

HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44474]

(Division 26 repealed and added by Stats. 1975, Ch. 957.)

PART 2. STATE AIR RESOURCES BOARD [39500 - 39961]

(Part 2 added by Stats. 1975, Ch. 957.)

CHAPTER 3.5. Toxic Air Contaminants [39650 - 39675]

(Chapter 3.5 added by Stats. 1983, Ch. 1047, Sec. 1.)

ARTICLE 2.5. Coordination With the Federal Act [39656 - 39659]

(Article 2.5 added by Stats. 1992, Ch. 1161, Sec. 3.)

39656.

It is the intent of the Legislature that the state board and the districts implement a program to regulate toxic air contaminants that will enable the state to receive approval to implement and enforce emission standards and other requirements for air pollutants subject to Section 112 of the federal act (42 U.S.C. Sec. 7412). The state board and the districts may establish a program that is consistent with the requirements for state programs set forth in subsection (l) of Section 112 and Section 502 of the federal act (42 U.S.C. Secs. 7412(l) and 7661a). Nothing in this chapter requires that the program be identical to the federal program for hazardous air pollutants as set forth in the federal act.

(Repealed (by Sec. 1) and added by Stats. 1992, Ch. 1161, Sec. 3. Effective January 1, 1993.)

39657.

(a) Except as provided in subdivision (b), the state board shall identify toxic air contaminants which are emitted into the ambient air of the state using the procedures and following the requirements prescribed by Article 3 (commencing with Section 39660).

(b) The state board shall, by regulation, designate any substance that is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412(b)) as a toxic air contaminant. A regulation that designates a hazardous air pollutant as a toxic air contaminant shall be deemed to be a regulation mandated by federal law and is not subject to Sections 11346.2 and 11346.9 of the Government Code, Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, or Article 3 (commencing with Section 39660).

(Amended by Stats. 1995, Ch. 938, Sec. 71. Effective January 1, 1996.)

39658.

The state board shall establish airborne toxic control measures for toxic air contaminants in accordance with all of the following:

(a) If a substance is identified as a toxic air contaminant pursuant to Article 3 (commencing with Section 39660), the airborne toxic control measure applicable to the toxic air contaminant shall be adopted following the procedures and meeting the requirements of Article 4 (commencing with Section 39665).

(b) If a substance is designated as a toxic air contaminant because it is listed as a hazardous air pollutant pursuant to subsection (b) of Section 112 of the federal act (42 U.S.C. Sec. 7412(b)), the state board shall establish the airborne toxic control measure applicable to the substance as follows:

(1) If an emission standard applicable to the hazardous air pollutant has been adopted by the Environmental Protection Agency pursuant to Section 112 of the federal act (42 U.S.C. Sec. 7412), except as provided in paragraphs (2), (3), and (4), that emission standard adopted pursuant to Section 112 of the federal act (42 U.S.C. Sec. 7412) for the hazardous air pollutant is also the airborne toxic control measure for the toxic air contaminant. The state board shall implement the relevant emission standard and it shall be the airborne toxic control measure for purposes of this chapter. The implementation of the emission standard is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code or Article 4 (commencing with Section 39665).

(2) If an emission standard applicable to the hazardous air pollutant has been adopted by the Environmental Protection Agency pursuant to Section 112 of the federal act (42 U.S.C. Sec. 7412) and the state board finds that the emission standard does not achieve the purposes set forth in subdivision (b) or (c), as applicable, of Section 39666, the state board shall adopt an airborne toxic control measure for the toxic air contaminant that it finds will achieve those purposes. The state board shall, when it adopts an airborne toxic control measure pursuant to this paragraph, follow the procedures and meet the requirements of Article 4 (commencing with Section 39665).

(3) If the state board implements an airborne toxic control measure applicable to the substance pursuant to paragraph (1) and later finds that the purposes set forth in subdivision (b) or (c), as applicable, of Section 39666 are not achieved by the airborne toxic control measure, the state board may revise the airborne toxic control measure to achieve those purposes. The state board shall, when it revises an airborne toxic control measure pursuant to this paragraph, follow the procedures and meet the requirements of Article 4 (commencing with Section 39665). The state board may revise an airborne toxic control measure pursuant to this paragraph only if it first finds that the reduction in risk to the public health that will be achieved by the revision justifies the burden that will be imposed on persons who are in compliance with the airborne toxic control measure previously implemented pursuant to paragraph (1).

(4) If an emission standard applicable to the hazardous air pollutant has not been adopted by the Environmental Protection Agency pursuant to Section 112 of the federal act (42 U.S.C. Sec. 7412), the state board may adopt an airborne toxic control measure applicable to the toxic air contaminant pursuant to Article 4 (commencing with Section 39665).

