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AMENDED IN ASSEMBLY MAY 27, 2005
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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1101

Introduced by Assembly Members Oropeza and Jerome Horton

February 22, 2005

An act to amend Sections 44320, 44322, 44342, 44360, 44390, and 44391 of, and to add Sections 44303.5, 44323.5, 44350, 44395, and 44396 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1101, as amended, Oropeza. Air pollution: diesel magnet sources.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources, including stationary sources. The Air Toxics "Hot Spots" Information and Assessment Act of 1987 requires the state board to compile a list of substances that present a chronic or

acute threat to public health when present in the ambient air, subjects certain facilities to the act, according to a schedule, and requires the operator of a subject facility to prepare and submit to an air district a proposed comprehensive emissions inventory plan, for approval by the district. The act requires an air district to prepare an industrywide emissions inventory for certain facilities. The act, under certain circumstances, requires a facility operator to conduct a facility toxic air contaminant risk reduction audit and to develop an emissions reduction plan.

This bill would ~~make~~ *establish a compliance schedule for a facility that is a diesel magnet source, as defined, subject to for specified purposes of the act.* The bill would require the state board, on or before July 1, 2007, in consultation with the air districts, to prepare and make available to the public a list of diesel magnet sources, as prescribed. The bill would require any facility for which a district is preparing an industrywide emissions inventory or health risk assessment to provide to the district, within 60 days of the date of the request, all information as may be specified by the district as necessary for the preparation of the inventory or assessment.

The bill would ~~provide for an extended period for a diesel magnet source to comply with the risk reduction audit and plan requirements~~ *require the districts, on or before January 1, 2008, in cooperation with prescribed state agencies, to establish and implement a collaborative public process to review advances and limitations in methods to estimate emissions, exposure, and risk to the public that results from the release of air contaminants.* ~~By expanding the types of facilities subject to the act, the bill would impose~~ *establishing new duties on air districts, thereby imposing* ~~the bill would impose~~ a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The people of California have a right to know when
4 industrial or commercial operations result in emission of toxic air
5 contaminants that may pose a significant health risk to the people
6 exposed to those emissions.

7 (2) Existing law requires facilities whose operations result in
8 emission of toxic air contaminants to prepare inventories of those
9 emissions and submit them to the local air districts for
10 prioritization.

11 (3) Existing law also requires facilities that are designated
12 high-priority to prepare health risk assessments, and if the
13 assessment shows the potential health risks to be significant, to
14 notify the public of those risks.

15 (4) Existing law further requires facilities that pose
16 unacceptably high risks to public health to prepare plans to
17 reduce those risks, and to implement the plans according to a
18 specified schedule.

19 (5) Traditional stationary sources, both large and small, have
20 already complied with these requirements by preparing
21 inventories of their emissions, and where applicable, preparing
22 health risk assessments, notifying the public, and implementing
23 risk reduction.

24 (6) Recent studies show that particulate emissions in diesel
25 exhaust are highly toxic, and account for upwards of 70 percent
26 of the statewide cancer risk due to toxic pollutants in ambient air.

27 (7) Industrial and commercial operations that involve or attract
28 high levels of diesel traffic or other diesel engine use can pose
29 substantially higher risks to the public near the facilities.

30 (8) Available data indicate that these ~~diesel magnet sources~~
31 *operations* may pose risks to the surrounding communities that
32 are far greater than risks posed by most traditional stationary
33 sources, and that far greater numbers of people are affected by
34 the emissions. These ~~diesel magnet sources~~ *operations* meet the
35 statutory definition of “facility” under existing law, but to date
36 have not submitted inventories or taken other actions in
37 compliance with existing statutes.

1 (9) ~~Large diesel magnet sources~~ *These facilities* should comply
 2 with requirements to prepare and submit inventories of their
 3 emissions, prepare health risks assessments, notify the public of
 4 significant risks, and reduce unacceptably high risks.

