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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.)*

PART 2. STATE AIR RESOURCES BOARD [39500 - 39944] (*Part 2 added by Stats. 1975, Ch. 957.)*

CHAPTER 3. General Powers and Duties [39600 - 39619.8] (*Chapter 3 added by Stats. 1975, Ch. 957.)*

39600. The state board shall do such acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law.

(Repealed and added by Stats. 1975, Ch. 957.)

39601. (a) The state board shall adopt standards, rules, and regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law.

(b) The state board, by rules and regulations, may revise the definitions of terms set forth in Chapter 2 (commencing with Section 39010) of Part 1 in order to conform those definitions to federal laws and rules and regulations.

(c) The standards, rules, and regulations adopted pursuant to this section shall, to the extent consistent with the responsibilities imposed under this division, be consistent with the state goal of providing a decent home and suitable living environment for every Californian.

(Amended by Stats. 1983, Ch. 142, Sec. 79.)

39601.5. (a) The state board shall make available to the public all information described in paragraph (2) of subdivision (b) of Section 11346.2 of the Government Code, related to, but not limited to, air emissions, public health impacts, and economic impacts, before the comment period for any regulation proposed for adoption by the state board.

(b) In meeting the requirement of subdivision (a), the state board shall not release proprietary, confidential, or otherwise legally protected business information. The state board shall release information in aggregated form, where necessary, to protect proprietary, confidential, or otherwise legally protected business information.

(Added by Stats. 2009, Ch. 384, Sec. 2. (AB 1085) Effective January 1, 2010.)

39602. The state board is designated the air pollution control agency for all purposes set forth in federal law.

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

Notwithstanding any other provision of this division, the state implementation plan shall only include those provisions necessary to meet the requirements of the Clean Air Act.

(Amended by Stats. 1979, Ch. 810.)

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

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

(Added by Stats. 2007, Ch. 669, Sec. 2. Effective January 1, 2008.)

39602.6. The state board shall condition eligibility to participate in grant, loan, voucher, or other incentive programs to purchase new drayage and short-haul trucks on compliance with Chapter 3.6 (commencing with Section 39680), as applicable.

(Added by Stats. 2021, Ch. 748, Sec. 3. (AB 794) Effective January 1, 2022.)

39603. (a) The state board may do both of the following:

- (1) Contract for technical advisory services and other services as may be necessary for the performance of its powers and duties.
- (2) Appoint advisory groups and committees as it requires. Members of committees or advisory groups shall receive one hundred dollars (\$100) per day for each day they attend a meeting of the state board or meet pursuant to a request of the state board, plus actual and necessary travel expenses incurred while performing their duties.

(b) In appointing advisory groups and committees, the state board may appoint a number of persons qualified in various fields and disciplines. Persons appointed shall be kept informed of the issues before the state board and the work pending before the state board. When the state board desires the advice, in connection with a particular problem or problems, of any person so appointed, the chairperson of the state board may select that person to serve as a member of a working group or committee for the purpose of providing the advice. After the working group or committee has given its advice to the state board, it shall cease to function as a working group or committee. The financial remuneration specified in paragraph (2) of subdivision (a) shall be available to persons only during the time they are serving as members of a working group or committee at the request of the state board.

(Amended by Stats. 1986, Ch. 726, Sec. 1.)

39603.1. (a) Notwithstanding any other law, the state board may provide advance payments to grantees of a grant program or project if the state board determines all of the following:

- (1) The advance payments are necessary to meet the purposes of the grant program or project.
- (2) The use of the advance funds is adequately regulated by grant or budgetary controls.
- (3) The request for application or the request for proposals contains the terms and conditions under which an advance payment may be received consistent with this section.
- (4) The grantee is either a small district or the grantee meets all of the following criteria:

(A) Has no outstanding financial audit findings related to any of the moneys eligible for advance payment and is in good standing with the Franchise Tax Board and Internal Revenue Service.

(B) Agrees to revert all unused moneys to the state if they are not liquidated within the timeline specified in the grant agreement.

(C) (i) Submits a spending plan to the state board for review prior to receiving the advance payment.

(ii) The spending plan shall include project schedules, timelines, milestones, and the grantee's fund balance for all state grant programs.

(iii) The state board shall consider the available fund balance when determining the amount of the advance payment.

(D) Reports to the state board any material changes to the spending plan within 30 days.

(5) In the event of the nonperformance of a grantee, the state board shall require the full recovery of the unspent moneys. A grantee shall provide a money transfer confirmation within 45 days upon the receipt of a notice from the state board.

(b) (1) A grantee may provide moneys from an advance payment to subrecipients in accordance with Section 11019.3 of the Government Code for purposes of reimbursement or advance payment pursuant to the grant program requirements or contract.

