ATTACHMENT 4

Petroleum Infrastructure Projects –Siting Authority

SUMMARY (Abbreviated Analysis)

Existing law grants the State Energy Resources and Conservation Development Commission exclusive authority to certify all locations where specified electric transmission lines or certain large thermal powerplants, or both, are constructed or proposed to be constructed, and related facilities, as defined. This bill would express the Legislature's intent to enact legislation that would create a state managed licensing authority for similar permitting of petroleum infrastructure projects.

BACKGROUND:

Existing law grants to the California Energy Commission exclusive authority to certify the siting of electric transmission lines and certain large thermal power plants.

BILL STATUS:

This bill was introduced and read for the first time on February 13, 2004 and sent to print. It has been sent to the Assembly Rules Committee for assignment. It may be heard in committee March 18.

SPECIFIC PROVISIONS OF BILL:

This spot bill expresses the Legislature's intent to enact legislation that would create a single state-managed licensing authority for the permitting of petroleum infrastructure projects (e.g., refineries and pipelines).

Because this bill is a "spot" bill, staff is providing the committee with an abbreviated analysis at this time. Staff will periodically update the Committee as the bill begins to take form and will bring the bill back to the Committee for the Committee's further consideration as appropriate.

OPERATIONAL IMPACT ON SCAQMD:

Depending upon the procedures established by the Legislature and the nature of projects and project modifications that would be handled under this program, additional complexity and time delays may be introduced into the permitting program through imposition of additional interagency coordination. This bill could result in taking away AQMD permit authority at refineries, which would have a negative effect on air quality.

SUPPORT:[1]

OPPOSITION:
None known at this time

RECOMMENDED POSITION:
OPPOSE

Creating a state one-stop program does not negate the local AQMD and refinery obligations under the federal permitting program. As such, it could create additional complexity and time delay for project proponents and local permitting agencies dealing with additional interagency coordination. Centralizing permitting activities in Sacramento would severely impact local community input opportunities and participation in projects that have proven significant impact on their day-to-day health and welfare.

Furthermore, this proposal fails to provide thoughtful analysis of what projects are to be the focus of the "one-stop" program. Power plant "one-stop permitting" applies only to the permitting of new generation facilities providing 50 or more megawatts and modifications to existing facilities to increase generation by 50 or more megawatts. Refinery infrastructure is far more complex as there is no definitive measure of production capacity at these facilities.

Furthermore, many refineries are subject to NESHAPS, NSPS, and federal permitting requirements under PSD. Proper administration of these complex programs requires specialized expertise and experience currently developed at the local air quality permit agencies. Development of the current proposals to date have been done at CEC and by their contractors without appropriate communication with the local air quality permitting agencies.

Lastly, AQMD continues to support permit streamlining where such action does not adversely impact local air quality or decision making.

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
AGREED WITH STAFF'S RECOMMENDATION TO OPPOSE

[1] Draft position given to Legislative Committee on March 12, 2004 listed Western States Petroleum Association as a supporter in error.

ASSEMBLY BILL No. 1991

Introduced by Assembly Member Lowenthal

February 13, 2004

An act relating to petroleum infrastructure projects.

LEGISLATIVE COUNSEL'S DIGEST

AB 1991, as introduced, Lowenthal. Petroleum infrastructure projects.

Existing law grants the State Energy Resources and Conservation Development Commission exclusive authority to certify all locations where specified electric transmission lines or thermal powerplants, or both, are constructed or proposed to be constructed, and related facilities, as defined.

This bill would express the Legislature's intent to enact legislation that would create a state managed licensing authority for similar permitting of petroleum infrastructure projects.

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

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

SECTION 1. The Legislature intends to enact legislation that would create a state managed licensing authority for the permitting of petroleum infrastructure projects. The Legislature intends that the licensing authority would consolidate and streamline existing permitting decisions into one process that would increase the supply of transportation energy products available to state businesses and consumers. The Legislature's objective is to

establish a one-stop permitting process that continues state environmental improvements and is analogous to the powerplant permitting process conducted by the State Energy Resources Conservation and Development Commission.

O

Petroleum Infrastructure Projects – Permitting Process

SUMMARY (Abbreviated Analysis)

The Warren-Alquist State Energy Resources Conservation and Development Act establishes a permitting process for powerplants. This bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to make recommendations to the Legislature for establishing a streamlined permitting process for petroleum-related infrastructure.

BACKGROUND:

Existing law grants to the California Energy Commission exclusive authority to certify the siting of electric transmission lines and certain large thermal power plants.

BILL STATUS:

This bill was introduced and read for the first time on February 13, 2004 and sent to print. It has been sent to the Assembly Rules Committee for assignment. It may be heard in committee March 18.

SPECIFIC PROVISIONS OF BILL:

This bill requires the Energy Commission to make recommendations to the Legislature for establishing a streamlined permitting process for petroleum-related infrastructure.

Since this bill is essentially a "spot" bill, staff is providing the committee with an abbreviated analysis at this time. Staff will periodically update the Committee as the bill begins to take form and will bring the bill back to the Committee for the Committee's further consideration as appropriate.

OPERATIONAL IMPACT:

Depending upon the procedures established by the Legislature and the nature of projects and project modifications that would be handled under this program, additional complexity and time delays may be introduced into the permitting program through imposition of additional interagency coordination.

This bill could result in taking away AQMD permit authority at refineries, which could have a negative effect on air quality.

SUPPORT:[1]

OPPOSITION:
None known at this time

RECOMMENDATION:
OPPOSE

Creating a state one-stop program does not negate the local AQMD and refinery obligations under the federal permitting program. As such, it could create additional complexity and time delay for project proponents and local permitting agencies dealing with additional interagency coordination. Centralizing permitting activities in Sacramento would severely impact local community input opportunities and participation in projects that have proven significant impact on their day-to-day health and welfare.

Furthermore, this proposal fails to provide thoughtful analysis of what projects are to be the focus of the "one-stop" program. Power plant "one-stop permitting" applies only to the permitting of new generation facilities providing 50 or more megawatts and modifications to existing facilities to increase generation by 50 or more megawatts. Refinery infrastructure is far more complex as there is no definitive measure of production capacity at these facilities.

Furthermore, many refineries are subject to NESHAPS, NSPS, and federal permitting requirements under PSD. Proper administration of these complex programs requires specialized expertise and experience currently developed at the local air quality permit agencies. Development of the current proposals to date have been done at CEC and by their contractors without appropriate communication with the local air quality permitting agencies.

Lastly, AQMD continues to support permit streamlining where such action does not adversely impact local air quality or decision making.

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
AGREED WITH STAFF'S RECOMMENDATION TO OPPOSE

[1] Draft position given to Legislative Committee on March 12, 2004 listed Western States Petroleum Association as a supporter in error.

ASSEMBLY BILL No. 2305

Introduced by Assembly Member Richman

February 19, 2004

An act relating to energy resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2305, as introduced, Richman. Petroleum infrastructure: permitting process.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes a permitting process for powerplants.

This bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to make recommendations to the Legislature for establishing a streamlined permitting process for petroleum-related infrastructure.

