



SWCAA 493

VOC Area Source Rules

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SWCAA 493-100 CONSUMER PRODUCTS

- (1) **Adoption by reference.** The National Volatile Organic Compound Emission Standards for Consumer Products contained in 40 CFR 59, Subpart C and appendices as in effect on July 1, 2011 are hereby adopted by reference. The term "administrator" as defined in 40 CFR 59.202 shall include the Executive Director of SWCAA. Exceptions to this adoption by reference are listed in subsection (3).
- (2) **Applicability.** SWCAA 493-100 applies to the sale or use of consumer products within the jurisdiction of the Southwest Clean Air Agency.
- (3) **Exceptions.** The following sections of 40 CFR 59, Subpart C are not adopted by reference:
 - (a) 40 CFR 59.204 *Innovative product provisions*; and
 - (b) 40 CFR 59.206 *Variances*.
- (4) **Variances.**
 - (a) Any regulated entity who cannot comply with the requirements of this section because of extraordinary circumstances beyond reasonable control may apply in writing to the Executive Director for a variance. The variance application shall include the following information:
 - (i) The specific grounds up on which the variance is sought;
 - (ii) The proposed date(s) by which compliance with the provisions of this subpart will be achieved. Such date(s) shall be no later than 5 years after the issuance of a variance; and
 - (iii) A compliance plan detailing the method(s) by which compliance will be achieved.
 - (b) Upon receipt of a variance application containing the information required in subsection (3)(a), the Executive Director will publish a notice of such application on SWCAA's website and, if requested by any party, will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements of this subpart is necessary and will be granted. If requested, a hearing will be held no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing will be sent to the applicant by certified mail not less than 30 days prior to the hearing. At least 30 days prior to the hearing, the variance application will be made available to the public for inspection. Information submitted to the Executive Director by a variance applicant may be claimed as confidential. The Executive Director may consider such confidential information in reaching a decision on a variance application. Interested members of the public will be allowed a reasonable opportunity to testify at the hearing.
 - (c) The Executive Director will grant a variance if the following criteria are met:
 - (i) There are circumstances beyond the reasonable control of the applicant so that complying with the provisions of this subpart by the compliance date would not be technologically or economically feasible; and
 - (ii) The compliance plan proposed by the applicant can be implemented and will achieve compliance as expeditiously as possible.
 - (d) Any variance order will specify a final compliance date by which the requirements of this subpart will be achieved and increments of progress necessary to assure timely compliance.
 - (e) A variance shall cease to be effective upon failure of the regulated entity to comply with any term or condition of the variance.

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- (f) Upon the application of any party, the Executive Director may review, and for good cause, modify or revoke a variance after holding a public hearing in accordance with the procedures described in subsection (3)(b).
- (5) **Variance Fee.** Each variance application must be accompanied by a fee of \$800.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13]

SWCAA 493-200 AEROSOL COATINGS

- (1) **Adoption by reference.** The National Volatile Organic Compound Emission Standards for Aerosol Coatings contained in 40 CFR Part 59, Subpart E as in effect on July 1, 2011 are hereby adopted by reference. The term "administrator" as defined in 40 CFR 59.503 shall include the Executive Director of SWCAA. Exceptions to this adoption by reference are listed in subsection (3).
- (2) **Applicability.** SWCAA 493-200 applies to the sale or use of aerosol coatings within the jurisdiction of the Southwest Clean Air Agency.
- (3) **Exceptions.** The following sections of 40 CFR 59, Subpart E are not adopted by reference:
 - (a) 40 CFR 59.509 *Can I get a variance?*
- (4) **Variances.**
 - (a) Any regulated entity that cannot comply with the requirements of this section because of circumstances beyond its reasonable control may apply temporary variance. The variance application must include the following information:
 - (i) The specific products for which the variance is sought;
 - (ii) The specific provisions of the subpart for which the variance is sought;
 - (iii) The specific grounds upon which the variance is sought;
 - (iv) The proposed date(s) by which the regulated entity will achieve compliance with the provisions of this subpart. This date must be no later than 3 years after the issuance of a variance; and
 - (v) A compliance plan detailing the method(s) by which the regulated entity will achieve compliance with the provisions of this subpart.
 - (b) Within 30 days of receipt of the original application and within 30 days of receipt of any supplementary information that is submitted, the Executive Director will send a regulated entity written notification of whether the application contains sufficient information to make a determination. If an application is incomplete, the Executive Director will specify the information needed to complete the application, and provide the opportunity for the regulated entity to submit written supplementary information or arguments to the Executive Director to enable further action on the application. The regulated entity must submit this information to the Executive Director within 30 days of being notified that its application is incomplete.
 - (c) Within 60 days of receipt of sufficient information to evaluate the application, the Executive Director will send a regulated entity written notification of approval or disapproval of a variance application. This 60-day period will begin after the regulated entity has been sent written notification that its application is complete.
 - (d) A variance will be issued if the following criteria are met to the satisfaction of the Executive Director:
 - (i) Complying with the provisions of this subpart would not be technologically or economically feasible; and

