

## **Appendix B: Regulations and Legislation**

### **B.1. Air Toxics Hot Spots Program Overview**

(Air resources Board, 2011: see <http://www.arb.ca.gov/ab2588/overview.htm>)

#### INTRODUCTION

The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly) was enacted in September 1987. Under this, stationary sources are required to report the types and quantities of certain substances their facilities routinely release into the air. Emissions of interest are those that result from the routine operation of a facility or that are predictable, including but not limited to continuous and intermittent releases and process upsets or leaks.

The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, and to notify nearby residents of significant risks. In September 1992, the "Hot Spots" Act was amended by Senate Bill (SB) 1731 (Calderon) to address the reduction of significant risks. The bill requires that owners of significant-risk facilities reduce their risks below the level of significance.

The Act requires that toxic air emissions from stationary sources (facilities) be quantified and compiled into an inventory according to criteria and guidelines developed by the ARB, that each facility be prioritized to determine whether a risk assessment must be conducted, that the risk assessments be conducted according to methods developed by the Office of Environmental Health Hazard Assessment (OEHHA), that the public be notified of significant risks posed by nearby facilities, and that emissions which result in a significant risk be reduced. Since the amendment of the statute in 1992 by enactment of SB 1731, facilities that pose a potentially significant health risks to the public are required to reduce their risks, thereby reducing the near-source exposure of Californians to toxic air pollutants. Owners of facilities found to pose significant risks by a district must prepare and implement risk reduction audit and plans within 6 months of the determination.

The Air Resources Board (ARB) is required to develop a program to make the emission data collected under the "Hot Spots" Program available to the public. If requested, districts must make health risk assessments available for public review. Districts must also publish annual reports which summarize the health risk assessment program, rank facilities according to the cancer risk posed, identify the facilities posing non-cancer health risks, and describe the status of the development of control measures.

The "Hot Spots" Program has complemented the ARB's existing air toxics identification and control programs. It has located sources of substances not previously under evaluation, and it has provided exposure information necessary to prioritize substances for control measures and develop regulatory action. Also, the preparation of the "Hot Spots" emission inventory made facility owners aware of their toxics problems. As a

result, facilities have taken voluntary steps to reduce emissions of air toxics. Limited district and facility surveys have identified voluntary reductions of over 1.9 million pounds per year in the emission of air toxics from just 21 facilities in California. The benefits that come from this type of action are less risk to workers and to the public, reduced operation costs, demonstration of emission reduction options for other sources, and improved community relations.

The Act was further modified by AB 564, chaptered on September 19, 1996. The passage of AB 564 amended the Hot Spots statute in several ways, including adding provisions that: exempt specified low priority facilities from further compliance with the Hot Spots program; reinstate exempted facilities if specified criteria are met; specify an alternative evaluation process for facilities subject to district permit programs; and other changes to exempt specified facilities from further compliance with the Hot Spots Program.

## **B.2. Health and Safety Code Related to Air Toxics Hot Spots.**

### **PART 6. AIR TOXICS "HOT SPOTS" INFORMATION AND ASSESSMENT**

(Part 6 added by Stats. 1987, Ch. 1252, Sec. 1. Operative July 1, 1988, pursuant to Section 44384. Note: Sections 44380 and 44384 became operative Jan. 1, 1988.)

#### **CHAPTER 1: LEGISLATIVE FINDINGS AND DEFINITIONS**

44300. This part shall be known and may be cited as the Air Toxics "Hot Spots" Information and Assessment Act of 1987.

44301. The Legislature finds and declares all of the following:

- (a) In the wake of recent publicity surrounding planned and unplanned releases of toxic chemicals into the atmosphere, the public has become increasingly concerned about toxics in the air.
- (b) The Congressional Research Service of the Library of Congress has concluded that 75 percent of the United States population lives in proximity to at least one facility that manufactures chemicals. An incomplete 1985 survey of large chemical companies conducted by the Congressional Research Service documented that nearly every chemical plant studied routinely releases into the surrounding air significant levels of substances proven to be or potentially hazardous to public health.
- (c) Generalized emissions inventories compiled by air pollution control districts and air quality management districts in California confirm the findings of the Congressional Research Service survey as well as reveal that many other facilities and businesses which do not actually manufacture chemicals do use hazardous substances in sufficient quantities to expose, or in a manner that exposes, surrounding populations to toxic air releases.
- (d) These releases may create localized concentrations or air toxics "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to the cumulative health risks of emissions from other sources in the area. In some cases where large populations may not be significantly affected by adverse health risks, individuals may be exposed to significant risks.
- (e) Little data is currently available to accurately assess the amounts, types, and health impacts of routine toxic chemical releases into the air. As a result, there exists significant uncertainty about the amounts of potentially hazardous air pollutants which are released, the location of those releases, and the concentrations to which the public is exposed.
- (f) The State of California has begun to implement a long-term program to identify, assess, and control ambient levels of hazardous air pollutants, but additional legislation is needed to provide for the collection and evaluation of information concerning the amounts, exposures, and short- and long-term health effects of

hazardous substances regularly released to the surrounding atmosphere from specific sources of hazardous releases.

- (g) In order to more effectively implement control strategies for those materials posing an unacceptable risk to the public health, additional information on the sources of potentially hazardous air pollutants is necessary.
- (h) It is in the public interest to ascertain and measure the amounts and types of hazardous releases and potentially hazardous releases from specific sources that may be exposing people to those releases, and to assess the health risks to those who are exposed.

44302. The definitions set forth in this chapter govern the construction of this part.

44303. "Air release" or "release" means any activity that may cause the issuance of air contaminants, including the actual or potential spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the ambient air and that results from the routine operation of a facility or that is predictable, including, but not limited to, continuous and intermittent releases and predictable process upsets or leaks.

44304. "Facility" means every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.

44306. "Health risk assessment" means a detailed comprehensive analysis prepared pursuant to Section 44361 to evaluate and predict the dispersion of hazardous substances in the environment and the potential for exposure of human populations and to assess and quantify both the individual and populationwide health risks associated with those levels of exposure.

44307. "Operator" means the person who owns or operates a facility or part of a facility.

44308. "Plan" means the emissions inventory plan which meets the conditions specified in Section 44342.

44309. "Report" means the emissions inventory report specified in Section 44341.

## CHAPTER 2: FACILITIES SUBJECT TO THIS PART

44320. This part applies to the following:

- (a) Any facility which manufactures, formulates, uses, or releases any of the substances listed pursuant to Section 44321 or any other substance which reacts to form a substance listed in Section 44321 and which releases or has the potential to release total organic gases, particulates, or oxides of nitrogen or sulfur in the amounts specified in Section 44322.
- (b) Except as provided in Section 44323, any facility which is listed in any current toxics use or toxics air emission survey, inventory, or report released or

compiled by a district. A district may, with the concurrence of the state board, waive the application of this part pursuant to this subdivision for any facility which the district determines will not release any substance listed pursuant to Section 44321 due to a shutdown or a process change.

