

Panel to vote on Florez's air bill

Agriculture leaders argue amendments don't go far enough.

By Jennifer M. Fitzenberger, Fresno Bee Capitol Bureau

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SACRAMENTO -- After more than a week of scrutiny and negotiation, a clean-air bill with "cosmetic" changes likely will pass a key financial committee today, the author said.

Agriculture leaders, however, were not happy with the amended bill unveiled late Thursday and said a compromise, if any, would take several more hours.

Sen. Dean Florez, D-Shafter, author of the bill to end the \$27 billion agriculture industry's exemption from air operating permits, said Thursday afternoon that a majority of the 24-member Assembly Appropriations Committee has pledged its support.

Public pressure and several days of discussion with farm officials prompted a handful of lawmakers, who voted against Senate Bill 700 at last week's hearing, to change their minds, Florez said.

The senator declined to publicly name the new supporters.

"The spotlight is on this bill," Florez said. "People tend to do different things when the spotlight is on."

But Cynthia Cory, director of environmental affairs for the California Farm Bureau, said she doesn't know what would change the lawmakers' minds. The amended bill, she said, is not satisfactory.

"Obviously, we think we have the votes, too. We stopped [the bill] once," Cory said. "It hasn't changed in a dramatically positive fashion from last week."

The bill, which didn't pass during last week's hearing, has its last shot today. SB 700 is the linchpin of Florez's aggressive package of bills to clean the Central Valley's dirty air.

The Appropriations holdup sparked a political firestorm and the marathon negotiating sessions about the bill's wording. Farmers wanted a watered-down version of the senator's legislation.

Florez cut little slack.

The revised bill largely is unchanged, though it would make the permitting process more tolerable to farmers, Florez said.

"Not one thing in terms of substance was changed," Florez said. "To me, it's cosmetic, and for them, it's more implementable."

The amended bill, presented to farm advocates about 7 p.m. Thursday, makes these changes to Florez's legislation:

Establishes dates for beginning to permit large animal operations, such as dairies. The bill sets a timeline to define which operations get permits, what exactly permits would require and when the operations would have to get them.

Creates a mechanism to exempt farms from the permit process if they meet certain criteria.

Makes technical changes to the range of agricultural pollution sources requiring permits. The tweak would not reduce the number of emissions monitored, Florez's staff said.

The U.S. Environmental Protection Agency -- forced by an environmental lawsuit settlement -- told California last year to repeal agriculture's exemption or face statewide sanctions.

The sanctions, including increased fees for some businesses and eventual suspension of billions of dollars in highway-building funds, will begin in November unless the loophole is repealed.

Florez's bill does more than eliminate the exemption. It also requires farmers to use the most up-to-date technology to control Valley farm sources of particle pollution and dust, and it forces owners of large animal operations to get operating permits.

A band of urban Democrats, including Assembly Member Leland Yee of San Francisco, sided with the farmers last week, saying the bill cut too deep.

Yee said he struck a friendship with farmers during a trip to the Valley and became their "sympathetic listener" when Florez didn't give them a fair shake. This, and what he said were fundamental problems with the bill, prompted his no vote in Appropriations.

Florez, however, accused Yee and the others of tanking his bill to keep Assembly Member Nicole Parra, D-Hanford, from having to cast a controversial vote on the Floor. The claim has cast Yee into the spotlight, prompting him to help organize the negotiations between Florez and farm officials.

Parra, who is not on the Appropriations Committee, won her seat by a slim margin and is considered vulnerable in the next election. Voting on SB 700 could give her political enemies some power.

Yee was grilled on the issue again Thursday afternoon, this time by a group of asthmatic children Florez enlisted to lobby for the bill. The children took balloons to Appropriations Committee members and asked for their help.

"How come you didn't vote for us?" 10-year-old Jasmyn Murphy of Fresno asked Yee.

Yee said he didn't agree with the entire bill, then explained he wanted both sides to work out their differences. Yee said his teenage son also suffers from asthma.

"But you're just making your son's asthma worse," Jasmyn replied. "I hope you're happy because you do understand you're making the wrong decision."

The children also stopped at Assembly Member Fabian Nunez's office. Nunez, D-Los Angeles, said he abstained from the first Appropriations vote because he questioned whether some parts of the bill were realistic.

Nunez said he hopes his concerns will be addressed: "I look forward to voting for the bill."

EPA says it can't limit car emissions

Agency's stance could obstruct state law on greenhouse gases

Zachary Coile and Jane Kay, San Francisco Chronicle staff writers, August 29, 2003

Washington -- The Bush administration said Thursday it opposed efforts to limit the release of greenhouse gases from motor vehicles, which could undermine California's first-in-the-nation law to cut tailpipe emissions of carbon dioxide and other gases implicated in global warming.

