

## District eyes smog development fee

By MATT WEISER, Californian staff writer

The Bakersfield Californian

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A new rule designed to control the smog caused by sprawl development will be rolled out in a series of meetings this week, including one in Bakersfield on Thursday.

The San Joaquin Valley Air Pollution Control District is in the early stages of developing the "indirect source rule," which aims to reduce air pollution from the additional vehicle trips caused by urban development.

Public input is being sought on how the rule should work.

The rule focuses on housing and commercial development, which lure drivers onto the roads, thus causing air pollution problems. The problems are worse when developments are spread out. A new housing subdivision on the edge of town, for example, causes more pollution by requiring longer vehicle trips. On the other hand, housing built in the city's core near existing schools, shopping and offices causes shorter trips.

The air district has no direct control over pollution emitted by vehicles. But it does have authority to reduce those emissions indirectly by encouraging developers to avoid sprawl, and by assessing a fee on projects that cause excessive vehicle trips.

The rule is expected to be controversial among developers, because it will add hurdles to the development process and, potentially, thousands of dollars to the cost of a new home. But because vehicles are the valley's largest polluter, controlling their emissions by encouraging better urban planning is important, said Dave Mitchell, air district planning manager.

"We do have authority under indirect source rules to provide some mitigation of the emissions themselves. For that reason, it's valuable for us to go after it," he said.

Today's cars are about 90 percent cleaner than those produced a generation ago, but a growing population and longer driving distances have erased some of that benefit. As a result, the proposed rule is considered an important step toward meeting pollution standards under the federal Clean Air Act. Also, SB 709, a new state law drafted by Sen. Dean Florez, D-Shafter, requires the district to adopt such a program.

The rule would consider all aspects of new development.

For instance, a project near the city's center with good access to public transit, bike trails and shopping might not pay any fee. A project on the edge of town that forces residents to drive for all their needs would pay the maximum fee. For projects in between, the fee would be reduced. Mitchell said the rule will give developers an incentive to build better neighborhoods and shopping centers. At the same time, money collected under the program will pay for other smog-reducing projects, such as bike trails and clean-fuel buses.

In Bakersfield, one developer has already agreed to pay a similar fee for a housing project on the Kern River bluffs. In a legal settlement with environmentalists, the developer agreed to pay \$1,200 per home to offset the pollution from vehicle trips caused by the project.

Mitchell said it will be important to create a simple regulation that does not impose excessive burdens on the development process. One option is to allow cities and counties to oversee the program -- and spend the resulting fee revenue -- after the air district adopts the rule.

"We want to make it as streamlined as possible so it doesn't slow down the development process," he said.

A first draft of the rule should be ready for public review by January, with a vote by the air district's board expected in July.

Initial meetings on the proposal will be held at 1:30 p.m. at air district offices on Tuesday in Modesto, on Wednesday in Fresno, and on Thursday in Bakersfield. Kern County residents can participate in any of the meetings by live videoconference at the air district's Bakersfield offices at 2700 M St., Suite 275.

For more information, call (559) 230-5800 or visit [www.valleyair.org](http://www.valleyair.org).

## **Pollution battle begins at homes**

New rule would require fees for new houses, businesses that add to smog-producing traffic.

By Mark Grossi

The Fresno Bee

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In the San Joaquin Valley, the nation's second-dirtiest air basin, the time has arrived to face a subtle but growing pollution source -- vehicle emissions connected with sprawling city developments.

Expect this some day soon: Home buyers will pay higher prices in new neighborhoods at the city's edge to compensate for pollution they generate when they drive to stores, jobs and other places.

Far-flung suburbs are not the only targets. Trucking distribution centers, commercial buildings, industrial complexes and shopping malls also are considered "indirect pollution sources" because of vehicle traffic in and out of the areas.

Vehicle pollution is the No. 1 contributor to bad air in the Valley. Motorists drive more than 80 million miles daily, and the Valley has one of the fastest-growing populations in the state.

This week, air officials will begin making a new rule aimed at developments that create vehicle pollution. The rule would charge fees to raise millions, which could be used to pay for cleanup projects ranging from upgrades on farm diesel irrigation pumps to compressed-natural-gas bus fleets in cities.

Environmentalists believe the rule is one of the most important steps for the Valley's air cleanup.

"Everybody has to pay for cleaner air," says Sierra Club member Arthur Unger of Bakersfield.

But how much should people pay? How should the money be spent? Who would supervise this money?

The San Joaquin Valley Air Pollution Control District hopes to have those answers by July 2004, when the governing board is expected to vote on the new rule.

Meetings are planned Tuesday in Modesto, Wednesday in Fresno and Thursday in Bakersfield to unveil initial ideas and to hear opinions from the public, air district officials say.

Twelve years ago, the building industry opposed such fees when an early proposal quoted more than \$5,000 for a single-family home and more than \$1 million for a 30,000-square-foot supermarket. The rule went no further.

