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9-24-92

Air Pollution Control Board
Brian P. Billbray District 1
George F. Bailey District 2
Susan Golding District 3
Leon L. Williams District 4
John MacDonell District 5

Air Pollution Control Officer
R. J. Sommer

DATE: October 6, 1992

TO: Air Pollution Control Board

SUBJECT: Amendment of Rule 11 (Exemptions from Permit Requirements)

SUMMARY:

Rule 11 lists equipment and processes exempt from District permit requirements. On June 2, 1992 (Agenda Item #1), the Board amended this rule. At the public hearing, a representative from Kelco expressed a concern regarding permit exemptions for the identical replacement of existing equipment. The Board directed the District to review this issue and suggest additional changes, if appropriate.

A number of meetings were held with the Kelco representative and other interested industries and agreement has been reached. The proposed change to Rule 11(n) reflects this agreement and clarifies the intent. It will allow replacing equipment without a permit where such equipment has the same function, capacity, production rate and design; emissions are not increased or changed; and the District is given prior notice.

Issue

Should the Board adopt the proposed changes to Rule 11 (Exemptions from Permit Requirements) to clarify the meaning of "identical" equipment replacement?

Recommendation

AIR POLLUTION CONTROL OFFICER:

1. Set November 17, 1992 at 2:00 p.m. as the date and time for public hearing to consider the resolution amending Rule 11 of the Rules and Regulations of the San Diego County Air Pollution Control District.
2. Direct the Clerk of the Board to notice the hearing pursuant to Section 40725 of the State Health and Safety Code.
3. Following the hearing: (a) adopt the resolution revising Rule 11, and (b) make appropriate finding of necessity, authority, clarity, consistency, nonduplication and reference as required by Section 40727 of the State Health and Safety Code.

SUBJECT: Amendment of Rule 11 (Exemptions from Permit Requirements)

Advisory Statement

The Air Pollution Control District Advisory Committee recommended adoption of the proposed change to Rule 11(n) in August, 1992.

Fiscal Impact

Adopting and implementing this change will have no impact on the District's budget nor on the County General Fund.

Alternative

Not adopt the amendment to Rule 11. Industry believes this could require submitting applications for permit modifications for minor, non-identical replacements when the replacements would have no effect on emissions. Industry is also concerned with related potential delays and costs.

BACKGROUND INFORMATION:

The District has met with the Kelco representative and other interested industries. They expressed concern that the current wording of Rule 11(n) would require applications to be submitted for minor, non-identical replacements when the replacements would have no effect on air contaminant emissions. They believed such replacements would be common, especially where equipment models have changed or the manufacturers of the existing permitted equipment are no longer in business. They were also concerned with potential delays and costs associated with such permit revisions.

The District did not require permit applications for such modifications and did not intend to do so in the future. It was agreed to further modify Rule 11(n) to clarify that industry could make non-identical replacements without permit applications where the replacement equipment has the same function, capacity, production rate and design, and there is no increase or change in the nature of the emissions if the District is given prior notice. It was also agreed that a \$75 fee would accompany the notice to the District to cover the review cost and any necessary minor permit changes. If the modification does not qualify for exemption under Rule 11(n), the District will advise the permit holder.

It was further agreed that District and industry representatives would work together to prepare an advisory to all permit holders explaining the procedures and requirements associated with Rule 11(n). A list of incidental equipment changes the District would not need prior notification for would be included in the advisory.

Section 40728.5 of the State Health and Safety Code requires the District to perform a socioeconomic impact assessment for rules and regulations that will significantly affect air quality or emissions limitations. Since the emission standards applicable to the equipment affected by the revisions to Rule 11 will not change, there will be no impact on air quality. Therefore, the

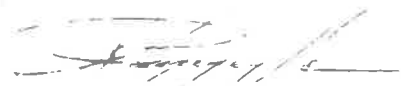
SUBJECT: Amendment of Rule 11 (Exemptions from Permit Requirements)

District has determined it is not necessary to perform a socioeconomic impact assessment for this revision to Rule 11.

Concurrence:

DAVID E. JANSSEN
Chief Administrative Officer

Respectfully submitted,



R. J. SOMMERVILLE
Air Pollution Control Officer

**AIR POLLUTION CONTROL BOARD
AGENDA ITEM
INFORMATION SHEET**

SUBJECT: Amendment of Rule 11 (Exemptions from Permit Requirements)

SUPV DIST.: All

COUNTY COUNSEL APPROVAL: Form and Legality ☒ Yes ☐ N/A
☐ Standard Form ☐ Ordinance ☒ Resolution

AUDITOR APPROVAL: ☒ N/A ☐ Yes **4 VOTES:** ☐ Yes ☒ No

FINANCIAL MANAGEMENT REVIEW: ☐ Yes ☒ No

CONTRACT REVIEW PANEL: ☐ Approved _____ ☒ N/A

CONTRACT NUMBER(S): N/A

PREVIOUS RELEVANT BOARD ACTION: June 2, 1992 - #1

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: The Air Pollution Control District Advisory Committee recommended adoption of the proposed change to Rule 11(n) in August, 1992.