44321. For the purposes of Section 44320, the state board shall compile and maintain a list of substances that contains, but is not limited to, all of the following:

- (a) Substances identified by reference in paragraph (1) of subdivision (b) of Section 6382 of the Labor Code and substances placed on the list prepared by the National Toxicology Program and issued by the United States Secretary of Health and Human Services pursuant to paragraph (4) of subsection (b) of Section 241 of Title 42 of the United States Code. For the purposes of this subdivision, the state board may remove from the list any substance which meets both of the following criteria:
  - (1) No evidence exists that it has been detected in air.
  - (2) The substance is not manufactured or used in California, or, if manufactured or used in California, because of the physical or chemical characteristics of the substance or the manner in which it is manufactured or used, there is no possibility that it will become airborne.
- (b) Carcinogens and reproductive toxins referenced in or compiled pursuant to Section 25249.8, except those which meet both of the criteria identified in subdivision (a).
- (c) Substances designated by the state board as toxic air contaminants pursuant to subdivision (b) of Section 39657 and substances on the candidate list of potential toxic air contaminants and the list of designated toxic air contaminants prepared by the state board pursuant to Article 3 (commencing with Section 39660) of Chapter 3.5 of Part 2, including, but not limited to, all substances currently under review and scheduled or nominated for review and substances identified and listed for which health effects information is limited.
- (d) Substances for which an information or hazard alert has been issued by the repository of current data established pursuant to Section 147.2 of the Labor Code.
- (e) Substances reviewed, under review, or scheduled for review as air toxics or potential air toxics by the Office of Air Quality Planning and Standards of the Environmental Protection Agency, including substances evaluated in all of the following categories or their equivalent: preliminary health and source screening, detailed assessment, intent to list, decision not to regulate, listed, standard proposed, and standard promulgated.
- (f) Any additional substances recognized by the state board as presenting a chronic or acute threat to public health when present in the ambient air, including, but not limited to, any neurotoxicants or chronic respiratory toxicants not included within subdivision (a), (b), (c), (d), or (e).

44322. This part applies to facilities specified in subdivision (a) of Section 44320 in accordance with the following schedule:

- (a) For those facilities that release, or have the potential to release, 25 tons per year or greater of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective on July 1, 1988.
- (b) For those facilities that release, or have the potential to release, more than 10 but less than 25 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, this part becomes effective July 1, 1989.
- (c) For those facilities that release, or have the potential to release, less than 10 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, the state board shall, on or before July 1, 1990, prepare and submit a report to the Legislature identifying the classes of those facilities to be included in this part and specifying a timetable for their inclusion.

44323. A district may prepare an industrywide emissions inventory and health risk assessment for facilities specified in subdivision (b) of Section 44320 and subdivisions (a) and (b) of Section 44322, and shall prepare an industrywide emissions inventory for the facilities specified in subdivision (c) of Section 44322, in compliance with this part for any class of facilities that the district finds and determines meets all of the following conditions:

- (a) All facilities in the class fall within one four-digit Standard Industrial Classification Code.
- (b) Individual compliance with this part would impose severe economic hardships on the majority of the facilities within the class.
- (c) The majority of the class is composed of small businesses.
- (d) Releases from individual facilities in the class can easily and generically be characterized and calculated.

44324. This part does not apply to any facility where economic poisons are employed in their pesticidal use, unless that facility was subject to district permit requirements on or before August 1, 1987. As used in this section, "pesticidal use" does not include the manufacture or formulation of pesticides.

44325. Any solid waste disposal facility in compliance with Section 41805.5 is in compliance with the emissions inventory requirements of this part.

### CHAPTER 3: AIR TOXICS EMISSION INVENTORIES

44340.

- (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.

44341. 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.

44342. 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.

44343. 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.

44344. Except as provided in Section 44391, emissions inventories developed pursuant to this chapter shall be updated every four years, in accordance with the procedures established by the state board. Those updates shall take into consideration improvements in measurement techniques and advancing knowledge concerning the types and toxicity of hazardous material released or potentially released.

44344.4.

- (a) Except as provided in subdivision (d) and in Section 44344.7, a facility shall be exempt from further compliance with this part if the facility's prioritization scores for cancer and noncancer health effects are both equal to or less than one, based on the results of the most recent emissions inventory or emissions inventory update. An exempt facility shall no longer be required to pay any fee or submit any report to the district or the state board pursuant to this part.
- (b) Except for facilities that are exempt from this part pursuant to subdivision (a), a facility for which the prioritization scores for cancer and noncancer health effects are both equal to or less than 10, based on the results of the most recent



emissions inventory or emissions inventory update, shall not be required to pay any fee or submit any report to the district or the state board pursuant to this part, except for the quadrennial emissions inventory update required pursuant to Section 44344. A district may, by regulation, establish a fee to be paid by a facility operator in connection with the operator's submission to the district of a quadrennial emissions inventory update pursuant to this subdivision. The fee shall not be greater than one hundred twenty-five dollars (\$125). A district may increase the fee above that amount upon the adoption of written findings that the costs of processing the emission inventory update exceed one hundred twenty-five dollars (\$125). However, the district shall not adopt a fee greater than that supported by the written findings.

- (c) For the purposes of this part, "prioritization score" means a facility's numerical score for cancer health effects or noncancer health effects, as determined by the district pursuant to Section 44360 in a manner consistent with facility prioritization guidelines prepared by the California Air Pollution Control Officers Association and approved by the state board.
- (d) Notwithstanding subdivision (a) and Section 44344.7, if a district has good cause to believe that a facility may pose a potential threat to public health and that the facility therefore does not qualify for an exemption claimed by the facility pursuant to subdivision (a), the district may require the facility to document the facility's emissions and health impacts, or the changes in emissions expected to occur as a result of a particular physical change, a change in activities or operations at the facility, or a change in other factors. The district may deny the exemption if the documentation does not support the claim for the exemption.

#### 44344.5.

- (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.

44344.6. A district shall redetermine a facility's prioritization score, or evaluate the prioritization score as calculated and submitted by the facility, within 90 days from the date of receipt of a quadrennial emissions inventory update pursuant to Section 44344 or subdivision (b) of Section 44344.4, within 90 days from the date of receipt of an emissions inventory update submitted pursuant to Section 44344.7, or within 90 days

from the date of receiving notice that a facility has completed the implementation of a plan prepared pursuant to Section 44392.

44344.7.

- (a) A facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall, upon receipt of a notice from the district, again be subject to this part and the operator shall submit an emissions inventory update for those sources and substances for which a physical change in the facility or a change in activities or operations has occurred, as follows:
  - (1) The facility emits a substance newly listed pursuant to Section 44321.
  - (2) A sensitive receptor has been established or constructed within 500 meters of the facility after the facility became exempt.
  - (3) The facility emits a substance for which the potency factor has increased.
- (b) The operator of a facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall submit an emissions inventory update for those sources and substances for which a particular physical change in the facility or a change in activities or operations occurs if, as a result of the particular change, either of the following has occurred:
  - (1) The facility has begun emitting a listed substance not included in the previous emissions inventory.
  - (2) The facility has increased its emissions of a listed substance to a level greater than the level previously reported for that substance, and the increase in emissions exceeds 100 percent of the previously reported level.
- (c) Notwithstanding subdivision (b), a physical change or change in activities or operations at a facility shall not cause the facility to again be subject to this part if all of the following conditions are met:
  - (1) The physical change or change in activities or operations is subject to a district permit program established pursuant to Section 42300.
  - (2) The district conducts an assessment of the potential changes in emissions or their associated risks, whichever the district determines to be appropriate, attributable to the physical change or change in activities or operations and finds that the changes in 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 for the physical change or change in activities or operations.

