

Addendum to the Final Statement of Reasons for Rulemaking

Proposed Amendments to the Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Products Regulation; Alternative Control Plan Regulation; the Tables of Maximum Incremental Reactivity Values; and Test Method 310

Public Hearing Date: March 25, 2021
Agenda Item No.: 21-2-1
Addendum Prepared: June 24, 2022

I. General Discussion

At the March 25, 2021, public hearing, the Board approved the Proposed Amendments for adoption and directed staff to, after considering comments received during the formal public comment period and during the Board Hearing, make appropriate modifications to the originally-proposed regulation available for public comment for at least 15 days.

CARB proposed additional modifications to the originally-proposed regulation through a "Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" (15-Day Notice), the public comment period for which commenced on August 19, 2021, and ended on September 3, 2021. All modifications to the regulatory language are clearly indicated in the 15-Day Notice. The Final Statement of Reasons for Rulemaking (FSOR), which is hereby incorporated by reference herein, summarized the comments CARB received during the formal comment period on the Proposed Amendments, including the 15-Day Notice, or the process by which they were adopted, and included CARB's responses to those comments, along with the other items required by Government Code section 11346.9.

II. Modifications Provided for in the Second 15-Day Comment Period

At the March 25, 2021, public hearing, the Board directed the Executive Officer to make modified regulatory language, and any additional conforming modifications that

were appropriate, available for public comment, with any additional supporting documents and information, for a period of at least 15 days, as required by Government Code section 11346.8, subdivision (c). The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days; and to present the proposed regulation to the Board for further consideration if warranted or take final action to adopt the regulation after addressing all appropriate modifications.

After the FSOR was published, additional modifications to the originally-proposed regulation were required. The text of proposed modifications to the originally-proposed regulation and supporting documents were made available for a second supplemental 15-day comment period through a "Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" (Second 15-Day Notice).

The Second 15-Day Notice, modified regulatory language, and additional supporting documents were posted on May 23, 2022, on CARB's website, at <http://ww2.arb.ca.gov/rulemaking/2021/consumerproducts2021>, and were accessible to stakeholders and interested parties. The comment period for the Second 15-Day Notice commenced on May 23, 2022, and ended on June 7, 2022. The specific proposed modifications are clearly detailed in the Second 15-day Notice and companion underline/strikeout modified regulatory text. CARB received 2 comment letters during this period.

This document is an addendum to the FSOR, and contains a summary of the comments CARB received during the formal rulemaking process on the Proposed Amendments during the second 15-day comment period, and CARB's responses to those comments. CARB's previous determination relating to reimbursable mandates, consideration of alternatives, and the environmental analysis remain unchanged based on the Second 15-Day changes.

III. Non-Substantial Modifications

The non-substantial modifications described below clarify and do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the Proposed Amendments, as approved for adoption by the California Air Resources Board (CARB). (See Cal. Code Regs., tit. 1, § 40)

After the February 16, 2022, FSOR, the following non-substantial modifications were made to the Final Regulatory Order:

- Updated the Table of Contents' page numbers, to ensure accuracy.
- Reverted all instances of "December 10, 2021" in the Final Regulation Order back to the originally-proposed language, which served as

provisional/placeholder language. The originally-proposed text had “[date of amendment]” (or “[DATE OF ADOPTION OF PROPOSED AMENDMENTS],” which was supposed to signify when the Proposed Amendments would become effective (i.e., made effective by OAL’s approval and filing with the Secretary of State); however, when the rulemaking was filed with OAL on February 16, 2022, the placeholder text was mistakenly changed and the date of CARB’s approval (via the signed Executive Order) was erroneously added. The text is now being changed back to the originally-proposed provisional/placeholder language in square brackets, as intended, to be updated when it becomes effective after OAL’s approval and filing with the Secretary of State. This change is being made to the following provisions of the final regulatory text:

- 94506(a)(1);
 - 94509(a) Table of Standards – Plastic Pipe Adhesive (“Effective Date” column);
 - Table 94509(m)(1)(A) – Plastic Pipe Adhesive (both “Effective Date” and “Sell-through date” columns);
 - Table 94509(n)(1) – Plastic Pipe Adhesive(both “Effective Date” and “Sell-through date” columns);
 - 94511(c);
 - 94515(a)(1);
 - 94526(a)(1);
 - 94700 MIR Values for Compounds footnote “***” at bottom of table (two instances reverted in the footnote); and
 - Method 310 Cover page.
- Updated all tables to ensure all product categories are in alphabetical order and all footnotes are ordered consistently (same order as in printed version of the California Code of Regulations (CCR)), for ease of reference and readability.

