

Appendix H
Relevant Legal Authorities

The State Plan describes California, ARB, and district authority to develop and implement a compliance plan for the federal emission guidelines. The authority cited below provides ARB and the 35 districts with organic authority to address air pollutants and to comply with the federal CAA mandates. This list includes statutory and regulatory laws as required by 40 CFR § 60.26(b).

H&SC § 38501 (*Legislative Findings and Declaration*): The Legislature finds and declares all of the following:

- (a) Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.
- (b) Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the state.
- (c) California has long been a national and international leader on energy conservation and environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, natural resource conservation, and greenhouse gas emission standards for passenger vehicles. The program established by this division will continue this tradition of environmental leadership by placing California at the forefront of national and international efforts to reduce emissions of greenhouse gases.
- (d) National and international actions are necessary to fully address the issue of global warming. However, action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.
- (e) By exercising a global leadership role, California will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce emissions of greenhouse gases. More importantly, investing in the development of innovative and pioneering technologies will assist California in achieving the 2020 statewide limit on emissions of greenhouse gases established by this division and will provide an opportunity for the state to take a global economic and technological leadership role in reducing emissions of greenhouse gases.
- (f) It is the intent of the Legislature that the State Air Resources Board coordinate with state agencies, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this division.
- (g) It is the intent of the Legislature that the State Air Resources Board consult with the Public Utilities Commission in the development of emissions reduction measures, including limits on emissions of greenhouse gases applied to electricity and natural gas providers regulated by the Public Utilities Commission in order to ensure that electricity

and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements.

(h) It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality.

(i) It is the intent of the Legislature that the Climate Action Team established by the Governor to coordinate the efforts set forth under Executive Order S-3-05 continue its role in coordinating overall climate policy. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38510 *(State Air Resources Board; Responsibilities):* The State Air Resources Board is the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38551 *(Limit; Continuation in Effect):* (a) The statewide greenhouse gas emissions limit shall remain in effect unless otherwise amended or repealed.

(b) It is the intent of the Legislature that the statewide greenhouse gas emissions limit continue in existence and be used to maintain and continue reductions in emissions of greenhouse gases beyond 2020.

(c) The state board shall make recommendations to the Governor and the Legislature on how to continue reductions of greenhouse gas emissions beyond 2020. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38560 *(Adoption of Rules and Regulations):* The state board shall adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions from sources or categories of sources, subject to the criteria and schedules set forth in this part. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38560.5 *(Publication of List of Discrete Early Action Greenhouse Gas Emission reduction Measures; Regulations to Implement Listed Measures):* (a) On or before June 30, 2007, the state board shall publish and make available to the public a list of discrete early action greenhouse gas emission reduction measures that can be implemented prior to the measures and limits adopted pursuant to Section 38562.

(b) On or before January 1, 2010, the state board shall adopt regulations to implement the measures identified on the list published pursuant to subdivision (a).

(c) The regulations adopted by the state board pursuant to this section shall achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions from those sources or categories of sources, in furtherance of achieving the statewide greenhouse gas emissions limit.

(d) The regulations adopted pursuant to this section shall be enforceable no later than January 1, 2010. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38562 (*Adoption of Greenhouse Gas Emission Limits and Emission reduction Measures by Regulation; Adoption Deadline and Operative Date of Regulations; Required Actions by State Board; Market-Based Declining Annual Aggregate Emission Limits; Requirements of Adopted Regulations; Reliance on Best Information; Consultation Regarding Affect on Electricity and Natural Gas Providers; Revisions of Adopted Regulations and Adoption of Additional Regulations*):

(a) On or before January 1, 2011, the state board shall adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

(b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.

(2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.

(3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.

(4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

(5) Consider cost-effectiveness of these regulations.

(6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.

(7) Minimize the administrative burden of implementing and complying with these regulations.

(8) Minimize leakage.

(9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

(c) In furtherance of achieving the statewide greenhouse gas emissions limit, by January 1, 2011, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.

(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:

- (1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.
- (2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.
- (3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.
- (e) The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.
- (f) The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.
- (g) After January 1, 2011, the state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.
(Added by Stats.2006, c. 488 (A.B.32), § 1.)

H&SC § 38566 (*Further Emissions Reductions by 2030*): In adopting rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions authorized by this division, the state board shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31, 2030.
(Added by Stats.2016, c. 249 (S.B.32), § 2, eff. Jan. 1, 2017.)

H&SC § 38580 (*Compliance Monitoring and Enforcement of Rules, Regulations, etc.; Violations and Authority to Enjoin Penalties*): (a) The state board shall monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by the state board pursuant to this division.

(b)(1) Any violation of any rule, regulation, order, emission limitation, emissions reduction measure, or other measure adopted by the state board pursuant to this division may be enjoined pursuant to Section 41513, and the violation is subject to those penalties set forth in Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(2) Any violation of any rule, regulation, order, emission limitation, emissions reduction measure, or other measure adopted by the state board pursuant to this division shall be deemed to result in an emission of an air contaminant for the purposes of the penalty provisions of Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(3) The state board may develop a method to convert a violation of any rule, regulation, order, emission limitation, or other emissions reduction measure adopted by the state board pursuant to this division into the number of days in violation, where appropriate, for the purposes of the penalty provisions of Article 3 (commencing with Section 42400)

of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26.

(c) Section 42407 and subdivision (i) of Section 42410 shall not apply to this part.

(Added by Stats.2006, c. 488 (A.B.32), § 1.)

H&SC § 38592 (*State Agencies; Implementation of Strategies to Reduce Greenhouse Gas Emissions; Compliance with Other Laws*): (a) All state agencies shall consider and implement strategies to reduce their greenhouse gas emissions.

(b) Nothing in this division shall relieve any person, entity, or public agency of compliance with other applicable federal, state, or local laws or regulations, including state air and water quality requirements, and other requirements for protecting public health or the environment. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38597 (*Adoption of Fee Schedule; Deposit of Collected Revenues*): The state board may adopt by regulation, after a public workshop, a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this division, consistent with Section 57001. The revenues collected pursuant to this section, shall be deposited into the Air Pollution Control Fund and are available upon appropriation, by the Legislature, for purposes of carrying out this division. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 38598 (*Existing Authority of State Entity to Adopt and Implement Greenhouse Gas Emissions Reduction Measures; Legal Obligations to Comply with Existing Law or Regulation*): (a) Nothing in this division shall limit the existing authority of a state entity to adopt and implement greenhouse gas emissions reduction measures.

(b) Nothing in this division shall relieve any state entity of its legal obligations to comply with existing law or regulation. *(Added by Stats.2006, c. 488 (A.B.32), § 1.)*

H&SC § 39001 (*Legislative Declaration*): The Legislature, therefore, declares that this public interest shall be safeguarded by an intensive, coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state. Since air pollution knows no political boundaries, the Legislature declares that a regional approach to the problem should be encouraged whenever possible and, to this end, the state is divided into air basins. The state should provide incentives for such regional strategies, respecting, when necessary, existing political boundaries. *(Added by Stats.1975, c. 957, p. 2142, § 12.)*

H&SC § 39002 (*Control of Air Pollution from Nonvehicular and Vehicular Sources*): Local and regional authorities have the primary responsibility for control of air pollution from all sources other than vehicular sources. The control of vehicular sources, except as otherwise provided in this division, shall be the responsibility of the State Air Resources Board. Except as otherwise provided in this division, including, but not limited to, Sections 41809, 41810, and 41904, local and regional authorities may establish stricter standards than those set by law or by the state board for nonvehicular sources. However, the state board shall, after holding public hearings as required in this division, undertake control activities in any area wherein it determines that the local or

regional authority has failed to meet the responsibilities given to it by this division or by any other provision of law. (Added by Stats.1975, c. 957, p. 2142, § 12.)

H&SC § 39003 (*State Air Resources Board; Duties*): The State Air Resources Board is the state agency charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solution to air pollution, and to systematically attack the serious problem caused by motor vehicles, which is the major source of air pollution in many areas of the state. (Added by Stats.1975, c. 957, p. 2142, § 12.)

H&SC § 39600 (*Necessary Acts*): The state board shall do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law. (Added by Stats.1975, c. 957, p. 2148, § 12.)

H&SC § 39601 (*Standards, Rules and Regulations; Adoption; Revision of Definitions; Consistency with State Housing Goals*): (a) The state board shall adopt standards, rules, and regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law. (b) The state board, by rules and regulations, may revise the definitions of terms set forth in Chapter 2 (commencing with Section 39010) of Part 1 in order to conform those definitions to federal laws and rules and regulations. (c) The standards, rules, and regulations adopted pursuant to this section shall, to the extent consistent with the responsibilities imposed under this division, be consistent with the state goal of providing a decent home and suitable living environment for every Californian. (Added by Stats.1975, c. 957, p. 2148, § 12. Amended by Stats.1976, c. 1063, p. 4707, § 16.5, eff. Sept. 21, 1976; Stats.1979, c. 947, p. 3270, § 3; Stats.1983, c. 142, § 79.)

H&SC § 39601.5 (*Information Available to Public Related to Air Emissions, Public Health Impacts, and Economic Impacts; Confidential Information*): (a) The state board shall make available to the public all information described in paragraph (2) of subdivision (b) of Section 11346.2 of the Government Code, related to, but not limited to, air emissions, public health impacts, and economic impacts, before the comment period for any regulation proposed for adoption by the state board. (b) In meeting the requirement of subdivision (a), the state board shall not release proprietary, confidential, or otherwise legally protected business information. The state board shall release information in aggregated form, where necessary, to protect proprietary, confidential, or otherwise legally protected business information. (Added by Stats.2009, c. 384 (A.B.1085), § 2.)

H&SC § 39602 (*Designation and Responsibility Under Federal Law*): The state board is designated the air pollution control agency for all purposes set forth in federal law.

The state board is designated as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401, et seq.) and, to this end, shall coordinate the activities of all districts necessary to comply with that act.

Notwithstanding any other provision of this division, the state implementation plan shall only include those provisions necessary to meet the requirements of the Clean Air Act. *(Added by Stats.1975, c. 957, p. 2148, § 12. Amended by Stats.1976, c. 1063, p. 4707, § 17, eff. Sept. 21, 1976; Stats.1979, c. 810, p. 2801, § 2, eff. Sept. 19, 1979.)*

H&SC § 39602.5 *(Rules and Regulations; Ambient Air Quality Standards):* (a) The state board shall adopt rules and regulations pursuant to Section 43013 that, in conjunction with other measures adopted by the state board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards required by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) in all areas of the state by the applicable attainment date, and to maintain these standards thereafter. The state board shall adopt these measures if they are necessary, technologically feasible, and cost effective, consistent with Section 43013.

