

Assembly Bill 1231 (Horton)
“The Air Pollution Control Accountability Act of 2005”

Summary: This bill would create “The Air Pollution Control Accountability Act of 2005.” According to the California Environmental Rights Alliance (sponsors of this bill), “the purpose of The Air Pollution Control Accountability Act of 2005 is to address the negative impacts on community health, safety, and quality of life caused by the lack of accountability in the Variance and Order for Abatement procedures of local Air Pollution Control Districts (APCD) and Air Quality Management Districts (AQMD).” This bill makes major changes to the law pertaining to Hearing Boards including replacing the Hearing Board with a Hearing Officer appointed by CARB, prohibiting variances from rules included in the State Implementation Plan or any variance allowing emissions of any toxic air contaminant, and allowing any interested person to appeal decisions of the Hearing Officer to the District’s Governing Board.

Background: The AQMD Hearing Board is a quasi-judicial panel authorized to provide relief from AQMD regulations under certain circumstances. As state law requires, Hearing Board members are appointed by, but act independently of, the AQMD Governing Board.

The Hearing Board is authorized to hear:

- Petitions by companies for variances;
- Petitions for abatement orders;
(An abatement order requires a company operating out of compliance to take specific actions or to shut down its operation. Shutdown is a severe remedy normally reserved for serious violators.)
- Appeals by companies from permit conditions, permit denials and suspensions, denials of emission reduction credits and denials of pollution control plans;
- Appeals by third parties of District actions to grant a permit.

After hearing all sides of a case in which individuals or companies come into conflict with AQMD rules and regulations, the Hearing Board weighs the evidence and reaches a decision.

Sponsors of this legislation are concerned about the amount of excess emissions from variances, the length of variances and the reasons for granting them:

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Status: Set for hearing in Assembly Natural Resources April 25.

Specific Provisions: This bill would:

- Replace the Hearing Board with a Hearing Officer appointed by CARB, except for Hearing Boards consisting entirely of locally elected officials;
- Prohibit Hearing Officers from approving any variance authorizing non-compliance with federally approved State Implementation Plan rules;
- Prohibit Hearing Officers from approving any variance authorizing the emission of any Toxic Air Contaminant;
- Limit all variances to a period of six months;
- Require written notice to residents and businesses within a 1 mile radius of a facility seeking a variance or which is the subject of a Petition for an Order of Abatement;
- Allow any interested person to appeal a decision of the Hearing Officer to the District's Governing Board;
- Allow appeal of the Governing Board's decision to CARB;
- Require an annual report to the Air Resources Board detailing the number, length of time to compliance, and excess emissions for all variances and Orders for Abatement issued for the year.

Operational Impact: Significant workload increase for AQMD staff and greatly increased Governing Board meeting time to the extent that AB 1231 allows appeals to the Governing Board. Both effects will occur with little likely air quality improvement.

Recommended Position: Oppose. AB 1231 would potentially inundate the Governing Board with appeals of matters that are currently being effectively handled by the Hearing Board, and would so constrain the availability of variances as to preclude almost any relief to sources that, due to circumstances beyond their control, are unable to comply with AQMD rules.

The powers of Hearing Boards to grant variances are already carefully circumscribed, such that the provisions of this bill are unwarranted.

- First, Hearing Boards are designed to make scientifically sound decisions, protecting the rights of the public. A Hearing Board is required to be made up of a medical professional, a lawyer, a professional engineer, and two public members. H&S 40801. No one Hearing Officer would have all the expertise that the members of existing Hearing Boards have.
- Second, members of the public have the right to testify in any Hearing Board proceeding and the Board is required to consider their testimony. H&S 40828.

- Third, Boards may only grant variances where they find, after a full evidentiary hearing including cross-examination by the district's lawyers, that the failure to comply with district rules is due to conditions beyond the reasonable control of the source. The Board must also find that to deny the variance would result in an arbitrary or unreasonable taking of property, or the practical closing and elimination of a lawful business. The Board must find that such closing or taking would be without a corresponding benefit in reducing air contaminants. The source must curtail its operations as much as possible to reduce the need for a variance. The source must reduce excess emissions to the maximum extent feasible. The source must monitor and report excess emissions. H&S 42352. Here in the South Coast District, the source must pay excess emissions fees.

The provision allowing appeals to the Governing Board is unworkable and unnecessary. The Hearing Board decides approximately 20 cases per month and sometimes more. The Hearing Board meets 3 days a week. The Governing Board could not practically hear even a small fraction of appeals of these cases.

The appeal provision is unnecessary because variances are already subject to supervision by the California Air Resources Board, which is empowered to revoke or modify any variance which it finds, after a public hearing, does not require compliance as expeditiously as possible, or the variance does not meet the requirements of law. H&S 42362. In addition, variances may be challenged in court.

The provisions prohibiting variances from rules included in the State Implementation Plan and from allowing any emissions of toxic air contaminants operate in effect to deny any relief to companies which, due to conditions beyond their reasonable control, are unable to comply with a rule. Virtually all of AQMD's criteria pollutant rules are included in the SIP so variances would be prohibited. The only rules which do not go into the SIP are the toxics rules from which variances would be prohibited.

The prohibition on variances which allow the emission of any toxic air contaminants is overbroad and unnecessary. Many sources emit some toxic air contaminants but not necessarily in quantities posing a significant public health risk. All gas stations, for example, emit benzene; under this bill no gas station or perchlorethylene dry cleaner could ever get a variance.

This prohibition is unnecessary because Hearing Boards are already prohibited from granting a variance which would allow the creation of a public nuisance (Health & Safety §42353). Therefore, where significant risks would be created from toxic emissions, the Hearing Board would already deny the variance or impose conditions sufficient to avoid a nuisance.

Limiting variances to a period of six months, with no possibility for extension, would prevent the granting of adequate relief in cases where it takes longer than six months to

come into compliance. While many variances last less than six months, there are legitimate cases where relief is necessary for a longer time.

