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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 AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)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 4. Enforcement [42300 - 42454] (*Chapter 4 added by Stats. 1975, Ch. 957.*)

ARTICLE 1. Permits [42300 - 42316] (*Article 1 added by Stats. 1975, Ch. 957.*)

42300. (a) Every district board may establish, by regulation, a permit system that requires, except as otherwise provided in Section 42310, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution control officer of the district.

(b) The regulations may provide that a permit shall be valid only for a specified period. However, the expiration date of any permit shall be eligible for extension upon completion of the annual review required pursuant to subdivision (e) of Section 42301 and payment of the fees required pursuant to Section 42311, unless the air pollution control officer or the hearing board has initiated action to suspend or revoke the permit pursuant to Section 42304, 42307, or 42309, that action has resulted in a final determination by the officer or the board to suspend or revoke the permit, and all appeals have been exhausted or the time for appeals from that final determination has been exhausted.

(c) The annual extension of a permit's expiration date pursuant to subdivision (b) does not constitute permit issuance, renewal, reopening, amendment, or any other action subject to the requirements specified in Title V.

(Amended by Stats. 1994, Ch. 727, Sec. 4. Effective January 1, 1995.)

42300.1. (a) A district board may issue a consolidated permit which serves as (1) authority to build, erect, alter, or replace an article, machine, equipment, or contrivance which may cause the issuance of air contaminants, and (2) authority to operate or use that article, machine, equipment, or contrivance.

(b) If a district issues consolidated permits, the district shall establish postconstruction enforcement procedures adequate to ensure that sources are built, erected, altered, replaced, and operated or used in the manner required by the consolidated permits.

(Added by Stats. 1992, Ch. 1126, Sec. 2. Effective January 1, 1993.)

42300.2. A district may establish a program to certify private environmental professionals to prepare permit applications. The program shall provide for all of the following:

(a) Certification by the district of private environmental professionals who meet minimum qualifications established by the district and who successfully complete a district or district-approved training program in the methods of preparing permit applications. The training program shall include a description of permit requirements established by the district, as well as any additional requirements established by the district for applications submitted by certified private environmental professionals.

(b) Expedited review by district personnel of permit applications that, at the option and expense of the permit applicant, are prepared by a certified private environmental professional.

(c) An audit program, including periodic full district review of permit applications prepared by certified private environmental professionals, to determine whether or not district requirements for the preparation of applications have been followed.

(d) Decertification of any certified private environmental professional found by the district to have done any of the following:

(1) Knowingly or negligently submitted false data as part of a permit application.

(2) Prepared any permit application in a manner contrary to district requirements.

(3) Prepared a permit application in connection with which the certified private environmental professional has a financial conflict of interest as defined in guidelines which shall be adopted by the district.

(Added by Stats. 1992, Ch. 1126, Sec. 3. Effective January 1, 1993.)

42301. A permit system established pursuant to Section 42300 shall do all of the following:

(a) Ensure that the article, machine, equipment, or contrivance for which the permit was issued does not prevent or interfere with the attainment or maintenance of any applicable air quality standard.

(b) Prohibit the issuance of a permit unless the air pollution control officer is satisfied, on the basis of criteria adopted by the district board, that the article, machine, equipment, or contrivance will comply with all of the following:

(1) All applicable orders, rules, and regulations of the district and of the state board.

(2) All applicable provisions of this division.

(c) Prohibit the issuance of a permit to a Title V source if the Administrator of the Environmental Protection Agency objects to its issuance in a timely manner as provided in Title V. This subdivision is not intended to provide any authority to the Environmental Protection Agency to object to the issuance of a permit other than that authority expressly granted by Title V.

(d) Provide that the air pollution control officer may issue to a Title V source a permit to operate or use if the owner or operator of the Title V source presents a variance exempting the owner or operator from Section 41701, any rule or regulation of the district, or any permit condition imposed pursuant to this section, or presents an abatement order that has the effect of a variance and that meets all of the requirements of this part pertaining to variances, and the requirements for the issuance of permits to operate are otherwise satisfied. The issuance of any variance or abatement order is a matter of state law and procedure only and does not amend a Title V permit in any way. Those terms and conditions of any variance or abatement order that prescribe a compliance schedule may be incorporated into the permit consistent with Title V and this division.

(e) Require, upon annual renewal, that each permit be reviewed to determine that the permit conditions are adequate to ensure compliance with, and the enforceability of, district rules and regulations applicable to the article, machine, equipment, or contrivance for which the permit was issued which were in effect at the time the permit was issued or modified, or which have subsequently been adopted and made retroactively applicable to an existing article, machine, equipment, or contrivance, by the district board and, if the permit conditions are not consistent, require that the permit be revised to specify the permit conditions in accordance with all applicable rules and regulations.

(f) Provide for the reissuance or transfer of a permit to a new owner or operator of an article, machine, equipment, or contrivance. An application for transfer of ownership only, or change in operator only, of any article, machine, equipment, or contrivance which had a valid permit to operate within the two-year period immediately preceding the application is a temporary permit to operate. Issuance of the final permit to operate shall be conditional upon a determination by the district that the criteria specified in subdivisions (b) and (e) are met, if the permit was not surrendered as a condition to receiving emission reduction credits pursuant to banking or permitting rules of the district. However, under no circumstances shall the criteria specify that a change of ownership or operator alone is a basis for requiring more stringent emission controls or operating conditions than would otherwise apply to the article, machine, equipment, or contrivance.

(Amended by Stats. 1994, Ch. 727, Sec. 5. Effective January 1, 1995.)

42301.1. Whenever necessary and appropriate to ensure compliance with all applicable conditions prior to issuance of a permit to operate an article, machine, equipment, or contrivance, a district may issue a temporary permit to operate. The temporary permit to operate shall specify a reasonable period of time during which the article, machine, equipment, or contrivance may be operated in order for the district to determine whether it will operate in accordance with the conditions specified in the authority to construct.

(Added by Stats. 1988, Ch. 1568, Sec. 28.)

42301.2. A district shall not require emission offsets for any emission increase at a source that results from the installation, operation, or other implementation of any emission control device or technique used to comply with a district, state, or federal emission control requirement, including, but not limited to, requirements for the use of reasonably available control technology or best available retrofit control technology, unless there is a modification that results in an increase in capacity of the unit being controlled.

