



Air Pollution Control Board  
Brian P. Bilbray District 1  
Dianne Jacob District 2  
Pamela Slater District 3  
Leon L. Williams District 4  
John MacDonald District 5

Air Pollution Control Officer  
R. J. Sommerville

DATE: April 19, 1994  
TO: Air Pollution Control Board  
SUBJECT: Repeal of Rule 61.9 - Separation of Organic Compounds from Water

### SUMMARY:

Rule 65 - Volatile Organic Compound Separators was adopted in 1972, to control emissions from equipment separating volatile organic compounds from waste water. It was rescinded in 1989, and Rule 61.9 - Separation of Organic Compounds from Water was adopted in its place. Subsequently, the Environmental Protection Agency (EPA) partially approved and partially disapproved Rule 61.9 because it was inconsistent with EPA policies and requirements issued after the rule was adopted. Since the rule was intended only to control tuna processing operations, which are permanently closed, it is proposed to be repealed rather than corrected. This will satisfy EPA requirements. If the deficiencies are not corrected and submitted to EPA by May 25, 1994, EPA will impose mandatory sanctions on the San Diego air basin including a 2.0 to 1.0 emission offset ratio for new and expanding businesses and withholding up to \$75 million in federal transportation funds.

To meet the May 25, 1994 deadline to avoid EPA sanctions, the District requested the Clerk of the Board issue a public notice of the April 19, 1994 hearing to consider repeal of Rule 61.9 on March 18, 1994. This was done and the requirement for a 30-day public notice has been met.

### Issue(s)

Should the Board repeal Rule 61.9 - Separation of Organic Compounds from Water?

### Recommendations

#### AIR POLLUTION CONTROL OFFICER:

1. Adopt the resolution repealing Rule 61.9.
2. Make appropriate findings:
  - (i) of necessity, authority, clarity, consistency, non-duplication and reference, as required by Section 40727 of the State Health and Safety Code;
  - (ii) that the socioeconomic impacts of the repeal of Rule 61.9 have been considered pursuant to Section 40728.5 of the State Health and Safety Code;

**SUBJECT:** Repeal of Rule 61.9 - Separation of Organic Compounds from Water

- (iii) that an Initial Study has been prepared by the District pursuant to the California Environmental Quality Act (see California Code of Regulations, Title 14, Section 15063), and the Initial Study concluded that repeal of Rule 61.9 could not have a significant effect on the environment;
  - (iv) that a proposed Negative Declaration was prepared, pursuant to the California Environmental Quality Act (see California Code of Regulations, Title 14, Sections 15070 through 15075), and that public notice and a public review period were provided for the proposed Negative Declaration, that no comments were received during said public review period; and that considering the initial study and proposed Negative Declaration and the entire record before the Board, there is no substantial evidence that the project will have a significant effect on the environment, and the Negative Declaration is herein approved;
  - (v) that repeal of Rule 61.9 will not have an adverse effect on wildlife resources, and a Certificate of Fee Exemption for De Minimis Impact Finding was prepared pursuant to Section 753.5(c) of the Fish and Game Code.
3. Approve the Certificate of Fee Exemption for De Minimis Impact Finding exempting the District from payment of fees to the California Department of Fish and Game.

#### **Advisory Statement**

The Air Pollution Control District Advisory Committee will consider the proposed repeal of Rule 61.9 at a meeting in April. The Board will be advised of the Committee's recommendation at the public hearing.

#### **Fiscal Impact**

Repeal of Rule 61.9 will have no fiscal impact on the District.

#### **Alternatives**

- 1. Do not repeal Rule 61.9. With this alternative, the deficiencies would be retained and on May 25, 1994, EPA would impose sanctions on the San Diego air basin. This alternative is not recommended.
- 2. Correct the deficiencies identified by the EPA. This alternative is not recommended because it would require the expenditure of resources on a rule revision for which there are no affected sources. Also, any future changes to the EPA policies would require additional resource expenditures to revise an obsolete rule.

#### **BACKGROUND:**

Rule 65 - Volatile Organic Compound Separations was adopted in 1972 to control emissions from equipment separating volatile organic compounds from waste water. Rule 65 was rescinded and its requirements transferred to new Rule 61.9 on March 14, 1989, at which time more stringent cover, gauging, and sampling port control requirements were added. Tuna processing operations were subject to this rule, but have permanently closed.

SUBJECT: Repeal of Rule 61.9 - Separation of Organic Compounds from Water

EPA issued limited approval of the rule because it strengthened the State Implementation Plan, and issued limited disapproval because certain provisions were not consistent with EPA guidelines and policy requirements issued after the rule was adopted. The deficiencies must be corrected and submitted to EPA by the state Air Resources Board by May 25, 1994, or EPA will implement sanctions, including suspending up to \$75 million in highway funding and requiring a 2.0 to 1.0 emission offset ratio for large new or expanding sources. The Air Resources Board and EPA have advised that repealing Rule 61.9 and removing it from the State Implementation Plan would be acceptable because there are no affected sources and none are anticipated. This is also recommended to avoid expending additional resources if EPA again revises its policies and guidance and requires further revisions to the rule for which no air quality benefit will be realized.

