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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 AIR RESOURCES [39000 - 44475.3] (*Division 26 repealed and added by Stats. 1975, Ch. 957.*)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 3. AIR POLLUTION CONTROL DISTRICTS [40000 - 41357] (*Part 3 added by Stats. 1975, Ch. 957.*)

CHAPTER 5.5. South Coast Air Quality Management District [40400 - 40540] (*Chapter 5.5 added by Stats. 1976, Ch. 324.*)

ARTICLE 4. General Powers and Duties [40440 - 40459] (*Heading of Article 4 renumbered from Article 3 by Stats. 1980, Ch. 1085.*)

[40440.](#) (a) The south coast district board shall adopt rules and regulations that carry out the plan and are not in conflict with state law and federal laws and rules and regulations. Upon adoption and approval of subsequent revisions of the plan, these rules and regulations shall be amended, if necessary, to conform to the plan.

(b) The rules and regulations adopted pursuant to subdivision (a) shall do all of the following:

(1) Require the use of best available control technology for new and modified sources and the use of best available retrofit control technology for existing sources.

(2) Promote cleaner burning alternative fuels.

(3) Consistent with Section 40414, provide for indirect source controls in those areas of the south coast district in which there are high-level, localized concentrations of pollutants or with respect to any new source that will have a significant effect on air quality in the South Coast Air Basin.

(4) Provide for transportation control measures, as listed in the plan.

(c) The south coast district board shall adopt rules and regulations that will assure that all its administrative practices and the carrying out of its programs are efficient and cost-effective, consistent with the goals of achieving and maintaining federal and state ambient air quality standards and achieving the purposes of this chapter.

(d) The south coast district board shall determine what is the best available retrofit control technology for existing electric plants, and shall adopt rules and regulations requiring the use of the best available retrofit control technology in existing electric plants, if the board finds and determines that to do so is necessary to carry out the plan.

(e) In adopting any regulation, the south coast district board shall comply with Section 40703.

(Amended by Stats. 1990, Ch. 1457, Sec. 2.)

[40440.1.](#) (a) A market-based incentive program adopted pursuant to Section 39616 in the south coast district shall achieve emission reductions across a spectrum of sources by allowing for trading of emissions trading units for quantifiable reductions in emissions from a significant number of different sources, including mobile, area, and stationary, which are within the district's jurisdiction or which the district is authorized to include in a market-based emissions trading program.

(b) The program may be, but is not required to be, initiated with only a limited number of sources, but, as soon as practical after adoption of the initial program, the district shall amend the program to allow the trading of reductions among the sources initially included in the program and mobile, area, and other stationary sources.

(c) The intent of this section is to allow, not to require, the trading of reductions among a variety of sources. Nothing in this section confers any new authority on the district to regulate mobile, indirect, or areawide sources or to require those sources to participate in a market-based incentive program.

(Amended by Stats. 1993, Ch. 144, Sec. 2. Effective July 19, 1993.)

40440.2. In addition to, and notwithstanding the requirements of, Section 39616, all of the following shall be implemented as part of the south coast district's market-based incentive program, the Regional Clean Air Incentives Market, also known as RECLAIM:

(a) (1) On or before July 1, 1998, the south coast district staff shall provide to the south coast district board a progress report based on the annual audits specified in subdivision (c). The progress report shall meet all of the following requirements:

(A) The data in the report for the nitrogen oxides RECLAIM program shall be aggregated by three-digit SIC code and facility emission rate to the extent feasible. The categories of emission rates shall be under 4, 4 to 10, inclusive, 11 to 100, inclusive, and over 100 tons per year.

(B) The data in the report for the sulfur oxides RECLAIM program shall be aggregated by three-digit SIC code only to the extent feasible.

(C) In preparing the report, the south coast district shall publish in an appendix all final data and model outputs, except that it shall keep confidential any facility-specific information that is obtained by either the south coast district, or any independent contractor retained by the south coast district, in the course of preparing the report.

(D) Any publication of the data obtained from facilities by the south coast district shall be in aggregate form only, as specified in this subdivision. The south coast district board shall make the raw data available to the public.

(2) The south coast district board shall receive public comment on the progress report.

(3) The south coast district shall not lower the emission threshold for mandatory participation in the RECLAIM program for nitrogen oxides and sulfur oxides from the threshold that was established on October 15, 1993, until the progress report is completed and a public hearing on the report has been held, unless the south coast district board finds, after a public hearing, that there will be no adverse environmental or economic effects resulting from a lowered emission threshold.

(b) On or before July 1, 1997, an advisory committee shall be selected by the south coast district board. The advisory committee shall serve for a maximum of one year, or until the report required by subdivision (d) is made to the south coast district board, whichever is later. The advisory committee shall be composed of the following members:

(1) One representative from each of the following:

(A) A facility that participates in one or both of the market-based incentive programs and emits more than 100 tons of nitrogen oxides or sulfur oxides annually.

(B) A facility that emits from 11 to 100 tons, inclusive, of nitrogen oxides or sulfur oxides annually.

(C) A facility that emits less than 10 tons of nitrogen oxides or sulfur oxides annually.

(2) One representative from the south coast district staff, one representative from the state board, and one representative from the Environmental Protection Agency.

(3) One representative from a financial institution.

(4) One representative from an academic institution.

(5) One representative from a market commodities or securities trading institution.

