

## **Tobacco Foes See an Opening**

**Secondhand smoke's designation as a toxic contaminant gives politicians and activists extra ammunition for more restrictions.**

By Janet Wilson, Times Staff Writer

Los Angeles Times, Monday, Feb. 6, 2006

Paul Scott recalls sitting trapped in the back of his family's station wagon as a boy in the 1960s, his parents chain-smoking up front.

"The smoke would be thick in there; you just couldn't get away from it ... the stench most of all," said Scott, 53, of Santa Monica. "It gave me headaches. I remember looking outside and wishing I could breathe that air instead."

Scott has never smoked. But in 2002, he was diagnosed with bladder cancer. The likely cause, his doctors told him, was the secondhand smoke he breathed throughout childhood.

California air regulators have recently classified this drifting byproduct of cigarettes as a toxic contaminant that can kill or harm bystanders, especially children, a designation that is a first for any government.

"If my parents had known, they never would have done it," Scott said.

The Air Resources Board has three years to enact any additional regulations needed to protect the public from secondhand smoke, a task the board's spokesman said could be difficult because of the state's already stringent anti-smoking laws. But the designation has already given a boost to local governments and private entities working to restrict smoking.

Last week the Calabasas City Council unanimously passed an ordinance banning smoking in outdoor spaces when other people are in the area.

Calabasas officials had been "feeling the heat" from smokers who opposed the proposed law, said Mayor Barry Groveman. But the state's "extraordinary" action Jan. 26 silenced the critics.

"There is a clean-air god, and he or she smiled on Calabasas," Groveman said. "I'm going to call on all my fellow mayors to do the same thing. Now that California has taken this step, why should people have to wait two or three years when cities can do it so much more quickly?"

The designation in California, which leads the way nationally in anti-smoking laws, will substantially change how the public perceives the risk of secondhand smoke "and create a very major demand to do something about it," said Stanton Glantz, a UC San Francisco professor of medicine who served on a scientific panel that unanimously recommended the air board take action.

"Two things at the top of everybody's list are dealing with smoke in cars and dealing with drift of smoke from one apartment or condo to another," Glantz said. "This is going to speed the solution to those problems. Exactly how, I don't know, but I'm quite confident it will happen."

Some anti-smoking activists have an ambitious list.

"Doorways, bus stops, outdoor waiting lines of any kind, also the ATM: They should all be nonsmoking," said Esther Schiller, director of Smokefree Air for Everyone, a Granada Hills nonprofit, noting that the Centers for Disease Control suggests that people with heart disease, cancer or asthma avoid places with smoke.

Dozens of California cities already have laws limiting or prohibiting smoking at beaches, piers or parks.

Public health advocates have also set their sights on Native American-owned casinos, since state scientists concluded for the first time that secondhand smoke causes breast cancer in premenopausal women.

"Bartenders, waitresses and card dealers are all at risk," said Theresa Boscher, co-director of Resources and Education Supporting People Everywhere Controlling Tobacco, a Sacramento

nonprofit group launching a campaign to persuade tribal leaders to ban smoking in their 50-plus casinos. She said that although Indian nations did not have to abide by state or local laws, "the state's action gives us an entree to talk to them."

A spokeswoman for Pechanga Casino and Resort said they had set aside one-sixth of their 180,000-square-foot gaming floor for nonsmokers and that fresh air was pumped into the casino every three minutes.

The voluminous report by California EPA and Air Resources Board staff found that an estimated 4,700 Californians died annually from illnesses caused by secondhand smoke, including heart disease, cancers and sudden infant death syndrome. Thousands more children suffer asthma attacks and other problems.

About 16% of Californians smoke, down from previous years and far less than other areas of the country. But 56% of adults and 64% of adolescents are exposed to secondhand smoke. The highest exposure - 10 times greater than elsewhere - is in cars.

Tobacco companies that objected in written comments before the air board's decision last week either did not return calls or declined to comment on the likelihood of new tougher state laws.

In a general policy statement, Philip Morris USA spokeswoman Jennifer Golisch said, "We ... believe that particular care should be exercised where children are concerned, and adults should avoid smoking around them. We also believe the conclusions of public health officials concerning environmental tobacco smoke are sufficient to warrant measures that regulate smoking in public places."

In 2004, state legislators failed to pass a law banning smoking in vehicles in which children rode. Former Assemblyman Marco Firebaugh (D-Los Angeles), now running for the state Senate, sponsored the measure.

"It was fought tooth and nail by the tobacco industry," Firebaugh said. He said tobacco lobbyists told him that the law "climbed into the family unit and dictated how to raise children." If elected, he said, he will try to reintroduce the legislation. The air board's action "strengthens our argument considerably," Firebaugh said. "I think it would have much more likelihood of success."

In Santa Monica, a group of renters is in the early stages of seeking a city ordinance to separate smoking and nonsmoking tenants.

Beth Miller, a 52-year-old chef, moved into her high-rent, high-rise Santa Monica apartment three years ago because "I love where it is. Right at the beach."

An asthmatic, she made sure to check with the leasing company that none of her neighbors smoked. But the neighbor whose patio adjoins hers regularly smokes cigars, and two neighbors below her smoke cigarettes. The patio sliding door is her only source of ventilation on hot days. She said she had spoken to her neighbor and complex managers numerous times, with no success.

"I know it's huge to ask people to move, or not to smoke," she said. "But I think if we could change the floors to smoking and nonsmoking, it would work," she said. Santa Monica elected officials did not respond to requests for comment.

Thousand Oaks officials passed a law last year requiring separate smoking and nonsmoking areas in low-cost housing projects receiving city money. Schiller said all public housing projects should do the same. She said nearly 300 private apartment owners had notified her office that they rented smoke-free buildings or areas. She said not renting to smokers was legal and was also reducing cleaning costs for owners.

