

BOARD MEETING DATE: April 5, 2019

AGENDA NO. 18

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee held a meeting on Friday, March 8, 2019. The following is a summary of the meeting.

Agenda Item – March 8, 2019	Recommendation/Action
SB 210 (Leyva) Heavy-Duty Vehicle Inspections and Maintenance Program	Support
AB 210 (Voepel) Smog Check: exemption	Oppose
AB 285 (Friedman) California Transportation Plan	Work with Author

Agenda Item – February 8, 2019 Legislative Committee Meeting & March 1, 2019 Board Letter	Recommendation/Action
SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019.	Support
AB 142 (C. Garcia) Lead-acid batteries.	Support

RECOMMENDED ACTION:

Receive and file this report, and approve agenda items as specified in this letter, including items from the March 1, 2019 Board letter for the February 8, 2019 Legislative Committee meeting.

Judith Mitchell, Chair
Legislative Committee

Committee Members

Present: Mayor Judith Mitchell/Chair (videoconference)
Council Member Joe Buscaino/Vice Chair (videoconference)
Supervisor V. Manuel Perez (videoconference)
Supervisor Janice Rutherford (videoconference)

Absent: Dr. William A. Burke
Dr. Clark E. Parker, Sr.

Call to Order

Chair Mitchell called the meeting to order at 9:01 a.m.

DISCUSSION ITEMS:

1. Update on Federal Legislative Issues

SCAQMD's federal legislative consultants (Carmen Group, Cassidy & Associates, and Kadesh & Associates) each provided a written report on various key Washington, D.C. issues.

Mr. Gary Hoitsma of Carmen Group reported that SCAQMD's February advocacy trip to Washington, D.C. was successful and that Members of Congress and their staff, business representatives and other stakeholders were supportive of a timely and transparent rulemaking process for the U.S. EPA Ultra-Low NOx Emission Standard for Heavy-Duty Trucks.

Ms. Kaleb Froehlich of Cassidy & Associates stated that Mr. Andrew Wheeler had been confirmed by the U.S. Senate as the Administrator for the U.S. EPA. Mr. Froehlich reported that the House Leadership has signaled that work on an infrastructure bill may begin in the late Spring. Cassidy is working with the House Select Committee on the Climate Crisis on potentially holding a Congressional field hearing at SCAQMD.

Mr. Mark Kadesh of Kadesh & Associates reported that President Trump's budget overview is expected on March 11, 2019 and will be followed with a more detail document a week later. Mr. Kadesh also noted that SCAQMD was working on providing annual appropriations requests to Members of Congress.

Mr. Harvey Eder with the Public Solar Power Coalition provided public comment regarding the Solar New Deal and the Green New Deal. He also voiced support for a federal refundable solar tax credit and low income housing.

2. Update on State Legislative Issues

SCAQMD's state legislative consultants (Quintana, Watts and Hartman, California Advisors, LLC, Joe A. Gonsalves & Son,) provided written reports on various key issues in Sacramento.

Ms. Caity Maple of Quintana, Watts and Hartman informed the Committee that the state bill introduction deadline recently passed, and the California state legislature introduced 2,621 bills.

Mr. Ross Buckley of California Advisors LLC reported that the number of state bills introduced is a new record, and that is about 500 more than were introduced last legislative year. The California Assembly Natural Resources Committee has confirmed that it will have a hearing on March 18 regarding an update on the implementation of AB 617.

Mr. Paul Gonsalves of Joe A. Gonsalves & Son stated that on February 27 the most recent cap and trade revenue auction was held and generated about \$850 million for the state's Greenhouse Gas Reduction Fund, which could potentially provide more clean air funding for the South Coast region. The next auctions are going to be held in May, August, and November of this year and are projected to generate \$800-\$900 million each.

Mr. Eder provided public comment regarding his support for localities to adopt Climate Action Plans. He reiterated support for a refundable solar tax credit.

3. Update on Legislation Regarding Voting District Authorization for Clean Air

Mr. Philip Crabbe, Public Affairs Manager, provided an update regarding the SCAQMD-sponsored Voting District Authorization for Clean Air bill. Senator Ben Allen is the author of the bill, and a spot bill (SB 732) was introduced but it currently has no substantive content. Staff recently submitted new bill language to Legislative Counsel in Sacramento. Additionally, staff met with Senator Allen and staff and are continuing to actively communicate with electeds and a wide spectrum of interested stakeholders to educate them and garner support for the bill.

Feedback was received from various stakeholders regarding the tax cap issue. It is important to make clear that any potential future funding measures under this bill would be exempt from the sales tax cap, and would preserve existing tax cap space for cities, counties, transportation agencies, and others.

Supervisor Rutherford requested more information regarding the tax cap issue. Mr. Crabbe responded that staff has received feedback from other cities, counties and public agencies seeking to use or protect existing tax cap space. The exemption will allow for even application of a future funding measure throughout the South Coast region. Ms. Barbara Baird, Chief Deputy Counsel, clarified that this bill would not change the existing tax cap in state law, but would leave existing tax cap space

available for others. Supervisor Rutherford asked if staff was aware of other taxes that were similarly exempt. Mr. Crabbe responded in the affirmative and referred to a prior bill, SB 767 (De Leon, 2015) that put a sales tax measure on the ballot in L.A. County for Los Angeles Metro projects. That bill provided for a similar exemption from the sales tax cap.

Supervisor Rutherford asked why the more substantive bill language was not in the bill when it was introduced. Mr. Crabbe stated that it is very common for bills to be introduced in “spot” form without substance, while the actual language of the bill is being refined and finalized. Mr. Nastri further explained that a few legislators did not like the initial draft bill language and requested that staff incorporate a few changes. Staff has been reaching out to some stakeholders, such as councils of governments and cities, and the tax cap was a primary source of concern for many who were interested in moving their own sales tax measures in the future. Staff has worked to continuously modify the bill language in response to feedback staff received as part of the outreach process. Supervisor Rutherford asked if there are any existing co-authors to the bill, and Mr. Nastri responded in the negative.

Supervisor Perez stated that he believes it is important to have an educational campaign to inform interested parties about the tax cap exemption language included within the Voting District Authorization bill to counteract the false belief that this bill will impact their available tax cap space. Supervisor Perez also stated that staff needs to have the sample tax cap exemption language readily available to show to interested localities. Supervisor Perez asked whether SCAQMD staff has received any opposition or suggested amendments regarding the bill from stakeholders, and in particular has there been additional communication with the Riverside County Transportation Commission (RCTC) who previously expressed concerns and requested amendments. Mr. Crabbe stated that RCTC representatives attended a previous Legislative Committee meeting to express opposition to the bill and their requested amendments, and that staff has communicated with RCTC staff multiple times and will continue to do so on this issue.

Supervisor Perez asked about reaction in Sacramento to this bill. Mr. Nastri responded that staff has worked to be responsive to feedback and modify the bill language appropriately, especially with respect to the tax cap issue. There was a general positive response in Sacramento, with a message that more support needs to be generated at the local level.

Mayor Mitchell commented that she has primarily experienced opposition from cities because of the tax cap issue. However, if the South Coast does not meet the federal requirements by 2023, there is the possibility of losing federal transportation funding, and this point should be raised with transportation commissions. Mayor Mitchell also emphasized the need for proper outreach on the bill.

4. Update and Discussion on Potential Congressional Field Hearings

Ms. Lisa Tanaka O'Malley, Senior Public Affairs Manager, provided an update on the advocacy trip to Washington, D.C. on February 25-27, 2019. She reported that the Legislative Committee Chair Mayor Judith Mitchell and Board Members Mayor Pro Tem Larry McCallon and Council Member Dwight Robinson traveled to Washington, D.C. with Executive Council Members and staff to meet with Members of Congress, Committee Staff, the U.S. EPA and business and other stakeholders.

Ms. Tanaka O'Malley further reported that several Congressional Committees mentioned the possibility of holding field hearings in the future on topics of interest to SCAQMD including transportation and infrastructure, climate change and air quality. A field hearing could be an excellent opportunity to highlight the SCAQMD's efforts, accomplishments and future challenges in the South Coast Air Basin. It also would be an opportunity to further position SCAQMD in legislative discussions occurring now in Washington, D.C.

ACTION ITEMS:

**The items below include recommendations from the February and March Legislative Committee meetings. The February items were inadvertently not noticed for action at the March Board meeting.*

5. Recommend Position on State Bills:

SB 210 (Leyva) Heavy-Duty Vehicle Inspections and Maintenance Program

Mr. Crabbe presented SB 210 to the Committee. This bill would authorize CARB to adopt and implement "smog check" requirements for heavy-duty non-gasoline trucks by modernizing emissions control enforcement through a comprehensive inspection and maintenance program.

This bill would enhance compliance, and ensure a more even playing field for those maintaining their vehicle emission systems properly.

This bill is aligned with SCAQMD's priorities regarding reducing criteria pollutant and toxic emissions and protecting public health within the South Coast. It would promote increased production and use of near-zero and zero-emission heavy-duty vehicles and facilitate attainment of federal air quality standards.

Staff would like to work with the author to suggest a couple of adjustments to the bill:

- clarify that zero emission vehicles are exempt from the new smog check program created by the bill and not included under the bill's term of "non-gasoline heavy-duty on-road motor vehicles"; and

- penalty monies collected by CARB as part of the program be designated as funds meant to assist local air districts in mitigating heavy-duty truck emissions. Penalty monies would be distributed to air districts based on where the penalty originated.

Supervisor Perez asked if staff was aware of any opposition to this bill. Mr. Crabbe indicated that he was not, but is aware that the author is attempting to work in collaboration with multiple stakeholders, including the truckers, on this bill. Supervisor Perez expressed a concern about possibly taking a position too early on this bill and would like to see a cost benefit analysis. Mr. Nastri added that the California Air Pollution Control Officers Association is in support of this bill. Supervisor Perez inquired about opposition to this bill in 2018 and Mr. Nastri stated that staff would look into this issue.

Mayor Mitchell commented that when she receives CARB reports on truck emissions there are consistent problems with enforcement, and that while there are CARB smoke opacity rules regarding trucks, there are no current tailpipe emission rules. This bill would help with enforcing truck rules.

Staff recommended a position of SUPPORT on this item.

Moved by Perez; seconded by Buscaino; unanimously approved

Ayes: Buscaino, Mitchell, Perez, Rutherford

Noes: None

Abstain: None

Absent: Burke, Parker

6. AB 210 (Voepel) Smog Check: exemption

Mr. Crabbe presented AB 210 to the Committee. The bill would exempt from the smog check program all motor vehicles manufactured prior to the 1983 model-year. This would be a change from current law that exempts vehicles prior to model-year 1976.

In the South Coast Air Basin, motor vehicles are a large source of emissions, with almost 11 million cars in the region. Initial estimates identify nearly 40,000 vehicles within the South Coast region that would fall under the new smog check exemption proposed by this bill.

Older vehicles are some of the largest polluters as compared to newer cleaner light-duty vehicles on the road today. The estimated impact of this bill for the current year is a potential emissions increase equal to about two tons of VOCs per day and one ton of NOx per day within the South Coast.

This bill is in contrast to SCAQMD's policy priorities related to reducing criteria pollutant and air toxic emissions within the South Coast from mobile sources, and would be contrary to SCAQMD's efforts to attain federal air quality standards and reduce GHG emissions through deployment of clean technology.

Supervisors Rutherford and Perez inquired about the intentions of the author. Mr. Crabbe responded that older vehicles may be more expensive and difficult to repair and pass smog check and this would likely be a benefit to various constituents, however a negative impact on air quality would result.

Dr. Matt Miyasato, Deputy Executive Officer of the Science & Technology Advancement Office, added that pre-1976 vehicles did not have the type of technology that worked well with smog check inspections.

Staff recommended a position of OPPOSE on this item.

Moved by Perez; seconded by Buscaino; unanimously approved

Ayes: Buscaino, Mitchell, Perez, Rutherford

Noes: None

Abstain: None

Absent: Burke, Parker

7. AB 285 (Friedman) California Transportation Plan

Ms. Denise Peralta Gailey, Public Affairs Managers, presented information on AB 285. This bill would require the Department of Transportation (CalTrans) to address in the California Transportation Plan (Plan) how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of GHG emissions of 40% below 1990 levels by the end of 2030.

The bill would also require CalTrans to complete an interim report by January 2022 that considers additional subject areas including environmental justice in the movement of people and freight.

The addition of environmental justice to the subject areas of the Plan is consistent with the SCAQMD's environmental justice priorities and would help reduce toxic exposure to disadvantaged communities in the South Coast region.

Staff would like to work with the author so that the bill would require CalTrans to address how the state will achieve maximum feasible criteria pollutant emissions reductions to attain state and federal ambient air quality standards by the upcoming federal deadlines.

Supervisor Perez expressed concern about how the terms “environmental justice” and “disadvantaged communities” are defined and stressed how this can lead to an unfair allocation of cap and trade funds. Mayor Mitchell expressed that staff can work with the author on how these terms are defined with regards to this bill.

Staff recommended a position of Work with Author on this item.

Moved by Buscaino; seconded by Perez; unanimously approved

Ayes: Buscaino, Mitchell, Perez, Rutherford

Noes: None

Abstain: None

Absent: Burke, Parker

Mr. Eder provided public comment and expressed support for the promotion of electric class 8 trucks. The Plan should include these trucks and solar equity.

The following action items are from the February 8, 2019 Legislative Committee meeting.

8. Recommend Position on State Bills:

SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019.

Mr. Crabbe presented SB 1 to the committee. This bill would require various agencies, including the California Air Resources Board (CARB), to regularly assess changes to federal standards regarding air quality, water, protected species, and workers’ rights, to ensure that existing protections remain intact in California, even if federal laws are weakened or repealed.

If CARB determines that a change to federal law is less stringent than existing standards, it shall consider whether to adopt state protections that at least preserve baseline federal standards in effect as of January 2017.

SCAQMD would like to work with the author regarding a few issues identified in the bill analysis, including determining the appropriate interplay between CARB and local air districts regarding the adoption of regulations for stationary source emissions when backsliding in federal law is identified.

Staff recommended a position of SUPPORT on this item.

Moved by Buscaino; seconded by Burke; unanimously approved

Ayes: Burke, Buscaino, Mitchell, Rutherford

Noes: None

Abstain: None

Absent: Parker, Perez

9. AB 142 (C. Garcia) Lead-acid batteries

Ms. Denise Peralta Gailey, Public Affairs Manager, presented on AB 142 to the Committee. The bill would increase the consumer and manufacturer lead-acid battery fee from \$1 to \$2 and would provide that the fee continue indefinitely.

Monies generated by the fee would be deposited into the “Lead Acid Battery Clean-up Fund” and used for activities relating to the clean-up of contamination caused by lead-acid batteries throughout the state. Further, the funds generated by the fee would be required to be used for such contamination cleanup before any repayment of previous loans from the General Fund for toxic cleanup is made. Ms. Gailey informed the Committee that the bill is consistent with SCAQMD’s environmental justice policy priorities and focus on protection of public health.

Staff recommended a position of SUPPORT on this item.

Moved by Buscaino; seconded by Mitchell; approved as recommended by the following vote:

Ayes: Burke, Buscaino, Mitchell

Noes: Rutherford

Abstain: None

Absent: Parker, Perez

WRITTEN REPORT:

10. Report from SCAQMD Home Rule Advisory Group

Please refer to Attachment 4 for the written report

OTHER MATTERS:

11. Other Business

Supervisor Rutherford discussed her trip to Washington D.C. and her meetings with the U.S. EPA regarding Corporate Average Fuel Economy (CAFE) standards.

Supervisor Perez inquired about an upcoming informational hearing in Sacramento regarding the implementation of AB 617. Mr. Nastri responded and provided details regarding the legislative hearing on March 18, 2019.

12. Public Comment Period

Mr. Eder provided public comment and expressed support for, and encouraged SCAQMD to promote, the Solar and Green New Deals.

13. Next Meeting Date

The next regular Legislative Committee meeting is scheduled for Friday, April 12, 2019 at 9:00 a.m.

Adjournment

The meeting adjourned at 9:58 a.m.

Attachments

1. Attendance Record
2. Update on Federal Legislative Issues – Written Reports
3. Update on State Legislative Issues – Written Reports
4. Recommend Position on State Bills
5. Report from the SCAQMD Home Rule Advisory Group

ATTACHMENT 1

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT LEGISLATIVE COMMITTEE MEETING ATTENDANCE RECORD – March 8, 2019

Council Member Joe Buscaino (videoconference)	SCAQMD Board Member
Mayor Judith Mitchell (videoconference).....	SCAQMD Board Member
Supervisor V. Manuel Perez (videoconference)	SCAQMD Board Member
Supervisor Janice Rutherford (videoconference).....	SCAQMD Board Member
Mark Abramowitz.....	Board Consultant (Lyou)
Guillermo Gonzalez.....	Board Consultant (Perez)
Ron Ketcham	Board Consultant (McCallon)
Gary Hoitsma (teleconference)	Carmen Group, Inc.
Kaleb Froehlich (teleconference).....	Cassidy & Associates
Mark Kadesh (teleconference).....	Kadesh & Associates
Caity Maple (teleconference).....	Quintana, Watts and Hartman
Ross Buckley (teleconference).....	California Advisors, LLC
Paul Gonsalves (teleconference).....	Joe A. Gonsalves & Son
Harvey Eder	Public Solar Power Coalition
Bill LaMarr	California Small Business Alliance
Rita Loof	RadTech
Erick Martell.....	Port of Los Angeles
David Rothbart.....	Los Angeles County Sanitation Districts
Susan Stark.....	Marathon Petroleum
Tammy Yamasaki	Southern California Edison
Derrick Alatorre	SCAQMD Staff
Leeor Alpern.....	SCAQMD Staff
Barbara Baird	SCAQMD Staff
Philip Crabbe	SCAQMD Staff
Amir Dejbakhsh	SCAQMD Staff
Philip Fine.....	SCAQMD Staff
Denise Peralta Gailey.....	SCAQMD Staff
Stacy Garcia	SCAQMD Staff
Bayron Gilchrist.....	SCAQMD Staff
Kathryn Higgins.....	SCAQMD Staff
Monika Kim.....	SCAQMD Staff
Matt Miyasato	SCAQMD Staff
Nahal Mogharabi	SCAQMD Staff
Ron Moskowitz.....	SCAQMD Staff
Wayne Natri	SCAQMD Staff
Robert Paud.....	SCAQMD Staff
Sarah Rees.....	SCAQMD Staff
Mary Reichert	SCAQMD Staff
Jeanette Short.....	SCAQMD Staff
Lisa Tanaka O'Malley	SCAQMD Staff
Todd Warden	SCAQMD Staff
Kim White.....	SCAQMD Staff
Jill Whynot.....	SCAQMD Staff
William Wong.....	SCAQMD Staff
Paul Wright.....	SCAQMD Staff



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

ATTACHMENT 2

MEMORANDUM

To: South Coast AQMD Legislative Committee

From: Carmen Group

Date: February 21, 2019

Re: Federal Update -- Executive Branch

Federal Officials End Talks with California on Fuel Economy Rulemaking: On February 21, the White House released the following statement: “Today, officials from the White House, Department of Transportation and Environmental Protection Agency announced that the Trump Administration has decided to discontinue discussions with the California Air Resources Board (CARB) regarding the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule. Despite the Administration’s best efforts to reach a common-sense solution, it is time to acknowledge that CARB has failed to put forward a productive alternative since the SAFE Vehicles rule was proposed. Accordingly, the Administration is moving to finalize a rule later this year with the goal of promoting safer, cleaner, and more affordable vehicles.” CARB Chair Mary Nichols responded, saying it is “unfortunate that the Trump Administration has chosen to put an end to any effort to find common ground – but it is a signal to stand our ground and resolutely defend standards that clean the air we breathe, fight climate change and provide certainty to carmakers in a global market moving inexorably toward cleaner, more efficient cars.” The Administration’s proposed SAFE rule would undo the standards as finalized by the Obama Administration which will set a 54-mpg standard for cars and light trucks by 2026 and in the process revoke California’s waiver under the Clean Air Act to set standards more stringent than those set at the federal level. By moving now to finish its own rule -- likely by early April -- the Trump Administration appears to be paving a path toward certain litigation, as California and other states have pledged to file suit if and when the rule is finalized.

