

SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT  
CALIFORNIA

For the Agenda of: March 23, 2006

To: District Board of Directors  
From: Larry Greene, Air Pollution Control Officer  
Subject: 2006 DISTRICT POSITIONS AND UPDATE ON PENDING LEGISLATION

**RECOMMENDATIONS**

Review and accept the "Update on Pending State Legislation" (Attachment #1) and the "2006 Policy Recommendations for State and Federal Legislative and Regulatory Efforts" as well as its attendant resolution (Attachments #2 and #3). The "SMAQMD Bill List – 2006 Legislative Session" [Attachment #4] is for information only.

**BACKGROUND**

The 2005-2006 legislative session is now in its second year. Your Board annually reviews and adopts policy statements that guide the District's legislative advocacy program (most recently reaffirmed at the January, March and July 2005 Board Meetings, 2005).

**2006 POLICY STATEMENTS AND REVIEW OF SPECIFIC LEGISLATION**

Attachment #1, "Update on Pending State Legislation - March, 2006", provides an overview of the current pending state legislation affecting District programs and policies, organized by policy area.

Attachment #2, "2006 Policy Recommendations for State and Federal Legislative and Regulatory Efforts" are based upon the District legislative policy recommendations adopted by your Board at the April and May, 1999 Board meetings and reaffirmed by your Board at the March, 2001, May, 2002, March, 2003, March 2004, January, March, and July 2005 Board meetings. Staff is recommending the addition of an "Air Quality Mission" policy area as well as formally acknowledging that these policies guide the District's efforts in both legislative and regulatory areas. In addition, a resolution has been included to further declare the Board's intent that these policies guide the efforts of the Air Pollution Control Officer.

Attachment #3 is the "SMAQMD Bill List", containing all of the bills District staff is currently monitoring. The nature of these bills, as well as the nature of the legislature, makes it prudent to watch these proposals as the legislative session unfolds. This item is included for your information.

**REVIEW OF SPECIFIC HIGH-PRIORITY LEGISLATION**

Below is a short analysis of the legislation district staff is recommending either a support or oppose position:

**AB 1407 (Oropeza)** - Requires ARB to study the impact of a fee on off-road diesel fuel for purposes of generating revenue to mitigate off-road diesel emissions.

This bill would:

Require ARB to conduct and report a study to the Legislature by no later than March 1, 2006, on the efficiency of imposing a \$0.05 fee per gallon on off-road diesel fuel for purposes of generating revenue to fund projects that mitigate the impacts of off-road diesel fuel emissions. Estimated study cost: Less than \$50,000

**Recommendation: Support**

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**AB 1901 (S. Horton)** – Establishes the Truck Retrofit Revolving Loan Program.

This bill would establish, until January 1, 2012, the Truck Retrofit Revolving Loan Program (program) in the state board to help finance, through direct loans, the retrofitting of trucks with bundled energy efficiency and emission reduction equipment kits (includes an aerodynamic improver package, single wide low-resistance tires, particulate trap, and onboard idling reduction technology) by truck owners or operators. There is no appropriation in this bill, but would probably be funded through ARB's budget.

Small operators will be able to retrofit up to 5 trucks; larger operators could retrofit up to 10 trucks – with a maximum amount limited to \$300,000. Loans will be repaid, with interest, in either 12 or 24 months, at ARB's discretion.

**Recommendation: Support**

**AB 2264 (Pavley)** – Requires DGS to establish a minimum fuel economy standard for the purchase of state fleet vehicles.

This bill would require, on or before June 1, 2007, the Department of General Services (DGS), in consultation with the Energy Commission (CEC), to establish a minimum fuel economy standard for the purchase of state fleet vehicles, including passenger vehicles and light duty trucks. It would also require that on or before January 1, 2008, new state fleet purchases of these vehicles by DGS would have to meet this minimum fuel economy standard; excluding authorized emergency vehicles and certain other identified vehicles from this requirement.

