

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### ADOPTION OF THE REGULATION FOR REDUCING VOLATILE ORGANIC COMPOUND EMISSIONS FROM AEROSOL COATING PRODUCTS, AND AMENDMENTS TO THE ALTERNATIVE CONTROL PLAN FOR CONSUMER PRODUCTS

#### UPDATED INFORMATIVE DIGEST OF ACTION

**Sections Affected:** Adoption of new Article 3, sections 94520 to 94528, Title 17, California Code of Regulations (CCR). Amendments to Article 4, sections 94540 to 94543, 94547, 94550, 94551, and 94553, Title 17, 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 Air Resources Board ("ARB" or "Board") to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds (ROCs) emitted by consumer products ("ROC" is equivalent to volatile organic compounds or "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.

The Act originally excluded aerosol paints from the definition of "consumer products" to be regulated by the ARB. However, in 1992 and 1993 the Legislature amended Health and Safety Code section 41712 to include aerosol paints within the definition of consumer products, and to require that the ARB take specific actions to reduce VOC emissions from aerosol paints. Specifically, the ARB is directed to adopt regulations for aerosol paints on or before January 1, 1995. The regulations must achieve by December 31, 1999 at least a 60 percent reduction in VOC emissions from aerosol paints (calculated with respect to the 1989 baseline year), and must establish interim VOC limits prior to 1999. Health and Safety Code section 41712(f) further requires the ARB to conduct a public hearing on or before December 31, 1998 to determine the technological and commercial feasibility of the final VOC limits, and grant an extension not to exceed 5 years if the ARB determines that the 60 percent reduction is not technologically or commercially feasible by December 31, 1999. The aerosol coatings regulation is designed to fulfill all of these statutory requirements.

Three regulations have previously 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 also approved 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. A manufacturer who voluntarily chooses to enter the ACP program must demonstrate that the total ACP emissions under the bubble will not exceed the emissions that would have resulted if the manufacturer had reformulated its products to meet the VOC standards. The ACP regulation is designed to lower manufacturers' overall cost of reducing VOC emissions from consumer products, while at the same time achieving emission reductions equivalent to the existing regulations. The ACP regulation was approved by the Office of Administrative Law on August 10, 1995.

In addition, 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 commits to achieving substantial VOC emission reductions from consumer products, including aerosol coatings. The aerosol coatings regulation is intended to partially fulfill this SIP commitment, as well as the requirements of Health and Safety Code section 41712.

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

The aerosol coatings regulation is similar in format to the ARB consumer products regulation. The regulation will prohibit the sale, supply, offer for sale, commercial application, or manufacture for use in California of any aerosol coating product with a VOC content greater than the specified standards. The standards are based on the percentage of VOC by weight. The regulation establishes two sets of standards limiting the VOC content of 35 different categories of aerosol paints and related products. For all categories, the effective date of the first set of standards is January 1, 1996, and the effective date of the second set of standards is December 31, 1999.

However, as mandated by Health and Safety Code section 41712, the regulation also requires the ARB to conduct a public hearing on or before December 31, 1998, on the technological and commercial feasibility of manufacturers achieving full compliance with the 1999 VOC limits. Depending on the results of this hearing the Board may grant an extension of time for up to five years for some or all coatings categories, establish new interim limits, and modify the final compliance limits as appropriate (provided that the final compliance limits achieve at least a 60 percent reduction in VOC emissions).

In addition to establishing VOC content limits, the regulation contains other provisions to improve the implementation and effectiveness of the regulation. The provisions include an eighteen-month sell-through period for noncomplying products, restrictions on the use of toxic air contaminants and ozone-depleting compounds, requirements for multi-component kits, administrative requirements for labeling and reporting information, exemptions for specific products and for products that are manufactured for use outside of California, and compliance test methods. The regulation also provides a variance provision under which a person who cannot comply with the requirements of the regulation may apply for a variance. The provision allows the Board's Executive Officer, upon making certain findings, to issue a variance allowing the person additional time to comply with the regulation.

Finally, the ARB adopted amendments to the Alternative Control Plan (ACP), approved by the Board on September 22, 1994, to allow aerosol coating products to be included in an ACP. It should be noted, however, that the amendments would allow an ACP to include either consumer products, or aerosol coatings products, but not both.

### **Comparable Federal Regulations**

There are no existing comparable federal regulations or statutes that regulate VOC emissions from aerosol paints. However, the United States Environmental Protection Agency may promulgate aerosol paint regulations sometime in the future pursuant to section 183(e)(3) of the federal Clean Air Act Amendments of 1990 [42 U.S.C. 7511b(e)(3)].