CONCURRENCES: N/A

ORIGINATING DEPARTMENT: Air Pollution Control District

CONTACT PERSON: Richard J. Smith, Deputy Director 730-3303 MS: 0-176



R. J. SOMMERVILLE
DEPARTMENT AUTHORIZED REPRESENTATIVE

OCTOBER 6, 1992
MEETING DATE

FINDINGS OF THE SAN DIEGO COUNTY AIR POLLUTION
CONTROL BOARD IN RESPECT TO ADOPTION OF
AMENDMENTS TO RULE 11

A. Pursuant to section 40727 of the Health and Safety Code, the Air Pollution Control Board of the San Diego County Air Pollution Control District makes the following findings:

1. (Necessity) The adoption of the proposed amendment to section (n) of District Rule 11 is necessary to avoid undue burden on industry when equipment must be replaced and the equipment will have no impact on air quality because it is identical to that replaced.
2. (Authority) The proposed rule amendment is authorized by law. California Health and Safety Code sections 40001 and 40702 authorize the Air Pollution Control Board to adopt the proposed rule amendment.
3. (Clarity) The proposed amendment is written so that its meaning can be easily understood by persons directly affected by it.
4. (Consistency) The proposed amendment is in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and State law and Federal regulations.
5. (Nonduplication) The proposed amendment does not impose the same requirements as an existing state or federal regulation.
6. (Reference) The proposed amendment implements Health and Safety Code sections 42300 and 42301, which authorize permit systems, and Health and Safety Code section 42310, which exempts particular equipment from such permit systems.

B. The Air Pollution Control Board further finds that the adoption of the proposed amendment does not require the District to perform an assessment of socioeconomic impacts pursuant to Health and Safety Code section 40728.5 because the amendment will not significantly affect air quality or emissions limitations.

C. The Air Pollution Control Board further finds that the adoption of the proposed amendment is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, sections 15300 and 15308, as an action taken to assure the maintenance or protection of the environment which will not have a significant effect on the environment and where the regulatory process involves procedures for protection of the environment.

APCD Meeting 11/17/92
Agenda Item #1

OFFICIAL RECORD
Clerk of the Board of Supervisors

Exhibit No. _____ Agenda No. APCB 1
Meeting Date 11/17/92 APCB 1
Presented by County Counsel

Document No. 753282

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

I, Thomas J. Pastuszka Clerk of the Air Pollution Control Board of San Diego County Air Pollution District, State of California, hereby certify this is a true and correct copy of the original document now on file in my office.

Witness my hand this 30th day of November, 1992

Thomas J. Pastuszka

X Clerk of the Air Pollution Control Board

AIR POLLUTION
CONTROL DISTRICT

REC'D MED
DEC 3 3 39 AM '92

Re Rules and Regulations of the)
Air Pollution Control District)
of San Diego County)

**RESOLUTION AMENDING RULE 11
OF REGULATION II
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Bilbray, seconded by Member MacDonald the following resolution is adopted:

WHEREAS, the San Diego County Air Pollution Control Board, pursuant to Section 40702 of the Health and Safety Code, adopted Rules and Regulations of the Air Pollution Control District of San Diego County; and

WHEREAS, said Board now desires to amend said Rules and Regulations; and

WHEREAS, notice has been given and a public hearing has been had relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code.

NOW THEREFORE IT IS RESOLVED AND ORDERED by the San Diego County Air Pollution Control Board that the Rules and Regulations of the Air Pollution Control District of San Diego County be and hereby are amended as follows:

Proposed amendment to Rule 11, Section (n) is to read as follows:

RULE 11. EXEMPTIONS FROM PERMIT REQUIREMENTS

(n) Identical replacements in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate had previously been granted for such equipment under Rule 10. Identical means the same manufacturer, model number, and type.

Identical replacement may also include replacement in whole or part of any article, machine, equipment or other contrivance where a Permit to Operate has previously been granted for such equipment which the Air Pollution Control Officer determines is identical in function, capacity, production rate and design. In addition, the actual air contaminant emissions must be the same in nature and will not be increased. Written notification of such replacement shall be made to the District at least thirty (30) days prior to the replacement and shall be accompanied by a fee of \$75. Replacement of equipment pursuant to other requirements of these Rules and Regulations shall not be considered an identical replacement.

Identical replacement does not include replacements in whole or part that in sum would constitute reconstruction or modification under District Regulation X - Standards of Performance for New Stationary Sources, or would constitute a major source as defined in District Rule 20.1.

09/17/92

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11/17/92 (1,APCB)

IT IS FURTHER RESOLVED AND ORDERED that the subject amendment to Rule 11 of Regulation II, shall take effect upon adoption.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 17th day of November, 1992 by the following votes:

AYES: Members Bilbray, Bailey, and MacDonald

NOES: Members None

ABSENT: Members Golding and Williams

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

STATE OF CALIFORNIA)ss
County of San Diego)

BY *T. D. Dutore*

I, THOMAS J. PASTUSZKA, Clerk of the Air Pollution Control District, County of San Diego, State of California, hereby certify that I have compared the foregoing copy with the original resolution passed and adopted by said Board at a regular meeting thereof, at the time and by the vote therein stated, which original resolution is now on file in my office; that the same contains a full, true and correct transcript therefrom and of the whole thereof.

Witness my hand and the seal of the Air Pollution Control District, County of San Diego, State of California, this 25th day of November, 1992.

THOMAS J. PASTUSZKA
Clerk of the Air Pollution Control
District

By *Maria A. Tiscareño*

Maria A. Tiscareño, Deputy

CHANGE COPY

Re Rules and Regulations of the)
Air Pollution Control District)
of San Diego County)

RESOLUTION AMENDING RULE 11 OF REGULATION II OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT

On motion of Member _____, seconded by Member _____ the following resolution is adopted:

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WHEREAS, said Board now desires to amend said Rules and Regulations; and

WHEREAS, notice has been given and a public hearing has been had relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code.

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IT IS FURTHER RESOLVED AND ORDERED that the subject amendments to Rule 11 of Regulation II, shall take effect upon adoption.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this _____ day of _____, 1992 by the following votes:

AYES:
NOES:
ABSENT: