP-11GC.

CLIC-UP-35LA: The Ports should be mindful that Section 209(e)(1) of the Clean Air Act preempts state and local governments from adopting or enforcing standards and other requirements relating to the control of emissions from locomotives and locomotive engines. We also believe that any attempt by the ports to impose emissions standards for locomotives as a condition on the permitting of future railroad projects at the Port is unlawful under the ICCTA. It is therefore important that the Ports work closely with the railroads to develop feasible, cost-effective mitigation measures that can be implemented pursuant to mutual agreement.

Response: See Frequently Occurring Comments Responses #18

CLIC-UP-36GC: The Ports must also consider the downsides of a “no project” alternative, including the adverse consequences for public safety, public health, and the environment. If the railroads cannot install needed new facilities in a timely manner, unacceptable congestion and service problems will result. Among other problems, it will compromise the railroads’ ability to optimize their use of the Alameda Corridor. Any loss of fluidity in rail operations due to capacity constraints is also conducive to negative modal shift, resulting in increased pollution from trucks and increased congestion on area roads and freeways.



Response: Comment noted. See response to comment CLIC-UP-11GG.

CLIC-UP-37CE: The added costs to the Ports and other public agencies of shifting containers from rail to trucks would be substantial. If the railroads are unable to secure permits for new facilities or modernization of existing facilities, they will not be able to handle their proportionate share of the growth in containerized traffic and more containers will be shifted to the public highways. This will increase the number of trucks that would be needed to handle the traffic. It is estimated that 90 percent of the total costs of the CAAP that will be incurred by the Ports and other public agencies will be expended replacing or retrofitting trucks to meet the new lower emission standards. It will cost even more to buy or retrofit all the additional trucks that will be needed to move the containers that the railroads cannot handle if they are unable to add capacity in a timely manner.

Response: Comment noted.

VALERO WILMINGTON REFINERY (ULTRAMAR)

CLIC-ULTRA-1GC: Ultramar currently operates a liquid bulk terminal (Berth 164) in POLA that would be significantly and directly impacted by the CAAP. As the Ports are aware, Berth 164 is vital to the import of critically necessary gasoline blending components required for the Ultramar's refinery production of California compliant transportation fuels.

Ultramar supports the basic initiatives of the CAAP and recognizes the importance of reducing the impact the Ports have on air quality in the region and in the surrounding communities. However, as detailed below, Ultramar has significant concerns with regard to the safety, feasibility, and legality of the following CAAP prescribed emission reduction measures and associated implemented time lines.

Response: Comment noted.

CLIC-ULTRA-2 OGV: Under the CAAP, Port users, like Ultramar, would be required to make almost immediate commitments to use currently unproven processes and technologies that may have substantial safety and economic implications. This is particularly problematic for Ultramar as it does not own or operate the tankers and vessels calling on Berth 164 that deliver critically necessary intermediates and blending components for Ultramar's refinery production. Currently, Ultramar charters these tankers and vessels from a number of ship owners and charterers throughout the world, which call infrequently on Berth 164, a vast majority only once.

Response: Comment noted. A major focus of the CAAP is the Technology Advancement Program which will seek to develop and demonstrate new Technologies to ensure they are



feasible and effective at reducing emissions in port operations. See also response to comment CLAI-WSPA-9GC.

CLIC-ULTRA-3 OGV: There must be serious consideration and necessary time for Ultramar and other companies to evaluate the technical feasibility and safety of these prescribed standards, availability of ULSD fuels at 0.2% throughout the world, and the task of facilitating the retooling of many independent ship owners' and charterers' tankers and vessels to be Ports' compliant.

Response: See response to comment CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-ULTRA-4GC: Ultramar supports and incorporates herein by reference as its own, the comments and attachments (Attachment A, Legal Implications of the CAAP) submitted by the Western States Petroleum Association ("WSPA") on the CAAP. The WSPA comments and attachments outline in greater detail, in some instances, the various technical and legal deficiencies associated with the Ports proposed CAAP. Ultramar reserves the right to further enhance and supplement its comments as well as WSPA's and comment on any subsequent materials related to the Ports' CAAP.

Response: Comments noted. See responses to WSPA's comments.

CLIC-ULTRA-6 OGV: It should be noted from the onset that Ultramar has been reviewing internally and in conjunction with the proposed Pier 400 Project (Berth 408) in POLA the technical feasibility and safety concerns associated with emission reduction measures such as SPBP-OGV2 through SPBP-OGV5. This ongoing review process has involved the review of significant amounts of information by professional and technical personnel with decades of experience in tanker design, marine transportation, crude oil supply and distribution, and crude oil purchasing and trading. These professional and technical personnel have decades of red-the experience with all aspects of the movement of crude oil and feedstocks on tanker and vessels all over the world.

The conclusion reached from this review process to date is that emission reduction measures such as SPBP-OGV2 through SPBP-OGV5 in the timeframes mandated by the CAAP are not technically feasibility and could result in significant hazards and safety implications. In order to safely comply with these measures, the worldwide tanker fleet would need to modify the tanker and vessel critical fueling systems and controls, inert gas systems, install of additional tanks, etc. These modifications most likely need to be made during the tankers and vessels required five-year dry dock inspection schedule and must be approved by the Classification Society. Accordingly, a feasibility study of the safety and operability application of the CAAP measures on each of the independently owned ships, along with installation of the required equipment will take years to accomplish.



Response: Comment Noted. The Ports are prepared to address these issues in the implementation of the individual control measures.

CLIC-ULTRA-7 OGV3-OGV4: Fuel switching for the auxiliary and main propulsion engines and boilers is viewed as a significant potential risk that will provide relatively little air quality improvement in the Ports area. In particular, fuel switching in the main propulsion engine from HFO, a heavy, viscous fuel that must be heated in order to be used, to a lighter, non-heated, relatively lower flash point MDO fuel is expected to be a time consuming and complicated process that will likely take several hours to complete safely. The large propulsion engines in tankers are complex machinery specifically designed to operate with the heavier fuel oils. Changing how the engines operate is a complicated process, particularly where safety could be an issue. The process of changing from a heavier to a lighter fuel raises the potential for the engine to malfunction as the lighter, non-heated, lower flash fuel oil (150 OF flash point minimum) enters the superheated engine that has been utilizing a heated fuel oil with a relatively high flash point. Companies that Ultramar as spoken to who have done fuel switching on owned vessels in very limited and specific situations reported several instances where problems have occurred in actual practice.

A shut down or failure occurrence in the main propulsion engine of a typical single-engine tanker presents a significant problem. A tanker adrift at sea increases the risk of a collision and the potential to ground the vessel on the California coast. California law places the liability of an oil spill with the owner of the cargo. An incident of this nature could result in significant adverse environmental impacts and billions of dollars of clean up costs and damages. Ultramar's view is the risk of these potential problems is not a reasonable trade off for the relatively modest gains in air quality for fuel switching in the main propulsion engines, especially when the switching takes place several miles from port. A Company that Ultramar has spoken to that has fuel switched to a lighter fuel on single-engine tanker did so while the tanker was safely at berth. It is worth noting that the tanker was owned by the company, which was a U.S, flag tanker on dedicated route and using strict procedures, as opposed to the general, foreign flag chartered tankers and vessels calling on Berth 164.

Response: See responses to comments CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.



CLIC-ULTRA-8 OGV3-OGV4: The introduction of 0.2% sulfur MDO also creates additional problems for the tanker and vessel owners. Ultramar's analysis concludes that tankers and vessels will probably need to add additional fuel tanks to economically accommodate the introduction of an additional grade of fuel. Due to the nature of what is involved to add a new tank to an existing vessel, installing additional fuel tanks on California bound vessels will take time. Such changes will be best made when the vessel enters dry dock for its five-year inspections. As in the case of he1 switching in the main propulsion engines, introducing 0.2% sulfur fuel is a complex process that will require review and industry acceptance over time.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-ULTRA-9 OGV3-OGV4: As documented in POLA's 2005 Starcrest Study, "Evaluation of low Sulfur Marine Fuel Availability -Pacific Rim," the International Council on Combustion Engines (CIMAC) listed the following concerns associated with fuel, switching:

- "Low lubricity; according to CLMAC, there is not enough experience with low sulfur diesel use to address the issue, and more research is needed.
- Delivery-side thermal issues; MDO introduced at ambient engine temperature, could cause the fuel pumps to seize if introduced too fast, this could cause sudden loss of propulsion auxiliary power.
- Fuel Compatibility; when switching from heavy fuel to distillate h 1 , he1 filters could clog and fuel pumps could stick, causing a sudden loss of power.
- Mixing Two Fuels in a Common tank; film clogging due to fuel incompatibility is related to the solvent effect of diesel fuel removing deposits from fuel lines. Fleet managers mentioned the filtering system, main engine cylinder oil, fuel pumps and piston liner may stick; moving parts wear down if exposed to lower sulfur fuels for a long period, and could cause possible malfunction of the propulsion gear if the vessel is not properly equipped with extra tanks and electronically controlled lubricators."

The Starcrest Study further recommended; "additional research for trial use of lower sulfur fuel in marine engines, fuel switching procedures development, and consideration given to other alternatives in lowering emissions. "

Accordingly, fuel switching should not be mandated by the Ports' until fuel switching is thoroughly reviewed for safety and feasibility, based on acceptable protocols developed using accredited professionals, and universal standards have been approved by the appropriate oversight agencies. This process will take time, but considering the potential consequences and related liabilities, is viewed as the only prudent way forward.



Response: One of the milestones of SPBP-OGV3 and SPBP-OGV4 measures in section 5.0 of the draft revised plan is that the port staff will meet and confer with fuel suppliers to determine the availability of 0.2% S fuel. The Ports are prepared to address these other issues in the implementation of the individual control measures. See also response to comment CLAE-NRDC2-AttA-46OGV3.

CLIC-ULTRA-10 OGV3-OGV4: Additionally, similar to CARB'S Proposed Regulation Order Airborne Toxic Control Measure for Auxiliary Diesel Engines and Diesel-Electric Engines Operating on Ocean-Going Vessels within California Waters and 24 Nautical Miles any of the proposed CAAP emission reduction measures must allow a master of a vessel the ability to determine if regulatory compliance would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination or extraordinary reasons beyond the master's reasonable control.

Response: See responses to comments CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-ULTRA-11 OGV3-OGV4: Going beyond CARB's Proposed Regulation Order Airborne Toxic Control Measure for Auxiliary Diesel Engines and Diesel-Electric Engines Operating on Ocean-Going Vessels within California Waters and 24 Nautical Miles to use typical MDO in auxiliary engines d s e s other issues. Ultramar is concerned that the minimal gains in emissions reductions from using 0.2% sulfur MDO verses an industry standard MDO cannot be justified and cannot be considered a reasonable requirement when considered in relation to the complexities associated with producing and providing 0.2% MDO on a worldwide basis.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-ULTRA-12 OGV3-OGV4: Ultramar' ongoing review concludes to date that fuel with 0.2% sulfur is not widely available, particularly in the ports where the tankers and vessels it charters originate from. This is supported by POLA's 2005 Starcrest Study, which points out the problem very clearly (and the Starcrest Study was limited in its scope of locations considered). POLA's Starcrest Study concluded that "there are a number of operational issues associated with attempting to switch main engine residual fuel to a marine distillate. Vessel configurations vary considerably even within the same shipping line's fleet; extra fuel and lubricating oil storage tanks may be needed, along with associated piping, should switching to lower sulfur fuels be required, Other issues relate to lubricity requirements, he1 temperature requirements, and he1 compatibility" .

