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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 AIR RESOURCES [39000 - 44475.3]** ( *Division 26 repealed and added by Stats. 1975, Ch. 957.*  )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 3. Emission Limitations [41700 - 41999]** ( *Chapter 3 added by Stats. 1975, Ch. 957.*  )

**ARTICLE 2. Nonagricultural Burning [41800 - 41815]** ( *Article 2 added by Stats. 1975, Ch. 957.*  )

**41800.** Except as otherwise provided in this chapter, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies.

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

**41801.** Nothing in this article shall be construed as limiting the authority granted under other provisions of law to any public officer to set or permit a fire when such fire is, in his or her opinion, necessary for any of the following purposes:

- (a) The prevention of a fire hazard which cannot be abated by any other means.
- (b) The instruction of public employees in the methods of fighting fire.
- (c) The instruction of employees in methods of fighting fire, when such fire is set, pursuant to permit, on property used for industrial purposes.
- (d) The setting of backfires necessary to save life or valuable property pursuant to Section 4426 of the Public Resources Code.
- (e) The abatement of fire hazards pursuant to Section 13055.
- (f) Disease or pest prevention, where there is an immediate need for and no reasonable alternative to burning.
- (g) The remediation of an oil spill pursuant to Section 8670.7 of the Government Code.

(*Amended by Stats. 1995, Ch. 265, Sec. 5. Effective January 1, 1996.*)

**41802.** Notwithstanding Section 41800, with respect to wood waste from trees, vines, or bushes on property being developed for commercial or residential purposes, or with respect to the disposal of brush cuttings on the property where the brush was grown when the cuttings resulted from brush clearance done in compliance with local ordinances to reduce fire hazard, a district board may, upon its own motion or the request of any person, authorize the disposal, by open outdoor fires, of such waste, on the property where it was grown, under the conditions specified in Section 41804.

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

**41803.** No authorization, however, under Section 41802 or 41804.5 shall be granted after such date as the state board may determine, based upon a finding that an alternative method of disposal has been developed which is technologically and economically feasible.

(*Amended by Stats. 1979, Ch. 196.*)

**41804.** Burning may be authorized under Section 41802 only if:

- (a) The district board finds that it is more desirable to dispose of such waste by burning than to dispose of it by other available means, such as, but not limited to, by removing it to sanitary fills.
- (b) The district has developed criteria for such disposal, which shall include provisions to improve the combustibility of such waste to reduce its smoke level.
- (c) The state board has approved the criteria developed pursuant to subdivision (b).

(d) Such authorization, if granted, shall be in the form of a permit issued by the district air pollution control officer, and such permit shall allow burning only on days during which agricultural burning is not prohibited by the state board pursuant to Section 41855.

(e) The district board may adopt rules and regulations to authorize any burning authorized under Section 41802, to review each proposed burn prior to authorizing its air pollution control officer to issue a permit for the burn, or to delegate to its air pollution control officer the authority to approve or disapprove each proposed burn after consideration of the amount of waste to be burned, the season of the year, the ambient air quality, the proximity of the waste to developed areas, or such other or additional criteria as the district board may establish.

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

**41804.5.** (a) Notwithstanding Section 41800, a district board may authorize, subject to the limitations in Section 41803 and this section, the use of open outdoor fires by a city or county to dispose of nonindustrial wood waste from trees, vines, and brush at disposal sites located above 1,500 feet elevation mean sea level anywhere in the state, or at any elevation in the area designated as the North Coast Air Basin by the state board pursuant to Section 39606.

(b) Authorization for such burning, if granted, shall be in the form of permits issued by the district and by the fire protection agency having jurisdiction over the area in which the disposal site is located. The permits shall allow burning only on days during which agricultural burning is not prohibited by the state board pursuant to Section 41855.

(c) No permit shall be issued until there is filed with the district a written statement by the owner of the land on which the disposal site is located, or his agent, or if some other person is lawfully in possession of such land, by such other person, approving the burning on such land by the city or county.

