

State of California  
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,  
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS  
TO THE CALIFORNIA CONSUMER PRODUCTS REGULATION RELATING TO  
AEROSOL ADHESIVES

Public Hearing Date: May 25, 2000  
Agenda Item No.: 00-5-1

I. GENERAL

On May 25, 2000 the Air Resources Board (the "Board" or "ARB") conducted a public hearing to consider amendments to the California consumer products regulation, sections 94507-94517, title 17, California Code of Regulations (CCR). An Initial Statement Of Reasons for Proposed Rulemaking (ISOR) was prepared and made available to the public on April 7, 2000. The ISOR is incorporated by reference herein. This Final Statement Of Reasons for Rulemaking (FSOR) updates the ISOR by identifying and explaining the modifications that were made to the original proposal. The FSOR also summarizes the written and oral comments received during the rulemaking process, and contains the ARB's responses to those comments.

At the hearing the Board adopted Resolution 00-15, in which the Board approved the proposed amendments to the consumer products regulation. The approved amendments included modifications to the originally proposed language. The approved amendments eliminate the future effective 25% by weight volatile organic compound (VOC) standard for aerosol adhesives and establish three new categories of aerosol adhesives: mist spray, web spray, and special purpose. The special purpose category is divided into seven subcategories: flexible vinyl, mounting, automotive engine compartment, automobile headliner, polystyrene foam, polyolefin, and laminate repair/edgebanding adhesives. Also, the approved amendments prohibit the use of methylene chloride (MeCl), perchloroethylene (Perc), and trichloroethylene (TCE) in aerosol adhesives, and impose labeling and reporting requirements.

In accordance with Government Code section 11346.8(c), Resolution 00-15 directed the Executive Officer to adopt the modified regulation after making the modified regulatory language available for public comment, and to make such additional modifications as may be appropriate in light of the comments received. A "Notice of Public Availability of Modified Text," together with a copy of the full text of the modified regulation, with the modifications clearly indicated, was mailed on July 30, 2000, to each of the individuals described in subsections (a)(1) through (a)(4) of section 44, Title 1, CCR. By this action the modified regulation was made available to the public for a 15-day comment period from July 31, 2000 to

August 15, 2000, pursuant to Government Code section 11346.8. The Executive Officer then determined that no additional changes should be made to the regulation, and subsequently issued an Executive Order, by which the modified regulation was adopted.

Modifications to the original proposal were made in order to address comments received during the 45-day public comment period and to clarify the regulatory language. These modifications are described below.

1. Section 94508. Definitions The following modifications were made to section 94508:

A minor clarification was made to the definition of "Flexible Vinyl Adhesive."

The term "High Pressure Laminate Adhesive" was changed to "Laminate Repair/Edgebanding Adhesive" and the definition was modified to more accurately and completely characterize the uses of this subcategory of adhesives (i.e. for the touch-up, repair, and attachment of edgebanding materials to a variety of substrates, in addition to the touch-up and repair of high pressure laminates). For clarity, a definition of "high pressure laminate" was also added.

A new subcategory and definition was added for "Automotive Engine Compartment Adhesive." This subcategory was inadvertently omitted from the original proposal. A separate subcategory is necessary to insure that aerosol adhesives performing this function will continue to be available to consumers.

2. Section 94509. Standards for Consumer Products The following modifications were made to section 94509:

Section 94509(a). Changes were made to add a VOC standard for the "automotive engine compartment" subcategory. Also, "high pressure laminate" was changed to "laminate repair/edgebanding."

Section 94509(i). A three year sell-through period was included for formulations containing methylene chloride, perchloroethylene, or trichloroethylene. This provision was included to maintain consistency with the existing three year sell-through provision that applies to other consumer products.

3. Section 94512. Administrative Requirements. Section 94512(d) was modified to allow manufacturers and responsible parties the flexibility to use abbreviations on the product labels for the applicable product category, so long as they file with the ARB an explanation of the abbreviation before it is used. This modification provides flexibility for industry without compromising the goals of the regulation, and is consistent with the approach used for other categories of consumer products.
4. Section 94513. Reporting Requirements. Section 94513(d) was modified to require the Executive Officer to notify responsible parties in writing that they are to submit product and research data by March 31, 2004. This provision was

added to ensure that additional notice will be provided to responsible parties to remind them of the reporting requirements.

