

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

Bay Area Air Quality Management District
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REVISED DRAFT MINUTES

Summary of Board of Directors
Legislative Committee Meeting
Wednesday, April 15, 2020

This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the committee participated by teleconference.

1. CALL TO ORDER – ROLL CALL

Legislative Committee (Committee) Chairperson, Margaret Abe-Koga, called the meeting to order at 8:30 a.m.

Present: Chairperson Margaret Abe-Koga; Vice Chairperson Brad Wagenknecht; and Directors John Bauters, Pauline Russo Cutter, John Gioia, Scott Haggerty, Davina Hurt, Tyrone Jue, and Karen Mitchoff.

Absent: Director David Canepa.

Also Present: Board Chair Rod Sinks.

2. CONSIDERATION OF NEW BILLS

Alan Abbs, Legislative Officer, explained that the Legislature is currently in Spring Recess, and that bills containing public health or wildfire/public safety power shutoff components may take precedence when the Legislature reconvenes.

The Committee and Air District staff discussed the following bills:

- **Smog Check Exemption** - Assembly Bills (AB) 1972 (Voepel) and 2225 (Grayson) – OPPOSE

AB 1972 would ensure that owners of collector cars are given the limited exemption from smog checks that is required by law.

DISCUSSION: Mr. Abbs said that this bill has been pulled by the author and will not be considered this year.

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

AB 2225 would exempt motor vehicles from smog check, regardless of model year, if the vehicle has specialty plates that have been issued to an owner of a motor vehicle that is operated primarily for purposes of historical exhibition and the vehicle meets certain requirements. This bill would exempt motor vehicles that have been issued with the specialty plate described above from the requirement that it be inspected biennially upon registration.

DISCUSSION: Mr. Abbs said that this bill has been pulled by the author and will not be considered this year.

— **Backup Generator Exemption Bills** - AB 2182 (B. Rubio), Senate Bill (SB) 802 (Glazer), SB 1099 (Dodd), and SB 1185 (Moorlach) – OPPOSE

AB 2182 would provide flexibility for all critical service providers to use and maintain emergency power generators for Public Safety Power Shutoff (PSPS) events. This flexibility would be accomplished by: (1) confirming that backup power generation during PSPS events is considered emergency use of generators; (2) ensuring that generator use for PSPS events is not limited by any time constraints; and, (3) by providing testing and maintenance flexibility for these backup generators due to the strenuous nature of their use during PSPS events. This bill would exempt the operation of an alternative power source, as defined, to provide power to a critical facility, as defined, from any local, regional, or state regulation regarding the operation of that source. The bill would authorize providers of essential public services, in lieu of compliance with applicable legal requirements, to comply with the maintenance and testing procedure set forth in the National Fire Protection Association Standard for Emergency and Standby Power System, NFPA 110, for alternative power sources designated by the providers for the support of critical facilities.

SB 802 would allow health facilities to operate emergency backup generators during public safety power shutoffs (PSPS) without having that usage count towards time limitations established by air districts. This bill would require an air district to adopt a rule or revise its existing rules, consistent with federal law, to allow a health facility that has received a permit from the district to construct and operate an emergency backup generator to use that emergency backup generator during a deenergization event without having that usage count toward any time limitation on actual usage and routine testing and maintenance included as a condition for issuance of that permit. By requiring air districts to adopt or revise its rules, the bill would impose a state-mandated local program.

SB 1099 would allow critical facilities, including water and wastewater agencies, to operate existing emergency backup generators during Public Safety Power Shutoffs (PSPS) or other losses of power without being out of compliance or subject to penalties from local air districts. This flexibility would ensure water continues to flow and wastewater continues to be treated during power outages, protecting public health and safety. This bill, consistent with federal law, would require air districts to adopt a rule, or revise its existing rules, to allow critical facilities with a permitted emergency backup generator to use that emergency backup generator during a deenergization event or other

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

loss of power, and to test and maintain that emergency backup generator, as specified, without having that usage, testing, or maintenance count toward that emergency backup generator’s time limitation on actual usage and routine testing and maintenance. The bill would prohibit air districts from imposing a fee on the issuance or renewal of a permit issued for those critical facility emergency backup generators. By requiring air districts to adopt a new permitting program for those critical facility emergency backup generators, the bill would impose a state-mandated local program. The bill also would define certain terms for purposes of these provisions.