(6) One representative from an economic analysis research institution.

(7) Two representatives from environmental organizations.

(8) One representative from each of the investor-owned energy utilities serving the south coast district, and one representative from a municipal energy utility representing the City of Los Angeles.

(9) One representative from a technical contractor specializing in installation and certification of emissions monitoring equipment.

(10) One representative from an oil company.

(11) One representative from the aerospace industry.

(c) In addition to any other information required by subdivision (e) of Section 39616, the south coast district shall annually perform a detailed assessment of the program audit findings specified in paragraph (1) of subdivision (b) of south coast district Rule 2015, as adopted October 15, 1993.

(d) The advisory committee shall conduct a peer review of the progress report to the south coast district board required pursuant to subdivision (a). The advisory committee shall present its peer review conclusions to the south coast district board as an independent report concurrently with the staff progress report. The advisory committee may request staff support from the south coast district in conducting its peer review and preparing the report.

(Amended by Stats. 2006, Ch. 538, Sec. 399. Effective January 1, 2007.)

40440.3. For the purpose of complying with emissions monitoring requirements, the south coast district shall allow sources the option of using an electronic or computer data storage system. The district may require the electronic or computer data storage system to have the same degree of signal path security as with existing strip chart recorder systems.

(Added by Stats. 1996, Ch. 618, Sec. 3. Effective January 1, 1997.)

40440.5. (a) Notice of the time and place of a public hearing of the south coast district board to adopt, amend, or repeal any rule or regulation relating to an air quality objective shall be given not less than 30 days prior thereto and, notwithstanding subdivision (b) of Section 40725, shall be published in each county in the south coast district in accordance with the requirements of Section 6061 of the Government Code. The period of notice shall commence on the first day of publication.

(b) In addition to the requirements of subdivision (b) of Section 40725, notice shall be mailed to every person who filed a written request for notice of proposed regulatory action with the south coast district, every person who requested notice for, or registered at, the workshop, if any, held in connection with the development of the proposed rule or regulation, and any person the south coast district believes to be interested in the proposed rule or regulation. The inadvertent failure to mail notice to any particular person as provided in this subdivision shall not invalidate any action taken by the south coast district board.

(c) In addition to the summary description of the effect of the proposal, as required by subdivision (b) of Section 40725, the notice shall include the following:

(1) A description of the air quality objective that the proposed rule or regulation is intended to achieve and the reason or reasons for the proposed rule or regulation.

(2) A list of supporting information, documents, and other materials relevant to the proposed rule or regulation, prepared by the south coast district or at its direction, any environmental assessment, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

(3) A statement that a staff report on the proposed rule or regulation has been prepared, and the name, address, and telephone number of the district officer or employee from whom a copy of the report may be obtained. Whenever the proposed rule or regulation will significantly affect air quality or emissions limitations, the staff report shall include the full text of the proposed rule or regulation, an analysis of alternative control measures, a list of reference materials used in developing the proposed rule or regulation, an environmental assessment, exhibits, and draft findings for consideration by the south coast district board pursuant to Section 40727. Further, if an environmental assessment is prepared, the staff report shall also include social, economic, and public health analyses.

(d) Regardless of whether a workshop was previously conducted on the subject of the proposed rule or regulation, the south coast district may conduct one or more supplemental workshops prior to the public hearing on the proposed rule or regulation.

(e) If the south coast district board makes changes in the text of the proposed rule or regulation that was the subject of notice given pursuant to this section, further consideration of the rule or regulation shall be governed by Section 40726.

(f) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Amended by Stats. 2021, Ch. 615, Sec. 259. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

40440.7. (a) Whenever the south coast district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the south coast district shall conduct one or more public workshops.

(b) Notice of the time and place of the first workshop shall be given not less than 75 days prior to the meeting at which the south coast district board will consider the proposed rule or regulation by publication in each county in the south coast district pursuant to Section 6061 of the Government Code and by mail to every person who filed a written request for notice of proposed regulatory action with the south coast district and any person the south coast district believes to be interested in attending the workshop.

(c) The notice shall include at least the following:

(1) A description of the air quality objective to be discussed.

(2) A statement that the workshop is being held for the purposes of soliciting information and suggestions from the public on achieving the air quality objective.

(3) A request for submittal of any documents, studies, and reports that may be relevant to the subject of the workshop, and the name, address, and telephone number of the district officer or employee to whom they should be sent.

(4) A list of supporting information and documents, including a preliminary staff report, prepared by the south coast district or at its direction, and other materials relevant to the subject of the workshop that are available, and the name, address, and telephone number of the district officer or employee from whom copies of the materials may be obtained.

(d) If the south coast district thereafter proposes the adoption, amendment, or repeal of a rule or regulation that was the subject of a workshop, the south coast district shall respond to all written comments submitted during the workshop in preparing the environmental assessment on the proposed rule or regulation.

(e) The time and place for a workshop shall be selected on the basis of affording an opportunity to participate to the greatest number of persons expected to be interested in the workshop.

(f) The requirements of this section are not intended to restrict the south coast district in conducting other public workshops and other meetings for the exchange of information under circumstances not specifically addressed in this section.

(g) A workshop or other meeting shall not constitute consideration of a "regulatory measure" within the meaning of Section 40923.

