

AMENDED IN SENATE JUNE 11, 1996
AMENDED IN SENATE JULY 13, 1995
AMENDED IN SENATE JULY 3, 1995
AMENDED IN SENATE JUNE 13, 1995
AMENDED IN ASSEMBLY APRIL 17, 1995
AMENDED IN ASSEMBLY MARCH 23, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Cannella

February 17, 1995

An act to amend Sections ~~44344, 44344.7, 44362, and 44380~~ of, to ~~add~~ Section ~~44392.5~~ to, to ~~add, repeal, and add~~ Section ~~44344.4~~ of, and to ~~repeal~~ Sections ~~44344.3 and 44344.5~~ ~~44344.5, 44344.7, 44362, and 44380~~ of, to *add Sections 44344.4 and 44344.6 to, and to repeal Section 44344.3* of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Cannella. Air toxics: emission inventories and risk assessments.

(1) Existing law, the Air Toxics "Hot Spots" Information and Assessment Act of 1987, requires the State Air Resources Board to compile a list of substances which present a chronic or acute threat to public health when present in the ambient air, as specified. The act requires operators of facilities which

are sources of air releases or potential air releases of hazardous materials to develop, submit to the appropriate air pollution control district or air quality management district, and update every 4 years, emissions inventories. The act requires the districts, based on data from the inventories, to designate facilities as high, intermediate, or low priority category facilities. The act requires the highest priority facilities to prepare and submit to the district a health risk assessment and authorizes the districts to require any facility operator to prepare and submit a health risk assessment. The act requires the districts to collect fees from facility operators. The act requires that a facility be granted an exemption by a district if specified criteria are met.

This bill would, instead of that exemption provision, exempt a facility *with a specified health prioritization score* from ~~any reporting, fee, emissions inventory update, or other requirement of the act if a health risk assessment is not required for the facility by January 1, 1996, or one year after the facility's most recent submission of an emissions inventory update, whichever is later, except as specified,~~ and would prescribe circumstances that would subsequently make the facility subject to the act.

~~The bill would require the district, within 180 days of a facility's complete implementation of an emissions inventory plan, to determine whether there continues to be a significant health risk associated with emissions from the facility. The bill would, if the district makes a determination that a significant health risk is no longer associated with emissions from the facility, except as provided, exempt the facility from compliance with any reporting, fee, emissions inventory update, or other requirement of the act. The bill would require certain exempt facilities to submit a specified quadrennial statement and would limit any fee that may be imposed for that purpose to the administrative processing cost. The bill would exempt a new facility from certain report requirements under prescribed conditions.~~

The bill would impose a state-mandated local program by imposing new duties on the districts in administering the act.

(2) The act requires the state board to adopt a regulation that requires each district to adopt a fee schedule to recover



the reasonable anticipated cost of the state board and the Office of Environmental Health Hazard Assessment in administering the act.

This bill would impose a prescribed limit on those costs.

(3) 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.

~~(4) The bill would, except as specified, become operative on January 1, 1997.~~

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. Section 44344 of the Health and Safety~~
2 ~~Code is amended to read:~~

3 ~~44344. An emissions inventory update performed~~
4 ~~pursuant to Section 44344.7 or subdivision (h) of Section~~
5 ~~44391 shall be performed in accordance with the~~
6 ~~procedures established by the state board and shall take~~
7 ~~into consideration improvements in measurement~~
8 ~~techniques and advancing knowledge concerning the~~
9 ~~types and toxicity of hazardous material released or~~
10 ~~potentially released.~~

11 ~~SEC. 2.—~~

12 ~~SECTION 1. Section 44344.3 of the Health and Safety~~
13 ~~Code is repealed.~~

14 ~~SEC. 3. Section 44344.4 is added to the Health and~~
15 ~~Safety Code, to read:~~

