

## **Smoking deemed pollutant**

### **State's decision could spur bans**

By Kerry Cavanaugh and Josh Kleinbaum, Staff Writers  
LA Daily News, Friday, Jan. 27, 2006

Secondhand smoke isn't just nasty, it's a toxic air pollutant, California air-quality regulators declared Thursday, clearing the way for tough new rules on smoking in public and private.

The unanimous decision by the California Air Resources Board was spurred by new research linking tobacco smoke to premature births, asthma and respiratory infections in children and breast cancer in premenopausal women. Activists say it could help resurrect proposals to ban smoking in cars when children are present and limit smoking in apartment complexes.

"The ARB's action rightfully puts secondhand smoke in the same category as the most toxic automotive and industrial air pollutants," said Joan Denton, director of the Office of Environmental Health Hazard Assessment. "Californians, especially parents, would not willingly fill their homes with motor-vehicle exhaust, and they should feel the same way about tobacco smoke."

Tobacco smoke contains fine particles that reach deep into the lungs and thousands of gases, from arsenic to benzene to formaldehyde. Scientists blamed secondhand smoke for 4,000 deaths each year in California from lung cancer or heart disease alone.

Although California is the first state to label tobacco smoke as a toxic air contaminant, the decision will not immediately affect smokers. But officials will have to determine whether existing public-education campaigns and rules on smoking adequately protect people from secondhand smoke.

They are expected to report back to the ARB in three years.

Public health officials will likely consider limits on smoking in multifamily housing, where smoke from one unit can waft into neighboring units. The state's move could empower people who are bothered by tobacco smoke.

"It strengthens the ability of people who are affected by secondhand smoke to complain and get help," said Dr. Jonathan Fielding, Los Angeles County's director of public health.

"Smokers have rights, too, but those rights shouldn't include making other people sick through involuntary exposure to secondhand smoke."

R.J. Reynolds spokesman David Howard said regardless of the dangers from passive smoke indoors, no research supports regulators' decision to declare it an air pollutant.

"No studies exist that show that exposure outdoors leads to any increased risk of tobacco-associated illness," he said.

The state decision bothered some smokers who wondered aloud when and where they'll be able smoke in the future.

"I think they're just trying to get everyone to quit smoking, trying to put the tobacco business out of business. Eventually, we're going to have to quit," said Randy Stalker, 43, of Corona, mingling with other smokers outside the Van Nuys Courthouse.

"There's a lot of other things outside worse than smoking. Going down the freeway with your windows down is worse than secondhand smoke."

Canoga Park resident Tommy Cheung, 28, questioned the prospect of more restrictions, particularly if more cities follow the example of Calabasas, which is considering prohibiting smoking in public places where smokers and nonsmokers co-mingle.

"It's kind of an invasion of privacy. More restrictions, that's fine; I can live with that. I can go down the street and smoke. But saying I can't go outside a building to smoke, that's too far," Cheung said.

"It's like violating freedom. Unless they ban tobacco altogether, make it like marijuana, that's too far."

*The Associated Press contributed to this report.*

## **Secondhand smoke toxic air contaminant**

### **State Air Resources Board vote paves way for possible new limits on tobacco use**

Jane Kay, environment staff writer

S.F. Chronicle, Friday, Jan. 27, 2006

California regulators became the first in the nation Thursday to designate secondhand tobacco smoke as a "toxic air contaminant," a move that could lead to new city and state laws and educational campaigns directed at smoking parents.

The state Air Resources Board voted to target environmental tobacco smoke on the basis of studies that link other people's smoke to increased cases of breast cancer, heart disease, asthma and reproductive problems among nonsmokers.

The designation, adopted 6-0, places secondhand smoke in the same category as the poisons arsenic and benzene. About 200 chemicals are on state and federal lists.

No representatives of the tobacco industry or the smoking public testified against the designation, which was recommended by the state's Office of Environmental Health Hazard Assessment, the agency that evaluates the health effects.

The American Lung Association spoke in favor of it.

The smoke contains hundreds of harmful compounds, including carcinogens. Each year, California smokers put into the environment 40 tons of nicotine, 365 tons of small particles of pollution and 1,900 tons of carbon monoxide.

"There's no mystery about the source of the smoke," said Dimitri Stanich, an air board spokesman. "That's the individual lighting up a cigarette, a cigar or a pipe."

But now state health officials have to determine the greatest sources of exposure to an unsuspecting public and how to reduce them, he said.

