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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 AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)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 4. NONVEHICULAR AIR POLLUTION CONTROL [41500 - 42710] (*Part 4 added by Stats. 1975, Ch. 957.*)

CHAPTER 1. General Provisions [41500 - 41514.6] (*Chapter 1 added by Stats. 1975, Ch. 957.*)

41500. To coordinate air pollution control activities throughout the state, and to ensure that the entire state is, or will be, in compliance with the standards adopted pursuant to Section 39606, the state board shall do all of the following:

- (a) Review the district attainment plans submitted pursuant to Section 40911, and the revised plans submitted pursuant to Section 40925, to determine whether the plans will achieve and maintain the state's ambient air quality standards by the earliest practicable date.
- (b) Review the rules and regulations and programs submitted by the districts pursuant to Section 40704 to determine whether they are sufficiently effective to achieve and maintain the state ambient air quality standards.
- (c) Review the enforcement practices of the districts and local agencies delegated authority by districts pursuant to Section 40717 to determine whether reasonable action is being taken to enforce their programs, rules, and regulations.

(Amended by Stats. 2000, Ch. 890, Sec. 28. Effective January 1, 2001.)

41500.5. Notwithstanding any other provision of law, any plan required by this division shall be subject to Article 5.5 (commencing with Section 53098) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

(Amended by Stats. 2000, Ch. 890, Sec. 29. Effective January 1, 2001.)

41502. (a) Before taking any action pursuant to Section 41503, 41504, 41505, or 41652, the state board shall hold a public hearing within the air basin affected, upon a 45-day written notice given to the basinwide air pollution control council, if any, the affected districts, the affected air quality planning agencies, and the public. However, except with respect to action taken pursuant to Section 41652, upon receipt of evidence that a concentration of air contaminants in any place is presenting an imminent and substantial endangerment to the health of persons, and that the districts affected are not taking reasonable action to abate the concentration of air contaminants, the state board shall give, orally if necessary, as much notice as possible, but not less than 24 hours. The state board shall, in the action taken, include a statement of the facts which prevented the state board from giving a 45-day written notice.

(b) In addition to any other statutory requirements, interested persons shall have the right, at the public hearing, to present oral and written evidence and to question and solicit testimony of qualified representatives of the state board on the matter being considered. The state board may, at the public hearing, place reasonable limits on such right to question and solicit testimony.

(c) If, after conducting the public hearing required by subdivision (a), the state board determines to take action pursuant to any section enumerated in subdivision (a), the state board shall, based on the record of the public hearing, adopt written findings which explain the action to be taken by the state board, why the state board decided to take the action, and why the action is authorized by, and meets the requirements of, the statutory provisions pursuant to which it was taken. In addition, the findings shall address the significant issues raised or written evidence presented by interested persons or the staff of the state board. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the state board.

(d) Subdivisions (a), (b), and (c) shall be applicable to the executive officer of the state board acting pursuant to Section 39515, or to his delegates acting pursuant to Section 39516, with respect to any action taken pursuant to any section enumerated in subdivision (a).

(Amended by Stats. 1981, Ch. 564.)

41503. (a) Within 12 months of receiving each district's attainment plan developed pursuant to Section 40911, the state board shall determine whether the attainment date specified in the plan represents the earliest practicable date and whether the measures

contained in the plan are sufficient to achieve and maintain state ambient air quality standards.

(b) The state board shall conduct its review to include the plans of every district in the air basin, and shall determine whether the combination of measures in all the plans is sufficient to achieve and maintain state ambient air quality standards throughout the air basin. The state board shall hold at least one public hearing in each affected air basin prior to reaching a final determination of the sufficiency of the plans. The state board shall require control measures for the same emission sources to be uniform throughout the air basin to the maximum extent feasible, unless a district demonstrates to the satisfaction of the state board that adoption of the measure within its jurisdiction is not necessary to achieve or maintain the state ambient air quality standard.

(c) Where air pollutant transport is a factor, the state board shall determine whether the attainment plan is sufficient to satisfy the requirements of Section 40912.

