

**NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED
AMENDMENTS PERTAINING TO HAIRSPRAY IN THE CALIFORNIA
CONSUMER PRODUCTS REGULATION**

Updated Informative Digest

Sections Affected: Amendments to sections 94509, 94513, and 94514, 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 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.

Pursuant to Health and Safety Code section 41712, the Board has approved the California 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.

A two-tiered standard for hairspray was included as part of the Phase I Board action. The first-tier standard of 80 percent VOC became effective on January 1, 1993. The second-tier standard of 55 percent VOC was to become effective on January 1, 1998. When the second-tier standard for hairspray was adopted, the Board recognized that the standard would present formulation challenges to manufacturers. Therefore, the Board directed the staff to report on industry's progress in meeting the standard prior to 1998.

The hairspray category represents the largest and single most significant source of consumer product VOC emissions in California with an estimated 46 tons per day of VOC emissions in 1990. The 80 percent VOC limit reduced these VOC emissions by approximately 7 tons per day statewide. The 55 percent VOC limit will reduce VOC emissions by an additional 14 tons per day. Both of these limits became federally enforceable as part of the approved State Implementation Plan (SIP) when the consumer products regulation was approved by the United States Environmental Protection Agency (U.S. EPA) as a SIP revision on February 14, 1995.

Description of the Regulatory Action

The Board adopted the following amendments:

1. Postponement of the 55 percent VOC standard from January 1, 1998 to June 1, 1999.

The Phase I consumer products regulation specified a 55 percent VOC standard for hairsprays, effective January 1, 1998. The Board adopted a postponement of the effective date of the 55 percent standard until June 1, 1999. After extensive consultation with industry representatives and upon completion of an analysis by ARB staff, staff concluded that the additional time is needed for hairspray manufacturers to complete reformulation research, consumer testing, and final product development. Fortunately, the emission reductions committed to in the SIP are not compromised because the air pollution control districts have not claimed these reductions until the beginning of the 1999 summer ozone season.

2. Requirement for plans demonstrating progress toward compliance (with periodic updates) from manufacturers selling hairsprays not meeting the 55 percent VOC standard during the period from January 1, 1998 to June 1, 1999.

The Board adopted a requirement that hairspray manufacturers must submit plans demonstrating progress toward compliance to the Executive Officer. The plans would outline the specific steps they will take in developing complying products. These plans will be due on or before January 1, 1998, and will be submitted by those manufacturers selling hairspray formulas with a VOC content greater than 55 percent during the period from January 1, 1998 to June 1, 1999. In addition to the initial plan, the manufacturers will also be required to submit periodic progress updates to their plans as the June 1, 1999, date approaches.

3. Modification of the variance provision to include a requirement for VOC emissions mitigation when granting a variance request for hairsprays from the June 1, 1999, standard.

The California Consumer Products Regulation currently allows manufacturers to apply for variances if certain criteria are met. The Board adopted an amendment to modify the variance provision to allow the Executive Officer to require mitigation of excess VOC emissions for manufacturers seeking variances for hairsprays after June 1, 1999. This amendment also allows the Executive Officer to waive all or part of this requirement in certain circumstances.

In addition to these regulatory amendments, the Board directed staff to work during the upcoming year with industry representatives to develop an early reduction credit program. The goal of this program is to provide an incentive for manufacturers to come into compliance early and to reward those manufacturers that do develop 55 percent VOC hairspray products by January 1, 1998. It is envisioned that credits generated by a manufacturer could be used in a

variety of ways, such as using credits to obtain additional time to comply with another product standard, selling credits to other companies needing to mitigate emissions under a variance, or selling credits in the open market (to non-consumer product sources). Specific regulatory language for the early reduction credit program will be proposed in a future regulatory action.

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 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 on various dates from 1993 to 1999. There are no comparable U.S. EPA standards for products in the ARB rule that have effective dates beyond September 1, 1996. The U.S. EPA's proposed rule thus does not have a second tier of "future effective" VOC standards for any product category including hairsprays. 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 California law allows a three year sell-through period.