

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

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

**PROPOSED AMENDMENTS TO RULE 25  
CHANGE COPY**

Proposed 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) 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.