

UPDATED INFORMATIVE DIGEST

PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATIONS AND METHOD 310

AND

ADOPTION OF A PROPOSED AIRBORNE TOXIC CONTROL MEASURE FOR PARA-DICHLOROBENZENE

Sections Affected: Adoption of amendments to sections 94501, 94506, 94507, 94508, 94509, 94510, 94512, 94513, 94515, and 94526, title 17, California Code of Regulations (CCR) and adoption of amendments to ARB Method 310, which is incorporated by reference in sections 94506, 94515, and 94526, title 17, CCR.

Background

California Consumer Products Regulations and California State Implementation Plan for Ozone (SIP)

Section 41712 of the California Health and Safety Code requires the ARB to adopt regulations to achieve the maximum feasible reduction in volatile organic compound (VOC) emissions from consumer products. As part of the regulatory process the ARB must determine that adequate data exist 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. 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, the 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 Antiperspirants and Deodorants (the "AP/DO Regulation;" title 17, CCR, sections 94500-94506.5), (2) the Regulation for Reducing VOC Emissions from Consumer Products (the "Consumer Products Regulation;" title 17, CCR, sections 94507-94517), and (3) the Regulation for Reducing the Ozone formed from Aerosol Coating Product Emissions (the "Aerosol Coatings Regulation;" title 17, CCR, section 94520-94528). The ARB has also adopted a test method which is incorporated by reference in each of these regulations: Method 310, "Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products," which is incorporated by reference in title 17, CCR, sections 94506, 94515, and 94526.

On November 15, 1994, the ARB adopted the California State Implementation Plan for Ozone (1994 SIP). The SIP serves as California's overall plan for attaining the federal ambient air quality standard for ozone. Achieving significant VOC reductions from consumer products is a key element of the SIP. On October 23, 2003, the ARB adopted the *2003 State and Federal Strategy for the California State Implementation Plan* (2003 Statewide Strategy), which updates all elements of the approved 1994 SIP and includes the following additional consumer products measures:

- **Measure CONS-1: Set New Consumer Products Limits for 2006.** The ARB committed to develop a measure to be proposed to the Board between 2003 and 2004, and implemented by 2006, that would achieve VOC emission reductions from consumer products of at least 2.3 tons per day (tpd) in the South Coast Air Basin in 2010. Statewide, this measure would achieve 5.3 tpd in emission reductions by 2010.
- **Measure CONS-2: Set New Consumer Products Limits for 2008-2010.** The ARB committed to develop new consumer product category limits to be proposed to the Board between 2006 and 2008, with implementation in 2008 and 2010, that would achieve VOC emission reductions from consumer products of between 8.5 tpd and 15 tpd in the South Coast Air Basin in 2010. Statewide, this measure would achieve 20-35 tpd in emission reductions by 2010.

The adopted regulatory action fulfills the commitment for "Measure CONS-1" in the 2003 Statewide Strategy.

Para-dichlorobenzene and the California Toxic Air Contaminant (TAC) Identification and Control Program

In 1990 the Board approved amendments to the Consumer Products Regulation. One of these amendments was an exemption for "products containing at least 98% para-dichlorobenzene" from the VOC standards for "Air Fresheners" and "Insecticides" (section 94510(g), title 17, CCR). This exemption allowed manufacturers to continue using para-dichlorobenzene in solid air fresheners, which includes solid toilet/urinal blocks, without having to reformulate to meet the 3% VOC standard for solid air fresheners in the Consumer Products Regulation. These products were essentially composed of 100% para-dichlorobenzene, a VOC. At the time of the exemption, there were no alternative solid toilet/urinal block products available. This is no longer the case: toilet/urinal products that do not contain para-dichlorobenzene are currently being sold. Solid air fresheners are also available that comply with the 3% VOC standard and do not contain para-dichlorobenzene.

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code sections 39650-39675,

requires the ARB to identify and control toxic air contaminants (TAC) in California. The U.S. EPA has identified para-dichlorobenzene as a hazardous air pollutant (HAP) pursuant to section 112 of the federal Clean Air Act. In accordance with Health and Safety Code section 39657(b), which requires the Board to designate federal HAPs as TACs, the Board identified para-dichlorobenzene as a TAC in 1993.