(Added by Stats. 1996, Ch. 771, Sec. 5. Effective January 1, 1997.)

42301.3. (a) It is the intent of the Legislature that districts expedite permits for the installation of air pollution control equipment.

(b) (1) This section applies only to air pollution control projects at existing sources, where the project is necessary to comply with emission standards or limitations imposed by law, including, but not limited to, district regulations.

(2) This section does not apply to air pollution control requirements applicable to new or modified sources that are not air pollution control projects necessary to comply with emission standards or limitations imposed by law. However, this section applies to the permitting of air pollution control projects necessary to comply with emission standards or limitations imposed by law that are intended to reduce emissions of one or more pollutants that may or may not result in an increase in emissions of a different pollutant or pollutants.

(c) Each district shall prepare, with input from the regulated community, a list of permitting criteria that identifies streamlined permit application requirements for each type of mandated air pollution control project. The list shall be consistent with the requirements of this section but may also include general facility information, a general description of the equipment affected by the air pollution control project, and specific information regarding the pollution control equipment or operational changes that will reduce emissions.

(d) (1) Within 30 days of the date that the applicant submits the information specified in paragraph (2), the district shall commence evaluation and deem the application complete, subject to the final as-built design submittal being consistent with the preliminary engineering and design information specified in subparagraph (B) of paragraph (2), for the purpose of issuing a permit to construct. Notwithstanding the limitations of Sections 65944, 65950, and 65952 of the Government Code, if final design information results in a material change in the permit evaluation that was based on the preliminary submittal, the application shall undergo a new evaluation based on the final design and the district shall promptly notify the applicant of any further information that is necessary to complete the evaluation.

(2) Prior to the district deeming the application complete pursuant to paragraph (1), the applicant shall provide the following information:

(A) The information specified in the list prepared pursuant to subdivision (c).

(B) Either of the following:

(i) Preliminary engineering and design information or other technical equipment specification data reasonably available during the initial design phase.

(ii) The manufacturer's performance warranty and the associated preliminary engineering data on which the bidding documents for the contract with the manufacturer were based.

(C) Any reasonably required information regarding an air contaminant for which emissions will increase as a result of installation of the air pollution control project.

(D) Any information necessary to make the application complete with respect to any federal requirement adopted or promulgated pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) that applies to the air pollution control project.

(e) Prior to the final approval of the applicant's permit to operate, the applicant shall provide the district with final engineering and design information and other data reasonably necessary to ensure compliance with applicable emission limitations. The information may be based on source test results and other operating data available after startup and shakedown of the control equipment. Once the applicant has provided the information specified in this subdivision, and the final design is consistent with the preliminary design data specified in subparagraph (B) of paragraph (2) of subdivision (d) for purposes of permit evaluation, the district shall deem the application complete for the purpose of issuing a permit to operate.

(f) (1) For projects subject to this section for which the use of continuous emission monitoring systems is required, the air quality permit conditions that relate to emissions monitored by the continuous emission monitoring systems shall be sufficient for measurements and reporting as required to meet the specified emission limit as required by the rule or regulation.

(2) Nothing in this subdivision is intended to limit the applicability of standards or limitations or monitoring requirements set forth in any rule or regulation.

(g) (1) An applicant may petition the district hearing board for a variance from a requirement to install air pollution control equipment or to meet a more stringent emission standard or limitation if there is a delay in the approval of the permit to construct or permit to operate for projects under this section. The finding required by paragraph (2) of subdivision (a) of Section 42352 shall be met if the hearing board finds that the delay is not due to the lack of due diligence on the part of the applicant in the permit process, and the delay results in the inability of the applicant to legally comply with the requirement or schedule that requires the installation and operation of air pollution control equipment or achievement of a more stringent emission standard or limitation. The findings required by paragraphs (3), (4), and (5) of subdivision (a) of Section 42352 shall not apply to a variance granted pursuant to this paragraph. Paragraph (6) of subdivision (a) of Section 42352 shall apply to a variance granted pursuant to this paragraph. However, if the district requests that the applicant monitor or otherwise quantify emission levels from the source during the term of the variance pursuant to paragraph (6) of subdivision (a) of Section 42352, that monitoring or quantification required in connection with the variance shall be limited to any monitoring or quantification already being performed for the source for which the pollution control project is required. No variance shall be granted unless the hearing board makes the findings as specified in this subdivision. The hearing board shall not impose any excess emission fees in connection with the grant of the variance. In determining the term of the

variance, the hearing board shall consider the period of time that the delay was not due to the lack of due diligence on the part of the applicant.

(2) For purposes of this subdivision, "due diligence" means that all of the following conditions exist:

(A) The air pollution control project proposed by the applicant was reasonably expected to achieve compliance with the pertinent emission standard or limitation.

(B) The applicant submitted the permit application in sufficient time for the district to act on the application and for the applicant to complete the project in accordance with the deadline.

(C) The applicant responded in a reasonable time to requests for additional information needed by the district to process the application or prepare any necessary environmental analyses.

(D) The district has not denied or proposed to deny the application on the basis of the project's inability to meet district permit requirements consistent with this section.

(E) During the term of the variance, the applicant will take practicable steps to ensure completion of the project as expeditiously as possible after issuance of the permit.

(3) Paragraph (1) shall not limit the authority of a district to require emissions monitoring or quantification under any other applicable provision of law.

(4) Nothing in this subdivision shall be interpreted as authorizing a hearing board to grant a variance from any requirement for a permit to build, alter, erect, or replace any air pollution control equipment included in a project subject to this section.

(h) If a supplemental or other environmental impact report or other environmental assessment is required for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the district is the lead agency, the district shall prepare and act upon the report or assessment and the permit to construct concurrently in order to streamline the approval process. However, the district shall be required to take that concurrent action only if the applicant has submitted the information required by this section to allow the district to streamline the approval process.

(i) For purposes of this section, "material change" means a change that would result in a material impact on the level of emission calculated.

(Amended by Stats. 1994, Ch. 720, Sec. 1. Effective January 1, 1995.)

