

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO
THE CALIFORNIA REGULATIONS FOR REDUCING VOLATILE ORGANIC COMPOUND
EMISSIONS FROM CONSUMER PRODUCTS AND AEROSOL COATING PRODUCTS

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

DATE: November 21, 1996

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 21, 1996, and may continue at 8:30 a.m., November 22, 1996. This item may not be considered until November 22, 1996. Please consult the agenda for the meeting, which will be available at least 10 days before November 22, 1996, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY
STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 94508 to 94515, 94517, and 94521, Title 17, California Code of Regulations (CCR).

Background

In 1988, the Legislature enacted the California Clean Air Act (the Act). The Act added section 41712 to the California Health and Safety Code, which requires the ARB to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds (ROCs emitted by consumer products (ROC is equivalent to VOC)). As part of the regulatory adoption 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.

To date, four regulations have been adopted by the ARB pursuant to Health and Safety Code section 41712. On November 8, 1989, the ARB approved a regulation for reducing VOC emissions from antiperspirants and deodorants (the antiperspirant and deodorant regulation ; sections 94500-94506.5, Title 17, CCR). The ARB, then approved a more comprehensive regulation for reducing VOC emissions from 26 other categories of consumer products (the "consumer products regulation"; sections 94507-94517, Title 17, CCR), which was adopted by the Board in two phases. Phase I was

approved on October 11, 1990, and Phase II was approved on January 9, 1992.

On September 22, 1994, the ARB approved the third regulation, the Alternative Control Plan for Consumer Products (ACP). The ACP is a voluntary, market-based regulation which employs the concept of an aggregate emissions cap or bubble from a group of products. The ACP regulation is designed to lower manufacturers overall costs of reducing VOC emissions from consumer products while, at the same time, achieving emission reductions equivalent to the existing regulations. This regulation is contained in Title 17, CCR, sections 94540-94555.

The fourth regulation, the Regulation to Reduce VOC Emissions from Aerosol Coatings and Amendments to the ACP (the "aerosol coatings regulation"), was adopted by the Board on March 23, 1995. The aerosol coatings regulation limits the VOC content for 35 categories of aerosol paints. As part of this regulatory action, the Board also amended the ACP regulation to allow aerosol coating products to be included in an ACP. This aerosol coatings regulation is contained in Title 17, CCR, sections 94520-94528.

In addition to the four regulations mentioned above, on November 15, 1994, the ARB adopted the California State Implementation Plan for Ozone (SIP). The SIP is designed to satisfy the requirements of the federal Clean Air Act for ozone nonattainment areas in California classified as serious, severe, and extreme. The Consumer Products Element of the SIP is a multifaceted program composed of "near-term," "mid-term," and "long-term" control measures. The near-term SIP measures are comprised of our existing consumer products regulations. The mid-term measures consist of regulations that will cover additional product categories not currently subject to the existing regulation. The long-term measures will rely on new technologies with components of market incentives and consumer education.

The SIP commits the ARB to achieve an overall 85 percent reduction in consumer product emissions by the year 2010. This reduction is necessary for the South Coast Air Basin and other areas to attain the federal ozone standard and meet the rate of progress requirements under the federal Clean Air Act. For consumer products, the near-term measures will contribute about 30 percent of the needed emission reductions by the year 2000, while the additional reductions will come from the mid-term and long-term measures and will occur after the year 2000.

On November 15, 1994, the ARB submitted the consumer products regulation and the antiperspirant and deodorant regulation to the United States Environmental Protection Agency (U.S. EPA) as a SIP revision. On February 14, 1995, these regulations were approved by the U.S. EPA as revisions to the SIP.

Description of the Proposed Regulatory Action

ARB staff is proposing the following amendments for the Board's approval:

1. Postponement of the 25 percent standard for aerosol adhesives

The consumer products regulation currently specifies a 25 percent VOC standard for aerosol adhesives, effective January 1, 1997. Staff is proposing to postpone the effective date of the 25 percent standard until January 1, 2002, a five year extension. It is also proposed that the Board hold a public hearing by June 1, 2000 to review and consider any appropriate modifications to the 25 percent VOC standard. Finally, staff is proposing that responsible parties for aerosol adhesives be required, by March 31, 1999, to provide specified information on product sales and composition, and a written update on research and development efforts. Staff has identified reductions from an adopted consumer products measure that may be used to make up the lost emission reductions due to the postponement of the standard. This ensures that the emission reductions committed to in the SIP will not be compromised.