POLA's Starcrest Study also acknowledges that "Low sulfur (<0.2% sulfur) residual oil is not available, and low sulfur marine distillate (<0.2%), if supplied at all, cost more than twice what residual oil costs". Two-thirds of the ports of call or origination for vessels



serving the POLA are in Asia, however, the Asian ports, other than Singapore, are those least likely to be able to supply marine distillate with ~0.2% sulfur content ."

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-ULTRA-13 OGV3-OGV4: It is clear that for the fuel switching emission reduction measures of the CAM to be successful, 0-2%, or later 0.1%, MDO will have to be available worldwide for incoming tankers and vessels. In order to assure a worldwide supply, many expensive and complicated changes will need to be implemented at ports throughout the world, including, new production, storage and transportation facilities. These changes are not simple and will take considerable capital and time to put in place. In effect a completely new low sulfur fuel facility infrastructure will be required all over the world.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-ULTRA-14 OGV3-OGV4: Furthermore, it is unlikely that the MDO fuel specification will be switched to lower percent sulfur anywhere else in the world for some time, so the introduction of an additional grade of MDO will require an additional system, which will be a complicated and expensive process for the producers, transporters, and the suppliers who will have to provide low sulfur MDO and conventional MDO at the same time.

Response: Comment noted.

CLIC-ULTRA-15 OGV2: AMPing requirements will have significant impact on time and spot chartered vessels. As explained above, Ultramar does not own tankers or vessels and must charter these ships from all over the world. While over time fuel switching may become a worldwide standard, AMPing requires even more onerous ship vessel modifications. For instance, unlike container ships, tankers use the discharge gas from auxiliary boilers and pumps to provide inert gas supply when off loading cargo. Maintaining an inert gas blanket is an absolute safety measure critical to protect against the potential for explosion aboard ship. In addition to installation of onboard AMPing equipment, modifications to install new inert gas systems would be necessary for those vessels built to supply inert gas from auxiliary equipment.

Response: See response to comment CLAI-WSPA-9GC.

CLIC-ULTRA-16 OGV2: Alternative Technologies must be considered as options to comply with the AMP and must be evaluated through performance and applicability testing. For example, the ACTI Advanced Maritime Emissions Control System (AMECS) process is a promising alternative to be considered. If proven to be effective, this alternative, and others like it, should be strongly supported in lieu of requiring potentially unsafe fuel switching at sea and expensive vessel AMPing modifications. Ultramar believes there will be other important and effective technologies developing in



the future that will have applications for reducing other emission sources such as trucks and trains. These technologies should be considered as alternative mitigation for new projects and existing terminals. Ultramar would rather support a known, proven technology in lieu of being required to support unproven, complicated changes in international shipping practices.

Response: See response to comment CLAI-WSPA-9GC.

CLIC-ULTRA-17 OGV2-OGV5: As in the case of vessel modifications, Ultramar believes similar lead times are needed to introduce new alternative technologies. The ACTI AMECS process is a good case in point. The underlying emission treatment process is still under review and testing. Even after the initial testing is complete, there will be a significant period related to development and adoption of standards to safely and effectively use the process on ships. Additional time will be needed to implement the final systems and make vessel modifications that may be necessary to accommodate the new process. The lead time on a process of this nature will likely take at least three to four years at best and probably more.

Response: See response to comment CLAI-WSPA-9GC.

CLIC-ULTRA-18GC: One area of particular interest to Ultramar is that of the potential use of "off-site" or "off-project" mitigation. Such mitigation would be undertaken using proven and definable mitigation that would offset use of unproven or less desirable project mitigation such as fuel switching on main propulsion engines or AMPing of non-frequent tankers. Our view is that such an arrangement would be far more acceptable from a legal and certainty point of view than binding agreements to implement untested and potentially unsafe practices associated with other proposed mitigations. The availability of such alternatives would also lessen the potential for legal issues associated with interference with international shipping treaties and related international trade agreements. For example, Port tenants may be willing to contribute into a fund to support funding of replacement trucks in lieu of using 0.2 % sulfur in main engines on vessels. The concept is that expensive, world-wide costs and complications with limited mitigation contribution could be avoided by the shippers, and the air quality directly in the Ports area would benefit on an expedited basis.

Response: See Frequently Occurring Comment Response #20.

CLIC-ULTRA-19 OGV3-OGV4: What is clearly absent from the CAAP is a standard of proven and safe technology. Instead, what the CAAP has prescribed are unproven technology and methods that have yet to be demonstrated safe or effective. To that end, Ultramar is aware that Pacific Energy in the context of its proposed Pier 400 project is recommending a comprehensive feasibility study be undertaken to analyze any potential hazards of fuel switching on tankers and vessel operations, Ultramar understands that the proposed study would be lead by a qualified neutral party, and would be funded by both



Pacific and the Port, and other industry groups if appropriate. The study would examine several issues including safety of fuel switching, best practices for tankers during fuel switching, availability of 0.2% sulfur fuel at ports where crude oil shipments originate, and the relative health risk and air quality benefits for the surrounding area.

Response: Comment noted.

CLIC-ULTRA-20 OGV3-OGV4: In addition to this, Ultramar is aware that WSPA is proposing that the Ports establish a Technical Advisory Group for the purpose of bringing together fuel providers, engine manufacturers, ship operators, after-treatment manufacturers and air quality experts to work with the Ports. Ultramar understands the Technical Advisory Group would review, for example, the feasibility of fuel switching and AMPing in a transparent, interactive manner; thus allowing all parties to fully understand the realities of such a complex measure.

It is envisioned that the Technical Advisory Group develop a realistic time line to research and conduct pilot studies and modification schedules that will provide adequate time to work tanker and vessel modifications around the industry standard vessel maintenance schedules.

Response: Comment noted.

CLIC-ULTRA-21 OGV3-OGV4: Ultramar is strongly supportive of these efforts and stands ready to participate. Ultramar believes that such efforts will ensure implementation of sound and effective equipment, and avoid the potential for an adverse environmental impact (i.e. tanker adrift onboard equipment fire or explosion) at the hands of unproven methods. Absent a formal fuel switching study and or Technical Advisory Group, each individual company will have to conduct an independent analysis through trial and error to evaluate feasibility. Such an approach is not a recipe for successful implementation of the CAAP.

Response: Comment noted.

CLIC-ULTRA-22GC: The proposed emission reduction measures - AMPing (SPBP-OGV2), fuel switching (SPBP-OGV3 through SPBP-OGV5), and implementation of alternative technologies -- are all complicated undertakings and will have many impacts on historical "tried and true" business practices. In addition, marine equipment due to its very nature and use is difficult to modify. As emphasized above, Valero is concerned that the Ports' proposed emission reduction measures are currently infeasible and present technical and safety issues. Accordingly, realistic time line to research and conduct pilot studies and propose schedules that will provide adequate time to work vessel modifications around the industry standard vessel maintenance schedules must be included in the CAAP. Currently, the timetables proposed in the CAAP, will not allow



adequate time to conduct research, obtain industry review and buy-in, and complete necessary vessel changes on an orderly schedule.

Response: See response to comment CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-ULTRA-23LA:

Unfortunately, to date the Ports have failed to provide any legal analysis of their authority to impose the emission reduction measures in the CAAP. Ultramar is specifically concerned with the following legal implications:

- The Ports lack the authority to impose emission-related requirements.
- The CAAP contains tank vessels operational and equipment requirements that are federally preempted.
- The CAAP contains requirements that would impose an impermissible burden on commerce.
- The use of lease agreements to impose OGV standards does not overcome the jurisdictional, preemption, and commerce clause problems.
- The use of California Environmental Quality Act mitigation measures to impose OGV standards does not obviate the jurisdictional, preemption, and commerce clause problems.
- The CAAP cannot be adopted without preparing the appropriate environmental analysis pursuant to CEQA.

In fact, the Ports acknowledge in the CAGP that "All control measures and implementation Strategies/ mechanisms are subject to further legal analysis by the City Attorneys of the respective ports." Ultramar requests the Ports conduct the appropriate legal analysis to address these concerns before adopting the plan.

Response: See Frequently Occurring Comments Responses #18.

CLIC-ULTRA-24GC: As noted above, Ultramar is very supportive of initiatives designed to improve air quality that are based on sound science, utilize proven technology, do not compromise safety, do not jeopardize timely delivery of petroleum products, and are economically efficient versus other alternatives. Ultramar is committed to working with the Ports to achieve such initiatives that meet these goals, and is willing to participate in Technical Studies and/or Consortia to that end. Ultramar believes that such studies and for consortium could be undertaken and formed while the Ports' are analyzing the legal implications of the CAAP.

Response: Comment noted.



PACIFIC ENERGY PARTNERS, L.P.

CLIC-PEP-1GC:

Pacific Energy Partners, LLP ("Pacific") submits the following comments on the proposed San Pedro Bay Ports Clean Air Action Plan (the "Plan"). We have attended numerous meetings of the Board of Harbor Commissioners and the Port Community Advisory Committee and we had a representative who served on the No Net Increase Task Force. As a result of these activities, we are very aware of the importance of reducing emissions from port-related operations and support the ports in their efforts.

Response: Comment noted.

CLIC-PEP-2GC:

Pacific is the proponent of the proposed Berth 408 crude oil off-loading marine terminal project currently undergoing review pursuant to the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"). As a new project we have had to quantify and mitigate the air emissions associated with our project and, thus, are well aware of the feasibility and limitations of the various proposed measures in the Plan. In these comments, we offer our perspective on the proposed measures relating to ocean going vessels ("OGVs") and on the Plan in general.

Response: Comment noted.

CLIC-PEP-30GV:

Our proposed project will involve the off-loading of crude oil from tankers. Pacific does not own any tankers and in most cases the tankers that call at our facility will not be owned by our customers.

Crude oil tankers typically do not run on fixed routes, but rather are shifted from market to market to meet demand. As a result, it is highly likely that relatively few tankers that call at Berth 408 will fall into the frequent caller category.

Response: Comment noted.

CLIC-PEP-40GV2:

We have reviewed the proposed control measures with our customers and they believe that some of the measures are calling for technology or changes in operations that have not been proven for use with crude oil tankers. They do not view Alternative Maritime Power ("AMP") for auxiliary engines or fuel switching in main propulsion engines as currently feasible mitigation measures for crude oil tankers. Safety is paramount for tanker operators and the oil industry, which over the past decades have established



stringent guidelines for tanker design and operations. Before changes can be implemented the industry must be confident that the proposed control measures can be done safely.

