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Jack P. Broadbent
EXECUTIVE OFFICER/APCO

November 16, 2007

James Goldstene, Executive Officer
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Dear Mr. Goldstene:

I would like to formally congratulate you on your recent appointment as the Air Resources Board's Executive Officer. While you and I have not worked together previously, my staff who have worked with you in your roles at BAR and the ARB climate program have only positive things to say.

I would also like to thank you for the opportunity to talk through our concerns with ARB's draft shore power regulation. We appreciate the substantial work that has gone into crafting this rule. I know our agencies share the goal of having a regulation that substantially reduces toxic emissions from hotelling ships as swiftly as possible. However, we continue to believe that the regulation can be improved to achieve earlier and possibly more emission reductions.

Our two primary concerns with the regulation are that it lacks incentives for early action, and that it has different requirements for different technologies (instead of a single path with specified levels of emission reductions, regardless of the technology used to get the reductions). Again, our belief is that the regulation as currently drafted will ensure that there are no reductions in Oakland until 2014.

During our discussion, we committed to prepare for you some draft scenarios of how to incorporate incentives for early action into the rule. Before laying out ***how*** to achieve this, here are some reasons ***why*** we value early reductions. First, hotelling emissions from a given ship's auxiliary engines will be far higher prior to 2010 than after, as a result of ARB's progressive requirements for the fuel used by these engines. Second, incentives for early action have the real potential to spur innovative control strategies to cut hotelling emissions, which are the largest single source of emissions at the Port of Oakland. While Wittmar Technologies has pioneered an innovative control strategy, incentives for early action can both advance this technology and spur the development of other new approaches.

ARB staff's July 12, 2007, draft of this regulation actually lays out one scenario for incentivizing early action. That approach is laid out on pages 10 and 11 of the draft regulation. Essentially, reductions prior to 2012 count at 1.5 times the reductions required in 2015, and are less valuable in 2020. Fleets that act early are given an additional five years to comply with their 2020 requirements.

Here is an alternative that we think is preferable. The numbers and dates are illustrative, and could be changed. Within a given fleet, all visits where auxiliary engines are not used in 2008 receive a credit of 1.5 visits against regulatory requirements in a future year (for example, 2016). 2009 visits that are cleaned up (regardless of whether the grid or other options are used) are worth 1.25 visits against the future year requirements. If the regulation has no mandatory requirement for 2010, 2010 visits that are cleaned up receive a credit of 1 visit against the future year. If there is no mandatory requirement for 2011, 2011 visits that are cleaned up receive a credit of 0.9 visits against the future year. Credits end whenever the regulatory requirements start. (Our hope, outlined in last month's letter, is that 20% of all visits in 2010 must be cleaned up.)

Your staff were concerned that an incentive approach would allow more emissions in future years than under their regulation. Because of the complementary auxiliary engine fuel rule, and the drop in hotelling emissions starting in 2010, the above approach gets ***more*** total reductions than a no-incentive approach. I know your staff have earlier expressed concerns that record keeping for incentives might be too administratively difficult. We would politely disagree.

Again, the above example is illustrative, and could be modified in a variety of ways. While we believe it provides significant incentive for shipping lines to act early, we urge you to get the perspective of the shipping lines, and all parties with an interest in the regulation. A wide variety of interests, including affected communities, ports, and others across the state have much at stake in this regulation.

In addition to early action incentives, we continue to believe that an aggressive, technology-neutral regulation is also needed. A single compliance path--- regardless of chosen technology--- is the only way to have a regulation that is emission-based.

Again, thank you for the opportunity to share our perspective with you. While the perspectives of our staff on some specific aspects of this regulation differ, I assure you that we want to work collaboratively with you to achieve our common goal of clean air.

Sincerely,

Jack P. Broadbent

Jack P. Broadbent
Executive Officer / APCO

cc: Cindy Tuck, CalEPA
Bob Fletcher, ARB
Mike Waugh, ARB