

Submitted on March 25, 2014  
City Council

## New York calls for federal spill response plans amid rail accidents

By Mary Esch, Associated Press, Fuelfix, March 25, 2014

ALBANY, N.Y. (AP) — New York officials asked the Environmental Protection Agency on Monday to update a contingency plan for dealing with oil spills amid the rapid expansion of rail shipments of crude oil from North Dakota across New York to coastal refineries.

State Department of Environmental Conservation Commissioner Joe Martens sent a letter Monday to EPA Administrator Gina McCarthy. He said under the Oil Pollution Act of 1990, the EPA is responsible for creating Inland Area Contingency Plans to improve preparedness for oil spills.

A review of crude oil rail safety ordered by Gov. Andrew Cuomo in January found immediate action was needed by the EPA to update contingency plans and develop response plans for environmentally sensitive areas, Martens said.

Cuomo directed state agencies to do a comprehensive review of safety procedures and emergency response preparedness related to shipments of crude from the Bakken oil fields in North Dakota in light of a series of rail disasters last year, including one in Quebec that killed 47 people. The agencies

are to report by the end of April on their findings.

EPA spokeswoman Mary Mears said the agency will review the DEC letter and respond to the specific requests.

“EPA is engaged in a range of activities to make sure that crude oil is being transported, handled and stored properly,” Mears said. “We are actively enhancing our prevention and response efforts including inspections of oil storage facilities.”

The Port of Albany on the Hudson River has become a major hub for crude oil transport by rail and ship in the last two years. In November 2012, DEC approved a permit that allowed Global Partners of Waltham, Mass., to increase throughput at its port facilities from a combined limit of 450 million gallons a year of gasoline, ethanol and crude oil to a limit of 1.8 billion gallons per year of crude oil.

Residents and environmental groups have raised safety concerns as hundreds of railroad tanker cars of Bakken crude are now rolling through communities from Buffalo to Albany and from the Canadian border south to New York City.

<http://fuelfix.com/blog/2014/03/25/new-york-calls-for-federal-spill-response-plans-amid-rail-accidents/>

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**CAPP contact: Charlie Peters**

## More ethanol-to-crude rail facility conversions unlikely in California: analyst

By *Bridget Hunsucker, McGraw Hill Financial, 24 March, 2014*

More conversions of California ethanol rail unloading terminals to crude service are unlikely, following Kinder Morgan's switch of its Richmond, California, unloading facility, an analyst said Monday.

"The other big [ethanol] terminals aren't as close to refiners, and there is a limited amount of ethanol capacity," Stillwater Associates President David Hackett said on the sidelines of the American Fuel and Petrochemical Manufacturers Annual Meeting in Orlando, Florida.

Kinder Morgan late last year converted the terminal to crude service from ethanol service "after changes in the ethanol market made it attractive for us to look to other commodities," spokeswoman Melissa Ruiz said Monday in an email.

The Richmond terminal is the only 100-car unit train crude-by-rail facility in California, she said.

"In order to handle crude oil, we had to file a new application with the Bay Area Air Quality Management District (BAAQMA) for permits, which we received last summer," she said. "We began handling crude this past September, and the facility will serve Bay Area refiners."

The terminal is located on the Burlington Northern Santa Fe rail yard in Richmond. The railed crude is

trucked from the terminal, she said, noting that there are no pipelines or tank connections involved.

Ruiz declined to comment on the terminal's current throughput or on which types of crude are received by the facility.

The rail terminal conversion comes after the leading US midstream company early last year scrapped its high-profile proposed Texas-to-California Freedom Pipeline on a lack of customer interest. The pipeline would have delivered 277,000 b/d of crude from the Permian Basin in West Texas to northern and southern California refining complexes.

Kinder Morgan said at the time that it would focus on providing crude-by-rail options for West Coast and Texas shippers.

Along the West Coast, refiners and midstream companies are planning to construct crude-by-rail unloading terminals, but are facing permitting delays opposition.

If California "doesn't get crude by rail, their competitiveness will erode," Hackett said during the Platts Barrel Talk panel discussion at the conference. "We do see some uptick in rail deliveries, but there is a lot of opposition to crude by rail in California with the environmental community."

<http://www.platts.com/latest-news/oil/orlando-florida-more-ethanol-to-crude-rail-facility-conversions-21378021>

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## East Bay and South Bay passenger rail corridor proposed to move crude oil

*By Tom Lochner, Contra Costa Times, March 24, 2014*

**BERKELEY --** The tracks that carry Amtrak Capitol Corridor trains through about a dozen heavily populated East Bay and South Bay communities could become a rail superhighway for potentially explosive crude oil transports to Central California under a plan by the Phillips 66 oil company, Berkeley officials warn.

A project at Phillips 66's Santa Maria refinery would enable it to receive crude oil from North American sources that are served by rail, according to a draft environmental report under review by San Luis Obispo County.

The report identifies the most likely source of the crude as the Bakken oil field that covers parts of North Dakota and Canada. Last July, a train carrying Bakken crude exploded in Lac-Mégantic, Quebec, killing 47 people and nearly destroying the town.

This latest project would add to a growing trend in California to receive imported oil over land via rail rather than by sea. The train cars filled with oil would roll through Sacramento, the East Bay and South Bay on Union Pacific tracks, switching to the UP's Coast Line and on to Santa Maria, according to Berkeley officials who have analyzed the Santa Maria report.

At its peak, the Santa Maria refinery would receive five trains a week, each just under 4,800 feet long with 80 tank cars, two buffer cars and three locomotives, according to the document.

Bakken crude is light and less viscous than most other varieties of crude,

including tar sands. Bakken crude has a lower flash point and is much more flammable.

Phillips 66 did not immediately respond to phone calls and emails Monday. But in a comment in the Santa Maria report, the company wrote that the Santa Maria refinery "is not equipped to process more than nominal volumes of light, sweet crude such as that from the Bakken oil field."

Ellen Carroll, San Luis Obispo County's planning manager and environmental coordinator, said in a phone call Monday that "Phillips 66 has indicated to us that they are looking in more detail into where they are actually going to be getting their crude from."

Carroll said her office is reviewing more than 800 comment letters and that no date has been set for the next hearing.

The prospect of increased shipments of crude has provoked concerns among some residents who live near petroleum refineries, including Chevron in Richmond, Phillips 66 in Rodeo, Shell and Tesoro Golden Eagle, both in the Martinez area, and Valero in Benicia.

But the concerns were based on the notion that refineries would eventually receive crude oil by rail for their own operations, something that is already happening to a limited degree at Tesoro, according to industry sources. Now, the idea the Bay Area could be a transit route for crude oil headed elsewhere in California has spurred elected officials to action.

On Tuesday, the Berkeley City Council will discuss a resolution opposing the

# Corn ethanol mandate hurts businesses, consumers

*Lisa Ingram, Special to The Courier-Journal, March 23, 2014*

Running a business gives me a great sense of reward, to see something my family has built over the past 92 years through long hours and hard work as well as the unwavering contributions of our dedicated team members. White Castle is a shining example of the American dream becoming a reality. My great-grandfather opened the first White Castle in Wichita, Kan., and we have grown to 406 locations in 12 states with more than 10,000 employee team members.

We have deep ties in Kentucky with 812 team members and more customers served in the Louisville region than all but a handful of other White Castle markets. Louisville's first White Castle opened on East Market Street in 1928 and we continue to serve local families from that location. The area is also home to one of our frozen food plants where nearly 200 team members prepare our famous slider hamburgers and cheeseburgers that are sold in grocery stores nationwide. But it is our community work that I am most proud of, especially our longtime partnership with Kosair Children's Hospital.

When I look at the challenges our business faces, what worries me most are external factors like a federal policy that began with good intentions

but, over time, has brought dire consequences. The Renewable Fuel Standard (RFS) is taking needed resources out of our business and hurting our customers because of its impact on food prices. The RFS is a mandate to divert an expanding portion of our nation's corn supply into ethanol production rather than food production. As a result, the demand for corn has skyrocketed, and we have seen a 300 percent increase in the price of corn since the mandate was enacted in 2005.

Like the waves from a rock thrown into a farm pond, the impact of rising corn demand and price ripples through the nation's food economy. Corn prices affect baked goods, dairy products, meat, prepared food, beverages and other products. I know firsthand that since the implementation of the RFS, our beef prices have increased 47 percent and are just one of many food commodities causing costs to increase by approximately \$15,000 per restaurant. Consequently, food costs have increased by more than \$435,000 each year at our 29 Louisville restaurants. That is money that could be used to help pay for the opening of a new restaurant that employs dozens of people. The government mandate impacts our ability to grow and expand

our business. It may not seem like much, but when one company in one city has those impacts, imagine what it means to an industry and to cities and towns throughout the country.

Owners of businesses like ours see the corn-for-ethanol mandate hit our budget for food supplies hard. The RFS not only increases costs but it also creates uncertainty and fluctuations in food prices that make it difficult to plan for the future. When budgeting to our business growth, we have to consider the volatility of corn and put aside money to cover that rather than investing that money into new restaurants and creating new jobs. This uncertainty has real economic impact to our business and the communities we serve.

The chain restaurant industry operates with narrow profit margins and the RFS limits our ability to provide good, affordable food to our customers. At White Castle, we have been providing neighborhoods with affordable food

options since the 1920s and we want to continue feeding these communities for the next 90-plus years, but the RFS challenges our ability to do so.

Chain restaurants aren't alone either. Consumers feel the pinch at the local grocery store as well. Here are some examples of estimated RFS effects on everyday consumers if the policy is not changed: Pork prices will increase by 15 percent; beef will increase by 7.5 percent; eggs will increase by 11 percent; and potatoes will increase by 13 percent.

The federal government needs to revisit the RFS rules now. RFS is a glaring example of a government policy gone awry because of the cost impacts felt by businesses and families seated at dinner tables across the country. Although some have called to reduce the mandates, it's clear that the best approach is to repeal the corn ethanol mandate entirely. After nearly a decade of failure, it's time for the Renewable Fuel Standard to go.

