

## Volume I

## ENFORCEMENT PROCEDURES

### 7 EMISSIONS AVERAGING PROCEDURE FOR ARCHITECTURAL COATINGS

Ref: Regulation 8, Rule 3: Architectural Coatings, Section 309: Averaging Compliance Option

#### 7.1 Introduction

The procedure set forth in this section provides for an alternative method of compliance with the VOC limits for coatings set forth in Regulation 8, Rule 3: Architectural Coatings. This compliance option is available to manufacturers of coatings and is based on statewide sales of architectural coatings into California, or may be based on district-specific sales. Categories of coatings allowed to be included in an averaging plan are iterated in Section 8-3-309.

#### 7.2 Averaging Provision

The manufacturer shall demonstrate that actual emissions from the coatings being averaged are less than or equal to the allowable emissions, for the specified compliance period using the following equation:

$$\sum_{i=1}^n G_i M_i \leq \sum_{i=1}^n G_i V_i L_i$$

Where:

$$\sum_{i=1}^n G_i M_i = \text{Actual Emissions}$$

$$\sum_{i=1}^n G_i V_i L_i = \text{Allowable Emissions}$$

$G_i$  = Total Gallons of Product (i) subject to Averaging;

$M_i$  = Material VOC Content of Product (i), in pounds per gallon;

$$M_i = \frac{W_s - W_w - W_{ec}}{V_m}$$

$V_i$  = Percent by Volume Solids and VOC in Product (i);

$$V_i = \frac{V_m - V_w - V_{ec}}{V_m}$$

Where:  $W_s$ ,  $W_w$ ,  $W_{ec}$ ,  $V_m$ ,  $V_w$ , and  $V_{ec}$  are defined in Section 402, except that in this Appendix weights are in pounds and volumes are in gallons.

For Non-Zero VOC Coatings:

$$V_i = \frac{\text{Material VOC (also known as VOC Actual)}}{\text{Coating VOC (also known as VOC Regulatory)}}$$

$$\text{Where: Coating VOC} = \frac{W_s - W_w - W_{ec}}{V_m - V_w - V_{ec}}$$

For Zero VOC Coatings:

$V_i$  = Percent Solids by Volume

$L_i$  = Regulatory VOC Content Limit for Product (i), in pounds per gallon (as listed in Section 8-3-301)

The averaging is limited to coatings that are designated by the manufacturer. Any coating not designated in the averaging Program shall comply with the VOC limit in Section 8-3-301. The manufacturer shall not include any quantity of coatings that it knows or should have known will not be used in California, if statewide coatings data are used. If district-specific coatings data are used, the manufacturer shall not include any quantity of coatings that it knows or should have known will not be used in the District.

In addition to the requirements specified in this Section, manufacturers shall not include in an Averaging Program any coating with a VOC content in excess of the following maximum VOC content, for the applicable categories.

<b>Averaging Categories and VOC Ceiling (Maximum VOC Allowed)</b>		
<u>Category</u>	<u>Rule VOC Limit (In effect as of 1/1/2003 or 1/1/2004)</u>	<u>Averaging VOC Ceiling (Maximum)</u>
Flat Coating	100	250
Nonflat Coating	150	250
Floor Coatings	250	400
Industrial Maintenance Coatings	250	420
Primers, Sealers, and Undercoaters	200	350
Quick-Dry Primers, Sealers, and Undercoaters	200	450
Quick-Dry Enamels	250	400
Roof Coatings	250	250
Bituminous Roof Coatings	300	300
Rust Preventative Coatings	400	400
Stains	250	350
Waterproofing Sealers	250	400

### 7.3 Averaging Program

At least six months prior to the start of the compliance period, manufacturers shall submit an Averaging Program (Program) to the Executive Officer of the Air Resources Board. Averaging may not be implemented until the Program is approved in writing by the Executive Officer.

Within 45 days of submittal of a complete Program, the Executive Officer shall either approve or disapprove the Program. The Program applicant and the Executive Officer may agree to an extension of time for the Executive Officer to take action on the Program.

#### **7.4 General Requirements**

The Program shall include all necessary information for the Executive Officer to make a determination as to whether the manufacturer may comply with the averaging requirements over the specified compliance period in an enforceable manner. Such information shall include, but is not limited to, the following:

- 7.4.1 An identification of the contact persons, telephone numbers, and name of the manufacturer who is submitting the Program.
- 7.4.2 An identification of each coating that has been selected by the manufacturer for inclusion in this program that exceeds the applicable VOC limit in the table in Section 8-3-301, its VOC content specified in units of both VOC actual and VOC content as calculated according to the procedures specified, and the designation of the coating category.
- 7.4.3 A detailed demonstration showing that the projected actual emissions will not exceed the allowable emissions for a single compliance period that the Program will be in effect. In addition, the demonstration shall include VOC content information for each coating that is below the compliance limit in the table in Section 8-3-301. The demonstration shall use the equation specified in Section 7.2 of this procedure for projecting the actual emissions and allowable emissions during each compliance period. The demonstration shall also include all VOC content levels and projected volume sold within the State for each coating listed in the Program during each compliance period. The requested data can be summarized in a matrix form.
- 7.4.4 A specification of the compliance period(s) and applicable reporting dates. The length of the compliance period shall not be more than one year or less than six months.
- 7.4.5 An identification and description of all records to be made available to the Executive Officer upon request, if different than those identified under Section 7.3.6.
- 7.4.6 An identification and description of specific records to be used in calculating emissions for the Program and subsequent reporting, and a detailed explanation as to how those records will be used by the manufacturer to verify compliance with the averaging requirements.
- 7.4.7 A statement, signed by a responsible party for the manufacturer, that all information submitted is true and correct, and that records will be made available to the Executive Officer upon request.

