

**TITLE 17. CALIFORNIA AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF  
PROPOSED AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS  
REGULATIONS AND METHOD 310**

**AND**

**ADOPTION OF A PROPOSED AIRBORNE TOXIC CONTROL MEASURE  
FOR PARA-DICHLOROBENZENE**

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of a new airborne toxic control measure (ATCM) for para-dichlorobenzene, and to consider adoption of amendments to:

- (1) the Regulation for Reducing Volatile Organic Compound (VOC) Emissions from Consumer Products;
- (2) the Regulation for Reducing VOC Emissions from Antiperspirants and Deodorants;
- (3) the "Test Methods" section of the Regulation for Reducing the Ozone formed from Aerosol Coating Product Emissions; and
- (4) Method 310, "Determination of VOCs in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products."

DATE: June 24, 2004

TIME: 9:00 a.m.

PLACE: Air Resources Board  
Auditorium  
9530 Telstar Ave.  
El Monte, CA 91731

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 24, 2004, and may continue at 8:30 a.m., June 25, 2004. This item may not be considered until June 25, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before June 24, 2004, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-5594 or [landreon@arb.ca.gov](mailto:landreon@arb.ca.gov) as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

## **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT**

### **OVERVIEW**

**Sections Affected:** Proposed amendments to sections 94501, 94506, 94507, 94508, 94509, 94510, 94512, 94513, 94515, and 94526, title 17, California Code of Regulations (CCR) and proposed amendments to ARB Method 310, which is incorporated by reference in sections 94506, 94515, and 94526, title 17, CCR.

### **Background**

#### **California Consumer Products Regulations and California State Implementation Plan for Ozone (SIP)**

Section 41712 of the California Health and Safety Code requires the ARB to adopt regulations to achieve the maximum feasible reduction in volatile organic compound (VOC) emissions from consumer products. As part of the regulatory process the ARB must determine that adequate data exist for it to adopt the regulations. The 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.

Pursuant to Health and Safety Code section 41712, the ARB has adopted several regulations which are collectively referred to as the "California Consumer Products Regulations." These regulations include: (1) the Regulation for Reducing VOC Emissions from Antiperspirants and Deodorants (the "AP/DO Regulation;" title 17, CCR, sections 94500-94506.5), (2) the Regulation for Reducing VOC Emissions from Consumer Products (the "Consumer Products Regulation;" title 17, CCR, sections 94507-94517), and (3) the Regulation for Reducing the Ozone formed from Aerosol Coating Product Emissions (the "Aerosol Coatings Regulation;" title 17, CCR, section 94520-94528). The ARB has also adopted a test method which is incorporated by reference in each of these regulations: Method 310, "Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products," which is incorporated by reference in title 17, CCR, sections 94506, 94515, and 94526.

On November 15, 1994, the ARB adopted the California State Implementation Plan for Ozone (1994 SIP). The SIP serves as California's overall plan for attaining the federal ambient air quality standard for ozone. Achieving significant VOC reductions from consumer products is a key element of the SIP. On October 23, 2003, the ARB adopted the *2003 State and Federal Strategy for the California State Implementation Plan* (2003 Statewide Strategy), which updates all elements of the approved 1994 SIP and includes the following additional consumer products measures:

- **Measure CONS-1: Set New Consumer Products Limits for 2006.** The ARB committed to develop a measure to be proposed to the Board between 2003 and 2004, and implemented by 2006, that would achieve VOC emission reductions from consumer products of at least 2.3 tons per day (tpd) in the South Coast Air Basin in 2010. Statewide, this measure would achieve 5.3 tpd in emission reductions by 2010.
- **Measure CONS-2: Set New Consumer Products Limits for 2008-2010.** The ARB committed to develop new consumer product category limits to be proposed to the Board between 2006 and 2008, with implementation in 2008 and 2010, that would achieve VOC emission reductions from consumer products of between 8.5 tpd and 15 tpd in the South Coast Air Basin in 2010. Statewide, this measure would achieve 20-35 tpd in emission reductions by 2010.

The regulatory action proposed in this Notice of Public Hearing is intended to fulfill the commitment for “Measure CONS-1” in the 2003 Statewide Strategy.

