

BOARD MEETING DATE: April 1, 2022

AGENDA NO. 18

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee held a meeting remotely on Friday, March 11, 2022. The following is a summary of the meeting.

Agenda Item	Recommendation/Action
AB 1897 (Wicks) – Nonvehicular air pollution control: refineries: penalties	Support
Proposed South Coast AQMD Sponsored Legislation In Concept: Increased Strict Liability Civil Penalties for Air Quality Violations	Approve

RECOMMENDED ACTION:

Receive and file this report and approve agenda items as specified in this letter.

Michael A. Cacciotti, Chair
Legislative Committee

LTO:PFC:DPG:ar

Committee Members

Present: Mayor Pro Tem Michael A. Cacciotti, Chair
Board Member Veronica Padilla-Campos
Council Member Nithya Raman
Supervisor V. Manuel Perez

Absent: Senator Vanessa Delgado (Ret.)
Supervisor Janice Rutherford

Call to Order

Chair Michael Cacciotti called the meeting to order at 9:00 a.m.

ACTION/DISCUSSION ITEMS:

1. Recommend Position on State Bill:

Philip Crabbe III, Senior Public Affairs Manager/Legislative, Public Affairs & Media (LPAM), presented AB 1897 (Wicks) - Nonvehicular air pollution control: refineries: penalties. This bill would increase the civil penalty ceiling for violations of state or local air quality rules, regulations, and permit conditions at Title V refineries from \$10,000 to \$30,000, if:

- Violation results in severe disruption to the community;
- Discharge contains toxic air contaminants, and
- 25 or more people are exposed to the discharge.

The bill would also raise the penalty ceiling up to \$100,000 for subsequent violations within a 12-month period. The bill is sponsored by the Bay Area Air Quality Management District (Bay Area AQMD).

Supervisor Perez inquired how the increased penalty amounts were established and the frequency of violations. Wayne Natri, Executive Officer, commented that facilities sometimes receive numerous Notices of Violation (NOVs) with limited effect, so this bill was developed to create a stronger deterrent. Alan Abbs, Legislative Officer, Bay Area AQMD, added that over the last five years, refineries in the Bay Area have had a significant increase in deviations from their permit conditions, NOVs, and flaring events. The increased penalties were developed to fit within the existing Health and Safety Code to create a deterrent for facilities versus a formula. Supervisor Perez recommended considering a more scientific approach to determining the penalty levels.

Board Member Padilla-Campos concurred with Supervisor Perez's comments and asked about the effectiveness of current penalties for facilities. Mr. Natri indicated that current penalties are not effective for some facilities and are considered a cost of doing business. Council Member Raman agreed with the need to understand and justify the proposed new penalty levels.

Bayron Gilchrist, General Counsel, indicated that penalties have not been updated in a long time, and that penalty levels are not significant for large companies. Chair Cacciotti asked when the civil penalties for violations were last updated in statute. Mr. Abbs responded that the latest updates occurred around 2000 or 2001, and a consumer price index increase was added by statute in 2017.

Harvey Eder, Public Solar Power Coalition, provided public comment in support of raising civil penalty levels. Elliot Gonzales, Sierra Club, provided public comment in favor of increasing civil penalties.

Staff recommended a "SUPPORT" position on this bill.

Moved by Perez; seconded by Padilla-Campos; unanimously approved
Ayes: Cacciotti, Padilla-Campos, Perez, Raman
Noes: None
Abstain: None
Absent: Delgado, Rutherford

2. Proposed South Coast AQMD Sponsored Legislation In Concept: Increased Strict Liability Civil Penalties for Air Quality Violations

Derrick Alatorre, Deputy Executive Officer/Legislative, Public Affairs & Media, presented a proposal for a South Coast AQMD sponsor bill which would increase liability civil penalty ceilings for air quality violations from \$10,000 to \$30,000 within the South Coast region. The bill would also raise civil penalty ceilings for other types of air quality violations to maintain consistency in the state code:

- \$25,000 to \$45,000 for negligence;
- \$40,000 to \$60,000 for knowing, but failing to take corrective action;
- \$75,000 to \$95,000 for willful and intentional; and
- \$35,000 to \$50,000 for knowingly falsifying documents.

Board Member Padilla-Campos asked if the bill applies to rendering plants. Mr. Alatorre responded that it applies to all non-Title V facilities within the South Coast region. Mr. Nastri added that the legislation stemmed from discussions on rendering facilities, but the bill is broader to address the breadth of facilities with air quality issues across the basin.

Council Member Raman inquired how the proposed increased penalty amounts were created and their efficiency. Mr. Nastri responded that it is partly based on precedence and other proposed increases. Terrence Mann, Deputy Executive Officer/Compliance & Enforcement, added that the proposed increases are to increase the deterrent effects of penalties.

Chair Cacciotti inquired about the penalty levels for facilities. Mr. Mann stated that the Health and Safety Code protects smaller facilities from undue financial burden by mandating considerations when determining penalty levels. There are about 27,000 permitted facilities in the South Coast region, of which approximately 350 are Title V facilities. However, there may be additional facilities not operating under a valid permit.

Mr. Eder commented on the need for political economic analysis.

Staff recommended approval of this proposed South Coast AQMD sponsored legislation in concept regarding increased strict liability civil penalties for air quality violations.

Moved by Perez; seconded by Padilla-Campos; unanimously approved
Ayes: Cacciotti, Padilla-Campos, Perez, Raman
Noes: None
Abstain: None
Absent: Delgado, Rutherford

3. Update and Discussion on Federal Legislative Issues

South Coast AQMD's federal legislative consultants (Cassidy & Associates, Kadesh & Associates, and Carmen Group) provided written reports on key Washington, D.C. issues.

Amelia Morales of Cassidy & Associates reported that U.S. EPA announced a draft rule to reduce NOx emissions from heavy-duty trucks. Once published in the Federal Register, the rule is expected to have a 45-day public comment period.

Board Member Padilla Campos inquired about U.S. EPA's lead-based fuel standard for aviation. Mr. Nastri responded that staff will present on the pending U.S. EPA rule on lead emissions from aircraft at the relevant committee.

Mark Kadesh of Kadesh & Associates reported that the Congress passed a \$1.5 trillion Fiscal Year 2022 Omnibus Appropriations bill. The bill includes approximately:

- \$92 million for DERA;
- \$62 million for TAG; and,
- \$231 million for Section 103/105 of the Clean Air Act.

Gary Hoitsma of Carmen Group reported that U.S.EPA has restored California's waiver under the Clean Air Act to implement its own greenhouse gas emission standards for light-duty vehicles. The waiver allows other states to adopt California's standards.

Chair Cacciotti inquired about various grant programs. Mr. Hoitsma responded that U.S. Department of Transportation's (U.S. DOT) Rebuilding American Infrastructure with Sustainability and Equity grants are a highly competitive annual discretionary program.

Mr. Nastri added that staff recently met with John Porcari, U.S. DOT Port Envoy, who encouraged South Coast AQMD to partner with the Ports in applying for grants. Staff is in discussion with the Ports.

Mr. Hoitsma added that for the EV charging grant program, states must submit a plan to U.S. DOT to receive the infrastructure funds. A separate discretionary

program for EV charging and alternative fueling stations will be open for application later this year, possibly by summer.

4. Update and Discussion on State Legislative Issues

South Coast AQMD's state legislative consultants (California Advisors, LLC, Joe A. Gonsalves & Son, and Resolute) provided written reports on key issues in Sacramento.

Ross Buckley of California Advisors, LLC reported that the Governor's State of the State Address outlined this year's policy priorities. Assembly Member Tom Daly announced that he will not be seeking re-election.

Paul Gonsalves of Joe A. Gonsalves & Son provided an overview of special elections to fill legislative vacancies. Assembly Member Mike Fong was recently sworn in to represent the 49th Assembly District.

Alfredo Arredondo of Resolute provided an overview of upcoming legislative deadlines. The Governor will release his May Revise Budget in early to mid-May.

OTHER MATTERS:

5. Other Business

There was no other business to report.

6. Public Comment Period

Mr. Eder commented on solar power and electric vehicles.

7. Next Meeting Date

The next regular Legislative Committee meeting is scheduled for Friday, April 8, 2022 at 9:00 a.m.

Adjournment

The meeting adjourned at 10:00 a.m.

