M I N U T E S -- 57th Session

Assembly
ENVIRONMENT & PUBLIC RESOURCES AND FISH AND GAME COMMITTEE-Room 214

April 16, 1973

Members Present: Chairman Bremner, Ford, Gojack, Broadbent, Jacobsen, Lowman, Smalley

Members Absent: Banner, Crawford

Guests Present:

Senator Wilson	Nevada State Senate
Gill Blonsey	District Health Department-Clark C
Bob Warren	Nevada Municipal Association

The meeting was called to order at 7:15 a.m. by Chairman Bremner and he said that the bills they will discuss today will be A.B. 850, S.B. 571, S.B. 516 and A.B. 866. S.B. 489, which was scheduled for today, will be postponed until Wednesday meeting.

Chairman Bremner said that A.B. 850 will be discussed first. This bill establishes system of local water pollution control hearing boards. Since they all felt that there wasn't a great need for this bill, because it was covered by A.B. 472 pretty well, Mrs. Ford moved for an "indefinite postponement" and Dr. Broadbent seconded. All present members concurred.

Chairman Bremner said that he would like to hear on S.B. 516 and S.B. 571, but the committee wanted to hear from Senator Spike Wilson on them. Also, they wanted to hear Assemblyman Danny Demers to speak on A.B. 866, but he was not present either, so Chairman Bremner called a recess on this meeting until 8:00 a.m.

Before recessing, Mr. Gill Blonsey, from the District Health Department in Clark County, asked if the committee was aware of the E.P.A.'s new standards that came out yesterday that make air pollution authorities local agencies responsible for land use planning licensure with respect to air pollution. It will be necessary now for sub-divisions, and shopping centers and such to get air pollution control permits. (A copy of the memo from Mrs. Jean Ford is attached to these minutes.)*

When the committee reconvened, Senator Wilson arrived to speak on two of the Senate Bills.

S.B. 516

This bill makes preservation of natural resources a criterion for master planning, zoning and zoning administration. Senator Wilson said that all this bill does is change the designation of the State Environmental Commission, also in some of the other bills it is reconstructed, and the only parts taken out of this bill are parts that

*Exhibit I

are discussed in those other bills. It changed council to commission and deleted the make-up of the old council.

S.B. 571

This bill creates environmental commission and imposes duties relating to utility construction permits.

Senator Wilson said that the bill in effect requires that in the development of the master plan, which is supposed to be the basic planning blueprint of the region,you are required to determine what your natural resources are and based upon the capability of those natural resources to develope some contour of population maximum. He said that the reasons they processed this bill, was because the master plans that they have now really do not face or go to the point and the only way you can do this is to start with the very basic support elements of the community, which would be resources. These resources would be the land which is developable which could be effected by soil, water table and all kinds of other effects. That is where this bill comes in.

Mrs. Ford commented that this bill really helps out bills such as S.B. 333 (the Land Use bill), which is in Government Affairs Committee, and this bill complements it greatly. Mrs. Gojack agreed with Mrs. Ford.

VOTING

Vice-Chairman Crawford is now present
Dr. Broadbent, Mr. Banner, and Mr. Lowman were absent from voting.

S.B. 516

Mrs. Ford moved for a "do pass" on this bill, and Mrs. Gojack seconded her motion. All concurred with motion.

S.B. 571

Mrs. Gojack moved for a "do pass" and Mr. Smalley seconded. Motion carried unaminously.

A.J.R. 49

This resolution, which memorializes Secretary of Interior to promulgate certain regulations, was introduced by this committee April 15th, and Chairman Bremner wanted to act on it today. He explained that this resolution that says that the Bureau of Land Management hold local testimony before any change the use of any land under their control.

Mrs. Ford said that #2 in this resolution was very good about the law enforcement services.

A.B. 866 was decided to be heard on Wednesday, when Mr. Demers could speak on it.

ADJOURNMENT AT 9:00 a.m. until Wednesday morning.

ASSEMBLY

H E A R I N G

COMMITTEE ON ENVIRONMENT & PUBLIC RESOURCES

Date APRIL 16, 1973 Time 7 a.m. Room 214

Bill or Resolution to be considered	Subject
S.B. 516	Makes preservation of natural resources a criterion for master planning, zoning, and zoning administratio
S.B. 489	Changes and clarifies administrative responsibilities for control of air pollution.
S.B. 571	Creates State Environmental Commission and imposes duties relating to utility construction permits.
A.B. 850 Indefinitey Postponed	Establishes system of local water pollution control hearing boards.
A.B. 866	Creates a steering committee for development of the Spring Mountain recreational region.