44345.

- (a) On or before July 1, 1989, the state board shall develop a program to compile and make available to other state and local public agencies and the public all data collected pursuant to this chapter.
- (b) In addition, the state board, on or before March 1, 1990, shall compile, by district, emissions inventory data for mobile sources and area sources not subject to district permit requirements, and data on natural source emissions, and shall incorporate these data into data compiled and released pursuant to this chapter.

44346.

- (a) If an operator believes that any information required in the facility diagram specified pursuant to subdivision (b) of Section 44342 involves the release of a trade secret, the operator shall nevertheless make the disclosure to the district, and shall notify the district in writing of that belief in the report.
- (b) Subject to this section, the district shall protect from disclosure any trade secret designated as such by the operator, if that trade secret is not a public record.
- (c) Upon receipt of a request for the release of information to the public which includes information which the operator has notified the district is a trade secret and which is not a public record, the following procedure applies:
  - (1) The district shall notify the operator of the request in writing by certified mail, return receipt requested.
  - (2) The district shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the operator obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the district of that action.
- (d) This section does not permit an operator to refuse to disclose the information required pursuant to this part to the district.
- (e) Any information determined by a court to be a trade secret, and not a public record pursuant to this section, shall not be disclosed to anyone except an officer or employee of the district, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the district or the state and its employees if, in the opinion of the district or the state, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.
- (f) Any officer or employee of the district or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it is guilty of a misdemeanor. Any contractor of the district and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the district for purposes of this section.
- (g) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.
- (h) As used in this section, "trade secret" and "public record" have the meanings and protections given to them by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code. All information collected pursuant to this chapter, except for data used to calculate emissions data required in the facility

diagram, shall be considered "air pollution emission data," for the purposes of this section.

#### CHAPTER 4: RISK ASSESSMENT

44360.

- (a) Within 90 days of completion of the review of all emissions inventory data for facilities specified in subdivision (a) of Section 44322, but not later than December 1, 1990, the district shall, based on examination of the emissions inventory data and in consultation with the state board and the State Department of Health Services, prioritize and then categorize those facilities for the purposes of health risk assessment. The district shall designate high, intermediate, and low priority categories and shall include each facility within the appropriate category based on its individual priority. In establishing priorities pursuant to this section, the district shall consider the potency, toxicity, quantity, and volume of hazardous materials released from the facility, the proximity of the facility to potential receptors, including, but not limited to, hospitals, schools, day care centers, worksites, and residences, and any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors. The district shall hold a public hearing prior to the final establishment of priorities and categories pursuant to this section.
- (b)
  - (1) Within 150 days of the designation of priorities and categories pursuant to subdivision (a), the operator of every facility that has been included within the highest priority category shall prepare and submit to the district a health risk assessment pursuant to Section 44361. The district may, at its discretion, grant a 30-day extension for submittal of the health risk assessment.
  - (2) Health risk assessments required by this chapter shall be prepared in accordance with guidelines established by the Office of Environmental Health Hazard Assessment. The office shall prepare draft guidelines which shall be circulated to the public and the regulated community and shall adopt risk assessment guidelines after consulting with the state board and the Risk Assessment Committee of the California Air Pollution Control Officers Association and after conducting at least two public workshops, one in the northern and one in the southern part of the state. The adoption of the guidelines is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The scientific review panel established pursuant to Section 39670 shall evaluate the guidelines adopted under this paragraph and shall recommend changes and additional criteria to reflect new scientific data or empirical studies.
  - (3) The guidelines established pursuant to paragraph (2) shall impose only those requirements on facilities subject to this subdivision that are necessary to ensure that a required risk assessment is accurate and complete and shall specify the type of site-specific factors that districts may take into account in determining when a single health risk assessment may be allowed under subdivision (d). The guidelines shall, in addition, allow the operator of a

facility, at the operator's option, and to the extent that valid and reliable data are available, to include for consideration by the district in the health risk assessment any or all of the following supplemental information:

- (A) Information concerning the scientific basis for selecting risk parameter values that are different than those required by the guidelines and the likelihood distributions that result when alternative values are used.
  - (B) Data from dispersion models, microenvironment characteristics, and population distributions that may be used to estimate maximum actual exposure.
  - (C) Risk expressions that show the likelihood that any given risk estimate is the correct risk value.
  - (D) A description of the incremental reductions in risk that occur when exposure is reduced.
- (4) To ensure consistency in the use of the supplemental information authorized by subparagraphs (A), (B), (C), and (D) of paragraph (3), the guidelines established pursuant to paragraph (2) shall include guidance for use by the districts in considering the supplemental information when it is included in the health risk assessment.
- (c) Upon submission of emissions inventory data for facilities specified in subdivisions (b) and (c) of Section 44322, the district shall designate facilities for inclusion within the highest priority category, as appropriate, and any facility so designated shall be subject to subdivision (b). In addition, the district may require the operator of any facility to prepare and submit health risk assessments, in accordance with the priorities developed pursuant to subdivision (a).
- (d) The district shall, except where site specific factors may affect the results, allow the use of a single health risk assessment for two or more substantially identical facilities operated by the same person.
- (e) Nothing contained in this section, Section 44380.5, or Chapter 6 (commencing with Section 44390) shall be interpreted as requiring a facility operator to prepare a new or revised health risk assessment using the guidelines established pursuant to paragraph (2) of subdivision (a) of this section if the facility operator is required by the district to begin the preparation of a health risk assessment before those guidelines are established.

44361.

- (a) Each health risk assessment shall be submitted to the district. The district shall make the health risk assessment available for public review, upon request. After preliminary review of the emissions impact and modeling data, the district shall submit the health risk assessment to the Office of Environmental Health Hazard Assessment for review and, within 180 days of receiving the health risk assessment, the State office shall submit to the district its comments on the data and findings relating to health effects. The district shall consult with the state board as necessary to adequately evaluate the emissions impact and modeling data contained within the risk assessment.

- (b) For the purposes of complying with this section, the Office of Environmental Health Hazard Assessment may select a qualified independent contractor to review the data and findings relating to health effects. The office shall not select an independent contractor to review a specific health risk assessment who may have a conflict of interest with regard to the review of that health risk assessment. Any review by an independent contractor shall comply with the following requirements:
  - (1) Be performed in a manner consistent with guidelines provided by the office.
  - (2) Be reviewed by the office for accuracy and completeness.
  - (3) Be submitted by the office to the district in accordance with this section.
- (c) The district shall reimburse the Office of Environmental Health Hazard Assessment or the qualified independent contractor designated by the office pursuant to subdivision (b), within 45 days of its request, for its actual costs incurred in reviewing a health risk assessment pursuant to this section.
- (d) If a district requests the Office of Environmental Health Hazard Assessment to consult with the district concerning any requirement of this part, the district shall reimburse the office, within 45 days of its request, for the costs incurred in the consultation.
- (e) Upon designation of the high priority facilities, as specified in subdivision (a) of Section 44360, the Office of Environmental Health Hazard Assessment shall evaluate the staffing requirements of this section and may submit recommendations to the Legislature, as appropriate, concerning the maximum number of health risk assessments to be reviewed each year pursuant to this section.