(b) If necessary to carry out its duties under this section, the state board shall adopt and enforce rules and regulations that anticipate the development of new technologies or the improvement of existing technologies. The rules and regulations shall require standards that the state board finds and determines can likely be achieved by the compliance date set forth in the rule. *(Added by Stats.2007, c. 669 (S.B.1028), § 2.)*

H&SC § 39604 *(Air Quality Conditions and Trends, Status and Effectiveness of State and Local Air Quality Programs; Posting on State Board's Website; Data Included):* (a) The state board shall post on its Web site, at a minimum by January 1 of each odd-numbered year, information on air quality conditions and trends statewide and on the status and effectiveness of state and local air quality programs.

(b) The data shall include, but not be limited to, all of the following:

(1) A review of air quality trends in each air basin over the most recent five-calendar-year period for which a complete data record is available.

(2) A statement of the number of violations of air quality standards that occurred in each air basin over the most recent two calendar years for which a complete data record is available, and a comparison of the number of violations to those in prior years.

(3) A listing of any changes in state ambient air quality standards adopted by the board over the previous two calendar years.

(4) A summary of the results of research projects concluded during the previous two years, the status of current research projects, and the conduct of the research program pursuant to Section 39703.

(5) A summary of any actions taken by the state board to assume the powers of districts under Section 39808.

(6) A summary of the effects of any significant federal actions over the previous two years that have affected state air quality or air quality programs.

(7) A summary of the status of the state implementation plan for achieving and maintaining ambient air quality standards.

(8) A summary of the state board's actions in the previous two calendar years to control toxic air pollutants pursuant to Chapter 3.5 (commencing with Section 39650).

(9) A summary of actions of the state board in controlling emissions from motor vehicles during the previous two-year period.

(10) A summary of significant actions taken by districts to control emissions from nonvehicular sources during the previous two-year period. This summary shall not include a district by district analysis for each district in the state, but shall include an overall analysis. *(Added by Stats. 1975, c. 957, p. 2149, § 12. Amended by Stats. 1984, c. 902, § 1; Stats. 2000, c. 890 (A.B. 2939), § 7; Stats. 2004, c. 644 (A.B. 2701), § 13.)*

H&SC § 39605 *(Assistance; Districts and Public Agencies; Receipt of Information; Public Hearings):* To carry out the purposes of this division, the state board may:

(a) Provide any assistance to any district.

(b) Require any district to provide requested information utilized in the normal operation of the district or required by a state or federal statute or regulation.

(c) Hold public hearings.

(d) May accept assistance, financial and otherwise, from any public entity. *(Added by Stats. 1975, c. 957, p. 2149, § 12. Amended by Stats. 1976, c. 1063, p. 4707, § 18, eff. Sept. 21, 1976; Stats. 1981, c. 700, p. 2519, § 1, eff. Sept. 23, 1981.)*

H&SC § 39606 *(Division of State into Air Basins; Standards of Ambient Air Quality):* (a) The state board shall do both of the following:

(1) Based upon similar meteorological and geographic conditions and consideration for political boundary lines whenever practicable, divide the state into air basins to fulfill the purposes of this division.

(2) Adopt standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and effects on the economy.

These standards may vary from one air basin to another. Standards relating to health effects shall be based upon the recommendations of the Office of Environmental Health Hazard Assessment.

(b) In its recommendations for submission to the state board pursuant to paragraph (2) of subdivision (a), the Office of Environmental Health Hazard Assessment, to the extent that information is available, shall assess the following:

(1) Exposure patterns, including, but not limited to, patterns determined by relevant data supplied by the state board, among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population.

(2) Special susceptibility of infants and children to ambient air pollutants in comparison to the general population.

(3) The effects on infants and children of exposure to ambient air pollutants and other substances that have a common mechanism of toxicity.

(4) The interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

(c) In assessing the factors specified in subdivision (b), the office shall use current principles, practices, and methods used by public health professionals who are

experienced practitioners in the field of human health effects assessment. The scientific basis or scientific portion of the method used by the office to assess the factors set forth in subdivision (b) shall be subject to peer review as described in Section 57004 or in a manner consistent with the peer review requirements of Section 57004. Any person may submit any information for consideration by the entity conducting the peer review, which may receive oral testimony.

(d)(1) No later than December 31, 2000, the state board in consultation with the office, shall review all existing health-based ambient air quality standards to determine whether, based on public health, scientific literature, and exposure pattern data, the standards adequately protect the health of the public, including infants and children, with an adequate margin of safety. The state board shall publish a report summarizing these findings.

(2) The state board shall revise the highest priority ambient air quality standard determined to be inadequate to protect infants and children with an adequate margin of safety, based on its report, no later than December 31, 2002. Following the revision of the highest priority standard, the state board shall revise any additional standards determined to be inadequate to protect infants and children with an adequate margin of safety, at the rate of at least one per year. The standards shall be established at levels that adequately protect the health of the public, including infants and children, with an adequate margin of safety.

(e) Nothing in this section shall restrict the authority of the state board to consider additional information in establishing ambient air quality standards or to adopt an ambient air quality standard designed to protect vulnerable populations other than infants and children. *(Added by Stats.1975, c. 957, p. 2149, § 12. Amended by Stats.1978, c. 429, § 157, eff. July 17, 1978, operative July 1, 1978; Gov.Reorg.Plan No. 1 of 1991, § 132, eff. July 17, 1991; Stats.1999, c. 731 (S.B.25), § 3.)*

H&SC § 39607 *(Air Quality Data; Inventory of Sources of Pollution; Monitoring; Review of Air Quality Attainment Criteria; Evaluation of Air Quality-related Indicators; Population Exposure Assessment Methodology):* The state board shall:

(a) Establish a program to secure data on air quality in each air basin established by the state board.

(b)(1) Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants, including, but not limited to, the contribution of natural sources, mobile sources, and area sources of emissions, including a separate identification of those sources not subject to district permit requirements, to the extent feasible and necessary to carry out the purposes of this chapter. The state board shall use, to the fullest extent, the data of local agencies and other state and federal agencies in fulfilling this purpose.

(2) Make available on the state board's Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources and to at least a county level for mobile sources. The emissions reported shall include data on the emissions of criteria pollutants and toxic air contaminants emitted by stationary sources as provided to the state board by districts. The information shall be displayed graphically and updated at least once a year.

(c) Monitor air pollutants in cooperation with districts and with other agencies to fulfill the purpose of this division.

(d) Adopt test procedures to measure compliance with its nonvehicular emission standards and those of districts.

(e) Establish and periodically review criteria for designating an air basin attainment or nonattainment for any state ambient air quality standard set forth in Section 70200 of Title 17 of the California Code of Regulations. In developing and reviewing these criteria, the state board shall consider instances where there is poor or limited ambient air quality data, and shall consider highly irregular or infrequent violations. The state board shall provide an opportunity for public comment on the proposed criteria, and shall adopt the criteria after a public hearing.

(f) Evaluate, in consultation with the districts and other interested parties, air quality-related indicators that may be used to measure or estimate progress in the attainment of state standards and establish a list of approved indicators. On or before July 1, 1993, the state board shall identify one or more air quality indicators to be used by districts in assessing progress as required by subdivision (b) of Section 40924. The state board shall continue to evaluate the prospective application of air quality indicators and, upon a finding that adequate air quality modeling capability exists, shall identify one or more indicators that may be used by districts in lieu of the annual emission reductions mandated by subdivision (a) of Section 40914. In no case shall any indicator be less stringent or less protective, on the basis of overall health protection, than the annual emission reduction requirement in subdivision (a) of Section 40914.

(g) Establish, not later than July 1, 1996, a uniform methodology that may be used by districts in assessing population exposure, including, but not limited to, reduction in exposure of districtwide subpopulations, such as children, the elderly, and persons with respiratory disease, to ambient air pollutants at levels above the state ambient air quality standards, for estimating reductions in population exposure for the purposes of Sections 40913, 40924, and 41503, and for the establishment of the means by which reductions in population exposures may be achieved. The methodology adopted pursuant to this subdivision shall be consistent with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and with this division, including, but not limited to, Section 39610. *(Added by Stats.1975, c. 957, p. 2149, § 12. Amended by Stats.1981, c. 700, p. 2520, § 2, eff. Sept. 23, 1981; Stats.1988, c. 1568, § 2; Stats.1992, c. 945 (A.B.2783), § 1; Stats.1995, c. 713 (A.B.1027), § 1; Stats.2000, c. 729 (S.B.1300), § 1; Stats.2016, c. 250 (A.B.197), § 8, eff. Jan. 1, 2017.)*

H&SC § 39656 *(Legislative Intent)*: It is the intent of the Legislature that the state board and the districts implement a program to regulate toxic air contaminants that will enable the state to receive approval to implement and enforce emission standards and other requirements for air pollutants subject to Section 112 of the federal act (42 U.S.C. Sec. 7412). The state board and the districts may establish a program that is consistent with the requirements for state programs set forth in subsection (l) of Section 112 and Section 502 of the federal act (42 U.S.C. Secs. 7412(l) and 7661a). Nothing in this chapter requires that the program be identical to the federal program for hazardous air pollutants as set forth in the federal act. *(Added by Stats.1992, c. 1161 (A.B.2728), § 3.)*

H&SC § 39659 (*Regulations; Adoption*): (a) The state board and the districts may adopt regulations which do both of the following:

(1) Impose monitoring requirements, establish procedures for issuing, reissuing, and enforcing permits, and take any other action that may be necessary to establish, implement, and enforce programs for the regulation of hazardous air pollutants which have been listed as toxic air contaminants pursuant to subdivision (b) of Section 39657.

(2) Meet the requirements of subsection (l) of Section 112 and Section 502 of the federal act (42 U.S.C. Secs. 7412(l) and 7661a) and the guidelines and regulations adopted by the Environmental Protection Agency pursuant to those sections.

(b) In adopting regulations pursuant to subdivision (a), the state board and the districts shall, to the extent necessary to ensure that the requirements of the federal act are met, use the definitions contained in subsection (a) of Section 112 of the federal act (42 U.S.C. Sec. 7412(a)). (*Added by Stats. 1992, c. 1161 (A.B.2728), § 3.*)

H&SC § 39666 (*Airborne Toxic Control Measures; Adoption; Enforcement or Proposal of Regulations; Districts; New or Modified Sources; Alternative Methods of Reducing, Avoiding, or Eliminating Emissions*): (a) Following a noticed public hearing, the state board shall adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.

