

**Senate Bill No. 700**

\_\_\_\_\_

Passed the Senate      September 11, 2003

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly      September 10, 2003

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Section 42310 of, and to add Sections 39011.5, 39023.3, 40724, 40724.5, 40724.6, 40724.7, 40731, 42301.16, 42301.17, 42301.18, and 44559.9 to, the Health and Safety Code, relating to air quality.

## LEGISLATIVE COUNSEL'S DIGEST

SB 700, Florez. Air quality: emissions: stationary sources: agricultural operations.

(1) Existing law authorizes the board of every air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements.

This bill would eliminate that exemption for any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals. To the extent that the bill would increase the number of permits that a district board, electing to establish a permit system prior to January 1, 2004, would be required to issue, the bill would impose a state-mandated local program.

(2) Existing law defines various terms governing the construction of air pollution control laws in the state, and authorizes the state board to revise those definitions to conform with federal law.

This bill would define the terms “agricultural source of air pollution” and “fugitive emissions,” and would prohibit, notwithstanding the existing authority, the state board from revising those definitions.

(3) The existing federal Clean Air Act requires districts to adopt local programs for issuing operating permits to major stationary sources of air pollutants. The existing act defines a stationary source as any building, structure, facility, or installation that emits or may emit any air pollutant.

This bill would require each district that is designated a serious federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation



plan, a rule or regulation requiring best available control measures (BACM) and best available retrofit control technology (BARCT) for agricultural practices at agricultural sources of air pollution to reduce air pollutants from those sources for which that technology is applicable for agricultural practices by the earliest feasible date, but not later than January 1, 2006, and would require each district subject to those requirements to comply with a schedule for public hearing, adoption, and implementation of the final rule.

The bill would require each district that is designated a moderate federal nonattainment area or an applicable ambient air quality standard for particulate matter as of January 1, 2004, to adopt and implement control measures necessary to reduce emissions from agricultural practices by the earliest feasible date, but no later than January 1, 2007, unless the district determines that those sources do not significantly cause or contribute to a violation of state or federal standards.

The bill would require, by January 1, 2005, the state board to review all available scientific information and develop a definition of a “large confined animal facility.”

The bill would require, by July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, to adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility as that term is defined by the state board to obtain a permit to reduce, to the extent feasible, emissions of air contaminants from the facility. The bill would require the district to perform an assessment of the impacts of the rule or regulation prior to its adoption. The bill would authorize a permitholder to appeal any district determination or decision related to that permit.

The bill would require a district that is designated as being in attainment for the federal ambient air quality standard for ozone as of January 1, 2004, to adopt the same rule or regulation required of nonattainment districts, by July 1, 2006, unless the district board makes a determination that large confined animal facilities will not contribute to a violation of any state or federal ambient air quality standard. The bill would provide the rule or regulation is not required to be submitted for inclusion into the state implementation plan.



The bill would require the California Air Pollution Control Officers Association, in consultation with the state board and other interested parties, by January 1, 2005, to develop a clearinghouse of available control measures and strategies for agricultural sources of air pollution and emissions of air contaminants from agriculture operations.

The additional duties for districts under the bill would impose a state-mandated local program.

(4) Existing law establishes the Capital Access Loan Program for Small Businesses, administered by the California Pollution Control Financing Authority, which provides loans through participating financial institutions to entities authorized to conduct business in the state and whose primary business location is in the state.

This bill would require the authority to expand the program to include outreach to financial institutions that service agricultural interests in the state for the purposes of funding air pollution control measures.

(5) Under existing law, any person who violates a rule, regulation, permit, or order of a district is guilty of a misdemeanor. Because this bill would increase the number of people who are subject to that provision, it would expand the scope of a crime, thereby imposing a state-mandated local program.

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

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

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

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

(1) Agricultural operations necessary for growing crops or raising animals are a significant source of directly emitted particulates, and precursors of ozone and fine particulate matter. These emissions have a significant adverse effect on the ability of areas of the state, including, but not limited to, the San Joaquin



Valley, to achieve health-based state and federal ambient air quality standards.

(2) Since 1999, the agriculture industry has reduced emissions of oxides of nitrogen (NO<sub>x</sub>) by more than 2000 tons per year, emissions of particulate matter of 10 microns in diameter (PM 10) by more than 500 tons per year, and emissions of volatile organic compounds (VOCs) from agricultural chemicals by more than 20 percent. According to the state board, however, agricultural sources of air pollution still contribute twenty-six percent of the smog-forming emissions in the San Joaquin Valley.

