

Resolution No:  
Meeting Date:

**RESOLUTION ADOPTING NEW RULE 69.5.1 – NATURAL GAS-FIRED WATER HEATERS AND REPEALING RULE 69.5 – NATURAL GAS-FIRED WATER HEATERS, OF REGULATION IV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member \_\_\_\_\_, seconded by Member \_\_\_\_\_, the following resolution is adopted:

**WHEREAS**, the San Diego County Air Pollution Control Board (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 held relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code and Section 51.102 of the Code of Federal Regulations; and

**WHEREAS**, pursuant to Section 40727 of the Health and Safety Code, the San Diego County Air Pollution Control Board makes the following findings:

- (1) (Necessity) The adoption of proposed new Rule 69.5.1 is necessary in order to implement State requirements for all feasible control measures to achieve the ambient air quality standards for ozone by further reducing emissions of nitrogen oxides in the County of San Diego, and the repeal of Rule 69.5 is necessary in order to maintain clarity of requirements for those affected;
- (2) (Authority) The adoption of proposed new Rule 69.5.1 and repeal of Rule 69.5 are authorized by Health and Safety Code Section 40702;
- (3) (Clarity) Proposed new Rule 69.5.1 and repeal of Rule 69.5 can be easily understood by persons directly affected by them;
- (4) (Consistency) The adoption of proposed new Rule 69.5.1 and repeal of Rule 69.5 are in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and State and federal regulations;
- (5) (Non-duplication) The adoption of proposed new Rule 69.5.1 and repeal of Rule 69.5 will not duplicate existing District, state or federal requirements;

- (6) (Reference) The adoption of proposed new Rule 69.5.1 and repeal of Rule 69.5 are necessary to comply with State law, California Health and Safety Code Section 40914(b)(2), which requires adoption of every feasible control measure to reduce ozone-precursor emissions;

**WHEREAS**, the Air Pollution Control Board further finds pursuant to Health and Safety Code Section 40001 that adoption of proposed new Rule 69.5.1 will facilitate the attainment of ambient air quality standards; and

**WHEREAS**, the Air Pollution Control Board further finds that Rule 69.5 is now duplicative of proposed new Rule 69.5.1, and will be rendered obsolete upon the effective date of proposed new Rule 69.5.1; and

**WHEREAS**, the Air Pollution Control Board further finds that an analysis comparing proposed new Rule 69.5.1 with applicable requirements of federal and local regulations has been prepared pursuant to Health and Safety Code Section 40727.2; and

**WHEREAS**, the Air Pollution Control Board further finds that an incremental cost-effectiveness analysis pursuant to Health and Safety Code Section 40920.6(a) has been prepared for proposed new Rule 69.5.1 and has been made available for public review and comment, and has been actively considered.

**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 69.5.1 is to read as follows:

**RULE 69.5.1 NATURAL GAS-FIRED WATER HEATERS**  
(Adopted (*adoption date*), Effective July 1, 2016)

(a) **APPLICABILITY**

Except as otherwise provided in Section (b), this rule shall apply to any person who manufactures, distributes, sells, offers for sale, or installs, for use in San Diego County, a new water heater operated with natural gas and with a rated heat input capacity of less than 75,000 Btu per hour.

(b) **EXEMPTIONS**

- (1) The provisions of this rule shall not apply to:
- (i) Water heaters used in recreational vehicles;
  - (ii) Water heaters used exclusively to heat swimming pools and hot tubs;
  - (iii) Water heaters using fuels other than natural gas;

- (iv) Instantaneous water heaters;
- (v) Existing or relocated water heaters.

(2) The provisions of Sections (e), (f) and (g) shall not apply to a new water heater used in conjunction with any equipment, product line, system, process line or process that is subject to permit requirements of Rule 10.

(c) **DEFINITIONS**

For the purpose of this rule the following definitions shall apply:

- (1) **“Btu”** means British thermal units.
- (2) **“Existing Water Heater”** means a water heater which was installed and capable of operation before July 1, 2016.
- (3) **“Heat Output”** means the product obtained by multiplying recovery efficiency, as defined by Section 6.1.3 of the Code of Federal Regulations, Title 10, Part 430, Subpart B, Appendix E, by the rated heat input capacity of the water heater.
- (4) **“Installed”** means located onsite at the final destination and capable of operation.
- (5) **“Instantaneous Water Heater”** means a water heater that heats water only when it flows through a heat exchanger.
- (6) **“Mobile Home”** means a structure as defined in Section 18007 or 18008 of the California Health and Safety Code.
- (7) **“Mobile Home Water Heater”** means a water heater manufactured exclusively for mobile home use.
- (8) **“New Water Heater”** means a water heater installed, manufactured, or sold on or after July 1, 2016.
- (9) **“Rated Heat Input Capacity”** means the heat input capacity of a water heater, in Btu per hour, as specified by the manufacturer on the nameplate of the water heater.
- (10) **“Recreational Vehicle”** means the same as defined in Section 18010 of the California Health and Safety Code.
- (11) **“Relocated Water Heater”** means an existing water heater which is moved within San Diego County from one stationary source to another stationary source. A relocated water heater is deemed to maintain the status of an existing water heater at the subsequent stationary source.