(h) This section is not intended to change, and shall not be construed as changing, any entitlement or protection conferred by the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Amended by Stats. 2021, Ch. 615, Sec. 260. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

40440.8. (a) Whenever the south coast district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the district, to the extent data are available from the district's regional economic model or other sources, shall perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.

(b) For the purposes of this section, "socioeconomic impact" means only the following:

(1) The type of industries affected by the rule or regulation.

(2) The impact of the rule or regulation on employment and the economy in the south coast basin attributable to the adoption of the rule or regulation.

(3) The range of probable costs, including costs to industry, of the rule or regulation.

(4) The availability and cost-effectiveness of alternatives to the rule or regulation, as determined pursuant to Section 40922.

(5) The emission reduction potential of the rule or regulation.

(6) The necessity of adopting, amending, or repealing the rule or regulation in order to attain state and federal ambient air standards pursuant to Chapter 10 (commencing with Section 40910).

(Amended by Stats. 1998, Ch. 997, Sec. 5. Effective January 1, 1999.)

40440.10. The south coast district board, prior to approving any proposed revision to the best available control technology guidelines developed by the south coast district that amends any policy or implementation procedure for determining the best available control technology, shall hold a public hearing on the proposed revision.

(Added by Stats. 1995, Ch. 837, Sec. 1. Effective January 1, 1996.)

40440.11. (a) In establishing the best available control technology that is more stringent than the lowest achievable emission rate pursuant to federal law for a proposed new or modified source, the south coast district shall consider only control options or emission limits to be applied to the basic production or process equipment existing in that source category or a similar source category.

(b) In establishing the best available control technology for a source category or determining the best available control technology for a particular new or modified source, when a particular control alternative for one pollutant will increase emissions of one or more

other pollutants, the south coast district's cost-effectiveness calculation for that particular control alternative shall include the cost of eliminating or reducing the increases in emissions of the other pollutants as required by the south coast district.

(c) Prior to revising the best available control technology guideline for a source category to establish an emission limit that is more stringent than the existing best available control technology guideline for that source category, the south coast district shall do all of the following:

- (1) Identify one or more potential control alternatives that may constitute the best available control technology, as defined in Section 40405.
- (2) Determine that the proposed emission limitation has been met by production equipment, control equipment, or a process that is commercially available for sale, and has achieved the best available control technology in practice on a comparable commercial operation for at least one year, or a period longer than one year if a longer period is reasonably necessary to demonstrate the operating and maintenance reliability, and costs, for an operating cycle of the production or control equipment or process.
- (3) Review the information developed to assess the cost-effectiveness of each potential control alternative. For purposes of this paragraph, "cost-effectiveness" means the annual cost, in dollars, of the control alternative, divided by the annual emission reduction potential, in tons, of the control alternative.
- (4) Calculate the incremental cost-effectiveness for each potential control option. To determine the incremental cost-effectiveness under this paragraph, the district shall calculate the difference in the annual dollar costs, divided by the difference in the annual emission reduction between each progressively more stringent control alternative, as compared either to the next less expensive control alternative, or to the current best available control technology, whichever is applicable.
- (5) Place the best available control technology revision for a source category proposed under this subdivision on the calendar of a regular meeting agenda of the south coast district board, for its acceptance or further action, as the board determines.

(d) If the proposed control option is more stringent than the lowest achievable emission rate for a source category pursuant to federal law, the south coast district shall not establish an emission limit for best available control technology that is conditioned on the use of a particular control option unless the incremental cost-effectiveness value of that option is less than the district's established incremental cost-effectiveness value for each pollutant. Notwithstanding any other provision of law, the south coast district shall have the discretion to revise incremental cost-effectiveness value for each pollutant, provided it holds a public hearing pursuant to Section 40440.10 prior to revising the value.

(e) After the south coast district determines what is the best available control technology for a source, it shall not change that determination for that application for a period of at least one year from the date that an application for authority to construct was determined to be complete by the district. For major capital projects in excess of ten million dollars (\$10,000,000), after the applicant has met and conferred with the south coast district in a preapplication meeting, the south coast district executive officer may approve existing best available control technology for the project, for a longer time period as long as the final design is consistent with the initial, preliminary project design presented in the preapplication meeting.

(Added by Stats. 1995, Ch. 837, Sec. 2. Effective January 1, 1996.)

40441. After adoption of the plan, the south coast district shall have the responsibility for securing the cooperation of other public entities in the implementation of the plan, including all programs, plans, and projects relating to or affecting air quality within the south coast district.

The south coast district board may adopt such rules and regulations as do not conflict with state and federal laws for the coordination of local, state, and federal programs affecting air quality.

(Amended by Stats. 1980, Ch. 1085.)

40442. If the plan is not adopted or approved in compliance with the schedule set forth in Section 40463, the powers and duties of the south coast district board with respect to air quality control shall not be diminished or otherwise affected by such failure to adopt or approve the plan.

(Amended by Stats. 1980, Ch. 1085.)

40443. The south coast district board shall adopt revised and updated nonvehicular source emission limitations for inclusion in the state's implementation plan.

(Amended by Stats. 1980, Ch. 1085.)

40444. The south coast district board shall adopt the necessary rules and regulations to implement the Air Pollution Emergency Plan developed by the state board.

(Amended by Stats. 1980, Ch. 1085.)

