



Legislation Text

File #: 2021-0293, **Version:** 1

DATE: October 12, 2021

SUBJECT:

MARITIME CLEAN AIR STRATEGY:

A) PRESENTATION ON THE DISTRICT'S DRAFT FINAL MARITIME CLEAN AIR STRATEGY, DATED OCTOBER 2021, INCLUDING AN OVERVIEW OF COMMENTS RECEIVED DURING THE SECOND 30-DAY PUBLIC REVIEW PERIOD AND DIRECTION TO STAFF; AND

B) RESOLUTION ADOPTING THE MARITIME CLEAN AIR STRATEGY, DATED OCTOBER 2021

EXECUTIVE SUMMARY:

In 2019, the Board adopted a resolution authorizing staff to update the District's 2007 Clean Air Program to align with State programs, develop district-related strategies, and identify projects that would reduce emissions and improve air quality. The District's clean air program update is also known as the Maritime Clean Air Strategy (MCAS) and will focus on strategies and measures to help reduce emissions while promoting maritime operations.

Over a 20-month period, the draft MCAS has been refined and revised based on iterative public engagement, public comment, and prior Board direction, as summarized below. The first version of the MCAS was a Discussion Draft, which was circulated for a four-week public review period that took place from March 23, 2021 to April 20, 2021. Subsequently, at the May 11, 2021 Board meeting, staff presented an overview of the comments received during the four-week public review period and received direction from the Board regarding revisions to be made to the Draft Revised MCAS document. At the July 13, 2021 Board meeting, staff provided another update on the progress made since May and received further Board direction for revisions to the draft document, including revisions to emphasize it is a community focused document; the addition of a vision statement, "Health Equity for All"; and finally, adding a long-term goal to strive for 100% zero emission trucks and cargo handling equipment by 2030. Based on that direction, staff released the Draft Revised MCAS for a 30-day public review period that took place from August 5, 2021 to September 3, 2021.

During the October Board meeting, staff will provide a summary of the comments received during the second 30-day public review period and revisions made to the document to address the feedback. Additionally, staff will request the Board's adoption of the MCAS, dated October 2021, which establishes long-term emission reduction goals for 2030 and near-term emission reduction goals and objectives through June 30, 2026.

Staff's preliminary draft presentation is included as Attachment A to provide the Board and the public

time to review the discussion materials in advance. In addition, the MCAS document, dated October 2021, is provided as Attachment B and a strike-out/underline version of the document is provided as Attachment C.

RECOMMENDATION:

Receive staff's presentation, provide direction to staff, and adopt a resolution adopting the Maritime Clean Air Strategy, dated October 2021.

FISCAL IMPACT:

Funds for work associated with the preparation of District plans and technical work in this item are identified in the Planning and Environment budgets for FY 2022 within the Professional Services expense account (#620100).

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

I. Background on the AB 617 Program and the District's MCAS

There is a suite of government agencies with different authorities that regulate air emissions, starting at the federal government, working its way down to the local level. The Clean Air Act, initially adopted in 1963 and subsequently amended, is a federal law designed to control air pollution on a national level, in coordination with state, local and tribal governments. The Clean Air Act is one of the United States' first and most influential environmental laws. The Clean Air Act, administered by the United States Environmental Protection Agency (USEPA), is a comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes USEPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants. The Clean Air Act is administered in California by the California Air Resources Board (CARB), which has authority to regulate statewide mobile emission sources and greenhouse gas emissions. In 2009, the USEPA granted CARB a waiver of Clean Air Act preemption to regulate mobile source emissions within the State. CARB delegates the regulation of stationary emission sources to local Air Districts; in our region, the San Diego Air Pollution Control District (SDAPCD) regulates stationary sources, such as manufacturing facilities and shipyards.

