

South Coast Air Quality Management District

November 9, 2015

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CALIFORNIA HEALTH AND SAFETY CODE

SECTION 40400-40408

40400. This chapter shall be known and may be cited as the "Lewis-Presley Air Quality Management Act."

40402. The Legislature finds and declares all of the following:

(a) That the South Coast Air Basin is a geographical entity not reflected by political boundaries.

(b) That the basin is acknowledged to have critical air pollution problems caused by the operation of millions of motor vehicles in the basin, stationary sources of pollution, frequent atmospheric inversions that trap aerial contaminants, and the large amount of sunshine that transforms vehicular and nonvehicular emissions into a variety of deleterious chemicals.

(c) That these critical air pollution problems are most acute in the foothill communities of the San Gabriel/Pomona Valleys and the Riverside/San Bernardino areas, where pollutants which originate in other parts of the basin are trapped by geographical and meteorological conditions characteristic of these areas.

(d) That the state and federal governments have promulgated ambient air quality standards for the protection of public health, and it is in the public interest that those standards not be exceeded.

(e) That, in order to achieve and maintain air quality within the ambient air quality standards, a comprehensive basinwide air quality management plan must be developed and implemented to provide for the rapid abatement of existing emission levels to levels which will result in the achievement and maintenance of the state and federal ambient air quality standards and to ensure that new sources of emissions are planned and operated so as to be consistent with the basin's air quality goals.

(f) That, in recognition of the fact that some regions within the basin face more critical air pollution problems than others, it is necessary for the basinwide air quality management plan to consider the specific air pollution problems of regions within the air basin in planning for facilities which create new sources of emissions.

(g) That, in order to successfully develop and implement a meaningful strategy for achieving and maintaining ambient air quality standards, local governments in the South Coast Air Basin must be delegated additional authority from the state in the control of vehicular sources and must retain existing authority to set stringent emission standards for nonvehicular sources.

(h) That, in order to successfully implement a comprehensive program for the achievement and maintenance of state and federal ambient air quality standards in the South Coast Air Basin, the responsibilities of local and regional authorities with respect to air pollution control and air quality management plan adoption must

be fully integrated into an agency with basinwide authority, largely to be governed by representatives of county and city governments.

40404. The Legislature further finds and declares that the south coast district shall take a leadership role to sponsor, coordinate, and promote projects which increase the use of clean-burning fuels in the transportation and stationary source sectors, and that it is the intent of the Legislature that the district establish voluntary programs to accelerate the utilization of clean-burning fuels within the South Coast Air Basin.

40404.5. The Legislature further finds and declares that the south coast district, in fulfilling its directive to require the use of best available control technology for new sources, and in consideration of the state policy to promote and encourage the use of solar energy systems, shall make reasonable efforts to incorporate solar energy technology into its air quality management plan in applications where it can be shown to be cost-effective.

40405. (a) As used in this chapter, "best available control technology" means an emission limitation that will achieve the lowest achievable emission rate for the source to which it is applied. Subject to subdivision (b), "lowest achievable emission rate," as used in this section, means the more stringent of the following:

(1) The most stringent emission limitation that is contained in the state implementation plan for the particular class or category of source, unless the owner or operator of the source demonstrates that the limitation is not achievable.

(2) The most stringent emission limitation that is achieved in practice by that class or category or source.

(b) "Lowest achievable emission rate" shall not be construed to authorize the permitting of a proposed new source or a modified source that will emit any pollutant in excess of the amount allowable under the applicable new source standards of performance.

40406. As used in this chapter, "best available retrofit control technology" means an emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source.

40407. As used in this chapter, "electric plant" means an electric plant as defined in Section 217 of the Public Utilities Code, whether publicly or privately owned or operated.

40407.5. As used in this chapter, "electronic or computer data storage" means paperless record retention utilizing optical, electronic, magnetic, micrographic, or photographic media or other similar technology capable of accurately producing or reproducing data in accordance with minimum standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management.

40408. As used in this chapter, "plan" means the south coast district air quality management plan.

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SECTION 40410-40414

40410. There is hereby created the South Coast Air Quality Management District in those portions of the Counties of Los Angeles, Orange, Riverside, and San Bernardino included within the area of the South Coast Air Basin, as described in Section 60104 of Title 17 of the California Administrative Code, as now or hereafter amended.

40410.5. (a) There is hereby established within the south coast district a sensitive zone, which shall include the general forecast areas known as the San Gabriel/Pomona Valleys and the Riverside/San Bernardino areas.

(b) In addition to every other requirement for the issuance of a permit, the following requirements shall be applicable to the issuance of a permit by the south coast district for the construction or operation of any stationary source within the sensitive zone:

(1) When emission offsets are required to mitigate the air quality impacts of a stationary source, the offsets shall be secured by the applicant so as to bring about ambient air quality improvements within the sensitive zone. The applicant shall be required to demonstrate, to the satisfaction of the south coast district, that any emissions reductions acquired from stationary sources operating within the South Coast Air Basin will result in a demonstrable net ambient air quality improvement within the sensitive zone.

(2) In considering an application for a permit to construct or operate a stationary source, the south coast district board shall, in addition to making a finding and determination that the impacts of the stationary source will be mitigated so as to result in a net improvement in ambient air quality within the South Coast Air Basin, also make a finding and determination that the impacts of the stationary source can be mitigated so as to result in a net improvement in ambient air quality within the sensitive zone.

(c) The south coast district board shall adopt rules and regulations to implement this section by January 1, 1991.

40411. (a) The south coast district board may, by resolution, include all or part of the County of Santa Barbara or the County of Ventura within the south coast district, upon receipt of a resolution from the appropriate board of supervisors requesting inclusion.

(b) The inclusion of the county, or portion thereof, as the case may be, shall take effect at the commencement of the first quarter commencing at least 60 days after the adoption of the resolution.

(c) A copy of the resolution of approval shall be sent by the south coast district board to the board of supervisors and the state board.

40412. The south coast district shall be the sole and exclusive local agency within the South Coast Air Basin with the responsibility for comprehensive air pollution control, and it shall have the duty to represent the citizens of the basin in influencing the decisions of other public and private agencies whose actions might have an adverse impact on air quality in the basin.

40413. The board of supervisors of a county that is only included in part within the south coast district may, by resolution, request the south coast district board to have that area of the county not included within the South Coast Air Basin included in the south coast district, or the board of supervisors may request to contract with the south coast district to perform air pollution control functions in that area of the respective county not within the South Coast Air Basin. The south coast district board may, by resolution, agree to (1) have that area of the county not included within the South Coast Air Basin included in the south coast district, or (2) perform air pollution control functions for that area of the county not included within the South Coast Air Basin, or both (1) and (2).

40414. No provision of this chapter shall constitute an infringement on the existing authority of counties and cities to plan or control land use, and no provision of this chapter shall be interpreted as providing or transferring new authority over such land use to either the south coast district, the Southern California Association of Governments, or the state board.