(d) Prior to issuing a permit, the district may inspect the wood waste to be burned to verify that it is exclusively nonindustrial wood waste from trees, vines, and brush.

(e) The state board shall approve the use of open outdoor fires at a designated disposal site to dispose of such wood waste if such an operation of the disposal site will not prevent the achievement and maintenance of ambient air quality standards. The approval shall be granted for a minimum of one year.

(f) In seeking approval from the state board to use open outdoor fires at disposal sites throughout the county to dispose of such wood waste, a county may submit its plan for the disposal of such wood waste in the county by the use of open outdoor fires at the disposal sites.

*(Amended by Stats. 1982, Ch. 230, Sec. 1.)*

**41805.** (a) The Legislature hereby finds and declares that, because sanitary landfill sites are very difficult to obtain, these valuable sites should be reserved for high-priority waste such as garbage and low-volume rubbish, and that the disposal, by open outdoor fires of high-volume wood waste will help prolong the life of such landfill sites. However, it is the intent of the Legislature that the disposal, by open outdoor fires, of such waste be reasonably regulated so as to not create a nuisance or significantly reduce the quality of the ambient air.

(b) Therefore, the state board shall conduct studies of alternative methods of disposing of wood waste from trees, vines, or bushes, other than by open outdoor fires.

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

**41805.5.** (a) Except as provided in subdivisions (b) and (c), the operator of a solid waste disposal site shall submit to the district on or before July 1, 1987, a solid waste air quality assessment test report that contains all of the following:

(1) Test results to determine if there is any underground landfill gas migration beyond the solid waste disposal site's perimeter.

(2) Analyses for specified air contaminants in the ambient air adjacent to the solid waste disposal site to determine the effect of the site on air quality.

(3) Chemical characterization test results to determine the composition of gas streams immediately above the solid waste disposal site, or immediately above the solid waste disposal site and within the solid waste disposal site, as appropriate, as determined by the district.

(4) Any other information that the district board requires, by emergency regulation.

The solid waste air quality assessment test report shall be prepared in accordance with the guidelines developed by the state board pursuant to subdivision (d).

(b) The operator of an inactive solid waste disposal site shall complete and submit the screening questionnaire, developed pursuant to subdivision (e), to the district on or before November 1, 1986, unless the operator is required to submit a report containing the

same information specified in subdivision (a) pursuant to a federal, state, or district order, or unless exempted pursuant to subdivision (c). The district shall evaluate the submitted screening questionnaires in accordance with the guidelines developed pursuant to subdivision (e) and shall determine whether the operator of the site is required to submit all, or a portion of, the information required to be reported in a solid waste air quality assessment test report. The district shall notify the operator in writing on or before January 1, 1987, of the information identified in subdivision (a) to be submitted for the site. After receiving this notification, the operator of the inactive solid waste disposal site shall submit a solid waste air quality assessment test report containing the required information on or before January 1, 1988, to the district.

(c) A district may exempt from subdivisions (a) and (b) a solid waste disposal site or inactive solid waste disposal site that has accepted or now contains only inert and nondecomposable solids. To receive an exemption, the operator of the site shall submit, on or before November 1, 1986, a copy of all permits, all waste discharge requirements pertinent to the site, and any other data necessary for the district to determine whether an exemption should be granted to the site.

(d) On or before February 1, 1987, the state board, in coordination with the districts, shall develop and publish test guidelines for the solid waste air quality assessment report specifying the air contaminants to be tested for and identifying acceptable testing, analytical, and reporting methods to be employed in completing the report.

(e) On or before October 1, 1986, the state board, in coordination with the districts, shall develop and publish a screening questionnaire for inactive solid waste disposal sites and guidelines for evaluating the questionnaire by the districts pursuant to subdivision (b). The screening questionnaire and guidelines shall require an inactive solid waste disposal site to be evaluated based on the nature and age of materials in the site, the quantity of materials in the site, the size of the site, and other appropriate factors. The guidelines for evaluating the screening questionnaire shall require a district to weigh heavily the proximity of the site to residences, schools, and other sensitive areas, and to pay particular attention to potential adverse impacts on facilities such as hospitals and schools, and on residential areas, within one mile of the site's perimeter.

