

AMENDED IN ASSEMBLY MAY 16, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2939

Introduced by Committee on Natural Resources (Wayne (Chair), Aanestad (Vice Chair), Dickerson, Jackson, Keeley, Lowenthal, Machado, Migden, Oller, Robert Pacheco, and Steinberg)

March 28, 2000

An act to amend Sections 39510, 39512.5, 39513, 39515, 39604, 39671, 39807, 40162, 40450, 40452, 40454, 40500.1, 40503, 40515, 40521, 40709.7, 40717.5, 41261, 41500, 41500.5, 41600, 41865, 42301.5, 42301.9, 42314, 42314.5, and 42405.1 of, to repeal and add Section 39016.5 of, and to repeal Sections 40416, 40484, 40524, 40962, 41212, 41242, 41263, 41507, 41518, 41519, 41520, 41704.5, 41900, and 41981 of, the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2939, as amended, Committee on Natural Resources. Air resources.

Existing law contains a comprehensive plan to protect and enhance the ambient air quality of the state.

This bill would make technical changes to those provisions, including correcting erroneous cross-references and deleting obsolete provisions.

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

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

1 SECTION 1. Section 39016.5 of the Health and Safety
2 Code is repealed.

3 SEC. 2. Section 39016.5 is added to the Health and
4 Safety Code, to read:

5 39016.5. "Bureau" means the Bureau of Automotive
6 Repair in the Department of Consumer Affairs.

7 SEC. 3. Section 39510 of the Health and Safety Code
8 is amended to read:

9 39510. (a) The State Air Resources Board is
10 continued in existence in the California Environmental
11 Protection Agency. The state board shall consist of 11
12 members.

13 (b) The members shall be appointed by the Governor,
14 with the consent of the Senate, on the basis of their
15 demonstrated interest and proven ability in the field of
16 air pollution control and their understanding of the needs
17 of the general public in connection with air pollution
18 problems. Six members shall have the following
19 qualifications:

20 (1) One member shall have training and experience in
21 automotive engineering or closely related fields.

22 (2) One member shall have training and experience in
23 chemistry, meteorology, or related scientific fields,
24 including agriculture or law.

25 (3) One member shall be a physician and surgeon or
26 an authority on health effects of air pollution.

27 (4) Two members shall be public members.

28 (5) One member shall have the qualifications
29 specified in paragraph (1), (2), or (3) or shall have
30 experience in the field of air pollution control.

31 (c) Five members shall be board members from
32 districts who shall reflect the qualitative requirements of
33 subdivision (b) to the extent practicable. Of these five
34 members, one shall be a board member from the south
35 coast district, one shall be a board member from the bay
36 district, one shall be a board member from the San
37 Joaquin Valley Unified Air Pollution Control District or,
38 if the unified district is abolished, from the San Joaquin



1 Valley Air Quality Management District if created
2 pursuant to Section 5 of Chapter 915 of the Statutes of
3 1994, one shall be a board member from the San Diego
4 County Air Pollution Control District, and one shall be a
5 board member of any other district.

6 (d) Any vacancy shall be filled by the Governor within
7 30 days of the date on which it occurs. If the Governor fails
8 to make an appointment for any vacancy within the
9 30-day period, the Senate Committee on Rules may make
10 the appointment to fill the vacancy in accordance with
11 this section.

12 (e) While serving on the state board, all members shall
13 exercise their independent judgment as officers of the
14 state on behalf of the interests of the entire state in
15 furthering the purposes of this division. No member of
16 the state board shall be precluded from voting or
17 otherwise acting upon any matter solely because that
18 member has voted or acted upon the matter in his or her
19 capacity as a member of a district board, except that no
20 member of the state board who is also a member of a
21 district board shall participate in any action regarding his
22 or her district taken by the state board pursuant to
23 Sections 41503 to 41505, inclusive.

24 (f) Notwithstanding subdivision (e) of Section 1 of
25 Chapter 1201 of the Statutes of 1991, this section shall
26 become operative on January 1, 1994.

27 SEC. 4. Section 39512.5 of the Health and Safety Code
28 is amended to read:

29 39512.5. (a) With respect to the members appointed
30 pursuant to subdivision (c) of Section 39510, those
31 members shall serve without compensation but shall be
32 reimbursed for actual and necessary expenses incurred in
33 the performance of their duties to the extent that
34 reimbursement for expenses is not otherwise provided or
35 payable by another public agency or agencies. Each
36 elected public official member of the state board shall
37 receive one hundred dollars (\$100) for each day, or
38 portion thereof, but not to exceed one thousand dollars
39 (\$1,000) in any month, attending meetings of the state



1 board or committees thereof, or upon authorization of the
2 state board while on official business of the state board.

3 (b) Reimbursements made pursuant to subdivision
4 (a) shall be made as follows:

5 (1) A member appointed from a district that is
6 specifically named in subdivision (c) of Section 39510
7 shall be reimbursed by the district from which the person
8 qualified for membership.

9 (2) The member appointed as a board member of a
10 district that is not specifically named in subdivision (c) of
11 Section 39510 shall be reimbursed by the state board.

12 SEC. 5. Section 39513 of the Health and Safety Code
13 is amended to read:

14 39513. The state board shall hold regular meetings at
15 least twice a month. Special meetings may be called by
16 the chair or upon the request of a majority of the
17 members. Each member of the state board shall receive
18 the member's actual necessary traveling ~~expenses~~
19 ~~incurred in the performance of official duties.~~ *duties.*
20 *Time spent in these board meetings shall count toward*
21 *the sixty hours per month work requirement specified in*
22 *Section 11564 of the Government Code.*

23 SEC. 6. Section 39515 of the Health and Safety Code
24 is amended to read:

25 39515. (a) The state board shall appoint an executive
26 officer who shall serve at the pleasure of the state board
27 and, except as provided in subdivision (d), may delegate
28 any duty to the executive officer that the state board
29 deems appropriate.

