

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 8.5 Consumer Products

Article 1. Antiperspirants and Deodorants

§ 94502. Standards for Antiperspirants and Deodorants.

(a) Except as provided in sections 94503 (Exemptions), 94503.5 (Innovative Products), 94505 (Variances) and 94567(a)(1) (Hairspray Credit Program), Title 17, California Code of Regulations, no person shall sell, supply, offer for sale, or manufacture for sale in California any antiperspirant or deodorant which, at the time of sale or manufacture, contains volatile organic compounds in excess of the limits specified in the following Tables of Standards, after the specified effective date, or after any date that has been specified by the Executive Officer pursuant to subsections (d)(2) or (d)(5):

(1) The following Table of Standards applies to products manufactured before January 1, 2001.

Table of Standards
For products manufactured before January 1, 2001
(percent volatile organic compounds by weight)

Effective Dates

| 12/31/92 | | 1/1/95 | | 1/1/97 | | 1/1/99 | |
|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| HVOC ^a | MVOC ^b | HVOC ^a | MVOC ^b | HVOC ^a | MVOC ^b | HVOC ^a | MVOC ^b |

| | | | | | | | |
|--|----|----|---|----|----|---|----|
| Aerosol Products in Compliance Plan ^c | | | | | | | |
| Antiperspirants | 60 | 20 | | 40 | 10 | 0 | 10 |
| Deodorants | 20 | 20 | | 14 | 10 | 0 | 10 |
| All Other Aerosol Products | | | | | | | |
| Antiperspirants | 60 | 20 | 0 | 10 | | | |
| Deodorants | 20 | 20 | 0 | 10 | | | |
| Non-Aerosol Products | 0 | 0 | 0 | 0 | | | |

^a High volatility organic compounds, i.e., any organic compound that exerts a vapor pressure greater than 80 mm Hg when measured at 20EC.

^b Medium volatility organic compounds, i.e., any organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20EC.

^c These standards apply to aerosol products manufactured by companies that have submitted a compliance plan pursuant to Section 94502(d), which has been approved by the Executive Officer.

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(2) The following Table of Standards applies to products manufactured beginning January 1, 2001.

Table of Standards
For products manufactured beginning January 1, 2001
(percent volatile organic compounds by weight)
Effective Dates

| 1/1/01 | |
|-------------------|-------------------|
| HVOC ^a | MVOC ^b |

| Aerosol Products | | |
|----------------------|----|----|
| Antiperspirants | 40 | 10 |
| Deodorants | 0 | 10 |
| Non-Aerosol Products | 0 | 0 |

^a High volatility organic compounds, i.e., any organic compound that exerts a vapor pressure greater than 80 mm Hg when measured at 20EC.

^b Medium volatility organic compounds, i.e., any organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20EC.

(b) No person shall sell, supply, offer for sale, or manufacture for sale in California any antiperspirant or deodorant which contains any of the following ozone-depleting compounds: CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-113 (1,1,2-trichloro-1,2,2-trifluoroethane), CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane), CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane), halon 1301 (bromotrifluoromethane), halon 2404 (dibromotetrafluoroethane), HCFC-22 (chlorodifluoromethane), HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane), HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane), HCFC-141b (1,1-dichloro-1-fluoroethane), HCFC-142b (1-chloro-1,1-difluoroethane), 1,1,1-trichloroethane, and carbon tetrachloride.

(c) No person shall sell, supply, offer for sale, or manufacture for sale in California any antiperspirant or deodorant which contains any compound that has been identified by the ARB in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 7, Section 93000 as a toxic air contaminant.

(d) Special Requirements for Aerosol Manufacturers. This subsection (d) applies only to aerosol antiperspirant and deodorant products manufactured before January 1, 1999.

(1) A manufacturer of aerosol products may submit to the Executive Officer a compliance plan which describes how the manufacturer will achieve compliance with the requirements of Section 94502(a) for aerosol products.

(2) For each aerosol manufacturer who submits a compliance plan pursuant to subsection (d)(1), the Executive Officer shall suspend the 1/1/1995 requirements of section 94502(a) for aerosol products until a date on or before January 1, 1999, if the compliance plan demonstrates to the Executive Officer's satisfaction that the manufacturer is making good faith efforts, either independently or as part of a cooperative effort with other manufacturers, to develop aerosol products that will comply with the requirements of section 94502(a) in accordance with a schedule which is reasonably likely to enable the manufacturer to produce an acceptable aerosol product which complies with these requirements by a date on or before January 1, 1999. Before reaching a decision to suspend the requirements of Section 94502(a), the Executive Officer may request an aerosol manufacturer to modify the compliance plan to include additional information.

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(3) In order to qualify for a suspension under subsection (d)(2), the compliance plan submitted by the manufacturer must contain all of the following:

(A) A compliance schedule setting forth the sequence and respective dates for all key events in the process of developing aerosol products complying with the requirements of Section 94502(a).

(B) A commitment by each manufacturer which specifies that:

1. No later than January 1, 1997, the manufacturer will complete reformulation of aerosol antiperspirant and deodorant products to meet the 1/1/1997 standards specified in Section 94502(a) for aerosol products in a compliance plan.

