

Bay Area Air Quality Management District
939 Ellis Street - San Francisco, California 94109

APPROVED MINTUES

Advisory Council
Air Quality Planning Committee Meeting
9:30 a.m., Tuesday, March 25, 2003

- 1. Call to Order – Roll Call. 9:40 a.m. Quorum present:** Kraig Kurucz, Chairperson, Irvin Dawid, Fred Glueck, John Holtzclaw, Ph.D., Kevin Shanahan. Absent: Harold Brazil, Patrick Congdon.
- 2. Public Comment Period.** There were no public comments.
- 3. Approval of Minutes of February 25, 2003.** Dr. Holtzclaw moved approval of the minutes; seconded by Mr. Shanahan; carried unanimously by acclamation.

Chairperson Kurucz took Item Nos. 4 and 5 out of order:

- 5. Air Quality Legislation.** Thomas Addison, Advanced Projects Advisor, stated the following:

Proposition 40 will allocate \$50 million to clean air programs: 20% to low emission school buses, 80% to the Carl Moyer program, and a small portion to the California Air Resources Board (CARB) for administrative overhead. While Proposition 40 also allows air districts to recover their Moyer program administrative costs, no provision for this has thus far been made. In the first year, CARB will allocate \$25 million. The remaining \$25 million may be allocated over several years. This will depend on the outcome of other bills that contribute funding to the Carl Moyer program.

AB 114 (Nakano) would allow hybrid cars in High Occupancy Vehicle (HOV) lanes. This would lead to the congestion of HOV lanes and adversely impact air quality. Staff will recommend that the Board oppose the bill. Staff has also presented its concerns to the author of the bill.

AB 720 (Matthews) is a reaction against city, county and regional district wood smoke abatement rules. It would require CARB to adopt clean-burning standards for hearth products. These would supersede local and regional measures. Staff will recommend that the Board oppose the bill.

AB 729 (Lieber) appears to authorize the District to adopt indirect source rules in a manner similar to the South Coast AQMD. The South Coast AQMD adds a fifth dollar to its vehicle registration fees, the funds from which are allocated to clean fuels technology advancement and demonstration programs. It can also impose emission rules for specific types of fleets. This bill will provide an opportunity to bring new tools to reduce vehicular emissions in the Bay Area. It would also require the District to adopt a refinery fugitive emissions rule and a refinery flare rule by mid-2004. The District already has the toughest refinery fugitive emissions rule in the state and will make it more stringent this year. Staff will work with the author to modify the bill into something more appropriate.

AB 1468 (Pavley) requires testing of negative air machines at asbestos abatement sites. Staff has concerns with the overall cost of the bill, but believes it will be hard to oppose. Staff will recommend that the Board support the bill with amendments.

AB 875 (Wyland) would allow gas tax receipts to be spent only on freeway construction. Staff will recommend that the Board oppose the bill.

AB 740 (Pavley) is known as the Clean Air, Clean Water & Coastal Protection Bond Act of 2004 and would generate \$3.4 billion. CARB would receive \$900 million for distribution to clean air programs, of which \$200 million would be allocated to the Carl Moyer program, \$100 million to low emission school buses, \$100 million for agricultural equipment clean-up and \$500 million for hydrogen fuel cell infrastructure. Staff believes that the latter allocation is premature given the state of the technology. The role of air districts in the overall scheme is unclear. They have previously been responsible for allocating funds to the Carl Moyer program, and school bus and agricultural equipment programs. Staff will recommend that the Board support and seek amendments to this bill.

AB 788 (Chavez) would prohibit CARB from regulating VOC content in disinfectants. Staff will recommend that the Board oppose this bill. The Board has opposed similar legislation in the past.

AB 854 (Koretz) would eliminate the use of perchlorethylene (PERC) in dry cleaning operations. It would establish a grant program to facilitate the transition to non-toxic alternatives, with funds obtained from a fee of \$3.00 per gallon of PERC used. There are four alternative technologies: CO₂ –based, water-based cleaners (both are non-toxic and non-smog forming), hydrocarbon-based and silicon-based cleaning. Concern has recently been voiced over possible toxic emissions in the latter technology. Staff will recommend that the Board support the bill with amendments.