*Lisa Ingram is CEO of White Castle.*

<http://www.courier-journal.com/story/opinion/contributors/2014/03/23/corn-ethanol-mandate-hurts-businesses-consumers/6802801/>

*Dr. Stan's California water supply opinion*

<http://mediaarchives.gsradio.net/radioliberty/121213d.mp3>

CAPP contact: Charlie Peters 1770

# Lots of oil in rail tank cars about to be coming to Bay Area

*By Phillip Matier & Andrew Ross, SFGate, March 23, 2014*

Oil is flooding into the Bay Area - in rail tank cars that amount to potential environmental disasters on wheels.

In 2011, about 9,000 tank cars filled with crude oil were shipped into California by rail. In the next two years, thanks to the oil boom in North Dakota and Canada, the number is expected to jump to more than 200,000, according to the California Energy Commission.

About 10 percent of the oil will be headed to the five Bay Area refineries, which means traveling through Contra Costa and Solano counties. The question is, are we prepared to handle the spills or fires if there is a derailment?

"No," said state Sen. Jerry Hill, D-San Mateo, after listening to 2 1/2 hours of testimony from emergency responders the other day at a hearing in Sacramento.

In a nutshell, the state has plenty of money for responding to waterborne accidents like the Cosco Busan oil spill in the bay in 2007 - but virtually nothing for handling spills on land.

(snip)

*San Francisco Chronicle* columnists *Phillip Matier* and *Andrew Ross* appear Sundays, Mondays and Wednesdays. Matier can be seen on the KPIX TV morning and evening news. He can also be heard on KCBS radio Monday through Friday at 7:50 a.m. and 5:50 p.m. Got a tip? Call (415) 777-8815, or e-mail [matierandross@sfchronicle.com](mailto:matierandross@sfchronicle.com).

<http://www.sfgate.com/bayarea/matier-ross/article/Lots-of-oil-in-rail-tank-cars-about-to-be-coming-5341197.php>

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# 25 Years After Exxon Valdez, BP Was the Hidden Culprit

*By Greg Palast, Truthdig, March 23, 2014*

Two decades ago I was the investigator for the legal team that sold you the bullshit that a drunken captain was the principal cause of the Exxon Valdez disaster, the oil tanker crackup that poisoned over a thousand miles of Alaska's coastline 25 years ago on March 24, 1989.

The truth is far uglier, and the real culprit—British Petroleum, now BP—got away without a scratch to its reputation or to its pocketbook.

And because BP's willful negligence, prevarications and fraud in the Exxon Valdez spill cost the company nothing, its disdain for the law, for the environment and for the safety of its workers was repeated in the Gulf of Mexico with deadly consequences, resulting, two decades later, in the Deepwater Horizon disaster.

Just this month, the Obama administration authorized BP to return to drilling in the Gulf.

It would be worth the time of our ever-trusting regulators to take a look at my Exxon Valdez BP files. They would see a decades-long pattern of BP's lies, bribes and cover-ups that led, inexorably, to the Deepwater Horizon blowout—and that continue today within BP's worldwide oil operations.

Here is a sample from my files on BP from the original Exxon Valdez fraud and racketeering investigation:

## Fraud No. 1: The Emergency Sucker Boat fraud

Containing an oil spill—preventing spilled crude from spreading to the shore—is not rocket science.

As the principal owner of the Alaska Pipeline and Terminal, BP, not Exxon, was designated

by law to prevent oil spilled by the Exxon Valdez from hitting the beach. It was BP's disastrous failures, more than Exxon's, that allowed the oil to devastate Alaska's coast.

To contain a spill all you need are rubbers and suckers. It works like this:

If a tanker, oil rig or pipe bursts open, you surround it with a giant rubber skirt known as "boom." Then you suck the oil out through vacuum hoses on board special "containment" ships. The containment ship, which lays out the boom and skimmer hoses, is the firetruck of oil spills. You simply don't let tankers out of port unless a containment ship is ready to roll. It's against the law.

But the law has never meant much to BP.

In May 1977, as the first tankers left Valdez, BP executives promised the state of Alaska that no tanker would leave port unless there were two containment barges at the ready and loaded with boom, with one placed near Bligh Island.

In fact, on March 24, 1989, when the Exxon Valdez ran aground, right at Bligh Island, the containment barge was far away in Valdez, locked in a dry dock, its boom and hoses under Alaskan ice. As a result, by the time the emergency oil spill vessel got to the stricken ship, the oil slick was a hundred miles in circumference and beyond control.

Two decades later, I watched fireboats uselessly spraying the burning oil on the Deepwater Horizon. Once again there were no BP skimmer barges, no boom surrounding the rig. Just as in Alaska, the promised spill containment operation was a con. By the time the Navy set out 400 miles of rubber boom days later, the slick was already as big as Cuba and slathering the Gulf shores.

Recently, Chevron and other big oil giants, now drilling the Gulf, have printed a series of full-page ads in papers across America touting their new state-of-the-art oil spill containment operations. Hey, thanks. But these are the same vessels BP and its fellow Gulf drillers promised before the Deepwater Horizon blew apart.

## **Fraud No. 2: Ghost Crews**

There's no sense having a firetruck without firemen. And so, years before the Exxon Valdez grounding, Alyeska, the oil company consortium headed by BP, promised the U.S. Department of the Interior and the U.S. Congress, under oath, that the oil shipper would employ a trained and equipped crew around the clock to jump from helicopters, if needed, to contain an oil spill. My clients, the Chugach Natives of Alaska, agreed to give up ownership of the land under the Port of Valdez to the oil companies in return for those jobs.

The night the Exxon Valdez grounded, Chugach Natives watched from the beach at nearby Tatitlek Village as the tanker headed into the reef. They could have prevented the disaster—but they were helpless: BP had fired them.

In my team's investigation for the Chugach, we discovered that, to save money, BP's Alyeska simply drew up lists of nonexistent emergency spill response workers or wrote down names of untrained, unequipped dockworkers: an imaginary crew to man phantom emergency ships.

## **Fraud No. 3: Phantom Equipment**

And the rubber boom? That was a phantom as well. BP's Alyeska had promised that too, in writing. The equipment was supposed to be placed along the tanker route including Bligh Island—exactly the spot where the Exxon Valdez grounded.

And so, it was no surprise to me that 21 years later in the Gulf there were neither skimmers nor boom at the site of the Deepwater Horizon.

The equipment was there, as in Alaska, only on paper.

Indeed, part of BP's Gulf Coast response plan was a photocopy of the Alaska plan, including ways to wash down Arctic seals.

## **Cover-Up, Threats and Bribery**

Did BP's top executives and partners know of the ghost response teams and phantom equipment ruse? Yes, we have the documents and insiders' testimony. Just three examples from my bulging file cabinet:

In a confidential letter dated April 19, 1984, Capt. James Woodle, BP's commander of the port at Valdez, warned that "due to a reduction in manning, age of equipment, limited training and lack of personnel, serious doubt exists that [we] would be able to contain and clean up effectively a medium or large size oil spill."

In response, BP threatened him with a file on his marital infidelities (fabricated), fired him, then forced him to destroy his files.

Ten months before the Exxon Valdez spill, BP's Alyeska chief, Theo Polasek, told a secret meeting of the top executives of the Alaska group oil companies (including BP, Exxon and ConocoPhillips) that containing an oil spill "at the mid-point of Prince William Sound [is] not possible with present equipment." But no change was made. Polasek was denied the funds needed to protect the mid-Sound—exactly where the tanker grounded.

In September 1984, before the Exxon Valdez disaster, BP's shipping broker, Charles Hamel, was so concerned at what he saw as an immediate danger in Alaska that he flew by Concorde to London to warn BP's chiefs of the looming emergency. In response, BP hired ex-CIA operatives to tap Hamel's phone and intercept his mail. BP's black ops team even ran a toy truck with a microphone into the air vents of a building where he was speaking with a congressman. (Ultimately, BP's spooks were captured by a team of Navy SEALs.)

## BP Gets Off Cheap

The team of attorneys representing the Natives and fishermen whose lives were destroyed by the tanker spill chose to hold back the true and ugly story of systematic fraud and penny-pinching negligence by BP and its partners. We focused instead on the simpler story of human frailty and error—“drunken skipper hits reef.”

We didn't have a choice: Oil company chiefs had told our clients—Natives who were out of cash, isolated and desperate—that they wouldn't get a dime unless we agreed not to use the “f-word”: fraud. Exxon would withhold payment for 20 years.

We buried the fraud charges—yet Exxon still didn't pay for 22 years. By that time, a third of the Natives and fishermen in the lawsuit were dead.

And BP? Who said crime doesn't pay? BP walked away with a nominal payment to Alaska's Natives, fishermen and towns of \$125 million—100 percent of it covered by insurance.

And that's what led, years later, to the incineration of 11 men on the Deepwater Horizon and 600 miles of Gulf coastline still poisoned today.

BP and other oil companies have a clear motive for these safety games: skimmer barges, crews, equipment and operations cost billions of dollars a year worldwide to man and maintain. It's cheaper to lie, cover up and buy the favor of politicians and regulators.

In London, BP executives told me on camera of their systematic bribery of presidents and their minions in the new Caspian Sea oil states. (Bribery charges against one bagman were dropped when in 2010 the National Security

Agency acknowledged that it had authorized the bribes.)

But it's not just “over there” that BP spreads its largesse. BP's original sweetheart oil leases in the Gulf and the light hand of regulators were doubtless the result of favors—monetary and sexual—that the company lavished on U.S. regulatory agents at the Minerals Management Service, an agency that President Obama shuttered in response to the Deepwater Horizon blowout.

There's also the monetary and political love laid upon America's powerful. Although a foreign company, BP's chief in Alaska, Bob Malone, became a co-chairman and fundraiser for George W. Bush's election campaign.

## Polluted Shores, Polluted Politics

In 2010 for the U.K.'s Channel 4 Television, I returned to Alaska with filmmaker Richard Rowley. In the quiet rivulets of the islands within Prince William Sound, we picked up gobs of oil with the telltale chemical markers of the Exxon Valdez. Then we flew to the Gulf Coast with Alaskan oil spill biologist Rick Steiner—and found miles and miles of BP's oil oozing under beaches the company and the Obama administration had already declared clean.