30 (b) The intention of the Legislature is hereby declared
31 to be that the executive officer shall perform and
32 discharge, under the direction and control of the state
33 board, the powers, duties, purposes, functions, and
34 jurisdiction vested in the state board and delegated to the
35 executive officer by the state board.

36 (c) The state board shall, upon the receipt of a petition
37 from any affected member of the public, affected district,
38 or designated air quality planning agency, hold a public
39 hearing to review any action taken by the executive
40 officer pursuant to Section 41650, 41651, or 41652.



1 (d) Any action taken by the executive officer pursuant
2 to Section 40469 or Sections 41503 to 41505, inclusive, shall
3 be subject to Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2 of the Government
5 Code.

6 SEC. 7. Section 39604 of the Health and Safety Code
7 is amended to read:

8 39604. (a) The state board shall submit to the
9 Governor and the Legislature, not later than January 1,
10 1985, and every two years thereafter, a biennial report on
11 air quality conditions and trends statewide and on the
12 status and effectiveness of state and local air quality
13 programs.

14 (b) The report shall include, but not be limited to, all
15 of the following:

16 (1) A review of air quality trends in each air basin over
17 the most recent five-calendar-year period for which a
18 complete data record is available.

19 (2) A statement of the number of violations of air
20 quality standards that occurred in each air basin over the
21 most recent two calendar years for which a complete data
22 record is available, and a comparison of the number of
23 violations to those in prior years.

24 (3) A listing of any changes in state ambient air quality
25 standards adopted by the board over the previous two
26 calendar years.

27 (4) A summary of the results of research projects
28 concluded during the previous two years, the status of
29 current research projects, and the conduct of the
30 research program pursuant to Section 39703.

31 (5) A summary of any actions taken by the state board
32 to assume the powers of districts under Section 39808.

33 (6) A summary of the effects of any significant federal
34 actions over the previous two years that have affected
35 state air quality or air quality programs.

36 (7) A summary of the status of the state
37 implementation plan for achieving and maintaining
38 ambient air quality standards.

39 (8) A summary of the state board's actions in the
40 previous two calendar years to control toxic air pollutants



1 pursuant to Chapter 3.5 (commencing with Section
2 39650).

3 (9) A summary of actions of the state board in
4 controlling emissions from motor vehicles during the
5 previous two-year period.

6 (10) A summary of significant actions taken by districts
7 to control emissions from nonvehicular sources during
8 the previous two-year period. This summary shall not
9 include a district by district analysis for each district in the
10 state, but shall include an overall analysis.

11 (11) A list of recommendations for legislation or
12 administrative actions to resolve specific air quality
13 problems in the state.

14 SEC. 8. Section 39671 of the Health and Safety Code
15 is amended to read:

16 39671. The terms of the members of the Scientific
17 Review Panel on Toxic Air Contaminants appointed
18 pursuant to subdivision (b) of Section 39670 shall be
19 staggered so that the terms of three members expire each
20 year.

21 SEC. 9. Section 39807 of the Health and Safety Code
22 is amended to read:

23 39807. The subvention otherwise due a district may
24 be reduced by the state board up to an amount equal to
25 the funds that are granted to the district by the federal
26 government. In so reducing a subvention, the state board
27 shall take into account all of the following factors:

28 (a) The purpose for which the federal funds were
29 granted.

30 (b) The needs of the district in relationship to the
31 needs of other districts.

32 (c) Any special and worthy programs conducted by
33 the district not required by the plan or program approved
34 by the state board pursuant to Section 41500.

35 (d) The severity of air pollution within the district.

36 (e) Any other factors that the state board reasonably
37 determines should be considered.

38 SEC. 10. Section 40162 of the Health and Safety Code
39 is amended to read:



1 40162. Funding of the San Joaquin Valley Unified Air
2 Pollution Control District, or, if the unified district ceases
3 to exist, of the valley district if created pursuant to Section
4 5 of Chapter 915 of the Statutes of 1994, may be provided
5 by, but is not limited to, grants, subventions, permit fees,
6 penalties, and vehicle license fees. Notwithstanding any
7 other provision of law, no funding contribution shall be
8 required from the counties or cities included in the
9 unified district or valley district.

10 SEC. 11. Section 40416 of the Health and Safety Code
11 is repealed.

12 SEC. 12. Section 40450 of the Health and Safety Code
13 is amended to read:

14 40450. Except as provided in Section 40449 regarding
15 the adoption of stricter orders, rules, and regulations than
16 those of the south coast district board, the board of
17 supervisors of any county included, in whole or in part,
18 within the south coast district shall have no authority,
19 with respect to the control of air pollution in that part of
20 the county included within the south coast district.

21 SEC. 13. Section 40452 of the Health and Safety Code
22 is amended to read:

23 40452. The south coast district shall submit an annual
24 report to the state board and the Legislature
25 summarizing its regulatory activities for the preceding
26 calendar year. The report shall include all of the
27 following:

28 (a) A summary of each major rule and rule
29 amendment adopted by the south coast district board.
30 The summary shall include emission reductions to be
31 accomplished by each rule or regulation; the cost per ton
32 of emission reduction to be achieved from each rule or
33 regulation; other alternatives that were considered
34 through the environmental assessment process; the cost
35 per ton of comparable emission reductions that could
36 have been achieved from each alternative; a statement of
37 the reason why a given alternative was chosen; the
38 conclusions and recommendations of the district's
39 socioeconomic analysis, including any evaluations of
40 employment impacts; and the source of funding for the



1 rule or regulation. For the purposes of this subdivision, a
2 major rule or rule amendment is one that is intended to
3 significantly affect air quality or that imposes emission
4 limitations.

5 (b) The number of permits to operate or to construct,
6 by type of industry, that are issued and denied, and the
7 number of permits to operate that are not renewed.

8 (c) Data on emission offset transactions and
9 applications, by pollutant, during the previous fiscal year,
10 including an accounting of the number of applications for
11 permits for new or modified sources that were denied
12 because of the unavailability of emission offsets.