Attachments

1. Attendance Record
2. Recommend Position on State Bill
3. State Legislative Proposal Attachment
4. Update on Federal Legislative Issues – Written Reports
5. Update on State Legislative Issues – Written Reports

ATTACHMENT 1

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT LEGISLATIVE COMMITTEE MEETING ATTENDANCE RECORD – March 11, 2022

Board Member Veronica Padilla-CamposSouth Coast AQMD Board Member
Council member Nithya Raman.....South Coast AQMD Board Member
Mayor Michael CacciottiSouth Coast AQMD Board Member
Supervisor V. Manuel PerezSouth Coast AQMD Board Member

Debra MendelsohnBoard Consultant (Rutherford)
Amy Wong.....Board Consultant (Padilla-Campos)

Alfredo ArredondoResolute
Paul GonsalvesJoe A. Gonsalves & Son
Gary HoitsmaCarmen Group, Inc.
Mark Kadash.....Kadash & Associates
Ben MillerKadash & Associates
Amelia Morales.....Cassidy & Associates

Alan AbbsBay Area AQMD
Mark Abramowitz.....Public Member
Jaime BartolomePublic Member
Curtis ColemanPublic Member
Ramine Cromartie.....Public Member
Harvey EderPublic Solar Power Coalition
Frank ForbesPublic Member
Elliot Gonzales.....Sierra Club
Michele Grubbs.....PMSA
Bill Kelly.....Public Member
Zachary LearyPublic Member
Karin ManwaringPublic Member
Erick MartellPublic Member
Josh NuniPublic Member
Nicole Rice.....Public Member
David Rothbart.....Public Member
Patty Senecal.....Public Member
Janet WhittickPublic Member
Peter WhittinghamPublic Member

Derrick AlatorreSouth Coast AQMD Staff
Debra AshbySouth Coast AQMD Staff
Jason AspellSouth Coast AQMD Staff
Cindy Bustillos.....South Coast AQMD Staff
Maria Castro.....South Coast AQMD Staff
Philip CrabbeSouth Coast AQMD Staff
Azar Dabiri.....South Coast AQMD Staff
Sindy Enriquez.....South Coast AQMD Staff
Scott GallegosSouth Coast AQMD Staff
Bayron Gilchrist.....South Coast AQMD Staff

Sheri Hanizavareh
Anissa Cessa Heard-Johnson
Mark Henninger
Kathryn Higgins
Sujata Jain
Aaron Katzenstein
Jason Low
Ian MacMillian
Terrence Mann
Matt Miyasato
Ron Moskowitz
Susan Nakamura
Wayne Nastri
Denise Peralta Gailey
Sarah Rees
Mary Reichart
Aisha Reyes
Nicholas Sanchez
Lisa Tanaka O'Malley
Anthony Tang
Victor Yip

South Coast AQMD Staff
South Coast AQMD Staff

ATTACHMENT 2A

South Coast Air Quality Management District
Legislative Analysis Summary – AB 1897 (Wicks)
Version: Introduced – 2/9/22
Analyst: PC

AB 1897 (Wicks)

Nonvehicular air pollution control: refineries: penalties.

Summary: This bill would:

- 1) Increase the civil penalty ceiling for violations of state or local air quality rules, regulations, and permit conditions at Title V refineries from \$10,000 to \$30,000, if the violation results in severe disruption to the community, the discharge contains toxic air contaminants, and 25 or more people are exposed to the discharge; and
- 2) Raise the civil penalty ceiling to not more than \$100,000 for subsequent violations within a twelve-month period.

Background: Existing law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to the public, or that endanger the comfort, repose, health, or safety of the public, or that cause, or have a natural tendency to cause injury or damage to business or property. Under existing law, a person who violates this provision is guilty of a misdemeanor, or is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A person who violates this provision and who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount. Existing law precludes prosecution under specified statutes if civil penalties are recovered pursuant to the above provisions for the same offense.

Status: 2/18/22 - Referred to Assembly Natural Resources and Assembly Judiciary Committees. In Assembly Natural Resources Committee.

Specific Provisions: Specifically, this bill would:

- 1) Increase the civil penalty ceiling for violations of state or local air quality rules, regulations, and permit conditions at Title V refineries from \$10,000 to \$30,000, if the violation results in severe disruption to the community, the discharge contains toxic air contaminants, and 25 or more people are exposed to the discharge; and
- 2) Raise the civil penalty ceiling to not more than \$100,000 for subsequent violations within a twelve-month period.
- 3) The bill would prohibit this provision from applying if the violation is caused by unforeseen and unforeseeable criminal acts, acts of war, acts of terrorism, or civil unrest.
- 4) The bill would also preclude prosecution under specified statutes if civil penalties are recovered pursuant to this provision.

Impacts on South Coast AQMD’s Mission, Operations or Initiatives: This bill is sponsored by the Bay Area AQMD which argues that air quality violation penalties can no longer be a ‘cost of doing business’ at refineries. This bill would provide a stronger deterrent to help ensure that refineries take responsibility for compliance with all local, state and federal air quality regulations to protect the health and air quality of those living in communities that surround refineries. This bill would create financial deterrents for corporate polluters and create more accountability for bad actors. This can help residents who live in refinery communities who have suffered the disproportionate impacts of air pollution for far too long. Refineries are significant sources of criteria pollutants and toxic air contaminants.

Bay Area AQMD indicates that overall compliance with air quality permit requirements at the five Bay Area refineries has declined precipitously in recent years, with significant increases in flaring events, Title V permit condition deviations and Notices of Violation. Past refinery flaring events have resulted in shelter in place notifications, school closures and increased emergency room visits from residents living in communities surrounding refineries.

This bill could also help reduce refinery emissions within the South Coast region. Thus, it is consistent with South Coast AQMD’s priorities of reducing air pollution and air toxics and protecting public health.

Recommended Position: SUPPORT

ATTACHMENT 2B

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Wicks

February 9, 2022

An act to amend Sections 42400.7, 42402, 42402.1, 42402.2, 42402.3, and 42403 of, and to add Section 42402.6 to, the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as introduced, Wicks. Nonvehicular air pollution control: refineries: penalties.

Existing law prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to the public, or that endanger the comfort, repose, health, or safety of the public, or that cause, or have a natural tendency to cause, injury or damage to business or property, as specified. Under existing law, a person who violates this provision is guilty of a misdemeanor, as specified, or is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case the person is strictly liable for a civil penalty of not more than \$5,000. A person who violates this provision and who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount, as specified. Existing law precludes prosecution under specified statutes if civil penalties are recovered pursuant to the above provisions for the same offense.

This bill would make a person who violates this provision liable for a civil penalty of not more than \$30,000 if the violation results from a

discharge from a stationary source required by federal law to be included in an operating permit program established pursuant to Title V of the federal Clean Air Act, and the stationary source is a refinery, the discharge results in a severe disruption to the community, the discharge contains or includes one or more toxic air contaminants, as specified, and 25 or more people are exposed to the discharge. The bill would additionally make a person who violates this provision liable for a civil penalty of not more than \$100,000 for a subsequent violation within a 12-month period. The bill would prohibit this provision from applying if the violation is caused by unforeseen and unforeseeable criminal acts, acts of war, acts of terrorism, or civil unrest. The bill would additionally preclude prosecution under specified statutes if civil penalties are recovered pursuant to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42400.7 of the Health and Safety Code
2 is amended to read:

3 42400.7. (a) The recovery of civil penalties pursuant to
4 Section 39674, 42401, 42402, 42402.1, 42402.2, 42402.3, ~~or~~
5 ~~42402.4~~ 42402.4, *or* 42402.6 precludes prosecution under Section
6 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, or 42400.4 for the
7 same offense. When a district refers a violation to a prosecuting
8 agency, the filing of a criminal complaint is grounds requiring the
9 dismissal of ~~any~~ a civil action brought pursuant to this article for
10 the same offense.

11 (b) If the pending civil action described in subdivision (a)
12 includes a request for injunctive relief, that portion of the civil
13 action shall not be dismissed upon the filing of a criminal complaint
14 for the same offense.

15 SEC. 2. Section 42402 of the Health and Safety Code is
16 amended to read:

17 42402. (a) Except as provided in Sections 42402.1, 42402.2,
18 42402.3, ~~and 42402.4,~~ ~~any~~ 42402.4, *and* 42402.6, a person who
19 violates this part, ~~any~~ an order issued pursuant to Section 42316,
20 ~~or any~~ a rule, regulation, permit, or order of a district, including a
21 district hearing board, or of the state board issued pursuant to Part
22 1 (commencing with Section 39000) to Part 4 (commencing with

1 Section 41500), inclusive, is strictly liable for a civil penalty of
2 not more than five thousand dollars (\$5,000).

3 (b) (1) A person who violates ~~any~~ a provision of this part, ~~any~~
4 an order issued pursuant to Section 42316, or ~~any~~ a rule, regulation,
5 permit or order of a district, including a district hearing board, or
6 of the state board issued pursuant to Part 1 (commencing with
7 Section 39000) to Part 4 (commencing with Section 41500),
8 inclusive, is strictly liable for a civil penalty of not more than ten
9 thousand dollars (\$10,000).

10 (2) (A) If a civil penalty in excess of five thousand dollars
11 (\$5,000) for each day in which a violation occurs is sought, there
12 is no liability under this subdivision if the person accused of the
13 violation alleges by affirmative defense and establishes that the
14 violation was caused by an act that was not the result of intentional
15 conduct or negligent conduct.

16 (B) Subparagraph (A) does not apply to a violation of a federally
17 enforceable ~~requirements~~ *requirement* that ~~occur~~ *occurs* at a Title
18 V source in a district in which a Title V permit program has been
19 fully approved.

20 (C) Subparagraph (A) does not apply to a person who is
21 determined to have violated an annual facility emissions cap
22 established pursuant to a market-based incentive program adopted
23 by a district pursuant to subdivision (b) of Section 39616.

24 (c) A person who owns or operates ~~any~~ a source of air
25 contaminants in violation of Section 41700 that causes actual
26 injury, as defined in subdivision (d) of Section 42400, to the health
27 and safety of a considerable number of persons or the public, is
28 liable for a civil penalty of not more than fifteen thousand dollars
29 (\$15,000).

30 (d) Each day during ~~any~~ a portion of which a violation occurs
31 is a separate offense.

32 SEC. 3. Section 42402.1 of the Health and Safety Code is
33 amended to read:

34 42402.1. (a) ~~Any~~ *Except as provided in Section 42402.6, a*
35 person who negligently emits an air contaminant in violation of
36 this part or ~~any~~ a rule, regulation, permit, or order of the state board
37 or of a district, including a district hearing board, pertaining to
38 emission regulations or limitations is liable for a civil penalty of
39 not more than twenty-five thousand dollars (\$25,000).

