



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

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First District

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Second District

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Third District

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Fourth District

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Fifth District

AGENDA ITEM

DATE: February 10, 2021

AP03

TO: Air Pollution Control Board

SUBJECT

NOTICED PUBLIC HEARING - ADOPTION OF AMENDMENTS TO RULE 67.0.1 – ARCHITECTURAL COATINGS (DISTRICTS: ALL)

OVERVIEW

The San Diego County Air Pollution Control District (District) is responsible, under federal and state law, for controlling and reducing air pollution from stationary (fixed) sources including power plants, industrial facilities, and certain activities such as paint application or the use of industrial solvents. Accordingly, the District prepares, adopts, and enforces rules that set limits on the amount of air pollutants emitted from these types of sources and/or by requiring specific emission control technologies. The District submits its adopted rules to the California Air Resources Board (CARB) and to the U.S. Environmental Protection Agency (EPA) for review and approval as meeting state and federal requirements.

Today's request is for the Air Pollution Control Board (Board) to adopt proposed amendments to Rule 67.0.1 (Architectural Coatings) to reduce air pollutant emissions from the application of architectural coatings in the San Diego region. Architectural coatings include house paints, stains, industrial maintenance coatings, and other coatings. These coatings contain volatile organic compounds (VOC) that evaporate as the coating is applied and dries, contributing to ozone pollution in the region. When inhaled, ozone irritates our lungs and can trigger health problems such as chest pain, coughing and shortness of breath.

Rule 67.0.1 was adopted by the Board on June 24, 2015 (AP02) and applies to the manufacture, sale, and use of architectural coatings in the San Diego region. The proposed rule amendments reflect the availability of lower-polluting coatings and are based on recommended standards developed by CARB as part of its 2019 statewide Suggested Control Measure for architectural coatings.

The proposed rule amendments also include a conditional provision that would potentially remove an existing exemption for coatings packaged in small containers. Removing this exemption would require these coatings to comply with the proposed lower VOC content limits specified in the rule. This conditional provision is designed to further reduce emissions and would only take effect should the region fail to meet federal ozone attainment deadlines. This rule amendment satisfies a

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commitment in the region’s ozone attainment plan (October 14, 2020, AP01) and is necessary to obtain rule approval by the EPA in line with federal requirements.

Today’s proposal was developed with input from the EPA and CARB, and District staff conducted substantial outreach to affected manufacturers, distributors, and sellers of architectural coatings including conducting a public workshop. Workshop participants requested clarifications and were not opposed to the proposed rule amendments.

If adopted, the rule amendments would take effect on January 1, 2022. Coatings manufactured before that date may be sold for up to three years and applied at any time, consistent with CARB’s Suggested Control Measure.

RECOMMENDATION(S)

AIR POLLUTION CONTROL OFFICER

1. Find that the adoption of proposed amended Rule 67.0.1 - Architectural Coatings is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and pursuant to California Code of Regulations, Title 14, Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
2. Adopt the Resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 67.0.1 – ARCHITECTURAL COATINGS, OF REGULATION IV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

FISCAL IMPACT

There is no fiscal impact associated with the recommended actions. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

Adopting the proposed amendments to Rule 67.0.1 is not expected to adversely impact businesses in the San Diego region. Numerous coating manufacturers already offer complying products for which no coating reformulation would be required to meet the proposed limits. Additionally, with over three years of allowable sell-through to eliminate noncompliant inventory, businesses should have ample time to make the necessary plans and adjustments in their operations to minimize the impacts from the proposed rule amendments. A Socioeconomic Impact Assessment (Attachment E) prepared by the District demonstrates that adopting the proposed amended rule will not have a significant adverse economic impact on affected industries or small businesses in the region.

ADVISORY BOARD STATEMENT

At its meeting on November 10, 2020, with a quorum present, the Air Pollution Control District Advisory Committee voted in support of staff’s recommendations. No concerns with the proposal were raised to the District by Advisory Committee members.

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BACKGROUND

The San Diego region does not meet the California and National Ambient Air Quality Standards for ozone, and therefore is classified as an ozone nonattainment area. Both federal and state laws require the San Diego County Air Pollution Control District (District) to adopt and implement rules to further control and reduce emissions of ozone-forming volatile organic compounds (VOC). Additionally, the District is required to periodically update its rules to reflect advancements in air pollution control technology, and the proposed amended rule is the result of these requirements.

Current Rule 67.0.1, adopted in 2015, controls VOC emissions from the manufacture, sale and use of architectural coatings that include a variety of residential, commercial, and industrial paints, stains, varnishes, and other coatings. The rule aligned with the requirements of the California Air Resources Board (CARB) Suggested Control Measure (SCM) for Architectural Coatings issued in 2007.