16 ~~44344.4. (a) If a facility has submitted an emissions~~
17 ~~inventory report pursuant to this chapter, a district shall~~
18 ~~not require the facility to prepare a health risk assessment~~
19 ~~pursuant to this part after January 1, 1996, or one year~~
20 ~~after the facility's most recent submission of an emission's~~
21 ~~inventory report, emissions inventory update, district's~~
22 ~~industrywide inventory, or districts industrywide survey,~~
23 ~~whichever is later.~~



1 ~~(b) This section shall remain in effect only until~~
 2 ~~January 1, 1997, and as of that date is repealed unless a~~
 3 ~~later enacted statute, which is enacted before January 1,~~
 4 ~~1997, deletes or extends that date.~~

5 ~~SEC. 4.—~~

6 *SEC. 2.* Section 44344.4 is added to the Health and
 7 Safety Code, to read:

8 44344.4. (a) Except as provided in Section 44344.7, a
 9 facility shall be exempt from further compliance with this
 10 part if a health risk assessment is not required for that
 11 facility by January 1, 1996, or one year after the facility's
 12 most recent submission of an emissions inventory report,
 13 emissions inventory update, district's industrywide
 14 inventory, or district's industrywide survey, whichever is
 15 later. An exempt facility shall no longer be required to
 16 pay any fee or submit any report to the district or the state
 17 board pursuant to this part.

18 ~~(b) This section does not apply to any facility that has~~
 19 ~~not submitted an emissions inventory, or has not been~~
 20 ~~included in a district's industrywide inventory or~~
 21 ~~industrywide survey.~~

22 ~~(c) This section shall become operative on January 1,~~
 23 ~~1997.~~

24 ~~SEC. 5.—~~ Section 44344.5 of the Health and Safety Code
 25 ~~is repealed.~~

26 ~~SEC. 6.—~~*part if the facility's prioritization scores for*
 27 *cancer and noncancer health effects are both equal to or*
 28 *less than one, based on the results of the most recent*
 29 *emissions inventory or emissions inventory update. An*
 30 *exempt facility shall no longer be required to pay any fee*
 31 *or submit any report to the district or the state board*
 32 *pursuant to this part.*

33 *(b) Except for facilities that are exempt from this part*
 34 *pursuant to subdivision (a), a facility for which the*
 35 *prioritization scores for cancer and noncancer health*
 36 *effects are both equal to or less than ten, based on the*
 37 *results of the most recent emissions inventory or*
 38 *emissions inventory update, shall not be required to pay*
 39 *any fee or submit any report to the district or the state*
 40 *board pursuant to this part, except for the quadrennial*



1 emissions inventory update required pursuant to Section
2 44344. A district may, by regulation, establish a fee to be
3 paid by a facility operator in connection with the
4 operator's submission to the district of a quadrennial
5 emissions inventory update pursuant to this subdivision.
6 The fee shall not be greater than necessary to recover the
7 administrative cost of processing the inventory update,
8 and shall not exceed one hundred dollars (\$100).

9 (c) For the purposes of this part, "prioritization score"
10 means a facility's numerical score for cancer health
11 effects or noncancer health effects, as determined by the
12 district pursuant to Section 44360 in a manner consistent
13 with facility prioritization guidelines prepared by the
14 California Air Pollution Control Officers Association and
15 approved by the state board.

16 SEC. 3. Section 44344.5 of the Health and Safety Code
17 is amended to read:

18 44344.5. (a) The operator of any new facility that
19 previously has not been subject to this part shall prepare
20 and submit an emissions inventory plan and report.

21 (b) Notwithstanding subdivision (a), a new facility
22 shall not be required to submit an emissions inventory
23 plan and report if all of the following conditions are met:

24 (1) The facility is subject to a district permit program
25 established pursuant to Section 42300.

26 (2) The district conducts an assessment of the
27 potential emissions or their associated risks, whichever
28 the district determines to be appropriate, attributable to
29 the new facility and finds that the emissions will not result
30 in a significant risk.

31 (3) The district issues a permit authorizing
32 construction or operation of the new facility.