Yet just last week, BP was awarded more tracts to drill in the Gulf even as its onetime vice president for Gulf exploration, David Rainey, stands trial on felony charges of obstruction of Congress.

It is clear that neither BP, its partners nor this administration can be trusted to safely punch more miles-deep holes in the Gulf of Mexico. As long as oil companies can pad their bottom line by scoffing at the law, as long as they can cheaply pollute the political process, the next disaster is not a matter of if, but when.

Palast's investigation of BP opens his latest film, "Vultures and Vulture Hunters." Prerelease editions are available on DVD and download for a donation to Palast's foundation for investigative reporting.

And read the complete untold story of the Exxon Valdez and Deepwater Horizon disasters in Palast's "Vultures' Picnic," BBC Newsnight's Culture Program's Book of the Year.

[http://www.truthdig.com/report/item/25\\_years\\_after\\_exxon\\_valdez\\_the\\_hidden\\_culprit\\_was\\_bp\\_20140323](http://www.truthdig.com/report/item/25_years_after_exxon_valdez_the_hidden_culprit_was_bp_20140323)

## **Viewpoints: A better direction for California's climate change policy**

*Mark Gergen & David Gamage, Sacramento Bee, Mar. 22, 2014*

California's historic climate change legislation is at a crossroads. Signed into law by Gov. Arnold Schwarzenegger in 2006, AB 32 has been coming online in stages, with the law's centerpiece cap-and-trade program launching in late 2012. The program's second phase is set to take effect in 2015, when the cap and trade program will be extended to gasoline and other fuels.

If the cap-and-trade program is to meet its environmental goals, the price of fuels will rise. Californians will pay more at the pump. This is inevitable, as the structure of the cap and trade program is designed around market-price mechanisms.

Unfortunately, as currently structured, the cap-and-trade program is almost certain to either fail at its environmental goals or else to unduly harm working-class Californians. Fortunately, there is a better way forward.

Senate President Pro Tem Darrell Steinberg has proposed that California adopt a carbon tax on fuel suppliers beginning in 2015. Fuel suppliers would pay a tax rather than be covered by the cap-and-trade program. Two-thirds of the tax would be refunded to taxpayers through a tax credit for low-income workers and other forms of tax relief. The remaining revenue would be earmarked for transit investments.

We support Steinberg's proposal. It is good for the environment, good for the California economy, and good for California taxpayers. It is almost certain to achieve greater near-term reduction in global greenhouse gas emissions. The Steinberg proposal would also be more transparent and would provide tax relief to California taxpayers. It is a win-win-win policy.

The Steinberg proposal is good for the environment for the simple reason that it sets a significantly higher price on greenhouse gas emissions from the fuel sector than the likely price under the cap-and-trade program. A higher price means lower emissions. At the most recent auction in February, allowances for 2014 emissions sold for \$11.48, barely above the reserve price of \$11.34. The reserve price is the minimum price set for an allowance. Allowances for 2017 sold for \$11.38. The Steinberg proposal would charge a significantly higher price for global greenhouse gas emissions, starting at \$15 per ton in 2015 and increasing gradually over time. The Steinberg proposal would thus be better for the environment.

The California Air Resources Board could raise the price of allowances to \$15 per ton and achieve the same level of greenhouse gas emissions as the proposed tax in 2015. The ARB can set the price of an allowance either by reducing the cap or by increasing the

reserve price for an allowance.

But the proposed carbon tax is a much better mechanism for making those who burn fossil fuels pay for the privilege of doing so. The carbon tax is more transparent, specifying the sums that must be paid for the privilege of emitting greenhouse gases. And unlike cap and trade's auction proceeds, revenue from a carbon tax can be returned to Californians through direct tax relief.

The advantages of the carbon tax are clear if we think about what the world will look like next year, without Steinberg's proposed reforms. Fuel suppliers will be required to purchase allowances from ARB at an auction or on the secondary market. Since the program began, ARB has given away about 90 percent of the available allowances for free.

But ARB will not be able to give free allowances to fuel suppliers to cover the carbon content of fuels they sell. Instead, fuel suppliers are supposed to

pass the price they pay for these allowances through to consumers – the people who burn the fuels – to encourage consumers to burn less fuel.

Under cap and trade, the price paid by consumers to burn fossil fuels will end up in one of two pockets. It may end up in ARB's pocket, to be spent on the more limited programs allowed under AB 32. Or it may end up in the pocket of a firm that sells an allowance in the secondary market. This might be a firm that sells an unused allowance given it by ARB. Or it might be a speculator who purchased an allowance. For example, if ARB priced allowances at \$15 per ton to get the same environmental benefits as the proposed tax, investors who purchased 2016 allowances for \$11.38 per ton would get a windfall.

The carbon tax is more transparent because we know where the money will go. It will go to the state of California, which can give the money back to California taxpayers through tax relief. Just as Steinberg has proposed.

*Mark Gergen is a tax law and policy professor at the University of California, Berkeley, School of Law. David Gamage is an assistant professor at UC Berkeley School of Law.*

<http://www.sacbee.com/2014/03/22/6257858/viewpoints-a-better-direction.html>

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**CAPP contact: Charlie Peters**



## Sacramento motorists run into surprise roadside smog checks

*By Tony Bizjak, Sacramento Bee, March 20, 2014 - 10:59 pm*

Travelers have rules-of-the-road questions for our Back-seat Driver. He has answers – with help from friends.

A reader was headed to work when the CHP waved him over for a roadside smog check. It took five minutes. His car passed. But he wonders, what was that all about?

State Bureau of Automotive Repair spokesman Russ Heimerich said officials conduct voluntary spot checks to see if “real world” car emissions match data that smog check stations send them. In the real world, cars are dirtier than smog

check inspections show. That is because there is some cheating, but mainly officials say it’s because some owners get their vehicle just healthy enough to pass inspection, then let the engine slide back to its polluting ways.

The state is using some of those roadside tests to check out a new smog technique, based on the car’s “onboard diagnostic sensor” readings. The state plans to launch that new system later this year. The state does not think the new test will be harder to pass. Currently, about 12 percent of the state’s cars fail their smog test the first time around.

*(snip)*

Call The Bee's Tony Bizjak, (916) 321-1059. [tbizjak@sacbee.com](mailto:tbizjak@sacbee.com)

<http://www.sacbee.com/2014/03/20/6255624/back-seat-driver-sacramento-motorists.html>

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**CAPP contact: Charlie Peters**

# Valero Community Advisory Panel to host crude-by-rail meeting

*By Tony Burchyns/Times-Herald staff writer, 03/20/2014*

**BENICIA --** The Valero Community Advisory Panel will host a community meeting Monday to discuss Valero's controversial crude-by-rail project.

According to Valero Benicia Refinery officials, the meeting's purpose is to inform the community, especially Benicia residents, about what Valero believes is the importance of the project both to the refinery and the city.

It will be held from 6:30 to 7:45 p.m. at the Ironworkers Union Local 378, 3120 Bayshore Road, Benicia. Due to limited space, RSVP's are required by calling (707) 654-9745 or via email to [info@beniciacr.com](mailto:info@beniciacr.com). For more information, visit [www.beniciacr.com](http://www.beniciacr.com).

The panel consists of Valero officials and members of the City Council, school board, business community and community at large.

The panel was established by an agreement executed in 2000 between the city and Valero to provide an ongoing means of communication about issues of mutual

concern.

The subject of the meeting will be Valero's proposed rail off-loading facility that would allow the refinery to receive up to 70,000 barrels of crude oil per day by train. The project's draft environmental impact report is due out next month.

Project critics have raised concerns about rail safety and the possible use of highly flammable Bakken crude from North Dakota.

Critics also have raised about the possible use of Canadian tar sands oil, regarded as more polluting than other crudes. An opposition group, Benicians for a Safe and Healthy Community, have organized events and launched a website -- [www.safebenicia.org](http://www.safebenicia.org) -- to give voice to these concerns.

Valero officials, however, have repeatedly said the project wouldn't increase emissions. They argue it would generate jobs and help the refinery stay competitive through better access to North American crude stocks.

Contact staff writer Tony Burchyns at [tburchyns@timesheraldonline.com](mailto:tburchyns@timesheraldonline.com) or (707) 553-6831. Follow him on Twitter @tonyburchyns.

[http://www.timesheraldonline.com/news/cr\\_25362604/valero-community-advisory-panel-host-crude-by-rail](http://www.timesheraldonline.com/news/cr_25362604/valero-community-advisory-panel-host-crude-by-rail)

***The California Department of Motor Vehicles (DMV) collects \$billions\$ using "Wallet Flushing" car tax. Is it time for CA AG Kamala Harris EPA GMO ethanol fuel waiver conversation?***

***Did Governor Brown choose a CA/DCA/BAR Chief who can find out if what is broken on a PZEV Smog Check failed car gets fixed? A Smog Check secret shopper audit would cut toxic car fleet impact 1500 tons per day while reducing cost by \$billions.***

<http://www.youtube.com/watch?v=Zl-Nrep74qg>

**CAPP contact: Charlie Peters (**

## State Energy Commission Official Ignorant of Dangerous Bay Area Oil Deliveries

*AllGov, Wednesday, March 19, 2014*

Although press reports raised an alert months ago that crude oil imports to California, which usually arrive via ocean transports and pipeline, have increasingly begun arriving by rail, not everyone at the California Energy Commission (CEC) is apparently paying attention.

Last week, CBS San Francisco was tipped off to a 100-car train loaded with crude sitting in a Richmond rail yard and asked commission Senior Fuels Specialist Gordon Schremp about it. The train is similar to one that exploded in Quebec last July killing 47 people, burning down 50 buildings and unleashing a “river of burning oil” through sewers and basements.

“At this point we don’t have any of those facilities operating in California,” he said, just moments before the reporter showed him footage of the train. Afterward, he said, “It’s certainly a recent change that you know, we haven’t been made aware of that.”

Until recently, the terminal was used to service so-called unit trains that were bringing in ethanol, a far less dangerous fuel.