(2) For the purposes of this subdivision, both of the following apply:

(A) "Recipient entity," as that term is defined in Section 11019.3 of the Government Code, also includes a local agency or a nongovernmental entity.

(B) If the subrecipient is a local agency or a nongovernmental entity, other than a private, nonprofit organization, the subrecipient shall not be subject to the requirements of clause (iii) of subparagraph (A) of paragraph (2) of subdivision (c) of Government Code Section 11019.3, but instead shall demonstrate good standing with the United States Internal Revenue Service.

(c) The state board, in consultation with the Department of Finance, shall adopt a regulation implementing this section to ensure the moneys are used properly.

(Amended by Stats. 2024, Ch. 664, Sec. 2. (AB 3017) Effective January 1, 2025.)

39604. (a) The state board shall post on its Web site, at a minimum by January 1 of each odd-numbered year, information on air quality conditions and trends statewide and on the status and effectiveness of state and local air quality programs.

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

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

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

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

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

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

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

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

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

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

(10) A summary of significant actions taken by districts to control emissions from nonvehicular sources during the previous two-year period. This summary shall not include a district by district analysis for each district in the state, but shall include an overall analysis.

(Amended by Stats. 2004, Ch. 644, Sec. 13. Effective January 1, 2005.)

39605. To carry out the purposes of this division, the state board may:

(a) Provide any assistance to any district.

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

(c) Hold public hearings.

(d) May accept assistance, financial and otherwise, from any public entity.

(Amended by Stats. 1981, Ch. 700.)

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.

(Amended by Stats. 1999, Ch. 731, Sec. 3. Effective January 1, 2000.)

39606.1. (a) On or before January 1, 1997, the state board shall adopt regulations to designate, and determine the boundaries of, an air basin known as the Mojave Desert Air Basin. The air basin shall have a territory that is based upon similar meteorological and geographical conditions and consideration for political boundary lines. The air basin shall consist of at least all of the following:

- (1) The desert portions of Los Angeles County that, immediately prior to the date of the adoption of the regulations, were within the Southeast Desert Air Basin.
- (2) The desert portions of Kern County that, immediately prior to the date of the adoption of the regulations, were within the Southeast Desert Air Basin.
- (3) Any portion of the Mojave Desert Air Quality Management District that, immediately prior to the date of the adoption of the regulations, was within the Southeast Desert Air Basin.
- (4) Any other area contiguous to the areas indicated in paragraphs (1) to (3), inclusive, that the state board determines by a preponderance of the evidence is appropriate for inclusion.

(b) Areas that, immediately prior to the date of the adoption of the regulations, were within the Southeast Desert Air Basin and are not included in the Mojave Desert Air Basin shall remain in the Southeast Desert Air Basin, subject to Section 39606.

(Added by Stats. 1995, Ch. 113, Sec. 1. Effective January 1, 1996.)

39607. The state board shall:

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

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

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

(3) (A) Quantify and publish annually, commencing January 1, 2020, and based on the best available science and information, the amount of greenhouse gas emissions, expressed in metric tons of carbon dioxide equivalents, resulting from the loss or release of uncombusted natural gas to the atmosphere and emissions from natural gas flares during all processes associated with the production, processing, and transporting of natural gas that is imported into the state from out-of-state sources.

(B) Nothing in this paragraph shall be interpreted as expanding, contracting, or otherwise altering other requirements for greenhouse gas emissions reporting by sources or categories of sources or for the statewide greenhouse gas emissions limit.

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

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

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

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

(g) Establish, not later than July 1, 1996, a uniform methodology that may be used by districts in assessing population exposure, including, but not limited to, reduction in exposure of districtwide subpopulations, such as children, the elderly, and persons with respiratory disease, to ambient air pollutants at levels above the state ambient air quality standards, for estimating reductions in population exposure for the purposes of Sections 40913, 40924, and 41503, and for the establishment of the means by which reductions in population exposures may be achieved. The methodology adopted pursuant to this subdivision shall be consistent with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and with this division, including, but not limited to, Section 39610.

(Amended by Stats. 2018, Ch. 371, Sec. 1. (AB 2195) Effective January 1, 2019.)

39607.1. (a) For purposes of this section, the following definitions apply:

(1) "Nonattainment pollutant" means a criteria pollutant for which a district is classified as a nonattainment area pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(2) "Stationary source" means any of the following:

(A) A facility that is required to report to the state board the facility's greenhouse gas emissions pursuant to Section 38530.

(B) A facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors.

(C) A facility that receives an elevated prioritization score based on cancer or noncancer health impacts pursuant to Section 44360.

(b) (1) The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.