2. No later than January 1, 1997 the manufacturer will cease manufacturing products for use in California that do not comply with the 1/1/1997 standards specified in Section 94502(a) for aerosol products in a compliance plan.

3. No later than January 1, 2000 the manufacturer will cease to sell, supply, or offer for sale of all products manufactured prior to January 1, 1997 that do not comply with the 1/1/1997 standards specified in Section 94502(a) for aerosol products in a compliance plan.

(C) For each manufacturer, technical detail and information on the progress each manufacturer has made and the effort each plans to make to comply with both the 1/1/1997 and 1/1/1999 HVOC standards specified in Section 94502(a) for aerosol products in a compliance plan, including individual company timetables with "milestones" or increments of progress which allow progress to be measured. The technical information shall be sufficiently detailed to allow individual manufacturer's compliance efforts to be monitored including, at a minimum, the following information:

1. Documentation of past, planned and ongoing research to meet the 1/1/1997 HVOC standards. Documentation will include data to support whether the 1/1/1997 standards represent the lowest achievable HVOC content, by whatever method or technology is chosen by the manufacturer. If hydrofluorocarbon-152a ("HFC-152a") is a part of the technology to be used by the manufacturer, the information shall include, at a minimum: the manufacturer's current HFC-152a allocation for any use; the supply of HFC-152a to meet the manufacturer's needs for the aerosol antiperspirant and deodorant market; an indication as to whether the amount specified is needed to cover national or California sales; manufacturer's efforts to date to receive necessary allocations; time-frame to receive allocations; the actual path to compliance, including information on the types of formulations to be tested, formulation data, prototype testing, toxicity and stability tests, packaging and valve testing, safety and efficacy testing, consumer market testing and consumer acceptance, management decision for go-ahead, large-scale production, and availability to consumer; critical path identification; the expected date of aerosol antiperspirant and deodorant production that meets the 1/1/1997 standards; and a back-up plan that describes the manufacturer's actions should HFC-152a not be available in sufficient quantities.

If a compliance method or technology other than the use of HFC-152a is chosen, the information will include at a minimum: actual path to compliance, including information on the types of formulations to be tested, formulation data, prototype testing, toxicity and stability tests, packaging and valve testing, safety and efficacy testing, consumer market testing and consumer acceptance, management decision for go-ahead, large-scale production, and availability to consumer; critical path identification; expected date to produce aerosol antiperspirants and deodorants that meet the 1/1/1997 HVOC standards; and a back-up plan describing the manufacturer's actions should the chosen compliance method or technology not succeed.

2. A description of past, ongoing, and planned research efforts to achieve the 1/1/1999 HVOC standards. The information required will be the same as for the 1/1/1997 HVOC standards, as described in Section 94502(d)(3)(C) above. This information will also include a detailed description of the pursued technologies, current status of this technology, and the feasibility of attaining the 1/1/1999 standards. The documentation will outline key events and a timetable in the development of products to meet the 1/1/1999 HVOC standards and alternative plans if the technology does not develop as expected.

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3. A list of products which each individual manufacturer will be producing under this compliance plan.

(4) A manufacturer who has received a suspension pursuant to subsection (d)(2) shall submit annual updates to the compliance plan to the Executive Officer on January 1, 1995, January 1, 1996, January 1, 1997, January 1, 1998, and January 1, 1999. These updates shall describe any changes or revisions that should be made to the compliance plan, based on any changed circumstances that have occurred since the submittal of the compliance plan or the last update. A manufacturer who has received a suspension pursuant to subsection (d)(2) shall also notify the Executive Officer in writing within 10 days after the failure of the manufacturer to meet any increment of progress specified in the compliance plan, or in any annual update to the compliance plan, and the likely effect of that failure on the ability of the manufacturer to comply with Section 94502(a) by the date specified by the Executive Officer pursuant to subsection (d)(2).

(5) Within 120 days after each compliance plan update is due, or within 120 days after notification by a manufacturer pursuant to subsection (d)(4), the Executive Officer shall determine whether the manufacturer is continuing to make good faith efforts to develop aerosol products that will comply with the requirements of section 94502(a) in accordance with a schedule which is reasonably likely to enable the manufacturer to produce an acceptable aerosol product which complies with these requirements. If the Executive Officer determines that the manufacturer is not making such good faith efforts, the Executive Officer shall withdraw the suspension effective immediately after upon written notification of the withdrawal to the manufacturer. Any antiperspirant or deodorant product manufactured prior to the date on which the manufacturer is notified that the suspension is withdrawn may be sold, supplied, or offered for sale up to three years after the effective date of the suspension withdrawal.

(6) A manufacturer may request a public hearing to review any decision made by the Executive Officer pursuant to subsections (d)(2) and (d)(5). The hearing shall be held in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1, Article 4 (commencing with Section 60040).

(e) Notwithstanding the provisions of Section 94502(a), an antiperspirant or deodorant product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale up to three years after each of the specified effective dates. In addition, an aerosol antiperspirant or deodorant product manufactured prior to any compliance date specified by the Executive Officer pursuant to Section 94502(d)(2) may be sold, supplied, or offered for sale up to three years after the specified compliance date. This subsection (e) does not apply to any antiperspirant or deodorant product which does not display on the product container or package the date on which the product was manufactured, or a code indicating such date.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

REFERENCE