Infrastructure Tea Leaves Signal More Uncertainty: In his State of the Union Address on February 5, President Trump had this to say about infrastructure: “Both parties should be able to unite for a great rebuilding of America’s crumbling infrastructure. I know that Congress is eager to pass an infrastructure bill – and I am eager to work with you on legislation to deliver new and important infrastructure investment, including investments in the cutting-edge industries of the future. This is not an option. This is a necessity.” Beyond that, the President offered no specific plan, no legislative proposal and no guidance on the funding question. As a result, the path to success in the current legislative session remains murky at best. Clearly, the President has abandoned his specific infrastructure proposal of a year ago, which was dead on arrival in Congress as it sought to put heavy burdens on states and local governments to come up with the bulk of the proposed \$1.5 trillion in funding over ten years. Now the

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President appears to be directly deferring to Congress to take the lead, something that a divided Congress would not – at first glance -- appear to be prepared to do in the current presidential election cycle. Yet it is still too early to say for sure, as multiple House and Senate hearings on the topic are just beginning.

FHWA Awards Grants to Test New Transportation Funding Options: On February 12, the Federal Highway Administration (FHWA) announced \$10.2 million in Surface Transportation System Funding Alternatives (STSFA) grants to seven states to test new ways to finance highway and bridge projects. The program's goal is to allow states to test user-based alternatives to support the Highway Trust Fund, which is currently teetering on insolvency with its reliance on the static 18.4 cents per gallon federal gas tax. Among the states receiving grants is California. It was awarded \$2,030,000 for "exploration of California's Road Usage Charge (RUC) Program with emerging technologies and services, such as User-Based Insurance (UBI), Transportation Network Companies (TNCs), and Autonomous Vehicles (AVs)."

FRA Issues Notice of Intent to Cancel Federal HSR Funding for California: On February 19, the Federal Railroad Administration (FRA) officially gave notice that the Trump Administration was preparing to rescind federal approval of \$928,620,000 which had previously been obligated for the high-speed rail project designed to connect Los Angeles and San Francisco. In a letter to the California High-Speed Rail Authority, the agency said it intends to terminate the agreement under which federal funds were approved, citing the California governor's recent announcement that the project was being scaled back to a point the FRA says "represents a significant retreat from the State's initial commitment and frustrates the purpose for which Federal funding was awarded (i.e., an initial investment in the larger high-speed rail system." The letter asks for information to justify why such a cancellation of federal funds might not be warranted under the present circumstances. The letter said the funding cancellation would otherwise take effect on March 5, 2019.

Trump Justice Department Nominee Backs Administration's Emissions Regs: President Trump's nominee to replace Rod Rosenstein as Deputy Attorney General is Jeffrey Rosen, who currently serves as Deputy Secretary of Transportation. At DOT, Rosen has been a significant player in implementing the Trump Administration's deregulatory agenda in the transportation sphere. Over the last two years, for example, he has worked closely with the Environmental Protection Agency and the National Highway Traffic Safety Administration (NHTSA) to develop the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule on CAFÉ standards, which is expected to be finalized soon and then headed for major litigation. If confirmed to his new role at the Department of Justice, he will be working with the EPA on important environmental compliance matters. Rosen previously worked as general counsel at DOT under Secretary Norman Mineta from 2003 to 2006, before serving as a senior advisor at the Office of Management & Budget from 2006 to 2009.

Committee Approves Nominees: On Feb. 5, the Senate Environment & Public Works Committee approved **Andrew Wheeler** to be EPA Administrator on a party line vote of 11-10 and also approved **Nicole Nason** to be Federal Highway Administrator on a unanimous voice vote. Nason previously served as head of NHTSA from 2006 to 2008.

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CASSIDY&ASSOCIATES

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To: South Coast Air Quality Management District

From: Cassidy & Associates

Date: February 21, 2019

Re: Federal Update

Issues of Interest to SCAQMD

Andrew Wheeler Nomination Update

The US Senate has advanced the nomination of Andrew Wheeler to be administration of the EPA by a 52-46 vote and the final confirmation will take place and likely pass on Thursday, February 28. All Republican Senators voted to advance the nomination without support from any Democratic Senators.

Mr. Wheeler became Deputy EPA administration in April 2018 after Senate confirmation and transitioned to Acting Administrator in July 2018 following the resignation of Scott Pruitt.

House Science Committee Update

The House Science Committee's Subcommittee on Environment held a hearing on, "The Impacts of Climate Change on our Oceans and Coasts" on February 27, primarily to discuss impacts and adaptation strategies.

The Committee also held a hearing on, "The State of Climate Science and Why It Matters" at the Full Committee on February 13. Notably the new senior most Republican on the Committee, Representative Frank Lucas (R-OK), expressed his sincere concern about the impacts of a changing climate and his interest in pursuing climate solutions.

Legislation: On January 24, Reps. Rooney (R-FL), Deutch (D-FL) and a handful of other Members (all Democrats) reintroduced a bill to apply a \$15/ton carbon tax, increasing by \$10 year, as H.R. 763.

House Energy and Commerce Committee Update

House Energy and Commerce Committee held a hearing on the effects of climate change on February 19th. In advance of the hearing, the Ranking Member of the Committee, Representative Greg Walden (R-OR), acknowledged that climate change was a reality and needed to be addressed on a bipartisan basis. During the committee hearing, there was bipartisan support for market-based solutions such as carbon pricing. Again, the deployment of electric vehicles and infrastructure was pointed to as a key part of the addressing the climate crisis.

House Transportation and Infrastructure Committee Update

The Full Committee held two hearings in February on infrastructure --

- February 7th – To discuss the cost of inaction for not providing adequate funding towards our nation’s crumbling infrastructure. Chairman DeFazio (D-OR) proposed three bills that he believes will provide real investment as a starting point in the discussion:
 - “A Penny for Progress” provides approximately \$500 billion for infrastructure investment to put our Nation’s highways, bridges, and public transit systems on a path to good repair. This bill would index the gas and diesel tax and bond off the indexation revenues.
 - “Unlocking the Harbor Maintenance Trust Fund” by amending current budgetary controls to allow the Army Corps of Engineers to spend the funds collected in the Trust Fund each year, thereby providing more than \$18 billion for our Nation’s coastal and inland harbors over the next decade without raising taxes or increasing the deficit.
 - “Rebuilding America’s Airport Infrastructure” will generate billions of dollars each year to help our airports rebuild and rehabilitate aging terminals, runways, and taxiways and keep pace with increasing demand in the 21st century – without raising taxes – by eliminating or raising the cap on the passenger facility charge (PFC).
- February 26th – To examine how federal infrastructure policy could help mitigate and adapt to climate change. This was a discussion hearing with no specific legislation being proposed.

Senate Environment and Public Works Committee Update

Chairman Barrasso (R-WY) and Senator Whitehouse (D-RI) reintroduced S. 383, the Utilizing Significant Emissions with Innovative Technologies (USE IT) Act. The legislation is cosponsored by Sens. Shelley Moore Capito (R-WV), EPW Committee Ranking Member Tom Carper (D-DE), Tammy Duckworth (D-IL), Kevin Cramer (R-ND), Tina Smith (D-MN), Joe Manchin (D-WV), and Mike Enzi (R-WY).

The USE IT Act would support carbon utilization and direct air capture research. The bill would also support federal, state, and non-governmental collaboration in the construction and development of carbon capture, utilization, and sequestration (CCUS) facilities and carbon dioxide (CO2) pipelines.

The USE IT Act would:

- Narrowly amend the Clean Air Act to direct the Environmental Protection Agency (EPA) to use its existing authority to support carbon utilization and direct air capture research;
- Clarify that CCUS projects and CO2 pipelines are eligible for the permitting review process established by the FAST Act;
- Direct the Council on Environmental Quality (CEQ) to establish guidance to assist project developers and operators of CCUS facilities and CO2 pipelines;

- Establish task forces to hear input from affected stakeholders for updating and improving guidance over time; and,
- Build on the FUTURE Act, bipartisan legislation – now signed into law – introduced by Barrasso, Whitehouse, and Capito to extend and expand the 45Q tax credit to provide certainty to utilities and other industrial sources and incentivize the build-out of CCUS projects.

Administration Rumors

The Administration is planning to introduce an infrastructure package aimed at reducing Federal regulations and providing more Federal funding. The last infrastructure “plan” introduced by the Administration was not acted upon last year by Congress, as it neither provided funding nor legislative language. Congress is hopeful something of substance will be provided rather than words on paper or talking points.

Senate Democrats Introduce Climate Resolution

All 47 members of the Senate Democratic caucus have introduced a resolution urging Congress to act immediately on climate change. The resolution does not include firm targets for emissions reductions, but it offers a unifying point for Democrats who have been divided over the Green New Deal resolution introduced earlier in February. The new resolution is led by Minority Leader Chuck Schumer (D-NY) and EPW Ranking Democrat Tom Carper (D-Del) and is the latest pressure from Democrats on Republicans to acknowledge the scientific consensus behind climate change and outline concrete plans for addressing it.

SCAQMD Report for March 2019 Legislative Meeting

Kadesh & Associates

Overview-

February was consumed with the full funding of the federal government, the 2019 State of the Union address and the trip to Washington by members of the SCAQMD Board and senior staff.

Government Shutdown-

Congress passed and the President signed into law the remaining seven of the annual appropriations bills: *Ag, Commerce-Justice, Financial Services, Foreign Operations, Homeland Security, Interior, and Transportation-HUD*. The contentious issue was funding for the President's proposed border wall and a compromise was reached.

State of the Union-

The 2019 State of the Union Address was given by the 45th President of the United States, Donald Trump, on Tuesday, February 5, 2019, at 9 p.m. EST in the chamber of the United States House of Representatives to the 116th United States Congress.

Washington, DC Advocacy Trip-

Three days of successful meetings both on and off Capitol Hill were carried out by three members of the SCAQMD Board, the Executive Officer and leadership staff.

FY19 Funding-

Three accounts of most interest to SCAQMD -- *DERA, Targeted Airshed Grants and Sec. 103/105 planning grants* received their final FY19 Funding numbers of: DERA - \$87m; TAG - \$52m; and Section 103/105 - \$228.2

	FY 2016 Enacted	Final FY17 Omni	FY18 (Omnibus)	FY19 Final
DERA	\$50m	\$60m	\$75m	\$87m
Targeted Airshed	\$20m	\$30m	\$40m	\$52m
Section 103/105 –	\$228m	\$228m	\$228m	\$228.2

FY20 Budget-

The Trump Administration is expected to release its Fiscal Year 2020 Budget for the Federal government on March 12, a six-week delay from the planned original release date.

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ATTACHMENT 3



February 20, 2019

TO: South Coast Air Quality Management District
FROM: Quintana, Watts & Hartmann
RE: February 2019 Report

GENERAL UPDATE:

- Friday, February 21st is the bill introduction deadline
- 1,847 bills introduced to date (not including resolutions and rules)
 - 1,294 Assembly Bills
 - 10 Assembly Constitutional Amendments
 - 540 Senate Bills
 - 3 Senate Constitutional Amendments
- Hundreds more are expected to be introduced before the deadline
- Legislation of Interest:
 - AB 40 (Ting) - Zero-emission vehicles: comprehensive strategy
 - AB 126 (Cooper) - Air Quality Improvement Program
 - AB 176 (Cervantes) - California Alternative Energy and Advanced Transportation Financing Authority
 - SB 1 (Atkins) - California Environmental, Public Health, and Workers Defense Act of 2019
 - AB 293 (E. Garcia) - Greenhouse gases: offset protocols.
 - AB 296 (Cooley) - Climate change: Climate Innovation Commission.
 - AB 315 (C. Garcia) - Stationary sources: emissions reporting.
 - AB 343 (Patterson) - Forestry: fuels transportation program: biomass energy facility: grant program.
 - AB 345 (Muratsuchi) - State Air Resources Board.
 - AB 352 (E. Garcia) - California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund: investment plan: Transformative Climate Communities Program.
 - AB 383 (Mayes) - Clean Energy Financing Clearinghouse.

- AB 464 (C. Garcia) - California Global Warming Solutions Act of 2006.
- AB 639 (Cervantes) - Financing Lower Carbon Emissions: seaports.
- AB 661 (McCarty) - Best available control technology: lowest achievable emission rate requirements.
- AB 735 (Melendez) - Air Quality Improvement Program: Clean Vehicle Rebate Project.
- AB 753 (E. Garcia) - Alternative and Renewable Fuel and Vehicle Technology Program: fuels: fueling infrastructure.
- AB 939 (Frazier) - California Environmental Protection Agency: regulations.
- SB 162 (Galgiani) - California Alternative Energy and Advanced Transportation Financing Authority: sales and use taxes: exclusions
- SB 216 (Galgiani) - Carl Moyer Memorial Air Quality Standards Attainment Program: used heavy-duty truck exchange.
- SB 236 (Wilk) - Greenhouse Gas Reduction Fund.



SCAQMD Report
California Advisors, LLC
March 8, 2019 Legislative Committee Hearing

General Update

On February 12th, Governor Gavin Newsom delivered his first State of the State address to a joint session of the Legislature. In contrast to former governors Jerry Brown and Arnold Schwarzenegger whose addresses averaged just over 20 minutes, Newsom spoke for nearly 45 minutes. More so, his statements on high-speed rail and the Delta water project also marked a clear departure from the Brown era. During his speech, Newsom also offered comments about federal immigration policies, the state's housing crisis, health care, and privacy. Overall, his message was well received by policymakers, and at times, his pronouncements garnered applause from both Democrats and Republicans.

One of the issues that garnered the most headlines was the High-Speed Rail. Newsom said he had to "be real" about the project. He added right now "there simply isn't a path to get from Sacramento to San Diego, let alone from San Francisco to LA." Instead, his plan is to focus on completing a high-speed rail link between Merced and Bakersfield. Newsom stated that the central valley faces the worst air pollution in America and some of the longest commutes.

Lastly, we have received notification from the Assembly Natural Resources committee that they are planning on holding an informational hearing on March 18th or 25th to get an update from the Air Resources Board and districts on implementation of the AB 617 programs.

New appointments

Nathan Fletcher (D-San Diego): Was appointed to the California Air Resources Board. Mr. Fletcher has been a member of the San Diego County Board of Supervisors and the San Diego County Air Pollution Control District since 2019.

2019 Legislative Update

Voter District Authorization for Clean Air Legislation

California Advisors continues to work on SCAQMD's priority legislation in 2019 related to voter district authorization. We have been able to secure Senator Ben Allen as the author for the bill and will work with the Senator on the next steps in the legislative process. We will continue to assist SCAQMD staff in reaching out to key staff in the Governor's office, Assembly and

Senate leadership, and legislators to start having productive conversations on moving this legislation forward in 2019.

AB 40 (Ting) would require by January 1, 2021 the Air Resources Board to develop a comprehensive strategy to ensure that the sale of new motor vehicles and new light-duty trucks in the state have transitioned fully to zero-emission vehicles by 2040.

AB 142 (Garcia, C) would increase the amount of the manufacturer battery fee from \$1 to \$2 and would provide that the fee would continue indefinitely.

AB 210 (Voepel) would exempt from the smog check program all motor vehicles manufactured prior to the 1983.

AB 254 (Quirk-Silva) would authorize the Joint Legislative Committee on Climate Change Policies to recommend that the Air Resources Board provide education and support to local government regarding their local government climate action plans, such as ensuring the use of E85 in flexible fuel vehicles, expanding infrastructure for zero-emission vehicles, and enabling active transportation. The bill would also require the Air Resources Board to develop a simple, factual summary on the distribution of E85 and flexible fuel vehicle registration by April 1, 2020 and would require them to post that summary on their website. The bill also requires the state board to develop policy recommendations to maximize the use of E85 in flexible fuel vehicles.

AB 293 (Garcia, E) would require the Compliance Offsets Protocol Task Force to consider the development and adoption of additional offset protocols, including, but not limited to, protocols for the enhanced management or conservation of agricultural and natural lands, and for the enhancement and restoration of wetlands.

AB 296 (Cooley) would establish the Climate Innovation Grant Program which would award grants in the form of matching funds for the development and research of new innovations and technologies to address issues related to emissions of greenhouse gases and impacts caused by climate change.

AB 315 (Garcia, C) would require the State Air Resources Board, as appropriate, to require a stationary source to verify or certify the accuracy of its annual emissions reports by a 3rd-party verifier or certifier that is accredited by the state board.

AB 352 (Garcia, E) would require state agencies administering competitive grant programs that allocate moneys from the Greenhouse Gas Reduction Fund to give specified communities preferential points during application scoring for programs intended to improve air quality, to allow applicants from Counties of Imperial and San Diego to include daytime population numbers in their grant applications.

AB 409 (Limon) would establish a competitive grant program to include planning tools for adapting to climate change in the agricultural sector for three pilot programs in the state.

AB 423 (Gloria) would require the San Diego County Air Pollution Control District to expand their membership to include members from various city councils and the public.

AB 464 (Garcia, C) would indefinitely define district to mean an air pollution control or air quality management district under The California Global Warming Solutions Act of 2006.

AB 470 (Limon) would establish the California Green Business Program within the California Environmental Protection Agency. The bill would require sector specific environmental standards for programs operated by local governments. The bill would also certify small and medium sized businesses and public agencies for voluntarily adopting environmentally preferable business practices.

AB 639 (Cervantes) would authorize the Infrastructure and Economic Development Bank to develop criteria and guidelines for harbor agencies to purchase and install equipment that would reduce carbon emissions at seaports.

AB 735 (Melendez) would require the Air Resources Board to require a manufacturer of a vehicle eligible under the Clean Vehicle Rebate Projects to certify in writing that the vehicle's supply chain is free of materials acquired using child labor.

AB 745 (Petrie-Norris) would exempt from sales and use taxes the gross receipts for the storage, use, or other consumption of retail hydrogen vehicle fuel.

AB 753 (Garcia, E) would require the state board to allocate at least 30% of the moneys available for allocation as part of the Alternative and Renewable Fuel and Vehicle Technology Program for projects to produce alternative and renewable low-carbon fuels in the state and to projects to develop stand-alone alternative and renewable fuel infrastructure, fueling stations, and equipment.

AB 836 (Wicks) would establish the Bay Area Clean Air Incentive Program to be administered by the Bay Area Air Quality Management District to provide funding through a grant program to retrofit ventilation systems to create a network of clean air centers.

SB 1 (Atkins) would require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species

SB 43 (Allen) would require the Air Resources Board to submit a report to the Legislature on the results of a study, to propose, and to determine the feasibility and practicality of a system to replace the tax imposed pursuant to the Sales and Use Tax Law with an assessment on retail products sold or used in the state based on the carbon intensity of the product. The bill would

require the state board to revise their 2017 scoping plan to reflect the carbon emission reduction benefits that may be realized through this assessment based on carbon intensities of products.

SB 210 (Leyva) would authorize the state board to develop and implement a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline heavy-duty onroad motor vehicles.

SB 216 (Galgiani) would add as an eligible project under the Carl Moyer Memorial Air Quality Standards Attainment Program a used heavy-duty truck exchange.



