

Agenda Date: September 20, 2010
Agenda Placement: Regular
Estimated Time: 10 Minutes
Continued Item: Yes

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Terry Dressler, Air Pollution Control Officer

CONTACT: Rebecca Armstrong, 961-8888

SUBJECT: Proposed Repeal of Rule 334, Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing

RECOMMENDATION:

That the Board:

- A. Hold a public hearing to receive testimony on the proposed repeal of Rule 334, Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing.
- B. Approve the Resolution attached to this Board Letter. Approval of the resolution will result in the following actions:
 1. CEQA Findings: Adopt the CEQA findings (Attachment 1) pursuant to the California Environmental Quality Act (CEQA) and the CEQA guidelines.
 2. Rule Findings: Adopt the associated rule findings (Attachment 2) in support of the proposed repeal of Rule 334, pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference. The rule findings also acknowledge public comments on the proposed rule repeal (Attachment 3) and staff's responses to these comments (Attachment 4).
 3. Repeal of Rule 334: Adopt the repeal of Rule 334 (Attachment 5).

DISCUSSION:

This rule is being repealed because the state Airborne Toxics Control Measure (ATCM) requirements are more stringent than the District Rule 334 requirements. The California Air Resources Board (CARB) developed an ATCM for Hexavalent Chrome Plating and Chromic Acid Anodizing Processes and Facilities in 1988 and subsequently revised it in 2006. The revised version of the ATCM became effective on October 24, 2007.

Air districts throughout the state are required to either implement and enforce the ATCM or adopt a more stringent rule. As a general policy, the District implements statewide ATCMs in order to promote statewide consistency and avoid the costs and resource expenditures that would be required for what would be an unnecessary rule development process. As a result, we are proposing to repeal Rule 334 as it is no longer applicable.

There are not currently any chrome plating or chrome acid anodizing facilities in Santa Barbara County.

Objectives:

To repeal Rule 334 in order to eliminate requirements that have been superseded by the Airborne Toxic Control Measure (ATCM) for Chrome Plating and Chromic Acid Anodizing. This action is expected to improve the clarity of the requirements for chrome plating and chromic acid anodizing facilities and/or processes subject to the ATCM.

Implications to the Regulated Community:

There will be no impacts to the regulated community from the repeal of Rule 334. The state requirements specified in the ATCM for Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing have been in effect as of October 24, 2007.

Comparisons to Adjacent Local Air Districts:

COMPARISON OF ADJACENT AIR DISTRICT REQUIREMENTS

DISTRICT	RULE No.	RULE TITLE	ADOPTION / AMENDMENT DATES	COMMENT
San Joaquin Valley Unified APCD	7011	Chromium Plating and Chromic Acid Anodizing Facilities	Adopted 5/16/91; Amended 12/17/92; Amended 8/19/99; Amended 1/1/08	Rule incorporates the Hexavalent Chromium ATCM
San Luis Obispo County APCD	412	Airborne Toxic Control Measures: Section CCR 93102 – Hexavalent Chromium Airborne Toxic Control Measure – Decorative and Hard Chrome Plating and Chromic Acid Anodizing Facilities	Adopted 9/23/98; Revised 11/13/02	Implemented the Hexavalent Chromium ATCM
Santa Barbara County APCD	334	Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing	Adopted 7/11/89; Repealed [<i>date of rule repeal</i>]	To be repealed as a result of ATCM.
Ventura County APCD	N/A	N/A	ATCM	Implemented the Hexavalent Chromium ATCM

Cost-Effectiveness and Incremental Cost-Effectiveness:

There will be no cost to industry, and/or subject sources, associated with the repeal of this rule.

Comparison to Existing Federal, State, and Local Requirements:

The California Air Resources Board (CARB) implemented a state Air Toxics Control Measure (ATCM) for hexavalent chromium in 1988. CARB subsequently revised it in 2006. The final revision of the ATCM became effective on October 24, 2007. CARB is currently waiting to hear

back from the Federal Environmental Protection Agency (EPA) as they have not received EPA's equivalency determination to date.

Our Rule 334 emission limits are based on facility sizes of small (< 2 lbs/yr), medium (2-10 lbs/yr), and large (\geq 10 lbs/yr) chrome emissions and are respectively, 0.15, < 0.03, and < 0.006 milligrams chrome per ampere-hour. The more stringent State Hexavalent Chrome ATCM is not facility size dependent and is 0.0015 milligrams chrome per ampere-hour.

Implications to the APCD Budget:

The repeal of Rule 334 will not impact the APCD budget.

