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HEALTH AND SAFETY CODE - HSC

DIVISION 26. AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)

PART 2. STATE AIR RESOURCES BOARD [39500 - 39944] (*Part 2 added by Stats. 1975, Ch. 957.*)

CHAPTER 4.3. Carbon Sequestration [39740 - 39741.5] (*Chapter 4.3 added by Stats. 2021, Ch. 237, Sec. 1.*)

ARTICLE 2. Carbon Capture, Removal, Utilization, and Storage Program [39741 - 39741.5] (*Article 2 added by Stats. 2022, Ch. 359, Sec. 2.*)

39741. For purposes of this article, the following definitions apply:

(a) "Carbon dioxide capture, removal, or sequestration project" means a carbon dioxide capture project, a carbon dioxide removal project, or a sequestration project that seeks to provide for the long-term isolation of the carbon dioxide from the atmosphere through storage in a geologic formation.

(b) "CCUS technology" means carbon capture, utilization, and storage technology or equipment used for capturing and sequestering carbon dioxide emissions from industrial, commercial, or energy-related facilities or sources.

(c) "CDR technology" means carbon dioxide removal, defined as anthropogenic activities that use technologies or engineered strategies to remove carbon dioxide from the atmosphere and put it into long-term storage, including direct air capture.

(d) "Program" means the Carbon Capture, Removal, Utilization, and Storage Program established pursuant to Section 39741.1.

(*Added by Stats. 2022, Ch. 359, Sec. 2. (SB 905) Effective January 1, 2023.*)

39741.1. (a) The state board shall establish a Carbon Capture, Removal, Utilization, and Storage Program to do all of the following:

(1) Evaluate the efficacy, safety, and viability of CCUS and CDR technologies and facilitate the capture and sequestration of carbon dioxide from these technologies, where appropriate.

(2) Develop monitoring and reporting schedules to state regulatory agencies for carbon dioxide capture, removal, or sequestration projects to ensure efficacy, safety, and viability of the projects.

(3) Ensure that all carbon dioxide capture, removal, or sequestration projects include the following, as appropriate:

(A) Strategies to minimize, to the maximum extent technologically feasible, copollutant emissions from facilities where CCUS or CDR technology is deployed to ensure that the use of carbon dioxide removal technologies and carbon capture and storage technologies does not have an adverse impact on local air quality and public health, particularly in low-income and disadvantaged communities.

(B) Strategies to ensure that carbon dioxide capture, removal, or sequestration projects minimize, to the maximum extent technologically feasible, local water pollution or air pollution from construction- and transportation-related impacts from the projects in communities adjacent to carbon dioxide capture, removal, or sequestration projects, including a geologic storage complex.

(C) Strategies to minimize the risk of seismic impacts to, and from, geologic storage projects, including the risk of gas leakage due to seismic activity.

(D) Monitoring and reporting of seismic activity related to geologic sequestration of carbon dioxide, and monitoring of sequestered carbon dioxide, including movement within the geologic storage complex, for a period of time that is sufficiently long enough to demonstrate that the risk of carbon dioxide leakage poses no material threat to public health, safety, and the environment and to achievement of net zero greenhouse gas emissions in California and that terminates no earlier than 100

years after the last date of injection of carbon dioxide into a geologic storage reservoir. In adopting regulations pursuant to subdivision (c) that pertain to this subparagraph, the state board shall consult with the State Geologist.

(E) Monitoring of criteria pollutants and potential toxic air contaminants at the one or more sites within the geologic storage complex and at mobile or fixed sites within the facility, and monitoring of ambient carbon dioxide concentrations over the geologic storage complex to facilitate leak detection. Monitoring required under this section shall continue for a period of time that is sufficiently long enough to demonstrate that the risk of carbon dioxide leakage poses no material threat to public health, safety, and the environment and to achievement of net zero greenhouse gas emissions in California and that terminates no earlier than the completion of the applicable postinjection site care and site closure plan pursuant to Section 146.93 of Title 40 of the Code of Federal Regulations.

(F) Projects meet best available control technology requirements as determined by the local air district.

(b) In carrying out the objectives of the program, the state board shall prioritize the following:

(1) Reducing the emissions of greenhouse gases.

(2) Minimizing land use and potential environmental, noise, air quality, water quality, traffic, seismic, and other related impacts, and any potential health and safety risks, to all communities where CCUS and CDR technologies are deployed, and carbon dioxide capture, removal, or sequestration projects are located to the maximum extent feasible.

