El Dorado County

Air Quality Management District

STAFF REPORT

RULE 215,

ARCHITECTURAL COATINGS

Proposed Rule Amendments

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A. Executive Summary

El Dorado County is located in two air basins: the Mountain Counties Air Basin (MCAB) and the Lake Tahoe Air Basin (LTAB). The western MCAB portion of El Dorado is located within the Sacramento Federal Ozone Non-Attainment Area (SFONA). The SFONA has been classified as "severe" non-attainment for the 2008 eight hour National Ambient Air Quality Standard (NAAQS) for ozone. Since Volatile Organic Compounds (VOC) emissions are precursors to ozone formation, one of the strategies to reduce ozone pollution is to reduce VOC emissions from existing stationary sources. The Code of Federal Regulations Title 40, Section 51.908, requires areas that are classified as moderate non-attainment or higher to comply with the attainment demonstration requirements of Clean Air Act Section 182(c)(2), which requires a plan to be submitted to the U.S. Environmental Protection Agency (EPA) that demonstrates attainment of the standard by the applicable attainment date and includes all control measures necessary for attainment.

On October 26, 2007, the California Air Resources Board (CARB) adopted a Suggested Control Measure (SCM) for architectural coatings. The SCM was originally developed by CARB in 1989 and was amended in 2000, 2007 and 2019. The purpose of the SCM is to promote uniformity among district rules for coatings manufacturers, improve enforceability, and achieve additional reductions of VOC emissions from the application of architectural coatings.

In June 2017, the El Dorado County Air Quality Management District (AQMD) amended Rule 215 to incorporate the requirements of the 2007 SCM. The SCM is considered Best Available Retrofit Control Technology (BARCT), which is part of the AQMD's State Implementation Plan (SIP) to meet ozone reduction requirements as required under California Health and Safety Code (CA H&S Code) Section 40919; and meets the AQMD's requirement under CA H&S Code Section 40914 to implement "every feasible measure".

In August 2019, EPA Region 9 staff informed AQMD that EPA staff had found slight language differences between the 2007 SCM and the amended Rule 215. AQMD staff is proposing a minor revision to the amended Rule 215 to correct the language differences and align the Rule with the requirements of the SCM.

B. Introduction

Ozone is a strong irritant that can have adverse impacts on public health and damages crops and other environmental resources. The 2007 Architectural Coatings SCM VOC limits were developed by CARB staff following a detailed assessment of each of the coating categories to determine the maximum emission reductions that are technically feasible and cost effective. AQMD is responsible for minimizing these emissions and is basing these amendments on CARB's 2007 SCM. As adopted in June 2017, Rule 215 applies to the use of architectural coatings supplied, manufactured, sold, blended, offered for sale, applied, solicited for application, or repackaged for use within the County. Currently, 21 of the 35 air districts have architectural coating rules; 15 are based on the 2007 SCM, 6 are based on the 2000 SCM. Revised Rule 215 will be submitted to EPA for approval in the SIP in place of the 2017 version of Rule 215, and will replace existing Rule 215 currently approved in the SIP.

C. Legal Mandates

Federal Mandates: The El Dorado County MCAB has been designated as a non-attainment area for the 1997, 2008 and 2015 federal eight-hour ozone standard by the EPA. The AQMD is required to implement and enforce regulations that will make progress towards attaining the federal ozone standard. The proposed amendments to Rule 215 will satisfy the federal SIP commitment. If

approved by the Board of Supervisors, this rule will be submitted to CARB and subsequently to EPA for inclusion into the SIP.

State Mandates: The El Dorado County MCAB and LTAB are designated non-attainment for the state eight-hour ozone standard by the CARB. The CA H&S Code Section 40919 requires each air district designated serious nonattainment for ozone to use BARCT for all existing permitted stationary sources. CA H&S Code Section 40406 defines BARCT as an emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source. Additionally the AQMD is required to implement "every feasible measure" (EFM) to meet the ozone reduction requirements under the CA CA H&S Code Section 40914. The proposed amendments to Rule 215 will meet the EFM and BARCT requirements, and therefore comply with the State mandates.