**Recommendation: Support**

**AB 2647 (Oropeza)** – Establishes the Truck Parking Space Electrification Revolving Loan Program.

This bill would establish the Truck Parking Space Electrification Revolving Loan Program to help finance, through direct no-interest or low-interest loans provided by the Energy Commission (CEC), truck parking space electrification technologies (such as onboard auxiliary power units capable of providing heating, air conditioning, and electric power to operate in-cab appliances using grid-supplied electrical power).

Truck or truck stop owner/operators are eligible for the loan program and have up to 10 years to repay the loan. Specifics including interest rates and maximum loan amounts are to be developed by the CEC.

**Recommendation: Support**

**AB 2128 (Torrico)** – Authorizes tax credits to employers who provide transit benefits to employees.

This bill would provide tax credits to employers who provide their employees with at least 20% of the cost of an employee's transit pass/voucher.

**Recommendation: Support**

**AB 386 (Lieber)** – Places the Smog Check Program under the authority of ARB (instead of BAR).

This bill would increase the authority of the Air Resources Board (ARB) over the motor vehicle inspection and maintenance (Smog Check) program by shifting major responsibilities for the program from the Department of Consumer Affairs (DCA) and the Bureau of Automotive Repair (BAR) to ARB.

Staff believes that the major emission reductions available under the Smog Check program are more likely to be achieved under the ARB's leadership rather than the BAR's. In addition, the ARB's decision-making process provides more opportunities for public participation and is more open and inclusive than the BAR's process.

**Recommendation: Support**

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**AB 1870 (Lieber)** – Adds a “smoke test” to the current Smog Check Program.

This bill would require the BAR to incorporate a visible-smoke test into the Smog Check program so that the emanation of visible smoke from a motor vehicle's tailpipe or crankcase during an inspection would result in a failure of the test. Smog Check currently has no visible-smoke test component, so smoking vehicles could conceivably pass their smog test.

**Recommendation: Support**

**AB 2465 (De La Torre)** – Expands the Alameda/Ventura/Santa Barbara School Pedestrian/Bicyclist Safety Program to any city or county.

This bill authorizes local jurisdictions, in collaboration with a school district in that jurisdiction, to adopt a school pedestrian-bicyclist safety program – funded from the enhanced penalties derived from local double-fine zones.

**Recommendation: Support**

**SB 1227 (Denham)** – Reduces the prima facie speed limit around schools from 25 to 15 m.p.h.

This bill would establish a 15 mile per hour (mph) prima facie speed limit for school zones, but allow a county or city to determine that the 15 mph prima facie speed limit does not apply to a particular school building or school grounds and to notify the affected school district of that determination. This is seen as more protective of those who would walk or bike to school, and would be providing parents with a better level of comfort in allowing their children to do so.

**Recommendation: Support**

**SB 1205 (Escutia)** - Increases the cap on civil penalties for air quality violations and adds a new civil penalty for “serious and chronic” air quality violations and diverts these penalties to the Children’s Breathing Rights Fund.

This bill would raise the maximum “strict liability” civil penalties for air quality violations from \$1,000 to \$10,000 and also would add a new “serious and chronic” violation category which would include a maximum penalty of \$100,000 per violation. All monies collected from “serious and chronic” violators would be deposited in the newly created Children’s Breathing Rights Fund, with 25% of the monies used to fund local air district monitoring and enforcement activities, 25% used to fund ARB enforcement, monitoring and research; and 50% used to fund local children’s health initiatives.

Staff believes that, although this bill has some positive aspects (such as raising the maximum penalty for “strict liability” violators), SB 1205 diverts district enforcement funding, potentially hampering enforcement and emission reduction activities. Our District, along with CAPCOA, is continuing to work with the author to seek needed amendments. Your Board took an “Oppose Unless Amended” position on a previous version of this bill, SB 870, in March, 2005.

**Recommendation: Oppose Unless Amended (OUA)**

**AB 1101 (Oropeza)** - Requires air districts to review largest "magnet" sources of diesel emissions.

This bill, sponsored by the California Air Pollution Control Officers’ Association (CAPCOA), would define diesel magnet sources to include ports, airports, and rail yards, and to establish the time frame for districts to review and, if necessary, revise policies and procedures, and for the largest diesel magnet sources to comply with the requirements applicable to traditional stationary sources.

