

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Terry Dressler, Air Pollution Control Officer

CONTACT: Rebecca Armstrong, 961-8888

SUBJECT: Proposed Amended Rule 202, *Exemptions to Rule 201*
Proposed Amended Rule 102, *Definitions*

RECOMMENDATION:

1. Hold a public hearing to receive testimony on proposed amended Rules 202 and 102.
2. Approve the Resolution attached to this Board Letter. Approval of the resolution will result in the following actions:
 - A. CEQA Findings: Adopt the CEQA findings (Attachment 1) pursuant to the California Environmental Quality Act (CEQA) and the CEQA guidelines.
 - B. Rule Findings: Adopt the associated rule findings (Attachment 2) in support of the proposed amended Rules 202 and 102 pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference. The rule findings also acknowledge public comments received on the proposed rules (Attachment 3) and adopt the Response to Comments (Attachment 4) as findings of the Board.
 - C. Rule Adoption: Adopt proposed amended Rule 202 and proposed amended Rule 102 (Attachments 5).

EXECUTIVE SUMMARY:

Semiconductor operations use fluorinated gases to process blank wafers into finished “chips”. In the course of processing wafers, fluorinated gases are used to clean chemical vapor deposition chambers and etch circuits in the layers. Finished chips are used in various products ranging from computers and cell phones to automobiles.

The California Global Warming Solutions Act of 2006 (Regulation to Reduce Greenhouse Gas Emissions from Semiconductor Operations – Health & Safety Code Section 38500, et seq.) was promulgated by the California Air Resources Board (CARB) in October, 2009 to reduce fluorinated gas and fluorinated heat transfer fluid emissions from semiconductor operations. The regulation establishes emission standards and reporting requirements for this group of greenhouse gases used in semiconductor operations and affects any owner or operator of a semiconductor (or related devices) operation that uses and/or emits fluorinated gases or fluorinated heat transfer fluids. The types of operations affected include manufacturers and research and development facilities.

In order to enforce this new regulation the District is proposing to amend Rule 202, *Exemptions to Rule 201 (Permits Required)* to remove the permit exemption for semiconductor or related device operations which use and/or emit fluorinated gases or fluorinated heat transfer fluids. Rule 102, *Definitions*, will also be amended to include a definition for “Fluorinated Gases.”

The results of an extensive survey conducted by the District in October 2010 indicated there are only seven potentially affected sources in Santa Barbara County. The Community Advisory Council on February 9, 2011 recommended that your Board adopt Amended Rule 102 and Amended Rule 202.

DISCUSSION:

Background

The California Global Warming Solutions Act of 2006 (Assembly Bill 32, AB 32) created a comprehensive, multi-year program to reduce Greenhouse Gas (GHG) emissions in California. AB 32 also requires the Air Resources Board to identify a list of discrete early action GHG reduction measures by June 30, 2007 and to adopt regulations to implement the listed early action measures. In June 2007, the Air Resources Board approved a discrete early action measure to reduce emissions of GHGs from semiconductor operations. In October 2009, the California Global Warming Solutions Act of 2006 (Regulation to Reduce Greenhouse Gas Emissions from Semiconductor Operations – Health & Safety Code Section 38500, et seq.) was promulgated by the CARB.

The purpose of this regulation is to reduce fluorinated gas emissions from semiconductor operations. These gases are used in cleaning chemical vapor deposition tool chambers where thin films are deposited on wafers (thin semiconductor material from which integrated circuits or “chips” are made) and in etching integrated circuits into those thin films. The proposed semiconductor regulation sets new maximum allowable emission limits for semiconductor operations. The emission limits for semiconductor operations are tiered and vary depending on the quantity of wafers processed at an operation. All new semiconductor operations established on or after January 1, 2010 are required to meet the most stringent emission standard, regardless of the quantity of wafers produced.

The regulation requires an owner or operator of a semiconductor operation that exceeds the control requirement emission threshold to comply with these emissions standards effective January 1, 2012 or January 1, 2014, depending on the size of wafer they process. Those facilities that do not exceed the control requirement emission threshold need only to comply with permitting and annual recordkeeping requirements. The annual reports are to include the amount of GHGs used, wafer processing volume, emissions calculations and other information.