AB 998 (Lowenthal) is similar to AB 854, but it lacks a phase-out component and allows only for water-based and CO₂-based dry cleaning. Staff will recommend that the Board support the bill and seek amendments.

AB 698 (Lieber) concerns water contamination by PERC. It would impose a \$10 per gallon fee on PERC, which will reduce PERC use. Staff will recommend that the Board support this bill.

AB 925 (Richman) would require expansion of the expedited process that air districts used for permitting power plants during the recent state energy crisis. However, staff believes that the reason that new plants are not being brought on line at the present time is due to market climate and not to regulatory red tape. The author of the bill incorrectly believes that this legislation would accelerate the turnover of older power plants. Staff will recommend that the Board oppose the bill.

SB 170 (Torlakson) would merge the Metropolitan Transportation Commission (MTC) with the Association of Bay Area Governments (ABAG), with the aim of improving administrative efficiency and regional government. Staff will recommend that the Board adopt a “watch” position on the bill. Senator Torlakson has also publicly spoken of expanding this merger to include not only the Bay Area AQMD, but also the Bay Conservation and Development Commission and the Regional Water Quality Control Board. Staff believes that the public health would not be served if the Air District were merged with MTC and ABAG, because air quality and mobility goals are not always compatible. Mr. Dawid noted that in California there is no precedent for merging an air district with transportation and land-use agencies, although elsewhere the land-use and mobility regulation functions are contained in a single agency. In San Diego, former Senator Steve Peace merged the two transit agencies with the land-use and transportation agency. One result of this merger was a well-integrated Regional Comprehensive Plan.

AB 1500 (Diaz and Pavley) is known as the Petroleum Pollution Cleanup and Prevention Act. It would assess a fee of \$1.00 per barrel on crude petroleum and allocate these funds to Carl Moyer style programs. CARB would allocate the air quality portion of the funds to air districts for distribution. This is intended as a permanent source of funding. Mr. Shanahan inquired if the bill prohibits the oil companies from passing this cost through to consumers. Mr. Addison replied that on a practical level this would be hard to achieve. A \$1.00 per barrel fee would amount to a pass through cost of \$0.025 per gallon. Staff will recommend that the Board support this bill.

AB 1316 (Parra) would implement the Enhanced Smog Check in coastal areas between the Bay Area and South Coast AQMD. Staff will recommend that the Board watch the bill.

AB 1624 (Benoit) limits percentage of vehicles that will can be sent to “test-only” Smog Check stations. Staff will recommend that the Board oppose the bill.

AB 1624 (Benoit) and AB 1637 (La Suer) are both anti-regulatory. The latter would delete CARB’s administrative penalty authority and place all disputes in the courts. Staff will recommend that the Board oppose these bills.

SB 207 (Ackerman) would turn Air District vapor recovery inspection staff into maintenance technicians for local gas stations and would prevent air districts from issuing violation notices. Staff will recommend that the Board oppose this bill.

SB 656 (Sher) will establish a new major control program for particulate matter (PM) reduction. CARB and local air districts will be required to adopt PM emission reduction rules. Mr. Shanahan noted that this would place PM regulation on par with NOx and ozone. Mr. Hess replied that planning provisions similar to those for the state ozone plan would result. In the absence of planning by a district, CARB may intervene and mandate such planning because of its oversight authority. Chairperson Kurucz inquired if this bill recognizes distinctions in the toxicity of various PM sources. Mr. Addison replied that this issue would likely be discussed during the rule-making process. Staff will recommend that the Board support this bill.

Mr. Addison added that this bill does not establish a funding mechanism to support rule-making. Mr. Shanahan suggested that the bill be amended to connect PM and NOx reductions for purposes of generating funding. This would avoid the problem in the Carl Moyer legislation that disallows credit for NOx reductions that are associated with PM reductions. Mr. Addison replied that today he is going to Sacramento to discuss the fact that the Bay Area, with 20% of the state’s population, receives only 10% of the Carl Moyer funds, while Sacramento, with 3.5% of the state’s population, receives the same amount. Such an allocation formula makes no public health sense, especially as the best metric for public exposure to diesel PM is population density. Staff will ask Senator Sher to also address in this bill the transport of PM between air districts because Bay Area citizens are exposed to PM transport from regions to its east on cold winter nights. Staff will recommend that the Board support and seek amendments to the bill.