SB 1185 would allow businesses and homeowners to install, maintain and use a back-up natural gas generator onsite for use in the event of a public safety power shut-off (PSPS) event. Specifically, this bill would prohibit an air district or the California Air Resources Board (CARB) from adopting or maintaining regulations that limit the use of a federally compliant natural gas-powered generator during a PSPS event. The bill additionally stipulates that any use of a natural gas generator during a PSPS event would not count toward any time limitation included in the permit issued for that generator. This bill would prohibit an air district from adopting or maintaining a rule that would limit or prohibit any person from using a federally compliant natural gas powered generator during a deenergization event and would require that any usage during a deenergization event not count toward any time limitation on actual usage and routine testing and maintenance included as a condition for issuance of any permit for that generator. The bill would prohibit the state board from adopting or maintaining a rule that would limit or prohibit any person from using a federally compliant natural gas-powered generator during a deenergization event. By prohibiting an air district maintaining existing rules, the bill would impose a state-mandated local program to revise any rule not in compliance with that prohibition.

DISCUSSION OF ALL FOUR BILLS: The Committee and staff discussed that all four bills will move forward this year for consideration; the Air District’s concern regarding potentially unlimited maintenance and testing of generators during power shutoffs; concerns from the industry about whether air districts will fine or shut down businesses’ operations for using generators during power shutoffs, and the concerns that small businesses will not be able to afford replacement generators during emergencies; the California Air Pollution Control Officers Association’s and South Coast Air Quality Management District’s opposition to this bill; how this bill could impact the Air District’s ability to regulate air quality; the quality of the Air District’s outreach to Senators Dodd and Glazer regarding their bills, and the request that additional outreach occurs; whether to adopt an Oppose Unless Amended position on these bills instead of Oppose, and the suggestion that Air District staff work with Senators Dodd and Glazer to amend their maintenance and testing language; and whether any proposed legislation exists that addresses cleaner (non-fossil fuel) alternatives to backup generators, and the suggestion that the Air District develops some strategies.

— **Mobile Fueling On-Demand Tank Vehicles - AB 2792 (Quirk) – OPPOSE**

AB 2792 takes the first steps to create a uniform, consistent, and reasonable standard of operation for mobile fueling on-demand tank vehicles. This bill would classify a mobile fueling on-demand tank vehicle, as defined, as a mobile source and would require that it

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

be regulated by the state board. The bill would require the state board to adopt regulations on or before an unspecified date to achieve reductions in emissions attributable to mobile fueling on-demand tank vehicles.

DISCUSSION: Mr. Abbs said that this bill will move forward for consideration this year.

— **Air Quality Activity Recommendations** - AB 2498 (Chu) – SUPPORT

AB 2498: Requires the California Interscholastic Federation (CIF) to cooperate with the Department of Education as members of the statewide air quality working group, to develop, communicate and maintain recommendations relating to air quality and its impact on athletic activity for schools. This bill would add to the Legislature’s intent policies that CIF shall cooperate with the State Department of Education to develop and maintain recommendations relating to air quality and its impact on athletic activity for schools, post on its internet website air quality activity recommendations for schools and air quality education materials, and require schools, as a condition of CIF membership, to ensure that their existing written emergency action plans educate administrators, staff, and coaches on air quality activity recommendations and education materials made available on CIF’s internet website.

DISCUSSION: Mr. Abbs said that he was unsure whether this bill would be moved forward this year or pulled by the author, and added that this is in alignment with the wildfire smoke activities the Air District has conducted and supported over the last few years.

— **Greenhouse Gases: Crude Oil Emissions** - AB 3217 (Gloria) – SUPPORT

AB 3217 would require disclosure of information, via crude oil assays, that is critical to understanding the environmental impact of oil produced and refined in California. Crude oil assays disclose the unique molecular and chemical characteristics of crude oils, which are essential to understanding their environmental impact. Additionally, AB 3217 would direct the California Air Resources Board (ARB) to assess total well-to-wheel life cycle greenhouse gas emissions associated with California-produced oils. This bill would require, no later than December 31, 2023, the state board, in cooperation with the Geologic Energy Management Division in the Department of Conservation and the State Energy Resources Conservation and Development Commission, to complete and publish an analysis of the life-cycle greenhouse gas emissions associated with crude oil produced in the state, as prescribed. The bill would require the state board to make a draft of the completed analysis and all supporting data, as specified, available for public comment.

