

UPDATED INFORMATIVE DIGEST OF REGULATORY ACTION

ADOPTION OF THE ALTERNATIVE CONTROL PLAN (ACP) FOR CONSUMER PRODUCTS

The Air Resources Board ("ARB") adopted the Alternative Control Plan (ACP) regulation for consumer products at a public hearing on September 22, 1994.

Sections Affected: Adoption of new Article 4, sections 94540 to 94555, Title 17, California Code of Regulations (CCR).

Background

In 1988, the Legislature enacted the California Clean Air Act ("the Act"), which declared that attainment of the California state ambient air quality standards is necessary to promote and protect public health, particularly of children, older people, and those with respiratory diseases. The Legislature also directed that these standards be attained by the earliest practicable date.

The Act added section 41712 to the California Health and Safety Code, which requires the ARB to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds (ROCs) emitted by consumer products ("ROC" is equivalent to "VOC"). As part of the regulatory adoption 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.

Two regulations have been adopted by the ARB to fulfill the requirements of Health and Safety section 41712. 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) on November 8, 1989. The ARB also 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 approved by the Board in two phases. Phase I was approved on October 11, 1990 and Phase II was approved on January 9, 1992.

The consumer products regulations reduce VOC emissions primarily through a "command-and-control" approach. Under this approach, the regulations specify maximum allowable VOC content limits (by weight percent) for individual product categories. Although the regulations provide flexibility in a number of ways, there is room for providing additional flexibility in order to improve the efficiency the ARB consumer products program. The purpose of the ACP regulation is to provide additional flexibility and achieve this higher level of efficiency. The ACP regulation is designed to lower manufacturers' overall cost of reducing VOC emissions from consumer products, thereby reducing overall societal cost impacts to consumers, while at the same time achieving emission reductions that are equivalent to the emission reductions achieved by the existing consumer products regulations.

Description of the Alternative Control Plan

The ACP is a voluntary, market-based regulation which employs the well-established concept of an aggregate emissions cap or "bubble." An emissions bubble places an overall limit on the aggregate emissions from a group of products, rather than placing a limit on the VOC content or emissions from each individual product. Upon implementation of the ACP regulation, consumer product manufacturers will have the flexibility to choose, from the menu of available options, the appropriate combination of available emission reduction programs for its products that will minimize its overall compliance costs.

Manufacturers who voluntarily choose to enter the ACP program will select the products and formulate a detailed ACP bubble program ("ACP plan") for those products. Approval of an ACP plan will be contingent on whether it satisfactorily meets the approval process requirements. An approved ACP plan must demonstrate that the total VOC emissions under the bubble would not exceed the emissions that would have resulted had the products been formulated to meet the VOC standards. In addition, the ACP plan must be based on accurate and enforceable records of ACP product sales in California to ensure that all emission reductions will be real and quantifiable.

Once approved, the manufacturer must sell its products in accordance with the conditions contained within the ACP plan. Under an approved ACP plan, the manufacturer may sell products that exceed the VOC standards specified in the existing regulations, provided that the emissions from these high-VOC products will be sufficiently offset by the emissions from products reformulated to "overcomply" with the VOC standards. Overall, compliance with approved ACP plans will ensure that the total VOC emissions from the selected products will be no greater than the aggregate emissions that would have occurred from those same products, if they had been reformulated to meet the existing VOC standards.

Finally, it should be noted that the ACP regulation allows ACPs to include only those products for which VOC standards are specified in the ARB consumer products regulations (section 94509, Title 17, CCR). Antiperspirant and deodorant products are not allowed to be part of an ACP, because such inclusion is impractical due to the different regulatory structures of the consumer products and antiperspirant and deodorant regulations.