



DATE: DECEMBER 15, 1999
TO: SAN DIEGO COUNTY AIR POLLUTION CONTROL BOARD
SUBJECT: ADOPTION OF NEW RULE 6 - MINOR VIOLATIONS (DISTRICT: ALL)

SUMMARY:

Overview

Currently, noncompliance with air pollution control requirements leads to issuance of a Notice to Comply or a Notice of Violation. A Notice to Comply is issued for minor violations and there are no associated penalties. A Notice of Violation is issued for non-minor violations and there are a number of possible actions associated with it including civil, criminal, and administrative. Almost all such violations are processed through the District's Mutual Settlement program where monetary penalties are settled directly with the District. For a small number of serious cases, a violation may be referred to the District Attorney or City Attorney for criminal prosecution.

Proposed new Rule 6 implements state law requiring air districts to formally adopt a rule defining minor violations for which a Notice to Comply rather than a Notice of Violation will be issued. In accordance with state requirements, there are no civil, criminal, or administrative penalties associated with a Notice to Comply if the violation is corrected within a time period determined on a case-by-case basis not to exceed 30 days. If a person fails to comply within the specified time period, the District may take appropriate enforcement action.

State law specifies that defining a minor violation requires considering the magnitude and severity of the violation and the degree to which the violation puts human health, safety or welfare, or the environment in jeopardy. The degree to which the violation could hinder accomplishing an air quality goal or determining compliance with other air quality requirements must also be considered.

The District has an existing Notice to Comply program that has worked well and allows a Notice to Comply to be issued for one minor violation of a given type provided a Notice to Comply has not been issued for the same or similar type of minor violation within the previous 36 months. A business could receive more than one Notice to Comply in a 36-month period provided the minor violations were all of a different type (e.g., open paint containers, cold solvent cleaner left uncovered, etc.). Violations resulting in very small emissions (including toxic air contaminants) are considered minor violations. All current minor violations are included in Rule 6 along with the many additional ones listed in Table I-A.

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Rule 6 lists specific administrative (e.g., failure to apply for a change of ownership) and de minimis (e.g., open paint container) emissions violations as minor violations. De minimis emissions are defined as a trivial, or very small, amount of emissions as determined by the District. Since it is possible there may be other types of de minimis emission (including toxic air contaminants) violations not yet identified that could qualify as minor violations, and there is no satisfactory way to establish specific de minimis levels for all such violations, the District will determine other de minimis emissions violations on a case-by-case basis. Table I-B lists the minor violations specified in the rule as eligible for a Notice to Comply. Violation types not eligible as minor violations are listed in Table I-C.

The rule is designed not to encourage or provide an incentive to businesses to increase violations by requiring there be no violations of the same or similar type for 36 months or the last three inspection cycles, whichever occurs first, in order to be eligible for a Notice to Comply. More than one Notice to Comply can be issued if each minor violation is of a different type. A subsequent minor violation of the same or similar type within this time period would not be considered minor and a Notice of Violation would be issued. Accordingly, businesses will not be able to relax compliance efforts and still meet the criteria for a Notice to Comply.

The District issued 924 Notices to Comply in fiscal year 1998-99 and expects this number to increase to about 1000 under new Rule 6.

Recommendations

AIR POLLUTION CONTROL OFFICER:

- (1) Consider the Initial Study and proposed Negative Declaration and adopt the Resolution adopting the Negative Declaration, making appropriate findings that: (a) the Initial Study and Negative Declaration reflect the Board's independent judgment and analysis; (b) considering the entire record before the Board, there is no substantial evidence that the proposed new Rule 6 may have a significant adverse environmental effect; (c) the Negative Declaration is adopted as a true and complete statement of potential environmental consequences resulting from proposed new Rule 6; and (d) there is no evidence in the entire record that proposed new Rule 6 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) After adopting the Negative Declaration, adopt the resolution for Rule 6 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 new Rule 6 will alleviate a problem and will not interfere with the attainment of ambient air quality standards (Section 40001 of the State Health and Safety Code); and

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- (iii) that an assessment of the socioeconomic impact of the proposed new Rule 6 is not required by Section 40728.5 of the State Health and Safety Code because Rule 6 will not significantly affect air quality or emission limitations.
- (3) Approve the Certificate of Fee Exemption for De Minimis Impact Finding exempting the District from payment of fees to the California Department of Fish and Game.

Fiscal Impact

Adopting Rule 6 will result in an inconsequential revenue reduction from civil penalties paid for Notices of Violation that will now become Notices to Comply.

Business Impact Statement

Rule 6 will allow businesses to receive one Notice to Comply for a specific type of minor violation (e.g., open paint containers) over a 36-month period or the last three inspection cycles, whichever occurs first. Businesses can receive more than one Notice to Comply in this period if each minor violation is of a different type. A Notice to Comply provides relief from the monetary penalties. Allowing only one minor violation of a specific type within a 36-month period will not readily allow a business to relax its ongoing compliance program.

Alternatives

AIR POLLUTION CONTROL OFFICER

During the rule development process, a number of changes to Rule 6 were suggested:

- (1) Not allow any emission violations to be minor violations because there are potential health impacts associated with such emissions. This would restrict Notices to Comply to violations of administrative requirements (e.g., failure to post a permit). The rule allows certain violations that result in de minimis (negligible) emissions to be minor violations. This is consistent with state law. The District evaluated the air quality impacts of allowing violations involving de minimis emissions to be minor violations and determined there will be negligible impacts, including negligible adverse health impacts. The California Air Resources Board, South Coast Air Quality Management District, the Bay Area Air Quality Management District, and San Joaquin Valley Unified Air Pollution Control District are among the districts that allow minor emission violations as minor violations. This alternative is not recommended.
- (2) Not allow any violations resulting in toxic air contaminant emissions to be minor violations. Most emission violations (e.g., open paint containers) listed in the rule as minor violations contain very small amounts of toxic air contaminants. As a result, this recommendation would have the effect of excluding virtually all emission violations as minor violations. Toxic air contaminant emissions from minor violations proposed in Rule 6 have been evaluated by the District and determined to have negligible health risk impacts. In order to ensure any emission violations not currently listed in the rule as minor violations but involving toxic air contaminants are

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truly de minimis, the rule also requires that such toxic air contaminant emissions not exceed the toxic screening values used to implement Rule 1200 (Toxic Air Contaminants – New Source Review). Toxic screening values are low levels of toxic air contaminants below which a health risk evaluation is not required pursuant to Rule 1200 because it has been shown these levels are not of concern. Violations involving toxic air contaminants for which there is no toxic screening level will not be eligible as a minor violation. Violations specifically listed in the rule and violations not listed in the rule resulting in toxic air contaminant emissions below toxic screening values should be eligible as minor violations. This alternative is not recommended.

- (3) Delete the 36-month period or three inspection cycles, whichever occurs first, during which a business must have no minor violations to be eligible for a Notice to Comply. This would allow only one Notice to Comply for a specific type of minor violation at a business. Forever after, a Notice of Violation would be issued for any subsequent minor violation of the same type. This would substantially limit the usefulness of Rule 6 and does not reflect the intent of state law. Allowing a business to receive a Notice to Comply for a minor violation if it has not received a Notice to Comply within the previous 36-month period or last three inspection cycles provides a balanced approach to relieve businesses from receiving a Notice of Violation for minor violations that occur infrequently. Such relief is consistent with state law. This alternative is not recommended.
- (4) Revise the time period over which a business must have no minor violations of a specific type to be eligible for a Notice to Comply (for the same type of minor violation) from 36 months to a shorter period (e.g., 24 months). This would have the effect of relaxing the proposed requirements of Rule 6 because it would increase the frequency of allowable minor violations (i.e., a shorter time period for a business to again be eligible for a Notice to Comply). Since a number of businesses are only inspected every 24 months, this would mean they would be eligible for a Notice to Comply at the very next District inspection (i.e., the 24-month period would have expired). They would not have to demonstrate compliance during any interim period. Because of this and the fact that businesses generally agreed a 24-month period was not needed if a business maintained an effective compliance program, this suggestion was not incorporated into Rule 6. Businesses agreed to a 36-month time period. This alternative is not recommended.

Advisory Board Statement

The Advisory Committee voted four to one to recommend the Board adopt proposed new Rule 6. The one vote against recommending adoption was by an environmental group representative who did not want minor violations to include violations resulting in emissions (especially toxic air contaminants), regardless of how small. The Advisory Committee voted five to zero to request the District report to the Advisory Committee in six months and twelve months on any significant compliance problems resulting from Rule 6. The District will provide such reports to the Advisory Committee.

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BACKGROUND:

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

Additional Information

Attachment II contains the Initial Study and Negative Declaration addressing potential environmental consequences resulting from new Rule 6.

Attachment III contains the Resolution adopting the Negative Declaration.

Attachment IV contains 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.

Attachment V contains the Resolution adding Rule 6 into the District's Rules and Regulations.

Attachment VI contains the report for the workshop held on August 12, 1998.