1 (b) ~~Any~~A person who negligently emits an air contaminant in
 2 violation of Section 41700 that causes great bodily injury, as
 3 defined ~~by~~ *in subdivision (f) of Section 12022.7 of the Penal Code,*
 4 ~~to any~~ a person or that causes the death of ~~any~~ a person, is liable
 5 for a civil penalty of not more than one hundred thousand dollars
 6 (\$100,000).

7 (c) Each day during ~~any~~ a portion of which a violation occurs
 8 is a separate offense.

9 SEC. 4. Section 42402.2 of the Health and Safety Code is
 10 amended to read:

11 42402.2. (a) ~~Any~~*Except as provided in Section 42402.6, a*
 12 *person who emits an air contaminant in violation of any a provision*
 13 *of this part, or any order, rule, regulation, or permit a rule,*
 14 *regulation, permit, or order of the state board or of a district,*
 15 *including a district hearing board, pertaining to emission*
 16 *regulations or limitations, and who knew of the emission and failed*
 17 *to take corrective action, as defined in subdivision (b) of Section*
 18 *42400.2, within a reasonable period of time under the*
 19 *circumstances, is liable for a civil penalty of not more than forty*
 20 *thousand dollars (\$40,000).*

21 (b) ~~Any~~A person who owns or operates ~~any~~ a source of air
 22 contaminants in violation of Section 41700 that causes great bodily
 23 injury, as defined ~~by~~ *in subdivision (f) of Section 12022.7 of the*
 24 *Penal Code, to any a person or that causes the death of any a*
 25 *person, and who knew of the emission and failed to take corrective*
 26 *action, as defined in subdivision (b) of Section 42400.2, within a*
 27 *reasonable period of time under the circumstances, is liable for a*
 28 *civil penalty not to exceed two hundred fifty thousand dollars*
 29 *(\$250,000).*

30 (c) Each day during ~~any~~ a portion of which a violation occurs
 31 is a separate offense.

32 SEC. 5. Section 42402.3 of the Health and Safety Code is
 33 amended to read:

34 42402.3. (a) ~~Any~~*Except as provided in Section 42402.6, a*
 35 *person who willfully and intentionally emits an air contaminant*
 36 *in violation of this part or any a rule, regulation, permit, or order*
 37 *of the state board, or of a district, including a district hearing board,*
 38 *pertaining to emission regulations or limitations, is liable for a*
 39 *civil penalty of not more than seventy-five thousand dollars*
 40 *(\$75,000).*

1 (b) ~~Any~~A person who willfully and intentionally, or with
2 reckless disregard for the risk of great bodily injury, as defined by
3 *in subdivision (f) of Section 12022.7 of the Penal Code*, to, or death
4 of, ~~any a~~ person, emits an air contaminant in violation of Section
5 41700 that results in an unreasonable risk of great bodily injury
6 to, or death of, ~~any a~~ person, is liable for a civil penalty of not
7 more than one hundred twenty-five thousand dollars (\$125,000).
8 If the violator is a corporation, the maximum penalty may be up
9 to five hundred thousand dollars (\$500,000).

10 (c) ~~Any~~A person who willfully and intentionally, or with
11 reckless disregard for the risk of great bodily injury, as defined by
12 *in subdivision (f) of Section 12022.7 of the Penal Code*, to, or death
13 of, ~~any a~~ person, emits an air contaminant in violation of Section
14 41700 that causes great bodily injury, as defined by *in subdivision*
15 *(f) of Section 12022.7 of the Penal Code*, to ~~any a~~ person or that
16 causes the death of ~~any a~~ person, is liable for a civil penalty of not
17 more than two hundred fifty thousand dollars (\$250,000). If the
18 violator is a corporation, the maximum penalty may be up to one
19 million dollars (\$1,000,000).

20 (d) Each day during ~~any a~~ portion of which a violation occurs
21 is a separate offense.

22 SEC. 6. Section 42402.6 is added to the Health and Safety
23 Code, to read:

24 42402.6. (a) (1) A person is liable for a civil penalty of not
25 more than thirty thousand dollars (\$30,000) if the person violates
26 Section 41700 and all of the following occur:

27 (A) (i) The discharge is from a Title V source that is a refinery.

28 (ii) For purposes of this subparagraph, “refinery” means an
29 establishment that is located on one or more contiguous or adjacent
30 properties that processes a petroleum or alternative feedstock to
31 produce a more usable product such as gasoline, diesel fuel,
32 aviation fuel, lubricating oil, asphalt, petrochemical feedstock, or
33 other similar product.

34 (B) The discharge results in a severe disruption to the
35 community, including, but not limited to, residential displacement,
36 shelter in place, evacuation, or destruction of property.

37 (C) The discharge contains or includes one or more toxic air
38 contaminants, as identified by the state board pursuant to Section
39 39657.

40 (D) Twenty-five or more persons are exposed to the discharge.

1 (2) A person shall be liable for a civil penalty of not more than
 2 one hundred thousand dollars (\$100,000) for a discharge subject
 3 to paragraph (1) if that discharge occurs within 12 months of a
 4 prior discharge subject to paragraph (1).

5 (b) Except as provided in subdivision (b) of Section 42402.2 or
 6 subdivision (b) or (c) of Section 42402.3, a civil penalty described
 7 in subdivision (a) shall apply on the initial date of a violation.

8 (c) If a violation of subdivision (a) continues to occur subsequent
 9 to the initial date of the violation, the civil penalty described in
 10 Section 42402, 42402.1, 42402.2, or 42402.3 shall apply to those
 11 subsequent days.

12 (d) The civil penalty described in paragraphs (1) and (2) of
 13 subdivision (a) shall not apply if the violation is caused by
 14 unforeseen and unforeseeable criminal acts, acts of war, acts of
 15 terrorism, or civil unrest.

16 (e) Moneys collected pursuant to this section shall be expended
 17 in support of air quality programs, including, but not limited to,
 18 programs to research or mitigate the effects of air pollution.

19 SEC. 7. Section 42403 of the Health and Safety Code is
 20 amended to read:

21 42403. (a) The civil penalties prescribed in Sections 39674,
 22 42401, 42402, 42402.1, 42402.2, ~~and 42402.3~~ 42402.3, and
 23 42402.6 shall be assessed and recovered in a civil action brought
 24 in the name of the people of the State of California by the Attorney
 25 General, by ~~any~~ a district attorney, or by the attorney for ~~any~~ the
 26 district in which the violation occurs in ~~any~~ a court of competent
 27 jurisdiction.

28 (b) In determining the amount of *the civil penalty* assessed, the
 29 court, or in reaching ~~any~~ a settlement, the district, shall take into
 30 consideration all relevant circumstances, including, but not limited
 31 to, the following:

- 32 (1) The extent of harm caused by the violation.
- 33 (2) The nature and persistence of the violation.
- 34 (3) The length of time over which the violation occurs.
- 35 (4) The frequency of past violations.
- 36 (5) The record of maintenance.
- 37 (6) The unproven or innovative nature of the control equipment.
- 38 (7) ~~Any action~~ *Action, if any*, taken by the defendant, including
 39 the nature, extent, and time of response of the cleanup and
 40 construction undertaken, to mitigate the violation.

- 1 (8) The financial burden to the defendant.

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ATTACHMENT 3

Brief Summary of Potential South Coast AQMD-Sponsored State Legislative Proposal In Concept

1) Proposed Legislation: Increased Strict Liability Civil Penalties for Air Quality Violations

- a. Bill would increase strict liability civil penalty ceilings for air quality violations by permitted facilities within the South Coast region.
- b. Bill would increase penalties to enhance their deterrent effect to help reduce toxic and otherwise harmful emissions from facilities and thus protect public health, especially within disadvantaged communities.

ATTACHMENT 4A



To: South Coast Air Quality Management District
From: Cassidy & Associates
Date: February 23, 2021
Re: February Report

HOUSE/SENATE

Last week, Congress passed another continuing resolution (CR) to continue funding the government through March 11. This is the third time Congress has passed a CR for fiscal year 2022. While this process has been difficult negotiators are optimistic that this will be the last CR.

On February 4, the House passed the COMPETES Act and sent it to the Senate. The COMPETES Act was designed to boost American Competitiveness with China, was passed largely along party lines. The Senate passed their version, the United States Innovation and Competition Act of 2021 (USICA), in June with bipartisan vote. A compromise between the two bills is possible but will be difficult due to partisan politics.

Both the House and Senate are out on recess this week and will return for a long stretch starting the first week of March. March 1 is President Biden's State of the Union address, and in the weeks following his address, the President's Budget Request will be released to Congress.

EPA

The EPA has awarded a \$200,000 Brownfields Job Training grant to the Los Angeles Conservation Corps. Job training and workforce development are important parts of the Biden administration's commitment to advance economic opportunities and address environmental justice issues in underserved communities. With this grant the Los Angeles Conservation Corps intend to recruit 60 residents from South Los Angeles, Watts, and Boyle Heights neighborhoods of Los Angeles.

