

December 8, 2017

California Air Resources Board
Clerk of the Board
1001 "I" St.

Sacramento, CA 95814

Submitted electronically via https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=fundingplan2017&comm_period=N

Re: Proposed Funding Plan for Clean Transportation Incentives (FY 17-18)

On behalf of the Pacific Merchant Shipping Association (PMSA) and its members, which include ocean carriers and marine terminal operators conducting business at all of California's public ports, we submit the following comments regarding the Proposed FY17/18 Funding Plan for Clean Transportation Incentives.

PMSA is OPPOSED to the Proposed Funding Plan as long as it continues to render many Ports and Marine Terminals per se INELIGIBLE to compete for incentive funds in the "Zero- and Near Zero-Emissions Freight Facilities Project" category based solely on their census tract designations under CalEnviroScreen 3.0. The Funding Plan unnecessarily restricts project eligibility to only those ports, marine terminals, or berths which are located in a Disadvantaged Community, based on CalEnviroScreen 3.0 and AB 1550 criteria. (pp. I-70 – I-71)

Using the Plan's proposed 100% Disadvantaged Community screening requirement will effectively eliminate incentives from Cap & Trade proceeds for off-road cargo handling equipment or technology to support cold-ironing and ships at-berth at the following Ports:

- Port of Oakland
- Port of Port Hueneme
- Port of Redwood City
- Port of Richmond
- Port of San Francisco
- Port of Humboldt Bay

Maps of census tract eligibility restrictions highlighting AB 1550 and CalEnviroScreen 3.0 limitations imposed on these Ports are attached.

PMSA raised this concern during the public workshop and in its submitted formal comments on the Initial Draft of this Funding Plan (see October 10th PMSA Comments, also attached). Informally, PMSA and several of the impacted Ports were asked by CARB staff whether these eligibility issues could be addressed post-adoption through administrative interpretations of certain ports' geographic footprints or by authorizing joint-port equipment purchases. Such machinations, however, would be inconsistent with this Plan's 100% screening criteria.

This screening criteria is most problematic with respect to those Ports and Marine Terminals which will need significant state assistance in order to make investments in shorepower infrastructure or other alternative technologies to accommodate additional Ships that may be participating in a Ship At-Berth emission reduction project ahead of a new regulatory regime.

PMSA is very pleased that At-Berth technologies are included in the list of eligible project application elements. (Draft, pg. I-69) We are also pleased that grid and facility improvements and infrastructure to support the construction of At-Berth and other shorepower projects are included as well. (Draft, pg. I-70). However, without revising the Proposed Funding Plan in order to maximize receipt of project applications from all Ports, CARB will effectively be preventing ports, marine terminals, and ocean carriers from being eligible to apply and compete for the use of these incentive funds. This restriction is counter-productive and contrary to the goals identified in the 2016 Sustainable Freight Action Plan and in the recently-adopted Mobile Source Strategy.

Obviously, Disadvantaged Community criteria will ultimately need to be used with respect to selecting projects for awards under the Freight Funding Plan in order to meet overall spending criteria imposed on CARB's award of Cap & Trade proceeds under AB 1550. Yet, given that CARB does not yet know to what degree and how these spending criteria will be met when applied across all GGRF funding streams, it should not single out the Freight program for 100% Disadvantaged Criteria screening criteria with respect to project eligibility.

In addition, PMSA is concerned about also imposing the 50-50 Cost Sharing Requirements for at-berth projects at the eligibility and screening criteria phase. The percentage of cost-sharing which is feasible for each shorepower project will not be uniform across all types of ports, all types of terminals, and all types of technology options. Moreover, marine terminals and ports are not subject to SB 132 requirements and should not be held to the same standards for multiple reasons. First, SB 132 infrastructure and equipment is expected to be nearly entirely privately owned, while cold-ironing infrastructure and other at-berth equipment is almost entirely publicly owned. Requiring public sector matches for public money to be used for public infrastructure at the same rate that it is required for the private sector to access the same money will likely be counter-productive to the incentivized outcomes which are intended. Second, when at-berth equipment is utilized in a cold-ironing infrastructure capacity the utilization of the equipment already requires a private-sector overmatch by the vessels which are plugging in. Third, this equipment typically also requires facility and electrical grid improvements in addition to the at-berth equipment itself, and cannot be utilized otherwise, also requiring substantial investment over and above a one-to-one match. For all of these reasons, either the one-to-one match requirement should be waived or relaxed for at-berth equipment and infrastructure or other public and private spending required to make the at-berth investment functional should be creditable against the match.