(f) A district may reevaluate the status of a solid waste disposal site, including sites exempted pursuant to subdivision (c), and require the operator to submit or revise a solid waste air quality assessment test report after January 1, 1987. The district shall give written notification to the operator of the solid waste disposal site that a solid waste air quality assessment test report is to be submitted, or that the existing report is to be revised, and the date by which the report is to be submitted.

(g) A district shall evaluate any solid waste air quality assessment test reports submitted pursuant to subdivisions (a), (b), and (f), and determine if the report's testing, analytical, and reporting methods comply with the guidelines developed pursuant to subdivision (d). If the district determines that the solid waste air quality assessment test report complies with the guidelines, it shall evaluate the data. If the district determines, after evaluation of the report and consultation with the state department and the California Integrated Waste Management Board, that levels of one or more specified air contaminants pose a health risk to human beings or a threat to the environment, the district shall take appropriate remedial action.

(h) If a district determines that a solid waste air quality assessment test report does not comply with the guidelines developed pursuant to subdivision (d), the district shall provide the operator of the site with a written notice specifying the inadequacies of the report and shall require the operator to correct the deficiencies and resubmit the report by a date determined by the district.

(i) For the purpose of this section, the following definitions apply:

(1) "Inactive solid waste disposal site" means a solid waste disposal site that has not received any solid waste for disposal after January 1, 1984.

(2) "Landfill gas" means any untreated, raw gas derived through a natural process from the decomposition of organic waste deposited in a solid waste disposal site or from the evolution of volatile species in the waste.

(3) "Operator" means the person who operates or manages, or who has operated or managed, the solid waste disposal site. If the operator of the solid waste disposal site no longer exists, or is unable, as determined by the district, to comply with the requirements of this section, "operator" means any person who owns or who has owned the solid waste disposal site.

(4) "Perimeter" means the outer boundary of the entire solid waste disposal site property.

(5) "Solid waste disposal site" means a place, location, tract of land, area, or premises in use, or which has been used, for the landfill disposal of solid waste, as defined in Section 40191 of the Public Resources Code, or hazardous waste, as defined in Section 40141 of the Public Resources Code, or both.

(6) "Specified air contaminants" means substances determined to be air contaminants by the state board in coordination with the districts. The state board and the districts shall consider determining the following compounds to be air contaminants for purposes of this paragraph: benzene, chloroethene, 1,2-dibromoethane, 1,2-dichloroethane benzyl chloride, chlorobenzene, dichlorobenzene, 1,1-dichloroethene, dichloromethane, formaldehyde, hydrogen sulfide, tetrachloroethylene, tetrachloromethane, toluene, 1,1,1-trichloroethane, trichloroethylene, trichloromethane, xylene, and any other substance deemed appropriate by the state board or a district.

**41805.6.** Notwithstanding Section 41805.5, a small city which operates a Class III solid waste disposal site is not required to submit a screening questionnaire or a solid waste air quality assessment test report pursuant to Section 41805. 5 if the city has a population of less than 20,000 persons, the solid waste disposal site receives less than 20,000 tons of waste per year, the water table of the highest aquifer under the disposal site is 250 or more feet below the base of the disposal site and the water in the highest aquifer is not potable, and the site receives less than an average of 12 inches of rainfall per year.

This section applies only if the disposal site is operational and has been granted all required permits as of January 1, 1991, and if the site is located in Kings County.

*(Added by Stats. 1990, Ch. 1361, Sec. 1.)*

**41806.** Nothing in this article shall be construed as prohibiting any of the following:

- (a) Burning for the disposal of the combustible or flammable solid waste of a single- or two-family dwelling on its premises.
- (b) Open outdoor fires used only for cooking food for human beings or for recreational purposes.
- (c) The burning, in a respectful and dignified manner, of an unserviceable American flag that is no longer fit for display.