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- (ii) The compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.
 - (e) A variance must specify dates by which the regulated entity will achieve increments of progress towards compliance, and will specify a final compliance date by which the regulated entity will achieve compliance with this subpart.
 - (f) A variance will cease to be effective upon failure of the party to whom the variance was issued to comply with any term or condition of the variance.
- (5) **Variance Fee.** Each variance application must be accompanied by a fee as provided in the current Consolidated Fee Schedule established in accordance with SWCAA 400-098.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13; WSR 17-11-082 filed 5/18/17, effective 6/18/17]

SWCAA 493-300 ARCHITECTURAL COATINGS

- (1) **Adoption by reference.** The National Volatile Organic Compound Emission Standards for Architectural Coatings contained in 40 CFR Part 59, Subpart D and appendices as in effect on July 1, 2011 are hereby adopted by reference. The term "administrator" as defined in 40 CFR 59.401 shall include the Executive Director of SWCAA.
- (2) **Applicability.** SWCAA 493-300 applies to the sale or use of architectural coatings within the jurisdiction of the Southwest Clean Air Agency.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13]

SWCAA 493-400 AUTOMOBILE REFINISH COATINGS

- (1) **Adoption by reference.** The National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings contained in 40 CFR Part 59, Subpart B as in effect on July 1, 2011 are hereby adopted by reference. The term "administrator" as defined in 40 CFR 59.101 shall include the Executive Director of SWCAA. Exceptions to this adoption by reference are listed in subsection (3) below.
- (2) **Applicability.** SWCAA 493-400 applies to the sale or use of automobile refinish coatings within the jurisdiction of the Southwest Clean Air Agency.
- (3) **Exceptions.** The following sections of 40 CFR 59, Subpart B are not adopted by reference:
- (a) 40 CFR 59.106 *Variance*.
- (4) **Variances.**
- (a) Any regulated entity that cannot comply with the requirements of this section because of circumstances beyond its reasonable control may apply in writing to the Executive Director for a temporary variance. The variance application must include the following information:
 - (i) The specific grounds upon which the variance is sought;
 - (ii) The proposed date(s) by which the regulated entity will achieve compliance with the provisions of this subpart. This date must be no later than 5 years after the issuance of a variance; and
 - (iii) A compliance plan detailing the method(s) by which the regulated entity will achieve compliance with the provisions of this subpart.

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- (b) Upon receipt of a variance application containing the information required in subsection (3)(a), the Executive Director will publish a public notice of such application on the Agency website and, if requested by any party, will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements of this subpart is necessary and will be granted. If requested, a hearing will be held no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing will be sent to the applicant by certified mail not less than 30 days prior to the hearing. At least 30 days prior to the hearing, the variance application will be made available to the public for inspection. Information submitted to the Executive Director by a variance applicant may be claimed as confidential. The Executive Director may consider such confidential information in reaching a decision on a variance application. Interested members of the public will be allowed a reasonable opportunity to testify at the hearing.
 - (c) A variance will be issued if the following criteria are met to the satisfaction of the Executive Director:
 - (i) Compliance with the provisions of this section would not be technologically or economically feasible; and
 - (ii) The compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.
 - (d) Each variance will specify dates by which the regulated entity will achieve increments of progress towards compliance, and will specify a final compliance date by which the regulated entity will achieve compliance with this subpart.
 - (e) A variance will cease to be effective upon failure of the party to whom the variance was issued to comply with any term or condition of the variance.
 - (f) Upon the application of any party, the Executive Director may review and, for good cause, modify or revoke a variance after holding a public hearing in accordance with the provisions of subsection (3)(b).
- (5) **Variance Fee.** Each variance application must be accompanied by a fee as provided in the current Consolidated Fee Schedule established in accordance with SWCAA 400-098.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13; WSR 17-11-082 filed 5/18/17, effective 6/18/17]