An environmental review consistent with the California Environmental Quality Act has been conducted because repeal of 61.9 is technically a relaxation of the State Implementation Plan. An Initial Study conducted by the District concluded that repeal of Rule 61.9 could not have a significant effect on the environment, and a Negative Declaration has been prepared.

State law (Chapter 1706, Statutes of 1990) requires a filing fee of \$850 at the time lead agencies file a "Notice of Determination" with the County Clerk. The fee is remitted to the California Department of Fish and Game. However, no fee is required if the lead agency makes a De Minimis Impact finding, meaning there is no potential for an adverse effect on wildlife if the project is approved. Considering the Initial Study, there is no evidence that repeal of Rule 61.9 will have the potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends. On the basis of substantial evidence, the District rebuts the presumption of adverse effect contained in Section 753.5(d) of the Fish and Game Code.

Section 40728.5 of the State Health and Safety Code requires the District perform a socioeconomic impact assessment for adoption, amendment, or repeal of a rule or regulation. The only sources subject to this rule are permanently closed and no new sources are expected that will significantly affect air quality or emissions limitations. Therefore, there are no industries, businesses, or small businesses affected by repeal of Rule 61.9. Consequently, there are no costs to industry or business, impacts on employment and the economy in the region, or emission impacts.

Concurrence:

DAVID E. JANSSEN  
Chief Administrative Officer

Respectfully submitted,



R. J. SOMMERVILLE  
Air Pollution Control Officer

APRIL 19, 1994  
MEETING DATE

FINDINGS OF THE SAN DIEGO COUNTY AIR POLLUTION  
CONTROL BOARD IN RESPECT TO THE REPEAL OF  
RULE 61.9 (SEPARATION OF ORGANIC COMPOUNDS FROM WATER)

- A. Pursuant to section 40727 of the California 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 repeal of District Rule 61.9 is necessary to avoid federal sanctions which would be applied because the rule is inconsistent with new federal regulations; the rule can be repealed because there is no need for the rule.
  2. (Authority) The repeal of the rule is authorized by Health and Safety Code sections 40001 and 40702.
  3. (Consistency) The repeal of the rule is in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and State law and Federal regulations.
  4. (Reference) The repeal of the rule is made in accordance with the federal Environmental Protection Agency disapproval of the rule in 57 Federal Register 48457 (October 26, 1992).
- B. The repeal of the rule will not significantly affect air quality or emissions limitations, and the repeal of the rule is thus exempt from the requirements of Health and Safety Code section 40728.5 for performing an assessment of the socioeconomic impacts of the repeal of the rule. The repeal of the rule will not have any impacts on industry, business, employment or the economy of the region.
- C. The Air Pollution Control Board further finds that an Initial Study has been prepared pursuant to the California Environmental Quality Act, and the Initial Study concluded that repeal of Rule 61.9 could not have a significant effect on the environment.
- D. A proposed Negative Declaration was prepared pursuant to the California Environmental Quality Act, and public notice and a public review period were provided for the proposed negative Declaration and no comments were received; and considering the initial study and proposed negative declaration and the entire record before the Board, there is no substantial evidence that the project will have a significant effect on the environment, and the Negative Declaration is hereby approved.
- E. Based on the entire record before this Board and the District, there is no evidence that the repeal of the rule may have any potential for adverse effect on wildlife resources or the habitat upon which the wildlife depends; and on the basis of substantial evidence, the presumption of adverse effect to the resources listed in Title 14, California Code of Regulations, section 753(d), has been rebutted; and the Certificate of Fee Exemption for De Minimis Impact Finding which exempts the District from payment of fees to the California Department of Fish and Game is hereby approved.

APCB Meeting 4/19/94  
Agenda Item #3

Approved and/or authorized by the Board  
of Supervisors of the County of San Diego  
Date: 4-19-94 Minute Order No. APCB-3  
THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors  
By: [Signature]  
Deputy Clerk

**OFFICIAL RECORD**

Clerk of the Board of Supervisors

Exhibit No. \_\_\_\_\_ Agenda No. APCB-3

Meeting Date 4-19-94

Presented by County Council

Document No. 759425

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

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

RESOLUTION NO. 94-141  
TUESDAY, APRIL 19, 1994

**RESOLUTION REPEALING EXISTING 61.9  
SEPARATION OF ORGANIC COMPOUNDS FROM WATER  
FROM REGULATION IV  
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; and

**WHEREAS**, an Initial Study and a Negative Declaration have been submitted to the Governor's Office of Planning and Research pursuant to the California Environmental Quality Act for repeal of Rule 61.9 and amendment to the State Implementation Plan for San Diego regarding this rule; and

**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:

Existing Rule 61.9 of Regulation IV is repealed in its entirety.