#### **7.5 Reporting Requirements**

For every single compliance period, the manufacturer shall submit a mid-term report listing all coatings subject to averaging during the first half of the compliance period, detailed analysis of the actual and allowable emissions at the end of the mid-term, and an explanation as to how the manufacturer intends to achieve compliance by the end of the compliance period. The report shall be signed by the responsible party for the manufacturer, attesting that all information submitted is true and correct. The mid-term report shall be submitted within 45 days after the midway date of the compliance period. A manufacturer may request, in writing, an extension of up to 15 days for submittal of the mid-term report.

Within 60 days after the end of the compliance period or upon termination of the Program, whichever is sooner, the manufacturer shall submit to the Executive Officer a report listing all coatings subject to averaging during the compliance period, providing a detailed demonstration of the balance between the actual and allowable emissions for the compliance period, any identification and description of specific records used by the manufacturer to verify compliance with the averaging requirement, and any other information requested by the Executive Officer to

determine whether the manufacturer complied with the averaging requirements over the specified compliance period. The report shall be signed by the responsible party for the manufacturer, attesting that all information submitted is true and correct, and that records will be made available to the Executive Officer upon request. A manufacturer may request, in writing, an extension of up to 30 days for submittal of the final report.

#### **7.6 Renewal of a Program**

A Program automatically expires at the end of the compliance period. The manufacturer may request a renewal of the Program by submitting a renewal request that shall include an updated Program, meeting all applicable Program requirements. The renewal request will be considered conditionally approved until the Executive Officer makes a final decision to deny or approve the renewal request based on a determination of whether the manufacturer is likely to comply with the averaging requirements. The Executive Officer shall base such determination on all available information, including but not limited to, the mid-term and the final reports of the preceding compliance period. The Executive Officer shall make a decision to deny or approve a renewal request no later than 45 days from the date of the final report submittal, unless the manufacturer and the Executive Officer agree to an extension of time for the Executive Officer to take action on the renewal request.

#### **7.7 Modification of a Program**

A manufacturer may request a modification of the Program at any time prior to the end of the compliance period. The Executive Officer shall take action to approve or disapprove the modification request no longer than 45 days from the date of its submittal. No modification of the compliance period shall be allowed. A Program need not be modified to specify additional coatings to be averaged that are below the applicable VOC limits.

#### **7.8 Termination of a Program**

A manufacturer may terminate its Program at any time by filing a written notification to the Executive Officer. The filing date shall be considered the effective date of the termination, and all other provisions of this rule including the VOC limits shall immediately thereafter apply. The manufacturer shall also submit a final report 60 days after the termination date. Any exceedance of the actual emissions over the allowable emissions for the period that the Program was in effect shall constitute a separate violation for each day of the entire compliance period. The Executive Officer may terminate a Program if any of the following circumstances occur:

- 7.8.1 The manufacturer violates the requirements of the approved Program, and at the end of the compliance period, the actual emissions exceed the allowable emissions.
- 7.8.2 The manufacturer demonstrates a recurring pattern of violations and has consistently failed to take the necessary steps to correct those violations.

#### **7.9 Change in VOC Limits**

If the VOC limits of a coating listed in the Program are amended such that its effective date is less than one year from the date of adoption, the affected manufacturer may base its averaging on the prior limits of that coating until the end of the compliance period immediately following the date of adoption.

#### **7.10 Labeling**

Each container of any coating that is included in averaging program, and that exceeds the applicable VOC limit in Section 8-3-301 shall display the following statement: "This Product Is Subject To Architectural Coatings Averaging Provisions In California." A symbol specified by the Executive Officer may be used as a substitute.

**7.11 Violations**

The exceedance of the allowable emissions for any compliance period shall constitute a separate violation for each day of the compliance period. However, any violation of the requirements of the Averaging Provision of this rule, for which the violator can demonstrate, to the Executive Officer, that did not cause or allow the emission of an air contaminant and was not the result of negligent or knowing activity may be considered a minor violation. Minor violations are subject to the provisions of Regulation 1, Rule 2.

**7.12 Sunset of Averaging Provisions**

The compliance option specified in Regulation 8, Rule 3, Section 309 which utilizes this averaging provision shall cease to be effective on January 1, 2005, after which averaging as an alternate compliance option will no longer be allowed.