The immediate effect of Thursday's vote is to spur an on-the-ground investigation by a team of state engineers, biologists and environmental health scientists. They'll look into the most common, real-life situations where tobacco lovers blow smoke outside buildings, in parks, on beaches and at public events.

Some San Francisco workers say secondhand smoke is a big problem. Helen Perez, a legal secretary who works in San Francisco's financial district, said it's clear that the areas outside office buildings create huge concentrations of smoke.

"When we nonsmokers leave or enter our office buildings," she said, "we have to hold our breath or cover our mouth and nose in order to get through these areas."

After the state scientists complete their investigation into the smokiest locales, they'll write a report for the air board. Public hearings, which could be contentious, will follow. The air board will adopt a report, which could recommend new state legislation or plans to work with municipalities to expand their ordinances.

One challenge will be designing an educational campaign geared toward protecting children in homes and cars from family members who smoke, air board representatives said. The California Department of Health Services has an outreach program for parents, which could be expanded with additional funds based on the state's investigation, air board representatives said.

Former Assemblyman Marco Firebaugh, D-Los Angeles, who is running for the state Senate, had tried unsuccessfully to get a bill passed that would prohibit adults from smoking in cars carrying young children.

"This new report reaffirms many of the adverse health effects associated with environmental tobacco smoke, especially in children who live in homes where smoking occurs," said Dr. Robert Sawyer, air board chairman.

"It also raises new concerns about its effects on women," Sawyer said, referring to studies that connect smoke in the air to increased incidence of breast cancer in young, non-smoking women.

State laws now prohibit people from smoking in workplaces, including restaurants and bars, and in most state buildings. Smoking is banned within 25 feet of state buildings, including those on college campuses.

Marissa Maciel, academic support coordinator for the environmental studies department at UC Santa Cruz, said the air board's action gives her hope that the campuses will one day have a smoking ban.

"All too often I have to walk through a cloud of smokers to get to my office, or have the smoke come into my office from outside where smokers linger near air intakes. It's a job hazard that I do not appreciate," she said.

Cities and counties in California have passed their own stricter laws. San Francisco adopted a no-smoking ordinance in city parks. San Mateo County doesn't allow smoking within 30 feet of any county building.

Berkeley prohibits smoking at outdoor cafes and in sports arenas, and the Giants and the Oakland A's ban smoking inside their parks.

"We're trying to get control over secondhand smoke," said Linda Civitello-Joy, CEO of the American Lung Association of San Francisco and San Mateo counties.

She's been talking to community leaders in an attempt to get them to declare their events smoke-free. The Fil-Am Festival in Daly City and the Fog Fest in Pacifica are on her list.

"Lots of people are crowded together," she said, "and there are lots of children."

### **More Limits on Smokers Possible**

State air board declares secondhand smoke a toxic air contaminant. Now it can decide that there are enough health rules, or make more.

By Janet Wilson, Times Staff Writer  
LA Times, Friday, Jan. 27, 2006

The California Air Resources Board voted unanimously Thursday to declare secondhand smoke a toxic air contaminant, opening the door to possible additional regulation of cigarette smokers in coming years.

Banning smoking in cars with passengers, particularly children, was recommended by the lone speaker at the hearing, Paul Knepprath of the American Lung Assn. He also called for smoking bans in hotels, motels and apartment buildings.

Legislation to forbid smoking in vehicles in California has failed in the past, and there are no guarantees the board would take such an action, or even can, said spokesman Jerry Martin.

"Our authority is very limited indoors, so that is something our legal staff would have to research," Martin said. "We do have authority to regulate cars, and some would say that includes inside them."

The board acted after state environmental health regulators found that secondhand smoke causes premature births, breast cancer and other deadly illnesses and respiratory diseases.

The breast cancer finding was the first of its kind by a government agency in the United States, and the state's actions are being closely watched by the tobacco industry, healthcare advocates and other regulators.

Once a substance is declared a toxic air contaminant, the air board is required to separately consider within three years whether additional measures are needed to protect the public.

California is already one of a dozen states that ban smoking in offices and restaurants. Martin said they could decide there was enough regulation of cigarette smokers on the books already or expand some existing local ordinances against smoking at beaches and parks, making them statewide bans.

It could take 18 months for the air board staff to research possible options. Public education programs by the air board and the Department of Health Services will begin immediately, including information about the links between smoking and breast cancer, sudden infant death syndrome and premature births.