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SECTION 40420-40428

40420. (a) The south coast district shall be governed by a district board consisting of 13 members appointed as follows:

- (1) One member appointed by the Governor, with the advice and consent of the Senate.
- (2) One member appointed by the Senate Committee on Rules.
- (3) One member appointed by the Speaker of the Assembly.
- (4) Four members appointed by the boards of supervisors of the counties in the south coast district. Each board of supervisors shall appoint one of these members, who shall be one of the following:
 - (A) A member of the board of supervisors of the county making the appointment.
 - (B) A mayor or member of a city council from a city in the portion of the county making the appointment that is included in the south coast district.
- (5) Three members appointed by cities in the south coast district. The city selection committee of Orange, Riverside, and San Bernardino Counties shall each appoint one of these members, who shall be either a mayor or a member of the city council of a city in the portion of the county included in the south coast district.
- (6) A member appointed by the cities of the western region of Los Angeles County, consisting of the Cities of Agoura Hills, Artesia, Avalon, Bell, Bellflower, Bell Gardens, Beverly Hills, Calabasas, Carson, Cerritos, Commerce, Compton, Cudahy, Culver City, Downey, El Segundo, Gardena, Hawaiian Gardens, Hawthorne, Hermosa Beach, Hidden Hills, Huntington Park, Inglewood, La Habra Heights, La Mirada, Lakewood, Lawndale, Lomita, Long Beach, Lynwood, Malibu, Manhattan

Beach, Maywood, Montebello, Norwalk, Palos Verdes Estates, Paramount, Pico Rivera, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Santa Fe Springs, Santa Monica, Signal Hill, South Gate, Torrance, Vernon, West Hollywood, Westlake Village, and Whittier. These cities shall organize as a city selection committee for the purposes of subdivision (f), and shall be known as the city selection committee of the western region of Los Angeles County. The member appointed shall be either a mayor or a member of the city council of a city in the western region.

(7) A member appointed by the cities of the eastern region of Los Angeles County, consisting of the cities in Los Angeles County that are not listed in paragraph (6) or (8), and excluding the Cities of Lancaster, Los Angeles, and Palmdale. These cities shall organize as a city selection committee for the purposes of subdivision (f), and shall be known as the city selection committee of the eastern region of Los Angeles County. The member appointed shall be either a mayor or a member of the city council of a city in the eastern region.

(8) A member appointed by the Mayor of the City of Los Angeles from among the members of the Los Angeles City Council.

(b) All members shall be appointed on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems of the South Coast Air Basin.

(c) The member appointed by the Governor shall be either a physician who has training and experience in the health effects of air pollution, an environmental engineer, a chemist, a meteorologist, or a specialist in air pollution control.

(d) Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the south coast district board, to discharge all duties and responsibilities of a member of the south coast district board on a regular basis, and to participate actively in the affairs of the south coast district. No member may designate an alternate for any purpose or otherwise be represented by another in his or her capacity as a member of the south coast district board.

(e) Each appointment by a board of supervisors shall be considered and acted on at a duly noticed, regularly scheduled hearing of the board of supervisors, which shall provide an opportunity for testimony on the qualifications of the candidates for appointment.

(f) The appointments by cities in the south coast district shall be considered and acted on at a duly noticed meeting of the city selection committee, which shall meet in a government building and provide an opportunity for testimony on the qualifications of the candidates for appointment. Each appointment shall be made by not less than a majority of all the cities in the portion of the county included in the south coast district having not less than a majority of the population of all the cities in the portion of the county included in the south coast district. Population shall be determined on the basis of the most recent verifiable census data developed by the Department of Finance. Persons residing in unincorporated areas or areas of a county outside the south coast district shall not be considered for the purposes of this subdivision.

(g) The members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall have one or more of the qualifications specified in subdivision (c) or shall be a public member. None of

those appointed members may be a locally elected official.

(h) All members shall be residents of the district.

(i) (1) The member who was serving on the district board as of June 1, 2007, who had been appointed to represent the eastern region of Los Angeles County shall be deemed on January 1, 2008, to be the member appointed to represent the western region of Los Angeles County pursuant to paragraph (6) of subdivision (a) and shall serve from January 1, 2008, until the end of the term of office for the member who had been appointed to represent the western region of Los Angeles County. At the end of that term, the city selection committee of the western region of Los Angeles County shall make an appointment pursuant to paragraph (6) of subdivision (a).

(2) The member who was serving on the district board as of June 1, 2007, who had been appointed to represent the western region of Los Angeles County shall be deemed on January 1, 2008, to be the member appointed pursuant to paragraph (8) of subdivision (a) until the end of that member's term. At the end of that term, the Mayor of the City of Los Angeles shall make an appointment pursuant to paragraph (8) of subdivision (a).

(3) On or after January 1, 2008, the city selection committee of the eastern region of Los Angeles County shall convene promptly to make an appointment pursuant to paragraph (7) of subdivision (a).

40421.5. For the purpose of complying with Section 50271 of the Government Code, each mayor shall designate a member of the city's legislative body to attend and vote in his or her place and as his or her representative if the mayor is unable to attend any meeting of the city selection committee to be held pursuant to this article. If a mayor does not make this designation within 10 days preceding a meeting of the city selection committee, the legislative body shall designate one of its own members to represent the city.

40422. (a) The term of each member of the south coast district board shall be four years and until his or her successor is appointed. Upon the expiration of his or her term, a member who is a mayor from the County of Orange or a member of a city council from the County of Orange may be reappointed, in accordance with subdivision (f) of Section 40420, within 60 days, and the office shall become vacant if the member is not so reappointed within 60 days. Any vacancy on the south coast district board shall be filled within 60 days of its occurrence by its appointing authority.

(b) The members first appointed to the board shall classify themselves by lot so that the terms of four members expire January 15, 1990, the terms of four members expire January 15, 1991, and the terms of three members expire January 15, 1992.

(c) Notwithstanding subdivision (a), no member of a board of supervisors, mayor, or member of a city council shall hold office on the south coast district board for more than 60 days after ceasing to be supervisor, mayor, or member of the city council, respectively, and the membership on the board held by that person terminates upon the expiration of that 60-day period. However, any mayor who immediately resumes the office of member of the city council, and any member of a city council who becomes mayor, has not ceased to hold office for the purposes of this subdivision.

(d) Any member who does not attend three consecutive meetings of the south coast district board without good and sufficient cause

therefor, shall be removed by the appointing authority. Any member who does not attend three consecutive meetings of the south coast district board, without good and sufficient cause therefor, and is not thereupon removed by the appointing authority, may be removed by the affirmative vote of at least eight members of the south coast district board.

40423. The south coast district board shall provide for the frequency and location of its meetings, except that no meeting of the south coast district board shall take place without public notice given at least seven days in advance of the scheduled date of the meeting or, as to special and emergency meetings, without complying with the requirements of Section 54956 or 54956.5, respectively, of the Government Code.