(b) For toxic air contaminants for which the state board has determined, pursuant to Section 39662, that there is a threshold exposure level below which no significant adverse health effects are anticipated, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions sufficiently so that the source will not result in, or contribute to, ambient levels at or in excess of the level which may cause or contribute to adverse health effects as that level is estimated pursuant to subdivision (c) of Section 39660.

(c) For toxic air contaminants for which the state board has not specified a threshold exposure level pursuant to Section 39662, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions to the lowest level achievable through application of best available control technology or a more effective control method, unless the state board or a district board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health.

(d) Not later than 120 days after the adoption or implementation by the state board of an airborne toxic control measure pursuant to this section or Section 39658, the districts shall implement and enforce the airborne toxic control measure or shall propose regulations enacting airborne toxic control measures on nonvehicular sources within their jurisdiction which meet the requirements of subdivisions (b), (c), and (e), except that a district may, at its option, and after considering the factors specified in subdivision (b) of Section 39665, adopt and enforce equally effective or more stringent airborne toxic control measures than the airborne toxic control measures adopted by the state board. A district shall adopt rules and regulations implementing airborne toxic control measures on nonvehicular sources within its jurisdiction in conformance with subdivisions (b), (c), and (e), not later than six months following the adoption of airborne toxic control measures by the state board.

(e) District new source review rules and regulations shall require new or modified sources to control emissions of toxic air contaminants consistent with subdivisions (b), (c), and (d) and Article 2.5 (commencing with Section 39656).

(f) Where an airborne toxic control measure requires the use of a specified method or methods to reduce, avoid, or eliminate the emissions of a toxic air contaminant, a source may submit to the district an alternative method or methods that will achieve an equal or greater amount of reduction in emissions of, and risk associated with, that toxic air contaminant. The district shall approve the proposed alternative method or methods if the operator of the source demonstrates that the method is, or the methods are, enforceable, that equal or greater amounts of reduction in emissions and risk will be achieved, and that the reductions will be achieved within the time period required by the applicable airborne toxic control measure. The district shall revoke approval of the alternative method or methods if the source fails to adequately implement the approved alternative method or methods or if subsequent monitoring demonstrates that the alternative method or methods do not reduce emissions and risk as required. The district shall notify the state board of any action it proposes to take pursuant to this subdivision. This subdivision is operative only to the extent it is consistent with the federal act. (*Added by Stats.1983, c. 1047, § 1. Amended by Stats.1992, c. 1161 (A.B.2728), § 8.*)

H&SC § 39674 (*Civil Penalties; Affirmative Defense; Exception*): (a) Except as otherwise provided in subdivision (b), any person who violates any rule or regulation, emission limitation, or permit condition adopted pursuant to Section 39659 or Article 4 (commencing with Section 39665) or which is implemented and enforced as authorized by subdivision (b) of Section 39658 is strictly liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(b)(1) Any person who violates any rule or regulation, emission limitation, permit condition, order fee requirement, filing requirement, duty to allow or carry out inspection or monitoring activities, or duty to allow entry for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Section 7412(l)) or the regulations adopted pursuant thereto, adopted pursuant to Section 39659 or Article 4 (commencing with Section 39665) or which is implemented and enforced as authorized by subdivision (b) of Section 39658 is strictly liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where a civil penalty in excess of one thousand dollars (\$1,000) for each day of violation is sought, there is no liability under paragraph (1) if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct. In a district in which a Title V permit program has been fully approved, this paragraph shall not apply to a violation of federally enforceable requirements that occur at a Title V source.

(3) Paragraph (2) shall not apply to a violation of a toxic air contaminant rule, regulation, permit, order, fee requirement, filing requirement, duty to allow or carry out inspection or monitoring activities, or duty to allow entry for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted

pursuant thereto. (*Added by Stats.1983, c. 1047, § 1. Amended by Stats.1992, c. 1161 (A.B.2728), § 11; Stats.1992, c. 1252 (A.B.1572), § 1.5; Stats.1994, c. 727 (A.B.3119), § 1.*)

H&SC § 40000 (*Legislative Findings and Declaration*): The Legislature finds and declares that local and regional authorities have the primary responsibility for control of air pollution from all sources, other than emissions from motor vehicles. The control of emissions from motor vehicles, except as otherwise provided in this division, shall be the responsibility of the state board. (*Added by Stats.1975, c. 957, p. 2153, § 12.*)

H&SC § 40001 (*Rules and Regulations; Achievement and Maintenance of State and Federal Standards; Abatement*): (a) Subject to the powers and duties of the state board, the districts shall 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 shall enforce all applicable provisions of state and federal law.

(b) The district rules and regulations may, and at the request of the state board shall, provide for the prevention and abatement of air pollution episodes which, at intervals, cause discomfort or health risks to, or damage to the property of, a significant number of persons or class of persons.

(c) Prior to adopting any rule or regulation to reduce criteria pollutants, a district shall determine that there is a problem that the proposed rule or regulation will alleviate and that the rule or regulation will promote the attainment or maintenance of state or federal ambient air quality standards.

(d)(1) The district rules and regulations shall include a process to approve alternative methods of complying with emission control requirements that provide equivalent emission reductions, emissions monitoring, or recordkeeping.

(2) A district shall allow the implementation of alternative methods of emission reduction, emissions monitoring, or recordkeeping if a facility demonstrates to the satisfaction of the district that those alternative methods will provide equivalent performance. Any alternative method of emission reduction, emissions monitoring, or recordkeeping proposed by the facility shall not violate other provisions of law.

(3) If a district rule specifies an emission limit for a facility or system, the district shall not set operational or effectiveness requirements for any specific emission control equipment operating on a facility or system under that limit. Any alternative method of emission reduction, emissions monitoring, or recordkeeping proposed by the facility shall include the necessary operational and effectiveness measurement elements that can be included as permit conditions by the district to ensure compliance with, and enforcement of, the equivalent performance requirements of paragraphs (1) and (2). Nothing in this subdivision limits the district's authority to inspect a facility's equipment or records to ensure operational compliance. This paragraph shall apply to existing rules and facilities operating under those rules. (*Added by Stats.1975, c. 957, p. 2153, § 12. Amended by Stats.1988, c. 1568, § 7; Stats.1992, c. 567 (A.B.2848), § 1; Stats.1996, c. 442 (S.B.1928), § 1.*)

H&SC § 40701 (*Enumeration of Powers*): A district shall have power:

- (a) To have perpetual succession.
- (b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
- (c) To adopt a seal and alter it at its pleasure.
- (d) To take by grant, purchase, gift, devise, or lease, to hold, use, and enjoy, and to lease or dispose of any real or personal property within or without the district necessary to the full exercise of its powers.
- (e) To lease, sell, or dispose of any property, or any interest therein, whenever, in the judgment of the district board, such property, or any interest therein, or part thereof, is no longer required for the purposes of the district, or may be leased for any purpose without interfering with the use of the same for the purposes of the district, and to pay any compensation received therefor into the general fund of the district.
- (f) To cooperate and contract with any federal, state, or local governmental agencies, private industries, or civic groups necessary or proper to the accomplishment of the purposes of this division.
- (g) To require any owner or operator of any air pollution emission source, except a noncommercial vehicular source, to provide (1) a description of the source, and (2) disclosure of the data necessary to estimate the emissions of pollutants for which ambient air quality standards have been adopted, or their precursor pollutants, so that the full spectrum of emission sources can be addressed equitably pursuant to Section 40910. (*Added by Stats. 1975, c. 957, p. 2166, § 12. Amended by Stats. 1990, c. 1034 (A.B. 4059), § 1.*)

H&SC § 40702 (*Rules and Regulations; Necessary Acts; Application to Railroad Locomotives*): A district shall adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the district by this division and other statutory provisions.

No order, rule, or regulation of any district shall, however, specify the design of equipment, type of construction, or particular method to be used in reducing the release of air contaminants from railroad locomotives. (*Added by Stats. 1975, c. 957, p. 2166, § 12.*)

H&SC § 40752 (*Observation and Enforcement*): The air pollution control officer shall observe and enforce all of the following:

- (a) This part and Part 4 (commencing with Section 41500).
- (b) All orders, regulations, and rules prescribed by the district board.
- (c) All variances and standards which the district hearing board has prescribed.
- (d) All permit conditions imposed pursuant to Sections 42301 and 42301.10. (*Added by Stats. 1975, c. 957, p. 2167, § 12. Amended by Stats. 1993, c. 1166 (A.B. 2288), § 5; Stats. 1994, c. 727 (A.B. 3119), § 2.*)

H&SC § 41500 (*Powers and Duties*): To coordinate air pollution control activities throughout the state, and to ensure that the entire state is, or will be, in compliance with the standards adopted pursuant to Section 39606, the state board shall do all of the following:

(a) Review the district attainment plans submitted pursuant to Section 40911, and the revised plans submitted pursuant to Section 40925, to determine whether the plans will achieve and maintain the state's ambient air quality standards by the earliest practicable date.

(b) Review the rules and regulations and programs submitted by the districts pursuant to Section 40704 to determine whether they are sufficiently effective to achieve and maintain the state ambient air quality standards.

(c) Review the enforcement practices of the districts and local agencies delegated authority by districts pursuant to Section 40717 to determine whether reasonable action is being taken to enforce their programs, rules, and regulations. *(Added by Stats.1975, c. 957, p. 2172, § 12. Amended by Stats.1976, c. 1063, p. 4714, § 32.5, eff. Sept. 21, 1976; Stats.1988, c. 1568, § 12; Stats.1992, c. 945 (A.B.2783), § 13; Stats.2000, c. 890 (A.B.2939), § 28.)*

H&SC § 41510 *(Entry to Premises; Inspection; Emission Samples)*: For the purpose of enforcing or administering any state or local law, order, regulation, or rule relating to air pollution, the executive officer of the state board or any air pollution control officer having jurisdiction, or an authorized representative of such officer, upon presentation of his credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50), Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained in connection therewith by the state board or any district. *(Added by Stats.1975, c. 957, p. 2174, § 12.)*

H&SC § 41511 *(Determination of Amount of Emission from Source)*: For the purpose of carrying out the duties imposed upon the state board or any district, the state board or the district, as the case may be, may adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the state board or the district may determine to be reasonable for the determination of the amount of such emission from such source. *(Added by Stats.1975, c. 957, p. 2174, § 12. Amended by Stats.1976, c. 1063, p. 4715, § 34, eff. Sept. 21, 1976.)*

H&SC § 41513 *(Violations; Injunctions)*: Any violation of any provision of this part, or of any order, rule, or regulation of the state board or of any district, may be enjoined in a civil action brought in the name of the people of the State of California, except that the plaintiff shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law or to show, or tending to show, irreparable damage or loss. *(Formerly § 41512, added by Stats.1975, c. 957, p. 2174, § 12. Renumbered § 41513 and amended by Stats.1976, c. 1056, p. 4685, § 1.)*

