

Date of Hearing: June 22, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

SB 888 (Allen) – As Amended May 31, 2016

**SENATE VOTE:** 28-10

**SUBJECT:** Gas corporations: emergency management

**SUMMARY:** This bill establishes the California Office of Emergency Services (Cal OES) as the lead agency for emergency response to a leak of natural gas from a natural gas storage facility. Specifically, **this bill:**

- 1) Establishes Cal OES as the lead agency for emergency response to a large ongoing leak or release of natural gas and associated gases from a natural gas storage facility that poses a significant present or potential hazard to the public health and safety, property, or to the environment.
- 2) Requires Cal OES to coordinate among other state and local agencies the emergency response, public health and environmental assessment, monitoring, and long-term management and control of the leak.
- 3) Creates the Gas Storage Facility Leak Mitigation Account (account) and requires the Public Utilities Commission (PUC) to deposit any penalties assessed against a gas corporation pursuant to a gas storage facility leak into the account.
- 4) Specifies that moneys in the account shall be expended, upon appropriation by the Legislature, subject to both of the following conditions:
  - a) Moneys shall be expended solely for direct emissions reductions in furtherance of the achievement of the greenhouse gas emissions limit established by the California Global Warming Solutions Act of 2006. Moneys shall not be used for the purchase of allowances or offsets otherwise authorized by the California Global Warming Solutions Act of 2006.
  - b) Moneys from penalties assessed for a gas storage facility leak shall be expended in a manner that, at a minimum, achieves a reduction in greenhouse gases that equals the amount of those gases emitted by that leak, as determined by the State Air Resources Board (ARB).

**EXISTING LAW:**

- 1) Creates Cal OES, within the Office of the Governor, which coordinates disaster response, emergency planning, emergency preparedness, disaster recovery, disaster mitigation, and homeland security activities.
- 2) Provides that the PUC has regulatory authority over public utilities, including gas corporations, as defined.

- 3) Requires the PUC to investigate the cause of all accidents occurring upon the property of any public utility, or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the PUC, investigation by it, and authorizes the PUC to make any order or recommendation with respect to the investigation that it determines to be just and reasonable.
- 4) Provides that any public utility that violates any provision or that fails or neglects to comply with any order, decision, decree, rule direction, demand, or requirement of the PUC, where a penalty has not otherwise been provided, is subject to a penalty of not less than \$500 and not more than \$50,000 for each offense.
- 5) Requires that any fine or penalty imposed by the PUC and collected from a public utility be paid to the State Treasury to the credit of the General Fund.

**FISCAL EFFECT:** According to Senate Appropriations Committee, the annual cost of this bill would depend upon how many “significant” leaks occur in that year. Both OES and ARB provided the per incident costs below:

- Approximately \$600 (including staffing and travel costs) for OES to deploy an onsite coordinator. This would be recovered from the responsible party.
- Approximately \$100,000 (Oil, Gas and Geothermal Administrative Fund) for ARB to contract for downwind flights to characterize the natural gas release rate at reasonable periodic intervals using small planes with monitors to measure methane.

Additional unknown, but potentially significant, redirection of penalty revenue from the General Fund to the Gas Storage Facility Leak Mitigation Account created by this bill.

#### **COMMENTS:**

Background: The Aliso Canyon gas leak was a massive natural gas leak that started on October 23, 2015 at the Aliso Canyon underground storage facility near Porter Ranch, Los Angeles. The leak was discovered during one of Southern California Gas Company’s (SoCal Gas) twice daily well observations. The Aliso Canyon facility is the second largest gas storage facility of its kind in the United States and it is owned by the SoCal Gas, a subsidiary of Sempra Energy. The facility is maintained in accordance with safety regulations established by the Department of Oil, Gas, and Geothermal Resources (DOGGR), the PUC, and other local, state and federal agencies. Days after the leak was discovered, a dozen or more local and state agencies were involved in an attempt to plug the leak.

It is estimated that the leak was responsible for approximately one million barrels of gas being released per day. Experts estimate that the carbon footprint of the Aliso Canyon leak is larger than the Deepwater Horizon leak in the Gulf of Mexico, which is considered the largest accidental marine oil spill in the world and at that time the largest environmental disaster in United States history.