Although there is a booming market for nonsmoking rental units, "it's tough to enforce," said Shari Rosen, head of the 1,000 member Rental Housing Owners Assn., covering the San Fernando Valley and Ventura. She said cities often made it hard to evict tenants, even if a ban on smoking was written into a lease.

Many experts say increasing public awareness about the dangers of secondhand smoke is the single best tool for change. In the early 1990s a tremendous public outcry led to the passage of the California Smoke-Free Workplace Act in 1994. Most people waiting at a busy bus stop in downtown Riverside recently said smoking should be banned wherever possible, except perhaps in one's own home. Smoking is already forbidden on public transportation, so smokers regularly use bus and rail stops for a last-chance puff, locations that many would like made smoke-free zones.

"There's a lot of elderly people and a lot of kids with asthma that ride the bus, and they don't need to be around smoke" while waiting, said Regina Moffit, 43. She thought ATM lines were fair game too.

But smokers were incensed.

"I think it's ridiculous," said Amy Dunne, 30, a pack-a-day smoker who said she always stands off to the side at a bus stop, "away from the crowd," when she lights up. She sees regulating it in open air as an infringement on her rights. "They might as well just ban it everywhere," she said.

But even the fiercest activists are not advocating outlawing nicotine completely.

Referring to the outlawing of alcohol in the 1920s, Schiller said, "Remember Prohibition? It didn't work."

## **Fresno Co. may take over dairy screening** **Economic, pollution issues point to broad perspective.**

By Mark Grossi / The Fresno Bee  
Monday, February 6, 2006

Fresno County is taking a longer look at proposed new dairies with thousands of animals that daily create tons of manure.

Supervisor Judy Case last week said it is time to talk about environmental screening for the industry. Recent growth includes the 3,200-animal Van Der Kooi Dairy being built near Riverdale and the Bar 20 Dairy, west of Kerman, which is expanding to 6,000 animals.

Case noted that Fresno County is the only county in the San Joaquin Valley without a screening process for large, new dairies.

"It's an important thing to look at," she said.

In the past, Fresno County has not had nearly as many dairy animals as Tulare, Merced or Kings counties. So officials felt in-depth environmental reviews by the county were not necessary for dairies on property zoned for agriculture.

But with a handful of large dairies locating in Fresno County and others possibly on the way, Case said it is wise to study such reviews.

Environmental screening for large dairies currently falls to the regional air district. Recent state law requires the air agency to regulate agriculture; large dairies are considered a significant source of air pollution.

But the San Joaquin Valley Air Pollution Control District's focus is air quality — not a full spectrum of water quality, endangered species, traffic and other concerns.

The air district might not be the best choice to lead an inquiry on large dairies, said David Crow, executive director of the San Joaquin Valley Air Pollution Control District.

"I think it is more appropriate for local government, specifically a county, that has more far more detailed understanding and facts to weigh decisions, including the economy and jobs," he said.

Dairy industry officials have discussed the subject, too. Dairy owner Steve Nash of Selma said there is interest in having the county lead such an environmental review.

"We're looking at how other counties are doing it," said Nash, who also represents the Fresno County Farm Bureau. "We need to all work together in this county to make it work."

Up to 50,000 more cows are planned to join the 185,000 dairy animals already in Fresno County, which has the third-highest dairy growth in the Valley.

By comparison, Tulare County has almost 900,000 animals and dozens of applications for new operations.

But in Fresno County, dairy owners can locate in agricultural areas without a special county permit — a policy known as building "by right."

Other counties dumped that concept and began to require more involved environmental review as the dairy industry boomed. These counties now take an active role in preventing manure from polluting water, fouling the air and creating a nuisance with swarms of flies.

Now Fresno County is considering the same move.

"In the past, it was reasonable to have the by-right policy," Case said. "But there is a huge transformation going on in the industry."

Many dairies are moving from contaminated areas of Southern California into the Valley. Fresno County's dairy animal population has grown 21% in the past three years.

The county needs a broad, lengthy environmental study to understand the industry growth and the impacts inside the county line, Case said.

The regional air district became involved in agricultural air regulation when Senate Bill 700 was approved in 2003. But the agency is ill-equipped for leading the screening of dairies, executive director Crow wrote in a letter to the county.

The agency would have to decide whether economic gains from a large, new dairy outweigh the risks of the additional air pollution. The latest research shows dairies are among the largest sources of smog-making gases.

Wrote Crow: "This has put the district in a position where its dual role as an air pollution agency and a de facto land-use agency conflict severely."

## **Air Board Targets Rail Yards' Idling Threats**

**Southland officials move to limit the time trains can sit running unattended, spewing diesel fumes into nearby neighborhoods.**

By Marla Cone, Times Staff Writer

LA Times, Saturday, Feb. 4, 2006

Denouncing a controversial state agreement with railroads, Southern California's air-quality board Friday unanimously adopted two rules designed to protect people living near the Los Angeles Basin's massive rail yards from fumes spewed by idling freight trains.

Beginning in August, the four freight railroads operating in Los Angeles, Orange, San Bernardino and Riverside counties cannot allow unattended trains to idle more than half an hour in many cases and the railroads must keep records of idling trains.

In recent years, the South Coast Air Quality Management District has received about 300 complaints concerning smoke and odor from trains, including reports of locomotives left idling for hours. Trains are a major source of diesel exhaust, which contains fine soot particles and gases linked to lung cancer, asthma and other diseases.

On Friday, more than a dozen residents of Commerce and other areas near rail yards urged the AQMD board to adopt the rules, testifying about the health threat and odors they regularly

experience near their homes. The rail yards are in or near some of the region's poorest neighborhoods.

But the AQMD's new rules are likely to be challenged in federal court.

Representatives of railroad companies said the rules would obstruct interstate commerce, decrease worker efficiency, cause unnecessary freight delays and require onerous record-keeping. They also said the rules will not reduce emissions because the railroads are already working to comply with a voluntary state agreement for idling trains.