Public Review:

This rule repeal was presented to and reviewed by the APCD's Community Advisory Council (CAC) on August 11, 2010. The CAC voted unanimously (11:0) to recommend that the Board repeal Rule 334.

California Environmental Quality Act (CEQA):

Repeal of Rule 334 would not result in the relaxation of air pollution control requirements in general, or in the relaxation of air pollution control standards that apply to any specific existing facilities (or processes). Pursuant to § 15061(b)(3) of the State CEQA Guidelines, the project is not subject to CEQA as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. As a result, the project is not subject to any additional CEQA review, and a Notice of Exemption has been prepared in compliance with CEQA Guidelines Section 15162.

The CEQA Documents and Findings are included as Attachments 1, 5, and 6 to this Board Package.

Concurrences:

County Counsel

SPECIAL INSTRUCTIONS:

After adoption by the Board, please have the Board Chair sign the attached resolution and return a copy along with a copy of the minute order to Rebecca Armstrong of the Air Pollution Control District.

Attachments

- Board Resolution
- Attachment 1 - CEQA Findings
- Attachment 2 - Rule Findings
- Attachment 3 - Public Comments
- Attachment 4 - Response to Comments
- Attachment 5 - Proposed Repeal of Rule 334
- Attachment 6 - CEQA Notice of Exemption

BOARD RESOLUTION

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXA VALENT CHROMIUM EMISSIONS
FROM CHROME PLATING AND CHROMIC ACID
ANODIZING

September 20, 2010

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

**RESOLUTION OF THE AIR POLLUTION
CONTROL DISTRICT BOARD OF THE COUNTY OF
SANTA BARBARA, STATE OF CALIFORNIA**

In the Matter of)	APCD Resolution No.
)	
Repealing Rule 334)	
_____)	

RECITALS

1. The Air Pollution Control District Board of the County of Santa Barbara ("Board") is authorized to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40725 *et seq.*

2. Pursuant to H&SC 39666(d), districts shall implement and enforce the state's airborne toxic control measures or Boards shall adopt rules and regulations to implement and enforce airborne toxic control measures. The Board has elected to implement and enforce the state's Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing Airborne Toxic Control Measure (amended by the Air Resources Board on October 24, 2007 and approved by the Office of Administrative Law).

3. The Board has determined that a need exists to repeal Rule 334, Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1) This Board has held a hearing and accepted public comments in accordance with the requirements of Health and Safety Code Section 40725 *et seq.*

2) The California Environmental Quality Act (“CEQA”) findings set forth in Attachment 1 of the Board Package dated September 20, 2010 (herein after “Board Letter”) are hereby adopted as findings of this Board pursuant to CEQA and the CEQA guidelines.

3) The general rule findings, as set forth in Attachment 2 of the Board Letter, are hereby adopted as findings of this Board pursuant to Health and Safety Code Section 40727.

4) The Responses to Public Comments, as set forth in Attachment 4 of the Board Letter, are hereby adopted as findings of this Board.

5) Rule 334 is hereby repealed as a rule of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code Section 40725 *et seq.*

PASSED AND ADOPTED by the Air Pollution Control District Board of the County of Santa Barbara, State of California, this 20th day of September, 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

TERRY DRESSLER
CLERK OF THE BOARD,

By _____
Deputy

Chair, Air Pollution Control
District Board of the County of
Santa Barbara

APPROVED AS TO FORM:

DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara
Air Pollution Control District

ATTACHMENT 1

CEQA FINDINGS

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS
FROM CHROME PLATING AND CHROMIC ACID
ANODIZING

September 20, 2010

Santa Barbara County Air Pollution Control District

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ATTACHMENT 1

CEQA FINDINGS

The APCD found that there is no potential for significant environmental impacts from the repeal of Rule 334, *Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing*.

The Board finds that:

- Rule 334 was developed in 1989 with the intent to reduce hexavalent chromium emissions generated at facilities performing chrome plating or chromic acid anodizing.
- The California Air Resources Board (CARB) developed an *Airborne Toxic Control Measure (ATCM) for Chromium Plating and Chromic Acid Anodizing Facilities* in 1988, and subsequently revised it in 2006. The revised version of the ATCM became effective on October 24, 2007. This ATCM is applicable and enforceable anywhere in the State of California, and requires a level of control of hexavalent chromium emissions that is more stringent than the level of control that is required by Rule 334.
- There are currently no chrome plating or chromic acid anodizing facilities, *or* facilities that conduct chrome plating or chromic acid anodizing processes, in Santa Barbara County. If such a facility were to operate in Santa Barbara County, that facility would be required to obtain an APCD permit, to comply with the CARB ATCM, and to demonstrate that operation of the facility would not result in significant health risk to the surrounding community.
- The repeal of Rule 334 will not result in the relaxation of emissions standards for hexavalent chromium and, therefore, will not have significant adverse impacts on the environment.
- Pursuant to § 15061(b)(3) of the State CEQA Guidelines, the project is not subject to CEQA as it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

The Santa Barbara County APCD prepared a Notice of Exemption (Attachment 6) of the Board Package dated September 20, 2010 for the project. The APCD will file the Notice of Exemption with the County Clerk of the Board in compliance with CEQA Guidelines §15062.