13 (d) The district's forecast of budget and staff increases
14 proposed for the following fiscal year, and projected for
15 the next two fiscal years. Budget and staff increases shall
16 be related to existing programs and rules, and to new
17 programs or rules to be adopted during the following
18 years. The budget forecast shall provide a workload
19 justification for proposed budget and staff changes and
20 shall identify any cost savings to be achieved by program
21 or staff changes. The budget forecast shall include
22 increases in permit fees and other fees proposed for the
23 following fiscal year and projected for the next two fiscal
24 years.

25 (e) An identification of the source of all revenues
26 collected that are used, or proposed to be used, to finance
27 activities related to either stationary or nonstationary
28 sources.

29 (f) A response to audit recommendations pursuant to
30 Section 40453. The response shall include proposed
31 statutory changes needed to implement the
32 recommendations.

33 (g) The results of the clean fuels program as specified
34 in Section 40448.5. This element of the report shall be
35 submitted biennially.

36 SEC. 14. Section 40454 of the Health and Safety Code
37 is amended to read:

38 40454. (a) Notwithstanding Section 40716 or 40717,
39 or subdivision (c) of Section 40717.5, the south coast
40 district shall not adopt or enforce any rule or regulation



1 that would require any employer to submit a trip
2 reduction plan.

3 (b) The south coast district may require employers
4 with 100 or more employees at a single worksite to
5 provide ride-matching information and transit
6 information to employees at that worksite.

7 SEC. 15. Section 40484 of the Health and Safety Code
8 is repealed.

9 SEC. 16. Section 40500.1 of the Health and Safety
10 Code is amended to read:

11 40500.1. (a) Except as required to comply with the
12 Clean Air Act (42 U.S.C. Sec. 7401 et seq.), fees assessed
13 on stationary sources in the south coast district pursuant
14 to Sections 40500 and 40510 shall not exceed, for any fiscal
15 year, the actual costs of district programs pursuant to this
16 article for the immediately preceding fiscal year with an
17 adjustment not greater than the change in the California
18 Consumer Price Index, for the preceding calendar year,
19 from January 1 of the prior year to January 1 of the current
20 year, as determined by the Department of Industrial
21 Relations.

22 (b) Unless specifically authorized by statute, the total
23 amount of all of the fees collected by the south coast
24 district from stationary sources of emissions in the 1995–96
25 fiscal year, and in each subsequent fiscal year, shall not
26 exceed the level of expenditure in the 1993–94 fiscal year,
27 except that the total fee amount may be adjusted annually
28 by not more than the percentage increase in the
29 California Consumer Price Index, as specified in
30 subdivision (a).

31 (c) Any new state or federal mandate that is applicable
32 to the south coast district on and after January 1, 1994,
33 shall not be subject to this section.

34 SEC. 17. Section 40503 of the Health and Safety Code
35 is amended to read:

36 40503. (a) The south coast district hearing board, in
37 determining whether the petitioner has presented
38 evidence sufficient to make the findings specified in
39 subdivision (a) of Section 42352, shall consider, in



1 addition to any other relevant factors, both of the
2 following:

3 (1) In determining whether conditions exist that are
4 beyond the reasonable control of the petitioner, the
5 hearing board shall consider whether the petitioner took
6 actions to comply or seek a variance, that were timely and
7 reasonable under the circumstances. In so doing, the
8 hearing board shall consider actions taken by the
9 petitioner since the adoption of the rule from which the
10 variance is sought.

11 (2) In determining whether requiring compliance
12 would result in either an arbitrary or unreasonable taking
13 of property or the practical closing and elimination of a
14 lawful business, the hearing board shall consider whether
15 an unreasonable burden would be imposed upon the
16 petitioner if immediate compliance is required.

17 (b) (1) As used in this subdivision, “small business”
18 means a business that is independently owned and
19 operated and meets all of the following criteria:

20 (A) The number of employees is 10 or less.

21 (B) The total gross annual receipts are five hundred
22 thousand dollars (\$500,000) or less.

23 (C) Emits not more than four tons per year of any
24 nonattainment air contaminant or its precursor.

25 (2) If the petitioner is a small business, the hearing
26 board shall consider the factors specified in subdivision
27 (a) in the following manner:

28 (A) In determining whether the petitioner took
29 timely actions to comply or seek a variance, the hearing
30 board shall make specific inquiries into the reasons for
31 any claimed ignorance of the requirement from which a
32 variance is sought.

33 (B) In determining whether the petitioner took
34 reasonable actions to comply, the hearing board shall
35 make specific inquiries into the petitioner’s financial and
36 other capabilities to comply.

37 (C) In determining whether the burden of requiring
38 immediate compliance would be unreasonable, the
39 hearing board shall make specific inquiries into, and shall
40 balance, the impact to the petitioner’s business and the



1 benefit to the environment that would result if the
2 petitioner is required to immediately comply.

3 (c) Where the petitioner is a governmental agency,
4 public district, or any other governmental or public
5 entity, in determining whether an unreasonable burden
6 would be imposed, the hearing board shall consider any
7 effects of requiring immediate compliance on the
8 availability of essential public services.

9 SEC. 18. Section 40515 of the Health and Safety Code
10 is amended to read:

11 40515. (a) Any public utility owned by a municipal
12 corporation within the south coast district shall provide
13 public notice, pursuant to subdivision (b), before
14 submitting to the board of the south coast district any
15 application for a permit to construct or operate any
16 facility, machine, or contrivance that would be used for
17 water treatment and would emit toxic air contaminants.

18 (b) A public utility specified in subdivision (a) shall
19 mail, post, deliver, or use any other practical method to
20 notify all residents and persons who own property within
21 330 feet of the property containing the proposed facility,
22 machine, or contrivance. The notice shall include a
23 description of the proposed facility, machine, or
24 contrivance and an explanation of the right to petition the
25 south coast district board to hold a hearing pursuant to
26 Section 40509.