"What they adopted contradicts many of the provisions in a statewide program and thus will interfere with railroad operations and won't clean up the air," said Kirk Marckwald, a spokesman for the Assn. of American Railroads.

The companies regulated under the new rules are Union Pacific Railroad Co., Burlington Northern Santa Fe Railway Co., Los Angeles Junction Railway and Pacific Harbor Line Inc.

Last June, the California Air Resources Board struck a deal with the two largest railroads, Union Pacific and Burlington Northern Santa Fe, that puts fewer restraints on idling trains. The agreement was reached without public input.

AQMD officials and activists called the action a backroom deal that would undermine tougher local pollution controls and they urged the state board to reconsider. But last week, the Air Resources Board voted to stick with the pact.

AQMD Chairman William Burke said Friday that the state's agreement "simply does not go far enough to reduce emissions and protect public health, especially for those living near rail yards."

Environmental groups argued that communities near the rail yards need more immediate, permanent and enforceable relief from toxic train fumes than offered by the voluntary program agreed to by the state and railroads.

Officials from the state air board have said they negotiated the deal because they do not believe they have the legal authority to force the railroads to meet tougher requirements. Because railroads cross state lines, the federal government normally regulates them.

Marckwald would not say Friday whether the railroads intend to sue. But in a letter to the AQMD last month, a railroad industry attorney warned that the new rules would interfere with the railroad operations, which is specifically prohibited by the interstate commerce law.

AQMD attorneys told the board Friday that their review of the Clean Air Act and the commerce law suggests that the local board has the legal authority to adopt more stringent rules.

Under the new AQMD rules, the locomotives cannot idle longer than 30 minutes during crew changes or meal breaks, if they are stopped within the rail yards or queuing up at them, or if they are undergoing maintenance that does not require them to be running. Also, a trailing locomotive - which pulls the train but is not the lead locomotive - cannot idle for longer than 30 minutes if there is a delay or problem on the line.

AQMD spokesman Sam Atwood said idling is "completely unnecessary" under those conditions and that the rule has many exemptions for emergencies, cold weather and other conditions.

In the state pact, railroads voluntarily agreed to end "nonessential" idling, equip locomotives with shut-down devices and take other steps. But, unlike the AQMD rules, it allows idling for 60 minutes and does not require record-keeping.

The state agreement has an "escape" clause that if any local agency passes stricter regulations, the railroads can walk away from the statewide deal.

But Marckwald said Friday that "the railroads are committed.... We don't intend to back out of any element of it at this time."

State air board spokeswoman Karen Caesar said the railroads can comply with the local rules or contest them, but "neither decision will affect our M.O.U." [memorandum of understanding].

"We're hopeful that [the railroads] will stay with the agreement," she said. "Right now they are complying and we're pleased that they have stuck with it."

## **EPA Panel Advises Agency Chief to Think Again**

**Irate scientists say the administrator ignored or misconstrued their recommendations in proposed new rules on soot and dust pollution.**

By Janet Wilson, Times Staff Writer

Los Angeles Times, Saturday, Feb. 4, 2006

In an unprecedented action, the Environmental Protection Agency's own scientific panel on Friday challenged the agency's proposed public health standards governing soot and dust.

The Clean Air Scientific Advisory Committee, mandated by Congress to review such proposals, asserted Friday that the standards put forward by EPA Administrator Stephen L. Johnson ignored most of the committee's earlier recommendations and could lead to additional heart attacks, lung cancer and respiratory ailments.

The Los Angeles Basin, especially the Riverside area, and the Owens Valley in the Eastern Sierra have the worst particulate pollution in the nation. The problem in urban areas is largely attributable to truck exhaust and diesel-powered vehicles; the Owens Valley has major dust storms.

In December, Johnson proposed to slightly tighten the health standards that state and local governments must meet in regulating industries and other sources of pollution. But those standards, governing the smallest and most hazardous particles of soot, were substantially weaker than the scientists' recommendations.

Johnson also proposed to exempt rural areas and mining and agriculture industries from standards governing larger coarse particles, and he declined to adopt the panel's proposed haze reduction standards.

EPA officials are taking public comment on the proposed rules through April and plan to meet a court deadline to adopt final standards by September.

Some panel members called the administrator's actions "egregious" and said his proposals "twisted" or "misrepresented" their recommendations.

"We are obligated to recommend something beneficial to public health," said the panel's longest-serving member, Morton Lippmann, a professor of environmental medicine at New York University School of Medicine.

After a teleconference Friday lasting nearly four hours, the committee members decided to write a letter to Johnson laying out the scientific evidence for their conclusions and urging him to reconsider his proposals.

It was the first time since the committee was established under the Clean Air Act nearly 30 years ago that the committee had asked the EPA to change course, according to EPA staffers and committee members.

"We're in uncharted waters here," acknowledged committee Chairwoman Rogene Henderson, an inhalation toxicologist. She said their action was necessary because "the response of the administrator is unprecedented in that he did not take our advice. It's most unusual for him not to take the advice of his own science advisory body."

Several members said Johnson's proposals incorrectly said the committee had called for eliminating the regulation of coarse particulates for mining and agriculture.

Those exemptions have been lambasted by state and regional air regulators across the nation, including officials from the Owens Valley and elsewhere in California.

Panel member Richard Poirot, an environmental analyst with Vermont's Air Pollution Control Division, said the proposed exemptions were being wrongly attributed to committee recommendations.

In a more conciliatory tone, many members also said that as part of their earlier recommendations they should have communicated more clearly the reasons for their views, praised EPA staffers' hard work and acknowledged that Johnson as the policymaker had the final say.

Johnson was not available for comment Friday. But acting EPA air chief William Wehrum said: "We greatly respect the input CASAC has given us so far. If they choose to give us further input we will ... certainly consider it carefully as we move forward to make any final decision."

He said that the EPA had made "every effort" to explain why it did not follow all of the panel's findings and that it was seeking broad comment on the panel's recommendations as well as the proposed rules.

