

UPDATED INFORMATIVE DIGEST

ADOPTION OF AMENDMENTS TO THE ANTIPRESPERANTS AND DEODORANTS REGULATION, THE CONSUMER PRODUCTS REGULATION, THE AEROSOL COATING PRODUCTS REGULATION, THE TABLES OF MIR VALUES, TEST METHOD 310, AND PROPOSED REPEAL OF THE HAIRSPRAY CREDIT PROGRAM

Sections Affected: Proposed amendments to title 17, California Code of Regulations (CCR), sections 94501, 94506, 94508, 94509, 94512, 94513, 94515, 94520, 94521, 94522, 94523, 94524, 94525, 94526, 94528, 94700, and the repeal of sections 94560, 94561, 94562, 94563, 94564, 94565, 94566, 94567, 94568, 94569, 94570, 94571, 94572, 94573, 94574, and 94575; proposed amendments to sections 1, 2, 3, 4, 5, Appendix A, and repeal of Appendix B of Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products (September 29, 2011)," which is incorporated by reference in title 17, CCR, sections 94506, 94515, and 94526.

Background: Section 41712 of the California Health and Safety Code requires the Air Resources Board (ARB or Board) to adopt regulations to achieve the maximum feasible reduction in VOC emissions from consumer products (including aerosol coatings). As part of the regulatory process, ARB must determine that adequate data exist for it to adopt the regulations. ARB must also determine that the regulations are technologically and commercially feasible, and necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form. The Health and Safety Code further stipulates in section 41712(e) that public health agencies be consulted, and their recommendations be considered, prior to adopting regulations for health benefit products. Section 41712 is primarily directed at attaining State and federal air quality standards.

Pursuant to Health and Safety Code section 41712, ARB has adopted the Regulation for Reducing Volatile Organic Compound Emissions from Antiperspirants and Deodorants (the "Antiperspirants and Deodorants Regulation," title 17, CCR, sections 94500-94506.5); the Regulation for Reducing Emissions from Consumer Products (the "Consumer Products Regulation," title 17, CCR, sections 94507-94517); the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "Aerosol Coating Products Regulation," title 17, CCR, sections 94520-94528); the Tables of Maximum Incremental Reactivity (MIR) Values ("Tables of MIR Values," title 17, CCR, sections 94700-94701); the Hairspray Credit Program ("Hairspray Credit Program," title 17, CCR, sections 94560-94575); and the incorporated by reference Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" ("Method 310"), has been adopted to enforce the above regulations.

The Antiperspirants and Deodorants Regulation sets forth VOC limits and other requirements for antiperspirant and deodorant products. The regulation was originally approved for adoption on November 8, 1989, and has been amended several times. The most recent amendments were approved for adoption on October 26, 2000.

The Consumer Products Regulation sets forth VOC limits and other requirements for numerous categories of consumer products. For certain categories, the regulation also prohibits use of specific toxic compounds and compounds with high global warming potential (GWP) values. The regulation was originally approved for adoption on October 11, 1990, and has been amended numerous times. The most recent amendments were approved for adoption on October 18, 2012. Among other things the regulation sets forth requirements for "Aerosol Adhesive," "Multi-purpose Solvent," and "Paint Thinner" products.

On March 6, 2009, the South Coast Air Quality Management District (SCAQMD) adopted Rule 1143, "Consumer Paint Thinners and Multi-Purpose Solvents" (Rule 1143). As allowed by State law, this rule established requirements specific to "Consumer Paint Thinners" and "Consumer Multi-Purpose Solvents" sold, supplied, offered for sale, or manufactured for sale in the SCAQMD. The categories are defined similarly to those in the Consumer Products Regulation. Rule 1143 has been amended several times, most recently on December 3, 2010.

The Aerosol Coating Products Regulation limits the ozone formation potential (reactivity) of all aerosol coating product emissions. The regulation was originally approved for adoption on March 23, 1995, to establish mass-based VOC limits and other requirements. At a June 22, 2000, hearing, reactivity limits were approved for adoption. The reactivity limits are based on the Maximum Incremental Reactivity (MIR) values. The most recent amendments were approved for adoption on November 17, 2006.

The Tables of MIR Values are used to determine reactivity of aerosol coating products. These values were approved for adoption on June 22, 2000, and have been amended twice, most recently on November 3, 2009.

Method 310 was adopted on September 25, 1997, and has been amended numerous times, most recently on November 18, 2010. Method 310 is used to determine compliance with various regulatory requirements, and is incorporated by reference in title 17, CCR, sections 94506 (Antiperspirants and Deodorants), 94515 (Consumer Products), and 94526 (Aerosol Coating Products).

The Hairspray Credit Program was approved for adoption on November 13, 1997, and provided an incentive for manufacturers to comply early with the June 1, 1999, 55 percent VOC limit for hairspray products, or for manufacturers to develop products with lower VOC levels than required. Manufacturers were allowed to generate credits through January 1, 2005, and use them through January 1, 2010.