27 SEC. 19. Section 40521 of the Health and Safety Code
28 is amended to read:

29 40521. (a) For each fiscal year, the percentage
30 increase in the county apportionments by the south coast
31 district board may not exceed the percentage increase in
32 the California Consumer Price Index as specified in
33 Section 2212 of the Revenue and Taxation Code, or the
34 percentage increase in the total county property tax
35 revenues for the counties included, in whole or in part,
36 within the south coast district, whichever is greater.

37 (b) The limitations specified in subdivision (a) shall
38 not apply to increases in apportionments resulting from
39 the termination of federal or state allocations to the south



1 coast district, if the south coast district board votes to
2 continue the programs financed with those funds.

3 SEC. 20. Section 40524 of the Health and Safety Code
4 is repealed.

5 SEC. 21. Section 40709.7 of the Health and Safety
6 Code is amended to read:

7 40709.7. (a) For the purposes of this section,
8 “military base” means a military base that is designated
9 for closure or downward realignment pursuant to the
10 Defense Base Closure and Realignment Act of 1988 (P.L.
11 100-526) or the Defense Base Closure and Realignment
12 Act of 1990 (10 U.S.C. Sec. 2687 et seq.).

13 (b) For the purposes of this section, “base reuse
14 authority” means the authority recognized pursuant to
15 Section 65050 of the Government Code.

16 (c) An appropriate entity of the federal government
17 may apply to the district for emission reduction credits
18 that result from reduced emissions from a military base
19 by June 1, 1995, or within 180 days of the reduction in
20 emissions, whichever occurs later, if the federal
21 government is eligible under district regulations to file
22 and receive emission reduction credits on December 31,
23 1994.

24 (d) Not later than July 1, 1995, or six months from the
25 date that the base closure or realignment decision
26 becomes final, whichever occurs last, the district shall
27 request and attempt to obtain all records maintained by
28 a military base that are necessary to quantify emission
29 reductions, including, but not limited to, records on the
30 operation of any equipment that emits air contaminants,
31 provided that the district either waives the payment of
32 direct costs to obtain the records or enters into an
33 agreement with the appropriate entity of the federal
34 government or the base reuse authority for the payment
35 of the direct costs to obtain the records. The district shall
36 maintain these records.

37 (e) (1) A base reuse authority may apply to a district,
38 under the emission reductions banking system
39 established pursuant to Section 40709, for any reductions



1 in emissions related to the termination or reduction of
2 operations at the military base under its jurisdiction.

3 (2) The district shall quantify and bank the emission
4 reductions for a closing or realigning military base within
5 180 days of a request by a base reuse authority and
6 payment of any applicable fees, if one of the following
7 events has occurred:

8 (A) The federal government agrees in writing to allow
9 the base reuse authority to apply for and receive the
10 emission reduction credits.

11 (B) The time period for the federal government to
12 apply for emission reduction credits pursuant to
13 subdivision (c) has expired and the federal government
14 has not applied for the credits.

15 (C) The base reuse authority has, pursuant to other
16 legal means, obtained the authority to acquire the
17 emission reduction credits.

18 (f) The district shall permanently retire the emission
19 reduction credits obtained pursuant to this section by 5
20 percent to improve air quality.

21 (g) The baseline for quantifying emission reductions
22 shall be the date that the base closure or realignment
23 decision becomes final. The two-year period ending on
24 the date that the base closure or realignment decision was
25 made shall be used to determine average emissions from
26 the military base unless this two-year period is not
27 representative of normal operations, in which case an
28 alternative, consecutive, two-year period that is within
29 the five years prior to the baseline date may be used, as
30 determined by the district.

31 (h) After registration, certification, or other approval
32 of the emission reductions by a district air pollution
33 control officer pursuant to subdivision (a) of Section
34 40709 and this section, the base reuse authority shall be
35 deemed the owner of the emissions source for purposes
36 of the issuance of a certificate pursuant to Section 40710.
37 Upon receipt of the certificate, or other approval, the
38 base reuse authority may use, sell, or otherwise dispose of
39 the emission reduction credits as determined by the base



1 reuse authority, provided that the credits may only be
2 used for base reuse within the jurisdiction of the district.

3 SEC. 22. Section 40717.5 of the Health and Safety
4 Code is amended to read:

5 40717.5. (a) Any district that proposes to adopt or
6 amend a rule or regulation pursuant to Section 40716 or
7 40717, which imposes any requirement on an indirect
8 source to reduce vehicle trips or vehicle miles traveled,
9 including, but not limited to, any rule or regulation
10 affecting ridesharing or alternative transportation mode
11 strategies, shall, prior to the adoption or amendment of
12 the rule or regulation, do all of the following:

13 (1) Ensure, to the extent feasible, and based upon the
14 best available information, assumptions, and
15 methodologies that are reviewed and adopted at a public
16 hearing, that the proposed rule or regulation would
17 require an indirect source to reduce vehicular emissions
18 only to the extent that the district determines that the
19 source contributes to air pollution by generating vehicle
20 trips that would not otherwise occur. In complying with
21 this paragraph, a district shall make reasonable and
22 feasible efforts to assign responsibility for existing and
23 new vehicle trips in a manner that equitably distributes
24 responsibility among indirect sources.

25 (2) Ensure that, to the extent feasible, the proposed
26 rule or regulation does not require an indirect source to
27 reduce vehicular trips that are required to be reduced by
28 other rules or regulations adopted for the same purpose.

29 (3) Take into account the feasibility of implementing
30 the proposed rule or regulation.

31 (4) Pursuant to Section 40922, consider the cost
32 effectiveness of the proposed rule or regulation.

33 (5) Determine that the proposed rule or regulation
34 would not place any requirement on public agencies or
35 on indirect sources that would duplicate any requirement
36 placed upon those public agencies or indirect sources as
37 a result of another rule or regulation adopted pursuant to
38 Section 40716 or 40717.

