

UPDATED INFORMATIVE DIGEST

PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATIONS

Sections Affected: Proposed amendments to sections 94508, 94509, 94510, 94513, and 94523 to title 17, California Code of Regulations (CCR). Non-substantial or solely grammatical changes are also proposed to sections 94507, 94511, 94512, 94514, 94515, 94516, and 94517.

Background:

Section 41712 of the California Health and Safety Code requires the Air Resources Board (ARB) to adopt regulations to achieve the maximum feasible reduction in VOC emissions from consumer products. As part of the regulatory process, ARB must determine that adequate data exist for it to adopt the regulations. 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, ARB has adopted several regulations which are collectively referred to as the "California Consumer Products Regulations." These regulations include: (1) the Regulation for Reducing VOC Emissions from Consumer Products (the "Consumer Products Regulation;" title 17, CCR, sections 94507-94517), and (2) the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "Aerosol Coatings Regulation;" title 17, CCR, section 94520-94528).

On October 23, 2003, ARB adopted the California State Implementation Plan for Ozone (2003 SIP). The SIP serves as California's overall plan for attaining the federal ambient air quality standard for ozone. Achieving additional VOC reductions from consumer products is an important element of the SIP and is necessary to attain state and federal air quality standards.

Description of Adopted Regulatory Action:

On November 17, 2006, the ARB approved, and subsequently adopted after a 15 day comment period, amendments to the existing Consumer Products Regulation and the Aerosol Coatings Regulation. The Consumer Products Regulation was amended by adding and modifying product category definitions and by establishing new VOC limits for 16 product categories. For some of the categories, separate VOC limits are

specified for different product forms. Most of the new or modified VOC limits become effective on December 31, 2008. The remainder become effective on December 31, 2010. The adopted regulatory action also prohibits the use of three toxic air contaminants--methylene chloride, perchloroethylene, and trichloroethylene--in the following products: "Bathroom and Tile Cleaner," "Construction, Panel, and Floor Covering Adhesive," "General Purpose Cleaner," and "Oven Cleaner."

In addition, various other modifications and clarifications were made to the existing regulatory language. These include amending several definitions, amending the VOC limit for "Nail Polish Remover," and amending the effective date and category definition for "Electronic Cleaner." A number of minor changes were also made to various regulatory provisions in order to improve clarity.

An amendment was also adopted to section 94523 (Exemptions) of the Aerosol Coatings Regulation. This amendment clarifies that several product categories are exempt from regulation under the Aerosol Coatings Regulation.

COMPARABLE FEDERAL REGULATIONS

The U.S. Environmental Protection Agency (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.) The rule specifies VOC limits for a number of consumer product categories, and is similar in format to 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 that are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of 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 adopted amendments are phased in from 1993 to 2010. 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.

On July 16, 2007, U.S. EPA proposed a new rule, *National Volatile Organic Compound Emission Standards for Aerosol Coatings*, largely modeled after the ARB Aerosol Coatings Regulation. The U.S. EPA proposal includes reactivity-based limits for 36 coating categories, effective January 1, 2009. The proposal also includes "reactivity factors," based on University of California, Riverside research for a number of chemical ingredients. These "reactivity factors" are essentially the same as the "maximum incremental reactivity values" in the ARB Aerosol Coatings Regulation. U.S. EPA is currently reviewing the public comments received on their proposal.