AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

DATE: August 13, 1997

TO: Air Pollution Control Board

SUBJECT: Adoption of Amendments to Rule 50 (Visible Emissions)

SUMMARY:

On February 1, 1995, the Air Pollution Control Board approved recommendations of the County of San Diego Economic Advisory Board's Sunset Commission initiated by the Air Pollution Control Review Committee and directed the District to implement the recommendations. On March 7, 1995, the Board approved the District's implementation plan. The Committee recommended changes in Rule 50 for equipment believed to be unable to reasonably comply with the rule. On March 14, 1996, the Sunset Commission took no action on the Committee's recommendations and approved a recommendation for additional workshops. Workshops were held in September 1995 and April 1996.

Rule 50 prohibits visible emission plumes exceeding 20 percent opacity for more than 3 minutes in an hour. State Health and Safety Code §41701 prohibits such plumes exceeding 40 percent opacity for more than 3 minutes in an hour. Nearly all air districts in California impose 20 percent opacity limits. However, both the State Health and Safety Code and Rule 50 exempt certain sources that cannot comply at a reasonable cost.

The District has considered input from local industries and other interested parties and evaluated asphalt paving and pavement rehabilitation equipment in the field. As a result, the proposed amendments to Rule 50 include a relaxation from the more restrictive 20 percent opacity requirements of the District visible emission standard to the less restrictive 40 percent opacity Health and Safety Code requirement for those equipment types. The same amendments apply to fire-fighting training equipment used exclusively for ship-board fire fighting training.

To provide consistency with the State Health and Safety Code, the proposed amendments also include a relaxation for the operation of diesel pile driving hammers during the driving of a single pile. For the same reason, proposed changes would also exempt the use of obscurants in military training exercises, equipment used for the purpose of flash-over fire fighting training, and emissions from vessels using steam boilers under specified circumstances.

Workshops were held in September 1995 and April 1996. The attached workshop report addresses key issues discussed at both workshops.

Issue

Should the Board amend Rule 50 to provide consistency with the visible emission standards established by the State Health and Safety Code and make changes requested by local industry?

Recommendation

AIR POLLUTION CONTROL OFFICER:

(1) Adopt the resolution amending Rule 50 and 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 adopting Rule 50 amendments will alleviate a problem and will not interfere with attainment of ambient air quality standards (Section 40001 of the State Health and Safety Code);

(iii) that an assessment of socioeconomic impacts of the proposed amendments is not required by Section 40728.5 of the State Health and Safety Code because the proposed amendments will not significantly affect air quality or emission limitations;

(iv) that an Initial Study was prepared by the District pursuant to the California Environmental Quality Act, and the Initial Study revealed no substantial evidence that the proposed amendments to Rule 50 may have a significant adverse effect on the environment;

(v) that a proposed Negative Declaration was prepared pursuant to the California Environmental Quality Act and that public notice and a public review period were provided for the proposed Negative Declaration; that comments were received during said public review period and the District responded to those comments; and that considering the initial study, proposed Negative Declaration, the public comments and the District's responses, and the entire record before the Board, a finding be made by the Board in the exercise of its independent judgment that the proposed amendments to Rule 50 will not have a significant adverse effect on the environment, and that an Environmental Impact Report need not be prepared;

(vi) that there is no evidence in the record as a whole that the proposed amendments to Rule 50 will have an adverse effect on wildlife resources, and on the basis of substantial evidence, the presumption of adverse effect in California Code Of Regulations, Title 14, Section 753.5(d) has been rebutted.

(2) 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.

Alternative

There is no practical alternative. If these amendments are not made, certain equipment will be subject to a visible emission standard that can not be complied with on a continuous basis.

Advisory Statement

There was no quorum at the July 23, 1997 meeting of the Air Pollution Control Advisory Committee. The members present recommended adopting proposed amendments to Rule 50.

Fiscal Impact

Adopting the proposed rule amendments will have no fiscal impact on the District.

Additional Information

Attachment I contains additional background information, information on compliance with Board policy on adopting revised rules, additional information on Socioeconomic Impact Assessment requirements, and information on compliance with the California Environmental Quality Act.

Attachment II contains the Resolution and Change Copy amending Rule 50.

Attachment III contains the report for the workshops held in September of 1995 and on April 16, 1996.

Attachment IV contains the Initial Study and Negative Declaration for the rule amendments necessary to comply with the requirements of the California Environmental Quality Act.

Attachment V contains comments received by the Environmental Health Coalition and the District's Response.

Concurrence:

LAWRENCE B. PRIOR III
Chief Administrative Officer

BY: ROBERT R. COPPER
Deputy Chief Administrative Officer

Respectfully submitted,

R. J. SOMMERVILLE
Air Pollution Control Officer

SUBJECT: Adoption of Amendments to Rule 50 (Visible Emissions)

7/29/97

COUNTY COUNSEL APPROVAL: Form and Legality [X] Yes [ ] N/A
[ ] Standard Form [ ] Ordinance [X] Resolution

CHIEF FINANCIAL OFFICER/AUDITOR REVIEW: [ ] Yes [X] N/A
4 VOTES: [ ] Yes [X] No

CONTRACT REVIEW PANEL: [ ] Approved _____ [X] N/A

PREVIOUS RELEVANT BOARD ACTION:

BOARD POLICIES APPLICABLE: N/A

CONCURRENCES: N/A

ORIGINATING DEPARTMENT: San Diego County Air Pollution Control District

CONTACT PERSON: Morris Dye, Deputy Director (S50) 694-3303 MS: 0-176

R. J. SOMMERVILLE, APCO
DEPARTMENT AUTHORIZED REPRESENTATIVE

AUGUST 13, 1997
MEETING DATE

ATTACHMENT I

ADDITIONAL BACKGROUND INFORMATION

On February 1, 1995, the Air Pollution Control Board approved recommendations of the County of San Diego Economic Advisory Board's Sunset Commission initiated by the Air Pollution Control Review Committee and directed the District to implement the recommendations. On March 7, 1995, the Board approved the District's implementation plan. The Committee recommended changes in Rule 50 for equipment believed to be unable to reasonably comply with the rule. On March 14, 1996, the Sunset Commission took no action on the Committee's recomendations and approved a recommendation for additional workshops. Workshops were held in September 1995 and April 1996.

Visible emissions are a qualitative indicator of particulate emissions. Consequently, limiting visible emissions also limits the particulate mass emission rate. Rule 50 prohibits visible emission plumes exceeding 20 percent opacity for more than 3 minutes in an hour. State Health and Safety Code §41701 prohibits such plumes exceeding 40 percent opacity for more than 3 minutes in an hour. Most air districts in California impose a 20 percent opacity limit. However, both the State Health and Safety Code and Rule 50 exempt certain sources that cannot comply at a reasonable cost.

The review of Rule 50 included input from local industries and other interested parties, and a field evaluation of asphalt paving and pavement rehabilitation equipment. As a result, the proposed amendments to Rule 50 include a relaxation from the 20 percent opacity requirements for asphalt paving equipment with an application temperature specification of 320°F or higher, pavement rehabilitation equipment, and operating, maintaining, or testing of fire fighting training equipment used exclusively for the purpose of shipboard fire fighting training. This equipment will still be subject to the 40 percent opacity restriction in the Health and Safety Code.

Additional amendments are proposed to provide consistency with less stringent State Health and Safety Code visible emission requirements. First, new exemptions are provided for emissions from certain equipment including: equipment used exclusively for flash-over fire fighting training; emergency boiler safety shutdowns, safety and government-required operational tests and vessels when maneuvering to avoid hazards; and obscurants used in training military personnel and military equipment used for Department of Defense testing on any military reservation. The steam boiler vessel exemption also includes emissions from vessels during a breakdown condition, as long as it is reported in accordance with District Rule 98. Second, a relaxation for diesel pile driving hammers to four minutes, instead of three minutes during the driving of a single pile.

To accommodate the proposed changes to Rule 50, definitions for asphalt paving equipment, obscurants, pavement rehabilitation equipment, and rubber modified spray applied asphalt have been made. The definition of single source has been modified.

Workshops were held in September 1995 and April 1996. The attached workshop report addresses key issues discussed at both workshops.

Compliance with Board Policy on Adopting Revised Rules

On February 2, 1993, the Board directed that, with the exception of a regulation requested by business or a regulation for which a socioeconomic impact assessment is not required, no new or revised regulation shall be implemented unless specifically required by federal or State Health and Safety Code law. The adoption of the amendments to Rule 50 is consistent with this Board directive because these actions have been requested by local businesses and because no socio-economic impact assessment is required.