"The science behind particulate matter is extremely complex, and there's a lot of it out there. We know there's a diversity of opinion," he said.

The California Environmental Protection Agency, the California Air Resources Board, other air-quality regulators and environmentalists have denounced the EPA particulate proposals.

Cal/EPA's air pollution epidemiology chief, Bart Ostro, charged during the teleconference that the EPA had incorporated "last-minute opinions and edits" by the White House Office of Management and Budget that "circumvented the entire peer review process."

He said research that he and others had conducted also had been misrepresented in the EPA's lengthy justification for the proposed new standards.

In an interview later, Ostro said he was referring to marked-up drafts of Johnson's proposals that showed changes by the White House budget office and language that was "very close to some of the letters written by some of the trade associations."

He said the Clean Air Scientific Advisory Committee's seven-year review of data on health risks of particulate matter had been replaced with inaccurate conclusions about the science that could lead to "thousands more deaths," especially from fine particulates that lodge deep in the lungs.

Alex Conant, a spokesman for the White House budget office, would say only that the agency "reviews rules as part of a routine regulatory process" and that the ultimate decision on rulemaking rests with the EPA.

Sen. Barbara Boxer (D-Calif.) wrote to Johnson on Friday afternoon requesting that the EPA provide her with documents related to the EPA's proposed standards, including material showing the agency's contacts with the Office of Management and Budget and with representatives of the mining and agricultural industries.

"These changes benefit mining and agricultural interests at the expense of public health," she wrote.

In a public statement, she added: "The revelation that the OMB has intervened to gut the scientific recommendations is an outrage, but not surprising."

State air regulators have said the EPA's new standards could harm residents in the Owens Valley, the Salton Sea and Calxico regions, and the San Joaquin Valley, as well as visitors to four national parks.

Some California standards for soot and dust are tougher than the EPA proposals. The state can continue to impose those standards, but air officials said federal regulations have more teeth, such as fines for polluters and a loss of transportation funds for state government if pollution levels are not reduced.

The American Mining Assn. has supported the EPA's proposed new rules and says very little dust is generated by industry operations in remote areas.

Dan Riedinger, a spokesman for the Edison Electric Institute, whose members generate about 60% of U.S. electricity, said: "Some vocal CASAC members have made it clear they believe EPA should have swallowed their recommendations hook, line and sinker. But the real issue is whether the agency and its science advisors have adequately considered all relevant research in an effort to reach a fully informed decision regarding new health standards. The answer is no."

He said that the EPA had already identified nearly 200 new studies on particulates since the scientific panel reviewed data four years ago and that "a complete review of the scientific literature and regulations already in place suggests that tightening the fine particle standard at this point isn't necessary."

"In addition to giving crucial studies short shrift," he said, "EPA's proposal fails to reflect dramatic air-quality improvements made in recent years and additional improvements underway."

EPA staffers told the panel Friday that they were gathering new studies to evaluate before a final decision was made. Karen Martin of the EPA's Office of Air Quality Planning and Standards said there would not be time for the panel or public to comment on the EPA's future findings on the new studies before the rules were finalized.

## **Riverbank officials to consider 3 plans for growth**

### **Part of process to decide where housing will go**

By INGA MILLER - BEE STAFF WRITER

Modesto Bee, Saturday, Feb. 4, 2006

RIVERBANK — Future Riverbank neighborhoods could pave into the city's greenbelt. Or, they could pack in tight to avoid agricultural land. They also could cluster around shopping, pathways and public transportation.

Three competing concepts for the city's future invite images of what Riverbank would look like in 2025. The plans go to officials for the first time Monday when the City Council and Planning Commission will be asked to pick one — or mix them into a hybrid.

The selection is a midstep in designing a new general plan for the city. If approved by the county's Local Area Formation Commission, the plan will determine where houses can be built and offices opened for the next 20 years.

One of the three proposals would call for zoning allowing houses on 764 acres of walnut orchards that The Grupe Co. wants to turn into a residential community. The Stockton-based home builder put up the \$423,870 cost of the general plan. The arrangement is set so all developers who get to build as a result of the plan eventually pay. Grupe has said it would like its community to one day house 7,000 to 8,000 people.

The second alternative would allow Grupe to build single-family houses over about half of the acreage they have an agreement to purchase. Houses on the rest would have to be more spread out, "rural" housing with half-acre minimum lots.

The third alternative would allow even rural homes only on half the land, with the rest staying agricultural.

### **Expands city's sphere of influence**

To the east, all three alternatives would extend the city's sphere of influence to Richardson Road in what is commonly known to be rural Oakdale. By doing so, it also would take over a fraction of a 10-year buffer the two cities agreed to in 2001 meant to encourage agriculture.

"It sounds like we need to get together with them and talk about it," Mayor Pat Kuhn said. "It was strictly a gentlemen's agreement, but each council agreed to try to keep an agricultural corridor between the two communities because we didn't want Oakdale and Riverbank to grow together the way Modesto and Ceres did."

It blocked off an area from Crane Road at Oakdale's western edge west to Adams Gravel Road then jigsawing to Snedigar Road, Mesa Drive and Eleanor Avenue east of Riverbank.

But the county never agreed to the arrangement, leaving a loophole where that agency could still approve housing there, City Manager Rich Holmer said.

"Any property owner, with the county's approval, could build," he said. He noted the proposals at this time are just that, proposals.

### **Protecting ag land at city's edges**

All of the plans call for keeping the city's future outermost border agricultural, if only slightly by about a quarter of a mile at the slimmest point. That includes most of the area in question.

"I don't see that we're infringing on the area that would be considered a separator, if one of our proposals goes into that zone," he said.

Two neighborhood groups have taken up the issue of protecting agriculture on the city's environs.

"We know we have to grow," said Karen Mitchell, who with her husband, Kent, has started a conversation in her neighborhood. "But we want the growth to be smart, and for a community of our size, it means smaller projects and slower growth than what we've seen in the last couple of years."

