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REGULATION FOR REDUCING THE OZONE FORMED FROM AEROSOL COATING PRODUCT EMISSIONS

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Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions

SUBCHAPTER 8.5. CONSUMER PRODUCTS

Article 3. Aerosol Coating Products

§ 94520. Applicability.

This article shall apply to any person who sells, supplies, offers for sale, applies, or manufactures any aerosol coating products for use in the State of California, except as provided in section 94523. This means that any aerosol coating product sold, supplied, offered for sale, applied, or manufactured for sale in California must comply with the provisions of this article unless specifically exempted as set forth in section 94523.

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94521. Definitions.

- (a) For the purpose of this article, the following definitions apply:
- (1) “Adhesive” means a product used to bond one surface to another by attachment.
 - (2) “Aerosol Coating Product” means a pressurized coating product containing “Pigment” or “Resin” that dispenses product ingredients by means of a propellant, and is packaged in a disposable aerosol container for hand-held application, or for use in specialized equipment for ground traffic/marketing applications. An “Aerosol Coating Product” may include other “Coating Solid” ingredients. “Aerosol Coating Product” does not include products subject to the Consumer Products Regulation, sections 94507-94517 or the Antiperspirants and Deodorants Regulation, sections 94500-94506.5.
 - (3) “Antimicrobial Compound” means any ingredient added to an “Aerosol Coating Product” exclusively to prevent microbial growth or product spoilage.
 - (4) “Anti-Static Product” means a product that is designed and labeled to eliminate, prevent, or inhibit the accumulation of static electricity.
 - (5) “Art Fixative or Sealant” means a clear “Aerosol Coating Product,” including art varnish, workable art fixative, and ceramic coating, which is designed and labeled exclusively for application to paintings, pencil, chalk, or pastel drawings, ceramic art pieces, or other closely related art uses, in order to provide a final protective coating or to fix preliminary stages of artwork while providing a workable surface for subsequent revisions.

- (6) “ASTM” means ASTM International.
- (7) “Auto Body Primer” means an “Aerosol Coating Product” designed and labeled exclusively to be applied to a vehicle body substrate to provide corrosion resistance or to build a repair area to a condition in which, after drying, can be sanded to a smooth surface.
- (8) “Automotive Bumper and Trim Product” means an “Aerosol Coating Product,” including adhesion promoters and chip sealants, designed and labeled exclusively to repair and refinish automotive bumpers and automotive plastic trim parts.
- (9) “Aviation Propeller Coating” means an “Aerosol Coating Product” designed and labeled exclusively to provide abrasion resistance and corrosion protection for aircraft propellers.
- (10) “Aviation or Marine Primer” means an “Aerosol Coating Product” designed and labeled exclusively to meet federal specification TT-P-1757.
- (11) “Base Reactive Organic Gas Mixture” (Base ROG Mixture) means the mixture of reactive organic gases utilized in deriving the MIR scale.
- (12) “Belt Dressing” means a product applied to vehicular fan belts, water pump belting, power transmission belting, or industrial and farm machinery belting to prevent slipping, or to extend belt life.
- (13) “Cleaner” means a product designed and labeled primarily to remove soil or other contaminants from surfaces.
- (14) “Clear Coating” means an “Aerosol Coating Product” which is colorless or transparent, containing resins but no pigments except flattening agents, and is designed and labeled to form a transparent or translucent solid film.
- (15) “Coating” means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes.
- (16) “Coating Solids” means any nonvolatile ingredient of an “Aerosol Coating Product.”
- (17) “Commercial Application” means the use of an “Aerosol Coating Product” in the production of goods, or the providing of services for profit, including touch-up and repair.
- (18) “Corrosion Resistant Brass, Bronze, or Copper Coating” means a clear “Aerosol Coating Product” designed and labeled exclusively to prevent tarnish and corrosion of uncoated brass, bronze, or copper metal surfaces.

- (19) "Distributor" means any person to whom an "Aerosol Coating Product" is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.
- (20) "Dye" means a product containing no resins which is used to color a surface or object without building a film.
- (21) "Electrical/Electronic/Conformal Coating" means an "Aerosol Coating Product" designed and labeled exclusively to coat electrical or electronic components or devices.
- (22) "Engine Coating" means an "Aerosol Coating Product" designed and labeled exclusively to coat engines and their components.
- (23) "Exact Match Finish" means an "Aerosol Coating Product" which meets all of the following criteria: (A) the product is labeled with the manufacturer's name for which they were formulated; and (B) the product is labeled with one of the following: (1.) the original equipment manufacturer's (O.E.M.) color code number; (2.) the color name; or (3.) other designation identifying the specific O.E.M. color to the purchaser.
- (24) "Exact Match Finish, Automotive" means an "Aerosol Coating Product" which meets the definition of "Exact Match Finish" and is designed and labeled exclusively to exactly match the color of an original, factory-applied automotive coating during the touch-up of automobile finishes. Notwithstanding the foregoing, automotive clear coatings designed and labeled exclusively for use over automotive exact match finishes to replicate the original factory applied finish are "Exact Match Finish, Automotive" products.
- (25) "Exact Match Finish, Engine" means an "Aerosol Coating Product" which meets the definition of "Exact Match Finish" and is designed and labeled exclusively to exactly match the color of an original, factory-applied engine coating.
- (26) "Exact Match Finish, Industrial" means an "Aerosol Coating Product" which meets the definition of "Exact Match Finish" and is designed and labeled exclusively to exactly match the color of an original, factory-applied industrial coating during the touch-up of manufactured products.
- (27) "Executive Officer" means the Executive Officer of the Air Resources Board, or her or his delegate.
- (28) "Extender" means an ingredient added to an "Aerosol Coating Product" to increase coating solids.