As noted above, this bill would nearly eliminate variances. Variances play an important role for three reasons:

- Variances are essential to provide limited relief, for the shortest period reasonable, to a source which has made every possible effort to comply but still cannot. Examples include equipment breakdowns and other emergencies. Variances are routinely denied where the source has not been diligent, or was in any way negligent.
- Variances are also a critical part of the overall clean air program. Without the availability of variances for cases where a source is unable to comply, it would be very difficult to adopt technology-forcing rules and other stringent rules, which are needed in order to attain air quality standards in this district. Variances provide a necessary safety-valve that allows AQMD to adopt very stringent rules, knowing that the Hearing Board can provide relief in those few cases where compliance is impossible.
- Finally, the availability of variances helps AQMD defend its stringent rules in court. Industry often sues, alleging that AQMD rules effect an unconstitutional taking of property. We have successfully defended our rules on the ground that a taking will not occur, because the Hearing Board is empowered to provide relief in cases where a taking would otherwise result.

To address the author's concerns, we should consider possibly requiring greater public notice for variances of long duration. Currently notice is published in the newspaper but is not given by mail. We could also consider having notices of variances posted on our website. In addition, we could consider providing annual reports to CARB summarizing variance and abatement order activity. The AQMD Hearing Board already provides monthly reports to the Governing Board and the public.

<p>April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Oppose</i></p>

Assembly Bill 721 (Nunez) **Metal plating facilities: pollution reduction fund**

Summary: The California Integrated Waste Management Act of 1989 establishes a comprehensive program implemented by the California Integrated Waste Management Board and local agencies to reduce, recycle, and reuse solid waste in an efficient and cost-effective manner. This bill would require the Business, Transportation and Housing Agency to establish a loan program or a loan guarantee program, or both, for chrome plating facilities. The bill would create the Chrome Plating Pollution Prevention Account in the State Treasury, and would require that the money in the account be expended by the agency, upon appropriation by the Legislature, to make specified loans and loan guarantees.

The bill would require the agency to make loans or loan guarantees available only to a generator that is a small business and meets other requirements.

The bill would:

1. require the State Air Resources Board, or the air pollution control district or air quality management district, whichever has jurisdiction over the plating facility, to determine whether the project proposed for funding will result in the plating facility meeting the applicable local, state, or federal standards (AQMD would be the responsible agency for plating facilities within AQMD's jurisdiction).
2. authorize the agency (AQMD) to adopt regulations to implement the bill's requirements and to adopt emergency regulations to implement the loan program and loan guarantee program.
3. require the Business, Transportation and Housing Agency, by January 1, 2007, and every even-numbered year thereafter, to submit a report to the Legislature concerning the performance of the loan or loan guarantee program.
4. transfer all the funds remaining in the Hazardous Waste Reduction Loan Account on January 1, 2006, to the Chrome Plating Pollution Prevention Account and would appropriate that amount to the California Environmental Protection Agency for expenditure in accordance with the bill, as specified, thereby making an appropriation.

Background: Metal plating firms have been one of the major industrial sources for toxic pollution. The five-county Los Angeles area with close to 600 firms has the greatest concentration of plating firms in the nation.

The metal plating process affects the environment, including air, water, and soil, in a very intensive manner. The process involves the use of various toxic materials, and generates significant amounts of solid and hazardous waste. For example, hexavalent chromium, a chemical compound intrinsic to the chrome plating process, is a known human carcinogen and a potent toxic air contaminant.

This bill attempts to address the various environmental issues posed by the metal plating industry while preserving its economic vitality. Specifically, funds should be provided to support environmental compliance, pollution prevention, and emission reduction measures.

Status: Hearing scheduled in Assembly Committee on Environmental Safety and Toxic Materials on April 12, 2005.

Specific Provisions:

Operational Impacts on AQMD: As the responsible agency for plating operations within AQMD's jurisdiction, AQMD would be responsible for:

1. determining whether the project proposed for funding will result in the plating facility meeting the applicable local, state, or federal standards
2. adopting regulations to implement the bill's requirements
3. adopting emergency regulations to implement the loan program and loan guarantee program
4. submitting a report to the Legislature concerning the performance of the loan or loan guarantee program by January 1, 2007, and every even-numbered year thereafter

Recommended Position:– Support with amendments

Support:
None on File

Opposition:
None on File

<p>April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support with amendments</i></p>
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Assembly Bill 1407 (Oropeza)
California Off-Road Environmental Health and Air Quality Funding Act of 2005

Summary: This bill would enact the California Off-Road Environmental Health and Air Quality Funding Act of 2005. The proposal is to place a 5¢ per gallon fee on certain diesel fuels for specified off-road engine uses. These fees would then fund the retrofitting or repowering of those engines for the purpose of reducing their exhaust emissions.

Background: Dyed diesel fuel is a diesel fuel that is dyed for identification purposes under US EPA or IRS rules for high sulfur diesel fuel, or low sulfur fuel diesel fuel, or any requirements subsequently set by the US EPA or the IRS and considered destined for non-taxable off-highway uses. Red dyed fuel is used to designate diesel fuel for off-road uses, such as construction.

Under this Diesel Fuel Tax Law, off-road (dyed) diesel fuel is exempt from the existing 18¢ state excise tax on diesel fuel. On-road users of dyed diesel fuel need to track their usage and remit a tax payment, only for that portion of fuel which is used on California highways, to the State Board of Equalization (BOE.) Off-road users of undyed (taxed at pump) diesel fuel may file a claim for refund to the BOE for a refund of that 18¢ tax.

Status: Scheduled for hearing in the Assembly Transportation Committee on April 25th.

Specific Provisions: This bill would require:

- A supplier of dyed diesel fuel to pay a 5¢ per gallon fee for the removal or sale of dyed diesel fuel or blended dyed diesel fuel, as specified.
- A vendor to pay a 5¢ per gallon fee on each gallon of undyed diesel fuel sold by the ultimate vendor to a farmer in a specified transaction.
- A user of undyed diesel fuel to pay a 5¢ per gallon fee on each gallon of undyed diesel fuel for which the user claims a refund of the diesel fuel tax, as specified.
- A train operator shall pay an air quality fee of a 5¢ per gallon fee on each gallon of diesel fuel used in this state.
- The State Board of Equalization to administer the fees imposed.