40445. Pursuant to its authority under Section 40444 to implement the Air Pollution Emergency Plan of the state board, the south coast district board may adopt rules and regulations to limit the operation of motor vehicles within the south coast district during the period when an air pollution emergency has been called as defined by that plan. Such rules and regulations shall not apply to the operation of authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, or repair vehicles of a public utility.

(Amended by Stats. 1980, Ch. 1085.)

40445.5. (a) The south coast district board shall conduct hearings on the adoption and implementation of intermittent transportation controls which shall be applicable, upon order of the south coast district board, during periods in the months of June to October, inclusive, when an air pollution emergency, as defined in the Air Pollution Emergency Plan of the state board, has been called pursuant to the authority of the south coast district under Section 40444 to implement that plan.

(b) The south coast district board shall conduct the hearings pursuant to subdivision (a) to define and designate the necessary transportation controls in cooperation with representatives of industry, transportation, and local governments in the south coast district.

(c) The south coast district board shall incorporate its findings and determinations into the south coast district air quality management plan.

(Added by Stats. 1987, Ch. 893, Sec. 1.)

40446. If requested by the state board, the south coast district board may assist in the administration and enforcement of any state statute establishing an inspection program for motor vehicles with respect to their air pollution emissions and their air pollution control devices or systems and any rules and regulations adopted pursuant to such a statute.

(Added by Stats. 1976, Ch. 324.)

40447. The south coast district board may request the state board to investigate the emission reduction capabilities of any motor vehicle pollution control devices which have not been previously tested by the state board.

(Added by Stats. 1976, Ch. 324.)

40447.5. Notwithstanding any other provision of law, the south coast district board may adopt regulations that do all of the following:

(a) Require operators of public and commercial fleet vehicles, consisting of 15 or more vehicles under a single owner or lessee and operating substantially in the south coast district, when adding vehicles to or replacing vehicles in an existing fleet or purchasing vehicles to form a new fleet, to purchase vehicles which are capable of operating on methanol or other equivalently clean burning alternative fuel and to require that these vehicles be operated, to the maximum extent feasible, on the alternative fuel when operating in the south coast district. Notwithstanding Section 39021, as used in this subdivision, the term "commercial fleet vehicles" is not limited to vehicles that are operated for hire, compensation, or profit. No regulation adopted pursuant to this paragraph shall apply to emergency vehicles operated by local law enforcement agencies, fire departments, or to paramedic and rescue vehicles until the south coast district board finds and determines that the alternative fuel is available at sufficient locations so that the emergency response capabilities of those vehicles is not impaired.

(b) Encourage and facilitate ridesharing for commuter trips into, out of, and within the south coast district.

(c) Prohibit or restrict the operation of heavy-duty trucks during hours of heaviest commuter traffic on freeways and other high traffic volume highways. In adopting regulations pursuant to this paragraph, the south coast district shall consult with the Department of Transportation and the Department of the California Highway Patrol and the transportation commission of each county in the south coast district. No regulation adopted pursuant to this paragraph shall, however, prohibit or restrict the operation of any heavy-duty truck engaged in hauling solid or hazardous waste or a toxic substance if that truck is required to be operated at certain times of day pursuant to an ordinance adopted for the protection of public health or safety by a city or county or any heavy-duty truck required to be operated at certain times of the day pursuant Section 25633 of the Business and Professions Code.

(Added by Stats. 1987, Ch. 1301, Sec. 10.)

40447.6. (a) Notwithstanding any other provision of law, the south coast district board may, subject to the approval of the state board, adopt regulations that specify the composition of diesel fuel manufactured for sale in the south coast district. These regulations shall impose requirements at least as stringent as those of the state board. No regulation shall be adopted pursuant to this section until the south coast district has evaluated the safety of any fuel of a particular composition proposed to be required by the regulations. This section shall become operative January 1, 1989.

(b) In adopting regulations pursuant to this section, the south coast district board shall consider the effect of the regulation on emissions, public health, ambient air quality, and visibility in the south coast air basin; the technological feasibility and economic

costs and benefits of the regulation compared to other available measures; and the availability of low emission and alternative fueled vehicles and alternative fuels.

(Added by Stats. 1987, Ch. 1301, Sec. 11. Section operative January 1, 1989, by its own provisions.)

40448. (a) The south coast district shall maintain an office of public advisor and small business assistance to provide administrative and technical services and information to small businesses and the public. The executive officer shall appoint the public advisor.

(b) The office shall facilitate and encourage compliance by small businesses with the rules and regulations of the south coast district, assist small businesses in applying for permits and variances, and facilitate the participation of small businesses in the development of rules and regulations and in other proceedings of the south coast district. The office shall provide information on the economic impact of the rules and regulations of the south coast district on small businesses in the south coast district. The office shall make available to small businesses information regarding alternative processes, cleaner fuels and solvents, and low-cost financing for air pollution control equipment. Upon receiving findings and recommendations from the public advisor, the south coast district board shall endeavor to coordinate compliance schedules with the availability to small businesses of financing for pollution control equipment and other measures to reduce emissions.