44362.

- (a) Taking the comments of the Office of Environmental Health Hazard Assessment into account, the district shall approve or return for revision and resubmission and then approve, the health risk assessment within one year of receipt. If the health risk assessment has not been revised and resubmitted within 60 days of the district's request of the operator to do so, the district may modify the health risk assessment and approve it as modified.
- (b) Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributable to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district.

44363.

- (a) Commencing July 1, 1991, each district shall prepare and publish an annual report which does all of the following:
  - (1) Describes the priorities and categories designated pursuant to Section 44360 and summarizes the results and progress of the health risk assessment program undertaken pursuant to this part.
  - (2) Ranks and identifies facilities according to the degree of cancer risk posed both to individuals and to the exposed population.
  - (3) Identifies facilities which expose individuals or populations to any noncancer health risks.
  - (4) Describes the status of the development of control measures to reduce emissions of toxic air contaminants, if any.
- (b) The district shall disseminate the annual report to county boards of supervisors, city councils, and local health officers and the district board shall hold one or more public hearings to present the report and discuss its content and significance.

44364. The state board shall utilize the reports and assessments developed pursuant to this part for the purposes of identifying, establishing priorities for, and controlling toxic air contaminants pursuant to Chapter 3.5 (commencing with Section 39650) of Part 2.

44365.

- (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.

44366.

- (a) 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.

## CHAPTER 5: FEES AND REGULATIONS

44380.

- (a) The state board shall adopt a regulation which does all of the following:
  - (1) Sets forth the amount of revenue which the district must collect to recover the reasonable anticipated cost which will be incurred by the state board and the Office of Environmental Health Hazard Assessment to implement and administer this part.

- (2) Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part, except as specified in subdivision (b) of Section 44344.4. A district may request the state board to adopt a fee schedule for the district if the district's program costs are approved by the district board and transmitted to the state board by April 1 of the year in which the request is made.
  - (3) Requires any district that has an approved toxics emissions inventory compiled pursuant to this part by August 1 of the preceding year to adopt a fee schedule, as described in paragraph (2), which imposes on facility operators fees which are, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emissions inventory and the level of priority assigned to that source by the district pursuant to Section 44360.
- (b) Commencing August 1, 1992, and annually thereafter, the state board shall review and may amend the fee regulation.
  - (c) The district shall notify each person who is subject to the fee of the obligation to pay the fee. If a person fails to pay the fee within 60 days after receipt of this notice, the district, unless otherwise provided by district rules, shall require the person to pay an additional administrative civil penalty. The district shall fix the penalty at not more than 100 percent of the assessed fee, but in an amount sufficient in its determination, to pay the district's additional expenses incurred by the person's noncompliance. If a person fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked, it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.
  - (d) Each district shall collect the fees assessed pursuant to subdivision (a). After deducting the costs to the district to implement and administer this part, the district shall transmit the remainder to the Controller for deposit in the Air Toxics Inventory and Assessment Account, which is hereby created in the General Fund. The money in the account is available, upon appropriation by the Legislature, to the state board and the Office of Environmental Health Hazard Assessment for the purposes of administering this part.
  - (e) For the 1997-98 fiscal year, air toxics program revenues for the state board and the Office of Environmental Health Hazard Assessment shall not exceed two million dollars (\$2,000,000), and for each fiscal year thereafter, shall not exceed one million three hundred fifty thousand dollars (\$1,350,000). Funding for the Office of Environmental Health Hazard Assessment for conducting risk assessment reviews shall be on a fee-for-service basis.

44380.1. A facility shall be granted an exemption by a district from paying a fee in accordance with Section 44380 if all of the following criteria are met:

- (a) The facility primarily handles, processes, stores, or distributes bulk agricultural commodities or handles, feeds, or rears livestock.
- (b) The facility was required to comply with this part only as a result of its particulate matter emissions.



- (c) The fee schedule adopted by the district or the state board for these types of facilities is not solely based on toxic emissions weighted for potency or toxicity.

44380.5. In addition to the fee assessed pursuant to Section 44380, a supplemental fee may be assessed by the district, the state board, or the Office of Environmental Health Hazard Assessment upon the operator of a facility that, at the operator's option, includes supplemental information authorized by paragraph (3) of subdivision (b) of Section 44360 in a health risk assessment, if the review of that supplemental information substantially increases the costs of reviewing the health risk assessment by the district, the state board, or the office. The supplemental fee shall be set by the state board in the regulation required by subdivision (a) of Section 44380 and shall be set in an amount sufficient to cover the direct costs to review the information supplied by an operator pursuant to paragraph (3) of subdivision (b) of Section 44360.

44381.

- (a) Any person who fails to submit any information, reports, or statements required by this part, or who fails to comply with this part or with any permit, rule, regulation, or requirement issued or adopted pursuant to this part, is subject to a civil penalty of not less than five hundred dollars (\$500) or more than ten thousand dollars (\$10,000) for each day that the information, report, or statement is not submitted, or that the violation continues.
- (b) Any person who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this part is subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than twenty-five thousand dollars (\$25,000) per day for each day that the information remains uncorrected.

44382. Every district shall, by regulation, adopt the requirements of this part as a condition of every permit issued pursuant to Chapter 4 (commencing with Section 42300) of Part 4 for all new and modified facilities.

44384. Except for Section 44380 and this section, all provisions of this part shall become operative on July 1, 1988.

## CHAPTER 6: FACILITY RISK REDUCTION AUDIT AND PLAN

44390. For purposes of this chapter, the following definitions apply:

- (a) "Airborne toxic risk reduction measure" or "ATRRM" means those in-plant changes in production processes or feedstocks that reduce or eliminate toxic air emissions subject to this part. ATRRM's may include:
  - (1) Feedstock modification.
  - (2) Product reformulations.
  - (3) Production system modifications.
  - (4) System enclosure, emissions control, capture, or conversion.
  - (5) Operational standards and practices modification.

- (b) Airborne toxic risk reduction measures do not include measures that will increase risk from exposure to the chemical in another media or that increase the risk to workers or consumers.
- (c) "Airborne toxic risk reduction audit and plan" or "audit and plan" means the audit and plan specified in Section 44392.

44391.

