

**** Draft for Discussion Purposes Only ****

**DRAFT GUIDELINES FOR
SPECIAL REPORTING REQUIREMENTS
FOR HAIRSPRAYS**

(This document will be addressed at a meeting on June 5, 1997, to continue discussion on the special reporting requirements for hairsprays the Air Resources Board committed to develop for hairspray manufacturers that must comply with the June 1, 1999, 55 percent VOC standard.)

Purpose

The purpose of this document is to provide guidance for manufacturers or marketers of hairspray products (responsible parties) who must prepare compliance plans and periodic updates pertaining to the 55 percent volatile organic compound (VOC) standard for hairsprays. Through a question-and-answer format, this document addresses commonly asked questions concerning these plans and updates.

Background

At the public hearing conducted on March 27, 1997, the Air Resources Board (ARB/Board) adopted amendments to the consumer products regulation (Title 17, California Code of Regulations (CCR), sections 94507-94517) pertaining to hairspray. The principal effect of these amendments is to postpone the effective date of the 55 percent VOC standard for hairspray by 17 months, from January 1, 1998, to June 1, 1999. Additionally, the amendments modify the reporting requirements to require the responsible party to submit compliance plans and periodic updates that detail the specific actions the responsible party will take to come into compliance with the 55 percent VOC standard between January 1, 1998, and June 1, 1999.

The reporting requirements for hairsprays are not intended to create a significant burden on industry. We envision that the compliance plans would only contain sufficient detail to give us a complete picture of what the responsible party will be doing to develop reformulated products by June 1, 1999. We also expect that the periodic updates to the compliance plans could contain less detail, except in cases where major setbacks or revisions to a plan have occurred. For some of the updates, a short letter advising the ARB staff that the reformulation effort is on schedule per the plan may be all that is necessary.

Development Process Timeline

- (1) An initial meeting was held with industry and other interested parties on April 16, 1997, to begin discussion on the draft guidelines for compliance plans and periodic updates.
- (2) Full public process will be held during the Summer of 1997, including workshops, meetings, and conference calls with all interested parties, to develop workable guidelines by the fourth quarter of 1997.
- (3) The guidelines will be completed and available by late summer 1997 and the compliance plans are due on or before January 1, 1998.

Questions and Answers Regarding Reporting Requirements for Hairsprays

The following questions and answers are intended to assist the responsible party in preparing their compliance plans and periodic updates regarding the "Special Reporting Requirements for Hairsprays" set forth in section 94513(e), Title 17, CCR.

1. Who is required to submit compliance plans?

Each responsible party that produces any hairspray product that has a VOC content of greater than 55 percent VOC, by weight, must submit a compliance plan and periodic updates if the responsible party intends to sell, supply, offer for sale or manufacture the product for sale in California after January 1, 1998.

In section 94508 of the consumer products regulation, the "responsible party" is defined as the company, firm or establishment listed on the product's label. If the label lists two companies, firms or establishments, the responsible party is the party whom the product was "manufactured for" or "distributed by," as noted on the label.

In some cases a responsible party may not be the manufacturer of the product or not directly involved with the reformulation of the product. For example, some hairspray marketers may contract with a manufacturer to have a product filled for them. In this situation the responsible party will still be legally responsible for complying with the reporting requirements for hairsprays. However, we are open to the idea of allowing the responsible party and manufacturer as much flexibility as possible as to who will provide the information. One option could be for the manufacturer to send part of the compliance plan (i.e., information regarding formulation data, timeline, etc.) directly to the ARB on behalf of the responsible party. In cases where a manufacturer submits most elements of the compliance plan on behalf of the responsible party, it would still be necessary for the responsible party to submit an abbreviated plan and updates detailing the activities which the responsible party has control over, and to provide

information on the manufacturer's contact who will be submitting information on behalf of the responsible party.

2. When are the compliance plans and periodic updates due?

Compliance plans are due by:

- January 1, 1998.

Periodic updates to the compliance plans are due by:

- April 1, 1998;
- July 1, 1998;
- October 1, 1998;
- January 1, 1999;
- March 1, 1999; and
- May 1, 1999.

In the event that the responsible party has begun selling a complying product before any update deadline shown above, the requirement for updates shall be waived for the responsible party upon receipt of a letter from them advising the ARB that a complying product has been developed and is currently being sold in California as of a certain date.