#### Para-dichlorobenzene and the California Toxic Air Contaminant (TAC) Identification and Control Program

In 1990 the Board approved amendments to the Consumer Products Regulation. One of these amendments was an exemption for “products containing at least 98% para-dichlorobenzene” from the VOC standards for “Air Fresheners” and “Insecticides” (section 94510(g), title 17, CCR). This exemption allowed manufacturers to continue using para-dichlorobenzene in solid air fresheners, which includes solid toilet/urinal blocks, without having to reformulate to meet the 3% VOC standard for solid air fresheners in the Consumer Products Regulation. These products were essentially composed of 100% para-dichlorobenzene, a VOC. At the time of the exemption, there were no alternative solid toilet/urinal block products available. This is no longer the case: toilet/urinal products that do not contain para-dichlorobenzene are currently being sold. Solid air fresheners are also available that comply with the 3% VOC standard and do not contain para-dichlorobenzene.

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code sections 39650-39675, requires the ARB to identify and control toxic air contaminants (TAC) in California. The U.S. EPA has identified para-dichlorobenzene as a hazardous air pollutant (HAP) pursuant to section 112 of the federal Clean Air Act. In accordance with Health and Safety Code section 39657(b), which requires the Board to designate federal HAPs as TACs, the Board identified para-dichlorobenzene as a TAC in 1993.

Following the identification of a substance as a TAC, Health and Safety Code section 39665 requires the ARB, with participation of the air pollution control and air quality management districts and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed ATCMs and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature. Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, Health and Safety Code section 39666 requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC. For a TAC where the ARB has not specified a threshold exposure level below which no significant adverse health effects are anticipated, Health and Safety Code section 39666(c) requires that the ATCM be designed to reduce emissions to the lowest level achievable through the application of best available control technology or a more effective control method. Cost, health risk, environmental impacts, and other specified factors must be taken into account when designing the control measure.

## **Description of Proposed Regulatory Action**

ARB staff is proposing the following for Board approval:

### **1. Proposed Amendments to the Consumer Products Regulation**

The proposed regulatory action would amend the existing Consumer Products Regulation by adding and modifying product category definitions, and by establishing new VOC limits for 15 product categories. For some of the categories, separate VOC limits are specified for each different product form. Most of the new or modified VOC limits would become effective December 31, 2006. The VOC limit for the aerosol "Anti-static Product" category would become effective on December 31, 2008 and a second, future-effective VOC limit for the "Shaving Gel" category would become effective on December 31, 2009.

In addition, various other modifications and clarifications are proposed to the existing regulatory language. These include modifications to: several definitions, the insecticides section of the Table of Standards, product code-dating requirements, product "sell-through" provisions, the "most restrictive limit provision," dilution instructions for Automotive Windshield Washer Fluids (Dilutable), reporting requirements, and additional labeling requirements for certain specified categories. A number of minor changes are also proposed to various provisions of the regulation in order to correct errors or improve clarity.

The proposed regulatory action would also prohibit the use of three toxic air contaminants--methylene chloride, perchloroethylene, and trichloroethylene--in seven product categories. The seven categories are: Adhesive Removers; Contact

Adhesives; General Purpose Degreasers; Electrical Cleaners; Electronic Cleaners; Footwear or Leather Care Products; and Graffiti Removers.

## **2. Proposed Adoption of a new ATCM for Para-dichlorobenzene, and Removal of the Exemption in the Consumer Products Regulation for Air Fresheners Containing Para-dichlorobenzene**

Para-dichlorobenzene is a California TAC and a federal HAP with potential carcinogenic and non-cancer health effects. The proposed ATCM prohibits the use of para-dichlorobenzene in toilet/urinal care products and solid air fresheners. Staff is also proposing to remove the existing exemption for “air fresheners containing at least 98% para-dichlorobenzene” in section 94510(g) of the Consumer Products Regulation.

## **3. Proposed Amendments to Method 310**

The proposed amendments modify and update Method 310, which is the test method used to determine the percent by weight of reactive organic compounds in aerosol coating products and VOCs in consumer products and AP/DO products. The proposed modifications to Method 310 are basically technical in nature and include updates to test method citations and dates. Modifications are also proposed to the propellant collection procedures and the equations specified for calculation of VOC content. Related amendments to sections 94506, 94515, and 94526 are proposed to reflect the updated test method citations and dates and the date Method 310 will be amended.