The federal government and all agencies are still working through the process of implementing the investments in the bipartisan infrastructure package. The administration has released a

guidebook outlining different processes and timelines for individual programs. The guidebook can be accessed here: https://www.whitehouse.gov/wp-content/uploads/2022/01/BUILDING-A-BETTER-AMERICA_FINAL.pdf

The EPA's Local Government Advisory Committee (LGAC) has adopted recommendations to present the EPA Administrator Regan on the agency's implementation of the bipartisan infrastructure law. The committee was asked for input on how to implement the infrastructure investments in a way that meets climate and environmental justice goals and meets the needs of local governments. Over the last several weeks the LGAC has reached out to local communities for input. Key recommendations include:

- Expanding the technical assistance available to help local governments access funding, upgrade their infrastructure, and ensure climate and equity are incorporated into their projects.
- Providing training and education at every level of government on environmental justice and encouraging the use of available tools and data to make informed, equitable decisions.
- Issuing guidance to encourage infrastructure projects that do not contribute to climate pollution.
- Encouraging state partners to engage with communities, solicit project ideas from local governments, and include them in decision-making processes.
- Adding flexibility in allowable costs to enable investments in workforce development, community outreach, and the development of regional partnerships.

The full letter of recommendations will be posted to the EPA's website once it is signed by LGAC leadership.

Cassidy and Associates support in February:

- Tracked Capitol Hill intelligence related to USICA/COMPETES, Appropriations, and a scaled-down Build Back Better.
- Provided guidance to South Coast AQMD on implementation of the Infrastructure Investment and Jobs Act.
- Secured DOT and Port Envoy Meetings for SCAQMD.
- Participated in weekly strategy sessions

IMPORTANT LEGISLATIVE DATES

March 11, 2022

Expiration of the current CR

PANDEMIC RESPONSE PROGRAMS AND AUTHORITIES

End Date/Program

March 27, 2025

Special inspector General for Pandemic Recovery

Sept. 30, 2025

Pandemic Response Accountability Committee, Congressional Oversight Commission

AGENCY RESOURCES

USA.gov is cataloging all U.S. government activities related to coronavirus. From actions on health and safety to travel, immigration, and transportation to education, find pertinent actions [here](#). Each Federal Agency has also established a dedicated coronavirus website, where you can find important information and guidance. They include: Health and Human Services ([HHS](#)), Centers of Medicare and Medicaid ([CMS](#)), Food and Drug Administration ([FDA](#)), Department of Education ([DoED](#)), Department of Agriculture ([USDA](#)), Small Business Administration ([SBA](#)), Department of Labor ([DOL](#)), Department of Homeland Security ([DHS](#)), Department of State ([DOS](#)), Department of Veterans Affairs ([VA](#)), Environmental Protection Agency ([EPA](#)), Department of the Interior ([DOI](#)), Department of Energy ([DOE](#)), Department of Commerce ([DOC](#)), Department of Justice ([DOJ](#)), Department of Housing and Urban Development ([HUD](#)), Department of the Treasury ([USDT](#)), Office of the Director of National Intelligence ([ODNI](#)), and U.S. Election Assistance Commission ([EAC](#)).

Helpful Agency Contact Information:

U.S. Department of Health and Human Services – Darcie Johnston (Office – 202-853-0582 / Cell – 202-690-1058 / Email – darcie.johnston@hhs.gov)

U.S. Department of Homeland Security – Cherie Short (Office – 202-441-3103 / Cell – 202-893-2941 / Email – Cherie.short@hq.dhs.gov)

U.S. Department of State – Bill Killion (Office – 202-647-7595 / Cell – 202-294-2605 / Email – killionw@state.gov)

U.S. Department of Transportation – Sean Poole (Office – 202-597-5109 / Cell – 202-366-3132 /
Email – sean.poole@dot.gov)

ATTACHMENT 4B

KADESH & ASSOCIATES

South Coast AQMD Report for the March 2022
Legislative Meeting covering February 2022
Kadesh & Associates

The slow negotiations on completing the Fiscal Year 2022 funding bills continue, with talks underway between Democratic and Republican members of the House and Senate Appropriations Committees. It has been reported that the appropriators have reached an agreement on a funding framework, but that agreement has not been made public, nor have important additional details — including the top-line allocations for the 12 individual appropriations bills. The Continuing Resolution (CR) that has been keeping federal agencies funded since October 1 has been extended again in order to give enough time for negotiations to complete; the previous deadline was Feb. 18, and the new deadline is March 11. Meanwhile, the President's budget request and the kickoff to the Fiscal Year 2023 appropriations cycle remain on hold.

As we reported last month, this series of CRs has meant that some aspects of the Bipartisan Infrastructure Law (BIL) cannot go into effect; more specifically, the Congressional Budget Office has now identified \$197 billion of the BIL that cannot be released for use until Congress enacts annual appropriations bills.

It is likely that Russia's invasion of Ukraine will dominate Congressional deliberations and White House activity over the coming days and weeks. Speaking about Ukraine, President Biden pledged to "provide humanitarian relief to ease their suffering," and although the White House has not yet sent a request to Congress for any additional Ukraine-related spending, Appropriations Committee members signaled that they would be open to providing additional funding to Ukraine and to allies in Europe as part of a final appropriations deal.

There has been minimal public progress toward reviving the Build Back Better Act, but Sen. Manchin's position on the climate and social spending legislation is now slightly better defined, which has given the White House and Senate colleagues some hope that a reworked version can secure his support. This will be a very slow process, and one that will likely take place out of the public eye if at all, but the White House and others have begun to contemplate a smaller version of the bill that includes more explicit deficit reduction measures. A slimmer version of the bill that focuses on climate funding and deficit reduction would necessarily leave out many member priorities, which will be a difficult problem for House and Senate leadership to solve.

We continue to monitor the implementation of the BIL. The White House's Infrastructure Implementation Coordinator, Mitch Landrieu, recently released a 450+ page guidebook to the programs included in the law; little of the information is new, and the majority of funding will be formula-based, but it is such a sprawling law that any new reference guides are helpful.

KADESH & ASSOCIATES

Kadesh & Associates Activity Summary-

-Monitored new legislation and worked with South Coast AQMD to brief congressional delegation on air quality impacts of the BIL and federal regulatory processes.

-Worked with South Coast AQMD staff on strategy to address nonattainment deadlines, including working in coordination with Bay Area AQMD to keep congressional attention and focus on the heavy truck NOx rule, and the need for updated federal mobile source regulations.

Contacts:

Contacts included staff and House Members throughout the CA delegation, especially the authors of priority legislation, Senate offices, members of the South Coast House delegation, and members of key committees. We have also been in touch with administration staff.

###

ATTACHMENT 4C



Carmen Group
I N C O R P O R A T E D

To: South Coast AQMD Legislative Committee
From: Carmen Group
Date: February 24, 2022
Re: Federal Update -- Executive Branch

FY22 Appropriations Update: In February, Congress extended its deadline to pass an FY22 Omnibus appropriations bill to March 11. Meanwhile, committee leaders announced a framework accord with top-line numbers setting the stage for the serious detailed negotiations necessary to reach a final agreement. Adding to the urgency and impetus to get a deal done were numerous messages from interest groups and stakeholders calling for action and warning that failure to complete a deal would threaten billions of dollars in increased spending already authorized by Congress through the new Infrastructure Law and other legislation passed earlier in 2021.

Infrastructure Law Implementation: Below are several significant developments over the past month surrounding the implementation of the Bipartisan Infrastructure Law that could be of special interest to South Coast AQMD:

- **RAISE Grants Funding Availability:** The Department of Transportation announced the availability of \$1.5 billion for the FY22 round of RAISE discretionary grants (formerly TIGER/BUILD grants). Carmen Group attended the DOT's February webinar on the program, noting that recipient eligibility has now been expanded to include all units of local government and all public entities. This means South Coast AQMD would be eligible to apply directly. Maximum grant: \$25 million. Cost share: 80-20. Applications are due April 14, 2022.
- **Port Infrastructure Grants Funding Availability:** In February, the Maritime Administration announced the availability of \$450 million for the FY22 round of discretionary grants under the Port Infrastructure Development Program. Grants will support projects that improve the movement of goods through and around ports, and eligibility criteria include emission reductions. Applications are due May 16, 2022.
- **White House Infrastructure Law Guidebook:** The White House released a 500-page guidebook on the Bipartisan Infrastructure Law, summarizing programs and funding opportunities. Carmen Group attended the White House's initial overview webinar outlining how the book can be used by local governments along with an accompanying Fact Sheet on Competitive Infrastructure Funding Opportunities.

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- **DOT and DOE Announce Funding of EV Charging Network:** In February, the Department of the Transportation and the Department of Energy announced that \$5 billion will be available under the new National Electric Vehicle Infrastructure (NEVI) Formula Program to build out a national electric vehicle charging network across the country. While states know how much money they will receive under the program, they must first submit an EV Infrastructure Deployment Plan and have it approved by DOT before they can access the funds. A separate competitive grant program for EV charging and hydrogen, propane and natural gas fueling infrastructure will be announced later in the year.
- **DOT Seeks Nominations for Alternative Fuel Corridors:** In February, the Federal Highway Administration put out its 6th annual Request for Nominations for state and local officials to nominate Alternative Fuel Corridors for official designation. The agency notes that such nominations have grown in importance now that the Infrastructure Law provides funding for EV and Alternative Fuel infrastructure along such corridors.
- **Republican Senators Push Back on DOT Highway Policy Guidance:** In February, 30 Republican Senators (including Leader McConnell and EPW Ranking Member Capito) wrote to Transportation Secretary Pete Buttigieg urging him to scrap or revise the Federal Highway Administration's Dec. 16th policy guidance memorandum which directed that implementation of the Infrastructure Law's highway provisions be carried out in alignment with Administration policy preferences that the Senators argued were not in conformance with the carefully negotiated text of the law. At issue is how much discretion the states will have in allocating formula funds and how much the agency will have in directing discretionary grant funds. An expansive debate on the matter was expected to unfold at the EPW Committee's March 2nd hearing on Infrastructure Law implementation.
- **EPA Local Govt Committee Adopts Infrastructure Recommendations:** In February, the Environment Protection Agency's Local Government Advisory Committee adopted recommendations to present to the EPA Administrator on the agency's implementation of the Bipartisan Infrastructure Law. The 35-member committee with representation from 30 states was asked for input on how to implement the law in a way that meets the Administration's climate and environmental justice goals while meeting the needs of local governments.
- **EPA Announces Pollution Prevention (P2) Grant Opportunities:** In February, the EPA announced \$23 million in two grant funding opportunities for states to provide businesses with information, training and tools to help them adopt pollution prevention practices. Approximately \$14 million in grants with no cost share/match requirement are made possible by funding from the Infrastructure Law and will emphasize environmental justice. Proposals are due April 11, 2022.

