

FISCAL YEAR 2009-10

SUBVENTION GUIDANCE PACKAGE

Air Resources Board

October 2009

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TIMETABLE

Budget Enactment – November 1, 2009	Districts with cash flow problems, submit request for First Disbursement form to the Air Resources Board (ARB).
November 23, 2009	Deadline for district submittal of Year-End Financial Report to ARB.
November 23, 2009	Application for Subvention Funds due.
November 25, 2009	Deadline for district submittal of Final Adopted Budget to ARB.
Late November 2009	First disbursement checks issued to districts who had not earlier requested them.
January 2010	Subvention award letter and final disbursement checks issued to all participating districts.

AWARD GUIDELINES

The Budget Act of 2009 contains an appropriation of \$10,111,000 for subvention to all districts for air pollution control. The Health and Safety Code requires \$500,000 of the amount appropriated by the Budget Act be reserved for subvention to rural air pollution control districts to attain minimum subvention levels if certain criteria are met. Any portion of the \$500,000 not subvened to provide the minimum subvention to rural districts will be awarded as a supplemental subvention to rural districts in accordance with Health and Safety Code Section 39810. See Attachment 1.

DISBURSEMENT OF FUNDS

Districts with cash flow problems may submit a Request for First Disbursement beginning Budget Enactment of 2009. Refer to Attachment 2 for the form to request a first disbursement. Estimated turnaround time for issuance of checks is two to three weeks from the date ARB receives the request. Districts who do not submit a Request for First Disbursement form by November 1, 2009 will automatically receive their first disbursement in late November if completed application is received and the district's Final Adopted Budget is submitted. In January 2010, the final disbursement for all districts will be made by the ARB for the balance of the approved award.

APPLICATION FOR SUBVENTION FUNDING

Application Form

The application package consists of two parts: Application for Subvention Funds and the district's final adopted budget. The application form is designed to identify the total budget for the district's Air Pollution Control Program including a detailed breakdown by funding source. **While the formally adopted budget may be unavailable by the November 23, 2009 application deadline, it is essential that it be forwarded to the ARB as soon as possible but no later than November 25, 2009. Failure to submit such an adopted budget in a timely manner may delay the subvention awards.**

For purposes of estimating coordinated subvention funds, a **\$0.23** per capita rate may be used. This is an estimate only which will be adjusted for matching, population and other qualification requirements upon receipt of all applications.

Rural districts will be eligible for \$34,400 in subvention funds if matching funds are provided in a ratio of \$1 of district funds to \$1 of State subvention funds **AND** a fee system is in place which recovers the cost of issuing and renewing permits, performing source inspections, determining compliance status and processing variances for major air pollution sources. Refer to Attachment 1 for supplemental application form and Attachment 3 for application form, subvention, local matching requirements and population data. For purposes of estimated supplemental subvention funds, we do not anticipate any major changes in funding levels from last year.

YEAR-END REPORT

The Year-End Financial Report is the primary tool for determining that funds were expended in accordance with your district's approved budget. If problems are detected in our review of your report, we will contact you immediately. The instructions and a copy of the form are contained in Attachment 4.

AUDITING PROCESS

Pursuant to Health and Safety Code Section 39808, the ARB may review the programs and expenditures of each district receiving subvention funds to ensure that funds are expended in accordance with the budget on which the subvention is based.

The ARB will review district year-end financial reports and select a representative sample of large urban, small urban and rural districts for audit. Also taken into consideration will be district audit requests and the time since a district's last audit.

Each district will be notified of an upcoming audit at least thirty days in advance.

EVALUATION CRITERIA

Health and Safety Code Section 39806 requires that districts be engaged in the reduction of air contaminants in order to receive subvention funds. Criteria on which this determination is based have been jointly developed by the districts and ARB staff and adopted by the Board. The statutes and regulations are contained in Attachment 5.

ATTACHMENT 1

**RURAL DISTRICT
SUPPLEMENTAL APPLICATION AND INSTRUCTIONS**

Fiscal Year

2009-10

**RURAL DISTRICTS
SUPPLEMENTAL FUNDS ATTACHMENT - INSTRUCTIONS**

1. APPLICANT DISTRICT: Self-explanatory.

2. ITEM/ACTIVITY/TIME FRAME:

Describe anticipated item to be purchased or anticipated activity to be funded by this request and expected benefits. Also provide length of time required to complete purchase or activity. Attach additional sheets if necessary. Should your priorities change for use of supplemental funds, you may make expenditures in accordance with your new priorities as long as they are considered air pollution control related projects within the district.

