

FILE NUMBER: 2025-163

DATE: Tuesday, July 15, 2025

SUBJECT: Memorandum of Understanding with San Diego County Air Pollution Control District to Advance Clean Technologies

DESCRIPTION: Adopt a Resolution Authorizing a Memorandum of Understanding Between the San Diego Unified Port District and the San Diego County Air Pollution Control District to Advance Clean Technologies Consistent with the Maritime Clean Air Strategy and Portside Community Emission Reduction Plan

EXECUTIVE SUMMARY:

Staff from the District and the San Diego County Air Pollution Control District (APCD) have been negotiating a Memorandum of Understanding (MOU) that would support implementation of shared goals captured in the District's Maritime Clean Air Strategy (MCAS) and the Portside Community Emissions Reduction Plan (CERP) to improve air quality through the advancement of clean technologies (Attachment A). The MOU builds upon years of collaboration between the agencies and represents a unique collaboration between an Air District and a California seaport to reduce pollution in place of an indirect source rule. The proposed term of the MOU is for six years, which may be extended by agreement. The major MOU commitments include:

- Funding to convert diesel vehicles and equipment to zero emission options;
- Collaboration to decrease emissions from commercial harbor craft and ocean-going vessels through education and outreach, new or modified incentives opportunities, and awards and recognition programs;
- Opportunities for public participation regarding potential Maritime Industrial projects within the Portside community area;
- Planning for infrastructure development and compliance with state regulations at the marine terminals; and
- Identifying potential projects that may receive funding through the District's Maritime Industrial Impact Funds pursuant to BPC Policy 773

On June 12, 2025, the APCD Governing Board unanimously approved APCD staff's recommendation to authorize the Air Pollution Control Officer (or designee) to approve and enter the MOU with the District (Attachment B). District staff recommend that the Board adopt a resolution authorizing the MOU between the District and APCD.

RECOMMENDATION:

Adopt a Resolution Authorizing a Memorandum of Understanding between the San Diego Unified Port District and the San Diego County Air Pollution Control District to Advance Clean Technologies Consistent with the Maritime Clean Air Strategy and Community Emission Reduction Plan

FISCAL IMPACT:

There is no fiscal impact caused by approval of this action.

The Memorandum of Understanding (MOU) requires the District to allocate \$1,000,000 for electric trucks, which is included in the FY 2026 budget and funded through the Economic Recovery Program (ERP).

COMPASS STRATEGIC GOALS:

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

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.
- A Port with an innovative and motivated workforce.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:**Background**

Air pollution control districts and air quality management districts (Air Districts) in California are responsible for regional air quality planning, monitoring, and stationary source and facility permitting. A primary function of Air Districts is to protect public health and attain stringent federal and state standards for air quality. APCD administers these duties in the San Diego Air Basin which represents all of San Diego County. In 2019, California AB 423 (Gloria, 2019) amended state law to restructure and expand the Governing Board of APCD (Attachment C). In addition, AB 423 amended the California Health and Safety Code to add specified duties to APCD, including direction to “Consider adopting an indirect source rule to address pollution from mobile sources that is associated with stationary sources, such as ports, warehouses, and distribution centers.” An indirect source is generally defined as any facility that attracts mobile sources of emissions. As ports, warehouses, and distribution centers attract mobile sources which emit pollution including trucks, equipment, and vessels, these facilities are considered indirect sources of pollution.

Following the directive from AB 423, APCD staff researched potential indirect source rule (ISR) concepts, met with District staff, numerous stakeholders, and evaluated indirect sources such as ports, warehouses, and distribution centers located throughout San Diego County. From this research, APCD staff concluded a port-specific ISR would require navigating complex international and federal regulations, be expensive to develop and even more expensive to implement. As an alternative approach, APCD staff in coordination with District staff recommended to the APCD Governing Board in June of 2023 the pursuit of an MOU with the District in place of a port-specific ISR. The APCD Governing Board agreed with the staff recommendation. However, APCD staff is still considering both regulatory and non-regulatory options for warehouses and distribution centers through San Diego County.

As a result, staff from the District and APCD have been working together to develop an MOU that supports implementation of the MCAS as well as the Portside CERP. District staff have presented potential MOU concepts and preliminary MOU Measures to the Board of Port Commissioners at the December 5, 2023 and September 10, 2024 meetings, respectively. Following direction from the Board, staff have been developing the terms and conditions of the MOU, described below.

Memorandum of Understanding

The MOU will serve as a non-regulatory, voluntary agreement between the District and APCD to work together to support implementation of the MCAS and CERP. It is the first MOU of its kind between an Air District and a California Seaport to reduce pollution and improve air quality. The MOU would serve in place of an ISR directed at ports. The proposed term of the MOU is for six years. The major commitments are embodied in a series of schedules and are explained below.

Schedule 1: Cargo Handling Equipment

The goal of Schedule 1 is to replace diesel cargo handling equipment with zero emission cargo handling equipment. APCD would commit to develop a competitive grant solicitation worth \$3M to support acquisition of zero emission equipment. The funding would be prioritized for the District, its tenants, and/or service providers. The District would commit to provide education and technical assistance to its tenants and/or service providers to apply for the available funding.