- (29) “Flat Coating” means an “Aerosol Coating Product” which, when fully dry, registers specular gloss less than or equal to 15 on an 85° gloss meter, or less than or equal to 5 on a 60° gloss meter, or which is labeled as a flat coating. A “Flat Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Flat Coating.”
- (30) “Flattening Agent” means an ingredient added to a coating to reduce the gloss of the coating without adding color to the coating.
- (31) “Flexible Coating” means an “Aerosol Coating Product” designed and labeled exclusively to provide a flexible coating to protect surfaces. “Flexible Coating” includes, but is not limited to, rubberized, mastic, or asphaltic products. “Flexible Coating” does not include “Undercoating” as defined in section 94508(a).
- (32) “Floral Coating” means an “Aerosol Coating Product” designed and labeled exclusively for use on fresh flowers, dried flowers, or other items in a floral arrangement for the purposes of coloring, preserving or protecting their appearance.
- (33) “Fluorescent Coating” means an “Aerosol Coating Product” labeled as a fluorescent coating, which converts absorbed incident light energy into emitted light of a different hue.
- (34) “Fragrance” means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of 2 mm of Hg at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.
- (35) “General Coating” means the following aerosol coating products: “Clear Coating,” “Flat Coating,” “Fluorescent Coating,” “Metallic Coating,” “Nonflat Coating,” or “Primer.”
- (36) “Glass Coating” means an “Aerosol Coating Product” designed and labeled exclusively for use on glass or other transparent material to create a soft, translucent light effect, or to create a tinted or darkened color while retaining transparency.
- (37) “Ground Traffic/Marking Coating” means an “Aerosol Coating Product” designed and labeled exclusively to be applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Ground Traffic/Marking coatings must be in a container equipped with a valve and sprayhead designed to direct the spray toward the surface when the can is held in an inverted vertical position.

- (38) “High Temperature Coating” means an “Aerosol Coating Product” designed and labeled exclusively for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F). “High Temperature Coating” does not include “Engine Coating.”
- (39) “Hobby/Model/Craft Coating” means an “Aerosol Coating Product” which is designed and labeled exclusively for hobby applications and is sold in aerosol containers of 6 ounces by weight or less.
- (40) “Ingredient” means a component of an “Aerosol Coating Product.”
- (41) “Ink” means a fluid or viscous substance used in the printing industry to produce letters, symbols or illustrations, but not to coat an entire surface.
- (42) “Label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.
- (43) “Layout Fluid” (or toolmaker’s ink) means an “Aerosol Coating Product” designed and labeled exclusively to be sprayed on metal, glass or plastic, to provide a glare-free surface on which to scribe designs, patterns or engineering guide lines prior to shaping the piece.
- (44) “Leather Preservative or Cleaner” means a leather treatment material applied exclusively to clean or preserve leather.
- (45) “Lubricant” means a product that reduces friction, heat, noise, or wear between moving parts, or loosens rusted or immovable parts or mechanisms.
- (46) “Manufacturer” means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.
- (47) “Marine Spar Varnish” means an “Aerosol Coating Product” designed and labeled exclusively to provide a protective sealant for marine wood products.
- (48) “Maskant” means a product applied directly to a component to protect surface areas from damage during fabrication, inspection, or shipment and must not leave a residue when removed.
- (49) “Maximum Incremental Reactivity” (MIR) means the maximum change in weight of ozone formed by adding a compound to the “Base ROG Mixture” per weight of compound added, expressed to hundredths of a gram (g O₃/g ROG). MIR values for individual compounds and hydrocarbon solvents are specified in sections 94700 and 94701, Title 17, California Code of Regulations.

- (50) “Metallic Coating” means an “Aerosol Coating Product” which contains at least 0.5 percent by weight metallic pigment in the formulation, including propellant, and is labeled as “metallic,” or with the name of a specific metallic finish such as “gold,” “silver,” or “bronze.” A “Metallic Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Metallic Coating.”
- (51) “Mold Release Coating” means an “Aerosol Coating Product” designed and labeled exclusively to be applied to molds to prevent products from sticking to the surfaces of the mold.
- (52) “Multi-component Kit” means an “Aerosol Coating Product” system which requires the application of more than one component (for example, foundation coat and top coat), where both components are sold together in one package.
- (53) “Nonflat Coating” means an “Aerosol Coating Product” which, when fully dry, registers a specular gloss greater than 15 on an 85° gloss meter or greater than 5 on a 60° gloss meter, or which is labeled as a nonflat coating. A “Nonflat Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Nonflat Coating.”
- (54) “Ozone” means a colorless gas with a pungent odor, having the molecular form O₃.
- (55) “Photograph Coating” means an “Aerosol Coating Product” designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image, changes in gloss level, or to cover fingerprints.
- (56) “Pigment” means a “Coating Solid” of either natural or synthetic insoluble material added to a coating to provide color, opacity, or corrosion inhibition to a coating film.
- (57) “Plasticizer” means an ingredient added to an “Aerosol Coating Product” to aid in flexibility.
- (58) “Pleasure Craft” means privately owned vessels used for noncommercial purposes.
- (59) “Pleasure Craft Finish Primer/Surfacer/Undercoater” means an “Aerosol Coating Product” designed and labeled exclusively to be applied prior to the application of a “Pleasure Craft Topcoat” for the purpose of corrosion resistance or adhesion of the topcoat, and which promotes a uniform surface by filling in surface imperfections.