- **DOE Announces Structural Changes to Implement Infrastructure Law:** In February, the Department of Energy announced a new organizational structure it says will enable a more efficient implementation of the \$62 billion in clean energy funds being made available to the Department under the new Bipartisan Infrastructure Law. The new structure establishes two Under Secretaries: one focused on fundamental science and clean energy innovation (Under Secretary for Science and Innovation); and the other focused on deploying clean infrastructure (Under Secretary for Infrastructure).
- **DOE to Invest in Battery Manufacturing and Energy Storage Projects:** In February, the Department of Energy announced its intent to provide \$2.91 billion in Infrastructure Law funding to boost domestic production and recycling of advanced EV batteries and to support the growing demand for energy storage.
- **DOE Establishes Clean Hydrogen Initiatives:** In February, the Department of Energy announced two Requests for Information (RFI) to collect feedback from stakeholders to inform the implementation and design of the Bipartisan Infrastructure Law’s Regional Hydrogen Hub and the Electrolysis and Clean Hydrogen Manufacturing and Recycling Programs. The Department said these efforts will help decarbonize industrial and transportation sectors while providing healthier air for all.

Environmental Protection Agency

Notable Appointment:

Robin Morris Collin, *Senior Advisor to the Administrator for Environmental Justice*
Law Prof., Willamette Univ; OR EJ Task Force; EPA EJ Award; J.D., ASU.

EPA Issues Power Plant Emissions Data for 2021: In February, the Environmental Protection Agency released annual data on 2021 emissions from power plants in the lower 48 states. Emissions in 2021 were higher than 2020. However, compared to 2019, 2021 emissions fell between 3% to 11%, reflecting the long-standing trend in decreasing annual emissions.

EPA Proposes to Reverse Trump MATS Rule: In February the EPA announced its proposal to reaffirm the scientific, economic, and legal underpinnings of the 2012 Mercury and Air Toxics Standards (MATS) for power plants, which required significant reductions of mercury, acid gases, and other harmful pollutants.

Outreach: Contacts included the Department of Transportation Deputy Assistant Secretary for Intergovernmental Affairs on the RAISE Grant program and members of our business coalition group on the EPA’s Ultra-Low NOx rulemaking process.

###



CALIFORNIA ADVISORS, LLC

South Coast AQMD Report
California Advisors, LLC
March 11, 2022 Legislative Committee Hearing

Legislative Update

One of the major legislative deadlines occurred on February 18, which was the deadline for new bills to be introduced for the 2022 Legislative Session. On the final day, hundreds of new bills were introduced between the two houses. A total of 2,022 bills were introduced for 2022, of which 1362 were Assembly measures and 660 were Senate measures. These figures do not include special session bills, constitutional amendments, or resolutions. It should also be noted that Committees can still introduce bills past the deadline. Further, of the legislation introduced, several measures are considered “spot bills” which make technical, non-substantive changes in the law as a placeholder for a later proposal.

The number of bill introductions for 2022 is relatively consistent with those in prior years. Generally, the Legislature has introduced about 2,250 bills per year and the first year of the 2-year session usually has a higher number of bill introductions. By way of comparison, the following are the bill introduction totals from the past several years:

- Total 2021 bill introductions as of the deadline: 2,369
- Total 2020 bill introductions as of the deadline: 2,203
- Total 2019 bill introductions as of the deadline: 2,576

Over the course of the next several weeks, these measures will be referred to policy committees where they will be heard. Additionally, those “spot bills” will need to be amended with substantive language by mid-March for them to be referred to the appropriate policy committee.

On February 15, the Senate Transportation Committee held an informational hearing on reducing greenhouse gas emissions from medium-duty, heavy-duty, and non-road vehicles. The reduction of air pollution emissions was also discussed. South Coast AQMD staff spoke on a panel alongside the California Air Resources Board, California Energy Commission, Legislative Analyst’s Office, and Tehama County Air Pollution Control District. The Committee has followed up with South Coast AQMD to continue these important conversations this year.

Budget Update

The Department of Finance published its monthly cash report for February. The bulletin noted that cash receipts for the first seven months of the 2021-22 fiscal year were \$15.954 billion above the 2022-23 Governor’s Budget forecast of \$109.355 billion. The Governor’s Budget

forecast was finalized at the end of November, so the difference was generated from December and January cash receipts.

However, the Department of Finance did note that \$6.206 billion of this total additional revenue is due to higher-than-expected Pass-Through Entity (PTE) elective tax payments under the corporation tax, a 2021 state tax change designed to allow some taxpayers to reduce their allowable federal tax liability starting with their 2021 tax returns. Every dollar received from the PTE elective tax paid generates a dollar of personal income tax credit. While the amount of PTE elective tax payments can be tracked in monthly cash reports, the extent to which taxpayers will reduce their personal income tax payments to reflect the elective tax credits cannot be determined until more complete tax return data for 2021 is available. Therefore, it is reasonable to assume that a portion of this \$6.2 billion may overstate the amount of overall revenue strength to date.

Special Elections

On Tuesday, February 22, Mike Fong was sworn in as the Assemblymember for the 49th Assembly District. He won outright the special election that took place on February 15 and replaces former Assemblymember Ed Chau who was appointed as a judge last November.

Additionally, Governor Newsom declared a special election in the 62nd Assembly District to fill the seat vacated by Assemblymember Autumn Burke. Burke resigned from the Assembly effective February 1. The primary for the special election will be held on April 5, 2022. If no candidate receives more than 50 percent of the vote, a runoff will be subsequently held on June 7, 2022.

ATTACHMENT 5B



Joe A. Gonsalves & Son

Anthony D. Gonsalves

Jason A. Gonsalves

Paul A. Gonsalves

PROFESSIONAL LEGISLATIVE REPRESENTATION

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Email: gonsalves@gonsalvi.com

TO: South Coast Air Quality Management District
FROM: Anthony, Jason & Paul Gonsalves
SUBJECT: Legislative Update – February 2022
DATE: Thursday, February 24, 2022

The month of February marked the bill introduction deadline for introducing new legislation. All new bills had to be introduced by February 18, 2022. This year, the Assembly introduced 1,362 bills and the Senate introduced 660 bills, for a total of 2,022 newly introduced bills for the session. On the final day of introductions, 611 bills were introduced between the two houses.

All new bills must be in print for 30 days before they can be heard in Committee. There was a total of 421 Assembly bills and 218 Senate bills that were “intent” or “spot bills”, meaning they have no substantive language in them. These numbers above only include bills; they do not include resolutions or constitutional amendments. We will continue to monitor all bills as they are amended and progress through the process and notify the District of any legislation of interest.

Additionally, the Legislature is schedule to open the “swing space” (1021 O Street building) to the public on March 1, 2022. There is limited space for meetings in Legislator’s office’s, therefore, all meetings must take place in 1 of the 8 conference rooms in the building. The conference rooms, which can hold between 5-12 people at once, must be reserved through the Sergeant-at-Arms. Reserving rooms for outside organizations is not allowed and they may only be reserved for legislative business. The conference rooms are marked for social distancing, creating lower capacities than usual, and masks must be worn at all times. Committee hearings will be open to the public and will allow in-person public testimony as long as individuals are following the COVID-19 protocols (masks, distancing, etc.).

The following will provide you with updates of interest to the District:

CAP AND TRADE

On February 24, 2022, the results of the February Cap and Trade auction were released and all current vintage allowances sold at a record-high price, raising over \$970 million for the Greenhouse Gas Reduction Fund. The following will provide you with a summary of the Auction results:

- All 58,527,697 current vintage allowances offered were sold; this is the 6th consecutive sold out auction.
- Current vintage allowances cleared at \$29.15, which is \$9.45 above the floor price of \$19.70 and \$0.89 above the November 2021 settlement price of \$28.26. This quarter's settlement price is another record-setter, beating the price record set in the previous auction.
- 89% of the 7,942,750 future vintage allowances offered for sale sold. This is the first auction since May 2020 when the advance auction did not sell out. These allowances may not be used for compliance until 2025.
- Future vintage allowances sold at the price floor of \$19.70.
- California raised over \$970 million for the GGRF.

PAID SICK LEAVE & TAX RELIEF

On February 9, 2022, Governor Newsom signed budget trailer bill SB 114, which extended COVID-19 supplemental paid sick leave for workers. The proposal, which was outlined by the Governor, Senate President pro Tempore Atkins and Assembly Speaker Rendon in January, ensures that employees continue to have access to up to 80 hours of COVID-19 supplemental paid sick leave through September 30, 2022, which may be used by employees who have been advised to quarantine, those caring for COVID-impacted family members, attending a COVID-19 vaccination appointment, and more. Small businesses employing 25 or fewer workers are exempt from the legislation, which is retroactive to sick leave taken beginning January 1, 2022.