These funds would be deposited into a newly-created California Off-Road Environmental Health and Air Quality Fund. Moneys in the fund may be expended, upon appropriation by the Legislature, for refunds and the administrative costs of the BOE - with the balance to be transferred to the Air Pollution Control Fund for expenditure for projects providing for the retrofitting or repowering of off-road diesel engines.

Eligibility for funding would be restricted exclusively to those persons who paid off-road diesel air quality fees.

Operational Impacts on AQMD: Will require additional efforts to broaden the scope of the Moyer Program incentive fund implementation so it would include a significantly larger number of off-road sources.

Recommended Position: Support with Amendments.

This legislation addresses an important source of emissions in the South Coast Air Basin – off road diesel engines. The bill would establish a revenue stream for much needed incentive funds to address the excess and unmitigated emissions from these diverse sources. The focus of the legislation on off-road users of red-dye diesel is very reasonable, as these emissions sources tend to have a high proportion of the highest emitting diesel engines such as locomotives.

The bill would be strengthened and made more consistent with the recent augmentations made to last year's AB 923 (Firebaugh) if it were amended to provide up to 5% of the funds for the local administration of the program through applicable air quality management districts.

In addition, the program would be strengthened if it included replacement engine projects in addition to the new and retrofitted engine projects authorized in the current version.

Suggested amendment language

(5% set aside language)

38045. The money deposited to the credit of the fund may be expended for the following purposes:

(a) To pay, upon order of the State Controller, for refunds pursuant to Section 38033 and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(b) To pay for the administrative costs of the State Board of Equalization of collection, auditing, and making refunds associated with the fund.

(c) To pay for the administrative costs of the local air quality management district for implementation of the program, up to 5% of the revenues collected under the program.

(d) ~~(e)~~ The balance shall be expended as provided in Section 38046.

(Replacement engine language)

38046. (a) The balance of the moneys in the fund not expended for the purposes specified in subdivisions (a) and (b) of Section 38045 shall be transferred by the Controller to the Air Pollution Control Fund for expenditure by the State Air Resources Board for purposes of

financing those eligible projects under the Carl Moyer Memorial Air Quality Standards Attainment Program that provide for the retrofitting, replacement and repowering of off-road diesel engines.

Support:

None on File

Opposition:

None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: *Support with amendments*

Assembly Bill 1660 (Pavley)
Vehicular Air Pollution: Alternative Fuel Vehicle Purchasing Program

Summary: This bill would create the California Energy Efficient Vehicle Group Purchase Program in the Department of General Services to encourage the purchase of energy-efficient vehicles, as defined, by local and state agencies through a group-purchasing program.

This bill would require the Department of General Services to:

1. Negotiate the lowest possible purchase price, with one or more vendors, for energy-efficient vehicles on behalf of state and local agencies that are interested in obtaining those vehicles.
2. Establish an advisory committee by February 15, 2006, meet with the advisory committee, notify all affected entities about the purchasing program, and negotiate contracts, through competitive means and other appropriate strategies, for the purchase of energy-efficient vehicles at the lowest possible price from one or more reliable vendors.
3. Administer the program in accordance with regulations adopted by the department, including a regulation to recover actual administrative costs from program participant.

Background: Existing law provides for the High Polluter Repair or Removal Program, a voluntary vehicle retirement program that requires the Department of Consumer Affairs to establish and implement a program for the repair or replacement of high polluters. Existing law requires the program to provide for the payment to the owner of a high polluter of up to 80% of the total costs of repair, not to exceed \$450, or the market value of a high polluter being removed.

Status: Referred to the Assembly Committee on Business & Professions. Hearing is scheduled April 26, 2005..

Specific Provisions:

Operational Impacts on AQMD:

No direct impact on AQMD. This legislative proposal would complement the AQMD's fleet rules and other efforts to reduce emissions from mobile sources.

Recommended Position: Support -- Hybrid vehicles are being introduced by numerous manufacturers, and GSA's vehicle procurement can be used to stimulate the demand for this technology.

Support:

None on File

Opposition:

None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:

Support

Assembly Bill 386 (Lieber)
Air Pollution: Motor Vehicle Inspection and Maintenance

Summary: This bill proposes modification to current statutes by giving the State Air Resources Board the sole and exclusive authority within the state for developing and revising the motor vehicle inspection program.

Background: The Smog Check Program has been a cornerstone of local air district's control program in efforts to attain and maintain federal/state ambient air quality standards. The current program is implemented by the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs (DCA). Because neither BAR or DCA is an environmental regulatory agency and have historically been aligned as a consumer agency, the department has historically had difficulty in implementing program changes on a timely basis as a result of SIP amendments to correct program deficiencies. Giving the State Air Resources Board (ARB) the sole responsibility for program changes and more importantly the control of the funding aspects ARB will provide ARB with more direct control of regulatory and program changes to the Smog Check program.

Status: Scheduled for hearing in Assembly Committee on Transportation on April 25, 2005.

Specific Provisions: This bill requires ARB, in consultation with the DCA, to develop, and revise as necessary, the program goals, program design, and program funding to implement the smog check program. The DCA, in consultation with ARB, would be required to implement and enforce the program designed by the state board. The duties of the department would be vested in the chief of the bureau. The bill would make other conforming changes.

Operational Impacts on AQMD: None.

Recommended Position: Support.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 453 (Benoit) Grade Separation Projects

Summary: This bill would reduce from 10% to 5% the amount required of a railroad to construct a grade separation project before the California Transportation Commission may allocate state transportation dollars for such projects. The bill would require, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish evidence satisfactory to the department that all matters prerequisite to the award of a construction contract can be accomplished within two years after the allocation.