- (60) "Pleasure Craft Topcoat" means an "Aerosol Coating Product" designed and labeled exclusively to be applied to a "Pleasure Craft" as a final coat above the waterline and below the waterline when stored out of water.
- (61) "Polyolefin Adhesion Promoter" means an "Aerosol Coating Product" designed and labeled exclusively to be applied to a polyolefin or polyolefin copolymer surface of vehicular body parts, bumpers, or trim parts to provide a bond between the surface and subsequent topcoats.
- (62) "Primer" means an "Aerosol Coating Product" labeled as a primer, which is designed and labeled to be applied to a surface to provide a bond between that surface and subsequent coats.
- (63) "Principal Display Panel or Panels" means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the "Principal Display Panel" shall pertain to all such "Principal Display Panels."
- (64) "Product-Weighted MIR" (PWMIR) means the sum of all weighted-MIR for all ingredients in an "Aerosol Coating Product." The PWMIR is the total product reactivity expressed to hundredths of a gram of ozone formed per gram of product (excluding container and packaging) and calculated according to the following equations:
- (a) Weighted MIR (Wtd-MIR) ingredient = MIR x Weight fraction ingredient,
and,
- (b) Product-Weighted MIR = (Wtd-MIR)₁ + (Wtd-MIR)₂ + ... + (Wtd-MIR)_n
where,
- MIR = ingredient MIR, as specified in section 94522(i);
- Wtd-MIR = MIR of each ingredient in a product multiplied by the weight fraction of that ingredient, as shown in (a);
- 1,2,3,...,n = each ingredient in the product up to the total n ingredients in the product.
- (65) "Propellant" means a liquefied or compressed gas that is used in whole or in part to expel a liquid or any other material from the same self-pressurized container or from a separate container.

- (66) “Reactivity Limit” means the maximum ozone forming potential of ingredients (excluding container and packaging) allowed in an “Aerosol Coating Product,” expressed as the PWMIR.
- (67) “Reactive Organic Compound (ROC)” means any compound containing at least one atom of carbon and that has the potential, once emitted, to contribute to ozone formation in the troposphere.
- (68) “Resin” means a “Coating Solid” that comprises the film-forming ingredients in an “Aerosol Coating Product.” Examples of resin ingredients include acrylic, alkyd, enamel, epoxy, lacquer, polyurethane, polyvinyl chloride, shellac, silicone, and polystyrene.
- (69) “Responsible Party” means the company, firm, or establishment which is listed on the product’s label. If the label lists two companies, firms or establishments, the responsible party is the party which the product was “manufactured for” or “distributed by”, as noted on the label.
- (70) “Retailer” means any person who sells, supplies, or offers aerosol coating products for sale directly to consumers.
- (71) “Retail Outlet” means any establishment where consumer products are sold, supplied, or offered for sale, directly to consumers.
- (72) “Rust Converter” means an “Aerosol Coating Product” designed and labeled exclusively to convert rust to an inert material and which contains a minimum acid content of 1.0 percent by weight, and a maximum coating solids content of 6.0 percent by weight.
- (73) “Specialty Coating” means any “Aerosol Coating Product” that is not a “General Coating” unless specifically exempted as specified in section 94523. An aerosol coating that does not meet all the criteria for a specific “Specialty Coating” or an aerosol coating that is not defined in this section 94521(a) is a “General Coating.”
- (74) “Shellac Sealer” means a clear or pigmented “Aerosol Coating Product” formulated solely with the resinous secretion of the lac beetle (*Laccifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.
- (75) “Slip-resistant/Non-slip Grip Coating” means an “Aerosol Coating Product” (A) designed and labeled exclusively as a slip-resistant coating, which is formulated with grit and used as a safety coating; or (B) labeled exclusively as a non-slip grip coating designed to reduce or prevent slipping.

- (76) “Spatter/Multicolor/Stucco Coating” means an “Aerosol Coating Product” (A) labeled exclusively as a spatter coating which produces spots, globules, or spatters of individual or contrasting colors appear on or within the surface of a contrasting or similar background; or (B) labeled exclusively as a multicolor coating; or (C) labeled exclusively as a stucco coating that is made from a mixture of Portland cement, sand, and lime.
- (77) “Two Component Coating” means an “Aerosol Coating Product” packaged in an aerosol container with a separate integrated chamber for the hardener or activator.
- (78) “Uniform Finish Coating” means an “Aerosol Coating Product” designed and labeled exclusively for application to the area adjacent to a spot repair for the purpose of blending the spot repair’s color or clear coating to match the appearance of an adjacent area’s existing coating. For the purpose of this article, “Spot Repair” means repair of an area of less than 1 square foot (929 square centimeters). “Uniform Finish Coating” includes products labeled as edge blenders.
- (79) “Upper-Limit Kinetic Reactivity” (ULKR) means the maximum percentage of the emitted ROC which has reacted. For this article, the ULKR is one hundred percent and is used to calculate the ULMIR.
- (80) “Upper-Limit Mechanistic Reactivity” (ULMR) means the maximum gram(s) of ozone formed per gram of ROC reacting. The ULMR is used to calculate the ULMIR.
- (81) “Upper-Limit MIR” (ULMIR) means the upper-limit kinetic reactivity (ULKR) multiplied by the upper-limit mechanistic reactivity (ULMR), as calculated using the following equation:

$$\text{ULMIR} = \text{Upper Limit KR} \times \text{Upper Limit MR.}$$

The units for ULMIR are g O₃/g ROC.