39 (b) A district may delegate to any city or county the
40 responsibility to implement a rule or regulation that is



1 subject to subdivision (a). However, if an indirect source
2 subject to the rule or regulation has sites located both
3 within and outside of the jurisdiction of a city or county
4 to which that responsibility has been delegated, the
5 indirect source may elect to be subject to the
6 implementation of that rule or regulation only by the
7 district. Notwithstanding Section 40454, an indirect
8 source that elects to be regulated only by a district
9 pursuant to this subdivision may also elect to include sites
10 under district regulation that would not otherwise be
11 subject to district regulation, and, in that event, shall not
12 be subject to the implementation by a city or county of
13 any requirement contained in that rule or regulation.

14 (c) (1) Nothing in this section constitutes an
15 infringement on the existing authority of counties and
16 cities to plan, control, or condition land use, or on the
17 ability of a city, county, or other public agency to impose
18 trip reduction measures pursuant to a voter-mandated
19 growth management program.

20 (2) Nothing in this section provides or transfers new
21 authority over land use to a district.

22 SEC. 23. Section 40962 of the Health and Safety Code
23 is repealed.

24 SEC. 24. Section 41212 of the Health and Safety Code
25 is repealed.

26 SEC. 25. Section 41242 of the Health and Safety Code
27 is repealed.

28 SEC. 26. Section 41261 of the Health and Safety Code
29 is amended to read:

30 41261. The air pollution control officer (APCO) and
31 designated deputies of the Mojave Desert District shall
32 serve at the pleasure of the Mojave Desert district board,
33 and shall receive the compensation that is determined by
34 the Mojave Desert district board.

35 SEC. 27. Section 41263 of the Health and Safety Code
36 is repealed.

37 SEC. 28. Section 41500 of the Health and Safety Code
38 is amended to read:

39 41500. To coordinate air pollution control activities
40 throughout the state, and to ensure that the entire state



1 is, or will be, in compliance with the standards adopted
2 pursuant to Section 39606, the state board shall do all of
3 the following:

4 (a) Review the district attainment plans submitted
5 pursuant to Section 40911, and the revised plans
6 submitted pursuant to Section 40925, to determine
7 whether the plans will achieve and maintain the state’s
8 ambient air quality standards by the earliest practicable
9 date.

10 (b) Review the rules and regulations and programs
11 submitted by the districts pursuant to Section 40704 to
12 determine whether they are sufficiently effective to
13 achieve and maintain the state ambient air quality
14 standards.

15 (c) Review the enforcement practices of the districts
16 and local agencies delegated authority by districts
17 pursuant to Section 40717 to determine whether
18 reasonable action is being taken to enforce their
19 programs, rules, and regulations.

20 SEC. 29. Section 41500.5 of the Health and Safety
21 Code is amended to read:

22 41500.5. Notwithstanding any other provision of law,
23 any plan required by this division shall be subject to
24 Article 5.5 (commencing with Section 53098) of Chapter
25 1 of Part 1 of Division 2 of Title 5 of the Government Code.

26 SEC. 30. Section 41507 of the Health and Safety Code
27 is repealed.

28 SEC. 31. Section 41518 of the Health and Safety Code
29 is repealed.

30 SEC. 32. Section 41519 of the Health and Safety Code
31 is repealed.

32 SEC. 33. Section 41520 of the Health and Safety Code
33 is repealed.

34 SEC. 34. Section 41600 of the Health and Safety Code
35 is amended to read:

36 41600. (a) The districts shall provide for, and shall
37 periodically revise as appropriate, the growth allowances
38 necessary to accommodate the net air quality impact, if
39 any, of cogeneration technology projects and resource
40 recovery projects permitted pursuant to Section 42314, so



1 that state and federal ambient air quality standards may
2 be achieved and maintained or that reasonable further
3 progress be made toward attainment.

4 (b) If appropriate, the districts shall submit to the state
5 board, for inclusion in the next state implementation plan
6 revisions, the necessary control measures for the growth
7 allowances for federally approved nonattainment
8 pollutants and precursors required by subdivision (a).

9 (c) Any district that lacks a federally approved
10 demonstration of attainment with the national ambient
11 air quality standard for ozone or nitrogen dioxide is not
12 required to provide a growth allowance for any pollutant
13 under this section until two years after the district makes
14 both demonstrations. Federal approval shall be
15 determined, based on regulations adopted by the
16 Environmental Protection Agency, after public notice
17 and opportunity for comment. After a district
18 demonstrates attainment, the district may establish a
19 growth allowance by allocating an air quality increment
20 within the ambient air quality standard or through
21 adoption of further control measures.

22 SEC. 35. Section 41704.5 of the Health and Safety
23 Code is repealed.

24 SEC. 36. Section 41865 of the Health and Safety Code
25 is amended to read:

26 41865. (a) This section shall be known, and may be
27 cited, as the Connelly-Areias-Chandler Rice Straw
28 Burning Reduction Act of 1991.

29 (b) As used in this section:

30 (1) "Sacramento Valley Air Basin" means the area
31 designated by the state board pursuant to Section 39606.

32 (2) "Air pollution control council" means the
33 Sacramento Valley Basinwide Air Pollution Control
34 Council authorized pursuant to Section 40900.

35 (3) "Conditional rice straw burning permit" means a
36 permit to burn granted pursuant to subdivisions (f) and
37 (h).

38 (4) "Allowable acres to be burned" means the number
39 of acres that may be burned pursuant to subdivision (c).



1 (5) "Department" means the Department of Food
2 and Agriculture.

3 (6) "Maximum fall burn acres" means the maximum
4 amount of rice acreage that may be burned from
5 September 1 to December 31, inclusive, of each year.

6 (7) "Maximum spring burn acres" means the
7 maximum amount of rice acreage that may be burned
8 from January 1 to May 31 of the following year, inclusive.

