(Adopted June 6, 2008)(Amended January 9, 2009)(Amended May 7, 2010)
(Updated July 1, 2011)(Updated July 1, 2012)(Updated July 1, 2013)
(Amended September 6, 2013)(Amended June 6, 2014)(Amended May 1, 2015)
(Updated July 1, 2016)(Amended June 2, 2017)
(Proposed Amended Rule May 4, 2018)

Proposed Effective Date July 1, 2018~~7~~

PROPOSED AMENDED RULE 314. FEES FOR ARCHITECTURAL COATINGS

(a) Purpose

The purpose of this rule is to recover the District's cost of implementing the architectural coatings program and programs related to architectural coatings, and the revenues shall only be used for such purposes. California Health and Safety Code Section 40522.5 provides authority for the District to adopt a fee schedule on areawide or indirect sources of emissions which are regulated, but for which permits are not issued by the District, to recover the costs of programs related to these sources.

(b) Applicability

This rule applies to architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the District for use in the District and are subject to Rule 1113 - Architectural Coatings. This rule also applies to private labelers and big box retailers who distribute or sell architectural coatings into or within the District for use in the District and are subject to Rule 1113 – Architectural Coatings. This includes products sold through big box retailers with distribution centers located within or outside the District. This rule does not apply to architectural coatings sold in this District for shipment and application outside of this District or to aerosol coating products.

(c) Definitions

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

(1) AEROSOL COATING PRODUCT means a pressurized coating product containing pigments, resins, and/or other coatings solids that dispenses product ingredients by means of a propellant, and is packaged in a disposable aerosol container for hand-held application, or for use in specialized equipment for ground marking and traffic marking applications.

(2) ANNUAL QUANTITY AND EMISSIONS REPORT includes the quantity of each architectural coating distributed or sold into or within the District for use in the District during each calendar year, reported as gallons and their associated VOC content, as supplied, reported in grams per liter, for each product in all container sizes.

(3) APPURTENANCES are accessories to a stationary structure, including, but not limited to: hand railings, cabinets, bathroom and kitchen fixtures, fences, rain-gutters and down-spouts, window screens, lamp-posts, heating and air conditioning equipment, other mechanical equipment, large fixed stationary tools, signs, motion picture and television production sets, and concrete forms.

(4) ARCHITECTURAL COATINGS are any coatings applied to stationary structures or their appurtenances, or to fields or lawns.

(5) ARCHITECTURAL COATINGS MANUFACTURER is any person, company, firm, or establishment who imports, blends, assembles, produces, packages, repackages, or re-labels an architectural coating, excluding retail outlets where labels or stickers may be affixed to containers or where colorant is added at the point of sales. For the purpose of this rule, a private labeler is an architectural coatings manufacturer.

(6) AUTHORIZED REPRESENTATIVE is the person authorized by the Responsible Party to prepare and submit the Annual Quantity and Emissions Report on behalf of an architectural coatings manufacturer.

(7) BIG BOX RETAILER is a physically large-chain retail outlet that is classified by the U.S. Department of Labor under Standard Industrial Classification code 5211: Lumber and Other Building Materials Dealers, and listed by the Executive Officer as such prior to end of each calendar year.

(8) COATING is a material which is applied to a surface in order to beautify, protect, or provide a barrier to such surface.

(9) CONCENTRATES are coatings supplied in a form that must be diluted with water or an exempt compound, prior to application, according to the architectural coatings manufacturer's application instructions in order to yield the desired coating properties.

(10) EXEMPT COMPOUNDS are as defined in Rule 102 - Definition of Terms.

(11) FORMULATION DATA is the actual product recipe which itemizes all the ingredients contained in a product including VOCs and the quantities

thereof used by the architectural coatings manufacturer to create the product. Material Safety Data Sheets (MSDS) are not considered formulation data.