40424. (a) Except as provided in subdivision (b), seven members of the south coast district board shall constitute a quorum, and no official action shall be taken by the south coast district board except in the presence of a quorum and upon the affirmative votes of a majority of the members of the south coast district board.

(b) Notwithstanding subdivision (a), whenever there are two or more vacancies on the south coast district board, six members shall constitute a quorum, and the two vacant positions shall not be counted toward the majority required for official action by the south coast district board. Thereafter, whenever at least one of those vacancies is filled, the quorum and voting requirements of subdivision (a) shall apply.

40424.5. Voting by the south coast district board on the adoption of all items on its agenda shall be by rollcall. Unless any board member objects, a substitute rollcall may be used on any agenda item. A substitute rollcall shall consist of a unanimous voice vote of the south coast district board members in attendance and shall be recorded by the clerk of the board as an "aye" vote for all members present. For purposes of this section, any consent calendar is a single item.

40425. The south coast district board shall elect a chairperson every two years from its membership.

40426. Each member of the south coast district board shall receive compensation of one hundred dollars (\$100) for each day, or portion thereof, but not to exceed one thousand dollars (\$1,000) per month, while attending meetings of the south coast district board or any committee thereof or, upon authorization of the south coast district board, while on official business of the south coast district, and the actual and necessary expenses incurred in performing the member's official duties.

40426.5. (a) Upon the request of any person, or on his or her own initiative, the Attorney General may file a complaint in the superior court for the county in which the south coast district board has its principal office alleging that a member of the south coast district board knowingly or willfully violated any provision of Title 9 (commencing with Section 81000) of the Government Code, setting forth the facts upon which the allegation is based, and asking that the

member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If, after trial, the court finds that the member of the south coast district board knowingly violated this section, it shall issue an order removing the member from office.

(b) The remedy provided in this section is in addition to, and not to the exclusion of, any other remedy, sanction, or penalty available pursuant to law.

40426.7. (a) No retired, dismissed, or separated employee or officer of the south coast district, or member of the south coast district board, shall participate in any contract of the district in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decisionmaking process relevant to the contract while acting in the capacity of employee or officer of the south coast district, or member of the south coast district board, during the 24-month period commencing on the date the person became retired, dismissed, or separated from service with the south coast district or ceased being a member of the south coast district board.

(b) For a period of 12 months following retirement, dismissal, or separation from service with the south coast district, no former employee or officer of the south coast district, or member of the south coast district board, shall enter into a contract with the south coast district if that person had been with the south coast district in a position involving making any decision, giving or withholding any approval, making any recommendation, rendering any advice, or conducting any investigation concerning the general subject of the proposed contract within 12 months prior to retirement, dismissal, or separation from service with the south coast district. Notwithstanding the prohibitions in this subdivision, the south coast district board may, by a two-thirds vote, enter into a contract with a retired employee of the south coast district or an employee who separated under conditions satisfactory to the south coast district if the south coast district board finds and determines that, at the time of the retirement or separation, the employee was working on one or more programs that are of great importance to the south coast district, that the services of the employee are necessary to assure the continued effectiveness of the program or programs, that the contract is only for that period of time necessary to complete the employee's work on the program or programs, and that the employee is the most qualified person to provide the needed services.

(c) No former employee or officer of the south coast district previously holding a position designated in the conflict-of-interest code of the south coast district, and no member of the south coast district board, who was, at any time while in the service of the south coast district, involved in making any decision, giving or withholding any approval, making any recommendation, rendering any advice, or conducting any investigation involving a particular person shall, with respect to any of these matters that the former employee, officer, or member of the south coast district board was involved in, do any of the following:

(1) Act as an agent or attorney, or otherwise represent, that person in an appearance before the south coast district board or the hearing board.

(2) Make a communication on behalf of that person with the intent to influence the south coast district board or its officers or employees or the hearing board.

(3) Represent, aid, counsel, advise, consult with, or otherwise assist that person in connection with any of these matters in any capacity.

(4) Knowingly enter into a contract or accept employment for any purpose specified in this subdivision.

(d) Any violation of this section is a misdemeanor.

(e) This section applies only to employees and officers who are in the employment of the south coast district on or after July 1, 1988, and members serving on the south coast district board on or after July 1, 1988.

(f) This section shall become operative on July 1, 1988.

40427. The south coast district board shall determine the location of its headquarters and may establish branch offices in each of the counties included, in whole or in part, within the south coast district, and in such other parts of the south coast district as it deems necessary.

40428. There is continued in existence the South Coast Air Quality Management District Advisory Council, which is appointed by the south coast district board, to advise and consult with the south coast district board in effectuating the purpose of this division.

The membership and rules of the advisory council shall be as established by resolution of the south coast district board.

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SECTION 40440-40459

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.

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.

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.

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.

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 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

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 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

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).

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.

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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 PM2.5 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 PM2.5 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 PM2.5, 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 PM2.5, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard, is exceeded.

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 PM2.5, 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.

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.

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.

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.

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

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.

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.

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.

HEALTH AND SAFETY CODE

SECTION 40460-40471

40460. (a) No later than January 31, 1979, the south coast district board shall adopt a plan to achieve and maintain the state and federal ambient air quality standards for the South Coast Air Basin. The plan shall be revised and adopted by the south coast district board by January 31, 1982, according to a schedule consistent with subdivision (a) of Section 40463. The plan revisions shall be compiled by the south coast district board, with the cooperation of the state board and the Department of Transportation, and the active participation of the Southern California Association of Governments and the counties and cities within the South Coast Air Basin.

(b) With the assistance of counties and cities, the Southern California Association of Governments shall have responsibility for preparing and approving the portions of the plan relating to regional demographic projections and integrated regional land use, housing, employment, and transportation programs, measures, and strategies. The Southern California Association of Governments shall analyze and provide emissions data related to its planning responsibilities.

(c) The south coast district shall have the responsibility for preparing and analyzing the portions of the plan elements relating to existing air quality, emissions data, results of air quality

modeling, and stationary source control measures. The south coast district shall combine its portion of the plan with those prepared by the Southern California Association of Governments.

In consultation with the south coast district board, the Southern California Association of Governments, and other appropriate local agencies, the state board shall provide the emissions reductions attributed to technological vehicular source control strategies included in the plan.

(d) Upon adoption by the state board, the plan and future revisions shall be the air quality management plan and, as submitted to the Environmental Protection Agency, the federally required state implementation plan for the South Coast Air Basin. Notwithstanding any other provision of this division, the state implementation plan for the air basin shall only include those provisions necessary to meet the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

40461. The plan, as adopted and revised by the south coast district board, shall be in lieu of the basinwide air pollution control plan required pursuant to Chapter 2 (commencing with Section 41600) of Part 4.

