AIR TOXICS “HOT SPOTS” PROGRAM
PUBLIC NOTIFICATION GUIDELINES

Prepared by the
California Air Pollution Control Officers Association

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http://www.capcoa.org
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1. Introduction

A. Background on the Hot Spots Act

Air toxics are chemicals in the air that can cause cancer or other serious health effects, including reproductive effects and birth defects. We are exposed to air toxics in the air we breathe, and when air toxics are deposited in water and soil, we can be exposed to them through drinking water and food. Air toxics are emitted by many sources. Air toxic emissions may occur from variety of stationary sources. Examples include: metal finishing and manufacturing facilities, oil and gas production facilities, chrome plating facilities, product manufacturing (e.g., food, chemical, and material), stationary diesel engines, and oil refineries. Motor vehicles, consumer products, and pesticide applications are other sources of air toxics emissions.

The California Air Toxics “Hot Spots” Information and Assessment Act (Hot Spots Act) requires regulated facilities to report the types and quantities of toxic air pollutants routinely emitted. The Hot Spots Act requires that stationary sources of air pollution collect and report data on toxic air emissions, and that Districts determine which facilities must conduct health risk assessments (HRAs), using the California Air Resources Board’s Emission Inventory Criteria and Guidelines.

The Hot Spots Act also requires that Districts set thresholds above which any affected residents or businesses are notified of those risk levels (and the fact that the Districts are working with the facilities to reduce the risk). Risks include cancer and non-cancer impacts. These guidelines focus on implementation of this aspect of the law: public notification.

The Health and Safety Code section pertaining to the Air Toxic Hot Spots Program can be found in Appendix C.

B. About These Guidelines

The California Air Pollution Control Officers Association (CAPCOA) first developed Hot Spots Public Notification Guidelines in 1992 with assistance from the California Office of Environmental Health Hazard Assessment (OEHHA) and the California Air Resources Board (ARB). Those guidelines were used by Districts to shape rules and procedures concerning public notification.

In 2015, OEHHA updated the Air Toxics Hot Spots Program: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA Risk Guidance Manual). The Children’s Environmental Health Protection Act of 1999 (Health and Safety Code Section 39606), which requires explicit consideration of infants and children in assessing risks from air toxics, necessitated revisions of the methods for both noncancer and cancer risk assessment. This version of the Guidance Manual updates the previous version (OEHHA, 2003), and reflects advances in the field of risk
assessment along with explicit consideration of infants and children. This new information has resulted in increased potential cancer risk estimates from toxic air pollution. To address these changes, ARB and the Districts (through CAPCOA) are implementing the OEHHA Risk Guidance Manual in the suite of State and local air toxics programs.

Because Districts are evaluating their local Hot Spots programs due to the OEHHA update, the CAPCOA Board of Directors determined that two related sets of guidelines – the Hot Spots Facility Prioritization Guidelines and the Hot Spots Public Notification Guidelines – should be updated to reflect new understanding of toxic risk and the changed public outreach landscape.

How CAPCOA envisions these guidelines will be used by Districts is covered in Section 2B.

C. Preparation of These Guidelines

The updated Hot Spots Public Notification Guidelines were prepared by members of the CAPCOA Public Outreach Committee with direction from the CAPCOA Board of Directors and input from the members of the Toxics and Risk Managers Committee. Air toxics and communications staff from ARB (including ARB Board member Dr. John R. Balmes) and OEHHA were also consulted in the creation of the guidelines.

Stakeholder meetings with representatives from the environmental community and industry were held in December 2015. Drafts of these guidelines were also available for public comment in 2016 before the CAPCOA Board adopted the guidelines in 2016.
2. Minimum Notification Requirements

A. Text of the Statute

The Hot Spots public notification requirements are found in Health & Safety Code 44362(b):

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

Specific elements and requirements of public notification are largely left to the discretion of Districts.

B. Purpose of the Guidelines

Because the law is not specific on what should be included in public notification of significant air toxic risk, these guidelines provide a menu of options for Districts to use in revising their own Hot Spots rules and implementing their programs.

The guidelines are not intended to be prescriptive. Instead, the intent is to provide Districts with options associated with modern public notification. Each District has unique attributes to consider when adopting rules and implementing programs. As such, facets of notification recommended here may not be viable or may be redundant in certain cases.

It is recommended that Districts provide a rigorous public notification process that meets the requirements and intent of the Hot Spots Program. The district’s role in notification is to: 1) establish notification procedures under the Hot Spots Program that facilities are required to follow; 2) specify the criteria for triggering notification; 3) based on review of the approved health risk assessment, identify which facilities have to notify exposed individuals; and 4) ensure that notifications are consistent with the district’s procedures and occur within an acceptable timeframe as defined by the district.
3. Menu of Options: Facility Notification

This section presents the menu of options District may incorporate in their public notification rules dealing with individual facilities. Options for industrywide notifications can be found in Section 4.

A. Notification Letters

The notification letter is a staple of most Hot Spots programs. Despite advances in digital outreach methods, the physical letter mailed to a residence or business or sent home with children enrolled in a neighborhood school is a reliable form of direct notification for the purposes of the Hot Spots program. Notification letters were discussed extensively in the 1992 Public Notification Guidelines, as well.

There are several aspects of the notification letter to consider.

i. **Creation, Distribution and Frequency**

The statute puts the onus on the affected facilities to provide notice of significant toxic risk to the public. However, due to the nature of the Hot Spots program and the need for consistent messaging, the District should be responsible for the creation of the notification letter itself.

Most Districts will develop one or more form notification letters for which specific information on the facility, its emissions (including the specific air toxics at issue) and the results of the HRA can be input. (A sample notification letter is included as Appendix A.)

District rules may allow for facilities to also include a letter explaining the nature of the facility’s processes that lead to emission of the toxic air pollutants and any information on risk reduction measures that have been or may be taken. Any letter from the facility included in a mailing with the District notification letter should be vetted by the District and meet criteria set out in the District’s rules and procedures.