WALTER F. EKARD
Chief Administrative Officer



R. J. SOMMERVILLE
Air Pollution Control Officer

**AIR POLLUTION CONTROL BOARD
AGENDA ITEM INFORMATION SHEET**

SUBJECT: ADOPTION OF NEW RULE 6 - MINOR VIOLATIONS (DISTRICT: ALL)

CONCURRENCE(S)

11/30/99

COUNTY COUNSEL Approval of Form Yes N/A
Type of Form: Standard Form Ordinance Resolution Contract
Review Board Letter Only Yes N/A

CHIEF FINANCIAL OFFICER/AUDITOR Yes N/A
Requires Four Votes Yes No

CHIEF TECHNOLOGY OFFICER Yes N/A

DEPARTMENT OF HUMAN RESOURCES Yes N/A

CONTRACT REVIEW PANEL Yes N/A

Other Concurrence(s): N/A

BUSINESS IMPACT STATEMENT: Yes N/A

PREVIOUS RELEVANT BOARD ACTIONS: N/A

BOARD POLICIES APPLICABLE: N/A

ORIGINATING DEPARTMENT: Air Pollution Control District, County of San Diego

CONTACT PERSON:

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Name	Phone	Fax	Mail Station	E-Mail


R. J. SOMMERVILLE, Air Pollution Control Officer
DEPARTMENT AUTHORIZED REPRESENTATIVE

DECEMBER 15, 1999
MEETING DATE

ATTACHMENT I

RULE 6 - MINOR VIOLATIONS

BACKGROUND INFORMATION

Currently, noncompliance with air pollution control requirements leads to issuance of a Notice to Comply or a Notice of Violation. A Notice to Comply is issued for minor violations and there are no associated penalties. A Notice of Violation is issued for non-minor violations and there are a number of possible actions, including civil, criminal and administrative penalties, associated with it. Almost all Notices of Violation are processed through the District's Mutual Settlement program where monetary penalties are settled directly with the District. Under state law, maximum civil penalties are \$1000 for each day of violation of an air quality requirement, \$15,000 for each day of violation where emissions result from negligence, and \$50,000 for each day of violation where emissions result from a willful or intentional act. For a small number of serious cases, a Notice of Violation may be referred to the District Attorney or City Attorney for criminal prosecution. In addition to civil penalties (monetary), state law specifies maximum criminal penalties of six months in jail for each day of violation, nine months in jail for each day of violation where there is negligence, and one year in jail where the violation resulted from a willful or intentional act.

Proposed new Rule 6 was developed in cooperation with a work group of customers. It implements state law (California Health and Safety Code Section 39150) requiring air districts to formally adopt a rule defining minor violations. A Notice to Comply rather than a Notice of Violation will be issued for minor violations. There are no civil, criminal, or administrative penalties associated with a Notice to Comply if the violation is corrected within the time specified by the District, not to exceed 30 days. This time period will be determined on a case-by-case basis. For example, businesses having open paint containers will be required to comply on the same day the violation is observed while businesses operating without a permit will be given two weeks to submit a permit application. If District staff makes written findings that a civil penalty (monetary) is warranted or required by federal law, a civil penalty can be assessed for a minor violation. If a person fails to comply within the prescribed time period or if the District determines immediate enforcement is warranted to prevent harm to the public health or safety, or the environment, the District may take appropriate enforcement action. If a person disagrees with an alleged minor violation, the violation can be appealed to the Air Pollution Control Officer before the specified compliance date expires.

The District currently implements a Notice to Comply program that has worked well. It specifies that a Notice to Comply will be issued for a minor violation provided a Notice to Comply has not been issued for the same or similar minor violation within the previous 36 months. A business could receive more than one Notice to Comply during this period provided the minor violations were all of a different type (e.g., open paint containers, cold solvent cleaner left uncovered, pressure gauge missing on coating application equipment, etc.). Violations resulting in very small levels of emissions (including toxic air contaminants) are allowed as minor violations and eligible for a Notice to Comply. All current minor violations are included in Rule 6 along with the many additional ones listed in Table I-A.

Attachment I
Rule 6 - Minor Violations

Rule 6 lists specific administrative (e.g., failure to apply for a change of ownership) and de minimis (e.g., open paint container) emissions violations as minor violations. De minimis emissions are defined as a trivial, or very small, amount of emissions as determined by the District. Since it is possible there may be other types of de minimis emissions (including toxic air contaminants) violations not yet identified that could qualify as minor violations, and there is no satisfactory way to establish specific de minimis levels (e.g., less than one pound per day of volatile organic compounds) for all possible minor violations, the District will determine other de minimis emissions violations on a case-by-case basis. Table I-B lists the minor violations specified in the rule as eligible for a Notice to Comply. Violation types not eligible as minor violations are listed in Table I-C. De minimis emission violations involving toxic air contaminants that are not specifically listed in the rule will also be eligible for consideration as minor violations only if it is demonstrated to the District's satisfaction that the toxic screening values developed to implement Rule 1200 (Toxic Air Contaminants - New Source Review) are not exceeded. Toxic screening values are low levels of toxic air contaminants below which a health risk assessment is not required because previous risk assessments have shown those levels are not of concern. It is expected there will be few other emissions violations (not currently specified in the rule) in the future that will be considered minor violations.

State law specifies that defining a minor violation requires considering the magnitude and severity of the violation and the degree to which the violation puts human health, safety or welfare, or the environment in jeopardy. The degree to which the violation could hinder accomplishing an air quality goal or determining compliance with other air quality requirements must also be considered.

To assist air pollution control districts in developing a minor violation rule, the state Air Resources Board and the California Air Pollution Control Officers Association developed a model Notice to Comply rule. This rule was written so districts could handle the specific listing of minor violations either administratively or by specifying them in a rule. Most districts, including the South Coast Air Quality Management District, Bay Area Air Quality Management District and Sacramento Metropolitan Air Quality Management District handle listing minor violations administratively. Proposed Rule 6 is similar to the model rule. However, Rule 6 lists minor violation types eligible for a Notice to Comply while the model rule does not. The District elected to list minor violations in the rule so customers would know exactly what violations were eligible for a Notice to Comply. Customers supported this approach.

The rule is specifically designed not to encourage or provide incentive to businesses to increase violations by requiring there be no violations of a similar type for 36 months or the last three inspection cycles, whichever occurs first, in order to be eligible for a Notice to Comply. More than one Notice to Comply could be issued to a business if each minor violation is of a different type. A subsequent violation of the same or similar type within this time period would not be considered a minor violation and a Notice of Violation would be issued. Accordingly, businesses will not be able to relax compliance efforts and still meet the criteria for eligibility for a Notice to Comply.

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Rule 6 - Minor Violations

Chronic violations or violations committed by a recalcitrant violator are not eligible for a Notice to Comply. Also, if a business shows a pattern of allowing minor violations to occur that can be corrected immediately in the presence of an inspector (e.g., closing paint containers that have been carelessly left open) and such minor violations do not clearly fall within the definition of a chronic violation or recalcitrant violator, the District may issue a Notice of Violation because of previous similar violations within the past 36 months or the last three inspection cycles. This will prevent abuses of the provision in state law specifying a Notice to Comply shall not be issued for a minor violation corrected immediately in the presence of a District inspector.

The District issued 924 Notices to Comply in fiscal year 1998-99 and expects this number to increase to about 1000 under new Rule 6.

Issues

During the rule development process, a significant issue was the requirement for a business to maintain a clean record for 36 months or the last three inspection cycles, whichever occurs first, in order to be eligible for a Notice to Comply for the same minor violation type. A request was made to reduce this period to 24 months. This would have the effect of relaxing the proposed requirements of Rule 6 because it would increase the frequency of allowable minor violations (i.e., a shorter time period for a business to again be eligible for a Notice to Comply). Since a number of businesses are only inspected every 24 months, this would mean they would be eligible for a Notice to Comply at the very next District inspection (i.e., the 24-month period would have expired). They would not have to demonstrate on-going compliance during any interim period. Because of this and the fact that businesses generally agreed a 24-month period was not needed if a business maintained an effective compliance program, this suggestion was not incorporated into Rule 6. Businesses agreed to a 36-month time period.

A request was also made to eliminate the 36-month period. This would allow only one Notice to Comply for a specific type of minor violation at a business. Forever after, a Notice of Violation would be issued for any subsequent minor violation of the same type. This would substantially limit the usefulness of Rule 6 and does not reflect the intent of state law. Allowing a business to receive a Notice to Comply for a minor violation if it has not received a Notice to Comply within the previous 36-month period provides a balanced approach to relieve businesses from receiving a Notice of Violation for minor violations that occur infrequently. Such relief is consistent with state law. Accordingly, the District has retained the requirement to be violation free for 36 months to be eligible for a Notice to Comply.