If the commission didn’t know the oil was already in Richmond, it knew the combustible crude was on the way. Governor Jerry Brown’s 2014-15 asks the Legislature to approve an additional 38 staff members and \$6.7 million for the Office of Oil Spill Prevention and Response in the Department of Fish and Wildlife. The office currently employs 245 people.

In 2012, only 0.2% of the 598 million barrels of oil arrived by rail in California. Railroads are carrying 25 times more crude oil nationally than they were five years ago and the increase is reflected in oil spill incidents.

The commission has said it expects rail to account for a quarter of imports by 2016 as oil production in the West booms and producers look for refiners. And, of course, tar sands oil from Canada looms as Alberta looks to ship the world’s dirtiest petroleum product to the Gulf Coast via the controversial Keystone XL pipeline and California via trucks and rail.

The reporter questioned Schremp about whether Kinder Morgan, the energy company that operates the terminal, needed an Environmental Impact Report (EIR) before bringing in the crude. He told KCBS it probably isn’t a problem if the train is just sitting in temporary storage in Richmond. But it isn’t.

The TV station filmed tanker trucks offloading oil from the train cars. The oil, from North Dakota’s Bakken area, is said to be considerably more flammable than conventional crude. And, according to Environment and Energy Daily, transportation experts warn that the aging train cars are susceptible to rupture and puncture in a derailment.

The city of Richmond said they had no control over the terminal, which is under federal jurisdiction.

<http://www.allgov.com/usa/ca/news/tcp-stories/state-energy-commission-official-ignorant-of-dangerous-bay-area-oil-deliveries-140319?news=852712>

*Dr. Stan’s California water supply opinion*

<http://mediaarchives.gsradio.net/radioliberty/121213d.mp3>

**CAPP contact: Charlie Peters**



## *Clean Air Performance Professionals*

March 10, 2014 - 9am  
John L. Burton hearing room (4203)  
Senator Ted W. Lieu Chair  
Assemblymember Susan Bonilla Co-Chair  
State Capitol, California 95814

# RE: BAR Sunset Review

Dear Joint Business & Professions Committees Chairs and members.

The California Department of Motor Vehicles (DMV) collects \$billions\$ using "Wallet Flushing" car tax. Is it time for CA AG Kamala Harris EPA GMO ethanol fuel waiver conversation?

Did Governor Brown choose a CA/DCA/BAR Chief who can find out if what is broken on a PZEV Smog Check failed car gets fixed? A Smog Check secret shopper audit would cut toxic car fleet impact 1500 tons per day while reducing cost by \$billions.

<http://www.youtube.com/watch?v=Zl-Nrep74qg>

Clean Air Performance Professionals (CAPP) / an award winning coalition of motorists

Respectfully

Charlie Peters  
Clean Air Performance Professionals (CAPP)  
(510) 537-1796

cc: interested parties

*CAPP contact: Charlie Peters*

# BAR SUNSET REVIEW

BAR field offices, is it time for improved Smog Check Performance?

*Draft Copy, Charlie Peters, CAPP, March 8, 2014*

*Money to repair not scrap, and.....*

How about a car at the referee that fails being refereed back to the Smog Check provider after the fail fault has been determined, for further action, without any instructions on fault analysis?

The BAR and the owner just ask the service and repair provider if the referee failed car should be provided with further opportunity to repair?

Can a historical 50% repair performance result be improved to 80%, 30% performance improvement?

A BAR previous motorist Smog Check partnership resulted in all failed cars that received further voluntary repair passed at the next referee inspection every time. Every time.

W. Edwards Deming audit Total Quality Management (TQM) reviews changed Japan to the #1 performing mfg. country in the world in 4 years flat.

About 1980 Ford, IBM, Harley-Davidson etc., etc. with W. Edwards Deming contributions made large progress in cost, quality & profit results.

Central Valley free inspection and repair program might prove an interesting audit study.

Who is Awet Kidane?

Can PZEV Smog Check failed car perform @ over 80% pass rate after repair, two years after previous test fail result? 2,000,000 PZEV's have been produced so far.

Data from BAR Chief Patrick Dorais United Parcel Service (UPS) performance study about 1995 might prove interesting. 90% fail became about 90% pass. Initial test result performance improvement without any factors other than a quality audit.

Union, licensed Smog Check providers at the start and no Smog Check license after 1 year. Just a little of the TQM methods.

Keith Smith, TQM guru, ask the Inspection and Maintenance Review Committee (IMRC) about improved Smog Check oversight methods at the only meeting held in the State Capitol.

Mike Vanderlaan, the UPS study manager, also ask IMRC if the committee would support the Deming method.

*CAPP contact: Charlie Peters*

# *Clean Air Performance Professionals*

*21860 Main Street Ste A  
Hayward, California 94541*

*Are carpetbaggers:  
BoozAllen, Carlyle Group,  
ApPlus, Meineke Car Care  
Centers and CARB working a  
deal to take California Small  
business "Smog Check".*

*The "Ombudsman" Russ  
Heimrich, (916) 574-8171  
may be able to answer  
questions.*

*CAPP contact: Charlie Peters*

# RE: Ombudsman

**From:** "Wallauch, John@DCA" <John.Wallauch@dca.ca.gov>

**To:** "

**Subject:** RE: Ombudsman

**Date:** Dec 4, 2012 12:03 PM

Hi Charlie, the Department Ombudsman is Russ Heimrich, his number is (916) 574-8171...

---

-----Original Message-----

From: cappcharlie@earthlink.net

[mailto:cappcharlie@earthlink.net]

Sent: Tuesday, December 04, 2012 11:31 AM

To: Wallauch, John@DCA

Subject: Ombudsman

Chief Wallauch,

Who can we contact to ... find out if the Department of Consumer Affairs / Bureau of Automotive Repair (DCA/BAR) has an Ombudsman Position?

Charlie Peters

Clean Air Performance Professionals

Solano County drivers, auto shops to navigate new smog law in 2012

*By Sarah Rohrs/ Times-Herald, Vallejo, November 24, 2012*

For Tracy Renee of Gene's Auto Repair in Vallejo, a new California smog bill has some good elements. But she's worried the bill may leave many motorists scratching their heads.

On Jan. 1, AB 2289 impacting California's smog check programs goes into effect as part of the larger effort to reduce air pollution.

The new law impacts both motorists and automotive places which offer smog testing, or other businesses which specialize in and only offer smog tests.

Vehicles must pass smog tests every two years so that their owners can register them through the Department of Motor Vehicles.

"It's such a huge bill and it encompasses a lot of different things, but, overall, I think that there will be a lot of improvements. Some of it is 'yet to see,'" Renee said.

One effect of the bill is that motorists with older cars (which the state considers most likely to fail the smog tests) will be directed to new "STAR Stations."

STAR stands for Station Technician Achievement Rating and means that a smog station has met high standards,

or scores, based on a state-issued report card.

Auto operators who wanted to get STAR certification have had one year to improve their scores which are also available for consumers to see online, Renee said.

But, while the new STAR Stations don't go online until after the first of the year, some motorists are already getting DMV renewal notices directing them to such facilities.

One Benicia senior citizen, for example, drove to Renee's auto shop earlier this month with such a DMV notice and a deadline to renew his 1998 Mercedes by Dec. 22, she said.

"Who knows how much time he spent trying to figure out what to do?" Renee said.

Due to her knowledge of the new law and smog issues, in general, Renee steered him in the right direction. But, she was concerned that the elderly driver had been inconvenienced for no reason.

Consumer affairs spokesman Russ Heimerich said agencies had to prepare for the bill to go into effect on Jan. 1. As such, the DMV notices went out 60 to 90 days before a January

deadline to renew the vehicle's registration, he added.

Since most people "wait until the last minute" to register their vehicles, they would be taking them to a STAR station after Jan. 1, he added.

DMV spokesman Armando Botello said under state law the agency must send out notices at least 60 days before the deadline for vehicles to be registered. He said an attachment inside the notices alerts motorists they can take their vehicles to a Gold Shield or Test Only station until the new law goes into effect.

Besides motorists, automotive operators are gearing up for the law to go into effect. Currently, more than 1,300 stations statewide have applied for and received high enough scores to become a STAR station.

"Right now, we have about 1,300 stations" statewide, Heimerich said.

The STAR stations are not the only

*Motorists who have gotten DMV renewal notices telling them to go to a STAR station before those stations are, in fact, open can call the state at (800) 952-5210 for direction.*

*Information on STAR stations and other aspects of AB 2289 is also available at [www.autorepair.ca.gov](http://www.autorepair.ca.gov).*

[http://www.thereporter.com/news/ci\\_22058368/solano-county-drivers-auto-shops-navigate-new-smog](http://www.thereporter.com/news/ci_22058368/solano-county-drivers-auto-shops-navigate-new-smog)

CAPP contact: Charlie Peters

impact of the new state bill. Another aspect will go into effect mid-year 2013 aimed at making it easier and less expensive for newer cars to pass smog tests.

Smog stations will move away from traditional tail pipe tests they've been using for the last three decades and, instead, use specialized "sensors" to expedite the process.

However, those new sensors can be used only for cars that are year 2000 or newer. Older cars will be directed to STAR stations.

The goal of the new law is to improve smog passage rate through better testing, diagnostics, repair and follow-up, Heimerich said.

"There was some research which showed that vehicles within six months of being able to pass couldn't pass again. The vehicles were getting repaired just enough to pass smog but not enough to stop polluting," he added.



## ***Clean Air Performance Professionals***

**Saturday, September 29, 2012**

John Chiang  
California State Controller  
P.O. Box 942850  
Sacramento, California 94250-5872  
(916) 445-2636 / 4404 FAX

### **RE: Smog Check repair performance**

Honorable John Chiang,

Many friends have shared that you have a special knowledge of the workings of the California Government system.

California seems to give priority to Global Warming and Air quality with support of the Consumer Assistance Program (CAP) that is reported to provide up to \$4000.00 to crush a car that might be more affective if a random remaining useful life audit was considered. Also 1,000,000's of cars are tested resulting in 100,000's failing the test but many parts identified as failure faults have sales volume that might indicate opportunities to improve the performance of the CAP program.

