

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE TABLES OF MAXIMUM INCREMENTAL REACTIVITY (MIR) VALUES

The Executive Officer of the Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider the adoption of proposed amendments to the Tables of Maximum Incremental Reactivity (MIR) Values.

DATE: December 3, 2003

TIME: 9:30 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Coastal Hearing Room
1001 "I" Street, 2nd Floor
Sacramento, CA 95814

This hearing will be conducted by the Executive Officer or an individual designated by her. The agenda for the hearing will be available at least 10 days before December 3, 2003.

If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-5594 or sdorais@arb.ca.gov as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 94700, title 17, California Code of Regulations (CCR).

Background

At its June 22, 2000, public hearing, the Board approved amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Products (the "Aerosol Coating Products Regulation," sections 94520–94528, title 17, CCR), and proposed Tables of Maximum Incremental Reactivity (MIR) Values (new subchapter 8.6, section 94700 and 94701). The main component of the rulemaking was to establish reactivity limits for 36 aerosol coating categories based on the MIR scale. The amendments became legally effective on July 18, 2001.

In Resolution 00-22, which approved the rulemaking action, the Board directed the Executive Officer to review the MIR values 18 months after the effective date of amendments and every 18 months thereafter to determine if modifications to the MIR

values are warranted. This is because the chemical mechanism used to calculate the MIR values is evolving and improving, as new chemical information becomes available. Since any changes to the MIR values would be technical in nature, the Board also delegated to the Executive Officer the authority to adopt regulatory amendments to the Tables of MIR Values, and to conduct public hearings and take other appropriate actions to make such amendments. This delegation of authority allows the Executive Officer (or her delegate) to conduct these activities on behalf of the multi-member Board, as provided in Health and Safety Code sections 39515 and 39516.

The existing Tables of MIR Values are based on the work of Dr. William Carter at the University of California, Riverside. The Tables of MIR Values are contained in two sections of title 17, CCR. Section 94700 contains the MIR values for individual reactive organic compounds. Section 94701 contains the MIR values for 24 different hydrocarbon solvents.

Description of the Proposed Regulatory Action

Staff is proposing amendments to the existing provisions contained in section 94700, title 17, CCR (section 94700). This section sets forth the MIR values used to calculate whether an aerosol coating product meets the reactivity limits (*i.e.*, the Product-Weighted MIR (PWMIR) limits) specified in the aerosol coatings regulation. The proposed changes to section 94700 are based on updated MIR values provided by Dr. Carter, which were peer reviewed and approved by the ARB's Reactivity Scientific Advisory Committee (RSAC). The proposed amendments are intended to provide aerosol coating manufacturers with more options in their reformulation processes, while supporting the use of up-to-date reactivity science.

Staff is proposing to add 102 new compounds with their associated MIR values to section 94700. Most of the new compounds are those Dr. Carter added into his tabulation of MIR values while making assignments for the SAPRC99 mechanism for various emissions inventories. Several chemicals not currently listed were also added at the request of stakeholders. Manufacturers can use the MIR values for all of these new compounds after the proposed amendments become legally effective. Staff is proposing to remove 1,3-diethyl-5-pentyl cyclohexane from section 94700 since it was inadvertently listed in the existing Tables of MIR Values.

Staff is also proposing to update the MIR values for 14 compounds that are currently listed in section 94700. The updated MIR values are also based on research conducted by Dr. Carter. A new column labeled "New MIR Value [Effective Date]" will be added to section 94700 to display the updated MIR values for the 14 currently listed compounds, as well as the MIR values for the newly added 102 compounds.

Although staff is proposing to update the MIR values for 14 currently listed compounds, it should be noted that the currently specified MIR values for these 14 compounds must continue to be used to calculate the PWMIR of aerosol coating products until June 1, 2007. In other words, the MIR values for all compounds currently listed in section 94700 will remain unchanged, for calculation purposes, until June 1, 2007. This existing provision is

set forth in the aerosol coatings regulation, section 94522(h)(2)(A), title 17, CCR, and is designed to ensure needed stability for coatings formulations. The currently specified MIR values can be found in section 94700 in the column labeled “MIR Value (July 18, 2001).” July 18, 2001, is the date that the Table of MIR Values became legally effective, and section 94522(h)(2)(A), title 17, CCR, states:

“The MIR values dated July 18, 2001 shall be used to calculate the PWMIR for aerosol coating products, and these MIR values shall not be changed until June 1, 2007.”

However, all of the 102 new compounds being added to the Tables of MIR Values can be used in aerosol coatings immediately after the proposed amendments become legally effective, as specified in the aerosol coatings regulation, section 94522(h)(2)(B), title 17, CCR, which states:

“If a new ROC is added to section 94700 or 94701, then the new ROC may be used in aerosol coating products, and the MIR value for the new ROC shall be used to calculate the PWMIR after the effective date of the MIR value.”

This provision allows formulation flexibility for aerosol coating manufacturers. To implement this provision and also be consistent with section 94522(h)(2)(A), title 17, CCR, staff is proposing to add the MIR values for the 102 new compounds to the column in section 94700 labeled “MIR Value (July 18, 2001).” Since the aerosol coatings regulation specifies that the MIR values set forth in this column shall be used to calculate the PWMIR for aerosol coatings, placing the MIR values for the 102 new compounds in this column will avoid the confusion of multiple columns in section 94700.

After the amendments become legally effective, manufacturers can simply look in one column—the column labeled “MIR Value (July 18, 2001)” —to determine which MIR values must currently be used to calculate the PWMIR for aerosol coatings products. Staff is also proposing to list the MIR values for all of the compounds that can be used in aerosol coating products (*i.e.*, the 102 new compounds, the 14 compounds with updated MIR values, and all of the currently listed compounds whose MIR values remain unchanged) in the new column labeled “New MIR Value [Effective Date].” This proposed new column will allow the reader to view in one place the most recent, up-to-date MIR values for all the compounds. The MIR values listed in this column would only be used prior to June 1, 2007, if any reactivity-based rulemakings for other source categories were proposed in the future.

No change is being proposed to the MIR values for 24 different hydrocarbon solvents contained in section 94701, title 17, CCR.

There are no federal regulations that are comparable to the proposed regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action which includes a summary of the potential environmental and economic impacts of the proposal and supporting technical documentation. Copies of the

ISOR and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing.

Upon completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons in the Research Division: Dr. Dongmin Luo, Air Resources Engineer, at (916) 324-8496 or dluo@arb.ca.gov, or Dr. Eileen McCauley, Manager, Atmospheric Processes Research Section, at (916) 323-1534 or emccaule@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/mir2003/mir2003.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determination of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6) that the proposed regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the Executive Officer has determined that the proposed amendments should have minimal or no impacts on the creation or elimination of jobs within the State of California, minimal or no impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minimal or no impacts on the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses. No negative economic impact on small businesses is expected to occur.

Finally, the Executive Officer has made an initial determination that adoption of the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California's businesses to compete with businesses in other states, or on representative private persons. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report (ISOR).

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the agency or that has been otherwise identified and brought to the Executive Officer's attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Executive Officer, written comments not physically submitted at the meeting must be received **no later than 12:00 noon, December 2, 2003**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to mir2003@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, December 2, 2003**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, December 2, 2003**.

The Executive Officer requests, but does not require 30 copies of any written submission. Also, the Executive Officer requests that written and e-mail statements be filed at least ten days prior to the meeting so that ARB staff and the Executive Officer have time to fully

consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 40000, and 41712 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted by the Executive Officer of the ARB, or an individual designated by her, in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code. Following the public hearing, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the Board's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: October 7, 2003