3. DISTRICT SIGNATURE: Self-explanatory.

ATTACHMENT 2
FIRST DISBURSEMENT REQUEST

Fiscal Year

2009-10

ATTACHMENT 3

SUBVENTION APPLICATION AND INSTRUCTIONS

Fiscal Year

2009-10

FISCAL YEAR 2009-10 APPLICATION FOR SUBVENTION FUNDS

1. APPLICANT DISTRICT:

District Name _____
 Street Address _____
 City/Zip _____
 Contact Person _____ Phone _____

2. TYPE OF SUBVENTION:

_____ Coordinated _____ Special
 _____ Rural _____ Non-Rural

3. FEE SYSTEM CERTIFICATION:

_____ Yes _____ No

The district has a fee system in place as required by Health and Safety Code Section 39802.

4. AIR POLLUTION CONTROL BUDGET:

Whole Dollars Only

<u>EXPENDITURES</u>	Person-Years	
A. Salaries & Benefits	_____	\$ _____
B. Operating Expenses		_____
C. Fixed Assets		_____
TOTAL EXPENDITURES		\$ _____

FUNDING

Local District Matching Funds

A. County Contributions		\$ _____
B. Fees		
Operating Permits		_____
Variance/Hearing Board		_____
Engineering (Permits/A to C)		_____
Motor Vehicle Registration Surcharge		_____
Toxic Hot Spots		_____
Source Test		_____
Vapor Recovery		_____
Clean Air Act		_____
Asbestos		_____
Clean Fuels		_____
Ag Burning		_____
Trip Reduction		_____
Other Fees (please specify type)		_____
Carryover from prior fiscal years		_____
_____		_____
_____		_____
TOTAL, B. Fees		\$ _____
C. Fines		_____
D. Interest		_____
E. Other (please specify)		_____
_____		_____
_____		_____
Total Local District Matching Funds		\$ _____

APPLICATION FOR SUBVENTION FUNDING - INSTRUCTIONS

1. **APPLICANT DISTRICT:** Self-explanatory.
2. **TYPE OF SUBVENTION:** Self-explanatory.
3. **FEE SYSTEM CERTIFICATION:** Self-explanatory.
4. **AIR POLLUTION CONTROL BUDGET:**

Expenditures

- A. Salaries and Benefits: Please estimate person-years and costs in total. Costs include salaries, retirement, worker's compensation, employee benefits, group insurance, overtime, etc.
- B. Operating Expenses: Identify the total costs for communications, insurance, laboratory supplies, maintenance, memberships, office expenses, publications and legal notices, rents and leases, tools, travel, utilities, consulting and professional services, indirect costs, and any other expenses necessary for routine office operations.
- C. Fixed Assets: Expenditures for assets exceeding \$5,000 in value which have a useful life of more than four years.

Total Expenditures: Total the amounts for A through C.

Funding

A - E: Local District Matching Funds (**funds specifically generated within your district**): Please detail the total local district matching funds by the types specified. Carryover of prior year fees should be included as "B. Other fees". **If this carryover is greater than 10 percent of the total district matching funds**, please identify sources (specific fees) making up the carryover amount. If a portion of the local matching funds is something other than fees, please **specifically** identify the source of funds under "E. Other".

State Subvention Funds: Please identify the requested level of rural coordinated, non-rural coordinated or special subvention funds.

State Supplemental Subvention Funds (**for rural districts only**): Please identify the anticipated award of supplemental subvention funds. Also complete Supplemental Subvention Funds Attachment.

A - C: Local District Non-Matching Funds: Please identify any other monies budgeted for support of the air pollution control program including reimbursements from other districts for services rendered. Funds identified in this section cannot be used to meet subvention match requirements.

The sum of the four funding sources (local district matching funds, State subvention funds, State supplemental subvention funds and local district non-matching funds) **must** equal the Total Expenditure amount.

5. **DISTRICT SIGNATURE:** Self-explanatory.

STATE SUBVENTION AND LOCAL MATCHING REQUIREMENTS

1. COORDINATED SUBVENTION

Non-Rural

It is estimated that in FY 2009-10 the per capita rate will be **\$0.23** if the appropriate match (one to one) is provided.

Rural

It is estimated that in FY 2009-10 the per-capita rate will be **\$0.23** but not less than \$34,400 if the appropriate match (one to one) is provided and a fee system is in place.

A. Coordinated Subvention:

District Population x estimated **\$0.23** \$ _____
or
\$34,400 (rural districts) whichever is greater _____

B. Local Match: Equal to or greater than Item 1. A. _____

2. SPECIAL SUBVENTION

For an air basin with a population of less than 98,000, the State may subvene up to \$120,000 less required matching funds. Required matching funds equal population multiplied by a rate based on available State funds. For multi-district basins, the basin subvention and match requirements are pro-rated to the individual districts based on their share of the basin population.