(3) In the San Joaquin Valley, a large portion of the sources of particulate emissions are areawide sources whose emissions are directly related to growth in population and the resulting vehicle miles traveled. According to the State Air Resources Board, however, agricultural sources of air pollution account for over fifty percent of the directly emitted particulate air pollution generated in the valley during the fall, amounting to over 170 tons per day of emissions.

(4) All parties living or operating a business in an area that has been classified as being a nonattainment area with respect to the attainment of federal or state ambient air quality standards share the responsibility of reducing emissions from air pollutants.

(5) The federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) prohibits the state from adopting emission standards or limitations less stringent than those established under the federal act, including limitations on emissions from agricultural sources.

(6) Division 26 (commencing with Section 39000) of the Health and Safety Code establishes numerous policies and programs to reduce air pollutants for the protection of public health.

(7) The purpose of the act adding this section is to establish a new set of programs at the state and regional levels to reduce air emissions from agricultural sources in order to protect public health and the environment.

(b) It is therefore the intent of the Legislature to require the State Air Resources Board and air quality management districts and air pollution control districts in the state to regulate stationary, mobile, and area sources of agricultural air pollution.

SEC. 2. Section 39011.5 is added to the Health and Safety Code, to read:



39011.5. (a) “Agricultural source of air pollution” or “agricultural source” means a source of air pollution or a group of sources used in the production of crops, or the raising of fowl or animals located on contiguous property under common ownership or control that meets any of the following criteria:

(1) Is a confined animal facility, including, but not limited to, any structure, building, installation, barn, corral, coop, feed storage area, milking parlor, or system for the collection, storage, treatment, and distribution of liquid and solid manure, if domesticated animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes and feeding is by means other than grazing.

(2) Is an internal combustion engine used in the production of crops or the raising of fowl or animals, including, but not limited to, an engine subject to Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 except an engine that is used to propel implements of husbandry, as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003. Notwithstanding subdivision (b) of Section 39601, the state board may not revise this definition for the purposes of this section.

(3) Is a Title V source, as that term is defined in Section 39053.5, or is a source that is otherwise subject to regulation by a district pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(b) Any district rule or regulation affecting stationary sources on agricultural operations adopted on or before January 1, 2004, is applicable to an agriculture source.

(c) Nothing in this section limits the authority of a district to regulate a source, including, but not limited to, a stationary source that is an agricultural source, over which it otherwise has jurisdiction pursuant to this division, or pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act that were in effect on or before January 1, 2003, or to exempt an agricultural source from any requirement otherwise applicable under Sections 40724 or 42301.16, based upon a finding by the district in a public hearing that the aggregate emissions from that source do not exceed a de



minimum level of more than one ton of particulate matter, nitrogen oxides or volatile organic compounds per year.

SEC. 3. Section 39023.3 is added to the Health and Safety Code, to read:

39023.3. “Fugitive emissions” mean those emissions that cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Notwithstanding subdivision (b) of Section 39601, the state board may not revise this definition for the purposes of this section.

SEC. 4. Section 40724 is added to the Health and Safety Code, to read:

40724. (a) Each district that is designated as a serious federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation requiring best available control measures (BACM) for sources for which those measures are applicable and best available retrofit control technology (BARCT) to reduce air pollutants from sources for which that technology is applicable for agricultural practices, including, but not limited to, tilling, discing, cultivation, and raising of animals, and for fugitive emissions from those agricultural practices a manner similar to other source categories by the earliest feasible date, but not later than January 1, 2006. The rule or regulation shall also include BACM and BARCT to reduce precursor emissions in a manner commensurate to other source categories that the district show cause or contribute to a violation of an ambient air quality standard. Each district that is subject to this subdivision shall comply with the following schedule with respect to the rule or regulation imposing BACM and BARCT:

(1) On or before September 1, 2004, notice and hold at least one public workshop for the purpose of accepting public testimony on the proposed rule or regulation.

(2) On or before July 1, 2005, adopt the final rule or regulation at a noticed public hearing.

(3) On or before January 1, 2006, commence implementation of the rule or regulation.