As with the Disadvantaged Community eligibility criteria above, PMSA acknowledges that matching percentages may ultimately need to be used with respect to selecting projects for awards under the Freight Funding Plan in order to maximize cost-effectiveness. However, that is not a reason to prejudge the viability of projects in a variety of different port complexes or to limit the ability of those ports and terminals which are most in need of public assistance to apply for incentive funding for no other reason than the fact that they are currently cash-poor.

Finally, a note for the Board with respect to Cargo Handling Equipment at Ports, generally, PMSA notes that the Legislature has tied CARB's hands with respect to the deployment of these funds for "fully automated" equipment. PMSA opposed the budget control language which was included restricting the use of these funds in AB 134. The language in AB 134 prohibits the use of incentives for existing mature zero-emission equipment which is already in use at our ports, will stop the use of the most innovative, environmentally efficient technology, is inconsistent with other state policies requiring the best available technology, and is facially counter to the principles behind Executive Order B-32-15 and the Sustainable Freight Action Plan. These AB 134 restrictions will inevitably slow the integration of new zero-emission and near-zero-emission cargo handling equipment into port operations, and if managed improperly they could ultimately stop the utilization of these funds for CHE equipment altogether. PMSA reserves the right to further object to any unreasonable restraints on the application or interpretation of this already problematic budget control language.

PMSA and its members wish to thank CARB staff as they continue to work with the maritime industry on these and other issues in the context of ongoing rulemaking and incentive development. Please feel free to contact me at any time at (510) 987-5000 or mjacob@pmsaship.com.