There is no wiggle room this time: Senate Bill 709, written by state Sen. Dean Florez, D-Shafter, requires the fees. The district's PM-10 Plan, a cleanup blueprint for particle pollution, also contains a provision for the rule.

The building industry is not raising objections. Jeff Harris, president of the Building Industry Association of the San Joaquin Valley, says the industry wants to be sure the fees are equitable and fairly applied.

"It will probably have the biggest impact on retail services," he says. "The impact would probably be minimal in larger cities like Fresno or Bakersfield. But in smaller, poorer rural communities, there might be a chilling effect on development. [The fee] could make the difference between building a project and not building it in rural communities."

The fees are not unprecedented. Stockton and Turlock require a payment in the \$150 range for such fees, says district planning manager Dave Mitchell. He says he doesn't know yet what the district fee should be.

"The idea is to have all cities on a level playing field," Mitchell says.

The most influential fee precedent might have been set three months ago in Bakersfield. A developer agreed to settle a Sierra Club lawsuit by paying \$1,200 per home as an air pollution fee for a subdivision with more than 300 houses.

Though the settlement is private, the city of Bakersfield and the air district will be included in a committee to supervise the fee money. The developer, the Sierra Club and the Center for Race, Poverty and the Environment also will be on the committee.

The money -- amounting to more than \$375,000 when the development is complete -- would be used on pollution reduction projects, such as converting public fleets of older diesel vehicles to natural gas.

The developer who agreed to the fee says it made good economic sense for him to settle the case.

"I am pretty environmentally sensitive, and I'm for clean air, but the last thing I wanted to do was fight a lawsuit," Tom Carosella said. "Nobody wants to be shaken down for money."

The air district's fees could be structured to encourage building in the core of cities, a concept known as infill. Air planning manager Mitchell says it might be possible to give credits to or eliminate the fee for developers who build in preferred areas.

He says about 20,000 homes are built each year in the Valley. If the air fee were \$1,000 per house, a \$20 million war chest would be built to fight air pollution.

Mitchell emphasizes that the money could be spent on only the most efficient cleanup projects, meaning the ones that remove the most pollution for the least amount of money. Such projects could include treatments to hold down dust on road shoulders or pollution-reduction kits for school bus diesel engines.

Fees should go to the air district and come right back to the cities where the money was paid, says Sierra Club member Kevin Hall of Fresno. He says he doesn't want to see a fee collected in Merced and spent in Bakersfield.

"This is a very important rule because it sets up a revenue stream to clean up the air," he says. "But we need verifiable reductions. We need to know how much we're spending per ton to reduce air pollution in this Valley."

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## **State to sue over greenhouse-gas rules**

The Record, October 4, 2003

SACRAMENTO (AP) -- Gov. Gray Davis said Friday he will join other states in suing the federal Environmental Protection Agency to make sure the agency can't interfere with California's efforts to control greenhouse gases.

The announcement comes the week after Davis and his Democratic counterparts from Washington and Oregon laid out a plan to combat global warming, and after the federal agency in August said it lacks authority to regulate carbon dioxide and other greenhouse gases from motor vehicles.

It follows Davis' signing of a law last year making California the first state to restrict vehicles' greenhouse gas emissions.

The suit on behalf of Davis and the California Air Resources Board won't be filed until at least later this month and likely will be just a brief petition to the federal appeals court in Washington, D.C., said Tom Dresslar, a spokesman for Attorney General Bill Lockyer.

But officials from Davis' Environmental Protection Agency and the Air Resources Board joined a deputy attorney general, the Sierra Club and National Resources Defense Council in announcing the suit four days before voters decide whether to recall the governor. Leading the polls to

replace him is Republican front-runner Arnold Schwarzenegger, who made famous the gas-guzzling Hummer.

Connecticut, Maine and Massachusetts sued the U.S. EPA in June seeking to force the agency to add carbon dioxide to the list of six pollutants that are regulated under the Clean Air Act. Davis said global warming "is vital to the future of our state," potentially affecting California's agriculture, forests, shoreline, and the Sierra snow pack that provides much of the state's water and hydroelectricity.

In addition to deciding that greenhouse gases such as carbon dioxide are not pollutants, officials said the broad language in the U.S. EPA's decision suggests the federal government also intends to block states from acting on their own to regulate emissions.

"We don't think our decision would affect California's ... or any other state's ability to regulate above the Clean Air Act," said U.S. EPA regional spokesman Mark Merchant.

"California is reading the Clean Air Act one way, and EPA is reading the act another way, and California has decided to ask a judge to decide which is correct," he said. "California is within its rights to do that.

"Davis' administration said the delay is to allow time to coordinate with states it expects to join in a lawsuit, including Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, Oregon, Washington and Vermont.