Background: Existing law requires the California Transportation Commission to make allocations for grade separation projects, as defined. Existing law requires a railroad to agree to contribute 10% of the cost of a project in order for an allocation to be made for projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation. Existing law requires, in order for an allocation for construction costs, or for preconstruction costs if not already allocated, to be made, that a local agency furnish certain evidence satisfactory to the Department of Transportation, including that all matters prerequisite to the award of the construction contract can be accomplished within one year after the allocation.

Status: Re-referred to Assembly Committee on Transportation on March 30, 2005. No hearing date has been scheduled.

Specific Provisions:

Operational Impacts on AQMD: None.

Recommended Position: Support with amendments—to maintain railroad contribution at 10%. This bill would change the criteria for the California Transportation Commission to make allocations to a local agency for grade separation projects. The required contribution for railroads would be reduced from 10% to 5%, and the local agency would need to establish that all matters prerequisite to the award of a construction contract can be accomplished within two years after the allocation instead of one year. This bill would, in effect, make it easier for cities to qualify for state funding for grade separation projects.

Support:

City of Riverside
Greater Riverside Chamber of Commerce

Opposition:

None to date

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 1362 (Levine)
Renewable Energy: California Renewables Portfolio Standard Program: Renewable Energy Credits.

Summary: Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006. This bill would revise and recast that intent language so that the amount of electricity generated per year from renewable energy resources is increased to an amount that equals at least 20% of the total electricity generated for consumption in California by 2010. The bill would make conforming changes consistent with this goal.

This bill is similar to AB 1585, which is also included on the April 8, 2005 AQMD Legislative Committee Agenda. A principle difference between the two bills is that AB 1585 mandates a renewable portfolio standard (RPS) on local publicly owned electric utilities and AB 1362 does not. Please see additional comments on this distinction in the analysis of AB 1362.

The bill would require that the CPUC:

1. Adopt rules or other appropriate procedures that authorize the use of renewable energy credits, as defined, to satisfy annual procurement targets for renewable energy resources pursuant to the renewables portfolio standard.
2. Authorize an electrical corporation to meet its procurement obligations under a renewable energy procurement plan either by procuring a minimum quantity of electricity generated by eligible renewable energy resources, or an equivalent quantity of renewable energy credits.
3. In approving a renewable energy procurement plan, to limit the quantity of renewable energy credits that an electrical corporation is permitted to procure unaccompanied by delivery of the electricity that earned the credit.

This bill would require the Energy Commission to design and implement an accounting system to certify renewable energy credits produced by eligible renewable energy resources and to establish a system for tracking and verifying renewable energy credits. The bill would make other clarifying changes.

Background: California has been a leader in both its diversified generation of electricity and promoting, as part of the electrical generation mix, renewable energy resources. This bill would increase the percent of the total electricity generated in California that must come from renewable energy to 20%.

Status: Referred to Committee on Utilities and Commerce and the Committee on Natural Resources. Hearing set for April 18, 2005.

Specific Provisions: This bill would:

1. Restate the target of the renewables portfolio standard to increase the amount of electricity procured from eligible renewable energy resources, so that it equals 20% of the total electricity sold to retail customers in California per year by December 31, 2010.
2. Require that the CPUC adopt rules or other appropriate procedures that authorize the use of renewable energy credits, as defined, to satisfy annual procurement targets for renewable energy resources pursuant to the renewables portfolio standard.
3. Require that the CPUC authorize an electrical corporation to meet its procurement obligations under a renewable energy procurement plan either by procuring a minimum quantity of electricity generated by eligible renewable energy resources, or an equivalent quantity of renewable energy credits.
4. Authorize the CPUC, in approving a renewable energy procurement plan, to limit the quantity of renewable energy credits that an electrical corporation is permitted to procure unaccompanied by delivery of the electricity that earned the credit.
5. Require the Energy Commission to design and implement an accounting system to certify renewable energy credits produced by eligible renewable energy resources and to establish a system for tracking and verifying renewable energy credits.
6. Make other clarifying changes.

Operational Impacts on AQMD: None

Recommended Position: Support -- The bill as written would make an important contribution to the expedited deployment of clean renewable power generation such as solar and wind power.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

**Senate Bill 107 – (Simitian and Perata)
Renewable energy**

Summary: Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006. This bill would revise and recast currently codified legislative intent language so as to provide that the amount of electricity generated per year from renewable energy resources is an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would make conforming changes related to this provision. This bill contains other related provisions and other existing laws.

This bill is similar to AB 1585 and AB 1362, both of which are also included on the April 8, 2005 AQMD Legislative Committee Agenda. A principle difference between the three bills is that AB 1585 mandates a renewable portfolio standard (RPS) on local publicly owned electric utilities and SB 107 and AB 1362 do not. Please see additional comments on this distinction in the analysis of AB 1362.

Background: The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program.

Status: Senate Energy Utilities & Commerce Committee. Hearing date set for April 19, 2005.

Specific Provisions: Among other things, the principal effect of this bill is to:

- (1) Require that each retail seller, as defined, increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.
- (2) Require the California Energy Commission to establish a renewable energy credit trading program.

Operational Impacts on AQMD: none.

Recommended Position: Support. Please also note recommendations for the related bills: AB 1362 and AB 1585.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 1547 (Levine) **Energy Renewable Energy: Solar Generation of Electricity**

Summary: The bill would except moneys expended through the Emerging Renewable Resources Account from the requirement that the Energy Commission prepare an investment plan on or before March 31, 2006, and would authorize the commission to advance moneys to the Emerging Renewable Resources Account and to expend those moneys without further legislative action, subject to certain existing repayment provisions, thereby making an appropriation. The bill would require the Energy Commission to ensure proportional program support through the Emerging Renewable Resources Account, for affordable housing units, within certain limits. This bill contains other related provisions and other existing laws.

Background: The existing Public Utilities Act requires the Public Utilities Commission (CPUC) to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a non-bypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. Existing commission resolutions refer to the non-bypassable rate component as a "Public Goods Charge" (PGC). Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected by electrical corporations for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund, to fund specified programs. Existing law requires that 17.5% of the money collected under the renewable energy PGC be used to fund the Emerging Renewable Resources Account within the Renewable Resource Trust Fund for the purpose of a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. This bill would enact the Solar Energy Peak Procurement Act.

