

BOARD MEETING DATE: September 6, 2013

Agenda No. 34

PROPOSAL: Amend Rule 314 – Fees for Architectural Coatings

SYNOPSIS: Amendments are being proposed to clarify certain reporting requirements. The staff proposal includes exempting small manufacturers and certain coatings from fees, removing the ability to use “grouping” in the reporting, clarifying existing definitions and reporting requirements, and removing outdated phased-in fee rates.

COMMITTEE: Stationary Source, August 16, 2013

RECOMMENDED ACTIONS:

Adopt the resolution:

1. Certifying the Notice of Exemption for Proposed Amended Rule 314 – Fees for Architectural Coatings; and
2. Amending Rule 314 – Fees for Architectural Coatings.

Barry R. Wallerstein, D.Env.
Executive Officer

EC:LT:NB:HF

Background

Rule 314 – Fees for Architectural Coatings, adopted by the Governing Board on June 6, 2008, sets fees for manufacturers of architectural coatings to recover the Air Quality Management District (AQMD) cost of regulating architectural coatings. The rule also provides reliable information that helps refine the annual emissions inventory for this source category used for air quality planning purposes. Architectural coatings represent one of the largest VOC emission source categories regulated by the AQMD, estimated to be 15 tons per day in 2008. Over the past five years, approximately 200 manufacturers have reported data and paid fees to the AQMD, paying on average \$2 million, as a result of Rule 314. To further encourage the development, marketing, and use of lower-VOC and recycled coatings, the current rule contains a fee exemption for architectural coatings containing 5 or less grams of VOC per liter of material and recycled coatings which has contributed towards additional daily VOC emissions reductions.

Proposal

The proposed amendments would streamline the administration of the rule and provide regulatory relief by exempting small manufacturers from having to pay fees. The amendments would also clarify the rule and improve enforceability.

The proposed amendments are summarized as follows:

- Exempt small manufacturers from fee requirements, provided they submit their Annual Quantity and Emissions Report in the time prescribed in the rule
- Clarifications and other enhancements
 - Remove the ability to ‘group’ products
 - Add, amend, and delete definitions
 - Clarify how to delegate or change the Responsible Party or Authorized Representative
 - Require Big Box retailers to submit their annual reports to the District as well as the manufacturers and include a list of stores where the products were sold
 - Update the fee rate and remove the outdated phase-in rates
 - Remove outdated language and provide other minor clarifications

California Environmental Quality Act (CEQA)

AQMD staff has reviewed the proposed amendments to Rule 314 pursuant to CEQA Guidelines §15002(k) - Three Step Process, and CEQA Guidelines §15061 – Review for Exemption, and has determined that the proposed amendments are exempt from CEQA pursuant to CEQA Guidelines §15273 - Rates, Tolls, Fares and Charges, because PAR 314 amends fees for architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the AQMD area of jurisdiction for use in the AQMD area of jurisdiction for the purpose of recovering the program costs for establishing and implementing Rule 1113 – Architectural Coatings.

PAR 314 would only affect definitions, fees, and reporting requirements. The evaluation of the proposed project resulted in the conclusion that PAR 314 would not create any adverse effects on air quality or any other environmental areas; therefore, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Since it can be seen with certainty that the proposed project has no potential to adversely affect air quality or any other environmental area, PAR 314 is also exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3) – Review for Exemption.

Socioeconomic Analysis

Since the amendment does not significantly affect air quality or emissions limitations, a socioeconomic assessment is not required. The proposed amendments will exempt smaller manufacturers from paying fees and are not expected to result in any adverse socioeconomic impacts.

Authority to Assess Fees

California Health and Safety Code Section 40522.5 establishes the AQMD's authority to adopt a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, to recover the costs of programs related to these sources. Under California law, the primary authority for controlling emissions from architectural coatings is vested in the air pollution control districts (APCDs).

Legislative Authority

The California Legislature created the AQMD in 1977 (The Lewis Presley Air Quality Management Act, Health and Safety Code Section 40400 et seq.) as the agency responsible for developing and enforcing air pollution controls and regulations in the Basin. By statute, the AQMD is required to adopt an Air Quality Management Plan (AQMP) demonstrating compliance with all state and federal ambient air quality standards for the Basin [California Health and Safety Code Section 40440(a)].

Furthermore, the AQMD must adopt rules and regulations that carry out the AQMP [California Health and Safety Code Section 40440(a)].

AQMP and Legal Mandates

The California Health and Safety Code requires the AQMD to adopt an AQMP to meet state and federal ambient air quality standards in the South Coast Air Basin. In addition, the California Health and Safety Code requires the AQMD to adopt rules and regulations that carry out the objectives of the AQMP. The proposed amendments are not an AQMP control measure but serve to clarify the existing rule and to remove a specific labeling requirement. The rule does not implement Best Available Retrofit Control Technology (BARCT) or a ‘feasible measure’ under Health and Safety Code Section 40920.6 so incremental cost-effectiveness findings are not required.

Implementation Plan and Resource Impact

Existing AQMD resources will be sufficient to implement the proposed changes to this rule with minimal impact on the budget. The additional exemption from fees for small manufacturers will result in a reduction of less than 1% of the fee revenue, on average.

Attachment

- A. Summary of Proposed Amendments
- B. Rule Development Process
- C. Key Contacts
- D. Resolution
- E. Proposed Rule Language
- F. Final Staff Report
- G. Notice of Exemption

A T T A C H M E N T A

**SUMMARY OF PROPOSED AMENDMENTS TO
RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

**PROPOSED AMENDMENTS TO
RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

Staff proposes the following amendments to clarify the rule and improved enforceability:

- Exempt small manufacturers from fee requirements, provided they submit their AQER in the time prescribed in subparagraph (i)(2)
- Remove the ability to ‘group’ products
- Include private labelers in the Applicability section and in the definition of Architectural Coatings Manufacturer
- Add nine definitions, amend five definitions, and delete one definition
 - Add – Authorized Representative, Concentrates, Multi-Component Coatings, Post-Consumer Coatings, Private Labeler, Recycled Coatings, Secondary (Rework) Coatings, Stationary Structures, and Toll Manufacturer.
 - Amend – Aerosol Coating Product, Architectural Coatings, Architectural Coatings Manufacturer, Formulation Data, and Responsible Party.
 - Delete – Product Line
- Clarify how to delegate or change the Responsible Party or Authorized Representative
- Clarify that Annual Quantity and Emissions Reports are electronically submitted and not signed hard copies
- Clarify that either the Authorized Representative or Responsible Party can submit the Annual Quantity and Emissions Reports
- Clarify the reporting requirements for multi-component coatings and concentrates
- Add a reporting requirement to indicate if a product was sold under the 4,000 foot exemption

**PROPOSED AMENDMENTS TO
RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

- Clarify how a manufacturer should report that there were no sales of architectural coatings into or within the SCAQMD
- Require Big Box retailers to submit their annual reports to the District as well as the manufacturers, and include a list of stores where the products were sold
- Update the fee rate and remove the outdated phase-in rates
- Require manufacturers to pay the fee rate in effect for the year in which they are reporting or amending prior year reports, and not the fee rate that was in effect when the sales actually occurred
- Clarify that once the distributors list has been submitted, only changes need to be submitted for subsequent years
- Amend the exemption for coatings containing 5 or less grams of VOC per liter of material and recycled coatings such that they are only exempt from the fees provided they submit their Annual Quantity and Emissions Report (AQER) by the time prescribed in subparagraph (i)(2)
- Exempt coatings that are offered for sale in powder form, containing no polymer content, that are solely mixed with water prior to use, from reporting requirements

