

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**DRAFT PROPOSED AMENDMENTS TO
RULE 67.0.1 – ARCHITECTURAL COATINGS**

WORKSHOP REPORT

The San Diego County Air Pollution Control District (District) held a public webinar on September 16, 2020, to discuss and receive input on the draft proposed amendments to Rule 67.0.1 – Architectural Coatings. A meeting notice was mailed to all known manufacturers, distributors, and retailers of architectural coatings sold or used in San Diego County, chamber of commerce in the region, the U.S. Environmental Protection Agency (EPA), and the California Air Resources Board (CARB). Additionally, a meeting notice was posted on the District’s website and distributed to interested parties including through the County of San Diego’s electronic mail service.

The workshop was attended by 25 people. A summary of the comments and District responses are provided below:

1. WORKSHOP COMMENT

The American Coatings Association (ACA) members will require at least a year to adjust production, labeling, and distribution networks to implement amended Rule 67.0.1 efficiently and effectively. A compliance date of at least one year after rule adoption, or July 1, 2022, is suggested to give industry adequate time to comply after the rule has been adopted.

DISTRICT RESPONSE

The District agrees and will propose an effective date that is up to one year after the rule’s date of adoption.

2. WORKSHOP COMMENT

Proposed Subsection (b)(6) adds a contingency measure provision that removes the small container exemption from the rule only if and when the EPA were to issue a finding that the region did not meet certain federally mandated requirements regarding the 2008 or 2015 National Ambient Air Quality Standards for ozone. Will industry receive notification before the EPA issues the final determination triggering the removal of the small container exemption?

DISTRICT RESPONSE

Yes. While the region is currently making progress towards attaining the ozone standards, should the EPA determine that the region failed to attain by federal deadlines or to make reasonable further progress towards attainment in future years, the District would be in close communication with affected stakeholders about this issue. The District would provide advance notification to the

affected industry as to when the contingency measure would take effect such that certain products sold in containers of one liter or less (small container exemption) would no longer be exempt from the rule.

Prior to EPA issuing a final determination, EPA would issue a proposed rulemaking with a public comment period. In the event the District anticipates that the contingency measure 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 contingency measure taking effect.

3. WORKSHOP COMMENT

Sixty days to remove from shelves products exempt per the small container exemption is a very short time. Is this timeframe consistent with what other California air districts have adopted in their analogous architectural coating rules?

DISTRICT RESPONSE

Yes. The proposed timeframe of sixty days in the contingency measure provision specified in Subsection (b)(6), revised from 120 days as suggested by EPA (see Comment No. 10 below), is consistent with the requirements of the San Joaquin Valley Air Pollution Control District's Rule 4601 – Architectural Coatings, which was adopted on April 16, 2020. The District is not aware of any other California air districts' architectural coating rules that currently include a similar small container exemption contingency measure.

4. WORKSHOP COMMENT

In order to limit the negative financial and environmental impacts associated with disposing of “stranded” products that can no longer be sold, ACA suggests that a three year sell-through period be included in the rule if the contingency measure is triggered by EPA's final determination. This three-year sell-through period is consistent with every other architectural coating regulation in the United States.

DISTRICT RESPONSE

Per the federal Clean Air Act, the proposed small container exemption contingency measure requires an immediate emissions reduction if triggered by EPA's final determination. The District's plan for outreach and coordination with industry prior to EPA's proposed rulemaking (as described in response to Comment No. 2) and the proposed sixty-day timeframe after EPA's final determination (as described in response to Comment No. 3) will provide additional lead-time for affected industry to plan and account for stranded products accordingly.

5. WORKSHOP COMMENT

ACA suggests that the definition for "Nonflat-High Gloss Coating" in Section (c) – Definitions be retained since such products may still be sold during the sell-through period.

DISTRICT RESPONSE

The District disagrees. The removal of the category “Nonflat-High Gloss Coating” and combining it under the category “Nonflat Coating” in the proposed rule is consistent with the requirements of the CARB 2019 Suggested Control Measure (SCM) for Architectural Coatings. As specified in CARB’s July 18, 2019, letter to the air districts, CARB “strongly encourages air districts to adopt the SCM without modification” to ensure uniformity of architectural coating regulations throughout California.