In response to a petition from environmental groups, the Environmental Protection Agency said it lacked authority under the Clean Air Act to limit emissions from automobiles that atmospheric scientists believe trap heat and contribute to climate change.

The agency's decision could hinder California's efforts to implement a landmark law passed by the Legislature and signed into law by Gov. Gray Davis last year. The law requires the California Air Resources Board to achieve the "maximum feasible reduction" in greenhouse gas emissions from cars and trucks starting with 2009 model year vehicles.

But the state Air Resources Board, which must come up with recommendations for meeting the goal by 2005, has to get its plan approved by the EPA -- and environmentalists and state officials say the agency will most likely veto the state's plan.

"It seems that EPA will go out of its way to spike any effort to address global warming -- whether by federal government or by the states," said David Bookbinder, attorney for the Sierra Club, one of the plaintiffs in the case.

The administration's decision could also make it harder for California to defend its law in court challenges by automakers, who vehemently oppose the state law.

A 1967 federal law made California, with the nation's dirtiest air, the only state with authority to set its own strict auto emissions standards. But the state still derives its authority for limiting

emissions from the federal Clean Air Act, which EPA has now ruled does not apply to greenhouse gases.

Environmentalists, however, are already planning to sue the agency, arguing that the Clean Air Act requires the agency to restrict air pollutants that, in the language of the act, "may reasonably be anticipated to endanger public health or welfare."

"Refusing to call greenhouse gas emissions a pollutant is like refusing to say that smoking causes lung cancer," said Melissa Carey, a climate policy specialist with Environmental Defense.

Three states -- Maine, Connecticut and Massachusetts -- have already sued the EPA, demanding that the agency limit carbon dioxide emissions. On Thursday,

Massachusetts agreed to join the environmental groups' planned suit against the agency.

EPA officials said Thursday that Congress must approve clear legal authority to limit greenhouse gases before the agency can regulate them. Environmentalists said the Republican-led Congress was unlikely to pass any such legislation, especially since the White House opposes it.

"Regulating the transportation sector for climate change purposes would have enormous economic, practical and societal impacts," said Jeff Holmstead, the EPA's assistant administrator for air programs. He said the administration was already pursuing voluntary measures by industry to cut greenhouse gas emissions.

While the California attorney general's office is still reviewing the EPA decision, along with a new opinion by Robert Fabricant, the agency's general counsel, the state will go ahead with its stricter regulations, said Anita Ruud, state deputy attorney general.

"We are required to lower carbon dioxide emissions under state law," Ruud said. "What happens when we go to the EPA for a waiver is an open question."

Unlike the Fabricant opinion issued Thursday, two previous general counsel opinions said carbon dioxide met the Clean Air Act definition of an air pollutant, Ruud noted.

The California law was written by Assemblywoman Fran Pavley, D-Agoura Hills,

as a response to President Bush's decision in March 2001 to reject the Kyoto Protocol, which required industrialized nations to make significant cuts in greenhouse gas emissions.

Automakers fear that because of the vast size of the state's marketplace, any new state emissions standards could force changes in vehicles sold nationwide. California was the first state to require the use of catalytic converters, seat belts, cleaner-burning diesel and reformulated gasoline -- all initiatives initially opposed by automakers.

The automobile industry spent millions in an unsuccessful campaign to defeat the bill in the Legislature, and it immediately announced plans to challenge it in court after it was signed by Davis. The Alliance of Automobile Manufacturers, which represents all the major automakers except Honda, is arguing that the law is an effort to set new national fuel efficiency standards, which only the federal government is allowed to do.

The Bush administration had previously sided with automakers in a separate lawsuit to overturn a state program requiring increased sales of low- and no- emissions vehicles in California.

While California has authority to independently set tailpipe emission standards or require special reformulated gasoline, the state maintains its special role under approval of the federal EPA, which has granted waivers for these activities differing from other states, said Jerry Martin, spokesman for the state Air Resources Board.

A case in point is the state's multiyear fight to win a waiver to EPA's requirement to use a gas additive -- MTBE or ethanol -- in regions that violate air-quality standards. The state has argued unsuccessfully in and out of court that its reformulated gas meets the standards without the use of an additive.

Fires keep growing

By Michael Mello, staff writer, The Modesto Bee
Published: August 29, 2003, 06:52:59 AM PDT

Steep, rugged canyons hampered firefighting efforts as eight fires in the Diablo Range west of Modesto raged Thursday, burning about 6,000 acres in a 24-hour period. The fires, known collectively as the Santa Clara Complex, had burned 14,231 acres by Thursday evening, and were threatening 40 homes.