- (a) Whenever a health risk assessment approved pursuant to Chapter 4 (commencing with Section 44360) indicates, in the judgment of the district, that there is a significant risk associated with the emissions from a facility, the facility operator shall conduct an airborne toxic risk reduction audit and develop a plan to implement airborne toxic risk reduction measures that will result in the reduction of emissions from the facility to a level below the significant risk level within five years of the date the plan is submitted to the district. The facility operator shall implement measures set forth in the plan in accordance with this chapter.
- (b) The period to implement the plan required by subdivision (a) may be shortened by the district if it finds that it is technically feasible and economically practicable to implement the plan to reduce emissions below the significant risk level more quickly or if it finds that the emissions from the facility pose an unreasonable health risk.
- (c) A district may lengthen the period to implement the plan required by subdivision (a) by up to an additional five years if it finds that a period longer than five years will not result in an unreasonable risk to public health and that requiring implementation of the plan within five years places an unreasonable economic burden on the facility operator or is not technically feasible.
- (d)
  - (1) The state board and districts shall provide assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing risk reduction methods, and developing and applying risk reduction techniques.
  - (2) Risk reduction audits and plans for any industry subject to this chapter which is comprised mainly of small businesses using substantially similar technology may be completed by a self-conducted audit and checklist developed by the state board. The state board, in coordination with the districts, shall provide a copy of the audit and checklist to small businesses within those industries to assist them to meet the requirements of this chapter.
- (e) The audit and plan shall contain all the information required by Section 44392.
- (f) The plan shall be submitted to the district, within six months of a district's determination of significant risk, for review of completeness. Operators of facilities that have been notified prior to January 1, 1993, that there is a significant risk associated with emissions from the facility shall submit the plan by July 1, 1993. The district's review of completeness shall include a substantive analysis of the emission reduction measures included in the plan, and the ability

of those measures to achieve emission reduction goals as quickly as feasible as provided in subdivisions (a) and (b).

- (g) The district shall find the audit and plan to be satisfactory within three months if it meets the requirements of this chapter, including, but not limited to, subdivision (f). If the district determines that the audit and plan does not meet those requirements, the district shall remand the audit and plan to the facility specifying the deficiencies identified by the district. A facility operator shall submit a revised audit and plan addressing the deficiencies identified by the district within 90 days of receipt of a deficiency notice.
- (h) Progress on the emission reductions achieved by the plan shall be reported to the district in emissions inventory updates. Emissions inventory updates shall be prepared as required by the audit and plan found to be satisfactory by the district pursuant to subdivision (g).
- (i) If new information becomes available after the initial risk reduction audit and plan, on air toxics risks posed by a facility, or emission reduction technologies that may be used by a facility that would significantly impact risks to exposed persons, the district may require the plan to be updated and resubmitted to the district.
- (j) This section does not authorize the emission of a toxic air contaminant in violation of an airborne toxic control measure adopted pursuant to Chapter 3.5 (commencing with Section 39650) or in violation of Section 41700.

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

- (a) The name and location of the facility.
- (b) The SIC code for the facility.
- (c) The chemical name and the generic classification of the chemical.
- (d) An evaluation of the ATRRM's available to the operator.
- (e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.
- (f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.
- (g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor registered pursuant to Section 25570.3.

44393. The plan prepared pursuant to Section 44391 shall not be considered to be the equivalent of a pollution prevention program or a source reduction program, except insofar as the audit and plan elements are consistent with source reduction, as defined in Section 25244.14, or subsequent statutory definitions of pollution prevention.

44394. Any facility operator who does not submit a complete airborne toxic risk reduction audit and plan or fails to implement the measures set forth in the plan as set forth in this chapter is subject to the civil penalty specified in subdivision (a) of Section 44381, and any facility operator who, in connection with the audit or plan, knowingly submits any false statement or representation is subject to the civil penalty specified in subdivision (b) of Section 44381.

### **B.3. Toxic Air Contaminants Program Overview**

(Air resources Board, 2011: see <http://www.arb.ca.gov/toxics/background.htm>)

#### AB 1807 Program

In 1983, the California Legislature established a two-step process of risk identification and risk management to address the potential health effects from air toxic substances and protect the public health of Californians. During the first step (identification), the ARB and the Office of Environmental Health Hazard Assessment (OEHHA) determines if a substance should be formally identified as a toxic air contaminant (TAC) in California. During this process, the ARB and the OEHHA staff draft a report that serves as the basis for this determination. The ARB staff assesses the potential for human exposure to a substance and the OEHHA staff evaluates the health effects. A thorough public process assures accountability and public input. Public workshops are conducted to allow for direct exchanges of information with interested constituencies. The draft risk assessments themselves are published and widely distributed with a public notice requesting comment to further assure involvement. The final risk assessment (identification) report includes a record of the public comments and how they were addressed. After the ARB and the OEHHA staff hold several comment periods and workshops, the report is then submitted to an independent, nine member, Scientific Review Panel (SRP), who review the report for its scientific accuracy. If the SRP approves the report, they develop specific scientific findings which are officially submitted to the ARB. The ARB staff then prepares a hearing notice and draft regulation to formally identify the substance as a TAC. Based on the input from the public and the information gathered from the report, the Board will decide whether to identify a substance as a TAC. Any person may petition the Board to review a previous determination by providing new evidence.

In the second step (risk management), the ARB reviews the emission sources of an identified TAC to determine if any regulatory action is necessary to reduce the risk. The analysis includes a review of controls already in place, the available technologies and associated costs for reducing emissions, and the associated risk. Public outreach is an essential element in the development of a control plan and any control measure to ensure that the ARB efforts are cost-effective and appropriately balance public health protection and economic growth.

In 1993, the California Legislature amended the AB 1807 program for the identification and control of TACs (AB 2728). Specifically, AB 2728 required the ARB to identify the 189 federal hazardous air pollutants as TACs. For those substances that have not previously been identified under AB 1807 and identified under AB 2728, health effects values will need to be developed. This report will serve as a basis for that evaluation. For substances that were not identified as TACs and are on the TAC Identification List, this report will provide information to evaluate which substances may be entered into the air toxics identification process.

**B.4. Senate Bill 352. Schoolsites: sources of pollution**

CHAPTER 668

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AMENDED IN SENATE MARCH 24, 2003

INTRODUCED BY Senator Escutia

FEBRUARY 19, 2003

An act to amend Section 17213 of the Education Code, and to amend Section 21151.8 of the Public Resources Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, Escutia. Schoolsites: sources of pollution.

Existing law sets forth various requirements regarding the siting, structural integrity, safety, and fitness-for-occupancy of school buildings, including, but not limited to, a prohibition of the approval by the governing board of a school district of the acquisition of a schoolsite by a school district, unless prescribed conditions relating to possible exposure to hazardous substances are satisfied, and a prohibition on the approval of a related environmental impact report or negative declaration.

This bill would, in addition, prohibit the approval by the governing board of a school district of a schoolsite that is within 500 feet from the edge of the closest traffic lane of a freeway or other busy traffic corridor, unless prescribed conditions are met and would make conforming and other technical, nonsubstantive changes.

Existing law requires the lead agency to consult with prescribed agencies to identify facilities that might reasonably be anticipated to emit hazardous materials, within 1/4 of a mile of the schoolsite.