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

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

SECTION 1. (a) The Legislature finds and declares that a major barrier to expanding petroleum infrastructure is the difficulty in acquiring construction permits from federal, state, and local authorities.

(b) The State Energy Resources Conservation and Development Commission shall make recommendations to the

Legislature for establishing a streamlined permitting process for petroleum-related infrastructure.

O

VEHICLES: PREFERENTIAL LANES

SUMMARY:

This bill intends to promote low emission and high fuel efficiency vehicles by allowing preferential access to HOV lanes or reducing user's fees.

BACKGROUND:

Existing law permits the use of exclusive or preferential use of highway lanes or highway access ramps by ultra low-emission vehicles (ULEV) and super ultra-low emission vehicles (SULEV), that have displayed a distinctive decal, label, or other identifier issued by the Department of Motor Vehicles.

Additionally, if approved by the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under that commission's jurisdiction to any vehicle pursuant to law, that commission may grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued pursuant to the provisions of the law.

This bill would include vehicles that meet California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions that are rated at 45 miles per gallon or higher on the federal highway fuel economy test procedure, and gas/electric hybrid vehicles that were produced during the 2004 model year or earlier and have a combined fuel economy rating of 45 miles per gallon or greater according to the federal highway fuel economy test procedure and meet California's ultra-low emission vehicle (ULEV) standard for exhaust emissions, within the scope of vehicles permitted to be issued a decal, label, or other identifier to use the exclusive or preferential highway lanes or highway access ramps and toll-free and reduced-rate passage on specified bridges.

The bill would not allow a vehicles that meets the AT PZEV standards, except as specified, or a described gas/electric hybrid vehicle, to be issued a decal, label, or other identifier unless and until the federal government acts to approve the use of high occupancy vehicle lanes by hybrid vehicles regardless of the number of occupants.

Existing law authorizes the Governor to remove individual high-occupancy vehicle lanes, a portion of those lanes, during periods of peak congestion from the ILEV and AT PZEV access after certain findings are made by the Department of Transportation.

This bill would grant the Department of Motor Vehicles that authority rather than the Governor.

BILL STATUS:

This bill was introduced and read for the first time on February 20, 2004 and was sent to print. It came from print on February 22, 2004 and may be heard in committee March 23.

SPECIFIC PROVISIONS OF BILL:

This bill promotes the use of low emission and high mileage vehicles by giving them access to HOV lanes and reduced user fees. Such vehicles would be treated similar to vehicles currently able to use HOV lanes.

1. The Department of Motor Vehicles, for a fee determined to be sufficient to reimburse it for actual costs, will have the ability to issue distinctive decals, labels and other identifiers that clearly distinguish the following vehicles from other vehicles as those being allowed access to HOV lanes:
    a. SULEV
    b. ILEV
    c. AT PZEV
    d. ULEV
2. Owners of AT PZEVs, ILEVs or gas/electric hybrid vehicles will not be entitled to a decal, label or other identifier until the federal government acts to approve the use of high occupancy vehicle lanes by hybrid vehicles, regardless of the number of occupants.
3. The Department of Motor Vehicles may remove individual high-occupancy vehicle lanes, or portions of those lanes, during periods of peak congestion from access provisions provided:
    a. The lane or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.
    b. The operation of such vehicles will significantly increase congestion.
4. The findings shall demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles or further increasing vehicle occupancy.

5. The Department of the California Highway Patrol shall design and specify the placement of the decal, label, or other identifier, which shall display a unique number printed on, or affixed to, the vehicle registration.
6. If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to any vehicle pursuant to Section 30102.5 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to vehicles that meet one of the standards contained within subdivision (a) of this bill.
7. The bill shall remain in effect only until January 1, 2008, unless a later enacted statute extends that date.
8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
9. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

OPERATIONAL IMPACT ON SCAQMD:

The District has no functional responsibility in implementing this legislation.

SUPPORT:

OPPOSITION:

None Known

RECOMMENDED POSITION:
SUPPORT with amendments as noted below:

- Amend SECTION 1, paragraph (2):

(2) A gas/electric hybrid vehicle that was produced prior to September 2006 and meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions that is rated at 45 miles per gallon or higher on the federal highway fuel economy test procedure.

- Delete SECTION 1, paragraph (3):

~~*(3) A gas/electric hybrid vehicle that was produced during the 2004 model year or earlier and has a combined fuel economy rating of 45 miles per gallon or greater according to the federal highway fuel economy test procedure, and meets California's ultra-low emission vehicle (ULEV) standard for exhaust emissions.*~~

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
AGREED WITH STAFF'S RECOMMENDATION TO SUPPORT.

ASSEMBLY BILL No. 2628

Introduced by Assembly Member Pavley
(Principal coauthor: Assembly Member Nakano)

February 20, 2004

An act to amend Section 5205.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2628, as introduced, Pavley. Vehicles: preferential lanes.

(1) Existing law permits the use of exclusive or preferential use of highway lanes or highway access ramps by ultra low-emission vehicles (ULEV) and super ultra-low emission vehicles (SULEV), that have displayed a distinctive decal, label, or other identifier issued by the Department of Motor Vehicles.

Existing law requires, if the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under that commission's jurisdiction to any vehicle pursuant to law, that commission grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued pursuant to the above.

This bill would include vehicles that meet California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions that are rated at 45 miles per gallon or higher on the federal highway fuel economy test procedure, and gas/electric hybrid vehicles that were produced during the 2004 model year or earlier and have a combined fuel economy rating of 45 miles per gallon or greater according to the federal highway fuel economy test procedure and meet California's ultra-low emission vehicle (ULEV) standard for

exhaust emissions, within the scope of vehicles permitted to be issued a decal, label, or other identifier to use the exclusive or preferential highway lanes or highway access ramps and toll-free and reduced-rate passage on specified bridges. To the extent that this would increase the level of service of the commission, the bill would impose a state-mandated local program.

The bill would not allow a vehicle that meets the AT PZEV standards, except as specified, or a described gas/electric hybrid vehicle, to be issued a decal, label, or other identifier unless and until the federal government acts to approve the use of high occupancy vehicle lanes by hybrid vehicles regardless of the number of occupants.

(2) Existing law authorizes the Governor to remove individual high-occupancy vehicle lanes, a portion of those lanes, during periods of peak congestion from the ILEV and AT PZEV access after certain findings are made by the Department of Transportation.

This bill would grant the Department of Motor Vehicles that authority rather than the Governor.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

SECTION 1. Section 5205.5 of the Vehicle Code is amended to read:

5205.5. (a) ~~For the purposes of implementing Section 21655.9, beginning July 1, 2000, and through December 31, 2003, the department, in consultation with the Department of the California Highway Patrol, shall make available for issuance, for a fee determined by the department to be sufficient to reimburse~~

~~the department for actual costs incurred pursuant to this section, distinctive decals, labels, or other identifiers for vehicles that meet California's ultra-low emission vehicle (ULEV) standard for exhaust emissions and the federal ILEV evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations, in a manner that clearly distinguishes them from other vehicles.~~

~~(b)~~ For the purposes of implementing Section 21655.9, ~~beginning January 1, 2004, and through December 31, 2007,~~ the department shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for actual costs incurred pursuant to this section, distinctive decals, labels, and other identifiers ~~for~~ *that clearly distinguish the following vehicles from other* vehicles*:*

(1) A vehicle that ~~meet~~ *meets* California's super ultra-low emission vehicle (SULEV) standard for exhaust emissions and the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations~~, in a manner that clearly distinguishes them from other vehicles~~.