(c) The office shall assure effective communication with interested groups and the public through means such as maintaining a staffing level adequate to respond to requests for its services and providing toll-free telephone lines. The office shall facilitate effective participation by all interested groups and the public in the development of rules and regulations and the plan and in the discharge of other responsibilities of the south coast district by assuring that, consistent with the express requirements of this chapter, Chapter 6.5 (commencing with Section 40725), Chapter 8 (commencing with Section 40800), and Chapter 10 (commencing with Section 40910), timely and complete notice of all proceedings of the south coast district board and the hearing board is disseminated to all interested groups and the public. Upon request, the office shall advise interested groups and the public as to effective ways of participating in these proceedings, provide more extensive information on any item on an agenda, and make referrals to sources of expert advice and assistance on the district staff and elsewhere. Upon request, the office shall obtain and make available the public record of any aspect of, or particular action taken at, these proceedings. The office shall recommend to the south coast district board and the hearing board additional measures to assure open consideration and public participation in all proceedings.

(d) As used in this section:

(1) "Public" has the same meaning as "person," as defined in Section 39047.

(2) "Proceedings" means any hearing, workshop, conference, or meeting which is held or conducted by the south coast district board, the hearing board, any committee of either board, or district staff, at which attendance by the public is allowed or required.

(Amended by Stats. 1990, Ch. 1702, Sec. 4.)

40448.5. (a) The south coast district shall establish an Office of Technology Advancement to administer the clean-burning fuels program established pursuant to this section. The program shall encourage projects that increase the utilization of clean-burning fuels that reduce public health hazards from air pollution. The south coast district shall coordinate the program with the state board, the State Energy Resources Conservation and Development Commission, and other appropriate state and federal agencies and private organizations that are conducting activities to promote the use of clean-burning fuels.

(b) After holding at least two public hearings to solicit public comment on a clean-burning fuels program, the south coast district shall annually adopt a program of activities for increasing the use of clean-burning fuels in the transportation and stationary source sectors.

(c) The program shall include an identification of potential funding sources, including, but not limited to, state and federal funds; private-sector funds; revenues from district permit, variance, and emission fees; proceeds from district penalty settlements and judgments; and funds from other sources under the jurisdiction of the south coast district.

(d) In developing its program, the south coast district shall consider promoting projects in the transportation and stationary source sectors utilizing methanol fuel, fuel cells, liquid petroleum gas, natural gas, including compressed natural gas, combination fuels, synthetic fuels, electricity, including electric vehicles, and other clean-burning fuels.

(e) When considering which clean fuels projects to promote, the south coast district shall consider, among other factors, the current and projected economic costs and availability of fuels, the cost-effectiveness of emission reductions associated with clean fuels compared with other pollution control alternatives, the use of new pollution control technologies in conjunction with traditional fuels as an alternative means of reducing emissions, potential effects on public health, ambient air quality, visibility within the region, and other factors determined to be relevant by the south coast district.

(f) When implementing clean fuels projects, the south coast district shall consider limiting the use of clean fuels to specific seasons, time of day, and locations if those limitations are found by the district to further the goals of the program.

(g) The south coast district shall coordinate the clean-burning fuels program with transportation control measures adopted pursuant to paragraph (4) of subdivision (b) of Section 40440 to reduce traffic congestion, air pollution, and motor vehicle fuel consumption.

(Amended by Stats. 1999, Ch. 36, Sec. 1. Effective June 8, 1999.)

40448.5.1. (a) Prior to adopting the program specified in subdivision (b) of Section 40448.5 and prior to expending any funds for any research, development, or demonstration program or project relating to vehicles or vehicle fuels, the south coast district shall do both of the following:

(1) Adopt and include in the program a plan describing any proposed expenditure that sets forth the expected costs and qualitative as well as quantitative benefits of the proposed program or project.

(2) Find that the proposed program and projects funded as part of the program will not duplicate any other past or present program or project funded by the state board, the State Energy Resources Conservation and Development Commission, an air quality management district or air pollution control district, a public transit district or authority within the geographic jurisdiction of the south coast district, the San Diego Transit Corporation, the North County Transit District, the Sacramento Regional Transit District, the Alameda-Contra Costa Transit District, the San Francisco Bay Area Rapid Transit District, the Santa Barbara Metropolitan Transit District, the Los Angeles Department of Water and Power, the Sacramento Municipal Utility District, the Pacific Gas and Electric Company, the Southern California Gas Company, the Southern California Edison Company, the San Diego Gas and Electric Company, or the Office of Mobile Sources within the Environmental Protection Agency. This paragraph is not intended to prevent funding for programs or projects jointly funded with another public or private agency where there is no duplication.

(b) (1) The Office of Technology Advancement shall provide notice to interested parties and the public at least 30 days prior to the annual public hearing at which the south coast district board or a committee of the board takes action to approve the clean-burning fuels program.

(2) For the purpose of this subdivision, "interested parties" includes groups involved in research, development, and application of clean fuels technologies; public health and environmental organizations with expertise in air pollution related diseases and alternative energy technologies; relevant media; legislators, members of the county board of supervisors, and members of any city council that represent territory within the south coast district; and any member of the general public who has expressed interest in the program.

(c) (1) The south coast district shall establish an advisory group to make recommendations to the south coast district board regarding the clean-burning fuels program, technology advancement, and pollution reduction. The advisory group shall make recommendations regarding the most cost-effective projects that advance and implement clean fuels technology and improve public health.

(2) The advisory group shall consist of 13 members with expertise in either clean fuels technology and policy or public health, or both. The members shall be appointed from scientific, academic, entrepreneurial, environmental, and public health communities.