D. Proposed Revisions

The changes in the proposed new rule are covered in the respective sections of the rule, as noted below.

<u>Section 215.1 Applicability</u>

Subsection 215.1 B has been removed as it is contained in 215.4 C, "Sell-Through Coatings" section of the Rule.

<u>Section 215.2 Severability</u>

No changes or additions from the current Rule 215.

<u>Section 215.3 Exemptions</u>

No changes or additions from the current Rule 215.

<u>Section 215.4 Requirements</u>

Subsection 215.4 A, Table of Standards VOC Content Limits for Architectural Coatings. The following coating categories were eliminated from the Table, as these categories expired on January 1, 2018 and now are covered by other categories in the rule: clear fire retardant coatings, pigmented fire retardant coatings, high temperature industrial maintenance coatings, industrial maintenance anti-graffiti coatings, low-solids stains and wood preservatives, primers, sealers, and interceptors, specialty primers, sealers, and interceptors, specialty flats and its associated note (Specialty Flats is not defined in Rule 215 or the Suggested Control Measure. Category will be deleted.), opaque stains, semi-transparent stains, swimming pool repair and maintenance, traffic coatings, waterproofing sealers, varnish, clear or pigmented lacquer, non-lacquer sanding sealer, below ground wood preservatives, opaque wood preservative and semi-transparent and clear wood preservatives.

Subsection 215.4B, Most Restrictive VOC limit. Minor changes in wording as shown below to reflect consistency with the 2007 SCM:

"If a coating meets the definition in Section 215.9 for one or more specialty coating categories listed in the Table of Standards, then that coating is required to meet the VOC limit for the applicable specialty coating listed in the Table of Standards rather than the VOC limits for Flat, Nonflat, or Nonflat – High Gloss coatings~~;~~.

~~w~~With the exception of the specialty coating categories specified in subsections 215.4B.1 through 215.4.B.12~~.~~ , ~~I~~if a coating is recommended for use in more than one of the coating categories listed in the Table of Standards, the most restrictive (or lowest) VOC content limit shall apply. This requirement applies to: usage recommendations that appear anywhere on the coating container, anywhere on any label or sticker affixed to the

container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on their behalf.~~, including but not limited to:~~

1. Metallic pigmented coatings.
2. Shellacs.
3. Pretreatment wash primers.
4. Industrial maintenance coatings.
5. Low-solids coatings.
6. Wood preservatives.
7. High temperature coatings.
8. Bituminous roof primers.
9. Specialty primers, sealers, and undercoaters.
10. Aluminum roof coatings.
11. Zinc-rich primers.
12. Wood Coatings."

Section 215.4.G New Categories

This section was removed as its applicability expired on January 1, 2018.

Section 215.5 Container Labeling Requirements

Minor changes in wording were made.

Section 215.6 Reporting Requirements

Minor changes in wording were made.

Section 215.7 Compliance Provisions and Test Methods

Minor changes in wording were made. "For predicting that the coating has been formulated as intended (e.g., quality assurance, checks, recordkeeping)" was added to Section 215.7 B. VOC Content.

Section 215.8 Violations

No changes or additions from the current Rule 215.

Section 215.9 Definitions

High-temperature industrial coatings definition was added.
Plywood definition was revised to concur with the SCM definition for this category.

The proposed new revised draft Rule 215 will not result in any new requirements for existing El Dorado County sources, but rather will be complete, up to date and consistent with the 2007 SCM requirements. Rule amendments, in underline/strikeout format, are shown in Attachment A.

E. Regulatory Findings

The CA H&S Code Section 40727(a) requires that prior to adopting or amending a rule or regulation, an air district's board must make findings of necessity, authority, clarity, consistency, nonduplication, and reference as defined in Section 40727. The table below describes the finding and the basis for making the finding.