California consistently sets some the most aggressive efforts to reduce emissions in the nation and the world. For example, California Executive Order N-79-20 was signed by Governor Gavin Newsom in September 2020, which establishes, where feasible, that all new passenger cars, drayage trucks

and off-road vehicles and equipment, that are sold in California, will be zero-emission by 2035. The order sets a similar goal requiring that all medium and heavy-duty vehicles will be zero-emission by 2045 where feasible. These goals are to be implemented by CARB through regulations under development.

In October 2018, CARB established the Community Air Protection Program (or AB 617 Program), which tasks local air pollution control districts to work with communities to develop community-focused emission reduction programs. Soon after, CARB selected what it termed the Portside Community, which includes the neighborhoods of Barrio Logan, West National City, Logan Heights, and Sherman Heights, for air monitoring. The Portside Community includes District tidelands between the Tenth Avenue Marine Terminal (TAMT) and the National City Marine Terminal (NCMT), commonly referred to as the working waterfront. (Attachment D - Portside Communities Boundary) The Portside Community is identified as having a high cumulative air pollution exposure burden, a significant number of sensitive receptors, and includes census tracts that have been designated as disadvantaged communities, as shown in California's Environmental Protection Agency's CalEnviroScreen 3.0 results. SDAPCD is responsible for implementing the AB 617 Program and established the AB 617 Steering Committee in October 2018. The AB 617 Steering Committee includes -26 members who represent residents, agencies including the District, industry, non-profits, and other pertinent stakeholders.

In December 2019, CARB designated the Portside Community for a Community Emissions Reduction Plan (AB 617 CERP). The purpose of the AB 617 CERP is to focus and accelerate new actions that go beyond existing State and regional programs to provide direct reductions in air pollution emissions and exposure. While these new actions and strategies will be based on community-level emission profiles and will vary throughout the state, most will fall under the following six categories: regulations; facility risk reduction audits; air quality permitting; enforcement; incentive programs; and land use, transportation and other mitigation strategies (Community Air Protection Blueprint, CARB, October 2018). The SDAPCD staff released a Draft AB 617 CERP - Phase I for public review last September and the SDAPCD Board adopted it in November 2020. AB 617 CERP - Phase II was circulated for a 3-week review period (April 19 to May 7) and was approved by the SDAPCD Board on July 16, 2021. The Portside Community AB 617 CERP is anticipated to be approved and formally adopted by CARB on October 14, 2021.

Shortly after SDAPCD initiated the AB 617 Program in late 2018, the Board of Port Commissioners expressed a desire for the District to lead emission reduction efforts in the San Diego region. In June 2019, the Board adopted Resolution 2019-084 that authorized staff to update the District's 2007 Clean Air Program to align with State programs and to develop District-related plans and projects. At that meeting, the Board also expressed an interest in establishing emission reduction targets. Acknowledging the complexity of emission reduction efforts, particularly on District tidelands, the Board directed staff to do additional research to better understand and inform future emission reduction targets for the District.

Between March 2020 and March 2021, staff provided three status updates to the Board, summarized below:

- March 10, 2020: District staff outlined an approach for developing the District's MCAS, which focused on seven maritime-related emission sources (cargo handling equipment, commercial harbor craft, heavy duty trucks, ocean going vessels, District fleet, shipyards, and rail) and

focused on the feasibility of different strategies based on various regulatory, technical, and economic considerations.

- July 14, 2020: District staff informed the Board of the truck survey results and recommended early emission reduction strategies to be included in Phase I of the AB 617 CERP.
- February 11, 2021: District staff provided an update on the development of the MCAS Discussion Draft, various emission reduction projects that were moving forward, and the extensive stakeholder engagement process that was underway. Staff informed the Board how the District leveraged the 26-member AB 617 Portside Community Steering Committee and established three District led subcommittees to engage with residents, non-governmental organizations, public agencies, and industry to help develop the initial goals and objectives included in the MCAS. The Board directed staff to circulate the MCAS Discussion Draft for a four-week public review period between March 23, 2021 and April 20, 2021.