(2) A vehicle that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions that is rated at 45 miles per gallon or higher on the federal highway fuel economy test procedure.

(3) A gas/electric hybrid vehicle that was produced during the 2004 model year or earlier and has a combined fuel economy rating of 45 miles per gallon or greater according to the federal highway fuel economy test procedure, and meets California's ultra-low emission vehicle (ULEV) standard for exhaust emissions.

(b) Neither an owner of a vehicle that meets the AT PZEV standard, with the exception of a vehicle that meets the federal ILEV standard, nor an owner of a gas/electric hybrid vehicle described in paragraph (3) of subdivision (a), is entitled to a decal, label, or other identifier pursuant to this section unless, and until, the federal government acts to approve the use of high occupancy vehicle lanes by hybrid vehicles regardless of the number of occupants.

(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice,

or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.

(d) The ~~Governor~~ *department* may remove individual high-occupancy vehicle (HOV) lanes, or portions of those lanes, during periods of peak congestion from the ~~ILEV~~ access provisions provided in ~~subdivisions~~ *subdivision* (a) ~~and (b)~~, following a finding by the Department of Transportation as follows:

(1) The lane, or portion thereof, exceeds a level of service C, as discussed in subdivision (b) of Section 65089 of the Government Code.

(2) The operation or projected operation of the vehicles described in ~~subdivisions~~ *subdivision* (a) ~~and (b)~~ in these lanes, or portions thereof, will significantly increase congestion.

The finding also shall demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles, *or* further increasing vehicle occupancy~~, or adding additional capacity~~.

(e) For purposes of ~~subdivisions~~ *subdivision* (a) ~~and (b)~~, the Department of the California Highway Patrol shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which number shall be printed on, or affixed to, the vehicle registration.

(f) If the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under its jurisdiction to any vehicle pursuant to Section 30102.5 of the Streets and Highways Code, it shall also grant the same toll-free and reduced-rate passage to vehicles ~~displaying a valid ULEV or SULEV identifier issued by the department pursuant to subdivisions (a) and (b)~~ *that meet one of the standards contained in subdivision (a).*

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

O

AIR POLLUTION: SMOG CHECK

SUMMARY:

Existing law establishes motor vehicle inspection and maintenance programs (smog check & smog check II), administered by the Department of Consumer Affairs and the State Air Resources Board.

Existing law also requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed idle testing in all other program areas, and a visual or functional check of emission control devices specified by the department. Existing law exempted from those requirements, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, any motor vehicle that is 30 or more model-years old. This bill would instead exempt from the smog check requirements any motor vehicle manufactured prior to the 1976 model-year. This bill contains other related provisions and other existing laws.

BACKGROUND:

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board that provides for:

1. Inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances.
2. Establishes an enhanced motor vehicle inspection and maintenance program (smog check II) in each urbanized area of the state, any part of which is classified as a serious, severe, or extreme nonattainment area for specified air contaminants.

3. Requires smog tests to include, at a minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed idle testing in all other program areas, and a visual or functional check of emission control devices as specified.
4. Prior to January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year and any motor vehicle that is 30 or more model-years were exempted.
5. This bill would instead exempt from the smog check requirements any motor vehicle manufactured prior to the 1976 model-year.

A background paper prepared by the bill's sponsors is contained in Attachment 1.

BILL STATUS:

This bill was introduced on February 20, 2004 and has been referred to the Committee on Transportation.

SPECIFIC PROVISIONS OF BILL:

AB 2683 proposes to eliminate a provision which exempts vehicles 30 years or older from the smog check program in California. This 30 year exemption is based on the premise of a 30 year rolling average thus allowing the number of exempted vehicles to grow every year. The proposed amendment would exempt only those vehicles that are 1976 and older from the provisions of California's Smog Check Program. This amendment would cap the number of vehicles exempted in California's Smog Check Program to only those vehicles 1976 and older.

OPERATIONAL IMPACT ON SCAQMD:

This amendment would be beneficial to air quality relative to capping the number of exempt vehicles from California's Smog Check Program. Historically, studies have shown that older vehicles contribute disproportionately to California's on road motor vehicle inventory. The existing statutes would allow the number of exempt vehicles to grow relative to a 30 year rolling average. The contribution of emissions from older vehicles would continue to grow disproportionately if this provision of the statute is allowed to continue.

This amendment would have no effects on areas of responsibility for the SCAQMD since the Smog Check Program is implemented by the Bureau of Automotive Repair within the Department of Consumer Affairs.

SUPPORT:

OPPOSITION:

None known

STAFF RECOMMENDED POSITION:
SUPPORT

SCAQMD should support this amendment, as it increases the stringency of California's motor vehicle control on existing passenger, light duty trucks and medium duty vehicle inventory. From an equity standpoint, controlling motor vehicle emissions must be strengthened to achieve similar levels of control as stationary sources

MARCH 12, 2004 LEGISLATIVE COMMITTEE RECOMMENDED POSITION/COMMENTS:
WATCH
Staff was directed to meet with the classic car hobbyists and associations to receive their input prior to any recommendation from this committee.