### **California becomes first to declare secondhand smoke a pollutant**

By DON THOMPSON, Associated Press Writer

In the Fresno Bee, Modesto Bee, Bakersfield Californian and other papers, Thursday, Jan. 26, and Friday, Jan. 27, 2006

SACRAMENTO (AP) - California became the first state to declare secondhand smoke a toxic air pollutant, putting tobacco fumes in the same category as diesel exhaust, arsenic and benzene because of its link to breast cancer.

The unanimous decision Thursday by the California Air Resources Board relied on a September report that found a sharply increased risk of breast cancer in young women exposed to secondhand smoke. It also links drifting smoke to premature births, asthma and heart disease, other cancers, and numerous health problems in children.

"If people are serious about breast cancer, they have to deal with secondhand smoke. That's what this is all about," said Dr. Stanton Glantz, director of the Center for Tobacco Control, Research and Education at the University of California, San Francisco, who reviewed the science behind Thursday's decision.

"This is a seminal, international document. It's impossible to underestimate what a big deal this is."

The report by scientists at California's Office of Environmental Health Hazard Assessment draws on more than 1,000 other studies of the effects of passive smoke. It blamed secondhand smoke for 4,000 deaths each year in California from lung cancer or heart disease alone.

The most significant new finding is that young women exposed to secondhand smoke increase their risk of developing breast cancer between 68 percent and 120 percent. The disease kills about 40,000 women in the United States each year.

That finding conflicts with a 2004 report by the U.S. Surgeon General. Sanford Barsky, a UCLA researcher writing on behalf of the R.J. Reynolds tobacco company, told the board during previous public comments that the report "either ignores mentioning or does not give the appropriate weight to studies which refute this association" between secondhand smoke and breast cancer.

California scientists say their research is more current than the Surgeon General's report. The California report went through an exhaustive review that delayed its release for nearly a year but ensures it is based on sound research, said Dr. John Froines, director of UCLA's Center for Occupational and Environmental Health and head of the scientific review panel.

R.J. Reynolds spokesman David Howard said regardless of the dangers from passive smoke indoors, no research supports regulators' decision to declare it an air pollutant.

"No studies exist that show that exposure outdoors leads to any increased risk of tobacco-associated illness," he said.

Next, the air board must consider regulatory steps to reduce exposure, a process that could take years.

"This is no longer some crazy, California, Left Coast way of thinking," said Cynthia Hallett, executive director of Berkeley-based Americans for Nonsmokers' Rights. She cited smoking bans that have been enacted or are being considered across the nation and in other countries.

The effect is likely to be greatest outside of California, which already bans smoking in or near most public buildings, including bars and restaurants. Much of the initial effort in California will focus on public education emphasizing the scientific findings and the air board decision, said Paul Kneprath, vice president for government relations at the American Lung Association of California.

The association unsuccessfully pushed legislation in 2003 that would have banned smoking in motor vehicles containing young children, and could try for a similar law next year, Kneprath said.

The association may also push for nonsmoking floors or wings in apartment buildings, much as hotels offer smoke-free areas, Kneprath said.

"People live in apartments all across California who are exposed to secondhand smoke on a daily basis," Kneprath said. "It drifts from a common area or another apartment."

Hallett said that could one day force regulations requiring separate ventilation systems for smoking and nonsmoking apartments.

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On the Net:

Air Resources Board: <<http://www.arb.ca.gov>>

## **Boost for bids to curb smoking**

State becomes first to list secondhand smoke as a pollutant.

By Chris Bowman -- Bee Staff Writer

Sacramento Bee, Friday, Jan. 27, 2006

California became the first state in the country Thursday to place secondhand tobacco smoke alongside tailpipe and smokestack exhausts as a toxic air pollutant and candidate for regulation.

The designation, approved 6-0 by the California Air Resources Board, lends heavy ammunition to public health advocates seeking greater protection, especially for children. It is expected to revive legislative efforts to ban drivers from smoking when children are in their vehicles and bolster efforts to curb smoking in multifamily dwellings.

"We're already pushing cities and counties to set aside some apartment complexes for smoke-free housing," said Paul Knepprath, spokesman for the American Lung Association of California. "This is going to help."

California has pioneered some of the world's toughest anti-cigarette laws that ban smoking in nearly all enclosed workplaces, restaurants, bars and public buildings.

Thursday's action alone does not expand smoking restrictions. It merely identifies secondhand smoke a "toxic air contaminant," on a par with cancer-causing diesel soot, asbestos and lead.

