

## **Hazardous Materials Commission**

### **Draft Minutes**

Planning and Policy Development Committee

April 20, 2022

#### **Members and Alternates:**

**Present:**, Ken Carlson, Mark Hughes, Edi Bursan (alternate), Ed Morales (alternate), Heather Youngs

**Absent:** Don Bristol, Jim Payne, George Smith, Jonathan Bash (represented by alternate), Mark Ross (represented by alternate)

**Staff:** Michael Kent, Susan Psara

**Public:** none

#### **1) Call to Order, Announcements:**

Commissioner Hughes called the meeting to order at 4:03

Michael Kent announced:

- The General Public Alternate seat and the Environmental Justice seat flyer have been sent out to all the Commissioners and an interested parties list.
- Will Nelson from DCD will be at the next full Commission meeting on April 28<sup>th</sup> to discuss the Health and Safety Element of the draft update to the County's General Plan
- The joint meeting with the Board of Supervisors Ad Hoc committee on the ISO/CWS to review refinery Safety Culture Assessments will be on May 16<sup>th</sup> at 2:00.

Commissioner Hughes announced that the Industrial Association will be holding a lunchtime forum on workforce development on Wednesday, April 27<sup>th</sup>.

#### **2) Public Comments:** None

#### **3) Approval of Minutes:**

The minutes from the March 16, 2022 meeting were moved by Commissioner Morales, seconded by Commissioner Carlson and approved 4-0.

#### **4) Old Business:**

##### **a) Review and consider recommendations for proposed household Lithium-ion battery legislation**

The committee reviewed the draft language of SB 1215 and AB 2440 pertaining to establishing a system for the collection of spent household lithium-ion batteries. They noted that the bills were still in the early stages of committee review and so it would be premature to recommend a position on them.

They directed staff to put the items back on the agenda for the following meeting to see how the legislation is progressing through the legislative process.

**b) Review and consider recommendations for proposed PFAS legislation**

The committee reviewed the text of AB 2247, AB 1817 and AB 2771. They noted that the threshold definition for regulated PFAS in AB 2771 pertaining to PFAS in cosmetics had changed to be defined as any intentionally added PFAS, while the other two bills defined PFAS as any intentionally added PFAS or any PFAS above the level of quantification.

The committee noted that the bills were still in the early stages of committee review and so it would be premature to recommend a position on them. They directed staff to put them on the agenda for the next meeting, and in the meantime, to research what the definition of regulated PFAS was in the recently passed bill banning PFAS in textiles, and why the definition in AB 2247 and AB 1817 hadn't been changed similar to how it had been changed in AB 2771.

**5) New Business:**

**a) Review and consider recommendations for the hazardous materials-related sections of the draft update for Contra Costa General Plan Health and Safety Element**

The committee reviewed the recommendations made by the Commission to the Board of Supervisors on the draft update of the General Plan on February 1 and March 1 of 2021 and compared these recommendations to the language in the hazardous materials-related sections of the proposed update to the Health and Safety Element.

The committee came up with the following comments: (original comment, followed by relevant sections of the H&S element, followed by **Committee's reaction to the relevant sections**)

From the 2/1/21 letter to the Board

1. Proposed Amendment to Goal K, Policy 1 – Discourage construction of new large-scale facilities that treat, store or dispose of hazardous waste from other sources that negatively impact Disadvantaged Communities.

· HS-P9.10 Oppose construction of new large-scale hazardous waste facilities

**Need to define hazardous waste facilities (HWF)**

2. Proposed Amendment to Goal K, Policy 2 – Advocate for and coordinate with local and regional agencies in efforts to and remediate or treat contaminated surface water, groundwater, or soils, at brownfields or active remedial sites in or affecting disadvantaged communities, and in efforts to communicate with and educate the public about these sites, and to support the public’s ability to advocate their concerns about these sites.

- HS-P10.1 - Coordinate with local and regional agencies in efforts to remediate or treat contaminated surface water, groundwater, and soils in or affecting Impacted Communities. (7-116)

- HS-A10.2 - In collaboration with local environmental justice organizations, update the County’s Brownfields and Contaminated Sites Cleanup Policy and prioritize implementation of clean-up efforts in Impacted Communities. (7-116)

**Not aware of the County having a Brownfields and Contaminated Sites Cleanup policy**

3. Proposed new Action Item for Goal K - Improve and expand the ease of access to information about, and the status of, contaminated sites in Contra Costa County.