(12) GRAMS OF VOC PER LITER OF COATING, LESS WATER AND LESS EXEMPT COMPOUNDS, is the weight of VOC per combined volume of VOC and coating solids and can be calculated by the following equation:

$$\text{Grams of VOC per Liter of Coating, Less Water and Less Exempt Compounds} = \frac{Ws - Ww - Wes}{Vm - Vw - Ves}$$

Where:
- Ws = weight of volatile compounds in grams
- Ww = weight of water in grams
- Wes = weight of exempt compounds in grams
- Vm = volume of material in liters
- Vw = volume of water in liters
- Ves = volume of exempt compounds in liters

For coatings that contain reactive diluents, the Grams of VOC per Liter of Coating, Less Water and Less Exempt Compounds, shall be calculated by the following equation:

$$\text{Grams of VOC per Liter of Coating, Less Water and Less Exempt Compounds} = \frac{W_S - W_W - W_{es}}{V_m - V_W - V_{es}}$$

Where:
- Ws = weight of volatile compounds emitted during curing, in grams
- Ww = weight of water emitted during curing, in grams
- Wes = weight of exempt compounds emitted during curing, in grams
- Vm = volume of the material prior to reaction, in liters
- Vw = volume of water emitted during curing, in liters
- Ves = volume of exempt compounds emitted during curing, in liters

(13) GRAMS OF VOC PER LITER OF MATERIAL is the weight of VOC per volume of material and can be calculated by the following equation:

$$\text{Grams of VOC per Liter of Material} = \frac{W_s - W_w - W_{es}}{V_m}$$

Where: Ws = weight of volatile compounds in grams
Ww = weight of water in grams
Wes = weight of exempt compounds in grams
Vm = volume of the material in liters

(14) MULTI-COMPONENT COATINGS are reactive coatings requiring the addition of a separate catalyst or hardener before application to form an acceptable dry film.

(15) POST-CONSUMER COATINGS are finished coatings that would have been disposed of in a landfill, having completed their usefulness to a consumer, and does not include manufacturing wastes.

(16) PRODUCT is an architectural coating which is identified by means of a unique product code and product name or product line (if applicable), as written on the container label and that is subject to one of the coating category VOC limits specified in Rule 1113 paragraphs (c)(1) or (c)(2) Table of Standards.

(17) PRIVATE LABELER is the person, company, firm, or establishment (other than the toll manufacturer) identified on the label of an architectural coating product.

(18) RECYCLED COATINGS are coatings manufactured by a certified recycled paint manufacturer and formulated such that 50 percent or more of the total weight consists of secondary and post-consumer coatings and 10 percent or more of the total weight consists of post-consumer coatings.

(19) RESPONSIBLE PARTY for a corporation is a corporate officer. A responsible party for a partnership or sole proprietorship is the general partner or proprietor, respectively.

(20) SECONDARY (REWORK) COATINGS are fragments of finished coatings or finished coatings from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

(21) STATIONARY STRUCTURES include but are not limited to, homes, office buildings, factories, mobile homes, pavements, curbs, roadways, racetracks, and bridges.

(22) TOLL MANUFACTURER is an architectural coatings manufacturer who produces coatings for a private labeler.

(23) VOLATILE ORGANIC COMPOUND (VOC) is as defined in Rule 1113 – Architectural Coatings.

(d) Requirement to Obtain a Manufacturer Identification (ID) Number

(1) An architectural coatings manufacturer subject to this rule at any time during the calendar year 2008 shall apply to the District for a manufacturer ID number on or before December 31, 2008. An architectural coatings manufacturer that becomes subject to this rule in any year subsequent to calendar year 2008 shall apply to the District for a manufacturer ID number on or before December 31 of that year.

(2) Change or Acquisition of an Architectural Coatings Manufacturer

(A) When there is a change or acquisition of an architectural coatings manufacturer with a District issued manufacturer ID number, the successor architectural coatings manufacturer shall apply for a manufacturer ID number on or before December 31 of the calendar year of the change or acquisition, unless the successor architectural coatings manufacturer already has a District issued manufacturer ID number. The successor architectural coatings manufacturer shall include the previous manufacturer ID number in their Annual Quantity and Emissions Report for the first year after the change or acquisition.

(B) Acquisition of an architectural coatings manufacturer shall not be considered a change in ownership for the purposes of this rule if the architectural coatings manufacturer who is acquired continues to file Annual Quantity and Emissions Reports and pay fees under its District issued ID number.

(3) Delegation or Change of Responsible Party and/or Authorized Representative

Application for a manufacturer ID number pursuant to (d)(1), as submitted by the Responsible Party for an architectural coatings manufacturer, shall designate the Authorized Representative. The designating Responsible

Party is responsible for and may act in lieu of the Authorized Representative. A change to either the designating Responsible Party or Authorized Representative shall be made in writing using the same application form.