But the listing requires the air board to evaluate whether any measures are needed to reduce exposures. Air board officials, who are more accustomed to setting clean-fuel and engine standards, said they didn't expect to impose any mandates.

"Our greatest role will be education about smoking in cars ... because that is a staggering exposure," said Catherine Witherspoon, the air board's executive officer.

Breathable smoke particles in vehicles ranged up to 10 times higher than those found in some smokers' homes, according to the air board's review of studies.

Putting secondhand smoke in the same category as the most-toxic automotive and industrial pollutants should spur more cities, employers and smoking parents to reduce exposure on their own initiative, said Joan Denton, director of the state Office of Environmental Health Hazard Assessment, which conducted the health-effects analyses supporting the new hazard designation.

"Californians, especially parents, would not willingly fill their homes with motor vehicle exhaust, and they should feel the same way about tobacco smoke," Denton said.

In listing secondhand smoke Thursday, the air board accepted findings by the state health hazard group and university scientists that go further than any before in establishing a link between breast cancer and breathing of secondhand smoke.

The scientists made international news last spring in concluding that exposure to tobacco smoke is not merely associated with breast cancer but clearly can cause the disease in young women who never smoked.

They found, from close review of several recent studies, that exposure to tobacco smoke elevates the risk of breast cancer 70 to 120 percent in young women, primarily those who have not reached menopause. The research on postmenopausal women is inconclusive.

The highest risk group would include women working in bars and restaurants in states where smoking is permitted, said Dr. Stanton Glantz, a professor of medicine at the University of California, San Francisco. Glantz was one of nine university-based California scientists who reviewed the state's smoking studies.

Not all health experts, including those with the American Cancer Society and the U.S. Surgeon General's Office, are as sure about the connection to breast cancer, saying more evidence is needed.

After analyzing thousands of studies from around world, the California scientists added premature birth and the induction and exacerbation of asthma in adults to the list of ills that had already been linked to secondhand or "environmental" smoke, including heart disease and lung and nasal sinus cancer in adults.

The research also found stronger links between secondhand smoke and sudden infant death syndrome and respiratory and heart diseases.

Notably absent from the Sacramento meeting were representatives of the tobacco industry.

"We decline to comment," Mike Neese, a spokesman for Philip Morris USA, told The Bee.

Cynthia Hallett, executive director of the nonprofit Americans for Nonsmokers' Rights in Berkeley, predicted that the California smoking studies, the product of more than a decade of research and peer review, will have far-reaching influence across the United States and abroad.

The report probably will come into play in the current debate over smoking restrictions in Utah and in many towns across the Midwest, Hallett said.

Sawyer, who made his debut Thursday as Gov. Schwarzenegger's newly appointed air board chairman, said he just returned from Ireland, where he learned that the California agencies' tobacco research served as the scientific justification for that country's recent smoking ban in pubs and restaurants.

## **Foes of State Pollution Pact With 2 Railroads Urge Panel to Redo It**

### **Air Resources Board will revisit the deal that activists and residents near rail yards term a sellout. Officials call criticism unwarranted.**

By Deborah Schoch, Times Staff Writer  
LA Times, Friday, Jan. 27, 2006

When a study of the health effects of air pollution at a rail yard in rural Placer County turned up evidence of dramatically high cancer risk from diesel-burning locomotives, air regulators, railroads and residents near rail yards across California were jolted into action.

"It was a bombshell," said Sam Atwood, a spokesman for the South Coast Air Quality Management District, which with 19 freight rail yards in the Los Angeles Basin has the largest concentration in the state.

The 2004 study, the first of its kind in the nation, led to a pact between the state Air Resources Board and the nation's two largest railroads, setting forth a road map for cleaning up rail yards statewide.

But some residents and regulators angrily accused the state of selling out and undermining local control. The pact ignited a firestorm so fierce that it continues to cloud the future of railroad regulation in a state grappling with how to move swiftly to reduce cancer-causing emissions from railroads, trucks and ships.

The state board meets today in Sacramento to take another look at its June 2005 memorandum of understanding with Union Pacific Railroad and BNSF Railway, and some critics hope that board members will rethink their endorsement of it. But representatives of the state and the two railroads say the criticisms are unwarranted.

Among the pact's harshest critics are activists in communities flanking the massive rail yards that spread through some of the poorest areas of the Los Angeles Basin, including Wilmington, Commerce and Colton.