Another significant issue was whether or not to allow any emission violation as a minor violation because there are potential health impacts associated with such emissions. This would restrict Notices to Comply to violations of administrative requirements (e.g., failure to post a permit). The rule allows certain violations that result in de minimis (negligible) emissions to be minor violations. This is consistent with state law. The District evaluated the air quality impacts of allowing violations involving de minimis emissions to be minor violations and determined there will be negligible impacts, including negligible adverse health impacts. The California Air Resources Board, South Coast Air Quality Management District, the Bay Area Air Quality

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Rule 6 - Minor Violations

Management District, and San Joaquin Valley Unified Air Pollution Control District are among the agencies that allow minor emission violations as minor violations. Allowing de minimis emission violations as minor violations has been retained.

Another significant issue was whether or not to allow emission violations involving toxic air contaminants as minor violations. Most emission violations (e.g., open paint containers) listed in the rule as minor violations contain very small amounts of toxic air contaminants. As a result, this recommendation would have the effect of excluding virtually all emission violations as minor violations. Toxic air contaminant emissions from minor violations proposed in Rule 6 have been evaluated by the District and determined to have negligible health risk impacts. In order to ensure any emission violations not currently listed in the rule as minor violations but involving toxic air contaminants are truly de minimis, the rule also requires that such toxic air contaminant emissions not exceed the toxic screening values used to implement Rule 1200 (Toxic Air Contaminants – New Source Review). Toxic screening values are low levels of toxic air contaminants below which a health risk evaluation is not required pursuant to Rule 1200 because it has been shown these levels are not of concern. Violations involving toxic air contaminants for which there is no toxic screening level will not be eligible as a minor violation. Violations specifically listed in the rule and violations not listed in the rule resulting in toxic air contaminant emissions below toxic screening values should be eligible as minor violations.

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. Rule 6 is required by state law.

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. Rule 6 will not significantly affect air quality or emissions limitations and, therefore, a socioeconomic impact assessment is not required.

California Environmental Quality Act

The District prepared an Initial Study pursuant to the California Environmental Quality Act (CEQA) to determine whether there is evidence that new Rule 6 may have a significant environmental impact. The Initial Study revealed no substantial evidence that the proposed amendments may have a significant environmental impact.

Based on the Initial Study findings, a proposed Negative Declaration was prepared. The District published a Notice of Intent to adopt the proposed Negative Declaration and solicited comments during a 30-day review period. Comments received did not warrant or result in changes to the

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proposed Negative Declaration. The final Negative Declaration includes the comments and District responses.

CEQA requires the Board to review the Initial Study, Negative Declaration, and any comments received. The Board must certify that the Negative Declaration reflects the Board's independent judgment of potential environmental consequences resulting from the proposed Rule 6.

Additionally, 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 payments 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 the proposed Rule 6 will have potential for an adverse effect on wildlife resources or the habitat on which the wildlife depends, and the Board 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.

COMPARATIVE ANALYSIS OF RULE 6 - MINOR VIOLATIONS

Health and Safety Code Section 40727.2 (a) requires that whenever the District proposes adopting, amending, or repealing a rule or regulation, an analysis be prepared to identify and compare the air pollution control elements of the proposal with corresponding elements of existing or proposed federal or District requirements.

Section 40727.2 (g), however, allows an alternative analysis demonstrating that a proposed rule does not impose a new emission limit or standard or new or more stringent requirements. Proposed Rule 6 implements California Health and Safety Code Section 39150 which requires each air district to develop a rule classifying certain types of violations of air quality requirements as minor violations and establishing procedures for issuing a Notice to Comply for minor violations. There are no existing or proposed federal, state, or other district air pollution equipment control rules, requirements, or guidelines that apply. Proposed Rule 6 is an administrative process identifying minor violations and does not impose any new emission limits or standards or new or more stringent requirements. Therefore, a comparative analysis is not required.

**TABLE I-A
 MINOR VIOLATIONS ELIGIBLE FOR A NOTICE TO COMPLY**

<p>Rule 10 and permit conditions applying to:</p> <ul style="list-style-type: none"> • Failure to have an Authority to Construct or Permit to Operate when there has been no prior permitting experience by a business. • Failure to post a permit. • Failure to <u>apply</u> for a <u>change</u> of location or ownership.
<p>Rule 67.17 and permit conditions applying to:</p> <ul style="list-style-type: none"> • Open VOC containers not greater than five gallons or greater than five gallons with an opening not more than three inches in diameter. • Containers used to store cloths (<u>paper</u> or <u>fabric</u>) containing <u>organic</u> solvent that are left uncovered.
<p>Rule 67.6 and permit conditions applying to:</p> <ul style="list-style-type: none"> • Failure to properly mark the maximum allowable solvent level for dip tanks provided freeboard requirements are met. • Cold solvent cleaners left uncovered when not in use. • Failure to label solvent cleaners with operating instructions. • Cold solvent cleaners with solvent levels less than two inches above the maximum fill line.
<p>Recordkeeping:</p> <ul style="list-style-type: none"> • Recordkeeping requirements provided the violation does not prevent a compliance determination of other applicable requirements.
<p>The following operational, administrative, or procedural requirements:</p> <ul style="list-style-type: none"> • Failure to register and/or test circulating water for cooling towers. • Failure to notify the District of an intent to relocate portable equipment provided New Source Review rule thresholds are not exceeded. • Failure to have an air cap pressure gauge or other measuring requirements for high-volume low-pressure (HVLP) application equipment on site. • HVLP equipment operating at a pressure greater than 10 psig but less than 30% above HVLP operating limits. • Equipment breakdown notifications made after two hours but less than four hours after breakdown detection. • Roofing kettle temperature not greater than 10 degrees F above the allowable operating temperature specified on the permit. • <u>Inoperative temperature, pressure, or flow gauges provided compliance can still be determined.</u>
<p>Rules and permit conditions applying to dry cleaning facilities:</p> <ul style="list-style-type: none"> • Failure to have training certificates of the currently trained (or previously employed) operators or manufacturers' operating manuals. • Failure to perform and/or record operation and maintenance, leak check and/or inspection checklist requirements. • Failure to meet annual <u>reporting</u> and or trained <u>operator replacement notification requirements.</u>
<p>Rules and permit conditions applying to gasoline dispensing facilities:</p> <ul style="list-style-type: none"> • <u>Failure to adequately post instructions or Air Resources Board phone numbers.</u> • Inability to provide access to the dispenser interior. • Missing identification and/or certification tags on nozzles. • Failure to install the Healy System monitor in view of the cashier. • The following failures of a Healy monitor: light burned out, out of paper for no more than 24 hours, light indicates a vacuum failure when the District verifies the <u>magnehelic gauge</u> shows the <u>proper vacuum level.</u>
<ul style="list-style-type: none"> • Fugitive leaks of particulate matter falling immediately to the ground from cuts, slits, or cracks less than two inches in length in processing equipment or ducting provided such leaks are contained within an enclosed building and Rule 50 is met.
<ul style="list-style-type: none"> • Failure to comply with any applicable requirements resulting in administrative, procedural, or de minimis emissions as determined by the District.

**TABLE I-B
 VIOLATIONS NOT ELIGIBLE AS MINOR VIOLATIONS**

Any knowing, willful, or intentional violation.
Any violation which enables the violator to benefit economically.
Any chronic violation (as defined).
Any violation committed by a recalcitrant violator (as defined).
Any emission violation resulting in more than a de minimis (as defined) amount of emissions as determined by the District.
Any violation causing a public nuisance, endangering people or the environment or significantly contributing to a violation of any state or National Ambient Air Quality Standard.
Any violation precluding or hindering the District's ability to determine compliance with any air quality requirement.
Any violation causing an increase in emissions of any toxic air contaminant in excess of any emission standard limitation.

**TABLE I-C
 ADDITIONAL MINOR VIOLATIONS IN RULE 6
 (Not included in the District's current Notice to Comply program.)**

<p>Rule 67.6 and permit conditions applying to:</p> <ul style="list-style-type: none"> • Failure to properly mark the maximum allowable solvent level for dip tanks provided freeboard requirements are met. • Cold solvent cleaners left uncovered when not in use. • Cold solvent cleaners with solvent levels less than two inches above the maximum fill line.
<p>The following operational, administrative, or procedural requirements:</p> <ul style="list-style-type: none"> • High-volume low-pressure (HVLV) equipment operating at a pressure greater than 10 psig but less than 30% above HVLV operating limits. • Equipment breakdown notifications made after two hours but less than four hours after breakdown detection. • Roofing kettle temperature not greater than 10°F above the allowable operating temperature specified on the permit. • Inoperative temperature, pressure, or flow gauges provided compliance can still be determined.
<p>Rules and permit conditions applying to gasoline dispensing facilities:</p> <ul style="list-style-type: none"> • Failure to adequately post instructions or Air Resources Board phone numbers. • Inability to provide access to the dispenser interior. • Missing identification and/or certification tags on nozzles. • Failure to install the Healy System monitor in view of the cashier. • The following failures of a Healy monitor: light burned out, out of paper for no more than 24 hours, light indicates a vacuum failure when the District verifies the magnehelic gauge shows the proper vacuum level.
<ul style="list-style-type: none"> • Fugitive leaks of particulate matter falling immediately to the ground from cuts, slits, or cracks less than two inches in length in processing equipment or ducting provided such leaks are contained within an enclosed building and Rule 50 is met. • Failure to comply with any applicable requirements resulting in administrative, procedural, or de minimis emissions as determined by the District.

