



SB 1144 – Dodd Refinery Emissions Fines

Summary

This bill increases civil fines for certain emissions from Title V facilities, which includes refineries such as the Chevron Richmond Refiner, Phillips 66 refinery in Rodeo and the Valero Benicia Refinery.

This bill increases civil fines for emissions that present a serious threat to the health or welfare of the public. The fines are increased for increased level of culpability – from strict liability, negligence, failure to take corrective action, and finally, willful and intentional violations.

Background

Bay Area refineries have been the source of recent environmental and public health concerns. Refinery incidents and accidents have led to thousands of people seeking medical care, becoming ill, or having to shelter in place.

Under Title V of the Clean Air Act, major sources of actual or potential emissions must obtain a Title V permit. Facilities needing to obtain this permit include refineries such as the Chevron Richmond Refiner, Phillips 66 refinery in Rodeo and the Valero Benicia Refinery.

On August 6, 2012 a hydrocarbon leak caused a fire in the #4 Crude Unit at the Distillation and Reforming Division of the Chevron Richmond Refinery. Material leaked out of the line and ignited a fire in the plant, resulting in

continuous flaring and a large plume of black smoke which moved in a north easterly direction. A shelter in place was called in Richmond, North Richmond, San Pablo and San Rafael. A health advisory was extended to El Cerrito and Kensington. Three Chevron employees were slightly injured and treated onsite. Reports have indicated that more than 15,000 people visited local health facilities seeking examinations or treatment following the incident.

On June 15, 2012 a tank holding process water at the Phillips 66 refinery in Rodeo over-pressured, resulting in a release of hydrogen sulfide and natural gas vapors to the air. Hydrogen sulfide vapors emit a strong “rotten egg” like odor. The winds were from the Southwest averaging 10-15 mph and carried the odors inland along the Carquinez Straits and impacted downwind communities including Crockett and the City of Benicia. A hydrogen sulfide peak concentration of 246 ppb was recorded at Crockett ground level monitor (GLM) and a peak of 138 ppb on the Benicia East 2nd Street GLM. Ambient air samples were collected downwind and upwind of the refinery for analysis. The District received more than 59 air pollution complaints.

On May 5, 2017 the Valero Benicia Refinery experienced a power failure that resulted in processing units shutting down, and the release of process gasses to the emergency flares. There were also additional air emissions from the Fluid Coker and Fluid Catalytic Cracking Unit stacks. When electrical power was restored the refinery personnel started stabilizing the



process units. The Benicia Police Department issued a shelter-in-place for some residences and an evacuation order in the downwind Industrial Park closest to the refinery. The California Highway Patrol closed highway I-680 off-ramps to Bay Shore and Lake Herman roads. Two Benicia elementary schools were sheltered-in-place.

Despite the magnitude of these incidents, under existing law, the maximum penalties for civil or criminal air violations are capped at very low levels.

Existing Law

The Federal Clean Air Act (CAA) and its implementing regulations set National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, designate air basins that do not achieve NAAQS as nonattainment, and require states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. In California, the Air Resources Board (ARB) is the air pollution control agency. ARB controls emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the CAA. Further, ARB promulgates and enforces rules and regulations necessary for the proper execution of its statutory mandates. Local air 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, and to enforce all applicable provisions of state and federal law.

Any person who violates air pollution laws, rules, regulations, permits, or orders of the ARB

or of a district, including a district hearing board, is guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment in the county jail for not more than six months, or both. The person is also strictly liable for a civil penalty of not more than \$5,000 or imprisonment in the county jail for not more than six months, or both. Existing law further provides that when civil penalties are in excess of \$5,000 per day, that there is no civil liability if the accused alleges by affirmative defense and establishes that the violation was caused by an act that was not the result of intentional or negligent conduct. If actual injury occurs, the civil penalty increases to \$15,000.

This Bill

This bill increases penalties for refineries that violate emissions regulations which presents a serious threat to the health or welfare of the public. In cases of strict liability the fine would be \$30,000 a day, for cases of negligence it would be \$75,000 a day. In cases where the refiners fail to take correction action the daily fine is \$125,000, and in the most egregious cases, where the refinery willfully and intentionally violates the emissions laws the fine is \$250,000. In all circumstances, if the refinery has had two or more prior serious violations within 3 years, the fines would be even higher.

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