Status: Referred to Committee on Utility and Commerce and the Committee on Natural Resources. Hearing date is scheduled April 18, 2005.

Specific Provisions:

AB 1547 would:

- (1) Authorize the California Energy Commission to advance moneys from certain existing special fund accounts for the purposes of the Act.

- (2) Create the Solar Energy Peak Procurement Fund for expenditure, upon appropriation, for a state program for subsidizing all customer classes for the installed cost of grid-connected solar photovoltaic systems in the service territory of investor-owned utilities. The program would be predicated on a schedule for rebates to support the installation of grid-connected solar energy systems that declines over time and terminates as of January 1, 2015.
- (3) Require the Energy Commission to ensure proportional program support for affordable housing units, within certain limits.
- (4) Require the California Public Utilities Commission (CPUC) to open a proceeding to examine the relative costs and benefits between solar rebate programs and commission-administered interruptible demand reduction programs.
- (5) Direct the CPUC to require utilities to deposit a portion of electric rate revenues in the Solar Energy Peak Procurement Fund from unallocated funds previously authorized for demand management and interruptible programs and rates that previously paid for those programs and that the CPUC determines are less cost effective than the photovoltaic incentive system established by the bill.
- (6) Require the expenditure of funds collected by electrical corporations for energy efficiency, renewable energy, and research, development, and demonstration (a.k.a., the “Public Goods Charge”) during 2005 and 2006, be set at the levels established by the CPUC for 2004, and would require that any moneys collected above those 2004 levels during 2005 and 2006, be transferred to the Solar Energy Peak Procurement Fund.
- (7) Require every local publicly owned electric utility, as defined, to establish a solar program consistent with the Solar Energy Peak Procurement Program. Each local publicly owned electric utility would be required to report, on an annual basis, to its customers and to the Energy Commission, information relative to the utility's solar program and would authorize the Energy Commission to establish guidelines for the information to be included in the annual report.
- (8) Beginning January 1, 2010, require that a seller of production homes, as defined, offer a solar energy system option, as defined, to all customers negotiating to purchase a new production home and to disclose certain information.
- (9) Require every electric service provider, upon request, make available to eligible customer generators contracts for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 1.5% of the electric service provider's aggregate customer peak demand.

Operational Impacts on AQMD: None

Recommended Position: Support -- The legislation would be constructive in expediting the deployment of photovoltaic energy systems, an important zero-emission alternative to thermal power plants.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Senate Bill SB 849 – (Escutia)
Environmental health data tracking

Summary: This bill would require the establishment of the Interagency Office of Environmental Health Tracking within the State Department of Health Services' Division of Environmental and Occupational Disease Control for the purpose of implementing the California Health Tracking Program.

Background: Existing law establishes the Environmental Health Surveillance System through an interagency agreement between the State Department of Health Services, the California Environmental Protection Agency (Cal/EPA), and the University of California if authorized by the regents, for the purpose of, among other things, tracking and evaluating a variety of chronic diseases in relation to environmental exposures.

Status: Referred to the Committee on Environmental Quality and the Committee on Rules. Hearing scheduled on April 18, 2005

Specific Provisions: This bill would:

1. Require the department and Cal/EPA to each provide one 50% time research scientist as staff for the new office
2. State the Legislature's intent to provide funding to the department and the Cal/EPA for those research scientist positions in the 2005-06 Budget Act
3. Prescribe the office's objectives over a 3-year period and would require the office to complete certain duties for the 2005-06 fiscal year
4. Require any additional funding for the office, beyond funding that the Legislature may appropriate for the research scientists, to come from federal or private source

Operational Impacts on AQMD: A tracking system would involve agencies that collect and analyze environmental and health data. As such, AQMD staff would likely be involved in providing and coordinating data on pollutant levels measured by the District's monitoring system. Additionally, staff may be asked to participate from time to time in the planning, coordinating, and evaluation aspects of using this data.

Recommended Position: Support. Establishment of this interagency office would facilitate the ability of the state to assess relationships between environmental exposures and health effects. This bill would enhance the availability of health data on which to design and prioritize emission control programs.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Senate Bill 976 – (Ashburn)
Air quality: stationary sources

Summary: This bill would exempt from the requirements of the Protect California Air Act of 2003 the replacement of any permitted stationary source on a military installation, provided that the actual emissions of the replacement stationary source, based on an enforceable condition on the replacement source, are at least 10% lower than the existing permitted source.

Background: The Protect California Air Act of 2003 (SB 288, Sher) requires local air districts to establish a “new source review” program for the purpose of attaining and maintaining ambient air quality standards by the earliest practicable date, protecting public health and welfare from the adverse effects of air pollution, and ensuring that economic growth will occur in a manner consistent with the preservation of existing clean air resources. The Act prohibits air pollution control districts and air quality management districts from amending or revising their new source review rules or regulations to be less stringent than those rules or regulations that existed on December 30, 2002, except under certain circumstances.

Status: Referred to the Committee on Environmental Quality. May be acted upon on or after March 27, 2005.

Specific Provisions:

Operational Impacts on AQMD: This could create a separate group of permitted equipment in the District that is subject to less stringent regulations.

Recommended Position: Oppose. This bill would exempt the replacement of any permitted stationary source on a military installation from the requirements of the Protect California Air Act of 2003, which addresses ambient air quality standards and new source review regulations. Staff is unaware of any substantial purpose for creating the exemption. The Board has consistently supported the premise that District rules should be applied uniformly to the extent possible.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Oppose</i>
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Assembly Bill 728 (Negrete McLeod)
Electricity: Biogas Digester Customer-Generators: Net Metering

Summary: This bill would extend indefinitely the operation of the biogas customer-generator program. This program provides eligible customer-generators to operate their biogas facilities through a net metering agreement with the local electric utility. The bill would also modify the definition of an "eligible biogas digester customer-generator," to authorize a biogas digester electrical generating facility with a capacity of not more than 10 megawatts. This bill contains other related provisions and other existing laws.

Background: Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required, only until January 1, 2006, to provide eligible biogas digester customer-generators with net energy metering, as defined, under a pilot program. Existing law defines an "eligible biogas digester customer-generator," in part, as a customer of an electrical corporation that uses a biogas digester electrical generating facility, as defined, with a capacity of not more than one megawatt, that is located on or adjacent to the customer's premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the customer's own electrical requirements and that receives certain funding.

Status: Referred to Assembly Committee on Utilities and Commerce. Hearing scheduled April 18, 2005.

Specific Provisions:

Operational Impacts on AQMD: None

Recommended Position: Support -- This bill extends the incentives provided to eligible bio-gas customers and significantly expands the definition of "eligible bio-gas customer". This bill provides an incentive (net metering) to promote bio-gas as a renewable energy resource, consistent with the Governor's 10-Point Energy Plan to address summer 2005 electricity demand. This bill should also encourage installation of equipment to convert livestock waste into bio-gas for use as a source of energy and help the agricultural sources to comply with some of the new requirements that may be imposed on them under SB 700. This bill does not relax or wave any air quality permitting or rules and regulations requirements.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: *Support*

Assembly Bill 993 (Canciamilla) **Planning and Forecasting: Liquefied Natural Gas**

Summary: This bill would require the State Energy Resources Conservation and Development Commission to assess the role of liquefied natural gas in meeting California's natural gas needs, including, but not limited to, a cost/benefit analysis.

Background: The availability of natural gas in Southern California has been a key element in this region's efforts to reduce air pollution and meet the federal clean air standards. Over 99% of the fuel used for industrial purposes is natural gas. The South Coast Air Quality Management District officials headed a delegation that went to Washington and lobbied the Federal Power Commission to approve the El Paso Natural Gas pipeline extension to Southern California.

There are certain pipeline limitations in how much natural gas can be supplied to Southern California. Existing law requires the State Energy Resources Conservation and Development Commission to prepare an integrated energy policy report every 2 years. Existing law also requires the commission to conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices, including electricity and natural gas forecasting and assessment activities. Delivery of natural gas as liquefied natural gas may have a significant role in the energy supply mix. The bill's requirement for an assessment of LNG in meeting our natural gas needs is important to understand the role of LNG in this area's energy mix.

Status: Referred to Committee on Utilities and Commerce and the Committee on Natural Resources. Hearing scheduled April 25, 2005.

Specific Provisions:

Operational Impacts on AQMD: does not seem to have any significant impact on our operation. However, if passed, AQMD should be involved with CEC in their assessment to make sure that the issue of "Hot Gas" is addressed as part of their analysis.

Recommended Position: Support -- LNG fuel supplies are needed to augment conventional natural gas supplies in the state in the absence of massive deployment of non-fossil fuel renewable energy production technology. Traditional sources of California natural gas production in the U.S and Canada are in decline, and viable energy options are critical as the state's population and energy demand continues to grow. The diversification of natural gas sources to include major importing of LNG is one distinct option to enhance California's

energy diversity. The analysis called for in this bill will help understand the numerous issues and tradeoffs with respect to this issue.

Support:

None on File

Opposition:

None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 1365 (Ruskin) Greenhouse Gas Emission Levels

Summary: This bill would include as an additional state planning priority a provision for the reduction in greenhouse gas emissions of at least 7% by 2010 and 10% by 2020 based on the 1990 greenhouse gas emission levels.

Background: Existing law requires the Governor to prepare, maintain, and regularly review a comprehensive State Environmental Goals and Policy Report, which is to contain, among other information, a statement of approved state environmental goals that are required to be consistent with state planning priorities. Existing law specifies that the state planning priorities are, among others, to promote infill development, protect environmental and agricultural resources, and to encourage efficient development patterns.

Status: Referred to Assembly Natural Resources Committee. Hearing scheduled April 25, 2005.

Specific Provisions:

Operational Impacts on AQMD: None

Recommended Position: Support -- State planning policies can be helpful in encouraging the deployment of lower green house gas emission technologies. The goals outlined, although ambitious, are reasonable in light of the growing threat to California air, water and other resources due to the effects of global warming.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 825 (Levine)
Air Resources: Binational Committee

Summary:

This bill would require the Air Resources Board, in conjunction with the Legislature, to work towards creating a bi-national committee with Mexico to work on cross-border issues relating to air quality, including, but not limited to, the collection and interpretation of data pertinent to air quality and the effects of air quality on human health.

Background:

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and non-vehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution.

Status: Referred to Assembly Committee on Natural Resources. Hearing scheduled April 18, 2005.

Specific Provisions:

Operational Impacts on AQMD: None

Recommended Position: Support in Concept-- Efforts to address air quality issues with Mexico will assist in our attainment efforts. Because of NAFTA agreements, the potential impact of vehicles traversing to port operations at both Long Beach and Los Angeles can have a significant impact on air quality in the South Coast Air Basin. The sharing of data/information and outreach through a Bi-national Committee can help facilitate education and awareness of air quality officials between government officials on both sides of the border.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support in concept</i>
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**Senate Bill 369 – (Simitian)
Ecological labeling**

Summary: This bill would require the California Environmental Protection Agency to establish a Commission on Ecological Labeling and would require the commission to hire a vendor to award the Green Bear Eco-Label to a product or service that meets the criteria adopted by the commission or is subject to a determination by a specified panel of experts. The bill would also authorize the vendor to charge Eco-Label recipients a fee set by the commission to cover the costs of the program.

Background: Existing law provides labeling requirements for various products, including, but not limited to, prohibiting a person from selling a plastic bag that is labeled as "biodegradable," "compostable," "degradable," or as otherwise specified, unless, at the time of the sale, the plastic bag meets a current ASTM standard specification for the term used on the label.

Status: Amended March 29, 2005. Currently in the Senate Environmental Quality Committee. No Hearing date has been scheduled.

