

State of California
AIR RESOURCES BOARD

Hearing Officer's Report

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

I. INTRODUCTION

On December 3, 2003, I, Bart Croes, the Chief of the Research Division, conducted a public hearing to consider the adoption of proposed amendments to the Tables of Maximum Incremental Reactivity (MIR) Values in section 94700, title 17, California Code of Regulations (CCR). The hearing was conducted in accordance with a delegation of authority from the Air Resources Board (the "ARB" or "Board") and from the Executive Officer pursuant to Health and Safety Code sections 39515 and 39516. In accordance with the notice of public hearing dated October 7, 2003 and the Initial Statement of Reasons released on October 17, 2003, the staff proposed a number of modifications to the Tables of MIR Values.

I have reviewed the administrative record in this matter. Based on the evidence before me, I make the following findings and recommendations.

II. FINDINGS

A. PROPOSED AMENDMENTS

1. Section 94700, Title 17, CCR

In June 2000 the Board approved amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Products and Proposed Tables of MIR Values. The amendments established 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

amendments, 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. 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, as provided in Health and Safety Code sections 39515 and 39516, allows the Executive Officer (or his delegate) to conduct these activities on behalf of the Board. ARB Executive Officer Catherine Witherspoon in turn delegated to the Chief of the Research Division the authority to conduct a public hearing to consider amendments to the Tables of MIR Values.

The Tables of MIR Values are contained in sections 94700 and 94701, title 17, CCR. Sections 94700 and 94701 set forth the MIR values used to calculate whether an aerosol coating product meets the reactivity limits specified in the Aerosol Coating Product Regulation. The proposed changes to section 94700 are based on updated MIR values provided by Dr. William Carter from the University of California, Riverside, which have been peer reviewed and approved by the ARB's Reactivity Scientific Advisory Committee.

Staff proposed to add 102 new compounds with their associated MIR values to section 94700, and to remove 1,3-diethyl-5-pentyl cyclohexane from section 94700 since it was inadvertently listed in the existing Tables of MIR Values. Minor name changes were proposed to several VOCs for consistency with chemical nomenclature, but their MIR values are not affected. Staff also proposed to update the MIR values in section 94700 for 14 compounds whose MIR values have changed non-negligibly (i.e., more than 5 percent), based on staff's determination that MIR values changes of less than 5 percent are within the uncertainty of the MIR methodology.

2. Section 94701, Title 17, CCR

Staff reviewed section 94701, which contains the MIR values for 24 different hydrocarbon solvents, and determined that no changes to section 94701 are necessary because the impacts of the proposed changes on the Bin system are negligible. Therefore, staff proposed no changes to section 94701.

B. PUBLIC COMMENTS

Two public comment letters were received. The first comment letter was from Doug Raymond of Sherwin-Williams Diversified Brands, and the second was from Heidi McAuliffe of the National Paint & Coatings Association. Both letters express support for the adoption of the proposed amendments and recommend that they be adopted. Sande George, a representative from the National Paint & Coatings Association and the California Paint Council, also testified at the hearing in support of the proposed amendments.

C. ECONOMIC AND ENVIRONMENTAL IMPACTS

The proposed amendments 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. 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 proposed amendments will not result in any significant adverse environmental impacts. No one participating in this rulemaking action raised either economic or environmental impacts as a concern.

II. HEARING OFFICER'S CONCLUSIONS AND RECOMMENDATION

After full consideration of the record herein, including all testimonies and written materials submitted by the staff and interested parties, I find that the adoption of the proposed amendments to the Tables of Maximum Incremental Reactivity Values to be necessary and appropriate. I have concluded that:

1. Section 94700 should be amended to:
 - (a) add 102 new compounds;
 - (b) update the MIR values for 14 compounds;
 - (c) remove 1,3-diethyl-5-pentyl cyclohexane, since it was inadvertently listed in the existing Tables of MIR Values; and
 - (d) make minor name changes to several compounds for consistency with chemical nomenclature.

2. Section 94701 should remain unchanged.

Based on the above findings and conclusions, I recommend that the Executive Officer adopt Executive Order G-03-065 to amend the Tables of Maximum Incremental Reactivity Values in section 94700, title 17, CCR, as shown in Attachment A to this Executive Order.

Bart E. Croes, P.E., Chief
Research Division
Hearing Officer

Adopted _____
Catherine Witherspoon
Executive Officer

Date: _____