

III.

OVERVIEW: NEED FOR THE HAIRSPRAY CREDIT PROGRAM AND ALTERNATIVES

This chapter discusses the need for the proposed Hairspray Credit Program, how it was developed by ARB staff with input from interested parties, what the goals of the program are, the general concepts and elements of the program, and alternatives to the program. A more detailed section-by-section discussion of the proposed Hairspray Credit Program regulatory language is provided in Chapter IV. The reader is also referred to the proposed Hairspray Credit Program regulation for exact details on the regulatory language and requirements (Appendix A).

A. DEVELOPMENT AND NEED FOR THE HAIRSPRAY CREDIT PROGRAM

On March 27, 1997, the Air Resource Board, as part of its action to amend the consumer products regulation pertaining to hairspray, delayed the effective date of the second-tier hairspray standard by 17 months, and directed staff to develop an early reduction credit program for those businesses that had put forth an effort to comply by the original effective date, January 1, 1998. The Board also wanted to provide an incentive to businesses to manufacture and sell 55 percent VOC hairsprays before June 1, 1999. Staff was directed to have such a program in place by January 1, 1998.

Staff held five discussion meetings with interested parties during the development of the proposed program and spoke with industry and other government regulatory representatives on several occasions at both their request and our initiative (lists of participants are provided in Appendix B). Because of extensive cooperation between industry, ARB and U.S. EPA in the development of the Alternative Control Plan regulation in 1994, staff has included many of that program's concepts in the proposed program (ARB, 1994).

Staff first explored preliminary concepts for the proposed program with interested parties, industry and other government regulatory representatives, at an April 16, 1997, initial discussion meeting. Staff then prepared a first draft regulation, for discussion only, for an early reduction credit program for hairsprays. At a June 5, 1997, discussion meeting, participants from industry provided generally favorable comments on the initial draft. At the same time, they expressed the desire for a program that is flexible and simple. Staff also received written comments from the U.S. EPA. After considering both the oral and written

comments received, staff revised the regulation and held a telephone conference meeting on July 10, 1997, to discuss a second draft. In addition to the oral comments received on July 10, 1997, staff received written comments from the U.S. EPA and the Cosmetic, Toiletry, and Fragrance Association (CTFA). On September 10, 1997, and September 15, 1997, staff held follow-up telephone conference meetings to discuss subsequent revisions to the draft regulation.

The current proposed regulation incorporates many of the thoughtful suggestions provided by the commenters. Staff tried to maximize flexibility and provide for as simple a program as possible, while ensuring public health protection.

B. GOALS OF THE HAIRSPRAY CREDIT PROGRAM

In developing the Hairspray Credit Program, both ARB staff and interested parties expressed specific goals for the program which were not always mutual. In some cases, staff was not able to fully preserve mutual goals (e.g., keeping it simple) because of the weight staff had to place on other goals (e.g., credits only for verified surplus emission reductions). Consequently, individual facets of the proposed program may not always be fully supported by all parties. However, staff believes that the proposed program will be effective in promoting the following seven goals:

- C reward early compliance with the second-tier hairspray standard,
- C promote over compliance with that standard,
- C ensure all credits are for verified surplus emission reductions,
- C provide flexibility within the program to accommodate participants' needs,
- C assure availability of credits as early as possible,
- C maximize uses for the credits, and
- C preserve the emissions reduction commitments in the consumer products element of the State Implementation Plan.

C. GENERAL CONCEPTS AND ELEMENTS

The proposed Hairspray Credit Program is a voluntary, market-based regulation providing for both emission credit generation and use within the consumer products arena. As such, it will supplement the existing California consumer products regulations and provide a high level of flexibility to participating parties. The flexibility in meeting regulatory requirements is likely to provide an economic benefit to program participants. In terms of emissions reductions, the program is designed, at a minimum, to preserve the emission reduction commitments in the consumer products element of the State Implementation Plan and promote innovation in the formulation of hairspray which may result in additional emission reductions.

Responsible parties for hairspray products which have a VOC content of 55 percent or

lower (i.e., the product complies early, which may include over compliance, with the hairspray standard before June 1, 1999, or the product over complies with the standard after June 1, 1999) may voluntarily enter the proposed program. The responsible party will use a two-part application process to request credits for the surplus emission reductions from the hairspray product. The two-part application, along with an ability to establish the length of the credit generation period, provides the applicant with control over when the credits will become available for use. Credit generation must be certified and approved by the Executive Officer. The Executive Officer will maintain a registry of the credit accounts and credit transactions that become final only upon amendment of the registry by the Executive Officer. The credit holders, the hairspray responsible parties, may either use the credits within their own businesses (for example, as an alternative compliance method for other hairspray products they manufacture), or sell the credits to other consumer products businesses. If credits become available for purchase, the proposed program will provide increased flexibility to non-hairspray businesses for meeting consumer product regulatory requirements. However, it should be noted that credits may not be used after January 1, 2010.

The approval process for both credit generation and credit use involves calculations, verification of information, and requirements for reconciliation of excess emissions and credits provided. Staff believes that the proposed process is necessary to ensure that the credits represent actual emission reductions and that the use of credits will not jeopardize our emission reductions commitment in the consumer products element of the State Implementation Plan. The proposed regulation contains a list of specific actions that constitute violations, giving participants, and potential participants, notice of the level of accountability they are expected to meet.

The proposed program does not require application fees. Existing ARB staff resources are anticipated to be sufficient to implement the proposed program.

D. ALTERNATIVES TO THE HAIRSPRAY CREDIT PROGRAM

In the absence of a Hairspray Credit Program, responsible parties of a hairspray product may not currently obtain credits for surplus emission reductions. In the future, however, they may be able to participate in local air pollution control district/air quality management district credit programs such as the Intercredit Trading Program which is being developed by the South Coast Air Quality Management District (SCAQMD, 1997). Any such local program would have to meet the requirements of the ARB regulation for interchangeable emissions credits (ARB, 1997), and should ensure that the use of credits does not unfairly shift the impacts of air pollution to groups of people of lower socioeconomic status.

While the proposed program is intended to provide flexibility to consumer products businesses, existing regulations provide businesses with several alternatives for complying with applicable requirements, including the exemption for an innovative product, the Alternative Control Plan and the ability to request a variance. The ARB incorporated an

innovative product provision into existing regulations in recognition of certain unique aspects of product formulations and packaging; the provision allows a product to exceed the applicable standards, provided emissions from the use of the product are less than the emissions from the use of a complying representative product. The voluntary Alternative Control Plan option allows participants to average, or "bubble," the emissions from more than one product; the overall emissions may not exceed the sum of the emissions that would have been allowed if all products complied with their applicable standards. The ARB has provided to businesses a variance process by which they may request an extension of their compliance dates, following the showing of specific findings.

REFERENCES

Air Resources Board, "Proposed Alternative Control Plan Regulation for Consumer Products," August, 1994.

Air Resources Board, "Initial Statement of Reasons for Rulemaking - Public hearing to Consider Statewide Regulation That Provides a Methodology to Calculate the Value of Interchangeable Emission Reduction Credits," May, 1997.

South Coast Air Quality Management District, "Final Staff Report: Proposed Rule 2501 - Air Quality Investment Program," May, 1997.