## **States to sue EPA over refusal to restrict tailpipe greenhouse gases**

Bush expressed doubts on link between emissions, global warming

Bob Egelko, San Francisco Chronicle Staff Writer Saturday, October 4, 2003

Gov. Gray Davis, escalating the state's war with the Bush administration over the environment, announced a lawsuit Friday challenging the federal government's refusal to regulate tailpipe emissions of greenhouse gases.

California and other states plan to argue that the U.S. Environmental Protection Agency was wrong when it declared in August that it lacks authority to limit emissions of carbon dioxide and other gases implicated in global warming, state officials said.

The EPA's stance, consistent with President Bush's doubts about the link between emissions and global warming, could undermine a state law signed by Davis last year. The first of its kind in the nation, the law requires the state Air Resources Board to reduce greenhouse gases from vehicles in California, starting with 2009 models. The ARB must come up with a plan by 2005 and needs EPA approval to implement it.

"The U.S. Environmental Protection Agency may call in sick when it comes to protecting human health and the environment, but it can't prevent the states from protecting their own residents," Davis said in a statement released at a press briefing announcing the lawsuit, which is expected to be filed in a few days in the federal appeals court in Washington, D.C. He has also clashed with the Bush administration over gasoline content and offshore oil drilling.

The Natural Resources Defense Council and the Sierra Club endorsed the suit.

NRDC attorney Gail Feuer said the EPA's finding that greenhouse gases aren't pollutants "makes a mockery of the English language."

Mark Merchant, a spokesman for the EPA in San Francisco, declined comment on the lawsuit, but said his agency and California had a difference of opinion about the EPA's authority under the Clean Air Act. "We've always maintained that states have the ability to regulate above and beyond the Clean Air Act," he added. Winston Hickox, chief of the state's EPA, fending off questions about whether Friday's announcement was pegged to Tuesday's recall election, noted

that Davis and the governors of Washington and Oregon announced a joint effort against greenhouse gases Sept. 22, and said the suit has been in the works for several weeks.

"It's an opportunity for the states to fill the void in leadership," Hickox said. Besides Washington and Oregon, he said, New York, New Jersey, Massachusetts, Maine, Illinois, Vermont and Connecticut have expressed interest in joining the suit.

[Fresno Bee Editorial:](#)

## **Many facets of clean air**

**Everything from lawn mowers to tires can spark improvements.**

*(Published Monday, October 6, 2003, 5:15 AM)*

The struggle for better air quality in the Valley is going on in many venues. Most recently, attention has been focused on a package of clean-air bills that survived a bitter legislative fight and have now been signed into law. But that's not the only progress that's being made, and it's not the only arena that deserves attention:

When we think of fuel-efficiency and the problems of air pollution from vehicles, we usually don't think of tires. That's a mistake. Californians could save 10 million gallons of gasoline or more annually by simply keeping tires properly inflated.

Better tires would help, too, and they exist. In theory, Californians could save as many as 300 million gallons of gasoline annually just by using low-rolling resistant tires on our cars and trucks. That's probably high; such estimates often are. But realistically, a reduction of 77 million to 107 million gallons annually might be easily obtained, if as few as 25% to 35% of the state's vehicles were so equipped. That would save California consumers from \$118 million to \$165 million each year. And the air would get just a little bit better.

Often, when original tires are replaced on a car or truck, the replacement tires aren't built to the same efficiency standards. A bill authored by Assemblyman Joe Nation, D-San Rafael, and just signed by the governor would require that replacement tires sold in the state meet the same standards for fuel-efficiency as original-equipment tires by 2008. By 2006, under the bill, consumers would be provided efficiency ratings for tires, much the same way appliances such as refrigerators are labeled.

The Davis administration has asked the federal Department of Transportation for permission to open up the state's carpool lanes to individual drivers of hybrid cars. Arizona and Virginia have also sought such approval. It's an incentive to buyers of the hybrid vehicles, which number about 20,000 today but are expected to grow to as many as 300,000 by the end of the decade.

Yet another bill signed by Gov. Davis would eventually replace 73,000 state vehicles with cleaner-burning alternatives.

It's not all good news. A state effort to reduce emissions from lawn mowers and other gas-powered tools is on a collision course with a bill working its way through Congress. The California Air Resources Board adopted a new rule recently that requires small gas- or diesel-powered equipment sold in the state to have catalysts, better carburetors and leak-proof fuel tanks and lines.

But Sen. Christopher Bond, R-Mo., is moving a bill through the Senate that would pre-empt the California rule. Bond's home state of Missouri has two large Briggs & Stratton Corp. plants, and he says the new rule would kill jobs.

That's extremely unlikely -- no company is going to give up business in a market this size when it can simply make the changes and pass the cost along. But that's how it gets when we try to make progressive reforms: Someone feels their interests threatened and they fight back.

It bears repeating: This won't be easy.

LASTGASP

"We can't go on living this way.

And we won't."

There are all manner of ways we can be reducing pollution and cleaning up our air.