

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER R-10-011

Relating to the Adoption of Amendments to the Tables of Maximum Incremental Reactivity (MIR) Values

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (Board or ARB) to adopt standards, rules, and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, at its June 22, 2000 public hearing, the Board approved the Regulation for Reducing the Ozone Formed from Aerosol Coating Products (the "aerosol coatings regulation"; title 17, California Code of Regulations (CCR), sections 94520-94528), which established VOC reactivity limits for 36 categories of aerosol coatings;

WHEREAS, at its June 22, 2000, public hearing, the Board also approved Tables of Maximum Incremental Reactivity (MIR) Values, which are contained in sections 94700 and 94701, title 17, CCR;

WHEREAS, section 94700, title 17, CCR, contains the MIR values for individual reactive organic compounds, while section 94701 contains the MIR values for 24 different classes ("bins") of hydrocarbon solvents;

WHEREAS, in Resolution 00-22, which approved the June 22, 2000 rulemaking action, the Board directed the Executive Officer to review the MIR values 18 months after the effective date of the amendments and every 18 months thereafter to determine if modifications to the MIR values were warranted;

WHEREAS, since any changes to the MIR values would be technical in nature, in Resolution 00-22 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;

WHEREAS, the delegation of authority contained in Resolution 00-22 allows the Executive Officer (or his/her delegate) to conduct these activities on behalf of the Board, as authorized by sections 39515, 39516, 39600, and 39601 of the Health and Safety Code;

WHEREAS, the Executive Officer has delegated to the Chief of the Research Division (Hearing Officer) the authority to conduct a public hearing to consider amendments to the Tables of MIR Values;

WHEREAS, the existing Tables of MIR Values are based on the scientific work of Dr. William Carter at the University of California, Riverside;

WHEREAS, staff has reviewed updated MIR values for individual compounds, mixtures, and classes of hydrocarbon solvents provided by Dr. Carter, and determined that amendments to sections 94700 and 94701 are necessary;

WHEREAS, staff has proposed amendments to section 94700, title 17, CCR, to add new compounds with their associated MIR values and to amend the MIR values for all compounds currently listed;

WHEREAS, staff has proposed amendments to section 94701, title 17, CCR, to amend the MIR values for the 24 different classes (“bins”) of hydrocarbon solvents contained therein;

WHEREAS, in accordance with section 57004 of the Health and Safety Code, an external scientific peer review of the scientific basis for the proposed amendments has been conducted and approved by the Reactivity Scientific Advisory Committee;

WHEREAS, as specified in the aerosol coatings regulation, section 94522(h)(2)(B), title 17, CCR, the new compounds being added to the Tables of MIR Values can be used in aerosol coatings immediately after the proposed amendments are adopted and become legally effective;

WHEREAS, the California Environmental Quality Act (CEQA) and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, on November 3, 2009, the Hearing Officer conducted a public hearing to consider the adoption of the proposed amendments to sections 94700 and 94701, title 17, CCR;

WHEREAS, the November 3, 2009 public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, the proposed regulations, with the modifications to the originally proposed text clearly indicated, were made available for public comment for two periods of 15 days in accordance with the provisions of title 1, California Code of Regulations, section 44; and

WHEREAS, no written comments were received during the two supplemental 15-day comment periods;

WHEREAS, following the November 3, 2009 public hearing and the two subsequent 15-day comment periods, the Hearing Officer prepared a Hearing Officer's Report which recommended that the Executive Officer adopt the amendments proposed by staff, as modified by staff pursuant to the two 15-day notices;

WHEREAS, the Executive Officer has reviewed the Hearing Officer's Report concerning the proposed amendments to sections 94700 and 94701, title 17, CCR, and hereby adopts as his own the findings, conclusions, and recommendations of the Hearing Officer;

WHEREAS, the Executive Officer further finds that:

Recent chemical information used to calculate the MIR scale supports the need for updating the Tables of MIR Values and the adoption of the amendments;

The proposed amendments will update the existing Tables of MIR Values contained in sections 94700 and 94701, title 17, CCR;

The proposed amendments will provide flexibility to aerosol coating manufacturers by providing more reformulation options at potentially less cost, and will not result in the elimination of a product form;

The economic impacts of the proposed amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons (ISOR);

Adequate data exist to support the adoption of the proposed amendments, and to establish that the amendments are necessary, and are technologically and commercially feasible;

The ARB has determined, pursuant to the requirements of CEQA and the Board's regulations, that this regulatory action will not result in any significant adverse impacts on the environment; and

The amendments to the regulation are authorized by California law, and satisfy the requirements of section 41712 of the Health and Safety Code;

WHEREAS, the Executive Officer further finds that no alternative considered would be more effective at carrying out the purpose for which the amendments are proposed, or would be as effective and less burdensome to affected private persons and businesses than the amendments.

NOW, THEREFORE, IT IS ORDERED that the Executive Officer, pursuant to a delegation of authority by the Board, hereby adopts the amendments to sections 94700 and 94701, title 17, CCR, as set forth in the Attachment hereto.

Executed this 23rd day of July 2010, at Sacramento, California.

/s/

James N. Goldstene
Executive Officer

Attachment