II. May 11, 2021 Board Meeting and Direction to Staff

At the May 11, 2021 Board Meeting, staff summarized the feedback and comments that were received during public review of the MCAS Discussion Draft. Public review generated a total of 220 comment letters, which included 25 comment letters and 195 form letters, yielding 138 specific comments. During public review, District staff provided formal presentations to 32 organizations and civic groups and facilitated a bilingual virtual Community Conversation, that included between 70 to 80 participants. This written and in-person feedback re-affirmed a desire for a District-specific clean air strategy, but it also served to uncover some missing information or gaps that are important to stakeholders and the community. Some of the key themes, or gaps, that were identified during public review period include concerns and/or requests to address the following:

- Implementation: Technological Feasibility, Competitive Fairness, Fees and Regulatory Tools
- Timing and Target Dates
- Funding and Grant Assistance
- Alignment with other Plans
- Non-Port Emission Sources
- Environmental Justice and Public Health
- Vision, Values, and Priorities
- Administrative

After considering the public comment, the Board directed staff to update the MCAS by supplementing and revising current sections. Examples of supplemental revisions included adding more information about environmental justice, a community profile section, non-port emission sources, as well as how the MCAS aligns with other District planning documents. The Board also directed staff to create new chapters to address some of the comments related to public health and implementation, and to add a definitions chapter. The Board directed staff to complete a health risk assessment for the District's two marine cargo terminals by October 2021 and provided feedback on heavy duty trucks, shipyards, and on funding & implementation issues raised during public review. Finally, the Board directed staff to return to the Board for additional direction prior to circulating a Revised MCAS for a second 30-day public review period.

III. July 13, 2021 Board Meeting and Direction to Staff

At the July 13, 2021 Board Meeting, in response to prior Board direction, staff presented a draft Executive Summary with updated goals and objectives based on public review and direction from the Board. New additions included three additional chapters (Public Health, Community Enrichment, and Enabling Goals), and identification of co-benefits for each of the seven maritime-related emission source chapters goals and objectives. Co-benefits include quality of life issues, such as jobs, urban greening, and improved public health.

After considering public comment, the Board provided comments and asked clarifying questions. Subsequently, the Board directed staff to incorporate the following items in the next iteration of the Draft Revised MCAS to be circulated for public review in August 2021:

- A Vision to achieve Health Equity for All
- Target 100% ZE Trucks and Cargo Handling Equipment by 2030
- Include a reference on the South Coast Air Quality Management District's Indirect Source Rule and explain how it protects vulnerable communities from diesel pollution at warehouses
- Include an expanded community profile with historical context of Barrio Logan and the Westside of National City by referencing the Portside Community's AB 617 CERP
- Include a start date for Truck Objective 2A, to commence the planning process for public facing ZE truck charging sites and more details about proposed locations
- Provide more details about infrastructure for Port Shuttle Program
- Coordinate with SANDAG, SDG&E and stakeholders for ZE truck charging sites
- Present a market feasibility study to the Board by January 2022, which shall include an analysis on how fees can help leverage other funding opportunities
- Explore potential credentials for the installation and maintenance of emerging ZE technologies by the end of 2021
- Include a discussion of the relationship between air pollution and racial disparities on communities of color using CalEnviroScreen

IV. Draft Revised MCAS and Second Public Review Period

Based on July 13, 2021 Board direction, staff revised the MCAS Discussion Draft and released the Draft Revised MCAS for a second 30-day public review period that took place from August 5, 2021 to September 3, 2021. The Draft Revised MCAS included several updates, summarized as follows:

- Established District's Vision of Health Equity for All
- Identified Goal of 100% ZE Trucks and Equipment by 2030
- Included Indirect Source Rule Footnote that provides context regarding recent rule making efforts enacted by South Coast Air Quality Management District
- Detailed Community Profile, providing historical context and tied to AB617 and CERP, that includes a discussion of the relationship between air pollution and racial disparities on communities of color using CalEnviroScreen
- New short-term goals and objectives for the Truck maritime emission source that emphasize an accelerated implementation of ZE/NZE vehicles, along with coordinating with other agencies and stakeholders to facilitate the timely deployment of associated charging infrastructure for Port Shuttle Program and other trucks
- Aim to achieve short-term goals and objectives by June 30, 2026