Socioeconomic Impact Assessment

Section 40728.5 of the State Health and Safety Code requires the District to perform a Socio-economic Impact Assessment for new and revised rules and regulations significantly affecting air quality or emission limitations. The adoption of the amendments to Rule 50 will not affect air quality or emissions limitations. Therefore, a Socioeconomic Impact Assessment is not required.

California Environmental Quality Act

The District prepared an Initial Study of the proposed new rule pursuant to the California Environmental Quality Act to determine whether there is evidence that the adoption of the rule may have a significant effect on the environment. The Initial Study revealed no substantial evidence that the proposed rule amendments may have a significant effect on the environment.

On the basis of the Initial Study, the District prepared a proposed Negative Declaration. The District published a Notice of Intent to adopt the proposed Negative Declaration, and solicited comments from the public during a review period.

Comments were received from the Environmental Health Coalition (EHC) on the proposed Negative Declaration. The EHC response claimed the Negative Declaration failed to consider all potential impacts of the proposed amendments to Rule 50, by not considering the localized impacts from the increased emissions of particulates and air toxics, and the cumulative impacts of increased particulate emissions from other rule amendments currently under consideration. The comments further claimed the technical documentation for the rule revision trivializes the increase in particulate matter emissions by improperly comparing it to the existing particulate problem in San Diego County. The EHC stated a fair argument can be made that the potential for significant impacts from the proposed amendments to Rule 50 exists, and that an Environmental Impact Report (EIR) must be prepared.

The District carefully considered the EHC comments and concluded that, because the suggested amendments to Rule 50 would only reflect current emission levels, the localized impacts from particulate matter and air toxics will not change, and no cumulatively considerable effects would result from the proposed amendments to Rule 50. Basin-wide emissions inventory figures were presented in the technical documentation as a context for considering whether or not the incremental effects of the proposed amendments were significant, not in an attempt to trivialize the effects of the proposed amendments. The District concluded no EIR should be prepared, because there is no substantial evidence of significant adverse effects on the environment as a result of the proposed amendments.

The California Environmental Quality Act requires that the Board review the Initial Study and proposed Negative Declaration and any comments received. The Board can approve the Negative Declaration only if it finds, on the basis of review of the entire record, that there is no substantial evidence that the project will have a significant adverse effect on the environment. The Board must also make a finding that the Negative Declaration reflects the Board's independent judgment.

In addition, the District has prepared a Certificate of Fee Exemption for De Minimis Impact Finding pursuant to California Code of Regulations, Title 14, Section 753.5(c). The District will be exempted from payment of fees to the California Department of Fish and Game for reviewing the Negative Declaration if the Board finds after considering the Initial Study and the record as a whole that there is no evidence that adoption of the new rule will have potential for an adverse effect on wildlife resources or the habitat on which the wildlife depends, and the Boards finds, on the basis of substantial evidence, that the presumption of adverse effect in California Code of Regulations, Title 14, Section 753.5(d) has been rebutted.

KH:jo
7/28/97

Resolution No. 97-279 Wednesday, August 13, 1997

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

**RESOLUTION AMENDING RULE 50
OF REGULATION IV
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Slater, seconded by Member Roberts 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 amendments to Rule 50, Sections (b), (c), and (d) are to read as follows:

RULE 50. VISIBLE EMISSIONS

(a) **APPLICABILITY**

Except as otherwise provided in Section (b), this rule applies to the discharge of any air contaminant other than uncombined water vapor.

(b) **EXEMPTIONS**

The provisions of this rule shall not apply to:

(1) Smoke from the use of an orchard or citrus grove heater which does not produce unconsumed solid carbonaceous matter at a rate in excess of one gram per minute;

(2) Emissions from the use of equipment in agricultural operations;

(3) Smoke from open fires set pursuant to a permit and its conditions;

(4) Abrasive blasting operations subject to the provisions of Rule 71 of Regulation IV of these Rules and Regulations;

(5) The use of visible emissions generating equipment in training sessions conducted by governmental agencies for the purpose of certifying persons to evaluate visible emissions from compliance with applicable provisions of the State of California Health and Safety Code and District Rules and Regulations;

(6) The use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation;

(7) Equipment used exclusively for the purpose of flash-over fire fighting training; and

(8) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards. Emissions from vessels during a breakdown condition, as long as it is reported in accordance with District Rule 98.

(c) **DEFINITIONS**

(1) **"Asphalt Plant Drop Zone"** means the area immediately below a device, in an asphalt manufacturing facility that loads or drops asphalt onto the cargo beds of trucks and trailers.

(2) **"Asphalt Paving Equipment"** means equipment handling asphalt cement or asphaltic concrete as part of a paving operation, including chip seal or sand seal.

(3) **"Obscurants"** means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.

(4) **"Observer"** means a certified human observer or a certified, calibrated opacity monitoring system.

(5) **"Pavement Rehabilitation Equipment"** means equipment used to resurface or refinish an existing paved surface, such as asphalt pavement heaters, asphalt grinders, planers, profilers.

(6) **"Single Source"** means individual unit of equipment or operations at a given location, including any associated outlets to the atmosphere, which may be operated simultaneously.

(7) **"Rubber Modified Spray Applied Asphalt"** means rubber modified asphaltic cement, including, but not limited to rubber modified asphaltic cement containing polymers or asphalt rubber binders, applied with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, in a thin layer to a road surface.

(d) **STANDARDS**

(1) Except as otherwise provided in Section (b) above and subsections below, a person shall not discharge into the atmosphere from any single source of emissions whatsoever any air contaminant for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 1 on the Ringelmann Chart, as published by the United States

Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 1 on the Ringelmann Chart.

(2) A person shall not discharge into the atmosphere from any asphalt plant drop zone any contaminant for a period or periods aggregating more that three minutes in any period of 60 consecutive minutes which is as dark or darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart.

(3) A person shall not discharge into the atmosphere from any diesel pile driving hammer any contaminant for a period or periods aggregating more than four minutes during the driving of a single pile which is as dark or darker in shade than that designated as Number 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 1 on the Ringelmann Chart.

(4) A person shall not discharge into the atmosphere from any diesel pile driving hammer which uses kerosene fuel, smoke suppressing fuel additives, and synthetic lubricating oil any contaminant for a period or periods aggregating more than four minutes during the driving of a single pile which is as dark or darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart.

(5) A person shall not discharge into the atmosphere from any asphalt paving equipment with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, or pavement rehabilitation equipment, any emissions whatsoever of air contaminants for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart. This provision does not apply to portable rubber modified spray applied asphalt cement equipment.

(6) A person shall not discharge into the atmosphere from the operation, maintenance or testing of fire fighting training units used exclusively for the purpose of shipboard fire fighting training, from any single source of emissions whatsoever any air contaminant for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart.

IT IS FURTHER RESOLVED AND ORDERED that the subject amendments to Rule 50 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 13th day of August, 1997 by the following votes:

AYES: Jacob, Slater, Roberts, Horn
NOES:
ABSENT: Cox

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL
BY Dutton
DEPUTY

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: 8/14/97 By Deputy: Frank V. Zalanga

AIR POLLUTION CONTROL DISTRICT
SAN DIEGO COUNTY

PROPOSED AMENDMENTS TO RULE 50

CHANGE COPY

Proposed amendments to Rule 50, Sections (b), (c), and (d) are to read as follows:

RULE 50. VISIBLE EMISSIONS

(a) APPLICABILITY

Except as otherwise provided in Section (b), this rule applies to the discharge of any air contaminant other than uncombined water vapor.

(b) EXEMPTIONS

The provisions of this rule shall not apply to:

(1) Smoke from the use of an orchard or citrus grove heater which does not produce unconsumed solid carbonaceous matter at a rate in excess of one gram per minute;

(2) Emissions from the use of equipment in agricultural operations;

(3) Smoke from open fires set pursuant to a permit and its conditions;

(4) Abrasive blasting operations subject to the provisions of Rule 71 of Regulation IV of these Rules and Regulations;

(5) The use of visible emissions generating equipment in training sessions conducted by governmental agencies for the purpose of certifying persons to evaluate visible emissions from compliance with applicable provisions of the State of California Health and Safety Code and District Rules and Regulations;

(6) The use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation;

(7) Equipment used exclusively for the purpose of flash-over fire fighting training; and

(8) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards. Emissions from vessels during a breakdown condition, as long as it is reported in accordance with District Rule 98.

(c) DEFINITIONS

(1)~~(3)~~ **"Asphalt Plant Drop Zone"** means the area immediately below a device, in an asphalt manufacturing facility that loads or drops asphalt onto the cargo beds of trucks and trailers.

(2) **"Asphalt Paving Equipment"** means equipment handling asphalt cement or asphaltic concrete as part of a paving operation, including chip seal or sand seal.

(3) **"Obscurants"** means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.

(4)~~(1)~~ **"Observer"** means a certified human observer or a certified, calibrated opacity monitoring system.

(5) **"Pavement Rehabilitation Equipment"** means equipment used to resurface or refinish an existing paved surface, such as asphalt pavement heaters, asphalt grinders, planers, profilers.

(6)~~(2)~~ **"Single Source"** means individual ~~any or all~~ units of equipment or operations at a given location, including any associated outlets to the atmosphere, which may be operated simultaneously.

(7) **"Rubber Modified Spray Applied Asphalt"** means rubber modified asphaltic cement, including, but not limited to rubber modified asphaltic cement containing polymers or asphalt rubber binders, applied with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, in a thin layer to a road surface.

(d) **STANDARDS**

(1) Except as otherwise provided in Section (b) above and ~~S~~ subsections ~~(d)~~(2) below, a person shall not discharge into the atmosphere from any single source of emissions whatsoever any air contaminant for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 1 on the Ringelmann Chart.

(2) A person shall not discharge into the atmosphere from any ~~diesel pile driving hammer or from any~~ asphalt plant drop zone any contaminant for a period or periods aggregating more that three minutes in any period of 60 consecutive minutes which is as dark or darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart.

(3) A person shall not discharge into the atmosphere from any diesel pile driving hammer any contaminant for a period or periods aggregating more than four minutes during the driving of a single pile which is as dark or darker in shade than that designated as Number 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 1 on the Ringelmann Chart.

(4) A person shall not discharge into the atmosphere from any diesel pile driving hammer which uses kerosene fuel, smoke suppressing fuel additives, and

synthetic lubricating oil any contaminant for a period or periods aggregating more than four minutes during the driving of a single pile which is as dark or darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart,

(5) A person shall not discharge into the atmosphere from any asphalt paving equipment with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, or pavement rehabilitation equipment, any emissions whatsoever of air contaminants for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart. This provision does not apply to portable rubber modified spray applied asphalt cement equipment.

(6) A person shall not discharge into the atmosphere from the operation, maintenance or testing of fire fighting training units used exclusively for the purpose of shipboard fire fighting training, from any single source of emissions whatsoever any air contaminant for a period or periods aggregating more than three minutes in any period of 60 consecutive minutes which is darker in shade than that designated as Number 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than does smoke of a shade designated as Number 2 on the Ringelmann Chart.

~~In accordance with Section 41701.5 of the State Health and Safety Code, diesel pile driving hammers shall comply with Subsection (d)(1) above after December 31, 1986.~~

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

RULE 50 - VISIBLE EMISSIONS

WORKSHOP REPORT

A workshop notice was mailed to all permit holders, all city managers, and the District's general workshop mailing list. The workshop held on April 16, 1996, was attended by 19 people.

During the first workshop held in September of 1995, new Rule 50 issues were raised by a representative of the rock and mineral industry. After the first workshop, San Diego County Rock Producers Association (SDCRPA) met with members of the Sunset Review Commission Air Regulation Review Committee to reiterate their concerns. SDCRPA presented a list of mobile equipment not capable of complying with existing Rule 50 standards. The Sunset Commission recommended another workshop be held to consider changes to Rule 50 where compliance cannot be achieved and where existing standards would have an adverse effect on jobs. The second workshop addressed concerns raised by the SDCRPA concerning certain types of mobile equipment.

The categories of equipment identified by SDCRPA were: asphalt/hot mix or concrete spreading equipment, road paving/chip spreading equipment, street sweeping operations, stockpile transfer and loading operations, and mineral products excavation and grading operations.

At the second workshop a Rule 50 workgroup was established. The primary goal of the workgroup was to further define mobile equipment compliance problems and the appropriate solutions. The workgroup included representatives of industry, the Environmental Health Coalition and District staff. Meetings were held on May 9, 1996, and June 6, 1996. As a result of workgroup efforts, Rule 50 will be revised to relax the standards for certain specialized asphalt processes. Specifically, Rule 50 revisions are proposed for asphalt paving equipment with an application temperature specification encompassing a range of 320°F or above, pavement rehabilitation equipment (asphalt grinders, planers and profilers), and for heater scarifers (asphalt pavement heaters).

No changes to Rule 50 are being considered for street sweeping operations, stockpiled material handling, excavation (quarry) operations or grading operations.

Other revisions are proposed to bring Rule 50 Standards into alignment with State law for pile drivers and for vessels using steam boilers. There are also several exemptions proposed for smoke from flash-over fire fighting training and obscurants used in military exercises, as emissions from such processes are for the purpose of obscuring visibility during the training or military exercises. Controlling such emissions would defeat the purpose of the training or exercise.

The workshop report includes District written responses to specific comments from the workshop, the Rule 50 workgroup and written comments received. Neither the ARB nor the EPA had comments to the draft rule sent them.

1. WORKSHOP COMMENTS

The regulated industry is concerned about ambiguity in the Rule 50 definition of single sources and would like the language clarified.

DISTRICT RESPONSE

The District understands industry's concern and will amend the definition.

4/8/97
TM:KH:jo

2. WORKSHOP COMMENT

Asphalt paving materials are evolving and a new group of performance-based asphalts are available. New paving materials are more reliable, take less time to apply, are tougher, last longer and use less material. The new performance-based asphalts have high application temperature requirements, 320°F or above and visible emissions are more likely to occur when asphalt material is applied at these temperatures. A contractor has no control over the asphalt specifications, and application temperature requirements. There is no cost effective means of controlling emissions and excess visible emissions cannot be prevented. Regulatory relief is needed for asphalt application temperatures greater than 320°F.

DISTRICT RESPONSE

Based on available information and statements made by the industry representatives, it does not appear feasible or practical to require such operations to comply with existing Rule 50 standards. The standards will be relaxed for asphalt applied at temperatures above 320°F. However, it has been demonstrated that emissions from portable modified spray applied asphalt operations have controls which meet the existing Rule 50, so the Rule 50 standard for these operations will not be changed.

3. WORKSHOP COMMENT

Heater scarifiers cannot comply with District Rule 50. In South Coast Air Quality Management District, such equipment is exempt from Rule 401 - Visible Emissions. In San Diego, heater scarifiers don't operate unless under a variance, because this equipment cannot meet existing Rule 50 standards. Even control at 40% opacity may be difficult on some roadways. If this equipment could legally be operated in San Diego County, it would provide a cost-effective alternative for rehabilitating certain roadways.

DISTRICT RESPONSE

The District has limited experience observing such equipment in use. The last documented observations were nearly 10 years ago. At that time, the equipment under evaluation did not meet Rule 50 visible emission standards. In an effort to assess the need to use such equipment in San Diego County, the District contacted representatives from San Diego City, County and State agencies responsible for road maintenance. Results of the needs assessment survey indicated there is currently little demand for this type of equipment. Agencies reported they use routine preventive maintenance on road surfaces to minimize the need for this method of road rehabilitation. Additionally, agencies reported they use alternative methods such as profilers and equipment for grinding and planing the road surfaces.

Notwithstanding the current lack of demand, the District plans to relax the standard for this equipment, because when last observed, it did not comply. Inability to comply with the current standard meets one of the Sunset Commission's criteria for rule relaxation. It is not known if the existing standard for heater scarifiers has an adverse impact on jobs in San Diego, or if a rule change will have adverse impact on existing companies operating in San Diego using alternative processes.

4. WORKSHOP COMMENT

Quarries often have steep slopes that are not readily traversed or accessed by a water truck, especially when benching at hard rock quarries. Quarry operations involve materials being pushed down the bench and moved around the floor of the quarry for processing. Water trucks cannot spray high enough on the bench to suppress dust emissions. In addition, bench areas often do not readily absorb water, especially on steep slopes. Therefore, at certain times the visible emission standard can not be met. This is generally a seasonal dust problem since quarry materials lose moisture in dry seasons.

DISTRICT RESPONSE

District records have been reviewed and inspectors interviewed regarding Rule 50 compliance history at quarries. District records and inspectors' observations do not indicate Rule 50 compliance problems. Additionally, as part of the rule review process, several quarry operations were inspected in April and one in July of 1996. Operations were found to be in compliance with existing Rule 50 requirements. Based on the lack of documentation supporting compliance problems the District does not plan to relax the standard for these processes.

5. WORKSHOP COMMENT

In San Diego County visible emissions problems have occurred from load out operations of stockpiled materials. This problem is especially bad in the summer or during prolonged periods of dry weather conditions.

DISTRICT RESPONSE

District records were reviewed and inspectors interviewed regarding this concern. District records do not indicate a Rule 50 compliance problem nor do inspectors' observations. Additionally, most stockpiled material is located at stationary sources with permit conditions which require emissions be suppressed. Usually this is done by using water, a dust suppression method shown to be an effective and economical means of controlling dust emissions. The District does not plan a Rule 50 relaxation for stockpile related activities.

6. WORKSHOP COMMENT

Haul roads, whether they are paved or unpaved, are a source of visible emissions even if they are controlled by watering. The industry would like to have visible emissions taken at a specific designated emission point. There are existing permit conditions at stationary sources using such a designated point for visible emissions evaluation. A sample condition reads: "Visible dust emissions from all vehicles traveling on haul roads shall not exceed 20% for more than three (3) minutes in any period of sixty (60) consecutive minutes. Opacity due to vehicles traveling on haul roads shall not exceed 20% at any time at a distance of eight feet or more above the ground or road surface."

DISTRICT RESPONSE

The District agrees, designating a specific point such as eight feet above the immediate surface of the road is appropriate in conducting visible emission evaluations for mobile equipment operating on roadways. The District is in the process of developing a policy which will standardize the visible emission evaluation process for mobile equipment on roadways.

7. WORKSHOP COMMENT

Grading operations at a large construction sites (above ten acres) have difficulty keeping an adequate number of water trucks running. Bulldozers travel at thirty miles per hour, and a water truck travels at ten. On a twenty-acre site there may be three or four different types of construction equipment operating at one time. It is difficult to control emissions using water trucks when numerous pieces of equipment are operating, especially during dry weather conditions. Also, good compaction requires a three to one (3:1) or four to one (4:1) ratio to meet construction requirements. If material is watered too much, it becomes a problem of visible emissions versus compaction needs. It is not always possible to meet Rule 50 requirements and regulatory relief is appropriate.

DISTRICT RESPONSE

Information from District records and the District inspectors does not indicate a Rule 50 compliance problem. Additionally, as part of the rule review process, several construction sites were inspected in April and May of 1996. In each case, the operations were in compliance with Rule 50 requirements. The District does not plan to relax the standard for such operations as Rule 50 compliance problems have not been documented and current control techniques are working.

8. WORKSHOP COMMENT

Will a list of equipment that might be exempted be provided to workshop participants? Also, is anyone looking into the health impacts of particulate and toxic air contaminant emitted from paving operations? What is the composition of emissions from paving operations? Suggest it is appropriate to do an Health Risk Assessment (HRA). Does the District source test for these emissions? What impacts can such emission have on PM10 attainment for the State of California? Why is a rule change necessary since every other urban district is enforcing 20% opacity for visible emissions?

DISTRICT RESPONSE

The Rule 50 revision will include reference to any equipment where standards have been revised or equipment exempted.

The District currently has no information on emissions from paving operations. The District does not require source testing of paving operations, and no test data or other emission data is known to be available. Without this information it is not possible to conduct a health risk assessment.

The District has some information on asphalt plant stack emissions. These emission may be significantly different in composition than mass emissions from paving operations. The District information on the toxics effects of asphalt fumes is based on either occupational exposures, epidemiological studies, or skin application studies. These studies indicate an increased risk of cancer and other non-cancer health effects. (An Emerging Issue: Asphalt Fumes, John B. Mortan, Applied Occupational Environmental Hygiene, May, 1994.) Extrapolation of this information to public exposures is beyond the ability of the District.

The District can not project impacts, if any, on the state PM10 standard. Industry has stated these emissions already occur, and therefore will not result in an emissions increase. Although San Diego is considered an urban area, and most urban areas have a more stringent standard, changes in our standard have been requested by some of the regulated community for mobile equipment. In response, the Board appointed a Sunset Review Commission which requested the District review the rule and where appropriate relax the standard.

9. **WORKSHOP COMMENT**

During the paving season the mineral industry has numerous pieces of equipment in operation and some of the equipment cannot comply with Rule 50. Emissions associated with this industry are often earth crust type emissions and not PM10 or PM2.5 emissions.

DISTRICT RESPONSE

The District does not agree with the statement that earth crust type emissions are not PM10 emissions. There are EPA PM10 emission factors for numerous construction industry processes. Fugitive dust is considered to be coarse particulate over 1 - 2 microns generated by street cleaning, road dust, mining and construction related activities. Additionally, emissions from paving operations would most likely be condensed oil and, as such, largely PM10 emissions.

10. WORKSHOP COMMENT

The American Lung Association is concerned about PM10 emissions being respirable and would like to know what concentration levels are safe. Visible emission exemptions for equipment are a disincentive for compliance and it is likely no attempts will be made to control or reduce emissions. In addition, right now San Diego County is exceeding safe PM10 limits and relaxing the rule will only exacerbate PM10 problems. Forty-five thousand children in San Diego County have asthma. One thousand deaths annually are associated with particulate matter, 54 people out of every 100,000 San Diego County residents.

DISTRICT RESPONSE

The District is unaware of any specific information regarding the safe concentration level of PM10 emissions. It is not known if emissions are likely to increase by relaxing the standard for certain processes. It is also not known, if an increase should occur, if it would be significant.

11. WORKSHOP COMMENT

The equipment and operations proposed for exemption do not increase visible emissions or particulate matter emissions. These processes are not the source of inhalable or respirable particulate matter. Respirable or inhalable particulate primarily come from combustion sources. An exemption for certain mobile equipment is not a disincentive to comply. Industry does what it can to comply, but in some cases it simply cannot comply. The existing standard unnecessarily puts industry at risk of violation. Other districts enforce the state standard of 40%.

DISTRICT RESPONSE

As stated previously, the District does not agree with the statement that these processes are not the source of PM10 emissions. The District agrees that industry's record indicates efforts are made in order to comply with applicable standards.

12. WRITTEN COMMENT

We have spent a considerable amount of money researching and installing a control device on equipment used for chip seal paving. Manhole Adjusting does not want a change to Rule 50 for hot-spray applications of liquid binder for road paving chip spreading operations.

DISTRICT RESPONSE

The District agrees. This is a highly specialized process for which controls are available and proven. A rule relaxation is not appropriate as this equipment has been shown to comply with the existing standards.

13. WRITTEN COMMENT

Construction near Sea World and Mission Valley is sometimes the source of unacceptable amounts of diesel by-products. Another concern is with belching smoke coming from earth movers and tar kettles. It would be inappropriate to allow any of these emissions to be legal.

DISTRICT RESPONSE

The District is not considering a Rule 50 relaxation for any of these processes. Current visible emissions standards for engines, construction equipment and tar kettles are achievable and can be maintained through good equipment maintenance and proper operations.

4/8/97
KH:TM:jo

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

Air Pollution Control Board
Greg Cox District 1
Dianne Jacob District 2
Pam Slater District 3
Ron Roberts District 4
Bill Horn District 5

Air Pollution Control District
R. J. Sommerville Director

NEGATIVE DECLARATION

1. **Project Name:**

Adoption of amendments to existing Rule 50, Visible Emissions, in the San Diego County Air Pollution Control District Rules & Regulations.

2. **Project Applicant:**

San Diego County Air Pollution Control District
9150 Chesapeake Drive
San Diego, California 92123-1096

3. **Project Location:**

Entire area within the boundaries of San Diego County. San Diego County is the southwestern most county in California.

4. **Project Description:**

The District proposes to adopt an amended version of existing Rule 50, Visible Emissions. The proposed amendments to Rule 50 will provide consistency with the visible emission standards established under state law. Furthermore, the Sunset Review Committee, appointed by the San Diego County Board of Supervisors in 1993, recommended changes in Rule 50 where operations had equipment which cannot reasonably comply with this rule. Therefore, the proposed changes to Rule 50 also address recommendations drafted in consultation with affected businesses and other interested parties.

Existing Rule 50 specifies the maximum allowable visible emissions from a source of any air contaminant other than uncombined water vapor, except as otherwise exempted. Visible emissions are a qualitative indicator of particulate emissions. As visible emissions approach zero, so does the mass concentration. Consequently, limiting visible emissions from a source also limits the mass emission rate. The standard for visible emissions is based on the Ringelmann Chart, published by the United States Bureau of Mines. The existing District standard allows emissions designated as Number 1 (20% opacity) on the Ringelmann Chart, for periods aggregating 3 minutes or less in any period of 60 consecutive minutes. In specific cases, the state Ringelmann 2 (40% opacity) requirement applies.

To provide consistency with the exemptions from the provisions of the state visible emission standard, the District proposes to add three new exemptions from the provisions of Rule 50. The proposed exemptions include the discharge of any air contaminant other than uncombined water vapor into the atmosphere from the following equipment, processes, or operations: the use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation; equipment used exclusively for the purpose of flash-over fire fighting training;

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and emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards, including emissions from vessels during a breakdown condition, as long as it is reported in accordance with District Rule 98. In addition, the proposed amendments will provide definitions for "asphalt paving equipment," "obscurants," "pavement rehabilitation equipment," "rubber modified spray applied asphalt," and will modify the definition of a "single source."