Can we meet with you or a member of your staff to see if your office has and suggestions as to how to answer our questions.

California motorists and small business can improve California with some help.

CAPP an award winning coalition of motorists

Thank you for your service to California.

A handwritten signature in black ink, appearing to read 'Charlie Peters', is written over a horizontal line.

Charlie Peters

Hayward, California 94541

cc: interested parties

# *Clean Air Performance Professionals*

21860 Main Street Ste A  
Hayward, California 94541  
Wednesday, February 02, 2011

**Governor Jerry Brown**  
**c/o State Capitol, Suite 1173**  
**Sacramento, CA 95814**

**Phone: (916) 445-2841**  
**Fax: (916) 558-3160**

## **RE: Energy and fuel policy for California**

Corn ethanol policy is good for gasoline refiners

Corn ethanol policy increases oil use and increases oil profit

The car tax of AB 118 Nunez is an oil company welfare program

Italy used public/private partnerships as a business model in the early '40s

In my opinion the corn ethanol waiver allowed in the 2005 fed energy bill would lower gas prices, improve miles per gal, lower oil use and improve the air.

Clean Air Performance Professionals

Charlie Peters

cc: interested parties

*CAPP contact: Charlie Peters*

# *Clean Air Performance Professionals*

21860 Main Street Ste "A"  
Hayward, California 94541  
Thursday, January 13, 2011

Governor Jerry Brown  
c/o State Capitol, Suite 1173  
Sacramento, CA 95814  
Phone: (916) 445-2841

California State Government spends lots of money, collected from motorists at DMV, to repair cars that have not failed a Smog Check.

*"it is authorizing repairs to a car that doesn't fail the smog check up to \$500"*

I'm confused.

California repairs millions of cars but does not, ever, find out if the failure fault is fixed.

Can we improve?

CAPP contact: Charlie Peters

----- Original Message -----

From: [Senator.Steinberg@outreach.senate.ca.gov](mailto:Senator.Steinberg@outreach.senate.ca.gov)

Sent: Wednesday, September 15, 2010 2:51 PM

Subject: I share your support for AB 2289

Dear Mr. Peters:

Thank you for your recent communication in support of AB 2289 (Eng). This bill would establish new industry operating standards and technology upgrades to the current biennial inspections of vehicle emission control equipment and systems (smog check) program. I appreciate hearing from you on this important issue.

I am pleased to report that I voted in support of AB 2289. This measure was passed on the Senate Floor on August 25, 2010. It was enrolled and signed by the Governor on September 8, 2010, and is now law.

You may wish to read more about the status, history and analysis of this and other bills online at [www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html). While you are online, please check out my website, [www.sen.ca.gov/steinberg](http://www.sen.ca.gov/steinberg), to learn of community events and other issues in which I am involved.

Be assured that I will keep your views in mind if this issue comes before me for a vote. Please continue to express your views to me so I may better represent you in the state Senate.

If you need assistance or have concerns about another state matter, please do not hesitate to call my office at (916) 651-1529, or email me at [senator.steinberg@sen.ca.gov](mailto:senator.steinberg@sen.ca.gov).

Sincerely,

DARRELL STEINBERG  
President pro Tempore  
6th Senate District

DS:mr



## Clean Air Performance Professionals

Hearing Date: June 28, 2010

# Bill No: AB 2289 Author: Eng

SENATE COMMITTEE ON BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

Senator Gloria Negrete McLeod, Chair  
Bill No: AB 2289 Author: Eng

As Amended: June 23, 2010 Fiscal: Yes

SUBJECT: **Smog check program: testing: penalties.**

**NOTE** : This measure failed passage in this Committee on June 21, 2010, by a vote of 4-2, and was granted reconsideration. It is before this Committee today for Reconsideration and "Vote Only." The June 23 amendments to the bill are summarized as follows:

(snip)

7. Arguments in **Opposition**. Clean Air Performance Professionals (CAPP) opposes the bill and requests the bill be amended to include an in-field vehicle repair audit program. CAPP believes an in-field vehicle repair audit program would create maximum vehicle owner satisfaction, and provide a mechanism for continuous improvements in how vehicles are repaired so that customers will be better satisfied with repairs made under the smog check program. CAPP says that presently fear of loss of license

or legal sanctions is a barrier to improving the quality of vehicle repairs. CAPP argues that such a program would improve quality and productivity in vehicle repairs and result in emission reductions, as mandated under California's emissions inspection and maintenance program.

NOTE : Double-referral to Transportation and Housing Committee (second.) Any amendments to this bill taken in BP&ED should be made in T&H.

## SUPPORT AND OPPOSITION:

### Support:

Department of Consumer Affairs, Bureau of Automotive Repair (Sponsor)  
Air Resources Board (Sponsor)  
American Lung Association in California  
Bay Area Air Quality Management District  
Breathe California  
California Air Pollution Control Officers  
California Council for Environmental and Economic Balance  
California Emission Testing Industries Association  
Clean Power Campaign  
Consumer Federation of California  
Environmental Defense Fund  
Green California  
National Parks Conservation Association  
Natural Resources Defense Council  
Planning and Conservation League  
Sierra Club California  
South Coast Air Quality Management District  
Union of Concerned Scientists  
1 Test Only Station

### Opposition:

#### **Clean Air Performance Professionals**

Consultant: G. V. Ayers

[http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_2251-2300/ab\\_2289\\_cfa\\_20100624\\_190753\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2251-2300/ab_2289_cfa_20100624_190753_sen_comm.html)

*CAPP contact: Charlie Peters*

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# California Council for Environmental and Economic Balance

100 Spear Street, Suite 805, San Francisco, CA 94105 • (415) 512-7890 • FAX (415)

June 24, 2010

G.V.

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www.cceeb.org

Honorable Gloria Negrete McLeod  
California State Senate  
State Capitol, Room 2059  
Sacramento, CA 95818

RE: AB 2289 - Smog check program: testing: penalties  
POSITION: **SUPPORT**

Dear Senator Negrete McLeod:

The California Council for Environmental and Economic Balance ("CCEEB") is pleased to inform you that it supports AB 2289 (Eng) and respectfully urges that bill be passed.

CCEEB is a coalition of business, labor and public leaders that strives to advance collaborative strategies for a strong economy and healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization.

AB 2289 would: authorize an alternative Smog Check test method and corresponding test equipment for newer vehicles equipped with updated On-Board Diagnostic Testing II ("OBD II"); require vehicles that pollute at high levels have Smog Checks performed by stations that meet certain performance standards; address improper inspections through more severe fines for stations and technicians; mandate an annual performance evaluation of the Smog Check program that would be required to be independently analyzed; and, encourage the development of programs to respond to industry demand for automotive technicians.

Switching to OBD II testing for newer vehicles would save California consumers substantially without significantly compromising the effectiveness of the current Smog Check test at reducing emissions, as detailed in the March 2009 report by the California Air Resources Board ("ARB"), entitled "Transitioning Away from Smog Check Tailpipe Emission Testing in California for OBD II Equipped Vehicles". OBDII testing takes half the time and test equipment is less expensive. Other states using this method of testing have significantly lower average test costs

Because studies conducted by Bureau of Automotive Repair ("BAR"), ARB, and independent researchers have found high re-fail rates on vehicles that had received and failed a Smog Check inspection and then subsequently



P. 1/2

TO: 9151505379675

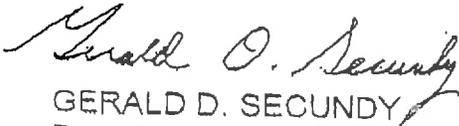
9153240917

09-2010 13:12 From: BP AND CMT

passed the test, AB 2289 will also address incidences of improper and falsified Smog Check inspections by technicians. The bill also directs the Department of Consumer Affairs to develop a voluntary certification of Smog Check stations as proposed by accredited Industry representatives that may establish performance standards. Vehicles known to release large amounts of pollution will be directed to test stations with the highest performance ratings.

AB 2289 will result in an improved Smog Check system that will result in cleaner air and will bring enhanced consumer protections and a more cost-effective program for California's drivers. CCEEB also strongly supports the development of programs to respond to industry demand for automotive technicians. Therefore, CCEEB respectfully supports AB 2289. Should you have any questions regarding CCEEB's position on this bill please contact me or Kendra Daijogo at 916/441-1392.

Sincerely,

  
GERALD D. SECUNDY  
President

Cc: Honorable Mike Eng  
Mr. G.V. Ayers  
Ms. Amber Alexander  
Honorable Mary Nichols  
Mr. James Goldstone  
Mr. Rob Ogelsby  
Mr. Ed Imai  
Mr. Edmundo Cuevas  
Mr. Bill Quinn  
Mr. Jackson R. Gualco  
Ms. Kendra Daijogo

# Clean Air Performance Professionals

21860 Main Street Suit A  
Hayward, CA 94541  
Friday, June 04, 2010

Assembly Member Mike Eng  
Fax: (916) 319-2149

## RE: NO on AB 2289 (Eng) unless amended

Dear Assembly Member Mike Eng

Good Morning.

Clean Air Performance Professionals (CAPP) is an award winning international coalition interested in protecting personal property and the environment.

CAPP was created in 1991 to promote common sense (Smog Check) inspection and maintenance programs.

California Smog Check program is the best in the world.

Smog Check performs better than it is given credit for.

During breakfast of April 12, the IHOP waitress was ask how compliance with IHOP rules was managed.

"A Secret Shopper" system provides the performance evaluation.

The California motorists deserve the best Smog Check performance that can improve with a secret shopper audit support.

Please vote NO on AB 2289 (Eng) unless amended to provide a "Secret Shopper" performance audit for Smog Check.

Proposal is attached:.