- (82) “Vinyl/Fabric/Leather/Plastic Coating” means an “Aerosol Coating Product” (A) designed and labeled exclusively to coat vinyl, fabric, leather, or plastic substrates; or (B) designed and labeled exclusively to repel water from fabric or leather substrates. “Vinyl/Fabric/Leather/Plastic Coating” does not include “Fabric Protectant” as defined in section 94508(a).
- (83) “Webbing/Veiling Coating” means an “Aerosol Coating Product” designed and labeled exclusively to provide a stranded or spider webbed appearance when applied.

(84) “Weight Fraction” means the weight of an ingredient divided by the total net weight of the product, expressed to thousandths of a gram of ingredient per gram of product (excluding container and packaging). The weight fraction is calculated according to the following equation:

$$\text{Weight Fraction} = \frac{\text{Weight of the Ingredient}}{\text{Total Product Net Weight (excluding container and packaging)}}$$

(85) “Weld-Through Primer” means an “Aerosol Coating Product” designed and labeled exclusively to provide a bridging or conducting effect for corrosion protection following welding.

(86) “Wood Stain Coating” means an “Aerosol Coating Product” which is designed and labeled exclusively as a wood stain and is used to change the color of a wood surface but not conceal the grain pattern or texture.

(87) “Wood Touch-Up/Repair/Restoration Coating” means an “Aerosol Coating Product” designed and labeled exclusively to provide an exact color or sheen match on finished wood products.

(88) “Working Day” means any day between Monday through Friday, inclusive, except for days that are federal holidays.

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94522. Reactivity Limits and Requirements.

(a) *Reactivity Limits.*

(1) Except as provided in section 94523, any “Aerosol Coating Product” shall comply with the applicable General Coating limit specified in section 94522(a)(2) unless the “Aerosol Coating Product” meets all the requirements for the applicable Specialty Coating that is defined in section 94521. In such cases the Specialty Coating product shall comply with the applicable Specialty Coating limit specified in section 94522(a)(2).

(2) Except as provided in sections 94523 (Exemptions) and 94525 (Variances), Title 17, California Code of Regulations, no person shall sell, supply, offer for sale, apply, or manufacture for use in California, any “Aerosol Coating Product” which, at the time of sale, use, or manufacture exceeds the limits specified in the following Table of Reactivity Limits after the specified effective date.

Table of Reactivity Limits
Product-Weighted MIR in Grams Ozone per Gram Product
(g O₃ / g product)

Aerosol Coating Category

General Coatings	06/01/2002	01/01/2017
Clear Coating	1.50	0.85
Flat Coating	1.20	0.80
Fluorescent Coating	1.75	1.30
Metallic Coating	1.90	1.25
Nonflat Coating	1.40	0.95
Primer	1.20	0.70

Specialty Coatings (A)	01/01/2003	01/01/2017
Auto Body Primer	1.55	0.95
Electrical/Electronic/Conformal Coating		2.00
Exact Match Finish:		
Automotive	1.50	0.95
Engine	1.70	0.95
Industrial	2.05	1.20
Flexible Coating		1.60
Ground Traffic/Marking Coating	1.20	0.85
Mold Release Coating		1.10
Two Component Coating		1.20
Uniform Finish Coating		1.30

Specialty Coatings (B)	01/01/2003	01/01/2015
Art Fixative or Sealant	1.80	1.75
Automotive Bumper and Trim Product	1.75	1.70
Aviation or Marine Primer	2.00	1.25
Aviation Propeller Coating	2.50	1.40
Corrosion Resistant Brass, Bronze, or Copper Coating	1.80	1.80
Floral Coating	1.70	0.85
Glass Coating	1.40	1.35
High Temperature Coating	1.85	1.85
Hobby/Model/Craft Coating	2.70	1.60
Marine Spar Varnish	0.90	0.90
Photograph Coating	1.00	0.75
Pleasure Craft Finish Primer/Surfacers/Undercoater	1.05	0.90
Pleasure Craft Topcoat	0.60	0.60
Polyolefin Adhesion Promoter	2.50	2.50
Rust Converter		1.10
Shellac Sealer	1.00	1.00
Slip-resistant/Non-slip Grip Coating	2.45	2.10
Spatter/Multicolor/Stucco Coating	1.05	1.05
Vinyl/Fabric/Leather/Plastic Coating	1.55	1.45
Webbing/Veiling Coating	0.85	0.75
Weld-Through Primer	1.00	1.00
Wood Stain Coating	1.40	0.90
Wood Touch-Up/Repair/Restoration Coating	1.50	1.45

- (b) If an “Aerosol Coating Product” is subject to both a General Coating limit and a Specialty Coating limit, as listed in the Table of Reactivity Limits in section 94522(a)(2), and the product meets all the criteria of the applicable Specialty Coating category as defined in section 94521, then the Specialty Coating limit shall apply instead of the General Coating limit.
- (c) The Alternative Control Plan Regulation (sections 94540-94555) does not apply to aerosol coating products.
- (d) *Sell-Through of Products*
 - (1) Notwithstanding the provisions of section 94522(a)(2), an aerosol coating product manufactured prior to each of the effective dates specified for that product in the Table of Reactivity Limits may be sold, supplied, offered for sale, or applied for up to three years after each of the specified effective dates. This subsection does not apply to:

- (A) any aerosol coating product that does not display on the product container or package the date on which the product was manufactured, or a code indicating such date, or
 - (B) any aerosol coating product on which the manufacturer has used a code indicating the date of manufacture that is different than the code specified in section 94524(b)(2)(B), but an explanation of the code has not been filed with the ARB Executive Officer by the deadlines specified in section 94524(b)(2)(E)1., or section 94524(b)(2)(E)2., or
 - (C) products contained in multi-unit packages, as specified below:
 - 1. Subsection (d)(1) does not apply to any individual aerosol coating product unit contained within a multi-unit package that is produced or assembled after January 1, 2015, where the multi-unit package does not display the date(s) or date-code(s) of the individual product units, or display the date of assembly, such that the displayed information is not readily observable without irreversibly disassembling any portion of the container or packaging.
 - 2. For the purposes of this section, “date of assembly” means the date that the individual product units are assembled into the finished multi-unit package.
 - 3. For multi-unit packages that display the “date of assembly” instead of the date(s) or date-code(s) of the individual product units, the “date of assembly” shall be the “date of manufacture” for all of the product units contained within the multi-unit package. In other words, all of the product units shall be deemed to have been manufactured on the date these units are assembled into the multi-unit package, even if the individual product units show different date(s) or date-code(s).
- (2) *Notification for products sold during the sell-through period.* Any person who sells or supplies an aerosol coating product subject to the Table of Reactivity Limits in section 94522(a) must notify the purchaser of the product in writing of the date on which the sell-through period for that product will end, provided, however, that this notification must be given only if all of the following conditions are met:
- (A) the product is being sold or supplied to a distributor or retailer;
 - (B) the sell-through period for the product will expire 6 months or less from the date the product is sold or supplied;
 - (C) the product does not comply with the lowest Reactivity Limit that applies on the date the sell-through period ends.

(e) *Prohibition on use of Methylene Chloride, Perchloroethylene, or Trichloroethylene.*

- (1) No person shall sell, supply, offer for sale, apply, or manufacture for use in California any "Aerosol Coating Product" which contains methylene chloride, perchloroethylene, or trichloroethylene.
- (2) The requirements of section 94522(e)(1) shall not apply to any "Aerosol Coating Product" containing methylene chloride, perchloroethylene, or trichloroethylene that is present in a combined amount equal to or less than 0.01% by weight of the product.

(f) *Prohibition on use of Ozone Depleting Substances.*

- (1) No person shall sell, supply, offer for sale, apply, or manufacture for use in California any "Aerosol Coating Product" which contains an ozone depleting substance identified by the United States Environmental Protection Agency in the Code of Federal Regulations, 40 CFR Part 82, Subpart A, under Appendices A and B, July 1, 1998.
- (2) The requirements of section 94522(f)(1) shall not apply to any aerosol coating product containing an ozone depleting substance as identified in section 94522(f)(1) that is present in a combined amount equal to or less than 0.01% by weight of the product.

(g) *Multi-component Kits.*

No person shall sell, supply, offer for sale, apply, or manufacture for use in California any "Multi-component Kit," as defined in section 94521, in which the Kit PWMIR is greater than the Total Reactivity Limit. The Total Reactivity Limit represents the limit that would be allowed in the "Multi-component Kit" if each component product in the kit had separately met the applicable Reactivity Limit. The Kit PWMIR and Total Reactivity Limit are calculated as in equations (1), (2), and (3) below:

$$(1) \text{ Kit PWMIR} = (\text{PWMIR}_{(1)} \times W_1) + (\text{PWMIR}_{(2)} \times W_2) + \dots + (\text{PWMIR}_{(n)} \times W_n)$$

$$(2) \text{ Total Reactivity Limit} = (\text{RL}_1 \times W_1) + (\text{RL}_2 \times W_2) + \dots + (\text{RL}_n \times W_n)$$

$$(3) \text{ Kit PWMIR} \leq \text{Total Reactivity Limit}$$

Where:

W = the weight of the product contents (excluding container)

RL = the Reactivity Limit specified in section 94522(a)

Subscript 1 denotes the first component product in the kit

Subscript 2 denotes the second component product in the kit
Subscript n denotes any additional component product

(h) *Products Assembled by Adding Bulk Paint to Aerosol Containers of Propellant.*

No person shall sell, supply, offer for sale, apply, or manufacture for use in the State of California any "Aerosol Coating Product" assembled by adding bulk paint to aerosol containers of "Propellant," unless such products comply with the applicable reactivity limits specified in section 94522(a)

(i) *Assignment of Maximum Incremental Reactivity (MIR) Values.*

(1) All ingredients in an amount equal to or exceeding 0.1 percent by weight shall be used to calculate the PWMIR.

(2) In order to calculate the PWMIR of an "Aerosol Coating Product" as specified in section 94521(a)(64), the MIR values of product ingredients are assigned as follows:

(A) Any ingredient which does not contain carbon is assigned a MIR value of 0.0.