(2) The state board shall require a stationary source to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using the uniform statewide system of annual reporting developed pursuant to paragraph (1).

(c) With the report required pursuant to paragraph (2) of subdivision (b), the state board may require, as appropriate, a stationary source to provide relevant facility-level emissions data.

(d) The state board may require, as appropriate, a stationary source to verify or certify the accuracy of its annual emissions reports by a third-party verifier or certifier that is accredited by the state board.

(Added by Stats. 2017, Ch. 136, Sec. 1. (AB 617) Effective January 1, 2018.)

39607.3. (a) The state board shall, not later than January 1, 1998, and triennially thereafter, approve, following a public hearing, an update to the emission inventory required by subdivision (b) of Section 39607.

(b) Each inventory update shall include all of the following:

(1) The state board's and each district's best estimates of emissions from all sources, including, but not limited to, motor vehicles, nonroad mobile sources, stationary sources, areawide sources, and biogenic sources.

(2) A detailed verification of source category emission rate data with available scientific data, including, but not limited to, actual measurements of pollutants in the atmosphere, and an explanation of any discrepancies.

(3) An update to a mobile source emission inventory for any air quality attainment plan required by the federal Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.) or this division, that considers all available information regarding current and projected vehicle miles traveled, vehicle trips, demographics, and other nontechnological factors affecting the mobile source emission inventory, and bases the mobile source emission inventory upon the best information available to achieve compliance.

(c) Any emission inventory update approved on or after January 1, 1997, shall comply with this section.

(d) The Legislature hereby finds and declares that it is in the interests of the state that air quality plans be based on accurate emission inventories. Inaccurate inventories that do not reflect the actual emissions into the air can lead to misdirected air quality control measures, resulting in delayed attainment of standards and unnecessary and significant costs.

(Added by Stats. 1996, Ch. 763, Sec. 1. Effective January 1, 1997.)

39607.4. On and after January 1, 2007, as part of its responsibilities under Section 39607, and in order to streamline, consolidate, and unify the inventory of air emissions under one agency in state government, the state board shall prepare, adopt, and update the inventory formerly required to be adopted and updated by the State Energy Resources Conservation and Development Commission pursuant to Chapter 8.5 (commencing with Section 25730) of Division 15 of the Public Resources Code.

(Added by Stats. 2006, Ch. 77, Sec. 43. Effective July 18, 2006.)

39607.5. (a) The state board shall develop, and adopt in a public hearing, a methodology for use by districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources, including those issued under market-based incentive programs, when those credits are used interchangeably.

(b) In developing the methodology, the state board shall do all of the following:

(1) Ensure that the methodology results in the maintenance and improvement of air quality consistent with this division.

(2) Allow those credits to be used in a market-based incentive program adopted pursuant to Section 39616 that requires annual reductions in emissions through declining annual allocations, and allow the use of all of those credits, including those from a market-based incentive program, to meet other stationary or mobile source requirements that do not expressly prohibit that use.

(3) Ensure that the methodology does not do any of the following:

(A) Result in the crediting of air emissions that already have been identified as emission reductions necessary to achieve state and federal ambient air quality standards.

(B) Provide for an additional discount of credits solely as a result of emission reduction credits trading if a district already has discounted the credit as part of its process of identifying and granting those credits to sources.

(C) Otherwise provide for double-counting emission reductions.

(4) Consult with, and consider the suggestions of, the public and all interested parties, including, but not limited to, the California Air Pollution Control Officers Association and all affected regulated entities.

(5) Ensure that any credits, whether they are derived from stationary, mobile, indirect, or areawide sources, shall be permanent, enforceable, quantifiable, and surplus.

(6) Ensure that any credits derived from a market-based incentive program adopted pursuant to Section 39616 are permanent, enforceable, quantifiable, and are in addition to any required controls, unless those credits otherwise comply with paragraph (2).

(7) Consider all of the following factors:

(A) How long credits should be valid.

(B) Whether, and which, banking opportunities may exist for credits.

(C) How to provide flexibility to sources seeking to use credits so that they remain interchangeable and negotiable until used.

(D) How to ensure a viable trading process for sources wishing to trade credits consistent with this section.

(E) How to ensure that, if credits may be used within and between adjacent districts or air basins where sources are in proximity to one another, the use occurs while maintaining and improving air quality in both districts or air basins.

(c) If necessary, the state board shall periodically update the methodology as it applies to future transactions. The state board's environmental justice advisory committee shall review each updated methodology.

(d) The state board shall periodically review each district's emission reduction and credit trading programs to ensure that the programs comply with the methodology developed pursuant to this section.

(e) The state board shall post on its Web site, at a minimum by January 1 each year, actions taken by the state board to implement this section.