Facilities are responsible for all costs associated with the notification letters, including acquiring mailing lists, and bearing all printing and postage costs. Districts may want to acquire the mailing lists (for example using GIS based on the isopleth) and be responsible for mailing the letters out, with the costs paid by the facility. If the facility acquires the mailing list, Districts should review the list to ensure their own notification rules are being met.

It is recommended that notification letters are sent whenever Districts identify that a facility is posing a significant risk, until risk reduction achievements move a facility under the District threshold for notification. Districts should attempt to identify potentially
affected residences and work sites, as well as other interested parties including but city
and county planning offices and officials.

ii. Format

Risk communication is difficult because of the complexity involved and the emotional
power terms like risk, cancer and toxic carry. As such, the language used in the
notification letter is critical.

Suggestions on the format of the notification letter follows. A sample notification letter
can be found in Appendix A.

- Districts should strive to limit notification letters to no longer than one side of one
  page. A map of the affected area can be printed on the other side of the letter.
  - The notification letter needs to be direct and concise to serve its purpose. While some context is necessary to ensure comprehension, communicating the message quickly, clearly and in simple terms should be a top priority.
  - Where bi-lingual notification is desired, the reverse side of the letter could be in additional languages. See additional information on this point below.

- The notification letter should clearly indicate that it comes from the District.
  - Using District letterhead or logos is a good way to accomplish this.

- The name, location and owner of the facility should be made clear.
  - This can include contact information for facility management.

- The results of the Health Risk Assessment should be clearly stated and should
  be written in simple terms to ensure it is understood by the general public.
  - This point is per the statute: the public notification requirements are focused on communicating the results of the HRA to the affected public for facilities posing significant risks.
  - The HRA results should be stated plainly in terms of the increased cancer and/or non-cancer risk due to the reported emissions at the specific facility.

- A summary of the toxic air pollutant(s) driving the risk should be included.

- A brief explanation as to what the facility does and why that activity causes
  emissions should be included.
  - Helping the public understand the processes used at the facility is critical in building trust.
  - The explanation should not be used to justify the toxic risk posed by the facility. Inclusion should be based solely on providing necessary information to the public.
The particular process that creates the risk should be included, it may not be possible to describe all the processes in place at a particular facility.

- Clear contact information for the District should be included.
  - Whether contact information for an individual staff member or for the District itself is provided will depend on the needs and resources of the District. At minimum, a phone number and email address should be presented.

- The notification letter should include information on any scheduled public meetings, sessions or hearings regarding the facility, or information on how to request a public meeting.
  - As discussed in Section 3B below, Districts may schedule public meetings at which to provide information to the public regarding a facility’s toxic risk. If such a meeting has been scheduled before distribution of the notification letter, the date, time and location of the meeting should be included in the letter.
  - If District rules allow the public to request a meeting, the procedure for doing so should be included in the notification letter.

iii. Supplemental general information on toxic risk

At the time of publication of these guidelines, Districts may be adding a number of sources to their Hot Spot programs due to changes resulting from the OEHHA Guidance Manual update. Sources already within the Hot Spots program may see their HRA risk estimates increase substantially.

Providing a basic explanation of why this has happened can help the public understand why these risks are being communicated now. This could also provide an opportunity for Districts to highlight the substantial work Districts have done to reduce toxic risk from air pollution. The notification letter or a public meeting can be the right place in which to accomplish this.

ARB and CAPCOA will collaborate to prepare a one-page messaging document outlining the change in risk factors and the state’s large reduction in toxic risk from air pollution. This document will be available at a permanent address on the CAPCOA website. This document can also be available to Districts for printing and including in their standard notification letter packets.

CAPCOA will make this document available in multiple languages as well.

iv. In-language considerations
California is home to a rich diversity of cultures and languages. It is critical that as responsible government agencies the Districts provide important information on air toxic risk to all affected residents and businesses regardless of the primary language spoken.

As such, the Districts should in their Hot Spots program rules and procedures develop a method to ensure that non-English speaking parties are reached in their primary language during public notification. Depending on local demographics, some Districts may choose to set a percentile threshold of alternate language speakers over which notification letters will be provided in the alternate language in addition to English.

Several Districts have historically used 5 percent as a reasonable threshold. (That is, if at least 5 percent of residents in the community for which notification is required primarily speak a language other than English, the notification letter should be provided in the other language and English for the entire affected area.) CalEnviroScreen is an effective tool for discerning population language characteristics. Another source for language use data is the U.S. Census. The census data may be especially useful to single county districts. At the time this document was published, census language data was available at the following location:


Districts using notification letter templates may consider translating the templates into all languages that could be needed in the particular region. Alternately, Districts may require facilities to translate the final notification letters (and bear associated costs) before distribution.

If circumstances dictate the need for notification in multiple languages, all further communication about the specific facility as it pertains to toxic risk and notification should be done in multiple languages. For example, if a notification letter is distributed in two languages, postcards concerning a public meeting later distributed should also provide information in both languages.

If public meetings or sessions are held in communities where the in-language threshold is met or there is evident need for information in multiple languages, a translator should be provided. The cost should be borne by the facility.

v. Digital resources

Though much of personal correspondence now occurs through digital means such as email, social media and text messaging, digital communication is not appropriate for baseline public notification on localized issues like toxic risk. Many Californians, particularly those of lower socioeconomic status, do not have reliable Internet access. Districts do not have the resources to develop and maintain robust digital mailing lists that ensure every affected party is captured. Digital outreach is much more suited for opt-in distribution, and there is no reasonable expectation that the public will proactively
opt into digital government notices and update their email address and phone number as necessary.

As such, digital resources should be used only as a supplement for direct mail notification, not as a substitute. Districts may choose to post all notification letters on their website or develop opt-in email lists by which interested parties can elect to receive all notifications within the District digitally. In addition to letters, District’s may wish to provide maps or graphics showing source locations on their websites.

Digital resources are best used providing general information about toxic risk. Districts may also elect to present more detailed results from HRAs for facilities with significant risk online. The website addresses where this information can be found should be included in the physical notification letter, if applicable.

Digital resources may be more effectively used in notification for industrywide sources. See Section 4 for a discussion of industrywide notification.