Natural Gas is largely composed of methane, an odorless and invisible greenhouse gas with a global warming potential of approximately 86 times greater than carbon dioxide in a 20-year time frame. Initially the leak released about 44,000 kilograms of methane per hour which is the

equivalent of 1,200 tons of methane every day. In terms of greenhouse gas output per month, it is the equivalent of the greenhouse gas output of 200,000 cars in a year. According to a Time Magazine article on January 11, 2016, the 1.6 million pounds of methane released each day is comparable to the emissions of 6 coal fired power plants, 2.2 million cows per day, or 4.5 million cars. Besides methane, the gas leak also contained tert-butyl mercaptan, tetrahydrothiophene, and methyl mercaptan, which gives the gas a rotten egg smell and is known to cause headaches, vomiting, and nausea.

While the leak occurred in a mountainous area more than a mile away from any residential areas, residents have complained of headaches, nausea, vomiting and trouble breathing. Though SoCal Gas has claimed that “scientists agree that natural gas is not toxic and that its odorant is harmless at the minute levels at which it is added to natural gas,” the company has been paying to temporarily relocate residents in and around Porter Ranch. In early January, SoCal Gas reported that it had temporarily relocated 2,824 households or roughly 11,296 individuals.

The leak was finally permanently plugged on February 18, 2016. The Aliso Canyon gas leak was the worst natural gas leak in United States history in terms of its environmental impact.

Purpose of the Bill: According to the author, “The leak at Aliso Canyon took nearly four months to plug and spewed more than 100,000 metric tons of methane. The leak was the worst in United States history, and at its height, more than doubled the methane emissions of the entire Los Angeles Basin and surpassed what is released by all industrial activity in the state. To ensure we stay on track to meet our climate goals, the Gas Company must fully mitigate the methane emissions from this disaster. SB 888 requires the fines and penalties the Gas Company pays as a result of this leak to be used to make certain the leak is fully mitigated. This will ensure the mitigation is not paid by rate payers, but instead comes from the company’s profits.”

The author states, “While the Division of Oil, Gas and Geothermal Resources (DOGGR) was notified of the leak right away, the Air Resources Board said it wasn’t notified of the leak until November 5, 2015. State officials might have more quickly understood the severity of the leak if emissions had been measured earlier. Further, a Unified Command structure under the direction of the Office of Emergency Services (OES) was not established until January 2016. Given the aging infrastructure at many of these facilities, it is critically important that we take the lessons learned from this leak and better prepare for the next one. SB 888 makes OES the immediate lead point of contact for future significant leads, allowing them to act quickly to protect public health and the environment.”

Cal OES: The California Office of Emergency Services is responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities within the state. In years past, Cal OES’ primary focus was exclusively on emergency management, but over the last decade their mission has expanded to include responsibilities in criminal justice, victim services, homeland security, and public safety communications.

The Cal OES began as the State War Council in 1943. With an increasing emphasis on emergency management, it officially became Cal OES in 1970. In 2004, the California Legislature merged Cal OES and the Governor’s Office of Criminal Justice Planning, which was responsible for providing state and federal grant funds to local communities to prevent crime and help crime victims.

In 2003, with the State increasing its focus on terrorism prevention after the attacks of September 11, 2001, the Governor's Office of Homeland Security (OHS) was established through an Executive Order by Governor Gray Davis. In 2009, the California Legislature merged the powers, purposes, and responsibilities of the former Cal OES with those of the OHS into the newly-created California Emergency Management Agency (Cal EMA). On July 1, 2014, Governor Brown's Reorganization Plan #2 eliminated the Cal EMA and restored it to the Governor's Office, renaming it Cal OES.

Cal OES is responsible for developing the State Emergency Plan, which addresses the state's response to extraordinary emergency situations associated with natural disasters or human-caused emergencies. In accordance with the California Emergency Services Act, the plan describes the methods for carrying out emergency operations, the process for rendering mutual aid, the emergency services of governmental agencies, how resources are mobilized, how the public will be informed and the process to ensure continuity of government during and emergency or disaster. Cal OES would apply the same methodology and emergency response plan should they become the lead agency for emergency response to a large ongoing leak like the one that occurred in Aliso Canyon.

Standardized Emergency Management System (SEMS): SEMS is the system used for coordinating state and local emergency response in California. SEMS provides a multiple level emergency response organization that facilitates the flow of emergency information and resources. SEMS consists of the Incident Command System (ICS), mutual aid, the operational area concept and multi-interagency coordination. SEMS is designed to be flexible and adaptable to the varied emergencies that can occur in California, and to meet the emergency management needs of all responders. Government Code 8607(a), requires CalOES, in coordination with other state agencies and interested local emergency management agencies, to establish SEMS by regulation.

