SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Attachment 1 to the Governing Board Resolution for Proposed Amended Rule (PAR) 1143 – Consumer Paint Thinners and Multi-Purpose Solvents

Statement of Findings, Statement of Overriding Considerations and Mitigation Monitoring Plan

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INTRODUCTION

Proposed amended Rule (PAR) 1143 – Consumer Paint Thinners and Multi-Purpose Solvents, is a "project" as defined by the California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et seq.). The South Coast Air Quality Management District (SCAQMD) is the lead agency for the proposed project and, therefore, has prepared an Environmental Assessment (EA) pursuant to CEQA Guidelines §15252 and SCAQMD Rule 110. The purpose of the EA is to describe the proposed project and to identify, analyze, and evaluate any potentially significant adverse environmental impacts that may result from adopting and implementing the proposed project. The Draft EA was circulated to the public for a 45-day review and comment period from September 30, 2010, to November 16, 2010. The SCAQMD received no comment letters during the 45-day public review and comment period. Responses were prepared for the comments received during the comment period.

Note that some modifications and updates have been made to the proposed amended rule since the release of the Draft EA based on input from the regulated industry and other parties to the rule development staff. Thus, some changes were necessary to make the revised Draft EA into a Final EA. However, these modifications and updates were evaluated by staff and it was concluded that they do not constitute "significant new information"[1] and, therefore, do not require recirculation of the document pursuant to CEQA Guidelines §15088.5.

SUMMARY OF THE PROPOSED PROJECT

The proposed project would exempt artist solvents and thinners from the VOC content limit requirements of Rule 1143 that will become effective January 1, 2011. Artist solvents and thinners would be defined as any liquid product labeled to meet ASTM D4236-94 (Reapproved 2005); and have been refined to remove impurities for artistic use to reduce the viscosity of, or remove, art coating compositions or components and are individually packaged in containers having a total capacity less than one liter. Artist solvents and thinners do not include commercial-grade solvents and thinners. The proposed project would also align the existing Rule 1143 with CARB's Consumer Products Regulations. The Initial Study and the Draft EA identified air quality as the only topic where adverse impacts are expected to exceed the SCAQMD's significance thresholds associated with implementing the proposed project.

[1] Pursuant to CEQA Guidelines §15088.5, "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(a) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(b) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(c) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(d) The draft EA was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

SIGNIFICANT ADVERSE IMPACTS WHICH CAN BE REDUCED BELOW A SIGNIFICANT LEVEL OR WERE CONCLUDED TO BE INSIGNIFICANT

The Initial Study identified air quality as an area that may be adversely affected by the proposed project. Greenhouse gas (GHG) emissions and odors were evaluated in the NOP and were found not to be significant; therefore, they were not further evaluated in the EA. During the public comment period on the Notice of Preparation and Initial Study (NOP/IS) for the proposed project, August 24, 2010 to September 22, 2010, SCAQMD staff received comments suggesting that the proposed project could create significant adverse cultural resource impacts. The comment letter on the NOP/IS requested that SCAQMD staff to consider avoidance, when significant cultural resources are discovered during the course of project planning and implementation. As indicated in the NOP/IS, since PAR 1143 would only exempt artist solvents and thinners from the requirements of Rule 1143, no construction is required and usage is expected to occur within existing structures in small quantities; based on these factors no cultural resource impacts are expected from implementing the proposed project.

Artist solvents and thinners may contain toxic air contaminants (TACs). SCAQMD staff identified the following conventional solvent TACs: isopropyl alcohol, xylene, ethyl benzene, toluene, methyl ethyl ketone, and hexane in artist solvents and thinners. None of these TACs have carcinogenic health risk values, so the carcinogenic health risk was not quantified. The chronic and acute non-carcinogenic health risk was estimated from these TACs using the SCAQMD Rules 1401/212 Tier 2 Health Risk Assessment Procedure (http://www.aqmd.gov/prdas/ Risk%20Assessment/RiskAssessment.html). The chronic and acute non-carcinogenic hazard index is less than the SCAQMD significance threshold of 1.0 presented in Table 4-1 of the Final EA; therefore, PAR 1143 is not considered significant for chronic non-carcinogenic health risk.

Cumulative Adverse Air Quality Impacts

Even though the proposed project would cause significant adverse increase in VOC emissions foregone during operations, the net increase in operational VOC emissions foregone would not interfere with the air quality progress and attainment demonstration projected in the AQMP for the following reasons. Overall Rule 1143 is expected to achieve a net reduction in VOC emissions. Further, implementing AQMP control measures and existing rules with future compliance dates is expected to result in net emission reductions and overall air quality improvement over time. Consequently, staff concluded that the proposed project would not generate significant cumulative adverse VOC air quality impacts.