Discussion of CEQA Guidelines Section 15061(b)(3) finding of no significant effect

APCD staff has evaluated the proposed repeal of Rule 334, *Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing*, in the context of the California Environmental Quality Act (CEQA) Guidelines Section 15061, *Review for Exemption*.¹

Subsection (a) of this section states that, “*once a lead agency has determined that an activity is a project subject to CEQA, a lead agency shall determine whether the project is exempt from CEQA.*” A CEQA exemption can be in the form of a statutory exemption, a categorical exemption, or it can be covered by the general rule, as expressed in Section 15061(b)(3), that, “*...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.*”

As presented in the above findings, there are currently no chrome plating or chromic acid anodizing facilities, *or* facilities that conduct chrome plating or chromic acid anodizing processes, in Santa Barbara County. Therefore, the repeal of Rule 334 will not result in the removal of regulations that apply to any Santa Barbara County facilities. In addition, the California Air Resources Board (CARB)’s Airborne Toxic Control Measure (ATCM) applies to all facilities in California, and requires a level of control of hexavalent chromium emissions that is more stringent than the level of control that is required by Rule 334.

If a new chrome plating or chromic acid anodizing facility were proposed at any location within Santa Barbara County, that facility would be subject to CEQA review by the agency that issues the land use permit for the facility. In addition, the facility would be subject to APCD permit requirements and to the emission control requirements of the CARB ATCM. As part of the CEQA review process, and the APCD permit review process, such facility would be required to do a comprehensive assessment of the health risk that may result from facility operations. The facility would not be allowed to operate unless it could demonstrate that its operation would not result in significant health risks to the surrounding community.

Repeal of Rule 334 would not result in the relaxation of air pollution control requirements in general, or in the relaxation of air pollution control standards that apply to any specific existing facilities (or processes). Therefore, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. As a result, the project is not subject to any additional CEQA review, and a Notice of Exemption has been prepared in compliance with CEQA Guidelines Section 15162.

¹ Title 14 California Code of Regulations, Chapter 3, Guidelines for the Implementation of the California Environmental Quality Act, Article 19, Categorical Exemptions.

ATTACHMENT 2

RULE FINDINGS

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS
FROM CHROME PLATING AND CHROMIC ACID
ANODIZING

September 20, 2010

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ATTACHMENT 2

RULE FINDINGS FOR REPEALING RULE 334

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the repeal of Rule 334 (Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing).

Necessity

The Board determines that it is necessary to repeal Rule 334 (Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing) to improve the implementation and enforcement of the Airborne Toxic Control Measure (ATCM) for Chromium Plating and Chromic Acid Anodizing Facilities.

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. In addition, Health and Safety Code Section 39666 (d), requires 1) districts to implement and enforce the state's airborne toxic control measures or 2) Boards to adopt rules and regulations to implement and enforce airborne toxic control measures. The Board has elected to implement and enforce the state's ATCM for Chrome Plating and Chromic Acid Anodizing Facilities.

Clarity

The Board finds that the repeal of Rule 334 will eliminate less stringent, overlapping, and sometimes conflicting requirements associated with the state's ATCM for Chromium Plating and Chromic Acid Anodizing Facilities. The District publicly noticed the proposed repeal of Rule 334.

Consistency

The Board determines that the repeal of Rule 334 is consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

The adjacent air pollution control districts are the Ventura County Air Pollution Control District, San Luis Obispo County Air Pollution Control District, and the San Joaquin Valley Unified Air Pollution Control District. These districts have either repealed their rules that are similar to Rule 334 and have adopted the ATCM "as is" or have incorporated it into their existing rule.

Nonduplication

The Board finds that the repeal of Rule 334 (Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing) does not impose the same restrictions as any existing state or federal regulation, and the proposed rule repeal is necessary and proper to execute the powers and duties granted to, and imposed upon, the APCD.