- HS-A10.1 - Support public access to the inventory of contaminated sites published by the DTSC and California State Water Resources Control Board by posting links to this information on the County’s website. (7-cd)

**Ok**

4. Proposed new Policy for Goal F - The County should encourage that the safest transportation method be employed for hazardous materials and hazardous wastes transported in Contra Costa County, taking into consideration the potential impacts of Sea Level Rise, and should particularly encourage reducing the transportation of hazardous materials and hazardous wastes in Disadvantaged Communities.

- HS -P9.7 Encourage transport of hazardous materials via the safest available method for each material, avoiding populated areas and areas subject to sea-level rise whenever possible. (10-82)

### **Doesn't specifically mention Impacted Communities**

- HS-P9.8 Prioritize implementation of safety projects in hazardous material transportation corridors to address high-risk scenarios, including the effects of sea-level rise on rail transportation.

### **Doesn't specifically mention Impacted Communities**

- HS-P9.12 Require design and operation of new or expanded hazardous waste facilities to adhere to the following criteria:
  - o (a) Minimize risk to the surrounding area in the case of a DRAFT hazardous waste accident or spill. 9-18 Contra Costa County General Plan 2040 – Health and Safety Element – DRAFT Goals, Policies, and Actions (April 2022)
  - o (b) Ensure migration of waste will not occur near rivers, streams, creeks, lakes, or other bodies of water or environmentally sensitive resources by incorporating buffers as appropriate and/or using engineered structural design features (e.g., spill containment and monitoring devices).
  - o (c) Avoid known or suspected groundwater recharge areas or areas where residential uses rely on wells. If located in such areas, facilities must provide properly engineered spill containment features, inspection measures, and other environmental protection controls.
  - o (d) In areas with unstable soils, such as steep slopes and areas subject to liquefaction or subsidence, ensure structural stability through engineered design features.
  - o (e) *Use access roads leading to major transportation routes that: • Do not traverse residential neighborhoods; • Minimize, buffer, or employ physical barriers to residential frontages; and • Demonstrate road network safety through road design, construction, accident rates, and traffic flow.*
  - o (f) Minimize noise impacts on the surrounding area. (7-105, 7-108, 7-109, 7-110, 7-112, 7-113, 7-118, 7-121)

**Need to define Hazardous Waste Facility, doesn't specifically mention Impacted Communities, too generic.**

5. Proposed new Action Item for Goal F - The County should consider the findings from the Adapting to Rising Tides studies for Contra Costa County prepared by the Bay Conservation and Development Commission, the 2019 Hazardous Materials Commodity Flow study prepared for the Hazardous Materials Programs, the Adaptation Atlas from SFEI and SPUR, and any new information as it becomes available, in future planning and transportation improvements, and in Sea Level Rise and flooding mitigation measures, specifically in areas already having risks, or found to have potential future risks, from Sea Level Rise and flooding.

- HS-P9.6 - Require facilities that manage hazardous materials or hazardous waste in stationary or fixed storage tanks and that are in areas at risk from sea-level rise and flooding to conduct sea-level rise studies to determine the risk of hazardous materials release from rising water levels. Require these facilities to incorporate best management practices, to reduce the risk of release

**ok**

- HS-A5.4 - Amend the Floodplain Management Ordinance to address hazardous material storage.

**Does the FMO already address SLR?**

- HS-P6.4 - Require new industrial development in areas subject to sea level rise and tsunami inundation to provide plans for prevention and remediation of any contaminant releases, along with bonds that guarantee remediation plans are implemented. Remediation should meet standards that protect people and the environment in the event of future permanent inundation

**ok**

- HS – A6.1 - Coordinate with ABAG, Bay Conservation and Development Commission, Delta Stewardship Council, BayAdapt, cities, utilities, affected agencies, property owners, community groups, residents, and other entities to create a publicprivate partnership to develop, fund, and implement relevant, regionally coordinated sea-level rise adaptation measures through programs like Resilient by Design that leverage the results of Adapting to Rising Tides and other studies and programs. (SB 379)

**ok**

6. Proposed new Policy for Goal K - The County should have established setbacks for projects handling hazardous materials from healthcare facilities, schools, residences, senior and childcare facilities and other sensitive receptors, and should have established setbacks for proposed new sensitive receptors from industrial facilities and other projects using hazardous materials.