Operational Area (OA): OAs encompass the county and all political subdivisions within the county. The OA serves as a focal point for all local emergency management information and the provision of mutual aid. It manages information, resources, and priorities among local governments within the OA. The OA also serves as the coordination and communication link between the local government level and the regional level. SEMS regulations authorize each County Board of Supervisors to designate an OA lead agency.

Green House Gas Reduction Fund (GGRF): Authorized by the California Global Warming Solutions Act of 2006 (AB 32), the cap-and-trade program is one of several strategies that California uses to reduce greenhouse gas emissions that cause climate change. Funds received from the program are deposited into the GGRF and appropriated by the Legislature. They must be used for programs that further reduce emissions of greenhouse gases.

Disadvantaged communities in California are specifically targeted for investment of proceeds from the State's cap-and-trade program. These investments are aimed at improving public health, quality of life and economic opportunity in California's most burdened communities at the same time they're reducing pollution that causes climate change.

In 2012, the Legislature passed Senate Bill 535 (De León) directing that, in addition to reducing greenhouse gas emissions, a quarter of the proceeds from the Greenhouse Gas Reduction Fund must also go to projects that provide a benefit to disadvantaged communities, specifically, a

minimum of 25% of the available moneys in the fund to projects that provide benefits to identified disadvantaged communities; and a minimum of 10% of the available moneys in the fund to projects located within identified disadvantaged communities. The legislation gives the California Environmental Protection Agency responsibility for identifying those communities.

SB 888 would direct penalty fees from a gas leak collected by the PUC to be used for the same purpose as the funds in the GGRF. However, rather than placing the fees in the GGRF, this bill creates a new account, the Gas Storage Facility Leak Mitigation Account, in which the fees are placed prior to being used for greenhouse gas reduction purposes.

*The Committee may wish to consider whether it is more appropriate for the fees collected by the PUC be placed in the GGRF since they are being used for the same purpose. At minimum, should there be a legitimate need to create a the new account, the Committee may wish to consider placing the same constraints on the account that are in place for the GGRF, specifically 25% of funds must benefit disadvantaged communities.*

Suggested Amendment: Per the discussion above, add in language to ensure the Gas Storage Facility Leak Mitigation Account be subject to the same funding provisions as the GGRF, specifically 25% of the available moneys in the fund go to projects that provide benefits to disadvantaged communities; and a minimum of 10% of the available moneys in the fund to projects located within identified disadvantaged communities (see below).

(3) Moneys in the account shall be expended consistent Section 39713 of the Health and Safety Code.

Double referral: Should SB 888 pass the Assembly Committee on Governmental Organization on Wednesday, June 22, 2016, this bill will be referred to the Assembly Committee Natural Resources for further consideration.

Prior/Related Legislation: SB 380 (Pavley) of 2015-2016 Legislative Session. Requires the State Oil and Gas Supervisor to immediately institute a moratorium on injections of natural gas into any wells located within and serving the Aliso Canyon storage facility located in the County of Los Angeles until specified conditions are met, including that the integrity of each well has been quantitatively and objectively evaluated using state-of-the-art technology, as determined by the Supervisor with input from independent experts, and the risks posed by well failure have been evaluated. (Pending in the Assembly Utilities and Commerce Committee)

SB 887 (Pavley) of 2015-2016 Legislative Session. Requires the Division of Oil, Gas, and Geothermal Resources to, before January 1, 2018, and annually thereafter, inspect all natural gas storage wells serving or located in a natural gas storage facility and would prescribe standards for natural gas storage wells. (Pending in the Senate Natural Resources and Water Committee)

SB 535 (De León, Chapter 830, Statutes of 2012). Requires the California Environmental Protection Agency to identify disadvantaged communities for investment opportunities. The bill would require the Department of Finance, when developing a specified 3-year investment plan, to allocate 25% of the available moneys in the Greenhouse Gas Reduction Fund to projects that provide benefits to disadvantaged communities, as specified, and to allocate a minimum of 10% of the available moneys in the Greenhouse Gas Reduction Fund to projects located within disadvantaged communities.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Public Interest Research Group  
Clean Water Action  
Consumer Attorneys of California  
Environment California  
Environmental Working Group  
National Parks Conservation Association  
LAUSD Board Member District 3, Scott M. Schmerelson  
National Parks Conservation Association  
Sierra Club California  
South Coast Air Quality Management District  
Union of Concerned Scientists

**Opposition**

None on File

**Analysis Prepared by:** Kenton Stanhope / G.O. / (916) 319-2531