

Updated Informative Digest

AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATION RELATING TO AEROSOL ADHESIVES

Sections Affected: Amendments were made to sections 94508, 94509, 94512, and 94513, title 17, California Code of Regulations (CCR).

Background

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 Board adopted the California consumer products regulation (sections 94507-94517, title 17, CCR). The regulation includes VOC standards for aerosol adhesives, which were originally approved by the Board on January 9, 1992. The original standards specified two tiers of VOC limits for aerosol adhesives: a VOC limit of 75 percent by weight, effective January 1, 1995, and a VOC limit of 25 percent by weight, effective January 1, 1997. In November of 1996, the Board approved a delay in the implementation of the 25 percent VOC limit until 1/1/2002, in order to ensure that technologically and commercially feasible products would continue to be available.

In 1996 the Legislature enacted Assembly Bill (AB) 1849 (Stats. 1996, chapter 766) which made several changes to Health and Safety Code section 41712. One of these changes specified that the Board's existing 75 percent VOC standard for aerosol adhesives would apply, effective January 1, 1997, to all uses of aerosol adhesives, including consumer, industrial, and commercial uses (see Health and Safety Code section 41712(h)(2)). AB 1849 also requires the ARB, on or before July 1, 2000, to prepare a study and conduct a public hearing on the need for, and the feasibility of, establishing a more stringent standard or standards for aerosol adhesives (see Health and Safety Code section 41712(h)(3)). If the ARB finds that more stringent limits for aerosol adhesives are expected to become feasible, the ARB is required to adopt a standard or standards to implement more stringent VOC limits.

As required by Health and Safety Code section 41712(h)(3), the ARB staff conducted a technology assessment, and determined that VOC limits more stringent than the currently specified 75 percent limit are feasible for aerosol adhesives. Staff also

determined that the 25 percent VOC limit, which was scheduled to become effective on January 1, 2002, is not technologically or commercially feasible.

Description of the Adopted Amendments

At the May 25, 2000 hearing, the Board approved amendments to sections 94508, 94509, 94512, and 94513, title 17, California Code of Regulations (CCR). The adopted amendments eliminate the 25 percent VOC limit and establish new VOC limits for three new categories of aerosol adhesives, effective January 1, 2002. The three new categories are "mist spray adhesives," "web spray adhesives," and "special purpose spray adhesives." The "special purpose spray adhesives" are further subcategorized into seven subgroups. The three main categories and seven subgroups were established to maintain the unique performance properties of these aerosol adhesive products, while lowering their VOC content to the maximum extent feasible. Different VOC limits were established for "mist spray adhesives" and "web spray adhesives," and three different VOC limits were established for the various subgroups within the "special purpose spray adhesives" category. The ARB determined that these VOC limits represent the most stringent VOC limits that are technologically and commercially feasible at this time, based on the current knowledge of aerosol adhesives technologies.

The amendments also include labeling and other requirements to facilitate compliance and enforcement of the new standards. In addition, reporting requirements are imposed on responsible parties, who will be required to report various types of product information to support a future technology assessment that will be conducted by ARB staff.

Effective January 1, 2002, the amendments also prohibit the use of methylene chloride, perchloroethylene, and trichloroethylene, which are toxic air contaminants, in aerosol adhesives manufactured for use in California. Finally, the amendments revise various definitions related to aerosol adhesives and make other minor modifications to the consumer products regulation to allow incorporation of the amendments and provide clarity.

Because the amendments eliminate the future effective 25 percent VOC standard and replace it with several new standards that are less stringent, the result will be that statewide, about 1 ton per day (TPD) of future emission reductions will not be achieved. However, it should also be noted that manufacturers will still need to reduce the VOC content of most of the products they currently sell in order to meet the January 1, 2002, VOC limits. The ARB estimates that the new VOC limits would achieve about 0.2 TPD reduction in VOC emissions relative to the currently effective 75 percent VOC limit for aerosol adhesives. Also, the toxics prohibition will reduce methylene chloride emissions by 18 tons per year (TPY), and perchloroethylene and trichloroethylene emissions by about 0.5 TPY combined.

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.; see the September 11, 1998, *Federal Register*, Vol. 63, No. 176, pages 48819-48847). The rule specifies VOC limits for a number of consumer product categories, including aerosol adhesives. In the U.S. EPA's rule, there is only one VOC standard for aerosol adhesives, which is 75 percent by weight, effective December 10, 1998. There are other significant differences between the U.S. EPA's rule and the ARB consumer products regulation. 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." Specific to aerosol adhesives, the ARB regulation also applies to users. The U.S. EPA's rule does not regulate a number of product categories, which are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of the ARB's limits (such as the aerosol adhesives limit) 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 are phased-in from 1993 to 2005. 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. Also, the U.S. EPA's rule does not specifically impose restrictions on the use of toxic compounds in consumer products.