Reference

The Board finds that we have authority under State law to repeal Rule 334 pursuant to Health and Safety Code Section 39002, which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 39666 (d), the Board is required to 1) implement and enforce the state's airborne toxic control measures or 2) adopt rules and regulations to implement and enforce airborne toxic control measures. The Board has elected to implement and enforce the state's Airborne Toxic Control Measure for Chrome Plating and Chromic Acid Anodizing Emissions.(amended by the Air Resources Board on October 24, 2007, approved by the Office of Administrative Law.

Public Comment

Response to Comments

The Board has reviewed the responses to public comments included in Attachment 4 and hereby approves those responses to comments as findings.

ATTACHMENT 3

PUBLIC COMMENTS ON

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS FROM
CHROME PLATING AND CHROMIC ACID ANODIZING

September 20, 2010

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ATTACHMENT 3

PUBLIC COMMENTS ON PROPOSED REPEAL OF RULE 334

As of September 20, 2010, we have not received any comments on the repeal of Rule 334.

ATTACHMENT 4

DISTRICT RESPONSE TO PUBLIC COMMENTS ON

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS FROM
CHROME PLATING AND CHROMIC ACID ANODIZING

September 20, 2010

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ATTACHMENT 4

DISTRICT RESPONSE TO PUBLIC COMMENTS ON PROPOSED REPEAL OF RULE 334

As of September 20, 2010, we have not received any comments on the repeal of Rule 334.

COMMENT NUMBER	DISTRICT RESPONSE

ATTACHMENT 5

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS
FROM CHROME PLATING AND CHROMIC ACID
ANODIZING

September 20, 2010

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**RULE 334. CONTROL OF HEXAVALENT CHROMIUM EMISSIONS FROM
CHROME PLATING AND CHROMIC ACID ANODIZING. (Adopted
7/11/1989 and Repealed 9/20/2010)**

Repealed by the Santa Barbara County Air Pollution Control District Board on September 20, 2010.

APPROVED AS TO FORM:

DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara
Air Pollution Control District

ATTACHMENT 6

CEQA NOTICE OF EXEMPTION

PROPOSED REPEAL OF RULE 334

CONTROL OF HEXAVALENT CHROMIUM EMISSIONS
FROM CHROME PLATING AND CHROMIC ACID
ANODIZING

September 20, 2010

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800



Our Vision  Clean Air

NOTICE OF EXEMPTION

TO: Clerk of the Board
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

FROM: Santa Barbara County
Air Pollution Control District
260 N. San Antonio Rd, Suite A
Santa Barbara, CA 93110

Project I.D.: APCD Rule 334, *Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing*

Project Title: Repeal of APCD Rule 334, *Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing*

Location: Santa Barbara County, California

Project Description: The project consists of the repeal of an existing APCD Rule 334, *Control of Hexavalent Chromium Emissions from Chrome Plating and Chromic Acid Anodizing*. The California Air Resources Board (CARB) developed an Airborne Toxic Control Measure (ATCM) for Chromium Plating and Chromic Acid Anodizing Facilities (Section 93102-93102.16 of the California Code of Regulations) in 1988 and subsequently revised it in 2006. The revised version of the ATCM became effective on October 24, 2007. This rule is being repealed because the level of control of hexavalent chromium emissions required by the CARB ATCM is more stringent than the level of control that is required by Rule 334.

Exempt Status: (Check One)

- ☐ Ministerial (Section 21080 (b)(1); 15268)
- ☐ Declared Emergency (Section 21080(b)(3); 15269(a))
- ☐ Emergency Project (Section 21080(b)(4); 15269(b)(c))
- ☐ Categorical Exemption
 - Guidelines Section(s):
- ☐ Statutory Exemption
 - Code Number(s):
- ☒ General Exemption under CEQA Guidelines Section 15061(b)(3)

Reasons Why Project is Exempt: There are currently no chrome plating or chromic acid anodizing facilities, *or* facilities that conduct chrome plating or chromic acid anodizing processes, in Santa Barbara County. The California Air Resources Board's Airborne Toxic Control Measure (ATCM) for Chromium Plating and Chromic Acid Anodizing Facilities applies to all facilities in California, and requires a level of control of hexavalent chromium emissions that is more stringent than the level of control that is required by Rule 334. The repeal of Rule 334 will not result in the relaxation of emissions standards for hexavalent chromium and, therefore, will not have significant adverse impacts on the environment. Pursuant to § 15061(b)(3) of the State CEQA Guidelines, the project is not subject to CEQA as it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

Contact Person: Molly Pearson

Telephone: (805) 961-8838

Date: _____

Molly Pearson, Technology & Environmental Assessment Division

Clerk of the Board Date and Time Stamp

Terry Dressler, Air Pollution Control Officer