A T T A C H M E N T B

**RULE DEVELOPMENT PROCESS FOR
PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

Proposed Amended Rule 314 – Fees for Architectural Coatings

Public Consultation Meeting
June 20, 2013

Working Group Meeting
August 15, 2013

Stationary Source Meeting
August 16, 2013

Public Hearing
September 6, 2013

A T T A C H M E N T C

**KEY CONTACTS FOR
PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

Key Contacts	
David Darling	American Coatings Association
Jim Kantola	Akzo Nobel
Ken McDiarmid	Axalta
Michael Butler	BEHR Process Corporation
Dane Jones, Ph.D.	Cal Poly, SLO
Barry Marcks	Caltrans
Fernando Pedroza	Chromaflo Technologies
Freidom Anwari	Comex
John Watkins	Coating Group
Richard White	Coating Group
Charles Cornman	Custom Building Products
Andy Thoummaraj	Custom Building Products
Robert Wendoll	Dunn-Edwards Paints
Susan Sims	Eastman
Joseph Tashjian	Ellis Paint Company
Karen Hollinhurst	Ellis/PCL
Pat Lutz	EPS Materials
John Lenore	Epmar Corp.
Howard Berman	E4 Strategic Solutions, Inc.
Ben Gavett	Golden Artists Colors, Inc
Patricia Santana	HBCC
Lesley Henry II	ITWPSNA
Aaron Mann	JFB Hart
Joe Salvo	Miracle Sealants
Henry Lum	Modern Masters
John Wallace	MWD
Bob Sypowicz	Modern Masters
Lesley Henry III	Pacific Polymers
Wayne Nelson	PPG Architectural Finishes, Inc
Dwayne Fuhlhage	Prosoco
John Lenore	Quaker
Ron Webber	Quest Building
Rita Loof	Radtech International North Americas
Doug Raymond	Raymond Regulatory Resources (3R), LLC
Mike Murphy	Rust-Oleum
Mark Frick	Rust-Oleum
Madelyn Harding	Sherwin-Williams Company
Dennis Salley	SpecChem
Kyle Frakes	Tnemec Corporation
Chris Lansen	TWDC
Tina Glomstead	Valspar
John Long	Vista Paint
Fred Garcia	Walt Disney

A T T A C H M E N T D

**RESOLUTION FOR
PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

RESOLUTION NO. 2013-

A Resolution of the Governing Board of the South Coast Air Quality Management District (AQMD) certifying that Proposed Amended Rule 314 – Fees for Architectural Coatings is exempt from the requirements of the California Environmental Quality Act (CEQA).

A Resolution of the AQMD Governing Board amending Rule 314 – Fees for Architectural Coatings.

WHEREAS, the AQMD Governing Board finds and determines that Proposed Amended Rule 314 – Fees for Architectural Coatings is exempt from CEQA pursuant to CEQA Guidelines §15273 - Rates, Tolls, Fares and Charges, because PAR 314 amends fees for architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the SCAQMD area of jurisdiction for use in the SCAQMD area of jurisdiction for the purpose of recovering the program costs for establishing and implementing Rule 1113 – Architectural Coatings. The proposed project is also exempt from CEQA pursuant to CEQA Guidelines CEQA Guidelines §15061(b)(3) – Review for Exemption because it was determined that PAR 314 would not create any adverse effects on air quality or any other environmental areas, and therefore, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment.; and

WHEREAS, the AQMD Governing Board finds that Proposed Amended Rule 314 qualifies for a statutory exemption pursuant to CEQA Guidelines §15273 because the amendments involve a modification to a fee rule with the primary purpose of meeting operating expenses, and purchasing or leasing supplies, equipment or materials, specifically imposing fees to recover the program costs for implementing Rule 1113 – Architectural Coatings; and

WHEREAS, the AQMD has had its regulatory program certified pursuant to Public Resources Code Section 21080.5 and has conducted CEQA review and analysis pursuant to such program (Rule 110); and

WHEREAS, AQMD staff has prepared a Notice of Exemption (NOE) for Proposed Amended Rule 314 that is completed in compliance with CEQA Guidelines §15002(k)(1) – Three Step Process, §15061(b)(1) – Review for Exemption (By Statute), §15061(b)(3) – Review for Exemption (General Rule), and §15273 - Statutory Exemption for Rates, Tolls, Fares and Charges; and

WHEREAS, the AQMD Governing Board has determined that a need exists to amend Rule 314 – Fees for Architectural Coatings to to exempt small manufacturers from fees and enhance enforceability by removing the ‘grouping’ provision and other outdated language; and

WHEREAS, the AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Sections 39002, 40000, 40001, 40440, 40522.5, 40702, and 41508 of the California Health and Safety Code; and

WHEREAS, the AQMD Governing Board has determined that Proposed Amended Rule 314 – Fees for Architectural Coatings is written and displayed so that the meaning can be easily understood by persons directly affected; and

WHEREAS, the AQMD Governing Board has determined that Proposed Amended Rule 314 – Fees for Architectural Coatings is in harmony with, and not in conflict with, or contradictory to, existing statutes, court decisions, state or federal regulations; and

WHEREAS, the AQMD Governing Board has determined that the amendment of Rule 314 – Fees for Architectural Coatings does not impose the same requirements as any existing state or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the AQMD; and

WHEREAS, the AQMD Governing Board references the following statutes which the AQMD hereby implements, interprets or makes specific: Health and Safety Code Sections 40001 (rules to achieve ambient air quality standards), 40440(a) (rules to carry out the Air Quality Management Plan), 40522.5 (fees for area sources) and 40440 (c) (rules to assure efficient and cost-effective administrative practices); and

WHEREAS, the AQMD Governing Board has determined that Proposed Amended Rule 314 – Fees for Architectural Coatings does not directly affect air quality or emission limitations; therefore, a formal socioeconomic assessment under California Health and Safety Code Section 40440.8 is not required; and

WHEREAS, the AQMD Governing Board finds that PAR 314 does not impose a new emission limit or standard and that a comparative analysis under California Health and Safety Code Section 40727.2 is not required; and

WHEREAS, a public hearing has been properly noticed in accordance with all provisions of Health and Safety Code, Section 40725; and

WHEREAS, the AQMD Governing Board has held a public hearing in accordance with all provisions of law; and

WHEREAS, the CEQA NOE, this September 6, 2013 Board letter, and other supporting documentation were presented to the AQMD Governing Board and the Board has reviewed and considered the entirety of this information prior to approving the project; and

WHEREAS, the AQMD specifies the manager of Rule 314 as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed amendment is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California.

NOW, THEREFORE, BE IT RESOLVED, that the AQMD Governing Board does hereby certify that Proposed Amended Rule 314 – Fees for Architectural Coatings, as proposed to be amended, is exempt from CEQA requirements pursuant to CEQA Guidelines §15002(k)(1) - Three Step Process, §15061(b)(1) – Review for Exemption (By Statute), §15061(b)(3) – Review for Exemption (General Rule), and §15273 – Rates, Tolls, Fares and

Charges. This information was presented to the Governing Board, whose members reviewed, considered, and approved the information therein prior to acting on Proposed Amended Rule 314; and

BE IT FURTHER RESOLVED, that the AQMD Governing Board does hereby amend, pursuant to the authority granted by law, Rule 314 – Fees for Architectural Coatings, as set forth in the attached, and incorporated herein by this reference.