Rule 202 Revision

In order to enforce this new regulation the District is proposing to amend Rule 202 to remove the permit exemption for semiconductor or related device operations which use and/or emit fluorinated gases or fluorinated heat transfer fluids. Subject sources are required to submit an application for a permit to operate or a permit modification (if they currently have a permit).

Rule 102 Revision

This revision will add a definition for “Fluorinated Gases”.

Implications for Sources

District staff made a significant effort to inform affected sources of these proposed amended rules. An informational mailing and survey form was sent to 47 potentially subject semiconductor (or related device) sources on October 6, 2010. Staff were able to achieve a 100% participation rate.

The results of the survey showed that there are only seven potentially affected sources in Santa Barbara County. These seven facilities have been contacted by the District and will only need to comply with the permit application, recordkeeping and annual report requirements of the CARB Regulation (i.e., they would not have to comply with the emission limit requirements unless they exceed the control requirement emission threshold). They will be required to obtain a District permit, or permit modification if currently under District permit. Permit fees will apply for filing applications, permit evaluations, and triennial reevaluations. In addition, annual emission fees will apply. All fees will be based on applicable fee schedules in District Rule 210.

Implications for District Budget

District staff will incur additional routine or ongoing costs associated with a slight increase in staff time as a result of this rule revision. This additional staff time and costs will include permitting of newly subject semiconductor operations and/or facilities and processing of annual report documents.

Comparison to Existing Federal, State and Local Requirements

There are no comparable local, state, or federal regulations that reduce GHG emissions from semiconductor operations. However, GHG emissions reductions from the semiconductor industry have occurred voluntarily, through agreements between the U.S. EPA and a small number of California operators.

Emission Reductions

The CARB regulation will generate emission reductions for semiconductor facilities that are required to install control technology in order to reduce GHG emissions. The seven subject facilities that have been identified in Santa Barbara County involve small scale semiconductor processing and will more than likely not be subject to the control technology necessary to reduce GHG emissions. As a result, there are no foreseeable emission reductions in Santa Barbara County that will incur as a result of these proposed rule revisions.

Rulemaking Process and Schedule

Staff conducted a public workshop October 28, 2010 in order to present and discuss these proposed amended rules.

Staff presented and discussed these rule revisions to the Community Advisory Council (CAC) at their February 9, 2011 meeting. The CAC recommended that the Board adopt Amended Rule 102 and Amended Rule 202.

Public Review: Public Comments Submitted to Date

Attachments 3 and 4 contain public comments received at the public workshop held in October 2010, written comments received to date and staff responses. District staff has not received any public comments on these amended rules to date.

Cost-Effectiveness

According to CARB's Initial Statement of Reasons for Proposed Regulation to Reduce Greenhouse Gas Emissions from Semiconductor Operation (January 2009), the cost involved in implementing these semiconductor GHG Regulation requirements is approximately \$21 per metric ton of carbon dioxide equivalent emissions reduced.

No significant adverse cost impacts are expected. As discussed in the "Emission Reductions" section, the seven potentially subject facilities will more than likely not be subject to the control technology necessary to reduce GHG emissions. See the "Affected Sources" section above for permit-related fees.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires environmental review for the proposed amendments to Rule 202, *Exemptions to Rule 201 (Permits Required)* and Rule 102, *Definitions*. District staff has found that the implementation of revised Rule 202 and revised Rule 102 would not result in any significant environmental impacts. A Notice of Exemption (Attachment 6) will be filed for this rulemaking effort. CEQA findings to be adopted by the District Board, as well as a discussion of these findings, are provided in Attachment 1.

FISCAL IMPACT:

The District cost of implementing proposed Rule 202 (as a result of new permitting and reporting requirements) is expected to be modest. These costs will be recovered by fees paid by affected sources.