· HS-P9.13 - Require hazardous waste facilities to prepare a cumulative risk assessment that analyzes, characterizes, and quantifies the combined risks to human health and the environment from the facility, in combination with other off-site hazardous materials risks. The assessment shall consider risks in the absence of actions to control or mitigate a potential release and determine whether buffers or other mitigation is necessary to protect residential uses, immobile populations (e.g., schools, hospitals, behavioral health facilities, convalescent homes, and prisons), other places where people gather, environmentally sensitive resources, and other sensitive areas from adverse emissions or contamination. Require that project applicants fund the needed technical review for the assessment. (7-114, 7-115, 7- 117, 7-119, 7-129, 7-134)

**Need to define HWF, determines buffers based on a case-by-case risk assessment done by the facility rather than criteria established by the County**

7. Proposed new Action Item for Goal K - The County should establish criteria for developing setbacks, or mitigation measures in lieu of setbacks, for projects involving hazardous materials being proposed near sensitive receptors, or for sensitive receptors projects being proposed near facilities using hazardous materials.

· HS-P9.11 Prohibit hazardous waste facilities in the following areas:

- o (a) Watersheds of an existing or planned drinking water reservoir;
- o (b) Ecologically significant resource areas;
- o (c) *Within 200 feet of an active or potentially active fault;*
- o (d) Within a 100-year floodplain;
- o (e) Within 100 feet of a sensitive receptor; or

o (f) Areas that would result in a concentration of similar facilities. (7-104, 7-106, 7-111, 7-113, 7-123, 7-125, 7-127, 7-128, 7-129, 7-131)

### **Need to define hazardous waste facilities and sensitive receptor**

· HS-P10.3 - Consider the inventory of contaminated sites published by the DTSC and California State Water Resources Control Board when reviewing development projects in the vicinity of contaminated sites. (7-cd)

### ***Consider is very vague***

8. Proposed new Policy for Goal K - The County should only allow the development of former contaminated sites intended for use by a sensitive receptor if the deed restrictions for the site are compatible with sensitive receptor use.
9. Proposed new Policy for Goal K - The County should not allow new development of a former contaminated site certified as cleaned-up unless any deficiencies found after the most recent 5-year review of that site have been corrected or if any other deficiencies of their compliance plan have been identified.
10. Proposed new Policy for Goal K - The County should not allow development of any former contaminated site, previously certified as cleaned-up, in violation of any existing land use covenants or deed restrictions or imposed on that site by either the California Department of Toxic Substances Control or a Regional Water Quality Control Board.

· P 10.2 Prohibit development of contaminated sites unless any deficiencies found after the most recent five-year review of the site have been corrected or if the site has been remediated pursuant to the County's Brownfields and Contaminated Sites Cleanup Policy since the last review, and the site is otherwise not in violation of any land use covenants or deed restrictions imposed by the Department of Toxic Substances Control (DTSC) or Regional Water Quality Control Board.

**Not aware of a County clean-up policy and the County is part of the jurisdiction of two Regional Boards.**

11. Proposed New Policy for Goal K - Staff of the Hazardous Materials Program should be trained on environmental justice topics to increase their ability to recognize potential environmental justice or implicit bias issues.

**No relevant policy or action**

12. Proposed New Action item for Goal K - Develop department-wide procedures and training for reporting observed environmental justice issues, and address issues pertinent to the Hazardous Materials Programs.

**No relevant policy or action**

13. Proposed New Policy for Goal K - The Hazardous Materials Program should engage with the Contra Costa County Department of Conservation and Development (DCD) regarding hazardous materials and waste considerations during the planning of new business operations in the County. The Hazardous Materials Program should engage with DCD in their efforts to solicit input at an early stage from disadvantaged communities on proposed projects involving hazardous materials and waste that may create a disproportionate impact on the community.

- HS-P9.3 Ensure Hazardous Materials Program staff have an opportunity to review and comment on development applications for projects involving use of hazardous materials or waste.

**Thinks collaboration should be required**

14. Proposed New Action Item for Goal K - Establish a comprehensive outreach strategy to provide hazardous material program policy information to disadvantaged communities, including considerations related to hazardous materials and hazardous waste storage, permitting, and inspections, environmental monitoring, hazardous materials incident response, industrial safety ordinance and pollution prevention. Identify and leverage established community and industry groups and other synergistic agency programs to disperse outreach and education materials.