(Amended by Stats. 2006, Ch. 851, Sec. 1. Effective January 1, 2007.)

39608. (a) The state board, in consultation with the districts, shall identify, pursuant to subdivision (e) of Section 39607, and classify each air basin which is in attainment and each air basin which is in nonattainment for any state ambient air quality standard. This identification and classification shall be made on a pollutant-by-pollutant basis. Where the state board finds that data is not sufficient to determine the attainment or nonattainment status for an air basin, the state board shall identify the air basin as unclassified.

(b) The state board may assign an attainment, nonattainment, or unclassified designation to one or more areas within any air basin unless the state board finds and determines that the pollutant for which the designation applies affects the entire region or is produced by emission sources throughout the region.

(c) Designations made by the state board shall be reviewed annually and updated as new information becomes available.

(Amended by Stats. 1990, Ch. 932, Sec. 1.)

39609. On or before December 31, 1989, and at least every three years thereafter, the state board shall complete a study on the feasibility of employing air quality models and other analytical techniques to distinguish between emission control measures on the basis of their relative ambient air quality impact. As part of this study, the state board shall determine whether adequate modeling capability exists to support the use of air quality indicators or alternative measures of progress as specified in subdivision (f) of Section 39607 and Section 40914. The state board shall consult with districts and affected groups in conducting this study, and, after a public hearing, shall prepare and transmit its findings to each district for its use in developing plans pursuant to Chapter 10 (commencing with Section 40910).

(Amended by Stats. 1992, Ch. 945, Sec. 2. Effective January 1, 1993.)

39610. (a) Not later than December 31, 1989, the state board shall identify each air basin, or subregion thereof, in which transported air pollutants from upwind areas outside the air basin, or subregion thereof, cause or contribute to a violation of the state ambient air quality standard for ozone, and shall identify the district of origin of the transported air pollutants based upon the preponderance of available evidence. The state board shall identify and determine the priorities of information and studies needed to make a more accurate determination, including, but not limited to, emission inventories, pollutant characterization, ambient air monitoring, and air quality models.

(b) The state board shall, in cooperation with the districts, assess the relative contribution of upwind emissions to downwind ozone ambient air pollutant levels to the extent permitted by available data, and shall establish mitigation requirements commensurate with the level of contribution. In assessing the relative contribution of upwind emissions to downwind ozone ambient air pollutant levels,

the state board shall determine if the contribution level of transported air pollutants is overwhelming, significant, inconsequential, or some combination thereof. Any determination by the state board shall be based upon a preponderance of the available evidence.

(c) The state board shall make every reasonable effort to supply air pollutant transport information to heavily impacted districts prior to the development of plans to attain the state ambient air quality standards, shall consult with affected upwind and downwind districts, and shall adopt its findings at a public hearing.

(d) The state board shall review and update its transport analysis at least once every three years.

(e) The state board shall conduct appropriate studies to carry out its responsibilities under this section.

(Amended by Stats. 1994, Ch. 512, Sec. 1. Effective January 1, 1995.)

39612. (a) In addition to funds that may be appropriated by the Legislature to the state board to carry out the additional responsibilities and to undertake necessary technical studies required by this chapter, the state board may impose additional permit fees on nonvehicular sources within a district's jurisdiction.

(b) (1) The state board may do any of the following with respect to the collection of fees on nonvehicular sources imposed pursuant to subdivision (a):

(A) Upon obtaining the concurrence of the district, require a district to collect the fees.

(B) Establish a system in which the state board collects the fees directly.

(C) Contract with any other state agency to collect the fees.

(2) If the state board establishes a system to collect fees pursuant to subparagraph (B) of paragraph (1) or contracts with another state agency to collect the fees pursuant to subparagraph (C) of paragraph (1), each district shall provide any information necessary to ensure the accurate and efficient collection of the fees from nonvehicular sources.

(c) The permit fees imposed pursuant to this section shall be expended only for the purposes of recovering costs of additional state programs related to nonvehicular sources. Priority for expenditure of permit fees collected pursuant to this section shall be given to the following activities:

(1) Identifying air quality-related indicators that may be used to measure or estimate progress in the attainment of state ambient air standards pursuant to subdivision (f) of Section 39607.

(2) Establishing a uniform methodology for assessing population exposure to air pollutants pursuant to subdivision (g) of Section 39607.

(3) Updating the emission inventory pursuant to Section 39607.3, including emissions that cause or contribute to the nonattainment of federal ambient air standards.

(4) Identifying, assessing, and establishing the mitigation requirements for the effects of interbasin transport of air pollutants pursuant to Section 39610.

(5) Updating the state board's guidance to districts on ranking control measures for stationary sources based upon the cost-effectiveness of those measures in reducing air pollution.