5 (10) Local air pollution control districts and air quality
 6 management districts should review policies and procedures that
 7 implement existing law and, if necessary, revise them to
 8 appropriately address ~~large diesel magnet sources~~ *these facilities*.
 9 Review of existing policies and procedures, and the preparation
 10 of inventories, health risk assessments, public notification, and
 11 risk reduction should be carried out under a coordinated process
 12 and schedule.

13 (b) It is the intent of the Legislature to define diesel magnet
 14 sources to include ports, airports, and railyards, and to establish
 15 the timeframe for districts *and the state board* to review and, if
 16 necessary, revise policies and procedures, and for the largest
 17 diesel magnet sources to comply with these requirements.

18 SEC. 2. Section 44303.5 is added to the Health and Safety
 19 Code, to read:

20 44303.5. “Diesel magnet source” means a facility that, by the
 21 nature of its operation, attracts diesel engines in large numbers,
 22 and includes ~~only~~ the following:

- 23 (a) Ports.
- 24 (b) Airports.
- 25 (c) Railyards.

26 SEC. 3. Section 44320 of the Health and Safety Code is
 27 amended to read:

28 44320. This part applies to all of the following:

29 (a) Any facility that manufactures, formulates, uses, or
 30 releases any of the substances listed pursuant to Section 44321 or
 31 any other substance that reacts to form a substance listed in
 32 Section 44321 and that releases or has the potential to release
 33 total organic gases, particulates, or oxides of nitrogen or sulfur in
 34 the amounts specified in Section 44322.

35 (b) Except as provided in Section 44323, any facility that is
 36 listed in any current toxics use or toxics air emissions survey,
 37 inventory, or report released or compiled by a district. A district
 38 may, with the concurrence of the state board, waive the
 39 application of this part pursuant to this subdivision for any
 40 facility that the district determines will not release any substance

1 listed pursuant to Section 44321 due to a shutdown or a process
2 change.

3 (c) Any facility that is a diesel magnet source, as defined in
4 Section 44303.5, with the greatest potential impact on public
5 health determined on a statewide basis, as listed by the state
6 board under ~~subdivision~~ *subdivision* (e) of Section 44322.

7 SEC. 4. Section 44322 of the Health and Safety Code is
8 amended to read:

9 44322. This part applies to facilities specified in ~~subdivision~~
10 ~~(a)~~ *subdivisions (a) and (c)* of Section 44320 in accordance with
11 the following schedule:

12 (a) For those facilities that release, or have the potential to
13 release, 25 tons per year or greater of total organic gases,
14 particulates, or oxides of nitrogen or sulfur, this part becomes
15 effective on July 1, 1988.

16 (b) For those facilities that release, or have the potential to
17 release, more than 10 but less than 25 tons per year of total
18 organic gases, particulates, or oxides of nitrogen or sulfur, this
19 part becomes effective July 1, 1989.

20 (c) For those facilities that release, or have the potential to
21 release, less than 10 tons per year of total organic gases,
22 particulates, or oxides of nitrogen or sulfur, the state board shall,
23 on or before July 1, 1990, prepare and submit a report to the
24 Legislature identifying the classes of those facilities to be
25 included in this part and specifying a timetable for their
26 inclusion.

27 (d) On and after January 1, ~~2006~~ 2007, facilities that are
28 subject to this part but have not submitted inventories as required
29 under Chapter 3 (commencing with Section 44340) shall have
30 one year from the date of inclusion on a list of subject facilities,
31 established pursuant to this part, to prepare and submit to the
32 district an emissions inventory plan. Except for any calendar date
33 deadline before January 1, ~~2006~~ 2007, all schedules for action set
34 forth in Chapter 3 (commencing with Section 44340), Chapter 4
35 (commencing with Section 44360), or Chapter 6 (commencing
36 with Section 44390) shall apply.