- SC-A11.5 Review County procedures for collecting and disseminating data related to community health, safety, and economic vitality and study the feasibility of making additional data available to the public through accessible online tools.

**This does not meet the intent of the action that was proposed. Review and study is not the same as establish**

15. Proposed New Action Item for Goal K - Identify and designate a communications liaison to ensure that hazardous materials and waste topics are presented to disadvantaged communities in a manner that is easily and clearly comprehensible.

- SC-A11.1 Designate County staff in various departments to be liaisons to each Impacted Community.

**This seems too general**

- HS-P9.9 Require applicants for projects in Impacted Communities that involve hazardous materials or hazardous waste to provide clear information in plain language about the hazards faced by nearby residents from the project. Review and verify this information, make it available to nearby residents, and encourage project applicants to host at least one community meeting to discuss potential hazards.

**Who is doing the review and verifying? Relies on applicant to provide information and to decide whether to have community meetings.**

16. Proposed New Action Item for Goal K - To the extent possible, invite community representatives to observe 'hands-on' emergency drills to increase public awareness of emergency response capabilities and understand protective actions the public may be required to take should a hazardous materials incident occur in their community (shelter-in-place and evacuation procedures). Ensure representatives from all populations, including disadvantaged communities, have the opportunity to observe drills, including the availability of language translation services.

**No relevant policy or action**

From the 3/1/21 letter to the Board

17. Proposed new Policy for Goal C – Ensure residents of dwellings potentially impacted by air quality hazards, including but not limited to chemical fires or releases, that may need to shelter-in-place as determined by the County Health Officer, are able to do so safely, with appropriate air exchange rates and protection from heat.

· HS-P12.6 - In areas susceptible to industrial accidents, support residents' ability to safely shelter-in-place, with appropriate air exchange rates and protection from contaminants. (10-j)

**Ok**

18. Proposed new Policy for Goal C – Ensure an adequate level of continued public education to make sure all residents are provided adequate education about less toxic alternatives to household hazardous products, including pesticides, and education about the safe handling, storage and disposal of Household Hazardous Waste, including pharmaceuticals. Ensure there are adequate options for HHW disposal for all residents, including those that don't drive.

· HS-P9.15 - Encourage and facilitate establishment of adequate sites for the collection of household hazardous waste (HHW), unused pharmaceuticals, and universal wastes, including provisions for residents that don't own cars or are physically unable to deliver materials to a collection site.

· HS-A9.1 - Provide information to county residents about less toxic alternatives to household products containing universal wastes and the safe handling, storage, and disposal of such products, including pharmaceuticals.

**They would like to know if the County can do more than just encourage and facilitate**

19. Proposed new policy for Goal J - Provide annual education to ensure residents likely to be impacted by a hazardous material release or fire know what to do when a shelter-in-place is ordered. Such education shall be culturally and linguistically appropriate, and adequate for people with access or functional needs, to new and existing residents using multi-media approaches.

· HS-A12.9 - Partner with community-based organizations, homeowners associations, and neighborhood groups to make information available to community members about human-caused, natural, and climate change-induced hazards, how to prepare for them, what to do when a shelter-in-place order is issued, and resources that can help. Make this information widely available in various formats and languages to all community members, with special effort aimed at reaching persons experiencing homelessness and persons with access and functional needs.

**Would like to see a stipulation for annual education outreach, not just to make information available.**

20. Goal J Action 6 – Develop and implement a plan to provide clean air refuges with public transportation access or transportation assistance during times when outdoor air quality is unhealthy, as determined by the County Health Officer

· HS-P8.1 - Coordinate with public agencies, utilities, and communitybased organizations to provide community resilience hubs in all regions of the county during extreme heat events, severe weather events, and other highly hazardous conditions. Work to ensure that these facilities are in highly accessible areas and that information about their availability is widely distributed.

· HS-A8.1 - Coordinate with transit providers to identify and advertise ways for individuals with restricted mobility to reach resilience hubs and cooling centers. (AB 836)

**Ok – assuming highly hazardous conditions includes chemical releases and fire, and that community resilience hubs are both cooling centers and clean air refuges.**

**6) Reports from Commissioners on matters of Commission interest:** None

**7) Plan Next Agenda:** The Committee will review the lithium-ion battery legislation and the PFAS legislation, and will review the draft Health and Safety Element of the updated General Plan for Contra Costa County as directed by the Chair after review at full Commission.

**8) Adjournment** – The meeting was adjourned at 5:30.