850 - [illegible]

Exhibit I (1)

350

TO: DISTRICT BOARD OF HEALTH

FROM: OTTO RAVENHOLT, M.D.
CHIEF HEALTH OFFICER

SUBJECT: AIR POLLUTION NOTICE ISSUED BY E.P.A.

DATE: MARCH 28, 1973

Attached is a notice of proposed rule making issued by the Environmental Protection Agency on March 2, 1973, and published in the Federal Register on March 8, 1973.

The implications of this notice would be difficult to overstate. In essence, Mr. Ruckelshaus, EPA Administrator, recites that the U.S. Court of Appeals for the District of Columbia Circuit, on January 31, 1973, ordered the Administrator of EPA to review all state Implementation Plans previously approved, to determine if they contained measures necessary to insure maintenance of air quality standards. Such review has been completed and Mr. Ruckelshaus has disapproved the maintenance plans of all fifty states. He is now preparing new regulations which would require that every state and air pollution control region have procedures for prior review of any construction of any facility which may directly or indirectly cause an increase in air pollution which would exceed the nationally mandated ambient air standards.

It is further noted that states will be required to have enforceable procedures for preventing such construction or modification where the results would interfere with maintenance of the Federal air quality standards. The notice goes on to say that the new regulations will be proposed by April 15, 1973, and that state and regional plans must be submitted by August 15, 1973, at the latest.

In the past, the air pollution control agencies have had approval authority over new point sources which contribute significantly to air pollution. The new requirement emerging from the court order is that such review and control must now be exercised over what is termed "complex" sources.

A complex source is generally defined as a facility that has or leads to secondary or adjunctive activity which emits or may emit a pollutant for which there is a national standard. These sources include, but are not limited to:

(1) Shopping centers;
(2) Sports complexes;
(3) Drive-in theaters;
(4) Parking lots and garages;
(5) Residential, commercial, industrial, or institutional developments;
(6) Amusement parks and recreational areas;
(7) Highways;
(8) Sewer, water, power, and gas lines;

and other such facilities which will result in increased emissions from motor vehicles or other stationary sources. The regulation will further provide that each State must have procedures whereby, prior to construction or modification of such sources, the State will be able to determine whether the construction or modification of the complex source would cause violations of the applicable portions of a control strategy or interfere with the attainment or maintenance of the national ambient air standards. States will be required to have the authority to disapprove the construction or modification where it would have such a result.

As stated at the beginning, the potential impact of this mandate upon traditional land use zoning and community growth patterns in Clark County is enormous. My reason for bringing this to the Board's attention is my own belief that the legal and politically appointed foundation of the Board of Health cannot withstand the reactions and controversy which will be engendered by efforts to carry out the regulations proposed by Mr. Ruckelshaus.

Air pollution control appears destined to become the basis of master land use planning which overrides all other zoning and planning actions. It is, therefore, my recommendation that the District Board of Health propose the resumption of authority for air pollution control by the Board of County Commissioners or other newly created body.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 50]

PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Advance Notice of Proposed Rule Making

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency (EPA) promulgated as 40 CFR Part 420, regulations for the preparation, adoption, and submittal of State implementation plans under § 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR Part 51. Section 110(a)(2)(B) of the Clean Air Act and 40 CFR 51.12 require that State implementation plans provide for maintenance as well as for attainment of the national standards.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit issued an order in the case of Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency (Case No. 72–1522) and seven related cases. That order directed the Administrator of EPA to again review all implementation plans which were approved on May 31, 1972 (37 FR 10842, et seq.), to determine if they contain measures necessary to insure maintenance of the standards.

Such review has been completed and the Administrator has determined that it is necessary for State plans to contain, as a minimum, procedures whereby the State can review, prior to construction or modification, the location both of sources of pollution and of other facilities which may cause an increase in air pollution because of activities associated with such facilities, in order to insure that the national standards will be maintained; 40 CFR 51.18 imposes a review requirement with respect to stationary sources of air pollution. However, it does not require the review of facilities to determine the effect on air quality caused by associated activity, such as increased motor vehicle traffic. Because the implementation plans did not contain such a provision, they are being disapproved with regard to maintenance of the standards.

Notice is hereby given that the Administrator will propose an amendment to 40 CFR 51.18 which will extend the requirements for review set forth therein to apply to facilities which may cause an increase in air pollution because of activity associated with such facilities. The States will be required to have legally enforceable procedures reviewing, prior to construction or modification, the location of such facilities and for preventing such construction or modification where it would result in interference with the attainment or maintenance of a national standard. The Administrator is presently considering the types of facilities to be covered by such procedures and the factors to be considered in determining the impact such facilities will have on air quality. The amendment to 40 CFR 51.18 will be proposed by April 15, 1973.