Attachment

DATE: _____

CLERK OF THE BOARD

A T T A C H M E N T E

RULE LANGUAGE FOR

PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS

Single underline text shows new language added to the existing rule language.

Double underline text shows new language added to the rule subsequent to the Set Hearing.

Italicized Strikeout text shows new deletions from the rule subsequent to the Set Hearing.

~~Underline Strikeout~~ text shows language proposed for addition to the Set Hearing Package, which is now being deleted from the Public Hearing Package

(Adopted June 6, 2008)(Amended January 9, 2009)(Amended May 7, 2010)

(Updated July 1, 2011)(Updated July 1, 2013)(**PAR September 6, 2013**)

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 ~~that 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 ~~that 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, ~~or~~ resins, and/or other coatings solids that dispenses product ingredients by means of a propellant, and is packaged in a disposable ~~can~~ 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 ~~and or~~ their appurtenances, ~~and or to fields and lawnsto mobile homes, to pavements, or to curbs.~~
- (5) ARCHITECTURAL COATINGS MANUFACTURER is any person, company, firm, or person establishment that who imports, blends, assembles, manufactures, produces, packages, ~~or repackages, or re-labels an~~ architectural coatings, ~~not inexcluding retail outlets where labels or stickers may be affixed to containers or where colorant is added at the point of sales for sale or distribution for use in the District. For the purpose of this rule, architectural coatings manufacturer include 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.
- (6)(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.
- (7)(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.
- (8)(10) EXEMPT COMPOUNDS are as defined in Rule 102 - Definition of Terms.
- (9)(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.
- (10)(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:

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

Where:

W_s = weight of volatile compounds in grams

W_w = weight of water in grams

W_{es} = weight of exempt compounds in grams

V_m = volume of material in liters

V_w = volume of water in liters

V_{es} = 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:

W_s = weight of volatile compounds emitted during curing, in grams

W_w = weight of water emitted during curing, in grams

W_{es} = weight of exempt compounds emitted during curing, in grams

V_m = volume of the material prior to reaction, in liters

V_w = volume of water emitted during curing, in liters

V_{es} = volume of exempt compounds emitted during curing, in liters

(11)(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:

W_s = weight of volatile compounds in grams

W_w = weight of water in grams

W_{es} = weight of exempt compounds in grams

V_m = 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) **PRODUCT LINE** is a group of coatings that:
- (A) Belong to the same coating category in Rule 1113 Table of Standards;
 - (B) Have the same vehicle technology (solvent or water);
 - (C) Are of the same resin type;
 - (D) Are recommended for the same use (either interior, exterior or dual use);
 - (E) Have the same form (either single or multiple component form);
 - (F) Do not exceed a coating (regulatory) VOC range of 25 grams per liter between the highest and lowest coating in the group, and
 - (G) If included in the Averaging Compliance Option Program, meet subparagraphs (A) to (G) of this definition and have all grouped products either above a limit or below a limit.
- (18) **PRIVATE LABELER** is the person, company, firm, or establishment (other than the toll manufacturer) identified on the label of an architectural coating product.
- (19) **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.
- (20) **RESPONSIBLE PARTY** for a corporation is a corporate officer *or an authorized representative so delegated by a corporate officer. Delegation or change of an authorized representative must be made in writing to the Executive Officer pursuant to paragraph (d)(3).* A responsible party for a partnership or sole proprietorship is the general partner or proprietor, respectively.
- (21) **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.

- (14)(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.
- (15)(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 architectural coatings 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 both the Responsible Party and 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 signed electronically submitted by the Authorized Representative responsible party 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 responsible party Authorized Representative signing the certification 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 ~~or product line (if applicable)~~;
- (C) Whether the coatings are waterborne or ~~solventborne~~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 supplied, except the following:
- (i) For coatings packaged in a single container, as supplied:
- (ii) For a multi-component coatings, after mixing the components, as recommended for use by the architectural coatings manufacturer;
- (iii) For a 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 supplied or, except the following:
- (i) For coatings packaged in a single container, as supplied:

- (i.) ~~fFor a multi-component coatingss, after mixing the components,~~ as recommended for use by the architectural coatings manufacturer;
- (ii.) For a concentrates, at the minimum dilution recommended for use by the architectural coatings manufacturer;
- (H) ~~In addition to (e)(1)(F) and (G), Additionally, fFor solvent-based coatings, grams of VOC per liter of material for each product including with the maximum thinning allowed with a VOC, as listed in the Technical Data Sheet, shall also be included as recommended by the architectural coatings manufacturer;~~
- (H)(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
- (I)(J) For any product with VOC content higher than the applicable limit in Rule 1113, an indication 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) Other (with explanation) 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 architectural coatings manufacturer must either certify that fact in a letter, that there were no sales on company letterhead, signed by the Authorized Representative or indicate that fact in the online reporting program that there were no sales. If an architectural coatings manufacturer does not intend to sell coatings into or within the District in future years, they Authorized Representative should indicate that intention in writing, so as to be removed from future outreach efforts.

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

(3)(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 signed by a electronically submitted by the responsible party 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)(1) 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 \$182.34 at the time of submitting the application.
 - (2) Annual Quantity and Emissions Fees
 - (A) An architectural coatings manufacturer shall ~~begin paying~~ fees at the rates specified below, on or before April 1st, ~~2009 and each subsequent April 1~~ (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 emissions actually occurred.~~
- Phased-in Fee Rate**
- (i) ~~April 1, 2009 pay an annual quantity fee of \$0.018 per gallon of paint and an annual emission fee of \$128.47 per ton of VOC emissions.~~
 - (ii) ~~April 1, 2010 pay an annual quantity fee of \$0.029 per gallon of paint and an annual emission fee of \$193.23 per ton of VOC emissions.~~

~~(iii) April 1, 2011 and each subsequent April 1, pay an annual quantity fee of \$0.039 per gallon of paint and an annual emission fee of \$260.54 per ton of VOC emissions.~~

(i) Annual Quantity Fee: \$0.039 per gallon of paint.

(ii) Annual Emission Fee: \$260.54 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 \$298.67 for the first two hours of District time. The architectural coatings manufacturer shall be assessed additional fees at the rate of \$149.35 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 \$298.67. In addition, evaluation time beyond two hours shall be assessed at the rate of \$149.35 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 paragraph (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 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, 2009, and each subsequent January 1, 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, including but not limited to coatings manufactured by a private labeler coatings and toll manufacturerd coatings. The list shall be in a format determined by the Executive Officer and shall include the distributor's name, address, contact person and phone number.

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

(2) If there are no changes to the original list of all U.S. distributor(s), the architectural coatings manufacturer is only required to provide written notification to that effect in subsequent reporting years in subsequent reporting years shall report no changes.

(p) Exemption

- (1) Notwithstanding the provisions of subparagraph (g)(2), fees pursuant to subparagraph (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 subparagraph (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 subparagraph (i)(2). Recycled Coating is as defined in Rule 1113, and certified recycled paint manufacturer shall be as certified pursuant to Rule 1113.
- (3) Fees pursuant to subparagraph (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 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 subparagraph (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.

A T T A C H M E N T F

FINAL STAFF REPORT FOR

PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft-Final Staff Report
Proposed Amended Rule 314 – Fees for Architectural Coatings

August 7, 2013September 6, 2013

Deputy Executive Officer
Planning, Rule Development, & Area Sources
Elaine Chang, DrPH

Assistant Deputy Executive Officer
Planning, Rule Development, & Area Sources
Laki Tisopoulos, Ph.D., P.E.