(3) Maximizing workforce development and employment opportunities in each community where CCUS and CDR technologies are deployed, and carbon dioxide capture, removal, or sequestration projects are located, to the extent feasible.

(4) Leveraging private funding sources and public-private partnership structures alongside potential state funding sources.

(5) Reducing fossil fuel production in the state.

(c) The state board shall adopt regulations to implement this section.

(d) In developing the program, the state board shall consult with the Geologic Carbon Sequestration Group established pursuant to Section 2213 of the Public Resources Code.

(e) In tracking progress toward the state's climate targets, the state board shall prevent the double counting of emissions reductions associated with utilizing carbon dioxide that is captured or removed from the atmosphere. The state board may use a state board-approved third-party verifier to satisfy this subdivision.

(f) (1) Beginning January 1, 2025, and every two years thereafter, the state board shall report to the Legislature on the progress of the program. The report shall, at a minimum, include an evaluation of potential local environmental impacts and potential long-term leakage impacts as well as recommendations on measures to reduce these impacts of completed carbon dioxide capture, removal, or sequestration projects.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2022, Ch. 359, Sec. 2. (SB 905) Effective January 1, 2023.)

39741.2. (a) In furtherance of the objectives in Section 39741.1, on or before January 1, 2025, the state board shall, in consultation with relevant state and local agencies, adopt regulations for a unified permit application for the construction and operation of carbon dioxide capture, removal, or sequestration projects to expedite the issuance of permits or other authorizations for the construction and operation of those projects. The unified permit application shall solicit from applicants, and direct to all relevant state agencies, all information needed to obtain permits and other authorizations from relevant state and local agencies necessary for the construction and operation of a carbon dioxide capture, removal, or sequestration project. An applicant's use of the unified permit application shall be optional.

(b) (1) Before adopting the unified permit application described in subdivision (a), the state board shall conduct at least three public workshops to receive comments from the public.

(2) The state board shall design the workshops to allow the public to participate from any location via the internet or a call-in telephone number.

(c) The unified permit application developed by the state board pursuant to subdivision (a) shall not impair, abridge, or alter any rights or obligations under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or its implementing regulations, with respect to the review or approval of a carbon dioxide capture, removal, or sequestration project.

(d) The unified permit application developed by the state board pursuant to subdivision (a) is for the purpose of efficiency but shall not displace the role of individual permitting agencies and shall not eliminate, abridge, or reduce the review or issuance of the

individual permits covered by the application by the respective agencies. As part of the unified permit application, the state board shall, where possible, streamline duplicative administrative requirements or permit application questions.

(e) The unified permit application shall be used by relevant state agencies when issuing a permit or other authorization for the construction and operation of a carbon dioxide capture, removal, or sequestration project.

(Added by Stats. 2022, Ch. 359, Sec. 2. (SB 905) Effective January 1, 2023.)

39741.3. In furtherance of the objectives in Section 39741.1, by January 1, 2025, the state board shall develop a centralized public database to track the deployment of CCUS and CDR technologies and the development of carbon dioxide capture, removal, or sequestration projects throughout the state.

(Added by Stats. 2022, Ch. 359, Sec. 2. (SB 905) Effective January 1, 2023.)

39741.4. In furtherance of the objectives in Section 39741.1, by January 1, 2024, the state board may adopt protocols to support additional methods of utilization or storage of captured carbon dioxide, including carbon capture for use in products and in methods as identified by the state board.

(Added by Stats. 2022, Ch. 359, Sec. 2. (SB 905) Effective January 1, 2023.)

39741.5. In furtherance of the objectives in Section 39741.1, the state board shall, no later than January 1, 2025, and consistent with Section 71464 of the Public Resources Code, adopt regulations for financial responsibility for carbon dioxide capture, removal, or sequestration project in accordance with Section 71464 of the Public Resources Code that are no less stringent than those contained in Section 146.85 of Title 40 of the Code of Federal Regulations, as that section read on January 1, 2022. The regulations shall require an operator of a carbon dioxide capture, removal, or sequestration projects to maintain financial responsibility for a period of time that is sufficiently long enough to demonstrate that the risk of carbon dioxide leakage poses no material threat to public health, safety, and the environment and to achievement of net zero greenhouse gas emissions in California and that terminates no earlier than 100 years after the last date of injection of carbon dioxide into a geologic storage reservoir.

(Amended by Stats. 2023, Ch. 131, Sec. 119. (AB 1754) Effective January 1, 2024.)