37 (e) On or before July 1, 2007, the state board shall, in
38 consultation with the districts, prepare and make available to the
39 public a list of diesel magnet sources subject to this part, as
40 follows:

1 (1) The list of subject facilities shall include~~only~~ the
2 following:

3 (A) Five ports.

4 (B) Ten airports.

5 (C) Twenty-five railyards.

6 (2) In listing these facilities, the state board shall use the
7 following criteria, unless clear and compelling data is readily
8 available and demonstrates that other criteria and ranking should
9 be used, to include on the list the facilities likely to pose the
10 greatest potential risk to public health:

11 (A) A port that moves at least 1,500,000 metric tons per year
12 of dry cargo, inbound and outbound, combined.

13 (B) An airport through which at least 2,000,000 passengers
14 travel per year.

15 (C) Any railyard site~~that~~ *where* locomotive engines operate at
16 least 10,000 hours per year, including movement and idling.

17 SEC. 5. Section 44323.5 is added to the Health and Safety
18 Code, to read:

19 44323.5. Any facility for which a district is preparing an
20 industrywide emissions inventory or health risk assessment shall
21 provide to the district, within 60 days of the date of the request,
22 all information as may be specified by the district as necessary
23 for the preparation of the inventory or assessment.

24 SEC. 6. Section 44342 of the Health and Safety Code is
25 amended to read:

26 44342. (a) The state board shall, on or before May 1, 1989,
27 in consultation with the districts, develop criteria and guidelines
28 for site-specific air toxics emissions inventory plans which shall
29 be designed to comply with the conditions specified in Section
30 44340 and which shall include at least all of the following:

31 (1) For each class of facility, a designation of the hazardous
32 materials for which emissions are to be quantified and an
33 identification of the likely source types within that class of
34 facility. The hazardous materials for quantification shall be
35 chosen from among, and may include all or part of, the list
36 specified in Section 44321.

37 (2) Requirements for a facility diagram identifying each actual
38 or potential discrete emissions point and the general locations
39 where fugitive emissions may occur. The facility diagram shall
40 include any nonpermitted and nonprocess sources of emissions,

1 and shall provide the necessary data, *including a comprehensive*
2 *list of all equipment that emits an air contaminant*, to identify
3 emissions characteristics. An existing facility diagram that meets
4 the requirements of this section may be submitted.

5 (3) Requirements for source testing and measurement. The
6 guidelines may specify appropriate uses of estimation techniques,
7 including, but not limited to, emissions factors, modeling, mass
8 balance analysis, and projections, except that source testing shall
9 be required wherever necessary to verify emissions estimates to
10 the extent technologically feasible. The guidelines shall specify
11 conditions and locations where source testing, fence line
12 monitoring, or other measurement techniques are to be required
13 and the frequency of that testing and measurement.

14 (4) Appropriate testing methods, equipment, and procedures,
15 including quality assurance criteria.

16 (5) Specifications for acceptable emissions factors, including,
17 but not limited to, those which are acceptable for substantially
18 similar facilities or equipment, and specification of procedures
19 for other estimation techniques and for the appropriate use of
20 available data.

21 (6) Specification of the reporting period required for each
22 hazardous material for which emissions will be inventoried.

23 (7) Specifications for the collection of useful data to identify
24 toxic air contaminants pursuant to Article 2 (commencing with
25 Section 39660) of Chapter 3.5 of Part 2.

26 (8) Standardized format for preparation of reports and
27 presentation of data.

28 (9) A program to coordinate and eliminate any possible
29 overlap between the requirements of this chapter and the
30 requirements of Section 313 of the Superfund Amendment and
31 Reauthorization Act of 1986 (Public Law 99-499).