In addition to the modifications described above, various other minor changes were made to the regulatory language for the purposes of clarity.

As defined in Government Code section 11345.5(a)(6), the Board has determined that this regulatory action will neither create costs or savings to any State agency nor affect federal funding to the State. The Board has also determined that these amendments will not create costs or impose a mandate upon any local agency or school district, whether or not it is reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code; or affect other non-discretionary savings to local agencies. In preparing the regulatory proposal, the ARB staff considered the potential economic impacts on California business enterprises and individuals. A detailed discussion of these impacts is included in Chapter VIII of the ISOR.

The Board has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulations may affect small business. The Board has further determined that no alternative was presented or considered which would be more effective in carrying out the purpose for which the regulatory action was proposed, or which would be as effective and less burdensome to affected private persons, than the adopted regulations.

## II. SUMMARY OF COMMENTS AND AGENCY RESPONSES

The Board received several written and oral comments during the 45-day comment period for this regulatory action. A list of commenters is set forth below with the date and form of all comments that were timely filed. Three of the commenters (3M, the National Paint and Coatings Association, and the South Coast Air Quality Management District) expressed support for the amendments and made no specific recommendations. Therefore, their comments are not summarized or responded to below. One commenter (the Sherwin-Williams Company) did recommend modifications to the regulatory language. The comments of the Sherwin-Williams Company are summarized below, with responses explaining how the proposed action has been changed to accommodate the objection or recommendation. No comments were received during the 15-day comment period.

### Comments Received During the 45-day Public Comment Period

#### Abbreviation

#### Commenter

3M

James L. Beardsley, Senior Technologist  
Product Responsibility  
3M Adhesives Division  
oral testimony: May 25, 2000

NPCA H. Allen Irish, Counsel  
Mary Ellen Roddy, Manager, Product Safety  
National Paint and Coatings Association  
written comments: May 24, 2000

SCAQMD Barry R. Wallerstein, Executive Officer  
South Coast Air Quality Management District  
written comments: May 19, 2000

Sherwin Doug Raymond  
Sherwin-Williams Company  
written comments: May 16, 2000

1. Comment: Section 94509(i)(3) needs a provision allowing a three year sell-through period for products containing methylene chloride, perchloroethylene, or trichloroethylene that are manufactured before 1/1/2002. We suggest that the following language be added in a new section 94509(i)(3)(A) :

"Any aerosol adhesive produced with methylene chloride, perchloroethylene, or trichloroethylene before 1/1/2002 shall have a sell-through period in accordance with 94509(c)." (Sherwin)

Agency Response: The ARB agrees that a three year sell-through is warranted in order to maintain consistency with the existing three year sell-through provision for other consumer products, as set forth in section 94509(c). Accordingly, a three year sell-through period has been added as requested by the commenter. However, the ARB did not utilize the exact language suggested by commenter because we developed alternative language that we believe is clearer and easier for the reader to understand (because the language sets forth the entire sell-through provision in a straight-forward way, and does not force the reader to cross-reference back to section 94509(c)).

2. Comment: Section 94512(d)(1)(A) should be revised to read as follows:

"the adhesive category as defined in section 94508, or an abbreviation of the adhesive category shall be displayed in accordance with 94512(d);" (Sherwin)

Agency Response: This modification was made as requested by the commenter.

3. Comment: Section 94512(d)(2) should be revised to read as follows:

“The information required in section 94512(d)(1), 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.” (Sherwin)

Agency Response: This modification was made as requested by the commenter.

4. Comment: Section 94512(d) should include a provision stating that if a manufacturer or responsible party uses a code indicating the date of manufacture, or uses an abbreviation of the adhesive category, an explanation of the code or abbreviation must be filed with the Executive Officer. (Sherwin)

Agency Response: The regulation as adopted by the Board includes all of the provisions recommended by the commenter. However, we did not use the exact language suggested by the commenter. It is not necessary to include language requiring that a "code indicating the date of manufacture" be filed with the Executive Officer, because this requirement is already contained in section 94512(c) of the existing consumer products regulation. Section 94512(c) applies to manufacturers of all categories of consumer products, so it is not necessary to repeat this requirement in section 94512(d), which specifies additional labeling requirements for aerosol adhesives. However, the ARB did include in section 94512(d)(1)(D) the commenter's suggestion that an explanation of any "abbreviation" of the aerosol adhesive category must be filed with the Executive Officer.