**RULE 61.9. SEPARATION OF ORGANIC COMPOUNDS FROM WATER**

**(a) APPLICABILITY**

Except as provided for in Section (b), this rule is applicable to any compartment of any device operated for the recovery of organic compounds from effluent water where the recovery can equal or exceed 200 gallons (757 liters) of organic compounds in any 24-hour period from any equipment which processes, refines, stores, or handles hydrocarbons having a true vapor pressure of 0.5 pounds per square inch absolute, or greater, at 100°F.

**(b) EXEMPTIONS - [Reserved]**

(c) **STANDARDS**

(1) No person shall use any compartment of any device subject to this rule unless such compartment is equipped with one of the following vapor loss control devices:

(i) A solid cover with all openings sealed and totally enclosing the liquid contents of that compartments, or

(ii) A floating cover in contact with the liquid surface, equipped with closure seals that have no tears or leaks, installed and maintained so that gaps between the compartment wall and the seal shall not exceed 1/8 inch (0.32 centimeters) for an accumulative length of 97 percent of the perimeter of the compartment. No gap between the compartment wall and the seal shall exceed 1/2 inch (1.3 centimeters), or

(iii) An air pollution control system which reduces the emissions of all hydrocarbon vapors and air contaminants into the atmosphere by at least 90 percent by weight, or

(iv) Other equipment with a control efficiency equal to or greater than (i), (ii) or (iii) which is approved by the Air Pollution Control Officer.

(2) Each gauging or sampling port in any floating cover shall be equipped with a cover or lid. The cover or lid shall be in a closed position at all times, except when the port is in actual use. There shall be no gaps between the port cover or lid and the compartment when the port cover or lid is closed.

No gauging or sampling port of a sealed compartment shall be opened if the compartment vapor space is under pressure and is connected to a vapor recovery system. Each gauging or sampling port of any sealed compartment shall be gas tight except when the port is opened to allow the gauge to be read or a sample to be taken.

**IT IS FURTHER RESOLVED AND ORDERED** that the subject repeal of Rule 61.9 of Regulation IV 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 19th day of April, 1994 by the following votes:

**AYES:** BILBRAY, JACOB, SLATER, MACDONALD  
**NOES:** NONE  
**ABSENT:** WILLIAMS

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL

BY C. Dutton  
DEPUTY

STATE OF CALIFORNIA)ss  
County of San Diego)

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 19th day of April, 1994.

THOMAS J. PASTUSZKA  
Clerk of the Air Pollution Control District

By Maritza C. Steele  
Maritza C. Steele, Deputy

Resolution No. 94-141  
4/19/94 (APCB-3)  
mcs

This is a true certified copy of the original document on file or of record in my office. It bears the seal of the County of San Diego and signature of the Clerk of the Board of Supervisors, imprinted in purple ink.

Thomas J. Pastuszka  
Clerk of the Board, San Diego County, California

Date: 4/22/94 By Deputy: Maritza Steele





**AIR POLLUTION CONTROL DISTRICT  
COUNTY OF SAN DIEGO**

Existing Rule 61.9 of Regulation IV is repealed in its entirety.

**~~RULE 61.9. SEPARATION OF ORGANIC COMPOUNDS FROM WATER~~**

**~~(a) APPLICABILITY~~**

~~Except as provided for in Section (b), this rule is applicable to any compartment of any device operated for the recovery of organic compounds from effluent water where the recovery can equal or exceed 200 gallons (757 liters) of organic compounds in any 24 hour period from any equipment which processes, refines, stores, or handles hydrocarbons having a true vapor pressure of 0.5 pounds per square inch absolute, or greater, at 100°F.~~

**~~(b) EXEMPTIONS—[Reserved]~~**

**~~(c) STANDARDS~~**

~~(1) No person shall use any compartment of any device subject to this rule unless such compartment is equipped with one of the following vapor loss control devices:~~

~~(i) A solid cover with all openings sealed and totally enclosing the liquid contents of that compartments, or~~

~~(ii) A floating cover in contact with the liquid surface, equipped with closure seals that have no tears or leaks, installed and maintained so that gaps between the compartment wall and the seal shall not exceed 1/8 inch (0.32 centimeters) for an accumulative length of 97 percent of the perimeter of the compartment. No gap between the compartment wall and the seal shall exceed 1/2 inch (1.3 centimeters), or~~

~~(iii) An air pollution control system which reduces the emissions of all hydrocarbon vapors and air contaminants into the atmosphere by at least 90 percent by weight, or~~

~~(iv) Other equipment with a control efficiency equal to or greater than (i), (ii) or (iii) which is approved by the Air Pollution Control Officer.~~

~~(2) Each gauging or sampling port in any floating cover shall be equipped with a cover or lid. The cover or lid shall be in a closed position at all times, except when the port is in actual use. There shall be no gaps between the port cover or lid and the compartment when the port cover or lid is closed.~~

~~No gauging or sampling port of a sealed compartment shall be opened if the compartment vapor space is under pressure and is connected to a vapor recovery system. Each gauging or sampling port of any sealed compartment shall be gas tight except when the port is opened to allow the gauge to be read or a sample to be taken.~~