

## **Updated Informative Digest**

### **AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATION**

**Sections Affected:** Amendments were made to sections 94508, 94509, and 94513, 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 compound (VOC) emissions from consumer products. As part of the regulatory 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. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form.

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 three phases. Phase I was approved on October 11, 1990, Phase II was approved on January 9, 1992, and Phase III (or "Mid-term Measures") was approved on July 24, 1997.

On November 15, 1994, the ARB adopted the California State Implementation Plan for Ozone (SIP). The SIP serves as California's overall plan for attaining the federal ambient air quality standard for ozone. Achieving significant VOC reductions from consumer products is a key element of the SIP. The consumer products element of the SIP is comprised of Near-term, Mid-term, and Long-term measures. The Near-term measures are comprised of the Phase I and II consumer products regulations (and other ARB regulations related to consumer products). The Mid-term measures commitment was partially fulfilled by the Phase III amendments to the Consumer Products Regulation.

#### **Description of the Proposed Regulatory Action**

This regulatory amends the existing Consumer Products Regulation by adding product category definitions and VOC limits for two new categories, and by adding more stringent VOC limits for fifteen existing categories. Additional subcategories were adopted for some of the existing product categories with separate VOC limits for each subcategory. The new or modified VOC limits become effective from December 31, 2002, to December 31, 2004, depending on the product category. In addition, various modifications were made to the existing definitions for certain product categories. Finally, this regulatory action consolidates and expands the existing reporting

requirements for products containing methylene chloride or perchloroethylene. This regulatory action (referred to as "Mid-term Measures II") will achieve VOC emission reductions of about 21 tons per day statewide.

### **Comparable Federal Regulations**

The U.S. EPA has promulgated a national consumer products rule under section 183(e) of the federal Clean Air Act: *National Volatile Organic Compound Emission Standards for Consumer Products* (40 CFR Part 59, subpart C, sections 59.201 et seq.; see the September 11, 1998, *Federal Register*, Vol. 63, No. 176, pages 48819-48847). The rule specifies VOC limits for a number of consumer product categories, and is similar in format to the ARB's consumer products regulation. However, there are significant differences between the rules. The U.S. EPA's 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 a number of product categories which are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of the ARB's limits are more stringent than the U.S. EPA's limits. All of the VOC limits in the U.S. EPA's rule have an effective date of December 10, 1998, whereas the VOC limits in the ARB regulation and the proposed amendments are phased in from 1993 to 2005. Finally, the U.S. EPA's rule has an unlimited "sell-through" period for noncomplying products manufactured before the effective date of the limits, whereas California law allows a three year sell-through period.