CAPP contact: Charlie Peters

# Clean Air Performance Professionals

21860 Main Street ST  
Hayward, CA 94541

----- Original Message -----

From: Jim Conran

To: Brian Stiger@dca.ca.gov

Cc: Sherry Mehl

Sent: Friday, June 04, 2010 9:30 AM

Subject: Charlie Peters

Brian: Charlie Peters would like to meet with you. He has been active with BAR activities for a long time as well as the legislature. Since your appointment confirmation should be coming up in the next couple of months it might be advisable you see him so he doesn't show up at the hearing complaining that you won't meet with him. I am sure Sherry can fill you in on his background and issues or you can call me. His number is 510.537.1796. Thanks!

Jim Conran

Consumers First, Inc.

33 Southwood Drive

Orinda, California 94563

925.253.1937 - direct line

925.253.1359 - fax

CAPP contact: Charlie Peters ( )

# Clean Air Performance Professional

## NO on AB 2289 (Eng) unless amended

### Amendments to Section 44036 California Health and Safety Code Consumer protection-oriented quality assurance portion of the motor vehicle inspection and maintenance program

May 19, 2006

**Preamble** - Under these amendments, an in-field vehicle repair audit program is added to Section 44036 of the California Health and Safety Code. These amendments, in conjunction with existing BAR legal responsibilities will create a program with the goal and procedures intended to create maximum vehicle owner satisfaction.

The in-field vehicle repair audit program will provide a mechanism for continuous improvements in how vehicles are repaired so that customers will be better satisfied with the time and investment that they are making in California's Smog Check Program. By adopting a new philosophy of management we are acknowledging that motorists no longer need to live with vehicle repairs that might be characterized as insufficient or defective.

By identifying the actual quality of repairs through in-field audits of known defects, and feeding this information back to smog check technicians and BAR staff, there would be continual

improvement of quality and opportunity to reduce waste in repair actions.

Presently fear of loss of license or legal sanctions is a barrier to improving the quality of vehicle repairs. This program will encourage effective two-way communication and other mechanisms that will enable technicians and regulators and consumers to be part of the new quality audit program.

A program will help remove the barriers that rob service technicians and managers of their pride in workmanship. The in-field vehicle repair audit program will institute a vigorous program of education and self-improvement for all participants in the Smog Check program. In summary, these amendments provide a permanent legislative and executive commitment, and the necessary audit procedures for ever-improving quality and productivity in the vehicle repairs (and emissions reductions), mandated under California's vehicle emissions inspection and maintenance

program.

**44036 (a) The consumer protection-oriented quality assurance portion of the motor vehicle inspection program shall ensure uniform and consistent tests and repairs by all qualified Smog Check technicians and licensed Smog Check stations throughout the state, and shall include a number of stations providing referee functions available to consumers.**

**(b) To achieve the goal of consumer protection and quality assurance, the department is directed to adopt in-field audits using known vehicle defects. The in-field audits will be used to determine if a technician does actually detect, diagnose and repair the designated audit vehicle defect.**

**(c) As there are no clear standards to see that emission defects are being corrected, these audits are to be conducted without notification being provided to ensure accurate assessment. The improved methods generated by the audits will provide continuous improvements in the quality of vehicle repairs actually occurring.**

CAPP contact: Charlie Peters

Garland's Prestige Ford to pay \$227,000 in penalties over emissions tests.

By *TERRY BOX / The Dallas Morning News, May 5, 2010*

A Garland Ford dealership has agreed to pay \$227,000 in civil penalties to the state of Texas for manipulating vehicle-emissions inspection tests.

Texas Attorney General Greg Abbott said Randall Reed's Prestige Ford/Lincoln Mercury used data from clean vehicles as substitutes for vehicles whose condition might have caused them to fail the tests.

Reed said Tuesday that several of his employees engaged in "clean scanning" to issue quick inspection stickers for dozens of used cars on the dealer's lot. Four employees, including the manager of the used-car department, were fired after Reed learned of the scam.

"It was so ridiculous," Reed said.

"It was lazy people – that's all it was."

An inspector from the attorney general's office visited Prestige Ford in September, and the dealership got a letter in January saying that it was being investigated for "numerous" violations, he said.

"The minute we were told what was going on, we went in and analyzed the data and started getting rid of people," Reed said.

No stickers were sold for profit, he said. Rather, the employees were doing clean scans so they could quickly put inspection stickers on the vehicles and get them out on the lot.

"We got hold of all the pre-owned vehicles that had the stickers and brought them back in for testing," Reed said. "All but three passed."

Those who bought used cars from Prestige in the last 2 ½ years can bring their vehicles in for a free state inspection if they are worried about the validity of their stickers, Reed said.

Tom Kelley, a spokesman for the attorney general's office, said the investigation into false inspection stickers continues in the Dallas-Fort Worth area.

"It's a fairly wide, ongoing investigation," he said.

[tbox@dallasnews.com](mailto:tbox@dallasnews.com)

[http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-reedford\\_05bus.ART.State.Edition1.443a497.html](http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-reedford_05bus.ART.State.Edition1.443a497.html)

*CAPP contact: Charlie Peters*

# California is using AB 2289 Eng to cut green collar jobs

*By Charlie Peters, Indybay, April 18th, 2010*

Money is available to prevent dirty air and improve Smog Check.

The Smog Check issue has been under continuous legislative debate since 1993. AB 2289 Eng is an opportunity to improve program performance and public support.

We at the Clean Air Performance Professionals (CAPP) propose "reasonably available control measures" to improve California Smog Check performance. Consider a Consumer Assistance Program (CAP) quality audit to improve Smog Check performance.

We propose using the CAP cars and funds to provide a random quality audit (or secret shopper) of Smog Check providers. Audits that result in the car's not being in compliance should be handled similarly to the former Consumer Repair and Education Workforce (CREW) program. The Bureau of Automotive Repair (BAR) program did not fine the licensees nor did it involve coercion. But when the question of "what would you like to do?" was asked, the shop took care of business and

elected to fix the car.

The average Smog Check failure repair is about \$ 150 00 state wide. The motorist pays about the same at the average repair station and the CAP station. The average CAP repair is about \$350 00. Many cars are not brought into compliance.

To level the Smog Check failure repair playing field so more cars meet standards after repair, the whole Smog Check market should be subject to a CAP random audit.

Around 1985, BAR started a "missing part" audit. In 1991 that program was stopped. The difference was a 300 percent change in result in finding the missing part.

When BAR ran less than one audit per station per year, the result was a change in behavior that started at more than an 80 percent fail rate, but moved to less than 20 percent rate of noncompliance.

The difference was a 300 percent change in result in finding the missing part. If the CAP audit was addressing the issue of repair compliance rather than just finding a missing part, the results may

be the same or a 300 percent improvement in compliance. With the missing part program, a follow-up audit with increasing demands lift the stations no options but to find the missing part or be removed from the game.

There are huge inconsistencies from Smog Check station to station and with BAR representatives. For BAR to decide a car is not in compliance, rules of Smog Check must be clarified. Money is available for the CAP program. It can be used for contracted scrap and repairs, or some of the funds can be used to evaluate and support improved performance of licensed California small business. The cars and funds are the same, but the results may be credit for 2,000 tons per day in pollution prevention credit in the State Implementation Plan (SIP), rather than our current credit of fewer than 400 tons per day.

The Governor, State Legislature and DCA/BAR would get the credit for improved performance. Performance improvements would be accomplished at a cost of less than \$500.00 per ton. And program illusions would be reduced in 1 year.

<http://www.indybay.org/newsitems/2010/04/18/18645036.php>

CAPP contact: Charlie Peters

# Proposed state law aims to reduce smog test fraud

*The Associated Press, February 25, 2010 2:22 PM*

LOS ANGELES (AP) — A proposed state law would make sure vehicle smog tests aren't just smoke and mirrors.

Legislation introduced this week by Assemblyman Mike Eng, D-Monterey Park, would radically change the way the tests are conducted and potentially affect some 23 million California motorists

The proposed bill would phase out the biannual tailpipe and treadmill inspections except for cars built before 1996. Newer cars have on-board diagnostic systems.

Under the proposal, the state would permit a limited number of the 7,000 stations now doing smog checks to keep performing tailpipe tests. They would be chosen for their thoroughness under a new ranking system.

Most inspection stations would use scanners that can access the car's computerized data on pollution control systems and record the vehicle identification number. That method, currently used in 22 states, would make it harder to falsify test results.

The proposal, which would

raise the fines for Smog Check fraud, sponsored by the California Air Resources Board and the Bureau of Automotive Repair, which oversees the state's Smog Check program

Officials say it will reduce fraud and prevent 70 tons of smog a year from blasting out of tailpipes

A state audit released Tuesday evaluated roadside tests of more than 6,000 older cars between 2003 and 2006. It found that more than half of the cars that pumped out too much pollution in the roadside test initially failed smog checks but later passed after they supposedly had been repaired.

"Of the 1976-95 vehicles sampled, 19 percent of the vehicles initially passed a tailpipe inspection at a licensed Smog Check station, but failed a roadside audit inspection within a year," according to the evaluation.

State law requires owners to spend up to \$450 to make repairs to pass smog checks.

The vehicles "either were not actually repaired or were repaired only temporarily."

concluded the report, written by Sacramento-based Sierra Research.

"We found widespread fraud in the program," air resources board spokesman Leo Kay said.

"There are quite a few people out there who will get your dirty car passed," said Tom Cackette, deputy director of the board. "You can stick a probe up the tailpipe of a clean vehicle. And the dirty car doesn't get inspected but it gets certified. We put people in jail for that. Undercover activity shows it is prevalent."

The new system proposed by Eng might cut the \$50-or-so price of a test in half and take half the time for owners of newer cars, said Dennis DeCota, executive director of the California Service Station and Automotive Repair Association, in Santa Rosa.

"I think it is a good thing," he said. "The consumer already has paid for the technology when they bought the car. All we have to do is make sure those components are working properly."