## **4. Proposed Amendments to the AP/DO Regulation**

The proposed amendments modify the definition of “Deodorant” to more clearly specify the types of products that are deodorants.

## **5. Possible Modifications to Existing Requirements in the Consumer Products Regulation for the Automotive Hard Paste Waxes**

In addition to the proposed actions described above, ARB staff is currently working with manufacturers to evaluate their ability to meet the existing 45% VOC limit for automotive “hard paste waxes,” which is scheduled to become effective on January 1, 2005 (see section title 17, CCR, section 94509(a)). If necessary, at the Board hearing staff may propose modifications to the existing requirements for hard paste waxes. Any proposed modifications would be made available for a public comment period of at least 15 days, as discussed in the “Hearing Procedures” section of this notice.

## **Comparable Federal Regulations**

The U.S. EPA has promulgated a national consumer products rule under section 183(e) of the federal Clean Air Act: *National Volatile Organic Compound Emission Standards for Consumer Products*. (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. However, there are significant differences between the rules. The U.S. EPA's rule 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." The U.S. EPA's rule does not regulate 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. All of the VOC limits in the U.S. EPA's rule have an effective date of December 10, 1998, whereas the VOC limits in the ARB regulation and the proposed amendments are phased in from 1993 to 2008. 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 allows a three year sell-through period.

There are no comparable federal regulations controlling the use of para-dichlorobenzene in solid air fresheners and toilet/urinal care products. However, the U.S. EPA has adopted several National Emission Standards for Hazardous Air Pollutants (NESHAPS) standards which control para-dichlorobenzene, as one of multiple hazardous air pollutants, from industrial facilities (e.g., see 61 Federal Register 34140 (7/1/96), 63 Federal Register 50280 (9/21/98), 67 Federal Register 45598 (7/9/02)).

### **AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS**

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action, which includes the rationale for the proposed amendments and the proposed ATCM for para-dichlorobenzene, a summary of the potential environmental and economic impacts, and the environmental justice considerations of the proposal.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the ARB's web site listed below, or may be obtained from the Board's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (June 24, 2004).

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact person identified below, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to Mr. David Mallory, Manager, Measures Development Section, Stationary

Source Division, at (916) 445-8316, e-mail [dmallory@arb.ca.gov](mailto:dmallory@arb.ca.gov).

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the ARB's Clerk of the Board at (916) 322-5594 or [landreon@arb.ca.gov](mailto:landreon@arb.ca.gov) as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/conprod/conprod.htm>.

### **COSTS TO PUBLIC AGENCIES, BUSINESSES, AND PERSONS AFFECTED**

The determinations of the ARB Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and business in reasonable compliance with the proposed regulatory action are presented below.

The ARB Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(5) and 11346.5(a)(6), to any state agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer has initially determined that there will be a potential cost impact on private persons or businesses directly affected as a result of the proposed regulatory action. As explained in the ISOR, the proposed amendments may have a significant adverse impact on some individual businesses but the overall statewide impacts are not expected to be significant.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed amendments should have minor impacts on the creation or elimination of jobs within the State of California, minor impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minor impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed amendments can be found in the ISOR.

The Board's Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

Before taking final action on the proposed regulatory action, ARB must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

### **SUBMITTAL OF COMMENTS**

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received no later than **12:00 noon, June 23, 2004**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, California 95814

Electronic mail is to be sent to: [conprod@listserv.arb.ca.gov](mailto:conprod@listserv.arb.ca.gov) and received at the ARB by **no later than 12:00 noon, June 23, 2004**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, June 23, 2004**.

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.



## **STATUTORY AUTHORITY AND HEARING PROCEDURES**

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 39607, 39650, 39658, 39659, 39666, 41511, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 39607, 39650, 39655, 39656, 39658, 39659, 39666, 40000, 41511, and 41712 of the Health and Safety Code.

## **HEARING PROCEDURES**

The public hearing to consider this matter will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon  
Executive Officer

Date: April 27, 2004

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at [www.arb.ca.gov](http://www.arb.ca.gov).*