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

No. 99-376

**RESOLUTION ADOPTING
THE NEGATIVE DECLARATION
FOR PROPOSED NEW RULE 6 - MINOR VIOLATIONS**

On motion of Member Jacob, Seconded by Member Roberts, the following Resolution is adopted:

WHEREAS, pursuant to requirements of California Health and Safety Code Sections 39150 through 39153, the San Diego County Air Pollution Control District (District) has developed proposed new Rule 6, Minor Violations, classifying certain violations of District Rules & Regulations as minor violations and establishing procedures for issuing a Notice to Comply, rather than a Notice of Violation, for such minor violations;

WHEREAS, pursuant to the California Environmental Quality Act, adoption of proposed new Rule 6 is a project requiring environmental review;

WHEREAS, the San Diego County Air Pollution Control District has the principal responsibility for adopting proposed new Rule 6 and, therefore, pursuant to the California Environmental Quality Act, is the lead agency for the requisite environmental review;

WHEREAS, pursuant to the California Environmental Quality Act, an Initial Study was prepared evaluating potential environmental consequences resulting from proposed new Rule 6;

WHEREAS, the Initial Study revealed no substantial evidence that proposed new Rule 6 may have a significant adverse environmental effect;

WHEREAS, based on the Initial Study findings, a proposed Negative Declaration was prepared pursuant to the California Environmental Quality Act;

WHEREAS, the proposed Negative Declaration was circulated for a 30-day public comment period and comments were received;

WHEREAS, upon analysis of the comments, no significant adverse environmental effects were identified;

WHEREAS, written responses to comments received have been prepared and are contained in the final Negative Declaration;

WHEREAS, the final Negative Declaration concludes there is no substantial evidence indicating proposed new Rule 6 will have a significant adverse impact on the environment;

WHEREAS, the San Diego County Air Pollution Control Board reviewed and considered the information contained in the Initial Study and final Negative Declaration; and

WHEREAS, the documents and other materials on which the decision to adopt the Negative Declaration is based are located at the San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123-1096; the custodian is R. J. Sommerville, Director.

12/15/99 (APCD 3)

Resolution - Rule 6 Neg. Dec.
09/23/99

NOW THEREFORE, IT IS RESOLVED AND ORDERED that the Initial Study and Negative Declaration reflect the Board's independent judgement and analysis of potential environmental consequences resulting from proposed new Rule 6;

IT IS FURTHER RESOLVED AND ORDERED that, considering the entire record before the Board, there is no substantial evidence that proposed Rule 6 will have a significant adverse effect upon the environment;

IT IS FURTHER RESOLVED AND ORDERED that the Negative Declaration is hereby adopted as a true and complete statement of potential environmental consequences resulting from proposed new Rule 6;

IT IS FURTHER RESOLVED AND ORDERED that there is no evidence in the entire record that proposed Rule 6 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.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this _____ day of _____, 1999, by the following votes:

AYES:
NOES:
ABSENT:

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY

L. Outta

SENIOR DEPUTY

PASSED AND ADOPTED by the Members of the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 15th day of December, 1999, by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

NOES: None

ABSENT: None

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution which is now on file in my office.

THOMAS J. PASTUSZKA
Clerk of the Air Pollution Control Board

By Marion Egan
Marion Egan, Deputy



Resolution No. 99-376
12/15/99 (APCD 3)

No. 99-377

**RESOLUTION ADDING NEW RULE 6 TO
REGULATION I OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Jacob, 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 that the San Diego County Air Pollution Control Board finds that the proposed new Rule 6 will not have significant effect on the environment and that an Environmental Impact Report need not be prepared pursuant to the California Environment Quality Act; and:

NOW THEREFORE IT IS RESOLVED AND ORDERED by the San Diego County Air Pollution Control Board that the Rules and Regulations of the Air Pollution Control District of San Diego County be and hereby are amended as follows:

1. Proposed new Rule 6 is to read as follows:

RULE 6. MINOR VIOLATIONS

(a) APPLICABILITY

This rule applies to any person or facility subject to San Diego County Air Pollution Control District (District) Rules and Regulations, permit conditions, and/or state requirements.

(b) EXCLUSIONS

This rule shall not be applied to:

- (1) Any knowing, willful or intentional violation,

- (2) Any violation of the same or similar nature as a prior violation by the same person or facility within the previous 36 months or the last three inspection cycles, whichever time period occurs first,
- (3) Any violation which enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage,
- (4) Any violation that is a chronic violation or is committed by a recalcitrant violator,
- (5) Any violation which results in an increase in the emission of any air contaminant by more than a de minimis amount,
- (6) Any violation which causes a public nuisance, or endangers people, public health, or the environment, or significantly contributes to the violation of any state or National Ambient Air Quality Standard,
- (7) Any violation which precludes or hinders the District's ability to determine compliance with other applicable state or federal requirements, District Rules and Regulations, or permit conditions, or
- (8) Any violation which causes an increase in emissions of any toxic air contaminant in excess of any emission standard limitation, rule, permit condition, or other state or federal requirement that is applicable to that pollutant as a toxic air contaminant, or as a hazardous air pollutant as defined by the U.S. Environmental Protection Agency pursuant to Section 112 of the federal Clean Air Act.

(c) **DEFINITIONS**

For the purposes of this rule, the following definitions shall apply:

- (1) **"Chronic Violation"** means a violation evidencing a pattern of neglect or disregard that results in the same or similar violation as previous violations by the same person or facility.
- (2) **"De Minimis Emissions"** means a trivial, or very small amount of air contaminants as determined by the Air Pollution Control Officer on a case by case basis.
- (3) **"High-Volume Low-Pressure (HVLP) Spray"** means a coating application method using a spray applicator and pressurized air which is designed to be operated and which is operated at a permanent atomizing pressure between 0.1 and 10.0 psig, measured dynamically at the center of the applicator's air cap.
- (4) **"Information"** means data, records, photographs, analyses, plans, or specifications which will disclose the nature, extent, quantity or degree of air contaminants which are, or may be, discharged by a source for which a permit was issued or applied for, or which is subject to state or federal requirements, District Rules and Regulations, permit conditions, procedural or administrative requirements, or requests for information or records by the District.
- (5) **"Inspection Cycle"** means a completed routine compliance evaluation and/or inspection of a facility by the District; excluding complaint, breakdown, variance, violation, or follow-up investigations.

(6) **"Notice to Comply"** means a written method of alleging a minor violation in accordance with this rule.

(7) **"Recalcitrant Violator"** means a person or facility which refuses to comply or has engaged in a pattern of neglect, disregard, or circumvention of District Rules and Regulations, permit conditions, or any other state or federal requirements.

(8) **"Toxic Air Contaminant"** means the same as in Rule 1200.

(9) **"Volatile Organic Compound (VOC)"** means the same as in Rule 2.

(d) **MINOR VIOLATIONS**

Any violation of the following shall be classified as a minor violation for the purposes of this rule:

(1) Rule 10 and/or permit conditions applying to any of the following:

(i) Failure to have an Authority to Construct and/or Permit to Operate when there has been no prior experience with permitting requirements. If the violator knew or should have known a permit was required then the violation is not classified as a minor violation for the purposes of this rule.

(ii) Failure to post the current Permit to Operate.

(iii) Failure to renew the Permit to Operate.

(iv) Failure to apply for a change of location for the Permit to Operate.

(v) Failure to apply for a transfer of ownership for the Permit to Operate.

(2) Rule 67.17 and/or permit conditions applying to any of the following:

Open containers used to store VOC containing materials not greater than five gallons, containers over five gallons with an access opening not greater than three inches in diameter, and/or containers used to store organic solvent containing cloths (paper or fabric) left uncovered.

(3) Rule 67.6 and/or permit conditions applying to any of the following:

(i) Failure to permanently mark or have a line indicating the maximum allowable solvent level for dip tanks provided they meet the freeboard requirements.

(ii) Failure to label solvent cleaners with operating instructions.

(iii) Cold solvent cleaners left uncovered when not in use.

(iv) Cold solvent cleaners with solvent level less than two inches above the maximum fill line.

(4) Recordkeeping requirements provided the violation does not prevent a compliance determination of other applicable state or federal requirements, District Rules and Regulations, or permit conditions.