42301.5. (a) Any article, machine, equipment, or contrivance that may emit into the ambient air any toxic air contaminant identified pursuant to Section 39662 shall comply with any regulation adopted by the state board or a district requiring a reduction in emissions of that contaminant or chemical from the article, machine, equipment, or contrivance consistent with a reasonable schedule of compliance, as determined by the state board or the district.

(b) (1) Any article, machine, equipment, or contrivance that is located within a district that is designated by the state board as a nonattainment area for any national ambient air quality standard and for which an authority to construct is issued on or after January 1, 1988, shall comply with any district regulation that is adopted after December 31, 1982, and that requires a reduction in emissions of any air pollutant, including any precursor of an air pollutant, that interferes with the attainment of the standard, from that article, machine, equipment, or contrivance consistent with a reasonable schedule of compliance, as determined by the district.

(2) In determining a schedule of compliance under this subdivision, the district shall consider the extent to which the proposed schedule will adversely affect the ability of the facility owner or operator to amortize the capital costs of pollution control equipment purchased within the preceding five years.

(Amended by Stats. 2000, Ch. 890, Sec. 39. Effective January 1, 2001.)

42301.6. (a) Prior to approving an application for a permit to construct or modify a source that emits hazardous air emissions, and that source is located within 1,000 feet from the outer boundary of a schoolsite, the air pollution control officer shall prepare a public notice in which the proposed project or modification for which the application for a permit is made is fully described. The notice may be prepared whether or not the material is or would be subject to subdivision (a) of Section 25536, if the air pollution control officer determines and the administering agency concurs that hazardous air emissions of the material may result from an air release, as defined by Section 44303. The notice may be combined with any other notice on the project or permit that is required by law.

(b) The air pollution control officer shall, at the permit applicant's expense, distribute or mail the public notice to the parents or guardians of children enrolled in a school that is located within one-quarter mile of the proposed new or modified source and to each address within a radius of 1,000 feet of the source at least 30 days prior to the date final action on the application is to be taken by the officer. The officer shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to the comments in the permit application file prior to taking final action on the application.

(1) Notwithstanding Section 49073 of the Education Code, or any other law, the information necessary to mail notices required by this section shall be made available by the school district to the air pollution control officer.

(2) Nothing in this subdivision precludes, at the discretion of the air pollution control officer and with the permission of the school, the distribution of the notices to the children to be given to their parents or guardians.

(c) Notwithstanding subdivision (b), an air pollution control officer may require the applicant to distribute the notice if the district had such a rule in effect prior to January 1, 1989.

(d) The requirements for public notice pursuant to subdivision (b) or a district rule in effect prior to January 1, 1989, are fulfilled if the air pollution control officer or applicant responsible for giving the notice makes a good faith effort to follow the procedures prescribed by law for giving the notice, and, in these circumstances, failure of a person to receive the notice shall not affect the validity of a permit subsequently issued by the officer.

(e) This section shall not be deemed to limit an existing authority of a district.

(f) An applicant for a permit shall certify whether the proposed new or modified source is located within 1,000 feet of a schoolsite. Misrepresentation of this fact may result in the denial of a permit.

(g) The notice requirements of this section shall not apply if the air pollution control officer determines that the application to construct or modify a source will result in a reduction or equivalent amount of air contaminants, as defined in Section 39013, that are hazardous air emissions.

(h) As used in this section, "hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the state board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from a substance identified in subdivisions (a) to (f), inclusive, of Section 44321.

(i) (1) For the purposes of this section, a district may send a required notice electronically instead of by mail.

(2) A district shall send a notice by mail to any person who has requested the notices to be sent by mail.

(3) If a district does send a public notice electronically pursuant to paragraph (1), the district board shall adopt, and update as needed, procedures for a person to request notices to be sent by mail and to update an electronic mail address.

(Amended by Stats. 2018, Ch. 59, Sec. 3. (SB 1502) Effective January 1, 2019.)

42301.7. (a) If the air pollution control officer determines there is a reasonably foreseeable threat of a release of an air contaminant from a source within 1,000 feet of the boundary of a school that would result in a violation of Section 41700 and impact persons at the school, the officer shall, within 24 hours, notify the administering agency and the fire department having jurisdiction over the school.

(b) The administering agency may, in responding to a reasonably foreseeable threat of a release, do any of the following:

(1) Review the facility's risk management and prevention plan prepared pursuant to Section 25534 to determine whether the program should be modified, and, if so, require submission of appropriate modifications. Notwithstanding any other provision of law, the administering agency may order modification and implementation of a revised risk management and prevention plan at the earliest feasible date.

(2) If the facility has not filed a risk management and prevention plan with the administering agency, require the preparation and submission of a plan to the administering agency pursuant to Section 25534. Notwithstanding any other provision of law, the administering agency may require the filing of a risk management and prevention plan and its implementation at the earliest feasible date.

(c) The air pollution control officer may, in responding to a reasonably foreseeable threat of a release, do any of the following:

(1) If necessary, issue an immediate order to prevent the release or mitigate the reasonably foreseeable threat of a release in violation of Section 41700 pending a hearing pursuant to Section 42450 when there is a substantial probability of an injury to persons at a school resulting from a release that makes it reasonably necessary to take immediate action to prevent, reduce, or mitigate that injury. The officer may not issue such an order unless there is written concurrence to issue the order by a representative of the administering agency.

(2) Apply to the district board for issuance of an order for abatement pursuant to Section 42450.

(d) Nothing in this section limits any existing authority of any district.

(Added by Stats. 1988, Ch. 1589, Sec. 9.)

42301.8. Upon receiving a request, for good cause, from the principal or an authorized representative of the principal of a school, the district shall, within 24 hours, respond to the request and notify the administering agency and the fire department having jurisdiction over the school. The administering agency, upon receiving such a request, shall notify the district within 24 hours.

(Added by Stats. 1988, Ch. 1589, Sec. 10.)

42301.9. For the purposes of Sections 42301.5 to 42301.8, inclusive:

- (a) "School" means any public or private school used for purposes of the education of more than 12 children in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
- (b) "Air contaminant" means any contaminant defined pursuant to Section 39013.
- (c) "Administering agency" means an agency designated pursuant to Section 25502.
- (d) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(Amended by Stats. 2000, Ch. 890, Sec. 40. Effective January 1, 2001.)