32 ~~(10) On and after January 1, 2007,~~

33 *(b) On and after January 1, 2008, the state board shall ensure*
34 *that the guidelines include any specific criteria for the*
35 *preparation of emissions inventory plans by diesel magnet*
36 *sources, including, but not limited to, methods for quantifying air*
37 *releases of diesel particulate exhaust that occur within the*
38 *boundaries of the facility, and for characterizing for the public*
39 *potential impacts of releases that occur outside of the boundaries*
40 *of the facility but in the same general location and associated*

1 with mobile source trips to and from the facility. Air releases of
 2 diesel particulate exhaust from diesel magnet sources shall
 3 include emissions from motor vehicles, and may address
 4 mechanisms to integrate data prepared by the state board
 5 pursuant to subdivision (b) of Section 44345.

6 ~~(b)~~

7 (c) The state board shall design the guidelines and criteria to
 8 ensure that, in collecting data to be used for emissions
 9 inventories, actual measurement is utilized whenever necessary
 10 to verify the accuracy of emission estimates, to the extent
 11 technologically feasible.

12 (d) *On or before January 1, 2008, the state board shall review*
 13 *the guidelines prepared pursuant to this part to identify gaps and*
 14 *determine if any changes or additions are necessary to meet the*
 15 *state’s environmental justice goals. In conducting this review, the*
 16 *state board shall consult with the districts and other interested*
 17 *stakeholders, including representatives of low-income*
 18 *communities and communities of color, and shall make a report*
 19 *of its findings at a duly noticed public hearing. If the review*
 20 *shows that changes or additions are necessary, the state board*
 21 *shall complete those changes or additions on or before July 1,*
 22 *2009.*

23 *SEC. 7. Section 44350 is added to the Health and Safety*
 24 *Code, to read:*

25 *44350. (a) The state board shall, in consultation with the*
 26 *state board’s environmental justice stakeholders group, do all of*
 27 *the following:*

28 *(1) Identify all sources that should, pursuant to this part, be*
 29 *considered diesel magnet sources.*

30 *(2) For these sources, identify all available air pollution*
 31 *control measures, including pollution prevention measures, and*
 32 *their costs of implementation.*

33 *(3) Create a report on the sources, the available control*
 34 *measures, and the costs of implementation. The state board shall*
 35 *hold at least three public workshops in communities impacted by*
 36 *diesel magnet sources to receive input and comments on the*
 37 *report, and shall submit the report to the Legislature by March*
 38 *2008.*

39 *(b) (1) On or before July 1, 2009, the districts shall, in*
 40 *consultation with the state board, prepare a list of available*

1 *strategies to reduce emissions that are associated with the diesel*
2 *magnet sources listed pursuant to subdivision (e) of Section*
3 *44322.*

4 *(2) The list of strategies shall identify, by type or category, the*
5 *emissions sources associated with these diesel magnet sources.*

6 *(3) The list of strategies shall identify, for each type or*
7 *category of equipment, available strategies to reduce emissions,*
8 *including, but not limited to, replacement or repowering of*
9 *engines, use of alternative fuels or energy sources, application of*
10 *emissions reduction technologies, and operational changes that*
11 *would reduce emissions.*

12 *(4) The list of strategies shall indicate, for each strategy*
13 *identified in paragraph (2) for each type or category of*
14 *equipment, whether the strategy would constitute the lowest*
15 *achievable emission rate (LAER), the best available control*
16 *technology (BACT), the best available retrofit control technology*
17 *(BARCT), and whether the strategy has been demonstrated in*
18 *practice on this or any similar type or category of equipment.*

19 *(5) In preparing the list of strategies, the districts, in*
20 *consultation with the state board, shall consider existing*
21 *regulations or requirements of the districts and the state board,*
22 *and current operations at these diesel magnet sources. The*
23 *districts, in consultation with the state board, shall also consider,*
24 *to the extent data is reasonably available, regulations,*
25 *requirements, and operational practices in other jurisdictions*
26 *within and outside of the state.*

27 *(6) The districts shall maintain the list of strategies in the form*
28 *of a clearinghouse, that shall be made available to the public and*
29 *to the operators of these diesel magnet sources, and shall update*
30 *the list every five years. After January 1, 2020, the districts may*
31 *discontinue the clearinghouse if the districts find that it is no*
32 *longer necessary.*