H&SC § 41700 *(Prohibited Acts)*: (a) Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or

safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

(b) This section shall become operative on January 1, 2014. (*Added by Stats.2010, c. 411 (S.B.1224), § 2, operative Jan. 1, 2014.*)

H&SC § 41701 (*Discharge Prohibited; Time; Standards*): Except as otherwise provided in Section 41704, or Article 2 (commencing with Section 41800) of this chapter other than Section 41812, or Article 2 (commencing with Section 42350) of Chapter 4, no person shall discharge into the atmosphere from any source whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is:

(a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subdivision (a). (*Added by Stats.1975, c. 957, p. 2175, § 12. Amended by Stats.1976, c. 1063, p. 4715, § 35, eff. Sept. 21, 1976; Stats.1977, c. 644, § 1.*)

H&SC § 41703 (*Regulations of Future Emission Limits; Schedule of Increments of Progress for Compliance*): If a district board adopts a rule or regulation of emission standards to take effect as of a future date, the rule or regulation shall also require any person who owns or operates a source of air contaminants whose emissions exceed such standards to submit to the hearing board, for a public hearing, after notice pursuant to Section 40826, a schedule of increments of progress by which the source emissions will be brought into compliance by the time such standards take effect. If the rule or regulation itself includes a schedule of increments of progress, the person shall apply for a modification in accordance with Section 42357 in the event he cannot comply with the schedule in the rule or regulation, except that an application for a change in the final compliance date shall be subject to the requirements for a variance, as provided in Section 42352. (*Added by Stats.1975, c. 957, p. 2176, § 12. Amended by Stats.1979, c. 239, p. 495, § 4, eff. July 10, 1979.*)

H&SC § 42300 (*Permit System; Establishment; Regulations; Permit Duration*): (a) Every district board may establish, by regulation, a permit system that requires, except as otherwise provided in Section 42310, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution control officer of the district.

(b) The regulations may provide that a permit shall be valid only for a specified period. However, the expiration date of any permit shall be eligible for extension upon completion of the annual review required pursuant to subdivision (e) of Section 42301 and payment of the fees required pursuant to Section 42311, unless the air pollution control officer or the hearing board has initiated action to suspend or revoke the permit pursuant to Section 42304, 42307, or 42309, that action has resulted in a final determination by the officer or the board to suspend or revoke the permit, and all

appeals have been exhausted or the time for appeals from that final determination has been exhausted.

(c) The annual extension of a permit's expiration date pursuant to subdivision (b) does not constitute permit issuance, renewal, reopening, amendment, or any other action subject to the requirements specified in Title V. (*Added by Stats.1975, c. 957, p. 2183, § 12. Amended by Stats.1976, c. 1063, p. 4716, § 38, eff. Sept. 21, 1976; Stats.1976, c. 1113, p. 5003, § 3; Stats.1993, c. 1166 (A.B.2288), § 6; Stats.1994, c. 727 (A.B.3119), § 4.*)

H&SC § 42300.1 (*Consolidated Permits; Post Construction Enforcement Procedures*):

(a) A district board may issue a consolidated permit which serves as (1) authority to build, erect, alter, or replace an article, machine, equipment, or contrivance which may cause the issuance of air contaminants, and (2) authority to operate or use that article, machine, equipment, or contrivance.

(b) If a district issues consolidated permits, the district shall establish postconstruction enforcement procedures adequate to ensure that sources are built, erected, altered, replaced, and operated or used in the manner required by the consolidated permits. (*Added by Stats.1992, c. 1126 (A.B.3790), § 2.*)

H&SC § 42301 (*Requirements of Permit System*): A permit system established pursuant to Section 42300 shall do all of the following:

(a) Ensure that the article, machine, equipment, or contrivance for which the permit was issued does not prevent or interfere with the attainment or maintenance of any applicable air quality standard.

(b) Prohibit the issuance of a permit unless the air pollution control officer is satisfied, on the basis of criteria adopted by the district board, that the article, machine, equipment, or contrivance will comply with all of the following:

(1) All applicable orders, rules, and regulations of the district and of the state board.

(2) All applicable provisions of this division.

(c) Prohibit the issuance of a permit to a Title V source if the Administrator of the Environmental Protection Agency objects to its issuance in a timely manner as provided in Title V. This subdivision is not intended to provide any authority to the Environmental Protection Agency to object to the issuance of a permit other than that authority expressly granted by Title V.

(d) Provide that the air pollution control officer may issue to a Title V source a permit to operate or use if the owner or operator of the Title V source presents a variance exempting the owner or operator from Section 41701, any rule or regulation of the district, or any permit condition imposed pursuant to this section, or presents an abatement order that has the effect of a variance and that meets all of the requirements of this part pertaining to variances, and the requirements for the issuance of permits to operate are otherwise satisfied. The issuance of any variance or abatement order is a matter of state law and procedure only and does not amend a Title V permit in any way. Those terms and conditions of any variance or abatement order that prescribe a compliance schedule may be incorporated into the permit consistent with Title V and this division.

(e) Require, upon annual renewal, that each permit be reviewed to determine that the permit conditions are adequate to ensure compliance with, and the enforceability of, district rules and regulations applicable to the article, machine, equipment, or contrivance for which the permit was issued which were in effect at the time the permit was issued or modified, or which have subsequently been adopted and made retroactively applicable to an existing article, machine, equipment, or contrivance, by the district board and, if the permit conditions are not consistent, require that the permit be revised to specify the permit conditions in accordance with all applicable rules and regulations.

(f) Provide for the reissuance or transfer of a permit to a new owner or operator of an article, machine, equipment, or contrivance. An application for transfer of ownership only, or change in operator only, of any article, machine, equipment, or contrivance which had a valid permit to operate within the two-year period immediately preceding the application is a temporary permit to operate. Issuance of the final permit to operate shall be conditional upon a determination by the district that the criteria specified in subdivisions (b) and (e) are met, if the permit was not surrendered as a condition to receiving emission reduction credits pursuant to banking or permitting rules of the district. However, under no circumstances shall the criteria specify that a change of ownership or operator alone is a basis for requiring more stringent emission controls or operating conditions than would otherwise apply to the article, machine, equipment, or contrivance. (*Added by Stats. 1975, c. 957, p. 2183, § 12. Amended by Stats. 1983, c. 506, § 1; Stats. 1988, c. 1568, § 27; Stats. 1993, c. 1166 (A.B.2288), § 7; Stats. 1994, c. 727 (A.B.3119), § 5.*)

H&SC § 42301.1 (*Temporary Permit to Operate*): Whenever necessary and appropriate to ensure compliance with all applicable conditions prior to issuance of a permit to operate an article, machine, equipment, or contrivance, a district may issue a temporary permit to operate. The temporary permit to operate shall specify a reasonable period of time during which the article, machine, equipment, or contrivance may be operated in order for the district to determine whether it will operate in accordance with the conditions specified in the authority to construct. (*Added by Stats. 1988, c. 1568, § 28.*)

H&SC §42301.3 (*Air Pollution Control Equipment Permits; Application of Section; Procedures for Expediting Issuance*): (a) It is the intent of the Legislature that districts expedite permits for the installation of air pollution control equipment.
(b)(1) This section applies only to air pollution control projects at existing sources, where the project is necessary to comply with emission standards or limitations imposed by law, including, but not limited to, district regulations.
(2) This section does not apply to air pollution control requirements applicable to new or modified sources that are not air pollution control projects necessary to comply with emission standards or limitations imposed by law. However, this section applies to the permitting of air pollution control projects necessary to comply with emission standards or limitations imposed by law that are intended to reduce emissions of one or more pollutants that may or may not result in an increase in emissions of a different pollutant or pollutants.

(c) Each district shall prepare, with input from the regulated community, a list of permitting criteria that identifies streamlined permit application requirements for each type of mandated air pollution control project. The list shall be consistent with the requirements of this section but may also include general facility information, a general description of the equipment affected by the air pollution control project, and specific information regarding the pollution control equipment or operational changes that will reduce emissions.

(d)(1) Within 30 days of the date that the applicant submits the information specified in paragraph (2), the district shall commence evaluation and deem the application complete, subject to the final as-built design submittal being consistent with the preliminary engineering and design information specified in subparagraph (B) of paragraph (2), for the purpose of issuing a permit to construct. Notwithstanding the limitations of Sections 65944, 65950, and 65952 of the Government Code, if final design information results in a material change in the permit evaluation that was based on the preliminary submittal, the application shall undergo a new evaluation based on the final design and the district shall promptly notify the applicant of any further information that is necessary to complete the evaluation.

(2) Prior to the district deeming the application complete pursuant to paragraph (1), the applicant shall provide the following information:

(A) The information specified in the list prepared pursuant to subdivision (c).

(B) Either of the following:

(i) Preliminary engineering and design information or other technical equipment specification data reasonably available during the initial design phase.

(ii) The manufacturer's performance warranty and the associated preliminary engineering data on which the bidding documents for the contract with the manufacturer were based.

(C) Any reasonably required information regarding an air contaminant for which emissions will increase as a result of installation of the air pollution control project.

(D) Any information necessary to make the application complete with respect to any federal requirement adopted or promulgated pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) that applies to the air pollution control project.

(e) Prior to the final approval of the applicant's permit to operate, the applicant shall provide the district with final engineering and design information and other data reasonably necessary to ensure compliance with applicable emission limitations. The information may be based on source test results and other operating data available after startup and shakedown of the control equipment. Once the applicant has provided the information specified in this subdivision, and the final design is consistent with the preliminary design data specified in subparagraph (B) of paragraph (2) of subdivision (d) for purposes of permit evaluation, the district shall deem the application complete for the purpose of issuing a permit to operate.

(f)(1) For projects subject to this section for which the use of continuous emission monitoring systems is required, the air quality permit conditions that relate to emissions monitored by the continuous emission monitoring systems shall be sufficient for measurements and reporting as required to meet the specified emission limit as required by the rule or regulation.

(2) Nothing in this subdivision is intended to limit the applicability of standards or limitations or monitoring requirements set forth in any rule or regulation.