Governor Newsom also signed budget trailer bill SB 113, a \$6.2 billion tax relief for small businesses that received Paycheck Protection Program loans. The \$6.1 billion in tax relief comes in the form of tax credits and direct grants to the hardest hit businesses. SB 113 includes provisions that:

- Provide a nearly \$500 million tax cut for restaurants and venues: By conforming state tax policy for the federal Restaurant Revitalization Fund and federal Shuttered Venue Operators grant programs, grants received by such businesses will not be considered taxable by the state – translating into a tax cut totaling nearly \$500 million over the coming years.
- Restore \$5.5 billion in tax credits and deductions for California businesses: By restoring business tax credits, including for research and development and the net operating loss deduction for businesses one year early, the near-term benefit for such businesses is estimated to reach \$5.5 billion.
- Invest \$150 million in COVID-19 relief grants for California's small businesses: SB 113 invests an additional \$150 million in California's Small Business COVID-19 Relief Grant Program to fund applicants on the waitlist – the program has provided grants of up to \$25,000 for small businesses impacted by the pandemic.

\$1.9 BILLION COVID PACKAGE

On February 10, 2022, Governor Newsom signed a \$1.9 billion early action measure to meet the state's immediate COVID response needs, including funding to boost testing capacity and vaccination efforts, support frontline workers, strengthen the health care system and battle misinformation, with a focus on the hardest-hit communities. The Administration continues to

work with the Legislature through the budget process to advance an additional \$1.3 billion to support the state's ongoing pandemic response.

Unveiled in his January budget proposal, the Governor's proposed COVID Emergency Response Package initially included a \$1.4 billion emergency appropriation request, which expanded to \$1.9 billion to meet the state's changing needs in responding to the Omicron surge.

The \$1.9 billion emergency appropriation in budget trailer bill SB 115 (Skinner) includes:

- \$806 Million to Bolster Testing
 - Expand hours and capacity at testing sites throughout the state to help slow the spread of the virus.
 - Distribute millions of COVID-19 antigen tests to local health departments, community clinics and county offices of education and schools.
 - Support the state's testing facilities, including specimen collection and expanding capacity in order to meet demand.
 - Assist state departments in testing their staff and congregate populations.

- \$400 Million to Get More Californians Vaccinated & Boosted, Combat Misinformation
 - Continue the "Vaccinate all 58" public education campaign to provide reliable information and build vaccine confidence while combating misinformation, all of which is in partnership with 250 ethnic media outlets.
 - Maintain a robust community outreach and direct appointment assistance campaign by conducting door-to-door canvassing, phone banking and texting with over 700 CBOs and community partners in partnership with philanthropy.
 - Support in-home vaccination and testing programs and transportation arrangements for those unable to travel, to meet Californians where they're at.
 - Provide free transportation to vaccination appointments throughout the state to help get more Californians vaccinated and boosted.

- \$486 Million to Support Our Frontline Workers and Health Care Systems
 - Support and distribution of critical personnel resources for health care systems to help protect frontline workers, patient care and hospital surge capacity as well as additional staffing for vaccination sites.

- \$141 Million to Maintain State Response Operations
 - Provide resources to enhance the state's emergency response and public health capacities, including staffing and information technology at California Department of Public Health, Office of Emergency Services and Emergency Medical Services Authority.

- \$100 Million to Support Mutual Aid, Bolster Contact Tracing Efforts, Procure Personal Protective Equipment
 - Provide mutual aid to support local governments.
 - Continue statewide contact tracing activities to help keep Californians safe and slow the spread.
 - Procure additional personal protective equipment, including children's N95 and surgical masks, and other durable equipment

SMARTER PLAN

On February 17, 2022, Governor Newsom unveiled the state's SMARTER Plan, the next phase of California's pandemic response. The SMARTER Plan will guide California's strategic approach to managing COVID-19 while moving the state's recovery forward. The Plan emphasizes the continued need to be ready, aware and flexible, in order to stay prepared to respond to emerging COVID-19 variants and changing conditions.

The SMARTER Plan's core pillars and preparedness metrics focus on public health measures and strategies the state has used to slow the spread. Recognizing that each variant brings with it unique characteristics, the Plan preserves needed flexibility and ensures the state has the resources and capabilities in place to tackle the COVID-19 challenges that lie ahead:

- **Shots-** Vaccines are the most powerful weapon against hospitalization and serious illness. Under the Plan, California will maintain capacity to administer at least 200,000 vaccines per day on top of existing pharmacy and provider infrastructure.
- **Masks-** Properly worn masks with good filtration help slow the spread of COVID-19 or other respiratory viruses. The state will maintain a stockpile of 75 million high quality masks and the capability to distribute them as needed.
- **Awareness-** We will continue to stay aware of how COVID-19 is spreading and evolving variants, communicate clearly how people should protect themselves, and coordinate our state and local government response. California will maintain capability to promote vaccination, masking and other mitigation measures in all 58 counties and support engagement with at least 150 community-based organizations.
- **Readiness-** COVID-19 isn't going away and we need to be ready with the tools, resources and supplies that will allow us to quickly respond to protect public health and to keep the health care system well prepared. The state will maintain wastewater surveillance in all regions and enhance respiratory surveillance in the health care system while continuing to sequence at least 10 percent of positive COVID-19 test specimens. The state will also maintain the ability to add 3,000 clinical staff within 2-3 weeks if needed across various health care facility types.
- **Testing-** Getting the right type of tests – PCR or antigen – to where they are needed most. Testing will help California minimize the spread of COVID-19. California will maintain commercial and local public health capacity statewide to perform at least 500,000 tests per day – a combination of PCR and antigen.
- **Education-** California will continue to work to keep schools open and children safely in classrooms for in-person instruction. The state will expand by 25 percent school-based vaccination sites supported by the state to increase vaccination rates as eligibility expands.
- **Rx-** Evolving and improving treatments will become increasingly available and are critical as tools to save lives. The state will maximize orders for the most clinically effective therapeutic available through federal partnerships, ensuring allocations of effective therapeutics are ordered within 48-hours.

The SMARTER Plan maintains the state's focus on targeted investments and outreach to tackle COVID-19 health disparities in disproportionately impacted communities. The Plan features a new COVID-19 Assessment and Action Unit to monitor data and frontline conditions in real-time. It also includes building upon a regionally-based waste-water surveillance and genome

sequencing network to have early and rapid insights into the changing nature of the virus and early identification of variants.

In collaboration with external partners and the federal government, California will launch the first-in-the-nation impacts of COVID-19 longitudinal cohort study to examine the direct and indirect impacts of COVID-19 on individuals and communities over time. Under the Plan, the state is pursuing a public-private partnership with a test manufacturer to drive down the costs of at-home tests while securing a reliable and timely supply chain for California. The state will also continue taking steps to ensure our health care facilities can continue to ramp up with additional staff and resources to respond to potential surges while minimizing strain on our health care systems.

CLEAN ENERGY ECONOMY IN LITHIUM VALLEY

On February 22, 2022, Governor Newsom joined President Biden and community, labor, and industry leaders to discuss new investments and actions to support California's clean energy sector. The announcement outlines the historic progress to sustainably develop lithium resources, a critical component of the advanced batteries needed for zero-emission vehicles, clean electric grids, and other renewable energy technologies.

California's Imperial Valley, also known as Lithium Valley, contains some of the largest lithium deposits in the world underground near the Salton Sea. Governor Newsom's Lithium Valley Vision positions the state to become a global leader in the deployment of new technologies and environmental protections that can sustainably co-produce lithium with renewable electricity from geothermal power plants, satisfying up to 1/3 of the global lithium demand. Governor Newsom is committed to building out a world-class battery manufacturing ecosystem in tandem with lithium production and processing that would increase economic opportunity and deliver quality jobs and community benefits to the region.

Governor Newsom's Lithium Valley Vision, which is outlined in the California Blueprint, commits to a lithium infrastructure that proposes to:

- Provide incentives to advance the clean energy market in California.
- Provide Californians in the Imperial Valley a share of the benefit from these projects.
- Include labor standards that deliver community benefits, economic development, and job opportunities.
- Ensure lithium production is done in a clean and sustainable way.

The Blueprint also includes a new tax credit for those that opt in to develop green energy technologies, totaling \$100 million per year for 3 years. This credit will fund pre-development costs for new technologies such as electric vehicle manufacturing and infrastructure, geothermal, lithium extraction and battery manufacturing, and long-duration storage.

As part of the announcement, President Biden highlighted investments in the innovative businesses operating in this space:

- California-based Mountain Pass (MP) Materials has been awarded \$35 million from the federal government to separate and process heavy rare earth elements at its facility in Mountain Pass, California, establishing a full end-to-end domestic permanent magnet

supply chain. MP Materials has announced it will invest another \$700 million and create more than 350 jobs in the magnet supply chain by 2024. In 2021, MP Materials received a \$15 million California Competes Tax Credit.

- Berkshire Hathaway Energy Renewables (BHE Renewables) also announced that this spring, they will break ground on a new demonstration facility in Imperial County to test the commercial viability of their sustainable lithium extraction process from geothermal brine as part of a multibillion-dollar investment in sustainable lithium production over the next 5 years. If successful, this sets the company on a path towards commercial scale production of battery grade lithium hydroxide and lithium carbonate by 2026. Once at scale, BHE Renewables facilities could produce 90,000 metric tons of lithium per year.