40462. (a) The plan and subsequent revisions shall contain deadlines for compliance with the federally mandated attainment of primary ambient air quality standards. The plan and subsequent revisions shall contain deadlines and schedules to achieve the state ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies, including, but not limited to, the best available control technology, indirect source controls, and transportation control measures, and the use of cleaner burning alternative fuels. The plan and subsequent revisions shall contain deadlines and schedules to achieve the federal secondary ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies.

(b) The plan and subsequent revisions shall ensure that future growth and development in the South Coast Air Basin and within the sensitive zone established pursuant to subdivision (a) of Section 40410.5 are, to the maximum extent feasible, consistent with the goal of achieving and maintaining those air quality standards. The revisions to the plan shall identify the resources necessary to carry out its provisions, including enforcement costs and the effect of its provisions on energy resources.

40463. (a) The plan shall be formally reviewed every two years beginning in 1982 by the agencies responsible for preparing plan revisions. In the event of revisions, the compliance schedules and emission limitations shall be amended to reflect advances in technology, control strategies, and administrative practices. The south coast district board may delay submittal of revisions up to two years if necessary to synchronize with the dates of submittal required under the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(b) With the active participation of the Southern California Association of Governments, a South Coast Air Basin emission carrying capacity for each state and federal ambient air quality standard shall be established by the south coast district board for each

formal review of the plan consistent with subdivision (a) and shall be updated to reflect new data and modeling results. A carrying capacity is the maximum level of emissions which would enable the attainment and maintenance of an ambient air quality standard for a pollutant. Emission carrying capacity for state standards shall not be a part of the state implementation plan requirements of the Clean Air Act for the South Coast Air Basin.

(c) The state board shall review and comment, within 60 days of submittal by the south coast district, on the emission carrying capacity, air quality model selection, and all other data required by this section. The south coast district board and the Southern California Association of Governments Executive Committee shall consider the comments of the state board and shall either accept the state board's recommendations regarding carrying capacity or shall advise the state board that the recommendations are not accepted.

(d) If the state board receives notification that its recommendations are not accepted, the state board shall convene a conflict resolution committee within 30 days to attempt to resolve the differences. The committee shall be composed of two members each of the state board, the Executive Committee of the Southern California Association of Governments, and the south coast district board appointed by the entity they represent. The committee shall make a recommendation to the three governing boards.

40464. The Southern California Association of Governments shall coordinate the efforts of the counties and cities in the process of developing and reviewing plan elements which meet the requirements of the plan, state and federal law, and local needs relating to transportation, land use, demographic projections, employment, housing, and other matters of local concern.

40465. The Southern California Association of Governments shall submit its plan elements to the south coast district board by June 1 of each odd-numbered year, except in the case of a delayed submittal as provided in subdivision (a) of Section 40463, for incorporation into the air quality management plan. The district shall combine the association's plan elements with the south coast district elements as specified in subdivision (a) of Section 40460. Each agency shall prepare and submit all necessary documentation, including that of public and intergovernmental involvement.

40466. (a) The south coast district board shall adopt plan revisions, pursuant to subdivision (a) of Section 40463, after holding public hearings throughout the south coast district. The south coast district board shall submit the adopted plan revisions to the state board and to the Legislature.

(b) Notice of the times and places of the public hearings shall be given not less than 45 days prior to the first hearing and 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. Notice shall be mailed to every person who filed a written request for notice concerning the plan with the south coast district and any person the south coast district believes to be interested in the plan. The notice shall include a list of supporting information, documents, and other materials relevant to the plan revision prepared

by the south coast district or at its direction, any environmental assessment, and the name, address, and telephone number of the district officer and employee from whom these materials, and a copy of the draft plan, may be obtained.

40467. Prior to formal submittal of this plan to the state board by the south coast district board, and during the time period specified in subdivision (a) of Section 40463, the south coast district board and the state board shall meet to identify and agree on the portions of the plan which are of prime importance to subsequent state board approval of the plan. The south coast district board and the state board shall work together to resolve any differences concerning these key sections prior to formal submission of the plan to the state board. The south coast district board and the state board shall jointly adopt the procedures by which these plan differences shall be resolved.

40468. The state board shall not require as a condition of approval of the plan or subsequent revisions, any indirect source review program or other land use control measures.

40469. (a) Following submittal by the south coast district, the state board shall review the plan to determine its adequacy to meet federally mandated primary ambient air quality standards and all other requirements of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and its adequacy to meet the requirements of the California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988) and to attain state ambient air quality standards through application of the best available control technology, indirect source controls, transportation control measures, and the use of cleaner burning alternative fuels. If the state board determines that portions of the plan meet the requirements of the state and federal acts and are adequate to attain state ambient air quality standards, it shall adopt those portions and submit to the Environmental Protection Agency the portions of the plan required by the federal act within 120 days after receipt of the plan from the south coast district.

(b) If the state board determines that the plan does not meet all the requirements of the state and federal acts, or does not include a deadline for the attainment of the state ambient air quality standards by application of the best available control technology, indirect source controls, transportation control measures, and the use of cleaner burning alternative fuels, the state board shall, prior to amending the plan, convene a committee comprised of two members each of the state board, the Executive Committee of the Southern California Association of Governments, and the south coast district board appointed by the entity they represent to attempt to resolve the differences. If it is necessary to amend the plan, the state board shall do so at a public hearing held pursuant to Section 41652 and shall submit to the Environmental Protection Agency the portions of the plan required by the federal act within 120 days after receipt of the plan from the south coast district. In submitting the plan to the Environmental Protection Agency, the state board shall indicate what changes have been made to the plan.

(c) Within 30 days after the receipt of the plan from the south coast district, the state board shall determine if, with respect to any part of the plan concerning the control of a source of emissions

that is within the state board's responsibility under law, it has sufficient information to determine whether the plan, or any part of the plan, meets the applicable requirements of the state and federal acts and is adequate to attain state ambient air quality standards. The state board shall thereupon notify the south coast district, in writing, of the additional information needed to make the determination, and the south coast district shall promptly furnish the information.

40469.5. Following the adoption of those portions of the plan that comply with the California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988) and the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and are adequate to attain state ambient air quality standards, the state board shall make all reasonable efforts to assist the south coast district by providing any additional information required to achieve an approvable state implementation plan, including convening joint public workshops on air quality monitoring, modeling, control technologies, and other matters coming within the state board's responsibility under law, and assisting the south coast district in researching and testing transportation control measures.

40470. The Southern California Association of Governments shall participate in the joint agency review and conflict resolution processes established by Sections 40463, 40467, and 40469 insofar as the processes relate to plan elements for which the Southern California Association of Governments has plan development responsibility.

40471. (a) Within one year from the date that a new federal ambient air standard for PM2.5 is adopted, the south coast district shall make a preliminary assessment of the nature of PM2.5 in the South Coast Air Basin, and shall revise its air quality management plan to include a discussion of how the south coast district's current PM10 strategy and ozone plan will assist the South Coast Air Basin to make progress in achieving compliance with the 24-hour federal ambient air standard for PM2.5.