(b) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on



a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(c) In adopting a rule or regulation pursuant to this section, a district shall do all of the following:

(1) Ensure the size and duration of use of an internal combustion engine subject to BARCT pursuant to this section is commensurate to the size and duration of use of internal combustion engines subject to regulation by a district or the state board regulated at other stationary sources.

(2) Ensure that BARCT established pursuant to this section for an internal combustion engine is similar to BARCT for other stationary source engines subject to regulation by a district or the state board.

(3) Ensure that the cost-effectiveness of BARCT for an internal combustion engine subject to this section is similar to the cost-effectiveness of BARCT for other internal combustion engines subject to regulation by a district or the state board.

(4) Compare the cost-effectiveness of BARCT for an internal combustion engine subject to this section to the list of available and proposed control measures prepared pursuant to Section 40922.

(5) Adopt control measures pursuant to this section in order of their cost-effectiveness, unless a district determines that a different order of adoption is necessary due to the enforceability, public acceptability, or technological feasibility of a given control measure, or to expeditiously attain or maintain a national or state ambient air quality standard.

(6) Except as otherwise provided under this section, ensure that any rule or regulation adopted pursuant to this section complies with all applicable requirements of this division, including, but not limited to, any applicable requirements established pursuant to Sections 40703, 40727, 40728.5, and 40920.6.

(7) Hold at least one public meeting that is conducted at a time and location that the district determines is convenient to the public at which the district reviews the comparison prepared pursuant to paragraph (4).

(d) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted





pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect the adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

SEC. 5. Section 40724.5 is added to the Health and Safety Code, to read:

40724.5. (a) By the earliest feasible date, but no later than January 1, 2007, each district that is designated a moderate federal nonattainment area for an applicable ambient air quality standard for particulate matter as of January 1, 2004, and that is not subject to the requirements of Section 40724, shall adopt and implement control measures necessary to reduce emissions from agricultural practices, including, but not limited to, tilling, discing, cultivation, and raising of animals, and from fugitive emissions in a manner similar to other source categories from those activities by the earliest feasible date. Control measures adopted and implemented pursuant to this section shall also be implemented by the district to reduce precursor emissions in a manner commensurate to other source categories that the district show cause or contribute to a violation of an ambient air quality standard.

(b) A district is not required to adopt and implement control measures pursuant to this section if it determines in a public hearing that agricultural practices do not significantly cause or contribute to a violation of state or federal standards.

(c) In adopting a rule or regulation pursuant to this section, a district shall do all of the following:

(1) Ensure the size and duration of use of an internal combustion engine subject to BARCT pursuant to this section is commensurate to the size and duration of use of internal combustion engines subject to regulation by a district or the state board regulated at other stationary sources.

(2) Ensure that BARCT established pursuant to this section for an internal combustion engine is similar to BARCT for other stationary source engines subject to regulation by a district or the state board.



(3) Ensure that the cost-effectiveness of BARCT for an internal combustion engine subject to this section is similar to the cost-effectiveness of BARCT for other internal combustion engines subject to regulation by a district or the state board.

(4) Compare the cost-effectiveness of BARCT for an internal combustion engine subject to this section to the list of available and proposed control measures prepared pursuant to Section 40922.

(5) Adopt control measures pursuant to this section in order of their cost-effectiveness, unless a district determines that a different order of adoption is necessary due to the enforceability, public acceptability, or technological feasibility of a given control measure, or to expeditiously attain or maintain a national or state ambient air quality standard.

(6) Except as otherwise provided under this section, ensure that any rule or regulation adopted pursuant to this section complies with all applicable requirements of this division, including, but not limited to, any applicable requirements established pursuant to Sections 40703, 40727, 40728.5, and 40920.6.

(7) Hold at least one public meeting that is conducted at a time and location that the district determines is convenient to the public at which the district reviews the comparison prepared pursuant to paragraph (4).

(d) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect the adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

(e) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any requirements imposed on a



district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

SEC. 6. Section 40724.6 is added to the Health and Safety Code, to read:

40724.6. (a) On or before July 1, 2005, the state board shall review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a “large confined animal facility” for the purposes of this section. In developing that definition, the state board shall consider the emissions of air contaminants from those sources as they may affect the attainment and maintenance of ambient air quality standards.