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TO: South Coast Air Quality Management District

FROM: Anthony, Jason & Paul Gonsalves

SUBJECT: Legislative Update – February 2019

DATE: Tuesday, February 26, 2019

As we start our second month of the legislative session, the legislature has hit the ground running. The Assembly introduced 1876 bills and the Senate introduce 824 bills by the February 22, 2019 introduction deadline. A majority of these bills are intent bills (spot bills) that have little to no legislative changes. All bills must be in print for 30-days before they can be heard in a Legislative Committee. Many of the intent bills will be substantially amended between now and the 30-day mark.

We will continue to monitor all bills and amendments of interest to the District and keep you apprised as they progress.

GOVERNOR STATE OF THE STATE

On February 12, 2019, Governor Gavin Newsom gave his first State of the State speech, with his 3-year old son stealing the spotlight!

Governor Newsom began the 43-minute speech pushing back against the Presidents emergency at our border and pledging to stand up for those who are "maligned, marginalized and scapegoated."

But after just a few minutes talking about the White House, Governor Newsom focused on how he proposes to address the challenges facing California, such as housing and homelessness, the lack of clean drinking water, education funding, health care costs and the state's changing workforce.

The Governor announced that his administration will change course on 2 of the State's most controversial and expensive public works projects; one, not two, water tunnels under the Delta and scaling back the high-speed rail line.

Governor Newsom made clear in the speech that he will not abandon high-speed rail altogether, but wants his administration to focus on completing the Central Valley portion of the line for now. He promised to continue to push for more federal funding and federal dollars and appointed his economic development director, Lenny Mendonca, as the next chair of the California High-Speed Rail Authority.

It's not entirely clear what the Delta tunnel decision means for the future of the water project. The \$19 billion project has already undergone a decade-long permitting process that might have to start from square one if it's changed that dramatically.

The Governor also mentioned other issues, such as finding a solution to water contamination, dealing with PG&E's bankruptcy within 60 days, more education spending and accountability in schools, create a new commission on homelessness, chaired by Sacramento Mayor Darrell Steinberg, and put \$500 million into emergency shelters around the state.

Governor Newsom called for exemptions to the state's CEQA laws to help spur more housing development, and also urged the Legislature to pass laws that will help renters stay in their homes.

Additionally, Governor Newsom announced several appointments to key boards, including the appointment of Joaquin Esquivel as chair of the State Water Resources Control Board, ousting longtime chair Felicia Marcus.

ALISO CANYON

On February 19, 2019, the California Air Resources Board (CARB) announced that the Los Angeles Superior Court approved the settlement in the lawsuit against SoCalGas as a result of the Aliso Canyon natural gas leak.

SoCalGas will pay a total of \$119.5 million, including at least \$26.5 million for full mitigation by directly addressing the largest source of California's methane emissions: dairies. The mitigation will be achieved by providing loans to construct methane digesters at 12 San Joaquin Valley dairies, grouped into three clusters, and constructing conditioning facilities and pipelines to allow the natural gas pipeline system to receive biomethane generated by cattle in the valley's dairies. The digesters, the conditioning facilities, and parts of the pipeline will be built, owned, and operated by California Bioenergy.

The loan will be paid back over time by proceeds from sales of the generation of the renewable methane which will not return to SoCalGas. As mitigation progresses, repayments will be directed to two funds that will fund additional beneficial projects in the South Coast Air Basin.

The remaining \$93 million of the total settlement will be directed as follows:

- \$45.4 million to the Aliso Canyon Supplemental Environmental Project Fund run by the City of Los Angeles (City), Los Angeles County (County) and the California Attorney General's Office.
- \$21 million in penalties for the City, the County, and the Attorney General's Office.

- \$19 million for CARB, the City, the County, and the Attorney General's Office to cover their leak response and litigation costs.
- \$7.6 million held in reserve for mitigation, if needed.

The mitigation portion of the settlement will provide for new investment in the San Joaquin Valley and its disadvantaged communities, as well as the jobs and business opportunities that come with this type of investment. By putting the methane into a pipeline instead of burning it on-site for electrification, as is now done with some dairy methane, the settlement will also avoid localized NO_x emissions generated by using the biomethane for electrical generation.

This settlement will fully mitigate the 109,000 metric tons of methane released into the atmosphere over the approximately 5-month duration of that leak. Full mitigation will be complete by 2031.

2019 LEGISLATIVE CALENDAR

- Feb. 22 Last day for bills to be introduced
- Apr. 11 Spring Recess begins upon adjournment
- Apr. 22 Legislature reconvenes from Spring Recess
- Apr. 26 Last day for policy committees to meet and report to fiscal committees fiscal bills introduced in their house
- May 3 Last day for policy committees to meet and report to the floor non-fiscal bills introduced in their house
- May 10 Last day for policy committees to meet prior to June 3
- May 17 Last day for fiscal committees to meet and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to June 3
- May 28-31 Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees
- May 31 Last day for each house to pass bills introduced in that house
- June 3 Committee meetings may resume
- June 15 Budget Bill must be passed by midnight
- July 10 Last day for policy committees to hear and report fiscal bills to fiscal committees
- July 12 Last day for policy committees to meet and report bills. Summer Recess begins upon adjournment
- Aug. 12 Legislature reconvenes from Summer Recess
- Aug. 30 Last day for fiscal committees to meet and report bills
- Sept. 3-13 Floor session only. No committees may meet for any purpose, except Rules Committee, bills referred pursuant to A.R. 77.2, and Conference Committees
- Sept. 6 Last day to amend bills on the floor
- Sept. 13 Last day for any bill to be passed. Interim Recess begins upon adjournment

**SB 210 (Leyva)
Heavy-Duty Vehicle Inspections and Maintenance Program.**

Summary: The bill would authorize the California Air Resources Board (CARB) to adopt and implement “smog check” requirements for heavy-duty non-gasoline trucks by modernizing emissions control enforcement through a comprehensive inspection and maintenance program.

Background: Heavy-duty trucks operating in California account for nearly 60 percent of the oxides of nitrogen (NOx) emissions from mobile sources. Heavy-duty trucks are also the largest source of diesel particulate matter in California, a carcinogenic and toxic air contaminant.

CARB currently administers two inspection programs for heavy-duty diesel trucks. However, these programs were originally designed in the early 1990s before the use of advanced engine combustion technologies and exhaust emission controls. Current CARB heavy-duty inspection programs only require control of excessive smoke emissions and lack measures to curb NOx and greenhouse gases (GHGs).

Recent state legislative and regulatory actions have stimulated the operation of newer model year trucks with modernized engine and emission control standards. The author contends that to continue reducing harmful emissions and adapting programs to industry standards, a more comprehensive and streamlined emissions control program is needed that is both efficient for truck operators and ensures an even playing field for those maintaining their vehicle emissions systems properly.

Status: 2/15/2019 - Set for hearing March 20 in Sen. Comm. on EQ.

Specific Provisions: Specifically, this bill would:

- 1) Authorize CARB, in consultation with Bureau of Automotive Repair (BAR) and the Department of Motor Vehicles (DMV), to adopt and implement a Heavy-Duty Vehicle Inspection and Maintenance Program (Program) for nongasoline heavy-duty onroad motor vehicles with a gross vehicle weight rating of more than 14,000 pounds, including, but not limited to, single-vehicle fleets and other vehicles that are registered in another state and operate on California roads.
- 2) Allow CARB, in implementing the Program, to:
 - a) Establish test procedures for different motor vehicle model years and emissions control technologies that measure the effectiveness of the control of NOx emissions, and PM. The procedures may include, but are not limited to, the use of onboard diagnostics systems and test procedures that measure the effectiveness of the control of GHG emissions.

- b) Require a motor vehicle to pass the test procedures in order to register or operate in the state. CARB may establish full or partial exemptions for categories of vehicles it determines that the economic costs of compliance substantially outweigh the benefits of compliance, including public health benefits.
 - c) Allow a streamlined process for the owner or operator of a vehicle fleet who has an established compliance history.
 - d) Establish program validation methods for evaluating program effectiveness, fraud investigation, and research purposes.
 - e) Develop an information technology database to collect and track vehicle test data, assess the data to determine compliance, and regularly generate lists of compliant vehicle identification numbers and transmit them to the DMV in order for annual vehicle registration notices to be issued.
- 3) CARB shall assess a fee to fund the reasonable costs of implementing the Program.
 - 4) All fees collected by CARB shall be deposited in the Truck Emission Check (TEC) Fund, which is hereby created in the State Treasury. All moneys in the fund shall be available upon appropriation by the Legislature to CARB for the regulator purposes of the program.
 - 5) All penalty moneys collected by CARB shall be deposited in the Air Pollution Control Fund (APCF).
 - 6) Prior to implementing the program, CARB, in consultation with the bureau, the Department of Transportation, the Department of Motor Vehicles, the Department of the California Highway Patrol, other interested state agencies, and stakeholders as part of a public process, shall implement a pilot program that develops and demonstrates technologies that show potential for readily bringing vehicles into the program. The state board shall report the findings of the pilot program on its internet website.
 - 7) No later than one year after the effective date of a regulation, the DMV shall confirm, prior to the initial registration, the transfer of ownership, or the renewal of registration, that a heavy-duty vehicle is compliant with, or exempt from, the Program.
 - 8) This bill, commencing one year after a regulation implementing the Program, would require an owner of the heavy-duty vehicle to maintain a certificate of compliance with the vehicle and would make a violation of this provision subject to a notice issued by an officer to correct the violation.
 - 9) Provide that the Program be developed in partnership between affected state agencies, the public, industry, and other stakeholders to address the inspection of, tampering with, and maintenance of emissions control systems.

Impacts on SCAQMD’s Mission, Operations or Initiatives: Personal passenger vehicles have been required to undergo regular smog checks and emission control inspections for over four decades that have significantly reduced air pollution in California. Unlike personal vehicles, current law does not require heavy-duty diesel vehicles to have regular smog inspections to ensure that their emission control systems are working properly throughout their operating life.

With the implementation of SB 210, significant reductions of harmful emissions will be achieved. According to CARB estimates, between the years 2023 and 2031, a Heavy-Duty Inspection and Maintenance program will remove 93,000 tons of NOx and 1,600 tons of PM 2.5, equivalent to taking 145,000 and 375,000 trucks off the roads in California, respectively.

This bill is aligned with SCAQMD’s priorities regarding reducing criteria pollutant and toxic emissions and protecting public health within the South Coast region, especially by reducing mobile sources of pollution. This bill would result in cleaner air by promoting the increased production and use of near-zero and zero-emission heavy-duty vehicles within the South Coast region, which would support the 2016 AQMP and facilitate attainment of federal air quality standards.

Staff Suggestions:

- 1) To better establish which vehicles are regulated under the bill’s terminology of “nongasoline heavy-duty onroad motor vehicles”, staff recommends an amendment clarifying that zero emission vehicles are exempt from the new smog check program created by the bill; and
- 2) Staff recommends that penalty monies collected by CARB as part of the Program and deposited into the Air Pollution Control Fund be designated as funds meant to assist local air districts in mitigating heavy-duty truck emissions.

Recommended Position: SUPPORT

Introduced by Senator LeyvaFebruary 4, 2019

An act to add Chapter 5.5 (commencing with Section 44150) to Part 5 of Division 26 of the Health and Safety Code, and to amend Section 27153 of, and to add Sections 4000.17, 4156.5, 24019, 27158.1, and 27158.2 to, the Vehicle Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 210, as introduced, Leyva. Heavy-Duty Vehicle Inspections and Maintenance Program.

(1) Existing law requires the State Air Resources Board, in consultation with the Bureau of Automotive Repair and a specified review committee, to adopt regulations requiring owners or operators of heavy-duty diesel motor vehicles to perform regular inspections of their vehicles for excessive emissions of smoke. Existing law requires the state board, in consultation with the State Energy Resources Conservation and Development Commission, to adopt regulations requiring heavy-duty diesel motor vehicles to use emission control equipment and alternative fuels.

This bill would authorize the state board to develop and implement a Heavy-Duty Vehicle Inspection and Maintenance Program for nongasoline heavy-duty onroad motor vehicles, as specified. The bill would authorize the state board to assess a fee and penalties as part of the program. The bill would create the Truck Emission Check (TEC) Fund, with all the moneys deposited in the fund to be available upon appropriation.

(2) Existing law generally requires the registration of vehicles by the Department of Motor Vehicles. Under existing law, a violation of the Vehicle Code is an infraction, unless otherwise specified.

This bill, no later than one year after the effective date of a regulation implementing the Heavy-Duty Vehicle Inspection and Maintenance Program, would require the department to confirm that a heavy-duty vehicle, as specified, is compliant with, or exempt from, the program prior to the initial registration, the transfer of ownership, or the renewal of registration, except as specified. The bill would require the state board to notify the department of the vehicles allowed to be registered pursuant to these provisions.

This bill would authorize the department to issue a temporary permit, valid for a specified period and subject to certain conditions, to operate a vehicle for which registration may be refused pursuant to the above-described provisions, as specified. The bill would require the payment of a \$50 fee for the temporary permit, to be deposited in the Truck Emission Check (TEC) Fund.

This bill, commencing one year after the effective date of a regulation implementing the Heavy-Duty Vehicle Inspection and Maintenance Program, would require a legal owner or registered owner of the heavy-duty vehicle to maintain a certificate of compliance with the vehicle, with exceptions, and would make a violation of this provision subject to a notice issued by an officer to correct the violation, as specified. The bill would require the driver of the vehicle to present the certificate of compliance for examination upon demand by a peace officer.

This bill would prohibit the operation of a heavy-duty vehicle on a public road in this state if that vehicle has an illuminated malfunction indicator light displaying a specified engine symbol, and would make a violation of this provision subject to a notice issued by an officer to correct the violation on the basis of its designation as a mechanical violation.

This bill would prohibit the operation of a heavy-duty vehicle in a manner resulting in the escape of visible smoke, except during active regeneration.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Communities in the state are too often exposed to unhealthy
4 air. Communities near hubs of activity, such as warehouses and
5 distribution centers, ports, highways, and roads with high levels
6 of truck traffic, bear the burden of heavy-duty trucks that are not
7 maintained.

8 (b) Trade corridors, such as those in the Inland Empire and
9 Central Valley, consist of some of the most environmentally
10 disadvantaged cities in the state.

11 (c) As of 2016, heavy-duty trucks operating in the state emitted
12 nearly 60 percent of all oxides of nitrogen emissions from onroad
13 mobile sources, which are the most significant contributor to both
14 federal ozone and fine particulate matter (PM2.5) air quality
15 standard violations across the state. Heavy-duty diesel trucks are
16 also the largest source of diesel particulate matter emissions in the
17 state. Diesel particulate matter is a carcinogen and toxic air
18 contaminant. Risks are particularly high in urban areas and along
19 busy roadways where trucks operate.

20 (d) Statewide, about 12 million residents live in communities
21 that exceed the federal ozone and PM2.5 standards. The health
22 and economic impacts of exposure to elevated levels of ozone and
23 PM2.5 in the state are considerable. Meeting air quality standards
24 will pay substantial dividends in terms of reducing costs associated
25 with emergency room visits and hospitalizations, lost work and
26 school days, and, most importantly, premature mortality.

27 (e) While the state has made significant progress in improving
28 air quality through existing programs by the state and air pollution
29 control and air quality management districts, further action must
30 be taken to achieve our public health, air quality, and climate goals

31 (f) The Heavy-Duty Vehicle Inspection and Maintenance
32 Program established by Section 44152 of the Health and Safety
33 Code is a key step in achieving the state's goals to improve public
34 health and meeting our environmental imperatives.

1 (g) It is the intent of the Legislature that the Heavy-Duty Vehicle
2 Inspection and Maintenance Program be developed in partnership
3 between affected state agencies, the public, industry, and other
4 stakeholders to address the inspection of, tampering with, and
5 maintenance of emissions control systems. It is further the intent
6 of the Legislature that the State Air Resources Board work with
7 other relevant agencies in conducting a pilot program prior to the
8 full-scale implementation of the Heavy-Duty Vehicle Inspection
9 and Maintenance Program in order for this program to be developed
10 in a way that minimizes costs to truck owners and fleets; provides
11 a level playing field for industry through effective enforcement;
12 and provides flexibility for the program to adapt as truck
13 technology and industry evolves.

14 (h) It is the intent of the Legislature that the State Air Resources
15 Board minimize the duplication of programs and program
16 requirements related to heavy-duty vehicle inspection and
17 maintenance. It is further the intent of the Legislature that, to the
18 extent feasible, the creation and implementation of the Heavy-Duty
19 Vehicle Inspection and Maintenance Program established by
20 Section 44152 of the Health and Safety Code minimizes duplicative
21 programs and program requirements in a way that reduces
22 compliance requirements and costs to truck owners and fleets.

23 SEC. 2. Chapter 5.5 (commencing with Section 44150) is added
24 to Part 5 of Division 26 of the Health and Safety Code, to read:

25

26 CHAPTER 5.5. HEAVY-DUTY VEHICLE INSPECTION AND
27 MAINTENANCE PROGRAM

28

29 44150. For purposes of this chapter, “program” means the
30 Heavy-Duty Vehicle Inspection and Maintenance Program
31 established pursuant to Section 44152.

32 44152. (a) No later than ____ and to the extent authorized by
33 federal law, the state board, in consultation with the bureau and
34 the Department of Motor Vehicles, shall adopt and implement a
35 regulation for a Heavy-Duty Vehicle Inspection and Maintenance
36 Program for nongasoline heavy-duty onroad motor vehicles with
37 a gross vehicle weight rating of more than 14,000 pounds, as
38 defined by the state board, including, but not limited to,
39 single-vehicle fleets and other vehicles that are registered in another
40 state but operate on California roads. In adopting a regulation

1 implementing the program, the state board shall do all of the
2 following:

3 (1) Establish test procedures for different motor vehicle model
4 years and emissions control technologies that measure the
5 effectiveness of the control of emissions of oxides of nitrogen and
6 particulate matter. The procedures may include, but are not limited
7 to, procedures for the use of onboard diagnostics system data and
8 test procedures that measure the effectiveness of the control of
9 emissions of greenhouse gases.

10 (2) Require a motor vehicle to pass the test procedures in order
11 to register or operate in the state. The state board may establish in
12 the regulation full or partial exemptions from the requirements of
13 this section for categories of vehicles it determines on the basis of
14 substantial evidence that the economic costs of compliance
15 substantially outweigh the benefits of compliance, including public
16 health benefits.

17 (3) Allow a streamlined process for the owner or operator of a
18 vehicle fleet who has an established compliance history with the
19 program.

20 (4) Establish program validation methods for evaluating program
21 effectiveness, fraud investigation, and research purposes.

22 (5) Develop and implement enforcement methods to ensure
23 continuing compliance with this section and Section 27153 of the
24 Vehicle Code. The enforcement methods may include, but are not
25 limited to, all of the following:

26 (A) Visual inspections.

27 (B) Functional inspections.

28 (C) Requiring emissions testing of vehicles.

29 (6) Develop, in coordination with the Department of Motor
30 Vehicles, an information technology database to collect and track
31 vehicle test data, assess the data to determine compliance, and
32 regularly generate lists of compliant vehicle identification numbers
33 and transmit them to the Department of Motor Vehicles in order
34 for annual vehicle registration notices to be issued.

35 (b) The state board may establish licensing standards for persons
36 engaged in the business of the inspection, diagnosis, and repair of
37 heavy-duty motor vehicles. The board also may establish
38 qualification standards or approval, operational, or licensure
39 standards for testing equipment, including protocols, hardware,

1 and software used for the submission of vehicle test data to the
2 state board or its contractors.

