



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

DATE: December 17, 1997
TO: Air Pollution Control Board
SUBJECT: Adoption of Amendments to Rule 132 (Traffic Abatement Plan) and Rule 25 (Appeals)

SUMMARY:

Rule 132 (Traffic Abatement Plan) was adopted in 1981 as required by federal law. It requires major employers to submit Emergency Traffic Abatement Plans specifying short-term, work-site trip reduction actions to help prevent air pollution concentrations from reaching dangerous levels. Plan implementation is required only upon a Stage 2 smog alert, when smog levels reach 35 parts of ozone per hundred million parts of air. San Diego has not experienced a Stage 2 smog alert since 1979, nearly 20 years ago, and air quality continues to improve steadily. Consequently, implementing the Traffic Abatement Plan has never been required. Furthermore, it is unlikely that a future Stage 2 alert will occur in San Diego County.

Discussions were held with Environmental Protection Agency (EPA) staff regarding the possibility of rescinding Rule 132. EPA advised against this action because the rule is mandated by federal law. However, Traffic Abatement Plan updates, as required in the current rule, are not specified in federal law. Therefore, the District proposes eliminating the provision requiring employers to update their Traffic Abatement Plans every 18 months. Plans on file will remain in effect unless updates are requested by the District. This amendment will eliminate unnecessary paperwork and save facilities subject to the rule a \$142 filing fee.

Second, a minor amendment is proposed clarifying Rule 132 applicability to worksites with 50 or more fleet vehicles. This responds to a request at the workshop to clarify that the fleet threshold applies to fleets at individual worksites, rather than regionwide fleet totals for an employer.

Finally, an amendment is proposed eliminating references to former Rule 1301 (Trip Reduction Program for Employers with 100 or More Employees). Rule 1301 was adopted in 1994 as required by federal law for Severe ozone nonattainment areas. It was rescinded upon San Diego County's reclassification from Severe to Serious; therefore this reference is no longer relevant.

Rule 25 (Appeals) provides an appeals process for facilities and the public regarding District permit and emission reduction credit actions. It was amended when Rule 1301 (Employer Trip Reduction Program for Employers with 100 or More Employees) was adopted to establish a hearing board to hear appeals and grant variances for employers regarding Rule 1301 implementation. This was necessary because the current Hearing Board hears matters regarding stationary sources only. Because Rule 1301 has been rescinded, this provision is no longer relevant.

SUBJECT: Adoption of Amendments to Rule 132 and Rule 25

Issue

Should the Board amend Rule 132 to remove unnecessary Traffic Abatement Plan update requirements, clarify rule applicability to operations with fleet vehicles, and amend Rules 132 and 25 to delete references to former Rule 1301?

Recommendation

AIR POLLUTION CONTROL OFFICER

1. Adopt the resolution amending Rule 132 and Rule 25 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 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 do not significantly affect air quality or emissions limitations; and
 - (iii) that it is certain that there is no possibility that the proposed amendments of Rule 132 and Rule 25 may have a significant adverse effect on the environment and that this action is exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, section 15061(b)(3).
2. Direct the Air Pollution Control Officer to forward the adopted resolution to the state Air Resources Board for submittal to the federal Environmental Protection Agency as a revision to the State Implementation Plan for San Diego County.

Alternative

Not amend Rules 132 and 25. The proposed amendments reducing the regulatory burden on businesses would not be made. This alternative is not recommended.

Advisory Statement

The Air Pollution Control District Advisory Committee recommended adopting the proposed amendments to Rules 132 and 25 at its October 22, 1997, meeting.

Fiscal Impact

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

Additional Information

Attachment I contains the Resolution and Change Copy amending Rule 132 and Rule 25.

Attachment II contains the report for the public workshop held on October 7, 1997.

SUBJECT: Adoption of Amendments to Rule 132 and Rule 25

Compliance with Board Policy on Adopting New 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 law. The proposed changes to Rule 132 and Rule 25 are consistent with this Board directive because they reduce the regulatory burden on businesses and do not require a socioeconomic impact assessment.