**B. In-Person Engagement**

Districts may require public meetings in certain or all cases where public notification is required. Meetings and information sessions offer the public an opportunity to directly ask questions of the District and facility and to learn more about how toxic risk is determined and mitigated.

i. Required public meetings

District rules may require certain facilities to hold public meetings after distribution of the notification letter on an annual, biennial or otherwise denoted basis. Districts may require such meetings based on a specific risk threshold (for example, for facilities in the upper echelon of risk) or due to specific community needs.

ii. Public meetings on request

In many cases, due to the size of the affected community or risk level, a public meeting may not be necessary. As such, Districts may instead offer the public a mechanism by which to request a public meeting upon distribution of the notification letter. Members of the public requesting a meeting should have the option of doing so by phone, email, land-based mail or through a form on website, depending on the District’s resources.

Requests for public meetings should be considered only within a reasonable time following the distribution of a notification letter. Districts may elect to set reasonable thresholds in order to grant a public meeting. For example, larger Districts may require that a minimum number of affected residents request the meeting before it is granted.
iii. Meeting format

Because meetings associated with Hot Spots notification are provided for informational purposes, the format is malleable. A best practice in this realm if high attendance is expected is to hold open informational sessions where the District and the facility can set up stations and answer questions on a more one-to-one basis.

These sessions provide the public an opportunity to ask questions directly to experts, learn more generally about toxic risk and provide feedback to the District and facility. Holding an open session may allow more members of the public to attend and be heard as residents can come and go at their leisure. Informational materials should also be made available at the sessions.

If a more standard type of meeting is held, be sure to allow plenty of time for public comment and provide an avenue for written comments for members of the public who are uncomfortable speaking in front of large groups.

iv. Meeting follow-up

Districts should consider having a mechanism by which feedback collected at any public meeting is consolidated with written comments and made available. Districts should also consider collating questions asked by members of the public and provide a document outlining answers to the questions.

Districts should also revisit their Hot Spots notification rules or procedures as needed based on feedback from the public. Collected feedback may be incorporated into the Hot Spots annual report process. That process is discussed briefly in Section 5.
4. Menu of Options: Industrywide Notifications

A. Background on Industrywide Sources

Under the Hot Spots Act, Districts have the latitude to group similar facilities together and perform representative industrywide risk assessments rather than individual assessments for each facility. This facet is built into Districts’ Hot Spots rules. Industrywide notification can also be used for small businesses with similar emissions characteristics that are easily characterized and where individual compliance would impose severe economic hardship. This type of risk assessment and notification could apply, but is not limited to, retail fueling stations, automotive body shops, and emergency standby diesel engines.

Essentially, facilities within these categories that would otherwise be required to complete emissions inventories and Health Risk Assessments under Hot Spots rules may be exempted by Districts from doing so. Instead, Districts may use tools, including those developed by CAPCOA, to produce toxic risk reports which then determine a facility’s risk level.

The intent of allowing industrywide sources at the state level has been to protect small businesses with the potential economic hardships of producing health risk assessments and distributing notification letters while still ensuring that the public has clear information on the potential toxic risks posed by these facilities.

B. Public Notices

In lieu of notification letters for individual facilities, it is recommended that Districts issue public notices to inform the public about potential toxic risk from industrywide sources.

A sample industrywide notice can be found in Appendix B.

The public notice serves much of the same function as the notification letter. The major differences are:

- In lieu of direct mail distribution, the notice is published in the local newspaper of record. It is also recommended that the District posts all public notices on its website, if possible.
- The public notice lists the names and addresses of all facilities covered by the public notice.
- The public notice lists the estimated toxic risk for the toxic air pollutant emitted and the estimated amount. Because different facilities have different risk levels based on the volume of emissions, facilities should be listed with their risk noted.
  - If one industrywide category has multiple groups of facilities which exceed the notification threshold, the District should issue separate public notices relevant to the emissions and risk factor of each group. This approach
may help prevent risk from being understated or overstated for one or more facilities listed on the notice.
- Because of space considerations, the background on air toxic risk may be eliminated if a reference to additional information on air toxic risk is included.
- The District should coordinate the preparation and publication of the notice and divide the costs between the noticed facilities.

Districts may still allow for public meetings for industrywide sources, depending on the level of risk and logistical considerations. As discussed under notification letters in Section 3, the public notice should include information on how to attend or request such a meeting.

Public notices should also be issued in languages other than English as necessary. Districts may consider requiring publication of notices in non-English language newspapers if demographics warrant it (see Section 3.A.iv) and such newspapers are available in an affected community.

C. Mapping Tool

Districts with more sophisticated digital capabilities may consider developing a mapping tool that allows the public to locate industrywide sources that emit toxic air pollution over the notification threshold. While the Hot Spots program is not intended to provide comprehensive toxic risk to the public, mapping tools can provide a clear communication of where toxic air pollution risks occur.

Because public notices are likely to provide less robust notification to affected parties due to the nature of newspaper publishing versus direct mail, an accessible tool where residents can identify significant potential sources of toxic air pollution that are not required to send letters would be useful.

D. Industrywide Distribution Lists

In the interest of expanding notification without placing undue burden on industrywide facilities, Districts should consider offering email list subscriptions to members within their jurisdiction.

Depending on the size of the District, lists can be created for the entire District or geographic subsets such as counties, regions or cities. Subscribers to these lists would receive email alerts when industrywide public notices for facilities within the selected geographic area are issued.

Using this digital tool raises the likelihood of the public being properly aware of potential toxic risk associated with industrywide sources in the absence of direct mail.
i. **Expansion of distribution lists**

Districts may also consider incorporating traditional facility notification letters into this supplemental email subscription list tool. In such a case, residents can opt into receiving notification letters *and* public notices for their given address via email. Traditional notification letters would still be sent via direct mail as required by District rules.
5. Hot Spots Annual Report

The statute requires that Districts prepare an annual report listing facilities subject to the Hot Spots program and describing activities within the District’s Hot Spots program.