Planning and Rules Manager, Area Sources
Naveen Berry

Author: Heather Farr, Air Quality Specialist
Reviewed By: William Wong, Principal Deputy District Counsel
David De Boer, Program Supervisor

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
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Senate Rules Appointee

Miguel A. Pulido
Mayor, Santa Ana
Cities of Orange County

EXECUTIVE OFFICER:
BARRY R. WALLERSTEIN, D.Env.

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ACRONYMS USED IN THIS REPORT

- ACO - Averaging Compliance Option
- AQER - Annual Quantity and Emissions Report
- AQMP - Air Quality Management Plan
- CEQA - California Environmental Quality Act
- PAR - Proposed Amended Rule
- SCAQMD** - South Coast Air Quality Management District
- SCE - Small Container Exemption
- VOC - Volatile Organic Compound

EXECUTIVE SUMMARY

Rule 314 – Fees for Architectural Coatings, adopted by the Governing Board on June 6, 2008, sets fees for manufacturers of architectural coatings to recover the ~~SCAQMD~~ cost of regulating architectural coatings. Architectural coatings represent one of the largest VOC emission source categories regulated by the ~~SCAQMD~~. When the rule was adopted, the manufacturers requested the ability to report numerous products on one line, also referred to as “grouping.” Staff experience, based on compliance reviews and audits of reports submitted, indicates that grouping of multiple products leads to lack of compliance verification.

Staff is proposing to remove the ability to use “grouping,” exempt small manufacturers from fees, and clarify certain rule provisions.

The proposed amendments to Rule 314 will:

- Include private labelers in the Applicability section and in the definition of Architectural Coatings Manufacturer
- Add nine definitions, amend five definitions, and delete one definition
- Remove the ability to group products
- Clarify the reporting requirements for multi-component coatings and concentrates
- Add a reporting requirement to indicate if a product was sold under the 4,000 foot exemption
- Require Big Box retailers to submit their annual reports to the District as well as the manufacturers and include a list of stores where the products were sold
- Update the fee rate and remove the outdated phase-in rates
- Require manufacturers to pay the fee rate in effect for the year in which they are reporting and not the fee rate that was in effect when the sales and emissions actually occurred
- Clarify that once the distributors list has been submitted, only changes need to be submitted for subsequent years
- Amend the exemption for coatings containing 5 or less grams of VOC per liter of material and recycled coatings such that they are only exempt from the fees provided they submit their Annual Quantity and Emissions Report (AQER) by the time prescribed in subparagraph (i)(2)

- Exempt small manufacturers from fee requirements, provided they submit their AQER in the time prescribed in subparagraph (i)(2)
- Exempt coatings that are offered for sale in powder form, containing no polymer content, that are solely mixed with water prior to use, from reporting requirements

BACKGROUND

Rule 314 affects about 200 architectural coatings manufacturers. Beginning in 2009 and each subsequent calendar year, Rule 314 requires architectural coatings manufacturers to report to SCAQMD the total annual quantity (in gallons) and emissions of each of their architectural products distributed or sold into or within the SCAQMD for use in the SCAQMD, during the previous calendar year. Fees are assessed on the manufacturers' reported annual quantity of architectural coatings as well as the cumulative VOC emissions from the reported annual quantity of coatings. Data collected from the manufacturers also provides SCAQMD with an annual emissions inventory that is used for planning purposes.

Rule 314 contains a fee exemption for architectural coatings containing 5 or less grams of VOC per liter of material and for sale of recycled coatings to further encourage the development, marketing, and use of lower-VOC and recycled coatings.

The following table summarizes the sales, emissions, and fees since rule implementation in 2009. The fee data includes fees collected during the fiscal year and not necessarily the fees that were generated by the sales and emissions for a particular reporting year. In the table below, there may be new companies that reported for previous years or paid penalties during a subsequent fiscal year. For example, all fees collected from a company that first reports in 2011, even though they pay fees for prior years as well, shows as revenue in 2011 fiscal year.

Sales, Emissions and Fees by Year					
Year	Total Sales	Waterborne	Solvent Based	Emissions (tpd)	Fees Collected by Fiscal Year
2008	39,435,801	35,817,785	2,343,326	15.5	\$1,226,651
2009	34,166,695	31,338,195	1,606,233	12	\$1,445,715
2010	34,494,772	31,586,806	1,668,599	11.9	\$2,503,791
2011	38,084,334	34,656,353	2,019,224	12.7	\$2,808,927
2012*	35,105,489	32,239,536	1,589,770	10.6	\$2,104,360

***Year to date, not all manufacturers reported or paid at time the data was queried (June 6, 2013).**

Upon initial adoption of Rule 314, the intent was to strengthen the compliance review and to recover program costs of the architectural coatings program and provide an incentive for lower VOC formulations. The projected cost of the comprehensive program was approximately \$4.2 million with anticipated additional staffing for compliance reviews. However, the fees collected have been significantly below the projections due to the contraction in the architectural coatings market as a result of the recession, as well as the reduction of emissions resulting from commercialized coatings with VOC contents well below the designated compliance limits. While consumer awareness and demand for lower emitting products is one factor, staff believes the reduction in emissions is also in part due to design of the fee rate in Rule 314. The fees are bifurcated between sales-based and emissions-based, with an exemption from fees for coatings that contain less than 5 g/L material. This incentivizes manufacturers to formulate low-VOC coatings in order to reduce their fees. In some instances this resulted in manufacturers developing and marketing near-zero VOC coatings, now sold nationwide resulting in air quality benefits within and outside of the ~~SCAQMD~~. This was the intent of the fee structure and staff is not proposing to raise the fees to meet the original projections. Staff maintained the cost of implementing the program by not increasing necessary resources as originally projected.

STAFF ASSESSMENT FOR THE PROPOSED AMENDMENTS

APPLICABILITY

For clarification, in the applicability section, staff is proposing to include private labelers, who sell coatings under their name but do not actually manufacturer the coating. Currently, Rule 314 applies only to manufacturers, and the proposed amendment clarifies that it also applies to private labelers. If the product was toll manufactured, (i.e. manufactured by a coatings manufacturer for another party), and sold by a private labeler, the private labeler whose name is on the label is ultimately responsible for reporting those sales. These two parties can then arrange to have the toll manufacturer report those coatings provided the coatings are reported and not double reported.

DEFINITIONS

Aerosol Coating Product

Staff is proposing to amend the definition for aerosol coating product to harmonize it with proposed definition in the California Air Resources Board's Consumer Product Regulation.

Architectural Coatings

Staff is proposing to harmonize the definition of an Architectural Coating with the definition in Rule 1113- Architectural Coatings (Rule 1113), as amended in June 2011.

Architectural Coatings Manufacturer

Staff is proposing to change the definition of an architectural coatings manufacturer to be consistent with the definition of a manufacturer in Rule 1113. Staff is also proposing to amend

the definition of an architectural coatings manufacturer to state that “For the purposes of this rule, ~~architectural coatings manufacturers includea~~ private labelers is an architectural coatings manufacturer.”

Authorized Representative

Staff is proposing to add a definition for the Authorized Representative. This term is used in addition to the Responsible Party on the Form M, which is used to generate a ~~SCAQMD~~ manufacturers ID number. Subparagraph (d)(3) has been added to clarify the requirements for delegating and changing the Authorized Representative and the Responsible Party.