Response: See responses to comments CLAI-WSPA-9GC, CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-PEP-5OGV3-OGV4:

Also, the issue of low sulfur fuel availability in all ports of origin needs to be determined. For example, we believe that 0.2% sulfur fuel is not currently available in many of the ports from which our tanker trips will originate. Not only must low sulfur fuel be available in sufficient amounts, the necessary infrastructure for providing an additional grade of marine fuel must be available before the use of such fuel can be mandated on all tankers arriving at the ports.

Response: See response to comment CLIC-ULTRA-9 OGV3-OGV4.

CLIC-PEP-6OGV4:

For fuel switching in the main engines to be practical in the long run, we believe vessel modifications will be required in terms of segregated piping and tankage. Such modifications are most effectively done when the vessel enters dry dock for its five-year inspection. It is essential that these concerns be addressed to assure that the proposed mitigation measures do not negatively impact the ability of our customers to produce the necessary amounts of clean burning transportation fuels to meet the demand in the areas served by the local refineries.

Response: Comment noted.

CLIC-PEP-7OGV1:

SPBP-OGV1 We support mandatory vessel speed reduction at 40 nm and have incorporated this measure into our project.

Response: Comment noted.



CLIC-PEP-8OGV2:

SPBP-OGV2: While most of our ships are not expected to fit the "shore-power model" (many of the vessels will not make multiple calls per year or continue to call at the terminal for multiple years, and most will not be diesel-electric tankers), it appears that under the Plan they would not be required to use AMP. Nonetheless, the Berth 408 project includes the installation of AMP infrastructure so that properly equipped tankers could connect their auxiliary engines to shore power when such ships call. However, to the best of our knowledge, no crude oil tanker is currently equipped to use AMP, although BP has proposed modifying two of its diesel-electric vessels for this purpose to be used at Berth 121 in the Port of Long Beach. We believe that vessels making short trips from the Pacific coasts of Canada, Mexico or South America may be candidates for retrofitting in order to be able to use AMP if they fit within a frequent caller category. For frequent callers, it may be feasible to make the necessary vessel modifications when the vessel is taken out of service for its required periodic inspection. This typically occurs approximately every five years. Modifying non-frequent caller tankers to be able to AMP should not be considered a feasible mitigation.

Response: Comment noted.

CLIC-PEP-9OGV2:

This control measures also discusses "alternate technologies" for vessels, such as non-diesel-electric tankers, that are not considered appropriate candidates for shore power. One of the alternate technologies mentioned is shore side pumps. We support, and have included as part of our project, the use of electric powered shore side pumps to reduce onboard pumping loads. (Nearly all tankers use steam boilers for unloading.) Moreover, as part of our continued project analysis, we are considering the AMECS technology, which may be more suitable for tankers than AMP because it will control emissions from both the boilers and auxiliary engines. We support the consideration of technologies such as AMECS in lieu of AMP for liquid bulk tankers.

Response: See responses to comments CLAI-WSPA-9GC.

CLIC-PEP-10OGV3:

SPBP-OGV3 This measure calls for the use of 0.2% sulfur fuel in auxiliary engines within 20 nm of Point Fermin and while at berth. Going beyond CARB's recently adopted regulation to use typical MDO (0.57% sulfur) in auxiliary engines raises significant feasibility issues if it is to be applied across-the-board to all vessels. Our concern is that the minimal gains in emissions reductions from using 0.2% sulfur MDO, verses an industry standard MDO, cannot be justified and cannot be considered a reasonable requirement when considered in relation to the complexities associated with producing and providing 0.2% MDO on a world-wide basis.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.



CLIC-PEP-11OGV3:

Fuel with 0.2% sulfur is not widely available in ports world-wide. The Port's 2005 Starcrest fuel availability study points out the problem very clearly (and the Starcrest study was limited in its scope of locations considered). (See CAM page 85, footnote 12) On the other hand, our research has shown that virtually all ships have the typical 0.57% sulfur MDO on board and such fuel is widely available. If 0.2%, or later 0.1%, MDO is to be required for all vessels calling at the San Pedro Bay ports, it will have to be available world-wide for incoming vessels.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-PEP-12OGV3:

In order to assure a world-wide supply, many expensive and complicated changes will need to be implemented at ports throughout the world, including, new production, storage and transportation facilities. These changes are not simple and will take considerable capital and time to put in place. In effect, if this control measure is applied to all arriving vessels, a completely new low sulfur fuel facility infrastructure will be required all over the world.

Response: See response to comment CLAI-WSPA-13OGV3-OGV4.

CLIC-PEP-13OGV3:

Furthermore, it is unlikely that the standard MDO fuel specification will be switched to lower percent sulfur for some time, so the introduction of an additional grade of MDO will require an additional system, which will be a complicated and expensive process for the producers, transporters, and the suppliers who will have to provide low sulfur MDO and conventional MDO at the same time.

Response: Comment noted.

CLIC-PEP-14OGV3:

In the meantime, we would like to propose a requirement that would accomplish most of what the CAAP is proposing but that could be accomplished sooner and at a far smaller impact on global shipping. We suggest that a 0.2% sulfur grade of MDO (or a blend made in Los Angeles) may make sense for vessels that are exiting the Port or are "frequent callers" at the Port. However, requiring 0.2 % sulfur fuel for arriving vessels does not make sense. Arriving vessels that are not frequent callers should have to comply with the ARB rule only.

Response: Comment noted. See response to comment CLAE-NRDC2-AttA-46OGV3 and CLAI-WSPA-13OGV3-OGV4.



CLIC-PEP-15OGV3:

To explain how this would work, arriving vessels would use standard MDO (generally at 0.5% sulfur) from their existing MDO tanks. Such fuel is readily available worldwide and all vessels should have such fuel on board. For our project, we have proposed that at berth ultra low sulfur MDO/MGO would be loaded into the existing MDO tank. That very low sulfur fuel would blend with the conventional MDO already on board to a lower sulfur specification (estimated at 0.2%) at the dock. This "blend" will then be used for the auxiliary engines and the tanker's boilers while at berth. We also have proposed that the ship will use the lower sulfur blend in auxiliary engines as it exits the harbor area.

This approach has the advantage of being much more workable for the world fleet, especially for vessels that may call at the San Pedro Bay ports only one time or infrequently. It would avoid the need for additional production, storage, and transfer facilities for a separate "California" MDO at ports throughout the world.

Response: Comment noted. See response to comment CLAE-NRDC2-AttA-46OGV3 and CLAI-WSPA-13OGV3-OGV4.

CLIC-PEP-16OGV4:

SPBP-OGV4. Our customers have serious concerns about whether it is safe to switch to 0.2% sulfur in main propulsion engines. The vast majority of ocean-going tankers have a single engine and switching fuel while a tanker is underway presents potential safety concerns that must be addressed prior to imposing this requirement on any terminal.

Response: See response to comment CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-PEP-17OGV4:

Fuel switching in the main propulsion engine from HFO, a heavy, viscous fuel that must be heated in order to be used, to a lighter, non-heated, relatively lower flash point MDO fuel is expected to be a time consuming and potentially complicated process that will likely take several hours to complete safely. The large propulsion engines in tankers are specifically designed to operate with the heavier fuel oils. The process of changing from a heavier to a lighter fuel raises the potential for the engine to malfunction as the lighter, nonheated, lower flash fuel oil (150 F flash point minimum) enters the superheated engine that has been utilizing a heated fuel oil with a relatively high flash point. Customers participating in our discussions who have fleets that have utilized fuel switching reported several instances where such problems have occurred in actual practice. A shut down or failure occurrence in the main propulsion engine of a tanker presents a significant problem. A tanker adrift at sea increases the risk of a collision or the potential to ground the vessel on the California coast. California law places the liability of an oil spill with the owner of the cargo. An incident of this nature could result in



significant adverse environmental impacts and billions of dollars of clean up costs and damages.

Response: See responses to comments CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-PEP-18OGV4:

We strongly recommend that this practice not be mandated until main propulsion engine fuel switching is thoroughly reviewed for safety and feasibility, based on acceptable protocols developed using accredited professionals, and universal standards have been approved by the appropriate oversight agencies. This process will take time, but considering the potential consequences and related liabilities, is viewed as the only prudent way forward.

Response: See responses to comments CLAE-NRDC2-AttA-29OGV1, CLAE-NRDC2-AttA-2GC and CLAE-NRDC2-AttA-46OGV3.

CLIC-PEP-19OGV4:

WSPA has proposed the establishment of a Technical Advisory Group to review the feasibility of fuel switching and cold ironing. We support this proposal and further suggest that a demonstration program be established to determine if and under what conditions fuel switching can be done safely. Also, the feasibility of securing 0.2% sulfur fuel will need to be determined before it can be required as a CEQA mitigation measure.

Response: Comment noted.

CLIC-PEP-20OGV5:

SPBP-OGV5 We support the development of new technologies to reduce vessel emissions. We are very interested in the AMECS technology and are looking forward to the upcoming tests of this system to determine its emission reduction capabilities and performance. Since our project will be subject to an emissions cap imposed by the SCAQMD, new technologies will assist our customers in maintaining compliance with the cap.

Response: Comment noted.

CLIC-PEP-21GC:

The Plan appears to be just one of many plans aimed at reducing emissions from port operations. The ports and environmental agencies should speak with one voice to avoid inconsistent requirements among plans and to set clean goals for industry. Also, while we realize that the plan will change over time, we hope that future changes will build on the existing framework. Certainty and a level playing field are important to regulated industries. It is difficult to plan if requirements are constantly changing.

Response: See Frequently Occurring Comment Response #29.



CLIC-PEP-22GC:

As an example, the Plan proposes to impose more stringent fuel requirements on auxiliary engines than those contained in the ARB regulation scheduled to go into effect on January 1, 2007. The ARB rulemaking process involved extensive public participation and a detailed investigation by ARB staff as to what could be accomplished by OGVs. It is unclear to us why those determinations now are being ignored. This is an example of the regulatory agencies failing to speak with one voice and a change in requirements before the ARB regulation even went into effect.

Response: See Frequently Occurring Comment Response #29.

CLIC-PEP-23GC:

Generally, the Plan proposes specific control technologies (e.g. AMP) rather than specifying emissions reductions percentages or emissions limits as is commonly seen with most air pollution rules and regulations. We recommend that the plan include provisions for facilities to meet emission reduction targets in lieu of requiring any specific technologies.

Response: See response to comment CLAI-WSPA-9GC and Frequently Occurring Comment Response #23.

CLIC-PEP-24GC:

The Plan proposes that new projects should meet the SCAQMD health risk of ten in one million. This is an extremely stringent standard due to the layers of conservative assumptions built into the risk assessment methodology. The ports should establish their own health risk levels and those levels should not be more stringent than ten in one million.

