



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT  
SINCE 1955

March 1, 2012

Office of Sustainable Communities  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Subject: Comments on the draft environmental justice and equitable development report

To Whom It May Concern:

Bay Area Air Quality Management District (District) staff appreciates the opportunity to provide input on the U.S Environmental Protection Agency's (EPA) draft publication entitled, "Creating Equitable, Healthy, and Sustainable Communities: Strategies for Advancing Smart Growth, Environmental Justice, and Equitable Development". We support EPA's intent to promote the integration of smart growth and environmental justice to achieve development that is healthy, sustainable and equitable, as well as to provide communities with strategies to address longstanding environmental and public health challenges. From an air quality standpoint, a healthy and sustainable community would be one where all residents have clean, healthy air to breathe, in addition to achieving other important policy objectives such as adequate job and educational opportunities, transportation options, affordable housing, access to healthy food, and the ability to engage in the decision-making process. We are pleased to see that the EPA included air quality considerations in the draft report.

As requested in the instructions for commenting, we focused our comments on the provided questions as they relate to the content of the draft publication.

**Question 2: Does this document provide the most useful strategies for low-income, minority, tribal, and overburdened communities seeking to create equitable, healthy and sustainable development? Are there other land use or planning strategies the document should include? If so, please describe them.**

In general the report does provide useful strategies, case studies and resources for building healthy and sustainable communities. We are especially pleased to see the strategies highlighted in Section B (pg. 29) which promote public health and a clean and safe environment, particularly the strategies to reduce exposure to air pollution from hazardous land uses and goods movement. However, it would be helpful to local governments to include more specificity of each recommended strategy. When recommending "planning, zoning, and permitting tools" as strategies, we recommend that EPA provide sample model ordinances or zoning language that has been used in other communities. In addition, we recommend that the EPA include mitigation measures in the report that have the potential to reduce exposure to air pollution from hazardous land uses and goods movement. We encourage you to include (in Section B) the following measures and their descriptions which have been studied, quantified and successfully implemented in the San Francisco Bay Area:

*Spare the Air*

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1. The installation of mechanical air filtration in the HVAC system of a building that meets a minimum efficiency reporting value (MERV) of 16 or greater;
2. Locating the building air intake at the furthest point away from the source of emissions;
3. Raising the floor that residential uses occupy (e.g. 2nd floor or higher) to be above roadway emissions;
4. Providing more distance between sensitive land uses and emissions sources;
5. Planting trees between sensitive receptors and emission sources; and
6. Phasing development, or delaying occupancy of development near sources where emissions will decrease in future years.

According to pg. 2 of the report, the document is designed to act as a resource for local and regional decision-makers and developers beginning the process of working with overburdened communities who suffer from longstanding environmental and health challenges. However, Section B does not include strategies for addressing the health impacts from exposure to air pollution on *existing* sensitive populations. While zoning, permitting and planning tools can be very effective in addressing the potential impacts to new and future sensitive populations, those strategies may have more limited effect in addressing those who are currently impacted. We recommend that EPA provide specific guidance on how local governments can reduce air pollution exposure and improve public health immediately in these overburdened communities.

District staff does not believe the report is accurate when it states, "The California Air Resources Board (ARB) has prohibited the construction of new schools and homes within a mile of a rail yard or 500 feet of a highway", and cites California SB 352, Ch. 668 (pg. 32). In fact, SB 352, Ch. 668 amends Section 17213 of the Education Code and Section 21151.8 of the Public Resources code, relating to public schools only and not housing. SB 352, Ch. 668 "prohibits the approval by the governing board of a school district of a school site that is within 500 feet from the edge of the closest traffic lane of a freeway or other busy traffic corridor, unless prescribed conditions are met and would make conforming and other technical, nonsubstantive changes". As such, SB 352, Ch. 668 sets forth requirements regarding the siting of a school, but does nothing to address the location of housing or other sensitive land uses. Also, while the ARB has published guidance on air quality and land uses and provides general recommendations for siting sensitive land uses ("Air Quality and Land Use Handbook", April 2005), the ARB does not prohibit or control local land use.