The statute also requires that Districts hold an open public hearing for that annual report, and that the approved document is sent to municipal agencies (City Councils and County Boards of Supervisors) and County Public Health Officers within the District’s jurisdiction, as well as ARB. Districts may elect to expand their notification lists to local municipal planning agencies and city/county planning offices, and also to provide information on annual reports through a District listserv, if available.

The Hot Spots annual report function can be integrated into broader community engagement on toxic air pollution given that a public hearing is already required. Districts may consider timing annual industrywide noticing to the annual report’s release in order to consolidate interest.

Districts are also encouraged to post the Hot Spots annual report on a dedicated Hot Spots page within their websites so that interested members of the public can find information year-round.
Appendix A: Sample Letter

Note: this letter is provided to assist Districts in preparing their letters, with the understanding that each District’s letter may be different.

As a part of its mission to protect the public from the harmful effects of air pollution, [DISTRICT] is sending this letter to inform you about potential exposure to toxic air pollutants at your current address. Please share this information with all residents or employees at this address.

[FACILITY] is located at [LOCATION], which is approximately [DISTANCE] from your address. [FACILITY] emits a substance called [SUBSTANCE] into the air in order to [PRODUCT OR PROCESS]. This substance is a toxic air pollutant. Exposure [to this/these substances] may increase your potential risk of developing cancer or experiencing non-cancer adverse health impacts.

For that reason, we have required [FACILITY] to prepare a report estimating the increased potential cancer or non-cancer adverse health risk created by its emission of [SUBSTANCE].

The estimated maximum worker cancer risk is [NUMERATOR] in a million, assuming that emissions from [YEAR] continue for a 25-year career. The maximum estimated resident risk, assuming [30/70] years of exposure, is [NUMERATOR] in a million.

[IF NECESSARY, ADD THE FOLLOWING PARAGRAPH FOR NONCANCER ACUTE AND CHRONIC EXPOSURE]

The potential health effects of [ACUTE/CHRONIC] exposure to the toxic air pollutant(s) [LIST TAC(s)] may cause the following non-cancer adverse health effects [RESPIRATORY, REPRODUCTIVE, ETC.].

In general, estimated risks and potential health effects due to emissions from a facility decrease the farther one is located from the facility. If these conservative assumptions do not apply, your estimated added [cancer/non-cancer adverse health] risk due to exposure to [FACILITY]’s emissions will likely be lower.

Additional information on how airborne toxic risk is calculated and what Air Districts and the State of California are doing to protect the public can be found at [CAPCOA HOT SPOTS PAGE] or by contacting [DISTRICT] at the point of contact below.

[FACILITY] has included a letter in this packet highlighting its work to reduce toxic risk.

[DISTRICT] is committed to helping the public understand toxic air pollution and health risks. Please direct any questions to [CONTACT] at [CONTACT INFO]. More information on the District’s risk reduction program can be found at [DISTRICT HOT SPOTS PAGE].
You can request a meeting with [FACILITY] to discuss this matter. If you would like to request a meeting, please contact [CONTACT] at [CONTACT INFO].

Sincerely,
[APCO or other District Official]
Appendix B: Sample Industrywide Notice

Note: this notice is provided to assist Districts in preparing their notices, with the understanding that each District’s notice may be different.

As a part of its mission to protect the public from the harmful effects of air pollution, [DISTRICT] is publishing this notice to inform you about potential exposure to toxic air pollutants at your current address. Please share this information with all residents or employees at this address.

The following [INDUSTRYWIDE CATEGORY] facilities emit a substance called [SUBSTANCE] into the air in order to [PROCESS]. This substance is a toxic air pollutant. Exposure may increase your risk of getting cancer or experiencing non-cancer adverse health impacts.

[List of facilities and addresses]

We have prepared a report estimating the increased cancer or non-cancer adverse health risk created by these facilities’ emission of [SUBSTANCE]. Based on the report, the maximum worker cancer risk is [NUMERATOR] in a million, assuming that emissions from [YEAR] continue for a 25 year career. The maximum estimated resident risk, assuming [30/70] years of exposure, is [NUMERATOR] in a million.

[And or the following paragraph for noncancer acute and chronic exposure]

The potential health effects of [ACUTE/CHRONIC] exposure to the toxic air pollutant(s) [LIST TAC(s)] may cause the following non-cancer adverse health effects [RESPIRATORY, REPRODUCTIVE, ETC.].

In general, risks due to emissions from a facility decrease the farther one is located from the facility. If these worst-case assumptions do not apply, your estimated added [cancer/non-cancer adverse health] risk due to exposure to the facilities’ emissions will likely be lower.

Additional information on how airborne toxic risk is calculated and what Air Districts and the State of California are doing to protect the public can be found at [CAPCOA HOT SPOTS PAGE].

[DISTRICT] is committed to helping the public understand toxic air pollution and health risks. Please direct any questions to [CONTACT] at [CONTACT INFO]. More information on the District’s risk reduction program can be found at [DISTRICT HOT SPOTS PAGE].

Sincerely,
[APCO or other District Official]
Appendix C: Air Toxics “Hot Spots” Information and Assessment Act of 1987

The act was codified Health and Safety Code as follows.

44300. This part shall be known and may be cited as the Air Toxics "Hot Spots" Information and Assessment Act of 1987.

44301. The Legislature finds and declares all of the following:

(a) In the wake of recent publicity surrounding planned and unplanned releases of toxic chemicals into the atmosphere, the public has become increasingly concerned about toxics in the air.

(b) The Congressional Research Service of the Library of Congress has concluded that 75 percent of the United States population lives in proximity to at least one facility that manufactures chemicals. An incomplete 1985 survey of large chemical companies conducted by the Congressional Research Service documented that nearly every chemical plant studied routinely releases into the surrounding air significant levels of substances proven to be or potentially hazardous to public health.

(c) Generalized emissions inventories compiled by air pollution control districts and air quality management districts in California confirm the findings of the Congressional Research Service survey as well as reveal that many other facilities and businesses which do not actually manufacture chemicals do use hazardous substances in sufficient quantities to expose, or in a manner that exposes, surrounding populations to toxic air releases.

