

HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44474]

(Division 26 repealed and added by Stats. 1975, Ch. 957.)

PART 4. NONVEHICULAR AIR POLLUTION CONTROL [41500 - 42710]

(Part 4 added by Stats. 1975, Ch. 957.)

CHAPTER 3. Emission Limitations [41700 - 41999]

(Chapter 3 added by Stats. 1975, Ch. 957.)

ARTICLE 1. General Limitations [41700 - 41712]

(Article 1 added by Stats. 1975, Ch. 957.)

41700.

(a) Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

(b) This section shall become operative on January 1, 2014.

(Repealed (in Sec. 1) and added by Stats. 2010, Ch. 411, Sec. 2. (SB 1224) Effective January 1, 2011. Section operative January 1, 2014, by its own provisions.)

41701.

Except as otherwise provided in Section 41704, or Article 2 (commencing with Section 41800) of this chapter other than Section 41812, or Article 2 (commencing with Section 42350) of Chapter 4, no person shall discharge into the atmosphere from any source whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is:

(a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subdivision (a).

(Amended by Stats. 1977, Ch. 644.)

41701.5.

(a) Neither the state board nor any district shall impose a discharge requirement on emissions of visible smoke from diesel pile-driving hammers which is more stringent than the requirements of this section, except as provided in subdivisions (b) and (c).

(b) A district shall issue a permit to the operator of a diesel pile-driving hammer if the operator submits a completed application for a permit to the district and the district determines, on the basis of information provided in the application, that the proposed use will comply with one of the following requirements:

(1) Meets the Ringelmann 1 limit, as published by the United States Bureau of Mines, and does not exceed that limit for more than four minutes during the driving of a single pile.

(2) Meets the Ringelmann 2 limit, as published by the United States Bureau of Mines, does not exceed that limit for more than four minutes during the driving of a single pile, and uses kerosene fuel, smoke suppressing fuel additives, and synthetic lubricating oil. A district may establish other requirements for compliance with this paragraph if the requirements are technologically and economically feasible. A district may consider the type of soil in which the pile driving is to occur and the number of blows required to drive a pile in determining the technological and economic feasibility of other conditions to be imposed by the district.

(c) A permit issued by a district shall be valid until the pile-driving work has been approved or accepted by the person or entity for which the work is being performed. Upon request of an operator or of a person or entity for which the pile-driving work is performed, a district may extend the time period for which the permit is valid if the operator continues to comply with this section.

(Amended by Stats. 1996, Ch. 25, Sec. 1. Effective April 8, 1996.)

41701.6.

Neither the state board nor any district shall impose a discharge requirement on emissions of visible smoke from any diesel auxiliary engine or generator used exclusively to operate a drinking water system which is more stringent than the Ringelmann 2 limit, as published by the United States Bureau of Mines on January 1, 1995, when operated under emergency circumstances, or operated not more than 30 minutes each week, or two hours each month, under nonemergency circumstances.

(Added by Stats. 1996, Ch. 25, Sec. 2. Effective April 8, 1996.)

41702.

No person shall operate any article, machine, equipment, or other contrivance which is the subject of a variance if that article, machine, equipment, or other contrivance, as may be the case, is not in compliance with a required schedule of increments of progress, unless such operation is authorized by a hearing board.

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

41703.

If a district board adopts a rule or regulation of emission standards to take effect as of a future date, the rule or regulation shall also require any person who owns or operates a source of air contaminants whose emissions exceed such standards to submit to the hearing board, for a public hearing, after notice pursuant to Section 40826, a schedule of increments of progress by which the source emissions will be brought into compliance by the time such standards take effect. If the rule or regulation itself includes a schedule of increments of progress, the person shall apply for a modification in accordance with Section 42357 in the event he cannot comply with the schedule in the rule or regulation, except that an application for a change in the final compliance date shall be subject to the requirements for a variance, as provided in Section 42352.

(Amended by Stats. 1979, Ch. 239.)

41704.

Section 41701 does not apply to any of the following:

- (a) Fires set pursuant to Section 41801.
- (b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).
- (c) Fires set or permitted by any public officer in the performance of his or her official duty for the improvement of watershed, range, or pasture.
- (d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.
- (e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.
- (f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.
- (g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.
- (h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.
- (i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where the facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall the emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision does not apply to any rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.
- (j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.
- (k) Emissions from vessels during a breakdown condition, as long as the discharge is reported in accordance with district requirements.