42301.10. In any district that has a permit system established pursuant to Section 42300, the air pollution control officer may include, in any permit issued to a Title V source, emission limits, standards, and other requirements that ensure compliance with all federal Clean Air Act "applicable requirements," as that term is defined in regulations adopted by the Environmental Protection Agency pursuant to Title V, including those requirements specified in an applicable implementation plan as defined by Section 7602(q) of Title 42 of the United States Code, and Parts C (42 U.S.C. Sec. 7470 et seq.) and D (42 U.S.C. Sec. 7501 et seq.) of Title 1 of the Clean Air Act.

(Added by Stats. 1993, Ch. 1166, Sec. 8. Effective January 1, 1994.)

42301.11. It is the intent of the Legislature that, in addition to their responsibilities and obligations under state and federal law, in implementing Title V, districts do all of the following, to the extent feasible:

- (a) Develop, in recognition that districts are obligated to issue one-third of the Title V permits within one year of the Title V program's approval by the Environmental Protection Agency, and in recognition that sources are allowed one year to submit a Title V permit application, an equitable program for ensuring that all sources receive as much time as feasible to develop and submit permit applications. In developing the program the districts shall recognize the complexity and size of the facilities, the number and similarity of facilities within each industry category, the level of effort required to develop the permit application, and the resources available to complete the application. The districts should also consider potential incentive programs to promote voluntary early permit application submissions.
- (b) Consider the advantages and disadvantages of including the permit shield authorized by subsection (f) of Section 70.6 of Title 40 of the Code of Federal Regulations in all Title V permits to clarify the federal compliance responsibilities of Title V sources.
- (c) Consistent with state and federal regulations, allow the use of emission monitoring alternatives, when available and having the accuracy required to ensure enforcement and compliance, in lieu of the use of continuous emission monitors.
- (d) Encourage the issuance of Title V permits for five-year terms.

(Amended by Stats. 1994, Ch. 727, Sec. 6. Effective January 1, 1995.)

42301.12. (a) Any district permit system or permit provision established by a district board to meet the requirements of Title V shall, consistent with federal law, minimize the regulatory burden on Title V sources and the district and shall meet all of the following criteria:

- (1) Apply only to Title V sources.
- (2) Issue permits pursuant to Title V only after the Environmental Protection Agency has approved the district's Title V permit program.
- (3) Identify in the permit, to the greatest extent feasible, permit terms and conditions which are federally enforceable and those which are not federally enforceable. A district shall make that identification by either of the following means:
 - (A) Identifying in the permit the terms and conditions that are federally enforceable because they are imposed pursuant to a federal requirement or because the source has requested the terms and conditions and federal enforceability thereof and the permitting district has not determined that the request does not meet all applicable federal requirements and guidelines.
 - (B) Identifying in the permit the terms and conditions which are imposed pursuant to state law or district rules and are not federally enforceable. Districts may further identify those terms and conditions of the permit which are not federally

enforceable, but which have been included in the permit to enforce district rules adopted by the district to meet federal requirements.

- (4) Utilize, to the extent reasonably feasible, general permits and similar methods to reduce source and district permitting burdens for Title V sources.
- (5) Establish clear and simple application completeness criteria.
- (6) To the extent feasible, minimize the burden of federally mandated paperwork such as recordkeeping and reporting documents.
- (7) Allow sources maximum flexibility in selecting cost-effective, reliable, and representative monitoring methods consistent with applicable state and federal requirements.
- (8) If a permit is required to be reopened to comply with Title V requirements, base the reopening upon the federal criteria for reopening and limit the reopening to only the federal component of the Title V permit. This paragraph is not intended to limit in any way the authority under state law to reopen permits.
- (9) Authorize administrative permit amendments and minor permit modifications as required by federal law.
- (10) Provide that, unless the district determines that a Title V application is not complete within 60 days of receipt of the application, the application shall be deemed to be complete.
- (11) Authorize, to the extent consistent with existing state law, mandatory operational flexibility provisions required pursuant to Part 70 (commencing with Section 70.1) of Title 40 of the Code of Federal Regulations, and consider optional operational flexibility provisions established pursuant to Part 70 (commencing with Section 70.1) of Title 40 of the Code of Federal Regulations. Nothing in this paragraph is intended to affect whatsoever any pending litigation.
- (12) Make every reasonable effort, in partnership with Title V sources and the state board, to evaluate and respond to the substance of any objection to a proposed permit and to obtain expeditious approval of Title V permits submitted to the Environmental Protection Agency.

(Amended by Stats. 1996, Ch. 984, Sec. 2. Effective September 27, 1996.)

42301.13. (a) Notwithstanding any other provision of law, a district shall not require, as part of its permit system or otherwise, that any form of emission offset or emission credit be provided to offset emissions resulting from any activity related to, or involved in, the demolition or removal of a stationary source.

(b) (1) Notwithstanding any other provision of law regulating a district permit system, an owner or operator of an existing portable emissions unit may relocate that equipment within the same air basin if both of the following requirements are met:

(A) The owner or operator provides, not less than 30 days prior to the date that the equipment is relocated, written notice to the district with jurisdiction over the location to which the equipment is relocated, and any additional notice required by federal law.

(B) The existing permit conditions are at least as stringent as the permit requirements in the district with jurisdiction over the location to which the equipment is relocated.

(2) For purposes of this subdivision, "portable emissions unit" means any article, machine, or other contrivance, including an internal combustion engine, that meets all of the following criteria:

(A) Emits or may emit, or results in the emission of, any air contaminant.

(B) Either by itself, or as part of another piece of equipment, is designed to be, and is capable of, being moved from one location to another.

(C) Must be periodically moved from one location to another because of the nature of the operation in which it is used.

(c) Any equipment that is relocated pursuant to subdivision (b) remains subject to all previously imposed permit terms and conditions. If the permitted equipment that is relocated is placed into substantially the same service that it was placed into at its previous location, a district shall not impose any new permit terms or conditions on that equipment, except site-specific terms and conditions or public notice requirements.

(Added by Stats. 1996, Ch. 284, Sec. 1. Effective January 1, 1997.)

