

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, 94512, and 94515, title 17, California Code of Regulations (CCR) and proposed amendments to Method 310, which is incorporated by reference in section 94515, title 17, CCR, to amend section 2.0 and add new subsections 3.3.8 and 4.2.3.

BACKGROUND:

Section 41712 of the California Health and Safety Code requires the Air Resources Board (Board or 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. The Health and Safety Code further stipulates in section 41712(e) that public health agencies be consulted, and their recommendations be considered, prior to adopting regulations for health benefit products. Section 41712 is primarily directed at attaining the State and federal ozone standards.

Pursuant to Health and Safety Code section 41712, ARB has adopted the Regulation for Reducing Emissions from Consumer Products (the "Consumer Products Regulation;" title 17, CCR, sections 94507-94517).

On September 25, 2007, ARB adopted the State Strategy for California's 2007 State Implementation Plan (2007 SIP). The 2007 SIP serves as California's overall plan to provide the emission reductions necessary to meet the federal ozone standard of 0.08 parts per million averaged over eight hours. As part of the 2007 SIP, ARB has committed to achieve an additional 30 to 40 tons per day of VOC emission reductions statewide from consumer products by January 1, 2014. In 2008 and 2009, the Board adopted amendments to the Consumer Products Regulation to set new or lower VOC limits. These limits will result in 19.2 tons per day of VOC emission reductions once fully effective. Achieving additional VOC emission reductions from consumer products is an important element of the 2007 SIP and is necessary to attain State and federal air quality standards. This rulemaking is the third increment toward meeting the 2007 SIP commitment. Including the emission reductions from this rulemaking, total reductions toward the commitment would be about 26 tons per day.

Method 310 was adopted on September 25, 1997, and has been subsequently amended. Method 310 is used for compliance purposes to determine the VOC content of a consumer product and the presence of any compounds prohibited by ARB regulations.

DESCRIPTION OF ADOPTED REGULATORY ACTION:

On November 18, 2010, the Board considered amendments to the existing Consumer Products Regulation. After a 15-day comment period, the amendments were subsequently adopted by the Board's Executive Officer. The amendments include the addition and modification of product category definitions and establish new or lower VOC limits for a number of consumer product categories. Most of the new or lower VOC limits become effective on December 31, 2012. The remainder become effective on December 31, 2013. The adopted VOC limits will result in VOC emission reductions of about 6.9 tons per day once fully effective.

In addition, various other modifications were made to the existing regulatory language. These include the amendment of several definitions to clarify the types of products included or excluded in specific categories. Several new definitions were also added to describe additional product categories. Following is a description of other amendments that were adopted.

An amendment was adopted to modify the definition of Artist's Solvent/Thinner to specify that an Artist's Solvent/Thinner is a product packaged in a container of 34 ounces or less. At present, Artist's Solvents/Thinners are defined as products packaged in containers equal to or less than 32 ounces. This change was made because some Artist's Solvents/Thinners are commonly packaged in metric units, (e.g. a liter, which is 33.8 ounces), rather than English units (e.g. a quart, which is 32 ounces).

An amendment was adopted to modify the definition of Oven Cleaner to include grill cleaning products. To allow the necessary time to reformulate, newly added Oven or Grill Cleaner products were given until December 31, 2012, to comply. An additional amendment increased the limit for nonaerosol Oven or Grill Cleaner products from 1 percent to 4 percent by weight VOC to accommodate use of noncaustic technologies. To expedite providing this alternative, the adopted limit revision will become effective on the date the amendments become legally effective. This amendment will result in a small emission increase of about 0.1 tons per day. However, emission reductions from the other categories adopted in this regulatory action will offset this small shortfall.

An additional amendment was adopted to include spot remover products used on dry clean only fabrics into the currently regulated "Spot Remover" category. These are primarily products used at dry cleaning operations. To accommodate the necessary time for these products to reformulate, an amendment was adopted to delay the effective date of the VOC limit for "Spot Remover" products from December 31, 2010, to December 31, 2012. This change results in delaying about a 0.25 tons per day VOC

emission reduction for two years. The existing prohibition on use of methylene chloride, perchloroethylene, and trichloroethylene for “Spot Remover” products will also apply to the newly added products effective December 31, 2012.