(Added by Stats. 1992, Ch. 1161, Sec. 3. Effective January 1, 1993.)

39659.

- (a) The state board and the districts may adopt regulations which do both of the following:
- (1) Impose monitoring requirements, establish procedures for issuing, reissuing, and enforcing permits, and take any other action that may be necessary to establish, implement, and enforce programs for the regulation of hazardous air pollutants which have been listed as toxic air contaminants pursuant to subdivision (b) of Section 39657.
 - (2) Meet the requirements of subsection (1) of Section 112 and Section 502 of the federal act (42 U.S.C. Secs. 7412(1) and 7661a) and the guidelines and regulations adopted by the Environmental Protection Agency pursuant to those sections.

(b) In adopting regulations pursuant to subdivision (a), the state board and the districts shall, to the extent necessary to ensure that the requirements of the federal act are met, use the definitions contained in subsection (a) of Section 112 of the federal act (42 U.S.C. Sec. 7412(a)).

(Added by Stats. 1992, Ch. 1161, Sec. 3. Effective January 1, 1993.)

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(Chapter 3.5 added by Stats. 1983, Ch. 1047, Sec. 1.)

ARTICLE 4. Control of Toxic Air Contaminants [39665 - 39669]

(Article 4 added by Stats. 1983, Ch. 1047, Sec. 1.)

39665.

(a) Following adoption of the determinations pursuant to Section 39662, the executive officer of the state board shall, with the participation of the districts, and in consultation with affected sources and the interested public, prepare a report on the need and appropriate degree of regulation for each substance which the state board has determined to be a toxic air contaminant.

(b) The report shall address all of the following issues, to the extent data can reasonably be made available:

(1) The rate and extent of present and anticipated future emissions, the estimated levels of human exposure, and the risks associated with those levels.

(2) The stability, persistence, transformation products, dispersion potential, and other physical and chemical characteristics of the substance when present in the ambient air.

(3) The categories, numbers, and relative contribution of present or anticipated sources of the substance, including mobile, industrial, agricultural, and natural sources.

(4) The availability and technological feasibility of airborne toxic control measures to reduce or eliminate emissions, the anticipated effect of airborne toxic control measures on levels of exposure, and the degree to which proposed airborne toxic control measures are compatible with, or applicable to, recent technological improvements or other actions which emitting sources have implemented or taken in the recent past to reduce emissions.

(5) The approximate cost of each airborne toxic control measure, the magnitude of risks posed by the substances as reflected by the amount of emissions from the source or category of sources, and the reduction in risk which can be attributed to each airborne toxic control measure.

(6) The availability, suitability, and relative efficacy of substitute compounds of a less hazardous nature.

(7) The potential adverse health, safety, or environmental impacts that may occur as a result of implementation of an airborne toxic control measure.

(8) The basis for the finding required by paragraph (3) of subdivision (b) of Section 39658, if applicable.

(c) The staff report, and relevant comments received during consultation with the districts, affected sources, and the public, shall be made available for public review and comment at least 45 days prior to the public hearing required by Section 39666.

(Amended by Stats. 1992, Ch. 1161, Sec. 7. Effective January 1, 1993.)

39666.

(a) Following a noticed public hearing, the state board shall adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.

(b) For toxic air contaminants for which the state board has determined, pursuant to Section 39662, that there is a threshold exposure level below which no significant adverse health effects are anticipated, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions sufficiently so that the source will not result in, or contribute to, ambient levels at or in excess of the level which may cause or contribute to adverse health effects as that level is estimated pursuant to subdivision (c) of Section 39660.

(c) For toxic air contaminants for which the state board has not specified a threshold exposure level pursuant to Section 39662, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions to the lowest level achievable through application of best available control technology or a more effective control method, unless the state board or a district board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health.

(d) Not later than 120 days after the adoption or implementation by the state board of an airborne toxic control measure pursuant to this section or Section 39658, the districts shall implement and enforce the airborne toxic control measure or shall propose regulations enacting airborne toxic control measures on nonvehicular sources within their jurisdiction which meet the requirements of subdivisions (b), (c), and (e), except that a district may, at its option, and after considering the factors specified in subdivision (b) of Section 39665, adopt and enforce equally effective or more stringent airborne toxic control measures than the airborne toxic control measures adopted by the state board. A district shall adopt rules and regulations implementing airborne toxic control measures on nonvehicular sources within its jurisdiction in conformance with subdivisions (b), (c), and (e), not later than six months following the adoption of airborne toxic control measures by the state board.

(e) District new source review rules and regulations shall require new or modified sources to control emissions of toxic air contaminants consistent with subdivisions (b), (c), and (d) and Article 2.5 (commencing with Section 39656).

