

## Updated Informative Digest

### AMENDMENTS TO THE REGULATION FOR REDUCING VOLATILE ORGANIC COMPOUND EMISSIONS FROM ANTIPERSPIRANTS AND DEODORANTS

**Sections Affected:** Amendments were made to sections 94502 and 94504, title 17, California Code of Regulations (CCR).

#### 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 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.

On November 8, 1989, the Antiperspirant and Deodorant Regulation, sections 94500 – 94506.5, title 17, CCR, became the first regulation to be approved by the ARB under its authority to control consumer product emissions. The regulation became legally effective on February 27, 1991, and contains VOC standards based on vapor pressure for both aerosol and non-aerosol antiperspirants and deodorants. Under these standards, high volatility organic compounds (HVOCs) are regulated separately from medium volatility organic compounds (MVOCs). Zero percent HVOC limits were established for aerosol antiperspirants and deodorants, effective January 1, 1995. Because HVOCs are the propellants used in aerosol products, these limits essentially required manufacturers to use non-VOC propellants. However, the Board recognized the technological challenge of the zero percent HVOC limits, and allowed manufacturers additional time beyond 1995 to comply, provided manufacturers submitted a "compliance plan" documenting their efforts to develop complying aerosol products no later than January 1, 1999.

In 1995, the Board approved amendments to the regulation that established "interim" HVOC limits of 40 percent and 14 percent for aerosol antiperspirants and deodorants, respectively (the "40/14" limits). These limits became effective on January 1, 1997, and applied only to manufacturers operating under approved compliance plans.

In the fall of 1998, aerosol antiperspirant manufacturers notified ARB staff of unanticipated technological problems with achieving the zero percent HVOC limit for aerosol antiperspirants. As a result, five manufacturers applied for and received variances from compliance with the zero percent HVOC limit. These variances expired on January 1, 2001. During the variance period, manufacturers were required to sell 40 percent HVOC aerosol antiperspirants. However, despite diligent efforts, and exploring all feasible avenues to overcome the problem, it was not solved. No manufacturer was able to successfully formulate a zero percent HVOC aerosol antiperspirant, and such products are not currently sold in California. Therefore, amendments revising the limit for aerosol antiperspirants were adopted.

### **Description of the Regulatory Action**

This regulatory action amended the existing antiperspirant and deodorant regulation by increasing the HVOC limit for aerosol antiperspirants to 40 percent from the current zero percent limit, beginning January 1, 2001. The MVOC limit of 10 percent remains unchanged.

Increasing the HVOC limit will result in a 1.3 ton per day increase in VOC emissions statewide in 2010, as compared to the emission reductions that would have been achieved from the zero percent HVOC limit. However, the limit change was necessary to allow technologically and commercially feasible aerosol antiperspirants to continue to be available to California consumers.

This regulatory action also modified section 94502(d), ("Special Requirements for Aerosol Manufacturers") to clarify that these requirements apply only to aerosol products manufactured before January 1, 1999. This subsection specifies the criteria that must be met by aerosol manufacturers to receive additional time to comply with the January 1, 1995, limits. Manufacturers that met these criteria were given until January 1, 1999, to comply.

Finally, the reporting requirements set forth in section 94504(b) were modified. Manufacturers of antiperspirant and deodorant products are no longer required to submit annual reports on sales and formulations. To further streamline the regulation, the annual reporting requirements were eliminated, and now require that manufacturers submit data for their antiperspirant and deodorant products only upon receipt of a 90-day written notice from the ARB. This amendment is consistent with other consumer product regulations. In addition, the adopted amendments change somewhat the type of formulation information that manufacturers must report to the ARB.

## **Comparable Federal Regulations**

The United States 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.; see the September 11, 1998, *Federal Register*, Vol. 63, No. 176, pages 48819-48847). The rule specifies VOC limits for a number of consumer product categories, including aerosol antiperspirants and deodorants. The effective date for all categories in the U.S. EPA's rule was December 10, 1998. In the U.S. EPA's rule, however, the limits for aerosol antiperspirants and deodorants are less stringent than even the interim limits (i.e., the 40/14 limits) specified in the ARB's Antiperspirant and Deodorant Regulation. There are other significant differences between the U.S. EPA's rule and ARB regulations. The U.S. EPA's rule applies nationwide to consumer product manufacturers, importers and distributors (but not retailers), while the ARB Antiperspirant and Deodorant Regulation applies to any person (including retailers) who sells, supplies, offers for sale, or manufactures antiperspirant or deodorant products for use in California. The U.S. EPA's rule also 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. Also, the U.S. EPA's rule does not specifically impose restrictions on the use of toxic air contaminants in antiperspirants or deodorants.