Concentrate

Staff is adding a definition for a coating sold as a concentrate that is diluted with water or an exempt compound. There has been confusion regarding how to report the VOC content and volume for coatings sold as concentrates; staff is proposing revisions to section (e) to clarify requirements for reporting concentrates.

Multi-Component Coating

Staff is adding a definition for multi-component coatings as there has also been confusion regarding how to report their VOC content. Proposed revisions to section (e) contain additional guidance. Multi-component coatings are coatings where there is a reaction between each component; therefore, those components need to be packaged separately. These include epoxies, urethanes, and zinc-rich coatings where the zinc is packaged separately.

Product Line

The definition for a product line is being deleted as it is no longer necessary with the proposed elimination of grouping.

Private Labeler

Staff is adding a definition for a private labeler, since they are now being included in the proposed revisions to the Applicability section and the definition of Architectural Coatings Manufacturer.

Recycled Coating

Staff is adding a definition for recycled coatings consistent with Rule 1113. The definition of a recycled coating references secondary and post-consumer coatings, both of those definitions from Rule 1113 are also added in the proposed amendment.

Stationary Structures

Staff is adding a definition for stationary structures for clarification as it is mentioned in the definition of an architectural coating. This definition is consistent with Rule 1113.

Toll Manufacturer

A toll manufacturer makes coatings that another entity sells. The rule referenced toll manufacturers and staff is adding a definition for clarification.

REQUIREMENT TO OBTAIN A MANUFACTURER IDENTIFICATION (ID) NUMBER

Staff is proposing to include clarifying language that the Responsible Party ~~or designating the Authorized Representative is responsible for the Authorized Representative and may act in lieu of the Authorized Representative can be delegated or changed by submitting a signed Form M.~~ ~~The Form M that~~ is used initially when manufacturers apply for a manufacturer's ID number, ~~and to change either the Responsible Party or the initially designates the~~ Authorized Representative ~~through a Responsible Party (e.g. a corporate office).~~ ~~The designating Responsible Party then becomes responsible for the actions of~~ ~~T~~he Authorized Representative, who is typically the person who compiles the data and submits the AQER. ~~The Responsible Party may act in lieu of the Authorized Representative.~~ The authorized user for the online reporting program ~~may be either is also~~ the Authorized Representative ~~or the designating Responsible Party. However, -~~ ~~O~~only one authorized user is allowed per facility in the program so if the authorized user as people leaves, it is common a new Form M is needed to change the specified aAuthorized Representative userby submitted a new signed Form M. Access ~~will not be~~ ~~is not~~ granted to a new authorized user to the online reporting program until the District receives a signed Form M, as the AQER requires submittals of confidential sales information. There are no fees associated with changes to the Authorized Representative or the Responsible Party.

PROPOSED REVISIONS - AQER

Grouping

Staff is proposing to remove the ability for manufacturers to group their products in their AQER. The initial intention with grouping was to allow the manufacturer to consolidate multiple products in one line item provided the coatings:

- Belong to the same coating category in Rule 1113 Table of Standards,
- Have the same vehicle technology (solvent or water),
- Are of the same resin type,
- Are recommended for the same use (either interior, exterior or dual use),
- Have the same form (either single - or multiple-component),
- Do not exceed a coating (regulatory) VOC range of 25 grams per liter between the highest and lowest coating in the group.

However, based on rule implementation over the past five years, staff's experience shows that grouping has led to compliance verification challenges when coatings are encountered in the field. Staff cannot confirm if a particular product has been reported in the AQER when grouped.

In addition, audits have shown that manufacturers also have difficulty separating the grouped products when requested to validate the information reported in the AQER. Therefore, staff concludes that grouping complicates the reporting process and compliance verification.

Multi-Component Coatings and Concentrates

Staff is including guidance on the reporting of multi-component coatings and concentrates. In compliance checks over the years, staff has found several instances where coatings appeared to have been sold over the VOC limit when they were actually one part of a two part system or a coating sold as a concentrate. Based on the proposed amendments for multi-component coatings, part one and part two are to be reported as separate line items, but the VOC should be reported as recommended for use by the manufacturer (e.g. mixed). For concentrates, the VOC is to be reported at the minimal dilution recommended (e.g. the highest VOC possible) and the volume reported should also include the volume at the minimal dilution recommended. This is consistent with the approach used in Rule 1171- Solvent Cleaning Operations and the Annual Emissions Reporting Program.

Flags in the Online Reporting Program

Staff is also including clarification regarding the possible flags that are available in the program. Clause (e)(1)(I)(iv) Other (with Explanation) is not an available option in the online reporting program. That clause is being replaced by low solids, which is an option in the program. Staff is also adding an option for manufacturers to indicate if high-VOC stains and lacquers were sold using the 4,000 feet exemption.

Manufacturers with No Sales

Staff is also adding clarification regarding manufacturers who have no sales for the prior calendar year. They must either submit a letter on company letterhead, signed by the Responsible Party, stating they had no sales or indicate no sales in the online reporting program. For companies who do not intend to sell architectural coatings into or within the District in the future, they can indicate that in writing so they do not have to report “no sales” annually. That request must be done in writing and signed by the Responsible Party.

Annual “Big Box” Reports

The January 9, 2009 amendment to Rule 314 included a requirement for “big box” (e.g. The Home Depot, Lowe’s, etc.) retailers to report their sales within the ~~SCAQMD~~ back to the manufacturers that supply architectural coatings to them. This requirement was adopted because the rule only applied to coating manufacturers who distribute or sell their manufactured coatings into or within the ~~SCAQMD~~, and excludes “big box” retailers that ship coatings into the ~~SCAQMD~~ from warehouses located outside the ~~SCAQMD~~. Over the past few years, staff investigations have shown that in some cases that the reports were not forwarded in a timely manner. Staff has also observed vastly different numbers reported on “big box” reports that represent the same sales year and manufacturer compared to that reported by the manufacturers.

Staff needs the ability to track the reported big box sales independently and review for discrepancies. Therefore, staff is proposing to require “big box” retailers to forward their annual reports prepared for the architectural coating manufacturers to ~~SCAQMD~~ as well.

FEES

Staff is proposing to remove the outdated phased-in fee rates. Upon rule adoption, manufacturers requested the fees be phased in up to the maximum amount of approximately \$0.08 per gallon (depending on the VOC of the coating). The fees have been at the maximum fee rate since the 2010 calendar year and increase by the consumer price index (CPI) every year under Rule 320 - Automatic Adjustment Based on Consumer Price Index for Regulation III Fees.

To be consistent with other fee rules (e.g. Rule 301 – Permitting and Associated Fees), staff is adding clarification that the fee rates 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 emissions actually occurred. Other than for the 2008 and 2009 calendar years, this is currently being implemented.

The removal of the phased in fee rate will result in an increase of fees for those manufacturer who have never reported under Rule 314 or who have to revise 2008 or 2009 reports. The following shows the increase for those years:

Year	Current Sales Fee	Proposed Sales Fee	Current Emission Fee	Proposed Emission Fee
2008	\$0.018	\$0.039	\$128.47	\$260.54
2009	\$0.029	\$0.039	\$193.23	\$260.54

After January 1, 2014 and January 1, 2015, manufacturers will no longer be required to submit the data from to 2008 or 2009, respectively, due to the 5-year record retention requirement in the rule. This increase in cost will only be temporary and affect the few small manufacturers who are currently not complying with Rule 314.

DISTRIBUTORS LIST

Rule 314 requires manufacturers to submit distributor(s) lists on an annual basis. These lists are the same year after year for the majority of manufacturers. To reduce the reporting burden, staff is proposing to add clarification that once the initial list has been submitted; manufacturers’ only need to submit changes to the list in subsequent years.