A. State Subvention for Air Basin:

\$120,000 - (Basin Population x estimated **\$0.23**) \$ _____

B. Local Match for Air Basin:

Basin Population x estimated **\$0.23** _____

3. SUPPLEMENTAL SUBVENTION (Rural Districts Only):

Any available supplemental subvention funds will be distributed as follows:

A. Supplemental funds will first be used to bring all rural districts with sufficient match up to the established \$34,400 minimum level; and

B. Any and all remaining funds will be distributed to all rural districts on a per capita basis.

Supplemental subvention funds will be limited in total by the amount requested by the district on the Supplemental Funds Attachment form. Therefore, please be sure the Supplemental Funds Attachment form is a complete listing of any projects requiring funding.

**POPULATION OF LOCAL
AIR POLLUTION CONTROL DISTRICTS
FY 2009-2010**

Amador	38,080
Antelope Valley	367,563
Bay Area	7,185,542
Butte	220,748
Calaveras	45,987
Colusa	21,997
El Dorado – Lake Tahoe	34,455
El Dorado – Mountain	145,730
Feather River	169,454
Glenn	29,239
Great Basin	32,754
Imperial	179,254
Kern (P)	130,131
Lake	64,025
Lassen	35,550
Mariposa	18,306
Mendocino	90,206
Modoc	9,698
Mojave Desert	539,458
Monterey	758,545
North Coast	176,261
Northern Sierra	122,708
Northern Sonoma	56,982
Placer (Lake Tahoe)	13,123
Placer (Sacramento Valley)	326,454
Sacramento	1,433,187
San Diego	3,173,407
San Joaquin Valley	3,860,208
San Luis Obispo	270,429
Santa Barbara	431,312
Shasta	183,023
Siskiyou	45,973
South Coast	16,793,784
Tehama	62,836
Tuolumne	56,335
Ventura	836,080
Yolo-Solano	333,863
TOTAL	38,292,687

ATTACHMENT 4

2008-09 YEAR-END FINANCIAL REPORT AND INSTRUCTIONS

Fiscal Year

2009-10

FISCAL YEAR 2008-09 YEAR-END FINANCIAL REPORT

1. APPLICANT DISTRICT:

District Name _____
 Street Address _____
 City/Zip _____
 Contact Person _____ Phone _____

2. TYPE OF SUBVENTION:

_____ Coordinated _____ Special
 _____ Rural _____ Non-Rural

3. AIR POLLUTION CONTROL BUDGET:

<u>EXPENDITURES</u>	Person-Years	<u>Whole Dollars Only</u>
A. Salaries & Benefits	_____	\$ _____
B. Operating Expenses		_____
C. Fixed Assets		_____
TOTAL EXPENDITURES		\$ _____

FUNDING

Local District Matching Funds

A. County Contributions	\$ _____
B. Fees	
Operating Permits	_____
Variance/Hearing Board	_____
Engineering (Permits/A to C)	_____
Motor Vehicle Registration Surcharge	_____
Toxic Hot Spots	_____
Source Test	_____
Vapor Recovery	_____
Clean Air Act	_____
Asbestos	_____
Clean Fuels	_____
Ag Burning	_____
Trip Reduction	_____
Other Fees (please specify type)	_____
Carryover from prior fiscal years	_____
_____	_____
_____	_____
TOTAL, B. Fees	\$ _____
C. Fines	_____
D. Interest	_____
E. Other (please specify)	_____
_____	_____
_____	_____
Total Local District Matching Funds	\$ _____

YEAR-END FINANCIAL REPORT - INSTRUCTIONS

A Year-End Financial Report is required following the end of each fiscal year.

If an interim report was filed for fiscal year 2008-09 awards that were not fully expended, a final report for these funds must be submitted by November 23, 2009. A year-end report for fiscal year 2008-09 should also be submitted by November 23, 2009 to:

Air Resources Board
P. O. Box 2815
Sacramento, CA 95812
Attention: Accounting and Grants Section

1. **RECIPIENT DISTRICT:** Self-explanatory.
2. **TYPE OF SUBVENTION:** Self-explanatory.
3. **AIR POLLUTION CONTROL BUDGET:**
Expenditures
 - A. **Salaries and Benefits:** Report actual person-years and dollars expended. Include salaries, retirement, worker's compensation, employee benefits, group insurance, overtime, etc.
 - B. **Operating Expenses:** Identify the expenditures for communications, insurance, laboratory supplies, maintenance, memberships, office expenses, publications and legal notices, rents and leases, tools, travel, utilities, consulting and professional services, indirect costs, and any other expenses necessary for routine office operations.
 - C. **Fixed Assets:** Identify expenditures for assets exceeding \$5,000 in value which have a useful life of more than four years.