(e) Requirement to Submit an Annual Quantity and Emissions Report

(1) For each calendar year (January 1 through December 31) beginning with 2008 and continuing with each subsequent calendar year, an architectural coatings manufacturer shall, in a format determined by the Executive Officer, submit to the District by April 1 of the following calendar year (the official reporting due date) an Annual Quantity and Emissions Report electronically submitted by the Authorized Representative certifying that all information submitted (including electronic submittal) is true and correct. Information included in the Annual Quantity and Emission Report that was obtained from a company not owned or controlled by the reporting architectural coatings manufacturer shall be certified as true and correct to the best knowledge of the Authorized Representative submitting the report. The Annual Quantity and Emissions Report shall include, but not be limited to, the following:

(A) Architectural coatings manufacturer information including the manufacturer ID number issued by the District;

(B) Each architectural coating brand name, product code and product name;

(C) Whether the coatings are waterborne or solvent-based;

(D) Whether the coatings are for interior, exterior, or dual use;

(E) The applicable coating category listed in the Table of Standards in Rule 1113 – Architectural Coatings;

(F) The grams of VOC per liter of coating, less water and less exempt compounds, and excluding any colorant added to the tint base for each product as follows:

(i) For coatings packaged in a single container, as supplied;

(ii) For multi-component coatings, after mixing the components, as recommended for use by the architectural coatings manufacturer;

(iii) For concentrates, at the minimum dilution recommended for use by the architectural coatings manufacturer;

(G) The grams of VOC per liter of material for each product as follows:
  (i) For coatings packaged in a single container, as supplied;
  (ii) For multi-component coatings, after mixing the components, as recommended for use by the architectural coatings manufacturer;
  (iii) For concentrates, at the minimum dilution recommended for use by the architectural coatings manufacturer;

(H) In addition to (e)(1)(F) and (G), for solvent-based coatings, grams of VOC per liter of material for each product including the maximum thinning as recommended by the architectural coatings manufacturer;

(I) Total annual quantity of each product distributed or sold into or within the District for use in the District, as supplied or for a concentrate, at the minimal dilution recommended for use by the architectural coatings manufacturer, and reported in gallons for all container sizes. The annual quantity of each product shall include products sold through big box retailers with distribution centers located within or outside the District. Architectural coatings manufacturers shall use the list of big box retailers maintained by the Executive Officer as of the end of the calendar year for purposes of reporting quantities of products distributed or sold in the District through big box retailers; and

(J) For any product with VOC content higher than the applicable limit in Rule 1113, an indication of whether the product has been sold under any of the following provisions of Rule 1113 – Architectural Coatings:
  (i) Sell-through provisions
  (ii) Averaging Compliance Option
  (iii) Small container exemption
  (iv) Low Solids
  (v) Stains or Lacquers sold above 4,000 feet.

(2) If the architectural coatings manufacturer had no distribution or sales for the prior calendar year, the Authorized Representative must either certify that fact in a letter, on company letterhead, or indicate that fact in the online reporting program. If an architectural coatings manufacturer does not intend to sell coatings into or within the District in future years, the

Authorized Representative should indicate that intention in writing, so as to be removed from future outreach efforts.

(3) An architectural coatings manufacturer that acquires another architectural coatings manufacturer shall provide the information specified in subparagraph (e)(1)(A) through (e)(1)(J) for the acquired architectural coatings manufacturer for the entire calendar year.

(4) By January 30, 2009, and every year thereafter, a big box retailer shall report to the District and the architectural coatings manufacturer of that product the total annual quantity of each coating product distributed through its distribution centers for sale or sold in the District for the previous calendar year (January 1 through December 31), as supplied, in a format determined by the Executive Officer. The big box retailer shall also include a list of the store, address, city and ZIP code where the products contained in the report were sold. Big box retailers shall use the list maintained by the Executive Officer as of the end of the calendar year of big box retailers for purposes of reporting to the appropriate architectural coatings manufacturer the quantities of products distributed or sold in the District. The report submitted to the District and to each architectural coatings manufacturer shall be electronically submitted by a corporate officer certifying that all information reported is true and correct. The report shall also be submitted to each architectural coatings manufacturer in an electronic spreadsheet format.