SWCAA 493-500 - AREA SOURCE COMMON PROVISIONS

SWCAA 493-500-010 Applicability

SWCAA 493-500 applies to all sections of SWCAA 493-100 through SWCAA 493-400.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13]

SWCAA 493-500-020 Compliance Extensions

Any manufacturer who cannot comply with the requirements specified in SWCAA 493-100 to 493-400 by the applicable compliance date because of conditions specified in SWCAA 493-500-020(4) may apply in writing to SWCAA for a compliance extension of up to 3 years in renewable 1 year increments. Any compliance extension granted by the Oregon Department of Environmental Quality shall be deemed valid by SWCAA for the duration of the extension.

- (1) A manufacturer shall apply in writing to SWCAA for any compliance extension under SWCAA 493-500-020. Information claimed by the applicant as confidential or otherwise exempt from disclosure shall be submitted in accordance with SWCAA 493-500-030. The application shall include:
 - (a) An explanation of the specific grounds addressing each subsection under SWCAA 493-500-020(4) on which the compliance extension is sought;
 - (b) The requested terms and conditions;
 - (c) The specific method(s) by which compliance with the requested terms and conditions will be achieved;
 - (d) Any interim measures which may be taken during the period of the compliance extension to limit the amount of emissions in excess of the rule limits; and
 - (e) If applicable, any compliance extension, alternate control requirement or variance order granted by another local, state or federal air pollution control agency.
- (2) Within 30 days of receipt of the compliance extension application, SWCAA shall determine whether an application is complete.
- (3) Within 90 days after an application has been deemed complete, SWCAA shall determine whether, under what conditions, and to what extent, a compliance extension shall be approved. The applicant and SWCAA may mutually agree to extend the period for making a determination, and additional supporting documentation may be submitted by the applicant before the determination is reached.
- (4) In considering whether to approve a compliance extension, SWCAA shall consider the following:
 - (a) Conditions beyond the control of the applicant;
 - (b) Special circumstances which render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause;
 - (c) Strict compliance would result in substantial curtailment or closing down of a business, plant, or operation; or
 - (d) No other alternative facility or method of handling is yet available.
- (5) Any compliance extension order shall specify terms and conditions, including a date by which final compliance shall be achieved. The final compliance date shall not exceed 3 years after the applicable compliance date. A compliance extension shall be granted in 1 year increments which may be renewed until the final compliance date upon a showing by the manufacturer that any increments of progress and other terms and conditions in the order have been met.
- (6) SWCAA shall notify the applicant in writing of the determination under SWCAA 493-500-020(3) of this rule and the terms and conditions established under SWCAA 493-500-020(5).
- (7) Notwithstanding SWCAA 493-500-020(4), if, prior to the applicable compliance date, a manufacturer submits to SWCAA a variance order granted by the California Air Resources Board (CARB) which is valid as of February 20, 1995, the manufacturer shall be granted a 1 year extension from the applicable compliance date. Such compliance extensions may be revoked by SWCAA if SWCAA believes that the manufacturer is not in compliance with the terms and conditions of the CARB variance order.

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- (8) For any product for which a compliance extension has been approved pursuant to this rule, the manufacturer shall notify SWCAA in writing within 30 days if the manufacturer learns that information submitted to SWCAA under this rule has changed in a manner which could modify the basis of SWCAA's approval.
- (9) If SWCAA believes that a product for which a compliance extension has been granted no longer meets the criteria for a compliance extension specified in SWCAA 493-500, SWCAA may modify or revoke the extension as necessary to ensure that the product will meet these criteria. SWCAA shall notify the applicant in writing if a compliance extension is modified or revoked under this section.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13]

SWCAA 493-500-030 Exemption from Disclosure to the Public

- (1) If a person claims that any records or information, as defined in RCW 70.94.205, is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the following procedures:
 - (a) The records or information shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.
 - (b) For records or information that contains both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.
- (2) For records or information to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:
 - (a) The information shall not be patented;
 - (b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;
 - (c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and
 - (d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.145 RCW, 70.94.380 RCW and 70.94.395. Original adoption WSR 96-10-026 filed 4/25/96, effective 5/26/96; WSR 13-21-033 filed 10/9/13, effective 11/9/13]

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