Response: Please see responses to CLI-RR-8HE, Frequently Occurring Comments Response #17 and Comments #4 and 28.

CLIC-PEP-25GC:

One of the "foundations" of the Plan is to "focus on lease amendments and renewals and CEQA evaluations as mechanisms to establish provisions and requirements in leases consistent with meeting the Clean Air Action Plan goals". The Plan should make it clear that individual control measures must be determined to be feasible, as defined by the CEQA regulations, for the specific project under consideration and that all of the proposed control measures may not be feasible for any particular project. The ports also must recognize that the imposition of too many mitigation measures on a single project can cause the project to become economically infeasible because it is no longer competitive with existing port operations not subject to the same mandates. It is crucial that in implementing the Plan, the ports consider economic competitiveness issues and impose as many measures as possible on an across-the board basis. Also, there should be consistency



between the two ports to avoid making projects in one port non-competitive with projects in the other port.

Response: The Ports agree that individual control measures must be determined feasible for the specific project under considerations. The CAAP is a proof of the concept that the two ports are working together.

CLIC-PEP-26GC:

The Plan states that the incorporation of control measures into lease or permit requirements will mean that failure to meet the control measures would be a violation of the lease or permit. Some of the measures in the Plan are not currently in use and may be considered technology-forcing. If innovative requirements that have not been demonstrated to be technically feasible are mandated as CEQA mitigations, port leases must recognize that compliance may not be possible or may not be accomplished in the time provided. The Plan and leases issued pursuant to the Plan should contain provisions for technology and feasibility reviews by Port staff if compliance proves to be more difficult or will take longer than initially envisioned. The technical challenges and significant cost overruns that BP has encountered in implementing cold ironing at Berth 121 in the Port of Long Beach clearly demonstrate that even with the best of intentions mitigations can take longer than anticipated.

Response: Comment noted.

CLIC-PEP-27GC:

Since the Plan is proposed to improve air quality in the local community and throughout the region (CAM at page 18), it should specifically provide that emission reduction credits ("ERCs") required as offsets by SCAQMD regulations can be used in lieu of compliance with the proposed control measures.

Response: See Frequently Occurring Comment Response #20.

CLIC-PEP-28GC:

We support the establishment of a market-based emission reduction program. Such a program is discussed in the Plan and we propose that if such a program is adopted, tenants should be allowed to meet their emission reduction requirements by creating emission reductions credits elsewhere in the area covered by the program and to be able to use those credits, pursuant to the protocols developed as part of the program, in lieu of the mitigations discussed above. This would include the use of such credits as CEQA mitigation. Likewise, we support market-based emission reduction programs as a way of encouraging voluntary emission reductions and experimentation and implementation of new technologies.

Response: See Frequently Occurring Comment Response #20.



CLIC-PEP-29GC:

We support tariffs, including reduced fees, to provide economic incentives to reduce emissions.

Response: Comment noted.

CLIC-PEP-30GC:

Recordkeeping requirements to document compliance should be coordinated with other agencies to avoid duplication and reduce recordkeeping burdens.

Response: Comment noted.

CLIC-PEP-31AM:

On page 21, the Plan states that "for the initial year of the Clean Air Action Plan, the San Pedro Bay Standard will be in compliance with the NAAQS levels at port monitoring stations". This statement needs to be clarified. Is it your intention that all port monitoring stations show no exceedances of an NAAQS within one year of adoption of the plan? If so, please specify the number and location of the monitoring stations that will be used for making this demonstration and the compliance period that will be used to demonstrate whether this goal is attained.

Response: For the lack of any defined standards, the Ports assumption for the compliance with San Pedro Bay Standard means compliance with the NAAQS levels at all port monitoring stations. However, the Ports are working with the agencies to define San Pedro Bay Standard as explained further in Frequently Occurring Comment Response #12.

CLIC-PEP-32AM:

We support the proposal to expand the port-wide air monitoring network to determine actual air pollution concentrations in and around the ports and hope that the data obtained from these local monitoring stations will be used to update the port-wide health risk assessments performed by ARB and the SCAQMD, some of which have not been based on import monitoring data.

Response: Comment noted.

CLIC-PEP-33GC:

We support the concept of capital lease-back or other port-funded programs to help with initial construction and installation costs for capital intensive pollutant reduction technologies and suggest that it not be limited to just HDV measures. This could be an important tool in encouraging the development of new emission reduction control technologies.

Response: Comment noted.



MARINE TERMINALS CORPORATION

CLIC-MTC-1CHE: My company is purchasing several TopPicks and Forklifts this year. At present, Tier 4 engines are not commercially available so this equipment will have Tier 3 engines on which we will install DOCs. Under this new POLA/POLB plan, will this equipment have to be replaced/re-powered before 2012 after only 6 years of use?

Response: The Ports are prepared to meet with tenant individually to help them plan a equipment replacement schedule that meets the goals of CAAP and the needs of the terminal operator.

ECO-ENERGY SOLUTIONS

CLIC-EES-1GC: Commends Ports on CAAP.

Response: Comment Noted.

CLIC-EES-2Mark: Disheartened to see that a significant potential for diesel engine emission reduction – Emulsified Fuel Technology – is not included in the technologies being considered for implementation. (Emissions reduction data information provided to support the claims.)

Response: In general, the CAAP is fuel neutral because the majority of the measures are implemented at the expense of terminal or vessel operators. This way, tenants can choose the best method for their particular operations. However, the Ports will help promote a promising technology. The CAAP includes a comprehensive Technology Advancement Program (TAP), which will be the forum to consider and evaluate new fuels/technologies for port applications.

CLIC-EES-3Mark: Emulsified Fuel Technology is the only technology that simultaneously reduces both NOX and PARTICULATE emissions. Furthermore, Emulsified Fuel operations in various diesel engines can be OPTIMIZED to produce significant reductions in both emissions while also providing an enhanced operating efficiency! Finally, Emulsified Fuels can be used in combination with after-treatment devices to attain even more significant reductions in diesel engine emissions.

Response: Comment noted. See response to comment CLIC-EES-2Mark.

CLIC-EES-4Mark: Emulsified Fuel Technology has a significant potential to help the San Pedro Bay Ports reach lower emission level requirements in a near-term timeframe. Furthermore, this technology can be applied to other segments of the Clean Air Action Plan that pertain to railroads, cargo-handling equipment and vessel operations – at sea and dockside. Emulsified Fuel technology can directly service railroads and cargo handling equipment in the ports by using the flexibility inherent in the technology to



optimize the power AND emission requirements of port locomotives and cranes. Emulsified Fuel Technology (EFT) could also be used to service vessel at-sea operations by providing modular EFT units to allow ships to maneuver within port confines on Emulsified Fuel Oil. Such modular units could allow ships to reap the benefits of lower NOX and Particulate emissions at minimal costs for ship alteration and would require no additional tank installations aboard ship. Likewise, Emulsified Fuel powered Cold Ironing units could deliver the benefits of dockside electrical power for hoteling operations while reducing net emissions levels. As is evident from the foregoing, Emulsified Fuel Technology has the potential to provide the San Pedro Bay Ports with an array of applications that can aid the Ports in reaching their stated emissions reduction goals.

Response: Comments noted.

CLIC-EES-5TAP: One could even envision a situation that involves community college technology program resources in accomplishing the optimization (timing) of older diesel engines operating on emulsified diesel fuels for the port inventory of older vehicles. This situation would serve a dual purpose – an immediate decrease in Port emission levels and the provision of a Workforce Development path in Alternative Fuel Technology that features a true SYSTEM (ENGINE + FUEL) approach to Diesel Technology Education.

Response: Comments noted.

GENERAL ATOMICS

CLIC-GA-1TAP: Applauds efforts of joint port CAAP and is specifically please to see that MagLev is identified as a potential advanced technology. Supports that the CAAP identifies specific pollution reduction measures, and that it will be a living document updated annually (at least) so that technology advancements may be incorporated as measures in future revisions. This latter feature is critical to CAAP’s success.

Response: Comment noted.

CLIC-GA-2Mark: We fully anticipate that MagLev will make the transition from an advanced technology under study to a specific selected measure toward the beginning of the 5-year planning process.

Response: Comment noted.

CLIC-GA-3TAP: Suggest the CAAP specify a date by which Annual Updates (of the revised CAAP) will be issued each year.

Response: Comment noted.



CLIC-GA-4TAP: Suggest the CAAP set a pre-annual Action Plan review period whereby selected demonstration projects (i.e., MagLev) can be formally reviewed and any appropriate conversion can be made to a discrete air pollution control measure.

Response: See Frequently Occurring Comment Response #27.

CLIC-GA-5TAP: Interim studies to screen specific advanced technology projects through outside review (Section 5.8) should be expedited. Specifically, the General Atomics initial study, which documents MagLev attributes and associated applicability to the Ports.

Response: Comment noted. The Ports welcome General Atomics to submit that information as part of the Technology Advancement Program when the program is formalized by the Ports.

CLIC-GA-6TAP: Urge the ports to schedule the review process (of the General Atomics initial study) to be fully completed during Q1 2007 so that appropriate action items can be included in the 2007 CAAP.

Response: See response to comment CLIC-GA-5TAP.

CLEAN ENERGY

CLIC-CE-1GC:

Clean Energy would like to thank you for the opportunity to provide our input on the San Pedro Bay Ports Clean Air Action Plan (referred herein as CAAP). Our company is committed to supporting your efforts to achieve the cleanest feasible port operations. Clean Energy would also like to commend all five participatory agencies for the creation of what we consider a historic opportunity for the country's Goods Movement Industry to both significantly improve the region's air quality and expand Southern California's goods movement system to better serve the needs of the region and the nation.

Response: Comment noted.



CLIC-CE-2GC:

The Final CAAP Should Establish Firm Emissions Targets and Support Best Available Control Technology Strategies to Achieve Air Quality Goals. The Final CAAP must apply Best Available Control Technology (BACT) standards for each emissions source category within the Goods Movement Industry to ensure that those emission reduction targets are met in an aggressive and timely manner. BACT is defined by the South Coast Air Quality Management District (SCAQMD).

BACT strategies are commonly applied to significant emissions sources within the South Coast Air Basin (i.e., the SCAQMD Clean Fleet rules) to ensure that the cleanest fuels and technologies are applied to such sources.

Response: See response to comment CLAI-CNGVC-4GC.

CLIC-CE-3GC:

Pairing BACT with definable emissions targets within the Final CAAP clearly communicates to the Goods Movement Industry and to the general public what the Ports' expectations are with full implementation of the Final CAAP.

Response: Comment noted.

CLIC-CE-4GC:

Furthermore, by establishing BACT standards for all emissions source categories, the Ports will create a level playing field for all operators.

Response: Comment noted.

CLIC-CE-5GC-Fund:

Finally, a BACT policy coupled with sustained Port Authority commitment and funding resources will send a clear message to investors and the clean air industries that the country's two largest ports mean business in achieving the greatest emission reductions possible for port and port-related operations.