Description of Regulatory Action: At its September 26, 2013, public hearing, the Board adopted Board Resolution 13-36 approving for adoption the proposed amendments to the Regulation for Reducing Volatile Organic Compound Emissions from Antiperspirants and Deodorants; the Regulation for Reducing Emissions from Consumer Products; the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions; the Tables of Maximum Incremental Reactivity (MIR) Values; and Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" and the proposed repeal of the Hairspray Credit Program.

The amendments set new or lower VOC limits for aerosol adhesives, multi-purpose solvents, paint thinners, and reactivity limits for aerosol coatings, established requirements for paint thinners and multi-purpose solvents sold in the SCAQMD that mirror the requirements in their SCAQMD's Rule 1143, "Consumer Paint Thinners and Multi-purpose Solvents," and clarified various regulatory provisions by adding or modifying numerous definitions and streamline the regulations by deleting expired provisions.

The Board approved amendments to provide clarity to a number of definitions, provide reformulation flexibility by exempting trans-1,3,3,3-tetrafluoropropene (HFO-1234ze) from the VOC definition, extend a compliance date for a VOC standard for lubricants to address commercial and technological feasibility, strengthen the enforcement process, and repeal provisions that have expired. The purpose of other amendments is to stem the circumvention of provisions for "Multi-purpose Solvent" and "Paint Thinner" products, particularly for products sold in the SCAQMD. The purpose for adopting amendments to Method 310 is to establish procedures to test various products for compliance.

In several product categories, the amendments also prohibit use of compounds with higher GWPs and certain air toxic compounds. The amendments ensure that the public is not exposed to these air toxic compounds and that greenhouse gas emissions from use of various products do not increase.

The overall benefit of these amendments is to provide an equivalent VOC emission reduction of just over four tons per day. Reducing VOC emissions and lowering the ozone forming potential of VOCs will improve air quality. This is because VOCs are ozone precursors. Emission reductions from consumer products (including aerosol coatings) are an important part of ARB's strategy toward attaining the ambient air quality standards.

Fifteen-Day Changes: At the hearing, the staff presented modifications to the initially proposed amendments to the Board in response to comments received during the 45-day comment period. The Board approved the proposed amendments, as modified, and further directed staff to determine if additional conforming modifications to the regulations were appropriate. In light of comments received, staff proposed further clarifications to the definition of "General Purpose Cleaner" to specify that "General

Purpose Cleaner” does not include “Furniture Maintenance Product.” Additionally, staff proposed minor clarifying modifications to the “Single Purpose Cleaner” and “Single Purpose Degreaser” definitions. Staff also modified the definition of “Multi-purpose Solvent” to clarify the scope of the definition. In two sections of Method 310, staff clarified that analysis of exempt compounds includes methyl esters with 17 or more carbon atoms and deleted reference to palmitate. The modified proposal was made available for a 15-day comment period, beginning April 3, 2014.

The resolution and other regulatory documents for this rulemaking are available online at the following ARB website: <http://www.arb.ca.gov/regact/2013/cp2013/cp2013.htm>

Comparable Federal Regulations: The United States Environmental Protection Agency (U.S. EPA) has promulgated a national consumer products rule under section 183(e) of the federal Clean Air Act (CAA) (40 CFR Part 59, subpart C, sections 59.201 *et seq.*). The rule specifies VOC limits for a number of consumer product categories and is similar in format to ARB's Consumer Products Regulation.

Although the national regulation is similar in many aspects to the California regulation, it does not include a number of product categories that are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of ARB's limits are more stringent than the U.S. EPA's limits. Because California has unique air quality problems, reducing VOC emissions from all categories, including consumer products, to the maximum extent feasible is necessary to attain the federal and State ambient air quality standards for ozone.

The U.S. EPA's rule also differs in that it applies nationwide to consumer product manufacturers, importers and distributors (but not retailers), while the ARB regulation applies to any person (including retailers) who "sells, supplies, offers for sale, or manufactures consumer products for use in the State of California." Finally, the U.S. EPA's rule has an unlimited "sell-through" period for noncomplying products manufactured before the effective date of the limits, whereas California law limits the sell-through period to three years.

U.S. EPA's consumer products rule does not prohibit the use of certain toxic air contaminants or alkylphenol ethoxylate surfactants and there is no comparable federal regulation related to reducing greenhouse gas emissions from consumer products.

On March 24, 2008, U.S. EPA set national VOC emission standards for aerosol spray paints (aerosol coatings), (40 CFR Part 59, subpart E, National Volatile Organic Compound Emission Standards for Aerosol Coatings). This national regulation, modeled after ARB's Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions, established a uniform reactivity-based standard for aerosol spray paints. On December 24, 2008, U.S. EPA published amendments to the rule to move the applicability and initial compliance dates for aerosol coatings from January 1, 2009, to July 1, 2009. The reactivity standards and product

categories in the national rule mirror ARB's current aerosol coatings regulation, however, the national rule does not prohibit the use of certain toxic air contaminants.

Changes to Underlying Laws: There have been no changes to the statutory authority governing adoption of this regulation.

Changes to the Effect of the Regulation: None