The proposed amendments to Rule 50 include a relaxation from the more restrictive (20% opacity) requirements of the existing District visible emission standard for the operation of diesel pile-driving hammers during the driving of a single pile, providing consistency with the state visible emission standard for diesel pile-driving operations. Additionally, the proposed amendments to Rule 50 includes a relaxation from the more restrictive (20% opacity) requirements of the existing District visible emission standard for the operation of asphalt paving equipment with an application temperature specification of 320°F or higher, the operation of pavement rehabilitation equipment, and for the operation, maintenance or testing of fire fighting training units used exclusively for the purpose of shipboard fire fighting training.

5. **Finding:**

The San Diego County Air Pollution Control District, acting as lead agency, has completed an Initial Study for the project pursuant to the California Environmental Quality Act. The Initial Study shows that the proposed amendments to Rule 50 will result in no or inconsequential increase in particulate matter emissions, and are not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Based on the Initial Study and the entire record before the District, the project will not have a significant adverse effect on the environment and the adoption of the proposed amendments to Rule 50, Visible Emissions, does not require preparation of an Environmental Impact Report.

Note: This action becomes final upon approval by the Air Pollution Control Board.

RS:jo
03/25/97

INITIAL STUDY

San Diego Air Pollution Control District

**Adoption of Amendments to Rule 50,
Visible Emissions**

March 24, 1997

Prepared by
Morris Dye

San Diego Air Pollution Control District
9150 Chesapeake Drive
San Diego, CA 92123-1096

CONTENTS

I. INTRODUCTION

1. Project Name:

Adoption of amendments to Rule 50, Visible Emissions, of the San Diego Air Pollution Control District Rules & Regulations.

2. Project Applicant:

San Diego County Air Pollution Control District
9150 Chesapeake Drive
San Diego, California 92123-1095

3. Project Location:

Entire area within the boundaries of San Diego County. San Diego County is the south-western most county in California.

II. PROJECT DESCRIPTION

The District has proposed adopting amendments to existing Rule 50 (Visible Emissions) of the San Diego County Air Pollution Control District Rules & Regulations. Rule 50 sets limits for the discharge of any air contaminant other than uncombined water vapor into the atmosphere.

The proposed amendments to Rule 50 will create three new exemptions from the requirements of the rule. The first exemption is for the use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation. The second exemption is for equipment used exclusively for the purpose of flash-over fire fighting training. The third exemption is for emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards. The proposed amendments would also exempt emissions from vessels during a breakdown condition, as long as it is reported in accordance with District Rule 98.

The proposed amendments to Rule 50 also add four new definitions to the rule. The first is for asphalt paving equipment, which means equipment handling asphalt cement or asphaltic concrete as part of a paving operation, including chip seal or sand seal. The second is for obscurants, which means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area. The third is for pavement rehabilitation equipment, which means equipment used to resurface or refinish an existing paved surface, such as asphalt pavement heaters, asphalt grinders, planers, profilers, and equipment handling heated or coated chips or asphaltic cement as part of a chip seal or sand paving operation. The fourth is for rubber modified spray applied asphalt, which means rubber modified asphaltic cement, including, but not limited to rubber modified asphaltic cement containing polymers or asphalt rubber binders, applied with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, in a thin layer to a road surface. In addition, the definition of single source was modified.

The proposed amendments to Rule 50 also relax emission standards for several categories of equipment.

Pile driving hammers will be subject to a time standard of four minutes during the driving of a single pile. The standard will be Ringelmann 1 for those operating on diesel fuel. Pile driving hammers using kerosene fuel, smoke suppressing fuel additives, and synthetic lubricating oil will be held to a Ringelmann 2 standard. The standard for diesel pile driving hammers had previously been no more than Number 1 on the Ringelmann Chart for three minutes during any 60 consecutive minute period.

Asphalt paving equipment with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320°F or higher, and pavement rehabilitation equipment had previously been held to a standard of no more than Number 1 on the Ringelmann Chart for three minutes during any 60 consecutive minute period. The new standard for this equipment will be no more than Number 2 on the Ringelmann Chart for three minutes during any 60 consecutive minute period.

Finally, fire fighting training units used to train for shipboard fires had previously been held to a standard of no more than Number 1 on the Ringelmann Chart for three minutes during any 60 consecutive minute period. The new standard for this equipment will be no more than Number 2 on the Ringelmann Chart for three minutes during any consecutive 60-minute period.

A copy of the proposed amendments to Rule 50 is attached.

III. ENVIRONMENTAL CHECKLIST

	YES	MAYBE	NO
1. **Earth.** Will the proposal result in:			
a. Unstable earth conditions or in changes in geologic substructure?	____	____	x
b. Disruptions, displacements, compaction or overcovering of the soil?	____	____	x
c. Change in topography or ground surface relief features?	____	____	x
d. The destruction, covering or modification of any unique geologic or physical features?	____	____	x
e. Any increase in wind or water erosion of soils, either on or off the site?	____	____	x
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	____	____	x
g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mud slides, ground failure, or similar hazards?	____	____	x
2. **Air.** Will the proposal result in:			
a. Significant air emissions for some air contaminants?	____	____	x
b. The creation of objectionable odors?	____	____	x
c. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?	____	____	x
3. **Water.** Will the proposal result in:			
a. Changes in currents, or the course of direction of water movements, in either marine or fresh waters?	____	____	x
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	____	____	x
c. Alterations to the course or flow of flood waters?	____	____	x
d. Change in the amount of surface water in any water body?	____	____	x

	YES	MAYBE	NO
e. Discharge into surface waters, or any alteration of surface water quality, including but not limited to temperature, dissolved oxygen, or turbidity?	____	____	x
f. Alteration of the direction or rate of flow of ground water?	____	____	x
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	____	____	x
h. Substantial reduction in the amount of water otherwise available for public water supplies?	____	____	x
i. Exposure of people or property to water related hazards such as flooding or tidal waves?	____	____	x

4. **Plant Life.** Will the proposal result in:

a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?	____	____	x
b. Reduction of the numbers of any unique, rare or endangered species of plants?	____	____	x
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	____	____	x
d. Reduction in acreage of any agricultural crop?	____	____	x

5. **Animal Life.** Will the proposal result in:

a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?	____	____	x
b. Reduction of the numbers of any unique, rare or endangered species or animals?	____	____	x
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?	____	____	x
d. Deterioration to existing fish or wildlife habitat?	____	____	x

6. **Noise.** Will the proposal result in:

a. Increases in existing noise levels?	____	____	x
b. Exposure of people to severe noise levels?	____	____	x

	YES	MAYBE	NO
7. **Light and Glare.** Will the proposal produce new light and glare?	___	___	x
8. **Land Use.** Will the proposal result in a substantial alteration of the present or planned land use of an area?	___	___	x
9. **Natural Resources.** Will the proposal result in increases in the rate of use of any natural resource?	___	___	x
10. **Risk of Upset.** Will the proposal involve:			
a. A risk of an explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	___	___	x
b. Possible interference with an emergency response plan or an emergency evacuation plan?	___	___	x
11. **Population.** Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	___	___	x
12. **Housing.** Will the proposal affect existing housing, or create a demand for addition housing?	___	___	x
13. **Transportation/Circulation.** Will the proposal result in:			
a. Generation of substantial additional vehicular movement?	___	___	x
b. Effects on existing parking facilities, or demand for new parking?	___	___	x
c. Substantial impact upon existing transportation systems?	___	___	x
d. Alterations to present patterns of circulation or movement of people and/or goods?	___	___	x
e. Alterations to waterborne, rail or air traffic?	___	___	x
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	___	___	x

	YES	MAYBE	NO
14. **Public Services.** Will the proposal have an effect upon, or result in a need for, new or altered governmental services in any of the following areas:			
a. Fire protection?	____	____	x
b. Police protection?	____	____	x
c. Schools?	____	____	x
d. Parks or other recreational facilities?	____	____	x
e. Maintenance of public facilities, including roads?	____	____	x
f. Other government services?	____	____	x
15. **Energy.** Will the proposal result in:			
a. Use of substantial amounts of fuel or energy?	____	____	x
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?	____	____	x
16. **Utilities.** Will the proposal result in a need for new systems, or substantial alterations to existing utilities?	____	____	x
17. **Human Health.** Will the proposal result in:			
a. Creation of any health hazard or potential health hazard (excluding mental health)?	____	____	x
b. Exposure of people to potential health hazards?	____	____	x
18. **Aesthetics.** Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	____	____	x

	YES	MAYBE	NO
19. **Recreation.** Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	____	____	x
20. **Cultural Resources.** Will the proposal:			

a. Result in the alteration of or the destruction of a prehistoric or historic archaeological site?	___	___	x
b. Result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?	___	___	x
c. Have the potential to cause a physical change which would affect unique ethnic cultural values?	___	___	x
d. Restrict existing religious or sacred uses within the potential impact area?	___	___	x

21. **Mandatory Findings of Significance.** Does the project have:

a. The potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	___	___	x
b. The potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	___	___	x
c. Impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	___	___	x
d. Environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	___	___	x

IV. DETERMINATION OF CONSISTENCY WITH EXISTING ZONING, PLANS, AND LAND-USE CONTROLS

Amending Rule 50 will be consistent with existing zoning, plans, and other applicable land use controls.