This bill would define "facility" for this purpose and would require the lead agency to consult to identify freeways and other busy traffic corridors, as defined, large agricultural operations, and railyards, within 1/4 of a mile of the schoolsite, and would make conforming and other technical, nonsubstantive changes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

The Legislature finds and declares all of the following:

- (a) Many studies have shown significantly increased levels of pollutants, particularly diesel particulates, in close proximity to freeways and other major diesel sources. A recent study of Los Angeles area freeways measured diesel particulate levels up to 25 times higher near freeways than those levels elsewhere. Much of the pollution from freeways is associated with acute health effects, exacerbating asthma and negatively impacting the ability of children to learn.
- (b) Cars and trucks release at least forty different toxic air contaminants, including, but not limited to, diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Levels of these pollutants are generally concentrated within 500 feet of freeways and very busy roadways.
- (c) Current state law governing the siting of schools does not specify whether busy freeways should be included in environmental impact reports of nearby "facilities." Over 150 schools are already estimated to be within 500 feet of extremely high traffic roadways.
- (d) A disproportionate number of economically disadvantaged pupils may be attending schools that are close to busy roads, putting them at an increased risk of developing bronchitis from elevated levels of several pollutants associated with traffic. Many studies have confirmed that increased wheezing and bronchitis occurs among children living in high traffic areas.
- (e) It is therefore the intent of the Legislature to protect school children from the health risks posed by pollution from heavy freeway traffic and other nonstationary sources in the same way that they are protected from industrial pollution.

SECTION 2.

Section 17213 of the Education Code is amended to read:

17213. The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

- (a) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:
  - (1) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.
  - (2) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

- (3) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.
- (b) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The school district, as the lead agency, shall include a list of the locations for which information is sought.
- (c) The governing board of the school district makes one of the following written findings:
  - (1) Consultation identified none of the facilities or significant pollution sources specified in subdivision (b).
  - (2) The facilities or other pollution sources specified in subdivision (b) exist, but one of the following conditions applies:
    - (A) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.
    - (B) The governing board finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.
    - (C) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.
    - (D) The governing board finds that neither of the conditions set forth in subparagraph (B) or (C) can be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites



that meet the requirements in subdivision (a) of Section 17213. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(d) As used in this section:

- (1) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources 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 substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.
- (2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.
- (3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.
- (4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.
- (5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.
- (6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.
- (7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.
- (8) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
- (9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

### SECTION 3.

Section 21151.8 of the Public Resources Code is amended to read:  
21151.8.

- (a) An environmental impact report or negative declaration may not be approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:
  - (1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:

- (A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.
  - (B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.
  - (C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.
  - (D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.
- (2) The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. The notification by the school district, as the lead agency, shall include a list of the locations for which information is sought.
- (3) The governing board of the school district makes one of the following written findings:
- (A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).
  - (B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:
    - (i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.
    - (ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

- (iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.
- (C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii) or (iii) of subparagraph (B) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.
- (4) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with this section as to the area of responsibility of any agency that does not respond within 30 days.
- (b) If a school district, as a lead agency, has carried out the consultation required by paragraph (2) of subdivision (a), the environmental impact report or the negative declaration shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in paragraph (2) of subdivision (a).
- (c) As used in this section and Section 21151.4, the following definitions shall apply:
  - (1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.
  - (2) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.
  - (3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.
  - (4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.
  - (5) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources 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.
  - (6) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety Code.

- (7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.
- (8) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
- (9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

**B.5. Senate Bill 25, Children's Environmental Health Protection.**

CHAPTER 731

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INTRODUCED BY Senator Escutia

(Principal coauthors: Assembly Members Kuehl and Villaraigosa)

(Coauthors: Senators Alarcon, Figueroa, Ortiz, Perata, Polanco, Sher, Solis, and Speier)

(Coauthors: Assembly Members Alquist, Aroner, Firebaugh, Honda, Jackson, Knox, Lempert, Mazzoni, Romero, Shelley, Steinberg, Thomson, Vincent, Washington, and Wildman)

DECEMBER 7, 1998

An act to amend Sections 39606, 39660, and 40451 of, to add Section 39617.5 to, to add Part 3 (commencing with Section 900) to Division 1 of, and to add Article 4.5 (commencing with Section 39669.5) to Chapter 3.5 of Part 2 of Division 26 of, the Health and Safety Code, relating to environmental health protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, Escutia. Environmental health protection: children.

- (1) Existing law requires the State Air Resources Board to adopt ambient air quality standards in consideration of specified factors, including public health effects, as provided, and to specify threshold levels for health effects in listing substances determined to be toxic air contaminants. Existing law requires the Office of Environmental Health Hazard Assessment, upon request of the state board, to evaluate the health effects of and prepare recommendations regarding specified substances which may be or are emitted into the ambient air and that may be determined to be toxic air contaminants. Under existing law, the state board's request is required to be in accordance with an agreement that ensures that the office's workload in implementing these provisions will not be increased over that budgeted for the 1991-92 fiscal year, as provided.

This bill would eliminate the requirement for that agreement, and would impose specified requirements on the state board and the office generally relating to the protection of infants and children from environmental health hazards. The bill would require the state board, not later than December 31, 2000, to review all existing

health-based ambient air quality standards to determine whether the standards adequately protect the health of the public, including infants and children, and to revise the highest priority air quality standard determined to be inadequate, not later than December 31, 2002. The bill would require the office, by July 1, 2001, to establish a list of up to 5 specified toxic air contaminants that may cause infants and children to be especially susceptible to illness. The bill would require the state board to review and, as appropriate, revise any control measures adopted for those toxic air contaminants, to reduce exposure to those toxic air contaminants, as provided.

- (2) Existing law requires the South Coast Air Quality Management District to notify all schools in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded. This bill would also require the south coast district to notify day care centers in that basin, to the extent feasible and upon request. The bill would create a state-mandated local program by imposing new duties on the south coast district.
- (3) The bill would create the Children's Environmental Health Center within the Environmental Protection Agency to, among other things, serve as chief advisor to the Secretary for Environmental Protection and to the Governor on matters within the jurisdiction of the agency relating to environmental health and environmental protection as it relates to children.
- (4) This bill would incorporate additional changes to Section 40451 of the Health and Safety Code, proposed by SB 1195, to be operative only if SB 1195 and this bill are both chaptered on or before January 1, 2000, and this bill is chaptered last. (5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### SECTION 1.

The Legislature finds and declares all of the following:

- (a) Infants and children have a higher ventilation rate than adults relative to their body weight and lung surface area, resulting in a greater dose of pollution delivered to their lungs.
- (b) Children have narrower airways than adults. Thus, irritation or inflammation caused by air pollution that would produce only a slight response in an adult can result in a potentially significant obstruction of the airway in a young child.

- (c) Children spend significantly more time outdoors, especially in the summer, when ozone air pollution levels are typically highest. National statistics show that children spend an average of 50 percent more time outdoors than adults.
- (d) Air pollution is known to exacerbate asthma and be a trigger for asthma attacks in infants and children, 500,000 of whom are afflicted with this chronic lung disease in California.
- (e) Infant's and children's developing organs and tissues are more susceptible to damage from some environmental contaminants than are adult organs and tissues.
- (f) It is the intent of the Legislature in enacting this act, to require that the state's air quality standards and airborne toxic control measures be reviewed to determine if they adequately protect the health of infants and children, and that these standards and measures be revised if they are determined to be inadequate.
- (g) It is also the intent of the Legislature in enacting this act to require the State Air Resources Board and the Office of Environmental Health Hazard Assessment to consider the health impacts to all populations of children, including special subpopulations of infants and children that comprise a meaningful portion of the general population, such as children with asthma, cystic fibrosis, or other respiratory conditions or diseases, in setting or revising standards pursuant to this act.