(g)(1) An applicant may petition the district hearing board for a variance from a requirement to install air pollution control equipment or to meet a more stringent emission standard or limitation if there is a delay in the approval of the permit to construct or permit to operate for projects under this section. The finding required by paragraph (2) of subdivision (a) of Section 42352 shall be met if the hearing board finds that the delay is not due to the lack of due diligence on the part of the applicant in the permit process, and the delay results in the inability of the applicant to legally comply with the requirement or schedule that requires the installation and operation of air pollution control equipment or achievement of a more stringent emission standard or limitation. The findings required by paragraphs (3), (4), and (5) of subdivision (a) of Section 42352 shall not apply to a variance granted pursuant to this paragraph. Paragraph (6) of subdivision (a) of Section 42352 shall apply to a variance granted pursuant to this paragraph. However, if the district requests that the applicant monitor or otherwise quantify emission levels from the source during the term of the variance pursuant to paragraph (6) of subdivision (a) of Section 42352, that monitoring or quantification required in connection with the variance shall be limited to any monitoring or quantification already being performed for the source for which the pollution control project is required. No variance shall be granted unless the hearing board makes the findings as specified in this subdivision. The hearing board shall not impose any excess emission fees in connection with the grant of the variance. In determining the term of the variance, the hearing board shall consider the period of time that the delay was not due to the lack of due diligence on the part of the applicant.

(2) For purposes of this subdivision, "due diligence" means that all of the following conditions exist:

(A) The air pollution control project proposed by the applicant was reasonably expected to achieve compliance with the pertinent emission standard or limitation.

(B) The applicant submitted the permit application in sufficient time for the district to act on the application and for the applicant to complete the project in accordance with the deadline.

(C) The applicant responded in a reasonable time to requests for additional information needed by the district to process the application or prepare any necessary environmental analyses.

(D) The district has not denied or proposed to deny the application on the basis of the project's inability to meet district permit requirements consistent with this section.

(E) During the term of the variance, the applicant will take practicable steps to ensure completion of the project as expeditiously as possible after issuance of the permit.

(3) Paragraph (1) shall not limit the authority of a district to require emissions monitoring or quantification under any other applicable provision of law.

(4) Nothing in this subdivision shall be interpreted as authorizing a hearing board to grant a variance from any requirement for a permit to build, alter, erect, or replace any air pollution control equipment included in a project subject to this section.

(h) If a supplemental or other environmental impact report or other environmental assessment is required for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and

the district is the lead agency, the district shall prepare and act upon the report or assessment and the permit to construct concurrently in order to streamline the approval process. However, the district shall be required to take that concurrent action only if the applicant has submitted the information required by this section to allow the district to streamline the approval process.

(i) For purposes of this section, "material change" means a change that would result in a material impact on the level of emission calculated. *(Added by Stats.1993, c. 1180 (A.B.1520), § 1. Amended by Stats.1994, c. 720 (A.B.2090), § 1.)*

H&SC § 42301.5 *(Reduction in Emissions; Nonattainment Areas; Toxic Air Contaminant Emissions):* (a) Any article, machine, equipment, or contrivance that may emit into the ambient air any toxic air contaminant identified pursuant to Section 39662 shall comply with any regulation adopted by the state board or a district requiring a reduction in emissions of that contaminant or chemical from the article, machine, equipment, or contrivance consistent with a reasonable schedule of compliance, as determined by the state board or the district.

(b)(1) Any article, machine, equipment, or contrivance that is located within a district that is designated by the state board as a nonattainment area for any national ambient air quality standard and for which an authority to construct is issued on or after January 1, 1988, shall comply with any district regulation that is adopted after December 31, 1982, and that requires a reduction in emissions of any air pollutant, including any precursor of an air pollutant, that interferes with the attainment of the standard, from that article, machine, equipment, or contrivance consistent with a reasonable schedule of compliance, as determined by the district.

(2) In determining a schedule of compliance under this subdivision, the district shall consider the extent to which the proposed schedule will adversely affect the ability of the facility owner or operator to amortize the capital costs of pollution control equipment purchased within the preceding five years. *(Added by Stats.1981, c. 147, p. 945, § 1. Amended by Stats.1987, c. 602, § 1; Stats.2000, c. 890 (A.B.2939), § 39.)*

H&SC § 42301.6 *(Source Which Emits Hazardous Air Emissions Within 1,000 Feet of School; Public Notice; Distribution Or Mailing; Comments; Requirements; Certification By Applicant):* (a) Prior to approving an application for a permit to construct or modify a source which emits hazardous air emissions, which source is located within 1,000 feet from the outer boundary of a schoolsite, the air pollution control officer shall prepare a public notice in which the proposed project or modification for which the application for a permit is made is fully described. The notice may be prepared whether or not the material is or would be subject to subdivision (a) of Section 25536, if the air pollution control officer determines and the administering agency concurs that hazardous air emissions of the material may result from an air release, as defined by Section 44303. The notice may be combined with any other notice on the project or permit which is required by law.

(b) The air pollution control officer shall, at the permit applicant's expense, distribute or mail the public notice to the parents or guardians of children enrolled in any school that is located within one-quarter mile of the source and to each address within a radius of 1,000 feet of the proposed new or modified source at least 30 days prior to the date final

action on the application is to be taken by the officer. The officer shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to the comments in the permit application file prior to taking final action on the application.

(1) Notwithstanding Section 49073 of the Education Code, or any other provision of law, the information necessary to mail notices required by this section shall be made available by the school district to the air pollution control officer.

(2) Nothing in this subdivision precludes, at the discretion of the air pollution control officer and with permission of the school, the distribution of the notices to the children to be given to their parents or guardians.

(c) Notwithstanding subdivision (b), an air pollution control officer may require the applicant to distribute the notice if the district had such a rule in effect prior to January 1, 1989.

(d) The requirements for public notice pursuant to subdivision (b) or a district rule in effect prior to January 1, 1989, are fulfilled if the air pollution control officer or applicant responsible for giving the notice makes a good faith effort to follow the procedures prescribed by law for giving the notice, and, in these circumstances, failure of any person to receive the notice shall not affect the validity of any permit subsequently issued by the officer.

(e) Nothing in this section shall be deemed to limit any existing authority of any district.

(f) An applicant for a permit shall certify whether the proposed source or modification is located within 1,000 feet of a schoolsite. Misrepresentation of this fact may result in the denial of a permit.

(g) The notice requirements of this section shall not apply if the air pollution control officer determines that the application to construct or modify a source will result in a reduction or equivalent amount of air contaminants, as defined in Section 39013, or which are hazardous air emissions.

(h) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the state board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532. *(Added by Stats.1988, c. 1589, § 8. Amended by Stats.1991, c. 107 (S.B.274), § 1; Stats.1991, c. 1183 (A.B.928), § 14.)*

H&SC § 42301.12 *(Permit Systems or Provisions to Meet Requirements of Title V; Minimization of Regulatory Burden; Criteria):* (a) Any district permit system or permit provision established by a district board to meet the requirements of Title V shall, consistent with federal law, minimize the regulatory burden on Title V sources and the district and shall meet all of the following criteria:

(1) Apply only to Title V sources.

(2) Issue permits pursuant to Title V only after the Environmental Protection Agency has approved the district's Title V permit program.

(3) Identify in the permit, to the greatest extent feasible, permit terms and conditions which are federally enforceable and those which are not federally enforceable. A district shall make that identification by either of the following means:

(A) Identifying in the permit the terms and conditions that are federally enforceable because they are imposed pursuant to a federal requirement or because the source has requested the terms and conditions and federal enforceability thereof and the permitting district has not determined that the request does not meet all applicable federal requirements and guidelines.

(B) Identifying in the permit the terms and conditions which are imposed pursuant to state law or district rules and are not federally enforceable. Districts may further identify those terms and conditions of the permit which are not federally enforceable, but which have been included in the permit to enforce district rules adopted by the district to meet federal requirements.

(4) Utilize, to the extent reasonably feasible, general permits and similar methods to reduce source and district permitting burdens for Title V sources.

(5) Establish clear and simple application completeness criteria.

(6) To the extent feasible, minimize the burden of federally mandated paperwork such as recordkeeping and reporting documents.

(7) Allow sources maximum flexibility in selecting cost-effective, reliable, and representative monitoring methods consistent with applicable state and federal requirements.

(8) If a permit is required to be reopened to comply with Title V requirements, base the reopening upon the federal criteria for reopening and limit the reopening to only the federal component of the Title V permit. This paragraph is not intended to limit in any way the authority under state law to reopen permits.

(9) Authorize administrative permit amendments and minor permit modifications as required by federal law.

(10) Provide that, unless the district determines that a Title V application is not complete within 60 days of receipt of the application, the application shall be deemed to be complete.

(11) Authorize, to the extent consistent with existing state law, mandatory operational flexibility provisions required pursuant to Part 70 (commencing with Section 70.1) of Title 40 of the Code of Federal Regulations, and consider optional operational flexibility provisions established pursuant to Part 70 (commencing with Section 70.1) of Title 40 of the Code of Federal Regulations. Nothing in this paragraph is intended to affect whatsoever any pending litigation.

(12) Make every reasonable effort, in partnership with Title V sources and the state board, to evaluate and respond to the substance of any objection to a proposed permit and to obtain expeditious approval of Title V permits submitted to the Environmental Protection Agency. (*Added by Stats.1993, c. 1166 (A.B.2288), § 10. Amended by Stats.1994, c. 727 (A.B.3119), § 7; Stats.1996, c. 984 (A.B.2369), § 2, eff. Sept. 27, 1996.*)

H&SC § 42303 (*Information from Applicant or Permit Holder; Authority of Pollution Control Officer*): An air pollution control officer, at any time, may require from an applicant for, or the holder of, any permit provided for by the regulations of the district

board, such information, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which the permit was issued or applied. (*Added by Stats. 1975, c. 957, p. 2183, § 12.*)

H&SC § 42303.5 (*False Statements*): No person shall knowingly make any false statement in any application for a permit, or in any information, analyses, plans, or specifications submitted in conjunction with the application or at the request of the air pollution control officer. (*Added by Stats. 1976, c. 1063, p. 4717, § 39, eff. Sept. 21, 1976.*)

H&SC § 42315 (*Burning of Municipal Waste or Refuse-Derived Fuel; Permits; Conditions; Findings; Exemptions*): (a) No district shall issue or renew a permit for the construction of, renew a permit for the operation of, or issue a determination of compliance for, any project which burns municipal waste or refuse-derived fuel unless all of the following conditions have been met:

- (1) The project will not prevent or interfere with the attainment or maintenance of state and federal ambient air quality standards.
- (2) The project will comply with all applicable emission limitations established prior to issuance of the permit or the determination of compliance.
- (3) The project will, after issuance of the permit or determination of compliance, comply with toxic air contaminant control measures adopted by the district pursuant to Section 39666, and regulations adopted by the district pursuant to Section 41700 for the protection of public health. Notwithstanding Section 42301.5, compliance with this subdivision shall be consistent with a reasonable schedule, as determined by the district.
- (4)(A) A health risk assessment is performed and is submitted by the district to both the state board and the Office of Environmental Health Hazard Assessment for review. The state board shall review and, within 15 days, notify the district and the applicant as to whether the data pertaining to emissions and their impact on ambient air quality are adequate for completing its review pursuant to this subdivision, and what additional data, if any, are required to complete its review. Within 45 days of receiving the health risk assessment, the state board shall submit its comments in writing to the district, on the data pertaining to emissions and their impact on ambient air quality. The district shall forward a copy of the comments of the state board to the office. The office shall review and, within 90 days of receiving the health risk assessment, shall submit its comments to the district on the data and findings relating to health effects.
- (B) For purposes of complying with the requirements of this paragraph, the Office of Environmental Health Hazard Assessment may select a qualified independent contractor to review the data and findings relating to health effects. In those cases, the review by the independent contractor shall comply with the following requirements:
 - (i) Be performed in a manner consistent with guidelines provided by the office.
 - (ii) Be reviewed by the office for accuracy and completeness.
 - (iii) Be submitted by the office to the district in accordance with the schedules established by this paragraph.