[http://www.recordnet.com/apps/pbcs.dll/article?AID=/20100225/A\\_NEWS/100229913&cid=sitesearch](http://www.recordnet.com/apps/pbcs.dll/article?AID=/20100225/A_NEWS/100229913&cid=sitesearch)

*Recorded at the BAR Advisory Group Meeting on Feb. 9 in Sacramento. Charlie Peters of Clean Air Performance Professionals (CAPP) asking BAR Chief Sherry Mehl when the Sierra Research Report is going to be released*

[http://www.youtube.com/watch?v=1V13em82i\\_kw&feature=related](http://www.youtube.com/watch?v=1V13em82i_kw&feature=related)

*CAPP contact: Charlie Peters*

----- Original Message -----

From: DRICE DOTY @aol.com

To: \_\_\_\_\_

Sent: Saturday, May 06, 2006 8:19 AM

Subject: Smog agency's power breathtaking

# This agency is really out of control

The legislation that created the SC AQMD had a section that authorized the collection of fees to cover the full costs of regulation--permits, monitoring, standard setting, enforcement, etc. The fees were to be based on emissions.

I conceived and drafted that section. What I thought would happen would be that as the agency became more successful and emissions were reduced in the SCAQMD, the agency would collect fewer fees and gradually decrease in power and activities.

Unfortunately, the law of unanticipated consequences is at work.

Joe

CAPP contact: Charlie Peters

# The Orange County Register

## Smog agency's power breathtaking AQMD acts with regal impunity in the realm of air quality

By CHUCK DEVORE, Friday, May 5, 2006

America's founders rightly feared the concentration of power in government, leading George Washington to remark, "Government is like fire: a dangerous servant and a fearful master." This is why we have three branches of government in America - each checking the others' power.

Unfortunately, the modern administrative state has seen the breakdown of checks and balances. For instance, when Congress passed the Telecommunications Act of 1996 they gave the Federal Communications Commission the power to unilaterally raise taxes through the Universal Service Program, a subsidy for certain low-income telephone customers. Having the power of taxation without public representation, the FCC proceeded to double rates, hiking the Universal Service fees from less than \$2 billion in 1996 to more than \$6 billion today - all while phone revenue was flat.

Another version of investing the power to regulate, tax and spend in a single agency can be found at the state level with the Southern California Air Quality Management District. The mission of the AQMD is vast and noble, as is always the case in government: to improve air quality. The agency's reach covers the urban portions of Los Angeles, San Bernardino and Riverside counties, as well as all of Orange County. It oversees 10,743 square miles that are home to 16 million people. The AQMD has a 12-member governing board, none of whom is directly elected for the task. The district has a budget in excess of

\$100 million per year, 67 percent of which comes from fees on businesses.

The AQMD's sense of mission, combined with insulation from the voters and its blending of executive, legislative and judicial power, provides absolute power in its domain. And it's a domain that the agency has the power to redefine at will as it takes on new tasks and powers.

As if this regulatory agency's unchecked power wasn't enough, it has now started using taxpayer money to influence the Legislature. In this past legislative session, AQMD paid more than \$590,000 in lobbying fees. Meanwhile, its executive director, Barry Wallerstein, pulls down \$183,855 per year. That's more than is paid the governor, any legislator or either of California's two U.S. senators. He receives this generous salary while traveling on taxpayer money to such swank getaways as the Resort at Squaw Creek and Granlibakken (both at Lake Tahoe), La Quinta (Palm Springs) and Idaho's Coeur d'Alene Resort. Apparently, environmental regulation has become just another big business, replete with incentives, profit motive, perks and high-priced lobbyists.

Perhaps it's time to ask some questions.

For instance, beleaguered businesses in Southern California have been taking orders and paying fines to finance the AQMD for decades. Is that even legal or

constitutional?

What about the AQMD's impact on the free market? There is considerable evidence showing that industry is constantly seeking ways to cut costs by improving efficiency, improving air quality in the process. Might AQMD regulations actually discourage some air-quality improvements by discouraging industry from investing in plant upgrades? For example, the significant emission reductions we have seen in the rail industry recently were achieved through voluntary agreements, not via regulatory fiat.

Perhaps what is more troubling in the short term is the AQMD's response to the many proposed transportation improvements for Southern California. Will the AQMD play a responsible role as a partner, or will it erect immovable roadblocks as California's elected leaders seek to reduce transportation gridlock?

Finally, we should take a step back and consider whether it is right to bestow an unelected agency with the near-limitless combination of the authority of the legislative (rule making), executive (enforcement) and judicial (fine levying) branches while being run by a high-salaried staff with expensive travel tastes and a half-million dollar lobbying budget. My answer is most assuredly, "No."

The AQMD's sense of mission, its insulation from voters and its blending of executive, legislative and judicial power, provides absolute power in its domain.

[http://www.ocregister.com/ocregister/opinion/columns/article\\_1130089.php](http://www.ocregister.com/ocregister/opinion/columns/article_1130089.php)

CAPP contact: Charlie Peters

# NO on AB 2289 (Eng) unless amended

"Dan Stone, SGS Testcom's President and CEO said: "We all recognize the importance of California's Smog Check Program, and the vital role of the NGET System. We are privileged to be a key part of such an important leading edge endeavor. The new System will be user-friendly and offer a wide range of functionality and tools that reflect a major step forward in information management."

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SGS Testcom Awarded Contract for the New Generation Electronic Transmission System in California

*News, SGS Testcom, December 15, 2004*

The SGS Testcom NGET System is expected to begin operations in the 3rd quarter of 2005. It will connect 8,000 Smog Check stations through SGS Testcom's information management systems to databases and users at BAR and the Department of Motor Vehicles. The System will process more than 14 million inspections per year. The advanced state-of-the-art design features a wide variety of data mining, analytical and reporting tools to support BAR's enforcement and administrative activities. Hardware and software components of the NGET System are highly redundant, insuring reliability and availability.

Commenting on the award, BAR's Chief, Dick Ross, said: "We have proceeded very carefully with this procurement process due to the critical nature of the mission. SGS Testcom offers an excellent array of technologies and well thought out plans for implementation and long term support. They are a strong team." He added: "We expect that the

NGET System will be the national standard of IT system excellence in facilitating the administration and enforcement of Inspection/Maintenance programs."

The SGS Testcom team includes Novell - providing software applications development support and its Suse Linux and extended products. AT&T provides a variety of data and voice communication services, plus the housing of SGS Testcom server arrays in AT&T collocation centers. Eastern Research Group supplies the team with a new generation of valuable analytical tools that will assist BAR with its program evaluation and enforcement.

Dan Stone, SGS Testcom's President and CEO said: "We all recognize the importance of California's Smog Check Program, and the vital role of the NGET System. We are privileged to be a key part of such an important leading edge endeavor. The new System will be user-friendly and offer a wide range of functionality and

tools that reflect a major step forward in information management."

SGS Testcom provides similar services to the Virginia Department of Environmental Quality and to the New York State Department of Motor Vehicles, where 11,500 inspection stations test 10 million vehicles per year for both emissions and safety status. The Company provides a range of information management, quality assurance, auditing and inspection program planning and implementation services in the U.S. and to its SGS Group affiliates worldwide. The SGS Group operates vehicle inspection programs on four continents.

SGS is the world's leading inspection, verification, testing and certification company. SGS is recognized as the global benchmark for quality and integrity. With 37,000 employees, SGS operates a network of about 1,000 offices and laboratories around the world.

<http://www.sgstestcom.com/news.html>

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If an elected official would request a copy of the Sierra Research SR 2007-04-01 report and all communication about the report from CCEEB, CED, CARB, DCA/BAR, IMRC, Parsons, SGS Testcom & Sierra Research it might help improve performance of Smog Check...

<http://www.youtube.com/watch?v=TvB3em82Lkw>

CAPP contact: Charlie Peters

# Clean Air Performance Professionals

21860 Main Street Ste A  
Hayward, CA 94541

## STATE OF CALIFORNIA

THE CALIFORNIA INSPECTION & MAINTENANCE REVIEW COMMITTEE

Monday, May 17, 2004, Sacramento, Ca., Afternoon Session

**VICE CHAIR COVELL:** We'll switch positions a little bit in terms of who's asking the questions at this point and provide an opportunity now for those of you who listened to the presentation this morning as part of the audience to ask any questions that you have. The CARB representatives are seated and ready to go, so who would like to go first? Charlie, you're up.

**MR. PETERS:** Yes, Mr. Chairman, Mr. Covell and committee, I'm Charlie Peters Clean Air Performance Professionals, and we represent motorists. I found an awful lot of very interesting comments here today. Obviously some people have done some very hard work, sweat over a lot of data and information, making a lot of suggestions. But I'm confused by some of the things that I don't hear, some of the things that are not included, and I'd just like to start with a little question for if there's anybody on this panel or in the committee that could maybe give me a little help.

What happens if you were to take the model that we're discussing and evaluating this program and you increase the failure rate by double? Would that make the program performance go up or down?

**MR. CARLOCK:** If you double the number of vehicles going to test only; is that what the question is?

**MR. PETERS:** The question was, if you double the failure rate in the program, will the program performance go up or down in the model?

**MR. CARLOCK:** It'll go up.

**MR. PETERS:** So the more failing cars we have, the more credit we get for emission reductions for the SIP; is that what you're saying?

**MR. CARLOCK:** In general, yes. That is, it depends on what you're failing as far as whether you get an additional benefit or not.

**MR. PETERS:** Question number two. If the emissions failure result becomes twice as high, hydrocarbons, NOX readings on the failure are twice as high, and that's the only change that's going into the model, will the program performance go up or down?

**MR. CARLOCK:** If the average failing vehicle has higher emissions that what we assume now; is that what you're asking?

**MR. PETERS:** That's exactly what I said.

**MR. CARLOCK:** Then the benefit would increase.

**MR. PETERS:** So the program performance will improve if the emissions readings in the program, the data going into the program, doubles on failing cars, then the program performance will increase.

**MR. CARLOCK:** In general, yes.

**MR. PETERS:** My, that's interesting data. So if we have a program that were to immediately determine when a car was failing and where it can immediately get fixed and we were to give appropriate credit to the program, the program credit would probably be zero.

**MR. CARLOCK:** I don't follow. No, it would not be zero.

**MR. PETERS:** Every car that fell out of compliance with state standard was immediately identified and immediately fully repaired.

**MR. CARLOCK:** By who?

**MR. PETERS:** Doesn't matter. By God.

**MR. CARLOCK:** If it's identified within the program, then there would be benefit within the program. If you as the owner of that vehicle was to identify and repair it, then the only thing that we could credit the program with

is possibly a motivation for you to do that.