(b) On or before December 31, 2001, and every three years thereafter, as part of the preparation of the air quality management plan revisions, the south coast district board, in conjunction with a public health organization or agency, shall prepare a report on the health impacts of particulate matter air pollution in the South Coast Air Basin. The south coast district board shall submit its report to the advisory council appointed pursuant to Section 40428 for review and comment. The advisory council shall undertake peer review concerning the report prior to its finalization and public release. The south coast district board shall hold public hearings concerning the report and the peer review, and shall append to the report any additional material or information that results from the peer review and public hearings.

HEALTH AND SAFETY CODE

SECTION 40480-40489

40480. (a) The south coast district board shall employ the necessary staff to carry out its program throughout the south coast district.

(b) The south coast district board shall appoint an executive officer to direct the staff, subject to the direction and policy of the south coast district board.

(c) The staff shall also be available to serve those portions of a county not included within the south coast district where the county is only partly included within the south coast district.

(d) The south coast district may enter into a contract with any city or county included, in whole or in part, within the south coast district to perform air pollution control functions for the south coast district, and the city or county may perform such functions for the south coast district pursuant to the contract.

40481. The executive officer shall be appointed solely on the basis of his administrative and executive abilities and qualifications. The executive officer and designated deputies shall serve at the pleasure of the south coast district board, and shall receive such compensation as is determined by the south coast district board.

40482. The south coast district board may delegate duties to the executive officer as it deems appropriate. The executive officer shall perform and discharge, under the direction and control of the south coast district board, the powers, duties, purposes, functions, and jurisdiction vested in the south coast district board and delegated pursuant to this section.

Any power, duty, purpose, function, or jurisdiction which the south coast district board may lawfully delegate is conclusively presumed to have been delegated to the executive officer unless it is shown that the south coast district board, by affirmative vote recorded in its minutes, specifically has reserved the particular power, duty, purpose, function, or jurisdiction for its own action.

40483. The south coast district shall appoint a legal counsel who is admitted to the practice of law in this state.

40485. All officers and employees of the south coast district, other than members of the south coast district board, are entitled to the benefits of the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3 of the Government Code).

40486. When any person is employed by the south coast district, whose immediate prior employer was the Southern California Air Pollution Control District, for the purpose of, but not limited to, retirement benefits, salary rates, seniority, and all fringe benefits, all his time of employment with that district, and his time of employment, if any, with the county, a county district, or both, whose authority, functions, and responsibilities have been assumed by that district if such employment was immediately prior to employment

with the Southern California Air Pollution Control District, shall be considered as time of employment with the south coast district.

Upon transfer to the south coast district, employees shall retain all their accumulated sick leave, vacation, and retirement benefits.

40489. The south coast district may contract for such professional assistance as may be necessary or convenient for the exercise of duties imposed on the south coast district.

HEALTH AND SAFETY CODE

SECTION 40500-40516

40500. (a) In accordance with the purposes of this chapter as set forth in Section 40402, the south coast district board shall establish rules and regulations for the granting of variances by the hearing board from Section 41701 or from any standards for the discharge of air contaminants that the south coast district may adopt. The south coast district board shall not limit the opportunity for any person to petition for a variance or for the hearing board to hear and grant variances beyond the limitations expressly stated in Section 42350.

(b) The rules and regulations shall include a schedule of fees, which shall be based upon the number of sources to which the variances apply and the extent that the amount of emissions from the sources exceeds the required standards, for the filing of applications for variances. All applicants shall pay the fees required by the rules and regulations, including, notwithstanding Section 6103 of the Government Code, an applicant that is a publicly owned public utility. A variance may be granted by the hearing board after a public hearing and upon filing, with appropriate fees, of a variance petition with the hearing board.

40500.1. (a) Except as required to comply with the Clean Air Act (42 U.S.C. Sec. 7401 et seq.), fees assessed on stationary sources in the south coast district pursuant to Sections 40500 and 40510 shall not exceed, for any fiscal year, the actual costs of district programs pursuant to this article for the immediately preceding fiscal year with an adjustment not greater than the change in the California Consumer Price Index, for the preceding calendar year, from January 1 of the prior year to January 1 of the current year, as determined by the Department of Industrial Relations.

(b) Unless specifically authorized by statute, the total amount of all of the fees collected by the south coast district from stationary sources of emissions in the 1995-96 fiscal year, and in each subsequent fiscal year, shall not exceed the level of expenditure in the 1993-94 fiscal year, except that the total fee amount may be adjusted annually by not more than the percentage increase in the California Consumer Price Index, as specified in subdivision (a).

(c) Any new state or federal mandate that is applicable to the south coast district on and after January 1, 1994, shall not be subject to this section.

40500.5. (a) Notwithstanding Section 40500, the south coast district board may prohibit the granting of variances by the hearing board from the provisions of a market-based incentive program adopted pursuant to Section 39616 that establish procedures for assessing emissions during periods when monitoring or reporting systems are not operating as required.

(b) The south coast district board may prohibit the granting of variances by the hearing board from the minimum federal requirements for new source performance standards, or for national emissions standards for hazardous air pollutants, under Sections 7411 and 7412 of Title 42 of the United States Code, unless the district rule at issue is more stringent than the federal requirement. The south coast district board shall not prohibit the granting of a variance if the petitioner for the variance has obtained a waiver from the Environmental Protection Agency of the federal requirement at issue and the variance would be consistent with the waiver.

40501. (a) The south coast district board shall appoint a hearing board, or may authorize the board of supervisors of each county included, in whole or in part, within the south coast district to appoint a hearing board in accordance with Article 1 (commencing with Section 40800) of Chapter 8. The hearing board shall have the powers and duties vested in the hearing board of a county district, except as modified in this article. In addition, the hearing board has the same powers and duties with respect to plans for the control of emissions of air contaminants required by a district rule or regulation as it has for permits for authority to construct or operate any article, machine, equipment, or other contrivance required by the south coast district board.

(b) The granting of variances shall be processed by the hearing board in the county in which the variance is applicable unless the applicant and the hearing board agree otherwise, and shall be granted in conformance with the rules and regulations of the south coast district, and, except as modified by this article, with Article 2 (commencing with Section 42350) of Chapter 4 of Part 4, with respect to the granting of variances or the appeal of decisions.

40501.1. (a) On or before July 1, 1992, the south coast district board shall retire the current hearing board and appoint in its place a new hearing board with the following membership and qualifications:

(1) One member admitted to the practice of law in this state, with two or more years of practice, preferably with litigation experience.

(2) One member who is an engineer with a bachelor's degree from an accredited college in chemical, mechanical, environmental, metallurgical, or petroleum engineering, with two or more years of practical experience, and preferably who is a professional engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(3) One member who is a licensed physician, with two or more years of practical experience, preferably in the fields of epidemiology, physiology, toxicology, or related fields.