(d) If a district is unable to specify an attainment date and the state board concurs that projecting an attainment date is not feasible, the state board shall determine whether the plan contains every feasible control strategy or measure to ensure progress toward attainment is maintained.

(e) In making determinations under subdivisions (a), (b), (c), and (d), the state board shall consider any emission reductions occurring in, or expected to occur in, the district or air basin.

(Amended by Stats. 1989, Ch. 559, Sec. 4.)

41503.1. The state board may approve an attainment plan which achieves less emission reductions than 5 percent per year, or less than 15 percent every three years, as specified in Section 40914, if the state board determines that the district is unable to meet these requirements, despite the expeditious adoption of all feasible controls, or if the state board determines that the equivalent air quality improvement will be achieved through an alternate level of emissions reduction.

(Added by Stats. 1988, Ch. 1568, Sec. 15.)

41503.2. (a) If the state board concludes that a district's plan does not meet the requirements of Section 41503, the state board shall notify the district of all deficiencies in writing. The district shall correct the deficiencies identified by the state board, and shall submit its revised plan to the state board for approval.

(b) If the district does not concur with the state board's findings and determinations of deficiency, or the state board determines that the district's plan revisions are inadequate to remedy identified deficiencies, the state board and the district shall attempt to resolve the differences within three months of the board's disapproval. The state board and the districts shall develop a uniform conflict resolution procedure, for purposes of this subdivision, prior to any district's submittal of its attainment plan to the state board.

(c) If a conflict between the state board and district cannot be resolved, the state board shall take all of the following actions:

(1) Conduct a public hearing in the air basin containing the affected district for purposes of hearing testimony on the plan and the deficiencies identified by the state board pursuant to subdivision (a).

(2) Prior to conducting the hearing, provide a 45-day written notice to the affected district and to the public of the date, time, location, and subject of the hearing.

(3) After conducting the public hearing on the plan and the deficiencies identified by the state board, revise the district's plan as it finds and determines necessary.

(Added by Stats. 1988, Ch. 1568, Sec. 16.)

41503.3. Upon receipt of a district's triennial progress report and plan revisions prepared pursuant to subdivision (b) of Section 40924, the state board shall determine whether the district has achieved the minimum rate of progress under Section 40914 or as adjusted by the board pursuant to Section 41503.1. The state board shall require the adoption of one or more contingency measures when the minimum rate of progress has not been achieved, unless the district demonstrates to the satisfaction of the state board that the discrepancy will be corrected and the deficiency restored during the next reporting period.

(Added by Stats. 1988, Ch. 1568, Sec. 17.)

41503.4. All actions of the state board to approve, revise and approve, or disapprove a district's attainment plan or plan revision shall be taken at a noticed public hearing.

(Added by Stats. 1988, Ch. 1568, Sec. 18.)

41503.5. The state board shall ensure that a district's attainment plan and plan revisions meet the requirements of this part and of Part 3 (commencing with Section 40000), and that every reasonable action is taken to achieve the state ambient air quality standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide at the earliest practicable date.

(Added by Stats. 1988, Ch. 1568, Sec. 19.)

41503.6. (a) The Legislature finds and declares that the California Pollution Control Financing Authority, working with the south coast district, has established successful programs to assist small businesses in complying with district rules and financing the purchase of pollution control equipment.

(b) The Treasurer and the California Pollution Control Financing Authority shall work with, and provide all feasible assistance to, districts to increase opportunities for small businesses to comply with the rules and regulations of the district. That assistance may include loans, loan guarantees, and other forms of financial assistance.

(Amended by Stats. 2004, Ch. 225, Sec. 53. Effective August 16, 2004.)

41504. (a) If, after a public hearing, the state board finds that the program or the rules and regulations of a district will not likely achieve and maintain the state's ambient air quality standards, the state board may establish a program, or portion thereof, or rules and regulations it deems necessary to enable the district to achieve and maintain such ambient air quality standards.

(b) Any program, or portion thereof, or rule or regulation established by the state board for the district shall have the same force and effect as a program, rule, or regulation adopted by the district and shall be enforced by the district.

(Amended by Stats. 1976, Ch. 1063.)