Total Expenditures: Total the amounts for A through C.

Funding

A - E: Local District Matching Funds (**funds specifically generated within your district**): Please detail the total local district matching funds by the types specified. Carryover of prior year fees should be included as "B. Other fees." **If this carryover is greater than 10 percent of the total district matching funds**, please identify sources (specific fees) making up the carryover amount. If a portion of the local matching funds is something other than fees, please **specifically** identify the source of funds under "E. Other."

State Subvention Funds: Please identify the requested level of rural coordinated, non-rural coordinated or special subvention funds.

State Supplemental Subvention Funds (for rural districts only): Please identify the amount of your supplemental subvention award which was expended.

**YEAR-END FINANCIAL REPORT - INSTRUCTIONS
(CONTINUED)**

A - C: Local District Non-Matching Funds: Please identify any other monies expended for support of the air pollution control program including reimbursements from other districts for services rendered. Funds identified in this section cannot be used to meet subvention match requirements.

The sum of the four funding sources (local district matching funds, State subvention funds, State supplemental subvention funds and local district non-matching funds) **may** equal the Total Expenditure amount. If the sum is greater than Total Expenditures, the difference will appear as Carryover Funds.

4. CARRYOVER FUNDS: Identify all local district revenue in excess of the expenditure. In accordance with Health & Safety Code Section 42311, revenue from permit fees in excess of expenditures must be carried over for expenditure in the subsequent fiscal year. The schedule of fees in the subsequent fiscal year shall be changed to reflect that carryover.

5. DISTRICT SIGNATURE: Self-explanatory.

ATTACHMENT 5

STATUTES AND REGULATIONS

Fiscal Year

2009-10

CALIFORNIA HEALTH AND SAFETY CODE

SECTION 39800-39811

39800. "Dollars Budgeted"

As used in this chapter, "dollars budgeted" means moneys derived from revenue sources within a district for use in its air pollution control programs.

39801. Administration of funds

The state board shall administer, pursuant to this chapter, such funds as may be appropriated to it for the purposes of this chapter.

39802. Board's subventions; Eligible districts

(a) The state board may subvene up to one dollar (\$1) for every dollar budgeted for use by any of the following:

- (1) A district whose boundaries include an entire air basin.
- (2) Districts whose boundaries together include an entire air basin and which are parties to one joint powers agreement or other enforceable agreement which provides for all of the following:

(A) Uniform rules and regulations among all districts, excluding administrative rules and regulations.

(B) At least four meetings per year of the basinwide air pollution control council formed under Section 40900, or an equivalent procedure for basinwide consideration of policy matters.

(C) Suitable sharing of qualified air pollution personnel and equipment.

(b) (1) Subventions under this section shall not exceed twenty-three cents (\$0.23) per capita, but shall not be less than eighteen thousand dollars (\$18,000) for any district, if the district provides the required matching funds, except as specified in paragraph (2).

(2) If a district is a rural district, as defined by the state board, the minimum subvention shall be that specified in Section 39802.5 if the district provides the required matching funds and does one of the following:

(A) Has a fee system that fully recovers the district's cost of issuing and renewing permits, performing source inspections, determining compliance status, and processing variances for stationary sources which emit 25 or more tons annually of any regulated pollutant.

(B) Provides its matching funds, for any funds authorized by Section 39802.5 in excess of the dollar amount subvented to the district pursuant to this chapter in fiscal year 1986-87, from an increase in moneys budgeted over the level of funding budgeted for the 1986-87 fiscal year.

(c) The merger into a unified or regional district pursuant to this division by any county district shall cause the minimum subvention of the county district to be transferred to the unified district or regional district if the unified district or regional district provides the required matching funds. If portions of a county district are merged into unified or regional districts pursuant to this division, the state board shall apportion, according to population within each portion of the county, the minimum subvention of the county district to the unified districts or regional districts into which the portions of the county district are merged. A unified district or a regional district which has all or a portion of a county district minimum subvention transferred to it under this section may not also

receive subventions under the per capita provisions of this section. A subvention made pursuant to Section 39803 shall preclude subvention under this section.

39802.5. Minimum subventions in rural districts

Minimum subventions for purposes of paragraph (2) of subdivision (b) of Section 39802 shall be determined as follows:

(a) If the amount appropriated in the Budget Act for district subventions is equal to or less than seven million eleven thousand dollars (\$7,011,000), the minimum subvention is eighteen thousand dollars (\$18,000).

