

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATIONS FOR REDUCING VOLATILE ORGANIC COMPOUND EMISSIONS FROM AEROSOL COATINGS, ANTIPERSPIRANTS AND DEODORANTS, AND CONSUMER PRODUCTS

The Air Resources Board (ARB) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the Regulations for Reducing Volatile Organic Compound (VOC) Emissions from Aerosol Coatings, Antiperspirants and Deodorants, and Consumer Products.

DATE: November 19, 1998
TIME: 9:30 a.m.
PLACE: Air Resources Board
Board Hearing Room, Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the ARB, which will commence at 9:30 a.m., November 19, 1998, and may continue at 8:30 a.m., November 20, 1998. This item may not be considered until November 20, 1998. Please consult the agenda for the meeting, which will be available at least 10 days before November 19, 1998, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk of the Board by November 4, 1998, at (916) 322-5594, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls outside the Sacramento area.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 94501, 94508, 94521, 94522, and 94524, Title 17, California Code of Regulations (CCR).

Background

Health and Safety Code section 41712(i) requires the ARB, on or before January 1, 1995, to adopt a regulation that achieves the maximum feasible reduction in VOCs emitted from the use of aerosol paints (aerosol coatings). To fulfill this statutory directive, in March, 1995, the ARB adopted a regulation establishing two tiers of VOC limits for 35 categories of aerosol coatings (aerosol coatings regulation; sections 94520-94528, Title 17, CCR). The first tier became effective on January 8, 1996, and the second tier is scheduled to become effective on December 31, 1999.

Health and Safety Code section 41712(i)(3) also requires the ARB, on or before December 31, 1998, to conduct a public hearing on the technological or commercial feasibility of achieving full compliance with the final 1999 limits. If the ARB determines that compliance with the final limits is not technologically or commercially feasible, the ARB may grant an extension of time not to exceed five years. During any such extension of time, the most stringent interim limits are to apply.

The proposed regulatory action is designed to comply with Health and Safety Code section 41712(i)(3), and to achieve the most stringent feasible VOC limits for aerosol coatings. The ARB staff has conducted a survey of aerosol coatings manufacturers that sell products in California, and has evaluated the technological and commercial feasibility of limits which become effective on December 31, 1999. The ARB staff has determined that some of those limits are not technologically or commercially feasible. The staff has also determined that some of the December 31, 1999, limits do not represent the most stringent feasible VOC limits.

Overall, the proposed amendments constitute a relaxation of the second tier VOC limits in the existing aerosol coatings regulation. The proposed amendments would achieve a smaller VOC emission reduction than the existing 1999 second tier limits.

ARB staff is also proposing to exempt methyl acetate from the VOC definitions in the aerosol coatings regulation, the antiperspirant and deodorant regulation (sections 94500-94506.5, Title 17, CCR), and the consumer products regulation (sections 94507-94517, Title 17, CCR). This proposed action is in response to the U.S. Environmental Protection Agency's (U.S. EPA) action on April 9, 1998, to exempt methyl acetate from the federal VOC definition (40 CFR 51.100(s)). Following the U.S. EPA's action, the ARB received a petition to exempt methyl acetate from the VOC definitions for consumer products. To maintain consistency, ARB staff is proposing to amend the VOC definitions in the three consumer products regulations. The exemption of methyl acetate will provide manufacturers greater flexibility in the formulation of complying products.

Description of the Proposed Regulatory Action

ARB staff is proposing the following regulatory actions for Board approval:

1. Amend the existing aerosol coating VOC limits for 23 product categories and amend the effective date for 35 product categories.

The aerosol coatings regulation imposes VOC limits on 35 categories of aerosol coatings. The staff has determined that the December 31, 1999, limits for twelve categories are not technologically or commercially feasible even with the maximum allowable five year extension. Therefore, the staff is proposing less stringent VOC limits for these categories. The staff has also determined that the 1999 second tier limits for eleven categories do not represent the most stringent feasible VOC limits for these categories. Therefore, the staff is proposing more stringent VOC limits for these categories. The staff is also proposing to extend the December 31, 1999, effective date to January 1, 2002, for all 35 product categories to provide sufficient time for manufacturers to comply with the regulatory limits.

2. Exempt methyl acetate from the definitions of “Volatile Organic Compound”

The staff is proposing that the Board adopt amendments to exempt methyl acetate from the VOC definitions in sections 94501(m)(2), 94508(a)(124)(B), and 94521(a)(62)(B) of the California Code of Regulations. This change will bring these VOC definitions into conformity with the federal VOC definition.

3. Adopt a number of minor amendments and corrections to the existing aerosol coatings regulation.

The staff is proposing that the Board adopt several editorial changes to correct minor errors in Barclays official version of the California Code of Regulations. Several of the amendments are word changes. In one case, a definition is being added that was previously adopted by the Board but was omitted from Barclays official version of the California Code of Regulations. The staff is also proposing to delete section 94522(g) because the November 19, 1998, hearing will fulfill the hearing requirement of this section.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that establish VOC limits for aerosol coatings.

The federal VOC definition is codified in 40 CFR 51.100(s). It was most recently amended on April 9, 1998, to exempt methyl acetate from regulation as a VOC (63 FR 17331-17333).

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The ARB staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal and supporting technical documentation. Copies of the ISOR may be obtained from the ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (November 19, 1998). The ISOR contains the full text of the proposed action. The staff has also compiled a record that includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified below. The material will also be available online at the ARB's Internet web site for consumer products; the Internet address is "<http://www.arb.ca.gov>" and the material will be available under the heading for "consumer products."

The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain-English summary of the proposed amendments is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulatory action.

Further inquiries regarding the proposed amendments to the existing aerosol coatings regulation should be directed to Ms. Barbara Fry, Manager, Measures Development Section, Stationary Source Division at (916) 322-8267.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulatory action are presented below. The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 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 those costs are 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 local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The Executive Officer has determined that the proposed regulatory action should have an overall beneficial economic impact. The Executive Officer has also determined that the proposed regulatory action will not have a significant adverse economic impact on the ability of California businesses to compete with businesses in other states, or on directly affected private persons. This is because most of the proposed amendments to the aerosol coatings regulation are relaxations of VOC limits that would otherwise have become effective on December 31, 1999. For those categories where the proposed amendments would establish more stringent VOC limits, the ARB staff has determined that a significant portion of the affected aerosol coatings already comply with the proposed limits.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed amendments should have minor or positive impacts on the creation or elimination of jobs within the State of California, minor or positive impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minor or positive 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 Government Code section 11346.5(a)(3)(B), that the regulations will affect small business.

Before taking final action on the proposed regulatory action, the ARB must determine that no alternative considered by 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.

As explained in the ISOR, it is possible that some individual businesses may be adversely affected by the proposed regulatory action even though the overall economic impact of this regulatory action should be positive. Therefore, the Executive Officer finds that the adoption of the regulatory action may have a significant adverse impact on some businesses. The Executive Officer has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.

- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the ARB, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, or 2020 L Street, 5th Floor, Sacramento, CA 95814, no later than 12:00 noon, November 18, 1998, or received by the Clerk of the Board at the hearing.

The ARB requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days before the hearing. 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, 41511, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 40000, 41511, and 41712 of the Health and Safety Code.

The public hearing 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, the ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are 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, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael P. Kenny September 22, 1998
Executive Officer