She said they also worry about traffic, air quality and the Stanislaus River.

Builders are just finishing the 1,200-home Crossroads at the southwest side of the city.

ALTERNATIVE 1 — would be a traditional suburban, commuter community, with mostly detached houses in large blocks separated from each other and apartments on big roads. The design would have limited availability of public transit. It is expected to draw more national chains and franchises than the other options. Grupe advocates this plan and says it would allow them to design a community with a public trail along the river, parks, a lake and a golf course.

ALTERNATIVE 2 — would fade the city out at its edges with fewer houses. More smaller-type houses would be allowed, and those neighborhoods would surround even smaller-type homes such as apartments. Shopping and commercial areas would be designed within those areas instead of on large, arterial streets. There also would be an emphasis on making Patterson Road more pedestrian friendly and opportunities for public transit. There would be a thrust on revitalizing the downtown area.

ALTERNATIVE 3 — is similar to alternative 2 but would have more homes closer together. The alternative calls for even more emphasis on downtown and at lays out an even larger agricultural area.

The built part of the city would stay mostly the same. All three of the plans show the area around the Riverbank Army Ammunition Plant and the southern end of the train tracks as industrial and

business areas. Land north and along Patterson Road would be zoned for a mixture of business and houses.

The City Council and Planning Commission meet for the joint session at 6 p.m. Monday at 6707 Third St.

## **EPA panel blasts air-rule changes**

**Federal proposal is ignoring health risks of dust, scientists say.**

By Chris Bowman -- Bee Staff Writer

Sacramento Bee, Saturday, Feb. 4, 2006

The White House has inserted last-minute changes to a proposed national air pollution rule that distort scientific findings on the health effects of breathing dust, according to a panel of independent scientists that advises the Bush administration.

The federal Clean Air Scientific Advisory Committee said the effect of the administration's changes is to cast doubt on key studies that link fine-particle pollution to heart disease, strokes, asthma attacks and shortened lifespans, or "premature deaths."

The committee also said Friday that the administration misrepresented the panel's view on dust pollution in rural areas to support an exemption for mining and farming.

The revisions, penned by officials at the White House's Office of Management and Budget, were made in December, shortly before the U.S. Environmental Protection Agency released the proposal for public comment. The panel of prominent air-pollution experts raised their objections to the changes in a public teleconference Friday.

A majority of the advisory committee had recommended that the limits be tightened on annual exposure to fine particle pollution - mainly dust and soot from human activity.

Scientists on the panel and other experts, including those with the California Environmental Protection Agency, have said the preponderance of health studies show that tens of thousands of lives could be saved each year by moderately tightening the limits.

But EPA Administrator Stephen Johnson decided that the current limit should be retained and that the standard for coarser airborne particles be dropped altogether in rural areas.

In issuing the proposal a few weeks ago, Johnson said, "The evidence to date does not support a national air-quality standard that would cover situations where most coarse particles in the air come from sources like windblown dust and soils, agricultural sources and mining sources." Following several hours of discussion, the panel decided Friday it needed to send another letter to Johnson reaffirming its position.

Several of the scientists on the panel and others joining in the discussion said they understood the administration has the prerogative to make revisions following scientific review but were at a loss as to the evidence supporting the changes.

Panel member Richard Poirot, a state air quality analyst in Vermont, called the rural dust exemption "a bit unwarranted and egregious."

He said the administration mischaracterized the panel's findings as supportive of the proposed exemption on mining and farming dust.

"We never, that I recall, got into the specific details on coarse particles from the mineral industry," said Poirot, referring to the the panel's health studies review that spanned seven years.

"The administration at the very least needs to provide evidence on why it is eliminating coarse particle protection in nonurban areas."

The White House issued a two-sentence response Friday saying the changes were "part of the routine regulatory process."

EPA officials are taking public comment on the proposed rules through April and plan to meet a court deadline to adopt final standards by September.

In proposing the rural rollback, supported by the mining and cattle industries, the EPA took the unprecedented step of setting a different level of clean-air protection for some Americans than for others.

The daily limit on the amount of particle pollution in urban areas - mainly from vehicle and industry exhausts - would be tightened while the restrictions and air monitoring for particle pollutants in rural regions would be removed.

In Friday's meeting of the agency's scientific advisers, one of Cal-EPA's top air pollution scientists said many of the administration's revisions to the proposal "misrepresent" the scientific consensus on the studies and "overstate" the margins of uncertainty.

"After years of vetting the science ... in an open forum, the last-minute addition of edits and opinions by OMB and others circumvents the entire review process," said Bart Ostro, chief of Cal-EPA's air pollution epidemiology unit."

In at least one instance, Ostro told The Bee, the OMB lifted, practically verbatim, written comments by the National Cattlemen's Beef Association that criticized a key study he conducted on the coarser dust particles near Indio and Palm Springs.

The study, published in 2000 and updated in 2003, found a strong link between mortality and the levels of particle pollution in the region.

"This study has been through a lot of scientific peer review," Ostro said. "Then, suddenly, they say I needed to have more years of data."

The American Lung Association also objected to the administration's rewrite, saying it "distorts the (EPA) staff scientists' and this committee's interpretations of key scientific studies," Deborah Shprentz, a consultant to the association, told the committee.

"Who are these folks, and why are they more credible than the leaders of our nation's leading air pollution research centers?"

## **Oxnard's ash piles just 'big, fat lie'**

By Gretchen Wenner, Californian staff writer  
Bakersfield Californian, Saturday, Feb. 4, 2006

State toxics officials say the hilly, gray piles of ash at a sludge farm outside Wasco are hazardous waste, Kern County officials announced Friday. In response, Kern ordered the city of Oxnard -- which owns the 1,300-acre site -- and the trucking firm that operates it to immediately stop using the ash to process Oxnard's sewage sludge. Kern also ordered Oxnard and the trucking company to get the ash off the land.