42301.15. Each district shall adopt an expedited program for the permitting of standby electrical generation facilities, distributed generation facilities, geothermal facilities, including wells, and, where applicable, natural gas transmission facilities, that ensures those facilities will be operated in a manner that protects public health and air quality. Upon request by a district, the Independent System Operator and the Public Utilities Commission shall provide any information necessary, as determined by the district, to implement this section.

(Added by Stats. 2001, 1st Ex. Sess., Ch. 12, Sec. 2. Effective May 22, 2001.)

42301.16. (a) In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

(b) Except as provided in subdivision (c), a district shall require an agricultural source of air pollution to obtain a permit unless it makes all of the following findings in a public hearing:

- (1) The source is subject to a permit requirement pursuant to Section 40724.6.
- (2) A permit is not necessary to impose or enforce reductions of emissions of air pollutants that the district shows cause or contribute to the violation of a state or federal ambient air quality standard.
- (3) The requirement for the source or category of sources to obtain a permit would impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(c) Prior to requiring a permit for an agricultural source of air pollution with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district for any air contaminant, but excluding fugitive dust, a district shall, in a public hearing, make all of the following findings:

- (1) The source is not subject to a permit requirement pursuant to Section 40724.6.
- (2) A permit is necessary to impose or enforce reductions of emissions of air pollutants that the district shows cause or contribute to a violation of a state or federal ambient air quality standard.
- (3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(Amended by Stats. 2015, Ch. 303, Sec. 322. (AB 731) Effective January 1, 2016.)

42301.17. (a) A district may adopt by regulation a program under which the district does not require a permit to be obtained by an agricultural source of air pollution that the district may otherwise require to obtain a permit if the owner or operator of the source has taken the following actions to reduce emissions from the source:

- (1) Removed all internal combustion engines used in the production of crops or the raising of fowl or animals, except an engine that is used to propel implements of husbandry, at the source and replaced them with engines that meet or exceed the most stringent standards adopted by the state board and the United States Environmental Protection Agency for new internal combustion engines.
- (2) Reduced or mitigated emissions from all agricultural activities, including, but not limited to, tilling, discing, cultivation, the raising of livestock and fowl, and similar activities, to a level that the district determines does not cause, or contribute to, a violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.
- (3) Reduced or mitigated all emissions from any farm equipment, underground petroleum fuel tanks, or other similar equipment used in agricultural activities to a level that the district determines does not cause or contribute to a violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.
- (4) Complied with any other conditions required by state or federal law or district rule or regulation for the source.

(b) Subdivision (a) does not apply to those permits required to be issued pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.).

(Added by Stats. 2003, Ch. 479, Sec. 10. Effective January 1, 2004.)

42301.18. (a) Any agricultural source that existed prior to January 1, 2004, that becomes subject to a permit requirement pursuant to a district rule or regulation that was adopted prior to that date shall be permitted as an existing source and not as a new source.

(b) Any agricultural source that is an existing source pursuant to subdivision (a) shall be permitted by the district based upon its maximum potential to emit air contaminants, to the extent that level can be determined, as of January 1, 2004.

(c) A district may not require an agricultural source to obtain emissions offsets for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emission reductions.

(Added by Stats. 2003, Ch. 479, Sec. 11. Effective January 1, 2004.)

42302. An applicant for a permit that has been denied may request, within 30 days after receipt of the notice of the denial, the hearing board of the district to hold a hearing on whether the permit was properly denied.

(Amended by Stats. 1999, Ch. 643, Sec. 11. Effective January 1, 2000.)

42302.1. Within 30 days of any decision or action pertaining to the issuance of a permit by a district, or within 30 days after mailing of the notice of issuance of the permit to any person who has requested notice, or within 30 days of the publication and mailing of notice provided for in Section 1 of Chapter 1131 of the Statutes of 1993, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the district may request the hearing board of the district to hold a public hearing to determine whether the permit was properly issued. Except as provided in Section 1 of Chapter 1131 of the Statutes of 1993, within 30 days of the request, the hearing board shall hold a public hearing and shall render a decision on whether the permit was properly issued.

(Amended by Stats. 1999, Ch. 643, Sec. 12. Effective January 1, 2000.)

42303. An air pollution control officer, at any time, may require from an applicant for, or the holder of, any permit provided for by the regulations of the district board, such information, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which the permit was issued or applied.

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

42303.2. (a) (1) An air pollution control officer, at any time, may, for the purpose of permitting or enforcement actions, require from the in-state or out-of-state supplier, wholesaler, or distributor of volatile organic compounds or chemical substances the use of which results in air contaminants subject to regulation or enforcement by the district, customer lists and chemical types and quantities of those compounds and substances as specified by the district pursuant to subdivision (b) that are purchased by, or on order for, a specified source operator within the district.

(2) The supplier, wholesaler, or distributor shall disclose the information required pursuant to this section to the district.

(b) Prior to implementing subdivision (a), an air pollution control officer shall prepare a comprehensive list of volatile organic compounds or chemical substances, the use of which results in the emission of air contaminants that are subject to regulation or enforcement by the district.

(c) (1) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any confidential information that is a trade secret, customer list, or supplier name acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a six month county jail term and a fine not to exceed one thousand dollars (\$1,000).

(2) Any officer or employee of the district or of a district contractor, or former officer or employee, who, by virtue of that employment or official position has possession of, or has access to, any other confidential information acquired pursuant to this section, and who, knowing that the disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor punishable by a 10-day county jail term or a fine not to exceed five hundred dollars (\$500).

(d) The penalties provided in subdivision (c) shall be in addition to any existing civil penalties and remedies available under the law.

(e) Except for the purposes of any enforcement or permit action, and except for information obtained from an independent source, all information received or compiled by an air pollution control officer from a supplier, wholesaler, or distributor pursuant to subdivision (a) is confidential for the purposes of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, and shall not be disclosed.

(Amended by Stats. 2021, Ch. 615, Sec. 261. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

42303.5. No person shall knowingly make any false statement in any application for a permit, or in any information, analyses, plans, or specifications submitted in conjunction with the application or at the request of the air pollution control officer.

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

42304. If, within a reasonable time, the holder of any permit issued by a district board willfully fails and refuses to furnish the information, analyses, plans, or specifications requested by the district air pollution control officer, such officer may suspend the permit. Such officer shall serve notice in writing of such suspension and the reasons therefor on the permittee.