(b) Not later than July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility, as defined by the state board pursuant to subdivision (a), to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

(c) A district may require a permit for a large confined animal facility with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district for any air contaminant, including, but not limited to, fugitive emissions in a manner similar to other source categories, if prior to imposing that requirement the district makes both of the following determinations in a public hearing:

(1) A permit is necessary to impose or enforce reductions in emissions of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(2) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(d) The rule or regulation adopted pursuant to subdivision (b) shall do all of the following:



(1) Require the owner or operator of each large confined animal facility to submit an application for a permit within six months from the date the rule or regulation is adopted by the district that includes both of the following:

(A) The information that the district determines is necessary to prepare an emissions inventory of all regulated air pollutants emitted from the operation, including, but not limited to, precursor and fugitive emissions, using emission factors approved by the state board in a public hearing.

(B) An emissions mitigation plan that demonstrates that the facility will use reasonably available control technology in moderate and serious nonattainment areas, and best available retrofit control technology in severe and extreme nonattainment areas, to reduce emissions of pollutants that contribute to the nonattainment of any ambient air quality standard, and that are within the district's regulatory authority.

(2) Require the district to act upon an application for permit submitted pursuant to paragraph (1) within six months of a completed application, as determined by the district.

(3) Require the owner or operator to implement the plan contained in the permit approved by the district, and shall establish a reasonable period, of not more than three years, after which each permit shall be reviewed by the district and updated to reflect changes in the operation or the feasibility of mitigation measures. The updates required by this paragraph are not required to be submitted for inclusion into the state implementation plan.

(4) Establish a reasonable compliance schedule for facilities to implement control measures within one year of the date on which the permit is approved by the district, and shall provide for 30 days public notice and comment on any draft permit.

(d) Prior to adopting a rule or regulation pursuant to subdivision (b), a district shall, to the extent data are available, perform an assessment of the impacts of the rule or regulation. The district shall consider the impacts of the rule or regulation in a public hearing, and make a good faith effort to minimize any adverse impacts. The assessment shall include all of the following:

(1) The category of sources affected, including, but not limited to, the approximate number of affected sources, and the size of those sources.



(2) The nature and quantity of emissions from the category, and the significance of those emissions in adversely affecting public health and the environment and in causing or contributing to the violation of a state or federal ambient air quality standard.

(3) The emission reduction potential.

(4) The impact on employment in, and the economy of, the region affected.

(5) The range of probable costs to affected sources and businesses.

(6) The availability and cost-effectiveness of alternatives.

(7) The technical and practical feasibility.

(8) Any additional information on impacts that is submitted to the district board for consideration.

(e) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(f) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Section 40703, 40727, and 40728.5.

(g) A permitholder may appeal any district determination or decision required by this section pursuant to Section 42302.1, in addition to any other applicable remedy provided by law.

(h) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Sections 40724 and 40724.5.

(i) Nothing in this section limits the authority of a district to regulate a source including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking



calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

SEC. 7. Section 40724.7 is added to the Health and Safety Code, to read:

40724.7. (a) A district that is designated as being in attainment for the federal ambient air standard for ozone shall adopt a rule or regulation as described in Section 40724.6 shall fulfill both of the following conditions:

(1) The regulation shall be adopted not later than July 1, 2006, unless a district board makes a determination in a public hearing, based on substantial scientific evidence in the record, that large confined animal facilities will not contribute to a violation of any state or federal ambient air quality standard.

(2) The regulation may not be submitted for inclusion in the state implementation plan.

(b) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(c) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Section 40703, 40727, and 40728.5.

(d) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Section 40724.

(e) The rule or regulation adopted by a district pursuant to this section is not required to be submitted for inclusion into the state implementation plan.

SEC. 8. Section 40731 is added to the Health and Safety Code, to read:

40731. In order to assist in the development of the BACM, RACM, and BARCT measures specified in Sections 40724, 40724.5, and 40724.6, and to reduce or eliminate emissions of regulated air pollutants and their precursors, the California Air Pollution Control Officers Association, in consultation with the state board and other interested parties, shall, not later than January 1, 2005, develop a clearinghouse of available control measures and strategies for agricultural sources of air pollution and emissions



from agricultural operations, including, but not limited to, the following sources:

(a) Operations that create fugitive dust emissions, including, but not limited to, discing, tilling, material handling and storage, and travel on unpaved roads.

(b) Confined animal facilities, including, but not limited to, any structure, building, installation, barn, corral, coop, feed storage area, or milking parlor, including, but not limited to, a system for the collection, storage, treatment, and distribution of liquid or solid manure from domestic animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks, if those animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes, and feeding is by means other than grazing.