(3) The members of the advisory group shall adopt conflict-of-interest guidelines that prohibit a member from advocating an expenditure involving a project in which the member has a professional or an economic interest.

(4) The south coast district shall consult with the advisory group regarding approval of the annual report required by subdivision

(d). The results of that consultation shall be provided to the south coast district board prior to its approval of the report.

(d) Notwithstanding Section 7550.5 of the Government Code, on or before March 31 of each year that the clean-burning fuels program is in operation, the south coast district shall prepare and submit to the office of the Legislative Analyst and to the committees of the Legislature responsible for improving air quality a report that, at a minimum, includes all of the following:

(1) A description of the core technologies that the south coast district considers critical to ensure the attainment and maintenance of national and state ambient air quality standards and a description of the efforts made to overcome barriers to commercialization of those technologies.

(2) An analysis of the impact of the south coast district's clean-burning fuels program on the private sector and on research, development, and commercialization efforts by major automobile and energy firms, as determined by the district.

(3) A description of clean-burning fuels projects funded by the south coast district, including a list of recipients, subcontractors, cofunders, and matching state or federal funds, and a description of expected and actual results of each project in advancing and implementing clean fuels technology and improving public health.

(4) The title and purpose of all projects undertaken pursuant to the clean-burning fuels program, the names of the contractors and subcontractors involved in each project, and the amount of money expended for each project.

(5) A summary of the actual progress made toward the goals of the clean-burning fuels program.

(6) Funding priorities identified for the next fiscal year and relevant audit information for previous, current, and future fiscal years covered by the report.

(e) Within 120 days from the date of the conclusion of a program or project subject to subdivision (a) that is funded by the south coast district, the south coast district shall issue a public report that sets forth the actual costs of the program or project, the results achieved and how they compare with expected costs and benefits determined pursuant to paragraph (1) of subdivision (a), and any problems that were encountered by the program or project.

(f) Notwithstanding any other provision of law, the south coast district may recover the costs of implementing this section from the revenues it receives for alternative fuel research, development, and demonstration pursuant to Section 9250.11 of the Vehicle Code.

(Amended by Stats. 1999, Ch. 36, Sec. 2. Effective June 8, 1999.)

40448.6. The Legislature hereby finds and declares all of the following:

(a) It is necessary to increase the availability of financial assistance to small businesses that are subject to the rules and regulations of the south coast district, in order to minimize economic dislocation and adverse socioeconomic impacts.

(b) It is in the public interest that a portion of the funds collected by the south coast district from violators of air pollution regulations be allocated for the purpose of guaranteeing or otherwise reducing the financial risks of providing financial assistance to small businesses which face increased borrowing requirements in order to comply with air pollution control requirements.

(c) Public agencies and private lenders have a variety of methods available for providing financing assistance to small businesses and other employers, including taxable bonds, composite or pooled financing instruments, loan guarantees, and credit insurance, which could be utilized in combination with the penalties collected by the south coast district to expand the availability and reduce the cost of financing assistance.

(d) The California Pollution Control Financing Authority has funds set aside from previous bond issues, which could be used to guarantee the issuance of bonds or other financing for small businesses for the purchase and installation of pollution control equipment.

(e) The Governor's Office of Business and Economic Development, through the small business financial development corporations established pursuant to Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code, has the ability to provide state loan guarantees and technical assistance to small businesses needing financial assistance.

(f) The Job Training Partnership Division of the Employment Development Department makes funds available for job training programs, including funds for dislocated workers, through the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(g) It is the policy of the state that the Job Training Partnership Division of the Employment Development Department, in cooperation with the districts and the state board, are encouraged to provide job training programs for workers who, as determined by the department or the local private industry council, have been laid off or dislocated as a result of actions resulting from air quality regulations.

(h) It is the policy of the state that the California Pollution Control Financing Authority and other state agencies implementing small business assistance programs, in cooperation with the districts and the state board, are encouraged to provide technical and financial assistance to small businesses to facilitate compliance with air quality regulations.

(Amended by Stats. 2013, Ch. 353, Sec. 118. (SB 820) Effective September 26, 2013. Operative July 1, 2013, by Sec. 129 of Ch. 353.)

40448.8. (a) As used in this section, "small business" has the same meaning as defined by the federal Small Business Administration, except that no stationary source which is a major source, as defined by applicable provisions of the federal Clean Air Act (42 U.S.C. Sec. 7661(2)), is a small business.

(b) The south coast district shall establish a small business technical and compliance assistance program. The program shall include all of the following components:

(1) Mechanisms for developing, collecting, and coordinating information concerning air quality compliance methods and technologies for small businesses.

(2) A program which assists small businesses in determining applicable requirements, applying for permits, and petitioning for variances.

(3) Mechanisms to refer small businesses to qualified compliance auditors, or, at the option of the district, to provide compliance audits of the operations of those businesses.

- (4) Mechanisms to assist small businesses with air pollution control and air pollution prevention by providing information concerning alternative technologies, process changes, products, and methods of operation that reduce air pollution.
- (5) Mechanisms to provide small businesses with information regarding financing for air pollution control equipment.
- (6) Procedures to consider requests of small businesses for modification, as authorized by district regulations, of any work practice or technological method of compliance.
- (7) Programs to encourage lawful cooperation among small businesses and other persons to further compliance with air quality regulations.
- (8) Mechanisms to assure that small businesses receive notice of the assistance available pursuant to this section.