Industrial and commercial operations that involve or attract high levels of diesel traffic or other diesel engine use can pose substantially higher risks to the public near the facilities.

CAPCOA believes that large diesel magnet sources should comply with requirements to prepare and submit inventories of their emissions, prepare health risks assessments, notify the public of significant risks, and reduce unacceptably high risks.

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#### **AB 1101 (Oropeza) (cont.)**

District staff agrees that local air pollution control districts and air quality management districts should review policies and procedures that implement existing law and, if necessary, revise them to appropriately address large diesel magnet sources. Review of existing policies and procedures, and the preparation of inventories, health risk assessments, public notification, and risk reduction should be carried out under a coordinated process and schedule.

However, AB 1101 was amended twice in January, 2006, to not only reduce the type and number of magnet sources originally affected by the bill (e.g. "distribution centers" were originally included as magnet sources), but was also amended in such a way as to potentially reduce air districts' current authority to impose certain conditions on these facilities.

Your Board took a "Support" position on AB 1101 in March, 2005. Staff believes we and the other air districts can work with the author to rectify the unintended consequences these recent amendments have had on the bill and, therefore, recommend qualifying our support of AB 1101 upon the author's willingness to remove these problematic provisions.

#### **Recommendation: Support if Amended (SIA)**

**AB 1220 (Jones)** - Provides for air district's full cost recovery for Portable Equipment Regulatory Program (PERP) enforcement.

This bill, also sponsored by CAPCOA, would:

1. Require ARB to include a uniform statewide district fee schedule for the recovery of the actual costs of PERP enforcement.
2. Require districts to approve and submit to the state board the actual costs of enforcement and would require the state board to adjust its fees to fully reimburse districts for those actual costs, as part of the state's next billing cycle.
3. Permit district boards to require hour meters to determine engine use and additional notification by operators of engine movement into and within an air district to ensure proper enforcement of the statewide registration program.
4. Require, not later than July 31, 2007, that the ARB submit to the Legislature and affected districts, a report containing information relating to emission limitations and emission control requirements,

Your Board took a "Support" position on this bill in March, 2005. Since then, ARB, industry, and the air districts have been seeking resolution to the issues surrounding the PERP and have reached a tentative agreement. This bill is currently "parked" on the Senate Floor pending the finalization of that agreement and will be brought to a vote only if a final agreement cannot be reached during the next few months.

#### **Recommendation: Support**

**SB 109 (Ortiz)** - Allows criminal prosecution following a civil recovery for air quality violations.

This bill does two things:

1. Extends the current minor violation classification requirement from its current sunset of 1/1/06 to 1/1/12.
2. Removes from existing law that recovery of civil penalties precludes prosecution for air pollution violations and the filing of a criminal complaint requires the dismissal of a civil action thus allowing both civil and criminal penalties for air pollution violations.

Staff believes that while the first component extends a program that has seen both environmental and economic successes, the second component of the bill is not necessary because an air district board can already refer a case to the district attorney; and that this bill would make companies more reluctant to settle their civil penalties until they knew whether the district attorney is going to file criminal charges.

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### **SB 109 (Ortiz) (Cont.)**

Under current law, the vast majority of alleged violations of air pollution laws and regulations are now resolved through a "mutual settlement" or similar process. In these circumstances, the usual situation is that following the air district's issuance of a Notice of Violation ("NOV"), the district will send to the facility an invoice with a proposed penalty amount. If the facility operator is willing to pay the amount proposed, it sends in the payment, the matter is resolved, and the facility operator faces no further civil or criminal liability for the alleged violation. This relatively simple process has the advantage that the high potential penalties serve as a deterrent to violation, and the settlement process does not typically impose extensive resource burdens on the air district's legal office (or duplicative work at the air district and the district attorney's office.).

