



California
Air Resources Board
Compliance Division

Advisory

REGULATION CHANGE

Number 42

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Requirements for Existing and Proposed Industrial Facilities Near Schools

Attached is a copy of Health and Safety Code Sections 42301.6, 42301.7, 42301.8, and 42301.9. These sections became effective on January 1, 1989 as a part of AB 3205 (Waters). These sections contain specific requirements for industrial sources located or proposed to be located near a school.

Prior to permitting a new or modified source that may emit air contaminants located within 1,000 feet from the outer boundary of a school, Section 42301.6 requires that the APCO prepare a public notice in which the proposed project is fully described. At least 30 days prior to the date of final action, the APCO, and in some cases the applicant, must distribute the public notice to each address within a radius of 750 feet from the outer property line of the proposed project and to the parents of children in any school within one-quarter mile of the proposed project.

If the APCO determines there is a reasonably foreseeable threat of a release of an air contaminant from a source within 1,000 feet of the boundary of a school that would result in a violation of Section 41700 (Public Nuisance) and would impact persons at the school, Section 42301.7 requires the APCO to notify the administering agency and the fire department having jurisdiction over the school within 24 hours. The APCO may, in responding to a reasonably foreseeable threat of a release, do any of the following: (1) issue an immediate order to prevent the release or mitigate the reasonably foreseeable threat of a release pending a hearing pursuant to Section 42450 and (2) apply to the district board for issuance of an order for abatement pursuant to Section 42450.

Upon receiving a request, for good cause, from the principal of a school, the district must respond to the request and notify the administering agency and the fire department having jurisdiction over the school within 24 hours.

Section 42301.9 of the Health and Safety Code provides definitions for Sections 42301.6 through 42301.8.

Please see the specific code sections for detailed requirements. If you have any questions regarding this bill, please call the Air Resources Board, Compliance Division at (800) 952-5588.

Attachment

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42301.6. (a) Prior to approving an application for a permit to construct or modify a source that may emit air contaminants located within 1,000 feet from the outer boundary of a school, the air pollution control officer shall prepare a public notice in which the proposed project or modification for which the application for a permit is made is fully described.

(b) The air pollution control officer shall, at the permit applicant's expense, distribute the public notice to the parents of children in any school within one-quarter mile of the source and to each address within a radius of 750 feet from the outer property line of the proposed new or modified source at least 30 days prior to the date final action on the application is to be taken by the officer. The officer shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to the comments in the permit application file prior to taking final action on the application.

(c) Notwithstanding subdivision (b), an air pollution control officer may require the applicant to distribute the notice if the district had such a rule in effect prior to January 1, 1989.

(d) The requirements for public notice pursuant to subdivision (b) or a district rule in effect prior to January 1, 1989, are fulfilled if the air pollution control officer or applicant responsible for giving the notice makes a good faith effort to follow the procedures prescribed by law for giving the notice, and, in such circumstances, failure of any person to receive the notice shall not affect the validity of any permit subsequently issued by the officer.

(e) Nothing in this section shall be deemed to limit any existing authority of any district.

42301.7. (a) If the air pollution control officer determines there is a reasonably foreseeable threat of a release of an air contaminant from a source within 1,000 feet of the boundary of a school that would result in a violation of Section

41700 and impact persons at the school, the officer shall, within 24 hours, notify the administering agency and the fire department having jurisdiction over the school.

(b) The administering agency may, in responding to a reasonably foreseeable threat of a release, do any of the following:

(1) Review the facility's risk management and prevention plan prepared pursuant to Section 25534 to determine whether the program should be modified, and, if so, require submission of appropriate modifications. Notwithstanding any other provision of law, the administering agency may order modification and implementation of a revised risk management and prevention plan at the earliest feasible date.

(2) If the facility has not filed a risk management and prevention plan with the administering agency, require the preparation and submission of a plan to the administering agency pursuant to Section 25534. Notwithstanding any other provision of law, the administering agency may require the filing of a risk management and prevention plan and its implementation at the earliest feasible date.

(c) The air pollution control officer may, in responding to a reasonably foreseeable threat of a release, do any of the following:

(1) If necessary, issue an immediate order to prevent the release or mitigate the reasonably foreseeable threat of a release in violation of Section 41700 pending a hearing pursuant to Section 42450 when there is a substantial probability of an injury to persons at a school resulting from a release that makes it reasonably necessary to take immediate action to prevent, reduce, or mitigate that injury. The officer may not issue such an order unless there is written concurrence to issue the order by a representative of the administering agency.

(2) Apply to the district board for issuance of an order for abatement pursuant to Section 42450.

(d) Nothing in this section limits any existing authority of any district.

42301.8. Upon receiving a request, for good cause, from the principal or an authorized representative of the principal of a school, the district shall, within 24 hours, respond to the request and notify the administering agency and the fire department having jurisdiction over the school. The administering agency, upon receiving such a request, shall notify the district within 24 hours.

42301.9. For the purposes of Sections 42301.4 to 42301.8, inclusive:

(a) "School" means any school used for purposes of the education of children in kindergarten or any of grades 1 to 12, inclusive.

(b) "Air contaminant" has the same meaning as provided in Section 39013.

(c) "Administering agency" means an administering agency as defined in subdivision (c) of Section 25532.