CARB CLEAN TRANSPORTATION PILOT PROGRAM

On February 9, 2022, CARB awarded 3 grants totaling \$25 million to provide innovative clean transportation solutions for disadvantaged and low-income communities in Los Angeles, San Francisco and Oakland. The grants come from the Sustainable Transportation Equity Project (STEP), a pilot program launched by CARB in 2020 to improve transportation equity. The program funding supports implementation of additional clean transportation projects in low-income and disadvantaged communities, and those overburdened by pollution. Projects funded include:

- A new shuttle service.
- Electric carshare and bikeshare services.
- Public transit and shared mobility subsidies.
- Urban forestry.
- Pedestrian improvements.
- Active transportation education and outreach events.
- Workforce development activities.

The Los Angeles Department of Transportation (LADOT) was awarded roughly \$6.7 million, the San Francisco Municipal Transportation Agency was awarded roughly \$10.5 million and the Oakland Department of Transportation was awarded roughly \$8 million. These awards are contingent on final results of the 2021-22 cap-and-trade auctions.

LOW-EMISSION TRUCKS, HEAVY-DUTY VEHICLES

On February 14, 2022, State Treasurer Fiona Ma, the California Air Resources Board (CARB) and the California Pollution Control Financing Authority (CPCFA) announced they surpassed a milestone of financing enough truck loans to help get more than 36,000 cleaner trucks on the road. The Heavy-Duty Vehicle Air Quality Loan Program was established in 2009 to provide financial assistance to small business owners who have heavy-duty vehicles affected by CARB's Truck and Bus Regulation and other air pollution control mandates. Since this partnership began, CARB has contributed \$187 million toward loans that helped purchase the 36,000 cleaner trucks. That is the equivalent of removing almost 11 million passenger cars from the road and 164 tons of particulate matter per year.

The collaboration between CARB and CPCFA's California Capital Access Loan Program has been successful in financing the purchase of lower-emission vehicles. The program is funded primarily by CARB's Air Quality Improvement Program (AQIP) and was recently extended two

additional years. CARB allocates their AQIP funds to the CPCFA, which invests in a loan loss reserve program operated by the California Capital Access Loan Program. The funds provide support for, and incentive to, lenders to offer owner-operators truck loans with favorable terms and interest rates. Diesel, compressed gas, hybrid, and electric trucks qualify, as do warranty packages for vehicles financed through the program.

\$10 MILLION IN AIR POLLUTION GRANTS

On February 22, 2022, CARB awarded \$10 million in grants to help community organizations and Native American Tribes reduce air pollution in their neighborhoods. The Community Air Grants were awarded to communities across California that face significant challenges with air pollution, including the Inland Empire/Border region, the Central Valley, Los Angeles, the Bay Area and San Diego.

The Community Air Grants Program is part of CARB's overall efforts to implement Assembly Bill 617. Community Air Grants are designed to establish a community-focused approach to improving air quality and reducing exposure to toxic air pollutants at the neighborhood level. The current grants elevate community voices and their specific priorities regarding air pollution where they live. As a result, the projects funded will help communities identify areas with the most harmful air emissions and then take actions to reduce exposure or address the underlying cause of the pollution.

The selected projects reflect the diverse needs across the state and include community-driven air monitoring, improving public access to information about local pollution sources, reducing community exposure and tracking progress on pollution reduction efforts. Examples of selected projects of interest to the District include:

Southern California

- Breathe Southern California (Breathe SoCal) will pilot an accountability-focused Freight Sustainability Score for major retailers who move cargo via the San Pedro Bay Port Complex to improve public health and environmental justice, primarily in disadvantaged communities.
- OneOC will build on their air monitoring pilot project in the industrial corridor in Santa Ana and expand monitoring to include more sources of air pollution that have been identified by residents. These sources include truck traffic, fireworks and noise pollution.

Inland Empire/Border Region

- Comité Cívico del Valle (CCV) aims to continue the community monitoring efforts in the Salton Sea Air Basin.

2022 LEGISLATIVE DEADLINES

February 18: Last day for new bills to be introduced.

April 7-18: Spring Recess

- April 29: Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.
- May 6: Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
- May 13: Last day for policy committees to meet prior to May 31
- May 20: Last day for fiscal committees to hear and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to May 31
- May 27: Last day for each house to pass bills introduced in that house
- June 15: Budget Bill must be passed by midnight
- June 30: Last day for a legislative measure to qualify for the Nov. 8, 2022 General Election ballot
- July 1: Last day for policy committees to meet and report bills
- July 1- August 1: Summer Recess
- August 12: Last day for fiscal committees to meet and report bills
- August 15 – 31: Floor session only. No committee may meet for any purpose except Rules Committee.
- August 25: Last day to amend bills on the floor
- August 31: Last day for each house to pass bills. Final Recess begins upon adjournment

South Coast Air Quality Management District Legislative and Regulatory Update – February 2022

❖ Important Dates

- Feb. 18 – Last day for bills to be introduced.
- Feb. 20 – Last day for the state and legislative maps drawn by the California Redistricting Commission to be challenged in court.
- Apr. 7 – Spring Recess begins upon adjournment of session.

❖ RESOLUTE Actions on Behalf of South Coast AQMD. RESOLUTE partners David Quintana, Jarrell Cook, and Alfredo Arredondo continued their representation of SCAQMD before the State’s Legislative and Executive branch. Selected highlights of our recent advocacy include:

- Assisted South Coast staff in developing and participating in an informational hearing of the Senate Transportation Committee Chair Senator Lena Gonzalez on GHG emissions from Medium and Heavy-Duty Vehicles. Air pollution emission reductions were also discussed.
- Continued outreach to numerous legislative members and offices regarding South Coast priority legislation and issues.
- Secured authors for priority legislation being sponsored by SCAQMD relative to AB 617 implementation and clarifying the status of SCAQMD as an ‘independent special district’.

❖ Senate Transportation Committee Held an Informational Hearing on Medium and Heavy-Duty Vehicle Emissions. On February 15, the Senate Transportation Committee held its informational hearing on [‘Sustainable Transportation: Reducing Greenhouse Gas Emissions from Medium-Duty, Heavy-Duty and Non-Road Vehicles.’](#)

This hearing resulted in a robust discussion of the current state of commercial options to transition medium and heavy-duty vehicles to zero emission vehicles as well as the need to utilize near-zero emission options in the near term to reduce air pollution. Dr. Matt Miyasato presented for SCAQMD and responded to questions from the legislators in attendance. “Inside CalEPA” developed a great synopsis of the hearing titled “CARB Chief, LA Air Official Clash Over Funding for Natural Gas Trucks” which is included at the end of this report for reference.

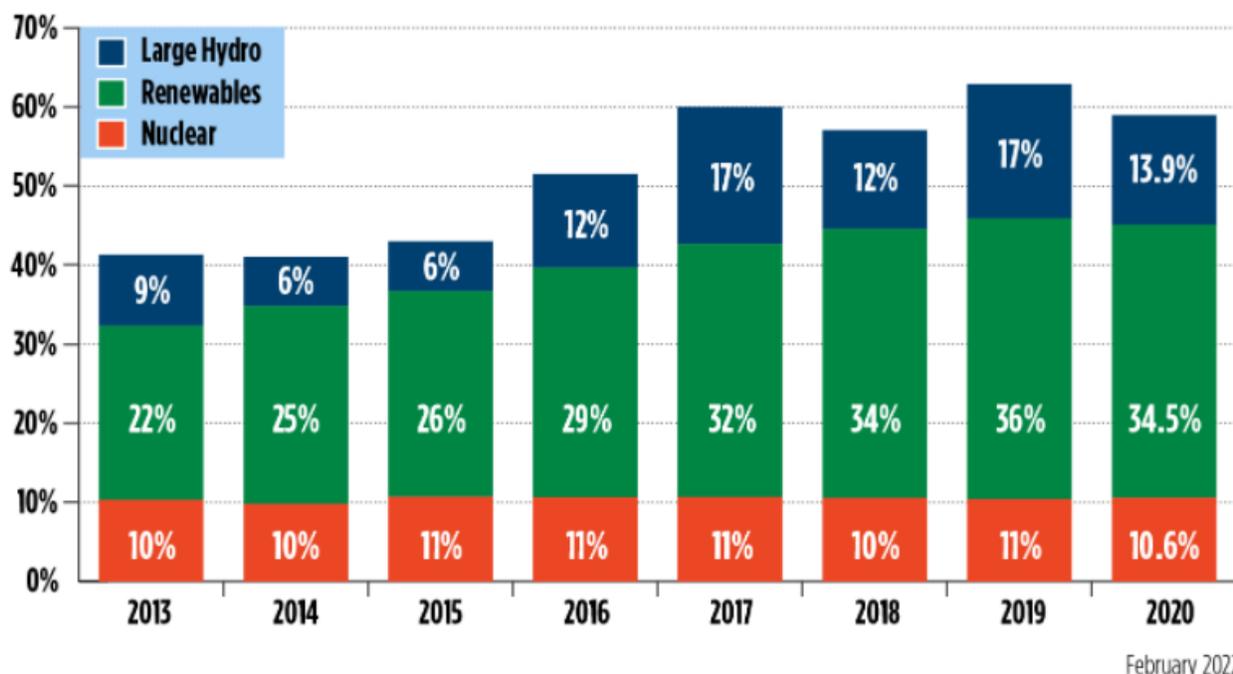
❖ SCAQMD Sponsored Legislation. With the bill introduction deadline happening on February 18, two policy bills have been secured thus far to pursue legislation proposed by SCAQMD relative to (1) the classification of SCAQMD as an ‘independent special district’, and (2) updates to AB 617 statute to assist with more effective implementation of that program.