SIGNIFICANT ADVERSE IMPACTS THAT CANNOT BE REDUCED BELOW A SIGNIFICANT LEVEL

The initial evaluation in the NOP/IS identified only air quality as having potentially adverse impacts from the proposed project. Potential adverse impacts to air quality were further analyzed in the Draft EA. PAR 1143 would result in 113.7 pounds per day of VOC emission reductions foregone from exempting artist solvents and thinners, which exceeds the SCAQMD operational VOC significant threshold of 55 pounds per day. Since the

operational VOC emissions would exceed the applicable significance threshold; VOCs are ozone precursors; and the district is classified as non-attainment for ozone; PAR 1143 may contribute to an existing or projected air quality violation. Since the proposed project would result in VOC emissions reductions foregone from the existing Rule 1143 that exceed the operational VOC significant threshold of 55 pounds per day, it may diminish an existing air quality rule or future compliance requirement resulting in a significant increase in an air pollutant.

Potential Compliance Options

Because operational VOC air quality impacts were concluded to be significant, SCAQMD staff evaluated the following measures to determine if they were feasible measures as defined by CEQA (CEQA Guidelines §15364) to reduce VOC air quality impacts to less than significant. The results of SCAQMD staff's review are summarized in the following bullet points:

- Low VOC reformulated products - SCAQMD staff concluded this measure was not feasible because reformulated products are not available that meet the performance requirements.
- Spray booths – Spray booths are designed to capture overspray and particulate from paint spray operations. Artist solvents and thinners are not typically sprayed, but result in VOC emission from evaporation. Therefore, SCAQMD staff concluded that spray booths are not a feasible VOC emission capture option.
- Fume hoods – Fume hoods are designed to remove vapors from the breathing space of users. Fume hoods are suited for artist clean-up operations such as the clean-up of paint brushes and other related paint application tools that could be cleaned under the fume hood. It would be difficult to apply thinner or media to surfaces or restore work within fume hoods, so VOC emissions from such tasks would not be captured. Fume hoods do not control VOC emissions, but capture the emissions for control by combustion or carbon adsorption. Combustion and carbon adsorption were determined not to be feasible by SCAQMD staff (see below); therefore, fume hoods would not be a viable option.
- Combustion devices – VOC emission can be destroyed by boilers, internal combustion engines or thermal oxidizers. If the vapor concentration fluctuates substantially from the process controlled, an auxiliary fuel, such as natural gas, is required to ensure that enough fuel is available to maintain combustion at all times. Since the artist solvents and thinners are expected to be used in small quantities (i.e., only in containers equal to or less than one liter) and only VOC emissions from cleaning operations would be captured by fume hoods, it is likely that the emissions from operating the combustion devices would exceed the emissions from the artist solvents and thinners. Therefore, SCAQMD staff determined that combustion technologies are not practical for controlling VOC emissions from artist solvents and thinners.
- Carbon adsorption – Carbon adsorption could be used to control VOC emission from artist solvents and thinners. Collection and control technologies for clean up were not considered feasible at home or local studios, because of home or studio size limitations and potential conflicts with zoning ordinances. Carbon adsorption was determined to be technically feasible at educational institutions. However, the cost effectiveness of a

fume hood and carbon adsorption system would be approximately $98,300 per ton, which exceeds the SCAQMD cost effective threshold of $16,500 per ton of VOC emissions. Therefore, SCAQMD staff determined that carbon adsorption would not be feasible based on cost.

Based on SCAQMD staff's review of potential methods to mitigate VOC air quality impacts, no feasible mitigation measures were identified.

FINDINGS

Public Resources Code §21081 and CEQA Guidelines §15091(a) state that no public agency shall approve or carry out a project for which a CEQA document has been completed which identifies one or more significant adverse environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. Additionally, the findings must be supported by substantial evidence in the record (CEQA Guidelines §15091(b)). As identified in the Final EA and summarized above, the proposed project has the potential to create significant adverse air quality impacts. The SCAQMD Governing Board, therefore, makes the following findings regarding the proposed project. The findings are supported by substantial evidence in the record as explained in each finding. This Statement of Findings will be included in the record of project approval and will also be noted in the Notice of Decision.

1. **Potential air quality adverse impacts cannot be mitigated to insignificance.**

Finding and Explanation: Significant adverse air quality impacts are expected as a result of adopting and implementing PAR 1143. No specific mitigation measures were identified that could reduce significant adverse air quality impacts to less than significant.

The Governing Board finds that no feasible mitigation measures have been identified. CEQA Guidelines §15364 defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." See explanation above.

2. **Feasible Alternatives to the Proposed Project do not reduce adverse air quality impacts to insignificance.**

Finding and Explanation: The Governing Board finds further that in addition to the No Project Alternative, the Final EA considered one other alternative pursuant to CEQA Guidelines §15126.6. Alternative A does not achieve the objectives of the proposed project that are identified in Chapter 2 of the Final EA. Alternative A would not be expected to generate any adverse environmental impacts, but may also eliminate the use of artist solvents and thinners in the district.