(d) These releases may create localized concentrations or air toxics "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to the cumulative health risks of emissions from other sources in the area. In some cases where large populations may not be significantly affected by adverse health risks, individuals may be exposed to significant risks.

(e) Little data is currently available to accurately assess the amounts, types, and health impacts of routine toxic chemical releases into the air. As a result, there exists significant uncertainty about the amounts of potentially hazardous air pollutants which are released, the location of those releases, and the concentrations to which the public is exposed.

(f) The State of California has begun to implement a long-term program to identify, assess, and control ambient levels of hazardous air pollutants, but additional legislation is needed to provide for the collection and evaluation of information concerning the amounts, exposures, and short- and long-term health effects of hazardous substances regularly released to the surrounding atmosphere from specific sources of hazardous releases.

(g) In order to more effectively implement control strategies for those materials posing an unacceptable risk to the public health, additional information on the sources of potentially hazardous air pollutants is necessary.
(h) It is in the public interest to ascertain and measure the amounts and types of hazardous releases and potentially hazardous releases from specific sources that may be exposing people to those releases, and to assess the health risks to those who are exposed.

44302. The definitions set forth in this chapter govern the construction of this part.

44303. "Air release" or "release" means any activity that may cause the issuance of air contaminants, including the actual or potential spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a substance into the ambient air and that results from the routine operation of a facility or that is predictable, including, but not limited to, continuous and intermittent releases and predictable process upsets or leaks.

44304. "Facility" means every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.

44306. "Health risk assessment" means a detailed comprehensive analysis prepared pursuant to Section 44361 to evaluate and predict the dispersion of hazardous substances in the environment and the potential for exposure of human populations and to assess and quantify both the individual and populationwide health risks associated with those levels of exposure.

44307. "Operator" means the person who owns or operates a facility or part of a facility.

44308. "Plan" means the emissions inventory plan which meets the conditions specified in Section 44342.

44309. "Report" means the emissions inventory report specified in Section 44341.

44320. This part applies to the following:
   (a) Any facility which manufactures, formulates, uses, or releases any of the substances listed pursuant to Section 44321 or any other substance which reacts to form a substance listed in Section 44321 and which releases or has the potential to release total organic gases, particulates, or oxides of nitrogen or sulfur in the amounts specified in Section 44322.
   (b) Except as provided in Section 44323, any facility which is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by a district. A district may, with the concurrence of the state board, waive the application of this part pursuant to this subdivision for any facility which the district determines will not release any substance listed pursuant to Section 44321 due to a shutdown or a process change.

44321. For the purposes of Section 44320, the state board shall compile and maintain a list of substances that contains, but is not limited to, all of the following:
(a) Substances identified by reference in paragraph (1) of subdivision (b) of Section 6382 of the Labor Code and substances placed on the list prepared by the National Toxicology Program and issued by the United States Secretary of Health and Human Services pursuant to paragraph (4) of subsection (b) of Section 241 of Title 42 of the United States Code. For the purposes of this subdivision, the state board may remove from the list any substance which meets both of the following criteria:

(1) No evidence exists that it has been detected in air.
(2) The substance is not manufactured or used in California, or, if manufactured or used in California, because of the physical or chemical characteristics of the substance or the manner in which it is manufactured or used, there is no possibility that it will become airborne.

(b) Carcinogens and reproductive toxins referenced in or compiled pursuant to Section 25249.8, except those which meet both of the criteria identified in subdivision (a).

(c) Substances designated by the state board as toxic air contaminants pursuant to subdivision (b) of Section 39657 and substances on the candidate list of potential toxic air contaminants and the list of designated toxic air contaminants prepared by the state board pursuant to Article 3 (commencing with Section 39660) of Chapter 3.5 of Part 2, including, but not limited to, all substances currently under review and scheduled or nominated for review and substances identified and listed for which health effects information is limited.

(d) Substances for which an information or hazard alert has been issued by the repository of current data established pursuant to Section 147.2 of the Labor Code.

(e) Substances reviewed, under review, or scheduled for review as air toxics or potential air toxics by the Office of Air Quality Planning and Standards of the Environmental Protection Agency, including substances evaluated in all of the following categories or their equivalent: preliminary health and source screening, detailed assessment, intent to list, decision not to regulate, listed, standard proposed, and standard promulgated.

(f) Any additional substances recognized by the state board as presenting a chronic or acute threat to public health when present in the ambient air, including, but not limited to, any neurotoxicants or chronic respiratory toxicants not included within subdivision (a), (b), (c), (d), or (e).

44322. This part applies to facilities specified in subdivision (a) of Section 44320 in accordance with the following schedule:

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

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

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

44323. A district may prepare an industrywide emissions inventory and health risk
assessment for facilities specified in subdivision (b) of Section 44320 and subdivisions
(a) and (b) of Section 44322, and shall prepare an industrywide emissions inventory for
the facilities specified in subdivision (c) of Section 44322, in compliance with this part for
any class of facilities that the district finds and determines meets all of the following
conditions:
(a) All facilities in the class fall within one four-digit Standard Industrial
Classification Code.
(b) Individual compliance with this part would impose severe economic hardships
on the majority of the facilities within the class.
(c) The majority of the class is composed of small businesses.
(d) Releases from individual facilities in the class can easily and generically be
characterized and calculated.

44324. This part does not apply to any facility where economic poisons are employed
in their pesticidal use, unless that facility was subject to district permit requirements on
or before August 1, 1987. As used in this section, "pesticidal use" does not include the
manufacture or formulation of pesticides.

44325. Any solid waste disposal facility in compliance with Section 41805.5 is in
compliance with the emissions inventory requirements of this part.