(d) The permit fees imposed pursuant to this section shall be collected from nonvehicular sources that are authorized by district permits to emit 250 tons or more per year of any nonattainment pollutant or its precursors.

(e) The permit fees collected pursuant to this section and Section 39613, after deducting the administrative costs of collecting the fees, shall be transmitted to the Controller for deposit in the Air Pollution Control Fund.

(f) (1) The total amount of funds collected by fees imposed pursuant to this section, exclusive of district administrative costs, may not exceed thirteen million dollars (\$13,000,000) in any fiscal year, unless that limitation is increased pursuant to paragraph (2).

(2) The state board may increase the limitation on the total amount of funds collected as described in paragraph (1) by an amount not to exceed the annual percentage change in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(g) On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of permit fees collected pursuant to this section and Section 39613. The report shall include a report on the status of implementation of the programs prioritized for funding pursuant to subdivision (c).

(Amended by Stats. 2003, 1st Ex. Sess., Ch. 1, Sec. 1. Effective October 28, 2003.)

39613. The state board shall impose a fee for any consumer product, as defined in Section 41712, sold in the state and any architectural coating sold in the state if a manufacturer's total sales of consumer products or architectural coatings will result in the emission in the state of 250 tons per year or greater of volatile organic compounds. Revenues collected from the imposition of this fee shall be used to mitigate or reduce air pollution in the state created by consumer products and architectural coatings, as determined by the state board, and shall be expended solely for those programs.

(Added by Stats. 2003, 1st Ex. Sess., Ch. 1, Sec. 2. Effective October 28, 2003.)

39614. (a) For purposes of this section, the following definitions apply:

(1) "2.0L partial consent decree" means the October 25, 2016, Amended Partial Consent Decree among the State Air Resources Board, Volkswagen AG et al., and the United States Department of Justice in the United States of America v. Volkswagen AG et al., Case No. 16-cv-295 (N.D. Cal.).

(2) "Investment plans" mean the plans required to be submitted to the state board for approval pursuant to Appendix C of the 2.0L partial consent decree.

(3) "Lead agency" means the state agency appointed by the Governor to implement Appendix D of the 2.0L partial consent decree.

(4) "State board" means the State Air Resources Board.

(5) "Volkswagen" means the defendants in the United States of America v. Volkswagen AG et al., Case No. 16-cv-295 (N.D. Cal.).

(b) (1) The state board shall strive to ensure that investments made pursuant to Appendix C of the 2.0L partial consent decree are aligned with the state's priorities and provide for public transparency before approval.

(2) The lead agency shall strive to ensure that the expenditures made pursuant to Appendix D of the 2.0L partial consent decree are aligned with the state's priorities and provide for public transparency before approval.

(c) (1) On and after the effective date of this section, the state board, in approving each of the investment plans proposed by Volkswagen, shall strive to ensure, to the maximum extent allowable under the 2.0L partial consent decree, both of the following:

(A) At least 35 percent of funds for the investment plan benefit low-income or disadvantaged communities disproportionately affected by air pollution.

(B) The periodic submission of progress reports to the state board on the implementation of the investment plan from Volkswagen or its subsidiary.

(2) The state board shall approve each investment plan at a public hearing.

(3) The state board shall post each proposed investment plan for public comment.

(4) Notwithstanding Section 10231.5 of the Government Code and pursuant to Section 9795 of the Government Code, the state board shall report annually to the Legislature on the progress of the implementation of the investment plan.

(d) (1) The lead agency shall strive to ensure, to the maximum extent allowable under the 2.0L partial consent decree, that 35 percent of the moneys received pursuant to Appendix D of the 2.0L partial consent decree benefit low-income or disadvantaged communities disproportionately affected by air pollution.

(2) Notwithstanding Section 10231.5 of the Government Code and pursuant to Section 9795 of the Government Code, the lead agency shall report annually to the Legislature on the proposed and actual expenditures of the moneys received pursuant to Appendix D of the 2.0L partial consent decree.

(Added by Stats. 2017, Ch. 26, Sec. 68. (SB 92) Effective June 27, 2017.)

39616. (a) The Legislature hereby finds and declares all of the following:

(1) Several regions in California suffer from some of the worst air quality in the United States.

(2) While traditional command and control air quality regulatory programs are effective in cleaning up the air, other options for improvement in air quality, such as market-based incentive programs, should be explored, provided that those programs result in equivalent emission reductions while expending fewer resources and while maintaining or enhancing the state's economy.

(3) The purpose of this section is to establish requirements under which a district board may adopt market-based incentive programs in a manner which achieves the greatest air quality improvement while strengthening the state's economy and preserving jobs.