Response: Comment noted.

CLIC-CE-5GC:

We understand that legal regulatory authority over all port or port-related sources may or may not be apparent. That said, we believe the Ports - acting as landlords - can apply meaningful incentives or disincentives that can speed up adoption of BACT strategies by terminal operators or related Goods Movement businesses if such financial mechanisms can impact their bottom line. We strongly believe that companies will naturally gravitate to cleaner operations if Port policies meaningfully deter the continuation of gross polluting operations within Southern California's Goods Movement system.

Response: Comment noted.



CLIC-CE-6GC:

The Final CAAP must include a firm timeline that outlines when each emissions reduction measure will be fully implemented, paired with a requirement that a port-wide rule, tariff or other backstop will be adopted when measures fail to be fully realized by a date certain as outlined within the CAAP.

Response: See Frequently Occurring Comment Response #14.

CLIC-CE-7LR:

While we applaud the Draft CAAP for its creativity in utilizing leases or expansion projects as opportunities to incorporate tougher port mitigation measures, it is foreseeable that many measures will not be fully implemented within the CAAP's first five year period using this approach alone. We therefore believe it would be prudent for the Final CAAP to include strategic timelines that can trigger a port-wide rule, tariff or other backstop mechanism to assure the public that emission targets or goals set by the Final CAAP will be met within a reasonable period of time.

Response: See Frequently Occurring Comments Response #5.

CLIC-CE-8GC:

We also believe a Final CAAP that includes firm timelines for air quality measures with backstop mechanisms will provide an important level playing field for the early adopter fleets and the entire Goods Movement Industry as well as a greater level of certainty to investors and clean air industries that produce the very technologies that the Port's clean air objectives depend upon. Hence, this level of certainty is critical for the success of the Final CAAP.

Response: See Frequently Occurring Comments Response #5.

CLIC-CE-9HDV2:

The Final CAAP should encourage public-private partnerships with third party fuel providers for the installation, maintenance and operation of proposed LNG or CNG fueling stations.

Clean Energy would like to restate for the record our company's commitment to helping the Ports achieve their clean air objectives and is willing to construct a minimum of three L/CNG facilities capable of servicing the larger port community without a subsidy from the Ports provided the Ports help locate and acquire strategically located parcels that can host L/CNG fueling stations. In the meantime, we continue to actively seek out key locations to facilitate the necessary infrastructure needed to support the CAAP's goals. In that way, we believe the Ports could dedicate more funding toward the acquisition of LNG on-road trucks and cargo handling equipment.

Response: See response to comment CLAI-NGVA-12HDV.



CLIC-CE-10GC:

The Final CAAP should acknowledge the important leadership role that the Ports can play in improving our nation's energy independence by requiring cleaner alternative fuel applications like LNG trucks (SPBP-HDV1), L/CNG fueling stations (SPBP-HDV2) and LNG cargo handling equipment (SPBP-CHEI). As we are painfully reminded each day in the news tabloids, our nation and our state are heavily dependent upon foreign oil.

While Clean Energy does not suggest that natural gas could entirely replace petroleum as a transportation fuel, certainly natural gas could displace millions, if not billions, of petroleum gallons and provide cleaner air benefits that could ultimately bring the country closer toward a hydrogen future.

Response: Control measures SPBP-HDV1 and SPBP-HDV2 both envision a significant role for LNG fuels in the Port. The CAAP also includes a comprehensive Technology Advancement Program (TAP), which will be the forum to consider and evaluate new fuels/technologies for port applications. Liquefied natural gas (LNG) is the first to be fully considered under this program, since it has significant market penetration, several emissions and durability studies and real-world in-use experience with on-road trucks. In addition, LNG fueled yard hostlers are being evaluated currently in both ports. However, all viable fuels/technologies will be studied for their ability to support CAAP goals.

CLIC-CE-11Fund:

The Final CAAP Must Identify Funding Mechanism beyond the General Obligation Bond on the November 2006 Ballot to properly Implement the CAAP. The Final CAAP should identify and adopt a funding mechanism that will offset the recognized CAAP funding gap. This mechanism must also be designed to replace the anticipated funding from the General Obligation Bond set to go before California voters on the November 2006 ballot given the significant funding needs of the plan. In the Draft CAAP Technical Document at page 136, the Ports show total costs to public entities of \$1.977 billion.

The "Bond/Other Funding" needed, as shown above, is \$1.58 billion. This is more than the \$1 billion currently in the General Obligation Bond on the November 2006 ballot designated for emissions reductions. In addition, ARB has repeatedly stated that not all of the General Obligation Bond's proceeds will go toward the Southern California region. Other sources of funding therefore must be identified or developed to fully implement the goals and objectives outlined within the Final CAAP.

Given the magnitude of the pollution problem associated with Southern California's existing goods movement system and the region's desire to triple its volume of cargo handling by 2020, it seems prudent that the Final CAAP be adopted with a firm plan to generate a significant amount of funds to ensure the plans full implementation

Response: See Frequently Occurring Comment Response #7.



CLIC-CE-12Fund-LR:

Even assuming a successful passage of the General Obligation Bonds this November by California voters, it is made clear by the Draft CAAP itself that a significant amount of funding will be required to ensure the full implementation. It is therefore critical that a funding mechanism, such as a container fee or tariff, be slated for adoption in the near future to help augment the Port's clean air programs established under the CAAP.

Response: See Frequently Occurring Comment Response #7.

CLIC-CE-13GC:

Clean Energy would like to thank each agency for their participation in what should be considered as a historic opportunity to clean up the San Pedro Bay Ports and the surrounding South Coast Air Basin. As a committed partner of the San Pedro Bay Ports, Clean Energy is very supportive of the Draft CAAP's spirit and intent to enable Goods Movement expansion while restoring clean healthful air to Southern California.

Response: Comment noted.

CLIC-CE-14GC:

As you are well aware, the California Air Resources Board's (ARB) 2005 emissions estimates, the California Goods Movement Industry may account for up to 4,100 premature Californian deaths per year, elevate cancer risk exposure to more than 2 million Californians, and cost Californians nearly 20 billion dollars annually in health care costs. According to the SCAQMD, the Ports of Los Angeles and Long Beach's operations contribute roughly a quarter of the region's nitrogen oxide (NO_x) and particulate matter (PM) pollution moving over 40 percent of the nation's trade.

Response: Comment noted.

CLIC-CE-15GC:

Finally, we believe that the ultimate success of the Final CAAP will heavily depend upon the Ports successful leveraging of public-private partnerships and on a reliable and significant source of sustained funding for clean air programs. We recommend that the plan identify a funding mechanism for the Ports to adopt and implement in the near term.

Response: See Frequently Occurring Comment Response #7.



SEA LAUNCH COMPANY, LLC

CLIC-SL-1GC: Sea Launch recognizes the importance of reducing the impact the ports have on the air quality in the region and in the surrounding communities and commends POLA and POLB on your ground-breaking efforts to reduce emissions related to port operations, as well as the collaborative efforts undertaken with ARB, SCAQMD, and EPA in developing the CAAP. It is in the best interest of the community, the ports and the businesses that operate in and around the ports that we improve our air quality and reduce health risks while not causing deterioration in economic activity.

Response: Comments noted.

CLIC-SL-2GC: The CAAP contains several measures that specify certain technologies to be implemented at the ports. While it is important that the ports define measures that can be utilized to reach the final reduction goals of the plan, Sea Launch believes that it is important to build flexibility into the plan. Reductions from each source category should be expressed as goals, and each business should be allowed the flexibility to determine which measures will work best for it.

Response: See Frequently Occurring Comment Response #23.

CLIC-SL-3GC: Additionally, the time frame for implementing specific measures should be established based on the individual needs of the businesses, the complexity of the measures, the availability of technologies and infrastructure and the costs involved to the business in implementing the measures.

Response: See Frequently Occurring Comment Responses #14 and #23, and CLAE-NRDC2-AttA-46OGV3.

CLIC-SL-4CE: The CAAP should include a detailed cost-effectiveness evaluation of all the measures. But more importantly, the cost-effectiveness of a control measure should be re-evaluated at the implementation phase for each business. Since each operation is different, the cost effectiveness will vary. Additionally, cost-effectiveness needs to account for the duration of the lease. A measure implemented for a company with a thirty-year lease may be cost-effective, but for a business with a 3-year lease the cost cannot be recovered and the same measure would be deemed cost ineffective. The ports should work with each lessee to obtain input on costs.

Response: See Frequently Occurring Comment Response #28.



CLIC-SL-5GC: Consideration should also be given to those controls that companies have already undertaken to reduce emissions at the port when evaluating overall emission control strategies. For instance, Sea Launch has already specifically designed its vessel to run on low sulfur fuels and is utilizing fuels that exceed the future standards established by CARB and the Ports for low sulfur fuels.

Response: The Ports appreciate Sea Launch's efforts to reduce its emissions. In addition see response to comment CLAI-FP-6GC.

CLIC-SL-6Fund: In implementing the CAAP, Sea Launch believes that public funding should be provided to assist with the cost of control measures, especially those involving infrastructure modifications. Many businesses have already invested considerable funds to update infrastructure at the port and timely implementation of the CAAP is dependent upon the availability of funding.

Response: See response to comment CLAI-PMSA2-9LR-LA.



COMMENT LETTER PUBLIC AGENCY (CLPA)

CITY OF SEAL BEACH

CLPA-CoSB-1GC:

The Environmental Quality Control Board ("Board") of the City of Seal Beach reviewed the subject document on July 26, 2006 and authorized the Acting Chairman of the Board to execute this letter setting forth the official comments of the City of Seal Beach.

The proposed "Clean Air Action Plan" ("CAAP") sets forth many laudable and supportable principles, plan elements, standards, and implementation programs. The CAAP includes many provisions regarding the reduction of diesel particulate matter ("DPM) and the City of Seal Beach strongly supports those efforts. The report indicates that the following DPM reductions could be achieved by the end of the initial five-year period of this plan:

- Heavy-duty trucks - approximately 80%;
- Ocean-going vessels - approximately 35%;
- Cargo handling equipment - approximately 19%.

The Board wishes to indicate its strong support of and concurrence with all of the proposed principles, plan elements, standards, and implementation programs identified within the CAAP. The particular concern of our community is directly related to the proposed reduction programs for DPM. On November 15, 2005 our City provided comments to the Air Resources Board on the "2005 Draft Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach". That letter included the following comments, which Seal Beach wishes to present to the Ports for consideration in the development of a Final CAAP.

Response: Comments noted.