- New stakeholder priority Public Health section with goals and objectives to protect and improve community health by reducing emissions and lessening Portside Community resident's exposure to poor air quality; this effort includes completing a Health Risk Assessment for TAMT and NCMT
- New stakeholder priority Community Enrichment section with goals and objectives creating a more community focused document
- New Enabling sections focused on (1) partnerships, collaboration with stakeholders, and (2) further study, identification of areas that require additional research and analysis by staff to inform optimal implementation of MCAS policies, including but not limited to the exportation of potential credentials for the installation and maintenance of emerging ZE technologies by the end of 2021
- New appendix identifying MCAS and CERP alignment.

The public review period for the Draft Revised MCAS generated 33 comment letters from various stakeholders including community members, advocacy organizations, tenants, government agencies, and truck/transportation entities yielding over 120 individual comments. During the public review period, the District hosted a bilingual virtual community meeting and met individually with several stakeholders and tenants. Public feedback was divided: some have the opinion that the Draft Revised MCAS is too ambitious and will create a competitive disadvantage for maritime operations at the District, while just as many on the other end of the spectrum have the opinion that the Draft Revised MCAS doesn't go far enough and needs more specificity and urgency.

Some of the key themes that were identified during public review period include concerns and/or requests to address the following:

- Timing and Execution of Goals and Objectives - Move Faster vs. Alignment with State Goals and Timing
- NZE Technology - Support vs. Discourage
- More Specificity Needed to Reach 2030 Goals
- Limitations of ZE Technology and Supporting Infrastructure
- Competition - New Rules Create Competitive Disadvantage
- Maintain Workforce - Need to Protect Jobs

V. MCAS October 2021 and Resolution to Adopt

Development of the District's MCAS has been a highly iterative, stakeholder driven process that has taken about a year and half to complete. Beginning in March 2020, the MCAS relied on early guidance from three AB 617 Portside Community Steering Subcommittees, which culminated in MCAS Discussion Draft in March 2021, and in the Revised Draft MCAS in August 2021. Following public review of these two draft documents, further revisions and clarifications were made based on comments that were received, as well as direction from the Board. The Revised Draft MCAS (August 2021) demonstrated strong alignment with the emissions reduction strategies identified in the AB 617 Portside Community's CERP (July 2021)¹ and has support from a number of public agencies, including SANDAG, the SDAPCD, and the City of San Diego. All public comment letters received during the second public review period, from August 5, 2021 to September 3, 2021, are provided as Attachment E. In addition to those letters, staff also received comment letters the week prior to the publication of this agenda sheet; the letters are from Environmental Health Coalition (Attachment F),

Silvia Calzada (Attachment G), Roddy Jerome (Attachment H), Maria Moodie (Attachment I), Jose Garcia (Attachment J), Angelica Estrada (Attachment K), Alejandra Fen (Attachment L), and Enrique Medina (Attachment M). Any additional public comments received after September 30, 2021 will be made available to the public by the Office of the District Clerk.

Based on the letters received during the second public review period, staff is proposing revisions and clarifications to the attached MCAS October 2021 - Strike-out / Underline Version (Attachment C). Staff's response to the six (6) primary themes identified from the second public review period, as well as how the document has been updated, are provided below:

(1) Timing and Execution of Goals and Objectives: Many commenters urged the District to establish more aggressive goals and objectives and to include sooner target dates in the MCAS; whereas several other commenters argued that the goals and objectives are too ambitious and they encouraged the District to simply align with the State's goals.