"This is the most challenging complex fire in the last 10 years to fight because of the remoteness of the area and the complexities of the situation," said Pam Rhoten, an assistant information officer with the California Department of Forestry and Fire Protection.

The two biggest blazes, the Jump fire and the Annie fire, have burned about 3,800 acres each, growing by 800 acres apiece on Thursday. The Jump fire is at the western end of Del Puerto Canyon Road, near the border of Santa Clara and Stanislaus counties. The Annie fire is in southwestern Stanislaus County, along the eastern edge of Henry W. Coe State Park.

Both fires "have potential for significant growth," Rhoten said. "They are currently resisting containment efforts. It's really difficult because the terrain there is really steep," hampering efforts to bring personnel and equipment to the flames.

Assistant information officer George Hoyt said the terrain is so steep that the CDF has to rely on hand crews because bulldozers can't get in to create fire lines.

On Thursday, CDF officials were considering bringing in the National Guard's Black Hawk helicopters to ferry personnel, equipment and supplies to the remote fires. As of Thursday evening, none had been deployed.

Hoyt said there have been no reported injuries to firefighters and no structures have been lost.

In addition to the terrain, the weather has concerned CDF officials.

"It's an extremely active area for winds," Hoyt said. "They'll come in southerly, and immediately turn northerly. It's a really dangerous situation."

In addition, Hoyt said, firefighters have to work in daytime temperatures that reach into the 90s.

"(Wednesday) night we had a layer of marine fog come in. Hopefully, that will happen again. That helps us considerably," Hoyt said of the increasing humidity that dampens the flames, "but we can't depend on it."

The Jump fire is 30 percent contained and the Annie fire is 40 percent contained; both are expected to be fully contained by Wednesday night, according to the CDF. The smallest of the eight fires, the 125-acre Pine fire south of Livermore, was fully contained Thursday.

There are more than 2,200 personnel involved in the firefighting effort, from the CDF, state parks department, U.S. Forest Service, Department of Defense, and Marin, Napa, Alameda and Contra Costa counties. Two strike teams, made up of 40 firefighters and 10 engines from several Stanislaus County fire agencies, left to fight the blazes Wednesday night.

The cost of bringing in other agencies bumped up the bill for the fire to \$1.9 million, Hoyt said.

Lightning fires may keep on burning - Blazes could last through next week

By Kim Santos, STAFF WRITER, Tri-Valley Herald, August 29, 2003 - 3:22:46 AM PST

Nearly 10,000 acres in Santa Clara, Alameda and Stanislaus counties continued burning Thursday as a result of a lightning storm earlier in the week, prompting officials to estimate that the blazes would not be contained until next Wednesday.

For Northern California, "it's actually the most complex fire in the past 10 years," California Department of Forestry spokeswoman Pam Rhoten said.

The six main fires that made up the "Santa Clara Complex" were licking at 9,612 acres as of early Thursday afternoon and threatening 40 residences and 15 other buildings, Rhoten said.

As of Thursday night, no buildings were destroyed.

The Annie and Jump fires, as they have been named, were each raging across more than 3,000 acres in Santa Clara and Stanislaus counties, respectively, and had a high potential to grow.

"They're currently resisting containment efforts," Rhoten said.

The Annie was listed at 3,874 acres and 40 percent containment late Thursday afternoon, while the Jump was at 3,832 acres and 30 percent contained.

Added to the difficulty of reining in the blazes was extremely rough terrain, as in the Jump fire, which required smokejumpers from Redding to drop in and man the first attack after lightning struck the area early Tuesday.

Other blazes included the Devil, Pine, Hamilton and Kincaid fires. In Alameda County, the Devil was burning 487 acres on Mines and San Antonio Valley Roads south of Livermore, and was 10 to 15 percent contained.

Firefighters advised residents near the Mines Road blaze to evacuate the area. It was not a mandatory evacuation. As of Thursday night, there were no evacuees at The Barn in Livermore, where Red Cross volunteers prepared for visitors.

The volunteers had snacks on the tables and about 100 cots ready to roll out into the hangarlike building controlled by the Livermore Area Recreation Park District.

The Hamilton, located near Mount Lewis, was listed at 462 acres and was 50 percent contained, while the Pine -- which lay between the Devil and Hamilton fires -- was 100 percent contained Thursday at 125 acres.

The Kincaid -- formerly named the Day -- was in the area north of Mount Hamilton and was 40 percent contained at 60 acres, the CDF said.

"Some (of the fires) have the potential to merge," Rhoten said. "They're not burning very far apart. Estimates are still under discussion. It's very difficult because it's so smoky."

Another complication was the potential for some fires to rekindle after being contained.