44340.
(a) The operator of each facility subject to this part shall prepare and submit to
the district a proposed comprehensive emissions inventory plan in accordance
with the criteria and guidelines adopted by the state board pursuant to Section
44342.
(b) The proposed plan shall be submitted to the district on or before August 1,
1989, except that, for any facility to which subdivision (b) of Section 44322
applies, the proposed plan shall be submitted to the district on or before August
1, 1990. The district shall approve, modify, and approve as modified, or return
for revision and resubmission, the plan within 120 days of receipt.
(c) The district shall not approve a plan unless all of the following conditions are
met:
(1) The plan meets the requirements established by the state board
pursuant to Section 44342.
(2) The plan is designed to produce, from the list compiled and maintained
pursuant to Section 44321, a comprehensive characterization of the full
range of hazardous materials that are released, or that may be released,
to the surrounding air from the facility. Air release data shall be collected
at, or calculated for, the primary locations of actual and potential release
for each hazardous material. Data shall be collected or calculated for all continuous, intermittent, and predictable air releases.

(3) The measurement technologies and estimation methods proposed provide state-of-the-art effectiveness and are sufficient to produce a true representation of the types and quantities of air releases from the facility.

(4) Source testing or other measurement techniques are employed wherever necessary to verify emission estimates, as determined by the state board and to the extent technologically feasible. All testing devices shall be appropriately located, as determined by the state board.

(5) Data are collected or calculated for the relevant exposure rate or rates of each hazardous material according to its characteristic toxicity and for the emission rate necessary to ensure a characterization of risk associated with exposure to releases of the hazardous material that meets the requirements of Section 44361. The source of all emissions shall be displayed or described.

44341. Within 180 days after approval of a plan by the district, the operator shall implement the plan and prepare and submit a report to the district in accordance with the plan. The district shall transmit all monitoring data contained in the approved report to the state board.

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

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

(b) Requirements for a facility diagram identifying each actual or potential discrete emission point and the general locations where fugitive emissions may occur. The facility diagram shall include any nonpermitted and nonprocess sources of emissions and shall provide the necessary data to identify emission characteristics. An existing facility diagram which meets the requirements of this section may be submitted.

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

(d) Appropriate testing methods, equipment, and procedures, including quality assurance criteria.
(e) Specifications for acceptable emissions factors, including, but not limited to, those which are acceptable for substantially similar facilities or equipment, and specification of procedures for other estimation techniques and for the appropriate use of available data.

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

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

(h) Standardized format for preparation of reports and presentation of data.

(i) A program to coordinate and eliminate any possible overlap between the requirements of this chapter and the requirements of Section 313 of the Superfund Amendment and Reauthorization Act of 1986 (Public Law 99-499). The state board shall design the guidelines and criteria to ensure that, in collecting data to be used for emissions inventories, actual measurement is utilized whenever necessary to verify the accuracy of emission estimates, to the extent technologically feasible.

44343. The district shall review the reports submitted pursuant to Section 44341 and shall, within 90 days, review each report, obtain corrections and clarifications of the data, and notify the Office of Environmental Health Hazard Assessment, the Department of Industrial Relations, and the city or county health department of its findings and determinations as a result of its review of the report.

44344. Except as provided in Section 44391, emissions inventories developed pursuant to this chapter shall be updated every four years, in accordance with the procedures established by the state board. Those updates shall take into consideration improvements in measurement techniques and advancing knowledge concerning the types and toxicity of hazardous material released or potentially released.

44344.4.

(a) Except as provided in subdivision (d) and in Section 44344.7, a facility shall be exempt from further compliance with this part if the facility's prioritization scores for cancer and noncancer health effects are both equal to or less than one, based on the results of the most recent emissions inventory or emissions inventory update. An exempt facility shall no longer be required to pay any fee or submit any report to the district or the state board pursuant to this part.

(b) Except for facilities that are exempt from this part pursuant to subdivision (a), a facility for which the prioritization scores for cancer and noncancer health effects are both equal to or less than 10, based on the results of the most recent emissions inventory or emissions inventory update, shall not be required to pay any fee or submit any report to the district or the state board pursuant to this part, except for the quadrennial emissions inventory update required pursuant to Section
44344. A district may, by regulation, establish a fee to be paid by a facility operator in connection with the operator's submission to the district of a quadrennial emissions inventory update pursuant to this subdivision. The fee shall not be greater than one hundred twenty-five dollars ($125). A district may increase the fee above that amount upon the adoption of written findings that the costs of processing the emission inventory update exceed one hundred twenty-five dollars ($125). However, the district shall not adopt a fee greater than that supported by the written findings.

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

(d) Notwithstanding subdivision (a) and Section 44344.7, if a district has good cause to believe that a facility may pose a potential threat to public health and that the facility therefore does not qualify for an exemption claimed by the facility pursuant to subdivision (a), the district may require the facility to document the facility's emissions and health impacts, or the changes in emissions expected to occur as a result of a particular physical change, a change in activities or operations at the facility, or a change in other factors. The district may deny the exemption if the documentation does not support the claim for the exemption.

44344.5.

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

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

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

(2) The district conducts an assessment of the potential emissions or their associated risks, whichever the district determines to be appropriate, attributable to the new facility and finds that the emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.

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

44344.6. A district shall redetermine a facility's prioritization score, or evaluate the prioritization score as calculated and submitted by the facility, within 90 days from the date of receipt of a quadrennial emissions inventory update pursuant to Section 44344 or subdivision (b) of Section 44344.4, or within 90 days from the date of receipt of an emissions inventory update submitted pursuant to Section 44344.7, or within 90 days from the date of receiving notice that a facility has completed the implementation of a plan prepared pursuant to Section 44392.

44344.7.
(a) A facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall, upon receipt of a notice from the district, again be subject to this part and the operator shall submit an emissions inventory update for those sources and substances for which a physical change in the facility or a change in activities or operations has occurred, as follows:

1. The facility emits a substance newly listed pursuant to Section 44321.
2. A sensitive receptor has been established or constructed within 500 meters of the facility after the facility became exempt.
3. The facility emits a substance for which the potency factor has increased.

(b) The operator of a facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall submit an emissions inventory update for those sources and substances for which a particular physical change in the facility or a change in activities or operations occurs if, as a result of the particular change, either of the following has occurred:

1. The facility has begun emitting a listed substance not included in the previous emissions inventory.
2. The facility has increased its emissions of a listed substance to a level greater than the level previously reported for that substance, and the increase in emissions exceeds 100 percent of the previously reported level.