(f) Where an airborne toxic control measure requires the use of a specified method or methods to reduce, avoid, or eliminate the emissions of a toxic air contaminant, a source may submit to the district an alternative method or methods that will achieve an equal or greater amount of reduction in emissions of, and risk associated with, that toxic air contaminant. The district shall approve the proposed alternative method or methods if the operator of the source demonstrates that the method is, or the methods are, enforceable, that equal or greater amounts of reduction in emissions and risk will be achieved, and that the reductions will be achieved within the time period required by the applicable airborne toxic control measure. The district shall revoke approval of the alternative method or methods if the source fails to adequately implement the approved alternative method or methods or if subsequent monitoring demonstrates that the alternative method or methods do not reduce emissions and risk as required. The district shall notify the state board of any action it proposes to take pursuant to this subdivision. This subdivision is operative only to the extent it is consistent with the federal act.

(Amended by Stats. 1992, Ch. 1161, Sec. 8. Effective January 1, 1993.)

Based on its determinations pursuant to Section 39662, the state board shall consider the adoption of revisions in the emission standards for vehicular sources and regulations specifying the content of motor vehicle fuel, to achieve the maximum possible reduction in public exposure to toxic air contaminants. Except for regulations affecting new motor vehicles which shall be based upon the most advanced technology feasible for the model year, regulations developed pursuant to this section shall be based on the utilization of the best available control technologies or more effective control methods, unless the state board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health. Those regulations may include, but are not limited to, the modification, removal, or substitution of vehicle fuel, vehicle fuel components, or fuel additives, or the required installation of vehicular control measures on new motor vehicles.

(Amended by Stats. 1996, Ch. 736, Sec. 3. Effective January 1, 1997.)

39668.

(a) The state board shall, on or before January 1, 1989, prepare a written report on the availability and effectiveness of toxic air contaminant monitoring options in consultation with the Scientific Review Panel on Toxic Air Contaminants, the districts, the Department of Food and Agriculture, and the State Department of Health Services. In preparing the report, the state board shall conduct at least one public workshop. The report shall include, but not be limited to, all of the following:

(1) An evaluation of existing toxic air contaminant monitoring capacity and assessment capabilities within the state, including, but not limited to, existing monitoring stations and equipment of the state board and of the districts.

(2) An analysis of the available options for monitoring and assessing current levels of exposure to identified and all potential toxic air contaminants in urban areas of the state, taking into consideration the technical feasibility and costs of these monitoring options. The report shall evaluate the extent to which the establishment of additional monitoring capacity is appropriate and feasible to facilitate the identification and control of toxic air contaminants.

(3) A list of all substances or classes of substances addressed by the state board pursuant to paragraph (2), including, but not limited to, a discussion of the appropriateness and availability of monitoring for those substances or classes of substances.

(4) An analysis of the feasibility and costs of establishing an indoor toxic air contaminant monitoring program to facilitate the implementation of Section 39660.5.

(b) Based on the findings in the report prepared pursuant to subdivision (a), the state board shall develop, by July 1, 1989, in conjunction with the districts, guidelines for establishing supplemental toxic air contaminant monitoring networks to be implemented by the districts. The board shall develop the guidelines only to the extent that it determines, pursuant to paragraph (2) of subdivision (a), that establishing additional monitoring capacity is appropriate and feasible.

(c) The guidelines established pursuant to subdivision (b) shall include a priority list for establishing and implementing the supplemental toxic air contaminant monitoring networks. The state board shall give priority to that supplemental monitoring capacity it determines to be most

needed to identify and control toxic air contaminants. The state board shall allocate to districts, in the priority order included in the guidelines, state funds provided in subdivision (b) of Section 3 of the act adding this section and in subsequent Budget Acts for establishing and implementing the supplemental toxic air contaminant monitoring networks. The state board shall allocate state funds to the districts, upon appropriation by the Legislature, on a 50 percent matching basis, and shall not provide state funds for the supplemental toxic air contaminant monitoring program established by Section 40715 to any district in excess of district funds allocated by the district in establishing and implementing the supplemental monitoring networks created pursuant to Section 40715.

(d) The state board shall request in its annual budget sufficient state funds, in addition to those provided in subdivision (b) of Section 3 of the act adding this section, to match, on a 50 percent basis, those district funds allocated by the districts for establishing and implementing the supplemental monitoring program specified in the guidelines adopted pursuant to subdivision (b).

(Added by Stats. 1987, Ch. 1219, Sec. 1. Note: See this section as modified on July 17, 1991, in Governor's Reorganization Plan No. 1 of 1991.)

39669.

Nothing in this chapter is a limitation on the authority of the state board or a district to implement and enforce an airborne toxic control measure adopted prior to January 1, 1993.

(Added by Stats. 1992, Ch. 1161, Sec. 9. Effective January 1, 1993.)