Alternative A – No Project would likely eliminate the use of artist solvents and thinners in the district because no reformulated products have been identified that meet the VOC content limits of the existing rule and meet the artist performance requirements, such as no

residue build-up, desired viscosity, desired paint sheen, desired paint blending and limited damage to brushes.

Alternative B would only partially achieve the objectives of the proposed project. Alternative B would place a VOC content limit of 880 grams per liter on artist solvents and thinners; however, this alternative would only place limits on niche products that do not have viable replacements that have been identified at this time, and no quantifiable VOC emissions reductions over the proposed project were identified. Secondary toxics and GHG emissions from Alternative B would be similar to the proposed project. However, there is currently no lower VOC-containing material available to replace the currently used product with a VOC content greater than 880 grams per liter and reformulated products would likely rely on dilution. Diluted products would not achieve the desired artistic effects. As a result Alternative B does not achieve the project objectives.

The SCAQMD Governing Board finds further that the proposed project achieves the best balance between emission reductions and the adverse air quality impacts while meeting the objectives of the project, which is to allow continued use of artist solvents and thinners to achieve specific performance standards and artistic effects. The SCAQMD further finds that all of the findings presented in this "Statement of Findings" are supported by substantial evidence in the record.

The record of approval for this project may be found in the SCAQMD's Clerk of the Board's Office located at SCAQMD Headquarters in Diamond Bar, California.

STATEMENT OF OVERRIDING CONSIDERATIONS

If significant adverse impacts of a proposed project remain after incorporating mitigation measures, or no measures or alternatives to mitigate the adverse impacts to less than significant levels are identified, the lead agency must make a determination that the benefits of the project outweigh the unavoidable adverse environmental effects if it is to approve the project. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project (CEQA Guidelines §15093(a)). If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" (CEQA Guidelines §15093(a)). Accordingly, a Statement of Overriding Considerations regarding potentially significant adverse impacts resulting from the proposed project has been prepared. This Statement of Overriding Considerations is included as part of the record of the project approval for the proposed project. Pursuant to CEQA Guidelines §15093(c), the Statement of Overriding Considerations will also be noted in the Notice of Decision for the proposed project.

Despite the inability to incorporate changes into the project that will mitigate potentially significant adverse impacts to a level of insignificance, the SCAQMD's Governing Board

finds that the following benefits and considerations outweigh the significant unavoidable adverse environmental impacts:

1. The analysis of potential adverse environmental impacts incorporates a "worst-case" approach. This entails the premise that whenever the analysis requires that assumptions be made, those assumptions that result in the greatest adverse impacts are typically chosen. This method likely overestimates the actual adverse air quality impacts resulting from the proposed project.

2. Adopting PAR 1143 would allow the use of artist solvents and thinners in the district. Artist solvents and thinners are necessary for use in art restoration, creating paint effects, dissolving Damar varnish, and cleaning of brush and paint application tools.

The SCAQMD's Governing Board finds that the above-described considerations outweigh the unavoidable significant effects to the environment as a result of the proposed project.

MITIGATION MONITORING PLAN

CEQA requires an agency to prepare a plan for reporting and monitoring compliance with the implementation of measures to mitigate significant adverse environmental impacts. Mitigation monitoring requirements are included in CEQA Guidelines §15097 and Public Resources Code §21081.6, which specifically state:

When making findings as required by subdivision (a) of Public Resources Code §21081 or when adopting a negative declaration pursuant to paragraph (2) of subdivision (c) of Public Resources Code §21080, the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment (Public Resources Code §21081.6). The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of an agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.

The provisions of CEQA Guidelines §15097 and Public Resources Code §21081.6 are triggered when the lead agency certifies a CEQA document in which mitigation measures, changes, or alterations have been required or incorporated into the project to avoid or lessen the significance of adverse impacts identified in the CEQA document. However, since no mitigation measures were identified a mitigation monitoring and reporting plan is not required.

CONCLUSION

Based on a "worst-case" analysis, the potential adverse air quality impacts from the adoption and implementation of PAR 1143 are considered significant and unavoidable. PAR 1143 would result in 113.7 pounds of VOC emissions foregone per day from exempting artist solvents and thinners, which exceeds the SCAQMD operational VOC significant threshold of 55 pounds per day. Since the operational VOC emissions would

exceed the applicable significance threshold; VOCs are ozone precursors, and the district is classified as non-attainment for ozone; PAR 1143 may contribute to an existing or projected air quality violation. Since the proposed project would result in VOC emissions reductions foregone from the existing Rule 1143 that exceed the operational VOC significant threshold of 55 pounds per day, it may diminish an existing air quality rule or future compliance requirement resulting in a significant increase in an air pollutant. No feasible mitigation measures or project alternatives have been identified that would further reduce air quality impacts to less than significant levels, while still achieving the overall objectives of the project.