(B) "Coating Solid," "Extender," and "Plasticizer" ingredients are assigned a MIR value of 0.0. "Antimicrobial Compound" ingredients in an amount of up to 0.25 percent by weight and "Fragrance" in an amount of up to 0.25 percent by weight are assigned a MIR value of 0.0.

(C) For any ROC not covered under (2)(A) and (2)(B) of this subsection (i), each ROC is assigned the MIR value for that ROC as set forth in Subchapter 8.6, Article 1, section 94700 or 94701, Title 17, California Code of Regulations.

(D) If a ROC is not listed in section 94700, Title 17, California Code of Regulations, but an isomer(s) of the ROC is listed, then the MIR value for the isomer shall be used. If more than one isomer is listed, the listed MIR value for the isomer with the highest MIR value shall be used.

(E) Except as provided in subsection (i)(4), if a ROC or its isomer(s) is not listed in section 94700 or an aliphatic hydrocarbon solvent is not listed in section 94701, Title 17, California Code of Regulations, the MIR value for 1,2,3-trimethyl benzene shall be used to determine the weighted MIR of the ROC to calculate the PWMIR.

(F) “Fragrance” present in an aerosol coating in an amount exceeding 0.25 percent by weight shall use the MIR value for terpinolene to determine the weighted MIR of the “Fragrance” to calculate the PWMIR.

(3)

(A)

1. For products manufactured before January 1 2015: The MIR values dated July 18, 2001, shall be used to calculate the PWMIR for aerosol coating products.
2. For products manufactured on or after January 1, 2015: The MIR values dated October 2, 2010, shall be used to calculate the PWMIR for aerosol coating products, and these MIR values shall not be changed until at least January 1, 2020.

(B) If a new ROC is added to section 94700 or 94701, the MIR value for the new ROC shall be used instead of the value specified in section 94522(i)(2)(D) or (E) to calculate the PWMIR after the effective date of the MIR value.

(4) The MIR value for any aromatic hydrocarbon solvent with a boiling range different from the ranges specified in section 94701(b) shall be assigned as follows:

(A) If the solvent dry point is lower than or equal to 420° F, the MIR value specified in section 94701(b) for bin 23 shall be used.

(B) If the solvent initial boiling point is higher than 420° F, the MIR value specified in section 94701(b) for bin 24 shall be used.

NOTE: Authority cited: Section 39600, 39601 and 41712, Health and Safety Code.

Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94523. Exemptions.

(a) This article does not apply to products that meet the definitions for “Adhesive,” “Anti-Static Product,” “Belt Dressing,” “Cleaner,” “Dye,” “Ink,” “Layout Fluid,” “Leather Preservative or Cleaner,” “Lubricant,” or “Maskant,” cosmetics or any products used on the human body, and products applied to vehicle tires. This article also does not apply to “Rubber/Vinyl Protectant,” “Undercoating,” or “Fabric Protectant” as defined in section 94508(a).

(b) This article shall not apply to any aerosol coating product manufactured in California for shipment and use outside of California.

(c) The provisions of this article shall not apply to a manufacturer, distributor, or responsible party who sells, supplies, or offers for sale in California an aerosol coating product that does not comply with the limits specified in section 94522(a)(2), as long as the manufacturer, distributor, or responsible party can

demonstrate both that the aerosol coating product is intended for shipment and use outside of California, and that the manufacturer, distributor, or responsible party has taken reasonable prudent precautions to assure that the aerosol coating product is not distributed to California. This subsection (c) does not apply to aerosol coating products that are sold, supplied, or offered for sale by any person to retail outlets in California.

- (d) The requirements in section 94522(a)(2) prohibiting the application of aerosol coating products that exceed the limits specified in section 94522(a)(2) shall apply only to commercial application of aerosol coating products.

NOTE: Authority cited: Section 39600, 39601 and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94524. Administrative Requirements.

- (a) *Most Restrictive Limit.*

Except as otherwise provided in section 94522(b), if anywhere on the container of any aerosol coating product subject to the specified limits in section 94522(a)(2) or on any sticker or label affixed thereto, or in any sales or advertising literature, any representation is made that the product may be used as, or is suitable for use as a product for which a lower limit is specified, then the lowest applicable limit shall apply.

- (b) *Labeling Requirements.*

- (1) Each manufacturer of an "Aerosol Coating Product" subject to this article shall clearly display the following information on each product container which is manufactured on or after the earliest effective date for the applicable Reactivity Limit for an aerosol coating category.

(A) the applicable Reactivity Limit for the product that is specified in section 94522(a); and

(B) the aerosol coating category as defined in section 94521, or an abbreviation of the coating category.

- (2) Product Dating Requirements

(A) In addition to the labeling requirements specified in section 94524(b)(1), each manufacturer of an aerosol coating product subject to section 94522 shall clearly display on each aerosol coating product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date.

Codes that represent a sequential batch number or that otherwise cannot be attributed to a specific day, month, and year, do not satisfy this requirement.

- (B) A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of section 94524(b)(2)(E), if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day

Where: “YY” = two digits representing the year in which the product was manufactured, and

“DDD” = three digits representing the day of the year on which the product was manufactured, with “001” representing the first day of the year, “002” representing the second day of the year, and so forth (i.e. the “Julian date”).

- (C) The date of manufacture or code indicating the date of manufacture shall be displayed on each aerosol coating product container or package no later than twelve months prior to the effective date of the applicable limit specified in section 94522(a)(2).

(D) Products Sold in Multi-unit Packages.