3. What information should the responsible party include in their compliance plans?

When preparing a compliance plan, the responsible party should include enough detail to give the ARB staff a complete picture of the actions they will be undertaking to develop 55 percent VOC hairsprays by June 1, 1999, or earlier. Different plans may be submitted for different products for which the critical path towards compliance is substantially different.

A complete compliance plan should contain the following elements:

Background:

The plan should include a general explanation of the responsible party's strategy for developing a complying product, including a discussion of the technology involved. This section would serve as a qualitative summary of the plan.

Formulae and Packaging:

The plan should provide a list of formulae and packaging information for both aerosols and nonaerosols to be investigated by the responsible party. The various reformulation approaches being investigated for each form should be discussed including the product formulation, packaging, delivery system, and if an innovative product approach is being pursued. The formulae and packaging information for each form should include the following:

- total percent by weight VOC content;
- formulation data, speciated to the nearest one percent, by weight, for all VOC solvents, propellants, resins, low vapor pressure compounds, water, and other exempt compounds (minor ingredients such as fragrances and impurities need not be listed); and
- the specifications about any valves, packaging systems, or other hardware related to the formulation.

Timeline:

For each product form and different approach being undertaken, the plan should include a detailed timeline for developing a reformulated product(s), including steps for the following events:

- prototype development;
- prototype testing;
- toxicity, corrosion and stability testing;
- packaging and valve testing;
- safety and efficacy testing;
- consumer market testing and consumer acceptance testing;
- final product development, including final testing, labeling and regulatory registration;
- schedule for plant modifications;
- schedule for large scale production start-up, including raw material/parts procurement and test production runs; and
- schedule for submittal and processing of an innovative product if this approach is being pursued.

We suggest that the timeline be portrayed by a graphical layout depicting the starting date, completion date, and task duration to the nearest month for each task. The timeline should account for any overlap of tasks involved, and should identify the critical steps involved. Each step in the timeline should be accompanied by a brief qualitative explanation of what the step entails.

Completion Date:

The manufacturer should state the date or month by which full-scale production of the complying product is expected to begin.

Back-up Plan:

Under section 94513(e)(3), Title 17, CCR, the responsible party is required to provide a back-up plan that describes the intended action should the chosen compliance method or technology not succeed. Some companies have expressed concern that it would be infeasible for them to develop detailed alternative strategies until they are actually faced with specific setbacks during the course of carrying-out their compliance plan. Therefore, we suggest that as part of the initial compliance plan, the responsible party simply include a short qualitative discussion of the options that would be available to them if their primary plan was to fail. In the event that the responsible party encounters serious difficulties in carrying-out their compliance plan, they could address the details of a revised or alternate compliance plan when submitting their periodic updates.

4. What information should manufacturers include in the periodic updates?

In most cases, the periodic updates will not need to contain as much detail as the initial compliance plan. The periodic updates need only focus on areas where setbacks or delays in the initial timeline have occurred and how the responsible party intends to respond. In the event a setback has occurred, a revised timeline should be submitted. If there are no major setbacks or revisions to the compliance plan, the update could be as simple as a short letter or verbal report informing the ARB that the compliance plan is on schedule, for the following updates:

- April 1, 1998;
- July 1, 1998;
- October 1, 1998;
- March 1, 1999; and
- May 1, 1999.

Even if a compliance plan is running smoothly, we would like to receive more information on manufacturers' progress to date for the January 1, 1999, update. This update should include a short report on the manufacturer's progress to date, and the status of meeting milestones in the compliance plan.

In the event the responsible party encountered major setbacks or revisions to a plan, the

updates would need to include the following information:

- a discussion and analysis of the setbacks;
- summarized data for any test results relevant to the setbacks;
- an explanation of major revisions to the compliance plan; and
- a revised timeline, if appropriate.

5. How will confidential information submitted by manufacturers be safeguarded?

The ARB will treat information submitted by manufacturers as part of compliance plans and periodic updates as confidential in accordance with regulations (sections 91000-91022, Title 17, CCR) adopted by the ARB to safeguard the confidentiality of trade secrets (Attachment A). To help us protect trade secrets, the responsible party should designate in their compliance plans and updates which parts of these documents they consider confidential. All information designated by the responsible party as confidential will be handled strictly in accordance with the confidentiality regulations. In addition, all confidential information will be kept in locked file cabinets and will be accessible to authorized ARB staff on an "as needed" basis only. For more information on the protection of confidential information, please contact Mr. Robert Jenne, ARB Senior Staff Counsel, at (916) 322-3762.