EXEMPTIONS

Staff is proposing to amend the exemptions for recycled coatings and coatings that contain less than 5 g/L material such that they are only exempt from the fees if the manufacturer submits the reports by the deadline specified in subparagraph (i)(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.**

Manufacturers who are entirely exempt from the fees tend to neglect the reporting process and it takes considerable resources to get them into the system. They will still be exempt for the fees provided the report is submitted on time.

Staff is also proposing to exempt small manufacturers from the fees provided they report by the deadline specified in subparagraph (i)(2). There are a considerable number of manufacturers who sell only a very small quantity of coating into or within the District, and they have insignificant emissions contribution. The following is the breakdown of the small versus large manufacturers for 2011 year data reported as of 2012. Staff is not using the 2012 year data since not all manufacturers have submitted their AQERs. For the evaluation below, staff used the fees that a manufacturer would have paid if they reported on time, during the current fiscal year, and may not necessarily reflect the fees that were actually paid.

Rule 314 Data Based on the 2011 Calendar Year Sales (Unaudited)

Total Fees for Quantity and Emissions that Occurred in 2011: \$2,160,053 (does not include late fees or CPI adjustment)

Total Number of Manufacturers Reporting: 204

	Cumulative Fees	Percent of total
Top 5 Companies	\$1,203,408.71	56%
Top 10 Companies	\$1,618,732.74	75%
Top 20 Companies	\$1,848,884.33	86%
Top 30 Companies	\$1,940,562.90	90%

Bottom 30 Companies	\$810.60	0.04%
Bottom 20 Companies	\$194.00	0.009%
Bottom 10 Companies	\$49.40	0.002%
Bottom 5 Companies	\$5.66	0.0003%

Companies sold <100gallons	
Number of Manufacturers	16
Cumulative Fees	\$110.17
Percent of Total	0.005%
Highest Fee	\$36.97
Companies sold <500 gallons	
Number of Manufacturers	38
Cumulative Fees	\$1,152.73
Percent of Total	0.053%
Highest Fee	\$229.13
Companies sold <1,000 gallons	
Number of Manufacturers	48
Cumulative Fees	\$1,664.90
Percent of Total	0.077%
Highest Fee	\$236.51

Staff is proposing to exempt manufacturers who sell less than 1,000 gallons a year and have annual VOC emissions of 0.5 tons or less in a calendar year, estimated to be about 25% of all manufacturers that reported in 2012. The work required to track these fees exceeds the value received.

Staff would like to clarify that coatings which are sold as a dry mix and solely mixed with water, including Stucco, are exempt from the reporting requirements in Rule 314. This exemption does not include polymer containing powder coatings. There is a large volume of these architectural coatings, and although they fall under Rule 1113, there is no value in having these cementitious dry coatings reported. They would fall under the flat coating category, and the high volume of zero-VOC coatings would skew the architectural coatings data.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

~~SCAQMD~~ staff has reviewed the proposed amendments to Rule 314 pursuant to CEQA Guidelines §15002(k) - Three Step Process, and CEQA Guidelines §15061 – Review for Exemption, and has determined that the proposed amendments are exempt from CEQA pursuant to CEQA Guidelines §15273 - Rates, Tolls, Fares and Charges, because PAR 314 ~~amends~~ fees for architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the ~~SCAQMD~~ area of jurisdiction for use in the ~~SCAQMD~~ area of jurisdiction for the purpose of recovering the program costs for establishing and implementing Rule 1113 – Architectural Coatings.

PAR 314 would only affect definitions, fees, and reporting requirements. The evaluation of the proposed project resulted in the conclusion that PAR 314 would not create any adverse effects on air quality or any other environmental areas; therefore, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Since it can be seen with certainty that the proposed project has no potential to adversely affect air quality or any other environmental area, PAR 314 is also exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3) – Review for Exemption.

COST IMPACT

The proposed amendments will result in a minor increase in fees to manufacturers who failed to report their 2008 or 2009 fees. This increase in cost will only be temporary and affect the few small manufacturers who are in violation of Rule 314 reporting requirements and not currently in the system. After January 1, 2014 and January 1, 2015, manufacturers will no longer be required to submit the data back to 2008 or 2009 respectively as there is a 5-year record retention policy. Because the rule amendments do not significantly affect air quality or emissions limitations, a socioeconomic analysis is not required.

LEGISLATIVE AUTHORITY

The California Legislature created the ~~SCAQMD~~ in 1977 (The Lewis Presley Air Quality Management Act, Health and Safety Code Section 40400 et seq.) as the agency responsible for developing and enforcing air pollution controls and regulations in the Basin. By statute, the ~~SCAQMD~~ is required to adopt an AQMP demonstrating compliance with all state and federal ambient air quality standards for the Basin [California Health and Safety Code Section 40440(a)]. Furthermore, the ~~SCAQMD~~ must adopt rules and regulations that carry out the AQMP [California Health and Safety Code Section 40440(a)].

AQMP AND LEGAL MANDATES

The California Health and Safety Code requires the ~~SCAQMD~~ to adopt an AQMP to meet state and federal ambient air quality standards in the South Coast Air Basin. In addition, the

California Health and Safety Code requires the ~~SCAQMD~~ to adopt rules and regulations that carry out the objectives of the AQMP. The rule amendments are not AQMP control measures nor do they fall under Health and Safety Code Section 40920.1 so cost-effectiveness is not relevant.

DRAFT FINDING UNDER CALIFORNIA HEALTH AND SAFETY CODE

Health and Safety Code Section 40727 requires that prior to adopting, amending or repealing a rule or regulation, the ~~SCAQMD~~ Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the hearing. The draft findings are as follows:

Necessity - The ~~SCAQMD~~ Governing Board has determined that a need exists to amend Rule 314 – Fees for Architectural Coatings to clarify rule language, remove the grouping provision, and exempt small manufacturers from the fees.

Authority - The ~~SCAQMD~~ Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Health and Safety Code Sections 39002, 40000, 40001, 40440, 40702, and 41508.

Clarity - The ~~SCAQMD~~ Governing Board has determined that the proposed amendments to Rule 314 – Fees for Architectural Coatings, are written and displayed so that the meaning can be easily understood by persons directly affected by them.

Consistency - The ~~SCAQMD~~ Governing Board has determined that PAR 314 – Fees for Architectural Coatings, is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, federal or state regulations.

Non-Duplication - The ~~SCAQMD~~ Governing Board has determined that the proposed amendments to Rule 314 – Fees for Architectural Coatings do not impose the same requirement as any existing state or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the ~~SCAQMD~~.

Reference - In adopting these amendments, the ~~SCAQMD~~ Governing Board references the following statutes which the ~~SCAQMD~~ hereby implements, interprets or makes specific: Health and Safety Code Sections 40001 (rules to achieve ambient air quality standards), 40440(a) (rules to carry out the Air Quality Management Plan), and 40440(c) (cost-effectiveness), 40522.5 (fees on areawide sources of emissions), 40725 through 40728 and Federal Clean Air Act Sections 171 et seq., 181 et seq., and 116.

COMMENTS AND RESPONSES

The following are excerpts from the comment letters and emails. The public comments were received during the commenting period from June 20, 2013 to June 27, 2013. Additional comment letters received after the close of comments are also included.

The following are comments from the American Coatings Association – Comment Letter #1.