41505. If, after a public hearing, the state board finds that a district is not taking reasonable action to enforce the statutory provisions, rules, and regulations relating to air quality in such a manner that will likely achieve and maintain the state's ambient air quality standards, the state board may exercise any of the powers of that district to achieve and maintain such ambient air quality standards.

(Amended by Stats. 1976, Ch. 1063.)

41508. Except as otherwise specifically provided in this division, including, but not limited to, Sections 41809, 41810, and 41904, any local or regional authority may establish additional, stricter standards than those set forth by law or by the state board for nonvehicular sources.

(Added by Stats. 1975, Ch. 957.)

41509. No provision of this division, or of any order, rule, or regulation of the state board or of any district, is a limitation on:

(a) The power of any local or regional authority to declare, prohibit, or abate nuisances.

(b) The power of the Attorney General, at the request of a local or regional authority, the state board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) The power of a state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer.

(d) The right of any person to maintain at any time any appropriate action for relief against any private nuisance.

(Added by Stats. 1975, Ch. 957.)

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

(Added by Stats. 1975, Ch. 957.)

41511. For the purpose of carrying out the duties imposed upon the state board or any district, the state board or the district, as the case may be, may adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the state board or the district may determine to be reasonable for the determination of the amount of such emission from such source.

(Amended by Stats. 1976, Ch. 1063.)

41511.5. The state board shall conduct a study of ambient air concentrations of manganese in the state to determine if there are areas in the state that have unhealthy concentrations of manganese. No later than January 1, 2010, the state board shall submit a

report to the Legislature that describes the conclusions of this study and provides recommendations for reducing manganese exposures as needed.

(Added by Stats. 2007, Ch. 680, Sec. 1. Effective January 1, 2008.)

41512. (a) The state board or a district board may adopt, by regulation, after a public hearing, a schedule of fees not exceeding the estimated cost of planning, preliminary evaluation, sampling, sample analysis, calculations, and report preparation with respect to samples of emissions secured from air pollution emission sources. However, such fees may be imposed or assessed only when such samples are required to determine compliance with permit conditions or with any state or local law, order, rule, or regulation relating to air pollution. Such fees shall not include charges for the reasonable time exclusively spent by the owner or operator of the source constructing testing facilities or preparing for such testing. The failure to pay any such fee in a timely manner shall constitute grounds for the revocation or suspension, and may be made a condition for the issuance, of any permit. Any such revocation or suspension shall be in accordance with the procedures set forth in Sections 42304 to 42309, inclusive.

(b) Nothing contained in this part shall be construed to include or restrict the use of construction equipment such as portable sandblasting equipment or portable spraying or spray painting equipment, or any similar equipment, used on a temporary basis in connection with new construction, or on maintenance or repairs of existing structures, machinery, or equipment; provided, such equipment is operated in accordance with the requirements of this division and applicable district and state board rules and regulations.

(c) Where testing to demonstrate compliance with permit conditions or with any state or local law, order, rule, or regulation relating to air pollution is required by the state board, the state board, not later than April 1, 1981, shall establish procedures under which the operator may request that such testing be performed by an independent testing service. The state board may, for good cause, reject such a request.

(Amended by Stats. 1980, Ch. 1283, Sec. 1.)

41512.5. A district board may adopt a schedule of fees applicable to emission sources not included within a permit system adopted pursuant to Section 42300 to cover the estimated reasonable costs of evaluating plans required by law or by district rule or regulation, including, but not limited to, review, inspection, and monitoring related thereto. The fees shall not exceed the estimated costs of reviewing, monitoring, and enforcing the plan for which the fees are charged.

The district board shall hold a public hearing at least 30 days prior to the meeting of the district board at which the adoption or revision of the fee schedule is to be considered, and supporting data on the actual or estimated costs required to provide the service for which the fee is proposed to be charged shall be made available at that public hearing.

(Added by Stats. 1987, Ch. 510, Sec. 1.)

41512.7. (a) No district with an annual budget of less than one million dollars (\$1,000,000) shall increase any existing fees for authority-to-construct permits or permits to operate by more than 30 percent in any calendar year, unless required to comply with the minimum fee requirements of Title V.

