



September 24, 2020

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Subject: 3R Comments on the July 28, 2020, CARB Workshop

Raymond Regulatory Resources (3R), LLC appreciates the opportunity to comment on the Proposed Amendments to the Consumer Products Regulation as presented on July 28, 2020.

The principal in 3R has worked with the CARB Staff on Consumer Product regulations for more than 30 years. During that time there has been a goal of developing Consumer Product regulations that are clear, concise and productive, while allowing for the sale of effective and efficient Consumer Products. The amendments being developed started in April of 2019. There has been a significant amount of interaction between 3R and the CARB staff. 3R appreciates the willingness of CARB staff to discuss the proposed amendments.

3R is pleased to submit the following comments.

VOC Limits and category definitions

Dry Shampoo

3R supports the VOC limits and definition for the Dry Shampoo category. This category is to be renamed from No Rinse Shampoo to Dry Shampoo to more appropriately describe the product. The VOC limits proposed for Dry Shampoo are 55% effective in 2023 and 50% in 2029. Both of these limits appear to be feasible.

The definition of Dry Shampoo category is also proposed to be updated to properly describe the use of the product.

Hair Finishing Spray

3R also supports the VOC limits for Hair Finishing Spray. The VOC limit proposed is 50% effective 2023 with no further reduction proposed at this time. 3R believes

this limit is feasible and supports the removal of the 45% future effective VOC limit at this time.

Concentrated Aerosol Air Freshener

3R supports the proposal of a newly formed category for the Concentrated Aerosol Air Freshener. This is a niche category and is needed in certain circumstances. The drastic reduction in the VOC limit for Manual Aerosol Air freshener category necessitates the need for a few niche product categories to be formed.

The VOC limit for the Concentrated Aerosol Air freshener category is 15% VOC in 2023 and a future VOC limit of 10% in 2027. Both of these limits appear to be feasible. In addition, the extremely stringent and detailed definition maintain this category for niche products.

Total Release Air freshener

As with the above category 3R supports the formation of this newly formed category. Again, due to the VOC reduction in the Manual Aerosol Air freshener this category is needed. This product category is only used in very few but important uses.

The VOC limit for the Total Release Air freshener is 25% VOC in 2023 with no future limit proposed at this time.

Again, the proposed detailed definition for this category will prevent any overlap with any other Air freshener category namely the Manual Aerosol Air freshener category.

Temporary Hair Color

For this category there has been very little dialogue on whether this VOC limit of 50% in 2029 is feasible. CARB should reach out to the Industry to ensure this limit is feasible.

Two-Percent Fragrance Exemption

This has been a fairly contentious issue throughout this amendment development. The provision for the two-percent fragrance exemption has been in the regulation for 30 years. The proposal to remove or sunset the exemption by 2031 has caused many companies to review the use of fragrances in their products.

3R appreciates the addition of the 0.25% monoterpenes exemption for General Purpose Cleaners and General-Purpose Degreasers. This will provide the Industry with much needed flexibility for these categories in the use of monoterpenes.

Much like the flexibility being provided by the 0.25% exemption above, perhaps CARB should consider retaining a 0.25% fragrance exemption across all categories. Fragrance is an extremely complex substance.

Fragrance houses have to routinely reformulate products to meet other regulatory pressures. Each time this is done a notification will need to be sent to every user if the VOC levels are modified. This is an incredible amount of work for formulators to keep up with. In addition, this is a fairly complicated regulation for formulators.

CARB's own data shows very little tonnage for the 2% fragrance exemption lowering this all the way down to 0.25% will mean almost no VOC tonnage being emitted. BUT will provide fragrance houses and formulators more flexibility and a simpler clear provision for the regulated community.

Definitions

3R appreciated that CARB staff modified or developed the definitions for Dry Shampoo, Concentrated Aerosol Air freshener and Total Release Air Freshener.

Two definitions remain that are unworkable.

Energized Electrical Cleaner

The definition proposed will place all the liability on retail establishments to ensure that the product is sold to an "establishment" that maintains energized electrical equipment. However, CARB has not discussed how to ensure this activity. In addition, as written this product will not be available to the homeowner. Therefore, this is a ban on a product form. Throughout years of work with CARB on this product category, all members have emphasized a safety need to this product. But now CARB will ban the availability of this product to perhaps the users most in need of this safety product, which is the homeowner. CARB should seriously consider rewriting this above definition to allow for the use of the product by homeowners for safety reasons.