Socioeconomic Impact Assessment

Section 40728.5 of the State Health and Safety Code requires the District to perform a socioeconomic impact assessment for new and revised rules and regulations significantly affecting air quality or emission limitations. The proposed amendments to Rule 132 and Rule 25 will not affect air quality or emissions limitations. Therefore, a socioeconomic impact assessment is not required.

California Environmental Quality Act

The California Environmental Quality Act requires an environmental review for certain actions. No significant adverse impacts on the environment have been suggested for the proposed amendments of Rule 132 and Rule 25. The District has determined that it is certain that no such impacts are possible with this action. Therefore, adoption of amendments of Rule 132 and Rule 25 is exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, section 15061(b)(3).

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 132 and Rule 25

10 11/26/97

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

CHIEF FINANCIAL OFFICER/AUDITOR REVIEW: ☐ Yes ☒ N/A
4 VOTES: ☐ Yes ☒ No

CONTRACT REVIEW PANEL: ☐ Approved _____ ☒ N/A

PREVIOUS RELEVANT BOARD ACTION 02/06/81 (APCB Item #2)
10/22/97 (APCB Item #1)

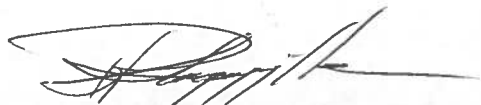
BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: N/A

CONCURRENCE(S): N/A

ORIGINATING DEPARTMENT: San Diego County Air Pollution Control District

CONTACT PERSON: Richard Smith, Deputy Director (750) 694-3303 M.S.: 0-176



R. J. SOMMERVILLE, APCO
DEPARTMENT AUTHORIZED REPRESENTATIVE

DECEMBER 17, 1997
MEETING DATE

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

**RESOLUTION AMENDING
RULE 132 OF REGULATION VIII AND
RULE 25 OF REGULATION II
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Jacob, seconded by Member Slater 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:

1. Amendments to Rule 132 Sections (b) and (d) are to read as follows:

RULE 132. TRAFFIC ABATEMENT PLAN

(a) The Traffic Abatement Plan shall be in two parts: Abatement plans prepared by the operators of the facilities or operations, pursuant to Subdivision (c) and an abatement plan for other operations prepared by the Air Pollution Control Officer.

(b) Facilities or operations subject to traffic abatement measures (in order to prevent an episode) include the following:

(1) Facilities with 1,000 or more parking spaces, including shopping centers.

(2) Operations with 50 or more fleet vehicles under common ownership or control and dispatched from the same or contiguous properties within San Diego County.

(3) Governmental agencies employing more than 100 persons per shift at one business address.

(4) Industrial or commercial businesses employing more than 100 persons per shift at one business address.

(c) Persons owning, operating or responsible for facilities or operations listed in (b) above shall submit to the Air Pollution Control Officer, on request, plans for the immediate abatement of motor vehicle traffic on declaration of an episode. Plans shall be submitted within 45 days after notification that such plans are required. The plans shall be in three parts, one part for each episode. Implementation of the Stage I plan shall be voluntary. The plans shall be reviewed by the Air Pollution Control Officer within an additional 45 days and approved, or disapproved, or disapproved and returned to the person for revision within a specified time, or modified by the Air Pollution Control Officer to comply with this rule. Any disapproval or modification by the Air Pollution Control Officer is reviewable by the Hearing Board pursuant to Regulation V. Plans required by this rule shall include the following:

- (1) Name and location of the facility.
- (2) Number of employees.
- (3) The number of employee vehicles used in commuting and the total average daily commute miles.
- (4) The number of company or agency vehicles and employee vehicles used for company or agency business by type (gasoline or diesel) and the total average daily mileage of each type.
- (5) The minimum number of vehicles used for company or agency business that need to be operated for 1) protection of public health and safety, and 2) performance of emergency services.
- (6) Procedures for briefing employees regarding the plan requirements.
- (7) Procedures for notifying employees and individuals responsible for abatement plan requirements, at each episode stage.
- (8) The names and telephone numbers of a person and alternates to contact in case abatement is necessary.
- (9) The measures to be taken to decrease public patronage in the event of the declaration a day in advance or far enough in advance for the public to be reached.
- (10) The measures to be taken to decrease the number of employee vehicles used in commuting in the event of the declaration of an episode a day in advance or far enough in advance for employees to be reached before they leave for work.
- (11) The measures to be taken to decrease the operations of vehicles used for company or agency business in the event of declaration of an episode.
- (12) An estimate of the reduction of miles traveled that will be made through decreasing employee and company vehicle travel, and an estimate of the decrease in public patronage, when the plan is used during an episode.
- (13) The name of the official person responsible for implementing the plan.
- (14) Provisions for a report, upon the Air Pollution Control Officer's request, after an episode or air pollution disaster, of the plan's effectiveness, to include the following:

- (i) An estimate of the reduction in travel and the basis for the estimate.
- (ii) Identification of the problems encountered in implementing the plan.
- (iii) Comments on the effectiveness of the plan, actions implemented and recommendations for improved effectiveness.

(15) Other information that may be required by the Air Pollution Control Officer to improve the source's plan effectiveness.

(d) Plans submitted to the Air Pollution Control Officer, pursuant to Section (c) of this rule shall be updated upon the Air Pollution Control Officer's request. Such requests shall occur no sooner than eighteen months from the date of the last plan or update approval.

2. Amendments to Rule 25 are to read as follows:

RULE 25. APPEALS

(a) Within 10 days after notice, by the Air Pollution Control Officer, of denial or conditional approval of an Authority to Construct, Permit to Operate, Permit to Sell or Rent, or renewal of a Permit to Operate with new or modified conditions, or Emission Reduction Credit (ERC) Certificate, the applicant may petition the Hearing Board, in writing, for a public hearing. Such request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. The Hearing Board, after notice and a public hearing held within 30 days after filing the petition, may sustain, reverse or modify the action of the Air Pollution Control Officer. Such order may be made subject to specified conditions.

(b) Within 10 days of any decision or action pertaining to the issuance of an Authority to Construct, Permit to Operate, temporary authorization, Permit to Sell or Rent, or renewal of a Permit to Operate with new or modified conditions, or Emission Reduction Credit Certificate, an aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in connection with the issuance of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, may request the Hearing Board to determine whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, was properly issued. A request to the Hearing Board shall be made by filing of a petition in accordance with the Rules and Regulations of the Hearing Board and payment of fees provided for in Rule 42 of the Rules and Regulations of the Air Pollution Control District. The request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. A copy of such request shall be served on the holder of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer no later than the day the request is filed with the Hearing Board. Within 30 days of the request, the Hearing Board shall hold a noticed public hearing and render a decision on whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, was properly issued in accordance with District Rules and Regulations.

(c) (1) An aggrieved person who has filed a petition pursuant to Section (b) of this Rule may request the Hearing Board to stay the effect of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, pending a decision of the Hearing Board on the petition. Any such request shall be in writing, shall state with reasonable particularity the grounds in support of the request and shall be signed under penalty of perjury. A copy of the Petition and request for stay shall be served personally on the holder of the Authority to Construct or permit, temporary

authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer on the same day the request for stay is filed with the Hearing Board, but prior to the time the request is filed with the Hearing Board; provided, however, that service of the request on a holder of an Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, who does not maintain a fixed place of business within the District may be accomplished by mail. Proof of service on the holder of an Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, must accompany any request for a stay at the time such request is filed with the Hearing Board.

(2) A request for stay served and filed pursuant to Subsection (1) of Section (c) shall be heard, notice requirements permitting, at the next meeting of the Hearing Board at which time the Hearing Board shall determine whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, should be stayed until the final decision of the Hearing Board on the propriety of the issuance of the permit is rendered. If the notice requirements cannot be met for the next meeting of the Hearing Board, the stay request shall be heard at the following meeting of the Hearing Board. The person requesting the stay, the holder of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer shall be given an opportunity to present evidence and arguments on the request for stay.