3 (c) (1) As part of the program, the state board shall develop a
4 Heavy-Duty Vehicle Inspection and Maintenance Compliance
5 Certificate. The state board shall issue the certificate to the legal
6 owner, registered owner, or designee of a vehicle that, at the
7 discretion of the state board, meets the requirements of the program
8 so that vehicle owners and operators may easily demonstrate proof
9 of compliance, as required pursuant to Sections 27158.1 and
10 27158.2 of the Vehicle Code.

11 (2) The certificate of compliance shall contain information
12 determined to be necessary by the state board that includes, but
13 need not be limited to, all of the following:

14 (A) Date issued.

15 (B) Date of expiration.

16 (C) Name and residence or business address or mailing address
17 of the legal owner or registered owner.

18 (D) Vehicle identification number assigned to the vehicle.

19 (E) Description of the vehicle that includes the year, make, and
20 model of the vehicle.

21 (d) The Department of Transportation, the Department of Food
22 and Agriculture, and the Department of the California Highway
23 Patrol may provide any necessary information to help facilitate
24 the installation of equipment necessary to implement the program.

25 (e) The state board, the Department of Motor Vehicles, and the
26 Department of Food and Agriculture may develop initiatives for
27 outreach and education to help ensure compliance with the
28 program.

29 (f) The state board shall request a permit to deploy equipment
30 on the state highway system, as defined in Article 3 (commencing
31 with Section 300) of Chapter 2 of Division 1 of the Streets and
32 Highway Code, in accordance with Chapter 3 (commencing with
33 Section 660) of Division 1 of the Streets and Highways Code, and
34 in cooperation with the Department of the California Highway
35 Patrol.

36 (g) The state board may inspect vehicles subject to this section
37 in conjunction with the safety and weight enforcement activities
38 of the Department of the California Highway Patrol or at other
39 locations selected by the state board in consultation with the
40 Department of the California Highway Patrol. Inspection locations

1 may include instate private facilities where fleet vehicles are
2 serviced or maintained. The state board and the Department of the
3 California Highway Patrol may conduct these inspections
4 cooperatively or independently, and the state board may contract
5 for assistance in the conduct of these inspections.

6 (h) (1) The state board may issue a citation to the owner of a
7 vehicle in violation of this section or a regulation promulgated
8 pursuant to this section. The state board may require the operator
9 of a vehicle to submit to a test procedure and may specify that
10 refusal to submit is an admission constituting proof of a violation.
11 The state board may require that, when a citation has been issued
12 pursuant to this section, the owner of a vehicle in violation of the
13 regulation shall be required to correct every deficiency specified
14 in the citation within a timeframe determined by the state board.

15 (2) When deciding whether to issue a citation, the state board
16 may take into account whether the owner of the vehicle has
17 obtained a temporary permit to operate the vehicle pursuant to
18 Section 4156.5 of the Vehicle Code.

19 (i) The state board shall provide an owner cited as violating this
20 section an opportunity for an administrative hearing consistent
21 with the process established pursuant to Article 3 (commencing
22 with Section 60065.1) and Article 4 (commencing with Section
23 60075.1) of Subchapter 1.25 of Chapter 1 of Division 3 of Title
24 17 of the California Code of Regulations. Following notice and
25 an opportunity for an administrative hearing, the state board, at its
26 discretion, may use the procedure set forth in subdivision (j) of
27 Section 44011.6 for a vehicle owner cited pursuant to this section.

28 (j) After an order imposing an administrative penalty becomes
29 final pursuant to the hearing procedures identified in subdivision
30 (i) and no petition for a writ of mandate has been filed within the
31 time allotted for seeking judicial review of the order, the state
32 board may apply to the Superior Court for the County of
33 Sacramento for a judgment in the amount of the administrative
34 penalty. The application, which shall include a certified copy of
35 the final order of the administrative hearing officer, shall constitute
36 a sufficient showing to warrant the issuance of the judgment.

37 44154. (a) The state board shall assess a fee to fund the
38 reasonable costs of implementing the program established pursuant
39 to this chapter.

1 (b) All fees collected by the state board pursuant to this chapter
2 shall be deposited in the Truck Emission Check (TEC) Fund, which
3 is hereby created in the State Treasury. All moneys in the fund
4 shall be available upon appropriation by the Legislature to the state
5 board for the regulatory purposes of the program.

6 (c) All penalty moneys collected by the state board pursuant to
7 this chapter shall be deposited in the Air Pollution Control Fund.

8 44156. Prior to fully implementing the program, the state board,
9 in consultation with the bureau, the Department of Transportation,
10 the Department of Motor Vehicles, the Department of the
11 California Highway Patrol, other interested state agencies, and
12 stakeholders as part of a public process, shall implement a pilot
13 program that develops and demonstrates technologies that show
14 potential for readily bringing vehicles into the program. The state
15 board shall report the findings of the pilot program on its internet
16 website.

17 SEC. 3. Section 4000.17 is added to the Vehicle Code,
18 immediately following Section 4000.15, to read:

19 4000.17. (a) No later than one year after the effective date of
20 a regulation implementing the Heavy-Duty Vehicle Inspection and
21 Maintenance Program described in Section 44152 of the Health
22 and Safety Code, the department shall confirm, prior to the initial
23 registration, the transfer of ownership, or the renewal of
24 registration, that a heavy-duty vehicle is compliant with, or exempt
25 from, the Heavy-Duty Vehicle Inspection and Maintenance
26 Program.

27 (b) For purposes of this section, “heavy-duty vehicle” means a
28 nongasoline heavy-duty onroad motor vehicle with a gross vehicle
29 weight rating of more than 14,000 pounds, as defined by the State
30 Air Resources Board pursuant to Section 44152 of the Health and
31 Safety Code.

32 (c) Subdivision (a) does not apply to a transfer of ownership
33 and registration under any of the following circumstances:

34 (1) A motor vehicle registered to a sole proprietorship is
35 transferred to the proprietor as owner.

36 (2) The transfer is between companies the principal business of
37 which is leasing motor vehicles, if there is no change in the lessee
38 or operator of the motor vehicle or between the lessor and the
39 person who has been, for at least one year, the lessee’s operator
40 of the motor vehicle.

1 (3) The transfer is between the lessor and lessee of the motor
2 vehicle, if there is no change in the lessee or operator of the motor
3 vehicle.

4 (4) An additional individual is added as a registered owner of
5 the motor vehicle.

6 (d) The State Air Resources Board shall notify the department
7 of the motor vehicles allowed to be registered pursuant to this
8 section.

9 SEC. 4. Section 4156.5 is added to the Vehicle Code, to read:

10 4156.5. (a) Except as provided in subdivision (b), the
11 department in its discretion may issue a temporary permit to operate
12 a vehicle when a payment of fees has been accepted in an amount
13 to be determined by, and paid to, the department, by the owner or
14 other person in lawful possession of the vehicle, for a vehicle for
15 which registration may be refused pursuant to Section 4000.17.
16 The permit shall be subject to the terms and conditions that the
17 department shall deem appropriate under the circumstances.

18 (b) The department shall not issue a temporary permit pursuant
19 to subdivision (a) to operate a vehicle for which a certificate of
20 compliance is required pursuant to Section 4000.17, and for which
21 that certificate of compliance has not been issued, unless the
22 department is presented with sufficient evidence, as determined
23 by the department, that the vehicle has failed its most recent
24 inspection pursuant to the Heavy-Duty Vehicle Inspection and
25 Maintenance Program described in Section 44152 of the Health
26 and Safety Code.

27 (c) Only one temporary permit may be issued pursuant to this
28 section for any vehicle, unless otherwise approved by the State
29 Air Resources Board.

30 (d) A temporary permit issued pursuant to this section is valid
31 for either 60 days after the expiration of the registration of the
32 vehicle or 60 days after the date that vehicle is removed from
33 nonoperation, whichever is applicable at the time the temporary
34 permit is issued.

35 (e) (1) A fee of fifty dollars (\$50) shall be paid for a temporary
36 permit issued pursuant to this section.

37 (2) After deducting its administrative costs, the department shall
38 deposit fees collected pursuant to paragraph (1) in the Truck
39 Emission Check (TEC) Fund described in subdivision (b) of
40 Section 44151 of the Health and Safety Code, to be used for

1 regulatory activities under the Heavy-Duty Vehicle Inspection and
2 Maintenance Program.

3 SEC. 5. Section 24019 is added to the Vehicle Code, to read:

4 24019. (a) A nongasoline heavy-duty onroad motor vehicle
5 with a gross vehicle weight rating of more than 14,000 pounds
6 shall not be operated on a public road in this state if that vehicle
7 has an illuminated malfunction indicator light (MIL) displaying
8 the International Standards Organization (ISO) 2575 engine symbol
9 F01, consistent with subdivision (d) of Section 1971.1 of Title 13
10 of the California Code of Regulations.

11 (b) A violation of this section shall be considered a mechanical
12 violation under Section 40610 of the Vehicle Code. A peace officer
13 shall not stop a vehicle solely on suspicion of a violation of this
14 section.

15 SEC. 6. Section 27153 of the Vehicle Code is amended to read:

16 27153. ~~No~~(a) A motor vehicle shall *not* be operated in a
17 manner resulting in the escape of excessive smoke, flame, gas, oil,
18 or fuel residue.

19 ~~The provisions of this section apply~~

20 (b) *A nongasoline heavy-duty onroad motor vehicle with a gross*
21 *vehicle weight rating of more than 14,000 pounds shall not be*
22 *operated in a manner resulting in the escape of visible smoke,*
23 *except during active regeneration.*

24 (c) *This section applies to motor vehicles of the United States*
25 *or its agencies, to the extent authorized by federal law.*

26 SEC. 7. Section 27158.1 is added to the Vehicle Code, to read:

27 27158.1. (a) Commencing one year after the effective date of
28 a regulation implementing the Heavy-Duty Vehicle Inspection and
29 Maintenance Program described in Section 44152 of the Health
30 and Safety Code, a legal owner or registered owner of a
31 nongasoline heavy-duty onroad motor vehicle with a gross vehicle
32 weight rating of more than 14,000 pounds shall maintain a
33 certificate of compliance, as described in Section 44152 of the
34 Health and Safety Code, or a facsimile or electronic copy thereof,
35 with the vehicle for which the certificate is issued.

36 (b) Subdivision (a) does not apply when a certificate of
37 compliance is necessarily removed from the vehicle for the purpose
38 of renewal or when the vehicle is left unattended.

39 (c) A violation of this section shall be cited in accordance with
40 Section 40610.

1 SEC. 8. Section 27158.2 is added to the Vehicle Code, to read:
2 27158.2. (a) The driver of a nongasoline heavy-duty onroad
3 motor vehicle with a gross vehicle weight rating of more than
4 14,000 pounds shall present the certificate of compliance, as
5 described in Section 44152 of the Health and Safety Code, or other
6 evidence of the certificate of compliance, of the vehicle under the
7 driver's immediate control for examination upon demand by any
8 peace officer.

9 (b) The driver of the vehicle described in subdivision (a) shall
10 not present to any peace officer a certificate of compliance not
11 issued for that vehicle.

12 SEC. 9. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

AB 210 (Voepel)
Smog check: exemption.

Summary: This bill would exempt from the smog check program all motor vehicles manufactured prior to the 1983 model-year.

Background: Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model-year.

Status: 2/13/2019 - Re-referred to Assembly Comm. on TRANS.

Specific Provisions: This bill would exempt from the smog check program all motor vehicles manufactured prior to the 1983 model-year.

Impacts on SCAQMD’s Mission, Operations or Initiatives: In the South Coast Air Basin, motor vehicles are a large source of emissions, with almost 11 million cars in the region. Some of the major air pollutants from motor vehicles include particulate matter, nitrogen oxides (NO_x), volatile organic compounds (VOCs), toxic air contaminants and greenhouse gases (GHGs). Initial current estimates identify nearly 40,000 vehicles within the South Coast region would fall under the new smog check exemption proposed by this bill. Older vehicles are some of the largest polluters as compared to newer cleaner light-duty vehicles on the road today. The estimated impact of this bill for the current year is a potential emissions increase equal to about two tons of VOC emissions per day and one ton of NO_x emissions per day within the South Coast region.

This bill is in contrast to SCAQMD’s policy priorities related to reducing criteria pollutant and air toxic emissions within the South Coast region from mobile sources and would be contrary to SCAQMD’s efforts to attain federal air quality standards and reduce GHG emissions through the deployment of clean technology.

Recommended Position: OPPOSE

AMENDED IN ASSEMBLY FEBRUARY 12, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 210

Introduced by Assembly Member Voepel

January 14, 2019

An act to amend Section 44011 of the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 210, as amended, Voepel. Smog check: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts specified vehicles from being inspected biennially upon renewal of registration, including, among others, all motor vehicles manufactured prior to the 1976 model-year and all diesel-powered vehicles with a gross vehicle weight rating of 14,001 pounds or greater. *model-year.*

This bill instead would exempt from the smog check program all motor vehicles manufactured prior to the 1983 model-year and all diesel-powered vehicles manufactured prior to the 1983 model-year with a gross vehicle weight rating of 14,001 pounds or greater. *model-year.*

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

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

1 SECTION 1. Section 44011 of the Health and Safety Code is
2 amended to read:

3 44011. (a) All motor vehicles powered by internal combustion
4 engines that are registered within an area designated for program
5 coverage shall be required biennially to obtain a certificate of
6 compliance or noncompliance, except for the following:

7 (1) All motorcycles until the department, pursuant to Section
8 44012, implements test procedures applicable to motorcycles.

9 (2) All motor vehicles that have been issued a certificate of
10 compliance or noncompliance or a repair cost waiver upon a change
11 of ownership or initial registration in this state during the preceding
12 six months.

13 (3) All motor vehicles manufactured prior to the 1983
14 model-year.

15 (4) (A) Except as provided in subparagraph (B), all motor
16 vehicles four or less model-years old.

17 (B) (i) Beginning January 1, 2005, all motor vehicles six or
18 less model-years old, unless the state board finds that providing
19 an exception for these vehicles will prohibit the state from meeting
20 the requirements of Section 176(c) of the federal Clean Air Act
21 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
22 respect to the state implementation plan required by the federal
23 Clean Air Act.

24 (ii) Notwithstanding clause (i), beginning January 1, 2019, all
25 motor vehicles eight or less model-years old, unless the state board
26 finds that providing an exception for these vehicles will prohibit
27 the state from meeting the requirements of Section 176(c) of the
28 federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's
29 commitments with respect to the state implementation plan required
30 by the federal Clean Air Act.

31 (iii) Clause (ii) does not apply to a motor vehicle that is seven
32 model-years old in year 2018 for which a certificate of compliance
33 has been obtained.

34 (C) All motor vehicles excepted by this paragraph shall be
35 subject to testing and to certification requirements as determined
36 by the department, if any of the following apply:

37 (i) The department determines through remote sensing activities
38 or other means that there is a substantial probability that the vehicle

1 has a tampered emission control system or would fail for other
2 cause a smog check test as specified in Section 44012.

3 (ii) The vehicle was previously registered outside this state and
4 is undergoing initial registration in this state.

5 (iii) The vehicle is being registered as a specially constructed
6 vehicle.

7 (iv) The vehicle has been selected for testing pursuant to Section
8 44014.7 or any other provision of this chapter authorizing
9 out-of-cycle testing.

10 (D) This paragraph does not apply to diesel-powered vehicles.

11 (5) In addition to the vehicles exempted pursuant to paragraph
12 (4), any motor vehicle or class of motor vehicles exempted pursuant
13 to subdivision (c) of Section 44024.5. It is the intent of the
14 Legislature that the department, pursuant to the authority granted
15 by this paragraph, exempt at least 15 percent of the lowest emitting
16 motor vehicles from the biennial smog check inspection.

17 (6) All motor vehicles that the department determines would
18 present prohibitive inspection or repair problems.

19 (7) Any vehicle registered to the owner of a fleet licensed
20 pursuant to Section 44020 if the vehicle is garaged exclusively
21 outside the area included in program coverage, and is not primarily
22 operated inside the area included in program coverage.

23 (8) (A) All diesel-powered vehicles manufactured prior to the
24 1998 model-year.

25 (B) All diesel-powered vehicles that have a gross vehicle weight
26 rating of 8,501 to 10,000 pounds, inclusive, until the department,
27 in consultation with the state board, pursuant to Section 44012,
28 implements test procedures applicable to these vehicles.

29 (C) All diesel-powered vehicles that have a gross vehicle weight
30 rating from 10,001 pounds to 14,000 pounds, inclusive, until the
31 state board and the Department of Motor Vehicles determine the
32 best method for identifying these vehicles, and until the department,
33 in consultation with the state board, pursuant to Section 44012,
34 implements test procedures applicable to these vehicles.

35 (D) All diesel-powered vehicles ~~manufactured prior to the 1983~~
36 ~~model-year and~~ that have a gross vehicle weight rating of 14,001
37 pounds or greater.

38 (b) Vehicles designated for program coverage in enhanced areas
39 shall be required to obtain inspections from appropriate smog
40 check stations operating in enhanced areas.

- 1 (c) For purposes of subdivision (a), a collector motor vehicle,
2 as defined in Section 259 of the Vehicle Code, is exempt from
3 those portions of the test required by subdivision (f) of Section
4 44012 if the collector motor vehicle meets all of the following
5 criteria:
- 6 (1) Submission of proof that the motor vehicle is insured as a
7 collector motor vehicle, as shall be required by regulation of the
8 bureau.
 - 9 (2) The motor vehicle is at least 35 model-years old.
 - 10 (3) The motor vehicle complies with the exhaust emissions
11 standards for that motor vehicle's class and model-year as
12 prescribed by the department, and the motor vehicle passes a
13 functional inspection of the fuel cap and a visual inspection for
14 liquid fuel leaks.

Assembly Bill 285 (Friedman)
California Transportation Plan

Summary: This bill would require the California Department of Transportation (Caltrans) to address in the California Transportation Plan how the state will achieve maximum feasible emission reductions in order to attain a statewide reduction of greenhouse gas emissions (GHG) of 40% below 1990 levels by the end of 2030 and carbon neutrality by 2045. The bill would add environmental justice to the subject areas that the plan is required to consider for the movement of people and freight.

Background: Existing law requires Caltrans to prepare the California Transportation Plan to provide a long range policy framework to meet the state future mobility needs and reduce GHG. In June 2016 Caltrans released its last California Transportation Plan. Direct emissions from the tailpipe of cars, trucks, off-road transportation sources, intrastate aviation, and more, accounted for 39% of the inventory in 2016 (a 2% increase from 2015).

In their 2018 report, Assessing California’s Climate Policies-Transportation, the Legislative Analyst Office highlighted how the large number of disparate state agency programs targeting transportation emissions created challenges in achieving state-wide goals. These challenges included: (1) interactions whereby emission reductions from one policy are offset by increases from another policy, (2) challenges in evaluating the net effects of each policy, (3) a potential lack of coordination among policies, and (4) increased administrative costs. This bill addresses the above challenges by requiring Caltrans and other granting state agencies to review the six different programs highlighted in the LAO report and increase their policy coordination and evaluation, thereby improving the effectiveness of California’s transportation emission reduction programs.

Status: 2/11/19 - Referred to Committees on Transportation and Natural Resources.

Specific Provisions: Specifically this bill would:

1. Require Caltrans to address in future updates to the California Transportation Plan how the state will achieve its GHG emission reductions goals consistent with recently passed SB 32 (Pavley, 2016) and Governor Brown’s Executive Order (B-55-18) on carbon neutrality;
2. Add environmental justice to the subject areas that the plan is required to consider for the movement of people and freight;
3. Require a forecast of the impacts of advanced and emerging technologies over a 20-year horizon on infrastructure, access, and transportation systems;
4. Require in an interim report and in the third update to the California Transportation Plan that Caltrans and the Strategic Growth Council (SGC) review and make recommendations on how to improve the coordination and impact of various grants programs that support Sustainable Community Strategy (SCS) implementation plans with each other and with other transportation funding programs; and
5. Require the California Transportation Commission to discuss its recommendations related to the California Transportation Plan at a specified joint meeting with CARB.