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

1. The physical change or change in activities or operations is subject to a district permit program established pursuant to Section 42300.
2. The district conducts an assessment of the potential changes in emissions or their associated risks, whichever the district determines to be appropriate, attributable to the physical change or change in activities or operations and finds that the changes in emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.
3. The district issues a permit for the physical change or change in activities or operations.

44345.

(a) On or before July 1, 1989, the state board shall develop a program to compile and make available to other state and local public agencies and the public all data collected pursuant to this chapter.

(b) In addition, the state board, on or before March 1, 1990, shall compile, by district, emissions inventory data for mobile sources and area sources not subject to district permit requirements, and data on natural source emissions, and shall incorporate these data into data compiled and released pursuant to this chapter.

44346.
(a) If an operator believes that any information required in the facility diagram specified pursuant to subdivision (b) of Section 44342 involves the release of a trade secret, the operator shall nevertheless make the disclosure to the district, and shall notify the district in writing of that belief in the report.

(b) Subject to this section, the district shall protect from disclosure any trade secret designated as such by the operator, if that trade secret is not a public record.

(c) Upon receipt of a request for the release of information to the public which includes information which the operator has notified the district is a trade secret and which is not a public record, the following procedure applies:
   1. The district shall notify the operator of the request in writing by certified mail, return receipt requested.
   2. The district shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the operator obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection under this section or for a preliminary injunction prohibiting disclosure of the information to the public and promptly notifies the district of that action.

(d) This section does not permit an operator to refuse to disclose the information required pursuant to this part to the district.

(e) Any information determined by a court to be a trade secret, and not a public record pursuant to this section, shall not be disclosed to anyone except an officer or employee of the district, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the district or the state and its employees if, in the opinion of the district or the state, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(f) Any officer or employee of the district or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, any trade secret subject to this section, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it is guilty of a misdemeanor. Any contractor of the district and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the district for purposes of this section.

(g) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.

(h) As used in this section, “trade secret” and “public record” have the meanings and protections given to them by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code. All information collected pursuant to this chapter, except for data used to calculate emissions data required in the facility
diagram, shall be considered "air pollution emission data," for the purposes of this section.

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

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

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

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

(A) Information concerning the scientific basis for selecting risk
parameter values that are different than those required by the
guidelines and the likelihood distributions that result when
alternative values are used.
(B) Data from dispersion models, microenvironment characteristics,
and population distributions that may be used to estimate maximum
actual exposure.
(C) Risk expressions that show the likelihood that any given risk
estimate is the correct risk value.
(D) A description of the incremental reductions in risk that occur
when exposure is reduced.

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

(c) Upon submission of emissions inventory data for facilities specified in
subdivisions (b) and (c) of Section 44322, the district shall designate facilities for
inclusion within the highest priority category, as appropriate, and any facility so
designated shall be subject to subdivision (b). In addition, the district may
require the operator of any facility to prepare and submit health risk
assessments, in accordance with the priorities developed pursuant to subdivision
(a).
(d) The district shall, except where site specific factors may affect the results,
allow the use of a single health risk assessment for two or more substantially
identical facilities operated by the same person.
(e) Nothing contained in this section, Section 44380.5, or Chapter 6
(commencing with Section 44390) shall be interpreted as requiring a facility
operator to prepare a new or revised health risk assessment using the guidelines
established pursuant to paragraph (2) of subdivision (a) of this section if the
facility operator is required by the district to begin the preparation of a health risk
assessment before those guidelines are established.

44361.

(a) Each health risk assessment shall be submitted to the district. The district
shall make the health risk assessment available for public review, upon request.
After preliminary review of the emissions impact and modeling data, the district
shall submit the health risk assessment to the Office of Environmental Health
Hazard Assessment for review and, within 180 days of receiving the health risk
assessment, the State office shall submit to the district its comments on the data
and findings relating to health effects. The district shall consult with the state
board as necessary to adequately evaluate the emissions impact and modeling data contained within the risk assessment.

(b) For the purposes of complying with this section, the Office of Environmental Health Hazard Assessment may select a qualified independent contractor to review the data and findings relating to health effects. The office shall not select an independent contractor to review a specific health risk assessment who may have a conflict of interest with regard to the review of that health risk assessment. Any review by an independent contractor shall comply with the following requirements:

1. Be performed in a manner consistent with guidelines provided by the office.
2. Be reviewed by the office for accuracy and completeness.
3. Be submitted by the office to the district in accordance with this section.

(c) The district shall reimburse the Office of Environmental Health Hazard Assessment or the qualified independent contractor designated by the office pursuant to subdivision (b), within 45 days of its request, for its actual costs incurred in reviewing a health risk assessment pursuant to this section.

(d) If a district requests the Office of Environmental Health Hazard Assessment to consult with the district concerning any requirement of this part, the district shall reimburse the office, within 45 days of its request, for the costs incurred in the consultation.

(e) Upon designation of the high priority facilities, as specified in subdivision (a) of Section 44360, the Office of Environmental Health Hazard Assessment shall evaluate the staffing requirements of this section and may submit recommendations to the Legislature, as appropriate, concerning the maximum number of health risk assessments to be reviewed each year pursuant to this section.

44362.

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

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

44363.
(a) Commencing July 1, 1991, each district shall prepare and publish an annual report which does all of the following:
  (1) Describes the priorities and categories designated pursuant to Section 44360 and summarizes the results and progress of the health risk assessment program undertaken pursuant to this part.
  (2) Ranks and identifies facilities according to the degree of cancer risk posed both to individuals and to the exposed population.
  (3) Identifies facilities which expose individuals or populations to any noncancer health risks.
  (4) Describes the status of the development of control measures to reduce emissions of toxic air contaminants, if any.

(b) The district shall disseminate the annual report to county boards of supervisors, city councils, and local health officers and the district board shall hold one or more public hearings to present the report and discuss its content and significance.