(b) No district with an annual budget of one million dollars (\$1,000,000) or more shall increase any existing fees for authority-to-construct permits or permits to operate by more than 15 percent in any calendar year.

(c) Notwithstanding subdivision (b), this section shall not apply to the south coast district.

(d) (1) Notwithstanding subdivision (b), effective January 1, 1998, any of the San Diego County Air Pollution Control District's individual fees for authority-to-construct permits and permits to operate may reflect the district's actual costs, as determined by the district's fee-for-service calculations.

(2) Notwithstanding paragraph (1) or subdivision (b), on and after January 1, 1999, the San Diego County Air Pollution Control District may increase any individual fees for authority-to-construct permits and permits to operate by more than 15 percent in any fiscal year only if the total, aggregate increase in existing fees for authority-to-construct permits and permits to operate does not exceed 15 percent in that fiscal year.

(3) (A) This subdivision shall remain operative so long as the San Diego County Air Pollution Control District continues to determine fees for authority-to-construct permits and permits to operate pursuant to a cost-based fee system in which all of the following requirements are met:

(i) Fees for authority-to-construct permits and permits to operate are specified for a minimum of 120 separate equipment and process categories.

(ii) Labor expended to issue authority-to-construct permits and permits to operate is tracked in increments of 0.5 hours or less for each of those categories.

(iii) The fees for authority-to-construct permits and permits to operate are determined from the costs of labor tracked in increments of 0.5 hours or less and other actual and projected costs related to permitted stationary sources.

(B) This subdivision shall become inoperative if, and at the time that, the San Diego district ceases to determine fees for authority-to-construct permits and permits to operate as specified in subparagraph (A).

(Amended by Stats. 1997, Ch. 406, Sec. 1. Effective January 1, 1998.)

41513. Any violation of any provision of this part, or of any order, rule, or regulation of the state board or of any district, may be enjoined in a civil action brought in the name of the people of the State of California, except that the plaintiff shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law or to show, or tending to show, irreparable damage or loss.

(Added by renumbering Section 41512 by Stats. 1976, Ch. 1056.)

41514. Notwithstanding any other provision of law, no provision of this division, and no rule or regulation of the state board or of a district adopted pursuant to this division, imposing any requirement pertaining to the control of nonvehicular emissions shall apply to any equipment carried by, or affixed to, any motor vehicle described in Section 27156.3 of the Vehicle Code.

(Added by Stats. 1995, Ch. 235, Sec. 1. Effective January 1, 1996.)

41514.1. (a) For purposes of this section, "health facility" has the same meaning as defined in Section 1250, but includes only those facilities described in subdivision (a), (b), (c), (d), (f), (g), or (k) of that section.

(b) A health facility shall test and maintain each of its diesel backup generators and standby systems in conformance with the edition of the National Fire Protection Association 110: Standard for Emergency and Standby Power Systems adopted by the Life Safety Code and the federal Centers for Medicare and Medicaid Services.

(c) Nothing in this section affects the authority of the state board or a district to regulate diesel backup generators owned by a health facility.

(Added by Stats. 2017, Ch. 145, Sec. 1. (AB 1014) Effective January 1, 2018.)

41514.8. (a) Prior to adopting rules or regulations which would affect the operation of existing powerplants, the state board or any district shall consider and adopt written findings that specify the supporting information relied upon with regard to all of the following:

(1) The need for the emission reductions expected to be achieved from the implementation of the proposed rule or regulation, and the extent to which the rule or regulation is necessary solely for the attainment of a state ambient air quality standard.

(2) The relative cost of achieving the emission reductions from the proposed rule or regulation compared to the cost of feasible reductions from sources other than powerplants.

(3) The availability and technological feasibility of control technologies required by the proposed rule or regulation.

(b) Rules and regulations affecting the operation of existing powerplants adopted after January 1, 1982 by the state board or any district shall take into consideration the findings under subdivision (a).

(Added by Stats. 1981, Ch. 580.)