(C) Notwithstanding Section 6103 of the Government Code, the district shall reimburse the Office of Environmental Health Hazard Assessment, or a qualified independent contractor designated by the office pursuant to subparagraph (B), for its actual costs incurred in reviewing a health risk assessment for any project subject to this section.

(D) An application for any project which burns municipal waste or refuse-derived fuel is not complete until both of the following have been accomplished:

(i) The health risk assessment has been performed and is submitted to the district.

(ii) The state board and the Office of Environmental Health Hazard Assessment, or a qualified independent contractor designated by the office pursuant to subparagraph (B) have completed their review pursuant to this paragraph, and have submitted their comments to the district, unless the state board and the office have failed to submit their comments to the district within 90 days and the district makes a finding that the application contains sufficient information for the district to begin its initial review.

(E) This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.

(5) The district finds and determines, based upon the health risk assessment, comments from the state board and the Office of Environmental Health Hazard Assessment, and any other relevant information, that no significant increase in the risk of illness or mortality, including, but not limited to, increases in the risk of cancer and birth defects, is anticipated as a result of air pollution from the construction and operation of the project. This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.

(6) Prior to, and during, commercial operation of the project, periodic monitoring of emissions, including, but not limited to, toxic air contaminants, is performed pursuant to specifications established by the district.

(b) This section does not prohibit a district from requiring ambient air monitoring under any other provision of law.

(c) This section does not apply to any project which does any of the following:

(1) Exclusively burns digester gas produced from manure or other animal solid or semisolid waste.

(2) Exclusively burns methane gas produced from a disposal site as defined in Section 66714.1 of the Government Code, which is used only for the disposal of solid waste as defined in Section 66719 of the Government Code.

(3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

Nothing in this subdivision is intended to prohibit a district from requiring those projects to meet one or more of the conditions of this section.

(d) Nothing in this section prohibits the permit applicant from entering into a contract with any person pursuant to which the person may enforce this section or any other provision of law. *(Added by Stats.1986, c. 1134, § 3. Amended by Gov.Reorg.Plan No. 1 of 1991, § 140, eff. July 17, 1991.)*

H&SC § 42336 *(Description of Emissions Violations)*: In addition to any other information required to be submitted, an applicant for a permit to construct or a permit to operate which involves a change of operator who has owned or operated a facility pursuant to a permit issued by any district shall provide a description of all emissions violations satisfying the criteria specified in paragraphs (1) to (3), inclusive, of

subdivision (a) of Section 42333, under this division or any regulation adopted pursuant to this division, and the Clean Air Act (42 U.S.C. Sec. 7401 and following) or any regulations adopted thereunder, which occurred at any facility permitted by any district and owned or operated by the applicant in the state in the three years prior to the date of application. (*Added by Stats. 1991, c. 1209 (A.B. 158), § 3.*)

H&SC § 42333 (*Denial, Refusal to Renew or Additional Conditions; Application of Section; Considerations; Hearings; Setting Aside Denials*): (a) An air pollution control officer may, pursuant to this article, deny a permit, refuse to renew a permit, or specify additional permit conditions to ensure compliance with applicable rules and regulations, if the officer determines that each of the following has occurred:

(1) In the three-year period preceding the date of application, the applicant has violated laws or regulations identified in subdivision (a) of Section 42331 and subdivision (a) of Section 42332 resulting in either excessive emissions or violations at a facility which is required to be permitted but is not permitted, owned or operated by the applicant.

(2) A notice of violation was issued for those violations.

(3) A variance was not in effect with respect to those violations.

(4) The violations demonstrate a recurring pattern of noncompliance or pose or have posed a significant risk to the public health or safety or to the environment.

(5) Notice and an opportunity for an office conference was provided pursuant to Section 42334.

(b) This section does not apply to a permit to operate, or the renewal of such a permit, issued by an air pollution control officer for a facility which is owned or operated by an applicant, unless the applicant has met the criteria set forth in paragraphs (1) to (4), inclusive, of subdivision (a) at the source in question at that facility.

(c) For the purposes of determining a permit action under this section, the air pollution control officer shall take into consideration the size and complexity of the applicant's operations and the number of permits held by the applicant.

(d) The air pollution control officer's determination of whether to deny a permit shall be based upon all of the following:

(1) Whether the emissions violations forming the basis for the denial were the result of circumstances beyond the reasonable control of the applicant and could not have been prevented by the exercise of reasonable care.

(2) Whether a permit denial is not an appropriate action given the severity of the violations, or that the denial is not supported by the applicant's overall compliance history.

(3) Whether a permit denial is not an appropriate action because the equipment type, operational character, or emissions capacity of the sources where the violations occurred are significantly different than that of the source for which the permit is being sought.

(4) Whether the violation has been corrected in a timely fashion or reasonable progress is being made.

(5) Whether a permit denial is not an appropriate action because a variance has been granted with respect to those violations.

(6) Whether the violations demonstrate a recurring pattern of noncompliance or pose or have posed a significant risk to the public health or safety or to the environment.

(7) Whether notice and an opportunity for an office conference was provided pursuant to Section 42334.

(e) A permit denial pursuant to subdivision (a) which is based solely upon violations which have not been admitted by the applicant or otherwise established by law shall be set aside by a hearing board if a hearing has been requested by the applicant pursuant to Section 42302, unless the air pollution control officer, following the presentation of substantial evidence and the applicant's opportunity to rebut the evidence, proves that the violation did occur, and that denial is supported by the applicant's overall compliance history. *(Added by Stats.1991, c. 1209 (A.B.158), § 3.)*

H&SC § 42337 *(Issuance of Permit; Public Notice)*: Any public notice provided by the district concerning the issuance of a permit to an applicant shall include, in addition to a description of the proposed project, a statement that information regarding the facility owner's compliance history submitted to the district pursuant to Section 42336, or otherwise known to the district, based on credible information, is available from the district for public review. *(Added by Stats.1991, c. 1209 (A.B.158), § 3.)*

H&SC § 42350 *(Application; Prohibited Variances)*: (a) Any person may apply to the hearing board for a variance from Section 41701 or from the rules and regulations of the district.

(b)(1) If the district board has established a permit system by regulation pursuant to Section 42300, a variance, or an abatement order which has the effect of a variance, may not be granted from the requirement for a permit to build, erect, alter, or replace.

(2) Title V sources shall not be granted a variance, or an abatement order which has the effect of a variance, from the requirement for a permit to operate or use.

(3) In districts with emission-capped trading programs, no variance shall be granted from the emission cap requirement. *(Added by Stats.1975, c. 957, p. 2185, § 12.*

Amended by Stats.1976, c. 1113, p. 5003, § 4; Stats.1993, c. 1166 (A.B.2288), § 11; Stats.1996, c. 618 (S.B.2170), § 5.)

H&SC § 42356 *(Order; Modification or Revocation by Hearing Board)*: The hearing board may modify or revoke, by written order, any order permitting a variance. *(Added by Stats.1975, c. 957, p. 2186, § 12.)*

H&SC § 42357 *(Schedule of Increments of Progress or Final Compliance Date; Modification; Grounds)*: The hearing board may review and for good cause, such as a change in the availability of materials, equipment, or adequate technology, modify a schedule of increments of progress or a final compliance date in such a schedule. *(Added by Stats.1975, c. 957, p. 2186, § 12.)*

H&SC § 42358 *(Effective Period of Order; Final Compliance Date)*: (a) The hearing board, in making any order permitting a variance, shall specify the time during which such order shall be effective, in no event, except as otherwise provided in subdivision (b), to exceed one year, and shall set a final compliance date.

(b) A variance may be issued for a period exceeding one year if the variance includes a schedule of increments of progress specifying a final compliance date by which the

emissions of air contaminants of a source for which the variance is granted will be brought into compliance with applicable emission standards. (*Added by Stats.1975, c. 957, p. 2186, § 12.*)

H&SC § 42362 (*State Board; Authority to Revoke or Modify Variance; Grounds*): The state board may revoke or modify any variance granted by any district if, in its judgment, the variance does not require compliance with a required schedule of increments of progress or emission standards as expeditiously as practicable, or the variance does not meet the requirements of this article. (*Added by Stats.1975, c. 957, p. 2187, § 12.*)

H&SC § 42400 (*Misdemeanors; Separate Offenses; Liability of Owner or Operator of Source of Air Contaminants*): (a) Except as otherwise provided in Section 42400.1, 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail for not more than six months, or both.

(b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor and is punishable as provided in subdivision (a). That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of an action that violates this part.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d), to the health or safety of a considerable number of persons or the public is guilty of a misdemeanor and is subject to a fine of not more than fifteen thousand dollars (\$15,000) or imprisonment in the county jail for not more than nine months, or both.

(d) As used in this section, "actual injury" means any physical injury that, in the opinion of a licensed physician and surgeon, requires medical treatment involving more than a physical examination.

(e) Each day during any portion of which a violation of subdivision (a) or (c) occurs is a separate offense. (*Added by Stats.1975, c. 957, p. 2187, § 12. Amended by Stats.1979, c. 499, p. 1670, § 1; Stats.1982, c. 1047, p. 3808, § 1; Stats.1985, c. 414, § 1; Stats.1986, c. 1453, § 1; Stats.1992, c. 1252 (A.B.1572), § 2; Stats.1993, c. 1165 (A.B.709), § 2; Stats.1993, c. 1166 (A.B.2288), § 12; Stats.1994, c. 727 (A.B.3119), § 8; Stats.2000, c. 805 (S.B.1865), § 3.*)

H&SC § 42400.1 (*Negligent Emission of Air Contaminant; Penalties; Cause of Great Bodily Injury*): (a) Any person who negligently emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district pertaining to emission regulations or limitations is guilty of a misdemeanor and is punishable by a fine of not more than twenty-five thousand dollars (\$25,000), or

imprisonment in a county jail for not more than nine months, or by both that fine and imprisonment.