(f) Recordkeeping

Architectural Coatings Manufacturers shall:

(1) Maintain a copy of the signed application form submitted to the District to obtain the manufacturers ID number, and the written response from the District issuing a manufacturer ID number. The copies shall be maintained for five (5) years beyond the date on each document, and made available upon request by the Executive Officer.

(2) Maintain records to verify data used to prepare the Annual Quantity and Emissions Report from architectural coatings distributed or sold into or within the District for use in the District and compliance with applicable rules and regulations. The records shall be maintained for five (5) years and made available upon request by the Executive Officer. Such records shall include but not be limited to:

(A) Product formulation records (including both grams of VOC per liter of coating and grams of VOC per liter of material):

(i) Laboratory reports [including percent weight of non-volatiles, water, and exempts (if applicable); density of the coating; and raw laboratory data] of test methods conducted as specified in paragraph (m) or

(ii) Product formulation data or physical properties analyses, as applicable, with a VOC calculation demonstration; and

(B) Production records including, if applicable, batch tickets with the date of manufacture, batch weight and volume; and

(C) Distribution records:

(i) Customer lists or store distribution lists or both (as applicable) and

(ii) Shipping manifests or bills of lading or both (as applicable); and

(D) Sales records consisting of point of sale receipts or invoices to distributors or both, as applicable.

(g) Fees

(1) Manufacturer ID Number Fee

An architectural coatings manufacturer applying for a manufacturer ID number with the District as specified in paragraphs (d)(1) and (d)(2) shall pay a non-refundable application fee of ~~$197.17~~203.87 at the time of submitting the application.

(2) Annual Quantity and Emissions Fees

(A) An architectural coatings manufacturer shall pay fees at the rates specified below (for the Annual Quantity Fee in clause (i) below, the actual final fee based on the total number of gallons of paint shall be rounded to nearest whole cent), on or before April 1st (the official due date). Fees are based on the annual quantity and emissions of architectural coatings distributed or sold into or within the District for use in the District for the previous calendar year. The fee rate to be applied shall be the fee rate in effect for the year in which the sales and emissions are actually reported, and not the fee rate in effect for the year the sales actually occurred.

Fee Rate

(i) Annual Quantity Fee: $0.041 per gallon of paint.

(ii) Annual Emission Fee: $~~281.73~~291.31 per ton of VOC emissions.

(B) If an architectural coatings manufacturer submits the Annual Quantity and Emissions Report in such a manner that District staff has to manually enter the data into the District database, then the architectural coatings manufacturer shall pay at the time of submittal a non-refundable fee of $~~322.96~~333.94 for the first two hours of District time. The architectural coatings manufacturer shall be assessed additional fees at the rate of $~~161.49~~166.98 per hour for any additional time beyond the first two hours.

(h) Request to Amend the Annual Quantity and Emissions Report and Refund Request of Emission Fees

(1) An architectural coatings manufacturer shall submit a written request (referred to as an "Amendment Request") for any proposed revisions to previously submitted Annual Quantity and Emissions Reports. Amendment requests submitted after one (1) year from the official due date of the subject Annual Quantity and Emissions Report shall include a non-refundable standard evaluation fee of $~~322.96~~333.94. In addition, evaluation time beyond two hours shall be assessed at the rate of $~~161.49~~166.98 per hour not to exceed 10 hours. Amendment requests received within one year (1) from the official due date of a previously submitted Annual Quantity and Emissions Report shall not incur any such evaluation fees. The Amendment Request shall include all supporting documentation and revised applicable reports.

(2) An architectural coatings manufacturer shall submit a written request (referred to as a "Refund Request") to correct the previously submitted Annual Quantity and Emissions Report and request a refund of overpaid fees. Refund Requests must be submitted within one (1) year from the official due date of the subject Annual Quantity and Emissions Report to be considered valid. The Refund Request shall include a revised Annual Quantity and Emissions Report and all applicable supporting documentation. If the Refund Request submitted results in a refund, then the architectural coatings manufacturer shall incur no evaluation fee. If the refund request results in no refund, then the architectural coatings

manufacturer shall pay the standard evaluation fee and the hourly evaluation fees, as appropriate, specified in paragraph (h)(1).