DISCUSSION: Mr. Abbs said that he was unsure whether this bill would be moved forward this year or pulled by the author, and added that this bill is also known as the “Know Your Oil Act.”

The following are bills whose authors have requested the Air District’s support:

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

— **Green Electrolytic Hydrogen - SB 1122 (Skinner)**

SB 1122 would require the California Public Utilities Commission to consider green electrolytic hydrogen to be a zero carbon-emitting resource for purposes of identifying a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy resources in a cost-effective manner.

DISCUSSION: Mr. Abbs said that this bill has been pulled by the author and will not be considered this year.

— **Thermal Powerplants: Exemption: Emergency Backup and Standby Generators: Data Centers - SB 858 (Beall)**

SB 858 would ensure the California Energy Commission (CEC) retains jurisdiction over only those projects that ensure the state’s electricity supply and grid reliability. The statutory change will clarify the Energy Commission’s jurisdiction and allow local agencies to utilize their processes to efficiently permit backup generation that is functionally isolated at its installed site. This bill would exclude from the definition of a thermal powerplant subject to the jurisdiction of the commission an emergency backup or stationary *standby* generator that is not connected to the electrical grid and that is constructed, operated, or modified to provide immediate electrical power to maintain the operations of a data center in the event of an outage of electricity from the electrical grid.

DISCUSSION: Mr. Abbs recommended that the Committee refrain from taking a position at this time, and added that Air District staff will continue to work with the author. He also said that he believes that the CEC has expertise in conducting California Environmental Quality Act analyses and may be better at convincing facilities to choose cleaner power than other lead agencies.

Public Comments

No requests received.

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

Committee Action

Topic	Bill No.	Original Staff Recommendation	Committee Recommendation to Board
Smog Check Exemption	AB 1972 (Voepel)	Oppose	Not Applicable, as bill is not moving forward this year
	AB 2225 (Grayson)	Oppose	Not Applicable, as bill is not moving forward this year
Backup Generator Exemption	AB 2182 (B. Rubio)	Oppose	Oppose
	SB 802 (Glazer)	Oppose	Oppose
	SB 1099 (Dodd)	Oppose	Oppose
	SB 1185 (Moorlach)	Oppose	Oppose
Mobile Fueling On-Demand Tank Vehicles	AB 2792 (Quirk)	Oppose	Oppose
Air Quality Activity Recommendations	AB 2498 (Chu)	Support	Support
Greenhouse Gases: Crude Oil Emissions	AB 3217 (Gloria)	Support	Support
Green Electrolytic Hydrogen	SB 1122 (Skinner)	Consider supporting, upon author’s request	Not Applicable, as bill is not moving forward this year.
Thermal Powerplants: Exemption: Emergency Backup and Standby Generators: Data Centers	SB 858 (Beall)	Though author has requested support, wait to take action and develop bill language with author	Wait to take action and develop bill language with author

Director Bauters made a motion, seconded by Vice Chair Wagenknecht, to recommend that the Board of Directors adopts the positions captured in the final column of the above chart; and the motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Bauters, Cutter*, Gioia, Haggerty*, Hurt, Jue, Mitchoff*, Sinks, Wagenknecht.
- NOES: None.
- ABSTAIN: (See note below *)
- ABSENT: Canepa.

** Abstained from voting on SB 802 and SB 1099, but approved all other positions*

[CLERK’S NOTE: At the Bay Area Air Quality Management District’s April 15, 2020 Board of Directors meeting, immediately following this meeting, **a substitute motion, changing the recommendations for SB 802 and SB 1099 from “Oppose” to “Oppose Unless Amended and develop amendments”, was approved.**

REVISED Draft Minutes – Legislative Committee Meeting of April 15, 2020

3. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

4. COMMITTEE MEMBERS' COMMENTS / OTHER BUSINESS

No requests received.

5. TIME AND PLACE OF NEXT MEETING

Although the Committee Chair announced that the next meeting would be at the Call of the Chair, Air District staff confirmed that the next meeting would take place on Wednesday, April 22, 2020, at 10:30 a.m., via webcast, pursuant to procedures authorized by Executive Order N-29-20 issued by Governor Gavin Newsome.

6. ADJOURNMENT

The meeting adjourned at 9:16 a.m.

Marcy Hiratzka
Clerk of the Boards