V. DETERMINATION OF DEPARTMENT OF FISH & GAME DE MINIMIS IMPACT FINDING

Based on the information contained in the environmental checklist of this Initial Study, and the technical documentation in Attachment A and the entire record as a whole, there is no evidence before the San Diego County Air Pollution Control District that adopting the amendments to Rule 50 will have any potential for adverse effect on wildlife resources or the habitat upon which the wildlife depends; and,

The San Diego County Air Pollution Control District has, on the basis of substantial evidence, rebutted the presumption of adverse effect set forth in 14 California Code of Regulations Section 753.5 (d).

VI. DETERMINATION OF ENVIRONMENTAL DOCUMENT

Evaluation of Potential Impacts and Effects on the Environment of the Proposed Project

On the basis of this initial study, including the technical documentation in Attachment A, and the record as a whole:

[X] I find the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION should be prepared.

[ ] I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures(s) described in the Initial Study will be applied to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.

[ ] I find the proposed project, individually and/or cumulatively, MAY have a significant effect on the environment and determine that an ENVIRONMENTAL ASSESSMENT is required.

Morris Dye — MARCH 24, 1997

MORRIS DYE
Deputy Director
County of San Diego
Air Pollution Control District

Date

ATTACHMENT A

TECHNICAL DOCUMENTATION FOR PROPOSED PROJECT TO AMEND RULE 50

March 24, 1997

Prepared by
Morris Dye

San Diego Air Pollution Control District
9150 Chesapeake Drive
San Diego, CA 92123-1096

TECHNICAL DOCUMENTATION FOR PROPOSED PROJECT TO AMEND RULE 50

SUMMARY

This report evaluates the potential environmental impacts of amending District Rule 50. The proposed amendments to Rule 50 will create exemptions from visible emission standards for the use of obscurants in military training exercises, equipment used for flash-over fire fighting training, and emissions from vessels using steam boilers during emergency boiler shutdowns, and where maneuvering is required to avoid hazards.

The proposed amendments to Rule 50 also add definitions to the rule for asphalt paving equipment, obscurants, pavement rehabilitation equipment, and rubber modified spray applied asphalt. The definition for single source was also modified.

Finally, the proposed amendments to Rule 50 relax visible emission standards for diesel pile driving hammers, asphalt paving equipment, pavement rehabilitation equipment, and shipboard fire fighting training units.

BACKGROUND

In 1993, the San Diego County Board of Supervisors appointed a Sunset Review Committee to review all regulations that are excessive and negatively affect job creation. An Air Pollution Control Review Committee was established to review Air Pollution Control District rules and regulations.

The Sunset Commission recommended changes in Rule 50 where operations had equipment which cannot reasonably comply with this rule. The District was to determine if rule changes should be made based on information provided by the regulated community, and evaluated by the District during the rule making process.

The District conducted a workshop and a work group met several times after the workshop in order to identify operations or equipment which can not comply with the opacity standard at a reasonable cost.

The proposed changes to Rule 50 address this recommendation and have been drafted in consultation with affected businesses and the interested parties.

Rule 50 specifies the maximum allowable visible emissions from a source. The standard is based on the Ringelmann Chart, which is published by the United States Bureau of Mines. Most of the proposed changes relax the visible emission standard from no more than three minutes of visible emissions greater than Ringelmann 1 during any period of 60 consecutive minutes to a longer time period, or to the less stringent standard of Ringelmann 2. The remaining changes exempt some operations entirely from visible emission standards.

Visible emissions are a qualitative indicator of particulate emissions. Parameters that affect visible emissions include light transmittance (particle size distribution, particle shape, and illuminating wavelength), visual effects (luminance contrast with surroundings and the quantity of light scattered from the plume toward the observer), and mass concentration. Although there are many factors that affect visible emissions, there is a linear relationship between visible emissions and mass concentration. As the visible emissions approach zero, so does the mass concentration. Limiting visible emissions from a source correspondingly limits the mass emission rate. Empirical data from source tests can be used to plot the relationship between visible emissions and mass concentration. These plots can be used to estimate the mass concentration of a given visible emission.

DISCUSSION OF CHANGES

Each change to Rule 50 will be discussed individually below in the order in which the change appears in the rule.

The use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation will be exempted entirely from the provisions of Rule 50. Obscurants are defined as fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area. This change is being made to make District Rule 50 consistent with state law. Section 41701 of the H&SC, which sets visible emissions standards under state law, references exemptions from those visible emission standards in Section 41704. Section 41704(p) exempts the use of obscurants for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation. Only two facilities in San Diego County uses obscurants as defined in this change. The Naval Amphibious Base in Coronado uses approximately 100 gallons a year of fog oil. USMC Camp Pendleton uses approximately 600 gallons a year of fog oil. About 10 pounds of particulate emissions occur for every gallon of fog oil consumed. The total daily emissions from these operations are approximately 0.009589 tons of particulates. This is equivalent to 19 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which particulate matter (PM10) emissions were 320 tons per day. Because 0.009589 tons of particulates per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10 This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an air quality impact analysis (AQIA) is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

Equipment used exclusively for the purpose of flash-over fire fighting training will be exempted entirely from the provisions of Rule 50. This change is being made to make District Rule 50 consistent with state law. Section 41701 of the H&SC, which sets visible emissions standards under state law, references exemptions from those visible emission standards in Section 41704. Section 41704(a) exempts fires set pursuant to Section 41801. Among the fires listed in Section 41801 are those "necessary for...(b) The instruction of public employees in the methods of fighting fire." Flash-over fire fighting training is one means of instruction for public employees. The District has provided an estimate of emissions which occur annually in San Diego County from flash-over fire fighting training. The total is estimated at 0.0001187 tons of total particulate daily. This is equivalent to 0.24 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. Because 0.0001187 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality

standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

Emissions from vessels using steam boilers will be exempted entirely from the provisions of Rule 50 during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards. Emissions from vessels will also be exempted entirely from the provisions of Rule 50 during a breakdown condition, so long as it is reported in accordance with District Rule 98. This change is being made to make District Rule 50 consistent with state law. Section 41701 of the H&SC, which limits visible emissions by state law, references exemptions from those visible emission standards in Section 41704. Section 41704, subsections (j) and (k) exempt the situations discussed above. The District has attempted an estimate of emissions which occur annually in San Diego County from vessels using steam boilers in these situations. The estimate is not precise because of several unknown factors. It is not known what type of vessels have steam boilers for emergency power, how many vessels of these types are in San Diego waters, or their frequency of use. It is expected the number of vessels using steam boilers is very small. To put these emissions into perspective, annual particulate emissions from SDG&E diesel fired boilers were examined. Since SDG&E is a very large combustion source, it is expected that emissions from on-board emergency steam boilers would be a small fraction of this amount. The combined daily particulate emissions from both the Encina and South Bay power plants in 1995 is estimated at 0.0126575 tons. This is equivalent to 25 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. Because 0.0126575 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

The visible emission standard in Rule 50 for diesel pile driving hammers will change. The emission standard will change from no more than three minutes of visible emissions greater than Ringelmann 1 during any 60 consecutive minute period to no more than four minutes of visible emissions greater than Ringelmann 1 during the driving of a single pile. This change is being made to make District Rule 50 consistent with state law. Section 41701.5(b)(1) of H&SC sets the state visible emission standard at no more than four minutes of visible emissions greater than Ringelmann 1 during the driving of a single pile. Diesel pile driving hammers require a permit to operate in San Diego County. Only two diesel pile driving hammers currently hold permits in the District. The engineering evaluation of emissions done at the time the permits were issued, based on conservative assumptions, placed emissions of particulate matter at 0.0007945 tons per day from both diesel pile driving hammers. This is equivalent to 1.59 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320

tons per day. Because 0.0007945 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Even assuming additional permits were issued, the total contribution of particulate emissions from this type of equipment would still be insignificant. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