Attachment One

Elimination of the Existing 30-Year Rolling Exemption

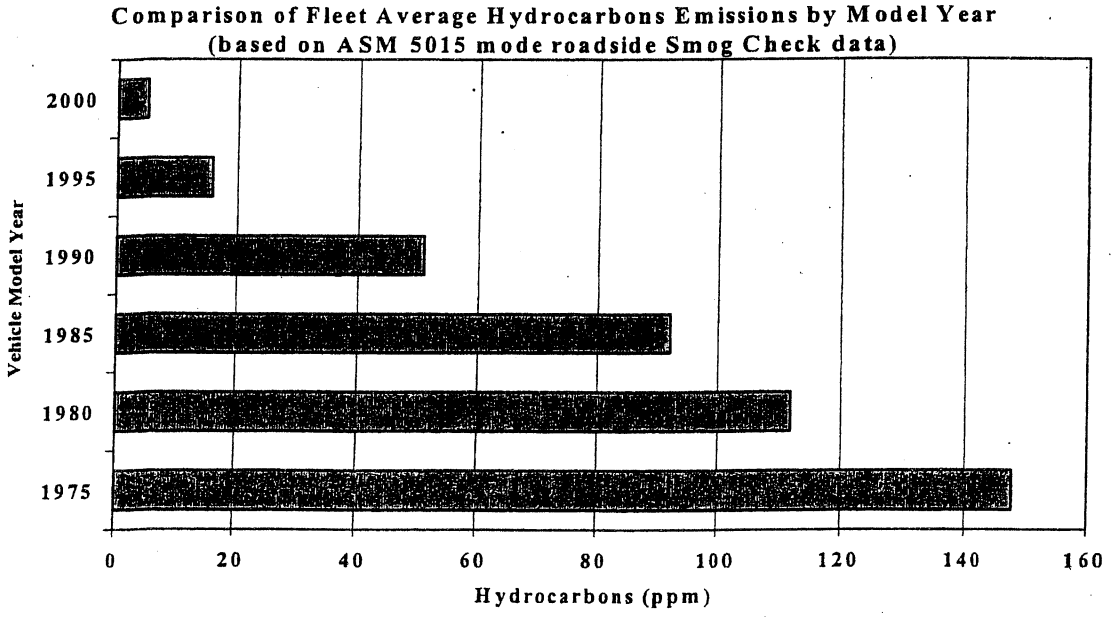
Background

In 1997, the Legislature modified the Smog Check program to exempt pre-1974 vehicles from the program. Beginning in January 2003, the legislation exempted motor vehicles 30 or more model years old from the Smog Check program. The range of model years exempted shifts annually. Hence, this has become known as the "30-year rolling exemption." (In 2003, 1975 to 1999 model year vehicles were subject to the Smog Check program, and in 2004, 1976 to 2000 model year vehicles are subject to the program.) Prior to the 1997 legislation, only pre-1966 model years had been exempt from the program.

The impact of exempting only the pre-1976 vehicles will lessen over time due to vehicle retirement. However, the 30-year rolling exemption essentially institutionalizes the loss in emission reductions. Because older vehicles contribute a disproportionate amount of emissions despite their relatively low numbers and use, excluding older vehicles from the program reduces the effectiveness of the Smog Check program.

Fast Facts

- An average 1975 model year car emits about 30 times more HC than a 2000 model year car.
- Pre-1976 model year cars account for 19 percent of the HC and eight percent of the NOx emissions from the light-duty fleet in 2004 despite accounting for only about 2.4 percent of the vehicle population and 1.2 percent of the miles traveled (based on the EMFAC2002 model).
- In 2010, pre-1982 cars (i.e., those exempt in 2010) are projected to account for 22 percent of the HC and 11 percent of the NOx emissions from the light-duty fleet despite accounting for only about 2.6 percent of the vehicle population and 1.3 percent of the miles traveled.



Evaluation

Table 1 presents the estimated 2010 emission benefit of eliminating the current 30-year rolling exemption and replacing it with an exemption for pre-1976 model years. If this change were implemented, approximately 340,000 additional model year 1976-1981 vehicles would remain in the program in 2010 compared to current provisions which would only require Smog Checks for 1982 and newer model year vehicles.

Table 1: 2010 Emission Benefits for Enhanced Areas from Replacing 30-Year Rolling Exemption with a Pre-1976 Model Year Exemption (Keeping Model Years 1976-1981 in the Program in 2010)

HC (tpd)	NOx (tpd)
2.7	3.0

The cost effectiveness of this program improvement is estimated to be a favorable $7,300 per ton. This cost effectiveness is calculated by dividing the program improvement costs by the combined HC and NOx benefits. The average ASM inspection cost and repair cost used to estimate the cost effectiveness are based on data from the 2002 BAR Executive Summary report. This analysis assumes a statewide initial test failure rate of about 31 percent, which is based on data for model years 1976 through 1981 from the Fiscal Year (FY) 2001 DCA/BAR Executive Summary report.

Table 2 shows the estimated 2010 emission benefits of including 1966 to 1975 model year vehicles in the enhanced Smog Check programs as had been originally envisioned in the 1994 SIP. The size of the 1966-1975 model year fleet in enhanced areas is estimated to be about 470,000 vehicles in 2004, dropping to about 240,000 vehicles in 2010 due to fleet turnover.

Table 2: 2010 Emission Benefits for Enhanced Areas from Adding 1966-1975 Model Year Vehicles to the Program

HC (tpd)	NOx (tpd)
7.6	3.3

Because the pre-1974 vehicles have been exempted since 1997, reintroduction of these vehicles into the biennial inspection cycle might result in relatively high failure rates and associated high repair costs. In addition, consumers owning pre-1974 vehicles might feel like a new burden is being imposed on them and strongly oppose the change. On the other hand, repeal of the rolling exemption should not generate the same level of opposition because the vehicles that would be affected are currently included in the biennial inspection cycle. Because these vehicles have not been exempted yet, repealing the exemption would not impose a new requirement upon these vehicle owners.

Regional Distributions

Benefits of Inspecting Older Vehicles Exempting pre-1976 vehicles[1,2]			
	CY 2010 tons per day		
	ROG	NOx	Total ROG + NOx
South Coast Air Basin	1.3	1.4	2.7
San Francisco Air Basin	0.6	0.7	1.3
San Joaquin Valley Air Basin	0.3	0.3	0.6
Sacramento Region[3]	0.2	0.2	0.4
Other Enhanced Areas	0.3	0.4	0.7
Statewide	2.7	3.0	5.7

Benefits of Inspecting Older Vehicles No exemption for older vehicles[4,5]			
	CY 2010 tons per day		
	ROG	NOx	Total ROG + NOx
South Coast Air Basin	4.8	3.0	7.8
San Francisco Air Basin	2.4	1.5	3.9
San Joaquin Valley Air Basin	1.0	0.6	1.6
Sacramento Region[3]	0.7	0.4	1.1
Other Enhanced Areas	1.4	0.8	2.2
Statewide	10.3	6.3	16.6

1. Assumes implementation of the pre-76 exemption on January 1, 2005
2. Adds MY 1976 - 1981 vehicles to Smog Check
3. Federal 1 hour ozone non-attainment area
4. Assumes removing exemption for older vehicles on January 1, 2005
5. Adds MY 1966 - 1981 vehicles to Smog Check

ASSEMBLY BILL No. 2683

Introduced by Assembly Member Lieber

February 20, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as introduced, Lieber. Air pollution: smog check.

(1) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law also establishes an enhanced motor vehicle inspection and maintenance program (smog check II) in each urbanized area of the state, any part of which is classified by the United States Environmental Protection Agency as a serious, severe, or extreme nonattainment area for specified air contaminants. Existing law also requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed testing in all other program areas, and a visual or functional check of emission control devices specified by the department. Existing law exempted from those requirements, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, any motor vehicle that is 30 or more model-years old.

This bill would instead exempt from the smog check requirements any motor vehicle manufactured prior to the 1976 model-year.

(2) Existing law makes any violation of the smog check requirements a misdemeanor.

To the extent that the bill would impose the smog check requirements on additional vehicles on and after January 1, 2007, this bill would impose a state-mandated local program by expanding the scope of a crime.

(3) 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:

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

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

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) ~~(A) Prior to January 1, 2003, any~~ *Any* motor vehicle manufactured prior to the ~~1974~~ *1976* model-year.

~~(B) Beginning January 1, 2003, any motor vehicle that is 30 or more model-years old.~~

(4) (A) Any motor vehicle four or less model-years old.

(B) Beginning January 1, 2004, any motor vehicle up to six model-years old, unless the state board finds that providing an exception for these vehicles will prohibit the state from meeting

the requirements of Section 176(c) of the *federal* Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with respect to the state implementation plan required by the *federal* Clean Air Act.