A request for stay shall have priority over other matters on the Hearing Board calendar.

(3) The Hearing Board shall stay the effect of an Authority to Construct or permit or temporary authorization pending final decision by the Hearing Board only if the Hearing Board finds that denial of the stay would likely result in the great or irreparable injury to an aggrieved person or the public. The decision of the Hearing Board on the stay shall be served by the Clerk of the Hearing Board immediately on all parties and the Air Pollution Control Officer.

(d) With respect to an Authority to Construct or permit or temporary authorization for a modification of an existing permitted operation, any appeal or stay provided for in this Rule shall apply only to the modification and not to the existing operation.

(e) Not later than three business days after receipt by the Air Pollution Control Officer of an appeal pursuant to Section (b) of this Rule or a request for stay pursuant to Section (c) of this Rule, the Air Pollution Control Officer or his designee shall attempt to schedule a meeting with the appellant and the permit holder to resolve the issues identified in the appeal or request for stay. If there is a resolution of the issues by the parties, the matter before the Hearing Board shall be withdrawn or dismissed. If all the issues are not resolved at the meeting, the District shall file a report with the Hearing Board detailing the resolved and unresolved issues and the District position on the unresolved issues.

(f) EXEMPTIONS

The provisions of this Rule 25 do not apply to:

(1) Annual renewal of permits or transfer of ownership provided permit conditions are not modified or revised. In the event permit conditions are modified or revised at the time of renewal, the provisions of this Rule 25 shall apply only to the modification or revision.

(2) A Permit to Operate required solely because of a change in permit exemptions stated in Rule 11 provided the article, machine, equipment or contrivance was installed at the time the applicable revisions to Rule 11 became effective and provided no modifications to the equipment are necessary to comply with District Rules and Regulations or applicable state and federal law. In the event a modification is necessary, the provisions of this Rule 25 shall apply to the modification.

(g) **DEFINITIONS**

For the purposes of this rule:

(1) **"Aggrieved Person"** means any person, including a person or group representing the interest of the public in air quality, who alleges that the issuance of an Authority to Construct or permit or temporary authorization will infringe upon or deny such person's legal rights or the legal rights of the general public in respect to air quality.

(2) **"Appeared, Submitted Written Testimony, or Otherwise Participated"** means communicating specific substantive or procedural air pollution issues to the Air Pollution Control District staff members who are responsible for Authority to Construct or permit issuance. Participation, wherever possible, should be documented in writing by the participant. The term does not include merely expressing general interest or concern or communicating orally, whether by telephone or otherwise, with Air Pollution Control District staff members who are not directly responsible for issuance of the Authority to Construct or permit or temporary authorization.

IT IS FURTHER RESOLVED AND ORDERED that the subject amendments to Rule 132 of Regulation VIII and Rule 25 of Regulation II shall take effect upon adoption.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 17th day of December, 1997 by the following votes:

AYES: Cox, Jacob, Slater, Horn
NOES: None
ABSENT: Roberts

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. Pastorek

Clerk of the Board, San Diego County, California

Date: 12/17/97 By Deputy Frank Galamb
Frank Galamb



APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY *T. Dutton*
DEPUTY

RECEIVED

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

**PROPOSED AMENDMENTS TO RULE 132
AND RULE 25**

CHANGE COPY

1. Proposed amendments to Rule 132 Sections (b) and (d) are to read as follows:

RULE 132. TRAFFIC ABATEMENT PLAN

(a) The Traffic Abatement Plan shall be in two parts: Abatement plans prepared by the operators of the facilities or operations, pursuant to Subdivision (c) and an abatement plan for other operations prepared by the Air Pollution Control Officer.

(b) Facilities or operations subject to traffic abatement measures (in order to prevent an episode) include the following:

(1) Facilities with 1,000 or more parking spaces, including shopping centers.

(2) Operations with 50 or more fleet vehicles under common ownership or control and dispatched from the same or contiguous properties within San Diego County.