(b) If the amount appropriated in the Budget Act for district subventions is at least seven million five hundred eleven thousand dollars (\$7,511,000), the minimum subvention is thirty-four thousand four hundred dollars (\$34,400).

(c) (1) If the amount appropriated in the Budget Act for district subventions is more than seven million eleven thousand dollars (\$7,011,000), but less than seven million five hundred eleven thousand dollars (\$7,511,000), the minimum subvention is the sum of (A) eighteen thousand dollars (\$18,000) and (B) the product of (i) sixteen thousand four hundred dollars (\$16,400) multiplied by (ii) the amount by which the funds budgeted for district subventions exceeds seven million eleven thousand dollars (\$7,011,000) divided by five hundred thousand dollars (\$500,000).

(2) Any portion of the amount appropriated in the Budget Act for district subventions which is more than seven million eleven thousand dollars (\$7,011,000), but less than seven million five hundred eleven thousand dollars (\$7,511,000), and which is not awarded in accordance with the determination of minimum subventions pursuant to paragraph (1) shall be subvened pursuant to Section 39810 only to rural districts, as defined by the state board.

39803. Subventions in other air basins

In air basins where funds are not subvened pursuant to Section 39802, the state board may subvene up to two dollars (\$2) for every three dollars (\$3) budgeted by a district. Subventions under this section shall not exceed eighteen and four-tenths cents (\$0.184) per capita, but shall not be less than twelve thousand dollars (\$12,000) for any district, if the district provides the required matching funds. Any county district which merged after January 1, 1980, into a unified district or regional district pursuant to this division shall have its minimum subvention under this section transferred to the unified district or regional district if the unified district or regional district provides the required matching funds. A unified district or regional district which has a county district minimum subvention transferred to it under this section may not also receive subventions under the per capita provisions of this section.

39804. Subventions in basins with limited populations

In air basins having a population of less than 98,000, the state board may subvene more than the specified amount allowed under Section 39802, if the subvention does not exceed forty-five thousand dollars (\$45,000) per air basin and each district affected adopts a budget equal to or exceeding twenty-three cents (\$0.23) per capita.

39805. Inflation adjustment

The per capita limits in Sections 39802 and 39803 and the forty five thousand dollars (\$45,000) limit in Section 39804 may be increased by the state board to reflect the effects of inflation on the moneys needed to carry out air pollution control programs. No increase shall be made without the prior written approval of the Director of Finance.

39806. Program for reduction of air contaminants required

(a) Money shall be subvended pursuant to this chapter to districts engaged in the reduction of air contaminants pursuant to the basinwide air pollution control plan and related implementation programs.

When the state board finds, pursuant to a resolution from the district board, or upon completion of proceedings conducted by the state board pursuant to Sections 39806.5 and 41500, that the district is not so engaged in the reduction of air contaminants, the subvention, or a portion thereof, which would have been allocated to such district pursuant to Section 39802, 39803, or 39804, plus such additional sum as may be necessary, if moneys are available from appropriations for the purposes of this chapter, shall be allocated to the state board itself to carry out the approved plan or program.

(b) The findings of the state board shall be based on criteria established by the state board jointly with the districts for the evaluation of such plans and programs. The criteria shall be less stringent for rural districts, shall be based upon the differences in urban and rural air quality problems, population, and available resources, and shall recognize the transport of air pollutants from metropolitan areas to rural areas.

(c) If the state board acts under this section pursuant to a resolution of the district board; it may do so without proceeding under Sections 39806.5 and 41500.

39806.5. Public hearing

(a) Before taking any action pursuant to Sections 39806 and 39808, the state board shall hold a public hearing within the air basin affected, upon a 45-day written notice given to the basinwide air pollution control council, if any, the affected districts, the affected air quality planning agencies, and the public.

(b) In addition to any other statutory requirements, interested persons shall have the right, at the public hearing to present oral and written evidence and to question and solicit testimony of qualified representatives of the state board on the matter being considered. The state board may, at the public hearing, place reasonable limits on the right to question and solicit testimony.

(c) If, after conducting the public hearing required by subdivision (a), the state board determines to take action pursuant to any section enumerated in subdivision (a), the state board shall, based on the record of the public hearing, adopt written findings which explain the action to be taken by the state board, why the state board decided to take the action, and why the action is authorized by, and meets the requirements of, the statutory provisions pursuant to which it was taken. In addition, the findings shall address the significant issues raised or written evidence presented by interested persons or the staff of the state board. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the state board.