The reasons for the regulation and the general form of it are more specifically discussed in the preamble to the Administrator's disapproval of the maintenance provisions of State plans which is published in 38 FR 6279. This advance notice of proposed rule making is published with the intention of informing the public of the Agency's actions and plans in this important area, and for the purpose of providing States notice of an impending change in the implementation plan regulations which will require the adoption and submission to the Administrator of additional plan provisions. States should begin now to determine whether they have adequate legal authority to adopt such a regulation and, if they do not, take steps to secure such legal authority.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.73-4404 Filed 3-7-73;8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Types of Decisions; Correction

The cross-reference in § 1661.10(a)(2) line 5, that appeared in FR Doc. 72-22438 (37 FR 28900 (December 30, 1972)) should read §§ 1661.3 and 1661.4.

BYRON V. PEPITONE,
Acting Director.

MARCH 5, 1973.

[FR Doc.73-4477 Filed 3-7-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

On April 30, 1971, pursuant to section 109 of the Clean Air Act, as amended, the Administrator promulgated national primary and secondary ambient air quality standards for six pollutants. The Act requires that the primary standards protect the public health with an adequate margin of safety and that the secondary standards protect the public welfare from any known or anticipated adverse affects. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air quality standards in each air quality control region in the State. The Administrator published on May 31, 1972, his initial approvals and disapprovals of the State implementation plans developed and submitted under these provisions of Federal law.

On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit decided the case of "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency" (Civil Action No. 72-1522) and seven other related cases. The Court's order required the Administrator to review within 30 days from the date of the order the maintenance provisions of all State implementation plans that were approved on May 31. The Administrator was directed to disapprove plans "which do not provide for measures necessary to insure the maintenance of the primary standard after May 31, 1975, and those plans which do not analyze the problem of maintenance of standards in a manner consistent with applicable regulations * * *."

The Administrator has completed his review as required by the court order. This further examination of State plans confirmed that no State plan contained adequate growth projections for any significant period of time into the future. Moreover, it is recognized that maintenance of standards cannot be insured simply by projecting future growth and curtailing present emissions in order to provide opportunities for this future growth of emission sources. Since the plans must provide for maintenance of the standards over an indefinite period of time, it is the Administrator's determination that the most practical manner in which to adequately and effectively provide for maintenance of the standards at this time is to require State plans to contain procedures by which each State will review a wide range of new sources and causes of air pollution and will have the authority to prevent the development of such sources or causes where necessary to insure that the standards are maintained.

Maintenance is partially insured by the provisions of 40 CFR 51.18 which require each State plan to have adequate procedures to review, and where necessary prevent, the construction or modification of any stationary source at a location where emissions from that source would result in interference with the attainment or maintenance of a national standard or with the State control strategy. Where State plans were judged inadequate in this respect, the Administrator has promulgated or will promulgate such regulations. In addition, new source performance standards promulgated by the Administrator under section 111 of the Act and motor vehicle emission standards promulgated under section 202 will also serve to mitigate the impact of growth.

However, these measures, by themselves, are not adequate to insure the maintenance of standards, particularly for air pollutants emitted largely by motor vehicles. Nor do they deal with the problem of emissions generated not by the facility being constructed but by sources associated with such facility, including general urban and commercial development. In the Administrator's judgment, it is also necessary to require States to review, and where necessary prevent, the construction of facilities which may result in increased emissions from motor vehicle activity or emissions from stationary sources that could cause or contribute to violations of national ambient air quality standards. Such facilities generally are designated "complex sources." EPA guidelines did not require this and the review of State plans indicates that no State included such a provision in its implementation plan. Accordingly, in order to comply with the court order, it has been determined that all State plans must be disapproved to the extent that they do not contain provisions which will permit the review, and provide the authority to prevent, the construction, modification, or operation of complex sources at a location where emissions associated with such source would result in violation of a national standard or the State's control strategy.

The action taken herein to disapprove State implementation plans with respect to their lack of provisions for review of complex sources is not intended to affect, and should not be construed as affecting, the validity of prior approvals of State plans by the Administrator or prior promulgation of regulations to correct State plan deficiencies. Provisions of approved or promulgated plans remain in effect and are enforceable by the State and/or Federal Government in accordance with the provisions of the Clean Air Act.