Many Angelenos have never seen those yards, with their acres upon acres of gleaming tracks, cranes and diesel-burning locomotives that haul freight across the United States. Commuters on the 710

Freeway must peer over guardrails and concrete balustrades to glimpse the mammoth yards of East Los Angeles and Commerce.

But residents in the largely Latino neighborhoods nearby say they are all too familiar with the noise, glaring lights and diesel fumes emitted by idling locomotives — fumes that they blame for respiratory problems, children's asthma and cancer. Similar concerns have been raised by neighbors of the burgeoning rail yards in Riverside and San Bernardino counties.

Some have portrayed the back-and-forth as a turf battle between state air regulators and Barry Wallerstein, executive officer of the South Coast Air Quality Management District, who has contended that the pact would undermine his district's efforts to regulate the rail yards in a region with the worst air pollution in the United States. Some state air officials say Wallerstein is purposefully stirring up the fight.

But some activists say that depiction is unfair, and that Wallerstein represents the will of residents.

"It's very insulting to the communities who have been working so hard on railroad issues for the past four years to paint it as some bureaucratic ego trip," said Riverside County environmental activist Penny Newman.

"What some of my neighbors talk about is trains idling right in front of their homes for hours on end, sometimes days on end," said Sylvia Betancourt, a staff member with East Yard Communities for Environmental Justice in Commerce.

And residents feel shut out of the process that led to the state pact, she said.

"We feel like the agency is going to go ahead and do what it wants to do anyway," she said.

In the pact, railroads agreed to end all "nonessential" idling, conduct health-risk studies for major railroads, step up the schedule for locomotives in the state to use cleaner fuel and take other steps to reduce emissions.

The section of the pact most criticized by activists is language stating that if a local air district tries to impose regulations stricter than those in the pact, the railroads no longer have to comply with parts of the pact in that district.

Spokesmen for the two railroads, meanwhile, say they entered into the pact last year as the most effective way to ensure the reduction of air pollution from rail lines and yards throughout the state.

They say the "release clause" is not intended to undermine local control but instead to prevent a patchwork of local regulations. And they question how much authority local districts have to regulate the railroads, which cross state lines and are considered a federal responsibility.

"We can't just have a local air district wreak havoc with interstate commerce," said Mark Stehly, a vice president with BNSF Railway.

BNSF and Union Pacific representatives cite a host of steps they are taking to reduce emissions. Those efforts include replacing old locomotives with cleaner-burning models, using stop-and-start equipment to reduce idling and launching locomotives using such new technologies as truck engines that can be made to burn more cleanly than large diesel locomotive engines.

They say they are taking extremely seriously the results of health studies such as the one conducted in Roseville, northeast of Sacramento in Placer County.

That study grew out of local pressure exerted on Union Pacific, operator of the Davis rail yard, the largest such facility on the West Coast.

Tom Kristofk, air pollution control officer in Placer County, and his staff persuaded the state board to conduct a four-year study of the effects of rail-yard emissions on health. The results stunned nearly everyone. Particles from those emissions were found to blanket a 100-acre area in and around Roseville, significantly heightening cancer risk.

With the clout of that study behind him, Kristofk negotiated a voluntary agreement with Union Pacific to reduce diesel emissions from the Davis yard by at least 10% by 2008.

Now, some wonder if such local agreements will be possible if the state pact is in place.

[Bakersfield Californian, Letter to the Editor, Friday, Jan. 27, 2006:](#)

### **Residents in denial**

In a recent edition, The Californian released the results of a survey on how residents of Kern County perceive the air quality issue. It is appalling to me that so many people here are living in incredible denial that there is a major problem. Nearly 50 percent polled believe that our air quality is fair, good or very good. What planets are these people from? Our air quality is statistically ranked worse than Los Angeles County. That would make our air the worst in the nation.

What appalls me the most, though, is not the evident ignorance of some people in the county, but the arrogance and disregard. Look at the "No Burn Day" debate, for instance. After reading some of The

Californian's Web blog, not only do some people disagree with the mandatory "No Burn Day," some individuals plan on blatantly disregarding the law.

Such contempt of the law is deplorable. Fines should be tripled for a repeat offender.

The "no burn" law seems to me to be such a small price to pay to improve our air quality.

Air quality plays a huge role in the overall quality of life here in Kern County. Poor air quality isn't just an image issue. It's a health issue.

I love this community, but I am saddened by the fact that such a high number of residents care more about their rights than their responsibilities.

We have a responsibility to change our habits for the good of the community. But I guess some would rather choke than change.

-- PATRICK DIETZE, Bakersfield