1. Products sold, supplied, or offered for sale in multi-unit packages are not required to comply with subsection (b)(2)(E)3.
2. If a multi-unit package does not comply with subsection (b)(2)(E)3., the “sell-through” provisions of section 94522(d) shall not apply to the individual product units contained within the multi-unit package. In other words, if any multi-unit package produced or assembled after January 1, 2015, does not display the date(s) or date-code(s) of the product units, such that the displayed information is readily observable without irreversibly disassembling any portion of the container or packaging, the individual product units shall be subject to the Reactivity Limit in effect when the multi-unit package is sold, supplied, or offered for sale, regardless of the date on which the product units were manufactured.
3. A multi-unit package may comply with subsection (b)(2)(E)3. by displaying the date of assembly instead of the date(s) or date-code(s) of the individual product units, so long as the date of assembly is readily observable without irreversibly disassembling any portion of the container or packaging. The “date of assembly” means the date that

the individual product units are assembled into the finished multi-unit package. If the date of assembly is displayed instead of the individual date(s) or date-code(s), the “date of assembly” shall be the “date of manufacture” for all of the product units contained within the multi-unit package. In other words, all of the product units shall be deemed to have been manufactured on the date these units are assembled into the multi-unit package, even if the individual product units show different date(s) or date-code(s), and the “date of assembly” shall be “date of manufacture” of each product unit for the purposes of applying the “sell-through” provisions of section 94522(d).

(E) Additional Product Dating Requirements

1. If a manufacturer uses a code indicating the date of manufacture, for any aerosol coating product subject to section 94522 an explanation of the code must be filed with the Executive Officer of the ARB no later than twelve months prior to use of the code or abbreviation. Thereafter, manufacturers using a code must file an explanation of the code with the Executive Officer on an annual basis, beginning January 1, 2015.

The explanation of the code must be received by the Executive Officer on or before January 31st of each year, with the first explanation due on or before January 31, 2015.

2. If a manufacturer changes any code indicating the date of manufacture for any aerosol coating product subject to subsection (b)(2)(E)1, an explanation of the modified code must be received by the Executive Officer before any products displaying the modified code are sold, supplied, or offered for sale in California.
3. Except as provided (b)(2)(D), the information required in section 94524(b)(1) and (b)(2), shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.
4. No person shall erase, alter, deface, or otherwise remove or make illegible any date or code indicating the date of manufacture from any regulated product container without the express authorization of the manufacturer.

5. Codes indicating the date of manufacture are public information and shall not be claimed as confidential.

(c) *Reporting Requirements.*

- (1) Any Responsible Party for an aerosol coating product subject to this article which is sold, supplied, or offered for sale in California, must supply the Executive Officer with the following information within 90 days of the earliest effective date for the applicable Reactivity Limit for an aerosol coating category: the company name, mailing address, contact person, email address, and the telephone number of the contact person.

For a Responsible Party who does not manufacture their own aerosol coating products, the Responsible Party shall also supply the information specified in this subsection (c)(1) for those manufacturers which produce products for the Responsible Party.

The Responsible Party shall also notify the Executive Officer within 90 days of any change in the information supplied to the Executive Officer pursuant to this subsection (c)(1).

- (2) Upon 90 days written notice, each manufacturer or Responsible Party subject to this article shall submit to the Executive Officer a written report with all of the following information for each product they manufacture under their name or another company's name:
 - (A) the brand name of the product;
 - (B) a copy of the product label
 - (C) the owner of the trademark or brand names;
 - (D) the product category as defined in section 94521;
 - (E) the annual California sales in pounds per year and the method used to calculate California annual sales;
 - (F) the weight fraction of each ROC present in amount greater than or equal to 0.1 percent by weight along with its corresponding MIR value as specified in sections 94700 or 94701;
 - (G) the weight fraction of ingredients listed in 94522(i)(2)(A) and 94522(i)(2)(B);
 - (H) the weight fraction of any other ingredient that is present in an amount greater than or equal to 0.1 percent by weight.
 - (I) any other information necessary to determine the emissions or the PWMIR of an "Aerosol Coating Product."

(d) *Treatment of Confidential Information.*

All information submitted by manufacturers pursuant to section 94524 and 94526, shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, sections 91000-91022.

NOTE: Authority cited: Section 39600, 39601, 41511 and 41712, Health and Safety Code.

Reference: Sections 39002, 39600, 40000, 41511 and 41712, Health and Safety Code.

§ 94525. Variances.

(a) Any person who cannot comply with the requirements set forth in section 94522, because of extraordinary reasons beyond the person's reasonable control may apply in writing to the Executive Officer for a variance. The variance application shall set forth:

- (1) the specific grounds upon which the variance is sought;
- (2) the proposed date(s) by which compliance with the provisions of section 94522 will be achieved, and
- (3) a compliance report reasonably detailing the method(s) by which compliance will be achieved.

(b) Upon receipt of a variance application containing the information required in subsection (a), the Executive Officer shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in section 94522 is necessary and will be permitted. A hearing shall be initiated no later than 75 working days after receipt of a variance application. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 30 days prior to the hearing. The notice shall state that the parties may, but need not be, represented by counsel at the hearing. At least 30 days prior to the hearing, the variance application shall be made available to the public for inspection. Information submitted to the Executive Officer by a variance applicant may be claimed as confidential, and such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, sections 91000-91022. The Executive Officer may consider such confidential information in reaching a decision on a variance application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

- (c) No variance shall be granted unless all of the following findings are made:
- (1) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with section 94522 would result in extraordinary economic hardship.
 - (2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.
 - (3) that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.
- (d) Any variance order shall specify a final compliance date by which the requirements of section 94522 will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.
- (e) A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.
- (f) Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from the requirements of section 94522 after holding a public hearing in accordance with the provisions of subsection 94525(b).