(3) Governmental agencies employing more than 100 persons per shift at one business address. ~~However, such facilities shall be exempt from this Rule during such time as Rule 1301 is in effect.~~

(4) Industrial or commercial businesses employing more than 100 persons per shift at one business address. ~~However, such facilities shall be exempt from this Rule during such time as Rule 1301 is in effect.~~

(c) Persons owning, operating or responsible for facilities or operations listed in (b) above shall submit to the Air Pollution Control Officer, on request, plans for the immediate abatement of motor vehicle traffic on declaration of a episode. Plans shall be submitted within 45 days after notification that such plans are required. The plans shall be in three parts, one part for each episode. Implementation of the Stage I plan shall be voluntary. The plans shall be reviewed by the Air Pollution Control Officer within an additional 45 days and approved, or disapproved, or disapproved and returned to the person for revision within a specified time, or modified by the Air Pollution Control Officer to comply with this rule. Any disapproval or modification by the Air Pollution Control Officer is reviewable by the Hearing Board pursuant to Regulation V. Plans required by this rule shall include the following:

(1) Name and location of the facility.

(2) Number of employees.

(3) The number of employee vehicles used in commuting and the total average daily commute miles.

(4) The number of company or agency vehicles and employee vehicles used for company or agency business by type (gasoline or diesel) and the total average daily mileage of each type.

(5) The minimum number of vehicles used for company or agency business that need to be operated for 1) protection of public health and safety, and 2) performance of emergency services.

(6) Procedures for briefing employees regarding the plan requirements.

(7) Procedures for notifying employees and individuals responsible for abatement plan requirements, at each episode stage.

(8) The names and telephone numbers of a person and alternates to contact in case abatement is necessary.

(9) The measures to be taken to decrease public patronage in the event of the declaration a day in advance or far enough in advance for the public to be reached.

(10) The measures to be taken to decrease the number of employee vehicles used in commuting in the event of the declaration of an episode a day in advance or far enough in advance for employees to be reached before they leave for work.

(11) The measures to be taken to decrease the operations of vehicles used for company or agency business in the event of declaration of an episode.

(12) An estimate of the reduction of miles traveled that will be made through decreasing employee and company vehicle travel, and an estimate of the decrease in public patronage, when the plan is used during an episode.

(13) The name of the official person responsible for implementing the plan.

(14) Provisions for a report, upon the Air Pollution Control Officer's request, after an episode or air pollution disaster, of the plan's effectiveness, to include the following:

(i) An estimate of the reduction in travel and the basis for the estimate.

(ii) Identification of the problems encountered in implementing the plan.

(iii) Comments on the effectiveness of the plan, actions implemented and recommendations for improved effectiveness.

(15) Other information that may be required by the Air Pollution Control Officer to improve the source's plan effectiveness.

(d) Plans submitted to the Air Pollution Control Officer, pursuant to Section (c) of this rule shall be updated ~~at least every eighteen months from the date of the last plan approval or update upon the Air Pollution Control Officer's request.~~ Such requests shall occur no sooner than eighteen months from the date of the last plan or update approval.

2. Proposed amendments to Rule 25 are to read as follows. Section (c) is deleted in its entirety.

RULE 25. APPEALS

(a) Within 10 days after notice, by the Air Pollution Control Officer, of denial or conditional approval of an Authority to Construct, Permit to Operate, Permit to Sell or Rent, or renewal of a Permit to Operate with new or modified conditions, or Emission Reduction Credit (ERC) Certificate, the applicant may petition the Hearing Board, in writing, for a public hearing. Such request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. The Hearing Board, after notice and a public hearing held within 30 days after filing the petition, may sustain, reverse or modify the action of the Air Pollution Control Officer. Such order may be made subject to specified conditions.

