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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 4. FISCAL AFFAIRS [16100 - 17700] (Division 4 added by Stats. 1945, Ch. 119.)

PART 2. STATE FUNDS [16300 - 16649.95] (Part 2 added by Stats. 1945, Ch. 120.)

CHAPTER 2. Special Funds [16346 - 16429.10] (Chapter 2 added by Stats. 1945, Ch. 120.)

ARTICLE 9.7. Greenhouse Gas Reduction Fund and Cost of Implementation Account [16428.8 - 16428.95] (Article 9.7 added by Stats. 2012, Ch. 39, Sec. 25.)

16428.8. (a) The Greenhouse Gas Reduction Fund, hereafter referred to in this article as the fund, is hereby created as a special fund in the State Treasury.

(b) Except for fines and penalties, all moneys collected by the State Air Resources Board from the auction or sale of allowances, pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code and specified in Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations, shall be deposited in the fund and available for appropriation by the Legislature.

(c) All moneys deposited in the fund shall be appropriated and shall be separately identified in the annual Budget Act. No moneys from the General Fund or any other fund shall be deposited in the fund.

(d) Notwithstanding any other law, the Controller may use the moneys in the fund for cash flow loans to the General Fund as provided in Sections 16310 and 16381.

(e) Any technical amendments made by the State Air Resources Board to the regulations established under Sections 95800 to 96022, inclusive, of Title 17 of the California Code of Regulations to conform that regulation to this article shall be exempt from the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3) and from the review and approval of the Office of Administrative Law.

(Added by Stats. 2012, Ch. 39, Sec. 25. (SB 1018) Effective June 27, 2012.)

16428.85. (a) Except as provided in subdivision (b), the Department of Finance shall submit to the Legislature, in bill format, on or before January 10, 2013, a proposal that provides a detailed spending plan for the expenditure of moneys in the fund that includes the components specified in subdivision (b).

(b) Subdivision (a) shall not apply if the Legislature passes a bill on or before August 31, 2012, that becomes law specifying a process for the establishment of the long-term spending strategy for moneys in the fund that includes all of the following components:

- (1) Criteria and requirements for use of these moneys.
- (2) Establishment of program categories eligible for funding.
- (3) The specification of a public process that the State Air Resources Board shall use to develop the strategy.
- (4) The role of the Legislature in reviewing the strategy.

(Added by Stats. 2012, Ch. 39, Sec. 25. (SB 1018) Effective June 27, 2012.)

16428.86. (a) Prior to awarding grant funds from moneys made available from the fund, the Department of Food and Agriculture shall review the applicant's analysis identifying potential adverse impacts of the proposed project, including a net increase in criteria pollutants, toxic air contaminants, and hazardous air pollutants; groundwater and surface water impacts; and truck traffic and odor.

(b) A project shall not receive funding unless the applicant has demonstrated to the Department of Food and Agriculture that the applicant has done all of the following:

- (1) Conducted outreach in areas that will potentially be adversely impacted by the project.
- (2) Determined potential adverse impacts of the project.
- (3) Committed to measures to mitigate impacts.

(c) In making awards, the Department of Food and Agriculture shall prioritize projects based on the criteria pollutant emission benefits achieved by the project.

(d) A project funded by the Department of Food and Agriculture that results in localized impacts in disadvantaged communities shall not be considered to provide a benefit to disadvantaged communities for the purposes of Section 39713 of the Health and Safety Code.

(e) This section shall apply only to grants awarded pursuant to Provision 1 of Item 8570-101-3228 of the Budget Act of 2016, as added by Section 13 of Chapter 370 of the Statutes of 2016, for projects that utilize digester technology as part of livestock manure management operations and dairy manure management operations.

(Amended by Stats. 2017, Ch. 26, Sec. 63. (SB 92) Effective June 27, 2017.)