Schedule 2: Medium- and Heavy-Duty Trucks

The goal of Schedule 2 is to transition diesel medium- and heavy-duty trucks to zero emission trucks. APCD would commit to releasing a competitive grant opportunity worth \$4M to support acquisition or use of zero emission trucks. The funding would be prioritized for the Port, its tenants, and/or service providers. The District would commit to providing education and technical assistance to tenants and service providers to apply for the available funding. Additionally, the District would commit to the following:

- Provide \$1M to support procurement of zero emission trucks;
- Continue the Zero Emission Vehicle Incentive program which provides reduced fees to maritime carriers and/or customers who transport freight with zero emission trucks; and
- Publish reports on truck activity which occur at the marine cargo terminals

Schedule 3: Commercial Harbor Craft and Ocean-Going Vessels

The goal of Schedule 3 is to decrease emissions from commercial harbor craft and ocean-going vessels. Both the District and APCD would commit to educating the commercial harbor craft community comprised of, but not limited to, commercial fishing vessels, excursion vessels, and tug and tow boats regarding regulations and incentives for cleaner vessels. APCD could consider new or modified incentive opportunities for the commercial harbor craft companies. Through this schedule, the District would commit to:

- Developing a rewards and recognition program to increase participation in its voluntary Vessel Speed Reduction Program to address air pollution from Ocean Going Vessels while in transit; and
- Maintaining participation in the Green Marine Certification Program which is the leading environmental certification program for North America's maritime industry

Schedule 4: Public Participation

The goal of Schedule 4 is to support public participation regarding projects which occur in the Portside Community in which the District or APCD is the lead agency for carrying out or approving a project that is subject to CEQA. Through this schedule, both the District and APCD would commit to proactively engaging with stakeholders prior to initiating environmental review of a project proposing new or expanded Maritime Industrial use in the Portside Community which require the preparation of either a Mitigated Negative Declaration or Environmental Impact Report.

The District would commit to early notification about the project prior to Preliminary Project Review at a Board of Port Commissioners meeting. In addition, the District would engage with stakeholders during the public review of environmental documents and describe to stakeholders the process for approval.

APCD would similarly provide early notification of project applications for which they are serving as the Lead Agency under CEQA. APCD would likewise engage with stakeholders during the public review of environmental documents and describe to stakeholders the process for approval with the final decision resting with the Air Pollution Control Officer rather than the APCD Board of Governors.

These public participation opportunities have been examined to ensure they would not impair the long-established CEQA process for environmental analysis and engaging the interested public.

Schedule 5: Infrastructure

The goal of Schedule 5 is to facilitate the transition to zero-emission vessels, equipment, and vehicles through proactive infrastructure planning, design, and construction. The District would commit to planning and development of electrical infrastructure upgrades at the marine terminals to support zero-emission equipment and shore power. In addition, the District would make shore power and/or the emission capture and control technology (known as the "bonnet") available no later than the end of calendar year 2025 at the National City Marine Terminal to vessels required to comply with California's emission reduction requirements while at berth. The District would also seek opportunities for non-regulated vessels to utilize shore power or the bonnet at the cargo marine terminals.

Schedule 6: Off-Tidelands Projects Within the Portside Community

The goal of Schedule 6 is to identify potential projects off-tidelands that may receive funding through the Port's Maritime Industrial Impact Fund (MIIF) established in Board of Commissioners Policy No. 773. The District would commit to publicizing the MIIF

program. APCD would commit to engaging with stakeholders regarding potential projects within the Portside Community and may submit a proposal to the District for consideration. Upon receipt of a proposal, the District would commit to review, determine eligibility of the proposal, and may recommend funding to the Board of Port Commissioners.

In addition to the commitments described in the above schedules, the District would also commit to tracking and annual reporting of MOU implementation, quantification of emission reductions attributed to implementation of the MOU, and meeting with APCD staff on a regular basis.

APCD Governing Board Meeting

Staff from APCD presented the MOU to their Governing Board on June 12, 2025.

The APCD Governing Board unanimously approved APCD staff's recommendation to:

- *Authorize the Air Pollution Control Officer (or designee) to approve and enter into a Memorandum of Understanding (MOU) with the San Diego Unified Port District to support implementation of the Maritime Clean Air Strategy and Portside Community Emissions Reduction Plan, and any future amendments to the MOU, provided the MOU or MOU schedules are not materially modified; and*
- *Find that the proposed action is not a project pursuant to §15378(b)(5) of the California Environmental Quality Act (CEQA) Guidelines, because executing the MOU is an administrative action that does not itself result in direct or indirect physical changes to the environment, and CEQA review of individual construction projects will be analyzed at the appropriate time*

The item received letters or comments of support from the San Diego Working Waterfront, Environmental Health Coalition, Pacific Merchant Shipping Association, Supply Chain Federation, and the Climate Action Campaign.

General Counsel's Comments:

The General Counsel's Office reviewed this agenda and approved the proposed MOU as presented to it as to form and legality.

Environmental Review:

The proposed resolution authorizing a memorandum of understanding with San Diego Air Pollution Control District does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the proposed Board action that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring

implementation of mitigation measures, adopting an alternative, including without limitation, a “no project alternative” or adopting a Statement of Overriding Consideration, if required. The proposed Board action in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

The proposed Board action complies with Sections 21, 35, and 87 of the Port Act, which allow the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers, and which authorizes the use of tidelands for the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

The proposed Board action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The proposed Board action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Diversity, Equity, and Inclusion Program:

Not applicable.

PREPARED BY:

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Attachment(s):

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| Attachment A: | Proposed Memorandum of Understanding Between the San Diego Unified Port District and the San Diego County Air Pollution Control District |
| Attachment B: | San Diego County Air Pollution Control District Governing Board Meeting. June 12, 2025. Agenda Item E.2. |
| Attachment C: | Assembly Bill 423 (Gloria) |