



South Coast Air Quality Management District



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TO: SCAQMD Legislative Committee

Judith Mitchell, Chair

Joe Buscaino, Vice Chair

Shawn Nelson, Dr. Clark E. Parker, Sr., and Janice Rutherford

FROM: Derrick Alatorre, Deputy Executive Officer, Legislative, Public Affairs & Media

SPECIAL LEGISLATIVE COMMITTEE MEETING

February 16, 2017 ♦ 2:00 p.m. ♦ Conference Room CC-7
21865 Copley Drive, Diamond Bar, CA 91765

Teleconference Locations

100 S. Main Street
Room 01.038
Los Angeles, CA 90012

8575 Haven Avenue
Suite 110
Rancho Cucamonga, CA 91730

3405 West Imperial Hwy
Inglewood, CA 90303

California Air Resources Board
1001 "I" Street - Room 240
Sacramento, CA 95814

(Public may attend at all locations.)

Call-in for listening purposes only is available by dialing:

Toll Free: 866-244-8528

Listen Only Passcode: 5821432

AGENDA

INFORMATION/DISCUSSION/ACTION ITEMS:

1. Proposed Legislation for Approval

[Attachment 1]

Staff seeks approval to introduce two bill proposals to provide funding for the AQMP which will expedite the mitigation of criteria and/or toxic pollutant emissions, protect public health and facilitate the meeting of federal air quality standards within the South Coast region.

These two proposals will:

a) Enhance an existing smog abatement fee; and

b) Create a port container cargo fee.

Philip Crabbe

*Community Relations Manager
Legislative, Public Affairs &
Media*

2. Public Comment

At a special meeting, no other business may be considered (Gov't Code Section 54956(a). Each speaker will be afforded three minutes to address the Committee on items on this agenda (Gov't Code Section 54954.3)

Document Availability

All documents (i) constituting non-exempt public records, (ii) relating to an item on an agenda for a regular meeting, and (iii) having been distributed to at least a majority of the Committee after the agenda is posted, are available prior to the meeting for public review at the South Coast Air Quality Management District, Public Information Center, 21865 Copley Drive, Diamond Bar, CA 91765.

Americans with Disabilities Act

The agenda and documents in the agenda packet will be made available, upon request, in appropriate alternative formats to assist persons with a disability (Gov't Code Section 54954.2(a)). Disability-related accommodations will also be made available to allow participation in the Legislative Committee meeting. Any accommodations must be requested as soon as practicable. Requests will be accommodated to the extent feasible. Please contact Jeanette Short at (909) 396-2942 from 7:00 a.m. to 5:30 p.m., Tuesday through Friday, or send the request to jshort1@aqmd.gov.

ATTACHMENT 1a

Legislative Proposal to Enhance Smog Abatement Fee

Background: Starting in FY 1998-99, the Carl Moyer Program (CMP) was funded on an annual basis for 6 years as part of the state Budget. Due to the success of the CMP the Legislature approved SB 1107 & AB 923 in 2004, which provided continuous funding for the implementation of the CMP. The main provision of SB1107 allowed for funding for the CMP through the creation of a smog abatement fee, which had no net fiscal impact on consumers. Specifically, SB 1107:

- Delayed vehicle inspection and maintenance (smog check) for new vehicles from the previously required 4 years to 6 years.
- The smog check fee of \$48 (at the time), which the consumers were to pay for a smog check of their vehicle after 4 years would instead be collected as a smog abatement fee at a rate of \$12/year over 4 years (thus, no increased fiscal impact to consumers).
- Under SB 1107, half of the annual smog abatement fee (\$6/year), goes to the Air Pollution Control Fund (APCF) for CARB for the CMP. This results in about \$65 million/yr from new car sales statewide, which CARB distributes among air districts based on an agreed formula between CARB and CAPCOA. (As part of this formula, the South Coast region receives about 44% of the funding, so about \$28-\$30 million per year.)

The principal argument behind SB 1107's approach was that all or most of the new cars with new technologies pass the smog check test after 4 years anyway. Generating funds this way allowed real and surplus emissions reductions with no additional cost to consumers.

SCAQMD Bill Proposal

- To increase annual incentive funding for the replacement and repower of on- and off-road heavy-duty vehicles and equipment under the CMP, which would support the 2017 AQMP efforts, SCAQMD proposes a legislative amendment to the law created by SB 1107.
- Pending confirmation from CARB, early indications are that a great majority of new vehicles pass their first smog check after 6 years as well, thus SCAQMD proposes a postponement of smog checks for new vehicles from 6 years to 8 years.
- Under the proposal, an additional \$48 in smog abatement fees would be collected and deposited in the APCF for the CMP, in lieu of the same fee that would have otherwise been paid by consumers for a smog check of their vehicles after 6 years.
- CARB would then distribute the funds collected among air districts based on its agreed upon methodology with CAPCOA.

Benefits:

- The proposed bill would direct all (not half) of the new fee to the APCF, thus increasing funding for the CMP by three-fold.
- The enhanced smog abatement fee would have no fiscal impact on consumers, since it only diverts funds from smog check to the APCF.
- Generating funds this way allows real and surplus emissions reductions, through CMP, and creates SIP credits through early emission reductions.
- This increases funding for more effective diesel PM and NOx emissions reductions from heavy duty vehicles, instead of attempting to just reduce emissions from gasoline vehicles that generally pass a smog check after 6 years anyway.
- Unlike the smog check program, which applies generally throughout California, this increase in CMP funds could be better directed and more specifically utilized in areas, such as disadvantaged communities, to reduce direct exposure to heavy duty diesel vehicle emissions.
- Increased job creation and manufacturing in the clean transportation technology sector.