(l) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions are not applicable to the equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when the emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision does not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when the emissions result from startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" includes all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one methanol fuel manufacturing plant in each air basin and each plant shall be located in an area designated as an "attainment area" pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and shall meet all applicable standards required by the district board. This subdivision shall remain in effect with respect to a plant until five years after construction of the plant and shall have no force and effect with respect to the plant on and after that date.

(p) The use of an obscurant for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation. *(Amended by Stats. 1996, Ch. 299, Sec. 2. Effective January 1, 1997.)*

41705.

(a) Section 41700 does not apply to odors emanating from any of the following:

(1) Agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(2) Operations that produce, manufacture, or handle compost, as defined in Section 40116 of the Public Resources Code, if the odors emanate directly from the compost facility or operations.

(3) Operations that compost green material or animal waste products derived from agricultural operations, and that return similar amounts of the compost produced to that same agricultural operations source, or to an agricultural operations source owned or leased by the

owner, parent company, or subsidiary conducting the composting operation. The composting operation may produce an incidental amount of compost not exceeding 2,500 cubic yards of compost, which may be given away or sold annually.

(b) If a district receives a complaint pertaining to an odor emanating from a compost operation exempt from Section 41700 pursuant to paragraph (2) or (3) of subdivision (a), that is subject to the jurisdiction of an enforcement agency under Division 30 (commencing with Section 40000) of the Public Resources Code, the district shall, within 24 hours or by the next working day, refer the complaint to the enforcement agency.

(c) This section shall become inoperative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 of the Public Resources Code on or prior to that date.

(Amended (as amended by Stats. 2001, Ch. 424, Sec. 1) by Stats. 2002, Ch. 664, Sec. 144. Effective January 1, 2003. Conditionally inoperative April 1, 2003, as provided in subd. (c). See later operative version, as amended by Sec. 145 of Ch. 664.)

41705.

(a) Section 41700 shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(b) This section shall become operative on April 1, 2003, unless the California Integrated Waste Management Board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 of the Public Resources Code on or prior to that date.

(Amended (as amended by Stats. 2001, Ch. 424, Sec. 2) by Stats. 2002, Ch. 664, Sec. 145. Effective January 1, 2003. Section conditionally operative April 1, 2003, as provided in subd. (b).)

41706.

(a) The Legislature hereby finds and declares that recent evidence indicates that lead compounds emitted into the air by nonvehicular sources accumulate in and upon vegetation in the vicinity of such sources, pose a grave threat to the health of animals which consume such vegetation, and constitute a potential human health hazard.

(b) Every district shall establish emission standards for lead compounds emitted into the air from nonvehicular sources. Where a district has failed to establish such standards, the state board shall establish such standards for that district.

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

41707.

Notwithstanding the provisions of this chapter restricting burning, the state board, after consultation with the district in which the burning is to take place, may issue permits for

experimental burning designed to develop new or improved techniques of burning to reduce emissions, except that no experimental burning may create a nuisance.

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

41708.

Any district may adopt a rule or regulation for the control of volatile organic compound emissions from cutback asphalt paving material based on local considerations, including, but not limited to, the degree of air pollution resulting from such paving material, the economic impact of the rule and regulation, and the feasibility of implementing the rule and regulation.

The state board shall not override or otherwise amend any action taken by a district relating to the use of cutback asphalts.

(Added by Stats. 1979, Ch. 967.)

41712.

(a) For purposes of this section, the following terms have the following meaning:

(1) "Consumer product" means a chemically formulated product used by household and institutional consumers, including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products; but does not include other paint products, furniture coatings, or architectural coatings.

(2) "Health benefit product" means an antimicrobial product registered with the Environmental Protection Agency.

(3) "Maximum feasible reduction in volatile organic compounds emitted" means at least a 60-percent reduction in the emissions of volatile organic compounds resulting from the use of aerosol paints, calculated with respect to the 1989 baseline year, including acetone in that baseline year.

(4) "Medical expert" means a physician, including a pediatrician, a microbiologist, or a scientist involved in research related to infectious disease and infection control.

(b) The state board shall adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, if the state board determines that adequate data exists to establish both of the following:

(1) The regulations are necessary to attain state and federal ambient air quality standards.