§ 94506. Test Methods.

In 3.4.2: Added a space between “confidential.” and “The Executive Officer shall handle” and between “91022” And “Failure to respond” because there is always a space between the end of a sentence and the beginning of a new sentence. Also, deleted a space between “confidential” and “information in accordance,” between “information” and “in accordance,” between “in accordance with” and “Title 17,” and between “CCR,” and “sections” because there is commonly only one space between words, for clarity.

In 3.4.3: Deleted a space after the removed first clause and the new proposed “If the Executive Officer...” because this space is not needed. Also, removed underline from “will” before “take appropriate enforcement action;” this will should not have been underlined, as the Second 15-Day Notice proposed to remove “may” and revert back to the existing language—“will.” Will is not new proposed language, but the existing language.

§ 94509. Standards for Consumer Products.

Table 94509(m)(1)(A).

- Plastic Pipe Adhesive – Updated the “Sell-through Date” for this “Product Category” to be three years after the date of amendment. The originally-proposed text erroneously stated the “Sell-Through Date” would be the same as the “Effective Date;” however, upon review, a “Sell-Through Date” that is the same as the “Effective Date” would be inconsistent with how the “Sell-Through Date” column works relative to the “Effective Date” column (the “Sell-Through Date” column is consistently three years after the date in the “Effective Date” column). Further, in order to be consistent with Health and Safety Code section 41712, subdivision (g), which allows for consumer products to be sold for three years from the specified effective date, CARB is updating the “Sell-through Date” for Plastic Pipe Adhesive in Table 94509(m)(1)(A) to make it clear that, as usual in the table, it is three years after the “Effective Date.”
- The row for “Wasp or Hornet Insecticide” has been removed. Upon further review, this row was erroneously listed in this table; “Wasp or Hornet Insecticide” was never part of these amendments and never previously noticed/amended, so CARB has removed it from the proposed text now.

Table 94509(n)(1).

- Plastic Pipe Adhesive – Same as above in Table(m)(1)(A), updated the “Sell-through Date” for this “Product Category” to be three years after the date of amendment. The originally-proposed text erroneously stated the “Sell-Through Date” would be the same as the “Effective Date;” however, upon review, a “Sell-Through Date” that is the same as the “Effective Date” would be inconsistent with how this column works relative to the “Effective Date” column. Further, in order to be consistent with Health and Safety Code section 41712, subdivision (g), CARB is updating the “Sell-through Date” for Plastic Pipe Adhesive in Table 94509(n)(1) to make it clear that, as usual in the table, it is three years after the “Effective Date.”
- Expanded the row for “Multi-purpose Lubricant...” to now fully state “Multi-purpose Lubricant (excluding solid or semisolid products)” whereas the originally-proposed regulatory text inadvertently omitted “semisolid products).”
- Asterisks added below the table to denote that there is existing text that is being omitted here, because it is not part of these proposed amendments. (page A-53)

§ 94511. Innovative Products.

- In subsection (a)(2), added an “e” to correct the spelling of “current” where VOC_{NC} is defined.

- In subsection (b), text is being reverted to the existing text, as currently printed in the CCR, to state, "For the purposes of this section," where it previously erroneously stated "For the purposes of subsections (a) and (f)," in the originally-proposed regulatory text. This originally-proposed amended text was added inadvertently, and was not noticed nor discussed in our ISOR. CARB is not proposing any changes to this subsection.
- Added Authority & Reference Note. The original amendments lacked this element, so it has been added here as it is currently printed in the CCR. CARB has not proposed any changes to the Authority and Reference for this section as part of these proposed amendments)

§ 94512. Administrative Requirements

- In subsection (f)(1), added a cross reference to subsection 94508(a)(40)(C) to now read, "Executive Officer upon request pursuant to subsection 94508(a)(40)(C)." This section is needed so the Executive Officer can determine whether Automotive Parts and Accessories Stores that are found to be selling "Energized Electrical Cleaner" products are in compliance with 94508(a)(40)(C). The added language simply reaffirms where in the regulatory text
- Added Authority & Reference Note. Our original amendments lacked this element, so it has been added here as it is currently printed in the CCR. CARB has not proposed any changes to the Authority and Reference for this section as part of these proposed amendments.

§ 94515. Test Methods.

- Added dates (where previously absent) to amended text in subsections 3.5.1.1 and 3.5.1.2 that reference incorporated American Society for Testing and Materials (ASTM) Methods; although the last two digits of the ASTM Methods incorporate the year it was reapproved/updated, adding the date afterwards simply reaffirms the authoritative date for the respective incorporated documents. Dates and versions were already noted at their location of incorporation in Section 2.1 Reference Methods of Method 310, and are simply being added to other instances of their reference for ease of readability.
- Added a space to 3.4.2 between "requested information" and "within 25 working days," between "confidential. and "The Executive Officer," and between "91022." and "Failure to respond" for clarity, because it is easier to read and understand when there is the grammatically-correct space between words. These spaces were in the Second 15-day Notice text, but it was not underlined there. Also, deleted space between "submitted to the" and "Executive Officer," between "confidential" and "information," between "information" and "in accordance with...," between "with" and "Title 17," and

between “CCR,” and “sections 91000” because removing grammatically unnecessary spaces makes the regulation more clear and readable.

- In section 3.4.3, deleted a space before “If the Executive Officer determines” because removing grammatically unnecessary spaces makes the regulation more clear and readable. Also, added a space between “standard,” and “the Executive Officer” for clarity, because it is easier to read and understand when there is the grammatically-correct space between words. Finally, removed underline from “will” before “take appropriate enforcement action;” this will should not have been underlined, as the Second 15-Day Notice proposed to remove “may” and revert back to the existing language—“will.” Will is not new proposed language, but the existing language.

§ 94526. Test Methods and Compliance Verification.

- In subsections (a)(2), (a)(3), and (a)(4), which incorporate ASTM D5381-93(2014), D523-08, and D1613-06, respectively, CARB staff would like to clarify that although these ASTM Test Methods are being incorporated in section 94526, they are not new to this regulation, as they were and still are incorporated in Method 310 (in Chapter 2, sections 2.1.2, 2.1.7, and 2.1.21 of the proposed regulatory text.) ASTM D5381-93(2014) was updated from its previous 2009 version as part of these proposed amendments, but D523-08 and D1613-06 remain unchanged from their original incorporation in Method 310. Having the ASTM Test Methods incorporated in section 94526 ensures that the most current versions of the test methods (that are consistent with current lab practices and U.S. EPA recommendation, as explained in the ISOR on IV-178) can easily be located by the reader of the regulatory text.

§ 94700. MIR Values for Compounds.

- Ensured consistency and accuracy of renumbering in the far-left column, striking out certain numbers accordingly. The original amendments were correct in their renumbering; however, some of the digits being deleted were not accurately struck out in earlier versions (five edits in total made here).

Method 310 - Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products.

- Added square brackets (“[]”) to “PROPOSED AMENDMENTS TO” on the cover page to signify that this language is not proposed amended text but only meant as a note to the reader that what follows is a version of Method 310 as proposed to be amended.
- Added a space to 3.4.2 between “requested information” and “within 25 working days” and between “91022.” and “Failure to respond” for clarity,

because it is easier to read and understand when there is the grammatically-correct space between words. Also, deleted space between “submitted to the” and “Executive Officer” and between “with” and “Title 17” because removing grammatically unnecessary spaces makes the regulation more clear and readable.

- In section 5.4.2, changed the word “will” to “may” to reflect CARB’s enforcement discretion and added “reactivity” before the word “limits” to help the regulated community understand the type of limits. Also, removed the word “to” before “supply product formulation data” to make the sentence grammatically correct.
- In section 5.4.3, deleted a space before “If the Executive Officer determines” because removing grammatically unnecessary spaces makes the regulation more clear and readable. Also, removed underline from “will” before “take appropriate enforcement action;” this will should not have been underlined, as the Second 15-Day Notice proposed to remove “may” and revert back to the existing language—“will.” Will is not new proposed language, but the existing language.
- Added dates (where previously absent) to amended text in subsections 3.5.1.1 and 3.5.1.2 that references incorporated American Society for Testing and Materials (ASTM) Methods; although the last two digits of the ASTM Methods incorporate the year it was reapproved/updated, adding the date afterwards simply reaffirms the authoritative date for the respective incorporated documents. Dates and versions were accurately noted at their location of incorporation in Section 2.1 Reference Methods of Method 310, and are simply being added to other instances of their reference for ease of readability.