*(Amended by Stats. 1997, Ch. 538, Sec. 1. Effective January 1, 1998.)*

**41807.** Nothing in this article shall be construed to prohibit burning for right-of-way clearing by a public entity or utility or for levee, reservoir, and ditch maintenance. No such material may be burned pursuant to this section unless (a) agricultural burning is not prohibited on the day pursuant to Section 41855, and (b) the material has been prepared by stacking, drying, or other methods to promote combustion as specified by the air pollution control officer having jurisdiction.

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

**41808.** The state board shall permit a city or county to use open outdoor fires, for a limited time only, in its operation of a solid waste dump, upon the finding that, because of sparse population in the geographical area and economic and technical difficulties, the solid waste dump should be so operated.

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

**41809.** Notwithstanding Sections 41508 and 41800, open outdoor fires may be used to dispose of Russian thistle (*Salsola kali*) when authorized by a chief of a fire department or fire protection agency of a city, county, or fire protection district, the Director of Forestry and Fire Protection or his or her duly authorized representative, a county agricultural commissioner, or an air pollution control officer.

*(Amended by Stats. 1992, Ch. 427, Sec. 106. Effective January 1, 1993.)*

**41810.** For islands located 15 or more miles from the mainland coast:

- (a) The provisions of Section 41701 shall not apply to smoke from fires set thereon.
- (b) No district shall adopt any rule or regulation stricter than those provided by law with respect to open outdoor fires.

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

**41811.** The provisions of this article shall not supersede any rule or regulation of any district, which rule or regulation was in effect for five or more years prior to September 19, 1970.

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

**41812.** (a) The air pollution control officer of any district, upon authorization of the district board, may authorize, by permit, open outdoor fires for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of nonwood materials, in a mechanized burner so that no air contaminant is discharged into the atmosphere for a period or periods aggregating more than 30 minutes in any eight-hour period that is either of the following:

(1) As dark or darker in shade as that designated as No. 1 on the Ringelmann Chart, as published by the former United States Bureau of Mines.

(2) So opaque that it obscures observer's view to a degree equal to or greater than does smoke described in paragraph (1).

(b) In authorizing the operation of a mechanized burner, the air pollution control officer may make the permit subject to whatever conditions the officer determines are reasonably necessary to ensure conformance with the standards prescribed in this section.

*(Amended by Stats. 2018, Ch. 624, Sec. 6. (SB 1260) Effective January 1, 2019.)*

**41813.** Notwithstanding any other provision of this division, in the San Bernardino County Air Pollution Control District, Group 2 solid waste, as defined in Section 2521 of Title 23 of the California Administrative Code, for a period not to exceed six months from the effective date of this section, may be disposed of by means of an air curtain destructor. The authority provided by this section applies only to an existing solid waste disposal site in the upper desert area which receives less than 50 tons of solid waste for disposal per day. The use of the air curtain destructor shall be monitored by the San Bernardino County Air Pollution Control District and the state board. Within nine months after the effective date of this section, the district shall file a report with the County of San Bernardino and the state board regarding the extent to which the air curtain destructor meets the emission rules, regulations, and orders of the district and the state board.

At the end of the six-month experimental period, the air curtain destructor may continue to be used if the state board makes a finding that the public health and safety will not be adversely affected by continued use. The state board, in cooperation with San Bernardino County, shall establish a list of toxic materials that will be removed from the solid waste prior to use of the air curtain destructor.

There shall be no liability on the part of the state board for any injury occurring as a result of the use of the air curtain destructor under the provisions of this section.

*(Amended by Stats. 1981, Ch. 714.)*

**41815.** Notwithstanding any local ordinance adopted pursuant to Section 37100 of the Government Code or by charter provision to prohibit the burning of waste materials, the burning of the gaseous byproducts of the recycling of water by a waste water treatment facility as part of an energy conservation and cost reduction program to generate power to operate the facility shall be permitted if the burning operation complies with all regulations of the district having jurisdiction and any other applicable provisions of state law.

*(Added by Stats. 1991, Ch. 158, Sec. 1.)*