(b) Within 10 days of any decision or action pertaining to the issuance of an Authority to Construct, Permit to Operate, temporary authorization, Permit to Sell or Rent, or renewal of a Permit to Operate with new or modified conditions, or Emission Reduction Credit Certificate, an aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in connection with the issuance of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, may request the Hearing Board to determine whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, was properly issued. A request to the Hearing Board shall be made by filing of a petition in accordance with the Rules and Regulations of the Hearing Board and payment of fees provided for in Rule 42 of the Rules and Regulations of the Air Pollution Control District. The request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. A copy of such request shall be served on the holder of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer no later than the day the request is filed with the Hearing Board. Within 30 days of the request, the Hearing Board shall hold a noticed public hearing and render a decision on whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, was properly issued in accordance with District Rules and Regulations.

~~(c) Within 10 days after notice by the Air Pollution Control Officer or the applicable delegated Transportation Demand Management (TDM) Program Administrator of a decision on an Average Vehicle Ridership (AVR) Report or a TDM Plan, the applicant may petition the Regional Hearing Board for the TDM Program, in writing, for a public hearing. Such request shall state with reasonable particularity the grounds therefor and shall be signed under penalty of perjury. The Regional Hearing Board for the TDM Program, after notice and a public hearing held within 30 days after filing the petition, may sustain, reverse or modify the action of the Air Pollution Control Officer or the applicable delegated TDM Program Administrator. Such order may be made subject to specified conditions.~~

(d)(c) (1) An aggrieved person who has filed a petition pursuant to Section (b) of this Rule may request the Hearing Board to stay the effect of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, pending a decision of the Hearing Board on the petition. Any such request shall be in writing, shall state with reasonable particularity the grounds in support of the request and shall be signed under penalty of perjury. A copy of the Petition and request for stay shall be served personally on the holder of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer on the same day the request for stay is filed with the Hearing Board, but prior to the time the request is filed with the Hearing Board; provided, however, that service of the request on a holder of an

Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, who does not maintain a fixed place of business within the District may be accomplished by mail. Proof of service on the holder of an Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, must accompany any request for a stay at the time such request is filed with the Hearing Board.

(2) A request for stay served and filed pursuant to Subsection (1) of Section ~~(d)~~ (c) shall be heard, notice requirements permitting, at the next meeting of the Hearing Board at which time the Hearing Board shall determine whether the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, should be stayed until the final decision of the Hearing Board on the propriety of the issuance of the permit is rendered. If the notice requirements cannot be met for the next meeting of the Hearing Board, the stay request shall be heard at the following meeting of the Hearing Board. The person requesting the stay, the holder of the Authority to Construct or permit, temporary authorization or Emission Reduction Credit Certificate, and the Air Pollution Control Officer shall be given an opportunity to present evidence and arguments on the request for stay.

A request for stay shall have priority over other matters on the Hearing Board calendar.

(3) The Hearing Board shall stay the effect of an Authority to Construct or permit or temporary authorization pending final decision by the Hearing Board only if the Hearing Board finds that denial of the stay would likely result in the great or irreparable injury to an aggrieved person or the public. The decision of the Hearing Board on the stay shall be served by the Clerk of the Hearing Board immediately on all parties and the Air Pollution Control Officer.

~~(e)~~(d) With respect to an Authority to Construct or permit or temporary authorization for a modification of an existing permitted operation, any appeal or stay provided for in this Rule shall apply only to the modification and not to the existing operation.

~~(f)~~(e) Not later than three business days after receipt by the Air Pollution Control Officer of an appeal pursuant to Section (b) of this Rule or a request for stay pursuant to Section ~~(d)~~ (c) of this Rule, the Air Pollution Control Officer or his designee shall attempt to schedule a meeting with the appellant and the permit holder to resolve the issues identified in the appeal or request for stay. If there is a resolution of the issues by the parties, the matter before the Hearing Board shall be withdrawn or dismissed. If all the issues are not resolved at the meeting, the District shall file a report with the Hearing Board detailing the resolved and unresolved issues and the District position on the unresolved issues.

~~(g)~~(f) **EXEMPTIONS**

The provisions of this Rule 25 do not apply to:

(1) Annual renewal of permits or transfer of ownership provided permit conditions are not modified or revised. In the event permit conditions are modified or revised at the time of renewal, the provisions of this Rule 25 shall apply only to the modification or revision.