(b) (1) A district board may adopt a market-based incentive program as an element of the district's plan for attainment of the state or federal ambient air quality standards.

(2) A market-based incentive program that satisfies the conditions in this section may substitute for current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment, and may be implemented in lieu of some or all of the control measures adopted by the district pursuant to Chapter 10 (commencing with Section 40910) of Part 3.

(c) In adopting rules and regulations to implement a market-based incentive program, a district board shall, at the time that the rules and regulations are adopted, make express findings, and shall, at the time that the rules and regulations are submitted to the state board, submit appropriate information, to substantiate the basis for making the findings that each of the following conditions is met on an overall districtwide basis:

(1) The program will result in an equivalent or greater reduction in emissions at equivalent or less cost compared with current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment.

(2) The program will provide a level of enforcement and monitoring, to ensure compliance with emission reduction requirements, comparable with command and control air quality measures that would otherwise have been adopted by the district for inclusion in the district's plan for attainment.

(3) The program will establish a baseline methodology that provides appropriate credit so that stationary sources of air pollution which have been modified prior to implementation of the program to reduce stationary source emissions are treated equitably.

(4) The program will not result in a greater loss of jobs or more significant shifts from higher to lower skilled jobs, on an overall districtwide basis, than that which would exist under command and control air quality measures that would otherwise have been adopted as part of the district's plan for attainment. A finding of compliance with this requirement may be made in the same manner as the analyses made by the district to meet the requirements of Section 40728.5.

(5) The program will promote the privatization of compliance and the availability of data in computer format. The district shall endeavor to provide sources with the option to keep records by way of electronic or computer data storage systems, rather than mechanical devices such as strip chart recorders.

(6) The program will not in any manner delay, postpone, or otherwise hinder district compliance with Chapter 10 (commencing with Section 40910) of Part 3.

(7) The program will not result in disproportionate impacts, measured on an aggregate basis, on those stationary sources included in the program compared to other permitted stationary sources in the district's plan for attainment.

(d) (1) A district's plan for attainment or plan revision submitted to the state board prior to January 1, 1993, shall be designed to achieve equivalent emission reductions and reduced cost and job impacts compared to current command and control regulations and future air quality measures that would otherwise have been adopted as part of the district's plan for attainment. A district shall not implement a market-based incentive program unless the state board has determined that the plan or plan revision complies with this paragraph.

(2) A plan or plan revision submitted on or after January 1, 1993, shall be designed to meet the provisions of subdivision (c) and Section 40440.1 if applicable. The state board shall approve the plan or plan revision prior to program implementation, and shall make its determination not later than 90 days from the date of submittal of the plan or plan revision.

(3) Upon the adoption of rules and regulations to implement the program in accordance with subdivision (c), the district shall submit the rules and regulations to the state board. The state board shall, within 90 days from the date of submittal, determine whether the rules and regulations meet the requirements of this section and Section 40440.1, if applicable. This paragraph does not prohibit the district from implementing the program upon the approval of the plan or plan revision and prior to submittal of the rules and regulations.

(e) Within five years from the date of adoption of a market-based incentive program, the district board shall commence public hearings to reassess the program and shall, not later than seven years from the date of the district's initial adoption of the program, ratify the findings required pursuant to paragraphs (1), (2), (5), and (6) of subdivision (c) and the district's compliance with Section 40440.1, if applicable, with the concurrence of the state board. If the district board fails to ratify the findings within the seven-year period, the district board shall make appropriate revisions to the district's plan for attainment.

(f) The district board shall reassess a market-based incentive program if the market price of emission trading units exceeds a predetermined level set by the district board. The district board may take action to revise the program. A predetermined market price review level shall be set in a public hearing in consideration of the costs of command and control air quality measures that would otherwise have been adopted as part of the district's plan for attainment, costs and factors submitted by interested parties, and any other factors considered appropriate by the district board. The district board may revise the market price review level for emission trading units every three years during attainment plan updates required under Section 40925. In revising the market price review level, the district board shall consider the factors used in setting the initial market price review level as well as other economic impacts, including the overall impact of the program on job loss, rate of business formation, and rate of business closure.

(g) For sources not included in market-based incentive programs, this section does not apply to, and shall in no way limit, existing district authority to facilitate compliance with particular emission control measures by imposing or authorizing sourcewide emission caps, alternative emission control plans, stationary for mobile source emission trades, mobile for mobile source emission trades, and similar measures, whether imposed or authorized by rule or permit condition.

(h) This section does not apply to the implementation of market-based transportation control measures which do not involve emissions trading.

(Amended by Stats. 1996, Ch. 618, Sec. 1. Effective January 1, 1997.)

39616.5. (a) The state board shall not adopt any regulation that excludes the importation of compliant diesel fuel by entities that do not have refineries in California.