Classification as hazardous waste means the ash will be subject to strict state disposal laws.

In a letter dated Jan. 25, the state Department of Toxic Substances Control notified three participants they have illegally handled hazardous waste. The letter went to Oxnard wastewater managers, trucking firm U.S.A. Transport Inc. in San Bernardino County and BP West Coast Products LLC, an oil refinery near Los Angeles that produces the ash.

"The current and past management, transportation and disposal of the fly ash as nonhazardous waste is in violation" of the state's hazardous waste law, the letter from the department's top lawyer, Timothy Swickard, said.

The trucking firm doesn't have the required state license to haul hazardous waste, the letter says, nor is the Wasco operation an authorized storage or disposal operation. The BP facility, as well, fails to meet requirements for hazardous waste generation.

The state's letter told operators to take the material "without delay" to an authorized hazardous waste facility. It also requested records dating back to Jan. 1, 2000 within 30 days.

High pH levels -- the ash scored above the "hazardous waste" threshold of 12.5 -- mean the ash is extremely caustic, or "basic." Levels run between zero and 14, with 7 the neutral point. Levels below 7 become increasingly acidic.

Oxnard officials, who at a town hall meeting in Wasco last June insisted the material was safe, said Friday they're meeting with the state early next week to argue its findings.

"We think it is reasonable ... for the state to at least entertain the idea" the ash is "OK to use," said Mark Norris, Oxnard's wastewater superintendent.

The fly ash scored just barely over the limit at about 12.6, he said.

In a phone interview, he referred to the hazardous waste classification as a "perceived issue."

"We're not talking about a toxic material," Norris said.

Gary Leslie, president of U.S.A. Transport, had little to say.

"First of all, it isn't fly ash," Leslie said when reached on his cell phone. "Second of all: Nope, I don't have a comment."

In a letter faxed Friday to county environmental regulators, the trucking company said it will now use lime to treat sewage at the Wasco site.

As with fly ash, the high-pH lime creates heat when it comes into contact with moisture in the sludge. The reaction boosts temperatures in the mixture between 180 to 190 degrees.

The heat theoretically kills pathogens and bacteria in the sewage sludge, which is then spread on farmland. Crops are typically sold to nearby dairies as feed for nonlactating cows, operators say.

Both U.S.A. Transport and the BP oil refinery have come under past scrutiny.

The trucking firm was searched by the FBI under a federal warrant Aug. 8. Whether the search had any relation to the Wasco operation is unclear, as details of the raid were not released.

U.S.A. Transport violated county rules by hauling about 72,000 tons of ash to the Wasco site, well above the 16,800 allowed, county planners said last year. The company was operating an unlicensed side business, planner said, selling the ash to farmers as a soil amendment.

The BP facility last March agreed to an \$81 million settlement over numerous air pollution violations tallied across more than a decade, according to Associated Press reports.

### **Long time coming**

The moonlike ash piles about eight miles northwest of Wasco city limits have long bothered city officials --who have no jurisdiction over the site -- but who nevertheless felt it posed a health risk to residents there.

"Now we know the truth," said Wasco City Councilmember Cheryl Wegman Friday, at a news conference held by state Sen. Dean Florez, the Shafter Democrat.

Oxnard representatives had insisted the ash was benign at a town hall meeting in Wasco last June. The meeting, pulled together by Wasco City Councilman Larry Pearson, included state water regulators, Kern environmental regulators and Oxnard officials.

Norris, Oxnard's wastewater superintendent, said at the June forum the substance was "synthetic gypsum" made of harmless calcium sulfate.

A consultant for Oxnard, Boris Pastushenko, added the product had "been tested extensively by lots of prominent scientists."

Florez, who in recent months spearheaded an upcoming local ballot initiative banning sludge spreading in Kern, had harsh words about those earlier comments Friday.

"What we got from the city of Oxnard was just a big, fat lie," Florez said.

### **Cleaning house**

Last July, Oxnard officials provided state paperwork showing the ash contained between 40 percent to 100 percent caustic materials that can burn eyes, nasal cartilage or an esophagus and fill lungs with fluid.

Still, the piles sat.

In September, county planners -- using only a code-compliance violation based on excess ash storage at the site -- got Oxnard and the trucking firm, U.S.A. Transport Inc., to agree to whittle the piles down. Some material has been taken to Fresno County.

Kern County Supervisor Ray Watson, whose district includes the site, said the county environmental health department has been "very responsive" about the issue, working with state investigators over many months.

Watson also said the site does not pose any imminent danger to nearby residents.

Oxnard bought the land in 1995, real estate records show, and has been trucking its sludge there since around that time. In 2004, the city brought about 53,000 wet tons of residential and industrial sewage sludge to the farm.

About a third of the state's sewage sludge is shipped to Kern County. More than 450,000 wet tons were trucked over the Grapevine in 2004, mostly from the city of Los Angeles -- which owns a sludge farm south of Bakersfield -- and the counties of Orange and Los Angeles.

### **Controlled burn planned for Panorama Heights**

By Valerie A. Avalos / The Fresno Bee  
Friday, February 3, 2006

This month firefighters will burn about 75 acres in the Panorama Heights area of Sequoia National Forest to reduce the risk of wildland fires around homes and communities this summer.

The first burn will occur Feb. 13, pending weather conditions, said Denise Alonzo, public affairs specialist with the Sequoia National Forest Agency. The burns will be done on the Tule River and Hot Springs Ranger districts in the Giant Sequoia National Monument.

Piles of small trees and brush will be used to fuel the fires. The trees were cut when the plantations were thinned to reduce the risk of a catastrophic fire. The controlled burns will create a wide gap between homes and the forest, Alonzo said. This gap helps slow down fires and potentially stop them from reaching homes.

"It helps to slow it down so you can get it back under control. It's much easier to fight fire on the ground than if it's 15 feet [in the air]. We like to bring it down to a level where we can fight the fire and be effective," Alonzo said.