(d) Subdivisions (a), (b), and (c) shall be applicable to the executive officer of the state board acting pursuant to Section 39515, or to his delegates acting pursuant to Section 39516, with respect to any action taken pursuant to any section enumerated in subdivision (a).

39807. Reduction of subvention in view of grant of federal funds

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

- (a) The purpose for which the federal funds were granted.
- (b) The needs of the district in relationship to the needs of other districts.
- (c) Any special and worthy programs conducted by the district not required by the plan or program approved by the state board pursuant to Section 41500.
- (d) The severity of air pollution within the district.
- (e) Any other factors that the state board reasonably determines should be considered.

39808. Review of district programs and expenditures

The state board may review, as it deems necessary, the programs and expenditures by each district receiving a subvention under this chapter to ascertain that the funds budgeted from nonstate sources are in fact being expended substantially in accordance with the budget on which the subvention was based. Where the state board finds that the funds are not being so expended, the state board may, after a public hearing held pursuant to Section 39806.5 do any of the following:

- (a) Cease any further payments under the subvention.
- (b) Withhold future subventions.
- (c) Bring an action against the district, or the counties or cities supporting the district, to recover the subvention paid that fiscal year.
- (d) Assume the powers of the district after it has held a public hearing upon a 45-day written notice given to the basinwide air pollution control council, if there is such a council, and to the affected districts.

39809. Funds for administration of program

The state board may allocate to itself sufficient moneys to administer the subvention program under this chapter and to conduct reviews authorized by Section 39808.

39810. Supplemental subventions

Any moneys not otherwise subvented or allocated by the state board pursuant to this chapter may be used for supplemental subventions, upon application, up to a one-to-one matching basis or, in the state board's discretion, for any other purpose related to the control of nonvehicular sources. Matching supplemental subventions having unusual merit shall be given preference over expenditures for other purposes. In making supplemental subventions, the state board may consider federal grants received by the applicant and by other districts.

39811. Reversion of funds

Any moneys appropriated to the state board for expenditure under this chapter not allocated during the fiscal year shall revert to the General Fund.

**TITLE 17. Public Health
Division 3. Air Resources
Chapter 1. Air Resources Board
Subchapter 3. Subventions**

Article 1. General Provisions

§90050. Scope and Purpose.

The regulations set forth in this subchapter shall supplement provisions in the Mulford-Carrell Air Resources Act (Division 26 of the Health and Safety Code), particularly Part 2, Chapter 5 (Sections 39800 et seq.) and Part 1, Chapter 2 (Sections 39010 et seq., "Definitions") with regard to the air pollution control subvention program.

§90100. Definitions.

(a) "Air pollution control program" means the aggregate of all of the activities within a district or in support of a district's effort to control air pollution and to fulfill its obligations under the law.

(b) "Basinwide air pollution control plan" means the plan prepared and submitted by the control council of each air basin, or, where one district includes an entire air basin, by such district, as approved by the Air Resources Board pursuant to Section 41500, 41600, or 41602 of the Health and Safety Code.

(c) "Control Council" means a basinwide air pollution control council established pursuant to Section 40900 of the Health and Safety Code.

(d) "Dollars budgeted" means monies derived from revenue sources within a district for use in the district's air pollution control program as shown in the district's adopted budget and subvention application.

(e) "Executive Officer" means the executive officer of the Air Resources Board, or his or her delegate.

(f) "Fiscal year" means the 12-month period from July 1 of one year through June 30 of the following year.

(g) "Implementation program" means a district's program to implement the basinwide air pollution control plan.

(h) "Quarter" means any three month period ending March 31, June 30, September 30, or December 31.

(i) "Quorum" means

(1) more than one-half of the total membership; or

(2) one-half of the total membership if all the districts in the basin have agreed by formal resolution to abide by the actions of such a quorum; such resolutions may specify that such actions must be unanimous.

(j) "Subvention year" means the fiscal year for which a subvention is to apply.

§90110. Types of Subventions.

(a) "Coordinated subvention" means a subvention authorized by Section 39802 of the Health and Safety Code. Such a subvention may be granted to a district participating in a coordinated basinwide program. A district satisfying either of the following conditions will be considered to be participating in a coordinated basinwide program, provided that when a district lies in more than one air basin, only the portion(s) of the district which satisfies either of these conditions shall be considered to be participating in such a program.

(1) A district which includes an entire air basin.

