

Updated Informative Digest

HAIRSPRAY CREDIT PROGRAM

Sections Affected: Adoption of new sections 94560-94575, Title 17, California Code of Regulations (CCR); amendments to sections 94502, 94509, 94522, and 94548, Title 17, 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 compounds (VOCs) emitted by consumer products. As part of the regulatory process, the ARB must determine that adequate data exists 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.

Four regulations (and subsequent amendments) have been adopted by the ARB pursuant to Health and Safety Code section 41712. These regulations are: (1) the Regulation for Reducing VOC Emissions from Antiperspirants and Deodorants (sections 94500-94506.5, Title 17, CCR); (2) the Regulation for Reducing VOC Emissions from Consumer Products (sections 94507-94517, Title 17, CCR); (3) the Regulation for Reducing VOC Emissions from Aerosol Coating Products (Title 17, CCR sections 94520-94528; and (4) the Alternative Control Plan Regulation for Consumer Products and Aerosol Coating Products (Title 17, CCR, sections 94540-94555). Collectively, these four regulations are referred to as the "California Consumer Products Regulations."

A two-tiered standard for hairspray is included in the Regulation for Reducing VOC Emissions from Consumer Products. The first-tier standard of 80 percent VOC became effective on January 1, 1993. In March 1997, the second-tier standard of 55 percent VOC was postponed by the Board from January 1, 1998, to June 1, 1999. At the time the standard was postponed, the Board directed staff to work with interested parties to develop a hairspray credit program designed to provide an incentive for manufacturers to come into early compliance with the 55 percent VOC standard, and to reward those manufacturers that put forth the effort to develop products with lower VOC levels than required.

Description of the Regulatory Action

The regulatory action will add a new regulation creating the Hairspray Credit Program. Under this voluntary program, manufacturers who comply with the second-tier hairspray standard of 55 percent VOC before the June 1, 1999, effective date can be awarded credits until the standard takes effect. Also, manufacturers who make hairsprays with lower levels of VOC than required by the 55 percent VOC standard can be awarded credits for products manufactured up to

January 1, 2005. Credits will expire after five years or in 2005, whichever is later. The program establishes procedural safeguards to ensure that any credits awarded are real, permanent, quantifiable, enforceable, and surplus.

The program allows only certain specific uses of credits under the California Consumer Products Regulations. Credits may be used to obtain additional time to comply (i.e., a delayed compliance period) with the upcoming VOC standards for a wide variety of consumer products, with compliance dates ranging from January 1, 1999, to January 1, 2005. It is expected that this will be the primary way that credits are used. Credits may also be used to mitigate excess emissions that result from the granting of a variance from the hairspray standard after June 1, 1999, to provide an environmental benefit by retiring credits, or to reconcile any shortfalls occurring in a compliance period under the Alternative Control Plan Regulation. To allow hairspray credits to be used in these ways, amendments were also made in this regulatory action to several sections of the California Consumer Products Regulations.

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 hairsprays and other consumer products, and is similar overall to the ARB's consumer products regulation. Regarding hairsprays, ARB's second-tier, 55 percent VOC standard for hairsprays is more stringent than the 80 percent VOC limit specified in the proposed U.S. EPA rule. Various other differences also exist between the ARB's regulation and the U.S. EPA's proposed rule.

There are no federal regulations which establish a credit program for hairsprays or for any other category of consumer product. However, in April 1994, the U.S. EPA published a rule governing state and local economic incentive programs (EIPs). The EIP rule outlines general criteria for designing EIPs. Under the rule, state EIPs should contain design features that will ensure that the EIPs are consistent with other requirements of the federal Clean Air Act and that emissions reductions credited to the EIPs are quantifiable, surplus, enforceable, and permanent over the duration of the programs. The rule outlines a number of program elements which would generally need to be included in a state EIP. The U.S. EPA specifies that the EIP rule may be used as guidance for developing discretionary state programs. Because the proposed Hairspray Credit Program is a discretionary economic incentive program, ARB staff drew upon the U.S. EPA's EIP rule as guidance. Consistent with using the EIP rule as guidance, the Hairspray Credit Program generally incorporates the program elements outlined in the federal EIP rule.