FINDING	DEFINITION	REFERENCE
Authority	The AQMD is permitted or required to adopt, amend, or repeal the rule by a provision of law or a state or federal regulation.	The AQMD is authorized to adopt rules and regulations by the CA H&S, Sections 40001, 40702, 40716, 40919, and 42300; 1990 Federal Clean Air Act, Section 110(a)(2)(H) and Section 182(d).
Necessity	The AQMD must find a need exists for the rule or for its amendment or repeal, as demonstrated by the record of the rulemaking authority.	It is necessary for the AQMD to adopt this rule in order to fulfill the requirements of the Federal Clean Air Act Amendments of 1990.
Clarity	The AQMD must find that the proposed revised rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.	There is no indication at this time that the rule is not written in such a manner that the person affected by the rule can easily understand it.
Consistency	The proposed amendments do not conflict with and are not contradictory to existing statutes, court decisions, or state or federal regulations.	The AQMD has found that the rule is consistent with existing state and federal guidelines.
Non-duplication	The rule does not impose the same requirements as an existing state or federal regulation, unless the District finds that the requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.	There is not any state or federal rule or other regulation that applies to Architectural Coating operations that would duplicate or be in opposition to the changes requested by the AQMD.
Reference	The AQMD must refer to any statute, court decision or other provision of law that the AQMD implements, interprets, or makes specific by adopting, amending, or repealing the rule.	This rule is being proposed because of the requirements of the Federal Clean Air Act Amendments of 1990.

F. Public Notice and Comments, and Staff Response

As of the time of submittal of this staff report to the County Clerk, AQMD had received one public comment on the proposed revised Rule from David Darling, Vice President of Health, Safety, and Environmental Affairs at the American Coating Association, on August 5, 2020. Mr. Darling suggested keeping all definitions for coatings categories that are eliminated or adsorbed into another category. Mr.Darling's suggestion was accepted and incorporated in Section 215.9, Definitions. On January 30, 2020, the draft revised Rule 215 was emailed to Doris Lo, Manager, Rules Office (AIR 3-2), Air and Radiation Division at EPA Region 9, for review and comments prior to release to the public. Ms. Lo provided minor edits on the proposed Rule 215, those changes were made to the proposed Rule. The draft revised Rule 215 was also emailed to Stephanie Parent, Air Pollution Specialist at CARB, and CARB Districts' Rule Staff on January 30, 2020. CARB staff didn't have any comments on the proposed revised Rule.

Public Draft Release:

In accordance with CA H&S Code Section 40725, draft document availability and public workshop were noticed on Wednesday July 22, 2020, in the Mountain Democrat and on Friday July 24, 2020, in Tahoe Daily Tribune newspapers. On August 4, 2020, AQMD staff held a public workshop via a conference call. Mr. David Darlings and Dianne M Brickman, Advocacy Advisor, Sherwin-Williams Global Product Stewardship & Sustainability, were the only attendees.

The public notice for the proposed Rule 215 amendment was:

1. mailed to all applicable permitted sources and retail establishments selling architectural coatings (paints) in El Dorado County (See Appendix E), and
2. posted on AQMD's website, https://www.edcgov.us/airqualitymanagement, and
3. posted on AQMD's Facebook Page: https://www.facebook.com/EDCAQMD, and
4. posted on AQMD's Twitter Page: https://twitter.com/EDCAQMD

G. Summary

Rule 215, Architectural Coatings, has been amended to address the "Suggested Control Measure for Automotive Coatings" which was issued on October 26, 2007, by the California Air Resources Board.

Attachment A.

Proposed Amendments to Rule 215 – Architectural Coatings; strike-out underline version and clean version

ATTACHMENT B

Notice of Exemption from CEQA

ATTACHMENT C

Resolution Adopting Amended Rule 215

ATTACHMENT D

Mailed Noticing List and Proof of Publication