(b) For the purposes of this section, "compliant diesel fuel" means a diesel fuel that complies with the designated equivalent limits in paragraph (1) of subdivision (h) of Section 2282 of Title 13 of the California Code of Regulations.

(c) The state board may designate a fuel as a compliant diesel fuel if an importer demonstrates that the relevant properties of the diesel fuel to be imported are equivalent to the properties of California Air Resources Board (CARB) diesel fuel blends being certified for sale in California.

(d) For the purposes of this section, "relevant properties" include all of the following:

- (1) Aromatic hydrocarbon content.
- (2) Polycyclic aromatic hydrocarbon content.
- (3) API gravity.
- (4) Cetane number.
- (5) Nitrogen content.
- (6) Sulfur content.

(Added by Stats. 2006, Ch. 11, Sec. 1. Effective January 1, 2007.)

39617. Any rule, regulation, or control measure adopted pursuant to this division which allows for the use of mobile source emission reduction credits through the acceleration of the retirement of in-use motor vehicles, the repair or retirement of gross-polluting and other high-emitting vehicles, or other similar methods of reducing air pollution shall allow the person using the method to calculate the emission reductions by any of the following methods:

(a) The measurement of actual air emissions from those motor vehicles repaired or retired as a result of the rule, regulation, or control measure, pursuant to the methodology and criteria established pursuant to Section 39607.5, or, prior to adoption of the methodology by the state board, by any alternate methodology approved by the agency which has adopted the rule, regulation, or control measure, if that methodology is consistent with federal law and with subdivision (b) of Section 39607.5.

(b) The use of a statistically representative sample of the motor vehicles repaired or retired as a result of the rule, regulation, or control measure, utilizing the methodology and criteria established pursuant to Section 39607.5, or, prior to adoption of the methodology by the state board, by any alternate methodology approved by the agency which has adopted the rule, regulation, or control measure, if that methodology is consistent with federal law and with subdivision (b) of Section 39607.5.

(c) The use of vehicle fleet average emissions, as determined by the state board.

(d) This section does not apply to any motor vehicle specified in subdivision (a), (b), (f), or (k) of Section 34500 of the Vehicle Code.

(Added by Stats. 1995, Ch. 805, Sec. 2. Effective January 1, 1996.)

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.

(Added by Stats. 1999, Ch. 731, Sec. 4. Effective January 1, 2000.)

39618. Refrigerated trailers shall be classified as mobile sources and shall be regulated by the state board on a statewide basis to prevent confusion concerning whether the trailers are stationary sources when not being driven and to prevent inconsistent regulation by districts of vehicles that are operated in more than one district. The state board shall develop regulations, on or before January 1, 2000, to achieve reductions in emissions attributable to the refrigerated trailers.

(Added by Stats. 1997, Ch. 418, Sec. 1. Effective January 1, 1998.)

39619. The Legislature hereby finds and declares all of the following:

- (a) Recent scientific studies have documented significant adverse public health effects associated with exposure to airborne fine particles that are smaller than 2.5 microns (PM 2.5).
- (b) Federal ambient air quality standards for the control of particles smaller than 10 microns in diameter (PM 10) will require additional emission controls in California.
- (c) California's existing ambient air quality monitoring program for PM 10 and PM 2.5 provides inadequate scientific information with regard to the level of public exposure to, and public health risk from, airborne fine particles, and therefore must be expanded and improved to evaluate priorities and establish appropriate control strategies.
- (d) Current proposals for required monitoring of PM 2.5 by the Environmental Protection Agency may not be appropriate for properly measuring species of pollutants that comprise the principal components of airborne fine particles within the state.
- (e) California needs to develop an airborne fine particle monitoring program that reflects the specific nature of California's fine particle air pollution problem and develops data suitable for use in exposure evaluations.
- (f) California should use the most accurate methods available in the fine particle monitoring program that are appropriate for use in California and should strive to avoid duplication of the federal air monitoring program whenever possible.

(Added by Stats. 1997, Ch. 518, Sec. 1. Effective January 1, 1998.)