2. Modification of the VOC definitions to exempt perchloroethylene as a VOC

Identical definitions for "VOC" currently exist in the consumer products and aerosol coatings regulations. Staff is proposing to modify the VOC definition in both regulations to exempt perchloroethylene. This proposal follows similar action in March 1996 by the U.S. EPA, which exempted perchloroethylene from their VOC definition.

3. Amendment of various regulatory provisions to enhance clarity and compliance.

Staff is proposing to amend several definitions and make various other changes to enhance clarity and correct typographical errors in the consumer products regulation. Amendments are proposed to the definitions for "Household Adhesive", "General Purpose Adhesive", "Contact Adhesive", "Construction and Panel Adhesive", "Flying Bug Insecticide", "Crawling Bug Insecticide", and "Charcoal Lighter Material." Staff is also clarifying that charcoal lighter materials may not use the low vapor pressure exemption to meet the requirement for charcoal lighter material.

In addition, staff is proposing an amendment regarding dilution of products to address those products that are diluted with VOCs, as well as those that are diluted with non-VOC solvents or water. Staff is also proposing that manufacturers of products with no VOCs, or products containing VOCs at 0.10 percent by weight or less be exempted from the requirement to date-code these products. Language is also proposed to prohibit erasing, altering, defacing, or otherwise removing or making illegible a date-code without express authorization from the manufacturer. In the Registration Section, an amendment is being proposed to clarify that responsible parties are not required to supply information unless a specific request is made by the Executive Officer. Finally, a number of other clarifying and organizational changes to the existing regulatory language have also been proposed.

4. Amendments to the test methods sections

A proposed amendment to the Test Methods Section of the consumer products regulation will prohibit creating, altering, falsifying, or otherwise modifying records in such a way that the records do not accurately reflect product formulation or manufacturing information. Another proposed amendment specifies that the results of Method 310 (discussed below) will take precedence over product records in situations where the records conflict with the test results.

As a separately-noticed item, staff is also proposing additional amendments to the test methods sections of the antiperspirant and deodorant regulation, the consumer products regulation, and the aerosol coatings regulation. The additional amendments will replace some of the currently specified test methods with a new ARB Method 310. For informational purposes, the proposed additional amendments are separately highlighted in Appendix A to the Initial Statement of Reasons. Further information on the proposed amendments may be obtained from the ARB's Public Information Office, at the address listed below in this notice.

Comparable Federal Regulations

The U.S. EPA has published a proposed rule, National Volatile Organic Compound Emission Standards for Consumer Products, which appeared in the April 2, 1996, Federal Register (Vol. 61, No. 64, pages 14531-14543). The proposed rule specifies VOC standards for antiperspirants and deodorants and other consumer products (but not for aerosol coatings), and is similar to the ARB's consumer products regulation. However, differences exist between the ARB's regulation and the U.S. EPA's proposed rule; following is a brief description of the more significant of these differences. The U.S. EPA's proposed 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 several product categories which are regulated under the ARB regulation. All of the VOC standards in the U.S. EPA's proposed rule have a standard effective date of September 1, 1996, whereas the VOC standards in the ARB regulation are phased in at various dates from 1993 to 1999. Unlike the ARB regulation, the U.S. EPA's proposed rule does not have a second tier of "future effective" VOC standards for any product category. Finally, the U.S. EPA's proposed rule has an unlimited "sell-through" period for non-complying products manufactured before the effective date of the standards, whereas the ARB regulation allows only an 18-month sell-through period.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The ARB staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action which includes a summary of the environmental and economic impacts of the proposal and technical support 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. The ISOR contains the full text of the proposed action. The staff has also compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below. 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 regulation 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 this matter should be directed to Julie Billington, Ph.D., Associate Air Pollution Specialist, Technical Evaluation Section, Stationary Source Division, at (916) 327-1516.

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 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 will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, or on directly-affected private persons. 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 business 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 regulation 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.

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 20, 1996, 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 prior to 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, 39607, 41511, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 39607, 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 nonsubstantial 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
Executive Officer

Date: September 24, 1996