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

42305. The air pollution control officer shall reinstate a suspended permit when furnished with all the requested information, analyses, plans, and specifications.

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

42306. Within 10 days after receipt of the notice of suspension pursuant to Section 42304, the permittee may request the hearing board of the district to hold a hearing on whether or not the permit was properly suspended.

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

42307. An air pollution control officer may request the hearing board of the district to hold a hearing to determine whether a permit should be revoked, if he finds that the holder of the permit is violating any applicable order, rule, or regulation of the district or any applicable provision of this division.

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

42308. Within 30 days after a hearing has been requested pursuant to Section 42302, 42306, or 42307, the hearing board shall hold a hearing pursuant to Chapter 8 (commencing with Section 40800) of Part 3.

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

42309. After a hearing, the hearing board may do any of the following:

- (a) Grant a permit denied by the air pollution control officer.
- (b) Continue the suspension of a permit suspended by the air pollution control officer.
- (c) Remove the suspension of an existing permit invoked by the air pollution control officer pending the furnishing by the permittee of the information, analyses, plans, and specifications required.
- (d) Find that no violation exists and reinstate an existing permit.
- (e) Revoke an existing permit, if it finds any of the following:
 - (1) The permittee has failed to correct any conditions required by the air pollution control officer.
 - (2) A refusal of a permit would be justified.
 - (3) Fraud or deceit was employed in the obtaining of the permit.
 - (4) Any violation of this part, or of any order, rule, or regulation of the district.

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

42310. (a) A permit shall not be required for any of the following:

- (1) Any vehicle.
- (2) Any structure designed for and used exclusively as a dwelling for not more than four families.
- (3) An incinerator used exclusively in connection with a structure described in paragraph (2).
- (4) Barbecue equipment that is not used for commercial purposes.
- (5) (A) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

(B) As used in this paragraph, maintenance does not include operation.

(b) Nothing in this section shall affect any requirements imposed on a district or a source of air pollution, including, but not limited to, an agricultural source, pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(Amended by Stats. 2009, Ch. 140, Sec. 114. (AB 1164) Effective January 1, 2010.)

42310.5. (a) Notwithstanding any provision of any district permit system, including the south coast district permit system, any permit issued for the operation of equipment at an asphalt plant shall be valid for operation of the equipment by another operator if all of the following conditions are met:

(1) The permitted operator has given the new operator a copy of the operating permit.

(2) The permitted operator has filed, with the district, a copy of the operating permit attached to a signed statement from the new operator agreeing to comply with the terms of the permit.

(3) The permitted operator has paid a reasonable administrative fee as determined by the district.

(b) If the operation of the equipment by the new operator results in a violation of any state law or rule or regulation of the state board or district adopted pursuant to this division, the liability for the violation shall be determined based upon whether the conduct of the permitted operator or the new operator, or both, caused the violation.

(Added by Stats. 1987, Ch. 183, Sec. 1.)

42311. (a) A district board may adopt, by regulation, a schedule of annual fees for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources authorized or required under this division that are not otherwise funded. The fees assessed under this section shall not exceed, for any fiscal year, the actual costs for district programs for the immediately preceding fiscal year with an adjustment not greater than the change in the annual California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule. Nothing in this subdivision precludes the district from recovering, through its schedule of annual fees, the estimated reasonable costs of district programs related to permitted stationary sources.

(b) The district board may require an applicant to deposit a fee in accord with the schedule adopted pursuant to subdivision (a) prior to evaluating a permit application, if the district accounts for the costs of its services and refunds to the applicant any significant portion of the deposit which exceeds the actual, reasonable cost of evaluating the application.

(c) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(d) This section does not apply to the south coast district board which is governed by Section 40510.

(e) In addition to providing notice as otherwise required, before adopting a regulation establishing fees pursuant to this section, the district board shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the district board. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The district board may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the district board shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(f) In addition to any other fees authorized by this section, a district board may adopt, by regulation, a schedule of annual fees to be assessed against permitted nonvehicular sources emitting toxic air contaminants identified pursuant to the procedure set forth in Sections 39660, 39661, and 39662. A district board shall demonstrate that the fees assessed under this subdivision do not exceed the reasonable, anticipated costs of funding district activities mandated by Section 39666 related to nonvehicular source emissions. In making the demonstration, the district shall account for all direct and indirect costs of district activities related to each toxic air contaminant. If the district does not make this demonstration, it shall make reimbursement for that portion of the fee not determined to be reasonable.

(g) A district may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the district to recover the costs of district programs related to these sources.

(h) A district board may adopt, by regulation, a schedule of fees to cover the reasonable costs of the hearing board incurred as a result of appeals from district decisions on the issuance of permits. However, the hearing board may waive all or part of these fees if it determines that circumstances warrant that waiver.

(i) Nothing in the amendments to this section enacted in 1988 limits or abridges any previously existing authority of a district to vary fees according to quantity of emissions, nor affects any pending litigation which might affect that previous authority.

(Amended by Stats. 1988, Ch. 1568, Sec. 29.)

42311.2. (a) Notwithstanding Section 42311, a district shall not adopt or impose fees that exceed actual district administrative costs for processing or enforcing permits applicable to any of the following:

(1) Prescribed burning operations on state responsibility lands conducted under the terms of a permit issued by the Department of Forestry and Fire Protection pursuant to Article 3 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code when the purpose of the operation is prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(2) Burning of vegetation or disposal of slash following timber operations required under regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4551.5 or 4562 of the Public Resources Code and for the purpose of reducing the incidence and spread of fires on timberlands.

(3) Wildland vegetation management burns.

(A) For purposes of this subdivision, "wildland vegetation management burn" means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency to burn land predominantly covered with chaparral, trees, grass, or standing brush.

(B) For purposes of this subdivision, "prescribed burning" is the planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:

(i) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(ii) Watershed management.

(iii) Range improvement.

(iv) Vegetation management.

(v) Forest improvement.

(vi) Wildlife habitat improvement.

(vii) Air quality maintenance.

(C) The planned application of fire may include natural or accidental ignition.

(b) Prior to adopting or revising fees for the activities described in paragraph (1), (2), or (3) of subdivision (a), a district shall hold a public hearing and shall consider the following:

(1) The costs of the fees on private landowners and other persons who engage in activities specified in paragraph (1), (2), or (3) of subdivision (a).