33 *(7) The districts may, at their discretion, include in the*
34 *clearinghouse the information described in paragraphs (3) and*
35 *(4) for other types of facilities or sources of emissions, but shall*
36 *do so in a manner that clearly indicates that these emissions are*
37 *not associated with diesel magnet sources.*

38 **SEC. 7.**

39 **SEC. 8.** Section 44360 of the Health and Safety Code is
40 amended to read:

1 44360. (a) (1) Within 90 days of completion of the review of
2 all emissions inventory data for facilities specified in subdivision
3 (a) of Section 44322, but not later than December 1, 1990, the
4 district shall, based on examination of the emissions inventory
5 data and in consultation with the state board and the State
6 Department of Health Services, prioritize and then categorize
7 those facilities for the purposes of health risk assessment. The
8 district shall designate high, intermediate, and low priority
9 categories, and shall include each facility within the appropriate
10 category based on its individual priority. In establishing priorities
11 pursuant to this section, the district shall consider the potency,
12 toxicity, quantity, and volume of hazardous materials released
13 from the facility, the proximity of the facility to potential
14 receptors, including, but not limited to, hospitals, schools, day
15 care centers, worksites, and residences, and any other factors that
16 the district finds and determines may indicate that the facility
17 may pose a significant risk to receptors. The district shall hold a
18 public hearing prior to the final establishment of priorities and
19 categories pursuant to this section.

20 ~~(2) On or before January 1, 2007, the districts, collaboratively,~~
21 ~~and in consultation with the state board, shall review, and if~~
22 ~~appropriate, revise or augment guidelines and procedures for~~
23 ~~facility prioritization to address diesel magnet sources pursuant~~
24 ~~to this chapter.~~

25 *(2) Any diesel magnet source listed pursuant to subdivision (e)*
26 *of Section 44322 shall be designated as a high priority facility*
27 *for the purposes of this part, except that in establishing priority*
28 *for diesel magnet sources subject to the memorandum of*
29 *understanding between the Class 1 Railroads (“Participating*
30 *Railroads”) and the state board dated June 2005, the districts*
31 *shall use the most expeditious schedule under the memorandum*
32 *of understanding or applicable regulations.*

33 *(3) For any facility that submits inventory data pursuant to*
34 *Section 44341 on or after January 1, 2007, the district shall,*
35 *within 90 days of the receipt of approved inventory data,*
36 *prioritize the facility using established prioritization guidelines,*
37 *except that any diesel magnet source listed pursuant to*
38 *subdivision (e) of Section 44322 shall be designated a high*
39 *priority facility as specified in subparagraph (2). The district*
40 *shall notify the facility in writing of the facility’s prioritization*

1 *category, and this notification shall be considered a formal*
2 *designation pursuant to this section.*

3 (b) (1) Within 150 days of the designation of priorities and
4 categories pursuant to subdivision (a), the operator of every
5 facility that has been included within the highest priority
6 category shall prepare and submit to the district a health risk
7 assessment pursuant to Section 44361. The district may, at its
8 discretion, grant a 30-day extension for submittal of the health
9 risk assessment.

10 (2) Health risk assessments required by this chapter shall be
11 prepared in accordance with guidelines established by the Office
12 of Environmental Health Hazard Assessment. The office shall
13 prepare draft guidelines, which shall be circulated to the public
14 and the regulated community, and shall adopt risk assessment
15 guidelines after consulting with the state board and the Risk
16 Assessment Committee of the California Air Pollution Control
17 Officers Association and after conducting at least two public
18 workshops, one in the northern and one in the southern part of
19 the state. The adoption of the guidelines is not subject to Chapter
20 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
21 Title 2 of the Government Code. The scientific review panel
22 established pursuant to Section 39670 shall evaluate the
23 guidelines adopted under this paragraph and shall recommend
24 changes and additional criteria to reflect new scientific data or
25 empirical studies.