(C) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

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

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

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

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

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

O

AIR POLLUTION: CONFINED ANIMAL FACILITIES

SUMMARY:

This bill would prohibit a district from issuing a permit for any confined animal facility (CAF) prior to the completion of the scientific review by the state board. The bill would also make a technical, nonsubstantive change to delete redundant provisions within those requirements.

BACKGROUND:

Existing law:

1. Requires the State Air Resources Board (ARB) to develop a definition for the source category of a "large confined animal facility."
2. Requires each district designated as a federal nonattainment area for ozone as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation plan, no later than July 1, 2006, a rule or regulation that requires the owner or operator of a large confined animal facility, as the definition of that term is developed by the state board, to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

BILL STATUS:

This bill was introduced February 20, 2004 and may be heard in committee March 23.

SPECIFIC PROVISIONS OF BILL:

1. This bill seeks to amend SB 700 requirements and delay air districts from issuing permits to CAFs until the ARB finishes its "review of all available scientific information."
2. In SB 700, the ARB "review" was only mentioned in the context of determining the "large CAF" threshold, as part of the "emission reduction permit" required for said "large CAFs."
3. The Canciamilla amendment would postpone any permitting of CAFs, not just large CAF emission reduction permits, until after ARB's scientific review (no later than July 1, 2005 according to SB 700).

4. AB 2809 would "delay or otherwise affect" our rule or other requirements AQMD would impose and specifically removes the SB 700 text for Health & Safety Code Section 40724.6 that states that "nothing in this section shall delay or otherwise affect any action taken by a district ...."

OPERATIONAL IMPACT ON SCAQMD:

AB 2809 may run afoul of Title V regulations. Approximately one-third of the facility permits for farms exceeding the Title V applicability thresholds must be issued by the end of this year. It appears that AB 2809 would prohibit AQMD from issuing these permits and has the potential of jeopardizing AQMD's Title V program. Such impacts could lead to federal sanctions.

Under SB 700, Health and Safety Code Section 42301.16 still requires permitting of CAFs above the one-half major source threshold (new Reg II CAF permits) and AB 2809 would prohibit the AQMD from establishing those permits until July 1, 2005.

SUPPORT:
None Known

OPPOSITION:
None Known

RECOMMENDED POSITION:
OPPOSE

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
AGREED WITH STAFF'S RECOMMENDATION TO OPPOSE

ASSEMBLY BILL No. 2809

Introduced by Assembly Member Canciamilla

February 20, 2004

An act to amend Section 40724.6 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as introduced, Canciamilla. Air pollution: confined animal facilities.

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards in the state. Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the State Air Resources Board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction. Existing law requires the state board, on or before July 1, 2005, to review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a "large confined animal facility." Existing law requires each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation plan, not later than July 1, 2006, a rule or regulation that requires the owner or operator of a large

confined animal facility, as the definition of that term is developed by the state board, to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

This bill would prohibit a district from issuing a permit for a confined animal facility prior to the completion of the scientific review by the state board. The bill would also make a technical, nonsubstantive change to delete redundant provisions within those requirements.

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

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

SECTION 1. Section 40724.6 of the Health and Safety Code is amended to read:

40724.6. (a) On or before July 1, 2005, the state board shall review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a "large confined animal facility" for the purposes of this section. In developing that definition, the state board shall consider the emissions of air contaminants from those sources as they may affect the attainment and maintenance of ambient air quality standards.

(b) Not later than July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility, as defined by the state board pursuant to subdivision (a), to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

(c) A district may require a permit for a large confined animal facility with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district for any air contaminant, including, but not limited to, fugitive emissions in a manner similar to other source categories, if prior to imposing that requirement the district makes both of the following determinations in a public hearing:

(1) A permit is necessary to impose or enforce reductions in emissions of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(2) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(d) The rule or regulation adopted pursuant to subdivision (b) shall do all of the following:

(1) Require the owner or operator of each large confined animal facility to submit an application for a permit within six months from the date the rule or regulation is adopted by the district that includes both of the following:

(A) The information that the district determines is necessary to prepare an emissions inventory of all regulated air pollutants emitted from the operation, including, but not limited to, precursor and fugitive emissions, using emission factors approved by the state board in a public hearing.

(B) An emissions mitigation plan that demonstrates that the facility will use reasonably available control technology in moderate and serious nonattainment areas, and best available retrofit control technology in severe and extreme nonattainment areas, to reduce emissions of pollutants that contribute to the nonattainment of any ambient air quality standard, and that are within the district's regulatory authority.

(2) Require the district to act upon an application for permit submitted pursuant to paragraph (1) within six months of a completed application, as determined by the district.

(3) Require the owner or operator to implement the plan contained in the permit approved by the district, and shall establish a reasonable period, of not more than three years, after which each permit shall be reviewed by the district and updated to reflect changes in the operation or the feasibility of mitigation measures. The updates required by this paragraph are not required to be submitted for inclusion into the state implementation plan.

(4) Establish a reasonable compliance schedule for facilities to implement control measures within one year of the date on which the permit is approved by the district, and shall provide for 30 days public notice and comment on any draft permit.

(d) Prior to adopting a rule or regulation pursuant to subdivision (b), a district shall, to the extent data are available, perform an assessment of the impacts of the rule or regulation. The district shall consider the impacts of the rule or regulation in a public hearing, and make a good faith effort to minimize any adverse impacts. The assessment shall include all of the following:

(1) The category of sources affected, including, but not limited to, the approximate number of affected sources, and the size of those sources.

(2) The nature and quantity of emissions from the category, and the significance of those emissions in adversely affecting public health and the environment and in causing or contributing to the violation of a state or federal ambient air quality standard.

(3) The emission reduction potential.

(4) The impact on employment in, and the economy of, the region affected.

(5) The range of probable costs to affected sources and businesses.

(6) The availability and cost-effectiveness of alternatives.

(7) The technical and practical feasibility.

(8) Any additional information on impacts that is submitted to the district board for consideration.

(e) *(1)* Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(2) Notwithstanding the provisions of paragraph (1), a district may not issue a permit for a confined animal facility prior to the completion of the review described in subdivision (a).

(f) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Section 40703, 40727, and 40728.5.

(g) A permitholder may appeal any district determination or decision required by this section pursuant to Section 42302.1, in addition to any other applicable remedy provided by law.

(h) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Sections 40724 and 40724.5.

(i) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. ~~Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act.~~ This section may not be interpreted to delay or otherwise affect adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

O

VEHICLES: AB 2766 REGISTRATION FEE INCREASE

SUMMARY:

Existing law allows local air districts to impose a fee of up to $4.00 on motor vehicles registered within the district (a.k.a. the AB 2766 program).

This bill would increase the surcharge on motor vehicle registrations from the existing $4 to $6.

BACKGROUND:

Existing law requires the Department of Motor Vehicles, if requested by an air pollution control district or an air quality management district, to impose and collect a surcharge of not more than $4 on registration fees for every motor vehicle registered in that district, as specified by the governing body of the district. This bill would increase the specified fee amount to $6.

