

State of California
AIR RESOURCES BOARD

Hearing Officer's Report

EXECUTIVE OFFICER PUBLIC HEARING TO CONSIDER PROPOSED
AMENDMENTS TO THE TABLES OF MAXIMUM INCREMENTAL REACTIVITY
VALUES, TITLE 17, CALIFORNIA CODE OF REGULATIONS

I. INTRODUCTION

On November 3, 2009, in accordance with a delegation of authority from the Air Resources Board (ARB or Board), and from the Executive Officer pursuant to Health and Safety Code section 39516, I, Bart Croes, Chief of the Research Division, conducted a public hearing to consider proposed amendments to the Tables of Maximum Incremental Reactivity (MIR) Values, (title 17, California Code of Regulations (CCR), sections 94700 and 94701). In accordance with the notice of public hearing dated October 7, 2009 and the staff report issued on October 17, 2009, staff proposed that the Executive Officer amend the Tables of MIR Values to update the MIR values for volatile organic compounds specified in the regulation for reducing the ozone formed from Aerosol Coating Products (aerosol coatings regulation).

In June 2000, the Board approved amendments to the aerosol coatings regulation and proposed Tables of MIR Values. The amendments established reactivity limits for 36 aerosol coating categories, based on the MIR scale. The amendments became legally effective on July 18, 2001.

In Resolution 00-22, which approved the amendments, the Board directed the Executive Officer to review the MIR values 18 months after the effective date of the amendments, and every 18 months thereafter, to determine if modifications to the MIR values were warranted. Since any changes to the MIR values would be technical in nature, the Board also delegated to the Executive Officer the authority to adopt regulatory amendments to the Tables of MIR Values, and to conduct public hearings and take other appropriate actions to make such amendments. This delegation of authority allows the Executive Officer to conduct these activities on behalf of the Board.

The Executive Officer in turn delegated to me the authority to conduct the public hearing and make a recommendation to the Executive Officer.

I have reviewed the administrative record in this matter. Based on the evidence before me, I make the following findings and recommendations.

II. FINDINGS

A. PROPOSED AMENDMENTS

1. SECTION 94700

The Tables of MIR Values are contained in sections 94700 and 94701, title 17, CCR. Section 94700 sets forth the MIR values used to calculate whether an aerosol coating product meets the reactivity limits specified in the aerosol coatings regulation. The proposed changes to section 94700 are based on updated MIR values provided by Dr. William Carter from the University of California, Riverside, which were peer reviewed and approved by the ARB's Reactivity Scientific Advisory Committee.

Staff proposed to add hundreds of new compounds with their associated MIR values to section 94700. These new compounds can be used in coating reformulation immediately after the proposed amendments become legally effective. Staff also proposed minor name changes for several Volatile Organic Compounds (VOCs) for consistency with chemical nomenclature, and the removal of a few compound names from section 94700 that were inadvertently listed.

Staff also proposed to update the MIR values in section 94700 for existing compounds. A new column labeled "New MIR Value [Effective Date]" would be added to section 94700 to display the updated MIR values for the currently listed compounds, as well as the MIR values for the newly added compounds. This proposed new column would allow the reader to view, in one place, the most recent, up-to-date MIR values for all the compounds.

Staff subsequently issued two 15-day notices of proposed modifications to the regulations. For the first notice, staff proposed to:

1. Delete two “LEV” mixtures, six “TLEV exhaust” mixtures, and fourteen other mixtures (e.g., “mineral spirits”), in order to avoid the assumption that they are regulated pursuant to section 94700.
2. Replace the entire “New MIR Value” column in the attachment, due to errors in the calculation of the MIR values for most of the substances listed in section 94700.
3. Add synonyms to several of the names included in the listing of compounds, in order to help readers locate compounds of interest.

For the second 15-day notice, staff proposed to delete four nonafluoro-ethers and their associated MIR values, and add four nonafluoro-ethers and HFE (hydrofluoroether) synonyms to the descriptions of four HFEs listed as perfluoro-ethers, and re-number the table accordingly. This was due to duplicate entries in the MIR tables for four HFEs, listing them separately as the synonymous perfluoro- and nonafluoro-ethers.

2. SECTION 94701

Staff proposed a revision to section 94701, which contains the MIR values for 24 different hydrocarbon solvents ‘bins’. This revision is based on the development of an alternative calculation scheme that was made possible by the greater availability of solvent compositional data since 2000, and by the updated MIR values for individual hydrocarbon compounds.

Subsequently, staff proposed to replace the entire “New MIR Value” column in the attachment, due to errors in the calculation of the bin MIR values.

B. PUBLIC COMMENTS

One public comment was received, from Michael E. Bailey, dated September 20, 2009. This comment expressed support for the proposed amendments.

C. ECONOMIC AND ENVIRONMENTAL IMPACTS

Staff has determined that the proposed regulatory action will not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district. The proposed amendments should have minimal or no impacts on the creation or elimination of jobs within the State of California, minimal or no impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minimal or no impacts on the expansion of businesses currently doing business within the State of California.

The result of the environmental impact analysis shows that amending the Tables of MIR Values has neutral or slightly positive environmental impacts.

No one participating in the proceeding raised either economic or environmental impacts as a concern.

III. HEARING OFFICER'S CONCLUSION AND RECOMMENDATION

After full consideration of the record herein, including all testimony and written materials submitted by the staff and interested parties, I find the adoption of the proposed amendments to the Tables of Maximum Incremental Reactivity Values, title 17, California Code of Regulations, to be necessary and appropriate.

I recommend that the Executive Officer adopt Executive Order R-10-011 and amend the Tables of Maximum Incremental Reactivity Values contained in sections 94700 and 94701, title 17, California Code of Regulations, with the modifications set forth in the first and second 15-day notices, as shown in Attachment A of the Executive Order.

/s/

Bart E. Croes, P.E., Chief
Research Division
Hearing Officer

Date Adopted: July 23, 2010

/s/

James N. Goldstene
Executive Officer