IV. Documents Incorporated by Reference

In subsection 94511(c)(5)(B), the document titled, “Changes in Atmospheric Constituents and in Radiative Forcing,” which is a chapter in “Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,” 2007, was noted as being incorporated by reference within the regulatory text; however, this document was erroneously omitted from the list of other documents being incorporated by reference in the 45-Day Notice and Updated Informative Digest. Nonetheless, the document was accurately marked in the amended regulatory text as being incorporated by reference (with its correct citation – authors, title, date); this incorporation was also discussed in the ISOR (pages IV-128 to IV-129, as well as a document relied upon as a reference – noted as available at the following link:

<https://www.ipcc.ch/site/assets/uploads/2018/02/ar4-wg1-chapter2-1.pdf>), and the

document was part of the rulemaking file and thus available upon request if anyone had requested it. For the sake of transparency, CARB is affirming that this document is in fact meant to be incorporated by reference via this rulemaking.

This document was incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to publish it in the California Code of Regulations. The document is a lengthy and highly technical document that would add unnecessary additional volume to the regulation. Distribution to all recipients of the California Code of Regulations is not needed because the interested audience for this document is limited to the technical staff at a portion of reporting facilities, most of whom are already familiar with this document. Also, the incorporated document was made available by CARB upon request during the rulemaking action, and the incorporated document will continue to be available in the future. The document is also available from college and public libraries, or may be purchased directly from the publishers.

V. Summary of Comments and Agency Responses

This chapter summarizes written comments received during the second 15-day comment period regarding the Proposed Amendments. These comments are summarized in Table 1, below.

A summary of comments on the Proposed Amendments, as well as responses, are categorized and provided below. Note that all content reflects the submitted comments; however, some comments which follow were scanned or otherwise electronically transferred, so they may include minor typographical errors or formatting that is not consistent with the originally submitted comments.

Typographical and grammatical errors were not corrected, and were designated with (sic), where appropriate, to indicate that this was how the comment was received by CARB. Reproduction of comments does not reflect CARB's views, but the views of the commenters; only CARB's responses to the comments reflect CARB's views. The quotation of a comment or lack of a CARB response to a specific point in a comment does not indicate CARB agreement. Consistent with applicable law, CARB responded mainly to objections or recommendations specifically directed at the agency's proposed action, and to comments on the procedures followed by the agency in proposing or adopting the action. All originally-submitted comments are available in Appendix A of this FSOR Addendum.

Table 1: List of Written Comments Received During the second 15-Day Comment Period

Comment Number	Commenter	Affiliation	Date Comment was Received/ Added to Database	Subject(s)
1	Nicholas Georges	Household & Commercial Products Association	6/7/2022	Support for Modifications
2	Amanda Nguyen	Fragrance Creators Association	6/7/2022	Support for Modifications

1. Comment 1: The commenter supports the modifications proposed in the Second 15-Day Notice. The commenter says the proposed changes add clarity for the regulated community on the enforcement of the General Consumer Products Regulation.
2. Comment 2: The commenter says it appreciates CARB’s consideration of its prior comments and continuing efforts to address the industry’s concerns, and values the ongoing dialogue and collaboration with CARB staff to address fragrance related issues. The commenter is, in general, supportive of the modifications proposed in the Second 15-Day Notice and writes only to reiterate its commitment to work with CARB on a technology assessment to reevaluate the feasibility of the Tier 2 VOC Standard for Personal Fragrance Products that would go into effect on January 1, 2031.

Agency Response to comments 1 and 2: CARB staff made no changes based on the received comments because the comments did not include any objection or recommendation regarding the Proposed Amendments, but rather general support. CARB staff appreciates the supportive comments.