(2) Any revenues currently provided to the county for general government by public agencies that administer public lands.

(Amended by Stats. 2004, Ch. 693, Sec. 2. Effective January 1, 2005.)

42311.5. A district board may increase its fee schedule adopted under Section 42311 to generate sufficient revenues to pay for any district costs associated with the implementation of Section 66796.53 of the Government Code or Section 41805.5.

(Added by Stats. 1984, Ch. 1532, Sec. 5.)

42312. To aid in administering its permit system, a district board may contract with any county or city included, in whole or in part, within the district, and any such county or city may contract with the district, for the performance of such work in the name of, and subject to the approval of, the district air pollution control officer by the building department or other officer, department, or agency of the county or such city charged with the enforcement of regulations pertaining to the erection, construction, reconstruction, movement, conversion, alteration, or enlargement of buildings or structures.

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

42313. Except in the case of a contract entered into between a county district and the county, a contract entered into pursuant to Section 42312 may provide that fees for permits shall be paid to the city or county which issues the permit and may be retained by that city or county, in whole or in part, as the consideration, or part thereof, for issuing the permits. Otherwise, all fees paid for the issuance of permits shall be paid into the district treasury.

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

42314. (a) Notwithstanding any other provision of any district permit system, and except as provided in this section, no district shall require emissions offsets for any cogeneration technology project or resource recovery project that satisfies all of the following requirements:

(1) The project satisfies one of the following size criteria:

(A) The project produces 50 megawatts or less of electricity. In the case of a combined cycle project, the electrical capacity of the steam turbine may be excluded from the total electrical capacity of the project for purposes of this paragraph if no supplemental firing is used for the steam portion and the combustion turbine has a minimum efficiency of 25 percent.

(B) The project processes municipal wastes and produces more than 50 megawatts, but less than 80 megawatts, of electricity.

(2) The project will use the appropriate degree of pollution control technology (BACT or LAER) as defined and to the extent required by the district permit system.

(3) Existing permits for any item of equipment to be replaced by the project, whether the equipment is owned by the applicant or a thermal beneficiary of the project, are surrendered to the district or modified to prohibit operation simultaneously with the project to the extent necessary to satisfy district offset requirements. The emissions reductions associated with the shutdown of existing equipment shall be credited to the project as emissions offsets in accordance with district rules.

(4) The applicant has provided offsets to the extent they are reasonably available from facilities it owns or operates in the air basin and that mitigate the remaining impacts of the project.

(5) For new projects that burn municipal waste, landfill gas, or digester gas, the applicant has, in the judgment of the district, made a good faith effort to secure all reasonably available emissions offsets to mitigate the remaining impact of the project, and has secured all reasonably available offsets.

(b) This section applies to any project for which an application for an authority to construct is deemed complete by the district after January 1, 1986, only if the project's net emissions, combined with the net emissions from projects previously permitted under this section, are less than the amount provided for in the applicable growth allowance established by the district pursuant to Section 41600. If a district has not yet provided a growth allowance pursuant to Section 41600, the growth allowance is zero. For purposes of this subdivision, "net emissions" means the project's emissions, less any offsets provided by the applicant and less utility displacement credits granted pursuant to Section 41605.

(c) This section does not relieve a project from satisfying all applicable requirements of Part C (Prevention of Significant Deterioration) of the Clean Air Act, as amended in 1977 (42 U.S.C. Sec. 7401 et seq.), or any rules or regulations adopted pursuant to Part C.

(Amended by Stats. 2000, Ch. 890, Sec. 41. Effective January 1, 2001.)

42314.1. (a) Except as provided in subdivision (b), to the extent permissible under federal law, and notwithstanding any state or local new source review or prevention of significant deterioration rule or regulation, at the request of an applicant, a district shall issue permits for the construction of a project which burns municipal waste, landfill gas, or digester gas, if all of the following conditions are met:

(1) The project produces less than 50 megawatts of electricity, except as provided in paragraph (4).

(2) The project will utilize the appropriate degree of pollution control technology (BACT or LAER) required by the new source review rule of the district.

(3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but sufficient offsets or other mitigation measures are not available. The applicant, however, is required to secure all the offsets which are available to mitigate the air quality impact of the project, except for projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant is only required to provide offsets from facilities which the applicant owns or operates within the air basin.

(4) The project produces 50 megawatts or more, but less than 80 megawatts, of electricity, meets the requirements of paragraphs (2) and (3), is located in a district whose state implementation plan revisions have been approved by the Environmental Protection Agency and that has attained, or is reasonably expected to attain, national air quality standards for any criteria pollutant for which sufficient growth allowances are available in the air quality maintenance plan or, in the event the project would cause any criteria pollutant to exceed the available or possible future growth allowance, the applicant secures offsets in an amount equal to the excess in the growth allowance, and processes municipal wastes from one or more municipalities. Any project under this paragraph shall comply with applicable prevention of significant deterioration rules and regulations.

(b) If a proposed project permitted under subdivision (a) has an electrical generating capacity of 50 megawatts or more, the district shall determine whether the project meets the requirements of this section and, in making its determination, shall consider the potential emission of noncriteria pollutants from project facilities and shall develop appropriate permit conditions. The district shall submit its determination and supporting analyses, including the analysis of noncriteria pollutants and appropriate permit conditions, to the State Energy Resources Conservation and Development Commission for use pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(c) Any permit issued pursuant to subdivision (a), and any determination made by a district pursuant to subdivision (b), shall meet the additional requirements of Section 42315.

(Amended by Stats. 1986, Ch. 1134, Sec. 2.)

42314.2. (a) The time limits established under Sections 65950, 65950.1, and 65952 of the Government Code for approval or disapproval of development projects may be extended for district review of an application for a permit for a resource recovery project upon the mutual consent of the district and the permit applicant. Notwithstanding Section 65957 of the Government Code, an extension made pursuant to this section shall not exceed nine months beyond the time limits established under Sections 65950, 65950.1, and 65952 of the Government Code.

(b) The district shall provide public notification at least 30 days prior to the effective date of any extension consented to under subdivision (a), which shall specify the reasons for, and the duration of, the extension period. The district shall provide this public notification by publishing a notice once a week for two consecutive weeks in a newspaper of general circulation in the district.