26 (3) The guidelines established pursuant to paragraph (2) shall
27 impose only those requirements on facilities subject to this
28 subdivision that are necessary to ensure that a required health
29 risk assessment is accurate and complete, and shall specify the
30 type of site-specific factors that districts may take into account in
31 determining when a single health risk assessment may be allowed
32 under subdivision (d). The guidelines shall, in addition, allow the
33 operator of a facility, at the operator's option, and to the extent
34 that valid and reliable data is available, to include for
35 consideration by the district in the health risk assessment any or
36 all of the following supplemental information:

37 (A) Information concerning the scientific basis for selecting
38 risk parameter values that are different than those required by the
39 guidelines and the likelihood distributions that result when
40 alternative values are used.

1 (B) Data from dispersion models, microenvironment
 2 characteristics, and population distributions that may be used to
 3 estimate maximum actual exposure.

4 (C) Risk expressions that show the likelihood that any given
 5 risk estimate is the correct risk value.

6 (D) A description of the incremental reductions in risk that
 7 occur when exposure is reduced.

8 (4) To ensure consistency in the use of the supplemental
 9 information authorized by subparagraphs (A), (B), (C), and (D)
 10 of paragraph (3), the guidelines established pursuant to paragraph
 11 (2) shall include guidance for use by the districts in considering
 12 the supplemental information when it is included in the health
 13 risk assessment.

14 (c) Upon submission of emissions inventory data for facilities
 15 specified in subdivisions (b) and (c) of Section 44322, the district
 16 shall designate facilities for inclusion within the highest priority
 17 category, as appropriate, and any facility so designated shall be
 18 subject to subdivision (b). In addition, the district may require the
 19 operator of any facility to prepare and submit health risk
 20 assessments, in accordance with the priorities developed pursuant
 21 to subdivision (a).

22 (d) The district shall, except where site-specific factors may
 23 affect the results, allow the use of a single health risk assessment
 24 for two or more substantially identical facilities operated by the
 25 same person.

26 (e) Nothing ~~contained~~ in this section, Section 44380.5, or
 27 Chapter 6 (commencing with Section 44390) shall be interpreted
 28 as requiring a facility operator to prepare a new or revised health
 29 risk assessment using the guidelines established pursuant to
 30 paragraph (2) of subdivision (a) of this section if the facility
 31 operator is required by the district to begin the preparation of a
 32 health risk assessment before those guidelines are established.

33 (f) *On or before January 1, 2008, the districts, in cooperation*
 34 *with the state board and the Office of Environmental Health*
 35 *Hazard Assessment, shall establish and implement a*
 36 *collaborative public process to review advances and limitations*
 37 *in methods to estimate emissions, exposure, and risk to the public*
 38 *that results from the release of air contaminants. The review*
 39 *shall address risk assessment as currently practiced, cumulative*
 40 *risk assessment, and alternatives to risk assessment, and shall*

1 *include participation by interested stakeholders, including*
2 *representatives of low-income communities and communities of*
3 *color.*

4 ~~SEC. 8.~~

5 *SEC. 9.* Section 44390 of the Health and Safety Code is
6 amended to read:

7 44390. For purposes of this chapter, the following definitions
8 apply:

9 (a) “Airborne toxic risk reduction measure” or “ATRRM”
10 means those in-plant changes in production processes or
11 feedstocks that reduce or eliminate toxic air emissions subject to
12 this part. ATRRM’s may include:

13 (1) Feedstock modification.

14 (2) Product reformulations.

15 (3) Production system modifications.

16 (4) System enclosure, emissions control, capture, or
17 conversion.

18 (5) Operational standards and practices modification.

19 (b) Airborne toxic risk reduction measures do not include
20 measures that will increase risk from exposure to the chemical in
21 another media or that increase the risk to workers or consumers.