**Question 3: Please describe any other successful examples you are familiar with of equitable, healthy and environmentally sound development in low-income, minority, tribal and overburdened communities.**

The case studies throughout the report which highlight the strategies employed by various communities to overcome environmental, economic, social and other obstacles are informative and useful. However, the report does not include a case study which highlights or focuses on (or even mentions) air pollution impacts. We encourage you to include such a case study or example in the report, and we are happy to provide further information on a number of successful examples in the Bay Area which have integrated local air quality concerns into land uses processes, including:

1. **San Francisco, CA, Article 38 Ordinance:** The City of San Francisco's Article 38, *Air Quality Assessment and Ventilation Requirement for Urban Infill Residential Developments*, was adopted into the City's Health Code in November 2008. Article 38 requires that projects within areas which exceed  $0.2 \mu\text{g}/\text{m}^3$  of PM<sub>2.5</sub> concentrations be relocated or designed so as to avoid exposure of sensitive populations to PM<sub>2.5</sub> concentrations greater than  $0.2 \mu\text{g}/\text{m}^3$ , or

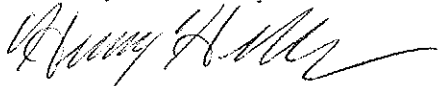
that the developer install a ventilation system that meets the requirements of San Francisco's Building Code. Article 38 applies to newly constructed buildings with ten or more dwelling units located near freeways with high levels of pollution. City staff prepared a map which shows the individual streets where the PM<sub>2.5</sub> concentrations exceed 0.2 µg/m<sup>3</sup>. Article 38 also requires that the ventilation system be properly maintained, as specified by the manufacturer, and requires disclosure of exposure and mitigations to future residents, such as a placard at the building entrance.

2. **Oakland, CA, Standard Conditions of Approval:** To help clarify and standardize analysis and decision-making in the environmental review process in Oakland, CA, the city established standard conditions of approvals (SCAs) that apply to all development projects, depending upon the specific circumstances of each project. The SCAs are designed to substantially mitigate environmental effects and include measures to address exposure of sensitive populations to toxic air contaminants (TACs). The SCAs are part of the municipal code, formally adopted by the Oakland City Council in 2008, giving the Planning Director the authority to update them as needed. The SCAs are intended to streamline the development approval process while mitigating potential environmental impacts.
3. **San Jose, CA, 2040 General Plan Policies:** The City of San Jose is recently updated its General Plan. The 2040 General Plan (Plan) includes various sustainability and environmental justice goals and policies which relate to air quality, reducing vehicle miles traveled (VMT), encouraging infill development and so forth. The Plan includes a number of targeted growth areas which are centered on existing/planned transit areas, areas of higher density and areas with greater redevelopment potential that will promote reduced VMT, walkability, and transit-use. The Plan also includes a number of policies relating to land-use, transportation and air quality, including goals and policies aimed at reducing residents' exposure to toxic air contaminants.
4. **Richmond, CA, General Plan Community Health and Wellness Element:** Richmond, CA is currently revising their General Plan, and is including a "Community Health and Wellness" element in the plan. The purpose of the Community Health and Wellness element is to "establish a strong policy framework for developing conditions that will improve the physical health and emotional well-being of Richmond residents." The element also seeks to make connections between the community, public health, and compact sustainable development. Within the Health and Wellness Element, city staff finds that "...many residents and workers are impacted by air, water, soil and noise pollution". Richmond hosts many heavy industrial uses including a seaport, major refinery, and rail yards that contribute to local air and noise pollution. The element recommends improvements to air quality and reducing population exposure by working with the District and industrial sources to implement specific air quality-related policies.

We would like to stress the importance of the statement on pg. 29, "The early identification of potential impacts from proposed activities can help prevent or reduce them before projects are approved". Addressing land use and site design issues while a proposed project is still in the conceptual stage increases opportunities to incorporate project design features to minimize land use compatibility issues and air quality impacts. In our experience, the projects which have sought early guidance from our agency for potential air quality impacts have been able to mitigate the impacts more efficiently and cost effectively. We encourage you to highlight this point in the report.

District staff is available to discuss our recommendations above or answer any questions. Please contact Jackie Winkel, Environmental Planner, at (415) 749-4933.

Sincerely,



For

Jean Roggenkamp

Deputy Air Pollution Control Officer