BILL STATUS:

This bill was introduced and read for the first time on February 20, 2004 and sent to print and the bill has not been referred to a committee and the bill may not be heard in a committee until after March 23.

SPECIFIC PROVISIONS OF BILL:

Amendments to H&S Section 41081 would allow the Sacramento Metropolitan AQMD to increase from $4.00 to $6.00 its surcharge on all motor vehicles registered in counties within the District. Under current law this fee increase is subject to approval of the board of supervisors of the respective counties.

H&S Section 44225 amendments would allow all other districts to increase the registration fee on motor vehicles to up to $6, provided that the following existing conditions are met:

1) The Governing Board of the district adopts and approves a resolution for both increasing the fee as well as an implementation program for expenditure of the increased fee for reducing emissions from motor vehicles.

2) The resolution has to be adopted by a majority of the governing board and a majority of the board members who are elected officials.

3) The increase in fee shall become effective on either April 1 or October 1, pursuant to the adopted resolution.

H&S Section 9250.2 of the vehicle code amendment would require the DMV to collect a surcharge of up to $6 on the registration fee for every motor vehicle registered, if requested by Sacramento Metropolitan Air Quality Management District.

OPERATIONAL IMPACT ON SCAQMD:

No immediate impact on AQMD fiscal or staff resources. Potential district revenue increase in the neighborhood of $20 million per year. Allocation of any new revenue would be controlled by the AB 2766 formula (30/40/40 split between the District, cities, and the MSRC).

SUPPORT: **OPPOSITION:**

CEERT (Sponsor)

RECOMMENDED POSITION:
SUPPORT

Bill provides the AQMD Board with additional flexibility that can be used at its sole discretion. Any funds collected can be used to achieve further reductions from motor vehicles beyond existing and proposed regulations toward attainment of air quality standards.

Staff notes that the existing fee and the proposed fee increase do not apply to non-road mobile sources such as construction equipment (e.g., dozers), farm equipment (e.g., tractors), industrial equipment (e.g., forklifts) and other mobile source categories under the exclusive jurisdiction of the federal government such as ships, trains.

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
WATCH
Staff needs additional time to seek the state's position and to seek clarification on more stringent guidelines.

ASSEMBLY BILL No. 2880

Introduced by Assembly Member Pavley

February 20, 2004

An act to amend Sections 41081 and 44225 of the Health and Safety Code, and to amend Section 9250.2 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2880, as introduced, Pavley. Vehicles: registration: fees: increase.

Existing law requires the Department of Motor Vehicles, if requested by an air pollution control district or an air quality management district, to impose and collect a surcharge of not more than $4 on the registration fees for every motor vehicle registered in that district, as specified by the governing body of the district.

This bill would increase the specified fee amount to $6.

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

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

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

(a) California's inland valleys and urban areas suffer from severe air pollution problems caused in significant part by the operation of motor vehicles, emissions from heavy-duty commercial vehicles moving goods, and the operation of off road engines and diesel-powered farm equipment. The continuation

and expansion of incentive programs to reduce emissions from these sources is crucial to protecting public health and achieving health-based air quality standards in the most heavily polluted parts of California.

(b) The State Air Resources Board and the local air quality management districts and air pollution control districts should adopt and implement programs to achieve the maximum feasible and cost-effective emission reductions from vehicular sources and off road engines, in order to meet health-based air quality standards by the earliest practicable date, and to reduce the risk to public health from toxic air contaminants that are produced by these sources.

(c) Predictable, sustained, and long-term funding is necessary for local air quality districts to provide incentives to achieve further reductions of emissions from mobile source pollution that go beyond what can be achieved with traditional "command and control" regulations on motor vehicles and stationary sources.

(d) Motor vehicle owners, along with the producers of gasoline and diesel fuels, and owners of other sources of emissions, should all contribute to a fair and balanced funding program that will achieve critically important reductions in emissions that cannot be otherwise obtained, and that are needed to protect the public health and environment of California.

SEC. 2. Section 41081 of the Health and Safety Code is amended to read:

41081. (a) Subject to Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, or with the approval of the board of supervisors of each county included, in whole or in part, within the Sacramento district, the Sacramento district board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento district whose boards of supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the department's administrative costs, the remaining funds shall be transferred to the Sacramento district. Prior to the adoption of any surcharge pursuant to this subdivision, the district board shall make a finding that any funds allocated to the district as a result of the adoption

of a county transportation sales and use tax are insufficient to carry out the purposes of this chapter.

(b) The surcharge shall not exceed ~~two dollars ($2) for each motor vehicle whose registration expires on or after December 31, 1989, and prior to December 31, 1990. For each motor vehicle whose registration expires on or after December 31 1990, the surcharge shall not exceed four dollars ($4)~~ *six dollars ($6)*.

(c) After consulting with the Department of Motor Vehicles on the feasibility thereof, the Sacramento district board may provide, in the surcharge adopted pursuant to subdivision (a), to exempt from all or part of the surcharge any category of low-emission motor vehicle.

(d) Funds received by the Sacramento district pursuant to this section shall be used to implement the strategy with respect to the reduction in emissions from vehicular sources, including, but not limited to, a clean fuels program and motor vehicle use reduction measures. Not more than 5 percent of the funds collected pursuant to this section shall be used by the district for administrative expenses.

SEC. 3. Section 44225 of the Health and Safety Code is amended to read:

44225. ~~On and after April 1, 1992, a~~ *A* district may increase the fee established under Section 44223 to up to ~~four~~ *six* dollars ~~($4)~~ *($6)*. A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 is adopted and approved by the governing board of the district.

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

SEC. 4. Section 9250.2 of the Vehicle Code is amended to read:

9250.2. The department ~~shall~~, if requested by the Sacramento Metropolitan Air Quality Management District pursuant to Section 41081 of the Health and Safety Code, *shall* impose and collect a surcharge on the registration fees for every motor vehicle registered in that district, not to exceed ~~either of the following amounts, whichever is applicable~~ *the amount of six dollars ($6)*, as specified by the governing body of that district:

~~(a) For each motor vehicle registered in that district whose registration expires on or after December 31, 1989, and prior to December 31, 1990, two dollars ($2).~~

~~(b) For each motor vehicle registered in that district whose registration expires on or after December 31, 1990, not to exceed four dollars ($4).~~

O

AIR POLLUTION: STATIONARY SOURCES: PROSECUTION OF VIOLATIONS

SUMMARY:

Existing law provides that (1) the recovery of a civil penalty for an air quality violation precludes criminal prosecution, and (2) the filing of a criminal complaint requires the dismissal of any civil action for the same offense, except for any portion of a civil action requesting injunctive relief.

This bill would repeal the provision precluding criminal prosecution following the recovery of civil penalties for the same offense, and would repeal the requirement that a civil action be dismissed upon the filing of a criminal complaint for the same offense.

BACKGROUND:

Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution for all sources other than vehicular sources, subject to the powers and duties of the State Air Resources Board.

Existing law subjects any person who violates any rule, regulation, permit, or order of the state board or a district pertaining to emissions of air contaminants or toxic air contaminants to fines, imprisonment, and civil penalties.