Specific Provisions: The bill would establish an eco-labeling program funded through a voluntary fee paid by entities who seek the label because their product or service meets the qualifications specified for the eco-label.

Operational Impacts on AQMD: none

Recommended Position: Support with amendment. Green labeling resulting from this legislation could help consumers choose low emitting products.

Suggested Amended Language: 71178 (a) (2) The criteria shall encourage and recognize reduced environmental impacts, and outline the environmental and performance characteristics that a product or service is required to meet to be awarded a label pursuant to this part. Products must, at a minimum, meet the most stringent environmental standards in California.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support with amendments</i>

Assembly Bill 1317 (Ruskin) Environmental Laboratories

Summary: Existing law requires a laboratory that performs analysis for regulatory purposes of drinking water, wastewater, air, hazardous waste, and contaminated soils or sediments to obtain certification by the State Department of Health Services or, in the alternative, if appropriate, to obtain accreditation under the National Environmental Laboratory Accreditation Program (NELAP).

This bill would repeal, recast, and reenact those provisions.

Background:

Status: Passed Assembly Environmental Safety Committee 7-0 on 3/29/05. Re-referred to Assembly Public Safety Committee. No hearing date has been scheduled.

Specific Provisions: Among other things, the bill would:

- (1) Authorize the department to offer both state accreditation and NELAP accreditation.
- (2) Codify the duties and responsibilities of the department in accrediting and monitoring environmental laboratories.
- (3) Require the department to appoint a multidisciplinary committee to provide assistance, advice, and recommendations to the department regarding technical and scientific aspects of laboratory accreditation.
- (4) Authorize an administrative hearing when the department denies, suspends, or revokes a laboratory's accreditation.
- (5) Require any fees and civil penalties collected pursuant to the bill to be deposited in the Environmental Laboratory Improvement Fund, to be available upon appropriation by the Legislature for purposes of the accreditation program.

Operational Impacts on AQMD:

Recommended Position: Support with amendments to clarify language regarding applicability, scope, and cost.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support with amendments</i>

Senate Bill 771– (Simitian) Oceangoing Ships

Summary: This bill would prohibit an oceangoing ship, as defined, from conducting onboard incineration while operating within 3 miles of the California coast.

This bill would also regulate the release of graywater, sewage, sewage sludge, oily bilgewater, hazardous waste, or other waste by oceangoing ships, as defined, into the marine waters of the state.

Background: Existing law prohibits a cruise ship, as defined, from conducting onboard incineration while operating within the territorial waters of the state (i.e., within 3 miles of the California coast). Existing law regulates the release of graywater, sewage, sewage sludge, oily bilgewater, hazardous waste, or other waste by large passenger vessels into the territorial waters of the state.

Status: Referred to the Senate Committee on Environmental Quality. Hearing scheduled April 18, 2005.

Specific Provisions

Operational Impacts on AQMD: None

Recommended Position: Support.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

**Senate Bill 1017– (Campbell)
Solar Energy: taxation**

Summary: The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws. Existing law allows a credit against those taxes for taxable years beginning on and after January 1, 2004, and before January 1, 2006, for certain amounts relating to the use of solar or wind energy systems, as defined.

This bill would

1. Make that credit applicable for taxable years beginning on and after January 1, 2004, and before January 1, 2017.
2. Provide that no reimbursement is required by this act for a specified reason.

Background

Status: Referred to the Senate Committee on Revenue and Taxation. No hearing date has been scheduled.

Specific Provisions

Operational Impacts on AQMD: None

Recommended Position: Support. Solar energy tax credits are sensible public investments in an inherently sustainable energy technology.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Assembly Bill 1629 (Bermudez)
Taxation: credit

Summary: This bill expresses the Legislature's intent to enact legislation to provide tax incentives for the purchase and installation of particulate traps for diesel fuel trucks that are manufactured up to, and including, the 2006 models.

Background: The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws. In addition, the Sales and Use Tax Law authorizes exemptions from the taxes imposed under that law.

Status: Not assigned to a committee. May be acted upon on or after March 26.

Specific Provisions:

There are none.

Operational Impacts on AQMD:

Unknown.

Recommended Position: Support in concept -- Bill does not make any legislative amendments or create new law; merely expresses intent.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support in concept</i>
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Assembly Bill 578 (Horton, Shirley)
Air pollution: Smog check: test-only stations

Summary: This bill would permit, rather than require, the department to increase the capacity of the program for testing at test-only facilities of that portion of the state fleet that is subject to inspection and that is registered in the enhanced program area, after completing an open and public review and consideration of the impacts of sending vehicles to test-only facilities, including, but not limited to, consumer costs, additional wait times, additional testing fees, impacts on small businesses, relative environmental benefits, if any.

Background: Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs that provides for the inspection of all motor vehicles except those specifically exempted from the program. Existing law requires, among other things, the Department of Consumer Affairs to establish a network of test-only stations pursuant to contract and requires the department to increase the capacity of the program so that the capacity exists to commence, by January 1, 1996, the testing at test-only facilities of that portion of the state vehicle fleet that is subject to inspection and is registered in the enhanced program area, as specified.

The test-only station program was established to increase the emission reductions from the vehicle inspection and maintenance program. The enhancement of the test-only program should result in additional emission reductions.

Status: Referred to Assembly Committee on Transportation. Hearing is scheduled on April 18, 2005.

Specific Provisions: None

Operational Impacts on AQMD: None

Recommended Position: Oppose – This bill as written will weaken the smog-check program and resulting a SIP deficiency.

Support:
None on File

Opposition:
None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Oppose</i>
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Assembly Bill 383 (Montanez)
Air Pollution: Motor Vehicle Inspection Program: Repair Assistance

Summary: The Department of Consumer Affairs' Bureau of Automotive Repair (BAR) administers the Vehicle Inspection and Maintenance program for the state. The BAR has a repair assistance program to financially assist a low-income motor vehicle owner whose vehicle fails the smog check inspection. This bill expands the definition of low income motor vehicle owner for establishing eligibility for financial assistance under the BAR low income assistance program.