Subsequently, CARB issued a revised SCM in 2019 which set more stringent VOC limits for nine coating categories, and VOC limits for three new coating categories and colorants. The SCM's lower VOC content limits and other new requirements for architectural coatings are based on data obtained from the CARB survey conducted in 2014.

Following the adoption of the 2019 SCM by the CARB Board, the CARB Executive Officer sent a letter to California air pollution control districts to strongly encourage them to adopt the SCM without modification, except for reformatting as necessary. Therefore, proposed amended Rule 67.0.1 aligns with the 2019 CARB SCM without modification, and includes the same coating nomenclature, definitions, VOC emission limits, and other requirements.

The proposed rule amendments also include a conditional provision that would potentially remove an existing exemption for coatings packaged in small containers (one liter or less). The existing exemption provides regulatory flexibility for specialized coatings used in small volumes. Removing the exemption would require these coatings to comply with the proposed lower VOC content limits specified in the rule. This conditional provision is designed to further reduce emissions and would only take effect if the U.S. Environmental Protection Agency (EPA) were to determine that the region failed to meet federal ozone attainment deadlines.

Prior to issuing a final determination, EPA would issue a proposed rulemaking with a public comment period. In the event the District anticipates that the conditional provision may be triggered by a forthcoming EPA determination, the District will commence outreach and coordination with the affected industry including manufacturers, retailers, and wholesalers about this issue in advance of EPA's proposed rulemaking. This lead-time will provide industry an opportunity to reformulate, repackage, or otherwise adjust their business practices to implement the new rule requirements in advance of the conditional provision taking effect.

Upon full implementation, the proposed amended rule will reduce VOC emissions from affected coatings and colorants by approximately 13% or 82 tons per year (0.22 tons per day).

If adopted, proposed amended Rule 67.0.1 will be submitted to CARB and the EPA for approval into the State Implementation Plan for attaining and maintaining the air quality standards. The

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rule will become effective on January 1, 2022, providing time for affected manufacturers and distributors to transition to the new requirements.

Customer/Stakeholder Notification

District staff conducted a public webinar to gather input on the proposed amended rule from affected parties. A webinar notice was posted on the District's website and sent to affected facilities and other stakeholders including chambers of commerce in the region, members of the Air Pollution Control District Advisory Committee, subscribers to the County's email notification service, the EPA, and CARB.

The webinar was attended by 25 people, including industry representatives. District staff prepared responses to all comments and questions received, which were provided to the webinar participants in a Workshop Report (Attachment D). If the rule amendments are adopted, staff will conduct additional outreach including the distribution of an advisory notice to further inform potentially affected parties.

SOCIOECONOMIC IMPACT ASSESSMENT

State law requires the Air Pollution Control District to perform an assessment of the socioeconomic impacts when adopting, amending, or repealing a rule that will significantly affect air quality or emission limitations. Proposed amended Rule 67.0.1 will affect emission limitations by establishing more stringent VOC content limits for architectural coatings and colorants. A Socioeconomic Impact Assessment was prepared for proposed amended Rule 67.0.1 (Attachment E) which shows that the adoption of proposed amended Rule 67.0.1 is not expected to pose significant economic impacts on affected industry sectors in the San Diego region.

ENVIRONMENTAL STATEMENT

The California Environmental Quality Act (CEQA) requires an environmental review for certain actions. The District has conducted a review of whether CEQA applies to the adoption of the proposed amendments to Rule 67.0.1. The proposed rule amendments are required by federal and state law, which calls for adoption of every feasible control measure to accelerate progress toward achieving the ambient air quality standard for ozone. Proposed amended Rule 67.0.1 will protect the environment by promoting significant reductions in VOC emissions. Therefore, District staff determined that the adoption of the proposed amendments to Rule 67.0.1 are exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, and pursuant to Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Sustainable Environments/Thriving Initiative in the County of San Diego's 2021-2026 Strategic Plan with an objective to enhance the quality of the environment by focusing on sustainability, pollution prevention and strategic planning. The proposed amendments to Rule 67.0.1 will reduce air pollutant emissions and improve air quality in San Diego County.

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Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT REIDER
Interim Air Pollution Control Officer

ATTACHMENT(S)

Attachment A – Resolution Adopting Amendments to Rule 67.0.1 – Architectural Coatings, of
Regulation IV of the Rules and Regulations of the San Diego County Air
Pollution Control District

Attachment B – Comparative Analysis

Attachment C – Incremental Cost-Effectiveness Analysis

Attachment D – Workshop Report

Attachment E – Socioeconomic Impact Assessment

Attachment F – Rule 67.0.1 – Architectural Coatings Change Copy

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

June 24, 2015 (AP02) Adoption of new Rule 67.0.1 – Architectural Coatings

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

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

N/A

ORIGINATING DEPARTMENT: Air Pollution Control District

OTHER CONCURRENCE(S): None

CONTACT PERSON(S):

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