(12) **“Stationary Source”** means the same as defined in Rule 2.

(13) **“Water Heater”** means a closed vessel in which water heated by combustion of natural gas is withdrawn for use external to the vessel at pressures not exceeding 160 psig. Water heater consists of the apparatus by which heat is generated and all controls and devices necessary to prevent water temperatures from exceeding 210°F (99°C).

(d) **STANDARDS**

Except as otherwise provided in Section (b), effective July 1, 2016, no person shall manufacture, distribute, sell, offer for sale, or install, for use within San Diego County:

(1) Any new water heater (not for use in a mobile home) that operates on natural gas and emits more than:

(i) 10 nanograms of nitrogen oxides (calculated as nitrogen dioxide) per joule (23 lbs of nitrogen oxides per billion Btu) of heat output, or

(ii) 15 parts per million by volume nitrogen oxides (calculated as nitrogen dioxide) at 3% oxygen on a dry basis (17.5 lbs per billion Btu of heat input).

(2) Any new mobile home water heater that operates on natural gas and emits more than:

(i) 40 nanograms of nitrogen oxides (calculated as nitrogen dioxide) per joule (93 lbs of nitrogen oxides per billion Btu) of heat output, or

(ii) 55 parts per million by volume nitrogen oxides (calculated as nitrogen dioxide) at 3% oxygen on a dry basis (71 lbs per billion Btu of heat input).

(e) **CERTIFICATION**

(1) A manufacturer of any new water heater to be offered for sale in San Diego County shall submit to the Air Pollution Control Officer a statement certifying that each model of water heater subject to the requirements of Section (d) complies with all other provisions of this rule.

(i) The statement shall be signed, dated, and attest to the accuracy of all information.

(ii) The statement shall be submitted at least 30 days before the new water heater model is offered for sale, sold, or installed within San Diego County.

(iii) The statement shall include:

(A) Brand name,

(B) Model number,

(C) Rated heat input capacity as specified on the nameplate, and

(D) Test results of emissions of nitrogen oxides for each model being certified.

(2) A manufacturer shall submit to the Air Pollution Control Officer a certification statement for any water heater model whose design is changed in any manner which may alter emissions of nitrogen oxides.

(3) Alternatively, to comply with Subsections (e)(1) or (e)(2), a manufacturer may submit to the Air Pollution Control Officer a certification statement for the water heater model as required in the South Coast Air Quality Management District (SCAQMD) Rule 1121, Section (d).

(f) **LABELING**

On the shipping carton and the nameplate of every new water heater to be offered for sale in San Diego County, the manufacturer shall display the model number of the new water heater complying with Section (e) requirements, or alternatively, the most current requirements of the SCAQMD Rule 1121.

(g) **RECORD KEEPING**

A manufacturer shall keep test records for emissions of nitrogen oxides and certification records for as long as the new water heater model is offered for sale or sold within San Diego County, or for three calendar years after manufacture, whichever is longer. Such records shall be provided to the District upon request.

(h) **TEST METHODS**

To determine compliance with Section (d), measurement of emissions of nitrogen oxides shall be conducted in accordance with:

(1) San Diego Air Pollution Control District Test Method 100, Test Procedures for the Determination of Nitrogen Oxides, Carbon Monoxide and Diluent Gases by Continuous Emission Monitoring, as approved by the U.S. Environmental Protection Agency (EPA) in May 1995; or

(2) SCAQMD Test Method 100.1, Instrumental Analyzer Procedures for Continuous Gaseous Emission Sampling, as approved by the U.S. EPA in March 1989.

A violation determined by either test method shall constitute a violation of the rule.

(i) **EMISSION TEST REQUIREMENTS**

Emission tests shall be performed in accordance with the procedures and methods outlined in the SCAQMD Protocol: Nitrogen Oxides Emissions Compliance Testing for Natural Gas-Fired Water Heaters and Small Boilers, January 1998.

2. Existing Rule 69.5 is to be repealed in its entirety, effective July 1, 2016.

**IT IS FURTHER RESOLVED AND ORDERED** that proposed new Rule 69.5.1 of Regulation IV shall take effect July 1, 2016.

**IT IS FURTHER RESOLVED AND ORDERED** that the repeal of Rule 69.5 of Regulation IV shall take effect July 1, 2016.

**PASSED AND ADOPTED** by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this \_\_\_\_ day of \_\_\_\_\_, 2015, by the following votes:

APPROVED AS TO FORM AND LEGALITY COUNTY COUNSEL
BY: _____ SENIOR DEPUTY