(2) A Permit to Operate required solely because of a change in permit exemptions stated in Rule 11 provided the article, machine, equipment or contrivance was installed at the time the applicable revisions to Rule 11 became effective and provided no modifications to the equipment are necessary to comply with District Rules and Regulations or

applicable state and federal law. In the event a modification is necessary, the provisions of this Rule 25 shall apply to the modification.

~~(h)~~(g) **DEFINITIONS**

For the purposes of this rule:

(1) **“Aggrieved Person”** means any person, including a person or group representing the interest of the public in air quality, who alleges that the issuance of an Authority to Construct or permit or temporary authorization will infringe upon or deny such person’s legal rights or the legal rights of the general public in respect to air quality.

(2) **“Appeared, Submitted Written Testimony, or Otherwise Participated”** means communicating specific substantive or procedural air pollution issues to the Air Pollution Control District staff members who are responsible for Authority to Construct or permit issuance. Participation, wherever possible, should be documented in writing by the participant. The term does not include merely expressing general interest or concern or communicating orally, whether by telephone or otherwise, with Air Pollution Control District staff members who are not directly responsible for issuance of the Authority to Construct or permit or temporary authorization.

AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

**PROPOSED AMENDED
RULE 132—TRAFFIC ABATEMENT PLAN,
AND PROPOSED AMENDED RULE 25—APPEALS**

WORKSHOP REPORT

A workshop notice was mailed to all affected District permit holders. Notices were also mailed to all local Chambers of Commerce, all local Economic Development Corporations, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties.

The workshop was held on October 7, 1997, and was attended by approximately 10 people. Additionally, one comment was received by telephone before the workshop. Comments and District responses are as follows:

1. WORKSHOP COMMENT

Presently, Rule 132 Section (d) requires traffic abatement plan updates every 18 months. Does the proposed amendment to require plan updates only upon District request enable the District to require plan updates more frequently than every 18 months?

DISTRICT RESPONSE

The intent of the proposed amendment is to require plan updates less frequently to reduce the paperwork burden for regulated facilities. Proposed Section (d) has been revised as follows to clarify this point:

(d) Plans submitted to the Air Pollution Control Officer, pursuant to Section (c) of this rule shall be updated upon the Air Pollution Control Officer's request. Such requests shall occur no sooner than at least every eighteen months from the date of the last plan approval or update.

2. WORKSHOP COMMENT

Rule 132 Section (b) states that facilities and operations subject to the rule include operations with 50 or more fleet vehicles. Does this mean 50 fleet vehicles per worksite or throughout the region?

DISTRICT RESPONSE

The provisions of Rule 132 Section (b) are intended to apply to a specific worksite. Proposed Subsection (b)(2) has been revised as follows to clarify this point:

(b) Facilities or operations subject to traffic abatement measures (in order to prevent an episode) include the following:

(1) Facilities with 1,000 or more parking spaces, including shopping centers.

(2) Operations with 50 or more fleet vehicles under common ownership or control and dispatched from the same or contiguous properties within San Diego County.

3. WORKSHOP COMMENT

Will former Rule 1301, Employer Trip Reduction, be reinstated to help meet the new federal clean air standards? If so, will facilities also be subject to Rule 132, Traffic Abatement Plan?

DISTRICT RESPONSE

The District does not intend to reinstate former Rule 1301 to help meet the new federal clean air standards. Rule 1301 was adopted in 1994 as required by federal law for Severe ozone nonattainment areas. However, this federal mandate imposed high regulatory costs with negligible air quality gain. The rule was rescinded upon federal reclassification of San Diego County to a Serious nonattainment area. Furthermore, Congress has since amended federal law to remove the mandate for Rule 1301.

The need for additional transportation measures to meet the new standards is uncertain at this time. Federal implementation regulations are forthcoming (proposal in December 1997 and final rulemaking in December 1998). The President has directed EPA to maximize common sense, flexibility, and cost effectiveness.

RR:ls
10/10/97