## SECTION 2.

Part 3 (commencing with Section 900) is added to Division 1 of the Health and Safety Code, to read:

**PART 3. CHILDREN'S ENVIRONMENTAL HEALTH CENTER 900.** There is hereby created the Children's Environmental Health Center within the Environmental Protection Agency. The primary purposes of the center shall include all of the following:

- (a) To serve as the chief advisor to the Secretary for Environmental Protection and to the Governor on matters within the jurisdiction of the Environmental Protection Agency relating to environmental health and environmental protection as each of those matters relates to children.
- (b) To assist the boards, departments, and offices within the Environmental Protection Agency to assess the effectiveness of statutes, regulations, and programs designed to protect children from environmental hazards.
- (c) To coordinate within the Environmental Protection Agency and with other state agencies, regulatory efforts, research and data collection, and other programs and services that impact the environmental health of children, and coordinate with appropriate federal agencies conducting related regulatory efforts and research and data collection.
- (d) In consultation with the State Air Resources Board and the Office of Environmental Health Hazard Assessment, and notwithstanding Section 7550.5 of the Government Code, to report to the Legislature and the Governor no later than December 31, 2001, on the progress of the state board and the office toward implementing the act that added this part during the 1999-2000 Regular Session and to make recommendations for any statutory or regulatory changes that may be necessary to carry out the intent of that act to protect the public

health, including infants and children, from air pollutants and toxic air contaminants.

### SECTION 3.

Section 39606 of the Health and Safety Code is amended to read:  
39606.

- (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.

#### SECTION 4.

Section 39617.5 is added to the Health and Safety Code, to read:  
39617.5.

- (a) Not later than January 1, 2003, the state board shall do all of the following:
  - (1) Evaluate the adequacy of the current monitoring network for its ability to gather the data necessary to determine the exposure of infants and children to air pollutants including criteria air pollutants and toxic air contaminants.
  - (2) Identify areas where the exposure of infants and children to air pollutants is not adequately measured by the current monitoring network.
  - (3) Recommend changes to improve air pollution monitoring networks and data collection to more accurately reflect the exposure of infants and children to air pollutants.
- (b) In carrying out this section, the state board, in cooperation with the districts, shall expand its existing monitoring program in six communities around the state in nonattainment areas, as selected by the state board, to include special monitoring of children's exposure to air pollutants and toxic contaminants. The expanded program shall include placing air pollution monitors near schools, day care centers, and outdoor recreational facilities that are in close proximity to, or downwind from, major industrial sources of air pollutants and toxic air contaminants, including, freeways and major traffic areas. The purpose of the air pollution monitors shall be to conduct sampling of air pollution levels affecting children. Monitoring may include the use of fixed, mobile, and other monitoring devices, as appropriate.
- (c) The expanded monitoring program shall include the following:
  - (1) Monitoring during multiple seasons and at multiple locations within each community at schools, day care centers, recreational facilities, and other locations where children spend most of their time.
  - (2) A combination of upgrading existing fixed monitoring sites, establishing new fixed monitoring sites, and conducting indoor and outdoor sampling and personal exposure measurements in each community to provide the most comprehensive data possible on the levels of children's exposure to air pollutants and toxic air contaminants.
- (d) Data collected from expanded air quality monitoring activities conducted pursuant to this section may be used for any purpose authorized by law, including, but not limited to, determinations as to whether an area has attained or has not attained

the state and national ambient air quality standards, if the monitoring devices from which the data was collected meet the monitoring requirements specified in Section 58.14 of Title 40 of the Code of Federal Regulations for special purpose monitors, all other monitoring requirements of Part 58 of Title 40 of the Code of Federal Regulations, and all applicable requirements specified in regulations adopted by the state board.

## SECTION 5.

Section 39660 of the Health and Safety Code is amended to read:  
39660.

- (a) Upon the request of the state board, the office, in consultation with and with the participation of the state board, shall evaluate the health effects of and prepare recommendations regarding substances, other than pesticides in their pesticidal use, which may be or are emitted into the ambient air of California and that may be determined to be toxic air contaminants.
- (b) In conducting this evaluation, the office shall consider all available scientific data, including, but not limited to, relevant data provided by the state board, the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, the Department of Pesticide Regulation, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. The evaluation shall be performed using current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, human health effects assessment, risk assessment, and toxicity.
- (c)
  - (1) The evaluation shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance, and shall, to the extent that information is available, assess all of the following:
    - (A) Exposure patterns among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population.
    - (B) Special susceptibility of infants and children to ambient air pollutants in comparison to the general population.
    - (C) The effects on infants and children of exposure to toxic air contaminants and other substances that have a common mechanism of toxicity.
    - (D) The interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.
  - (2) The evaluation shall also contain an estimate of the levels of exposure that may cause or contribute to adverse health effects. If it can be established that a threshold of adverse health effects exists, the estimate shall include both of the following factors:
    - (A) The exposure level below which no adverse health effects are anticipated.
    - (B) An ample margin of safety that accounts for the variable effects that heterogeneous human populations exposed to the substance under evaluation may experience, the uncertainties associated with the

applicability of the data to human beings, and the completeness and quality of the information available on potential human exposure to the substance. In cases in which there is no threshold of significant adverse health effects, the office shall determine the range of risk to humans resulting from current or anticipated exposure to the substance.

- (3) The scientific basis or scientific portion of the method used by the office to assess the factors set forth in this subdivision shall be reviewed in a manner consistent with this chapter by the Scientific Review Panel on Toxic Air Contaminants established pursuant to Article 5 (commencing with Section 39670). Any person may submit any information for consideration by the panel, which may receive oral testimony.
- (d) The office shall submit its written evaluation and recommendations to the state board within 90 days after receiving the request of the state board pursuant to subdivision (a). The office may, however, petition the state board for an extension of the deadline, not to exceed 30 days, setting forth its statement of the reasons that prevent the office from completing its evaluation and recommendations within 90 days. Upon receipt of a request for extension of, or noncompliance with, the deadline contained in this section, the state board shall immediately transmit to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline, along with copies of the office's statement of reasons that prevent it from completing its evaluation and recommendations in a timely manner.
- (e)
  - (1) The state board or a district may request, and any person shall provide, information on any substance that is or may be under evaluation and that is manufactured, distributed, emitted, or used by the person of whom the request is made, in order to carry out its responsibilities pursuant to this chapter. To the extent practical, the state board or a district may collect the information in aggregate form or in any other manner designed to protect trade secrets.
  - (2) Any person providing information pursuant to this subdivision may, at the time of submission, identify a portion of the information submitted to the state board or a district as a trade secret and shall support the claim of a trade secret, upon the written request of the state board or district board. Subject to Section 1060 of the Evidence Code, information supplied that is a trade secret, as specified in Section 6254.7 of the Government Code, and that is so marked at the time of submission, shall not be released to any member of the public. This section does not prohibit the exchange of properly designated trade secrets between public agencies when those trade secrets are relevant and necessary to the exercise of their jurisdiction if the public agencies exchanging those trade secrets preserve the protections afforded that information by this paragraph.
  - (3) Any information not identified as a trade secret shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information. Upon receipt

