Blogs
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# New South Coast Air District Rules Withstand Manufacturer's Second CEQA Challenge

A court of appeal has upheld the South Coast Air Quality Management District's second attempt to adopt a rule imposing strict limits on paint thinners and solvents. The court rejected a manufacturer's claim that CEQA required the District to study alternatives and mitigation measures before adopting the new regulations. *W.M. Barr & Co. v. South Coast Air Quality Management Dist.* Traditionally, paint thinners and solvents have relied on mineral spirits, which have a relatively high "flash point" --. the temperature at which a chemical bursts into flame when exposed to an ignition source. But use of products based on mineral spirits releases 10 tons per day of volatile organic compounds, a key contributor to ground-level ozone, in the South Coast Air Basin. In 2009, the District adopted Rule 1143, which slashed the permissible VOC content of thinners and solvents sold in the Basin. The District acknowledged that manufacturers might replace mineral spirits with acetone, which has a much lower flash point than mineral spirits. Fire officials feared consumers would be unaware of the products' reduced flash point. The District operates a certified regulatory program under which it prepares a CEQA equivalent document – an "environmental assessment" --rather than a negative declaration or EIR. When the District first approved Rule 1143 based on an EA, Barr, a manufacturer, sued and the trial court ruled in its favor finding the EA did not adequately evaluate the potential fire hazard posed by increased use of acetone-based paint thinner. In 2010, the District proposed to revise Rule 1143 to require that product packaging draw attention to safety warnings. The fire chief who had expressed the greatest concern about Rule 1143 advised that the changes fully addressed his concerns. The District approved the amended rule after preparing a supplemental EA that evaluated the relative flammability of each product and found no significant fire hazard. Barr sued again. Instead of asserting impacts had not been addressed, however, it alleged that CEQA required that the EA include an alternatives analysis and mitigation measures. The court disagreed, ruling that substantial evidence supported the District's conclusion Rule 1143 would cause no significant environmental impacts, and therefore CEQA did not require discussion of alternatives or mitigation measures.. *W.M. Barr & Co. v. South Coast Air Quality Management Dist.* 207 Cal. App. 4th 406 (2012).

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