Background: . Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program. Existing law provides for a repair assistance program available to:

- (1) An individual whose maximum income level is 185% of the federal poverty level and whose vehicle has failed a smog check inspection or who was issued a notice to correct for an alleged violation of unlawful motor vehicle exhaust discharge, if the vehicle subject to that notice has failed a smog check inspection subsequent to receiving that notice, or both, and
- (2) an owner of a motor vehicle that has failed a smog check inspection and that is directed to a test-only facility.

Status: From committee of Transportation chair, with author's amendments: Amended, and re-referred to Committee on Transportation Read second time and amended. Hearing scheduled in Assembly Committee on Appropriations on April 13, 2005.

Specific Provisions: This bill would:

1. make the repair assistance program to an individual who meets the criteria in (1) above whose maximum income level is 225% of the federal poverty level
2. make the repair assistance program to an individual who meets the criteria in (2) above whose maximum income level is 250% of the federal poverty level
3. make a conforming change in the definition of "low income motor vehicle owner" regarding the owner's income level as a percentage of the federal poverty level above whose maximum income level is 225% of the federal poverty level

Operational Impacts on AQMD: None

Recommended Position: Support -- This bill proposes to change the eligibility of vehicle owners for repair assistance for failing smog checks. The bill expands eligibility by increasing the threshold qualifying income level but also deletes the eligibility of vehicle owners that simply failed the smog check and were directed to a test-only facility. The increase eligibility for low income assistance will be offset by the proposed elimination of consumers eligibility based on being directed to “test-only” stations. Good for air quality and environmental justice.

Support:

Planning and Conservation League (sponsor)
American Lung Association
California Inspection & Maintenance Review Committee
California League of Conservation Voters
Natural Resources Defense Council
Sierra Club California

Opposition:

None on File

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>

Senate Bill 497 – (Simitian)
“Cleaner Construction Program”

Summary: This bill makes legislative findings with regard to the need to provide incentives to encourage the reduction of air pollution emissions from specified vehicles. This bill would require the Department of General Services to develop and implement a “Cleaner Construction Program” to reduce air pollution emissions from off-road equipment used in the performance of all state agency and department contracts for the construction of roads, highways, buildings, and other state infrastructure projects.

Background: Existing law requires the State Energy Resources Conservation and Development Commission, the Department of General Services, and the State Air Resources Board to develop and adopt fuel efficiency specifications governing the purchase of state motor vehicles and replacement tires that will reduce petroleum consumption of the state vehicle fleet to the maximum extent practicable and cost-effective.

Status: Passed (6-3) Senate Committee on Environmental Quality on March 29, 2005 with author's amendments. Re-referred to the Senate Committee on Transportation and Housing. No hearing date has been scheduled.

Specific Provisions: This bill would:

- (1) Require CARB to publish and periodically update an online list of verified emission control strategies.
- (2) Require every advertisement or notice for bids on state-funded construction contracts that use off-road diesel equipment of 50 horsepower to include program requirements with respect to the use of diesel equipment in the performance of those contracts.
- (3) Grant a state agency or a contractor an exemption from any requirement to replace diesel emission control equipment on an off-road vehicle in accordance with the Cleaner Construction Program within 3 years of installation of that technology.
- (4) Require all off-road diesel equipment used in state-funded construction projects that is operated within 1000 feet of a sensitive receptor it shall either be equipped with “Level 3” control standards or comply with other specified emission standards.
- (5) Require DGS and CARB to report on the program. And
- (6) Declare that the Cleaner Construction Program shall not be interpreted or applied in a manner that would affect eligibility for Carl Moyer Program funding.

Operational Impacts on AQMD: None

Recommended Position: Support. This proposal effectively complements policies, rules and regulations of the AQMD.

Support:

American Academy of Pediatrics, District IX
American Lung Association
Bay Area Air Quality Management District
Bay Area Clean Air Task Force
California Against Toxics
Environment California
Merced/Mariposa County Asthma Coalition
Medical Advocates for Healthy Air
Pacific Institute
Planning and Conservation League
Sacramento Metropolitan Air Quality Management District
Sierra Club California
Sonoma County Asthma Coalition

Opposition

Construction Employers' Association

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support in concept</i>
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The Hybrid Vehicle HOV Access Act

SUMMARY: This bill would create an exception to the federal law that regulates what vehicles are allowed in HOV lanes, allowing hybrid vehicles with one occupant and a fuel economy highway rating higher than 45 miles-per-gallon to use the HOV lanes.

BACKGROUND: California passed legislation last year permitting hybrid vehicles whose gas mileage is 45 miles per gallon or better and meet specific emission standards into its high-occupancy vehicle lanes. Because the state's highways are built and maintained with federal dollars, California's law cannot be implemented until the federal government issues a waiver giving the state permission to alter its carpool policy.

The federal Transportation Reauthorization Bill, which passed the House on March 10, 2005, includes a waiver to allow "low emission and energy efficient vehicles" with at least 45 mpg in HOV lanes. There is also another hybrid HOV measure in the House, H.R. 325 (Rep. Sam Graves R-MO), that defines hybrid vehicles as vehicles that 10 percent or greater increase in city fuel economy relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle.

BILL STATUS: Referred to the House Committee on Transportation and Infrastructure's Subcommittee on Highways, Transit and Pipelines on February 2, 2005. No action taken by subcommittee yet.

SPECIFIC PROVISIONS OF BILL: The bill amends Federal highway law to authorize a State to permit a hybrid vehicle with fewer than two occupants to operate in high occupancy vehicle (HOV) lanes. It defines "hybrid vehicle" as a motor vehicle: (1) that draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; and (2) which (in the case of a passenger automobile or light truck) meets or exceeds California low emission vehicle standards (for vehicles) and meets or exceeds 2002 and 2003 EPA Bin 5 Tier II emission levels for 2004 and later vehicles.

OPERATIONAL IMPACT ON AQMD: None.

RECOMMENDED POSITION: Support -- due to the fact that AQMD initially supported the Governor's initiative.

April 20, 2005 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS: <i>Support</i>