- of a request for the release of information that has been claimed to be a trade secret, the state board or district shall immediately notify the person who submitted the information, and shall determine whether or not the information claimed to be a trade secret is to be released to the public. The state board or district board, as the case may be, shall make its determination within 60 days after receiving the request for disclosure, but not before 30 days following the notification of the person who submitted the information. If the state board or district decides to make the information public, it shall provide the person who submitted the information 10 days' notice prior to public disclosure of the information.
- (f) The office and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of, and exposure to, usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community. In determining the importance of these factors, the office and the state board shall consider all of the following information, to the extent that it is available:
- (1) Research and monitoring data collected by the state board and the districts pursuant to Sections 39607, 39617.5, 39701, and 40715, and by the United States Environmental Protection Agency pursuant to paragraph (2) of subsection (k) of Section 112 of the federal act (42 U.S.C. Sec. 7412(k)(2)).
  - (2) Emissions inventory data reported for substances subject to Part 6 (commencing with Section 44300) and the risk assessments prepared for those substances.
  - (3) Toxic chemical release data reported to the state emergency response commission pursuant to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. Sec. 11023) and Section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. Sec. 13106).
  - (4) Information on estimated actual exposures to substances based on geographic and demographic data and on data derived from analytical methods that measure the dispersion and concentrations of substances in ambient air.

## SECTION 6.

Article 4.5 (commencing with Section 39669.5) is added to Chapter 3.5 of Part 2 of Division 26 of the Health and Safety Code, to read:

Article 4.5. Special Provisions For Infants And Children

39669.5. The Legislature finds and declares that certain toxic air contaminants may pose risks that cause infants and children to be especially susceptible to illness and that certain actions are necessary to ensure their safety from toxic air contaminants.

(a) By July 1, 2001, the following shall occur

- (1) The office, in consultation with the state board, shall establish a list of up to five toxic air contaminants identified or designated by the state board pursuant to Section 39657 that may cause infants and children to be especially susceptible to illness. In developing the list, the office shall take into account public exposures to toxic air contaminants, whether by

- themselves or interacting with other toxic air contaminants or criteria pollutants, and the factors listed in subdivision (c) of Section 39660. The office shall submit a report containing the list and its reasons for including the toxic air contaminants on the list to the Scientific Review Panel on Toxic Air Contaminants established pursuant to Article 5 (commencing with Section 39670).
- (2) The scientific review panel, in a manner consistent with this chapter, shall review the list of toxic air contaminants submitted by the office pursuant to paragraph (1). As part of the review, any person may submit any information for consideration by the panel, which may receive oral testimony.
- (b)
- (1) Within two years of the establishment of the list required pursuant to subdivision (a), the state board shall review and, as appropriate, revise any control measures adopted for the toxic air contaminants identified on the list, to reduce exposure to those toxic air contaminants pursuant to Article 4 (commencing with Section 39665), to protect public health, and particularly infants and children.
- (2) Within three years of the establishment of the list required pursuant to subdivision (a), for up to five of those toxic air contaminants for which no control measures have been previously adopted, the state board shall prepare a report on the need for regulations, following the procedure specified in Section 39665. The state board shall adopt within that same three-year timeframe, as appropriate, any new control measures to reduce exposure to those toxic air contaminants pursuant to Article 4 (commencing with Section 39665), to protect public health, particularly infants and children.
- (c) Beginning July 1, 2004, the office shall annually evaluate at least 15 toxic air contaminants identified or designated by the state board pursuant to Section 39657, and provide threshold exposure levels and nonthreshold health values, as appropriate, for those toxic air contaminants. The activities required pursuant to this subdivision shall continue until all toxic air contaminants are evaluated. The levels shall be established pursuant to the procedures adopted for health and risk assessments pursuant to paragraph (2) of subdivision (b) of Section 44360, and taking into account the factors listed in subdivision (c) of Section 39660. Based on this evaluation, and after review by the scientific review panel as prescribed in paragraph (2) of subdivision (a), the office shall update the list established pursuant to subdivision (a), by July 1, 2005, and each year thereafter. Within three years of the initial or subsequent listing update, for up to five of the toxic air contaminants contained on that list for which no control measures have been previously adopted, or for at least five of the toxic air contaminants if more than five toxic air contaminants have been identified, the state board shall prepare a report on the need for regulation, following the procedure specified in Section 39665. The state board shall adopt within that three-year timeframe, as appropriate, new control measures, pursuant to Article 4 (commencing with Section 39665), to reduce exposure to those toxic air contaminants, to protect public health, and particularly infants and children.

- (d) Toxic air contaminants evaluated and listed pursuant to this section shall not include substances in those uses that are not subject to regulation by the state board pursuant to this chapter.

#### SECTION 7.

Section 40451 of the Health and Safety Code is amended to read:

40451.

- (a) The south coast district shall use the Pollutant Standards Index developed by the Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media.
- (b) Using existing communication facilities available to it, the south coast district shall notify all schools and, to the extent feasible and upon request, daycare centers in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded.
- (c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and recreational facilities in the south coast district the latest scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards are exceeded.
- (d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded and the number of days and locations of these occurrences.

#### SECTION 7.5.

Section 40451 of the Health and Safety Code is amended to read:

40451.

- (a) The south coast district shall use the Pollutant Standards Index developed by the United States Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media. Commencing July 1, 2001, the south coast district shall also include in its report and forecast levels of PM<sub>2.5</sub> in excess of the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.
- (b) Using existing communication facilities available to it, the south coast district shall notify all schools and, to the extent feasible and upon request, daycare centers in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded. Commencing July 1, 2001, using communication facilities available to it, the south coast district shall also notify all schools in the South Coast Air Basin when the ambient level of PM<sub>2.5</sub> is predicted to exceed the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.
- (c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and recreational facilities in the south coast district the latest

scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards and the 24-hour federal ambient air standard for PM<sub>2.5</sub>, as adopted in July 1997, or any standards adopted by the United States Environmental Protection Agency that succeed those standards, are exceeded.

- (d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded. Commencing July 1, 2001, the south coast district shall also include in that report the number of days and locations on and at which the 24-hour federal ambient air standard for PM<sub>2.5</sub>, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard, is exceeded.

#### SECTION 8.

Section 7.5 of this bill incorporates amendments to Section 40451 of the Health and Safety Code proposed by both this bill and SB 1195. It shall only become operative if

- (1) both bills are enacted and become effective on or before January 1, 2000,
- (2) each bill amends Section 40451 of the Health and Safety Code, and
- (3) this bill is enacted after SB 1195, in which case Section 7 of this bill shall not become operative.

#### SECTION 9.

Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.