(2) Two or more districts which together include an entire air basin, and which meet the following requirements:

(A) The rules and regulations except for administrative procedures are uniform among all districts and are consistent with the approved nonattainment plan for each district's area. For any air basin where the control council has determined that identical rules and regulations throughout the entire air basin are not necessary for uniformity, the control council may divide the air basin into zones within which equivalent rules and regulations will be required. For the purposes of this subsection, equivalent rules and regulations means rules and regulations which effect the same degree of control. In establishing such zones, the control council shall consider topography, meteorology, population distribution, and air quality;

(B) The control council shall meet as often as necessary for the transaction of business, but not less than once per quarter except as provided for below. The control council of any air basin consisting solely of districts in the rural category may establish an equivalent procedure for basinwide consideration of policy matters and shall meet within 30 days after it has been requested to meet by the executive officer or by a member of the council. For the purposes of this Subdivision a quorum must be present in order to constitute a meeting. Copies of the minutes of each meeting shall be submitted to the executive officer within 30 days after the date of the meeting; and

(C) The districts shall be parties to one joint powers agreement or other enforceable agreement acceptable to the executive officer. The agreement shall specifically provide for the following:

1. The sharing of qualified air pollution personnel and equipment in a manner which results in the effective use of the basin wide resources and ensures that all districts in the air basin will maintain a program satisfying the applicable evaluation criteria. Such sharing shall be subject to a method for compensation for the cost of shared personnel and equipment mutually agreed on by the districts. Nothing in this subchapter shall preclude the payment by a district of subvention funds as compensation to other districts to cover costs of shared personnel or equipment use. Subvention funds received by a district under such agreements or contracts, however, may not be counted as matching funds in computing the district's subvention;

2. Interdistrict coordination of activities including: air monitoring; engineering; and, if required by the State Implementation Plan, traffic and land use planning; and

3. Implementation of the State Air Pollution Emergency plan, where applicable.

(b) "Individual subvention" means a subvention authorized by Section 39803 of the Health and Safety Code.

(c) "Special subvention" means a subvention authorized by Section 39804 of the Health and Safety Code. Such a subvention may be granted to a district participating in a coordinated basinwide program as described in subsection (a) of this section and lying in an air basin whose population is less than 98,000. If the funding limit specified in Section 39804 of the Health and Safety Code is increased pursuant to Section 39805 of the Health and Safety Code, the per capita funds budgeted by each district necessary to qualify for a special subvention shall be increased by the same proportion. The sum of the special subventions for which the districts in an air basin shall be eligible shall not exceed the amount equal to the difference between (1) the current maximum special subvention funding limit, established by Section 39804 of the Health and Safety Code or pursuant to Section 39805 of the Health and Safety Code, and

(2) the current special subvention per capita rate, established by Section 39804 of the Health and Safety Code or pursuant to this subsection, multiplied by the basin population. The sum of the special subventions in an air basin shall be prorated according to population among the districts in the air basin.

(d) "Supplemental subvention" means a subvention authorized by Section 39810 of the Health and Safety Code. Dollars budgeted by the district which are needed to qualify for a coordinated, individual, or special subvention, may not be used to qualify for a supplemental subvention. A supplemental subvention shall not be approved for any district which has not, for the same fiscal year, been granted a coordinated, individual, or special subvention.

§90115. Evaluation Criteria.

The state board staff shall develop in cooperation with the districts and the state board shall adopt evaluation criteria for each category established in Section 90120 which are appropriate to determine, in accordance with Section 39806 of the Health and Safety Code, whether districts are engaged in the reduction of air contaminants pursuant to the basinwide air pollution control plan and related implementation programs. The evaluation criteria are set forth in the Air Resources Board's "Evaluation Criteria for Air Pollution Control Districts Participating in the Subvention Program," adopted on April 23, 1981, and amended May 27, 1983. Revisions to the evaluation criteria shall be considered by the state board when the state board or the executive officer determines that revisions are appropriate, or when an air basin control council or a district which includes an entire air basin makes a request for revisions to the state board. When such a request is made by a basin control council or district, the state board shall hold a public hearing not later than April of the next calendar year to consider the proposed revisions to the evaluation criteria.

§90120. District Categories.

The state board shall classify districts by the following categories for the purpose of establishing evaluation criteria based on the factors set forth in Section 39806(b) of the Health and Safety Code.

- (a) "Large urban districts";
- (b) "Small urban districts";
- (c) "Rural resource districts";
- (d) "Rural agricultural districts."

The district classifications by category are set forth in the Air Resources Board's "District Subvention Categories" adopted July 26, 1982, as last amended on May 24, 1984, and shall be reviewed by the Board only upon petition of a district, ARB staff, or interested person.

Article 2. Application Procedures

§90200. Subvention Application.

(a) An application for a coordinated, individual, or special subvention shall be submitted to the executive officer on forms approved by the executive officer, in accordance with this subsection.