❖ The California Air Resources Board Releases Latest Cap and Trade Auction Results. On February 24, the Air Resources Board released the preliminary [summary results](#) for the latest Cap and Trade auction which took place February 16. While not raising as much funding for the Greenhouse Gas Reduction Fund (GGRF) as the last two quarterly auctions, it still produced a substantial amount for the GGRF at about \$974 million. While the overall revenue amount was lower in this auction, it is interesting to note that the auction produced the highest price on carbon in the history of Cap and Trade (\$29.14 for current vintage allowances per 1 ton of carbon). The future vintage allowances did underperform, which may reflect a lack of certainty about the role of Cap and Trade in the future as perceived by market participants.

Overall, given the fairly robust outcome of this auction, it is expected that the GGRF proceeds will be above the projections made by the Administration in the Governor’s January Budget Proposal.

- ❖ **California Energy Commission Provides Update on State’s Path to Achieving SB 100 Goal.** On February 22, the CEC [released new data](#) showing the overall carbon intensity of the California Grid for 2020 (the latest year for which data is available). Overall, power generation from renewable sources did not continue a growth trajectory and instead fell overall on a percentage basis. This small decrease is mainly attributable to a 20% decline in large hydroelectric generation (a reflection of drought conditions currently being experienced by the state) in addition to pandemic related delays in new clean energy projects. The CEC notes that the current budget proposal for fiscal year 2022-2023 includes major investments in the clean energy generation sector which add to the optimism that California is still on track to meet its goals for the grid.

Generation from Renewable and Zero-Carbon Electricity Sources as a Percentage of California's Retail Sales



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CARB Chief, L.A. Air Official Clash Over Funding For Natural Gas Trucks

Posted February 17, 2022

The head of the California air board and a top official with the Los Angeles regional air district are clashing over whether regulators should prioritize funding for natural gas-fueled heavy trucks to achieve shorter-term pollution cuts in disadvantaged areas or largely bypass that option and focus on advancing zero-emission technologies.

Liane Randolph, chairwoman of the California Air Resources Board (CARB), strongly backs the latter path, telling state lawmakers during a Feb. 15 Senate committee hearing that natural gas vehicles should not be prioritized in their plan for spending hundreds of millions of surplus state budget dollars to subsidize clean transportation technologies.

“I think we need to be moving away from combustion as quickly as possible. And so while we do have programs that do still incentivize natural gas vehicles, I think it’s really important that as we have the ability to make historic investments in the future, that we focus on a future without combustion,” Randolph told the Senate Transportation Committee, which held an informational hearing on how to reduce greenhouse gas and other emissions from medium-and heavy-duty vehicles.

“And I will note that natural gas trucks do deteriorate in performance over time, in terms of their [nitrogen oxide (NOx)] emissions,” she added. “So, we need to keep that in mind — that trucks we are putting on the road today will be on the road for many, many years to come. So, as we think about the dollars that . . . you as the Legislature has the ability to allocate, you want to be allocating those dollars towards the future, and the future is zero.”

Randolph’s comments came immediately after Matt Miyasato, deputy executive officer of science and technology advancement for the South Coast air district, urged lawmakers to prioritize funding for medium- and heavy-duty natural gas trucks to significantly reduce NOx and particulate matter (PM) emissions from the sector in the near term to help the notoriously polluted region achieve federal air standards and reduce health risks in disadvantaged communities.

“We are completely on board with the state on zero-emission technologies, but the sad fact of the matter is they’re just not available in large volumes,” Miyasato told the lawmakers. “They’re available in small volumes and for the small vehicles. But if you want a big truck pulling cargo out of the ports, in order to get to the thousands of trucks that we need, it’s going to take time” for electric models, especially to install the necessary charging infrastructure.

“So, our position is that we should be saving lives today by putting out a cleaner technology that’s commercially available in large numbers, that’s already rolling down production lines on the East Coast,” Miyasato continued, referring to natural gas trucks.

“We can clean the air while we plan for the zero-emission future,” he added. “We believe the funds should be distributed that provides the most emissions benefit — the decision should be how many lives can I save with this funding. And so, I think with this great surplus we should do both — we should plan for a zero-emission technology future while we clean the air today. And let’s not forget, we’re under a federal mandate. These are federal guidelines, requirements that we have to fulfill And we’re cleaning up the air in local communities.”

Budget Proposals

The debate comes as state lawmakers are developing fiscal year 2022-23 budget proposals, which will compete with Gov. Gavin Newsom’s (D) budget plan released last month. The Newsom administration’s plan in part proposes \$10 billion over two years to bolster the deployment of a variety of zero-emission vehicles, including medium- and heavy- duty models.

Last week, a top executive with United Parcel Service touted the benefits of fueling delivery trucks with renewable natural gas to reduce pollution and GHGs, while criticizing California’s proposed mandate for fleets to purchase electric vehicles as well as exorbitant costs for using hydrogen as a transportation fuel.

Earlier in the Senate committee hearing, Miyasato testified that the South Coast air district is home to about 60 percent of the state’s disadvantaged communities, and that about half the diesel trucks operating in the state — or about 200,000 vehicles — are in the greater Los Angeles area.

Failure to achieve federal air quality standards could lead to sanctions against the region and state, resulting in the loss of billions of dollars in federal transportation funding for California, increased costs on local businesses and federal takeover of air quality regulation, he also warned lawmakers. But representatives of disadvantaged communities in the region told the lawmakers that they support CARB’s position — prioritizing funding for zero-emission trucks while scaling back support for natural gas vehicles.

“It’s critical that we transition to zero emissions as rapidly as possible, not just for resolving the climate crisis but also resolving the public health crisis that our communities are facing,” testified Angelo Logan, representing the MovingForward Network, a national coalition of more than 50 environmental justice and other groups that represent communities in and around polluted areas such as freight hubs.

“Unfortunately, when we invest in internal combustion engines like natural gas, then we set up a system and infrastructure for years and years to come,” Logan added. “That, in my mind, is not a true investment. Investment is something that we look at towards the long term. And by the time we transition out of combustion vehicles, you know there’s generations of children that have developed and their lungs have developed, and underdeveloped, because of exposure to ultra-fine and combustion emissions.”

Additionally, Patricio Portillo, a clean vehicles and fuels transportation analyst with the Natural Resources Defense Council, argued there are numerous cost-competitive models and types of zero-emission vehicles available now and more will be available in the next few years, making state investments in such technologies — and the necessary charging infrastructure — the best choice for lawmakers.

“Because public funding is so limited, we should only be spending on the outcome we need — zero tailpipe emissions,” he told lawmakers. “Natural gas vehicles are an antiquated, second-best solution that should not be supported. It will perpetuate our reliance on fossil fuels, result in stranded assets, and increase emissions. Promoting the sale of natural gas vehicles also promotes the infrastructure that it relies upon. And this infrastructure, aside from being rife with leaks and emissions, are long-life capital assets. Moreover, natural gas emissions could occur throughout the

fuel-supply chain, negating tailpipe benefits.”

He added that a recent study shows that natural gas trucks emit more NO_x in real-world situations than levels shown during laboratory testing, and that their emission-control systems degrade rapidly over time, in some instances causing the trucks to pollute more than their diesel counterparts.

Costs, Availability

However, other officials testified that the high costs and unavailability of different types zero-emission trucks should lead lawmakers to continue investing in natural gas vehicles for short- and mid-term pollution cuts in disadvantaged communities.

Nicole Rice, president of the California Natural Gas Vehicle Coalition (CNGVC), argued that “this is not a choice between zero- and near-zero, this is about diesel versus cleaner alternatives, and when the timing of those alternatives will be feasible.”

In fact, “the alternative today to renewable natural gas-powered trucks isn’t electric, it’s diesel. And so, if you’re not going to be funding alternatives like renewable natural gas-powered trucks today, then basically the state is locking in the choice of diesel for fleet owners for the foreseeable future.” CNGVC claims in a fact sheet presented to the lawmakers that with a \$100 million investment, the state could fund 2,222 natural gas trucks versus 667 battery-electric trucks, with the natural gas trucks achieving five times more reductions of NO_x and four times more GHG cuts annually than the battery-electric trucks.

Near the end of the hearing, Sen. Lena Gonzalez (D-Long Beach), chairwoman of the committee, asked Rice how much money CNGVC is advocating for in the FY22-23 budget proposals, noting that last year’s budget included \$45 million for natural gas truck purchases.

Rice responded that “we would suggest that the state continues to take, frankly, a technology-neutral approach to incentivizing the use of these technologies, consider both a near-term and long-term strategy,” adding that the \$45 million could displace about 450 diesel trucks in the state’s most polluted areas.

“It’s not as much resources as would be needed for the thousands of trucks that they need to displace, but it starts making progress,” she said. “So that goes to show that just \$45 million — how significant that impact could be. So being able to allocate resources according to air quality and emission-reduction goals for the near-term and the long-term, is the best way that the state could prioritize how those investments go.”

But Rice did not specify a dollar amount CNGVC would like to see in the FY22-23 budget for natural gas truck purchases. — *Curt Barry* (cbarry@iwnews.com)