



# Air Pollution Control Board

## San Diego County Air Pollution Control District

### GOVERNING BODY

GREG COX  
First District

DIANNE JACOB  
Second District

DAVE ROBERTS  
Third District

RON ROBERTS  
Fourth District

BILL HORN  
Fifth District

### AGENDA ITEM

**DATE:** June 29, 2016

# AP01

**TO:** Air Pollution Control Board

**SUBJECT:** NOTICED PUBLIC HEARING - ADOPTION OF AMENDMENTS TO  
RULE 24 – TEMPORARY PERMIT TO OPERATE (DISTRICTS: ALL)

#### Overview

Pursuant to federal and state law, the Air Pollution Control District (District) requires any facility or operation that emits air pollutants above certain levels to have air quality permits. These permits limit the amount of traditional air pollutants and toxic air contaminants that may be emitted from such operations. These emissions limitations are important in protecting our air quality and public health.

Existing Rule 24 (Temporary Permit to Operate), Section (d), allows existing unpermitted sources to begin operation prior to their permit being issued provided they have submitted a permit application to the District. This is problematic in several ways. First, federal and state laws do not allow unpermitted operation of sources of air pollutants because of the potential for substantial harm to air quality. Second, businesses could emit uncontrolled, potentially harmful, air pollutants because they possess no permit limiting such emissions.

In the course of District review of Rule 24 for needed amendments to Section (d), the U.S. Environmental Protection Agency (EPA) requested the District eliminate this unusual exemption for unpermitted sources because it is contrary to federal law. Accordingly, this is a request for the Air Pollution Control Board to adopt proposed amendments to Rule 24, removing the exemption for unpermitted sources. If adopted, the proposed amendments will have no impact on any known facilities.

The proposed rule amendments were developed in collaboration with the EPA and the California Air Resources Board (CARB) and with input from local facilities and the public. If adopted, the proposed amended rule will be submitted to EPA through CARB for approval as part of the San Diego County portion of the State Implementation Plan for attaining and maintaining air quality standards.

#### Recommendation(s)

##### AIR POLLUTION CONTROL OFFICER

1. Find that the adoption of the proposed amendments to Rule 24 is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California

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Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and pursuant to Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

2. Adopt the Resolution entitled RESOLUTION ADOPTING AMENDMENTS TO RULE 24 – TEMPORARY PERMIT TO OPERATE, OF REGULATION II OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

**Fiscal Impact**

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years are required.

**Business Impact Statement**

Adopting the proposed amendments to Rule 24 will have no impact on any known businesses, which are operating in accordance with air quality permits. The amendments will help ensure permit requirements are applied in an equitable manner to all businesses.

**Advisory Board Statement**

At its meeting on April 13, 2016, with a quorum present, the Air Pollution Control District Advisory Committee voted unanimously in support of staff's recommendations.

**Background**

Air quality permits are required by federal and state law and pursuant to the District's existing Rule 10 (Permits Required) before installing and operating equipment or processes that may emit air pollutants. First, an Authority to Construct is issued after analysis indicates a proposed project will comply with air pollution control requirements if constructed as proposed. Second, a Permit to Operate is issued after an inspection indicates the project was constructed in accordance with the Authority to Construct and an emissions evaluation indicates compliance with applicable requirements.

Rule 24 (Temporary Permit to Operate) was adopted by the Board in March 1996 as a means to minimize project delays during the permit application review process. It provides, under certain conditions, a streamlined process for sources to obtain a temporary Permit to Operate prior to completion of the permitting process. Section (d) of existing Rule 24 authorizes existing unpermitted sources to continue operating upon filing a permit application, which serves as their temporary Permit to Operate. In practice, however, Section (d) has provided unintended opportunities for the operation of existing equipment during the application review process that may adversely impact air quality and public health.

In the course of District review of Rule 24 for needed amendments to Section (d), the EPA advised that allowing any stationary source of air pollution without first obtaining a Permit to Operate violates federal law, and requested the deletion of Section (d) in its entirety. The

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proposed amendments to Rule 24 therefore would delete Section (d) in its entirety and would eliminate the potential for harmful emissions and public health risk and provide consistency with federal law.

District staff conducted a public workshop to discuss and receive comments on the proposed amendments. No significant concerns were raised and all known issues have been addressed.

State law requires the District to perform an assessment of the socioeconomic impacts when adopting, amending, or repealing a rule that will significantly affect air quality or emission limitations. Rule 24 is an administrative rule that specifies the conditions for obtaining a temporary Permit to Operate. The proposed rule amendments will have no impact on permitted sources. Therefore, a socioeconomic impact assessment is not required and has not been prepared.

**Environmental Statement**

The California Environmental Quality Act (CEQA) requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to the proposed amendments to Rule 24. The proposed amendments to Rule 24 eliminate the potential for harmful emissions and public health risk from a source being given temporary authority to operate prior to a complete evaluation by the District. The proposed amendments also make Rule 24 consistent with federal law. As a result, District staff determined that adoption of the proposed amendments is exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and pursuant to California Code of Regulations, Title 14, Section 15061 (b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.

**Linkage to the County of San Diego Strategic Plan**

Today's proposed actions support the Thriving pillar of the County's vision and the Sustainable Environments Initiative in the County of San Diego's 2016–2021 Strategic Plan with an objective to enhance the quality of the environment by focusing on sustainability, pollution prevention, and strategic planning. The proposed amendments to Rule 24 will protect air quality by ensuring air pollutant emissions are effectively controlled.

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Respectfully submitted,



SARAH E. AGHASSI  
Deputy Chief Administrative Officer



ROBERT J. KARD  
Air Pollution Control Officer

**ATTACHMENT(S)**

Attachment A – Resolution Adopting Amendments to Rule 24 – Temporary Permit to Operate, of Regulation II of the Rules and Regulations of the San Diego County Air Pollution Control District

Attachment B – Workshop Report

Attachment C – Rule 24 Change Copy

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**AGENDA ITEM INFORMATION SHEET**

**REQUIRES FOUR VOTES:**            Yes        No

**WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED**  
    Yes        No

**PREVIOUS RELEVANT BOARD ACTIONS:**  
March 20, 1996 (1), Adoption of Rule 24

**BOARD POLICIES APPLICABLE:**  
N/A

**BOARD POLICY STATEMENTS:**  
N/A

**MANDATORY COMPLIANCE:**  
N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):**  
N/A

**ORIGINATING DEPARTMENT:** AIR POLLUTION CONTROL DISTRICT

**OTHER CONCURRENCES(S):**    N/A

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