**MR. PETERS:** You indicated, I believe, Mr. Carlock, that there were ongoing program evaluations where you are sending cars out in the marketplace to determine whether or not they get fixed for the program performance; is that correct?

**MR. CARLOCK:** We do that periodically, we don't do it all the time.

**MR. PETERS:** How long has it been since you've done that?

**MR. CARLOCK:** The last large item evaluation that we did was in the late nineties.

**MR. PETERS:** And did you determine specifically what was wrong with those cars and what it took to repair them before they went out for evaluation?

**MR. CARLOCK:** Dave corrects me. He points out that we are doing such an evaluation of the OBD cars.

**MR. PETERS:** I'm sorry, I didn't hear that.

**MR. CARLOCK:** We are doing such an evaluation where we send the cars out with an OBD specific fleet right now, so we are doing an analysis right now.

**MR. PETERS:** But my question is, when you do that, do you determine what the car needs repaired in order to fix it before you send it out?

**MR. CARLOCK:** Yes.

**MR. PETERS:** ■ to evaluate it?

**MR. CARLOCK:** Yes.

**MR. PETERS:** Have you also evaluated whether or not what was broken got fixed?

**MR. CARLOCK:** Yes.

**MR. PETERS:** And can you share with us what that result looked like?

**MR. CARLOCK:** That's difficult to tell you. I can tell you in generalities is the higher the vehicle emits, the more likely it is to fail. The more likely it is to fail, the more likely it is to receive an emissions benefit as far as repair. There are instances where vehicles that are marginal are failed, and when you try to fix those the results are mixed.

**MR. PETERS:** But I believe when a car is out of compliance that has specific things that are wrong.

**MR. CARLOCK:** Yes.

**MR. PETERS:** And the question is about whether or not those specific things that are wrong are determined before the evaluation and whether or not the specific things that are at fault on the car get fixed. That's not a very complex question. I think that should be fairly simple data as to whether or not what's broken is actually getting fixed. You're talking about emissions readings and the level of emissions readings, you're not talking about specific failure ■ fault.

**MR. CARLOCK:** There's a very simplistic answer. Sometimes they get fixed, sometimes they don't.

**MR. PETERS:** But that should be some data that is available.

**MR. CARLOCK:** Sure.

**MR. PETERS:** And is it possible for you to share that data with the committee and with myself, if possible?

**MR. CARLOCK:** Sure. Absolutely.

**MR. PETERS:** So the failure rate the emissions readings, the whether or not what's broken is being repaired, I think would be very beneficial to the decision process of the committee and behavior of the public and the industry and whether or not they actually fixed what's broken I think would be a key issue as to what appropriate kinds of actions are necessary here to improve how the public's being treated, improve the air and improve the total emissions. Would you say that would be a reasonable possibility?

**MR. CARLOCK:** I can say that the data is available to anyone that would like to request the data.

**MR. PETERS:** And under what kind of timeframe might I expect to be able to get that data?

**MR. CARLOCK:** Let's see, my flight is about three. If you call me tomorrow, I think you'd have it by the end of the week.

**MR. PETERS:** That would be delightful. Thank you, Mr. Chairman.

**VICE CHAIR COVELL:** All right, Charlie, thank you. If you have further questions you want to hold them and we'll move around the room and pick you up again.

[http://www.imreview.ca.gov/meetings/transcripts/transcript\\_may1704.doc](http://www.imreview.ca.gov/meetings/transcripts/transcript_may1704.doc)

**CAPP contact: Charlie Peters**

# Cleaning the air at very little cost

*DAILY PRESS, Tuesday, May 11, 2004*

A number of bills are now pending in the California Legislature to try to put together an ambitious anti-smog program aimed mainly at automobiles. All of them involve spending more money — \$200 million to \$400 million a year, according to those writing bills and putting together coalitions to support them. And the question is where to get it. Among the proposals are a higher fuel tax, higher car-registration fees, or higher Smog Check fees.

The intention behind this effort is commendable, given the large share of responsibility that autos bear for poor air quality. But before the Schwarzenegger administration signs on, it would do well to look into a simpler approach.

California already has a Smog Check program under which motorists are required to have their car's emissions tested every other year.

## **Cheating is rampant**

The trouble is that it isn't very reliable and cheating is rampant. As writer Tom Elias reported last year, the Bureau of Automotive Repair conducted undercover checks at 1,500 of 8,000 testing stations, and found discrepancies — from testing a clean car in place of one that's dubious to charging for fixes that are never made — at most of them.

Clean Air Performance Professionals, a smog check provider industry and motorist group, estimates that at least some cheating goes on at 80 percent of Smog Check stations. But the group has a proposal to fix things.

CAPP president Charlie Peters has for years been proposing a quality audit of all Smog Check stations. It would be simple. Send in a car with a known problem. If the known problem is identified and fixed, fine.

If it isn't fixed, the Bureau of Automotive Repair regulators would inform the operator and give him the opportunity to make the fix properly — and let him or her know another test vehicle would be coming through soon, and three or four failures to fix things properly would lead to a loss of Smog Check license.

## **Changing the procedure**

"That would change behavior in the direction of doing the job right," Mr. Peters said. "Considering how much bad work is done now, we figure this approach would reduce toxic emissions by 50 percent in a year. It wouldn't cost more, it would just involve changing how Smog Check is administered."

Before embarking on a program to scrap more old cars or barge onto a hydrogen highway, the governor should consider CAPP's relatively simple fix.

If it works, we'll have cleaner air and a more honest Smog Check program.

If it doesn't show results within a couple of years, then we can consider more ambitious and more expensive approaches.

*The Orange County Register*

<http://archive.vvdailypress.com/>

**CAPP contact: Charlie Peters**

# The Daily Review

## Money available to clean air and improve smog program

**T**HE smog check issue has been under continuous legislative debate since 1993.

AB2637 by Dennis Cardoza is an opportunity to improve program performance and public support.

We at the Clean Air Performance Professionals propose "reasonably available control measures" to improve California Smog Check performance. Consider a Consumer Assistance Program quality audit to improve smog check performance.

We propose using the CAP cars and funds to provide a random quality audit of smog check providers. Audits that result in the car's not being in compliance should be handled similarly to the former Consumer Repair and Education Workforce program. The Bureau of Automotive Repair program did not fine the licensees nor did it involve coercion. But when the question of "what would you like to do?" was asked, the shop took care of business and usually elected to fix the car.

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**Charlie  
PETERS**

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With the missing part program, a follow-up audit with increasing demands left the stations no options but to find the missing part or be removed from the game.

There are huge inconsistencies from smog check station to station and with BAR representatives. For BAR to decide a car is not in compliance, rules of smog check must be clarified.

Money is available for the CAP program. It can be used for contracted scrap and repairs, or some of the funds can be used to evaluate and support improved performance of licensed small business. The cars and funds are the same, but the results may be credit for 2,000 tons per day in pollution prevention credit in the State Implementation Plan, rather than the current credit of fewer than 100 tons per day.

The governor and the state Legislature would get the credit and support for improved performance. Performance improvements would be accomplished at a cost of less than \$500 per ton. And program illusions would be reduced in one year.

Charlie Peters is president of Clean Air Performance Professionals in Sacramento.

# Smog Check II quick-fixes criticized

## Polluters are slipping through, official says

By Steve Scauzillo Staff Writer, SGVN-W, (January 18, 1998) A4

EL MONTE - Quick-fix measures aimed at easing the car owner's burden have left the state's vehicle inspection program ineffective and vulnerable to fraud, said the head of the state-run referee stations on Friday.

Phil Morris, who runs the 51 test-only stations that have funneled hundreds of thousands of newly classified "gross polluter" cars into their bays, told a governor's committee that a change in the procedures allowing mechanics to pre-test cars before linking them to the state's computer has weakened the program.

"I think Smog Check II is less effective than Smog Check I," he told the Inspection and Maintenance Review Committee, which met at the Air Resources Board laboratories for its third meeting since the controversy over the new program started last summer.

After the pre-test, an unscrupulous mechanic may be able to make minor adjustments that will reduce the car's emissions just long enough to pass the smog test, said Pat Dorais, deputy chief of the Bureau of Automotive Repair. Once out on the street, the cars continue to spew pollutants.

"One scenario says the cars aren't

getting repaired, that something fishy is going on," Dorais said.

Morris, vice president of Parsons Engineering Science, said failure rates dropped from a high of 35 percent last April when the state's computerized monitoring began, to just 6 percent at the end of December. Likewise, failure rates for "gross polluters" started at 17 percent and are now down to 2 percent.

Fewer car owners have been returning to the referee stations since August, when Cal-EPA allowed mechanics to pretest and make repairs before doing the official test. Mechanics testified Friday that prior to that, they were fined for doing pre-tests.

As a result, Morris said, fewer of the severely polluting cars were actually getting repairs, allowing emissions from the dirtiest segment of California's car fleet to escape into the air.

"The industry has learned how to play with the new rules," he said. It could mean more cars are getting around the system."

When Smog Check II kicked into gear in April, complaints began to pour into the offices of state legislatures and at the Bureau of Automotive Repair. Owners of

"gross polluters," who for the first time were required to bring their cars to referee stations, reported long lines and busy signals.

The BAR, facing a growing voter outcry, authorized pretesting. "We saw the backlogs getting out of hand," explained Dorais.

Dorais said some fear that mechanics faced with losing customers to test-only stations, have an incentive to cheat. Without hooking cars to the state computer they can make minor adjustments that mask the problem. The cars pass the test but spew pollutants into the air once they hit the road.

"One scenario says the cars aren't getting repaired, that something fishy is going on," he said.

Jan Speelman, who represents an auto mechanics group, also testified that pre-testing has cut back on actual repairs.

It does allow the fraudulent shops to skirt the (computer) system," she told the committee.

Leon Van, BAR chief of staff, said it is too soon to conclude the system is overrun by fraud. "The pre-test was designed to reduce failure rates and to get the cars repaired.

CAPP contact: Charlie Peters