33 SEC. 4. Section 44344.6 is added to the Health and
34 Safety Code, to read:

35 44344.6. A district shall redetermine a facility's
36 prioritization score, or evaluate the prioritization score as
37 calculated and submitted by the facility, within 90 days
38 from the date of receipt of a quadrennial emissions
39 inventory update pursuant to Section 44344 or
40 subdivision (b) of Section 44344.4, or within 90 days from



1 *the date of receiving notice that a facility has completed*
2 *the implementation of a plan prepared pursuant to*
3 *Section 44392.*

4 SEC. 5. Section 44344.7 of the Health and Safety Code
5 is amended to read:

6 44344.7. (a) A facility exempted from this part
7 pursuant to subdivision (a) of Section 44344.4, ~~subdivision~~
8 ~~(e) of Section 44362 or subdivision (a) of Section 44392.5~~
9 shall, upon receipt of a notice from the district, again be
10 subject to this part and the operator shall submit an
11 emissions inventory update for those sources and
12 substances for which a physical change in the facility or
13 a change in activities or operations has occurred, as
14 follows:

15 (1) The facility emits a substance newly listed
16 pursuant to Section 44321.

17 (2) A sensitive receptor has been established or
18 constructed within 500 meters of the facility after the
19 facility became exempt.

20 (3) The facility emits a substance for which the
21 potency factor has increased.

22 ~~(b) A facility exempted from this part pursuant to~~
23 ~~Section 44344.4, subdivision (e) of Section 44362, or~~
24 ~~subdivision (a) of Section 44392.5 shall again be subject to~~
25 ~~this part and the operator shall submit an emissions~~
26 ~~inventory update for those sources and substances for~~
27 ~~which a particular physical change in the facility or a~~
28 ~~change in activities or operations occurs if, as a result of~~
29 ~~the particular change, the facility has begun emitting a~~
30 ~~listed substance not included in the previous emissions~~
31 ~~inventory.~~

32 ~~(c) (1) A facility exempted from this part pursuant to~~
33 ~~Section 44344.4, subdivision (e) of Section 44362, or~~
34 ~~subdivision (a) of Section 44392.5 shall again be subject to~~
35 ~~this part and the operator shall submit an emissions~~
36 ~~inventory update for those sources and substances for~~
37 ~~which a particular physical change in the facility or a~~
38 ~~change in the activities or operations occur, if paragraph~~
39 ~~(2) or (3) applies. A facility classified as low priority~~
40 ~~pursuant to Section 44360 shall be subject only to the~~



1 ~~criteria specified in paragraph (2). All other facilities shall~~
2 ~~be subject to the criteria specified either in paragraph (2)~~
3 ~~or paragraph (3), as determined for that district by the~~
4 ~~district board.~~

5 ~~(2) As a result of the particular change, the facility has~~
6 ~~increased its emissions of a listed substance to a level~~
7 ~~greater than the level previously reported for that~~
8 ~~substance, and one of the following applies:~~

9 ~~(A) For facilities with a priority score, before the~~
10 ~~change, of less than 65 percent of the score that would~~
11 ~~cause the facility to be designated as a high priority~~
12 ~~facility, the increase in emissions would cause the priority~~
13 ~~score for the facility to exceed 75 percent of the score that~~
14 ~~would cause the facility to be designated as a high priority~~
15 ~~facility.~~

16 ~~(B) For facilities with a priority score, before the~~
17 ~~change, 65 percent to 100 percent of the score that would~~
18 ~~cause the facility to be designated a high priority facility,~~
19 ~~the increase in emissions of a listed substance would~~
20 ~~exceed 10 percent of the previously reported emissions of~~
21 ~~that substance.~~