22 (c) “Airborne toxic risk reduction audit and plan” or “audit
23 and plan” means the audit and plan specified in Section 44392.

24 (d) “Diesel magnet source risk reduction measure” or
25 “DMSRRM” means those changes to equipment or method of
26 operation that reduce or eliminate toxic air releases subject to this
27 part. DMSRRMs shall be considered a form of airborne toxic risk
28 reduction measure for the purposes of this chapter, and may
29 include, but are not limited to, all of the following:

30 (1) Modification of operational standards or practices.

31 (2) Application of emissions control technology.

32 (3) System enclosure and emissions control, capture, or
33 conversion.

34 (4) Use of alternative fuels or fuel additives.

35 (5) Engine replacement, retrofit, or repowering.

36 (6) Electrification of diesel-fueled internal combustion
37 engines.

38 (7) *With the approval of the state board, any emission*
39 *reduction measure implemented by a participating railroad*

1 *under the memorandum of understanding dated June 2005 that*
2 *was entered into with the state board.*

3 ~~SEC. 9.~~

4 *SEC. 10.* Section 44391 of the Health and Safety Code is
5 amended to read:

6 44391. (a) Whenever a health risk assessment approved
7 pursuant to Chapter 4 (commencing with Section 44360)
8 indicates, in the judgment of the district, that there is a significant
9 risk associated with the emissions from a facility, the facility
10 operator shall conduct an airborne toxic risk reduction audit and
11 develop a plan to implement airborne toxic risk reduction
12 measures that will result in the reduction of emissions from the
13 facility to a level below the significant risk level within five years
14 of the date the plan is submitted to the district. The facility
15 operator shall implement measures set forth in the plan in
16 accordance with this chapter.

17 (b) The period to implement the plan required by subdivision
18 (a) may be shortened by the district if it finds that it is technically
19 feasible and economically practicable to implement the plan to
20 reduce emissions below the significant risk level more quickly or
21 if it finds that the emissions from the facility pose an
22 unreasonable health risk.

23 (c) (1) A district may lengthen the period to implement the
24 plan required by subdivision (a) by up to an additional five years
25 if it finds that a period longer than five years will not result in an
26 unreasonable risk to public health and that requiring
27 implementation of the plan within five years places an
28 unreasonable economic burden on the facility operator or is not
29 technically feasible.

30 (2) A district may lengthen the period for a diesel magnet
31 source to implement the plan required by subdivision (a) in
32 increments of five years, ~~consistent with the quadrennial review~~
33 ~~pursuant to subdivision (h) of Section 44392,~~ if all of the
34 following conditions are met:

35 (A) The facility prepares and implements a plan, subject to
36 district approval in a public hearing, to make real and measurable
37 progress reducing risks using all technically and economically
38 feasible DMSRRMs, including those measures already
39 implemented by a similar diesel magnet source.

1 (B) The facility convenes an advisory group, subject to district
2 approval, that includes at least two members of the affected
3 residential community, two members of the affected business
4 community, and one representative each from the district, the
5 state board, and the city or county within which the facility is
6 located.

7 (C) The facility reviews its risk reduction implementation
8 progress with the advisory group, in a public meeting, at least
9 once each year until the risk has been reduced to below the
10 significance thresholds.

11 *(D) The facility has updated its emissions inventory as*
12 *required under Section 44344.*

13 (d) (1) The state board and districts shall provide assistance to
14 smaller businesses that have inadequate technical and financial
15 resources for obtaining information, assessing risk reduction
16 methods, and developing and applying risk reduction techniques.

17 (2) Risk reduction audits and plans for any industry subject to
18 this chapter which is comprised mainly of small businesses using
19 substantially similar technology may be completed by a
20 self-conducted audit and checklist developed by the state board.
21 The state board, in coordination with the districts, shall provide a
22 copy of the audit and checklist to small businesses within those
23 industries to assist them to meet the requirements of this chapter.