Web-based Claims

This definition has numerous implications. CARB's intent to limit claims is understandable if all that is affected is the use in California, but that is not the case. Websites are used to promote products throughout the country and worldwide. The current definition does not take this into consideration. For example, a product has claims for use as A, B and C. In California due to their unique circumstance with Air Quality, the product can only use claim A. But in Ohio the product can use claims A, B and C. The manufacturer states on their website uses A, B and C. Will Enforcement now go after this product? CARB has yet, after all these months, not provided an answer to this question. How do we move forward?

Next, many websites have old information that is outdated. How will CARB handle this issue? Lastly, many product manufacturers have developed detailed processes to review labels for Regulatory compliance. This is typically not done with websites. Thus, manufacturers and marketers need time to first review their websites, second attempt to fix their websites and third set in place a process to routinely review the website for compliance. Without answers to the above enforcement issues, manufacturers are at a loss as where to being. Thus, CARB needs to provide

answers to how enforcement of the above issues will be handled and if that is worked out then additional time should be granted to comply. This provision should not be effective at least until 1/1/2026.

Other definitions

It is unfortunate that CARB did not consider any other definition changes. This is an incredibly complex regulation. Many definitions need to be reviewed and modified to make this regulation clearer and simplified. 3R supplied numerous definitions as requested by CARB staff. Will any of these definitions be reviewed or modified?

Other Topics

CARB has repeatedly discussed the providing a process to encourage the use of compressed gas. It has been nearly 18 months since this process has begun and still no detailed proposal. This is extremely frustrating.

If formulators could use compressed gases in their products, they would have due to costs. Providing an incentive to use compressed gas is worrisome since in the past CARB has provided provisions such as the AP/Do exemption for ethanol which likely caused more ozone to be created.

For CARB at this late date to propose a process for compressed gas to be incentivized does not appear appropriate nor does it provide time for a full review.

Manufacturing Use Only

Throughout the history of this regulation there have always been issues with which products are regulated by CARB and which are regulated by the Air Districts. Products used for “Manufacturing use only” have been considered out of CARB jurisdiction. However, this regulation as stated before is complex and not clear. The explanation of the “manufacturing use only” provision is explained in and Enforcement Advisory.

It is the time to add wording to the exemption section of the regulation to clarify this issue. This solution was actually proposed by CARB’s own enforcement people. We should add this language and simplify this issue with clarifying language.

Reactivity Table

3R supports the addition of all three compounds, Diethyl Carbonate, HFO-1233zd and Mixed Alkane, to the reactivity table. These additions are needed.

Reactivity

3R is highly disappointed that CARB staff did not consider Reactivity limits for any of the targeted product categories. Josh Berghouse began the July 28, 2020, webinar stating that CARB staff is looking for the “Most Science Based Technology” for this rulemaking. If this was true CARB would abandon mass base VOC limits. Mass based VOC reduction cannot always be assured that there is reduction in ozone formation. However, even the slight reduction in a MIR value of a product ALWAYS

produces an ozone formation decrease. This is why Reactivity is the best science we have at this time to reduce ozone formation.

Once again, we have passed over the best science to take an easier path, which is mass based reduction. At some point mass-based reductions will not be possible. At that time it may be too late to implement Reactivity, due to very low VOC levels.

Summary

3R appreciates the ability to work with the staff on these amendments. 3R supports the Dry Shampoo, Hair Spray, Concentrated Air freshener and Total Release Air Freshener limits and definitions. There is more work needed on the Energized Electrical Cleaner and website definitions. The exemption language for “manufacturing use only” products should be included.

3R looks forward to the October Workshops and a time when we can meet to once again work on developing a regulation that satisfies CARB VOC reduction requirements and provides the Industry with viable products.

Thank you for your time and consideration to these comments. I look forward to working with you on this and future regulations. Any questions or comments please contact me at 440-339-4539 or at djraymond@me.com.

Sincerely,

A handwritten signature in cursive script that reads "Douglas Raymond".

Douglas Raymond
President

Cc: Ravi Ramalingam
Jose Gomez
Josh Berghouse