Impacts on SCAQMD’s Mission, Operations or Initiatives:

The addition of environmental justice to the subject areas that the California Transportation Plan is required to consider for the movement of people and freight, is consistent with SCAQMD's environmental justice policy priorities and would help reduce toxic exposure to disadvantaged communities within the South Coast region, thereby helping to protect public health.

Staff would like to work with the author to discuss the possibility of having the bill also require Caltrans to address in the California Transportation Plan how the state will achieve maximum feasible criteria pollutant emissions reductions to attain state and federal ambient air quality requirements, i.e. ozone and PM_{2.5} standards, by the upcoming federal deadlines. In many cases, certain strategies and approaches can achieve simultaneous reductions of both GHG and criteria pollutant emissions. A coordinated approach could potentially provide even more cost effective co-benefits for transportation, and attainment of GHG reduction goals and state and federal air quality requirements.

Recommended Position: WORK WITH AUTHOR

ASSEMBLY BILL

No. 285

Introduced by Assembly Member Friedman

January 28, 2019

An act to amend Sections 14000.6, 65071, 65072.1, 65072.2, and 65073.1 of the Government Code, relating to transportation planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 285, as introduced, Friedman. California Transportation Plan.

Existing law requires the Department of Transportation to prepare the California Transportation Plan for submission to the Governor and the Legislature, to complete the first update to the plan by December 31, 2015, and to update the plan every 5 years thereafter. Existing law requires the plan to consider various subject areas for the movement of people and freight, including environmental protection and quality of life. Existing law also requires the plan to address how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of greenhouse gas emissions to 1990 levels by 2020 and 80% below 1990 levels by 2050 and to identify the statewide integrated multimodal transportation system needed to achieve greenhouse gas emission reductions. Existing law also requires the California Transportation Commission to review the plan and make certain recommendations for transportation system improvements, and to submit a report in that regard to the Legislature and the Governor by December 31, 2016, and every 5 years thereafter.

This bill would require the department to address in the California Transportation Plan how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of greenhouse gas emissions of 40% below 1990 levels by the end of 2030

and carbon neutrality by 2045. Commencing with the 3rd update to the plan to be completed by December 31, 2025, the bill would require the department to include specified information in the plan, including, among other things, a review, conducted in consultation with the Strategic Growth Council, of the potential impacts and opportunities for coordination of specified grant programs and recommendations for the improvement of the grant programs to better align them to meet long-term common goals. The bill would require the department to complete an interim report by January 31, 2022, that contains the new information required to be included in the 3rd and subsequent updates to the plan. The bill would add environmental justice to the subject areas that the plan is required to consider for the movement of people and freight. The bill would require the California Transportation Commission to discuss its recommendations for transportation system improvements at a specified joint meeting with the State Air Resources Board before submitting those recommendations in the required report to the Legislature and the Governor.

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

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

1 SECTION 1. Section 14000.6 of the Government Code is
2 amended to read:
3 14000.6. The Legislature further finds and declares all of the
4 following:
5 (a) California has established *a* statewide greenhouse gas
6 emissions ~~targets and requirements~~ *limit* to be achieved by 2020
7 pursuant to the California Global Warming Solutions Act of 2006
8 (Division 25.5 (commencing with Section 38500) of the Health
9 and Safety Code), which ~~are~~ *is* equivalent to 1990 greenhouse gas
10 emissions in the state. ~~These targets and requirements entail~~
11 ~~approximately a 25-percent reduction in greenhouse gas emissions~~
12 ~~from current levels. Senate Bill 32 (Chapter 249 of the Statutes of~~
13 ~~2016) extended the statewide greenhouse gas emissions limit to~~
14 ~~40 percent below 1990 levels by 2030.~~
15 (b) Executive Order ~~S-3-05~~ further identifies a greenhouse gas
16 emissions limit of 80 percent below 1990 levels to be achieved by
17 ~~2050. B-55-18 established a new statewide goal to achieve carbon~~
18 ~~neutrality as soon as possible, and no later than 2045.~~

1 (c) Emissions from the transportation sector account for ~~38~~ 39
2 percent of California’s greenhouse gas emissions.

3 ~~(d) The state lacks a comprehensive, statewide, multimodal~~
4 ~~planning process that details the transportation system needed in~~
5 ~~the state. In June 2016, the state released its transportation plan~~
6 ~~called California Transportation Plan 2040, which represented~~
7 ~~an important step toward integrating statewide long-range modal~~
8 ~~plans, key programs, and analysis tools that build on regional~~
9 ~~transportation plans, sustainable communities strategies, and rural~~
10 ~~land use visions. Yet more must be done to meet objectives of~~
11 ~~mobility and congestion management consistent with the state’s~~
12 ~~greenhouse gas emission limits limit and air pollution standards.~~

13 ~~(e) Recent increases in gasoline prices resulted in historic~~
14 ~~increases in ridership on public transportation, including transit,~~
15 ~~commuter rail, and intercity rail, and in historic reductions in~~
16 ~~vehicle miles traveled by private vehicles. Increased demand for~~
17 ~~public transportation included a 16-percent increase in light rail~~
18 ~~ridership in Sacramento, a 15.3-percent increase in rail transit~~
19 ~~ridership in Los Angeles, a 23-percent increase in bus ridership in~~
20 ~~Orange County, a 14.4-percent increase in transit ridership in San~~
21 ~~Diego, a 6.3-percent increase in rail transit ridership in Oakland,~~
22 ~~and a 22.5-percent increase in transit ridership in Stockton. Current~~
23 ~~public transportation services and facilities are inadequate to meet~~
24 ~~current and expected future increases in demand.~~

25 ~~(e) The Legislature intends that subsequent transportation plans~~
26 ~~improve transparency, interagency coordination, and the impact~~
27 ~~of California’s transportation investments and planning to meet~~
28 ~~the objectives set forth in this section.~~

29 SEC. 2. Section 65071 of the Government Code is amended
30 to read:

31 65071. The department shall update the California
32 Transportation Plan *every five years* consistent with this chapter.
33 The ~~first~~ *second* update shall be completed by December 31, 2015.
34 The plan shall be updated every five years thereafter. 2020.

35 SEC. 3. Section 65072.1 of the Government Code is amended
36 to read:

37 65072.1. The California Transportation Plan shall consider all
38 of the following subject areas for the movement of people and
39 freight:

40 (a) Mobility and accessibility.

- 1 (b) Integration and connectivity.
- 2 (c) Efficient system management and operation.
- 3 (d) Existing system preservation.
- 4 (e) Safety and security.
- 5 (f) Economic development, including productivity and
- 6 efficiency.
- 7 (g) Environmental protection and quality of life.
- 8 (h) *Environmental justice*.

9 SEC. 4. Section 65072.2 of the Government Code is amended
 10 to read:

11 ~~65072.2. In developing the California Transportation Plan~~
 12 ~~pursuant to Sections 65072 and 65072.1, the~~ (a) *The department*
 13 *shall address in the California Transportation Plan* how the state
 14 will achieve maximum feasible emissions reductions in order to
 15 attain a statewide reduction of greenhouse gas emissions to 1990
 16 levels by 2020 as required by the California Global Warming
 17 Solutions Act of 2006 (Division 25.5 (commencing with Section
 18 38500) of the Health and Safety Code), ~~and 80 percent below 1990~~
 19 ~~levels by 2050, the requirements of Section 38566 of the Health~~
 20 ~~and Safety Code, and carbon neutrality by 2045, taking into~~
 21 consideration the use of alternative fuels, new vehicle technology,
 22 tailpipe emissions reductions, and expansion of public transit,
 23 commuter rail, intercity rail, bicycling, and walking. The plan shall
 24 identify the statewide integrated multimodal transportation system
 25 needed to achieve these results. ~~The department shall complete an~~
 26 ~~interim report by December 31, 2012, which shall include a list~~
 27 ~~and provide an~~

28 (b) *Commencing with the third update to the California*
 29 *Transportation Plan, the department shall include the following*
 30 *information in the plan:*

31 (1) *An overview of all sustainable communities strategies and*
 32 *alternative planning strategies prepared pursuant to paragraph (2)*
 33 *of subdivision (b) of Section 65080, and shall assess an assessment*
 34 *of how implementation of the sustainable communities strategies*
 35 *and alternative planning strategies will influence the configuration*
 36 *of the statewide integrated multimodal transportation system. The*
 37 ~~department shall submit the interim report to the California~~
 38 ~~Transportation Commission and to the Chairs of the Senate~~
 39 ~~Committee on Transportation and Housing, the Senate Committee~~
 40 ~~on Environmental Quality, the Senate Committee on Local~~

1 ~~Government, the Assembly Committee on Transportation, the~~
2 ~~Assembly Committee on Natural Resources, and the Assembly~~
3 ~~Committee on Local Government.~~

4 *(2) A review, conducted in consultation with the Strategic*
5 *Growth Council, of the potential impacts and opportunities for*
6 *coordination of the following grant programs: the Affordable*
7 *Housing and Sustainable Communities Program, the Transit and*
8 *Intercity Rail Capital Program, the Low Carbon Transit Operators*
9 *Program, the Transformative Climate Communities Program, and*
10 *the Sustainable Transportation Planning Grant Program. The*
11 *review shall include recommendations for the improvement of*
12 *these programs or other transportation funding programs to better*
13 *align the programs to meet long-term common goals.*

14 *(3) A forecast of the impacts of advanced and emerging*
15 *technologies over a 20-year horizon of infrastructure, access, and*
16 *transportation systems. For purposes of this paragraph, “advanced*
17 *and emerging technologies” includes, but is not limited to, shared,*
18 *autonomous, connected, and electric transportation options.*

19 *(c) The department shall complete an interim report by January*
20 *31, 2022, that contains the information described in paragraphs*
21 *(1), (2), and (3) of subdivision (b) and shall submit this report to*
22 *the relevant policy and fiscal committees of the Legislature.*

23 SEC. 5. Section 65073.1 of the Government Code is amended
24 to read:

25 65073.1. (a) The California Transportation Commission shall
26 review recommendations in the update to the California
27 Transportation Plan prepared by the department in ~~2015~~, 2020,
28 and every five years thereafter, and prepare specific,
29 action-oriented, and pragmatic recommendations for transportation
30 system improvements. A report containing the specific
31 recommendations shall be submitted to the Legislature and the
32 Governor by December 31, ~~2016~~, 2021, and every five years
33 thereafter, and in compliance with Section 9795.

34 (b) *Before submitting the specific recommendations to the*
35 *Legislature and the Governor pursuant to subdivision (a), the*
36 *commission shall discuss its recommendations at a joint meeting*
37 *held pursuant to Section 14516.*

O

SB 1 (Atkins)
California Environmental, Public Health, and Workers Defense Act of 2019.

Summary: This bill would require various agencies, including the California Air Resources Board (CARB), to take certain actions regarding federal requirements and standards pertaining to air, water, protected species, and workers’ rights and safety, respectively, with the focus of ensuring that continued protections exist for the environment, including air quality, natural resources, and public health in the state even if applicable federal laws are undermined, amended, or repealed.

Background: The federal Clean Air Act regulates the discharge of air pollutants into the atmosphere. The federal Clean Water Act regulates the discharge of pollutants into water. The federal Safe Drinking Water Act establishes drinking water standards for drinking water systems. The federal Endangered Species Act of 1973 generally prohibits activities affecting threatened and endangered species listed pursuant to that act unless authorized by a permit from the United States Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate.

Existing state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species.

Existing law provides for the enforcement of laws regulating the discharge of pollutants into the atmosphere and waters of the state. Existing law provides for the enforcement of drinking water standards. Existing law provides for the enforcement of the California Endangered Species Act. Existing federal and state law generally establishes standards for workers’ rights and worker safety.

Status: 1/16/2019 -- Referred to Sen. Comms. on EQ., N.R. & W., and JUD.

Specific Provisions: Specifically, this bill would:

- 1) Require CARB to regularly assess proposed and final changes to federal standards.
- 2) Require that at least quarterly, CARB shall publish a list of changes made to the federal standards and provide an assessment on whether a change made to the federal standards is more or less stringent than the baseline federal standards.
- 3) Provide that “Baseline federal standards” means federal standards in effect as of January 19, 2017;
- 4) Provide that if CARB determines that a change to the federal standards is less stringent than the baseline federal standards, it shall consider whether it should adopt

- the baseline federal standards as a measure in order to maintain the state’s protections to be at least as stringent as the baseline federal standards;
- 5) Require CARB to publish its list, assessment, and consideration for adoption at least 30 days prior to a vote on adoption on its internet Web site for public comment.
 - 6) Provide that if CARB decides to adopt a measure, it shall adopt the measure either:
 - (a) As an emergency regulation; or
 - (b) By promulgation or amendment of a state policy, plan, or regulation.
 - 7) Authorize a person acting in the public interest to bring an action to enforce certain federal standards and requirements incorporated into the herein-mentioned state laws;
 - 8) Make its provisions inoperative as of January 20, 2025, and would repeal them as of January 1, 2026;
 - 9) Allow a state agency to adopt standards or requirements pursuant to this title, including, but not limited to, by emergency regulations;
 - 10) Determine that the adoption of emergency regulations in furtherance of this title shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare; and
 - 11) Determine that emergency regulations adopted by a state agency under this title shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised or repealed by the state agency, or January 20, 2021, whichever comes first.

Impacts on SCAQMD’s Mission, Operations or Initiatives: The bill states that for over four decades, California and its residents have relied on federal laws, including the federal Clean Air Act, the Federal Water Pollution Control Act (Clean Water Act), the federal Safe Drinking Water Act, and the federal Endangered Species Act of 1973, along with their implementing regulations and remedies, to protect our state’s public health, environment, and natural resources.

The bill further explains that these federal laws establish standards that serve as the baseline level of public health and environmental protection, while expressly authorizing states like California to adopt more protective measures. The bill continues, that beginning in 2017, a new presidential administration and United States Congress have signaled a series of direct challenges to these federal laws and the protections they provide, as well as to the underlying science that makes these protections necessary, and to the rights of the states to protect their own environment, natural resources, and public health as they see fit. The bill concludes that it is therefore necessary for the Legislature to enact legislation that will ensure continued protections for the environment, natural resources, and public health in the state even if the federal laws mentioned above are undermined, amended, or repealed.

This bill is aligned with SCAQMD’s priorities to protect public health by reducing criteria pollutant and toxic emissions, as well as GHG emissions within the South Coast region. A weakening of air quality improvement and protection standards is contrary to the District’s

goal to ensure that public health is not negatively impacted by air pollution and climate change.

SCAQMD would like to work with the author regarding the following issues relating to the bill:

- 1) Determining the appropriate roles of and interplay between CARB and local air districts that preserve existing local air district authority, with regard to adopting air quality regulations relating to stationary sources and their emissions when there is backsliding in relevant federal laws identified by CARB;
- 2) Identifying what is the best course of action when a new federal action both strengthens and weakens different parts of a new regulation, as it relates to CARB's duty to assess whether a change in federal standards is more or less stringent than the baseline federal standards; and
- 3) Clarifying the intent behind the sunset date year of 2021 for emergency regulations adopted by a state agency under this bill.

Recommended Position: SUPPORT

Introduced by Senators Atkins, Portantino, and SternDecember 3, 2018

An act to add and repeal Title 24 (commencing with Section 120000) of the Government Code, relating to state prerogative.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Atkins. California Environmental, Public Health, and Workers Defense Act of 2019.

(1) The federal Clean Air Act regulates the discharge of air pollutants into the atmosphere. The federal Clean Water Act regulates the discharge of pollutants into water. The federal Safe Drinking Water Act establishes drinking water standards for drinking water systems. The federal Endangered Species Act of 1973 generally prohibits activities affecting threatened and endangered species listed pursuant to that act unless authorized by a permit from the United States Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate.

Existing state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species.

This bill would require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species, as specified. By imposing new duties on local agencies, this bill would impose a state-mandated local program.

(2) Existing law provides for the enforcement of laws regulating the discharge of pollutants into the atmosphere and waters of the state. Existing law provides for the enforcement of drinking water standards. Existing law provides for the enforcement of the California Endangered Species Act.

This bill would authorize a person acting in the public interest to bring an action to enforce certain federal standards and requirements incorporated into certain of the above-mentioned state laws if specified conditions are satisfied.

(3) Existing federal law generally establishes standards for workers' rights and worker safety.

Existing state law generally establishes standards for workers' rights and worker safety.

This bill would require specified agencies to take prescribed actions regarding certain requirements and standards pertaining to worker's rights and worker safety. The bill would authorize a person acting in the public interest to enforce standards and requirements related to worker's rights and worker safety, as provided.

(5) This bill would make its provisions inoperative as of January 20, 2025, and would repeal them as of January 1, 2026.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Title 24 (commencing with Section 120000) is
2 added to the Government Code, to read:

1 TITLE 24. CALIFORNIA ENVIRONMENTAL, PUBLIC
2 HEALTH, AND WORKERS DEFENSE ACT OF 2019

3
4 DIVISION 1. GENERAL PROVISION

5
6 120000. This title shall be known, and may be cited, as the
7 California Environmental, Public Health, and Workers Defense
8 Act of 2019.

9
10 DIVISION 2. ENVIRONMENT, NATURAL RESOURCES,
11 AND PUBLIC HEALTH

12
13 CHAPTER 1. FINDINGS AND DECLARATIONS

14
15 120010. The Legislature finds and declares all of the following:

16 (a) For over four decades, California and its residents have relied
17 on federal laws, including the federal Clean Air Act (42 U.S.C.
18 Sec. 7401 et seq.), the Federal Water Pollution Control Act (Clean
19 Water Act) (33 U.S.C. Sec. 1251 et seq.), the federal Safe Drinking
20 Water Act (42 U.S.C. Sec. 300f et seq.), and the federal Endangered
21 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), along with their
22 implementing regulations and remedies, to protect our state’s public
23 health, environment, and natural resources.

24 (b) These federal laws establish standards that serve as the
25 baseline level of public health and environmental protection, while
26 expressly authorizing states like California to adopt more protective
27 measures.

28 (c) Beginning in 2017, a new presidential administration and
29 United States Congress have signaled a series of direct challenges
30 to these federal laws and the protections they provide, as well as
31 to the underlying science that makes these protections necessary,
32 and to the rights of the states to protect their own environment,
33 natural resources, and public health as they see fit.

34 (d) It is therefore necessary for the Legislature to enact
35 legislation that will ensure continued protections for the
36 environment, natural resources, and public health in the state even
37 if the federal laws specified in subdivision (a) are undermined,
38 amended, or repealed.

39 120011. The purposes of this division are to do all of the
40 following:

1 (a) Retain protections afforded under the federal laws specified
2 in subdivision (a) of Section 120010 and regulations implementing
3 those federal laws in existence as of January 19, 2017, regardless
4 of actions taken at the federal level.

5 (b) Protect public health and welfare from any actual or potential
6 adverse effect that reasonably may be anticipated to occur from
7 pollution, including the effects of climate change.

8 (c) Preserve, protect, and enhance the environment and natural
9 resources in California, including, but not limited to, the state's
10 national parks, national wilderness areas, national monuments,
11 national seashores, and other areas with special national or regional
12 natural, recreational, scenic, or historic value.

13 (d) Ensure that economic growth will occur in a manner
14 consistent with the protection of public health and the environment
15 and preservation of existing natural resources.

16 (e) Ensure that any decision made by a public agency that may
17 adversely impact public health, the environment, or natural
18 resources is made only after careful evaluation of all the
19 consequences of that decision and after adequate procedural
20 opportunities for informed public participation in the
21 decisionmaking process.

