

**Air Pollution Control Board**

Greg Cox	District 1
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Ron Roberts	District 4
Bill Horn	District 5

Air Pollution Control Officer

R. J. Sommerville

May 2, 1995

TO: Workshop Participants and Other Interested Parties

FROM: Richard J. Smith
Deputy Director

**CHANGE IN PROCEDURES FOR ADOPTING
FEDERAL NEW SOURCE PERFORMANCE STANDARDS AND
FEDERAL AND STATE REGULATIONS FOR
HAZARDOUS (TOXIC) AIR POLLUTANTS**

Attached for your review is the workshop report for the meeting held on March 30, 1995 to consider changes in the District procedures for adopting federal New Source Performance Standards (NSPS), and federal and state regulations for hazardous (toxic) air pollutants (NESHAP and ATCM's).

The new procedures will likely be considered for adoption by the Air Pollution Control Board in July 1995.

If you have any questions, please call Natalie Zlotin at (619) 694-3312 or me at (619) 694-3303.

RICHARD J. SMITH
Deputy Director

RJSm:NZ:jo

Attachment

**AIR POLLUTION CONTROL DISTRICT
SAN DIEGO COUNTY**

**PUBLIC CONSULTATION WORKSHOP TO DISCUSS
A CHANGE IN PROCEDURES FOR ADOPTING
FEDERAL NEW SOURCE PERFORMANCE STANDARDS AND
FEDERAL AND STATE REGULATIONS FOR
HAZARDOUS (TOXIC) AIR POLLUTANTS.**

WORKSHOP REPORT

A workshop notice was mailed to all companies in San Diego County that may be subject to new federal National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and California Air Toxic Control Measures (ATCM's), or to federal New Source Performance Standards (NSPS). Notices were also mailed to all Chambers of Commerce in San Diego County, all Economic Development Corporations and other interested parties.

The workshop was held on March 30, 1995, and was attended by 39 persons. The workshop comments and District responses are as follows:

1. WORKSHOP COMMENT

The District is still planning to conduct workshops on all federal or state regulations proposed to be implemented. During these workshops the District will apparently provide its interpretation of a variety of issues which may arise as a result of industry comments or questions. Is there any mechanism which ensures that such interpretation is documented?

DISTRICT RESPONSE

Yes. Any interpretation of a state or federal regulation proposed to be adopted or implemented by the District will be included in the workshop report which is distributed to all workshop participants. It will also be provided in writing to the District's engineering and compliance staff.

2. WORKSHOP COMMENT

Sometimes a federal regulation may contain a provision which contradicts the District rules or is incompatible with the District requirements. How would this situation be resolved?

DISTRICT RESPONSE

If such a situation arises, the District would discuss the issue with the Environmental Protection Agency (EPA) and would develop, in conjunction with EPA, a course of action. If it appears that a federal regulation creates a serious conflict with an existing District rule, the federal regulation will not be adopted by reference. Instead, the District will go through the regular rule development process and amend the District rule, as appropriate. The amended rule, if adopted by the Board, will then be submitted to EPA for approval. It is expected that EPA will approve the proposed rule if it is equivalent or more stringent than the federal regulation.

3. WORKSHOP COMMENT

What criteria will the District use to decide whether a NSPS can be adopted by reference?

DISTRICT RESPONSE

The District will use the public response to the workshop notice, workshop attendance and comments received as an indicator of any controversies which may arise as a result of a proposed adoption by reference. The District will also consider potential ambiguities or conflicts with existing rules. If no specific problems are identified, a NSPS will be submitted to the Board for adoption by reference.

4. WORKSHOP COMMENT

Is it the District opinion that any industry or public representative who wants to affect an outcome of a proposed federal or state regulation has to make comments directly to the appropriate agency during the open public comments period?

DISTRICT RESPONSE

Yes. The District has repeatedly stated that all interested parties need to provide input regarding any new proposed federal or state regulations to EPA and ARB, as applicable, during the open public comment period for those regulations. After a state or federal regulation is adopted, it becomes very difficult for the District to deviate from these requirements or defend local rules that differ significantly from state or federal regulations.

5. WORKSHOP COMMENT

Would workshop notices for upcoming NSPS and NESHAP regulations be sent to all interested parties including environmental organizations and the general public?

DISTRICT RESPONSE

Workshop notices are routinely mailed to all affected industries and all persons and organizations on the District's general workshop notice mailing list. This includes also representatives and members of the general public, other government agencies and environmental organizations.

6. WORKSHOP COMMENT

How would the District handle any future federal or state regulations which affect local rules?

DISTRICT RESPONSE

Appropriate changes will be proposed to a District rule to make it consistent with, equivalent to, or at least as stringent as a corresponding state or federal requirement. Such a revision will follow the regular District rule development procedure, including workshops.

7. WORKSHOP COMMENT

Does a more stringent federal regulation supersede a local rule if the federal regulation applies to the same source?

DISTRICT RESPONSE

Generally, yes. If this occurs, the District will either propose to repeal the local regulation and implement and enforce the federal rule, or propose to amend the local rule to make it consistent with, equivalent to, or at least as stringent as the federal requirement.

8. WORKSHOP COMMENT

It would be advisable for the District to develop a mailing list in order to inform industry and other organizations or public representatives about the status of the proposed federal or state NSPS and NESHAP regulations.

DISTRICT RESPONSE

The District will compile such a list and provide information to persons who may wish to send comments concerning federal or state regulations to EPA or ARB. In addition, EPA now has an electronic bulletin board, accessible to industry and the public, which contains all new proposed regulations together with the deadlines for public comments.

9. WORKSHOP COMMENT

What substances are affected by NESHAP regulations?

DISTRICT RESPONSE

NESHAP regulations control emissions of hazardous air pollutants and are being issued by EPA for specific industries and processes that emit hazardous air pollutants. Currently there are 189 hazardous air pollutants listed in the Federal Clean Air Act.

10. WORKSHOP COMMENT

Is the list of hazardous air pollutants available?

DISTRICT RESPONSE

The list is contained in Section 112 of the Federal Clean Air Act and can be obtained from the District or EPA.

11. WORKSHOP COMMENT

Did the District estimate a possible cost of continuing its present adoption procedures for federal NSPS, NESHAP and state ATCM regulations?

DISTRICT RESPONSE

The District estimates that it would require at least five additional staff members and could increase permit renewal fees by approximately 5%.

12. WORKSHOP COMMENT

In the past the District workshop notices have summarized a proposed rule requirements and changes. Does the District plan to do the same with the federal and state regulations?

DISTRICT RESPONSE

Yes. If the proposed new NSPS and NESHAP adoption procedures are approved by the Board, a workshop notice for a federal or state regulation will contain a summary of its requirements and implementation dates.

13. WORKSHOP COMMENT

If the District provides interpretation of a federal or state regulation, and this interpretation is documented in the workshop report, how will such interpretation be implemented?

DISTRICT RESPONSE

The District will implement such an interpretation by written policy and any necessary training of staff.

14. WORKSHOP COMMENT

How would EPA be informed of a particular District interpretation of a given federal regulation?

DISTRICT RESPONSE

The workshop notices and workshop reports are submitted to and reviewed by EPA on a regular basis. If EPA does not agree with a District interpretation of a federal regulation, and relates this to the District, all workshop participants will be notified of such disagreement.