9 (c) Notwithstanding Section 41850, rice straw burning
10 in counties in the Sacramento Valley Air Basin shall be
11 phased down, as follows:

12 (1) From 1998 to 2000, the maximum spring and fall
13 burn acres shall be the following number of acres planted
14 prior to September 1 of each year:

	Maximum Fall Burn	Maximum Spring Burn
Year	Acres	Acres
1998	90,000	110,000
1999	90,000	110,000
2000	90,000	110,000

21
22 (2) Notwithstanding paragraph (1), any of the 90,000
23 acres allocated in the fall that are not burned may be
24 added to the maximum spring burn acres, provided that
25 the maximum spring burn acres does not exceed 160,000
26 acres.

27 (3) Notwithstanding paragraph (1), the maximum
28 acres burned between January 1, 1998, and August 31,
29 1998, shall be limited so that the total acres burned
30 between September 1, 1997, and August 31, 1998, do not
31 exceed 38 percent of the total acres planted prior to
32 September 1, 1997.

33 (4) In 2001 and thereafter, the maximum annual burn
34 acres shall be the number of acres prescribed in
35 subdivision (i), subject to subdivisions (f) and (h).

36 (d) The number of allowable acres to be burned each
37 day shall be determined by the state board and the air
38 pollution control officers in the Sacramento Valley Air
39 Basin and equitably allocated among rice growers in
40 accordance with the annual agricultural burning plan



1 adopted by the air pollution control council and approved
2 by the state board.

3 (e) On or before September 1, 2000, the state board, in
4 consultation with the department and the air pollution
5 control council, shall adopt regulations consistent with
6 the criteria provided in subdivisions (f) and (h). On or
7 before September 1, 1996, an advisory group shall be
8 established by the state board and the department to
9 assist in the adoption of those regulations.

10 (f) Commencing September 1, 2001, the county air
11 pollution control officers in the Sacramento Valley Air
12 Basin may grant conditional rice straw burning permits
13 once the county agricultural commissioner has
14 determined that the applicant has met the conditions
15 specified in subdivision (h). The county agricultural
16 commissioner shall be responsible for all field inspections
17 associated with the issuance of conditional rice straw
18 burning permits. A conditional rice straw burning permit
19 shall be valid for only one burn, per field, per year.

20 (g) The county agricultural commissioner may charge
21 the applicant a fee not to exceed the costs incurred by the
22 county agricultural commissioner in making the
23 determination specified in subdivision (f). This
24 subdivision shall be operative only until January 1, 2009.

25 (h) If the terms and conditions for issuing conditional
26 rice straw burning permits specified in paragraphs (1) to
27 (4), inclusive, are met, a conditional rice straw burning
28 permit may be issued unless the state board and the
29 department have jointly determined, based upon an
30 annual review process, that there are other economically
31 and technically feasible alternative means of eliminating
32 the disease that are not substantially more costly to the
33 applicant. The terms and conditions for issuing the
34 conditional rice straw burning permits are:

35 (1) The fields to be burned are specifically described.

36 (2) The applicant has not violated any provision of this
37 section within the previous three years.

38 (3) During the growing season, the county
39 agricultural commissioner has independently
40 determined the significant presence of a pathogen in an



1 amount sufficient to constitute a rice disease such as stem
2 rot.

3 (4) The county agricultural commissioner makes a
4 finding that the existence of the pathogen as identified in
5 paragraph (3) will likely cause a significant, quantifiable
6 reduction in yield in the field to be burned during the
7 current or next growing season. The findings of the
8 county agricultural commissioner shall be based on
9 recommendations adopted by the advisory group
10 established pursuant to subdivision (e).

11 (i) (1) The maximum annual number of acres burned
12 in the Sacramento Valley Air Basin pursuant to paragraph
13 (4) of subdivision (c) shall be the lesser of:

14 (A) The total of 25 percent of each individual
15 applicant's planted acres that year.

16 (B) A total of 125,000 acres planted in the Sacramento
17 Valley Air Basin.

18 (2) Each grower shall be eligible to burn up to 25
19 percent of the grower's planted acres, as determined by
20 the air pollution control officers in the Sacramento Valley
21 Air Basin and subject to the maximum annual number of
22 acres burned set forth in paragraph (1), if the grower has
23 met the criteria for a conditional rice straw burning
24 permit.

25 (3) The air pollution control council shall annually
26 determine which is the lesser of subparagraphs (A) and
27 (B) of paragraph (1), and shall determine the maximum
28 percentage applicable to all growers subject to the
29 conditions set forth in subdivisions (f) and (h).

30 (4) A grower who owns or operates 400 acres or less
31 who has met the criteria for the issuance of a conditional
32 rice straw burning permit may burn his or her entire
33 acreage once every four years, provided that the limit
34 prescribed in paragraph (1) is not exceeded.

35 (5) Nothing in this subdivision shall permit an
36 applicant to transfer, sell, or trade any permission to burn
37 granted pursuant to this subdivision to another applicant
38 or individual.

39 (j) The state board and the department shall jointly
40 determine if the allowable acres to be burned, as



1 provided in subdivisions (c), (f), and (h), may be
2 exceeded due to extraordinary circumstances, such as an
3 act of God, that have an impact over a continuing
4 duration and make alternatives other than burning
5 unusable.

6 (k) "Administrative burning" means burning of
7 vegetative materials along roads, in ditches, and on levees
8 adjacent to or within a rice field, or the burning of
9 vegetative materials on rice research facilities authorized
10 by the county agricultural commissioner, not to exceed
11 2,000 acres. Administrative burning conducted in
12 accordance with Section 41852 is not subject to this
13 section.

14 (l) (1) On or before September 1, 1992, the state
15 board and the department shall jointly establish an
16 advisory committee composed of 10 members to assist
17 with the identification and implementation of
18 alternatives to rice straw burning. Members of the
19 committee shall be from the Sacramento Valley Air Basin,
20 and the committee shall consist of two rice growers, two
21 representatives from the environmental community, two
22 health officials, two county supervisors or their designees,
23 one member from the air pollution control council, and
24 one member from the business community with expertise
25 in market or product development. The committee shall
26 meet at least annually. General Fund moneys shall not be
27 used to support the committee.

28 (2) The committee shall develop a list of priority goals
29 for the development of alternative uses of rice straw for
30 the purpose of developing feasible and cost-effective
31 alternatives to rice straw burning. These goals shall
32 include, but not be limited to, research on alternatives,
33 economic incentives to encourage alternative uses, and
34 new product development.

35 (m) On or before September 1, 1998, the state board,
36 in consultation with the department, the advisory
37 committee, and the Department of Commerce, shall
38 develop an implementation plan and a schedule to
39 achieve diversion of not less than 50 percent of rice straw
40 produced toward off-field uses by 2000. Off-field uses may



1 include, but are not limited to, the production of energy
2 and fuels, construction materials, pulp and paper, and
3 livestock feed.

4 (n) On or before September 1, 1999, the state board
5 and the department shall jointly report to the Legislature
6 on the progress of the phasedown of, and the
7 identification and implementation of alternatives to, rice
8 straw burning. This report shall include an economic and
9 environmental assessment, the status of feasible and
10 cost-effective alternatives to rice straw burning,
11 recommendations from the advisory committee on the
12 development of alternatives to rice straw burning, the
13 status of the implementation plan and the schedule
14 required by subdivision (m), progress toward achieving
15 the 50 percent diversion goal, any recommended changes
16 to this section, and other issues related to this section. The
17 report shall be updated biennially and transmitted to the
18 Legislature not later than September 1 of each
19 odd-numbered year. The state board may adjust the
20 district burn permit fees specified in subdivision (s) to
21 pay for the preparation of the report and its updates. The
22 districts shall collect and remit the adjustment to the state
23 board, which shall deposit the fees in the Motor Vehicle
24 Account in the State Transportation Fund. It shall be the
25 goal of the state board and the department that the cost
26 of the report and its updates shall not exceed fifty
27 thousand dollars (\$50,000).

28 (o) The state board and the California Department of
29 Food and Agriculture shall jointly collect and analyze all
30 available data relevant to the air quality and public health
31 impacts and, to the extent feasible, the economic impacts,
32 that may be associated with the burning of rice straw
33 pursuant to the schedule provided in subparagraph (1) of
34 subdivision (c). On or before July 1, 2001, the state board
35 shall submit a report to the Legislature presenting its
36 findings regarding the air quality, public health, and
37 economic impacts associated with the burning of rice
38 straw pursuant to the schedule provided in paragraph (1)
39 of subdivision (c).



1 (p) The Legislature hereby finds and declares as
2 follows:

3 (1) Because of the requirements imposed by this
4 section, rice straw that was previously burned may
5 present, as solid waste, a new disposal problem.

6 (2) The state should assist local governments and
7 growers in diverting rice straw from landfills by
8 researching and developing diversion options.

9 (q) It is the intent of the Legislature that all feasible
10 alternatives to rice straw burning and options for
11 diverting rice straw from landfills be encouraged.

12 (r) This subdivision confirms that reductions in
13 emissions from rice straw burning qualify for air quality
14 offsets, in accordance with paragraphs (1) and (2).

15 (1) These credits shall meet the requirements
16 specified in state law and district rules and regulations,
17 and shall comply with applicable district banking rules
18 established pursuant to Sections 40709 to 40713, inclusive.
19 Districts are urged to establish banking systems in
20 accordance with Sections 40709 to 40713, inclusive. The
21 state board may adopt regulations to implement this
22 subdivision, including, but not limited to, consideration of
23 the seasonal and intermittent nature of rice straw
24 burning emissions. In developing the regulations, the
25 state board shall consult with all concerned parties.
26 However, emission reduction credits that would
27 otherwise accrue from reductions in emissions from rice
28 straw burning shall not be affected or negated by the
29 phasedown of burning, as specified in subdivision (c).

30 (2) Reductions in emissions achieved in compliance
31 with subdivision (c) that are banked or used as credits
32 shall not be credited for purposes of attainment planning
33 and progress towards the attainment of any state or
34 national ambient air quality standard as required by state
35 and federal law.

36 (s) (1) Any person who negligently or intentionally
37 violates any provision of this article is guilty of a
38 misdemeanor and is subject to a fine of not more than ten
39 thousand dollars (\$10,000), imprisonment in the county
40 jail for not more than nine months, or by both that fine



1 and imprisonment. This subdivision applies only to
2 agricultural burning in the Sacramento Valley Air Basin.

3 (2) Any person who negligently or intentionally
4 violates any provision in this article is liable for a civil
5 penalty of not more than ten thousand dollars (\$10,000).
6 This subdivision applies only to agricultural burning in
7 the Sacramento Valley Air Basin.

8 (t) Districts in the Sacramento Valley Air Basin shall
9 impose fees on growers to cover the cost of implementing
10 this section pursuant to Section 42311.

11 (u) To the extent that resources are available, the state
12 board and the agencies with jurisdiction over air quality
13 within the Sacramento Valley Air Basin shall do both of
14 the following:

15 (1) Improve responses to citizen complaints, and, to
16 the extent feasible, immediately investigate and analyze
17 smoke complaints from the public to identify factors that
18 contribute to complaints and to develop better smoke
19 control measures to be included in the agricultural
20 burning plan, keep a record of all complaints, coordinate
21 among other agencies on citizens' complaints, and
22 investigate the source of the pollution causing the
23 complaint.

24 (2) Respond more quickly to requests for update from
25 county air pollution control officers to help maximize
26 burning days when meteorological conditions are best
27 suited for smoke dispersion.