(4) Two public members.

(b) In recruiting the hearing board members, the district board

shall engage in positive outreach throughout the south coast district. In making these appointments, the district board shall receive recommendations of an advisory committee whose responsibility shall be to review and make recommendations to the appropriate district board committee, which in turn shall finalize recommendations on which the district board shall act in making appointments to the hearing board. The advisory committee shall be composed of one representative appointed by each of the Counties of Los Angeles, Orange, Riverside, and San Bernardino, and the City of Los Angeles. Members of the advisory committee shall be appointed for one-year terms. Recommendations of the advisory committee shall not be binding on the district board.

(c) When the south coast district board first appoints the new hearing board, the attorney and engineer members shall serve terms of two years each and the medical and public members shall serve terms of three years each. Thereafter, each member's term shall be three years.

(d) In the temporary absence of a member and that person's alternate, the hearing board chair, or the chair's designee, may appoint a qualified alternate or any former hearing board member to serve for a period of up to three months plus that period of additional time required to conclude proceedings on which the temporary member deliberated.

(e) The district budget shall have a line item to provide necessary staff and other support dedicated to the hearing board. The services provided by that staff shall include assistance to the public and small business as set forth in subdivision (b) of Section 40448.

40501.3. (a) Notwithstanding any other provision of this division, the south coast district board may authorize, by resolution, the holding of single-member hearings by the chairman of the hearing board and any other member or alternate designated by the hearing board, under the conditions specified in this section.

(b) Single-member hearings shall be authorized, when stipulated to by the executive officer and the petitioner, only for the purpose of hearing petitions for emergency variances pursuant to Section 42359.5, interim variances pursuant to Section 42351, short variances and modifications of a schedule of increments of progress of a duration not to exceed 60 days pursuant to Section 40825, interim authorizations pursuant to Section 42351.5, and modifications of variances pursuant to Section 42356 which do not modify the final compliance date.

(c) The procedure for conducting single-member hearings shall be the same as for hearings before the full board and all legal requirements, including notice requirements, findings, and conditions, shall apply, except that the single member may take action on any matter properly before the member.

(d) A single-member hearing decision may be contested by (1) any person who, in person or through a representative, appeared at the single-member hearing, or (2) any person who informed the air pollution control officer of the nature of his concern prior to the hearing, or (3) any person who for good cause was unable to do either (1) or (2). If a decision is contested under this subdivision, the matter shall be reheard by the full board within 10 days of the decision. The clerk of the hearing board shall notify the petitioner,

the executive officer, and all members of the public who appeared at the hearing of any contest of a decision. The notice shall be in writing and sent by first-class mail, postage prepaid, to the address supplied by the person who appeared, unless the right to the notice is affirmatively waived on the record.

40502. The revenues from the schedule of fees adopted by the south coast district board for the filing of applications for variances shall be collected by the hearing board at the time that the application is filed. Each county hearing board appointed pursuant to subdivision (a) of Section 40501 shall be reimbursed from these fees for its cost in administering the rules and regulations for the issuance of variances established by the south coast district board. The revenues from these fees shall be transmitted by the hearing board to the south coast district board at such time as the south coast district board may prescribe.

40503. (a) The south coast district hearing board, in determining whether the petitioner has presented evidence sufficient to make the findings specified in subdivision (a) of Section 42352, shall consider, in addition to any other relevant factors, both of the following:

(1) In determining whether conditions exist that are beyond the reasonable control of the petitioner, the hearing board shall consider whether the petitioner took actions to comply or seek a variance, that were timely and reasonable under the circumstances. In so doing, the hearing board shall consider actions taken by the petitioner since the adoption of the rule from which the variance is sought.

(2) In determining whether requiring compliance would result in either an arbitrary or unreasonable taking of property or the practical closing and elimination of a lawful business, the hearing board shall consider whether an unreasonable burden would be imposed upon the petitioner if immediate compliance is required.

(b) (1) As used in this subdivision, "small business" means a business that is independently owned and operated and meets all of the following criteria:

(A) The number of employees is 10 or less.

(B) The total gross annual receipts are five hundred thousand dollars (\$500,000) or less.

(C) Emits not more than four tons per year of any nonattainment air contaminant or its precursor.

(2) If the petitioner is a small business, the hearing board shall consider the factors specified in subdivision (a) in the following manner:

(A) In determining whether the petitioner took timely actions to comply or seek a variance, the hearing board shall make specific inquiries into the reasons for any claimed ignorance of the requirement from which a variance is sought.

(B) In determining whether the petitioner took reasonable actions to comply, the hearing board shall make specific inquiries into the petitioner's financial and other capabilities to comply.

(C) In determining whether the burden of requiring immediate compliance would be unreasonable, the hearing board shall make specific inquiries into, and shall balance, the impact to the petitioner's business and the benefit to the environment that would result if the petitioner is required to immediately comply.

(c) Where the petitioner is a governmental agency, public district, or any other governmental or public entity, in determining whether an unreasonable burden would be imposed, the hearing board shall consider any effects of requiring immediate compliance on the availability of essential public services.

40504. The south coast district shall work with those persons granted variances to reduce emissions of air contaminants from their operations.

40505. Any form developed by the south coast district for use in filing an application for variance shall contain a notice to small businesses of the availability of assistance in filling out the form, developing compliance schedules, and obtaining low-cost financing for air pollution control equipment to meet its regulations.

40506. (a) In accordance with the purposes of this chapter as set forth in Section 40402, the south coast district board shall adopt rules and regulations for the issuance by the south coast district board of permits authorizing the construction, alteration, replacement, operation, or use of any article, machine, equipment, or other contrivance for which a permit may be required by the south coast district board.

(b) The rules and regulations shall include a schedule of fees for the filing of applications for permits and for the modification, revocation, extension, or annual renewal of permits. All applicants, including, notwithstanding Section 6103 of the Government Code, an applicant that is a publicly owned public utility, shall pay the fees required by the rules and regulations.

40506.1. (a) The south coast district shall establish a consolidated permit which serves as (1) an authority to build, erect, alter, or replace an article, machine, equipment, or contrivance which may cause the issuance of air contaminants, and (2) an authority to operate or use that article, machine, equipment, or contrivance.

(b) The district shall establish postconstruction enforcement procedures adequate to ensure that sources are built, erected, altered, replaced, operated, or used in the manner required by the consolidated permits.

40506.2. The south coast district may establish a program to certify private environmental professionals to prepare permit applications. The program shall provide for all of the following:

(a) Certification by the district of private environmental professionals who meet minimum qualifications established by the district and who successfully complete a district training program in the methods of preparing permit applications. The training program shall include a description of permit requirements established by district rules as well as any additional requirements established by the district for applications submitted by certified private environmental professionals.

(b) Expedited review by district personnel of permit applications that, at the option and expense of the permit applicant, are prepared by a certified private environmental professional.