44364. The state board shall utilize the reports and assessments developed pursuant to this part for the purposes of identifying, establishing priorities for, and controlling toxic air contaminants pursuant to Chapter 3.5 (commencing with Section 39650) of Part 2.

44365. (a) If the state board finds and determines that a district's actions pursuant to this part do not meet the requirements of this part, the state board may exercise the authority of the district pursuant to this part to approve emissions inventory plans and require the preparation of health risk assessments.

(b) This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances.

44366. (a) In order to verify the accuracy of any information submitted by facilities pursuant to this part, a district or the state board may proceed in accordance with Section 41510.

44380. (a) The state board shall adopt a regulation which does all of the following:
  (1) Sets forth the amount of revenue which the district must collect to recover the reasonable anticipated cost which will be incurred by the state board and the Office of Environmental Health Hazard Assessment to implement and administer this part.
  (2) Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part, except as specified in subdivision (b) of Section 44344.4. A district may request the state board to adopt a fee schedule
for the district if the district's program costs are approved by the district board and transmitted to the state board by April 1 of the year in which the request is made.

(3) Requires any district that has an approved toxics emissions inventory compiled pursuant to this part by August 1 of the preceding year to adopt a fee schedule, as described in paragraph (2), which imposes on facility operators fees which are, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emissions inventory and the level of priority assigned to that source by the district pursuant to Section 44360.

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

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

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

(e) For the 1997-98 fiscal year, air toxics program revenues for the state board and the Office of Environmental Health Hazard Assessment shall not exceed two million dollars ($2,000,000), and for each fiscal year thereafter, shall not exceed one million three hundred fifty thousand dollars ($1,350,000). Funding for the Office of Environmental Health Hazard Assessment for conducting risk assessment reviews shall be on a fee-for-service basis.

44380.1. A facility shall be granted an exemption by a district from paying a fee in accordance with Section 44380 if all of the following criteria are met:

(a) The facility primarily handles, processes, stores, or distributes bulk agricultural commodities or handles, feeds, or rears livestock.

(b) The facility was required to comply with this part only as a result of its particulate matter emissions.

(c) The fee schedule adopted by the district or the state board for these types of facilities is not solely based on toxic emissions weighted for potency or toxicity.
44380.5. In addition to the fee assessed pursuant to Section 44380, a supplemental fee may be assessed by the district, the state board, or the Office of Environmental Health Hazard Assessment upon the operator of a facility that, at the operator's option, includes supplemental information authorized by paragraph (3) of subdivision (b) of Section 44360 in a health risk assessment, if the review of that supplemental information substantially increases the costs of reviewing the health risk assessment by the district, the state board, or the office. The supplemental fee shall be set by the state board in the regulation required by subdivision (a) of Section 44380 and shall be set in an amount sufficient to cover the direct costs to review the information supplied by an operator pursuant to paragraph (3) of subdivision (b) of Section 44360.

44381. (a) Any person who fails to submit any information, reports, or statements required by this part, or who fails to comply with this part or with any permit, rule, regulation, or requirement issued or adopted pursuant to this part, is subject to a civil penalty of not less than five hundred dollars ($500) or more than ten thousand dollars ($10,000) for each day that the information, report, or statement is not submitted, or that the violation continues.
(b) Any person who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this part is subject to a civil penalty of not less than one thousand dollars ($1,000) or more than twenty-five thousand dollars ($25,000) per day for each day that the information remains uncorrected.

44382. Every district shall, by regulation, adopt the requirements of this part as a condition of every permit issued pursuant to Chapter 4 (commencing with Section 42300) of Part 4 for all new and modified facilities.

44384. Except for Section 44380 and this section, all provisions of this part shall become operative on July 1, 1988.

44390. For purposes of this chapter, the following definitions apply:
(a) "Airborne toxic risk reduction measure" or "ATRRM" means those in-plant changes in production processes or feedstocks that reduce or eliminate toxic air emissions subject to this part. ATRRM's may include:
(1) Feedstock modification.
(2) Product reformulations.
(3) Production system modifications.
(4) System enclosure, emissions control, capture, or conversion.
(5) Operational standards and practices modification.
(b) Airborne toxic risk reduction measures do not include measures that will increase risk from exposure to the chemical in another media or that increase the risk to workers or consumers.
(c) "Airborne toxic risk reduction audit and plan" or "audit and plan" means the audit and plan specified in Section 44392.
(a) Whenever a health risk assessment approved pursuant to Chapter 4 (commencing with Section 44360) indicates, in the judgment of the district, that there is a significant risk associated with the emissions from a facility, the facility operator shall conduct an airborne toxic risk reduction audit and develop a plan to implement airborne toxic risk reduction measures that will result in the reduction of emissions from the facility to a level below the significant risk level within five years of the date the plan is submitted to the district. The facility operator shall implement measures set forth in the plan in accordance with this chapter.

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

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

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

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

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

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

(g) The district shall find the audit and plan to be satisfactory within three months if it meets the requirements of this chapter, including, but not limited to, subdivision (f). If the district determines that the audit and plan does not meet those requirements, the district shall remand the audit and plan to the facility
specifying the deficiencies identified by the district. A facility operator shall submit a revised audit and plan addressing the deficiencies identified by the district within 90 days of receipt of a deficiency notice.

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

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

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

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

(a) The name and location of the facility.
(b) The SIC code for the facility.
(c) The chemical name and the generic classification of the chemical.
(d) An evaluation of the ATRRMs available to the operator.
(e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.
(f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.

(g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor registered pursuant to Section 25570.3.

44393. The plan prepared pursuant to Section 44391 shall not be considered to be the equivalent of a pollution prevention program or a source reduction program, except insofar as the audit and plan elements are consistent with source reduction, as defined in Section 25244.14, or subsequent statutory definitions of pollution prevention.

44394. Any facility operator who does not submit a complete airborne toxic risk reduction audit and plan or fails to implement the measures set forth in the plan as set forth in this chapter is subject to the civil penalty specified in subdivision (a) of Section 44381, and any facility operator who, in connection with the audit or plan, knowingly submits any false statement or representation is subject to the civil penalty specified in subdivision (b) of Section 44381.