Comment

1. Concentrate – ACA suggests the following changes to the Concentrate definition and Section (e)(1)(F) and (G):

“(8) CONCENTRATE is a coating that is supplied in a form that must be diluted with water or an exempt compound according to the manufacturer’s application instructions in order to yield the desired film coating properties.

(F) The grams of VOC per liter of coating, less water and less exempt compounds for each product as supplied or for multi-component coatings and coatings sold as a concentrate, as recommended for use by the manufacturer’s minimum label dilution instructions; recommended for use by the manufacturer;

(G) The grams of VOC per liter of material for each product as supplied or for multi-component coatings and coatings sold as a concentrate, as recommended for use by the manufacturer’s minimum label dilution instructions. Additionally, for each solvent-based coatings, grams of VOC per liter of material shall include with maximum any thinning as recommended by the manufacturer allowed with a VOC, as listed in the Technical Data Sheet, shall also be included.

Response

Staff concurs with the wording change in the definition but opted to change the language on the VOC to a list format for clarity.

Comment

b) Applicability

This rule applies to architectural coatings manufacturers or private labelers that 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 to big box retailers that distribute or sell architectural coatings into or within the District for use in the District and are subject to Rule 1113 – Architectural Coatings...

Response

Staff concurs with this change and has revised the proposed rule accordingly.

Comment

3. Authorized Representative:

c)(5) AUTHORIZED REPRESENTATIVE ~~for a corporation is a corporate officer or an authorized representative so delegated by a corporate officer. The authorized representative~~ is the person authorized by a Responsible Party to prepare and submit the Annual Quantity and Emissions Report on behalf of an architectural coatings manufacturer or private labeler.

Response

Staff concurs with this change and amended the definition without the reference to private labeler. Private labeler is now included in the definition of the architectural coatings manufacturer.

Comment

4. Multi-component Coatings –

(b)(38) MULTI-COMPONENT COATING is a reactive coating requiring the addition of a separate catalyst or hardener before application to form an acceptable dry film."

Response

Staff concurs with this change and has revised the proposed rule accordingly.

Comment

5. Private Labeler:

(c)(16) PRIVATE LABELER of an architectural coating is ~~not the manufacturer of the coatings but the~~ person, company, firm, or establishment (other than the toll manufacturer) identified listed on the product's label. The private labeler and the toll manufacturer of a product may, by agreement in writing filed with the District's Executive Officer, designate the manufacturer as the party responsible for compliance with this rule. If the label lists two or more different persons, companies, firms, or establishments, they may mutually designate in writing the responsible party for compliance with this rule. That writing shall be filed with the District's Executive Officer.

Response

Staff concurs with the changes to the first sentence and has revised the proposed rule accordingly but did not include the guidance as to who is ultimately responsible for complying with the Rule 314 requirements. That guidance is included in the staff report.

Comment

6. Responsible Party:

(c)(18) RESPONSIBLE PARTY for a corporation is the a corporate officer so designated pursuant to subsection (d)(3) of this rule, or an authorized representative so delegated by a corporate officer. Delegation of an authorized representative must be made in writing to the Executive Officer. A responsible party for a partnership or sole proprietorship is the general partner or proprietor, respectively, so designated pursuant to subsection (d)(3) of this rule.

Response

Staff included the suggested reference to subsection (d)(3) for clarification.

Comment

7. Designation or Change of Responsible Party and/or Authorized Representative

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

A application for a manufacturer ID number pursuant to (d)(1), as submitted by the Responsible Party for A an architectural coatings manufacturer shall designate establish both the Responsible Party and the Authorized Representative, at the time they apply for the manufacturer ID number in (d)(1). A E changes to in the designation of either the Responsible Party or the Authorized Representative shall be made in writing using the same application form.

Response

Staff concurs with this change and has revised the proposed rule accordingly.

Comment

8. Exemption of Manufacturers from Rule 314 Fees - ACA suggests exempting manufacturers that sell less than 1000 gallons per year in the District. The 1000 gallon level will exempt an additional 10 companies and only reduce revenues by approximately \$500. ACA does suggest that these companies continue submission of an Annual Quantity and Emissions Report so that these coatings are part of the 314 emissions data.

Response

Staff concurs with the change in the fee exemption to 1,000 gallons annually but added the additional condition that the manufacturer must also not emit more than 0.5 tons of VOCs annually. Staff does not believe that small manufacturers who sell predominantly high-VOC coatings should be exempted.

Comment

9. Big Box Annual Reports –ACA suggests the District require Big Box Stores send their Annual Reports to the District and the District then distribute these reports to the manufacturer's to interpret, report, and pay the fee. This should make the process more timely and easier for the District. ACA suggests that the current Annual report form is ambiguous in what the Big Boxes are supposed to put in the two columns. Please change the form to require the data in units sold, with one column for units of one liter or less and the other column for units greater than one liter. In addition, the Big Box Stores should be required to supply the list of stores, with street addresses, cities, and ZIP codes from which the data came. Since Big Box Stores have no economic incentive, they may (and have sometimes) included stores not located within the District; this is not fair given that manufacturers have to pay for these excess sales data.

Response

Staff is including a requirement that the big box retailers submit the reports to the District as well as the manufacturers. Staff is also proposing changes to the form to remove ambiguity, include the reporting of units as well as gallons, and a list of the stores from which the data came. Staff has reviewed this reporting form accordingly, with concurrence from the “big box” retailers on the changes.

Comment

10. Grouping – ACA encourages the District to retain the grouping option in some manner in order to reduce burden on the industry. The Rule 314 grouping is very important for reporting multiple colors of the same product line on a single line entry or multiple products with very similar formulations. Other companies use the grouping option for combining color testers (of different color) into one line item rather than hundreds of additional lines of data. Also, as mentioned at the June 20 meeting, companies are concerned about Confidential Business Information (CBI) – grouping provides companies a level of CBI protection, by disaggregating volume from product names and VOC content. We suggest that the grouping of products stay intact but modify the usage language to require the submission of the products in each group, simultaneously with the data submission.

Response

Staff believes that removing grouping from the rule does not increase the burden to industry. In contrast, based on discussions with some manufacturers, grouping products and calculating sales weighed averages adds an extra step to the reporting process requiring additional resources for completion of the AQER. Increased number of lines of data in an electronic database is also not burdensome. Staff understands industry's concerns about the confidentiality of the data and takes this concern very seriously. There are several steps in place that block an unauthorized user from accessing the data. Further, the SCAQMD implements and complies with the Public Records Act, ensuring that confidential data is addressed in a legally supported manner.

In addition, the rule contains language regarding the confidentiality of the data in regard to the California Public Records Act:

(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; therefore, manufacturers have the ability to indicate that their data is confidential before they electronically submit their Annual Quantity and Emissions Reports. The SCAQMD staff believes that the District's Guidelines for Implementing the California Public Records Act, which were adopted by the Governing Board on May 6, 2005 and amended on July 5, 2013 specifically with reference to trade secrets, adequately protect confidential information from misappropriation. The SCAQMD will request a justification from the entity claiming confidential information. The SCAQMD shall evaluate the justification, and any other information at its disposal, and determine if the justification supports the claim that the material is in fact trade secret under Gov. Code Sec. 6254 and Sec. 6254.7. If the SCAQMD determines that the claim of confidentiality is not meritorious or is inadequately supported by the evidence, the SCAQMD shall promptly notify, by certified mail and email, the entity who claimed confidential status that the justification is inadequate and that the information will be released after 21 calendar days from the date of such notice unless the person claiming trade secret brings a legal action to preclude such release.. At this time the entity will also be advised of its right to bring appropriate legal action to prevent disclosure, and of its right to further respond.