The Administrator has also determined that many States' procedures for the review of stationary sources, and the consequent authority to disapprove the construction or modification of any such source where it would interfere with the maintenance of a national standard, contain a variety of exemptions so that certain sources need not be reviewed by the State prior to construction or modification. While such exemptions will not necessarily interfere with the ability of the State to attain the national standards, the exempted sources may, at some time in the future, comprise significant sources of air pollution which should be reviewed in order to insure maintenance of the standards. Accordingly, the Administrator will also set forth a regulation that will specify a limitation on the sources that may be exempted from a new source review procedure.

In order to correct the disapprovals set forth in this document, the Administrator will require States, where necessary, to revise their review procedures for construction or modification of sources. He will also require all States to adopt and submit to him a legally enforceable procedure for reviewing the impact of the construction or modification of a "complex source" and for preventing the construction or modification of such complex source where necessary to attain and maintain a national standard or to prevent interference with the State control strategy. The Administrator will propose amendments to 40 CFR Part 51 which will set forth such requirements. This document is intended to be an advance notice of proposed rule making and will appear at page 6290 of this issue.

The complex source review procedures will also be required as part of the plan for attainment of the standards. EPA is continuing to review the problem of maintenance of standards to determine other techniques or procedures that could be employed by States as part of their plans.

At the present time, the Environmental Protection Agency is preparing draft regulations which will identify the types of facilities to be covered by complex source regulations and some of the factors to be considered in determining the impact that such facilities will have on air quality, as a result of emissions directly from such facilities and from air pollution sources associated with them.

A complex source is generally defined as a facility that has or leads to secondary or adjunctive activity which emits or may emit a pollutant for which there is a national standard. These sources include, but are not limited to:

(1) Shopping centers;
(2) Sports complexes;
(3) Drive-in theaters;
(4) Parking lots and garages;
(5) Residential, commercial, industrial, or institutional developments;

(6) Amusement parks and recreational areas;
(7) Highways;
(8) Sewer, water, power, and gas lines;

and other such facilities which will result in increased emissions from motor vehicles or other stationary sources. The regulation will further provide that each State must have procedures whereby, prior to construction or modification of such sources, the State will be able to determine whether the construction or modification of the complex source would cause violations of the applicable portions of a control strategy or interfere with the attainment or maintenance of the national ambient air standards. States will be required to have the authority to disapprove the construction or modification where it would have such a result. The regulation will set forth the basic minimum considerations which should be addressed by a State before it can approve or disapprove any such construction or modification. States should begin now to determine their legal authority to adopt such a regulation, and to obtain such authority where it is lacking.

The order of the court on January 31, 1973, required the Administrator, upon disapproval of State plans, to direct States to submit approval provisions for maintaining the standards by April 15, 1973. Since this does not provide States with adequate time to develop corrective regulations and submit them to the Administrator in accordance with the procedural requirements of 40 CFR 51.4, the Administrator has applied to the court for a modification of that order to defer submittal of plans by the States until after the promulgation of the amendments to Part 51 establishing the requirement of a complex source provision. The new timetable requested from the court would permit proposal of the amendment to 40 CFR Part 51 on April 15 with the final regulation being promulgated by June 11, 1973. State plans providing for maintenance of the standards and containing such a procedure would have to be submitted by August 15. Should the court not modify its order, States will have to submit their plan for maintenance of the standards by April 15, 1973. Should the court grant the motion, the disapproval prescribed below will be amended to set forth the later date for submittal of the plans.

The amendments set forth below are effective from the date of publication in the FEDERAL REGISTER since the amendments are made pursuant to a court order which requires the Agency to disapprove the State plans which do not provide for maintenance of the primary standards.

Dated: March 2, 1973.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

Subpart A of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended by adding § 52.22 as follows:

§ 52.22 Maintenance of national standards.

Subsequent to January 31, 1973, the Administrator reviewed again State implementation plan provisions for insuring the maintenance of the national standards. The review indicates that State plans generally do not contain regulations or procedures which adequately address this problem. Accordingly, all State plans are disapproved with respect to maintenance because such plans lack enforceable procedures or regulations for reviewing and preventing construction or modification of facilities which will result in an increase of emissions from State plans are disapproved with respect other sources of pollutants for which there are national standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part. Pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit entered on January 31, 1973, State plans providing for maintenance of the national standards must be submitted to the Administrator no later than April 15, 1973.

[FR Doc.73-4405 Filed 3-7-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments

Correction

In FR Doc. 73-3376, appearing at page 4753 in the issue of Thursday, February 22, 1973, the following changes should be made:

1. On page 4755, directly under § 1-15.306-4(a), place a line of five stars.
2. In the first line of paragraph (g) of § 1-15.309-7, in the second column on page 4757, after the word "charging", insert "*personal services*. Budget estimates on a".
3. In the second column on page 4758, directly above § 1-15.309-13, place a line of five stars.