It will take about two days to ignite all of the brush piles, and firefighters will have to monitor the fire for at least a week, Alonzo said.

The burn is the only one scheduled for this district of the forest in the near future, Alonzo said. If the area gets a significant amount of rain before Feb. 13, the burn will be postponed.

Forest officials are working with the San Joaquin Valley Air Pollution Control District to determine when to schedule the burns, said Brenda Turner, public information representative with the district's southern regional office.

Turner said the air quality must be fair to good to approve the burns.

"We are not going to add any more particulates or pollutants to the air than people can handle," Turner said.

People who live near the areas of the burns are encouraged to keep their windows closed and to stay inside their homes as much as possible to prevent breathing debris. Also avoid strenuous outdoor activity, Turner said.

"[They should stay indoors] especially if they have asthma, bronchitis or are children. Children breathe more into their lungs than adults do. It's also good to keep elderly people inside," Turner said. "And if you are used to jogging, you will probably want to limit that activity. It's up to the individual."

## **Briefs**

In the S.F. Chronicle, Friday, February 3, 2006

DIAMOND BAR, Calif. (AP) - Southern California's smog-fighting agency adopted new rules aimed at curbing fumes from idling trains at rail yards.

Beginning in August, locomotives at freight yards in Los Angeles, Orange, San Bernardino and Riverside counties cannot idle for more than 30 minutes, in most cases.

The South Coast Air Quality Management District said that in recent years it had received about 300 complaints of smoke and odor from the trains, which are considered a significant source of diesel exhaust.

The new rules will affect four railroads: Union Pacific, Burlington Northern Santa Fe, Los Angeles Junction Railway and Pacific Harbor Line.

However, the rules could face a court battle because their requirements are more stringent than a pollution control agreement reached last year between the state Air Resources Board, Union Pacific and Burlington Northern.

"What they adopted contradicts many of the provisions in a statewide program and thus will interfere with railroad operations and won't clean up the air," said Kirk Marckwald, a spokesman for the Association of American Railroads.

AQMD Chairman William Burke said Friday that the state's agreement "simply does not go far enough to reduce emissions and protect public health, especially for those living near rail yards."

## **New EPA Soot Limits Faulted by Scientists**

By John Heilprin, Associated Press Writer

In the S.F. Chronicle, Saturday, Feb. 4 and Washington Post, Feb. 3, 2006

WASHINGTON, (AP) -- The Environmental Protection Agency's proposed regulations on soot were criticized Friday as too weak by scientists advising the agency and as too politicized by health advocates and Democrats.

Rogene Henderson, a biochemist and toxicologist who chaired the EPA advisory panel, and Dr. Frank Speizer, a Harvard University professor and panel member, said in a telephone conference that the science supports tougher standards than EPA chose.

Henderson said the panel's continuing protest of that decision puts it in "uncharted waters" opposing EPA.

Other air pollution experts and advocates complained of last-minute tinkering by the White House Office of Management and Budget. Bart Ostro, chief of California EPA's air pollution epidemiology unit, said

OMB officials circumvented a scientific peer-review process.

Deborah Shprentz of the American Lung Association said OMB distorted the way in which EPA staff scientists and the review panel's experts interpreted key studies.

OMB spokesman Alex Conant said the White House office reviews rules as part of the routine regulatory process but added, "The ultimate decision on rulemaking rests with the individual agencies."

Separately, Sen. James Jeffords, I-Vt., and eight Democratic colleagues sent a letter Friday to EPA Administrator Stephen Johnson saying EPA held improper secret meetings and should have chosen tougher health-based limits on soot because they are the cornerstone of the Clean Air Act.

"The level of the standards proposed by EPA will leave millions of Americans unprotected," the senators wrote. "Playing politics with public health is unconscionable."

The proposed standards deal with fine pollution particles smaller than 2.5 micrometers — one-30th the diameter of a human hair — which lodge in people's lungs and blood vessels. The EPA said in 1997 that cutting fine-particle pollution would save 15,000 people a year from premature deaths due to heart and lung diseases aggravated by soot-filled air.

EPA officials said the review was run appropriately and smoothly, and that Johnson simply was unconvinced there was evidence to support a more stringent standard.

Bill Wehrum, EPA's acting assistant administrator for air and radiation, told the advisory panel Friday that the agency "places great importance on your role."

Johnson said in December that his decision was based on "the best science available." An EPA staff paper said it would result in 22 percent fewer premature deaths in nine cities.

EPA proposed in December cutting by roughly half the allowable particulate emissions from smokestacks and tailpipes. The advisory panel said they should be cut slightly more.

## **Groups Prod EPA for New Diesel Controls**

By John Heilprin, Associated Press Writer

In the S.F. Chronicle and New York Times, Friday, February 3, 2006

WASHINGTON (AP) -- Trains and boats powered by diesel-fueled engines cause about 4,400 premature deaths, nearly 5,700 nonfatal heart attacks and more than 73,000 asthma attacks in children, says a study by associations representing air pollution control officials.

The study by the trade groups — the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials — is an attempt to prod the Environmental Protection Agency to make good on its promise of new regulations.

"These are among the largest and most dangerous under-regulated sources of pollution in the United States," Bill Becker, the executive director for both groups, said Thursday. "It is within EPA's power to avoid most of these premature deaths as well as most of the other adverse health consequences." The groups used an EPA formula for calculating health and economic impacts.

The Environmental Protection Agency said almost two years ago it would propose by mid-2005 new emissions standards for diesel-fueled locomotives and marine engines, such as those used in passenger and cargo trains, yachts, fishing vessels, tugboats and ferries. It still has not done so.

EPA officials said Thursday they agreed with the groups that cleaning up fine particle pollution from locomotive and marine sources is an urgent matter, and that they will propose the new regulations later this year.

The agency did issue new regulations in 2000 and 2004 on two other diesel-engine fronts. First it called for cleaner-burning diesel-powered trucks and buses, both improved engines and lower sulfur content in fuel. Then it did the same for off-road farm and construction equipment, and required lower sulfur content in fuel used in locomotives and marine engines.