CLPA-CoSB-2GC:

The particular concern of our community is directly related to the proposed reduction programs for DPM. On November 15, 2005 our City provided comments to the Air Resources Board on the "2005 Draft Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach". That letter included the following comments, which Seal Beach wishes to present to the Ports for consideration in the development of a Final CAAP:

"Seal Beach is clearly identified as being impacted adversely by the health risks identified within the study, and is almost totally located within the identified 100-200 isopleths for



all emission sources from the port facilities. In addition to the general exposure to citizens discussed in the document a large portion of Seal Beach is developed with a 7,700 person senior living community, Seal Beach Leisure World. This senior living community is completely located within the identified 100-200 isopleths for all emission sources from the port facilities. Leisure World comprises approximately 6,000 housing units, with a population of approximately 6,600 persons 65 or older, or approximately 86.5% of the total population of Leisure World.

The impacts of the port complex diesel particulate emissions upon our community, and particularly within the Leisure World retirement community are of extreme concern to our citizens. The report indicates on page 4 that "The most vulnerable populations are those with preexisting respiratory or cardiovascular disease especially the elderly". The identified health effects on the young, elderly, and infirm are of particular concern to our residents."

The City of Seal Beach, therefore, urges the Ports of Los Angeles and Long Beach to take all appropriate, timely, and if necessary, additional DPM reduction measures to achieve the maximum feasible reductions from DPM sources that are discussed within this Plan.

Response: See Frequently Occurring Comment Responses #1 and #2.

CLPA-CoSB-3GC:

It is extremely important for the Ports to work in concert with the all of the regulatory and oversight agencies to achieve the necessary regulatory controls to reduce those identified adverse health effects on 2 million persons to an acceptable level, as set forth in the "2005 Draft Diesel Particulate Matter Exposure Assessment Study for the Ports of Los Angeles and Long Beach". The subject "Clean Air Action Plan" is a very important step on a difficult pathway to achieve clean air for the Ports and the surrounding communities.

Response: Comments noted. The Ports agree and are working closely with representatives of the Environmental Protection Agency, California Air Resources Board, and the South Coast Air Quality Management District. The CAAP document is the prime example of cooperation between regulatory agencies and the regulated community where, for the first time, these three government agencies and the two Ports have worked so closely together, to develop a joint plan of action to reduce Port-related emissions.



TEXAS TRANSPORTATION INSTITUTE (TTI)

CLPA-TTI-1GC: The Clean Air Action Plan being put forward today by the Ports is recognition that the various freight transportation systems that are in place today have, as an unintended by product, airborne diesel emissions that are hazardous to those that must breathe the affected air. Importantly, it is not unprecedented that government fills the role of regulator in safeguarding public health. One hundred years ago, President Theodore Roosevelt introduced and then signed the Pure Food and Drug Act of 1906, initiating a period in our history where oversight of business practices and protection of the populace earned acceptance as a proper role for government. Workplace safety, employment laws, and protection of the environment are examples of how popular control of some business practices has been fashioned to protect the rights of the individual.

Response: Comments noted.

CLPA-TTI-2TAP: The Port's 2006 Clean Air Action Plan could be the instrument that facilitates another innovation in how goods are moved. The technological achievements we have seen over the past 50 years provide a platform from which to work – computers, communications, and electric propulsion systems. Each of these advancements can play a role in changing how containers are moved through sensitive residential and urban areas. Specifically, the provision in the Clean Air Action Plan for funding innovative, green container transport technologies is critical to making the leap from existing approaches to new systems that reduce the adverse impacts that freight transportation has on surrounding communities.

Response: Comments noted. The Ports have already taken positive steps in this direction. Recently, a Request for Proposal (RFP) was released to study the “Advanced Cargo Transportation or Green Container Transport” at the two Ports.

CLPA-TTI-3TAP: Fifty years have past since the last major innovation in the way we move freight was introduced. Now, a critical mass has been reached in Southern California, combining an exploding trade volume and a geography that accommodates cost-effective intermodal systems, with a need to take control of the harmful physical by-products of commerce. The provision for identifying and implementing new, green container transport technologies should be moved to the top of the “to-do” list. By so doing, the Ports can play a central role in developing the next-generation of transportation systems that keep goods moving, the economy thriving, and the air clean.

Response: Comments noted. See response to CLPA-TTI-2TAP.



GATEWAY CITIES COUNCIL OF GOVERNMENTS

CLPA-GCCOG – 1HDV1:

This letter summarizes the extensive capabilities of the Gateway Cities Council of Government (GCCOG) to implement a key portion of proposed Control Measure SPBP-HDV1 (Performance Standards for On-Road Heavy-Duty Vehicles) under the San Pedro Bay Port Clean Air Action Plan (SPB CAAP). As you know, the GCCOG administers the existing Gateway Cities on-road truck fleet modernization program, for which the major funder has been the Port of Los Angeles, with strong support and oversight assistance provided by the Port of Long Beach. This letter provides compelling, comprehensive justification for the two Ports to scale up the existing Gateway Cities program into the diesel-to-diesel fleet modernization elements of SPBP-HDV1.

Response: –During the implementation of measure HDV1, if applicable, the Ports fully intend to utilize the structure of the Gateway Cities program, and thereby avoid reinventing the wheel, and at the same time avoid the current program's shortcomings.

CLPA-GCCOG – 2HDV1: Continued operation of this trucking system is vital to our sub-region's thriving economic engine. This tremendous vested interest in the problem -- and our multifaceted efforts to find balanced solutions -- are key reasons why the GCCOG is a worthy, essential partner with the Ports for successful implementation of SPBP-HDV1.

Response: Comment noted.

CLPA-GCCOG – 3HDV1:

We are very pleased that the draft Plan includes numerous important references to the Gateway Cities fleet modernization program and its possible role in the proposed joint San Pedro Bay Port's (SPBP) effort. Specifically, in Section 5.1 .II the draft Plan states that:

"If the [existing Gateway Cities] program can be adequately modified, additional incentive funding will be committed to continue subsidizing new truck purchases, with the modification being the change in focus to the proposed 'clean truck standards'."

Response: Comment noted.

CLPA-GCCOG–4HDV1: The GCCOG strongly urges the Ports and its partners that our existing program can meet SPBP-HDV1's goals for fleet modernization and retrofitting with relatively minor modifications. This can be done expeditiously upon Port and stakeholder approval.

Response: Comment noted.



CLPA-GCCOG – 5HDV1: With this extensive experience implementing the existing program, we believe we are the only team that has the combination of existing relationships, databases, technical know-how, institutional knowledge, understanding of the target market, outreach expertise, essential multi-lingual communication skills, and tracking tools necessary to "hit the ground running." For all these reasons, we believe that expanding the current program is the most logical, judicious and cost-effective choice for the Ports to meet key objectives of SPBP-HDV1.

Response: Comment noted.

CLPA-GCCOG – 6HDV1:

Consequently, the GCCOG urges the two Ports not to issue an RFP for design and implementation of a diesel-to-diesel fleet modernization program under SPBP-HDV1. The attachment to this letter offers details of why it is in the best interests of the two Ports and program stakeholders to scale up the existing fleet modernization program administered by the GCCOG. It provides an overview of the current and proposed fleet modernization programs, as well as why and how the GCCOG team is best positioned to quickly and effectively undertake the program scale-up. Finally, it addresses some specific issues for consideration on the proposed expansion plan.

Response: Comment noted.

CLPA-GCCOG – 7HDV1:

The GCCOG proposes that, as soon as possible, a meeting be scheduled with appropriate representatives of the Ports. This would present an opportunity to discuss mutually important issues related to this landmark proposed program, and how to carefully craft an effective implementation plan.

Response: – The Port's recognize the Gateway Cities successes in this area and welcome your input as we move forward.

CLPA-GCCOG – 8HDV1: Attachment A: Justification and Rationale for Scaling-Up Existing Gateway Cities Program. Please see attachment, which provides detailed marketing and program information.

Response: Comments noted. The Ports are prepared to work with the GCCOG to examine the feasibility of scaling up the existing program.



SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG)

CLPA-SCAG-1GC: SCAG supports the efforts of the Ports of Los Angeles and Long Beach to “accelerate ongoing efforts to reduce air pollution from all modes of goods movement through the San Pedro Bay Ports” and help the region attain NAAQS.

Response: Comment noted.

CLPA-SCAG-2GC:

We agree with the Ports that "their ability to accommodate the projected growth in trade will depend upon their ability to address adverse environmental impacts (and, in particular, air quality impacts) that result from such trade," and therefore fully support the control measures outlined in the Plan, including replacing and retrofitting of heavy duty trucks, the use of alternative clean fuels, and reducing emissions from ocean-going vessels during hotelling.

Response: Comment noted.

CLPA-SCAG-3TAP-IOEI: SCAG recommends that the Ports, as they review and update the SPBPCAAP on an annual basis, place significant emphasis on infrastructure projects using advanced technologies as referenced in the SPBPCAAP initiatives "5.8 Comprehensive Technology Advancement Program" and "5.9 Infrastructure and Operational Efficiency Improvements." Innovative and paradigm shifting infrastructure technologies can help optimize the region's transportation system through increases in economic efficiency, congestion mitigation, safety and air quality improvements, and enhancements to system security.

Response: Comment noted.

CLPA-SCAG-4TAP:

SCAG also recognizes that the Ports have already taken a significant step to analyze the feasibility and potential of these technologies through the release of the 'Advanced Cargo Transportation Technology Evaluation and Comparison' study RFP. As there are other parallel efforts occurring that relate to the Ports' work, including the upcoming 1-710 EIR/EIS and current SCAG studies on the feasibility of innovative freight technologies, inland ports, and MAGLEV, we request that the Ports continue to meet regularly with SCAG to coordinate the work conducted for these projects in order to identify and seek consensus on such strategies.

Response: Comment noted. The Ports will continue to work cooperatively with SCAG on these issues.



SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)

CLPA-SCAQMD-1GC: The South Coast Air Quality Management District staff commends the Ports of Los Angeles and Long Beach for developing the Draft San Pedro Bay Ports Clean Air Action Plan (CAAP). This plan has the potential to be a true landmark in efforts to control the severe air quality problems faced by communities near the ports and in the region as a whole. We also wish to thank the ports for including the regulatory agencies in the process of developing the draft plan.

Response: Comment noted.

CLPA-SCAQMD-2GC: It is our understanding that the technical working group made up of the ports and the regulatory agencies will reconvene to review the public comments and develop proposed plan amendments. As you know, the AQMD staff participated in all public workshops relating to the draft plan. We carefully listened to public comments, and have had an opportunity to review some but not all written comments. It is our intention to review all written comments and provide detailed input.

Response: Comments noted. The Ports continue to provide the opportunity to the members of the Technical Working Group to review the comments and responses compiled by the Ports.

CLPA-SCAQMD-3Fund: The SCAQMD supports the longstanding principle that operators of pollution sources generally should pay for emission controls. The draft plan relies to a great extent upon receipt of funds from the air quality bond initiative on the November ballot. Many members of the public commented during workshops that this funding source is uncertain, that there will be competing requests from around the state for such funds, and that it would be more equitable to place the burden of funding emission control programs on those who utilize or benefit from port-related goods movement operations. A consistent theme of the comments was support for a container fee.

Response: See Frequently Occurring Comment Response #7.