Mitigation measures under the California Environmental Quality Act (CEQA) were also adopted for some categories. For the categories “Anti-Seize Lubricant,” “Cutting or Tapping Oil,” “Gear, Chain, or Wire Lubricant,” “Metal Polish or Cleanser,” “Rust Preventative or Rust Control Lubricant,” and “Silicone-based Multi-purpose Lubricant,” prohibitions were adopted on the use of the toxic air contaminants methylene chloride, perchloroethylene, and trichloroethylene. These prohibitions were adopted to ensure that use of these toxic air contaminants does not occur as products are reformulated to meet the adopted VOC limits. The adopted prohibitions are contained in section 94509(m).

A second CEQA mitigation measure was adopted to prohibit use of compounds with global warming potential (GWP) values of 150 or greater in “Anti-Seize Lubricant,” “Cutting or Tapping Oil,” “Flying Bug Insecticide,” “Furniture Maintenance Product,” “Gear, Chain, or Wire Lubricant,” “Metal Polish or Cleanser,” “Rust Preventative or Rust Control Lubricant,” “Spot Remover,” and “Wasp or Hornet Insecticide” products. These prohibitions were adopted to ensure that use of compounds with GWP values greater than or equal to 150 does not occur as products are reformulated. The adopted prohibitions are contained in section 94509(n).

Another mitigation measure was adopted to prohibit the use of alkylphenol ethoxylate surfactants in “General Purpose Cleaner” (nonaerosol), “General Purpose Degreaser” (nonaerosol), “Glass Cleaner” (nonaerosol), “Heavy-duty Hand Cleaner or Soap” (nonaerosol) products, and “Oven or Grill Cleaner” products. These prohibitions were adopted to ensure that use of these compounds, which are known to be toxic to aquatic species, does not occur as products are reformulated. The adopted prohibitions are contained in section 94509(m).

Several subsections within section 94509 contained provisions prohibiting the use of specific chlorinated toxic air contaminants. Amendments were adopted to consolidate these requirements into two tables contained in a single subsection. One table includes all of the categories where use of methylene chloride, perchloroethylene, and trichloroethylene is prohibited. A second table includes the categories where use of para-dichlorobenzene is prohibited. The modified subsection also consolidates the provisions that specify sell-through dates and exemptions for impurities (except no exemption for impurities is provided for para-dichlorobenzene). The modifications were adopted to simplify the regulation and make it easier to find the requirements for all categories where these compounds are prohibited. The adopted consolidation of toxic air contaminant prohibitions is contained in section 94509(m).

Several subsections in section 94509 contained prohibitions on the use of compounds that have GWP values of 150 or greater. Amendments were adopted to consolidate these provisions into a single subsection. The modified subsection also consolidates

the provisions that specify sell-through dates and exemptions for impurities. The modifications were adopted to simplify the regulation and make it easier to find the limitations on use of compounds with higher GWP values. The adopted consolidation of GWP limits is contained in section 94509(n).

An amendment was adopted to the Most Restrictive Limit provision contained in section 94512(a) to clarify the regulation's applicability when two defined categories exclude each other within their definitions. As adopted, when a definition for a specific category excludes another specific category and *vice versa*, the product is subject to the VOC limit for whichever category is lower.

Along with the amendments to consolidate toxics prohibitions and GWP limits, other adopted modifications include deleting several subsections and renumbering remaining subsections.

Amendments to Test Method 310 were adopted to incorporate additional testing procedures and standard test methods to analyze consumer products for compliance. These modifications specify the procedures to be used to analyze for the aromatic compound content in "Paint Thinner" and "Multi-purpose Solvent" products and the VOC content of "Fabric Softener-Single Use Dryer Product."

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 (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.

Although the national regulation is similar in many aspects to the California regulation, it is less effective in reducing VOC emissions from consumer products. The U.S. EPA's rule does not include 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. Because California has unique air quality problems, reducing VOC emissions from all categories, including consumer products, to the maximum extent feasible is necessary to attain the federal and State ambient air quality standards for ozone.

The U.S. EPA's rule also differs in that it 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." 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 limits the sell-through period to three years.

U.S. EPA's consumer products rule does not prohibit the use of certain toxic air contaminants or alkylphenol ethoxylate surfactants and there is no comparable federal regulation related to reducing greenhouse gas emissions in consumer products.