- (5) The following operational, administrative or procedural requirements:
- (i) Failure to register and/or test circulating water for cooling towers.
 - (ii) Failure to notify the District of an intent to relocate portable equipment (e.g., engines, sand screens, batch plants, etc.) provided no New Source Review (NSR) thresholds have been exceeded.
 - (iii) Failure to have an air cap pressure gauge or other measuring requirements for HVLP application equipment on site.
 - (iv) HVLP equipment operating at a pressure greater than 10 psig but less than 30% above the HVLP equipment's operating limits except when applying materials containing hexavalent chromium, nickel or nickel compounds, or copper or copper compounds.
 - (v) Breakdown notifications made after two hours but less than four hours after detection of the breakdown, provided all other requirements of Rule 98 are satisfied.
 - (vi) Roofing kettle temperature not greater than 10° F above the allowable operating temperature specified on the permit to operate.
 - (vii) Inoperative temperature, pressure, and/or flow gauges provided the violation does not prevent a compliance determination of other applicable state or federal requirements, District Rules and Regulations, or permit conditions.
- (6) Rules and/or permit conditions applying to dry cleaning facilities:
- (i) Failure to have the training certificate of currently trained operator, copy of certificate for previously employed operators, or manufacturer's operating manuals.
 - (ii) Failure to perform and/or record operation and maintenance, leak check, and/or inspection checklist requirements.
 - (iii) Failure to meet annual reporting and/or trained operator replacement notification requirements.
- (7) Rules and/or permit conditions applying to gasoline dispensing facilities:
- (i) Vapor recovery instructions and/or Air Resources Board (ARB) phone numbers not adequately posted.
 - (ii) Inability to provide access to the interior of the dispenser cabinets at gasoline dispensing facilities.
 - (iii) Missing identification and/or certification tags on vapor recovery nozzles.
 - (iv) The following failures of a Healy monitor: light burned out; out of paper for no more than 24 hours; light indicates a vacuum failure only when the District verifies the magnehelic gauge shows the proper vacuum level.

(v) Failure to install the Healy monitor in view of the cashier.

(8) Fugitive leaks of particulate matter falling immediately to the ground from cuts, slits, or cracks which are less than two inches in length in process equipment or ducting. Such fugitive leaks must be contained within an enclosed building and shall not result in a Rule 50 emissions violation.

(9) Failure to comply with any applicable state requirements or District Rules and Regulations which results in an administrative, procedural, or de minimis emissions violation and is not excluded by Section (b) or (d) of this rule may be treated as a minor violation by the Air Pollution Control Officer on a case-by-case basis, provided it is demonstrated to the satisfaction of the Air Pollution Control Officer that the toxic screening values developed pursuant to Rule 1200 are not exceeded. All District costs of reviewing and considering such demonstration shall be reimbursed by the person in violation. Costs shall be determined based on the time expended by the District and the labor rates specified in Rule 40.

(e) ADMINISTRATIVE REQUIREMENTS

(1) When the District detects a minor violation in the normal course of an inspection, a Notice to Comply shall be issued before leaving the site to a person who is an owner, operator, employee, or representative of the facility being inspected. However, if testing is required to determine compliance and testing cannot be conducted during the course of the inspection, the District shall have a reasonable period of time to conduct the required testing. If after the test results are available, the District determines a Notice to Comply is warranted, the District shall immediately notify the owner or operator in writing. The Notice to Comply may be mailed to the owner or operator of the facility.

(2) A Notice to Comply shall clearly state the nature of the alleged minor violation, a means by which compliance with the requirement(s) cited may be achieved, and a reasonable time limit in which to comply, which shall not exceed 30 calendar days.

(3) A single Notice to Comply shall be issued for all minor violations cited during the same inspection and shall separately list each cited minor violation and the manner in which each minor violation may be brought into compliance.

(4) A Notice to Comply shall not be issued for any minor violation which is corrected immediately in the presence of the inspector during the normal course of an inspection. A copy of inspection results documenting corrective action will be provided to the person who corrects a minor violation immediately in the presence of the inspector. However, if a minor violation cannot be corrected during the normal course of the inspection without delaying the inspector, a Notice to Comply will be issued. Corrected minor violations may be used to show a pattern of disregard or neglect by a recalcitrant violator or a chronic violation.

(5) A Notice to Comply shall contain a statement that the inspected facility may be subject to reinspection at any time. Nothing in this rule shall be construed as preventing the reinspection of a facility at any time to ensure compliance or to ensure that cited minor violations have been corrected. Any false statement that compliance has been achieved is a violation subject to further legal action pursuant to Division 26 of the California Health and Safety Code, section 42400. et seq.

(6) Except as otherwise provided herein, a Notice to Comply shall be the only means by which the District shall cite a minor violation. The District shall not take any other enforcement

action to enforce the minor violation against a person or facility who has received a Notice to Comply if the person or facility is in compliance with this rule.

(7) A person who receives a Notice to Comply shall, within five working days of achieving compliance, sign the Notice to Comply form stating the person has complied with all the items cited, and return the form to the District.

(8) Nothing in this rule shall be construed as preventing the District from requiring a person receiving a Notice to Comply to submit reasonable and necessary documentation to support a claim of compliance.

(9) Nothing in this rule shall restrict the power of any city attorney, the District Attorney, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law. Furthermore, nothing in this rule prevents any representative of the District, from cooperating with, or participating in, such a proceeding.

(10) Notwithstanding any other provisions of this rule, if the District determines that the circumstances surrounding a particular minor violation are such that the assessment of a penalty is warranted, or required by federal law, in addition to the issuance of a Notice to Comply, the District shall assess a penalty in accordance with Division 26 of the California Health and Safety Code, section 42400, et seq., if the District makes written findings that set forth the basis for the determination by the District.

(11) Notwithstanding any other provisions of this rule, if a person fails to comply with a Notice to Comply within the prescribed period, or if the District determines the circumstances surrounding a particular minor violation are such that immediate enforcement is warranted to prevent harm to the public health or safety or to the environment, the District shall take any necessary enforcement action authorized by law.

(f) APPEALS

(1) If a person disagrees with one or more of the alleged violations cited in a Notice to Comply, the person may appeal the Notice to Comply by giving written notice to the Air Pollution Control Officer. The notice of appeal shall state the grounds and basis for the appeal and include any evidence as to why the Notice to Comply should not have been issued. The notice of appeal must be postmarked by the date specified for achieving compliance on the Notice to Comply.

(2) The Air Pollution Control Officer shall review the notice of appeal and appropriate records relating to the alleged violation(s). Within 30 calendar days of the District's receipt of the notice of appeal, the Air Pollution Control Officer shall grant or deny the appeal with written findings.

(i) If the Air Pollution Control Officer finds in favor of the appellant, the findings will reflect that no further action is necessary by the appellant.

(ii) If the Air Pollution Control Officer finds in favor of the District and notifies the appellant of the written findings as above, the appellant must correct all the items cited in the Notice to Comply within 15 calendar days of the date of the findings, unless the Air Pollution Control Officer directs otherwise. Failure to comply within the specified time period may result in a Notice of Violation or any other authorized enforcement action.

(g) PENALTY FOR FAILURE TO COMPLY

Except as provided in Section (f) above, any person or facility who fails to comply by the date specified on the Notice to Comply shall be subject to further enforcement action pursuant to Division 26 of the California Health and Safety Code, section 42400, et seq., or any other applicable law.

IT IS FURTHER RESOLVED AND ORDERED that the subject addition of Rule 6 to Regulation I 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 _____ day of _____, 1999, by the following votes:

AYES:
NOES:
ABSENT:

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY L. W. Patton
SENIOR DEPUTY

PASSED AND ADOPTED by the Members of the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 15th day of December, 1999, by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

NOES: None

ABSENT: None

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution which is now on file in my office.

THOMAS J. PASTUSZKA
Clerk of the Air Pollution Control Board

By Marion Egan
Marion Egan, Deputy



Resolution No. 99-377
12/15/99 (APCD 3)

INITIAL STUDY

San Diego County Air Pollution Control District

Adoption of New Rule 6 - Minor Violations

May 1999

Prepared by

Robert Reider
Robert Mross

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

INITIAL STUDY: ADOPTION OF NEW RULE 6 - MINOR VIOLATIONS

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I. INTRODUCTION

1. Project Title:

Adoption of New Rule 6, Minor Violations, as part of the San Diego Air Pollution Control District (SDAPCD) Rules and Regulations.

2. Project Applicant:

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

3. Lead Agency Contact Person and Phone Number:

Robert Mross, Air Resources Specialist
San Diego County Air Pollution Control District
(619) 694-3336

4. Project Location:

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

5. State Agencies Having Jurisdiction by Law over Natural Resources Affected by Project:

Air Resources Board

6. Participants in Preparation of Initial Study:

Robert Reider, Supervising Air Resources Specialist, San Diego APCD
Robert Mross, Air Resources Specialist, San Diego APCD

II. PROJECT DESCRIPTION

The San Diego Air Pollution Control District (District) proposes adopting new Rule 6, Minor Violations, as part of the San Diego County Air Pollution Control District Rules and Regulations. The proposed project would implement state law (Calif. Health & Safety Code §39150 et seq.) requiring air districts to adopt a rule classifying certain violations of District Rules and Regulations as minor violations after considering the danger they pose to public health and safety and the environment, and establishing procedures for issuing a Notice to Comply, rather than a Notice of Violation, for such minor violations. The difference between a Notice to Comply and Notice of Violation is there are no civil, criminal, or administrative penalties for a Notice to Comply, provided the violation is corrected within the time specified by the District.