CLPA-SCAQMD-4Fund: SB 927 now contains provisions authored by Senator Lowenthal that would establish a \$30 per TEU user fee on the owner of container cargo moving through the port to fund the same purposes. These fees would generate over \$300 million dollars per year, and would, in conjunction with other sources of port and SCAQMD funds described in the draft plan, be roughly sufficient over the five-year period of the CAAP to cover its projected costs during that initial timeframe.

Given the critical importance of expeditiously securing a funding source, and the uncertainty that the bond initiative will pass or provide sufficient funds to this area, it is



essential that the ports strongly support such efforts to establish alternative funding mechanisms

Response: See Frequently Occurring Comment Response #7.

CLPA-SCAQMD-5LR: We applaud the willingness of the ports to utilize lease conditions as a key implementation mechanism. We view this as a profound and far-reaching policy decision that will greatly facilitate establishment of enforceable, defensible control requirements using the unique authorities of the ports as landlords. Having said this, it is important that the ports make every effort to augment the use of leases by adopting tariffs and incentives/disincentives to expedite emissions reductions since not all leases will come open for amendment in the near term. We commend the draft plan for recognizing this and proposing to consider use of tariffs and incentives/ disincentives to help speed controls. The final plan needs to take these statements to the next level of detail.

Response: See Frequently Occurring Comments Responses #3 and #18.

CLPA-SCAQMD-6LA-LR-OGV4:

Fortunately, the authority of the ports to take such actions is particularly strong for some important measures. Of particular note is OGV4 (Marine Engine Fuel Standards) which would require use of 0.2% sulfur in main vessel main engines, as Maersk recently announced it is doing. Requiring use of such fuels by all carriers through a tariff will accelerate a significant portion of diesel particulate matter reductions. Such a tariff would also eliminate any competitiveness impacts between carriers, and will be the single most important step available for the plan to more closely match the reductions that the No Net Increase Report measures would have achieved. In this connection, we note that federal regulations explicitly recognize an exception from preemption under the Clean Air Act for fuel sulfur limits. (40 C.F.R. Pt. 89, Subpt. A, App. A). In addition, the ports have strong authority arguments as landlords using a "market participant" theory for this and other measures. We look forward to further discussing these issues with port staff and counsel.

Response: See Frequently Occurring Comment Response #18.

CLPA-SCAQMD-7LR-OGV2:

Another example of a measure that may be expedited by a tariff is installation of shore power infrastructure. OGV2 (Reduction of At-Berth OGV Emissions). It is our understanding that the schedule for such installations is in part dependent on the dates leases are expected to open. To the extent this is a constraint, a tariff should be utilized to require the lessee to allow access and take other actions to permit installation of such infrastructure.

Response: See Frequently Occurring Comments Responses #3 and #18.



CLPA-SCAQMD-8LA-LR: For purposes of the final plan, we urge the ports to identify dates by which the Harbor Commissions will consider adoption of tariffs. Such actions may well turn out to be the most important in terms of emissions affected, and they thus should be specific milestones that the public can track. The CAAP should provide that if a Harbor Commission determines that it can not legally adopt a regulatory tariff mandating a particular control, then it would adapt a program of incentives and disincentives sufficient to expedite such controls. We reiterate, however, our view that the ports have authority to implement most if not all measures by mandatory tariff.

Response: see Frequently Occurring Comments Responses #18. .

CLPA-SCAQMD-9GC: The ports should adopt a plan that, at the outset, is as specific and strong as possible. We understand that the CAAP will be subject to revision and improvement in coming years, and that the ports desire to move ahead with implementation. We share this desire. Nevertheless, it is our experience that carrying out air quality plans rarely gets easier as implementation proceeds. It is important to start with a strong, specific plan to guide implementation, as well as to establish expectations by source operators that will create maximum incentives for them to move quickly to develop and implement control strategies.

Response: Comments noted and appreciated. Based on additional information, the revised document has been considerably improved in terms of firm implementation dates with definitive time lines. See Frequently Occurring Comment Response #14.

CLPA-SCAQMD-10GC: As we and others have commented, the final plan needs to be more specific in a number of respects. Of course, milestone dates missing from the draft need to be filled in.

Response: See Frequently Occurring Comment Response #14.

CLPA-SCAQMD-11GC: In addition, each control measure needs to include the following key elements, stated in a simple and consistent format:

- control strategy description (which may include alternative strategies),
- dates for measure adoption (e.g. date of adoption of tariff, incentive program, and/or reference to lease approval schedule), and
- implementation dates, with participation rates and emission reductions by year.

These elements should be designated in each measure as "milestones" and "elements to be tracked." Each measure should also include reference to the schedule of lease modifications, as well as the date that the Harbor Commissions will consider adoption of tariffs and incentives /disincentives to expedite controls, as discussed above, Where schedules differ by port (notably, shore power infrastructure], all such elements should be stated for each port.



Response: Please see Section 5 of the revised CAAP document for the detailed, measure specific information.

CLPA-SCAQMD-12OGV2: Where measures rely on a particular action in order to achieve emissions reductions, that action should be the subject of an enforceable requirement. A key example shore power. OGV2 (Reduction of At-Berth OGV Emission). The measure includes schedules for installation of shore power infrastructure, assumptions regarding the number of ships that will be capable of connecting to shore power, and projections regarding the rate of utilization of such infrastructure. In addition, the draft plan states that the measure will be implemented at Los Angeles "primarily by lease requirements to use AMP," but no similar statement is included for Long Beach. Since the rate of utilization is integral to plan performance, it should be stated as an enforceable requirement.

Response: See response to comment CLAE-NRDC2-AttA-2GC.

CLPA-SCAQMD-13GC-Calc: Finally, some measures have emission reductions and schedules that are difficult to quantify, e.g. rail measures that rely opportunities to establish contractual conditions (such as for expenditure of public funds) which have not yet been identified. Due to this uncertainty, such measures were not credited in the draft plan" projections of emission reductions. We believe, however, that it is important that the public, the harbor commissioners, and other decision makers appreciate the potential benefits of such measures. We therefore urge that, for informational purposes, the ports quantify ranges of potential emissions reductions for such measures.

Response: See Frequently Occurring Comment Response #6.

CLPA-SCAQMD-14GC: Some commentators at the workshops stated that the CAAP goal of achieving a "fair share" of emission reductions needed to attain ambient air quality standards is too vague. Commentators urged the ports to quickly establish, in conjunction with SCAQMD and CARB, specific numeric San Pedro Bay standards for criteria pollutants and toxics. We support these comments and look forward to working with CARB and the ports in the coming months to accomplish this as analyses are completed for the 2007 revision to the Air Quality Management Plan. The AQMP will be released in draft this fall, and will provide a foundation to help establish San Pedro Bay Standards. We wish to reiterate that we expect such standards to be at least as stringent as the following goals stated by CARB in its Emission Reduction Plan for Ports and Goods Movement:

- reduce emissions to 2001 levels by 20 10
- reduce health risk from diesel PM by 85%, as compared to 2000 levels, by 2020
- reduce NO_x emissions by at least 30% by 20 1 5, and - reduce NO_x emissions by 50% by 2020.



Response: See Frequently Occurring Comment Response #17.

CLPA-SCAQMD-15GC-HE: Given the large emission reductions needed for attainment and to achieve acceptable risks from toxics, and the relatively high level of control of non-port sources compared to port sources, greater percentage reductions may be needed from the port sources in order for this region to attain ambient standards. Given the magnitude of needed emission reductions, "fair share" for port sources should primarily be based on the maximum reductions feasible. In addition, greater than 85% reductions in diesel PM may be needed in some areas to meet acceptable levels of health risk.

Response: See Frequently Occurring Comment Response #12.

CLPA-SCAQMD-16SOX: Finally, recent analyses by SCAQh4D as part of development of the 2007 AQMP indicate a need to achieve significant reductions of SOX emissions by 2015 in order to timely attain the federal PM_{2.5} standard. Since marine vessels are the largest source of SO_x emissions in this region, we will, upon completion of AQMP analyses, propose a numeric San Pedro Bay SOX emissions standard for inclusion in the CAAP. Fortunately, some CAAP measures directed at reducing directly- emitted particulates (i.e. low sulfur fuel requirements) will also control SOX emissions.

Response: Comment noted.

CLPA-SCAQMD-17GC-HE: Commentators suggested that the project standards should include provisions for non-cancer effects of toxics, and should address cumulative impacts. We agree with these comments. We also urge the ports to clarify how the blank project-specific criteria-pollutant standards will be implemented. The SCAQMD has CEQA policies and new source rules that could be used models for the above purposes. We look forward to discussing these issues with the ports.

Response: See Frequently Occurring Comment Response #10.

CLPA-SCAQMD-18GC: Some commentators urged the ports to develop, concurrent with this five-year plan, a long-term plan of emission control actions. They point out that the ports will soon be entering into long-term leases, and long-term air quality goals thus must be identified so that measures to meet them can be incorporated into those leases. We view these comments as well-taken for the reasons stated, as well as for the following reason: An extraordinarily large number of new marine vessels are currently on order. Unless such vessels are constructed in a manner as to include, or at least accommodate space for, advanced controls such as selective catalytic reduction (SCR), an opportunity to implement needed control measures when most technically and economically feasible will have been lost. It is our view that If a clear statement of long-term air quality control needs is made, source operators, control equipment manufacturers and fuel suppliers will be more likely to develop and offer the needed technologies and products.



Response: See Frequently Occurring Comment # 15.

CLPA-SCAQMD-19OGV5: For these reasons, we believe it is important to incorporate into the plan San Pedro Bay standards as described in the preceding section. In addition, control measures—particularly those such as OGV 5 (Main & Auxiliary Engine Emission Improvements) which involve the Technology Advancement Program—should be as clear as possible in stating emission reductions that will be required by the ports in the long term.

Response: As the feasibility of new and emerging technologies become apparent, they will be included in future updates to the plan along with estimates of the anticipated emissions reductions.

CLPA-SCAQMD-20OGV5: It is also important that the Technology Advancement Program be expeditiously implemented as a high priority. In this connection, we are concerned that the term "technology advancement" is misleading and undermines the clarity of the ports' message. We do not believe that implementation of technologies such as slide valves and even SCR require significant advancement of technology. These strategies are in use today. While we are unaware of any application of SCR to a large container vessel, it is a mature technology used in a wide variety of applications, including oceangoing vessels (USS POSCO). Applying SCR to vessels as large as container ships is a matter of appropriate engineering. It will happen when those who order vessels request it.

Response: The Technology Advancement Program will be expeditiously implemented and the plan reflects this priority. While some of the technologies to be demonstrated are currently in use, these technologies either have not been used in this specific application or the emission reductions associated with the technologies have either not been quantified or verified. The Ports' believe that the Technology Advancement Program will serve to answer these questions, usher emerging technologies to maturity and significantly shorten the validation process.