(c) Full district review of a sample of permit applications prepared by certified private environmental professionals to

determine whether or not district requirements for preparation of applications have been followed.

(d) Decertification of any certified private environmental professional found by the district to have done any of the following:

(1) Knowingly or negligently submitted false data as part of a permit application.

(2) Prepared any permit application in a manner contrary to district requirements.

(3) Prepared a permit application where the person has a financial conflict of interest as defined in guidelines to be adopted by the district.

40507. The south coast district board, in making any order granting a permit, may specify the time during which the order shall be effective and may require the payment of fees established by the south coast district board.

40508. The revenues from the schedule of fees for the filing of applications for permits shall be collected by the south coast district board at the time that the application is filed.

40509. Any person may petition the south coast district board to hold a public hearing on any application to issue or renew a permit.

40510. (a) The Legislature finds and declares as follows:

(1) Total fees collected by the south coast district must continue to be capped in order to prevent the imposition of undue financial burdens upon regulated sources.

(2) There is a need to provide for greater flexibility in establishing and amending fees within the total fee cap to ensure a fair apportionment of fee payment responsibilities.

(3) Fees based solely on the quantity of emissions created by a source should not be indexed to the emission potential, or to a percentage of emissions trading units, as that term is used in Sections 39616 and 40440.1, held by that source so as to prevent payments of those fees from decreasing if emissions decline.

(4) Before making any individual fee increase in excess of the percentage increase of the California Consumer Price Index for the preceding calendar year, findings of fact should be made, supported by relevant information in the public record, that the fee increase is necessary and will provide an equitable apportionment of fee payment responsibilities, and the increase should be phased in to avoid sudden adverse impacts on regulated sources.

(b) The south coast district board may adopt a fee schedule for the issuance of variances and permits to cover the reasonable cost of permitting, planning, enforcement, and monitoring related thereto. Every person applying for a variance or a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule.

(c) (1) The fees may be varied in accordance with the quantity of emissions and the effect of those emissions on the ambient air quality within the south coast district.

(2) The fees shall not be indexed to the potential emissions from, or to a percentage of the emissions trading units, as that term is used in Sections 39616 and 40440.1, held by, any source.

(d) Subject to the limits established by this section and Sections

40500.1 and 40523 and the requirements of Section 40510.5, this section shall not prevent the district from establishing or amending an individual permit renewal or operating permit fee applicable to a class of sources to recover the reasonable district costs of permitting, planning, enforcement, and monitoring which that class will cause to district programs. In establishing the fee applicable to a class of sources, the district may consider the impact on air quality of the emissions from that class.

40510.5. In addition to the limits on total fee collections established by Sections 40500.1 and 40523, the south coast district board shall not increase any existing permit fee by a percentage greater than any percentage increase in the California Consumer Price Index for the preceding calendar year, unless the board complies with both of the following requirements:

(a) The district board shall make a finding, based upon relevant information in a rulemaking record, that the fee increase is necessary and will result in an apportionment of fees that is equitable. This finding shall include an explanation of why the fee increase meets the requirements of this section and Section 40510.

(b) The fee increase shall be phased in over a period of at least two years.

40510.7. The south coast district board may establish an annual charge, in an amount not to exceed the annual estimated cost of sending notices required by this division, and individual charges, in amounts not to exceed the cost of sending notice on a one-time basis and the cost of duplicating and mailing any document furnished pursuant to this chapter.

40511. The south coast district board may increase its fee schedule to generate sufficient revenues to pay for any district costs associated with the implementation of Section 66796.53 of the Government Code or Section 41805.5.

40512. (a) The south coast district board may impose a fee surcharge based on a formula associated with quantity of emissions and the effect of these emissions on ambient air quality within the south coast district to generate sufficient revenues to pay for any of its costs associated with the development and implementation of Section 40448.5.

(b) The total amount of funds collected from these surcharge fees shall not exceed five hundred thousand dollars (\$500,000) in each of the first two fiscal years of the development or implementation of Section 40448.5. All surcharge fees received by the south coast district pursuant to this section shall be deposited in a clean fuels and transportation control measures account that shall be established and maintained by the south coast district.

(c) In subsequent fiscal years, the total amount of funds collected from these surcharge fees shall not exceed 25 percent of the amount of fees received the previous fiscal year from registered motor vehicle owners pursuant to Section 9250.11 of the Vehicle Code. The surcharge fees received by the south coast district pursuant to this section shall be used to pay for the initial costs incurred by the Department of Motor Vehicles to implement the motor vehicle fee program established by Section 9250.11 of the Vehicle Code.

(d) All fees received by the south coast district pursuant to Section 9250.11 of the Vehicle Code shall be deposited in the clean fuels and transportation control measures account and shall be used solely for transportation and vehicular-related program activities within the program established by this section. Not more than 5 percent of the funds in the account shall be used for the south coast district's administrative costs.

40515. (a) Any public utility owned by a municipal corporation within the south coast district shall provide public notice, pursuant to subdivision (b), before submitting to the board of the south coast district any application for a permit to construct or operate any facility, machine, or contrivance that would be used for water treatment and would emit toxic air contaminants.

(b) A public utility specified in subdivision (a) shall mail, post, deliver, or use any other practical method to notify all residents and persons who own property within 330 feet of the property containing the proposed facility, machine, or contrivance. The notice shall include a description of the proposed facility, machine, or contrivance and an explanation of the right to petition the south coast district board to hold a hearing pursuant to Section 40509.

40516. (a) The south coast district shall establish expedited permit review and project assistance mechanisms for facilities or projects which are directly related to research and development, demonstration, or commercialization of electric and other clean fuel vehicle technologies.

(b) The mechanisms shall include all of the following:

(1) The issuance of consolidated permits, serving the purpose of both the permit to construct and the permit to operate, to expedite the permitting process.

(2) The review and processing of permits on a facility or project basis rather than on an equipment basis to ensure a single point of contact for the applicant and to allow entire projects to be reviewed and evaluated on a single, consolidated schedule.

(3) The establishment of a "fast track" permitting procedure to approve permits in an average of 30 days from receipt of all information requested by the district, except for any of the following facilities:

(A) Facilities that may emit significant amounts of toxic air contaminants.

(B) Facilities that require public notice.

(C) Facilities that require additional review to meet the requirements of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988).

(4) The development and implementation of postconstruction enforcement procedures to ensure that new and modified sources are constructed according to permit requirements.

(5) The establishment of a liaison program in the office of public adviser to assist facilities participating in research and development, demonstration, or commercialization of electric and other clean fuel vehicle technologies with preparing permit applications, complying with other district administrative procedures, and identifying and applying for state, federal,

district, or other available funds set aside for electric and other clean fuel vehicle-related projects.

(c) For purposes of this section, clean fuels are fuels designated by the state board for use in low, ultralow, or zero emission vehicles and include, but are not limited to, electricity, ethanol, hydrogen, liquefied petroleum gas, methanol, natural gas, and reformulated gasoline.

