

## **DRAFT BOARD LETTER**

BOARD MEETING DATE: September 6, 2013

PROPOSAL: Amend Rule 1113 – Architectural Coatings

SYNOPSIS: The proposed amendments would exempt very small coating containers with a capacity of two ounces or less from labeling requirements, clarify rule intent, and remove outdated language.

COMMITTEE: Stationary Source, July 19, 2013

### **RECOMMENDED ACTIONS:**

Adopt the resolution:

1. Certifying the Notice of Exemption for Proposed Amended Rule 1113 – Architectural Coatings; and
2. Amending Rule 1113 – Architectural Coatings

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Executive Officer

EC:LT:NB

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## **Background**

Rule 1113 - Architectural Coatings, was originally adopted by the SCAQMD on September 2, 1977, to regulate the Volatile Organic Compound (VOC) emissions from the application of architectural coatings, and has since undergone numerous amendments. The last amendment on June 3, 2011 revised subparagraph (e)(1), referred to as the small container exemption (SCE), and required, effective January 1, 2014, coatings sold in one liter or smaller containers to comply with all other provisions of the rule, other than the VOC limits. Hence, all other rule requirements, including labeling requirements, will apply to coatings sold in all container sizes. Subsequently, manufacturers expressed concern with labeling very small containers, such as the small sample-sized containers (2 ounces or less) and stains sold in the shape of a pen comprised of about 1/3 of an ounce of product.

The proposed amendments address those concerns and exempt coatings sold in containers 2 ounces or smaller from the labeling requirements in subparagraphs (d)(1), (2) and (3). The proposed amendments will also remove outdated rule language and clarify certain provisions.

This Board letter is intended to serve as the staff report for this proposed amendment.

## **Proposal**

The proposed amendments to Rule 1113 will:

- Add a definition for Multi-Component Coatings
- Clarify that the VOC limits on Colorants in the Table of Standards 2 applies to colorants added to architectural or industrial maintenance coatings
- Clarify that the Sell-Through provision, subparagraph (c)(4), only applies to the Table of Standards 1
- Clarify that the provisions regarding empty containers (subparagraph (c)(5)), and Group II exempt compounds (subparagraph (c)(8)) also apply to colorants
- Clarify that Rules 1143 and 1171 apply to solvent cleaning involving architectural coatings
- Exempt containers having capacities of two ounces or less from the labeling requirements in subparagraphs (d)(1), (2) and (3)
- Clarify that the VOC content displayed on the container for multi-component coatings should be the VOC as recommended for use

- Fix a grammatical error in the definitions for Architectural Coatings and Reactive Penetrating Sealers

**The Following Proposed Amendments Remove Outdated Requirements:**

- Metallic Pigmented Coatings (MPC): in the June 3, 2011 amendment the definition clarified that MPCs are decorative coatings effective July 1, 2012. Subparagraph (b)(36). The amendment deletes the effective date.
- Quick Dry Enamels and Quick Dry Primer, Sealer, Undercoaters: the definitions were subsumed by the non-flat and primer, sealer, undercoater categories respectively effective July 1, 2011. The categories were also removed from the Table of Standards 1. Staff proposes to retain the definitions for clarification, as many manufacturers still use these terms for marketing purposes. Subparagraph (b)(46) and (47).
- Averaging Compliance Option (ACO): in the June 3, 2011 amendment several coating categories were removed from the ACO effective December 31, 2011. The effective date is being removed. Subparagraph (c)(6)(A) and (B).
- General Provision: in the June 3, 2011 amendment a general provision was included for Group II exempt compounds effective January 1, 2013. The effective date language is being removed. Subparagraph (c)(8).
- Clear Topcoat for Faux Finishes: in the June 3, 2011 amendment a clear top coat for faux finishes was included as was labeling requirements effective January 1, 2012. The effective date language is being removed. Subparagraph (d)(7).
- Small Container Exemption: in the June 3, 2011 amendment bundling of the small containers was prohibited effective July 1, 2011 with a sell-through period until January 1, 2012. The effective date and sell-through language is being removed. Subparagraph (f)(1).

**California Environmental Quality Act (CEQA)**

The SCAQMD staff has reviewed the proposed amendments to Rule 1113 pursuant to CEQA Guidelines §15002(k)(1) – 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 1113 would provide an exception from labeling requirements for containers two ounces or less. PAR 1113 also includes minor changes to improve clarity. 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. The Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties immediately following the adoption of the proposed project.

### **Socioeconomic Analysis**

The proposed amendments will not result in any additional costs to the manufacturers; it will result in a cost saving as the labels of coatings sold in two ounce or smaller containers will not have to be altered.

### **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.

### **Draft Findings 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 1113 - Architectural Coatings to remove labeling requirements for coatings sold in containers two ounces or less and clarify rule language.

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 1113 - 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 1113 - 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 1113 - 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), 40725 through 40728 and Federal Clean Air Act Sections 171 et seq., 181 et seq., and 116.

### **References**

40 CFR Part 59, Subpart D – National Volatile Organic Compound Emission Standards for Architectural Coatings, September 11, 1998.

### **Attachment**

A. Rule Language