CLPA-SCAQMD-21GC: We commend the ports for including in the draft plan options for consideration by the Harbor Commissions in implementing HDV 1 (Performance Standards for On-Road Heavy-Duty Vehicles). Options should similarly be presented for other key measures where cost is a significant issue. In particular, we urge that the Harbor Commissions be presented with cost estimates for acceleration of shore power infrastructure construction, along with an estimate of emissions benefits and any logistical hurdles (e.g. availability of qualified contractors and ability to outfit sufficient vessels to utilize such additional infrastructure). We view this as a significant issue given the proximity of at-dock emissions to residential and other receptors. Another option that should be considered would be to require vessels that will not use shore power or



alternative off-ship controls (i.e. the bonnet) to utilize more stringent in-engine and on-board after treatment control strategies.

Response: The two Ports are keeping their respective Harbor Commissioners informed on implementation issues and hurdles related to each measure. For further information see the description of OGV2 in the CAAP for the discussion of alternative off-ship emission controls such as the bonnet.

CLPA-SCAQMD-22GC-AF: We urge that the plan include explicit policies to guide implementation that state a preference for the cleanest technologies commercially available. At this time, this will generally be alternative fuel equipment. An example where this policy may affect implementation is the cargo handling equipment measure, which calls for purchasing the cleanest alternative fuel or cleanest diesel equipment.

Response: See responses to comments CLAE-NRDC2-AttA-64CHE1-AF and CLAE-NRDC2-AttA-4AF.

CLPA-SCAQMD-23HDV1: On a related point, we believe that the plan's estimates of costs to implement the heavy duty vehicle measure by purchasing alternative fuel vehicles are somewhat high. We will work with port staff to review the port numbers.

Response: Comment noted.

CLPA-SCAQMD-23Calc: To facilitate public understanding, the emission reduction estimates stated in the plan need to be augmented by additional explanation and description of cargo growth assumptions.

Response: See responses to comments CLI-BM1-6OGV, CLI-PW2-7GC, and CLAE-NRDC2-17EI.

CLPA-SCAQMD-24HE-Calc: Given the substantial resources that will be required to implement the CAAP, the plan should include a more thorough description of existing analyses of health impacts and benefits of controls. Such analyses are included by SCAQMD and CARB in air quality plans because they allow decision makers and stakeholders to better appreciate the justification for implementing and funding controls. Such analyses invariably show that the value of benefits of clean air plans greatly outweigh the costs of implementation. We suggest that information summarized in CARB's Emission Reduction Plan for Ports and Goods Movement be included in the CAPP, and SCAQMD would be pleased to assist in identifying additional data.

Response: See Frequently Occurring Comment Response #28.



CLPA-SCAQMD-25-RL: The draft plan briefly states the ports will focus on on-dock as opposed to near-dock rail infrastructure. As you know, there currently is much interest in identifying infrastructure projects to facilitate goods movement. Given this interest, we urge the ports to move quickly to flesh out the means by which the preference for on-dock railyards could be implemented. Among strategies that should be considered would be to have the process of arranging railcars into trains bound for common destinations occur outside of this region. This should move containers out of this region relatively quickly, minimize on and off-dock rail yard space needs, and minimize in-basin pollutant emissions. The CAAP should include a schedule of actions to maximize use of on-dock rail.

Response: See Frequently Occurring Comment Response #9.

LONG BEACH UNIFIED SCHOOL DISTRICT

CLPA -LBUSD-1GC: The LBUSD commends the sponsors of the CAAP for this unprecedented initiative to reduce health impacts due to San Pedro Bay port-related air pollution. The CAAP is a living document LBUSD appreciates this approach and intends to submit future comments on specific aspects of the CAAP, including the development and implementation of specific mitigation measures that presently are described only in conceptual terms. LBUSD generally supports the important initiatives outlined in the CAAP. We believe that the CAAP needs to adequately address the sensitive land use and sensitive receptors represented by schools and school children, respectively. Moreover, we believe that the CAAP does not sufficiently articulate for the general public the limited scope of the proposed standards and risk assessment processes in terms of pollutants evaluated and specific health impacts considered. In addition, we encourage you to consider CAAP-related emissions inventories, monitoring programs, health risk assessments, and mitigation measures that adequately address important localized air pollution impacts and corresponding sources – such as idling trucks at staging areas around ports and rail yards. Specific comments regarding these concepts are provided below.

Response: Comments noted.

CLPA -LBUSD-2GC: The CAAP does not adequately recognize and address sensitive land uses such as school sites. The San Pedro Bay Ports and LBUSD schools are all located in the same portion of the South Coast Air Basin. Because over ninety LBUSD schools are in close proximity to San Pedro Bay, action to reduce air pollution from Port operations will correlatively affect air quality at LBUSD schools. Among those most vulnerable to diesel particulate emissions, and other toxic air contaminants (TACs), are school children whose lungs are still developing.



Response: A primary purpose for the implementation of the San Pedro Bay Ports Clean Air Action Plan is to reduce the community's exposure to pollutants from sources involved in Port-related activity. Section One of the Technical Report "The Challenge" section of the Overview provides confirmation that public health concerns are the primary reason for the Plan's implementation.

CLPA -LBUSD-3HE: The CAAP does not adequately recognize and address sensitive receptors such as school children. The CAAP should acknowledge the sensitivity of children – and other sensitive receptors -- to port-related air emissions. Doing so would increase the likelihood that monitoring and mitigation programs developed for the CAAP will measure and minimize, respectively, health risks of sensitive receptors.

Response: Comments noted. Section 1.1 of the technical document states the following: "The Clean Air Action Plan is designed to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue." The Ports are devoting significant resources to develop and implement the CAAP.

In a coordinated effort, the SCAQMD, ARB, and the Ports of Los Angeles and Long Beach are establishing air monitoring stations throughout the community surrounding the Ports to measure the concentrations of toxic air pollutants. Monitoring stations will be located at sensitive receptor areas including schools. See also Frequently Occurring Comment Response #28

CLPA -LBUSD-4HE: Given the high incidence of health effects (morbidity and mortality) present in the community due to air pollution from port-related emissions, the CEQA environmental review process obviously hasn't been very effective in mitigating impacts to sensitive receptors. Interestingly, the CAAP itself wasn't subject to the CEQA review process yet the CAAP implementation strategy relies heavily on the CEQA review process (and its air quality significance thresholds) to mitigate individual projects.

Response: See Frequently Occurring Comment Responses #10, #11, #12, and #17.

CLPA -LBUSD-5HE: Because CEQA review of individual projects and planning documents at the Ports historically has not been effective in mitigating significant air pollution impacts in the community, LBUSD is concerned that the CAAP's key reliance on CEQA review to minimize future health impacts is a suspect implementation strategy.

Response: See Frequently Occurring Comment Responses #10, #11, #12, and #17.

CLPA -LBUSD-6HE: It is important to recognize the potential significance of localized air pollution impacts, in the context of the overall regional problem. Based on the 2001/2002 emissions inventory for the ports, the CAAP indicates 16% of total diesel particulate matter (DPM) emissions come from rail and heavy trucks. However, rail and



truck emissions may represent a disproportionately greater health risk to many residents and schools than would be indicated by their percentage of the total emissions, due to the proximity of these sources to receptors throughout the community. As such, the CAAP's emissions control plans for trucks and rail locomotives are particularly important to LBUSD schools and residents that neighbor railroads and freeways. The CAAP should acknowledge and address localized air pollution impacts to highly exposed receptor locations. Doing so would increase the likelihood that health risks will be accurately assessed and prioritized, and that mitigation measures will be designed and targeted for the greatest benefit.

Response: Comments noted. Addressing emissions for both locomotive and truck sources represent a significant portion of the Clean Air Action Plan.

CLPA -LBUSD-7HE: Idling trucks in staging areas around ports and rail yards are a significant source of diesel emissions. These emissions can have significant localized impacts on community health. All such emissions should be addressed in the emissions inventories, proposed monitoring efforts, and health risk assessments proposed, developed and implemented by the CAAP.

Response: Idling activity is taken into account in the preparation of emissions inventories and health risk assessments. The comprehensive air monitoring network established around the two Ports by the Ports, SCAQMD, and CARB determines ambient pollutant concentrations regardless of source.

CLPA -LBUSD-8HE: The "Project Specific Standards" proposed in the CAAP reference health risk assessments (HRAs) that appear to address only excess cancer risk. In addition, the CAAP's discussion of the pending "San Pedro Bay Standard" only refers to "public health risk" reduction. Will the project specific HRAs or the San Pedro Bay Standards in the CAAP address -- either qualitatively or quantitatively -- any of the non-cancer health effects known to result from diesel particulate emissions? If non-cancer hazards will be addressed by either CAAP standard, will specific effects (diseases) be considered in a manner other than cumulatively via a chronic "Hazard Index"?

Response: See Frequently Occurring Comment Response #10.

CLPA -LBUSD-9HE: The CAAP should specify what health effects -- other than cancer risk -- will be addressed by the "San Pedro Bay Standards," "Project-Specific Standards," risk assessments, regulatory thresholds, and risk reduction goals of the CAAP. If known or likely health effects from port-related emissions are not specifically monitored or addressed by the CAAP, then the CAAP -- and any related health risk assessments or regulatory thresholds -- should indicate this limitation.

Response: See Frequently Occurring Comment Response #10.



CLPA-LBUSD-10UFP: Research in recent years indicates Ultra-fine Particles (UFP) -- defined as particles less than 0.1 micron in diameter -- pose health risks far greater than previously thought and more significant than that for coarse (PM-10) or fine (PM-2.5) particulate matter, for a given mass. Moreover, some conventional control technologies, such as particulate filters/traps on diesel engines, are not effective in removing UFP because UFP form after engine exhaust gases exit the "tail pipe" as vapors, which the filter/trap does not catch. While regulatory health standards have not yet been established for UFP, research sponsored by CARB and others indicates a serious concern. The CAAP should indicate whether or not, and how, UFP are/will be addressed in: 1) emissions inventories for Ports; 2) monitoring of port-related emissions and air quality in the surrounding communities; 3) health risk assessments, and 4) proposed mitigation and control measures.

Response: See Response to ORAL Comment #14.



COMMENT LETTER INDIVIDUAL COMPANY - MARKETING (CLICM)

GUY FOX & ASSOC. INC. FOR JUON-MOL Good Air Purification System

This company is seeking a grant for \$50,000 for use for CARB to test their system. The Grant application is attached. Representatives met with Dr. Appy in December of 2005. No specific CAAP comments were submitted.

HYDROGENICS CORPORATION

This company provided information regarding their company and their related experience in the fuel cell field. Presentation material and brochures were attached. No specific CAAP comments were submitted.

H4 POWER SYSTEMS, INC.

This company provided marketing information about their product which purports to use excess electricity from the alternator to split distilled water into H₂ and O₂, which are then injected into the diesel fuel stream in real time to increase fuel efficiency by up to 30%. No specific CAAP comments were submitted.



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San Pedro Bay Ports Clean Air Action Plan Technical Report

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