39619.5. The state board shall develop and conduct an expanded and revised program of monitoring of airborne fine particles smaller than 2.5 microns in diameter (PM 2.5). The program shall be designed to accomplish all of the following:

- (a) The monitoring method selected shall be capable of accurately representing the spectrum of compounds that comprise PM 2.5 in the atmosphere of regions where monitoring is conducted, including nitrates and other inorganic compounds, as well as carbonaceous materials.
- (b) To the extent feasible, the state board shall consider approved federal particulate methods in selecting a monitoring method for the program.
- (c) The monitoring network used in the program shall site monitors so as to characterize population exposure, background conditions, and transport influence, and attain any other objective identified by the state board as necessary to understand conditions and to provide information for the development of control strategies.
- (d) Portable monitors shall be used in locations not now monitored for PM 10, but where elevated PM 2.5 might be expected.
- (e) During the initial two years of expanded monitoring, PM 2.5 monitoring shall be done at one or more of the highest level PM 10 sites in any region that violates the federal ambient air quality standard for PM 10, to enable a determination of the correlation between levels of PM 10 and PM 2.5.
- (f) In regions where ambient source characterization studies for PM 2.5 have not been completed, the state board shall work with the district to develop and conduct those studies.
- (g) The state board shall place on its Web site, updated at a minimum January 1 of each year, the status and results of the airborne fine particulate air pollution monitoring program.

(Amended by Stats. 2004, Ch. 644, Sec. 15. Effective January 1, 2005.)

39619.6. (a) By June 30, 2002, the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment, shall conduct a comprehensive study and review of the environmental health conditions in portable classrooms, as defined in subdivision (k) of Section 17070.15 of the Education Code.

(b) The state board and the department shall jointly coordinate the study, oversee data analysis and quality assurance, coordinate stakeholder participation, and prepare recommendations. The state board shall develop and oversee the contract for field work, air monitoring, and data analysis, and obtain equipment for the study. The department shall oversee the assessment of ventilation systems and practices and the evaluation of microbiological contaminants, and may provide laboratory analyses as needed.

(c) By August 31, 2000, the state board shall release a request for proposals for the field portion of the study. Field work shall begin not later than July 2001. The final report shall be completed on or before June 30, 2002, and shall be provided to the appropriate policy committees of the Legislature. The study of portable classrooms shall include all of the following:

- (1) Review of design and construction specifications, including those for ventilation systems.
- (2) Review of school maintenance practices, including the actual operation or nonoperation of ventilation systems.
- (3) Assessment of indoor air quality.
- (4) Assessment of potential toxic contamination, including molds and other biological contaminants.

(d) The final report shall summarize the results of the study and review, and shall include recommendations to remedy and prevent unhealthful conditions found in portable classrooms, including the need for all of the following:

- (1) Modified design and construction standards, including ventilation specifications.
- (2) Emission limits for building materials and classroom furnishings.
- (3) Other mitigation actions to ensure the protection of children's health.

(Amended by Stats. 2001, Ch. 159, Sec. 131. Effective January 1, 2002.)

39619.7. (a) A written communication from the state board alleging that an administrative or civil penalty will be, or could be, imposed either by the state board or another party, including the Attorney General, for a violation of air pollution law, shall contain a clear explanation of all of the following:

- (1) The manner in which the administrative or civil penalty amount was determined, including the aggravating and mitigating factors the state board considered in arriving at the amount, and, where applicable, the per unit or per vehicle basis for the penalty.

(2) The provision of law or regulations under which the alleged violator is being assessed the administrative or civil penalty, including the reason that provision is most appropriate for that violation.

(3) Whether the administrative or civil penalty is being assessed under a provision of law that prohibits the emission of pollution at a specified level, and if so, a quantification of the specific amount of pollution emitted in excess of that level, where practicable. This quantification may be based on estimates or emission factors.

(b) The information described in subdivision (a) and all final mutual settlement agreements reached between the state board and a person alleged to have violated air pollution laws shall be made available to the public.

(Added by Stats. 2010, Ch. 413, Sec. 1. (SB 1402) Effective September 28, 2010.)

39619.8. On or before July 1, 2010, the state board, in consultation with the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board, and the Independent System Operator, shall prepare and submit to the Governor and the Legislature a report that evaluates the electrical system reliability needs of the South Coast Air Basin and recommends the most effective and efficient means of meeting those needs while ensuring compliance with state and federal law, including, but not limited to, all of the following policies and requirements:

(a) The California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500)).

(b) Section 316(b) of the federal Clean Water Act, and any policies and regulations adopted by the State Water Resources Control Board as these regulations applied to thermal powerplants within the basin.

(c) State and federal air pollution laws and regulations, including, but not limited to, any requirements for emission reductions credits for new and modified sources of air pollution.

(d) Renewable energy and energy efficiency requirements adopted pursuant to Division 1 (commencing with Section 201) of the Public Utilities Code and Division 15 (commencing with Section 25000) of the Public Resources Code.

(e) Division 13 (commencing with Section 21000) of the Public Resources Code.

(f) The resource adequacy requirements for load-serving entities established by the Public Utilities Commission pursuant to Section 380 of the Public Utilities Code.

(Added by Stats. 2009, Ch. 285, Sec. 2. (AB 1318) Effective January 1, 2010.)