

March 13, 2003

Catherine Witherspoon
Executive Officer
California Air Resources Board
P.O. Box 2815 Sacramento, CA 95812

RE: Workshop on Ozone Transport Regulations

Dear Ms. Witherspoon;

This letter provides comments on proposed amendments to transport regulations in response to your February 25, 2003 workshop notice. The Sacramento region urgently needs every available emission reduction to meet the national ambient air quality standard for ozone by 2005 and to make expeditious progress towards attaining the state ambient air quality standards for ozone. This includes reductions from our upwind neighbors.

Our District both generates and receives transported emissions. We are concerned about these regulations not only as providing us with critical assistance in meeting Sacramento's clean air goals, but guiding the actions we must take to help neighbors downwind of Sacramento.

I support ARB defining precursors to be mitigated to include both reactive organics and nitrogen oxides. I also appreciate ARB's steps towards improving the 'all feasible measures' process. I have concerns that have not been addressed. These concerns are detailed below. I also request that the proposed regulations be expanded in the following areas:

State responsibility for mitigating transport

The draft regulations have not addressed our request that the state take responsibility for mitigating transported emissions.

- 1) ARB must look beyond stationary source controls and local district actions and mitigate transported emissions from mobile sources. Mobile source emissions dominate our ozone air quality problems, and ARB must identify new opportunities under their regulatory authority to mitigate transported emissions.
- 2) ARB should work with the Governor's office to secure an Executive Order requiring all state agencies include preference for using vendors who have low emission vehicles and equipment when contracting for goods and services.

- 3) ARB should work with the Governor's office to secure an Executive Order requiring construction work performed using state equipment or under state contracts meet a fleet average emission rate that is 20% below the inventory fleet average for NOx and 45% below the inventory fleet average for PM.
- 4) ARB should be a leader by developing land use guidelines for both state agencies and local governments. Attached are lists of land use mitigation measures that could be included in that guidance.

Improve the 'All Feasible Measures' process

The existing 'all feasible measures' process is flawed for several reasons.

- 1) Federal deadlines not addressed - ARB must require that upwind areas fully mitigate emissions for 'significantly' impacted areas like Sacramento to attain both state and federal ambient air quality standards. Attaining the federal standards are an important first step to attaining the state standards. It is clear that ARB must assess mitigation requirements in the context of the federal standards to ensure the sufficiency of the Bay Area's mitigation measures -- as well as those of other upwind districts -- in meeting federal attainment deadlines. ARB has asserted that federal SIP's are not the appropriate venue for assessing intrastate transport, and that addressing intrastate transport is ultimately the state's responsibility, not the federal EPA's. Although we disagree with that position, if ARB is correct, then the transport study and mitigation regulations are the only clear vehicle left for ARB to fulfill its responsibility to both assess and mitigate transport pollutant impacts. Moreover, without a genuine and thorough assessment of mitigation measures, the analysis of impacts is meaningless.
- 2) No additional mitigation - The requirement to impose "all feasible measures" provides no additional mitigation requirements beyond those already required by state law. California Health & Safety Code Section 40914(b) states;
*"A district may use...and the state board concurs in, either of the following:
...the inclusion of every feasible measure in the plan..."*
ARB staff reported that upwind districts have selected the 'all feasible' measures option and complied with the 'all feasible' measures requirement (Status Report on Transport Mitigation, July 2001.)
- 3) Disagreement regarding 'feasible' - You may recall that we provided comments during plan development activities in the BAAQMD requesting that additional measures be included, yet our requests for added measures were not included in the final plan. In short, we disagree that the upwind area plan met the 'all-feasible' or the related federal requirement for reasonably available control measures. We request that ARB set standards districts must meet to satisfy this requirement. For example, ARB could establish a process to identify where emissions standards and exemption levels in upwind areas must be at least equivalent to the significantly or overwhelmingly impacted downwind neighbors. If the district justifies that the less

stringent standards are not cost-effective or technologically feasible then they could seek relief.

- 4) Consistent planning requirements doesn't equate to consistent rules - Planning commitments are preliminary assessments of control strategies. Plans can reflect similar control strategies, yet differences in rulemaking exist. Recently, at the request of BAAQMD, our staff provided an assessment (attached) of the differences between the BAAQMD rules and the SMAQMD rules. I request that ARB evaluate this information and require rule amendments to ensure all feasible measures are in place. Additionally, I request that ARB incorporate evaluation of rule consistency from a transport perspective when exercising its oversight responsibilities during district rulemaking process.
- 5) Annual district reporting requirements are infeasible - Proposed addition of annual district reporting requirements (Section 70600(c)(1)) including public process for reporting on plan commitments are time consuming and do not address the fundamental issues noted above. I support ARB review of district's progress and encourage the ARB to engage a public process in that review.

The workshop notice does not discuss when ARB will reassess the transport couples. California Health and Safety Code Section 39610 required this assessment every three years, beginning in 1989. An assessment of the San Francisco Bay Area to Broader Sacramento Area transport couple was last done in 1996. In April 2001, ARB performed an assessment (that was due in 1999) but did not evaluate the San Francisco Bay to Broader Sacramento Area transport couple as required. A triennial assessment by ARB was due in 2002. Both ARB and District staff are working on Central California Ozone Study results and, currently, that data is not available. In the meantime, I request that the following information, which already exists, be used for transport assessments.

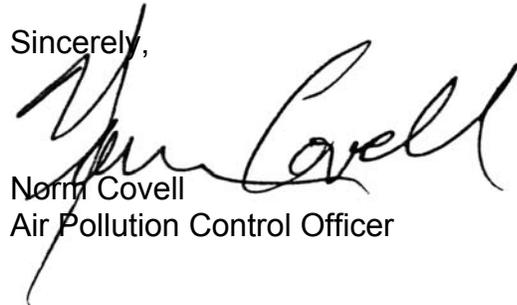
- a) SARMAP Modeling results performed by ARB staff for assessments of the BAAQMD Refinery Rule.
- b) Meteorological data from profilers installed following the 1996 assessment at Bruceville Road in Elk Grove, Travis AFB, and most recently in San Francisco Bay delta region
- c) Walnut Grove Tower ozone and meteorological data

The above data, along with new data analysis techniques, is essential to evaluate the impact from pollutants transported on aloft winds and from transport of ozone precursors. Finally, I suggest formation of a statewide Transport working group to share ideas about transport assessment methods and to peer review the final assessments. That working group should include local air districts and members of the scientific community.

Catherine Witherspoon
Comments - Workshop on Transport Regulations
03/19/03
Page 4

Thank you for the opportunity to provide input to this regulatory process. If you have any questions regarding these comments, you may contact me at (916) 874-4803 or Brigette Tollstrup (916) 874-4832.

Sincerely,

A handwritten signature in black ink, appearing to read "Norm Covell". The signature is fluid and cursive, with the first name "Norm" written in a larger, more prominent script than the last name "Covell".

Norm Covell
Air Pollution Control Officer

- c. Brigette Tollstrup
Robert Fletcher, ARB
Bob Effa, ARB
Gayle Sweigart, ARB

Attachments

Correspondence to William Norton, September 10, 2002
Land use mitigation measures

Catherine Witherspoon
Comments - Workshop on Transport Regulations
03/19/03
Page 5