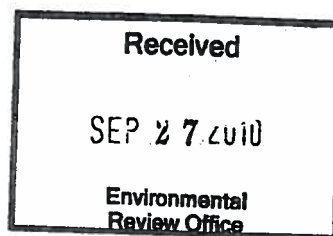


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September 24, 2010

Thomas Kelly  
U.S. EPA Region 9  
Environmental Review Office (CED-2)  
75 Hawthorne Street  
San Francisco, CA 94105

Dear Mr. Kelly,

The ports of Long Beach and Los Angeles would like to thank the U.S. Environmental Protection Agency (EPA) for considering our input on the proposed Health Impact Assessment (HIA) process. We regard the EPA as an important partner to the ports, and we look forward to a collaborative approach on this effort as well. Community health is a significant concern for the ports and we share EPA's desire to minimize impacts from port-related operations.

As noted in our comment letter dated April 15, 2010, the ports already conduct extensive evaluations of environmental and community impacts through the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes and produce some of the most comprehensive and transparent environmental and health risk assessments and significant mitigation measures in the nation, as described in the Attachment.

As currently proposed in the scoping document, the HIA is vague and does not meet the rigorous, science-based analytic standards set by the ports and expected by our communities. For this reason, the ports cannot commit to conducting HIAs in the manner prescribed by the scoping document. Specifically, the ports find the following deficiencies:

- There is no standardized, nationally recognized protocol for conducting HIAs. Only a handful of HIAs have been conducted as part of environmental documents, and notably these documents—including the oft-cited HIAs from Alaska—failed to identify definitive, measurable health impacts and mitigation measures beyond what the ports already provide. We understand the EPA initiated the HIA concept development with assistance of a consultant but that no further funding is available. It is unclear whether EPA intends to conduct further technical work to develop and finalize a standardized national protocol.
- The EPA has not taken a national position on HIA. Attempts to align NEPA and HIA have been sporadic and inconsistent across the EPA regions, with different regions

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The San Pedro Bay Ports Clean Air Action Plan was developed with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.

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adopting different criteria and protocols. This disjointed approach subjects the HIA process to error and misinterpretation, confusing—rather than elucidating—community health impacts.

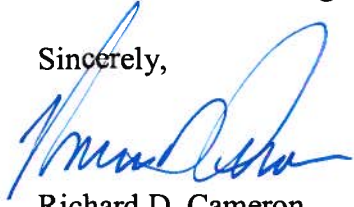
- A project-based HIA cannot evaluate and address public health impacts from the broader, more regional perspective needed to provide a meaningful assessment. Such a narrow focus overlooks all of the regional contributors to environmental pollution, including refineries and manufacturing facilities, and does not account for poor planning and land use decisions by agencies outside the ports' control.
- The scoping document suggests that significance thresholds be determined through a collaborative process on a project-by-project basis. This subjective approach lacks consistency and certainty, and it will most certainly result in analytical disparities across projects. Furthermore, the responsibility to determine significance thresholds is statutorily under the authority of the federal lead agency under NEPA and the ports as lead agencies under CEQA; the applicable lead agency must exercise its independent judgment under the law.
- The scoping document suggests that mitigation measures be determined through a collaborative process. Consensus, however, may not lead to the identification of appropriate mitigation as required by NEPA. Again, the federal lead agency under NEPA and the ports under CEQA cannot abdicate their legal responsibilities and independent judgment as lead agencies to develop appropriate mitigation measures.
- There are no commonly accepted methodologies or science-based standards for assessing some of the proposed health determinants, such as a change in stress levels or blight. Other determinants are too far removed to even imply a causal connection.
- The EPA has not been clear as to whether an HIA should be incorporated into NEPA or conducted in parallel. If the HIA is conducted as part of NEPA, it must be constrained by the limits of NEPA and avoid speculative conclusions that would not provide meaningful and useful information to the public or to decision makers. If the HIA exists outside of NEPA, under what authority would EPA require the ports to conduct this analysis?

Given these outstanding issues, the ports do not believe the HIA as currently proposed is an appropriate tool for assessing the community health impacts of a specific project. If the EPA wants to encourage—or potentially mandate—the use of HIAs, it should do so at a national level by enacting a federal rule that provides consistent and uniform guidance across EPA regions rather than singling out one port complex in one part of the country. As part of this national approach the EPA needs to conduct a comprehensive, large-scale outreach process to all stakeholders, including other federal agencies, especially those divisions acting as lead agencies under NEPA. The ports are happy to participate in this process.

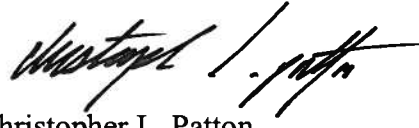
As demonstrated by our past efforts, the ports are leaders in environmental and health risk assessment. The ports already evaluate nearly all of the health determinants specified in the HIA scoping document, conduct extensive public outreach efforts both formal and informal, and have been recognized by EPA for our groundbreaking programs to reduce impacts on environmental justice communities. That said, the ports are open to improving our existing processes and analyses so long as the improvements are legally defensible and scientifically sound.

Once again, the ports would like to thank the EPA for considering our feedback, and we look forward to collaborating with EPA on comprehensive solutions to the environmental and health issues in our region.

Sincerely,



Richard D. Cameron  
Director of Environmental Planning  
Port of Long Beach



Christopher L. Patton  
Acting Director of Environmental Management  
Port of Los Angeles

RM:s

cc: Geraldine Knatz, Port of Los Angeles  
Richard Steinke, Port of Long Beach  
Enrique Manzanilla, EPA  
Steven John, EPA

## **Attachment: Examples of Port Analyses, Mitigation and Outreach Programs**

Environmental Impacts: The ports analyze impacts far in excess of legal requirements and possibly HIA itself. Recent environmental impact reports (EIRs) and environmental impact statements (EIS) documents have analyzed project impacts on parks and recreational amenities, traffic, noise, air quality, housing availability, job training opportunities, and environmental justice communities (including poverty rates, education levels, household income, ethnicity, and health conditions).

Health Risk Assessments (HRAs): The ports analyze cancer risk, non-cancer risk, and mortality/morbidity of proposed projects using some of the most sophisticated modeling systems and scientifically rigorous methodologies available. These methodologies have been developed and adopted by state and local air agencies and public health agencies (e.g. California Air Resources Board, South Coast Air Quality Management District, and California Office of Environmental Health Hazards Assessment). These methodologies have yielded significant project mitigation and community mitigation far exceeding project impacts, which provide tremendous community benefits.

CEQA Project Mitigation: The ports have developed and implemented some of the country's most ambitious mitigation measures to reduce project impacts, such as requiring clean technologies in advance of regulatory requirements and mandating 100% use of shore power for ships at berth.

Off-Port Impacts Community Mitigation Beyond Project: Both ports have established mitigation funds to reduce community health impacts beyond what is required by CEQA/NEPA, investing millions of dollars to install air filters in schools, hospitals, and senior care facilities and funding health care programs, schools, and health impacts research.

Community Engagement: The ports conduct extensive community outreach and routinely incorporate community input into our documents and programmatic initiatives, as evidenced by the broad-based Clean Air Action Plan Stakeholders Group, the Port of Los Angeles Community Advisory Committee, and the Port of Long Beach Mitigation Grants Advisory Committee. In addition, community members are given multiple opportunities to communicate with the ports during scoping meetings, public hearings, and informal community outreach activities.