16428.89. No later than January 1, 2021, an agency that receives an appropriation from the Greenhouse Gas Reduction Fund shall post on the internet website of the agency's program from which moneys from the fund are being allocated the agency's guidelines for how moneys from the fund are allocated for competitive financing programs. The guidelines shall include all of the following:

- (a) Clear and accessible eligibility criteria for award opportunities.
- (b) Application timelines for receiving awards.
- (c) Information on technical assistance.
- (d) Contact information for the agency.
- (e) The amount of moneys, if any, required to be allocated to projects located in disadvantaged communities, as identified by the California Communities Environmental Health Screening Tool, also known as CalEnviroScreen, and which statute, regulation, or other official agency policy, criteria, or guidelines required moneys from the fund to be allocated in that way.
- (f) Whether the agency gives preference to certain applications outside of the eligibility and allocation requirements and which statute, regulation, or other official agency policy, criteria, or guidelines required moneys from the fund to be prioritized in that way.

(Added by Stats. 2019, Ch. 357, Sec. 1. (AB 1237) Effective January 1, 2020.)

16428.9. (a) Before expending any moneys appropriated to it by the Legislature from the fund, a state agency shall prepare a record consisting of all of the following:

- (1) A description of each expenditure proposed to be made by the state agency pursuant to the appropriation.
- (2) A description of how a proposed expenditure will further the regulatory purposes of Division 25.5 (commencing with Section 38500) of the Health and Safety Code, including, but not limited to, the limit established under Part 3 (commencing with Section 38550) and other applicable requirements of law.
- (3) A description of how a proposed expenditure will contribute to achieving and maintaining greenhouse gas emission reductions pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.
- (4) A description of how the state agency considered the applicability and feasibility of other nongreenhouse gas reduction objectives of Division 25.5 (commencing with Section 38500) of the Health and Safety Code.
- (5) A description of how the state agency will document the result achieved from the expenditure to comply with Division 25.5 (commencing with Section 35800) of the Health and Safety Code.
- (6) A description of how grant, loan, voucher, or other incentive programs for purchase of new drayage and short-haul trucks that receive moneys from the fund are implementing the labor standards required by Chapter 3.6 (commencing with Section 39680) of Part 2 of Division 26 of the Health and Safety Code, as applicable.

(b) The State Air Resources Board shall develop guidance on reporting and quantification methods for all state agencies that receive appropriations from the fund to ensure the requirements of this section are met. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 does not apply to the procedures developed pursuant to this subdivision.

(c) Nothing in this section alters, amends, or otherwise modifies in any manner Division 25.5 (commencing with Section 35800) of the Health and Safety Code, including the authority of the State Air Resources Board to adopt and implement a fee pursuant to that division.

(d) If any expenditure of moneys from the fund for any measure or project is determined by a court to be inconsistent with law, the funding for the remaining measures or projects shall be severable and shall not be affected.

(Amended by Stats. 2021, Ch. 748, Sec. 1. (AB 794) Effective January 1, 2022.)

16428.92. (a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3) does not apply to guidelines or other standards adopted or used by a state agency in administering a program that has received funding in the 2021–22, 2022–23, and 2023–24 fiscal years and has prepared a record pursuant to Section 16428.9.

(b) This section shall become inoperative on July 1, 2027, and, as of January 1, 2028, is repealed.

(Added by Stats. 2021, Ch. 115, Sec. 22. (AB 148) Effective July 22, 2021. Inoperative July 1, 2027, by its own provisions. Repealed as of January 1, 2028, by its own provisions.)

16428.95. Notwithstanding Section 38597 of the Health and Safety Code, the Cost of Implementation Account is hereby established in the Air Pollution Control Fund, and revenues collected pursuant to that section shall be available upon appropriation by the Legislature for purposes of carrying out Division 25.5 (commencing with Section 38500) of the Health and Safety Code, and shall be maintained separately from all other funds in the Air Pollution Control Fund.

(Added by Stats. 2012, Ch. 39, Sec. 25. (SB 1018) Effective June 27, 2012.)