Your Board took an Oppose Unless Amended position on this bill on March, 2005.

**Recommendation: Oppose Unless Amended.**

### **AB 32 (Pavley) – Establishes the California Climate Change Act of 2006**

This bill requires Cal-EPA and the Energy Commission (CEC) to jointly develop and implement protocols for the developing the emission inventories required under the California Climate Action Registry.

This bill also requires Cal-EPA to:

1. Institute a cap on greenhouse gas emissions from the electrical power, industrial, and commercial sectors of the economy as well as a schedule of emission reductions for these entities.
2. Develop an enforcement mechanism for reducing greenhouse gas emissions to the target level,
3. Establish a program to track and report greenhouse gas emissions and to monitor and enforce compliance with the greenhouse gas emissions cap.
4. Require Cal-EPA, by January 1, 2008, to submit a detailed plan to achieve the greenhouse gas emissions cap to the Governor and the Legislature, and to submit a report, on or before January 1, 2009, and annually thereafter, on the progress made toward meeting the greenhouse gas emissions cap.

**Recommendation: Support**

**AB 1365 (Ruskin) – Requires the State Environmental Goals and Policy Report to add the reduction of greenhouse gases of at least 7% by 2010 and the reduction of greenhouse gases of at least 10% by 2020.**

This bill requires the Governor's State Environmental Goals and Policy Report to include an additional state planning priority of reducing greenhouse gas emissions of at least seven percent by 2010 and 10 percent by 2020 based on the 1990 greenhouse gas emission levels.

**Recommendation: Support**

**AB 1925 (Blakeslee) – Requires the CEC to recommend strategies for reducing powerplant CO<sub>2</sub> emissions by 1/1/08.**

This bill would require the Energy Commission (CEC), on or before January 1, 2008, to submit a report to the Legislature containing the commission's recommendations for how the state can facilitate, and provide incentives for, cost effective strategies to contain, sequester, and recycle carbon dioxide that is created during the generation of electricity.

**Recommendation: Support**

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**AB 2924 (Arambula)** – Authorizes loan guarantees for projects that reduce greenhouse gases or generates renewable energy.

This bill would authorize financial institutions to provide loan guarantees for capital expenditures that reduce greenhouse gas emissions or generate renewable energy, with the intent that 20% of the funds annually appropriated for small business loan guarantees be dedicated for these purposes. This bill would also authorize the California Infrastructure and Economic Development Bank to make low-interest loans for equipment that reduces greenhouse gas emissions.

This bill would also authorize tax credits for 15% of the amount paid during the taxable year for qualified capital expenditures and qualified research expenses and 10% of the amount paid or incurred during the taxable year for qualified capital investments. This bill would also allow a taxpayer to take a deduction for depreciation with respect to qualified capital expenditures and qualified capital investments over a 3-year period.

Lastly, this bill would require anyone that receives a loan guarantee, a low-interest loan, or a tax credit under the bill to register with the California Climate Action Registry and to report its greenhouse gas emissions.

**Recommendation: Support**

**SB 1368 (Perata)** – Requires “long-term baseload generators” to comply with greenhouse gas emissions standards (to be established by the CEC).

This bill would prohibit any load serving entity (including electrical corporations, community choice aggregators, electric service providers, and local publicly owned electric utilities) from entering into, and the PUC from approving, a long-term financial commitment for baseload generation unless that baseload generation complies with a greenhouse gases emission performance standard established by the Energy Commission, in consultation with the PUC and the ARB.

The bill would require that the greenhouse gases emission performance standard not exceed the per kilowatt-hour emissions of greenhouse gases of a combined-cycle natural gas powerplant. The bill would authorize the PUC to adopt rules to enforce these requirements for electrical corporations, electric service providers, publicly owned utilities, and community choice aggregators. The bill would require that a procurement plan approved by the PUC for an electrical corporation be consistent with the greenhouse gases emission performance standard.

**Recommendation: Support**

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RESPECTULLY SUBMITTED,

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Larry Greene  
Air Pollution Control Officer

Attachments