(c) Internal combustion engines used in the production of crops or the raising of animals or fowl, except an engine that is used to propel an implement of husbandry, as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003.

(d) Other equipment, operations, or activities associated with the growing of crops or the raising of fowl or animals, that emit, or cause to be emitted, any regulated air pollutant, or any precursor to any regulated air pollutant.

SEC. 9. Section 42301.16 is added to the Health and Safety Code, to read:

42301.16. (a) In addition to complying with the requirements of this chapter, a permit system established by a district pursuant to Section 42300 shall ensure that any agricultural source that is required to obtain a permit pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.) of the federal Clean Air Act is required by district regulation to obtain a permit in a manner that is consistent with the federal requirements.

(b) Except as provided in subdivision (c), a district shall require an agricultural source of air pollution to obtain a permit unless it makes all of the following findings in a public hearing:

(1) The source is subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is not necessary to impose or enforce reductions of commissions of air pollutants that the district show cause or



contribute to the violation of state or federal ambient air quality standard.

(3) The requirement for the source or category of sources to obtain a permit would impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(c) Prior to requiring a permit for an agricultural source of air pollution with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district, for any air contaminant, but excluding fugitive dust, a district shall, in a public hearing, make all of the following findings:

(1) The source is not subject to a permit requirement pursuant to Section 40724.6.

(2) A permit is necessary to impose or enforce reductions of emission of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(3) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

SEC. 10. Section 42301.17 is added to the Health and Safety Code, to read:

42301.17. (a) A district may adopt by regulation a program under which the district does not require a permit to be obtained by an agricultural source of air pollution that the district may otherwise require to obtain a permit if the owner or operator of the source has taken the following actions to reduce emissions from the source:

(1) Removed all internal combustion engines used in the production of crops or the raising of fowl or animals, except an engine that is used to propel implements of husbandry, at the source and replaced them with engines that meet or exceed the most stringent standards adopted by the state board and the United States Environmental Protection Agency for new internal combustion engines.

(2) Reduced or mitigated emissions from all agricultural activities, including, but not limited to, tilling, discing, cultivation, the raising of livestock and fowl, and similar activities, to a level that the district determines does not cause, or contribute to, a





violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.

(3) Reduced or mitigated all emissions from any farm equipment, underground petroleum fuel tanks, or other similar equipment used in agricultural activities to a level that the district determines does not cause or contribute to a violation of a state or federal ambient air standard, toxic air contaminant, or other air emission limitation.

(4) Complied with any other conditions required by state or federal law or district rule or regulation for the source.

(b) Subdivision (a) does not apply to those permits required to be issued pursuant to Title I (42 U.S.C. Sec. 7401 et seq.) or Title V (42 U.S.C. Sec. 7661 et seq.).

SEC. 11. Section 42301.18 is added to the Health and Safety Code, to read:

42301.18. (a) Any agricultural source that existed prior to January 1, 2004, that becomes subject to a permit requirement pursuant to a district rule or regulation that was adopted prior to that date shall be permitted as an existing source and not as a new source.

(b) Any agricultural source that is an existing source pursuant to subdivision (a) shall be permitted by the district based upon its maximum potential to emit air contaminants, to the extent that level can be determined, as of January 1, 2004.

(c) A district may not require an agricultural source to obtain emissions offsets for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emission reductions.

SEC. 12. Section 42310 of the Health and Safety Code is amended to read:

42310. (a) A permit shall not be required for any of the following:

(1) Any vehicle.

(2) Any structure designed for and used exclusively as a dwelling for not more than four families.

(3) An incinerator used exclusively in connection with a structure described in subdivision (b).

(4) Barbecue equipment that is not used for commercial purposes.



(5) (A) Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.

(B) As used in this subdivision, maintenance does not include operation.

(b) Nothing in this section shall affect any requirements imposed on a district or a source of air pollution, including, but not limited to, an agricultural source, pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

SEC. 13. Section 44559.9 is added to the Health and Safety Code, to read:

44559.9. The authority shall expand the Capital Access Loan Program established by this article to include outreach to financial institutions that service agricultural interests in the state for the purpose of funding air pollution control measures.

SEC. 14. The provisions of the act adding this section are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs that may be incurred by a local agency or school district because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Approved \_\_\_\_\_, 2003

\_\_\_\_\_  
*Governor*