Following the identification of a substance as a TAC, Health and Safety Code section 39665 requires the ARB, with participation of the air pollution control and air quality management districts and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. Health and Safety Code section 39665(b) requires that this "needs assessment" address, among other things, the technological feasibility of proposed ATCMs and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature. Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, Health and Safety Code section 39666 requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC. For a TAC where the ARB has not specified a threshold exposure level below which no significant adverse health effects are anticipated, Health and Safety Code section 39666(c) requires that the ATCM be designed to reduce emissions to the lowest level achievable through the application of best available control technology or a more effective control method. Cost, health risk, environmental impacts, and other specified factors must be taken into account when designing the control measure.

Description of the Adopted Regulatory Action

The Board adopted the following:

1. Amendments to the Consumer Products Regulation

The adopted regulatory action amends the existing Consumer Products Regulation by adding and modifying product category definitions, and by establishing new VOC limits for 15 product categories. For some of the categories, separate VOC limits are specified for each different product form. Most of the new or modified VOC limits will become effective December 31, 2006. The VOC limit for the aerosol "Anti-static Product" category will become effective on December 31, 2008 and a second, future-effective VOC limit for the "Shaving Gel" category will become effective on December 31, 2009.

In addition, various other modifications and clarifications were adopted to the existing regulatory language. These include modifications to: several definitions, the insecticides section of the Table of Standards, product code-dating requirements, product "sell-through" provisions, requirements when applied to "multi-unit packages," the "most restrictive limit provision" for clarity and to include certain exceptions, dilution instructions for Automotive Windshield Washer Fluids (Dilutable), reporting requirements, and additional labeling

requirements for certain specified categories. A number of minor changes were also adopted to various provisions of the regulation in order to correct errors or improve clarity.

The adopted regulatory action also prohibits the use of three toxic air contaminants--methylene chloride, perchloroethylene, and trichloroethylene--in seven product categories. The seven categories are: Adhesive Removers; Contact Adhesives; General Purpose Degreasers; Electrical Cleaners; Electronic Cleaners; Footwear or Leather Care Products; and Graffiti Removers. For four of these product categories -- contact adhesives, electronic cleaners, footwear or leather care products, and general purpose degreasers -- the effective date of the prohibition is December 31, 2005, with the sell-through period allowed through December 31, 2008. For the other three product categories -- adhesive removers, electrical cleaners, and graffiti removers -- the effective date of the prohibition is December 31, 2006, with the sell-through period allowed through December 31, 2009.

2. Adoption of a new ATCM for Para-dichlorobenzene, and Removal of the Exemption in the Consumer Products Regulation for Air Fresheners Containing Para-dichlorobenzene

Para-dichlorobenzene is a California TAC and a federal HAP with potential carcinogenic and non-cancer health effects. The adopted ATCM prohibits the use of para-dichlorobenzene in toilet/urinal care products and solid air fresheners. Because alternative non-para-dichlorobenzene products are already widely available, the adopted ATCM includes an expedited phase-out schedule for the para-dichlorobenzene prohibition. The effective date is December 31, 2005, with the sell-through period provided through December 31, 2006. The existing exemption for "air fresheners containing at least 98% para-dichlorobenzene" in section 94510(g) of the Consumer Products Regulation is provided through December 30, 2006, to enable the sell-through of the currently formulated products. Thereafter, the exemption expires and the para-dichlorobenzene prohibition becomes fully effective for all toilet/urinal care and air freshener products, on December 31, 2006.

3. Amendments to Method 310

The adopted amendments modify and update Method 310, which is the test method used to determine the percent by weight of reactive organic compounds in aerosol coating products and VOCs in consumer products and AP/DO products. The adopted modifications to Method 310 are basically technical in nature and include updates to test method citations and dates. Modifications were also adopted to the propellant collection procedures and the equations specified for calculation of VOC content. Related amendments to sections 94506, 94515, and 94526 were adopted to reflect the updated test method citations and dates and the date Method 310 will be amended.

4. Amendments to the AP/DO Regulation

The adopted amendments modify the definition of “Deodorant” to more clearly specify the types of products that are deodorants.

Comparable Federal Regulations

The 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 proposed amendments are phased in from 1993 to 2008. 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.

There are no comparable federal regulations controlling the use of para-dichlorobenzene in solid air fresheners and toilet/urinal care products. However, the U.S. EPA has adopted several National Emission Standards for Hazardous Air Pollutants (NESHAPS) standards which control para-dichlorobenzene, as one of multiple hazardous air pollutants, from industrial facilities (e.g., see 61 Federal Register 34140 (7/1/96), 63 Federal Register 50280 (9/21/98), 67 Federal Register 45598 (7/9/02)).