22 ~~(3) As a result of the particular change, the facility has~~
23 ~~increased its emissions of a listed substance to a level~~
24 ~~exceeding the facility's previously reported emissions of~~
25 ~~that substance by an amount greater than the "applicable~~
26 ~~degree of accuracy" for that substance specified in~~
27 ~~Appendix A-I to Subchapter 7.6 (commencing with~~
28 ~~Section 93300) of Chapter 1 of Division 3 of Title 17 of the~~
29 ~~California Code of Regulations. For a listed substance~~
30 ~~included in Appendix A-II to Subchapter 7.6~~
31 ~~(commencing with Section 93300) of Chapter 1 of~~
32 ~~Division 3 of Title 17 of the California Code of~~
33 ~~Regulations, for the purposes of this subdivision, the~~
34 ~~"applicable degree of accuracy" shall be 1000 pounds per~~
35 ~~year.~~

36 ~~(d) Notwithstanding subdivisions (b) and (c), a~~

37 ~~(b) The operator of a facility exempted from this part~~
38 ~~pursuant to subdivision (a) of Section 44344.4 shall submit~~
39 ~~an emissions inventory update for those sources and~~
40 ~~substances for which a particular physical change in the~~



1 facility or a change in activities or operations occurs if, as
2 a result of the particular change, either of the following
3 has occurred:

4 (1) The facility has begun emitting a listed substance
5 not included in the previous emissions inventory.

6 (2) The facility has increased its emissions of a listed
7 substance to a level greater than the level previously
8 reported for that substance, and the increase in emissions
9 exceeds 100 percent of the previously reported level.

10 (c) Notwithstanding subdivision (b), a physical
11 change or change in activities or operations at a facility
12 shall not cause the facility to again be subject to this part
13 if all of the following conditions are met:

14 (1) ~~The~~ ~~this part~~ if the physical change or change in
15 activities or operations is subject to a district permit
16 program established pursuant to Section 42300.

17 (2) The district conducts an assessment of the
18 potential changes in emissions or their associated risks,
19 whichever the district determines to be appropriate,
20 attributable to the physical change or change in activities
21 or operations and finds that the changes in emissions will
22 not result in a significant risk in accordance with this part.

23 (3) The district issues a permit for the physical change
24 or change in activities or operations.

25 ~~(e) (1) Notwithstanding subdivisions (b) and (c), a~~
26 ~~physical change or a change in activities or operations at~~
27 ~~a facility shall not cause the facility to again be subject to~~
28 ~~this part if the emissions from the facility following the~~
29 ~~change in activities or operations are at or below all~~
30 ~~previously permitted emission limits for the facility, and~~
31 ~~the facility reports to the district any increase in emissions~~
32 ~~of listed substances.~~

33 ~~(2) Notwithstanding paragraph (1), if within 60 days~~
34 ~~of the facility's submittal of the report the district makes~~
35 ~~a written determination that the increased emissions may~~
36 ~~result in a significant risk as determined pursuant to this~~
37 ~~part, the facility shall be subject to the applicable~~
38 ~~provisions of this part.~~

39 ~~(f) If a district has good cause to believe that a facility~~
40 ~~does not qualify for an exemption from this part claimed~~



1 ~~by the facility, the district may require the facility to~~
2 ~~document the changes in emissions expected to occur as~~
3 ~~a result of a particular physical change or a change in~~
4 ~~activities or operations that occurs at a facility.~~

5 ~~SEC. 7.—~~

6 *SEC. 6.* Section 44362 of the Health and Safety Code
7 is amended to read:

8 44362. (a) Taking the comments of the Office of
9 Environmental Health Hazard Assessment into account,
10 the district shall approve or return for revision and
11 resubmission and then approve, the health risk
12 assessment within one year of receipt. If the health risk
13 assessment has not been revised and resubmitted within
14 60 days of the district's request of the operator to do so,
15 the district may modify the health risk assessment and
16 approve it as modified.