24 (e) The audit and plan shall contain all the information
25 required by Section 44392.

26 (f) The plan shall be submitted to the district, within six
27 months of a district's determination of significant risk, for review
28 of completeness. Operators of facilities that have been notified
29 prior to January 1, 1993, that there is a significant risk associated
30 with emissions from the facility shall submit the plan by July 1,
31 1993. The district's review of completeness shall include a
32 substantive analysis of the emissions reduction measures
33 included in the plan, and the ability of those measures to achieve
34 emissions reduction goals as quickly as feasible as provided in
35 subdivisions (a) and (b).

36 (g) The district shall find the audit and plan to be satisfactory
37 within three months if it meets the requirements of this chapter,
38 including, but not limited to, subdivision (f). If the district
39 determines that the audit and plan does not meet those
40 requirements, the district shall remand the audit and plan to the

1 facility specifying the deficiencies identified by the district. A
2 facility operator shall submit a revised audit and plan addressing
3 the deficiencies identified by the district within 90 days of receipt
4 of a deficiency notice.

5 (h) Progress on the emissions reductions achieved by the plan
6 shall be reported to the district in emissions inventory updates.
7 Emissions inventory updates shall be prepared as required by the
8 audit and plan found to be satisfactory by the district pursuant to
9 subdivision (g).

10 (i) If new information becomes available after the initial risk
11 reduction audit and plan, on air toxics risks posed by a facility, or
12 emissions reduction technologies that may be used by a facility
13 that would significantly impact risks to exposed persons, the
14 district may require the plan to be updated and resubmitted to the
15 district.

16 (j) This section does not authorize the emission of a toxic air
17 contaminant in violation of an airborne toxic control measure
18 adopted pursuant to Chapter 3.5 (commencing with Section
19 39650) or in violation of Section 41700.

20 (k) *Once the district approves a risk reduction plan for a*
21 *diesel magnet source listed pursuant to subdivision (e) of Section*
22 *44322, the district shall submit the plan to the state board for*
23 *review and comment. The state board shall provide its comments*
24 *within 90 days of receipt. The district shall, within 90 days of*
25 *receipt, incorporate the state board's comments into the risk*
26 *reduction plan unless the district determines that to do so will not*
27 *result in the maximum feasible risk reductions on the most*
28 *expeditious schedule practicable.*

29 ~~SEC. 10.~~

30 *SEC. 11.* Section 44395 is added to the Health and Safety
31 Code, to read:

32 44395. Nothing in this chapter requires the operator of a
33 diesel magnet source to implement any DMSRRM that is
34 preempted by federal law.

35 ~~SEC. 11.~~

36 *SEC. 12.* Section 44396 is added to the Health and Safety
37 Code, to read:

38 44396. Notwithstanding the amendments to this part enacted
39 by Assembly Bill 1101 of the 2005–06 Regular Session of the
40 Legislature, all provisions of this part remain in full force and

1 effect, and nothing in this part limits the authority of a district
2 ~~under any other provision of this code. or the state board under~~
3 *any other provision of this code. Nothing in those amendments*
4 *limits the preexisting authority of the state board or the districts*
5 *under this part, nor confers any new authority on the districts to*
6 *establish emission standards for motor vehicles.*

7 ~~SEC. 12.~~

8 *SEC. 13.* All costs incurred by the State Air Resources Board,
9 the Office of Environmental Health Hazard Assessment, and air
10 districts, in complying with ~~this act~~ *the amendments to Part 6*
11 *(commencing with Section 44300) of Division 26 of the Health*
12 *and Safety Code enacted by Assembly Bill 1101 of the 2005–06*
13 *Regular Session of the Legislature shall be recovered through*
14 *fees collected pursuant to Section 44380 of the Health and Safety*
15 *Code.*

16 ~~SEC. 13.~~

17 *SEC. 14.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of
22 Section 17556 of the Government Code.