22
23 CHAPTER 2. GENERAL PROVISIONS
24

25 120030. (a) A state agency may adopt standards or
26 requirements pursuant to this title, including, but not limited to,
27 by emergency regulations in accordance with Chapter 3.5
28 (commencing with Section 11340) of Part 1 of Division 3 of Title
29 2.

30 (b) The adoption of emergency regulations in furtherance of
31 this title shall be deemed an emergency and necessary for the
32 immediate preservation of the public peace, health, and safety, or
33 general welfare.

34 (c) Notwithstanding Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2, emergency regulations
36 adopted by a state agency under this title shall not be subject to
37 review by the Office of Administrative Law and shall remain in
38 effect until revised or repealed by the state agency, or January 20,
39 2021, whichever comes first.

CHAPTER 3. OPERATIVE PROVISIONS

Article 1. Air

120040. For purposes of this article, the following definitions apply:

(a) “Air district” means an air quality management or air pollution control district.

(b) “Baseline federal standards” means federal standards in effect as of January 19, 2017.

(c) “Federal standards” means federal laws or federal regulations implementing the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) including federal requirements for a state implementation plan, federal requirements for the transportation conformity program, and federal requirements for the prevention of significant deterioration.

(d) “State analogue statute” means the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) or Division 26 (commencing with Section 39000) of the Health and Safety Code.

(e) “State board” means the State Air Resources Board.

120041. Except as otherwise authorized by state law, all of the following apply:

(a) The state board shall regularly assess proposed and final changes to the federal standards.

(b) (1) At least quarterly, the state board shall publish a list of changes made to the federal standards and provide an assessment on whether a change made to the federal standards is more or less stringent than the baseline federal standards.

(2) If the state board determines that a change to the federal standards is less stringent than the baseline federal standards, the state board shall consider whether it should adopt the baseline federal standards as a measure in order to maintain the state’s protections to be at least as stringent as the baseline federal standards.

(3) The state board shall publish its list, assessment, and consideration for adoption at least 30 days prior to a vote on adoption on its internet Web site for public comment.

1 (c) If the state board decides to adopt a measure pursuant to
2 subdivision (b), the state board shall adopt the measure by either
3 of the following procedures:

4 (1) As an emergency regulation in accordance with Section
5 120030.

6 (2) By promulgation or amendment of a state policy, plan, or
7 regulation.

8 (d) Notwithstanding any other law, the state board, when
9 adopting a measure under paragraph (2) of subdivision (c) may
10 adopt those measures in accordance with Section 100 of Title 1 of
11 the California Code of Regulations and the measures shall be
12 deemed to be a change without regulatory effect pursuant to
13 paragraph (6) of subdivision (a) of that section and not subject to
14 additional notice, procedural, or other considerations contained in
15 state analogue statutes identified in this article. Nothing in this
16 chapter shall affect the imposition of sanctions under the federal
17 Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

18 (e) In the event that the citizen suit provision set forth in Section
19 7604 of Title 42 of the United States Code is amended to restrict,
20 condition, abridge, or repeal the citizen suit provision, the state
21 board may consider the amendment as a change to the federal
22 standards and may adopt the baseline federal standards pursuant
23 to subdivision (c).

24 (f) This article does not prohibit the state board or air districts
25 from establishing rules and regulations for California that are more
26 stringent than the baseline federal standards.

27 120042. (a) An action may be brought by a person in the public
28 interest exclusively to enforce baseline federal standards adopted
29 as a measure pursuant to subdivision (c) of Section 120041 if all
30 of the following requirements are met:

31 (1) At least 60 days prior to initiating the action, a complainant
32 provides a written notice to the Attorney General and the counsel
33 for the state board, a district attorney, county counsel, counsel of
34 the air district, and prosecutor in whose jurisdiction the violation
35 is alleged to have occurred, and the defendant identifying the
36 specific provisions of the measure alleged to be violated.

37 (2) The Attorney General, a district attorney, a city attorney,
38 county counsel, counsel of the state board, counsel of an air district,
39 or a prosecutor has not commenced an action or has not been
40 diligently prosecuting the action.

1 (b) Upon filing the action, the complainant shall notify the
2 Attorney General that the action has been filed.

3 (c) The court may award attorney’s fees pursuant to Section
4 1021.5 of the Code of Civil Procedure, and expert fees and court
5 costs pursuant to Section 1032 of the Code of Civil Procedure, as
6 appropriate, for an action brought pursuant to this section.

7 (d) This section does not limit other remedies and protections
8 available under state or federal law.

9
10 Article 2. Water

11
12 120050. For purposes of this article, the following definitions
13 apply:

14 (a) “Baseline federal standards” means federal standards in
15 effect as of January 19, 2017, including water quality standards,
16 effluent limitations, and drinking water standards.

17 (b) “Board” means the State Water Resources Control Board.

18 (c) “Federal standards” means federal laws or federal regulations
19 implementing the federal Safe Drinking Water Act (42 U.S.C. Sec.
20 300f et seq.) and the Federal Water Pollution Control Act (33
21 U.S.C. Sec. 1251 et seq.) in effect as of January 19, 2017, including
22 water quality standards, effluent limitations, and drinking water
23 standards.

24 (d) “Regional board” means a regional water quality control
25 board.

26 (e) “State analogue statute” mean the Porter-Cologne Water
27 Quality Control Act (Division 7 (commencing with Section 13000)
28 of the Water Code) or the California Safe Drinking Water Act
29 (Chapter 4 (commencing with Section 116270) of Part 12 of
30 Division 103 of the Health and Safety Code).

31 120051. Except as otherwise authorized by state law, all of the
32 following apply:

33 (a) The board shall regularly assess proposed and final changes
34 to the federal standards.

35 (b) (1) At least quarterly, the board shall publish a list of
36 changes made to the federal standards and provide an assessment
37 on whether a change made to the federal standards is more or less
38 stringent than the baseline federal standards.

39 (2) If the board determines that a change to the federal standards
40 is less stringent than the baseline federal standards, the board shall

1 consider whether it should adopt the baseline federal standards as
2 a measure in order to maintain the state’s protections to be at least
3 as stringent as the baseline federal standards.

4 (3) The state board shall publish its list, assessment, and
5 consideration for adoption at least 30 days prior to a vote on
6 adoption on its Internet Web site for public comment.

7 (c) If the board decides to adopt a measure pursuant to
8 subdivision (b), the board shall adopt the measure by either of the
9 following procedures:

10 (1) As an emergency regulation in accordance with Section
11 120030.

12 (2) By promulgation or amendment of a state policy for water
13 quality control, a water quality control plan, or regulation.

14 (d) Notwithstanding any other law, the board, when adopting a
15 measure under paragraph (2) of subdivision (c) may adopt those
16 measures in accordance with Section 100 of Title 1 of the
17 California Code of Regulations and the measures shall be deemed
18 to be a change without regulatory effect pursuant to paragraph (6)
19 of subdivision (a) of that section and not subject to additional
20 notice, procedural, or other considerations contained in state
21 analogue statutes identified in this article. Nothing in this chapter
22 shall affect the imposition of sanctions under the federal Clean Air
23 Act (42 U.S.C. Sec. 7401 et seq.).

24 (g) (1) In the event that the citizen suit provision set forth in
25 Section 1365 of Title 33 of the United States Code is amended to
26 restrict, condition, abridge, or repeal the citizen suit provision, the
27 board may consider the amendment as a change to the federal
28 standards and may adopt the baseline federal standards pursuant
29 to subdivision (c).

30 (2) In the event that the citizen suit provision set forth in Section
31 300j-8 of Title 42 of the United States Code is amended to restrict,
32 condition, abridge, or repeal the citizen suit provision, the board
33 may consider the amendment as a change to the federal standards
34 and may adopt the baseline federal standards pursuant to
35 subdivision (c).

36 (h) This article does not prohibit the board or the regional boards
37 from establishing rules and regulations for California that are more
38 stringent than the baseline federal standards.

39 120052. (a) An action may be brought by a person in the public
40 interest exclusively to enforce baseline federal standards adopted

1 as a measure pursuant to subdivision (c) of Section 120051 if all
2 of the following requirements are met:

3 (1) At least 60 days prior to initiating the action, a complainant
4 provides a written notice to the Attorney General and the counsel
5 for the board, a district attorney, county counsel, counsel of the
6 regional board, and prosecutor in whose jurisdiction the violation
7 is alleged to have occurred, and the defendant identifying the
8 specific provisions of the measure alleged to be violated.

9 (2) The Attorney General, a district attorney, a city attorney,
10 county counsel, counsel of the board, counsel of a regional board,
11 or a prosecutor has not commenced an action or has not been
12 diligently prosecuting the action.

13 (b) Upon filing the action, the complainant shall notify the
14 Attorney General that the action has been filed.

15 (c) The court may award attorney’s fees pursuant to Section
16 1021.5 of the Code of Civil Procedure, and expert fees and court
17 costs pursuant to Section 1032 of the Code of Civil Procedure, as
18 appropriate, for an action brought pursuant to this section.

19 (d) This section does not limit other remedies and protections
20 available under state or federal law.

21

22 Article 3. Endangered and Threatened Species

23

24 120060. For purposes of this article, “baseline federal
25 standards” means the federal Endangered Species Act of 1973 (16
26 U.S.C. Sec. 1531 et seq.) in effect as of January 19, 2017, its
27 implementing regulations, and any incidental take permits,
28 incidental take statements, or biological opinions in effect as of
29 January 19, 2017.

30 120061. Except as otherwise authorized by state law, the
31 following apply:

32 (a) To ensure no backsliding as a result of any change to the
33 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
34 seq.) or its implementing regulations, in the event of the federal
35 delisting of a species that is eligible for protection under the
36 California Endangered Species Act and which is listed as
37 endangered or threatened pursuant to the federal Endangered
38 Species Act of 1973 as of January 1, 2017, or a change in the
39 legally protected status of such a species, including through a
40 change in listing from endangered to threatened, the adoption of

1 a rule pursuant to Section 4(d) of the federal Endangered Species
2 Act, or any amendment to the federal Endangered Species Act of
3 1973 or its implementing regulations, or any exemption from the
4 application of the federal Endangered Species Act of 1973 to a
5 federally listed species as of January 1, 2017, the Fish and Game
6 Commission shall determine whether to list, in accordance with
7 subdivision (b), that species under the California Endangered
8 Species Act pursuant to this section.

9 (b) The Fish and Game Commission shall list the affected
10 species identified in subdivision (a), pursuant to subdivision (c)
11 and without following the regular listing process set forth in Article
12 2 (commencing with Section 2070) of Chapter 1.5 of Division 3
13 of the Fish and Game Code, no later than the conclusion of its
14 second regularly scheduled meeting or within three months,
15 whichever is shorter, after the occurrence of the event described
16 in subdivision (a) unless either the Fish and Game Commission
17 determines that listing of the species is not warranted because it
18 does not meet the criteria in Chapter 1.5 (commencing with Section
19 2050) of Division 3 of the Fish and Game Code or its implementing
20 regulations or the Department of Fish and Wildlife recommends
21 that the species undergo the regular listing process. If the
22 Department of Fish and Wildlife makes a recommendation that
23 the species undergo the regular listing process, the Fish and Game
24 Commission shall either accept the recommendation, in which
25 event the Fish and Game Commission shall be deemed to have
26 accepted a petition for listing the species pursuant to paragraph
27 (2) of subdivision (e) of Section 2074.2 of the Fish and Game
28 Code, or reject the recommendation and immediately list the
29 species pursuant to this subdivision.

30 (c) Notwithstanding any other law or regulation, because a
31 decision by the Fish and Game Commission to list a species
32 without following the regular listing process becomes effective
33 immediately, the Fish and Game Commission shall add that species
34 to the list of endangered or threatened species pursuant to Section
35 100 of Title 1 of the California Code of Regulations, and the
36 addition of that species to the list shall be deemed to be a change
37 without regulatory effect pursuant to paragraph (6) of subdivision
38 (a) of that section.

39 (d) (1) Upon the listing of any species under this section, the
40 Fish and Game Commission or the Department of Fish and Wildlife

1 may authorize the taking of such species as otherwise provided
 2 for in the Fish and Game Code. In lieu of authorizing take under
 3 the provisions of Chapter 1.5 (commencing with Section 2050) of
 4 Division 3 of the Fish and Game Code, the Fish and Game
 5 Commission or the Department of Fish and Wildlife may adopt
 6 the terms and conditions of any rule promulgated under Section
 7 4(d) of the federal Endangered Species Act, federal incidental take
 8 statement, incidental take permit, or biological opinion in effect
 9 at the time of the event described in subdivision (a).

10 (2) The Department of Fish and Wildlife shall ensure that
 11 protections remain in place pursuant to regulation, incidental take
 12 permit, or consistency determination that are at least as stringent
 13 as required by the baseline federal standards, as determined by the
 14 Department of Fish and Wildlife.

15 (3) This subdivision does not prohibit the Department of Fish
 16 and Wildlife from establishing conditions that are more stringent
 17 than the baseline federal standards.

18 (e) Any species listed pursuant to this section shall be subject
 19 to the provisions in the California Endangered Species Act in the
 20 same manner as any other listed species, including those provisions
 21 related to a change in listing status or delisting.

22 (f) For those species that the Fish and Game Commission lists
 23 pursuant to subdivision (b), or for which baseline federal standards
 24 are retained pursuant to subdivision (d), the California
 25 Environmental Quality Act (Division 13 (commencing with Section
 26 21000) of the Public Resources Code) shall not apply.

27 (g) The provisions of the California Endangered Species Act
 28 are measures “relating to the control, appropriation, use, or
 29 distribution of water” within the meaning of Section 8 of the federal
 30 Reclamation Act of 1902 (43 U.S.C. Section 383) and shall apply
 31 to the United States Bureau of Reclamation’s operation of the
 32 federal Central Valley Project.

33
 34 DIVISION 3. LABOR STANDARDS

35
 36 CHAPTER 1. DEFINITIONS

37
 38 120100. For purposes of this division, the following definitions
 39 apply:

1 (a) “Baseline federal standards” means federal standards in
2 effect as of January 1, 2017.

3 (b) “Board” means the Occupational Safety and Health
4 Standards Board.

5 (c) “Department” means the Department of Industrial Relations.

6 (d) “Federal standards” means the federal Fair Labor Standards
7 Act of 1938, as amended (29 U.S.C. Sec. 201 et seq.), the federal
8 Occupational Safety and Health Act of 1970, as amended (29
9 U.S.C. Sec. 651 et seq.), the Federal Coal Mine Health and Safety
10 Act of 1969, as amended (30 U.S.C. Sec. 801 et seq.), or
11 regulations established pursuant to those federal statutes.

12
13 CHAPTER 2. OPERATIVE PROVISIONS
14

15 120110. Except as otherwise authorized by state law, all of the
16 following apply:

17 (a) The board and the department shall regularly assess proposed
18 and final changes to the federal standards.

19 (b) (1) At least quarterly, the board and the department shall
20 publish a list of changes made to the federal standards and provide
21 an assessment on whether a change made to the federal standards
22 is more or less stringent than the baseline federal standards.

23 (2) If the board or the department, as appropriate, determines
24 that a change to the federal standards is less stringent than the
25 baseline federal standards, the board shall consider whether it
26 should adopt the baseline federal standards as a measure in order
27 to maintain the state’s protections to be at least as stringent as the
28 baseline federal standards.

29 (3) The board and the department shall publish its list,
30 assessment, and consideration for adoption at least 30 days prior
31 to a vote on adoption on its Internet Web site for public comment.

32 (c) If the board or the department, as appropriate, decides to
33 adopt a measure pursuant to subdivision (b), the board or the
34 department shall adopt the measure by an emergency regulation
35 in accordance with Section 120030.

36 (d) Notwithstanding any other law, the board or department,
37 when adopting a measure under subdivision (c) may adopt those
38 measures in accordance with Section 100 of Title 1 of the
39 California Code of Regulations and the measures shall be deemed
40 to be a change without regulatory effect pursuant to paragraph (6)

1 of subdivision (a) of that section and not subject to additional
2 notice, procedural, or other considerations contained in state
3 analogue statutes.

4 (e) This division does not prohibit the board or the department
5 from establishing rules and regulations for California that are more
6 stringent than the baseline federal standards.

7 120111. (a) An action may be brought by a person in the public
8 interest exclusively to enforce a measure adopted pursuant to
9 subdivision (c) of Section 120110 if all of the following
10 requirements are met:

11 (1) At least 60 days prior to initiating the action, a complainant
12 provides a written notice to the Attorney General and the counsels
13 for the board or department, as appropriate, a district attorney, a
14 city attorney, county counsel, and a prosecutor in whose
15 jurisdiction the violation is alleged to have occurred, and the
16 defendant identifying the specific provisions of the measure alleged
17 to be violated.

18 (2) The Attorney General, a district attorney, a city attorney,
19 county counsel, the counsel for the board or department, as
20 appropriate, or a prosecutor has not commenced an action or has
21 not been diligently prosecuting the action.

22 (b) Upon filing the action, the complainant shall notify the
23 Attorney General that the action has been filed.

24 (c) The court may award attorney's fees pursuant to Section
25 1021.5 of the Code of Civil Procedure, and expert fees and court
26 costs pursuant to Section 1032 of the Code of Civil Procedure, as
27 appropriate, for an action brought pursuant to this section.

28 (d) This section does not limit other remedies and protections
29 available under state or federal law.

30

31

DIVISION 4. MISCELLANEOUS

32

33 120200. The provisions of this title are severable. If any
34 provision of this title or its application is held invalid, that
35 invalidity shall not affect other provisions or applications that can
36 be given effect without the invalid provision or application.

37 120202. (a) This title shall become inoperative on January
38 20, 2025, and, as of January 1, 2026, is repealed.

1 (b) Notwithstanding subdivision (a), any action brought pursuant
2 to this title on or before January 20, 2025, may proceed to a final
3 judgment.

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by certain mandates in this act, within
9 the meaning of Section 17556 of the Government Code.

10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

Assembly Bill 142 (Garcia)
Lead-acid batteries

Summary: This bill would double a current manufacturer battery fee from \$1 to \$2 imposed by the Lead-Acid Battery Recycling Act of 2016 (Act) on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California. This bill also removes a sunset date related to this fee.

Background: The Act prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. The Act requires, until March 31, 2022, a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California. The Act requires the manufacturer battery fee to be paid to the California Department of Tax and Fee Administration and requires dealers and manufacturers of lead-acid batteries to register with the department.

The Act requires manufacturer battery fees to be credited against amounts owed by the manufacturer to the state under a judgment or determination of liability under specific hazardous materials provisions or any other law for removal, remediation, or other response costs relating to a release of a hazardous substance from a lead-acid battery recycling facility.

The Act requires a portion of moneys from the manufacturer battery fee to be deposited into the Lead-Acid Battery Cleanup Fund and provides that moneys in the Fund are available upon appropriation by the Legislature to the Department of Toxic Substances Control for specified activities, including cleanup of contamination caused by lead acid batteries throughout the state and the repayment of loans from the General Fund to the Toxic Substances Control Account for the cleanup of lead contamination in the state.

Status: 1/24/2019 - Referred to Com. on E.S. & T.M.

Specific Provisions: Specifically, this bill would:

- 1) As of April 1, 2022, double the current manufacturer battery fee from \$1 to \$2 imposed by the Lead-Acid Battery Recycling Act of 2016 on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California;
- 2) Remove the sunset date that applies to this manufacturer battery fee and provide that the fee would continue indefinitely;
- 3) Authorize a person who manufactures a lead-acid battery and is not subject to the jurisdiction of the state to agree in writing with the importer of that lead-acid battery to pay the manufacturer battery fee on behalf of the importer;
- 4) Require that manufacturer battery fees be credited to the account of the manufacturer remitting those fees;
- 5) Authorize expenditure of moneys from the Lead-Acid Battery Cleanup Fund for the repayment of specified loans only after specified activities have been fully funded, including cleanup or

- other response actions at any area contaminated by operation of a lead-acid battery recycling facility in the state, and related administration and implementation costs;
- 6) Clarify that the existing consumer battery fee shall not apply to any person when a replacement lead-acid battery is included in any used vehicle sold or leased by a new motor vehicle dealer; and
 - 7) Take effect immediately as an urgency statute.