17 (b) Upon approval of the health risk assessment, the
18 operator of the facility shall provide notice to all exposed
19 persons regarding the results of the health risk assessment
20 prepared pursuant to Section 44361 if, in the judgment of
21 the district, the health risk assessment indicates there is
22 a significant health risk associated with emissions from
23 the facility. If notice is required under this subdivision,
24 the notice shall include only information concerning
25 significant health risks attributable to the specific facility
26 for which the notice is required. Any notice shall be made
27 in accordance with procedures specified by the district.

28 ~~(e) Except as provided in Section 44344.7 and~~
29 ~~subdivision (d), a facility shall be exempt from further~~
30 ~~compliance with this part if the district finds, based on the~~
31 ~~results of the facility's health risk assessment, that there~~
32 ~~is no significant health risk associated with emissions from~~
33 ~~the facility. Except as provided in subdivision (d), a~~
34 ~~facility exempt from this part shall not be required to pay~~
35 ~~any fee or submit any further report to the district or the~~
36 ~~state board pursuant to this part.~~

37 ~~(d) (1) (A) Except as provided in subparagraph (B),~~
38 ~~a facility exempt from compliance with this part pursuant~~
39 ~~to subdivision (e) shall submit to the district, every four~~
40 ~~years, a statement indicating that, to the best of the~~



1 ~~facility operator's knowledge, the facility operator has not~~
2 ~~made any physical change or change in activities or~~
3 ~~operations of the types specified in subdivision (b) of~~
4 ~~Section 44344.7 during the preceding four years.~~

5 ~~(B) This paragraph does not apply to, and quadrennial~~
6 ~~statements are not required to be submitted by, a facility~~
7 ~~if all of the emissions identified in the facility's emissions~~
8 ~~inventory are emitted from equipment or operations that~~
9 ~~are subject to a district permit program established~~
10 ~~pursuant to Section 42300.~~

11 ~~(2) A district may, by regulation, establish a fee to be~~
12 ~~paid by a facility operator in connection with the~~
13 ~~operator's submission of a quadrennial statement~~
14 ~~pursuant to this subdivision. The fee shall not be greater~~
15 ~~than necessary to recover the administrative cost of~~
16 ~~processing the statement.~~

17 ~~SEC. 8.—~~

18 *SEC. 7.* Section 44380 of the Health and Safety Code
19 is amended to read:

20 44380. (a) The state board shall adopt a regulation
21 which does all of the following:

22 (1) Sets forth the amount of revenue which the district
23 must collect to recover the reasonable anticipated cost
24 which will be incurred by the state board and the Office
25 of Environmental Health Hazard Assessment to
26 implement and administer this part.

27 (2) Requires each district to adopt a fee schedule
28 which recovers the costs of the district and which assesses
29 a fee upon the operator of every facility subject to this
30 part, *except as specified in subdivision (b) of Section*
31 *44344.4.* A district may request the state board to adopt a
32 fee schedule for the district if the district's program costs
33 are approved by the district board and transmitted to the
34 state board by April 1 of the year in which the request is
35 made.

36 (3) Requires any district that has an approved toxics
37 emissions inventory compiled pursuant to this part by
38 August 1 of the preceding year to adopt a fee schedule, as
39 described in paragraph (2), which imposes on facility
40 operators fees which are, to the maximum extent



1 practicable, proportionate to the extent of the releases
2 identified in the toxics emissions inventory and the level
3 of priority assigned to that source by the district pursuant
4 to Section 44360.

5 (b) Commencing August 1, 1992, and annually
6 thereafter, the state board shall review and may amend
7 the fee regulation.

8 (c) The district shall notify each person who is subject
9 to the fee of the obligation to pay the fee. If a person fails
10 to pay the fee within 60 days after receipt of this notice,
11 the district, unless otherwise provided by district rules,
12 shall require the person to pay an additional
13 administrative civil penalty. The district shall fix the
14 penalty at not more than 100 percent of the assessed fee,
15 but in an amount sufficient in its determination, to pay
16 the district's additional expenses incurred by the person's
17 noncompliance. If a person fails to pay the fee within 120
18 days after receipt of this notice, the district may initiate
19 permit revocation proceedings. If any permit is revoked,
20 it shall be reinstated only upon full payment of the
21 overdue fee plus any late penalty, and a reinstatement fee
22 to cover administrative costs of reinstating the permit.