The identification of a violation as minor is subject to the limitations identified in state law. Specifically, state law prohibits any violation that is knowing or willful, is intentional, benefits the violator economically or competitively, or is part of a pattern of neglect or disregard for the law, from being classified as a minor violation.

The proposed rule classifies nonrecurring administrative and certain de minimis emissions violations as minor violations. Applicable administrative violations include: recordkeeping requirements, provided the violation does not prevent a compliance determination; failure to have an air quality permit when there was no prior experience with requirements; failure to post the current permit; failure to renew the permit; failure to apply for a change of location; and failure to apply for a transfer of ownership.

The proposed rule defines de minimis emissions as a trivial, or very small, amount of air contaminants. Applicable de minimis emissions violations include: uncovered containers of volatile organic compounds when not in use; cold solvent cleaning tanks with solvent level less than two inches above maximum fill-line; high-volume low-pressure spray guns operating above 10 psi pressure but less than 30 percent above the operating limit (and not applying materials containing certain metals); and fugitive leaks of particulate matter falling immediately to the ground within an enclosed building.

Other types of de minimis emissions violations could qualify for a Notice to Comply. However, since there is no satisfactory way of establishing de minimis emission levels for all types of violations at this time, the District may determine other de minimis emissions violations on a case-by-case basis, subject to other exclusions in Rule 6, and provided it is demonstrated that the toxics screening emission rates established pursuant to District Rule 1200 are not exceeded.

The District may take any necessary enforcement action authorized by law for failure to comply within the prescribed time (not to exceed 30 calendar days) or upon determination that immediate enforcement is warranted to prevent harm to the public health or safety or the environment. Additionally, the proposed project requires a Notice of Violation be issued for any subsequent violation of the same or similar nature occurring within 36 months or three inspection cycles, whichever comes first.

III. PROJECT OBJECTIVES

The objectives of the proposed project are to implement state law (Calif. Health & Safety Code §39150 et seq.) requiring air districts to adopt a rule classifying certain violations as minor violations, and establishing procedures for issuing a Notice to Comply, rather than a Notice of Violation, for such minor violations. Additionally, the proposed project expands and codifies the District's Notice to Comply policy established in 1993.

The Legislature's intent in enacting the minor violation law was to create a more resource-efficient enforcement mechanism, faster compliance times, and a productive and cooperative working relationship between the state board, the air districts, and the regulated community while maintaining protection of human health and safety and the environment (Calif. Health & Safety Code §39150 et seq.).

IV. ENVIRONMENTAL SETTING

National and state air quality standards are set for criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. Standards are set to protect the elderly, very young, and chronically sensitive portions of our population. Areas not meeting a particular standard are referred to as a nonattainment area for that pollutant. Of the six air pollutants regulated by the federal Environmental Protection Agency, and eight regulated by the California Air Resources Board, only ozone (smog) and inhalable particulate matter occur in concentrations sufficient to violate either federal or state standards in San Diego County.

San Diego County has experienced substantial improvement in ambient ozone levels over the past several years. The number of days above the federal one-hour ozone standard has decreased from 45 days in 1988 to 9 days in 1998. Similarly, the number of days above the more stringent state standard has decreased from 160 days in 1988 to 54 days in 1998. Federal standards for PM₁₀ (particulate matter equal to or less than 10 microns in size) have never been exceeded. However, the stricter state standards are not met at this time.

Toxic air pollutants can have more serious adverse health effects, in particular cancer, and may have no threshold or safe levels. Toxic exposure levels are evaluated using health risk assessments. Supplementing federal and state efforts to control toxics, the District has developed Regulation XII, Toxic Air Contaminants, to identify and regulate stationary source toxic air pollutants and reduce associated public health risks to below significant risk levels.

Industrial facilities emit about 3,500 tons per year of toxic air contaminants, down 13 percent from approximately 4,000 tons reported for 1996.¹ This trend is supported by declining ambient levels of toxic air contaminants from all sources measured at District monitoring sites in El Cajon and Chula Vista from 1991 through 1996. Ambient toxic air contaminant levels that have declined between 1990 and 1996 include benzene (down approximately 70 percent), Butadiene (down approximately 45 percent), and hexavalent chromium (down approximately 60 percent).

¹ San Diego Air Pollution Control District, 1997 Air Toxics "Hot Spots" Report for San Diego County, July 1998.

V. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated in the "Environmental Checklist."

- | | | |
|--|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Hazards & Hazardous Material | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Transportation / Traffic |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Utilities / Service Systems |
| <input type="checkbox"/> Geology / Soils | <input type="checkbox"/> Mandatory Findings of Significance | |

None of the environmental factors listed above would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact."

VI. ENVIRONMENTAL CHECKLIST

Explanation:

The following questions are answered either "Potentially Significant Impact," "Potentially Significant Unless Mitigation Incorporated," "Less Than Significant Impact," or "No Impact."

A "**Potentially Significant Impact**" answer indicates that there is substantial evidence that the project has a potentially significant environmental effect and the effect is not clearly avoidable with mitigation measures or feasible project changes. Any "Potentially Significant Impact" entry in the following form indicates that the preparation of an Environmental Impact Report (EIR) for the project is recommended.

A "**Less Than Significant With Mitigation Incorporation**" answer indicates that, while there is substantial evidence that the project may have a potentially significant adverse effect on the resource, the incorporation of mitigation measures or project changes agreed to by the applicant has clearly reduced the effect to a less than significant level.

A "**Less Than Significant Impact**" answer indicates, while the project may have an effect on the resource that is the subject of the question, there is no substantial evidence that the effect is potentially significant and/or adverse.

A "**No Impact**" answer indicates that, as a result of the nature of the project or the existing environment, there is no potential that the proposed project could have an effect on the resource that is the subject of the question.

Initial Study: Adoption of New Rule 6 - Minor Violations

Less Than
Significant
Potentially With Less Than
Significant Mitigation Significant No
Impact Incorporation Impact Impact

I. AESTHETICS -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Create a new source of substantial light or glare which would adversely affect day or night-time views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru c.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

II. AGRICULTURE RESOURCES -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farm-land), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru c.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.)

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
--	--------------------------------------	---	------------------------------------	--------------

III. AIR QUALITY -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Conflict with or obstruct implementation of the applicable air quality plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru e.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6. See Attachment A, Analysis of Potential Air Quality Effects, for further discussion.

IV. BIOLOGICAL RESOURCES -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru f.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

V. CULTURAL RESOURCES -- Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru d.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

VI. GEOLOGY AND SOILS -- Would the project:

a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Initial Study: Adoption of New Rule 6 - Minor Violations

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru e.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project located within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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- | | Potentially
Significant
Impact | Less Than
Significant
With
Mitigation
Incorporation | Less Than
Significant
Impact | No
Impact |
|--|--------------------------------------|---|------------------------------------|-------------------------------------|
| g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru h.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in substantial erosion or siltation on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. Otherwise substantially degrade water quality? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Initial Study: Adoption of New Rule 6 - Minor Violations

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru j.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

IX. LAND USE AND PLANNING -- Would the project:

a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru c.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

X. MINERAL RESOURCES -- Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru b.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

Initial Study: Adoption of New Rule 6 - Minor Violations

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
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XI. NOISE -- Would the project result in:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru f.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

XII. POPULATION AND HOUSING -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: (a. thru b.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

	Less Than Significant			
Potentially Significant Impact	With Mitigation Incorporation	Less Than Significant Impact	No Impact	

XIII. PUBLIC SERVICES

- a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:
- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Fire protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Police protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Schools? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Parks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Other public facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

NOTE: The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

XIV. RECREATION

- a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
- b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?
- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

NOTE: (a. thru b.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

XV. TRANSPORTATION/TRAFFIC -- Would the project:

- a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Initial Study: Adoption of New Rule 6 - Minor Violations

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru g.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Initial Study: Adoption of New Rule 6 - Minor Violations

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTE: (a. thru g.) The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

- a. Does the project have 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?

(The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6.)

- b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means 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.)

(The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6. See Attachment A, Analysis of Potential Air Quality Effects, for further discussion.)

- c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

(The project will only remove penalties for certain minor violations of air pollution control laws, provided the violation is corrected within the time specified by the Air Pollution Control District. See proposed Rule 6. See Attachment A, Analysis of Potential Air Quality Effects, for further discussion.)

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

Adopting new Rule 6 will be consistent with existing zoning, plans, and other applicable land use controls.

**VIII. DETERMINATION OF DE MINIMIS IMPACT FINDING
FOR DEPARTMENT OF FISH & GAME**

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 new Rule 6 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).