Impacts on SCAQMD’s Mission, Operations or Initiatives:

This bill would not impact SCAQMD’s authority or jurisdiction over lead-acid battery recycling operations, or the monitoring of the forthcoming deconstruction of the closed Exide Technologies battery recycling plant in Vernon, California. From the funds generated by this bill’s fees and existing related fees, the bill would only allow repayment of the \$176.6 million loan from the state, meant to help with clean-up of soil contamination from the Exide facility, until the clean-up of the Exide contamination and of other areas in the state that may be contaminated by lead acid batteries has been completed.

The bill is consistent with SCAQMD’s environmental justice policy priorities and would help reduce toxic exposure to disadvantaged communities within the South Coast region, thereby helping to protect public health.

Recommended Position: SUPPORT

ASSEMBLY BILL

No. 142

**Introduced by Assembly Member Cristina Garcia
(Coauthors: Assembly Members Carrillo and Santiago)**

December 13, 2018

An act to amend Sections 25215.1, 25215.2, 25215.25, 25215.35, 25215.45, 25215.5, and 25215.56 of, and to add Sections 25215.3 and 25215.48 to, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as introduced, Cristina Garcia. Lead-acid batteries.

The Lead-Acid Battery Recycling Act of 2016 prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. The act requires, until March 31, 2022, a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California. The act requires the manufacturer battery fee to be paid to the California Department of Tax and Fee Administration and requires dealers and manufacturers of lead-acid batteries to register with the department. The act defines “manufacturer” for these purposes.

This bill would increase the amount of the manufacturer battery fee to \$2 and would provide that the fee would continue indefinitely. The bill would authorize a person who manufactures a lead-acid battery and is not subject to the jurisdiction of the state to agree in writing with the

importer, as defined, of that lead-acid battery to pay the manufacturer battery fee on behalf of the importer. The bill would exempt an importer who has an agreement of this type with a manufacturer, and who meets other specified requirements, from the requirement to register with the department. The bill would require the department, on or before January 1, 2020, to submit to the Legislature a report that includes, among other things, any regulations or policies adopted by the department for purposes of ensuring compliance with the registration, returns, reporting, payments, audits, refunds, or collection requirements related to the manufacturer battery fee.

The act requires manufacturer battery fees remitted pursuant to these provisions to be credited against amounts owed by the manufacturer to the state under a judgment or determination of liability under specific hazardous materials provisions or any other law for removal, remediation, or other response costs relating to a release of a hazardous substance from a lead-acid battery recycling facility.

This bill would additionally require that manufacturer battery fees remitted pursuant to these provisions be credited to the account of the manufacturer remitting those fees. The bill would require that a person who agrees in writing to pay the manufacturer battery fee on behalf of an importer be credited for a payment of the manufacturer battery fee only if certain conditions are met, including that the person provide to the purchaser of a lead-acid battery a statement that includes specified information on the invoice, contract, or other record documenting the transaction. The bill would relieve a purchaser of a lead-acid battery who receives that statement in a timely manner, and any subsequent purchaser of that battery, from liability for the manufacturer battery fee that would otherwise be imposed on the sale of that battery, provided that the manufacturer remits payment of the manufacturer battery fee to the state for the sale of that battery. The bill would authorize an importer who has paid the manufacturer battery fee and who receives an untimely statement that the fee has been paid for that battery to file a claim for a refund of any overpaid fees.

The bill would authorize the department to disclose the name, address, account number, and account status of a person registered with the department to pay the manufacturer battery fee. The bill would provide that account status does not include the amount of the manufacturer battery fee paid by any person.

The act requires a specified portion of moneys from the manufacturer battery fee to be deposited into the Lead-Acid Battery Cleanup Fund

and provides that moneys in the fund are available upon appropriation by the Legislature to the Department of Toxic Substances Control for specified activities, including the repayment of specified loans.

This bill would authorize expenditure of moneys from the Lead-Acid Battery Cleanup Fund for the repayment of those loans only after the other specified activities have been fully funded.

The act imposes a California battery fee on a person for specified types of replacement lead-acid batteries purchased from a dealer.

This bill would provide, if a new motor vehicle dealer sells or leases to a person a used vehicle into which the new motor vehicle dealer has incorporated a replacement lead-acid battery, that the California battery fee does not apply to the person with regard to that replacement lead-acid battery.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 25215.1 of the Health and Safety Code
2 is amended to read:

3 25215.1. For purposes of this article, the following definitions
4 shall apply:

5 (a) “Board” means ~~State Board of Equalization~~; *the California*
6 *Department of Tax and Fee Administration*.

7 (b) “Business” means any person, as defined in subdivision ~~(j)~~,
8 *(k)*, except a natural person or a city, county, city and county,
9 district, commission, the state, or any department, agency, or
10 political subdivision of any of those, or an interstate body or, to
11 the extent permitted by law, the United States and its agencies and
12 instrumentalities.

13 (c) “California battery fee” means the fee imposed pursuant to
14 Section 25215.25.

15 (d) “Dealer” means ~~every~~ *a* person who engages in the retail
16 sale of replacement lead-acid batteries directly to persons in
17 California. “Dealer” includes a manufacturer of a new lead-acid
18 battery that sells at retail that lead-acid battery directly to a person
19 through any means, including, but not limited to, a transaction

1 conducted through a sales outlet, catalog, or Internet Web site or
 2 any other similar electronic means.

3 (e) *“Importer” means a person described in paragraph (2) of*
 4 *subdivision (h).*

5 ~~(e)~~

6 (f) *“Lead-acid battery” means any a battery weighing over five*
 7 *kilograms that is primarily composed of both lead and sulfuric*
 8 *acid, whether sulfuric acid is in liquid, solid, or gel state, with a*
 9 *capacity of six volts or more that is used for any of the following*
 10 *purposes:*

11 (1) As a starting battery that is designed to deliver a high burst
 12 of energy to an internal combustion engine until it starts.

13 (2) As a motive power battery that is designed to provide the
 14 source of power for propulsion or operation of a vehicle, including
 15 a watercraft.

16 (3) As a stationary storage or standby battery that is designed
 17 to be used in systems where the battery acts as either electrical
 18 storage for electricity generation equipment or a source of
 19 emergency power, or otherwise serves as a backup in case of failure
 20 or interruption in the flow of power from the primary source.

21 (4) As a source of auxiliary power to support the electrical
 22 systems in a vehicle, as defined in Section 670 of the Vehicle Code,
 23 including a vehicle as defined in Section 36000 of the Vehicle
 24 Code, or an aircraft.

25 ~~(f)~~

26 (g) *“Lead-acid battery recycling facility” means any a site at*
 27 *which lead-acid batteries are or have been disassembled for the*
 28 *purpose of making components available for reclamation to*
 29 *produce elemental lead or lead alloys or at which lead-acid batteries*
 30 *or their components, or both, are or have been reclaimed to produce*
 31 *elemental lead or lead alloys.*

32 ~~(g)~~

33 (h) *“Manufacturer” means either of the following:*

34 (1) The person who manufactures the lead-acid battery and who
 35 sells, offers for sale, or distributes the lead-acid battery in the state.

36 (2) (A) If there is no person described in paragraph (1) that is
 37 subject to the jurisdiction of the state, the manufacturer is the
 38 person who imports the lead-acid battery into the state for sale or
 39 distribution.

1 (B) For purposes of this article, a person is subject to the
2 jurisdiction of the state with respect to a lead-acid battery if the
3 person is engaged in business in this state. For purposes of this
4 subparagraph, a person shall be considered to be engaged in
5 business in this state if the person is a “retailer engaged in business
6 in this state,” as defined in subdivision (c) of Section 6203 of the
7 Revenue and Taxation Code, with respect to that lead-acid battery,
8 or if the person has a substantial nexus with this state for purposes
9 of the commerce clause of the United States Constitution.

10 ~~(h)~~

11 (i) “Manufacturer battery fee” means the fee imposed pursuant
12 to Section 25215.35.

13 ~~(i)~~

14 (j) “Owner or operator” has the same meaning given in Section
15 9601(20) of Title 42 of the United States Code and any person that
16 previously met that definition or is the legal successor to a person
17 that meets the definition or previously met the definition.

18 ~~(j)~~

19 (k) “Person” means an individual, trust, firm, joint stock
20 company, business concern, corporation, including, but not limited
21 to, a government corporation, partnership, limited liability
22 company, or association. “Person” also includes any city, county,
23 city and county, district, commission, the state, or any department,
24 agency, or political subdivision of any of those, interstate body,
25 and the United States and its agencies and instrumentalities to the
26 extent permitted by law.

27 ~~(k)~~

28 (l) “Remedial action” has the same meaning as in Section
29 25322.

30 ~~(l)~~

31 (m) “Removal” has the same meaning as in Section 25323.

32 ~~(m)~~

33 (n) “Replacement lead-acid battery” means a new lead-acid
34 battery that is sold at retail subsequent to the original sale or lease
35 of the equipment or vehicle in which the lead-acid battery is
36 intended to be used. “Replacement lead-acid battery” does not
37 include a spent, discarded, refurbished, reconditioned, rebuilt, or
38 reused lead-acid battery.

39 ~~(n)~~

1 (o) “Response action” has the same meaning as in Section
2 25323.3.

3 ~~(p)~~

4 (p) (1) A “retail sale” or a “sale at retail” has the same meaning
5 as defined in Section 6007 of the Revenue and Taxation Code.

6 (2) ~~“Retail”~~ *The following shall not be considered a “retail sale”*
7 ~~does not include any or a “sale at retail” for purposes of the~~
8 ~~following:~~ *this article:*

9 (A) The sale of a battery for which a California battery fee has
10 previously been paid.

11 (B) The sale of a replacement lead-acid battery that is
12 temporarily stored or used in California for the sole purpose of
13 preparing the replacement lead-acid battery for use thereafter solely
14 outside of the state and that is subsequently transported outside
15 the state and thereafter used solely outside of the state.

16 (C) The sale of a battery for incorporation into new equipment
17 for subsequent resale.

18 (D) The replacement of a lead-acid battery pursuant to a
19 warranty or a vehicle service contract described under Section
20 12800 of the Insurance Code.

21 (E) The sale of any battery intended for use with or contained
22 within a medical device, as defined in the ~~federal~~ *Federal Food,*
23 *Drug, and Cosmetic Act (21 U.S.C. Sec. 321(h))* as that definition
24 may be amended.

25 ~~(p)~~

26 (q) “Used lead-acid battery” means a lead-acid battery no longer
27 fully capable of providing the power for which it was designed or
28 that a person no longer wants for any other reason.

29 ~~(q)~~

30 (r) “Wholesaler” means ~~any~~ *a person who purchases a lead-acid*
31 *battery from a manufacturer for the purpose of selling the lead-acid*
32 *battery to a dealer, high-volume customer, or to a person for*
33 *incorporation into new equipment for resale.*

34 SEC. 2. Section 25215.2 of the Health and Safety Code is
35 amended to read:

36 25215.2. (a) A dealer shall accept from ~~persons~~ *a person* at
37 the point of transfer a used lead-acid battery of a type listed in
38 paragraph (1), (2), or (4) of subdivision ~~(e)~~ *(f)* of Section 25215.1,
39 but shall not be required to accept from any person more than six

1 used lead-acid batteries per day. A dealer shall not charge ~~any~~ a
2 fee to receive a used lead-acid battery.

3 (b) On and after April 1, 2017, a dealer shall charge to ~~each~~ a
4 person who purchases a replacement lead-acid battery of a type
5 listed in paragraph (1), (2), or (4) of subdivision ~~(e)~~ (f) of Section
6 25215.1 and who does not simultaneously provide the dealer with
7 a used lead-acid battery of the same type and size a refundable
8 deposit for each such battery purchased. The dealer shall display
9 the amount of the deposit separately on the receipt provided to the
10 purchaser. The dealer shall refund the deposit to that person if,
11 within 45 days of the sale of the replacement lead-acid battery, the
12 person presents to the dealer a used lead-acid battery of the same
13 type and size. A dealer may require the person to provide a receipt
14 documenting the payment of the deposit before refunding any
15 deposit. A dealer may keep any lead-acid battery deposit moneys
16 that are not properly claimed within 45 days after the date of sale
17 of the replacement lead-acid battery, not including any sales tax
18 reimbursement charged to the consumer. Sales tax reimbursement
19 charged to the consumer on the amount of the deposit shall be
20 remitted to the ~~board~~. *California Department of Tax and Fee*
21 *Administration*.

22 (c) A dealer shall post a written notice that is clearly visible in
23 the public sales area of the establishment, or include on the
24 purchaser's receipt, the following language:

25
26
27 This dealer is required by law to charge a nonrefundable \$1 California battery
28 fee and a refundable deposit for each lead-acid battery purchased.

29
30 A credit of the same amount as the refundable deposit will be issued if a used
31 lead-acid battery is returned at the time of purchase or up to 45 days later along
32 with this dealer's receipt.

33
34 (d) The department shall provide notice of an alleged violation
35 of subdivision (c) to any person alleged to be in violation of that
36 subdivision no less than 60 days before the issuance of an order
37 or filing an action imposing a civil penalty pursuant to subdivision
38 (b) of Section 25189.2. If the person corrects the alleged violation
39 before the order is issued or the action is filed the department shall
40 not impose the civil penalty.

1 (e) Subdivision (c) does not apply to any of the following:

2 (1) A person whose ordinary course of business does not include
3 the sale of lead-acid batteries.

4 (2) A person that does not sell lead-acid batteries directly to
5 consumers, such as over-the-counter, but instead removes
6 nonfunctional or damaged batteries and installs new lead-acid
7 batteries as a part of an automotive repair dealer service.

8 (3) A business that removes lead-acid batteries and installs new
9 lead-acid batteries as a part of roadside services. “Roadside
10 services,” for purposes of this paragraph, means the services
11 performed upon a motor vehicle for the purpose of transporting
12 the vehicle or to permit it to be operated under its own power, by
13 or on behalf of a motor club holding a certificate of authority
14 pursuant to Chapter 2 (commencing with Section 12160) of Part
15 5 of Division 2 of the Insurance Code.

16 (f) Except as authorized by this article, a dealer shall not collect
17 a refundable deposit for a lead-acid battery from a person.

18 SEC. 3. Section 25215.25 of the Health and Safety Code is
19 amended to read:

20 25215.25. (a) (1) ~~On and after April 1, 2017, until March 31,~~
21 ~~2022, a~~ California battery fee of one dollar (\$1) shall be imposed
22 on a person for each replacement lead-acid battery of a type listed
23 in paragraph (1), (2), or (4) of subdivision ~~(e)~~ (f) of Section 25215.1
24 purchased from a ~~dealer~~. *dealer, except as specified in subdivision*
25 *(c).* ~~On and after April 1, 2017, until March 31, 2022, the amount~~
26 ~~of the fee shall be one dollar (\$1). On and after April 1, 2022, the~~
27 ~~amount of the fee shall be two dollars (\$2).~~

28 (2) Except for sales to businesses, the dealer shall charge a
29 person the amount of the California battery fee as a charge that is
30 separate from, and not included in, any other fee, charge, or other
31 amount paid by the person.

32 (3) The dealer shall collect the California battery fee at the time
33 of sale and may retain 1 ½ percent of the fee as reimbursement for
34 any costs associated with the collection of the fee. The remainder
35 of the California battery fee collected by the dealer shall be paid
36 to the ~~board~~ *California Department of Tax and Fee Administration*
37 in a manner and form prescribed by the ~~board~~ *California*
38 *Department of Tax Fee Administration* and at the time the return
39 is required to be filed, as specified in Section 25215.47.

1 (4) All moneys collected *or required to be collected* by a dealer
2 pursuant to this section that are not properly remitted to the ~~board~~
3 *California Department of Tax and Fee Administration* pursuant
4 to paragraph (3) shall be deemed to be a debt owed to the state by
5 the dealer.

6 (5) A person who purchases a replacement lead-acid battery in
7 this state is liable for the California battery fee until that fee has
8 been paid to the ~~board~~, *California Department of Tax and Fee*
9 *Administration*, except that payment to a dealer registered under
10 this article is sufficient to relieve the person from further liability
11 of the fee.

12 (6) All moneys remitted to the ~~board~~ *California Department of*
13 *Tax and Fee Administration* pursuant to this subdivision shall be
14 expended in accordance with Section 25215.5.

15 (b) (1) Except for sales to businesses, the California battery fee
16 imposed pursuant to subdivision (a) shall be separately stated by
17 the dealer on the invoice given to a person at the time of sale. Any
18 other fee charged by the dealer related to the lead-acid battery
19 purchase, including any deposit charged, credited, or both, pursuant
20 to Section 25215.2, shall be identified separately from the
21 California battery fee.

22 (2) If a person purchases more than one lead-acid battery in a
23 single transaction, and is therefore imposed more than one
24 California ~~lead-acid~~ battery fee in that transaction, the dealer shall
25 not be required to individually list on the invoice each California
26 ~~lead-acid~~ battery fee imposed, but may instead condense the fees
27 to a single-line item.

28 (c) *If a new motor vehicle dealer sells or leases to a person a*
29 *used vehicle into which the new motor vehicle dealer has*
30 *incorporated a replacement lead-acid battery, the California*
31 *battery fee imposed by paragraph (1) of subdivision (a) shall not*
32 *apply to the person with regard to that replacement lead-acid*
33 *battery. For purposes of this subdivision, “new motor vehicle*
34 *dealer” has the same meaning as is specified in Section 426 of the*
35 *Vehicle Code, and “used vehicle” has the same meaning as is*
36 *specified in Section 665 of the Vehicle Code.*

37 SEC. 4. Section 25215.3 is added to the Health and Safety
38 Code, to read:

39 25215.3. (a) A person who manufactures a lead-acid battery
40 and is not subject to the jurisdiction of the state may agree in

1 writing with the importer of that lead-acid battery to pay the
2 manufacturer battery fee imposed pursuant to Section 25215.35
3 on behalf of the importer.

4 (b) A person who pays the manufacturer battery fee on behalf
5 of an importer pursuant to subdivision (a) shall be credited,
6 pursuant to Section 25215.56, for that payment, if the person does
7 all of the following:

8 (1) The person submits to the jurisdiction of the state for
9 purposes of the fees imposed under this article and registers with
10 the California Department of Tax and Fee Administration to pay
11 and remit the manufacturer battery fee.

12 (2) The person provides to the purchaser a statement on the
13 invoice, contract, or other record documenting the transaction that
14 includes the following information:

15 (A) The person's manufacturer account number with the
16 California Department of Tax and Fee Administration.

17 (B) An identification of the lead-acid battery or batteries sold
18 that will be subject to the manufacturer battery fee.

19 (C) A statement that the person will pay the manufacturer battery
20 fee to the state on behalf of the importer.

21 (3) The person retains records sufficient to document that the
22 lead-acid battery for which the person has agreed to pay the
23 manufacturer battery fee was delivered for retail sale in California,
24 the identity of the purchaser of that battery, and that the statement
25 required by paragraph (2) was provided to the purchaser of the
26 battery in a timely manner pursuant to subdivision (c). The person
27 shall retain these records for a period of no less than four years
28 and shall make the records reasonably available to the California
29 Department of Tax and Fee Administration upon request.