(b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, is guilty of a misdemeanor and is punishable by a fine of not more than one hundred thousand dollars (\$100,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(c) Each day during any portion of which a violation occurs is a separate offense.

(Added by Stats.1986, c. 1453, § 2. Amended by Stats.1992, c. 1252 (A.B.1572), § 3; Stats.2000, c. 805 (S.B.1865), § 4; Stats.2001, c. 854 (S.B.205), § 11.)

H&SC § 42400.2 (*Knowing Emission of Air Contaminants; Penalties; Corrective Action*):

(a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is punishable by a fine of not more than forty thousand dollars (\$40,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) For purposes of this section, "corrective action" means the termination of the emission violation or the grant of a variance from the applicable order, rule, regulation, or permit pursuant to Article 2 (commencing with Section 42350). If a district regulation regarding process upsets or equipment breakdowns would allow continued operation of equipment which is emitting air contaminants in excess of allowable limits, compliance with that regulation is deemed to be corrective action.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is punishable by a fine of not more than two hundred fifty thousand dollars (\$250,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(d) Each day during any portion of which a violation occurs constitutes a separate offense. *(Added by Stats.1986, c. 1453, § 3. Amended by Stats.1992, c. 1252 (A.B.1572), § 4; Stats.1996, c. 775 (A.B.2937), § 2; Stats.2000, c. 805 (S.B.1865), § 5; Stats.2001, c. 854 (S.B.205), § 12.)*

H&SC § 42400.3 (*Willful and Intentional Emission of Air Contaminant; Misdemeanor; Punishment*):

(a) Any person who willfully and intentionally emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district, pertaining to emission regulations or limitations is guilty of a misdemeanor and is punishable by a fine of not more than seventy-five thousand dollars (\$75,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of,

any person, emits an air contaminant in violation of Section 41700 that results in any unreasonable risk of great bodily injury to, or death of, any person, is guilty of a public offense and is punishable by a fine of not more than one hundred twenty-five thousand dollars (\$125,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. However, if the defendant is a corporation, the maximum fine may be up to five hundred thousand dollars (\$500,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person emits an air contaminant in violation of Section 41700 that causes great bodily injury to, or death of, any person is guilty of a public offense, and is punishable by a fine of not more than two hundred fifty thousand dollars (\$250,000), or imprisonment in a county jail for not more than one year, or both that fine and imprisonment, or is punishable by a fine of not more than two hundred fifty thousand dollars (\$250,000), or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment. If the defendant is a corporation, the maximum fine may be up to one million dollars (\$1,000,000).

(d) Each day during any portion of which a violation occurs constitutes a separate offense.

(e) This section does not preclude punishment under Section 189 or 192 of the Penal Code or any other provision of law that provides a more severe punishment.

(f) For the purposes of this section:

(1) "Great bodily injury" means great bodily injury as defined by Section 12022.7 of the Penal Code.

(2) "Unreasonable risk of great bodily injury or death" means substantial probability of great bodily injury or death. (*Added by Stats.1992, c. 1252 (A.B.1572), § 5. Amended by Stats.1993, c. 1166 (A.B.2288), § 13; Stats.2000, c. 805 (S.B.1865), § 6; Stats.2001, c. 854 (S.B.205), § 13; Stats.2011, c. 15 (A.B.109), § 196, eff. April 4, 2011, operative Oct. 1, 2011.*)

H&SC § 42400.3.5 (*Knowing Violations; Control of Toxic Air Contaminants;*

Misdemeanor and Fine; False Material Statements): (a) Any person who knowingly violates any rule, regulation, permit, order, fee requirement, or filing requirement of the state board or of a district, including a district hearing board, that is adopted for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than six months, or both.

(b) Any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required by a rule or regulation adopted or permit issued for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air

Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto, or who knowingly renders inaccurate any monitoring device required by that toxic air contaminant rule, regulation, or permit is subject to a fine of not more than thirty-five thousand dollars (\$35,000) or imprisonment in the county jail for not more than nine months, or both.

(c) Any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, notice to comply, or order of the state board or of a district, is punishable as provided in subdivision (b).

(d) Subdivisions (a) and (b) shall apply only to those violations that are not otherwise subject to a fine of ten thousand dollars (\$10,000) or more pursuant to Section 42400.1, 42400.2, or 42400.3. (*Added by Stats.2000, c. 805 (S.B.1865), § 7.*)

H&SC § 42400.4 (*Title V Permit Programs; Violations; Penalty*): (a) In any district where a Title V permit program has been fully approved by the federal Environmental Protection Agency, any person who knowingly violates any federally enforceable permit condition or any fee or filing requirement applicable to a Title V source is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000).

(b) In any district in which a Title V permit program has been fully approved by the federal Environmental Protection Agency, any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required of a Title V source of a federally enforceable permit requirement, or who knowingly renders inaccurate any monitoring device or method required of a Title V source, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000).

(c) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2, or 42402.3 precludes prosecution pursuant to this section 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.

(d) Each day during any portion of which a violation of subdivision (a) or (b) occurs is a separate offense.

(e) This section shall not become operative in a district until the federal Environmental Protection Agency fully approves that district's Title V permit program.

(f) This section applies only to violations described in subdivisions (a) and (b) that are not otherwise subject to a fine of ten thousand dollars (\$10,000) or more pursuant to Section 42400.1, 42400.2, or 42400.3. (*Added by Stats.1993, c. 1166 (A.B.2288), § 14. Amended by Stats.1994, c. 146 (A.B.3601), § 129; Stats.1994, c. 727 (A.B.3119), § 9; Stats.2001, c. 769 (S.B.527), § 2.*)

H&SC § 42400.8 (*Amounts of Fines; Circumstances*): In determining the amount of fine to impose pursuant to Sections 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, and 42400.4, the court shall consider all relevant circumstances, including, but not limited to, the following:

(a) The extent of harm caused by the violation.

(b) The nature and persistence of the violation.

- (c) The length of time over which the violation occurs.
- (d) The frequency of past violations.
- (e) The record of maintenance.
- (f) The unproven or innovative nature of the control equipment.
- (g) Any action taken by the person including the nature, extent, and time of response of any cleanup and construction undertaken, to mitigate the violation.
- (h) The financial burden on the defendant.
- (i) Any other circumstances the court deems relevant. *(Added by Stats.2000, c. 805 (S.B.1865), § 9.)*

H&SC § 42401 (*Order of Abatement; Violation; Civil Penalty*): Any person who intentionally or negligently violates any order of abatement issued by a district pursuant to Section 42450, by a hearing board pursuant to Section 42451, or by the state board pursuant to Section 41505 is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day in which the violation occurs. *(Added by Stats.1975, c. 957, p. 2187, § 12. Amended by Stats.1976, c. 1063, p. 4718, § 44, eff. Sept. 21, 1976; Stats.1986, c. 1453, § 4.)*

H&SC § 42402 (*Emissions Limitations; Violations; Civil Penalties*): (a) Except as provided in Sections 42402.1, 42402.2, 42402.3, and 42402.4, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than one thousand dollars (\$1,000).

(b)(1) Any person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars (\$10,000).

(2)(A) If a civil penalty in excess of one thousand dollars (\$1,000) for each day in which a violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act that was not the result of intentional nor negligent conduct.

(B) Subparagraph (A) shall not apply to a violation of federally enforceable requirements that occur at a Title V source in a district in which a Title V permit program has been fully approved.

(C) Subparagraph (A) does not apply to a person who is determined to have violated an annual facility emissions cap established pursuant to a market based incentive program adopted by a district pursuant to subdivision (b) of Section 39616.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d) of Section 42400, to the health and safety of a considerable number of persons or the public, is liable for a civil penalty of not more than fifteen thousand dollars (\$15,000).

(d) Each day during any portion of which a violation occurs is a separate offense. *(Added by Stats.1975, c. 957, p. 2187, § 12. Amended by Stats.1979, c. 239, p. 495, §*

6, eff. July 10, 1979; Stats.1981, c. 1127, p. 4406, § 2; Stats.1983, c. 608, § 2, eff. Sept. 1, 1983; Stats.1985, c. 414, § 2; Stats.1986, c. 1453, § 5; Stats.1992, c. 1252 (A.B.1572), § 6; Stats.1993, c. 1166 (A.B.2288), § 15; Stats.1994, c. 734 (S.B.1000), § 1, eff. Sept. 22, 1994; Stats.2000, c. 805 (S.B.1865), § 10.)

H&SC § 42402.1 (*Negligent Emission of Air Contaminant; Civil Penalty*): (a) Any person who negligently emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000).

(b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).

(c) Each day during any portion of which a violation occurs is a separate offense.

(*Added by Stats.1986, c. 1453, § 6. Amended by Stats.1992, c. 1252 (A.B.1572), § 7; Stats.2000, c. 805 (S.B.1865), § 11; Stats.2001, c. 854 (S.B.205), § 14.*)

H&SC § 42402.2 (*Knowing Emission Of Air Contaminant; Civil Penalty*): (a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty of not more than forty thousand dollars (\$40,000).

(b) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000).

(c) Each day during any portion of which a violation occurs is a separate offense.

(*Added by Stats.1986, c. 1453, § 7. Amended by Stats.1992, c. 1252 (A.B.1572), § 8; Stats.2000, c. 805 (S.B.1865), § 12; Stats.2001, c. 854 (S.B.205), § 15.*)

H&SC § 42402.3 (*Willful and Intentional Emission of Air Contaminant; Civil Penalty*): (a) Any person who willfully and intentionally emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board, or of a district, including a district hearing board, pertaining to emission regulations or limitations, is liable for a civil penalty of not more than seventy-five thousand dollars (\$75,000).

(b) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that results in an unreasonable risk of great bodily injury to, or death of, any person, is liable for a civil penalty of not more than one hundred twenty-five thousand dollars (\$125,000). If the

violator is a corporation, the maximum penalty may be up to five hundred thousand dollars (\$500,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than two hundred fifty thousand dollars (\$250,000). If the violator is a corporation, the maximum penalty may be up to one million dollars (\$1,000,000).

(d) Each day during any portion of which a violation occurs is a separate offense. (Added by Stats.1992, c. 1252 (A.B.1572), § 9. Amended by Stats.1993, c. 1166 (A.B.2288), § 16; Stats.2000, c. 805 (S.B.1865), § 13; Stats.2001, c. 854 (S.B.205), § 16.)