23 (d) Each district shall collect the fees assessed
24 pursuant to subdivision (a). After deducting the costs to
25 the district to implement and administer this part, the
26 district shall transmit the remainder to the Controller for
27 deposit in the Air Toxics Inventory and Assessment
28 Account, which is hereby created in the General Fund.
29 The money in the account is available, upon
30 appropriation by the Legislature, to the state board and
31 the Office of Environmental Health Hazard Assessment
32 for the purposes of administering this part.

33 (e) Commencing January 1, 1996, and for each year
34 thereafter, the cost incurred by the state board and the
35 Office of Environmental Health Hazard Assessment to
36 implement and administer this part in a particular year
37 shall not exceed the product of the actual cost incurred
38 in 1994 multiplied by the ratio of the number of facilities
39 subject to this part in the particular year to the number
40 of facilities subject to this part in 1994.



1 ~~SEC. 9. Section 44392.5 is added to the Health and~~
2 ~~Safety Code, to read:~~

3 ~~44392.5. (a) Within 180 days of a facility's complete~~
4 ~~implementation of the plan developed pursuant to~~
5 ~~Section 44391, the district shall determine whether there~~
6 ~~continues to be a significant health risk associated with~~
7 ~~emissions from the facility. Upon the district's~~
8 ~~determination that a significant health risk is no longer~~
9 ~~associated with emissions from the facility, except as~~
10 ~~provided in Section 44344.7 and subdivision (b) of this~~
11 ~~section, the facility shall be exempt from further~~
12 ~~compliance with this part, including, but not limited to,~~
13 ~~any requirement to submit any further report or pay any~~
14 ~~fee pursuant to this part.~~

15 ~~(b) (1) (A) Except as provided in subparagraph (B),~~
16 ~~a facility exempt from compliance with this part pursuant~~
17 ~~to subdivision (a) shall submit to the district, every four~~
18 ~~years, a statement indicating that, to the best of the~~
19 ~~facility operator's knowledge, the facility operator has not~~
20 ~~made any physical change or change in activities or~~
21 ~~operations of the types specified in subdivision (b) of~~
22 ~~Section 44344.7 during the preceding four years.~~

23 ~~(B) This subparagraph does not apply to, and~~
24 ~~quadrennial statements need not be submitted by, any~~
25 ~~facility if all of the emissions identified in the facility's~~
26 ~~emissions inventory are emitted from equipment or~~
27 ~~operations that are subject to a district permit program~~
28 ~~established pursuant to Section 42300.~~

29 ~~(2) A district may, by regulation, establish a fee to be~~
30 ~~paid by a facility operator in connection with the~~
31 ~~operator's submission of a quadrennial statement~~
32 ~~pursuant to this subdivision. The fee shall not be greater~~
33 ~~than necessary to recover the administrative cost of~~
34 ~~processing the statement.~~

35 ~~SEC. 10.—~~

36 ~~SEC. 8. No reimbursement is required by this act~~
37 ~~pursuant to Section 6 of Article XIII B of the California~~
38 ~~Constitution because a local agency or school district has~~
39 ~~the authority to levy service charges, fees, or assessments~~
40 ~~sufficient to pay for the program or level of service~~



1 mandated by this act, within the meaning of Section 17556
2 of the Government Code.

3 Notwithstanding Section 17580 of the Government
4 Code, unless otherwise specified, the provisions of this act
5 shall become operative on the same date that the act
6 takes effect pursuant to the California Constitution.

7 ~~SEC. 11. This act, except Section 3, shall become~~
8 ~~operative on January 1, 1997. Section 3 of this act shall~~
9 ~~become operative January 1, 1996.~~

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