Staff's Response: The Board has consistently stated that they want the Port of San Diego to be an emission-reduction leader, and in order to lead, by definition, you have to do things that others are not doing. The MCAS reflects this direction by establishing actionable near-term goals and objectives based on what is known today and by identifying longer-term zero emission goals for 2030. Although the near-term goals and objectives are ambitious, they have been developed in close consultation with several stakeholder agencies, including SANDAG, SDG&E, SDAPCD, and the City of San Diego. The MCAS (October 2021) has been updated to clarify that the document is intended to help attract and acquire additional funding and resources for emission reduction initiatives prior to regulations going into effect.

(2) NZE Technology: Given the current limitations of ZE technology, several comments urged the District to consider near-zero emission technologies and alternative fuels, such as CNG, RNG, Propane,

Staff's Response: The focus of the MCAS is on advancing ZE solutions, including through actionable near-term goals and objectives that focus almost exclusively on zero emission technologies, as well as zero emission goals in the long-term. That said, the MCAS (October 2021) document has been updated to clarify that NZE technologies (including hybrid technologies and alternative fuels) may serve as interim solutions, if ZE technologies cannot be deployed.

(3) More Specificity Needed to Reach 2030 Goals: Many comments urged the District to be more specific about how the District was going to attain several of the goals and objectives identified in the MCAS. Comments ranged from recommending that the District require a 10% annual increase in ZE Trucks calling to the District's two Marine Terminals through 2030, to being more specific about the regulatory tools and sources of funding that the District will use to implement its objectives and reach its goals.

Staff Response: The MCAS establishes clear direction to guide emission reduction efforts and investments on District tidelands. By identifying long-term goals for 2030 that articulates where the District desires to be in the future, the MCAS focuses on establishing several near-term goals and objectives that can be accomplished based on what is known today. Because of the uncertainty associated with the cost, availability, and capability of zero emission

technologies over the next 9-years (including forthcoming regulatory requirements), the MCAS establishes a variety of objectives to be accomplished by June 30, 2026. It's also important to note that advancements in technology tend to occur exponentially, and not linearly. For these reasons, staff maintains that it's not appropriate to establish arbitrary percentage requirements for ZE technology from now until 2030. Rather, the goals and objectives that are identified in the near-term (e.g., June 30, 2026) will help accelerate the deployment ZE technologies and build confidence in the marketplace. One of the near-term objectives includes a commitment to complete a comprehensive update to the MCAS in 2025, that will include more specificity for year 2030, when more information is known.

While the MCAS establishes some near-term Enabling Objectives that may help inform future actions, implementation of specific projects, regulations, and/or fees will require subsequent action to be taken by the Board, which will include the appropriate permitting and environmental review. The MCAS (October 2021) document has been updated to clarify that 2030 goals are long-term and that its focus is on near-term goals and objectives through 2026.

(4) Limitations of ZE Technology and Supporting Infrastructure: Several comments emphasized that ZE technologies are still developing and are not capable of meeting all the operational and logistical demands that are placed upon the goods movement industry today, particularly given the competitive environment of maritime industry.

Staff's Response: Community engagement has underscored the urgency by which the District must act to reduce emissions, as well as its obligation to promote the health and wellbeing of everyone who works, lives and plays on and near District tidelands. Acknowledging that there are currently some technological limitations, new language has been added to the MCAS (October 2021) document that explicitly notes the assumptions and conditions that must be met to successfully deploy ZE technologies in support of its goals. Furthermore, clarification has been added that allows for the consideration of near-zero emission technologies and alternative fuels, such as compressed natural gas (CNG) and renewable natural gas (RNG).

(5) Competition - New Rules Create Competitive Disadvantage: Multiple tenants, trucking companies, and labor organizations expressed concern that the Draft Revised MCAS (August 2021) will put the Port of San Diego at a competitive disadvantage, because ZE technologies will impose additional costs on the goods movement industry, in some cases, fifteen years in advance of State regulations.

Staff's Response: Recognizing that zero emission technologies are the future, the MCAS seeks to put the District and its tenants in a more competitive position to acquire outside funding by identifying an ambitious, comprehensive emission reduction strategy in advance of State regulations. The MCAS (October 2021) document has been updated to address these concerns by acknowledging the competitive nature of the goods movement industry. As noted earlier, additional language has also been added to clarify that the MCAS is intended to help maritime businesses attract and acquire additional funding and resources to reduce emissions associated with the goods movement industry.