Allen Schaeffer, executive director of the industry-sponsored Diesel Technology Forum, said requiring new engines in trains and boats to run cleaner would provide benefits, but cleaning up older engines would be more cost effective.

Also Thursday, the EPA missed a deadline for a study on regulating air pollution from lawnmowers and other small engines.

An agency spokesman, John Millett, said the study should be completed next month and that proposed new pollution rules would follow by the end of the year.

Pollution from the small engines that power lawn mowers, chain saws and other machines has been estimated to account for some 10 percent of smog-forming emissions nationwide. The rules originally were due in December 2004, but were delayed pending the results of the study.

### **EPA misses deadline on small-engine emissions study**

By ERICA WERNER, Associated Press Writer

In the San Francisco Chronicle, Fri., Feb. 3 & Fresno Bee, Thurs., Feb. 2, 2006

The Environmental Protection Agency missed a deadline Thursday for a study on regulating air pollution from lawnmowers and other small engines, raising concerns that emissions standards for the high polluting engines, in California and nationally, could be further delayed.

But an EPA spokesman, John Millett, said the study should be completed next month and that proposed new pollution rules would follow by the end of the year. The small engines that power lawn mowers, chain saws and other machines have been estimated to cause some 10 percent of smog-forming emissions nationwide. The rules originally were due in December 2004, but were delayed pending the results of the study.

The six-month study was required under a legislative deal in June between Sen. Dianne Feinstein, D-Calif., and Sen. Kit Bond, R-Mo., who has tried for several years to block stricter small-engine emission rules.

The leading small-engine producer, Briggs & Stratton Corp., has two production facilities in Missouri, and Bond has complained that the cost of making less-polluting engines could force production overseas.

Bond argued that the catalytic converters that would be added to outdoor power tools to make them cleaner could be a fire hazard — something environmentalists disputed — and attached language to the Interior Department spending bill last year requiring a costly and open-ended study of the issue. After objections from Feinstein, who's trying to clear the way for California to institute its own clean-engine rules, he agreed to a more controlled six-month study.

Millett said Thursday that the study has not found safety problems.

"In my view this always has been the special interest of one company. That one company is Briggs & Stratton," Feinstein said. "And I know pressure has been put on EPA. My only hope has been that EPA could withstand that pressure."

California air regulators estimate that without the regulations, gasoline engines smaller than 50 horsepower will account for an extra 70 tons per day of smog-forming emissions in 2010 — the equivalent of adding 2.4 million cars to California roadways. California officials face a federal deadline that same year to reduce smog.

Once the safety study is complete EPA can write a national rule for small engines, and also move forward to grant California a waiver to implement its own small engine regulations, something the state wants to do by next year.

"It is very disturbing that EPA is late with this report because small engines are a very significant source of smog in the summer and we're concerned that there will be continued political pressure from Sen. Bond and others to block any attempt to clean up these engines," said Frank O'Donnell, director of the environmental advocacy group Clean Air Watch.

[Modesto Bee, Editorial, Monday, Feb. 6, 2006](#)

### **Does the administration fear scientist, or the truth about climate change?**

By trying to intimidate scientists, the Bush administration is doing a great disservice to the American people and the world.

NASA has tried to silence and bully James E. Hansen, director of the global-climate computer simulation at NASA's Goddard Institute for Space Studies. He is a world-renowned authority on climate change and its relation to energy use. Hansen has told the press that NASA headquarters ordered its public affairs staff to review his lectures, papers and requests for interviews after he urged the United States to take the lead in reducing carbon emissions at the annual meeting of the American Geophysical Union in San Francisco.

An agency spokesman said government scientists are free to discuss their findings, but they are not allowed to make policy statements.

Such a rule could make sense on some occasions; this is not one of them. Hansen's view is hardly controversial in the scientific community or anywhere else in the world — except 1600 Pennsylvania Ave. Even if it were, so what? If government experts cannot address such issues, how can the public and lawmakers have an informed debate?

The agency says it is concerned that the public could think the scientists are speaking for the agency. But Hansen has been speaking and writing for years. He is careful to include disclaimers, saying in October 2004: "The opinions and interpretations that I express today are my personal views. I am a government employee, but ... the views I present have no official sanction."

So what is the Bush administration afraid might get into public discourse?

Hansen notes that warming of more than 1 degree Celsius would make Earth warmer than it's been in 1million years. Yet he predicts warming of 2 to 3 degrees Celsius in this century if carbon dioxide emissions continue apace, creating "practically a different planet."

Hansen believes we can get carbon dioxide growth rates to level off and even decline by sequestering power plant emissions and making more efficient cars. First, automakers would have to "stop opposing efficiency requirements" and "stop pressuring lawmakers to oppose efficiency."

Hansen believes the United States is not leading because special interests wield undue influence. The attempts to muzzle him prove the point.

Six former heads of the EPA — five Republicans and one Democrat — have already called for limits on greenhouse gases. They said the administration's policy of voluntary reductions and relying on technological innovation fails to recognize the urgency of the threat. The only threat this administration recognizes is from the people smart enough to tell the truth.

[Bakersfield Californian, Letter to the Editor, Friday, Feb. 3, 2006](#)

### **Quality of life harmed**

Frequently we read in The Californian comments about local air quality in relation to "no burn restrictions," dairies, agriculture, construction and efforts by the city and county to make improvements.

However, there is one pervasive activity occurring daily which affects air quality, the appearance of Bakersfield's streets and the comfort of some residents.

It is that of gardeners blowing off yard debris from property they are being paid to clean. This debris ends up on city streets, neighbors' yards and the resulting dust in the air. Using the blowers to clean inside their work area, picking up and removing the accumulated trash onto city streets and other properties is not understandable and should be stopped.

-- SHIRLEY HOOVER, Bakersfield