(Added by Stats. 1992, Ch. 371, Sec. 4. Effective January 1, 1993.)

40449. (a) No provision of this chapter is a limitation on the power of any city or county included, in whole or in part, within the south coast district to adopt any ordinance with respect to air pollution control which is stricter than the rules and regulations adopted by the south coast district board and not in conflict therewith. The south coast district board shall enforce any such ordinance.

(b) At the request of the governing body of any city or county included, in whole or in part, within the south coast district, the south coast district board may make available, on a temporary basis, the necessary personnel, equipment, and services to assist in adopting any ordinance stricter than the rules and regulations adopted by the south coast district.

(Amended by Stats. 1980, Ch. 1085.)

40450. Except as provided in Section 40449 regarding the adoption of stricter orders, rules, and regulations than those of the south coast district board, the board of supervisors of any county included, in whole or in part, within the south coast district shall have no authority, with respect to the control of air pollution in that part of the county included within the south coast district.

(Amended by Stats. 2000, Ch. 890, Sec. 12. Effective January 1, 2001.)

40451. (a) The south coast district shall use the Pollutant Standards Index developed by the United States Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media. Commencing July 1, 2001, the south coast district shall also include in its report and forecast levels of PM_{2.5} in excess of the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.

(b) Using existing communication facilities available to it, the south coast district shall notify all schools and, to the extent feasible and upon request, daycare centers in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded. Commencing July 1, 2001, using communication facilities available to it, the south coast district shall also notify all schools in the South Coast Air Basin when the ambient level of PM_{2.5} is predicted to exceed the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.

(c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and recreational facilities in the south coast district the latest scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards and the 24-hour federal ambient air standard for PM_{2.5}, as adopted in July 1997, or any standards adopted by the United States Environmental Protection Agency that succeed those standards, are exceeded.

(d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded. Commencing July 1, 2001, the south coast district shall also include in that report the number of days and locations on and at which the 24-hour federal ambient air standard for PM_{2.5}, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard, is exceeded.

(Amended by Stats. 1999, Ch. 731, Sec. 7.5. Effective January 1, 2000.)

40451.5. On or before January 1, 2001, the south coast district shall revise its forecasting models to allow the district to predict, using state-of-the-science techniques, when the 24-hour federal ambient air standard for PM_{2.5}, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard, may be expected to be exceeded.

(Added by Stats. 1999, Ch. 477, Sec. 3. Effective January 1, 2000.)

40452. The south coast district shall submit an annual report to the state board and the Legislature summarizing its regulatory activities for the preceding calendar year. The report shall include all of the following:

(a) A summary of each major rule and rule amendment adopted by the south coast district board. The summary shall include emission reductions to be accomplished by each rule or regulation; the cost per ton of emission reduction to be achieved from each rule or regulation; other alternatives that were considered through the environmental assessment process; the cost per ton of comparable emission reductions that could have been achieved from each alternative; a statement of the reason why a given alternative was chosen; the conclusions and recommendations of the district's socioeconomic analysis, including any evaluations of employment impacts; and the source of funding for the rule or regulation. For the purposes of this subdivision, a major rule or rule amendment is one that is intended to significantly affect air quality or that imposes emission limitations.

(b) The number of permits to operate or to construct, by type of industry, that are issued and denied, and the number of permits to operate that are not renewed.

(c) Data on emission offset transactions and applications, by pollutant, during the previous fiscal year, including an accounting of the number of applications for permits for new or modified sources that were denied because of the unavailability of emission offsets.

(d) The district's forecast of budget and staff increases proposed for the following fiscal year, and projected for the next two fiscal years. Budget and staff increases shall be related to existing programs and rules, and to new programs or rules to be adopted during the following years. The budget forecast shall provide a workload justification for proposed budget and staff changes and shall identify any cost savings to be achieved by program or staff changes. The budget forecast shall include increases in permit fees and other fees proposed for the following fiscal year and projected for the next two fiscal years.

(e) An identification of the source of all revenues collected that are used, or proposed to be used, to finance activities related to either stationary or nonstationary sources.

(f) The results of the clean fuels program as specified in Section 40448.5. This element of the report shall be submitted biennially.

(Amended by Stats. 2004, Ch. 193, Sec. 105. Effective January 1, 2005.)

40454. (a) Notwithstanding Section 40716 or 40717, or subdivision (c) of Section 40717.5, the south coast district shall not adopt or enforce any rule or regulation that would require any employer to submit a trip reduction plan.

(b) The south coast district may require employers with 100 or more employees at a single worksite to provide ride-matching information and transit information to employees at that worksite.

(Amended by Stats. 2000, Ch. 890, Sec. 14. Effective January 1, 2001.)

40455. Notwithstanding subdivision (e) of Section 40717, the south coast district shall not require any local agency to implement any transportation control measure that the district itself is prohibited from enacting pursuant to Section 40454, unless required by the federal Clean Air Act.

(Added by Stats. 1994, Ch. 335, Sec. 1. Effective January 1, 1995.)

40456. Except as provided in Section 43845, the south coast district shall not require any employer to charge its employees for parking.

(Added by Stats. 1994, Ch. 335, Sec. 2. Effective January 1, 1995.)