(Added by Stats. 1987, Ch. 205, Sec. 1.)

42314.5. In considering a permit for a facility that utilizes agricultural waste products, forest waste products, or similar organic wastes as biomass fuel in a steam generator (boiler) to produce electrical energy, or to be used as a digester feedstock in a cogeneration facility, the district shall allow offset credits as provided in Sections 41600 and 41605.5.

(Amended by Stats. 2000, Ch. 890, Sec. 42. Effective January 1, 2001.)

42315. (a) No district shall issue or renew a permit for the construction of, renew a permit for the operation of, or issue a determination of compliance for, any project which burns municipal waste or refuse-derived fuel unless all of the following conditions have been met:

(1) The project will not prevent or interfere with the attainment or maintenance of state and federal ambient air quality standards.

(2) The project will comply with all applicable emission limitations established prior to issuance of the permit or the determination of compliance.

(3) The project will, after issuance of the permit or determination of compliance, comply with toxic air contaminant control measures adopted by the district pursuant to Section 39666, and regulations adopted by the district pursuant to Section 41700 for the protection of public health. Notwithstanding Section 42301. 5, compliance with this subdivision shall be consistent with a reasonable schedule, as determined by the district.

(4) (A) A health risk assessment is performed and is submitted by the district to both the state board and the State Department of Health Services for review. The state board shall review and, within 15 days, notify the district and the applicant as to whether the data pertaining to emissions and their impact on ambient air quality are adequate for completing its review pursuant to this

subdivision, and what additional data, if any, are required to complete its review. Within 45 days of receiving the health risk assessment, the state board shall submit its comments in writing to the district, on the data pertaining to emissions and their impact on ambient air quality. The district shall forward a copy of the comments of the state board to the State Department of Health Services. The State Department of Health Services shall review and, within 90 days of receiving the health risk assessment, shall submit its comments to the district on the data and findings relating to health effects.

(B) For purposes of complying with the requirements of this paragraph, the State Department of Health Services may select a qualified independent contractor to review the data and findings relating to health effects. In those cases, the review by the independent contractor shall comply with the following requirements:

- (i) Be performed in a manner consistent with guidelines provided by the state department.
- (ii) Be reviewed by the state department for accuracy and completeness.
- (iii) Be submitted by the state department to the district in accordance with the schedules established by this paragraph.

(C) Notwithstanding Section 6103 of the Government Code, the district shall reimburse the State Department of Health Services, or a qualified independent contractor designated by the state department pursuant to subparagraph (B), for its actual costs incurred in reviewing a health risk assessment for any project subject to this section.

(D) An application for any project which burns municipal waste or refuse-derived fuel is not complete until both of the following have been accomplished:

- (i) The health risk assessment has been performed and is submitted to the district.
- (ii) The state board and the State Department of Health Services, or a qualified independent contractor designated by the state department pursuant to subparagraph (B) have completed their review pursuant to this paragraph, and have submitted their comments to the district, unless the state board and the State Department of Health Services have failed to submit their comments to the district within 90 days and the district makes a finding that the application contains sufficient information for the district to begin its initial review.

(E) This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.

(5) The district finds and determines, based upon the health risk assessment, comments from the state board and the State Department of Health Services, and any other relevant information, that no significant increase in the risk of illness or mortality, including, but not limited to, increases in the risk of cancer and birth defects, is anticipated as a result of air pollution from the construction and operation of the project. This paragraph shall not apply to an application for permit renewal for any project otherwise subject to this section.

(6) Prior to, and during, commercial operation of the project, periodic monitoring of emissions, including, but not limited to, toxic air contaminants, is performed pursuant to specifications established by the district.

(b) This section does not prohibit a district from requiring ambient air monitoring under any other provision of law.

(c) This section does not apply to any project which does any of the following:

- (1) Exclusively burns digester gas produced from manure or other animal solid or semisolid waste.
- (2) Exclusively burns methane gas produced from a disposal site as defined in Section 66714.1 of the Government Code, which is used only for the disposal of solid waste as defined in Section 66719 of the Government Code.
- (3) Exclusively burns forest, agricultural, wood, or other biomass wastes.

Nothing in this subdivision is intended to prohibit a district from requiring those projects to meet one or more of the conditions of this section.

(d) Nothing in this section prohibits the permit applicant from entering into a contract with any person pursuant to which the person may enforce this section or any other provision of law.

(Added by Stats. 1986, Ch. 1134, Sec. 3. Note: See this section as modified on July 17, 1991, in Governor's Reorganization Plan No. 1 of 1991.)

42316. (a) The Great Basin Air Pollution Control District may require the City of Los Angeles to undertake reasonable measures, including studies, to mitigate the air quality impacts of its activities in the production, diversion, storage, or conveyance of water and may require the city to pay, on an annual basis, reasonable fees, based on an estimate of the actual costs to the district of its activities associated with the development of the mitigation measures and related air quality analysis with respect to those activities of the city. The mitigation measures shall not affect the right of the city to produce, divert, store, or convey water and, except for studies and monitoring activities, the mitigation measures may only be required or amended on the basis of substantial evidence

establishing that water production, diversion, storage, or conveyance by the city causes or contributes to violations of state or federal ambient air quality standards.

(b) The city may appeal any measures or fees imposed by the district to the state board within 30 days of the adoption of the measures or fees. The state board, on at least 30 days' notice, shall conduct an independent hearing on the validity of the measures or reasonableness of the fees which are the subject of the appeal. The decision of the state board shall be in writing and shall be served on both the district and the city. Pending a decision by the state board, the city shall not be required to comply with any measures which have been appealed. Either the district or the city may bring a judicial action to challenge a decision by the state board under this section. The action shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure and shall be filed within 30 days of service of the decision of the state board.

(c) A violation of any measure imposed by the district pursuant to this section is a violation of an order of the district within the meaning of Sections 41513 and 42402.

(d) The district shall have no authority with respect to the water production, diversion, storage, and conveyance activities of the city except as provided in this section. Nothing in this section exempts a geothermal electric generating plant from permit or other district requirements.

(Added by Stats. 1983, Ch. 608, Sec. 1. Effective September 1, 1983.)