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*Comment Received From: Office of Assemblymember Diane Papan
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Intention and Interpretation of AB 1921 (2024)

Additional submitted attachment is included below.



10/31/2024

Elizabeth Huber, Director
Siting, Transmission and Environmental Protection Division
California Energy Commission
715 P Street
Sacramento, CA 95814

Dear Ms. Huber,

It has come to my attention that in the proposed scope for the forthcoming update to the Renewable Portfolio Standard (RPS) Guidebook, Assembly Bill (AB) 1921 is inaccurately cited as justification for a major change for fuel cells under the RPS. In the scope for Chapter 2.D the proposal asserts that AB 1921, "removes the eligibility of fuel cells 'using renewable fuels,' which effectively eliminates the eligibility of fuel cells using hydrogen gas." This statement does not accurately reflect my legislation.

Intent of AB 1921

Prior to AB 1921, renewable electrical generation facilities were defined as: biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current. While it was noted in the Assembly Appropriations analysis that "a technology does not need be specifically listed in the RPS statute for it to be eligible for RPS," given the novelty of linear generator technology, and the implication of fuel cells being listed but not linear generators, my intent with the introduction of AB 1921 was to simply ensure that there was no question about their eligibility.

Interpretation of Amendments made to AB 1921

The interpretation of the Assembly Appropriation Committee Amendments is that the intent was to "remove the eligibility for fuel cells using renewable fuels." However, the Senate Energy Utilities and Communications Committee Analysis directly contradicts this claim. The analysis states, "*Amendments taken in the Assembly narrow the eligible linear generators to only those that satisfy the fuel requirements in the existing RPS statutes, including requirements for fuel sources and delivery methods.*" Further as noted in the Assembly Utilities and Energy Committee Analysis, "*hydrogen can be made using feedstocks that are already eligible under the RPS (and actually receive LCFS credit under such a scenario)*"

Under existing law, “renewable fuels” is undefined. Given the lack of definition, the committee consultants amended the statute with “fuels described in this paragraph that otherwise meet the requirements of this subdivision” in an attempt to provide clarity. The changes made to the statute by AB 1921, should not change the CEC’s interpretation of its authority. **As such, if hydrogen is produced or derived from RPS eligible resources, it should be expressly eligible as an RPS resource, specifically if used in the fuel cell or linear generator.**

I urge you to not disrupt operational RPS eligible fuel cell installations and forthcoming fuel cell and linear generator projects by eliminating the use of renewable hydrogen, derived or produced from RPS eligible resources. Please reach out to my Legislative Director, Kevin Konig, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Diane Papan', with a stylized flourish at the end.

Diane Papan
Assemblymember, 21st District