(6) Maintain Workforce - Need to Protect Jobs: Some concerns were raised that ZE technologies and greater electrification could lead to more automation and result in the displacement of the human workforce.

Staff's Response: Since its inception in March 2020, District staff has emphasized that long-term success of the MCAS will depend on strong collaborations and partnerships with maritime tenants, operators, and service providers. The MCAS (October 2021) document has been updated to clarify that these tenants, operators, and service providers generate important maritime jobs that support families and that are vital to the regional economy. Additional language has been added to clarify that the MCAS initiatives, including the deployment of clean technology, should not result in the displacement of the existing workforce or be a hindrance to workforce growth.

VI. Next Steps and Draft Timeline

Depending on the Board's direction, staff will proceed with implementing MCAS goals and objectives, including regular updates to the Board on progress made.

As staff continues implementation, efforts will proceed to advance several priority projects over the summer and in the fall, including but not limited to an Electrification Plan, Vessel Speed Reduction Program, ZE Clean Freight Program, and EV Procurement for its own fleet.

General Counsel's Comments:

The Office of the General Counsel reviewed and approved this agenda, draft MCAS, and resolution, as presented, as to form and legality.

Environmental Review:

The Board action for adoption of the final MCAS, dated October 2021, is Statutorily Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15262 (Feasibility and Planning Studies) because the propose project is a planning document for possible future actions for which the Board has not approved, adopted, or funded.

In addition, the proposed Board action complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, this presentation is consistent with the Public Trust Doctrine.

Finally, the proposed Board action does not require issuance of a Coastal Development Permit (CDP) because it does not propose "development" as defined in Section 30106 of the California Coastal Act, or "new development" pursuant to Section 1.a of the District's CDP Regulations.

Diversity, Equity, and Inclusion Program:

There is no direct DEI impact with this agenda item.

PREPARED BY:

Larry Hofreiter
Program Manager, Planning

Maggie Weber
Senior Planner, Planning

Lesley Nishihira
Director, Planning

Jason H. Giffen
Vice President, Planning and Environment

Attachment(s):

- Attachment A: Preliminary Draft Staff Presentation for October 12, 2021 Board Meeting Agenda
- Attachment B: Maritime Clean Air Strategy (October 2021) - Clean Version
- Attachment C: Maritime Clean Air Strategy (October 2021) - Strike-out/Underline Version
- Attachment D: Portside Community Boundary
- Attachment E: Public Comments Received on Draft Revised MCAS (August 5, 2021 through September 3, 2021)
- Attachment F: Public Comment Letter, from Environmental Health Coalition, received September 28, 2021
- Attachment G: Public Comment Letter, from Silvia Calzada, received September 29, 2021
- Attachment H: Public Comment Letter, from Roddy Jerome, received September 29, 2021
- Attachment I: Public Comment Letter, from Maria Moodie, received September 30, 2021
- Attachment J: Public Comment Letter, from Jose Garcia, received September 30, 2021
- Attachment K: Public Comment Letter, from Angelica Estrada, received September 30, 2021
- Attachment L: Public Comment Letter, from Alejandra Fen, received September 30, 2021
- Attachment M: Public Comment Letter, from Enrique Medina, received September 30, 2021
- Attachment N: Resolution Adopting the Maritime Clean Air Strategy Dated October 2021 that Establishes Long-Term Emission Reduction Goals for 2030, and Nearer Term Emission Reduction Goals and Objectives Through June 30, 2026

END NOTES

¹ Please see MCAS (October 2021) Appendix C for a comparison table that demonstrates the alignment between the AB 617 CERP (July 2021) and the MCAS (October 2021).

² Please see MCAS (October 2021) Appendix C for a comparison table that demonstrates the alignment between the AB 617 CERP (July 2021) and the MCAS (October 2021).