(i) Fee Payments and Late Surcharge

(1) Fee payments are the responsibility of the architectural coatings manufacturer.

(2) If both the fee payments and the Annual Quantity and Emissions Report for the previous calendar year are not received by May 30, they shall be considered late; and a surcharge for late payment shall be imposed for fees past due as set forth in paragraph (i)(3). Architectural coatings manufacturers subject to paragraph (d)(2) on or after July 1 of the reporting year shall have an additional 6 months, or any additional time approved by the Executive Officer, to submit the fee payments and the Annual Quantity and Emissions Report for the acquired architectural coatings manufacturer. For the purpose of this paragraph, the fee payments and the Annual Quantity and Emissions Report shall be considered to be timely received by the District if it is postmarked on or before May 30. If May 30 falls on a Saturday, Sunday, or a state holiday, the fee payments and Annual Quantity and Emissions Report may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if they had been postmarked on May 30.

(3) If fee payments for the Annual Quantity and Emissions Report (including any unreported quantity and emissions) are not received within the time prescribed by paragraph (i)(2), a late payment surcharge shall be assessed on the fees past due and added to the fee rate in subparagraph (g)(2)(A), according to the following schedule:

Less than 30 days	5% of past due amount
30 to 90 days	15% of past due amount
91 days to one year	25% of past due amount
More than one year	50% of past due amount

(4) Fee Payment Subject to Validation

Acceptance of a fee payment does not constitute validation of the emission data.

(j) Service Charge for Returned Checks

Any person who submits a check to the District on insufficient funds or on instructions to stop payment, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a $25.00 service charge.

(k) Confidentiality of Information

Subject to the provisions of the California Public Records Act (Govt. Code § 6250-6276.48) information submitted to the Executive Officer may be designated as confidential. The designation must be clearly indicated on the reporting form, identifying exactly which information is deemed confidential. District guidelines require a detailed and complete basis for such claim in the event of a public records request.

(l) Violation

It shall be a violation of this rule for any architectural coatings manufacturer to distribute or sell their manufactured architectural coatings into or within the District for use in the District, without having a manufacturer ID number issued by the District, within the time specified in subdivision (d).

(m) Test Methods

For the purpose of this rule, test methods are as specified in Rule 1113.

(n) Severability

If any provision of this rule is held by judicial order to be invalid, or inapplicable to any person or circumstance, such order shall not affect the validity of the remainder of this rule, or the validity or applicability of such provision to other persons or circumstances. In the event any of the exceptions to this rule are held by judicial order to be invalid, the persons or circumstances covered by the exception shall instead be required to comply with the remainder of this rule.

(o) Distributor(s) List

On or before January 31st, all architectural coatings manufacturers subject to this rule shall provide to the District a list of all U.S. distributors to whom they supply architectural coatings. The list shall be in a format determined by the Executive Officer and shall include the distributors name, address, contact person and phone number.

(1) Once the initial list of all U.S. distributors has been submitted, the architectural coatings manufacturer shall provide any changes to that list for subsequent reporting years.

(2) If there are no changes to the list of all U.S. distributor(s), the architectural coatings manufacturer in subsequent reporting years shall report no changes.

(p) Exemption

(1) Fees pursuant to paragraph (g)(2) shall not be assessed on coatings with 5 or less grams of VOC per liter of material provided the Annual Quantity and Emissions Report is received within the time prescribed by subparagraph (i)(2).

(2) Fees pursuant to paragraph (g)(2) shall not be assessed on recycled coatings distributed or sold into or within the District by a certified recycled paint manufacturer provided the Annual Quantity and Emissions Report is received within the time prescribed by paragraph (i)(2).

(3) Fees pursuant to paragraph (g)(2) shall not be assessed on any architectural coatings manufacturer whose distribution or sale of coatings into or within the District for use in the District are less than 1,000 gallons and have potential annual VOC emissions of 0.5 tons or less in a calendar year, provided the Annual Quantity and Emissions Report is received within the time prescribed by paragraph (i)(2).

(4) Architectural coatings offered for sale as a dry mix, containing no polymer, that are only mixed with water prior to use, including, but not limited to, stucco, clays, and plasters.