30 (c) (1) A purchaser of a lead-acid battery who receives a timely
31 statement from a manufacturer pursuant to paragraph (2) of
32 subdivision (b), and any subsequent purchaser of that battery, shall
33 be relieved from any obligation imposed pursuant to Section
34 25215.35 on the sale of that battery, provided that the manufacturer
35 remits payment of the manufacturer battery fee to the state for the
36 sale of that battery. A statement shall be considered timely if it is
37 issued before the manufacturer bills the purchaser for the lead-acid
38 battery, within the manufacturer's normal billing and payment
39 cycle, before delivery of the battery to the purchaser, or before the
40 date on which a return would be due pursuant to Section 25215.47.

1 (2) An importer who has paid the manufacturer battery fee for
2 a lead-acid battery and who subsequently receives an untimely
3 statement that the fee has been paid for that battery may file a
4 claim for a refund for any overpaid fees as provided in Article 3
5 (commencing with Section 55081) of Chapter 3 of, and Article 1
6 (commencing with Section 55221) of Chapter 5 of, Part 30 of
7 Division 2 of the Revenue and Taxation Code.

8 (d) (1) On or before January 1, 2021, the California Department
9 of Tax and Fee Administration shall submit to the Legislature a
10 report relating to persons who have paid the manufacturer battery
11 fee on behalf of an importer pursuant to subdivision (a). The report
12 shall include, but is not limited to, all of the following information:

13 (A) Any regulations or policies adopted by the California
14 Department of Tax and Fee Administration for purposes of
15 ensuring compliance with the registration, returns, reporting,
16 payments, audits, refunds, or collection requirements related to
17 the manufacturer battery fee.

18 (B) The revenue impact as determined by the revenues paid or
19 collected compared to the estimated revenue amount calculated
20 by the Senate Committee on Appropriations in its analysis of the
21 fiscal impact of Assembly Bill 2153 (Chapter 666 of the Statutes
22 of 2016), adjusted as deemed appropriate by the California
23 Department of Tax and Fee Administration to account for
24 differences in reporting periods and to account for exemptions or
25 exclusions that were not previously accounted for in that analysis
26 or that were enacted after January 1, 2018.

27 (C) The fiscal impact of the manufacturer battery fee, including
28 costs required to ensure compliance, costs related to audits, refunds,
29 and administering regulations, and estimated cost savings.

30 (2) A report required to be submitted pursuant to this subdivision
31 shall be submitted in compliance with Section 9795 of the
32 Government Code.

33 (3) Pursuant to Section 10231.5 of the Government Code, the
34 requirement for submitting a report pursuant to this subdivision is
35 inoperative on January 1, 2025.

36 SEC. 5. Section 25215.35 of the Health and Safety Code is
37 amended to read:

38 25215.35. (a) ~~On and after April 1, 2017, a~~ *A* manufacturer
39 battery fee of ~~one dollar (\$1)~~ *two dollars (\$2)* shall be imposed on
40 a manufacturer of lead-acid batteries for each lead-acid battery it

1 sells at retail to a person in California or that it sells to a dealer,
2 wholesaler, distributor, or other person for retail sale in California.

3 (b) Manufacturer battery fees shall be paid to the ~~board~~
4 *California Department of Tax and Fee Administration* in a manner
5 and form as prescribed by the ~~board~~ *California Department of Tax*
6 *and Fee Administration* and at the time the return is required to
7 be filed, as specified in Section 25215.47.

8 ~~(e) This section shall become inoperative on April 1, 2022, and,~~
9 ~~as of January 1, 2023, is repealed, unless a later enacted statute,~~
10 ~~that becomes operative on or before January 1, 2023, deletes or~~
11 ~~extends the dates on which it becomes inoperative and is repealed.~~

12 SEC. 6. Section 25215.45 of the Health and Safety Code is
13 amended to read:

14 25215.45. (a) (1) Except as provided in paragraph (2), the
15 lead-acid battery fees imposed pursuant to Sections 25215.25 and
16 25215.35 shall be collected by the ~~board~~ *California Department*
17 *of Tax and Fee Administration* in accordance with the Fee
18 Collection Procedures Law (Part 30 (commencing with Section
19 55001) of Division 2 of the Revenue and Taxation Code). For the
20 purposes of this section, the reference to “feepayer” shall include
21 a dealer and manufacturer.

22 (2) Notwithstanding the petition for redetermination and claim
23 for refund provisions of the Fee Collection Procedures Law (Article
24 3 (commencing with Section 55081) of Chapter 3 of, and Article
25 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of
26 Division 2 of the Revenue and Taxation Code), the ~~board~~
27 *California Department of Tax and Fee Administration* shall not
28 do either of the following:

29 (A) Accept or consider any petition for redetermination of fees
30 determined under this article if the petition is founded upon the
31 grounds that a battery is or is not a lead-acid battery, as defined in
32 Section 25215.1. The ~~board~~ *California Department of Tax and*
33 *Fee Administration* shall forward to the department any petition
34 for redetermination that is based on those grounds.

35 (B) Accept or consider a claim for refund of fees paid pursuant
36 to this article, if the claim for refund is founded upon the grounds
37 that a battery is or is not a lead-acid battery, as defined in Section
38 25215.1. The ~~board~~ *California Department of Tax and Fee*
39 *Administration* shall forward to the department any claim for refund
40 that is based on these grounds.

1 (b) The following persons shall register with the ~~board~~:
2 *California Department of Tax and Fee Administration:*

3 (1) A dealer of lead-acid batteries.

4 (2) ~~(A) A manufacturer of lead-acid batteries.~~ *batteries, unless*
5 *subparagraph (B) applies.*

6 *(B) A person is not required to register with the California*
7 *Department of Tax and Fee Administration as a manufacturer of*
8 *lead-acid batteries if the person has an agreement or agreements*
9 *pursuant to Section 25215.3 with a manufacturer or manufacturers*
10 *of lead-acid batteries pursuant to which the manufacturer or*
11 *manufacturers agree to pay the manufacturer battery fee on behalf*
12 *of the person and the agreement or agreements apply to all*
13 *lead-acid batteries sold by the person. A person exempt from*
14 *registration pursuant to this subparagraph shall comply with any*
15 *other applicable requirements that may be prescribed by the*
16 *California Department of Tax and Fee Administration.*

17 SEC. 7. Section 25215.48 is added to the Health and Safety
18 Code, to read:

19 25215.48. Notwithstanding subdivision (b) of Section 55381
20 of the Revenue and Taxation Code, the California Department of
21 Tax and Fee Administration may disclose the name, address,
22 account number, and account status of a person registered with
23 the California Department of Tax and Fee Administration to pay
24 the manufacturer battery fee. Account status shall not include the
25 amount of the manufacturer battery fee paid by any person.

26 SEC. 8. Section 25215.5 of the Health and Safety Code is
27 amended to read:

28 25215.5. (a) Lead-acid battery fees collected pursuant to this
29 article shall be managed as follows:

30 (1) The board shall retain moneys necessary for the payment of
31 refunds and reimbursement of the board for expenses in the
32 collection of the fees.

33 (2) The remaining moneys shall be deposited into the Lead-Acid
34 Battery Cleanup Fund, which is hereby created in the State
35 Treasury, and is available upon appropriation by the Legislature
36 to the department for the purposes specified in this section.

37 (b) (1) Moneys in the Lead-Acid Battery Cleanup Fund shall
38 be expended for the following activities:

39 (A) Investigation, site evaluation, cleanup, remedial action,
40 removal, monitoring, or other response actions at any area of the

1 state that is reasonably suspected to have been contaminated by
2 the operation of a lead-acid battery recycling facility.

3 (B) Administration of the Lead-Acid Battery Cleanup Fund and
4 the department's administration and implementation of this article.

5 (C) Repayment of a loan described in Section 25215.59 that
6 was made before the effective date of the act which added this
7 section, or any other loan made for purposes set forth in
8 subparagraph (A). *Moneys shall be expended for purposes of this*
9 *subparagraph only after the activities specified in subparagraphs*
10 *(A) and (B) have been fully funded.*

11 (2) Moneys in the Lead-Acid Battery Cleanup Fund shall not
12 be used to implement Article 14 (commencing with Section 25251)
13 with respect to lead-acid batteries or to loan moneys to any other
14 program.

15 (c) The department shall report to the Legislature by February
16 1, 2018, and annually thereafter, on the status of the Lead-Acid
17 Battery Cleanup Fund and on the department's progress
18 implementing this article, including, but not limited to, the sites
19 at which actions were performed using moneys from the fund, the
20 status of cleanup at those sites, including total anticipated costs of
21 cleanup at those sites, the balance of the fund, the amount of fees
22 remitted to the fund, the amount spent by the fund and the purposes
23 for which those amounts were spent, the amounts reimbursed to
24 the board pursuant to paragraph (1) of subdivision (a), and any
25 other information requested by the Legislature.

26 SEC. 9. Section 25215.56 of the Health and Safety Code is
27 amended to read:

28 25215.56. (a) Any manufacturer battery fees ~~paid~~ remitted
29 pursuant to this article *shall, subject to subdivision (b) of Section*
30 *25215.3, be credited to the account of the manufacturer remitting*
31 *those fees to the California Department of Tax and Fee*
32 *Administration and shall be credited against amounts owed by the*
33 *manufacturer to the state pursuant to a judgment or determination*
34 *of liability under Chapter 6.8 (commencing with Section 25300)*
35 *or any other law for removal, remediation, or other response costs*
36 *relating to a release of a hazardous substance from a lead-acid*
37 *battery recycling facility. A manufacturer shall not seek more than*
38 *one credit for the same fee amount. This subdivision does not apply*
39 *to any manufacturer who is also an owner or operator of a lead-acid*
40 *battery recycling facility in California.*

1 (b) The amount paid by a manufacturer for a manufacturer
2 battery fee shall be considered to reduce the manufacturer's share
3 of liability in the allocation or apportionment of costs among
4 potentially responsible parties in a contribution action brought by
5 a private party related to a release of hazardous substances from
6 a lead-acid battery recycling facility. This subdivision does not
7 apply to any manufacturer who is also an owner or operator or a
8 former owner or operator of a lead-acid battery recycling facility
9 in California where a release occurred.

10 (c) This article does not create a private cause of action. Nothing
11 in this article shall be construed to affect, expand, alter, or limit
12 any requirements, duties, rights, or remedies under other law, or
13 limit the state or any other party from bringing any cause of action
14 that may exist under any law.

15 SEC. 10. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety within
17 the meaning of Article IV of the California Constitution and shall
18 go into immediate effect. The facts constituting the necessity are:

19 In order to increase the cleanup of toxic materials and to prevent
20 additional toxic pollution at the earliest possible time, it is
21 necessary that this act take effect immediately.



South Coast

Air Quality Management District

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ATTACHMENT 5

HOME RULE ADVISORY GROUP

Wednesday, January 9, 2019

MEETING MINUTES

CHAIR: Dr. Joseph Lyou, SCAQMD Governing Board Member

MEMBERS PRESENT:

Curt Coleman (Southern California Air Quality Alliance); Martin Hansberger (Holliday Rock Company); Bill LaMarr (California Small Business Alliance); David Rothbart (Los Angeles County Sanitation District); and TyRon Turner (Dakota Communications).

The following members participated by conference call: Marc Carrel (Breathe California of Los Angeles County); Brian Clerico (CARB); Rongsheng Luo (SCAG); Bill Quinn (California Council for Environmental & Economic Balance).

MEMBERS ABSENT:

Ben Benoit (SCAQMD Governing Board Member); Mike Carroll (Regulatory Flexibility Group); Michael Downs (Downs Energy); Bridget McCann (Western States Petroleum Association); Dan McGivney (Southern California Gas); Art Montez (AMA International); Dr. Clark Parker (SCAQMD Governing Board Member); Larry Rubio (Riverside Transit Agency); Larry Smith (Cal Portland Cement); and Amy Zimpfer (EPA).

OTHER ATTENDEES:

Mark Abramowitz (Board Consultant to Dr. Lyou); Bernie Bisham; Rita Loof (RadTech); and Susan Stark (Marathon Petroleum).

SCAQMD STAFF:

Jill Whynot	Chief Operating Officer
Philip Fine	Deputy Executive Officer
William Wong	Principal Deputy District Counsel
Sam Atwood	Media Relations Manager
Lisa Tanaka O'Malley	Senior Public Affairs Manager
Angela Kim	Administrative Secretary

OPENING COMMENTS AND SELF-INTRODUCTIONS

The meeting was called to order at 10:01 a.m. by Dr. Joseph Lyou (Chairman).

APPROVAL OF JULY 2018 MEETING MINUTES

Dr. Lyou asked for comments on the November 14, 2018 meeting minutes. Hearing none, the minutes were approved.

EPA AND FEDERAL ACTIVITIES

Due to the federal government shutdown, there was no meeting participation by EPA staff.

Discussion

Curt Coleman reported that the proposed approval for the latest Ozone SIP was published in the Federal Register in December 2018, along with a final approval of the PM2.5 SIP. Dr. Fine clarified that the final approval did not include the contingency measures.

Phil Fine reported on EPA's Cleaner Truck Initiative (CTI) announced in November 2018, which will change the tailpipe standards for new purchases of heavy-duty trucks.

Bill La Marr inquired if SCAQMD has received feedback from the trucking associations. Dr. Fine indicated that feedback was received from the engine manufacturers association and truck manufacturers.

David Rothbart inquired how this will influence the timing on attainment. Dr. Fine indicated that the implementation date for new purchases will be 2023 – 2024, which will not help SCAQMD with the 2023 Standard. Mr. Rothbart further inquired if it is not possible to reach attainment, are the possible consequences being considered. Dr. Fine indicated that SCAQMD is thinking ahead and we are working on this internally. Dr. Lyou added that there are legal liabilities if you do not have a viable plan.

CARB REGULATORY ACTIVITIES

Brian Clerico provided CARB updates on proposed and recent regulatory activities.

Proposed CARB Board and Regulatory Activities

- Consideration of the San Joaquin Valley PM2.5 State Implementation Plans
- Consider Proposed Amendments to the Solid Waste Collection Vehicle Regulation.

Follow-up from November 2018 meeting

Phil Fine provided an update on CARB's emissions inventory regulation for reporting criteria of air pollutants and toxic air contaminants.

Discussion

Dr. Lyou indicated that it seems like CARB is concerned about districts that do not have sufficient emissions data available, or do they look at SCAQMD as the largest district and indicate that more data should be provided. Dr. Fine replied that it is a combination of both.

Bill LaMarr inquired about emission reporting requirements for disadvantaged communities. Dr. Fine indicated that CARB's staff recommendation was to eliminate the "only within community" emissions reporting requirements and have a threshold approach. Mr. LaMarr also inquired about the changes requested by CARB's Board, and if these changes were approved. Mr. Clerico indicated that he would need to follow-up on this. Jill Whynot added that it is her understanding that CARB staff has up to a year to finalize the regulation and they will prepare a revised proposal, which will have a 15-day public review period.

David Rothbart inquired about the air toxic thresholds. Dr. Fine indicated it is still unknown how this will be determined, because many smaller facilities are currently not required to assess their emissions.

Bill Quinn commented on double-jeopardy concerns between the air districts and CARB on the enforcement of annual emission reporting regulations.

LEGISLATIVE UPDATE

Lisa Tanaka O'Malley reported on key legislative updates.

The Legislative Committee held a meeting on December 14, 2018. The federal and state consultants provided written reports for the Committee and reported on the following items.

At the federal level, the consultants reported on the United States Environmental Protection Agency (U.S. EPA) Cleaner Trucks Initiative, which will begin the rulemaking process for an Ultra-Low NOx Emission Standard for Heavy-Duty Trucks.

On the state level, the consultants stated that the Legislative Analyst's office reported that the state has a \$15 billion surplus in revenue for 2019, with about \$14.5 billion in reserve. However, the Legislative Analyst's office also reports that the combined cost of bills introduced in the new year by the state Legislature totals over \$40 billion and there are more to come.

The Legislative Committee also recommended that the Governing Board approve the Federal and State 2019 Goals and Objectives.

Discussion

Dr. Lyou commented that California has a new Governor that was sworn into office on January 7, 2019, and he has begun to make appointments to his cabinet.

UPDATE REGARDING LITIGATION ITEMS AND RELATED EPA ACTIONS

William Wong provided updates to the December 2018 status report.

Case #3: It was reported that the petitioners had until December 23, 2018 to file an appeal. The update is that the appeal was filed on December 21, 2018.

Case #4: It was reported that we are in settlement negotiations. The update is that we are still in settlement negotiations and getting close to a settlement.

Discussion

Marc Carrel inquired if there was an update on case #2. Mr. Wong indicated that he did not have an update.

SUBCOMMITTEE STATUS REPORTS

A. Freight Sustainability (Dan McGivney)

No report was provided.

B. Small Business Considerations (Bill La Marr)

No report was provided.

Public Comment

Susan Stark indicated that she had heard that EPA is taking comments on whether to postpone the 2020 New Source Performance Standards (NSPS) for wood burning heaters, and inquired if this would impact attainment. Dr. Fine felt that change would not have much impact in South Coast.

C. Environmental Justice and AB 617 Implementation (Curt Coleman)

An update was provided on the following item.

- Wilmington/Carson/West Long Beach AB 617 Steering Committee meeting is scheduled for January 10, 2019 in the Carson Community Center.
- Martin Luther King event is scheduled for January 19, 2019

D. Climate Change (David Rothbart)

A report was provided on the following item.

- Climate change article reported that the United States CO2 emissions in 2018 increased by 3.4 percent, this is the second largest annual gain in more than two decades.

Discussion

Jaclyn Ferlita reported on CARB's December 2018 Cap and Trade Program amendments that addressed the post-2020 program.

REPORT FROM AND TO THE STATIONARY SOURCE COMMITTEE

Dr. Phil Fine provided a summary of items discussed at the December 2018 meeting.

- Proposed Rule 1118.1; and
- Proposed Amended Rule 1403.

The next Stationary Source Committee meeting is January 18, 2019.

Discussion

Bill LaMarr commented that he testified at the December 2018 Governing Board meeting on PR1118.1, for the SCAQMD to advocate to the California Public Utilities Commission (CPUC). Mr. LaMarr indicated that he did not understand the comment made by the SCAQMD Executive Officer on not wanting to advocate to another agency. Dr. Fine indicated that he understood that SCAQMD staff would look into this issue in the next few months and provide a briefing to the Stationary Source Committee for direction. Dr. Lyou commented that he also had questions on the Executive Officer's response, and this is why he asked for a staff briefing.

DISCUSSION ON 2019 MEETING TOPICS

Home Rule Advisory Group and public members provided input on possible future meeting topics for the 2019 calendar year.

- CPUC Regulations and Waste Gas Utilization (biogas and well gas)
- Renewable Energy and Reliability/Storage/Charging Infrastructure
- Enforcement Policy
- Trends in Emissions from Transportation (LDV vs. MDV vs. HDV)
- CARB Emissions Reporting Regulation
- CARB Truck and Bus Rule: Implementation and Enforcement
- Rule 1135 Internal Bank ERC Generation Accounting
- RECLAIM
- Rule 1106/1106.1

OTHER BUSINESS

Bill LaMarr inquired about Quemetco and the need for a battery recycling facility in Southern California. Dr. Lyou indicated that he was not aware of another lead acid secondary smelter west of Texas, and confirmed that the City of Industry facility is assuming the burden for the Western United States.

PUBLIC COMMENT

There were no comments.

ADJOURNMENT

The meeting was adjourned at 11:35 am, to be followed by less than a quorum of the committee participating in a tour of the AQ-SPEC located in the SCAQMD laboratory. The next meeting of the Home Rule Advisory Group is scheduled for 10:00 a.m. on March 13, 2019, and will be held at SCAQMD in Conference Room CC-8.