Also, existing law provides that the recovery of a civil penalty for an air quality violation precludes criminal prosecution. Further, it also provides that the filing of a criminal complaint requires the dismissal of any civil action for the same offense, but exempts from that requirement any portion of a civil action requesting injunctive relief.

SB1211 would repeal the provision precluding criminal prosecution following the recovery of civil penalties for the same offense, and would repeal the requirement that a civil action be dismissed upon the filing of a criminal complaint for the same offense.

BILL STATUS:

This Bill was introduced and read for the first time on February 11, 2004. It was then sent to the Committee on Rules for assignment. On February 12, 2004 it came from print with a notification that it may be acted upon on or after March 13, 2004. On February 26, 2004 it was assigned to the Senate Environmental Quality Committee and the Public Safety Committee.

SPECIFIC PROVISIONS OF BILL:

Repeals Section 42400.7 of the Health and Safety Code.

OPERATIONAL IMPACT ON SCAQMD:

In its current form, SB 1211 eliminates the legislative policy recognizing the authority of air districts to refer enforcement cases to appropriate agencies for criminal prosecution. Importantly, the referral process serves an inherently beneficial role for both air districts and criminal agencies. More specifically, the referral process streamlines the enforcement function by affording air districts the opportunity to identify cases which are appropriate for criminal prosecution while at the same time promoting efficiency for criminal agencies by filtering out those cases which are inappropriate for criminal prosecution.

SUPPORT: **OPPOSITION:**

Sponsor: Senator Ortiz

RECOMMENDED POSITION:
SUPPORT WITH AMENDMENTS.

The AQMD supports the concept of amending Health & Safety Code Section 42400.7 so as to eliminate the bar on dual prosecution as long as the statutory language continues to recognize the authority of air districts to refer enforcement cases to appropriate agencies for criminal prosecution.

There is no reason for requiring the dismissal of a civil action upon the filing of a criminal complaint for the same offense. The complaint may later be dismissed without further action; the action may not result in a conviction; or, the seriousness of the violation may warrant the filing or continuation of a civil action after the air district refers the matter for criminal prosecution. Civil prosecution after a criminal referral would occur only in exceptional cases justifying the recovery of criminal and civil sanctions.

Accordingly, the AQMD staff recommends amending Health & Safety Code Section 42400.7 as follows:

(a) The recovery of civil penalties pursuant to Section 39674, 42401, 42402, 42402.1, 42402.2, 42402.3 or 42402.4 ***does not preclude*** ~~precludes~~ prosecution under Section 42400, 42400.1, 42400.2, 42400.3, 42400.3.5 or 42400.4 for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is ***not*** grounds ***precluding the filing or*** requiring the dismissal of any civil action brought pursuant to this article for the same offense.

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

RELATED STATUTORY AMENDMENTS RECOMMENDED BY THE AQMD STAFF:

1. Expansion of Reward Statute to Include Stationary Sources:

Health & Safety Code Section 42405.1 authorizes payments of monetary rewards to persons disclosing violations of district rules pertaining to mobile sources. Since air districts have little authority over mobile sources, it makes no sense to limit Health & Safety Code Section 42405.1 to mobile sources. To give this law effect, it must be expanded to include stationary sources and to provide a meaningful reward. Accordingly, the AQMD staff recommends the following revision:

Health & Safety Code Section 42405.1- Rewards

(a) Any person who provides information that materially contributes to the imposition of a civil penalty or criminal fine against any person for violating any provision of this part or any rule, regulation, or order of a district pertaining to ***stationary source or*** mobile source emission regulations or limitations shall be paid a reward pursuant to regulations adopted by the district under subdivision (f). The reward shall not exceed 10 percent of the amount of the civil penalty or criminal fine collected by the district, district attorney, or city attorney. The district shall pay the reward to the person who provides information that results in the imposition of a civil penalty, and the city or the county shall pay the reward to the person who provides information that results in the imposition of a criminal fine. No reward paid pursuant to this subdivision shall exceed ~~five thousand dollars ($5,000.00)~~ ***fifty thousand dollars ($50,000.00).***

2. New Legislation Dealing with Tampering:

Due to the enormous number of contractors who conduct maintenance and repairs at regulated facilities, it would greatly enhance the enforcement program at local air districts to require these contractors to report tampered equipment to the air districts

when this equipment is discovered during repair or maintenance operations. Accordingly, the AQMD staff recommends the following new statute:

No person shall repair, conduct maintenance or modify any source of emissions if such person knows that such source has been tampered with or modified by any person in a manner that will cause it to violate a rule, regulation, permit, or order of a district, including an order of a hearing board, unless such person has notified the district of such tampering or modification.

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
ADOPT STAFF'S RECOMMEDATION with modification as follows:

No person shall repair, conduct maintenance or modify any source of emissions if such person knows that such source has been tampered with or modified by any person in a manner that will cause it to violate a rule, regulation, permit, or order of a district, including an order of a hearing board.~~, unless such person has notified the district of such tampering or modification~~.

SENATE BILL No. 1211

Introduced by Senator Ortiz

February 11, 2004

An act to repeal Section 42400.7 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1211, as introduced, Ortiz. Air pollution: stationary sources: prosecution of violations.

(1) Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, subject to the powers and duties of the State Air Resources Board. Existing law subjects any person that violates any rule, regulation, permit, or order of the state board or a district pertaining to emissions of air contaminants or toxic air contaminants to fines, imprisonment, and civil penalties. Existing law provides that the recovery of a civil penalty for an air quality violation precludes criminal prosecution. Existing law also provides that the filing of a criminal complaint requires the dismissal of any civil action for the same offense, but exempts from that requirement any portion of a civil action requesting injunctive relief.

This bill would repeal the provision precluding criminal prosecution following the recovery of civil penalties for the same offense, and would repeal the requirement that a civil action be dismissed upon the filing of a criminal complaint for the same offense. To the extent that this bill would increase the number of criminal or civil cases a district would prosecute, it would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

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:

SECTION 1. Section 42400.7 of the Health and Safety Code is repealed.

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this

act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

O

AIR POLLUTION: SMOG CHECK: OUT-OF-STATE VEHICLES

SUMMARY:

Existing law establishes motor vehicle inspection and maintenance programs (smog check & smog check II), administered by the Department of Consumer Affairs and the State Air Resources Board.

Existing law also requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed idle testing in all other program areas, and a visual or functional check of emission control devices specified by the department. Existing law exempted from those requirements, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, any motor vehicle that is 30 or more model-years old.

Existing law also requires the Department of Motor Vehicles to require that, upon registration of a motor vehicle subject to the smog check program that was previously registered outside this state, a person obtain a valid certificate of compliance or noncompliance.

This bill would repeal that provision requiring a person to obtain a certificate of smog check compliance upon the registration of a motor vehicle that was previously registered outside this state. The bill would make related conforming changes and delete obsolete references from existing law.

SB 1615 amends Section 43843 and 44004 of HS&C by amending Section 4000.1 and repealing Section 4000.2 of the California Vehicle Code. Existing law requires the DMV to require upon registration of a motor vehicle subject to the smog check program that was previously registered outside this state, a person obtain a valid certificate of compliance or noncompliance. This amendment would repeal that provision requiring a person to obtain a certificate of smog check compliant upon the registration of a motor vehicle that was previous registered outside this state.