The visible emission standard in Rule 50 for diesel pile driving hammers which use kerosene fuel, smoke suppressing fuel additives, and synthetic lubricating oil will also change. The emission standard will change from no more than three minutes of visible emissions greater than Ringelmann 1 during any 60 consecutive minute period to no more than four minutes of visible emissions greater than Ringelmann 2 during the driving of a single pile. This change is being made to make District Rule 50 consistent with state law. Section 41701.5(b)(2) of H&SC sets the state visible emission standard at no more than four minutes of visible emissions greater than Ringelmann 2 during the driving of a single pile. Diesel pile driving hammers require a permit to operate in San Diego County. Only two diesel pile driving hammers currently hold permits in the District. The engineering evaluation of emissions done at the time the permits were issued, based on conservative assumptions, placed emissions of particulate matter at 0.0007945 tons per day from both diesel pile driving hammers. This is equivalent to 1.59 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. Because 0.0007945 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Even assuming additional permits were issued, the total contribution of particulate emissions from this type of equipment would still be insignificant. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

The visible emission standard in Rule 50 for asphalt paving equipment with an application temperature specification of 320°F or higher, or encompassing a temperature range including 320° or higher will change. The emission standard will change from no more than three minutes of visible emissions greater than Ringelmann 1 during any 60 consecutive minute period to no more than three minutes of visible emissions greater than Ringelmann 2 during any 60 consecutive minute period. This proposed change applies only to asphalt paving equipment with an application temperature of 320°F or higher, or encompassing a temperature range including 320°F or higher, and reflects that these current asphalt paving operations cannot meet the Ringelmann 1 standard. Accordingly, no actual emissions increase will result. Additionally, paving asphalt emissions represent an insignificant portion of emissions from all asphalt activities. Therefore, this change is not expected to impact either state or federal air

state or federal air quality standards, or result in any increased health risk to the public. Current emissions associated with existing asphalts and asphalt paving operations are based on the District's last completed and quality assured basin-wide emissions inventory report for calendar year 1993. This report estimates all asphalt paving-related emissions to be 1.1 tons per day of reactive organic gases (ROG). Of that amount, emissions from paving asphalt is estimated at 0.01 tons per day of ROG. Paving asphalt refers to asphalt cement heated to a liquid form (290°F) and transported to a site. Normally, the primary pollutants of concern from asphalt and asphalt paving operations are VOCs, used interchangeably with ROG for the purposes of this discussion. Hence, the inventory for asphalt paving addresses only this pollutant. Of the three types of asphalt used in San Diego County, the major sources of ROG are from road oils and emulsified asphalt, with only minor amounts of ROG emitted from paving asphalt. For this analysis, to determine particulate emissions it was assumed all of the ROG forms fine condensed liquid aerosol "particles" when the VOC, whether reactive or not, have sufficiently cooled, to change from gaseous, back to a liquid and or mist form. Therefore, regarding visible emissions, the emission estimate of 1.1 tons per day of ROG for asphalts and asphalt paving operations is considered equivalent to 1.1 tons per day of particulate matter. Consequently, the emission estimate of 0.01 tons per day for ROG from paving asphalt is assumed to be 0.01 tons per day of particulate matter. Based on the calendar year 1993 emission inventory report, the total basin-wide particulate emissions are 590 tons per day, of which the PM10 emissions were 320 tons per day. Therefore, the emission estimate of 0.01 tons per day from paving asphalt is an insignificant amount. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border.

The visible emission standard in Rule 50 for pavement rehabilitation equipment will change. The emission standard will change from no more than three minutes of visible emissions greater than Ringelmann 1 during any 60 consecutive minute period to no more than three minutes of visible emissions greater than Ringelmann 2 during any 60 consecutive minute period. There are currently five pieces of equipment which meet this description permitted in San Diego County. The engineering evaluation of emissions done at the time the permits for this equipment were issued, were based on conservative assumptions, and placed emissions of particulate matter at 0.0434082 tons per day. This is equivalent to 87 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. Because 0.0434082 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Even assuming additional permits were issued, the total contribution of particulate emissions from this type of equipment would still be insignificant. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

The visible emission standard in Rule 50 for shipboard fire fighting training units will change. The emission standard will change from no more than three minutes of visible emissions greater than Ringelmann 1 during any 60 consecutive minute period to no more than three minutes of visible emissions greater than Ringelmann 2 during any 60 consecutive minute period. There are three of these units permitted in San Diego County. The engineering evaluation of emissions done at the time the permits were issued, based on conservative assumptions, placed emissions of particulate matter at 0.0047465 tons per day from all permitted units. This is equivalent to 9.5 pounds a day. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. Because 0.0047465 tons per day is an insignificant amount, it is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Even assuming additional permits were issued, the total contribution of particulate emissions from this type of equipment would still be insignificant. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. In addition, District Rules 20.2 and 20.3 set 100 pounds per day of particulate matter as the de minimis level below which an AQIA is not required. It is assumed emissions of particulate matter below this level will not impact either state or federal air quality standards, or result in any increased health risk to the public.

ASSESSMENT OF ENVIRONMENTAL IMPACTS

The majority of changes being proposed are to bring District Rule 50 into alignment with the legislative mandates of H&SC. The equipment which is affected by these changes emits a total of 0.0821089 tons per day of particulate matter. Calendar year 1993 is the last year for which the District has completed and quality assured a basin-wide emissions inventory report. The report states total basin-wide particulate emissions were 590 tons per day, of which PM10 emissions were 320 tons per day. The 0.0821089 tons per day of particulate matter resulting from the proposed changes to District Rule 50 is an insignificant amount and is not expected to impact either state or federal air quality standards, or result in any increased health risk to the public. Even assuming additional permits were issued, the total contribution of particulate emissions from these types of equipment would still be insignificant, and would not be expected to impact either state or federal air quality standards, or result in any increased health risk to the public. San Diego County is designated unclassifiable for federal air quality standards for PM10 and designated non-attainment for the state air quality standard for PM10. This classification is solely due to data taken at the Otay Mesa monitoring station. All other monitoring stations demonstrate compliance with the state ambient air quality standards for particulate matter. It is reasonable to assume a portion of the particulate matter measured at the Otay Mesa monitoring station is due to Mexican sources, since the Otay Mesa monitoring station is adjacent to the U.S. Mexican border. The District is unaware of any other potential adverse environmental impacts that could result from implementing these amendments to Rule 50.

CONCLUSION

Implementing this project (adopting amendments to Rule 50) will have no significant adverse impact on the environment. Based upon all the information provided within this report, there is no reasonable possibility that this project will result in a significant impact upon the environment.

KH:jo
3/24/97

ENVIRONMENTAL HEALTH COALITION

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May 27, 1997

Mr. Morris Dye
Deputy Director
Air Pollution Control District
9150 Chesapeake Drive
San Diego, CA 92123

Re: Negative Declaration for Rule 50 Amendments

Dear Mr. Dye:

The following are the Environmental Health Coalition's comments on the Negative Declaration for the Proposed Amendments to Rule 50.[1] EHC believes that the Negative Declaration is inadequate because it does not analyze all potential impacts from the proposed changes, and it improperly trivializes the impacts it does analyze. Further, an Environmental Impact Report must be prepared because substantial evidence in the record indicates the possibility of significant impacts from these proposed amendments.

I. THE NEGATIVE DECLARATION FAILS TO CONSIDER ALL POTENTIAL IMPACTS OF THE PROPOSED AMENDMENTS TO RULE 50.

The California Environmental Quality Act ("CEQA"), Cal. Public Resources Code § 21000 et. seq., and its regulations provide that a negative declaration ("ND") may properly be prepared instead of an Environmental Impact Report ("EIR") only if "[t]here is no substantial evidence in light of the whole record before the lead agency" that a project could have a significant effect on the environment.

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[1]Though you requested comments by May 26, 1997, given this date was a legal holiday, we consider these comments to be timely submitted as of May 27th.

Cal. Pub. Resources Code § 21080 (c)(1). By contrast, an EIR must be prepared whenever substantial evidence in the record supports a fair argument that significant effects could occur.

The scope of this "fair argument" standard may be enlarged where the lead agency has failed to study an area of potential environmental impact. Sundstrom v. County of Mendocino, 202 Cal. App. 3d 296 (1988). In the Sundstrom case, the court explained that "CEQA places the burden of environmental investigation on government rather than the public," because an agency "should not be able to hide behind its own failure to gather relevant data." Id. at 311.

In this instance, the District has failed to analyze or even acknowledge localized and cumulative impacts which could result from the proposed amendments to Rule 50.

A. THE DISTRICT HAS FAILED TO CONSIDER LOCALIZED IMPACTS FROM THE INCREASED EMISSIONS OF PARTICULATES AND AIR TOXICS WHICH WILL RESULT FROM THE PROPOSED AMENDMENTS.

The Technical Documentation for the amendments to Rule 50 solely analyzes the impacts to the air basin from the increases in particulate emissions resulting from the proposed rule amendments. However, the document does not analyze the potential localized health impacts from these increases and associated increases of air toxic emissions from the subject equipment.