HEALTH AND SAFETY CODE

SECTION 40520-40540

40520. Upon adoption of its budget for the next fiscal year, the south coast district board shall apportion the amount that each county included within the south coast district shall pay to finance the operation of the south coast district in that fiscal year.

The apportionment to a county shall, as determined by the south coast district board, be that proportion of the amount that the population of the portion of the county included within the south coast district bears to the total population of the south coast district, either as determined from the latest federal decennial census or as determined from the latest annual population estimate by the Department of Finance made pursuant to subdivision (g) of Section 13073.5 of the Government Code.

40521. (a) For each fiscal year, the percentage increase in the county apportionments by the south coast district board may not exceed the percentage increase in the California Consumer Price Index as specified in Section 2212 of the Revenue and Taxation Code, or the percentage increase in the total county property tax revenues for the counties included, in whole or in part, within the south coast district, whichever is greater.

(b) The limitations specified in subdivision (a) shall not apply to increases in apportionments resulting from the termination of federal or state allocations to the south coast district, if the south coast district board votes to continue the programs financed with those funds.

40522. The south coast district board may adopt a fee schedule for the approval of plans for the control of emissions of air contaminants, if the plans are required by a district rule or regulation, to cover the costs of review, planning, inspection, and monitoring related thereto. To the extent that provisions of the plans are enforceable against the person required to submit the plan, an annual fee may be charged to cover the costs of annual review, inspection, and monitoring related thereto. Every person required to submit a plan, including, notwithstanding Section 6103 of the Government Code, a person that is a publicly owned public utility, shall pay the fees required by the schedule. The fees may not exceed the estimated reasonable cost of planning, monitoring, and enforcing the plans for which the fee is charged. A noticed public workshop shall be held at least 30 days prior to any meeting of the south coast district board at which the levying or revision of the fees is scheduled for hearing. Supporting data on the actual or estimated

costs required to provide the service for which the fee is charged shall be made available at the workshop.

40522.5. (a) In addition to any other fees authorized by this article, the south coast district may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the south coast district to recover the costs of district programs related to these sources.

(b) The south coast district shall not, however, impose any fee under this section for either of the following:

(1) Wildland vegetative management burning, as described in subdivision (c) of Section 39011.

(2) Emergency incident training necessary for the protection of the community and public safety personnel.

40523. The total amount of fees collected by the south coast district in any fiscal year shall not exceed the amount of fees collected by the district in the 1993-94 fiscal year, except that the amount may be adjusted annually in the 1994-95 fiscal year and subsequent fiscal years to reflect any increase in the California Consumer Price Index for the preceding calendar year, from January 1 of the prior year to January 1 of the current year, as determined by the Department of Industrial Relations. This limitation shall not affect or limit the fees which may be imposed and collected pursuant to a state or a federal mandate imposed on or after January 1, 1994.

40526. (a) The south coast district board may borrow money and incur indebtedness in anticipation of the revenue for the current year in which the indebtedness is incurred or for the ensuing year. Such indebtedness shall not exceed the total amount of the estimated revenue for either the current year or the ensuing year.

(b) In addition to any other existing authority, the district may borrow money and incur indebtedness pursuant to Article 7.4 (commencing with Section 53835) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

40527. The south coast district board shall appoint a treasurer, who shall be the custodian of funds of the south coast district and who shall make payments only upon warrants duly and regularly signed by the person authorized by the south coast district board.

The treasurer shall keep an account of all receipts and disbursements.

40528. The south coast district shall appoint a controller who shall be the accounting officer for the south coast district and who shall exercise general supervision over the accounting forms and methods of keeping the accounts of the south coast district.

40529. The south coast district board may, by resolution, cause to be drawn all warrants on the treasurer or checks on a bank against all funds, except funds for debt service, of the south coast district in the treasury or bank for the payment of salaries and expenses of the south coast district.

40530. The south coast district board may authorize, in writing,

the controller to draw separate payroll warrants or checks in the names of the individual south coast district employees for the respective amounts due each employee so each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld.

40531. (a) Each payroll warrant or check shall show the closing date of the pay period for which it is issued, the date of issue, and a statement that it is drawn by order of the south coast district board. The payroll warrants or checks shall bear the signature of the controller.

(b) The payroll procedure authorized by the south coast district board shall specify the ending date of the pay period and the date of issue for payroll warrants or checks, except that the issue date shall be on or before the 10th calendar day following the end of the pay period. The payroll procedure may provide for salary payments, including salary advances, more frequently than once a month. The payroll procedure may provide for payroll orders authorizing salary payments to individual employees on a continuing basis until the time a notification of changes or adjustments is made.

40532. The south coast district board may authorize, in writing, the controller to issue warrants or checks in favor of the persons entitled to payment of all claims chargeable against the south coast district which have been legally examined, allowed, and ordered paid by the south coast district board. The controller shall issue warrants or checks for all those claims against the south coast district.

40533. The form of the warrants shall be prescribed by the south coast district board and approved by the treasurer.

40534. Except as specified in Section 40527, no county officer shall be responsible for producing reports, statements, and other data relating to or based upon payments of salaries or claims of the south coast district pursuant to the procedure authorized in this article.

40535. The south coast district shall provide the officials of the Los Angeles County Employees Retirement Association and the San Bernardino County Employees Retirement Association, in the form prescribed by them, the data necessary to make retirement reports and maintain records required by law.

40536. All warrants, checks, vouchers, and supporting documents shall be kept by the south coast district if the procedure authorized under this article is implemented.

40537. Notwithstanding Section 27005 of the Government Code, or any other section requiring warrants or orders for warrants to be signed by the county auditor, if the south coast district treasurer is a county treasurer, the county treasurer shall pay the warrant if money is available and a person authorized to sign the warrant has signed it. The county treasurer may charge the south coast district for the cost of fiscal services he or she renders.

40538. The controller shall execute an official bond in an amount fixed by the south coast district board conditioned upon the faithful performances of his or her duties.

A county auditor shall not be liable under the terms of his or her bond or otherwise for a warrant issued pursuant to this article.

This section shall not be applied so as to impair the obligation of any contract in the bond of the officers in effect on the effective date of this section.

40539. If the auditor of the south coast district is a county auditor, he shall be provided, upon his request, a monthly listing of the warrants issued under this section reporting the warrant number, the date and amount of the warrant, the name of the payee and the fund on which the warrant is drawn and a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbrances, and unencumbered balances.

The form of the listing and statement shall be as prescribed by the south coast district board and approved by the county auditor.

40540. Upon adoption of a resolution by the south coast district board to implement the procedure to issue warrants pursuant to this article, the procedure shall be implemented on the first day of the second month following the date of adoption of the resolution. If, at any time, the south coast district board determines that the accounting controls of the south coast district have become inadequate, it may revoke its authorization effective at the beginning of the next fiscal year.