6. How will the ARB use the compliance plans and periodic updates to monitor progress towards timely compliance?

At the March 27, 1997, hearing, the Board and a number of industry representatives expressed interest that implementation of the 55 percent standard take place on June 1, 1999, without further delay. The reporting requirements will provide the ARB staff with a very important tool to track individual company's progress toward on-time compliance with the standard.

For those companies who find themselves in the position of having to request a variance from the June 1, 1999, standard, the reporting requirements will provide us with valuable information to help in determining the necessary findings for granting a variance.

7. To whom shall compliance plans and periodic updates be submitted?

Compliance plans and periodic updates should be sent to:

California Air Resources Board

Stationary Source Division
P.O. Box 2815
Sacramento, California 95812
Attn: Air Quality Measures Branch
Hairspray Special Reporting Requirements
CONFIDENTIAL MATERIALS ENCLOSED

8. How should I report my data to the ARB?

The compliance plans and periodic updates may be submitted in hardcopy form. Submittals may also be made by diskette or electronic mail (email). However, there are concerns about using email such as maintaining the security of the information while it is passing through cyberspace and ensuring authenticity of the information since the signature block is not an original (*to be further discussed*). The ARB staff also has developed a form that companies may choose to use for submittals that will be available in hardcopy or diskette forms. This form may be obtained from the contact(s) listed in Question #10.

9. Where and what is the actual language for the special reporting requirements for hairsprays?

The actual language is found in Title 17, CCR, Division 3, Chapter 1, Subchapter 8.5, Article 2, Consumer Products, section 94513(e), Special Reporting Requirements for Hairsprays, and is provided in Appendix B.

10. Who are the ARB staff contacts for additional questions on the reporting requirements?

(Once the guidelines are completed, the ARB staff contacts will be identified.)

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ATTACHMENT A

**Title 17
California Code of Regulations
Sections 91000 to 91022
Disclosure of Public Records**

(Not Included in this Electronic Version)

Draft Guidelines for Special Reporting Requirements for Hairsprays
Second Discussion Meeting, June 5, 1997, Sacramento, California
California Air Resources Board, Stationary Source Division

**** Draft for Discussion Purposes Only ****

ATTACHMENT B

**Title 17
California Code of Regulations
Section 94513(e)
Special Reporting Requirements for Hairsprays**

Draft Guidelines for Special Reporting Requirements for Hairsprays
Second Discussion Meeting, June 5, 1997, Sacramento, California
California Air Resources Board, Stationary Source Division

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**Title 17
California Code of Regulations
Consumer Products
Section 94513(e)
Special Reporting Requirements for Hairsprays**

(e) Special Reporting Requirements for Hairsprays

This subsection (e) applies to each responsible party for any hairspray product that has greater than a 55 percent VOC content, if the responsible party intends to sell, supply, offer for sale, or manufacture the product for sale in California after January 1, 1998. Each such responsible party shall submit to the Executive Officer the following information:

- (1) On or before January 1, 1998, a compliance plan shall be submitted that details the responsible party's schedule for achieving compliance with the June 1, 1999, 55 percent VOC standard for hairsprays.
- (2) Program updates for each compliance plan shall be submitted by the following dates: April 1, 1998, July 1, 1998, October 1, 1998, January 1, 1999, March 1, 1999, and May 1, 1999; except that the obligation to submit updates shall cease when the responsible party achieves compliance with the 55 percent VOC standard.
- (3) Each compliance plan and update shall include the projected sequence and date of all key events pertaining to the development of 55 percent VOC hairspray formulas including, at a minimum, the following information: information on the types of formulations to be tested; formulation data; prototype testing; toxicity, corrosion, and stability tests; packaging and valve testing; safety and efficacy testing; consumer market testing and consumer acceptance testing; schedule for plant modifications and large scale production, the expected date of production of hairsprays that meet the June 1, 1999, standard; and a back-up plan that describes the manufacturer's intended actions should the chosen compliance method or technology not succeed.