SB 700 (Florez and Sher) would eliminate the exemption of agricultural equipment from air quality regulation. However, EPA has recently suggested that this exemption apply only to major agriculture sources. Staff will recommend that the Board support the bill in concept.

SB 702 (Florez) would eliminate certain farm equipment from the cost-effectiveness requirements in the Carl Moyer program. Staff will recommend that the Board oppose this bill.

SB 706 (Florez) is very similar to AB 720 (Matthews) and staff will recommend that the Board oppose the bill.

SB 705 (Florez) would eliminate agricultural burning in California. Staff is concerned that state landfills and bio-mass composting facilities lack the capacity to handle the unburned product. Nonetheless, from a public health perspective, agricultural burning must be addressed. Staff will recommend that the Board support and seek amendments to the bill.

AB 219 (Reyes) concerns air quality improvements through diesel emission control in the San Joaquin Valley. Staff will recommend that the Board adopt a “watch” position on this bill.

AB 291 (Aghazarian) provides tax credits to clean technologies but is not well developed at the present time. Staff will recommend the Board adopt a “watch” position on this bill.

AB 204 (Nation) would establish the Transportation Fund for Clean Water, which will use vehicle registration fees to support the promulgation of water quality rules. Staff will recommend that the Board adopt a neutral position on this bill.

Chairperson Kurucz requested that staff update the Committee with legislative reports at its future meetings. Mr. Addison requested the Council members also obtain support from their respective constituencies for the bills that the District supports, and oppose those bills that threaten air quality.

4. **Transport Mitigation.** Peter Hess, Deputy APCO, stated CARB is proposing to change pollutant transport regulations by lowering the facility emission offset thresholds for the No Net Increase Permit Program. These modifications appear to concern notions of equity more than transport. CARB also proposes to modify the “all feasible measures” requirement by deleting older language concerning Best Available Retrofit Control Technology (BARCT) and requiring that upwind districts expeditiously implement all feasible measures. BARCT will be required for all stationary sources rather than for sources that represent 75% of the 1987 actual reactive hydrocarbon (HC) and NOx emissions inventory for permitted stationary sources by 1994. The District believes that NOx scavenging in “HC-limited areas” will complicate whether or not such measures would benefit downwind areas. BARCT may not be required if no impacts can be shown in downwind areas, but it may be required if there are downwind benefits that can be demonstrated.

The District is encouraging CARB to not only include PM transport in these regulatory modifications but also require use of the best available science in quantifying the emission reductions in the region and impacts downwind. The District is presently conducting state-of-the-art modeling to evaluate the impact of Bay Area emissions on ozone formation in downwind areas, which will be completed in April of 2004. However, CARB’s public hearing on the proposed modifications will be held this May. Chairperson Kurucz opined that it is unfortunate that CARB will move forward on these amendments in advance of the completion of the District’s modeling. Mr. Hess replied that CARB is fulfilling a commitment it made in 2001 to address pollutant transport in the state.

6. **Committee Member Comments/Other Business.** Mr. Dawid inquired if the District could look into a new rule recently adopted in one air district in the state that incorporates trip generation into land-use planning considerations. Chairperson Kurucz requested Mr. Dawid to obtain information on this regulation for Committee review in the future.

Mr. Dawid suggested that the Council create a Legislative Committee to advise the Board on pending legislation. Dr. Holtzclaw replied that the Council’s meeting schedule is not compatible with the pace of the Legislature. Chairperson Kurucz stated that if the Council were to opine on major bills, it should do so only toward the end of the Legislative session. He added that the Board should first be consulted on whether it is seeking the Advisory Council’s comments on pending legislation.

7. **Time and Place of Next Meeting.** 9:30 a.m., Tuesday, May 27, 2003, 939 Ellis Street, San Francisco, California 94109.
8. **Adjournment.** 11:44 a.m.

James N. Corazza
Deputy Clerk of the Boards