Of most concern are those amendments which apply to asphalt paving equipment and pavement rehabilitation equipment. This type of equipment may be used in close proximity to sensitive receptors in neighborhoods, homes and schools. This type of equipment will also be responsible for the majority of the particulate matter increase anticipated by the proposed amendments. Despite these facts, the potential impacts to nearby sensitive receptors from the increase in emissions in particulate matter as a result of the proposed changes to Rule 50 was not discussed in the ND or acknowledged in the initial study. This analysis of localized impact may be all the more important for emissions in the Otay Mesa area, as the District has acknowledged that particulate levels are worse in that area.

Furthermore, the ND notes that paving asphalt emissions include VOC's, and assume that all of these emissions form fine condensed liquid aerosol particles, yet does not assess the potential for localized health impacts from those VOC's which are also toxic air contaminants. For example, some paving asphalt operations are thought to give off a hydrocarbon aerosol which is a carcinogen. Yet the ND and initial study make no mention of the potential for

toxic impacts from the proposed rule changes, or even that some of the emissions will also include toxic air contaminants.

B. THE DISTRICT HAS FAILED TO CONSIDER THE CUMULATIVE IMPACTS OF INCREASED PARTICULATE EMISSIONS FROM OTHER RULE AMENDMENTS CURRENTLY UNDER CONSIDERATION.

The CEQA Guidelines provide that, "[c]umulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Cal. Admin. Code tit. 14 § 15355. A mandatory finding of significance, requiring preparation of an EIR, arises when:

> "The project has possible environmental effects which are individually limited but cumulatively considerable. As used in this subsection, 'cumulatively considerable' means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

Part of this analysis also includes an assessment of the current environmental conditions, such as the fact that the San Diego air basin is currently out of compliance with the California particulate matter standard. Kings County Farm Bureau v. City of Hanford, 221 Cal. App. 3d 692 (1990).

In this instance, the District has failed to even acknowledge that other projects, such as rule revisions and permit adoptions, will also increase emissions of particulates in San Diego County. The Technical Documentation should have analyzed the cumulative effects of at least the recent revisions to Rules 52 and 53, and the proposal to remove PM-10 offset requirements for new sources of particulate matter.

II. THE TECHNICAL DOCUMENT TRIVIALIZES THE INCREASE IN PARTICULATE MATTER EMISSIONS FROM THE PROPOSED RULE AMENDMENTS BY COMPARING IT TO THE EXISTING PARTICULATE PROBLEM IN SAN DIEGO COUNTY.

Appendix G to the CEQA Guidelines provides that a project will normally have a significant effect on the environment, thus requiring preparation of an EIR if it will, "[C]ontribute substantially to an existing or projected air quality violation...." Cal. Admin. Code tit. 14, Appendix G, subd. (x). Furthermore, California courts have held that an agency cannot trivialize the increase in pollutants from a project by comparing those emissions to the already high levels of such pollutants in the environment. In Kings County Farm Bureau v. City of Hanford,

221 Cal. App. 3d 692 (1990), the court struck down an EIR for a proposed project in part because the "EIR's analysis use[d] the current ozone problem in the air basin in order to trivialize the project's impact." Id. at 718. Instead, the court found that the more severe existing environmental problems are, the lower the threshold for treating a project's impact as significant.

As the Technical Documentation notes, San Diego County is currently not in compliance with the California particulate matter standard. Also, the U.S. Environmental Protection Agency is currently considering whether to tighten the standards for PM-10 and PM-2.5. Changes in these regulations could put San Diego County out of compliance with new federal standards as well. Thus it seems irresponsible for the APCD to amend Rule 50 to allow for greater emissions of particulates.

Furthermore, CEQA requires that the District not merely dismiss the impacts of the Rule changes as insignificant due to the enormity of existing particulate matter emissions in the County. Rather, the District must evaluate the cumulative impacts of the existing particulate problem in the air basin, the increases in emissions that will result from this project, as well as the increases of particulates resulting from other past and future projects.

Nor can the District simply blame the particulate matter problem on emissions from Mexico. The analysis required by CEQA makes no exception for pollution coming from outside the air basin. Neither does the human lung.

III. BECAUSE A FAIR ARGUMENT CAN BE MADE THAT THE POTENTIAL FOR SIGNIFICANT IMPACTS FROM THE PROPOSED AMENDMENTS TO RULE 50 EXISTS, AN EIR MUST BE PREPARED FOR THIS PROJECT.

As discussed above, case law provides that when an agency fails to gather relevant data regarding a potential environmental effect, the scope of a "fair argument" of the significance of the effect is expanded. In the draft ND, the District has provided no data, nor has it even acknowledged the potential for localized and cumulative effects from the proposed rule changes. Yet, these issues were raised by EHC and discussed at each of the workshops and workgroups meetings about this rule revision. Thus we believe that evidence sufficient to a fair argument of the potential for significant environmental effects from the proposed changes exists in the record. Accordingly, an EIR must be prepared.

CONCLUSION

For the above reasons, EHC respectfully requests that the Negative Declaration not be forwarded to the Board of Supervisors, and that an Environmental Impact Report be prepared for this project.

Thank you for your consideration of our comments.

Sincerely,

Paula A. Forbis
Staff Attorney

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

July 3, 1997

Paula Forbis
Staff Attorney
Environmental Health Coalition
1717 Kettner Boulevard, Suite 100
San Diego, CA 92101

The Environmental Health Coalition (EHC) has commented on the Negative Declaration for the Proposed Amendments to Rule 50. The comments assert the Negative Declaration is inadequate and that the District should prepare an Environmental Impact Report (EIR). EHC has asserted that the District has failed to analyze or even acknowledge localized and cumulative impacts which could result from the proposed amendments.

First Comment - The District has failed to consider localized impacts and toxic effects from the increased emissions of particulates which will result from the proposed amendments, particularly for asphalt paving equipment and pavement rehabilitation equipment.

The potential for very insignificant increases in particulate emissions as a result of the proposed amendments is discussed in detail in the Initial Study Technical Documentation. There is no potential for significant localized impacts or toxic effects. Many of the proposed amendments can have no impacts in that there will be no increased emissions. In particular, the proposed amendments associated with asphalt paving equipment and pavement rehabilitation equipment will not result in increased emissions. The District has determined that this equipment cannot meet existing Rule 50 visible emissions opacity limits of 20 percent. Through observation in the field, the District has determined the equipment has been operating at near the state standard of 40 percent opacity. Therefore, the District has proposed amending the Rule 50 to match the state standard. Given that existing operations will not be changed and no new such operations will result, no emissions increase is expected. Therefore, the localized impacts from particulate matter and air toxics will not change as a result of the proposed Rule 50 amendments.

Second Comment - The District has failed to consider the cumulative impacts of increased particulate emissions from other rule amendments currently under consideration.

The District determined that the incremental effects of the rule amendments will not be cumulatively considerable (CEQA Guidelines section 15065[c]). The Initial Study (including the Technical Documentation) reflects the detailed evaluation of the potential incremental impacts of the rule amendments against the backdrop of the impacts from known emission sources. The Technical Documentation describes the potential impacts of each proposed amendment to the rule, and presents the basin-wide emissions inventory

figures as a context for considering whether the incremental effects of the proposed amendments are considerable. Also, the January 1997 amendments of District Rules 52, 53, and 54 were expected to result in a net decrease in particulate emissions, and impacts of any other projects are speculative at this time. Regarding proposed amendments for asphalt paving equipment and paving rehabilitation equipment in particular, as discussed above, no increased emissions are expected from the proposed Rule 50 amendments. Therefore, no incremental effects of the rule amendments are expected as to this equipment.

Third Comment - The technical document trivializes the increase in particulate matter emissions from the proposed rule amendments by comparing it to the existing particulate problem in San Diego County.

As discussed above, the basin-wide emissions inventory figures were presented in the Technical Documentation as a context for considering whether the incremental effects of the proposed amendments are considerable. Incremental effects of the proposed amendments are insignificant whether considered alone or in this context. The District presented the inventory figures for context and not contrast or comparison; the District did not attempt to trivialize the effects of the proposed amendments.

Comment Four - An Environmental Impact Report (EIR) must be prepared for this project because a fair argument can be made that the potential for significant impacts from the proposed Rule 50 exists.

The Initial Study shows that the effects of the proposed amendments will be insignificant. No increases in emissions are expected from paving equipment. There is no substantial evidence in the record that there may be any significant effects on the environment as a result of the proposed rule amendments. District staff recommend that the project does not require preparation of an EIR and that the proposed negative declaration should be adopted.

MORRIS DYE
Deputy Director

MED:nt