H&SC § 42402.4 (*Knowing and Intentional Falsification of Documents; Civil Penalty*):

Any person who knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, is liable for a civil penalty of not more than thirty-five thousand dollars (\$35,000). (Added by Stats.2000, c. 805 (S.B.1865), § 14.)

H&SC § 42403 (*Action for Civil Penalties*): (a) The civil penalties prescribed in Sections 39674, 42401, 42402, 42402.1, 42402.2, and 42402.3 shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

(b) In determining the amount assessed, the court, or in reaching any settlement, the district, shall take into consideration all relevant circumstances, including, but not limited to, the following:

- (1) The extent of harm caused by the violation.
- (2) The nature and persistence of the violation.
- (3) The length of time over which the violation occurs.
- (4) The frequency of past violations.
- (5) The record of maintenance.
- (6) The unproven or innovative nature of the control equipment.
- (7) Any action taken by the defendant, including the nature, extent, and time of response of the cleanup and construction undertaken, to mitigate the violation.
- (8) The financial burden to the defendant. (Added by Stats.1975, c. 957, p. 2187, § 12. Amended by Stats.1981, c. 1127, p. 4406, § 3; Stats.1986, c. 1453, § 8; Stats.1992, c. 1252 (A.B.1572), § 10.)

H&SC § 42409 (*Publication; List of Potential Violations*): Every district shall publish in writing and make available to any interested party a list which describes potential violations subject to penalties under this article. The list shall also include the minimum and maximum penalties for each violation which may be assessed by a district pursuant to this article. (Added by Stats.1991, c. 744 (A.B.1855), § 1.)

H&SC § 42450 (*District Board; Authority; Notice and Hearing*): The district board may, after notice and a hearing, issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

In holding such a hearing, the district board shall be vested with all the powers and duties of the hearing board. Notice shall be given, and the hearing shall be held, pursuant to Chapter 8 (commencing with Section 40800) of Part 3. (*Added by Stats. 1975, c. 957, p. 2188, § 12. Amended by Stats. 1988, c. 183, § 1.*)

H&SC § 42453 (*Injunction; Mandatory or Prohibitory*): A proceeding for mandatory or prohibitory injunction shall be brought by the district in the name of the people of the State of California in the superior court of the county in which the violation occurs to enjoin any person to whom an order for abatement pursuant to Section 42452 has been directed and who violates such order. (*Added by Stats. 1975, c. 957, p. 2189, § 12.*)

H&SC § 42707 (*Inspection; Fees*): The air pollution control officer shall inspect, as he determines necessary, the monitoring devices installed in every stationary source of air contaminants located within his jurisdiction required to have such devices to insure that such devices are functioning properly. The district may require reasonable fees to be paid by the operator of any such source to cover the expense of such inspection and other costs related thereto. (*Added by Stats. 1975, c. 957, p. 2191, § 12.*)

H&SC § 42706 (*Report of Violation of Emission Standard*): Any violation of any emission standard to which the stationary source is required to conform, as indicated by the records of the monitoring device, shall be reported by the operator of the source to the district within 96 hours after such occurrence. The district shall, in turn, report the violation to the state board within five working days after receiving the report of the violation from the operator. (*Added by Stats. 1975, c. 957, p. 2190, § 12.*)

H&SC § 44340 (*Comprehensive Emissions Inventory Plan; Submission; Approval*): (a) The operator of each facility subject to this part shall prepare and submit to the district a proposed comprehensive emissions inventory plan in accordance with the criteria and guidelines adopted by the state board pursuant to Section 44342.

(b) The proposed plan shall be submitted to the district on or before August 1, 1989, except that, for any facility to which subdivision (b) of Section 44322 applies, the proposed plan shall be submitted to the district on or before August 1, 1990. The district shall approve, modify, and approve as modified, or return for revision and resubmission, the plan within 120 days of receipt.

(c) The district shall not approve a plan unless all of the following conditions are met:

(1) The plan meets the requirements established by the state board pursuant to Section 44342.

(2) The plan is designed to produce, from the list compiled and maintained pursuant to Section 44321, a comprehensive characterization of the full range of hazardous

materials that are released, or that may be released, to the surrounding air from the facility. Air release data shall be collected at, or calculated for, the primary locations of actual and potential release for each hazardous material. Data shall be collected or calculated for all continuous, intermittent, and predictable air releases.

(3) The measurement technologies and estimation methods proposed provide state-of-the-art effectiveness and are sufficient to produce a true representation of the types and quantities of air releases from the facility.

(4) Source testing or other measurement techniques are employed wherever necessary to verify emission estimates, as determined by the state board and to the extent technologically feasible. All testing devices shall be appropriately located, as determined by the state board.

(5) Data are collected or calculated for the relevant exposure rate or rates of each hazardous material according to its characteristic toxicity and for the emission rate necessary to ensure a characterization of risk associated with exposure to releases of the hazardous material that meets the requirements of Section 44361. The source of all emissions shall be displayed or described. *(Added by Stats.1987, c. 1252, § 1, operative July 1, 1988.)*

H&SC § 44341 *(Implementation of Plan; Report)*: Within 180 days after approval of a plan by the district, the operator shall implement the plan and prepare and submit a report to the district in accordance with the plan. The district shall transmit all monitoring data contained in the approved report to the state board. *(Added by Stats.1987, c. 1252, § 1, operative July 1, 1988.)*

H&SC § 44342 *(Site-Specific Inventory Plans; Guidelines and Criteria)*: The state board shall, on or before May 1, 1989, in consultation with the districts, develop criteria and guidelines for site-specific air toxics emissions inventory plans which shall be designed to comply with the conditions specified in Section 44340 and which shall include at least all of the following:

(a) For each class of facility, a designation of the hazardous materials for which emissions are to be quantified and an identification of the likely source types within that class of facility. The hazardous materials for quantification shall be chosen from among, and may include all or part of, the list specified in Section 44321.

(b) Requirements for a facility diagram identifying each actual or potential discrete emission point and the general locations where fugitive emissions may occur. The facility diagram shall include any nonpermitted and nonprocess sources of emissions and shall provide the necessary data to identify emission characteristics. An existing facility diagram which meets the requirements of this section may be submitted.

(c) Requirements for source testing and measurement. The guidelines may specify appropriate uses of estimation techniques including, but not limited to, emissions factors, modeling, mass balance analysis, and projections, except that source testing shall be required wherever necessary to verify emission estimates to the extent technologically feasible. The guidelines shall specify conditions and locations where source testing, fence-line monitoring, or other measurement techniques are to be required and the frequency of that testing and measurement.

- (d) Appropriate testing methods, equipment, and procedures, including quality assurance criteria.
- (e) Specifications for acceptable emissions factors, including, but not limited to, those which are acceptable for substantially similar facilities or equipment, and specification of procedures for other estimation techniques and for the appropriate use of available data.
- (f) Specification of the reporting period required for each hazardous material for which emissions will be inventoried.
- (g) Specifications for the collection of useful data to identify toxic air contaminants pursuant to Article 2 (commencing with Section 39660) of Chapter 3.5 of Part 2.
- (h) Standardized format for preparation of reports and presentation of data.
- (i) A program to coordinate and eliminate any possible overlap between the requirements of this chapter and the requirements of Section 313 of the Superfund Amendment and Reauthorization Act of 1986 (Public Law 99-499).

The state board shall design the guidelines and criteria to ensure that, in collecting data to be used for emissions inventories, actual measurement is utilized whenever necessary to verify the accuracy of emission estimates, to the extent technologically feasible. *(Added by Stats.1987, c. 1252, § 1, operative July 1, 1988.)*

H&SC § 44344 *(Review of Reports)*: The district shall review the reports submitted pursuant to Section 44341 and shall, within 90 days, review each report, obtain corrections and clarifications of the data, and notify the Office of Environmental Health Hazard Assessment, the Department of Industrial Relations, and the city or county health department of its findings and determinations as a result of its review of the report. *(Added by Stats.1987, c. 1252, § 1, operative July 1, 1988. Amended by Gov.Reorg.Plan No. 1 of 1991, § 142, eff. July 17, 1991.)*

H&SC § 44344.5 *(Emissions Inventory Plan and Report; Exemptions)*: (a) The operator of any new facility that previously has not been subject to this part shall prepare and submit an emissions inventory plan and report.

(b) Notwithstanding subdivision (a), a new facility shall not be required to submit an emissions inventory plan and report if all of the following conditions are met:

(1) The facility is subject to a district permit program established pursuant to Section 42300.

(2) The district conducts an assessment of the potential emissions or their associated risks, whichever the district determines to be appropriate, attributable to the new facility and finds that the emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.

(3) The district issues a permit authorizing construction or operation of the new facility.

(Added by Stats.1993, c. 1037 (A.B.956), § 2. Amended by Stats.1996, c. 602 (A.B.564), § 3.)

H&SC § 44365 *(District Authority; Exercise by State Board; No Limitation by Part)*: (a) If the state board finds and determines that a district's actions pursuant to this part do not meet the requirements of this part, the state board may exercise the authority of the

district pursuant to this part to approve emissions inventory plans and require the preparation of health risk assessments.

(b) This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances. (*Added by Stats.1987, c. 1252, § 1, operative July 1, 1988.*)

H&SC § 44366 (*Verification of Information Submitted*): In order to verify the accuracy of any information submitted by facilities pursuant to this part, a district or the state board may proceed in accordance with Section 41510. (*Added by Stats.1987, c. 1252, § 1, operative July 1, 1988. Amended by Stats.2006, c. 538 (S.B.1852), § 407.*)

Gov. Code § 6254.7 (*Air Pollution Data; Public Records; Notices and Orders to Building Owners; Trade Secrets; Data Used to Calculate Costs Of Obtaining Emission Offsets*):

(a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district

rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record. (*Added by Stats. 1970, c. 1295, p. 2397, § 2. Amended by Stats. 1971, c. 1601, p. 3448, § 1; Stats. 1972, c. 400, p. 722, § 1; Stats. 1973, c. 186, p. 488, § 1, eff. July 9, 1973; Stats. 1981, c. 729, p. 2880, § 2; Stats. 1992, c. 612 (A.B. 3785), § 1.*)

Cal. Code Regs. tit., 17 §§ 95460 et seq. – The provisions of the LMR are attached in Appendix A.

Cal. Code Regs. tit., 17 § 91001 - It is the policy of the state board that all records not exempted from disclosure by state law shall be open for public inspection with the least possible delay and expense to the requesting party.

Memorandum of Understanding Between the California Air Resources Board and Districts Regarding Implementation and Enforcement of Regulation to Reduce Methane Emissions from Municipal Solid Waste Landfills – The individual MOUs are attached in Appendix G.