Sincerely,

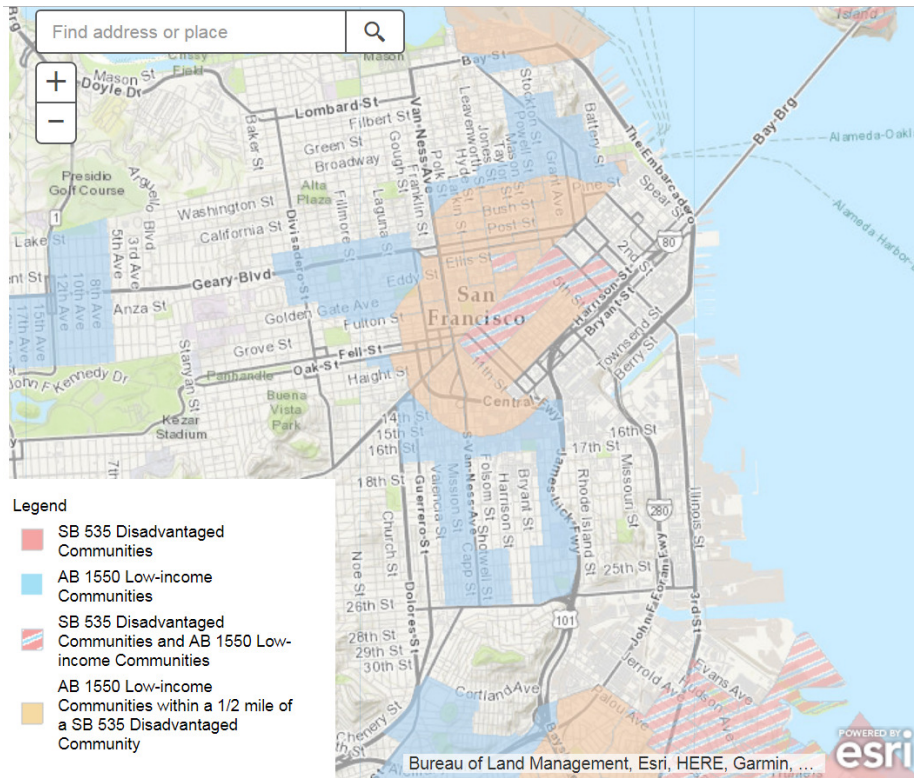


Mike Jacob
Vice President & General Counsel

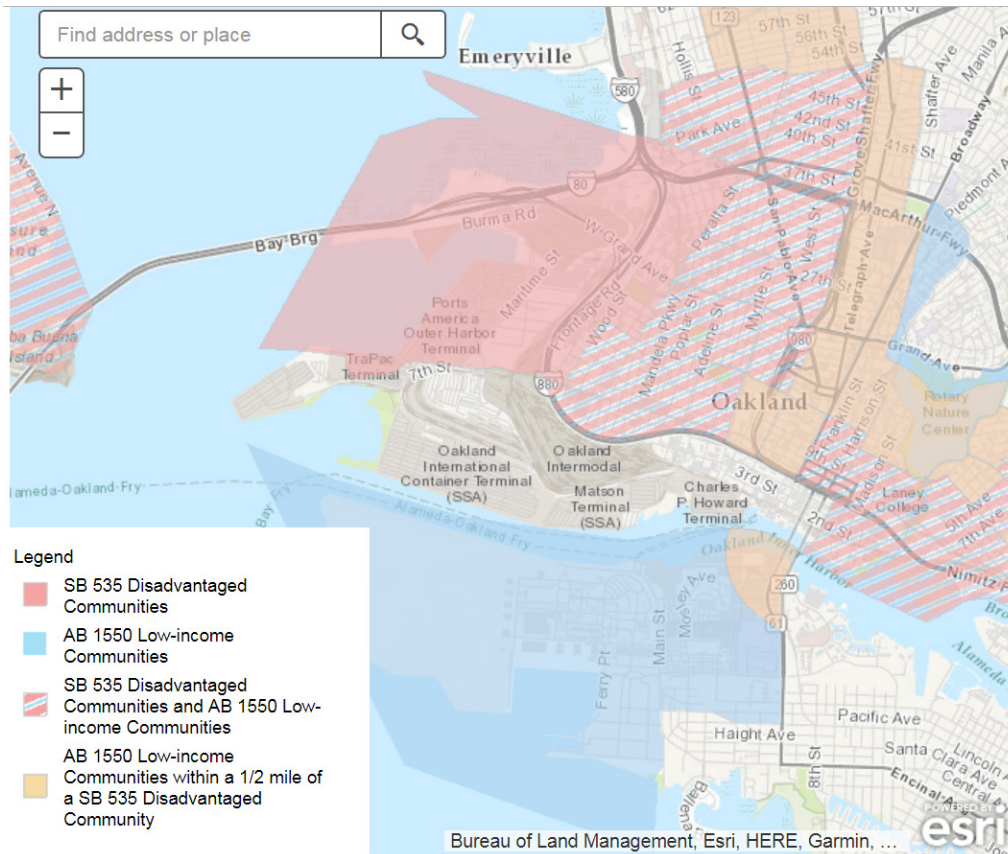
attachments

Attachment 1: Impacted Seaport Maps

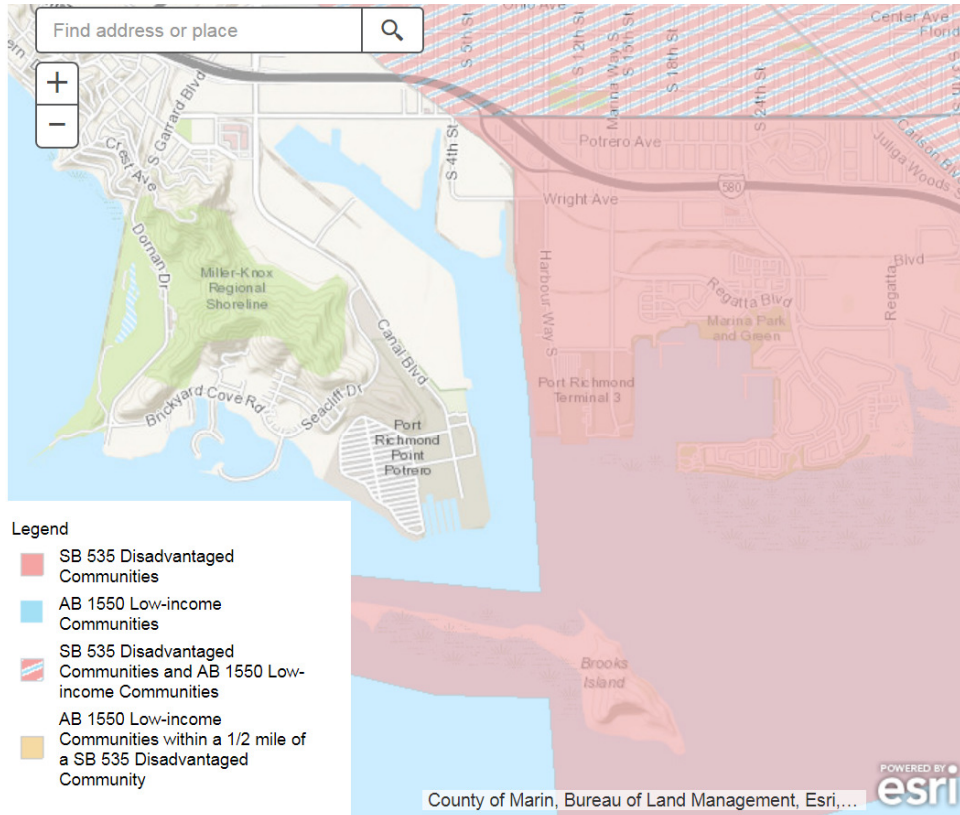
Port of San Francisco:



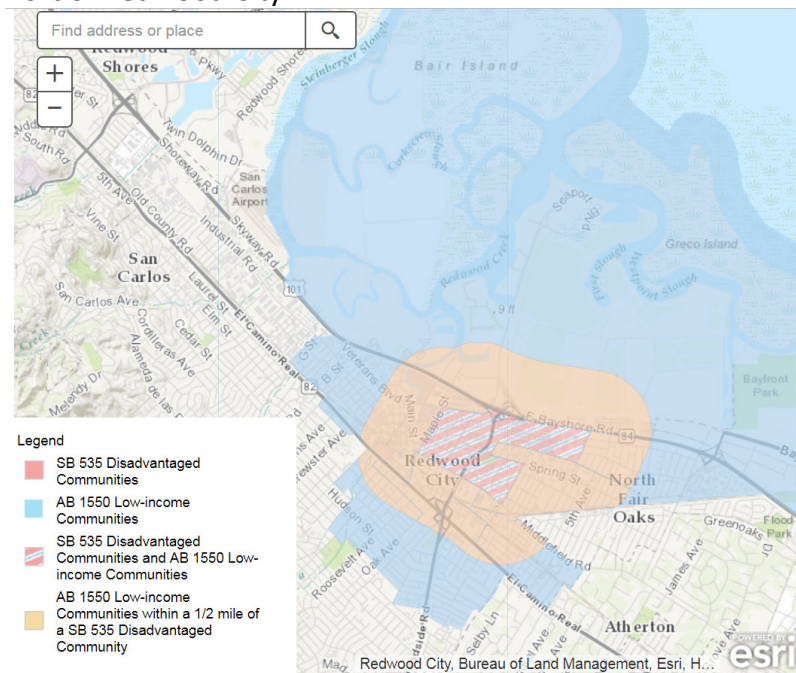
Port of Oakland:



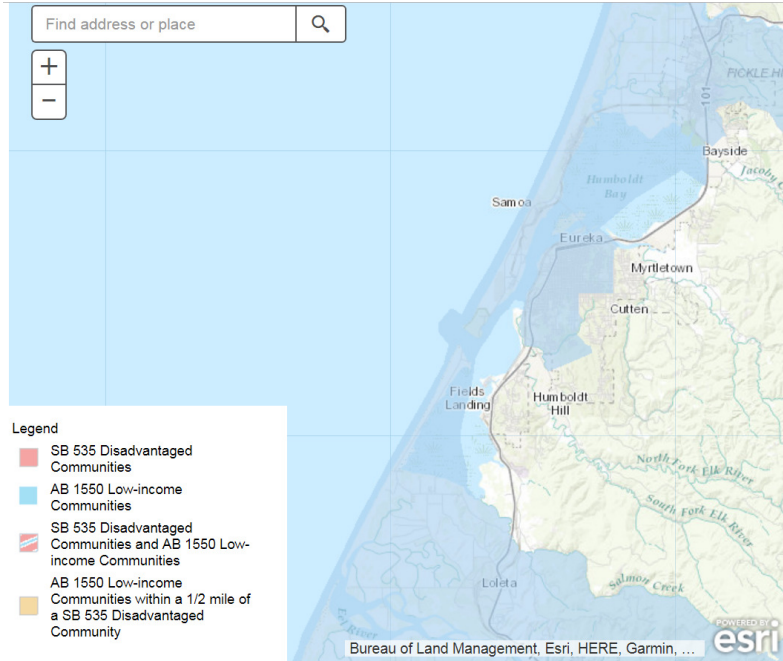
Port of Richmond:



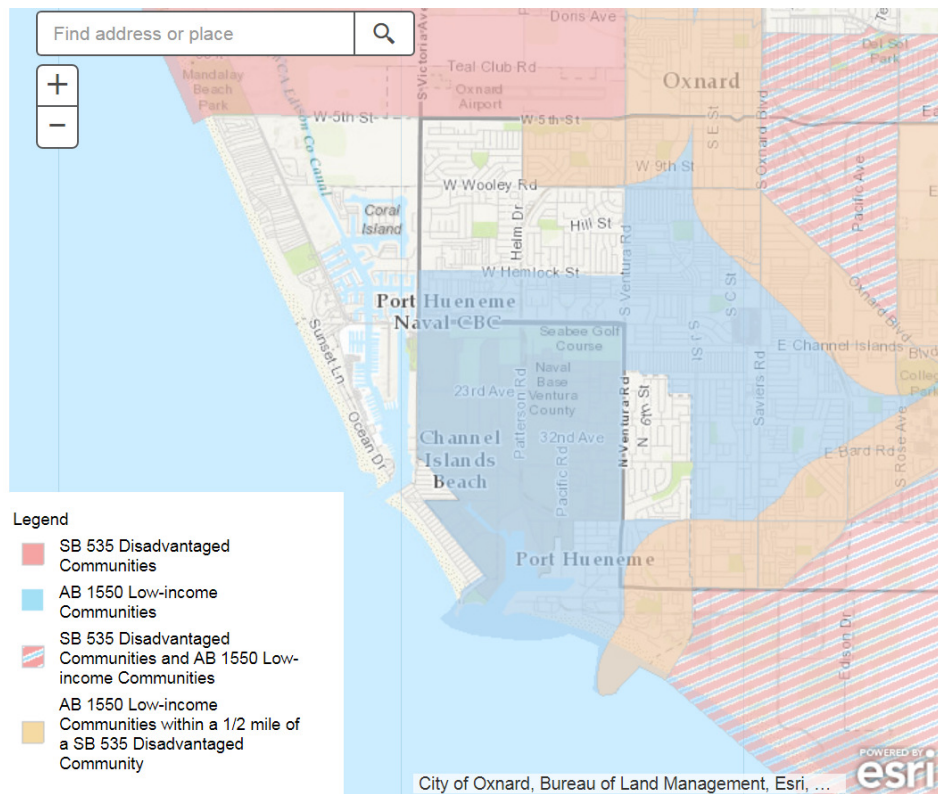
Port of Redwood City:



Port of Humboldt Bay:



Port of Port Hueneme:





October 10, 2017

California Air Resources Board
1001 "I" St.

Sacramento, CA 95814

Submitted electronically to Andrew.panson@arb.ca.gov

**Re: Discussion Draft Funding Plan (Released Sept. 26, 2017) on
Fiscal Year 2017/18 Funding Plan for Clean Transportation Incentives**

On behalf of the Pacific Merchant Shipping Association (PMSA) and its members, which include ocean carriers and marine terminal operators conducting business at all of California's public ports, we submit the following comments regarding the 9/26/2017 Discussion Draft of the FY17/18 Funding Plan for Clean Transportation Incentives.

PMSA supports Governor Brown's Executive Order B-32-15 and participated in the creation of the resulting California Sustainable Freight Action Plan. PMSA believes that this Incentive Funding Plan should be generally complementary to that policy framework, and the affiliated actions included in the recently-adopted SIP Mobile Source Strategy.

We submit these comments in that vein and understanding that while the CARB Board has directed staff to make it a priority to develop new approaches to the acceleration of zero and near-zero emissions equipment introduction with respect to oceangoing vessels at-berth and cargo handling equipment at marine terminals, the Legislature and other parts of the Administration have recently sought to place speed-bumps on the introduction of this equipment and restrict the ability of the maritime sector to access incentive funds.

With respect to Ships At-Berth, PMSA requests that the Discussion Draft be revised in order to maintain maximum eligibility for project applications that may include At-Berth infrastructure and equipment, and investments to support these systems.

PMSA is very pleased that At-Berth technologies are included in the list of eligible project application elements. (Draft, pg. I-69) We are also pleased that grid and facility improvements and infrastructure to support the construction of At-Berth and other shorepower projects are included as well. (Draft, pg. I-70).