BACKGROUND:

1. Existing law exempted, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, exempts any motor vehicle that is 30 or more model-years old.
2. Also, existing law requires the Department of Motor Vehicles to require that, upon registration of a motor vehicle subject to the smog check program that was previously registered outside this state, a person obtain a valid certificate of compliance or noncompliance.
3. This bill would repeal that provision requiring a person to obtain a certificate of smog check compliance upon the registration of a motor vehicle that was previously registered outside this state.
4. The bill would make related conforming changes and delete obsolete references from existing law.

BILL STATUS:

This bill was introduced, read for the first time and sent to print on February 20, 2004, and went to the Committee on Rules for assignment. On February 21, 2004 it was returned from print and may not be acted upon on until after March 22, 2004. On March 4, 2004, it was assigned to the Senate Committee on Transportation.

SPECIFIC PROVISIONS OF BILL:

This amendment would encourage and ease the requirement for introduction of out-of-state vehicles in California. This would have a negative impact on air quality in California as 49-state vehicles typically are not controlled to similar vehicles certified to operate in California. Such an amendment may allow for excess emissions to occur for the initial biennial cycle (two years) of the Smog Check Program. Theoretically, the requirement to meet California's stringent emission cutpoints would occur during the first loaded mode test required per its Smog Check Program.

OPERATIONAL IMPACT ON SCAQMD:

This amendment would have a negative impact on air quality and further increase the disproportionate ratio between mobile and stationary sources. The SCAQMD should oppose this amendment as it lessens the stringency of California's motor vehicle control on existing passenger, light duty trucks and medium duty vehicles.

SUPPORT:

OPPOSITION:
None Known

RECOMMENDED POSITION:
OPPOSE

MARCH 12, 2004 LEGISLATIVE COMMITTEE
RECOMMENDED POSITION/COMMENTS:
AGREED WITH STAFF'S RECOMMENDATION TO OPPOSE

SENATE BILL No. 1615

Introduced by Senator Denham

February 20, 2004

An act to amend Sections 43843 and 44004 of the Health and Safety Code, to amend Section 4000.1 of, and to repeal Section 4000.2 of, of the Vehicle Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1615, as introduced, Denham. Air pollution: smog check: out-of-state vehicles.

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law also establishes an enhanced motor vehicle inspection and maintenance program (smog check II) in each urbanized area of the state, any part of which is classified by the United States Environmental Protection Agency as a serious, severe, or extreme nonattainment area for specified air contaminants. Existing law also requires the smog tests to include, at minimum, loaded mode dynamometer testing in enhanced areas, and 2-speed testing in all other program areas, and a visual or functional check of emission control devices specified by the department. Existing law exempted from those requirements, until January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year, and after that date, exempts any motor vehicle that is 30 or more model-years old. Existing law requires the Department of Motor Vehicles to require that, upon registration of a motor vehicle subject to the smog check program that was previously

registered outside this state, a person obtain a valid certificate of compliance or noncompliance.

This bill would repeal that provision requiring a person to obtain a certificate of smog check compliance upon the registration of a motor vehicle that was previously registered outside this state. The bill would make related conforming changes and delete obsolete references from existing law.

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

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

SECTION 1. Section 43843 of the Health and Safety Code is amended to read:

43843. (a) The state board, in consultation with the State Energy Resources Conservation and Development Commission, shall establish and conduct, until January 1, 1988, an experimental program in which fleet vehicles may utilize gasoline into which methanol has been blended.

(b) In order to participate in the methanol-gasoline experimental vehicle fleet program, all of the following information shall be submitted to the state board for each vehicle proposed for participation in the program:

(1) The make, model, vehicle identification number, and license number of each vehicle.

(2) A description of the fuel to be used in the vehicle.

(3) Evidence that the vehicle's emissions using the methanol-gasoline blend will be no higher than the vehicle's emissions using gasoline which complies with the volatility standard established pursuant to Section 43830. Evidence may be based on emission tests or a combination of emission tests and engineering evaluation.

(4) A description of any modifications to the vehicle necessary to comply with paragraph (3).

(5) A valid certificate of compliance issued pursuant to Section 4000.1~~, 4000.2,~~ or 4000.3 of the Vehicle Code.

(c) Within 60 days of receipt of a request to participate in the program, the state board, in consultation with the State Energy Resources Conservation and Development Commission, shall approve or deny the request. Approval shall be granted if adequate

evidence is provided that use of the fuel will not cause or contribute to an increase in vehicle emissions when using the methanol-gasoline blend.

(d) The state board may periodically test vehicles enrolled in the program for compliance. Failure to meet state emission standards shall not result in imposition of any fine or penalty if there are no violations of Section 27156 of the Vehicle Code, and the vehicle is restored to conform to applicable emission standards at the end of the experimental program.

(e) All of the following records shall be maintained on each vehicle and shall be made available to the state board upon request:

(1) Fuel economy.

(2) Maintenance and repair.

(3) Driveability.

(f) The state board may exempt the vehicles in any fleet participating in the program from the requirements of subdivision (b) until July 1, 1985. The exemption shall be granted if the applicant demonstrates that the evidence required pursuant to paragraph (3) of subdivision (b) is not available, that there is likelihood that it will become available within the exemption period, and that the facility at which the fleet vehicle is normally refueled does not have provisions for the distribution of more than one type of fuel.

SEC. 2. Section 44004 of the Health and Safety Code is amended to read:

44004. (a) The motor vehicle inspection program provided by this chapter, when implemented in a district, shall supersede and replace any other program for motor vehicle emission inspection in the district.

~~However this~~

This chapter shall not apply to any vehicle permanently located on an island in the Pacific Ocean located 20 miles or more from the mainland coast.

(b) The motor vehicle inspection program provided by this chapter shall be in accordance with Sections 4000.1~~, 4000.2,~~ and 4000.3 of the Vehicle Code.

SEC. 3. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of

the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of a motor vehicle previously registered outside this state ~~which~~ *that* is subject to those provisions of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(b) With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

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

(1) The initial application for transfer is submitted within the 90-day validity period of a smog certificate as specified in Section 44015 of the Health and Safety Code.

(2) The transferor is either the parent, grandparent, sibling, child, grandchild, or spouse of the transferee.

(3) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(4) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the vehicle.

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

(6) ~~Prior to January 1, 2003, the motor vehicle was manufactured prior to the 1974 model year.~~

~~(7) Beginning January 1, 2003, the~~ *The* motor vehicle is 30 or more model-years old.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.

(f) Subdivision (a) does not apply to a motor vehicle when an additional individual is added as a registered owner of the vehicle.

SEC. 4. Section 4000.2 of the Vehicle Code is repealed.

~~4000.2. (a) Except as otherwise provided in subdivision (b) of Section 43654 of the Health and Safety Code, and, commencing on January 1, 1993, except for 1965 or earlier model-year motor vehicles, the department shall require upon registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, previously registered outside this state, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.~~

~~(b) For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.~~

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