41514.9. (a) On or before January 1, 2003, the state board shall adopt a certification program and uniform emission standards for electrical generation technologies that are exempt from district permitting requirements.

(b) The emission standards for electrical generation technologies shall reflect the best performance achieved in practice by existing electrical generation technologies for the electrical generation technologies referenced in subdivision (a) and, by the earliest practicable date, shall be made equivalent to the level determined by the state board to be the best available control technology for permitted central station powerplants in California. The emission standards for state certified electrical generation technology shall be expressed in pounds per megawatt hour to reflect the expected actual emissions per unit of electricity and heat provided to the consumer from each permitted central powerplant as compared to each state certified electrical generation technology.

(c) Commencing on January 1, 2003, all electrical generation technologies shall be certified by the state board or permitted by a district prior to use or operation in the state. This section does not preclude a district from establishing more stringent emission standards for electrical generation technologies than those adopted by the state board.

(d) The state board may establish a schedule of fees for purposes of this section to be assessed on persons seeking certification as a distributed generator. The fees charged, in the aggregate, shall not exceed the reasonable cost to the state board of administering the certification program.

(e) As used in this section, the following definitions shall apply:

(1) "Best available control technology" has the same meaning as defined in Section 40405.

(2) "Distributed generation" means electric generation located near the place of use.

(Added by Stats. 2000, Ch. 741, Sec. 2. Effective January 1, 2001.)

41514.10. On or before January 1, 2003, the state board shall issue guidance to districts on the permitting or certification of electrical generation technologies under the districts regulatory jurisdiction. The guidance shall address best available control technology determinations, as defined by Section 40405, for electrical generation technologies and, by the earliest practicable date, shall make those equivalent to the level determined by the state board to be the best available control technology for permitted central station powerplants in California. The guidance shall also address methods for streamlining the permitting and approval of electrical generation units, including the potential for precertification of one or more types of electrical generation technologies.

(Added by Stats. 2000, Ch. 741, Sec. 3. Effective January 1, 2001.)

41514.6. (a) On or before January 1, 2027, a district the jurisdiction of which includes metal shredding facilities, in consultation with the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment, shall develop requirements for facilitywide fence-line air quality monitoring at metal shredding facilities, as defined in Section 25150.82, that are subject to Section 25150.84 and this section.

(b) The requirements developed pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) Development of threshold levels, in consultation with the Office of Environmental Health Hazard Assessment, for airborne contaminants, including, but not limited to, lead, zinc, cadmium, and nickel, at the fence lines of metal shredding facilities that are protective of air quality and public health. The threshold levels shall follow health guidance values adopted by the Office of Environmental Health Hazard Assessment, if available.

(2) Development of threshold levels for community notification of potential adverse impact on public health based on the threshold values developed pursuant to paragraph (1).

(3) Development of actions, in consultation with the Department of Toxic Substances Control, to be taken by metal shredding facilities if threshold levels developed pursuant to paragraph (1) are exceeded, and a method of enforcing those actions.

(4) Development of community notification procedures to inform the public in areas in which the metal shredding facility is located, if the monitoring required pursuant to this subdivision indicates the threshold levels developed pursuant to paragraph (2) were exceeded.

(5) Reporting the results of the monitoring required pursuant to this subdivision to the district and the local public health department.

(c) All metal shredding facilities subject to this section shall implement the facilitywide fence-line air quality monitoring developed pursuant to this section.

(d) On or before July 1, 2027, a district the jurisdiction of which includes metal shredding facilities shall adopt regulations to implement, interpret, or make specific the requirements pursuant to this section.

(e) A district the jurisdiction of which includes metal shredding facilities shall oversee and enforce the compliance of metal shredding facilities with regulations adopted pursuant to subdivision (d).

(f) Any reasonable regulatory costs incurred by a district in implementing this section may be reimbursed pursuant to its fee authority.

(g) The Office of Environmental Health Hazard Assessment's costs to implement this section shall be reimbursed from the subaccount established in the Hazardous Waste Control Account pursuant to Section 25150.84.

(Added by Stats. 2024, Ch. 743, Sec. 3. (AB 2851) Effective January 1, 2025.)