However, we are concerned by several of the proposed qualifications for eligibility and how they may end up restricting these incentives and prevent ports, marine terminals, and ocean carriers from being eligible to apply and compete for the use of these incentive funds.

Specifically:

- “Cost Sharing Requirements” – At-berth projects are not subject to SB 132 requirements and should not be held to the same standards for multiple reasons. First, SB 132 infrastructure and equipment is expected to be nearly entirely privately owned, while cold-ironing infrastructure and other at-berth equipment is almost entirely publicly owned. Requiring public sector matches for public money to be used for public infrastructure at the same rate that it is required for the private sector to access the same money will likely be counter-productive to the incentivized outcomes which are intended. Second, when at-berth equipment is utilized in a cold-ironing infrastructure capacity the utilization of the equipment already requires a private-sector overmatch by the vessels which are plugging in. Third, this equipment typically also requires facility and electrical grid improvements in addition to the at-berth equipment itself, and cannot be utilized otherwise, also requiring substantial investment over and above a one-to-one match. For all of these reasons, either the one-to-one match requirement should be waived or relaxed for at-berth equipment and infrastructure or other public and private spending required to make the at-berth investment functional should be creditable against the match.
- “Disadvantaged Community” 100% Threshold – While recent legislation, SB 535 and AB 1550 in particular, have identified specific thresholds of spending for GHG Reduction Fund and other incentive funds for Disadvantaged and Low-Income Communities, neither of these statutes directs any fund to a 100% Disadvantaged Community mandate. Yet, that is precisely what is proposed for the “Zero- and Near-Zero Emission Freight Facilities Project” category (Draft, pg. I-70). We do not have an issue with prioritizing percentages of state incentive funding for projects in these communities, but this inserts a geographic constraint on the utilization of incentive funds, that – when applied at a 100% threshold – will inevitably eliminate the eligibility of many Ports and marine terminals from even being able to apply for incentive funds for At-Berth projects. For instance, At-berth projects in the Port of Oakland Inner Harbor would be ineligible to apply for incentive funds, but projects in the Outer Harbor would be eligible. The entire Port of Hueneme would be ineligible for these funds as well. This is an unacceptable result – and certainly it was not intended by the Legislature to eliminate eligibility for ports and their communities when it was setting its directives to meet 35% spending directly in disadvantaged communities across all funds. Because there is a conflict between these geographic constraints, we would recommend that this requirement be adjusted such that the plan requires “all project funding be spent in disadvantaged communities, except for project funding spent on at-berth infrastructure or equipment or other project elements supporting ships at-berth.”

With respect to Incentive Caps, PMSA requests that the Discussion Draft be revised in order to maintain maximum eligibility for project applications at Ports and marine terminals and not have these constrained by “regional” or “facility” type caps. We don’t have a problem with requiring balance and diversity in projects across the state, but we don’t believe that these caps should limit whether or not a project is eligible. Balance and diversity in the types of final projects approved can be a goal for the Board in making its final decision about projects, but it should not be a bar against initial eligibility of projects.

With respect to Cargo Handling Equipment, generally, PMSA requests that the final outcomes for funding allocations maintain maximum eligibility for project applications that may include off-road freight equipment, including cargo handling equipment at ports. PMSA opposed the budget control language which was included regarding the use of these funds regarding “fully automated” equipment at seaports in AB 134. The language in AB 134 prohibits the use of incentives for existing mature zero-emission equipment which is already in use at our ports, will stop the use of the most innovative, environmentally efficient technology, is inconsistent with other state policies requiring the best available technology, and is facially counter to the principles behind Executive Order B-32-15 and the Sustainable Freight Action Plan. These AB 134 restrictions will inevitably slow the integration of new zero-emission and near-zero-emission cargo handling equipment into port operations, but if managed improperly they could ultimately stop the utilization of these funds for CHE equipment altogether. PMSA reserves the right to further object to any unreasonable restraints on the application or interpretation of this already problematic budget control language.

Thank you for soliciting our comments on this Discussion Draft. PMSA and its members wish to thank CARB staff as they continue to work with the maritime industry on these and other issues in the context of ongoing rulemaking and incentive development. Please feel free to contact me at any time at (510) 987-5000 or mjacob@pmsaship.com.

Sincerely,



Mike Jacob
Vice President & General Counsel

cc: Michelle Buffington, CARB