IX. DETERMINATION OF ENVIRONMENTAL DOCUMENT

On the basis of this initial evaluation and the entire record before the District:

- I find the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will 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 revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** should be prepared.
- I find the proposed project **MAY** have a significant effect on the environment and determine that an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that although the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing is required.



ROBERT REIDER
Supervising Air Resources Specialist
County of San Diego
Air Pollution Control District

05/04/99

Date

**ATTACHMENT A:
ANALYSIS OF POTENTIAL AIR QUALITY EFFECTS**

1.0 EXISTING ENFORCEMENT POLICY

The proposed project would expand and codify existing District enforcement policy regarding minor violations. In 1993, the District established a Notice to Comply program as an enforcement tool for certain rule violations. A Notice to Comply, rather than a Notice of Violation, may be issued for certain nonrecurring de minimis emissions violations. The Notice to Comply does not result in penalties provided prompt corrective action is taken. The specific types of violations for which Notices to Comply are issued include open containers of volatile organic compounds (VOCs), operating without a permit when the company has no prior dealing with the District, recordkeeping discrepancies, and other minor violations.

2.0 THRESHOLDS OF SIGNIFICANCE

Criteria were developed based on Appendix G of the Guidelines for Implementation of the California Environmental Quality Act (CEQA) (Calif. Code Regs. Title 14, §15000 et seq.) to evaluate the potential for significant adverse air quality impacts resulting from the proposed project. The proposed project will be deemed to have a significant air quality effect if it will:

- Conflict with or obstruct air quality plan implementation;
- Violate any ambient air quality standard or contribute substantially to an existing or projected air quality violation;
- Expose sensitive receptors to substantial pollutant concentrations;
- Result in a significant increase of toxic air contaminant emissions;
- Create objectionable odors affecting a substantial number of people; or
- Result in a cumulative adverse air quality impact.

3.0 ANALYSIS OF PROJECT EFFECTS AND DETERMINATION AS TO SIGNIFICANCE

Proposed Rule 6 classifies specific nonrecurring, administrative, and de minimis emissions violations of District rules as minor violations. Administrative provisions of District rules, such as recordkeeping, assist the regulated facility and the District in determining continuous compliance. Therefore, only those administrative violations that do not prevent a compliance determination have been classified as minor violations. By their very nature these minor administrative violations would not have an emissions impact and, therefore, are not further addressed in this analysis.

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The de minimis emissions violations specified in proposed Rule 6, Section (d), are addressed below. These include uncovered containers of VOCs when not in use; cold solvent cleaning tanks with solvent level less than two inches above maximum fill-line; high-volume low-pressure spray guns operating above 10 psig but less than 30 percent above the operating limit (and not applying materials containing certain metals); fugitive leaks of particulate matter falling immediately to the ground within an enclosed building; and other de minimis emissions violations determined on a case-by-case basis.

3.1 Threshold: Conflict With or Obstruct Air Quality Plan Implementation

The District's adopted air quality plans consist of the San Diego Regional Air Quality Strategy (RAQS) and the San Diego portion of the California State Implementation Plan (SIP). These plans are designed to evaluate regional air quality conditions and apply strategies for attaining applicable air quality standards. The RAQS encompasses District plans and control measures to assure attainment of state air quality standards. The SIP includes District plans and control measures to assure attainment of national air quality standards. The pollutants addressed in these air quality plans are VOC and oxides of nitrogen (NO_x), precursors to the photochemical formation of ozone, the primary component of smog. The District does not yet attain state and federal ambient air quality standards for ozone.

These plans accommodate emissions from all sources through control measures on sources to attain the standards. Information used to develop the plans include: monitored ambient air quality concentrations; emissions inventory from existing sources; potential emissions from new industrial sources and population and vehicle growth; pollution transported from other regions; anticipated control efficiency of proposed control measures; estimated compliance rates; and expected emission reductions.

The 1990 baseline emissions inventory used in the 1994 Ozone SIP reflects actual 1990 emissions, including excess emissions associated with violations of rules adopted as of 1990. For rules adopted after 1990, the Environmental Protection Agency requires the SIP to include an 80 percent rule effectiveness assumption, so that emission reductions associated with such rules are discounted by 20 percent to account for violations. Similarly, the RAQS assumes rule effectiveness in the range of 80 to 95 percent, depending on source type. Additionally, as discussed in Section 3.2 below, proposed Rule 6 is not expected to result in an increased number of violations and consequently, the rule-effectiveness assumptions of the air quality plans remain valid. Therefore, proposed Rule 6 would not conflict with or obstruct air quality plan implementation because the plans assume some violations will inevitably occur, and the resulting emissions have been incorporated.

3.2 Thresholds: Violate Any Ambient Air Quality Standard or Contribute Substantially to an Existing or Projected Air Quality Violation; or Expose Sensitive Receptors to Substantial Pollutant Concentrations²

An evaluation was conducted to assess whether eliminating fines for minor violations of District rules would remove an incentive for compliance, resulting in an increased number of violations and associated emission impacts. The District has tracked violations of Rule 67.17 (Storage of Materials Containing Volatile Organic Compounds) issued since 1990. This data includes minor violations issued pursuant to the existing Notice to Comply policy established in April 1993. For Fiscal Years 1991 through 1993, 435 violations were cited for open containers of VOC-containing materials when not in use. For Fiscal Years 1994 through 1996, 373 open-container violations were cited. This data shows that detected violations of Rule 67.17 decreased 21 percent in the three-year period following Notice to Comply policy implementation.

The reasons for increased compliance following Notice to Comply policy implementation cannot be determined with certainty because the number of violations in a given year can be attributed to numerous factors. The regulated community's increased familiarity with Rule 67.17 could have contributed to increased compliance. Additionally, the Notice to Comply policy may have led to a more cooperative working relationship between permit holders and the District, resulting in increased compliance. Regardless, based on the historical data, it is reasonable to conclude proposed Rule 6, which closely mirrors the existing Notice to Comply policy, would not trigger an increase of open-container violations and associated emissions. Similarly, an increase in de minimis emissions violations of other classifications, including cold solvent cleaning tanks, high-volume low-pressure spray guns, and fugitive leaks of particulate matter, is not anticipated because these minor violations would be addressed in the same way as open-container minor violations. All minor violations require prompt corrective action within the stipulated period, not to exceed 30 days. Failure to comply by the date specified may result in civil, criminal, or administrative penalties, authorized by state law.

The potential for recurring minor violations attributed to the removal of fines was also examined. Proposed Rule 6, Section (b), indicates that a subsequent violation of similar type occurring within 36 months or three inspection cycles, whichever occurs first, is ineligible for a Notice to Comply and would be issued a Notice of Violation subject to associated penalties. Consequently, proposed Rule 6 would not induce recurring minor violations because the regulated community will not be able to relax compliance efforts and still meet the criteria for being eligible for a minor violation.

Further, the Legislature's intent in enacting the minor violation law was to provide a more resource-efficient enforcement mechanism and faster compliance times (Calif. Health & Safety Code §39150(b)). If compliance with air pollution control regulations is more efficiently accomplished, the proposed rule could have an environmental benefit in terms of meeting air quality requirements adopted to attain or maintain state and national ambient air quality standards.

No adverse emission impacts are anticipated: District staff have concluded from their experience with the Notice to Comply policy, and from the above analyses, that proposed Rule 6 would not trigger an

² The second and third thresholds are similar and are discussed together.

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increase in total violations nor in recurring violations. Consequently, the proposed project would not violate an ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations.

3.3 Threshold: Result in a Significant Increase of Toxic Air Contaminant Emissions

As described in Section 3.2 above, this study concludes that proposed Rule 6 would not trigger an increase in total violations nor in recurring violations. Consequently, no toxic emission impacts are anticipated.

Existing District rules and specific provisions in the proposed rule also separately assure protection against increase in toxic risks. Even if the change in treatment of minor violations had a potential to result in additional toxic emissions, the rule assures additional protection against potential harm through limitations on each type of violation which may be associated with de minimis emission increases. The six situations in which the rule might hypothetically allow de minimis emission increases (that is, if the rule's treatment of minor violations were to result in increased emissions) are discussed below:

Section (d)(2) of the rule would classify open-container violations as minor, but only for containers up to five gallons, or with a limited opening, or for storing solvent-containing cloths. The coatings (paints, etc.) and solvents present in such containers are subject to District Rules 66 and 67.0 through 67.24. The low VOC content required by those rules assures low emissions generally.

Section (d)(3)(iii) and (d)(3)(iv) would classify as minor violations both uncovered cold solvent cleaners and cold solvent cleaner tanks which are overfilled less than two inches. The solvents would still be subject to the low VOC requirements of Rules 66 and 67.0 through 67.24, as above.

High-volume low-pressure (HVLP) spray equipment operated above 10 psi pressure is also classified as a minor violation, but only up to a maximum of 13 psi (Section (d)(5)(iv)). To further ensure against toxic risk, operation above 10 psi would not be considered a minor violation if the materials applied contain certain metals (hexavalent chromium, nickel, or copper) or metallic compounds. In addition, the materials sprayed with such equipment are subject to the low VOC requirements of Rules 66 and 67.0 through 67.24, as above.

