

Agenda Date: January 17, 2008  
Agenda Placement: Admin  
Estimated Time: N/A  
Continued Item: No

## Board Agenda Item

TO: Air Pollution Control District Board  
FROM: Terry Dressler, Air Pollution Control Officer  
SUBJECT: Letter to State Attorney General

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### RECOMMENDATION:

Execute the attached letter to the California Attorney General (AG) encouraging the AG to join the Santa Barbara County Air Pollution Control District and other air districts in suing the federal Environmental Protection Agency (EPA) for failure to promulgate regulations controlling category 3 marine vessel engines by the statutory deadline to adopt such regulations.

### DISCUSSION:

In closed session on December 20, 2007, your Board authorized County Counsel to file a Citizen Suit against EPA for its failure to adopt standards regulating air pollution from category 3 marine vessels as required by Section 213 of the Clear Air Act and 40 CFR §98.4(a)(ii). The attached letter requests that the California Attorney General join the Santa Barbara County Air Pollution Control District, Ventura County Air Pollution Control District, and South Coast Air Quality Management District in the suit.

## Board of Directors

January 17, 2008

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Edmund G. Brown Jr., Attorney General  
Attorney General's Office  
California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244

Dear Mr. Brown:

The purpose of this letter is to encourage you to join the Santa Barbara County Air Pollution Control District, along with the South Coast Air Quality Management District and the Ventura County Air Pollution Control District, in filing a Citizen Suit against the federal Environmental Protection Agency (EPA) for its failure to adopt standards regulating air pollution from Category 3 marine vessels as required by Section 213 of the Clean Air Act and 40 CFR §98.4(a)(2)(ii).

Category 3 marine vessels are a significant and growing source of air pollution emissions, which affect the air quality of California's coastal communities. Although Santa Barbara County does not have a port, the County has 130 miles of coastline that are heavily traveled (over 7,000 transits in 2005) by ocean-going vessels, mostly heading to or from the ports of Long Beach, Los Angeles, and Hueneme. The ships traverse the Santa Barbara Channel just ten to fifteen miles from shore and currently emit over 45% of the oxides of nitrogen (NOx) emitted in Santa Barbara County. If left uncontrolled, we project that the marine vessels will contribute almost 75% of the County's NOx pollution by the year 2020, and endanger our ability to attain and maintain the air quality health standards. Other coastal communities in both southern and northern California experience similar air pollution impacts from marine vessel emissions. It is also interesting to note that these large cargo vessels are a significant source of greenhouse gas emissions that contribute to global climate change.

In 1990, Congress adopted significant amendments to the Clean Air Act, including Section 213, which requires EPA to regulate all nonroad engines that significantly contribute to air pollution that may endanger public health or welfare. In 1994 EPA issued an affirmative finding of significance and identified Category 3 marine diesel engines as engines that should be regulated. While EPA has some discretion as to how strictly it will regulate these engines; under the Act, its duty to regulate is mandatory. On February 28, 2003 EPA adopted a rule that committed to promulgating regulations on Category 3 marine engines no later than April 27, 2007. To date, EPA has failed to promulgate or even propose emission standards for Category 3 marine vessel engines.

### Clerk of the APCD Board:

Terence E. Dressler

More recently, on November 27, 2007, EPA announced a final rule to extend the deadline for adopting a substantive rule from April 27, 2007 to December 17, 2009. EPA's action to extend the deadline does not satisfy the substantive requirements of the Clean Air Act as EPA must adopt substantive standards now.

On December 19, 2007 the Santa Barbara County Air Pollution Control District Board directed the Counsel to file a Citizen Suit against EPA for its failure to adopt standards regulating air pollution from Category 3 marine vessels as required by Section 213 of the Clean Air Act and 40 CFR §98.4(a)(2)(ii). The South Coast Air Quality Management District has already filed a similar suit and, on December 11, 2007, the Ventura County Air Pollution Control District Board authorized the filing of a 60 day notice to sue EPA on this issue. We encourage the California Attorney General to join us in suing EPA to compel them to meet their responsibilities under the Clean Air Act to protect the health and welfare of the citizens of California from this significant source of air pollution.

Thank you for your consideration of our request. If you have any questions regarding this matter or would like to discuss it further, please contact either Terry Dressler, Air Pollution Control Officer at (805) 961-8853 or William Dillon, Senior Deputy County Counsel, at (805) 568-2950.

Respectfully,

Lupe Alvarez, Chair of the Board of Directors  
Santa Barbara County Air Pollution Control District

cc: Senator Barbara Boxer  
Senator Diane Feinstein  
Representative Lois Capps  
Gov. Arnold Schwarzenegger