(1) An application shall include a copy of the district's adopted budget.

(2) Estimates of the subvention to which the district is entitled shall be based on population data, as of January 1 of the fiscal year preceding the subvention year,

compiled by the Department of Finance in compliance with Section 2227 of the Revenue and Taxation Code.

(3) The application must be received by the Air Resources Board or postmarked between May 1 of the preceding subvention year and September 30.

(4) A district may revise or amend its application at any time prior to June 30 of the subvention year.

(5) A district submitting an application for a coordinated or a special subvention shall, when such a district is in an air basin comprising two or more districts, submit a copy of its application to the control council.

(b) An application for a supplemental subvention shall be submitted to the executive officer on forms approved by the executive officer and shall contain the following information:

- (1) The proposed expenditures related to the supplemental subvention;
- (2) A detailed explanation of the purpose of the requested supplemental subvention, and the benefits which are expected to result; and
- (3) The length of time required to complete the work proposed, and the total cost of the project.

Article 3. Application Processing, Disbursements, and Reports

§90300. Application Processing.

(a) The executive officer shall acknowledge receipt of all subvention applications, including revisions, within 30 days.

(b) The executive officer shall approve or disapprove all complete applications by November 15. Approval shall only be granted insofar as funds are available.

(c) Application approval shall be based on the district's adopted budget and program.

(d) A district's application may be disapproved by the executive officer if after consulting with the district it is found that:

- (1) The district does not propose a program sufficient to meet the applicable evaluation criteria adopted pursuant to Section 90115; or
- (2) The district is not operating a program sufficient to meet the applicable evaluation criteria adopted pursuant to Section 90115.

(e) If an application is disapproved, the executive officer shall state the reason(s) in writing to the district within 15 days of the disapproval.

(f) The executive officer shall not approve an application for a special subvention unless the joint powers agreement or other enforceable agreement required pursuant to Section 90110(a)(2)(c) has been received.

§90360. Disbursement of Funds.

Each subvention is to be disbursed in accordance with the following:

(a) Upon annual appropriation by the Legislature the executive officer shall request the State Controller to disburse one half (1/2) of the appropriate subvention as estimated by the executive officer.

(b) Districts which are unable to submit a complete subvention application to the executive officer by June 30 of a given year may submit a disbursement request on a form approved by the executive officer by June 30 of the same year. Upon approval of the executive officer, he or she shall request disbursement as described in Section 90360(a).

(c) Six months after Legislative appropriation the executive officer shall request the

State Controller to disburse the remainder of the approved subvention unless, after review of the district's program, the executive officer finds that the district is not engaged in a program to meet the applicable evaluation criteria adopted pursuant to Section 90115, for reasons that are not expected to be easily resolved, and invokes the provisions of Health and Safety Code Sections 39806 and 39806.5, or the executive director invokes the provisions of Health and Safety Code Section 39608 or Section 90380 of this article.

(d) All subvention funds not expended or encumbered by the district during the subvention year shall be returned to the Air Resources Board and such funds shall revert to the State General Fund.

(e) A county district shall maintain a separate account for receipts, expenditures, and funding of the district in accordance with accounting procedures acceptable to the State Controller's Office.

(f) In the event that the subventions requested exceed the total allocation that is available, the executive officer shall prorate available funds among all the districts.

§90370. District Reporting Requirements.

A district receiving a subvention shall:

(a) Notify the executive officer when the district determines that it will be unable to accomplish the applicable evaluation criteria set forth in Section 90115. The notification shall be in writing within 30 days after the district makes such determination.

(b) Submit by August 15 following the subvention year, a final report to the executive officer on forms approved by the executive officer covering the subvention year.

(c) If applicable, submit a supplemental subvention final report to the executive officer on forms approved by the executive officer covering the period for which the supplemental subvention has been approved.

§90380. Reduction of Coordinated or Special Subvention.

The executive officer may reduce a coordinated subvention or a special subvention to an individual subvention if it is found that the provisions of Section 90110(a) for a coordinated basinwide program are no longer being carried out.

Article 4. Appeals

§90500. Appeal Procedures.

(a) Review of any decision of the executive officer made pursuant to the provisions of this Subchapter may be requested by filing a petition with the state board within thirty (30) days of the date upon which the district was notified of such decision.

(b) The state board shall hold a public hearing at its first regularly scheduled board meeting at least 60 days after receiving a petition as provided for by subdivision (a) of this section.

(c) Notification of the public hearing shall be given to the district and to the appropriate control council at least forty-five (45) days before such a public hearing.

(d) The executive officer, district representatives, and any interested persons may comment on the district's appeal at such a public hearing.