The SCAQMD has strategies in place for protecting the confidentiality of information claimed as confidential. The SCAQMD has been handling confidential and trade secret information for many years without incident. The SCAQMD's computer systems are protected from outside attackers, and access by internal staff is controlled and audited. A security assessment was

recently conducted which found no vulnerabilities from outside attackers. Controls for internal access include strong passwords, domain account authentication, limiting access to authorized users with proper role, antivirus software with updates, security software updates, and physical security.

Comment

11. Report Summary Issues – there seems to be a problem with the report summary page, specifically with regards to the quantity of ‘products exempted’ (products with a VOC content of less than 5 g/l). At least one ACA member reported that the number of ‘products exempted’ in their report summary is much less than the actual number of “exempt” products reported. Apparently, the counting of ‘products exempted’ in the Rule 314 report summary page is not working correctly.

Response

This is an issue with the online reporting program which will be addressed by the next reporting cycle.

Comment

12. Dry Mix Exemption – ACA suggests including additional dry mixes that do not contain VOCs including mortar, and grouts. ACA also suggests that there are dry coatings on the market where water is added and the paint is mixed together. Therefore, ACA suggests removing the text “containing no polymer”, since this may spur on the development of zero VOC dry mix coatings.

“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, plasters, [mortar, grouts](#).”

Response

While staff would like to spur the development of “zero”-VOC dry mix coatings, we are also interested in following the trends of those sales. All “zero”-VOC coatings are already exempt from the fees in Rule 314 which should encourage their development. However, staff would like to continue to have those coatings reported.

In regard to mortar and grout, those products are not considered architectural coatings so they do not have to be reported under Rule 314. Those products fall under Rule 1168 – Adhesives and Sealants.

A T T A C H M E N T G

NOTICE OF EXEMPTION FOR

PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

SUBJECT: **NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

PROJECT TITLE: **PROPOSED AMENDED RULE 314 – FEES FOR ARCHITECTURAL COATINGS**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the South Coast Air Quality Management District (SCAQMD) is the Lead Agency and will prepare a Notice of Exemption for the project identified above.

PAR 314 would add, remove, and amend definitions to clarify the rule. Specifically, PAR 314 would add private labelers to the applicability section; remove the requirement allowing the reporting of product lines in lieu of individual products in annual reports; require big box retailers to submit annual reports to the SCAQMD; remove the phased in fee rate; clarify that manufactures pay current fee rate for past reporting; clarify report requirements; require fees for exempt coatings if reported late, exempt small manufactures from fees if reported on time; and exempt from fees architectural coatings offered for sale as a dry mix, containing no polymer, that are only mixed with water prior to use. In summary, the amendments to Rule 314 would affect only fee and reporting requirements.

Evaluation of the proposed project resulted in the conclusion that it will not create any adverse effects on air quality or any other environmental areas. Therefore, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Since it can be seen with certainty that the proposed project has no potential to adversely affect air quality or any other environmental area, it is exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3) – Review for Exemption. SCAQMD staff has also determined that the proposal is statutorily exempt from CEQA pursuant to CEQA Guidelines §15273 - Rates, Tolls, Fares and Charges, because the proposed project establishes fees for architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the SCAQMD area of jurisdiction for use in the SCAQMD area of jurisdiction for the purpose of recovering the program costs for establishing and implementing Rule 1113 – Architectural Coatings. Upon adoption, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

Any questions regarding this Notice of Exemption should be sent to James Koizumi (c/o Planning, Rule Development & Area Sources) at the above address. Mr. Koizumi can also be reached at (909) 396-3234.

Date: September 6, 2013

Signature:

Michael Krause
CEQA Program Supervisor
Planning, Rule Development &
Area Sources

Reference: California Code of Regulations, Title 14

NOTICE OF EXEMPTION

To: County Clerks of
Los Angeles, Orange, Riverside,
San Bernardino **From:** South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Project Title:

Proposed Amended Rule 314 – Fees for Architectural Coating

Project Location:

South Coast Air Quality Management District (SCAQMD) area of jurisdiction consisting of the four-county South Coast Air Basin (Orange County and the non-desert portions of Los Angeles, Riverside and San Bernardino counties), and the Riverside County portions of the Salton Sea Air Basin and the Mojave Desert Air Basin.

Description of Nature, Purpose, and Beneficiaries of Project:

Proposed amended Rule (PAR) 314 would add, remove, and amend definitions; include private labelers in the applicability section; remove the requirement allowing the reporting of product lines in lieu of individual products in annual reports; require Big Box retailers to submit annual reports to the SCAQMD; remove outdated phases in fee rate; clarify that manufacturers pay current fee rate for past reporting; clarify report requirements; require fees for exempt coatings if reported late; exempt small manufactures from fees if reported on time; and exempt from fees architectural coatings offered for sale as a dry mix, containing no polymer, that are only mixed with water prior to use. In summary, the amendments to Rule 314 would affect only fee and reporting requirements.

Public Agency Approving Project:

South Coast Air Quality Management District

Agency Carrying Out Project:

South Coast Air Quality Management District

Exempt Status:

General Concepts [CEQA Guidelines §15002 (k)(1)];
General Rule Exemption [CEQA Guidelines §15061 (b)(3)];
Statute Exemption [CEQA Guidelines §15061 (b)(1)]; and
Rates, Tolls, Fares and Charges [CEQA Guidelines §15273](a)(1)

Reasons why project is exempt:

SCAQMD staff has reviewed the proposed amendments to Rule 314 pursuant to CEQA Guidelines §15002(k) - Three Step Process, and CEQA Guidelines §15061 – Review for Exemption, and has determined that the proposed amendments are exempt from CEQA pursuant to CEQA Guidelines §15061 (b)(3) (“General Rule Exemption”). PAR 314 would only affect definitions, and fees and reporting requirements. The evaluation of the proposed project resulted in the conclusion that it would not create any adverse effects on air quality or any other environmental areas; therefore, it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Since it can be seen with certainty that the proposed project has no potential to adversely affect air quality or any other environmental area, it is exempt from CEQA pursuant to CEQA Guidelines §15061(b)(3) – Review for Exemption. In addition, SCAQMD staff has determined that PAR 314 is statutorily exempt from CEQA pursuant to CEQA Guidelines §15273(a)(1) - Rates, Tolls, Fares and Charges, based on the finding that PAR 314 establishes fees for architectural coatings manufacturers who distribute or sell their manufactured architectural coatings into or within the SCAQMD area of jurisdiction for use in the SCAQMD area of jurisdiction for the purpose of recovering the program costs for establishing and implementing Rule 1113 – Architectural Coatings. The California Health and Safety Code §40522.5(a) establishes the SCAQMD’s authority to adopt a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated but for which permits are not issued, to recover the cost of programs related to these sources.

Approval Date:

SCAQMD Governing Board Hearing:

September 6, 2013, 9:00 a.m.; SCAQMD Headquarters

CEQA Contact Person: Mr. James Koizumi	Phone Number: (909) 396-3234	Fax Number: (909) 396-3324	Email: <jkoizumi@aqmd.gov>
Rule Contact Person: Ms. Heather Farr	Phone Number: (909) 396-3672	Fax Number: (909) 396-2414	Email: <hfarr@aqmd.gov>

Date Received for Filing _____

Signature _____ *Signed upon approval*
Michael Krause
CEQA Program Supervisor
Planning, Rule Development
and Area Sources