SPECIAL INSTRUCTIONS:

Please send a certified minute order and signed resolution to Rebecca Armstrong of the District for transmittal to the Air Resources Board.

CONCURRENCES:

County Counsel.

ATTACHMENTS:

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|---------------|---|
| Resolution | |
| Attachment 1: | CEQA Findings |
| Attachment 2: | Rule Findings |
| Attachment 3: | Public Comments |
| Attachment 4: | Response to Public Comments |
| Attachment 5: | Proposed Amended Rule 202 and Proposed Amended Rule 102 |
| Attachment 6: | CEQA Notice of Exemption |

BOARD RESOLUTION

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

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.** _____
Adopting Proposed Amended Rule 202)
and Proposed Amended Revised Rule 102)
_____)

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 Health and Safety Code section 40001, the Board is required to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards.

3. The Board has determined that a need exists to amend Rule 202 (Exemptions to Rule 201, Permits Required) and Rule 102, Definitions, for the purpose of compliance with Assembly Bill 32 (Global Warming Solutions Act of 2006) and Health and Safety Code section 38500, et seq.

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 March 17, 2011 (herein after “Board Package”) are hereby adopted as findings of this Board pursuant to CEQA and the CEQA guidelines.

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

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

5) Rule 202 and Rule 102 as set forth in Attachment 5 of the Board Package are hereby adopted as rules of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code section 40725, et seq.

6) The Board authorizes the Control Officer to transmit Rule 202 and Rule 102 to the State Air Resources Board in compliance with applicable state and federal law. Additionally, the Board authorizes the Control Officer to do any other acts necessary and proper to obtain necessary approvals of the amended rule by the California Air Resources Board and the United States Environmental Protection Agency.

PASSED AND ADOPTED by the Air Pollution Control District Board of the County of Santa Barbara, State of California, this 17th day of March, 2011, 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 AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
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ATTACHMENT 1

CEQA FINDINGS

The Santa Barbara County Air Pollution Control District (District) found that there is no potential for significant environmental impacts from the revisions to Rule 102 (Definitions) and Rule 202 (Exemptions to Rule 201) and that these rule revisions are subject to a Class 8 categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines, Sections 15300 and 15308.

The Board finds that:

- The adoption and implementation of the revisions to Rules 102 and 202 will not have significant adverse impacts on the environment.
- No relaxation in meeting ambient air quality standards will result. No cross-media impacts were identified.
- Pursuant to § 15300 and § 15308 of the CEQA Guidelines, the project will not have a significant effect on the environment, and is categorically exempt from the requirement for the preparation of environmental documents.

The District prepared a Notice of Exemption (Attachment 6 of the Board Package dated March 17, 2011) for the project. The District will file the Notice of Exemption with the County Clerk in compliance with CEQA Guidelines § 15062.

California Environmental Quality Act

District staff has evaluated the environmental impacts related to Proposed Amended Rules 202 and 102, and has concluded that a Class 8 Categorical Exemption is applicable for this project. California Environmental Quality Act (CEQA) Guidelines Sections 15300 to 15332¹ include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. Class 8 Categorical Exemptions (CEQA Guidelines Section 15308) apply to actions by regulatory agencies for protection of the environment. The Class 8 Categorical Exemption is further described as “*actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.*”

The project consists of proposed amended Rule 202, Exemptions to Rule 201 (Permits Required) and Rule 102, Definitions. Pursuant to Assembly Bill 32 (The Global Warming Solutions Act of 2006) and at the direction of the Board, District staff has developed amended Rule 202, Exemptions to Rule 201 (Permits Required) and Rule 102, Definitions.

Upon adoption of these amended Rules 202 and 102, District staff will have the ability to track greenhouse gas emissions from semiconductor processes in Santa Barbara County. In their rulemaking, the Air Resources Board (ARB or Board) has adopted a new regulation to reduce greenhouse gas (GHG) emissions from semiconductor operations. The regulation establishes emission standards that are achieved by using process optimization, alternative chemistries, and/or abatement to reduce emissions from chemical vapor deposition chamber cleaning and etching processes. This rule will track and reduce (for larger facilities that are subject to the emission standards) greenhouse gas emissions from the semiconductor industry.