40457. (a) The south coast district board shall convene a task force, that shall, on or before July 1, 2000, review, and assist in updating, the south coast district's data base to ensure that any small business, as determined by the task force, that is located within the district and that may be affected by the adoption, amendment, or repeal of an air quality regulation by the district board, is included on the south coast district's mailing list.

(b) On and after July 1, 2000, the district shall mail, to each small business identified pursuant to subdivision (a) and to each local or regional authority within the district, notice of the time and place of any public workshop scheduled by the south coast district pursuant to Section 40440.7, to consider the adoption, amendment, or repeal of any district rule or regulation that may affect that small business or local or regional authority. The inadvertent failure to mail notice to any particular business or local or regional authority, as required by this subdivision, shall not invalidate any action taken by the district board regarding the adoption, amendment, or repeal of the district rule or regulation.

(c) In addition to the office of public adviser and small business assistance required to be maintained pursuant to Section 40448, the south coast district board shall establish a small business advisory group comprised of district board members, industry trade association representatives, and small business owners. The advisory group shall provide guidance to the district board in implementing this section and shall provide recommendations for public outreach, business assistance, and rulemaking activities. The advisory group shall meet on a regular basis, as determined by the district board.

(d) To the extent that the requirements of this section duplicate or overlap with the requirements established pursuant to Section 40448 or 40448.8, the district may combine or consolidate its activities in order to promote efficiency and nonduplication of effort.

(Added by Stats. 1999, Ch. 506, Sec. 1. Effective January 1, 2000.)

40458. (a) Rules 1501 and 1501.1 adopted by the south coast district are void.

(b) Rule 2202 adopted by the south coast district shall be amended in the following manner:

(1) The worksite employee threshold shall be raised to 250.

(2) Nothing in this section is intended to prevent an early replacement and repeal of Rule 2202. The south coast district shall replace Rule 2202 as soon as possible with alternative direct light-duty mobile source emission reduction measures, other than new vehicle emission standards or reformulated fuel standards.

(Amended by Stats. 1998, Ch. 67, Sec. 1. Effective June 19, 1998.)

40458.5. (a) Subject to an appropriation for this express purpose, the south coast district shall, beginning on January 1, 2026, and until January 1, 2032, deploy mobile air monitoring systems within the Counties of Riverside and San Bernardino to collect air pollution measurements in communities that are near operational logistics use developments.

(b) The south coast district shall use the data collected pursuant to subdivision (a) to conduct an air modeling analysis to evaluate the impact of air pollution on sensitive receptors, as defined in Section 65098 of the Government Code, from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors.

(c) The south coast district shall submit its findings to the Legislature on or before January 1, 2033. On or before January 1, 2028, the south coast district shall submit an interim report to evaluate the impact of air pollution on sensitive receptors, as defined in Section 65098 of the Government Code, from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors. This report shall be used to assess the effectiveness of setbacks on public health.

(d) (1) The requirement for submitting a report imposed pursuant to subdivision (c) is inoperative on January 1, 2040, pursuant to Section 10231.5 of the Government Code.

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

(Added by Stats. 2024, Ch. 931, Sec. 3. (AB 98) Effective January 1, 2025.)

40459. (a) (1) Except as provided in paragraph (4), on or before January 1, 2001, the operator of any facility within either the Port of Los Angeles or the Port of Long Beach that stores, handles, or transports petroleum coke and is subject to the enclosed storage pile deadlines of Rule 1158 shall comply with the enclosure requirement of Rule 1158.

(2) Except as provided in paragraph (4), on or before January 1, 2002, the facility operator at the Port of Los Angeles shall enclose the ready pile referenced in subparagraph (k)(10) of Rule 1158.

(3) On or before January 1, 2004, the facility operator at the Port of Long Beach shall discontinue the use of, or replace the shiploader referenced in subparagraph (k)(6) of Rule 1158.

(4) Notwithstanding paragraphs (1) and (2), if the construction of additional enclosed storage within the Port of Los Angeles is commenced on or before April 1, 2001, the facility operator is not required to comply with subparagraph (k)(10) of Rule 1158 until April 1, 2002.

For purposes of this paragraph, "construction of additional enclosed storage" means any storage enclosure for which the south coast district issues a permit to construct on or after January 1, 2001, but before April 1, 2001, and construction begins on or before April 1, 2001.

(b) The south coast district, in conjunction with the state board, shall annually submit a study to the Legislature that examines the frequency and severity of violations of south coast district rules related to the storage, transportation, and handling of petroleum coke.

(c) Until the facility operator at the Port of Los Angeles encloses the outdoor ready pile, as specified in paragraph (2) of subdivision (a), the south coast district shall monitor the size of that ready pile to ensure compliance with the 50,000 metric ton limit requirement in that facility's March 31, 1999, Rule 1158 interim storage plan.

(d) On and after January 1, 2003, the south coast district shall maintain a program to monitor particulates within the Port of Los Angeles and the Port of Long Beach and shall assess prevalent coke particulates and improvements in air quality.

(e) For purposes of this section, "Rule 1158" means the rule adopted by the south coast district on December 2, 1983, and amended June 11, 1999, pursuant to this chapter. Any terms used in this section and in Rule 1158 shall have the same meaning as provided in Rule 1158.

(Added by Stats. 2000, Ch. 500, Sec. 2. Effective January 1, 2001.)