6. WORKSHOP COMMENT

To minimize confusion, ACA suggests that Subsection (d)(4) be revised to include separate sell-through provisions for coatings and colorants consistent with the SCM as noted below:

4. Sell-Through Provisions: Coatings or colorants manufactured prior to the applicable effective date specified in Table 1 or Table 2 must meet the following:

(i) A coating manufactured prior to the effective date specified for that coating in Table 1 may be sold, supplied, or offered for sale for up to three years after the specified effective date. In addition, a coating manufactured before the effective date specified for that coating in Table 1 may be applied at any time, both before and after the specified effective date, so long as the coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date-code required by Subsection (e)(1)(i).

(ii) A colorant manufactured prior to the effective date specified for that colorant in Table 2 may be sold, supplied, or offered for sale for up to three years after the specified effective date. In addition, a colorant manufactured before the effective date specified for that colorant in Table 2 may be applied at any time, both before and after the specified effective date, so long as the colorant complied with the standards in effect at the time the colorant was manufactured. This subsection does not apply to any colorant that does not display the date or date-code required by Subsection e(3)(i).

DISTRICT RESPONSE

The District agrees. Subsection (d)(4) has been revised as suggested with some minor edits.

7. WORKSHOP COMMENT

ACA suggests that Subsections (e)(2)(ii) and (viii) be revised respectively to allow the use of all four label statements for Industrial Maintenance Coatings and Zinc-Rich Primers – “For industrial use only” or “For professional use only” or “Not for residential use” or “Not intended for residential use.” Some coatings manufacturers still utilize the “Not for residential use” or “Not intended for residential use” label statements. Allowing all four labeling statements will provide flexibility and lessens the burden of expensive label changes.

DISTRICT RESPONSE

The District disagrees. The proposed revisions to the labeling requirements for Industrial Maintenance Coatings and Zinc-Rich Primers are consistent with the requirements of the SCM and with the San Joaquin Valley Air Pollution Control District Rule 4601 – Architectural Coatings, which was amended on April 16, 2020. CARB has strongly encouraged air districts to adopt the SCM without modification, as previously noted in response to Comment No. 5.

8. WORKSHOP COMMENT

Does the District have plans to list aminomethyl propanol (AMP) as an exempt compound? It is very difficult for industry to manage if the various California air districts’ definitions of volatile organic compounds (VOC) do not align with EPA’s list of exempt compounds.

DISTRICT RESPONSE

The District is not proposing to list AMP as an exempt compound at this time. On September 15, 2015, the Office of Environmental Health Hazard Assessment (OEHHA) issued their final interim reference exposure levels (RELs) for AMP (i.e., the AMP concentration levels below which no adverse health effects are expected), which were low enough to cause concern. Accordingly, SCAQMD decided not to exempt AMP from their Rule 1113 – Architectural Coatings.

The District will reconsider its position on AMP at such time OEHHA further evaluates the possible toxicity of AMP and its metabolites, or CARB exempts AMP from statewide VOC regulations.

9. CARB COMMENT

CARB has no official comments at this time.

10. EPA COMMENT

To avoid ambiguity, and to clarify that a Reasonable Further Progress milestone failure determination and/or a failure to attain determination will trigger the small container exemption contingency measure, Subsection (b)(6) should be revised as follows:

*“On and after 60 ~~120~~ days following **the effective date of U.S. Environmental Protection Agency’s final determination a formal finding by the San Diego County Air Pollution Control Officer, CARB, or the U.S. Environmental Protection Agency (EPA), whichever occurs earliest, that one or both of the conditions described in Clean Air Act Sections 172(c)(9) or 182(c)(9)...**”*

DISTRICT RESPONSE

The District agrees. Subsection (b)(6) has been revised as suggested.

AMF:RC:jl
10/21/20