

FINAL REGULATION ORDER
AIRBORNE TOXIC CONTROL MEASURE
FOR EMISSIONS OF HEXAVALENT CHROMIUM AND CADMIUM
FROM MOTOR VEHICLE AND MOBILE EQUIPMENT COATINGS

Adopt new section 93112 title 17, California Code of Regulations (CCR), to read as follows:

Title 17 CCR, section 93112. Hexavalent Chromium and Cadmium Airborne Toxic Control Measure -- Motor Vehicle and Mobile Equipment Coatings.

(a) **Applicability**

- (1) Except as provided in subdivision (b), this section applies to any person who sells, supplies, offers for sale, distributes, or manufactures coatings for use in motor vehicle and/or mobile equipment coating activities in California.
- (2) This section also applies to the owner or operator of any motor vehicle and/or mobile equipment coating facility that uses motor vehicle and/or mobile equipment coatings in California.
- (3) This section does not affect the sale, supply, or distribution of any new or used motor vehicles and/or mobile equipment or their component parts in or outside of California, regardless of the coatings that have been applied.

(b) **Exemptions**

- (1) This section shall not apply to any motor vehicle and/or mobile equipment coatings manufactured in California for shipment and use outside of California.
- (2) This section shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale in California a motor vehicle and/or mobile equipment coating that does not comply with the standards specified in subdivision (d), as long as the manufacturer or distributor can demonstrate both that the motor vehicle and/or mobile equipment coating is for shipment and use outside of California, and that the manufacturer or distributor has taken adequate precautions to assure that the motor vehicle and/or mobile equipment coating is not distributed to California. This subsection (2) does not apply to motor vehicle and/or mobile equipment coatings that are sold, supplied, or offered for sale by any person to retail outlets in California.

(c) **Definitions.** For the purposes of this section, the following definitions apply:

- (1) "Air Pollution Control Officer" means the Air Pollution Control Officer, or his or her delegate.
- (2) "ASTM" means the American Society for Testing and Materials.

- (3) "Cadmium" (Cd) means elemental cadmium and any compounds that contain cadmium.
- (4) "Coating" means a material which is applied to a surface and which forms a film in order to beautify, preserve, repair, or protect such a surface.
- (5) "Consumer" means any person who seeks, purchases, or acquires any motor vehicle and mobile equipment coating for use in motor vehicle and mobile equipment maintenance and repair activities. Persons acquiring a motor vehicle and mobile equipment coating for resale are not "consumers" of that coating.
- (6) "Distributor" means any person to whom a motor vehicle and mobile equipment coating is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.
- (7) "Hexavalent Chromium" (Cr⁺⁶) means elemental chromium in the +6 oxidation state and any compounds which contain chromium in the +6 oxidation state.
- (8) "Highway" has the same meaning as defined in section 360 of the Vehicle Code.
- (9) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a motor vehicle or mobile equipment coating.
- (10) "Mobile Equipment" means any equipment that is designed to be physically capable of being driven or drawn upon rails or a roadway, except for motor vehicles, and components for and from such equipment. Examples of Mobile Equipment include mobile cranes; bulldozers; concrete mixers; tractors; plows; pesticide sprayers; street cleaners; golf carts; hauling equipment used inside and around an airport, dock, depot, and industrial and commercial plants; trains; railcars; truck trailers; implements of husbandry; aircraft ground support equipment; all terrain vehicles; self-propelled wheelchairs, invalid tricycles, and invalid quadricycles.
- (11) "Motor Vehicle " means passenger cars, truck cabs and chassis, vans, motorcycles, and buses.
- (12) "Motor Vehicle and/or Mobile Equipment Coating Activity" means any manufacturing, service, maintenance, repair, restoration, or modification involving the application of coatings to motor vehicles and/or mobile equipment, except plating activities.
- (13) "Motor Vehicle and/or Mobile Equipment Coating" means any coating used or advertised for use in motor vehicle and/or mobile equipment coating activities.

- (14) "Motor Vehicle and/or Mobile Equipment Coating Facility (Facility)" means any establishment at which coatings are applied to motor vehicles and/or mobile equipment, including, but not limited to, OEM facilities, autobody repair/paint shops, production autobody paint shops, new car dealer repair/paint shops, fleet operator repair/paint shops, custom-made car fabrication facilities, truck body-builders, and residences.
- (15) "OEM" means Original Equipment Manufacturer.
- (16) "Owner or Operator" means a person who is the owner or the operator of a motor vehicle and/or mobile equipment coating facility.
- (17) "Person" means "person" as defined in Health and Safety Code section 39047.
- (18) "Retailer" means any person who sells, supplies, or offers for sale motor vehicle and/or mobile equipment coatings directly to consumers.
- (19) "Retail Outlet" means any establishment at which motor vehicle and/or mobile equipment coatings are sold, supplied, or offered for sale directly to consumers.

(d) **Standards for Motor Vehicle and/or Mobile Equipment Coatings**

- (1) Except as provided in subdivision (e), no person shall sell, supply, offer for sale, or manufacture for sale in California any motor vehicle and/or mobile equipment coating that contains hexavalent chromium or cadmium.
- (2) No owner or operator of a motor vehicle and/or mobile equipment coating facility shall use or possess a motor vehicle and/or mobile equipment coating prohibited under subdivision (d)(1) after December 31, 2003.
- (3) For the purposes of subdivision (d)(1), a coating "contains hexavalent chromium or cadmium" if hexavalent chromium or cadmium was introduced as a pigment or as an agent that imparts any property or characteristic to the coating during manufacturing, distribution, or use of the applicable coating.

- (e) **Sell-through of Coatings.** Notwithstanding the provisions of subdivisions (d)(1) and (d)(2), a motor vehicle and/or mobile equipment coating manufactured prior to January 1, 2003, may be sold, supplied, or offered for sale through June 30, 2003. This subdivision does not apply to any motor vehicle and/or mobile equipment coating which does not display on the coating container or package the date on which the coating was manufactured, or a code indicating such date.

(f) **Administrative Requirements - Code-Dating**

- (1) Each manufacturer of a motor vehicle and/or mobile equipment coating subject to section 93112 shall clearly display on each coating container or

package, the day, month, and year on which the coating was manufactured, or a code indicating such date. No person shall erase, alter, deface or otherwise remove or make illegible any date or code-date from any regulated coating container or package without the express authorization of the manufacturer.

- (2) If a manufacturer uses a code indicating the date of manufacture for any motor vehicle and/or mobile equipment coating subject to section 93112, an explanation of the code must be filed with the Air Pollution Control Officer no later than 30 days after the effective date of section 93112.
- (g) **Test Methods.** The following test methods are incorporated by reference herein, and shall be used to test coatings subject to the provisions of this rule.
 - (1) American Society for Testing and Materials (ASTM) Method D3335-85a (1999), Standard Test Method for Low Concentrations of Lead, Cadmium, and Cobalt in paint by Atomic Absorption Spectroscopy.
 - (2) United States Environmental Protection Agency test method 7196A (July 1992), Chromium, Hexavalent (Calorimetric) and Test Method 3060A (December 1996), Alkaline Digestion for Hexavalent Chromium.
 - (3) Alternative methods which are shown to accurately determine the concentration of hexavalent chromium or cadmium compounds in a subject coating or its emissions may be used upon written approval of the Air Pollution Control Officer.

Authority cited: Sections 39600, 39601, 39656, 39658, 39659, and 39666, Health and Safety Code.

Reference: Sections 39002, 39600, 39650, 39655, 39656, 39658, 39659, 39665, and 39666, Health and Safety Code.