"We're watching them," Rhoten said.

As of Thursday, 1,733 people from Marin, Napa, California State Parks, Department of Defense, CDF, Alameda County and Contra Costa County fire departments, as well as the Alameda County Sheriff's Department, were participating in the effort. So far, battling the complex has cost \$908,315, Rhoten said.

Staff writer Scott Steinberg contributed to this story.

Smoke from fires lessens air quality

The (Stockton) Record

Published Friday, August 29, 2003

Fires covering more than 17,000 acres near the northern San Joaquin Valley pose a health problem for some residents, air-pollution regulators said Thursday.

Fires in Alameda, San Joaquin, Santa Clara, Stanislaus and Merced counties may cause breathing problems, officials said.

"There are localized pockets throughout the San Joaquin Valley where smoke is creating unhealthy breathing conditions. We urge all residents to be aware of conditions in their vicinity," said David Crow, head of the Valley Air Pollution Control District.

"If you can smell smoke, you are probably in an area where air quality is poor," he said.

Until the fires are put out, residents in smoky areas should:

- * Avoid or limit strenuous outdoor activities that may increase breathing rates.
- * Try to remain indoors until the smoke clears
- * Keep doors and windows closed to recirculate indoor air.

Schools and day-care centers in smoky areas have been advised to cancel outdoors activities until air conditions improve.

Breathing the cancer-causing particles found in smoke can reduce lung function, aggravate heart conditions and lung diseases, trigger asthma attacks, irritate the sinuses and cause headaches and allergies. Particulate pollution has also been found to cause premature deaths.

Agricultural burning has been suspended until the air conditions improve.

More up-to-date information on air quality can be found on the air-district's Web page: www.valleyair.org.

[Letter to the Editor, Fresno Bee:](#)

'Shift responsibility'

By Bill Hunter, Fresno

(Published Friday, August 29, 2003, 5:55 AM)

It was recently reported that Fresno occupies the distinct position of having the second dirtiest air in the United States. In fact, the top five cities were all in California. During the 2000 campaign for president, Houston, Texas, was reported to have the dirtiest air in the United States. The Sierra Club, Democrats and the press made a big point of saying then-Gov. George W. Bush was a friend to polluters and had done nothing to protect the good citizens of Harris County.

So where is that same outcry from the Sierra Club, The Bee and liberals about the past five years of Gray Davis and the Democratic-controlled Legislature? All they can do is shift responsibility from themselves and lay it at the feet of the ag industry. Apparently there are no other large industries that pollute.

Or is this the most expedient and politically safe one to attack so precious votes won't be lost? Should not the environmental leadership of Gray Davis and the state Legislature be put under the same scrutiny and accountability? Are politics involved in the Sierra Club's silence? Do they really care about the environment or who's governor?

[Letter to the Editor, The Modesto Bee:](#)

Farmers and air quality

Published: August 28, 2003, 06:15:14 AM PDT

Our air is dirty and needs cleaning up. However, some legislation being considered in the Legislature may make matters worse.

An example is the proposal to require orchard prunings to be chipped or taken to a co-generation facility to be burned. This actually will create greater air pollution problems with accompanying adverse health effects.

Farmers prune trees during the dormant season and most often burn the prunings in January and February. This is also when we have frequent rains, which help cleanse the air of particulate matter, and when the air is cool, helping to prevent the formation of secondary pollutants such as ozone. If you take those prunings to a co-generation facility, not only will you create an economic hardship and near impossibility for the farmer, but you also will likely be burning those prunings during warmer months.

When fuel is burned in warm months, you will have that particulate matter in the air for a very long time, since there is no rain to help cleanse the air. In addition, when hydrocarbons, NOx and heat (from warm weather and sunlight) are present, secondary pollutants are formed such as ozone, with very adverse health impacts.

These bills do little to address the real problem and will only serve to cause hardship for our farmers, who provide a huge positive contribution to our economy.

Ironically, as this legislation is being considered, at least three new power plants are being proposed for our valley. Gas-fired power plants should never be built in this valley. Our air district already violates the standard for fine particulate matter. Just one of these plants emits the particulate equivalent of more than 300,000 cars.

There are better ways to produce needed power. Wind technology has advanced to the point that wind power can be produced for virtually the same cost as natural gas, with no emissions.

In addition, the most efficient natural gas power plants can only claim 55 percent efficiency, wasting nearly half of this limited resource, which is used very efficiently by consumers to cook and heat homes (nearly 100 percent efficiency). Such huge consumption by wasteful power plants will drive up costs for residents and industry.

To truly protect our air, stop these power plants. Do not hamstring our farmers and only make our air worse.

Connie Hoag, Ripon