The stated purpose of Proposed Amended Rules 202 and 102 is consistent with the Class 8 Categorical Exemption language of “*maintenance, restoration, enhancement, or protection of the environment.*” The Class 8 Categorical Exemption is used regularly by a wide array of regulatory agencies statewide and within Santa Barbara County for similar types of projects that involve no additional environmental impacts or relaxation of standards, and that do not call for the construction of any facilities.

District staff considered the provisions of Proposed Amended Rules 202 and 102 in the context of the above-stated CEQA exemption, and made the following conclusions:

- The adoption and implementation of the revisions to Rules 102 and 202 will not have significant adverse impacts on the environment.
- No relaxation in meeting ambient air quality standards will result. No cross-media impacts were identified.

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

- Pursuant to § 15300 and § 15308 of the CEQA Guidelines, the project will not have a significant effect on the environment, and is categorically exempt from the requirement for the preparation of environmental documents.

In light of the above statements, District staff concludes that the implementation of Proposed Amended Rules 202 and 102 would not result in any new environmental impacts or a relaxation of air quality standards. Therefore, the use of a Class 8 Categorical Exemption is appropriate for Amended Rules 202 and 102.

ATTACHMENT 2

RULE FINDINGS

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
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ATTACHMENT 2

RULE FINDINGS FOR PROPOSED AMENDED RULE 202 and PROPOSED AMENDED RULE 102

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the adoption of Proposed Amended Rule 202, Exemptions to Rule 201 (Permits Required) and Rule 102, Definitions.

Necessity

The Board determines that it is necessary to adopt Proposed Amended Rule 202, *Exemptions to Rule 201 (Permits Required)* and Rule 102, *Definitions*, to fulfill commitments in Assembly Bill 32, Global Warming Solutions Act of 2006.

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. Additionally, pursuant to Health and Safety Code Section 40702, the District Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that Proposed Amended Rules 202 and 102 are sufficiently clear. These rules were publicly noticed, and reviewed by the Community Advisory Council. The rules are written or displayed so that persons directly affected by it can easily understand its meaning.

Consistency

The Board determines that Proposed Amended Rules 202 and 102 are consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

The air pollution control districts throughout the state of California that have semiconductor exemptions or rules have adopted similar rule revisions. Based on this evidence, the Board finds that the rules are consistent with neighboring air pollution control districts.

Nonduplication

The Board finds that Proposed Amended Rule 202, *Exemptions to Rule 201 (Permits Required)* and Rule 102, *Definitions* do not impose the same restrictions as any existing state or federal regulation, and the proposed rule is necessary and proper to execute the powers and duties granted to, and imposed upon, the District.

Reference

The Board finds that we have authority under state law to adopt Rule 202 and Rule 102 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 40702, the Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by state law.

Public Comment

Response to Comments

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

ATTACHMENT 3

PUBLIC COMMENTS ON

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

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ATTACHMENT 3

PUBLIC COMMENTS PROPOSED AMENDED RULE 202, EXEMPTIONS TO RULE 201 and PROPOSED AMENDED RULE 102, DEFINITIONS

As of March 17, 2011, the District has received no public comments on these proposed amended rules.

ATTACHMENT 4

DISTRICT RESPONSE TO
PUBLIC COMMENTS ON

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

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ATTACHMENT 4

DISTRICT RESPONSE TO PUBLIC COMMENTS PROPOSED AMENDED RULE 202, EXEMPTIONS TO RULE 201 and PROPOSED AMENDED RULE 102, DEFINITIONS

As of March 17, 2011, the District has received no public comments on these proposed amended rules.

ATTACHMENT 5

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

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RULE 202. EXEMPTIONS TO RULE 201. (Adopted 10/18/1971, revised 5/1/1972 and 6/27/1977, readopted 10/23/1978, revised 12/7/1987, 1/11/1988, 1/17/1989, 7/10/1990, 7/30/1991, 11/05/1991, 3/10/1992, 5/10/1994, 6/28/1994, 4/17/1997, 3/17/2005, 1/17/2008, 6/19/2008, and 9/20/2010, and [date of amended rule adoption])

[...]