ATTACHMENT 1b

Smog Abatement Fee Chart

The chart below shows how the additional \$48 from the sixth year Smog Check will be redirected and collected as Smog Abatement Fee. The additional \$48 is distributed in six years with additional \$4 in years 1 through 4, and additional \$16 in years 5 and 6. As shown at the bottom of the table BAR's portion remains unchanged, but ARB's portion for the Carl Moyer Program triples from the current \$24 to \$72.

Year	Current Smog Check Fee	Current Smog Abatement Fee		Proposed Smog Check Fee	Proposed Smog Abatement Fee	
		Total Annual	Breakdown		Total Annual	Breakdown
1	0	\$12	\$6 to ARB \$6 to BAR	0	\$16	\$10 to ARB \$6 to BAR
2	0	\$12	\$6 to ARB \$6 to BAR	0	\$16	\$10 to ARB \$6 to BAR
3	0	\$12	\$6 to ARB \$6 to BAR	0	\$16	\$10 to ARB \$6 to BAR
4	0	\$12	\$6 to ARB \$6 to BAR	0	\$16	\$10 to ARB \$6 to BAR
5	0	0	0	0	\$16	\$16 to ARB 0 to BAR
6	\$48	0	0	0	\$16	\$16 to ARB 0 to BAR
Total	\$48	\$48	\$24 to ARB \$24 to BAR	0	\$96	\$72 to ARB \$24 to BAR

Total Consumer Cost	\$96
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\$96

ATTACHMENT 1c

Smog Abatement Fee

Health and Safety Code Section 44011(a)(4) is amended to read as follows:

(4) Beginning January 1, 2005, any motor vehicle up to six model -years old, and beginning January 1, 2018, any motor vehicle up to eight model-years old.

Health and Safety Code Section 44091.1(a) is amended to read as follows:

- (a) The revenue generated by ~~ten six~~ dollars (\$~~10 6~~) of the fee for the first four years and all of the fee for the next two years shall be deposited in the Air Pollution Control Fund, and shall be available for expenditure, upon appropriation by the Legislature to fund the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9, commencing with section 44275) to the extent that the state board or a participating district determines the moneys are expended to mitigate or remediate the harm caused by the type of motor vehicle on which the fee is imposed.

Health and Safety Code Section 44060(d)(1) is amended to read as follows:

(d)(1) Motor vehicles that exempted under paragraph (4) of subdivision (a) of Section 44011 shall be subject to an annual smog abatement fee of sixteen ~~twelve~~ dollars (\$~~16 12~~) for the first six years. *[Note: Remainder of paragraph is unchanged].*

ATTACHMENT 1d

Legislative Proposal to Create Port Container Cargo Fee

Summary: This bill imposes a fee on container cargo imported and exported through the ports of Long Beach, Los Angeles, and Oakland in an amount of \$100 per twenty-foot equivalent unit (TEU). This bill requires the fee revenues to be used to mitigate the air quality impacts associated with the movement of freight in and out of the three ports. Also, this bill specifies the processes for determining which mitigation projects shall be funded with fee revenue.

Specifically this bill:

1. Requires the Ports of Long Beach, Los Angeles and Oakland, beginning July 1, 2018, to assess a user fee on the owner of container cargo moving through the port in the amount of one hundred dollars (\$100) per TEU.
2. Requires the three ports to collect the fee twice a year, with all fees directed to mitigate air pollution caused by cargo movement.
3. Specifies that SCAQMD, in consultation with the Port of Los Angeles and the Port of Long Beach, shall develop the list of air quality projects in the South Coast region.
4. Directs the air districts and ports, when developing the air quality project list to give the highest priority to the replacement, repowering, or retrofitting of heavy-duty diesel vehicles that move cargo containers to and from the ports, not otherwise required by any federal or state law or regulation.
5. Authorizes ports to issue revenue bonds to finance mitigation projects.

Based on estimates in 2008-09, this fee could potentially generate revenue in the range of \$1.1 billion annually, generated by the maximum \$100 per TEU fee on containerized cargo imposed by the Ports of Los Angeles and Long Beach.

The ports of Los Angeles, Long Beach, and Oakland are the nation's first, second, and fourth largest ports, respectively, and are projected to experience growth in the future. Further:

1. According to a 2006 report by the ARB, pollution from our state's ports causes 2,400 premature deaths annually.

2. A disproportionate number of communities impacted by port pollution are low-income communities of color, the state currently shoulders much of these port-caused health costs.
4. The ports and freight transport operations are a large source of particulate matter (PM) and nitrogen oxide (NOx) emissions in the state, producing more diesel PM than all passenger vehicles, off-road equipment and stationary sources combined.
5. Southern California risks losing billions in federal highway funds if federal Clean Air Act standards are not met. The basin continues to face significant challenges in attaining federal ozone and particulate matter standards.
6. The Los Angeles and Long Beach ports move approximately 40 percent of the nation's cargo. The Los Angeles/Long Beach port complex is the largest port complex in the United States and is projected to see cargo approximately double by 2035. The ports are the single largest source of air pollution in the South Coast Basin.

Opponents of this bill, generally wholesalers or retailers who own the cargo being imported and exported through the ports, may oppose on two grounds: they claim that imposing the fee as proposed in this bill 1) may violate the commerce clause of the United States Constitution and 2) increases the costs of importing and exporting through these ports which may increase costs to consumers and cause retailers to ship their cargo through other ports.

Regarding the commerce clause issue, Legislative Counsel concluded, regarding an earlier bill that would have imposed a container cargo fee, that "there is not federal legislation relating to the subjects addressed under [this bill]. Thus, it is our view that, generally, the state may legislate in this area" and that "we conclude that the charge proposed under [this bill] would survive scrutiny under the commerce clause of the United States Constitution as a legitimate regulatory fee imposed under the police power of the state."