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94526. Test Methods and Compliance Verification.

(a) *Test Methods*

Compliance with the requirements of this article shall be determined by using the following test methods, which are incorporated by reference herein. Alternative test methods which are shown to accurately determine the PWMIR, ingredient name and weight percent of each ingredient, metal content, specular gloss, or acid content may also be used after approval in writing by the Executive Officer:

(1) The ingredients and the amount of each ingredient of all aerosol coating products subject to the provisions of this article shall be determined by the procedures set forth in "Air Resources Board Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products," (Method 310) adopted September 25, 1997 and as last amended on August 1, 2014 which is incorporated herein by reference. Only ingredients present in amount equal to or greater than 0.1 percent by weight will be reported.

(b) *Compliance Verification*

(1) Upon written notification from the Executive Officer, the Responsible Party shall have 25 working days from the date of mailing to provide to the Executive Officer the exact product formulation and any other information necessary to determine compliance for products selected for testing:

(A) For the purpose of this subsection, formulation means the exact weight fraction of all ingredients including: each ROC, water, "Antimicrobial Compound," "Coating Solid," "Extender," "Plasticizer," and any compounds assigned a MIR value of zero as specified in section 94522(i).

1. Each ROC must be reported as an ingredient if it is present in an amount greater than or equal to 0.1 percent by weight of the final aerosol coating formulation. If an individual ROC is present in an amount less than 0.1 percent by weight, then it does not need to be reported as an ingredient.
2. Each hydrocarbon solvent must be reported as an ingredient if it is present in an amount greater than or equal to 0.1 percent by weight of the final aerosol coating formulation. The solvent Bin number must be specified.
3. Any ROC constituent of any raw material must be reported as an ingredient if it is present in an amount greater than or equal to 0.1 percent by weight of the final aerosol coating formulation. This means, for example, that any ROC included in a resin or other raw material must be reported as part of the formulation.
4. Hydrocarbon propellant ingredients must be specified and reported separately. In other words, the portion of the hydrocarbon propellant that is propane, butane, isobutane, or any other ROC must be reported as an ingredient.
5. A material safety data sheet (MSDS) does not constitute a product's formulation.

- (B) the product category as defined in section 94521(a);
 - (C) the PWMIR of the “Aerosol Coating Product;”
 - (D) any other information necessary to determine the PWMIR of the aerosol coating product to be tested including the MIR value for each individual ingredient or hydrocarbon solvent(s) used to calculate the PWMIR;
 - (E) Failure to provide the required information within 25 working days or providing incomplete or inaccurate formulation data are violations and subject to penalties.
- (2) The Responsible Party must supply the contact person, mailing address, email address, and phone number for the party who is to be contacted to provide the information specified in (b)(1).
 - (3) The information specified in (b)(2) shall be supplied to the Executive Officer before January 1, 2015, and anytime thereafter that the information changes.
 - (4) Final determination of the PWMIR of the “Aerosol Coating Product” shall be determined using the information obtained from section 94526(a).
- (A) If an aerosol coating product contains one or more Hydrocarbon Solvent(s), the following MIR values shall be used to determine the weighted MIR for each Hydrocarbon Solvent fraction:

Table 94526(b)(4)(A)

Hydrocarbon Solvent Fraction	MIR Value (October 2, 2010)
Alkanes	
Alkane(s) containing 5 carbons	1.45
Alkane(s) containing 6 carbons	1.27
Alkane(s) containing 7 carbons	1.41
Alkane(s) containing 8 carbons	1.27
Alkane(s) containing 9 carbons	1.09
Alkane(s) containing 10 carbons	0.90
Alkane(s) containing 11+ carbons	0.66
Aromatic Compounds	
Xylene isomers, Ethyl benzene	7.64
Aromatics containing 9 carbons	7.99
Aromatics containing C10+carbons	6.95

(B) If there exists a discrepancy that cannot be resolved between the results of Method 310 and the supplied formulation data, then the results of Method 310 shall take precedence over the supplied formulation data. The results of Method 310 shall then be used to determine if the product is in compliance with the applicable Reactivity Limit, and may be used to establish a violation of this article.

NOTE: Authority cited: Sections 39600, 39601, 39607, 41511 and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 39607, 40000, 41511 and 41712, Health and Safety Code.

§ 94527. Severability.

Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39600, 39601 and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94528. Federal Enforceability.

For purposes of federal enforceability of this article, the United States Environmental Protection Agency is not subject to approval determinations made by the Executive Officer under sections 94525 and 94526. Within 180 days of a request from a person who has been granted a variance under section 94525, a variance meeting the requirements of the Clean Air Act shall be submitted by the Executive Officer to the Environmental Protection Agency for inclusion in the applicable implementation plan approved or promulgated by the Environmental Protection Agency pursuant to section 110 of the Clean Air Act, 42 U.S.C.,

Section 7410.

NOTE: Authority cited: Sections 39600, 39601, 39602 and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 39602, 40000 and 41712, Health and Safety Code.

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