D. General Provisions

[...]

7. Stationary Source Permit Exemption

A permit shall not be required for any new, modified or existing stationary source if the uncontrolled actual emissions of each individual affected pollutant from the entire stationary source are below 1.00 ton per calendar year, unless:

[...]

e. the source is a new or modified source which emits hazardous air emissions and is located within 1,000 feet from the outer boundary of a school site (Health and Safety Code Section 42301.6, et seq.) ~~or~~

f. the source is listed below and subject to the California Code of Regulations, Title 17, Division 3, Subchapter 10, Article 4, Regulations to Achieve Greenhouse Gas Emission Reductions:

1. Subarticle 2, Semiconductors and Related Devices (Section 93420, et seq.) in effect [date of amended rule adoption].

[...]

T. Semiconductor and Electronics Manufacturing Equipment and Operations

The following semiconductor and electronics manufacturing equipment and operations is exempt from permit requirements. Notwithstanding the listed exemptions, any collection of articles, machines, equipment or other contrivances within each listed equipment category at a stationary source that has aggregate emissions in excess of one ton per calendar year of any affected pollutant is not exempt. Notwithstanding the listed exemptions, any article, machine, equipment or other contrivance that utilizes or creates fluorinated gas(es) or uses fluorinated heat transfer fluids is not exempt.

1. Vacuum deposition.
2. Ion implantation.
3. Sputtering.
4. Ozone/plasma/ion etching or ashing.
5. Vacuum bake systems.
6. Furnaces used for crystal growth, liquid phase epitaxial, compounding and/or refining, and carbon coating.
7. Automated epoxy adhesive, potting compound, conformal coating dispensing machines and associated equipment used for mixing, injection and curing.

8. Ovens used exclusively for curing epoxies and adhesives. Ovens used exclusively for curing permitted paint application processes.

9. Ovens for drying parts cleaned with water.

|
[...]

V. Storage and Transfer Equipment and Operations

| The following storage and transfer equipment and operations ~~is~~are exempt from permit requirements.

[...]

APPROVED AS TO FORM:

DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

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

RULE 102. DEFINITIONS. (Adopted 10/18/1971, revised 1/12/1976, readopted 10/23/1978, revised 7/11/1989, 7/10/1990, 7/30/1991, 7/18/1996, 4/17/1997, 1/21/1999, 5/20/1999, 6/19/2003, 1/20/2005, 6/19/2008, 1/15/2009, ~~and~~ 9/20/2010, and [date of amended rule adoption])

These definitions apply to the entire rulebook. Definitions specific to a given rule are defined in that rule or in the first rule of the relevant regulation. Except as otherwise specifically provided in these Rules where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in Division 26 of the Health and Safety Code.

[...]

“Fluorinated Gases” means a compound that contains fluorine and exists in a gaseous state at 25 degrees Celsius and 1 atmosphere of pressure. Fluorinated gases include, but are not limited to:

1. hexafluoroethane (C₂F₆),
2. octafluoropropane (C₃F₈),
3. octafluorocyclopentene (C₅F₈),
4. tetrafluoromethane (CF₄),
5. trifluoromethane (CHF₃),
6. difluoromethane (CH₂F₂),
7. octafluorocyclobutane (c-C₄F₈),
8. octafluorotetrahydrofuran (C₄F₈O),
9. hexafluoro-1,3-butadiene (C₄F₆),
10. carbon fluoride oxide (COF₂),
11. nitrogen trifluoride (NF₃), and
12. sulfur hexafluoride (SF₆).

[...]

APPROVED AS TO FORM:

DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

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

ATTACHMENT 6

NOTICE OF EXEMPTION

PROPOSED AMENDED RULE 202,
Exemptions to Rule 201, Permits Required

And

PROPOSED AMENDED RULE 102,
Definitions

March 17, 2011

Santa Barbara County Air Pollution Control District

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