28 SEC. 37. Section 41900 of the Health and Safety Code
29 is repealed.

30 SEC. 38. Section 41981 of the Health and Safety Code
31 is repealed.

32 SEC. 39. Section 42301.5 of the Health and Safety
33 Code is amended to read:

34 42301.5. (a) Any article, machine, equipment, or
35 contrivance that may emit into the ambient air any toxic
36 air contaminant identified pursuant to Section 39662 shall
37 comply with any regulation adopted by the state board or
38 a district requiring a reduction in emissions of that
39 contaminant or chemical from the article, machine,
40 equipment, or contrivance consistent with a reasonable



1 schedule of compliance, as determined by the state board
2 or the district.

3 (b) (1) Any article, machine, equipment, or
4 contrivance that is located within a district that is
5 designated by the state board as a nonattainment area for
6 any national ambient air quality standard and for which
7 an authority to construct is issued on or after January 1,
8 1988, shall comply with any district regulation that is
9 adopted after December 31, 1982, and that requires a
10 reduction in emissions of any air pollutant, including any
11 precursor of an air pollutant, that interferes with the
12 attainment of the standard, from that article, machine,
13 equipment, or contrivance consistent with a reasonable
14 schedule of compliance, as determined by the district.

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

21 SEC. 40. Section 42301.9 of the Health and Safety
22 Code is amended to read:

23 42301.9. For the purposes of Sections 42301.5 to
24 42301.8, inclusive:

25 (a) "School" means any public or private school used
26 for purposes of the education of more than 12 children in
27 kindergarten or any of grades 1 to 12, inclusive, but does
28 not include any private school in which education is
29 primarily conducted in private homes.

30 (b) "Air contaminant" means any contaminant
31 defined pursuant to Section 39013.

32 (c) "Administering agency" means an agency
33 designated pursuant to Section 25502.

34 (d) "Handle" means handle as defined in Article 1
35 (commencing with Section 25500) of Chapter 6.95 of
36 Division 20 of the Health and Safety Code.

37 SEC. 41. Section 42314 of the Health and Safety Code
38 is amended to read:

39 42314. (a) Notwithstanding any other provision of
40 any district permit system, and except as provided in this



1 section, no district shall require emissions offsets for any
2 cogeneration technology project or resource recovery
3 project that satisfies all of the following requirements:

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

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

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

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

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

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

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

38 (b) This section applies to any project for which an
39 application for an authority to construct is deemed
40 complete by the district after January 1, 1986, only if the



1 project’s net emissions, combined with the net emissions
2 from projects previously permitted under this section,
3 are less than the amount provided for in the applicable
4 growth allowance established by the district pursuant to
5 Section 41600. If a district has not yet provided a growth
6 allowance pursuant to Section 41600, the growth
7 allowance is zero. For purposes of this subdivision, “net
8 emissions” means the project’s emissions, less any offsets
9 provided by the applicant and less utility displacement
10 credits granted pursuant to Section 41605.

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

16 SEC. 42. Section 42314.5 of the Health and Safety
17 Code is amended to read:

18 42314.5. In considering a permit for a facility that
19 utilizes agricultural waste products, forest waste
20 products, or similar organic wastes as biomass fuel in a
21 steam generator (boiler) to produce electrical energy, or
22 to be used as a digester feedstock in a cogeneration
23 facility, the district shall allow offset credits as provided
24 in Sections 41600 and 41605.5.

25 SEC. 43. Section 42405.1 of the Health and Safety
26 Code is amended to read:

27 42405.1. (a) Any person who provides information
28 that materially contributes to the imposition of a civil
29 penalty or criminal fine against any person for violating
30 any provision of this part or any rule, regulation, or order
31 of a district pertaining to mobile source emission
32 regulations or limitations shall be paid a reward pursuant
33 to regulations adopted by the district under subdivision
34 (f). The reward shall not exceed 10 percent of the amount
35 of the civil penalty or criminal fine collected by the
36 district, district attorney, or city attorney. The district
37 shall pay the reward to the person who provides
38 information that results in the imposition of a civil
39 penalty, and the city or the county shall pay the reward
40 to the person who provides information that results in the



1 imposition of a criminal fine. No reward paid pursuant to
2 this subdivision shall exceed five thousand dollars
3 (\$5,000).

4 (b) No informant shall be eligible for a reward for a
5 violation known to the district, unless the information
6 materially contributes to the imposition of criminal or
7 civil penalties for a violation specified in this section.

8 (c) If there is more than one informant for a single
9 violation, the first notification received by the district
10 shall be eligible for the reward. If the notifications are
11 postmarked on the same day or telephoned notifications
12 are received on the same day, the reward shall be divided
13 equally among those informants.

14 (d) Public officers and employees of the United States,
15 the State of California, or districts, counties, and cities in
16 California are not eligible for the reward pursuant to
17 subdivision (a), unless reporting of those violations does
18 not relate in any manner to their responsibilities as public
19 officers or employees.

20 (e) An informant who is an employee of a business and
21 who provides information that the business violated this
22 part is not eligible for a reward if the employee
23 intentionally or negligently caused the violation or if the
24 employee's primary and regular responsibilities included
25 investigating the violation, unless the business knowingly
26 caused the violation.

27 (f) The district shall adopt regulations that establish
28 procedures for a determination of the accuracy and
29 validity of information provided and for the receipt and
30 review of claims for payment of rewards. All decisions
31 concerning the eligibility for a reward and the materiality
32 of the provided information shall be made pursuant to
33 these regulations. In each case brought under subdivision
34 (a), the district, the office of the city attorney, or the
35 district attorney, whichever office brings the action, shall
36 determine whether the information materially
37 contributed to the imposition of civil or criminal penalties
38 for violating any provision of this part or any rule,
39 regulation, or order of a district pertaining to emission
40 regulations or limitations.



1 (g) The district shall continuously publicize the
2 availability of the rewards pursuant to this section for
3 persons who provide information pursuant to this section.

4 (h) Claims may be submitted only for those referrals
5 made on or after January 1, 1989.

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