Section (d)(5)(vi) classifies the operation of roofing kettles above allowable temperatures as a minor violation, but only up to 10 degrees Fahrenheit above the allowable temperature. Nonrecurring violations of this requirement would be classified as minor because the District's experience is that 10 degrees is within the range of the accuracy of temperature gauges and temperature readings for roofing kettles.

Section (d)(8) classifies certain limited fugitive leaks of particulate matter as minor violations. The restriction of such violations to those within an enclosed building assures protection of ambient air quality. Also such violations are not minor if they cause Rule 50 (visible emissions) violations.

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Finally, Section (d)(9) allows other de minimis emissions violations (not excluded by section (b) of the rule) to be treated as minor violations on a case-by-case basis. The requirement in Section (d)(9) of demonstration that toxics screening values developed pursuant to Rule 1200 are not exceeded assures that such violations will not have consequences above acceptable toxic risk levels.

In addition to the limitations described above which apply to specific minor violations that may involve emissions increases, Section (b)(8) of the rule excludes from classification as minor any violation in excess of any emission standard limitation, rule, permit condition, or other state or federal requirement that is applicable to the relevant pollutant as a toxic air contaminant. Section (e)(11) of the rule also allows immediate enforcement action necessary to prevent harm to the public health or safety or to the environment notwithstanding any other provisions of the rule.

The Air Toxics "Hot Spots" Information and Assessment program (Health & Safety Code section 44300 et seq.) (also known as the AB 2588 program) and District Rule 1210 (Toxic Air Contaminant Public Health Risks – Public Notification and Risk Reduction) also provide additional protections against risks from air toxics. Both the Air Toxics "Hot Spots" Information and Assessment program and Rule 1210 are based on inventories of estimated emissions of approximately 1,600 sources in the county. Incremental emissions of air toxics due to any violations are accounted for in this data because the inventories are based on the total materials utilized by the sources. In the Air Toxics "Hot Spots" Information and Assessment program, the inventory data is reported to the public annually and used to develop prioritization for requiring health risk assessments. Depending on the risks indicated from this information, public notification, risk reduction audits and plans, and risk reduction measures are required by the Air Toxics "Hot Spots" Information and Assessment Program and District Rule 1210. The District attributes a 44 percent decrease in toxic emissions since 1989 in large part to the Air Toxics "Hot Spots" Information and Assessment Program, by providing significant incentives for facilities to closely monitor and control toxic emissions.

Considering these limitations and safeguards, there is no potential for the proposed project to result in a significant increase of toxic air contaminant emissions or risk.

3.4 Threshold: Create Objectionable Odors Affecting a Substantial Number of People

As described in Sections 3.2 and 3.3 above, no emission impacts are anticipated from proposed Rule 6. Consequently, there is no potential for the proposed project to create objectionable odors affecting a substantial number of people.

3.5 Threshold: Result in a Cumulative Adverse Air Quality Impact

CEQA Guidelines §15130(a) requires evaluation of significant cumulative impacts. Cumulative impacts are defined as two or more individual effects that, when considered together, are considerable or which compound or increase other environmental impacts. (CEQA Guidelines §15355.)

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As stated in Practice Under the California Environmental Quality Act (Continuing Education of the Bar, California, November 1997, S. Kostka and M. Zischke, page 534), "A cumulative impact of a project is an impact to which that project contributes and to which other projects contribute as well. The project must make some contribution to the impact; otherwise, it cannot be characterized as a cumulative impact of that project." Since, as described in Sections 3.1 through 3.4 above, no emission impacts are anticipated, adoption of proposed Rule 6 would not contribute to any cumulative adverse air quality impacts of other contemporaneous projects.

Further, CEQA Guidelines §15130(a)(4) indicates a project's contribution to a cumulative impact may be determined de minimis and thus, not significant, if environmental conditions would essentially be the same whether or not the proposed project is implemented. Based on the evaluations discussed in Sections 3.1 through 3.4 above, it is concluded that environmental conditions would essentially be the same whether or not the proposed project is implemented. On this basis, the contribution of proposed Rule 6 to a cumulative impact is determined de minimis and thus, not significant.

4.0 MITIGATION

Proposed Rule 6 would not result in any significant adverse air quality impacts. Therefore, no mitigation measures are required.

5.0 CONCLUSION

Based on the evaluations discussed in Sections 3.1 through 3.5 above, there is no evidence indicating proposed Rule 6 would: conflict with or obstruct air quality plan implementation; violate any ambient air quality standard or contribute substantially to an existing or projected air quality violation; expose sensitive receptors to substantial pollutant concentrations; result in a significant increase of toxic air contaminant emissions; or create objectionable odors affecting a substantial number of people; or result in a cumulative adverse air quality impact. Therefore, it is concluded that the proposed project will not have a significant adverse effect upon air quality.



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 Title:

Adoption of New Rule 6, Minor Violations, of the San Diego Air Pollution Control District Rules and 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 southwestern-most county in California.

4. Project Description:

The San Diego Air Pollution Control District (District) proposes adopting new Rule 6, Minor Violations, as part of the San Diego County Air Pollution Control District's Rules and Regulations. The proposed project would implement state law (Cal. Health & Safety Code §39150 et seq.) requiring air districts to adopt a rule classifying certain violations of District Rules and Regulations as minor violations after considering the danger they pose to public health and safety and the environment, and establishing procedures for issuing a Notice to Comply, rather than a Notice of Violation, for such minor violations. The difference between a Notice to Comply and Notice of Violation is there are no civil, criminal, or administrative penalties for a Notice to Comply, provided the violation is corrected within the time specified by the District.

The identification of a violation as minor is subject to the limitations identified in state law. Specifically, state law prohibits any violation that is knowing or willful, is intentional, benefits the violator economically or competitively, or is part of a pattern of neglect or disregard for the law, from being classified as a minor violation.

The proposed rule classifies non-recurring administrative and de minimis emissions violations as minor violations. Applicable administrative violations include: Record keeping requirements provided the violation does not prevent a compliance determination; failure to have an air quality

permit when there was no prior experience with requirements; failure to post the current permit; failure to renew the permit; failure to apply for a change of location; and failure to apply for a transfer of ownership.

The proposed rule defines de minimis emissions as a trivial, or very small, amount of air contaminants. Applicable de minimis emissions violations include: Uncovered containers of cold solvent cleaners when not in use; cold solvent cleaning tanks with solvent level less than 2 inches above maximum fill-line; high-volume low pressure spray guns operating above 10 psig but less than 30 percent above the operating limit (and not applying materials containing certain metals); and fugitive leaks of particulate matter falling immediately to the ground within an enclosed building. Additionally, a non-recurring violation causing an increase of any toxic air contaminant not exceeding the applicable toxics screening emission rate established in District Rule 1200 is eligible for a Notice to Comply.

Other types of de minimis emissions violations could qualify for a Notice to Comply. However, since there is no satisfactory way of establishing de minimis emission levels for all types of violations at this time, the District will determine other de minimis emissions violations on a case-by-case basis, subject to the limitations of state law and Rule 6.

The District may take any necessary enforcement action authorized by law for failure to comply within the prescribed time (not to exceed 30 calendar days) or upon determination that immediate enforcement is warranted to prevent harm to the public health or safety or the environment. Additionally, the proposed project requires a Notice of Violation be issued for any subsequent violation of the same or similar nature occurring within 36 months or three inspection cycles, whichever comes first.

5. Program Objectives:

The objectives of the proposed project are to implement state law (Cal. Health & Safety Code §39150 et seq.) requiring air districts to adopt a rule classifying certain violations as minor violations, and establishing procedures for issuing a Notice to Comply, rather than a Notice of Violation, for such minor violations. Additionally, the proposed project expands and codifies current District Notice to Comply policy established in 1993.

The Legislature's intent in enacting the minor violation law was to create a more resource-efficient enforcement mechanism, faster compliance times, and a productive and cooperative working relationship between the state board, the air districts, and the regulated community while maintaining protection of human health and safety and the environment (Cal. Health & Safety Code §39150 et seq.).

6. 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 proposed new Rule 6 will not conflict with or obstruct air quality plan implementation; violate any ambient air quality standard or contribute substantially to an existing

or projected air quality violation; expose sensitive receptors to substantial criteria pollutant concentrations; result in a significant increase of toxic air contaminant emissions; create objectionable odors affecting a substantial number of people; or result in a cumulative adverse air quality impact. Based on the Initial Study and the entire record before the District, there is no substantial evidence that the project may have a significant adverse effect on the environment and the adoption of proposed new Rule 6, Minor Violations, does not require preparation of an Environmental Impact Report.

This Negative Declaration reflects the independent judgment of the decision-making authority.

7. Required Mitigation Measures:

No mitigation measures are required.

8. Critical Project Design Elements That Must Become Conditions of Approval:

None required.

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

RM:jo
5/3/99