Appendix A

Written Comments Received during
the Second 15-day comment period

Addendum to the Final Statement of
Reasons Proposed Amendments to
the California Consumer Products
Regulations



Innovative Products For **Home. Work. Life.**

June 7, 2022

sent *via* electronic mail

Liang Liu
Manager, Implementation Section
California Air Resources Board
1001 I Street
Sacramento, California 95814
<https://www.arb.ca.gov/lispub/comm/bclist.php>

Subject: Comments on Second Notice of Public Availability of Modified Text to the Proposed Amendments to the Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Products Regulation; Alternative Control Plan Regulation; the Tables of Maximum Incremental Reactivity Values; and Test Method 310

The Household & Commercial Products Association¹ (HCPA) appreciates the opportunity to provide comments on the California Air Resources Board's (CARB) Second 15-Day Notice² of Public Availability of Modified Text³ to the proposed amendments to the Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Products Regulation; Alternative Control Plan; the Tables of Maximum Incremental Reactivity Values; and Test Method 310.

HCPA is a voluntary, non-profit U.S. trade association representing approximately 240 companies engaged in the manufacture, formulation, distribution and sale of products for household, institutional, commercial and industrial use. HCPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products, air care products, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. For over 30 years, HCPA member companies spent hundreds of millions of dollars in researching and developing reformulated products to help improve air quality in California while maintaining our industry's ability to supply effective products that consumers can rely upon to contribute positively to their health, safety, and quality of life.

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

² Available at
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/consumerproducts2021/2nd15daynotice.pdf>

³ Available at
<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/consumerproducts2021/2nd15dayatta.pdf>

HCPA is in support of the modifications proposed in this Second 15-Day Notice. The proposed changes add clarity for the regulated community on the enforcement of the General Consumer Products Regulation.

HCPA will continue to work proactively with CARB and its staff on any regulatory activity which potentially impacts the household and commercial product industry.

Respectfully submitted,



Nicholas B. Georges

Senior Vice President, Scientific & International Affairs

cc: Ravi Ramalingam, P.E., Branch Chief, Consumer Products and Air Quality Assessment Branch
Jose Gomez, Manager, Technical Development Section, Consumer Products and Air Quality Assessment Branch
Josh Berghouse, Air Pollution Specialist, Implementation Section, Consumer Products and Air Quality Assessment Branch
HCPA Air Quality Council
Nicole Quiñonez, Madden Quiñonez Advocacy



FRAGRANCE CREATORS
ASSOCIATION®

June 7, 2022

VIA ELECTRONIC SUBMITTAL [<https://www.arb.ca.gov/lispub/comm/bclist.php>]

California Air Resources Board
Clerks' Office
1001 I Street
Sacramento, California 95814

Re: Comments on Second Notice of Public Availability of Modified Text for Proposed Amendments to the Consumer Products Regulation

Fragrance Creators Association (Fragrance Creators) appreciates the opportunity to provide comments on the California Air Resources Board's (CARB's) Second Notice of Public Availability of Modified Text for the Proposed Amendments to the Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Products Regulation; Alternative Control Plan Regulation; the Tables of Maximum Incremental Reactivity Values; and Test Method 310 (Second 15-Day Notice).

Fragrance Creators is the principal trade association representing the fragrance industry in the U.S. and Canada. Fragrance Creators has approximately 60 member-companies, many of which are small businesses. The organization's member companies create and manufacture fragrances and scents for home care, personal care, home design, fine fragrance, and industrial and institutional products. Fragrance Creators also represents companies that market finished products containing fragrance as well as those that supply fragrance ingredients, including natural extracts and other raw materials that are used in perfumery and fragrance mixtures.¹

Fragrance Creators very much appreciates CARB's consideration of Fragrance Creators' prior comments and continuing efforts to address the industry's concerns, and Fragrance Creators values the ongoing dialogue and collaboration with CARB staff to address fragrance-related issues. Fragrance Creators is in general support of the modifications proposed in the Second 15-Day Notice. Fragrance Creators therefore writes only to reiterate its commitment to working with CARB on a technology assessment to reevaluate the feasibility of the Tier 2 VOC Standard for Personal Fragrance Products that would go into effect on January 1, 2031.

¹ More information about Fragrance Creators can be found at <https://www.fragrancecreators.org>.

Thank you for your time and consideration. Please do not hesitate to contact me if you have any questions or if there is additional information Fragrance Creators can provide to assist with the rulemaking process.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Nguyen". The signature is stylized with a large initial 'A' and a long horizontal stroke extending to the right.

Amanda Nguyen, JD
Vice President, Government Affairs & Legal