(2) The regulations are commercially and technologically feasible and necessary.

(c) A regulation shall not be adopted which requires the elimination of a product form.

(d) The state board shall not adopt regulations pursuant to subdivision (b) unless the regulations are technologically and commercially feasible, and necessary to carry out this division. The state board shall consider the effect that the regulations proposed for health benefit products will have

on the efficacy of those products in killing or inactivating agents of infectious diseases such as viruses, bacteria, and fungi, and the impact the regulations will have on the availability of health benefit products to California consumers.

(e) Prior to adopting regulations pursuant to this section governing health benefit products, the state board shall consider any recommendations received from federal, state, or local public health agencies and medical experts in the field of public health.

(f) A district shall adopt no regulation pertaining to disinfectants, nor any regulation pertaining to a consumer product that is different than any regulation adopted by the state board for that purpose.

(g) A consumer product manufactured prior to each effective date specified in regulations adopted by the state board pursuant to this section that applies to that consumer product may be sold, supplied, or offered for sale for a period of three years from the specified effective date if the date of manufacture or a representative date code is clearly displayed on the product at the point of sale. An explanation of the date code shall be filed with the state board.

(h) (1) It is the intent of the Legislature that, prior to January 1, 2000, air pollution control standards affecting the formulation of aerosol adhesives and limiting emissions of reactive organic compounds resulting from the use of aerosol adhesives be set solely by the state board to ensure uniform standards applicable on a statewide basis.

(2) The Legislature recognizes that the current state board volatile organic compound (VOC) limit for aerosol adhesives is 75 percent by weight. Effective January 1, 1997, the state board's 75-percent standard shall apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses, and any district regulations limiting the VOC content of, or emissions from, aerosol adhesives, are null and void. After that date, a district may adopt and enforce the state board's 75-percent standard for aerosol adhesives, or a subsequently adopted state board standard, in the same manner as a district regulation limiting the issuance of air contaminants.

(3) Notwithstanding any other provision of this section, on and after January 1, 2000, a district may adopt and enforce a regulation setting an emission standard or standards for VOC emissions for the use of aerosol adhesives that is more stringent than the standards adopted by the state board.

(i) (1) It is the intent of the Legislature that air pollution control standards affecting the formulation of aerosol paints and limiting the emissions of volatile organic compounds resulting from the use of aerosol paints be set solely by the state board to ensure uniform standards applicable on a statewide basis. A district shall not adopt or enforce any regulation regarding the volatile organic compound content of, or emissions from, aerosol paints until the state board has adopted a regulation regarding those paints, and any district regulation shall not be different than the state board regulation. A district may observe and enforce a state board regulation regarding aerosol paints in the same manner as a district regulation limiting the issuance of air contaminants. This subdivision shall not apply to any district that has adopted a rule or regulation regarding aerosol paints pursuant to an order of a federal court, until the federal court has authorized the district to observe and enforce the state board regulation in lieu of the district regulation.

(2) The state board shall adopt regulations requiring the maximum feasible reduction in volatile organic compounds emitted from the use of aerosol paints. The regulations shall

establish final limits and require full compliance, and shall establish interim limits prior to that date resulting in reductions in reactive organic compounds.

(3) The state board shall conduct a public hearing on the technological or commercial feasibility of achieving full compliance with the final limits. If the state board determines that a 60-percent reduction in emissions of reactive organic compounds from the use of aerosol paints is not technologically or commercially feasible, the state board may grant an extension of time not to exceed five years. During any extension of time, the most stringent interim limits shall be applicable. Any regulation adopted by the state board shall include a provision authorizing the time extension and requiring a public hearing on technological or commercial feasibility consistent with this subdivision. The state board shall seek to ensure that the final limits for aerosol paints established pursuant to this subdivision do not become federally enforceable prior to the effective date established by the state board for these limits, including any extension granted under this subdivision.

(4) Reductions required for aerosol paints under this subdivision are not intended to apply to any other consumer product.

(j) The state board shall not adopt a regulation pertaining to disinfectants any sooner than December 1, 2003.

(k) The state board shall comply with its volatile organic compound emission reduction obligations under the 1994 State Implementation Plan, or any amendments thereto, and shall ensure that there is no loss of emission reductions as a result of its compliance with subdivision (j).

(Amended by Stats. 2004, Ch. 644, Sec. 17. Effective January 1, 2005.)