

Updated Informative Digest

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

Sections Affected

Proposed amendments to California Code of Regulations, title 17, sections 94501, 94502, 94506, 94508, 94509, 94510, 94511, 94512, 94513, 94515, 94521, 94522, 94524, 94526, 94540, 94541, 94542, 94543, 94544, 94545, 94546, 94547, 94548, 94549, 94550, 94551, 94552, 94553, 94554, 94555, 94700; proposed amendments to sections 1,2,3,4,5,6,8 and Appendix A of Method 310, which is incorporated by reference in California Code of Regulations, title 17, sections 94506, 94515 and 94526.

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3))

North American Industry Classification System United States, 2017, Executive Office of the President, Office of Management and Budget (2017), incorporated by reference in California Code of Regulations, title 17, section 94508, subdivision (a)(40)(C)(3);

Intergovernmental Panel on Climate Change's Fourth Assessment Report. Forster, P., V. Ramaswamy, P. Artaxo, T. Berntsen, R. Betts, D.W. Fahey, J. Haywood, J. Lean, D.C. Lowe, G. Myhre, J. Nganga, R. Prinn, G. Raga, M. Schulz and R. Van Dorland, 2007: Changes in Atmospheric Constituents and in Radiative Forcing. 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 [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, incorporated by reference in California Code of Regulations, title 17, section 94511, subdivisions (c)(5)(B) and (c)(5)(C);

Intergovernmental Panel on Climate Change's Fifth Assessment Report. Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestedt, J. Huang, D. Koch, J.-F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G.

Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forcing. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA), incorporated by reference in California Code of Regulations, title 17, section 94511, subdivision (c)(2)(B) and (c)(5)(C);

Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products [Insert date of Amendment], incorporated by reference in California Code of Regulations, title 17, sections 94506, subdivision (a)(1), 94515, subdivision (a)(1), and 94526, subdivision (a)(1);

The following documents are incorporated by reference in the proposed amendments to Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products:

ASTM International Test Method D5443-14 "Standard Test Method for Paraffin, Naphthene, and Aromatic Hydrocarbon Type Analysis in Petroleum Distillates Through 200°C by Multi-Dimensional Gas Chromatography (June 15, 2014)," incorporated by reference in section 2.1.22;

ASTM International Test Method D5580-15 "Standard Test Method for Determination of Benzene, Toluene, Ethylbenzene, p/m-Xylene, o-Xylene, C9 and Heavier Aromatics, and Total Aromatics in Finished Gasoline by Gas Chromatography (December 1, 2015)," incorporated by reference in section 2.1.23;

National Institute for Occupational Safety And Health:Methods 1300 "Ketones I, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)," incorporated by reference in section 2.1.28;

National Institute for Occupational Safety And Health: Methods 1401 "Alcohols II, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)," incorporated by reference in section 2.1.30;

National Institute for Occupational Safety And Health: Methods 1402 "Alcohols III, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)," incorporated by reference in section 2.1.31;

National Institute for Occupational Safety And Health: Methods 1403 "Alcohols IV, NIOSH Manual of Analytical Methods, Fourth Edition (March 15, 2003)," incorporated by reference in section 2.1.32; and

The following documents are incorporated by reference in the proposed amendments to the Aerosol Coating Products Regulation:

ASTM International Test Method D5381 - 93(2014) "Standard Guide for X-Ray Fluorescence (XRF) Spectroscopy of Pigments and Extenders (July 1, 2014)," incorporated by reference in California Code of Regulations, title 17, section 94526, subdivision (a)(2);

ASTM International Test Method D523- 08 "Standard Test Method for Specular Gloss (June 1, 2008)," incorporated by reference in California Code of Regulations, title 17, section 94526, subdivision (a)(3); and

ASTM International Test Method D1613 - 06 "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products (April 1, 2006)," incorporated by reference in California Code of Regulations, title 17, section 94526, subdivision (a)(4).

Background and Effect of the Proposed Regulatory Action

Health and Safety Code section 41712 requires CARB to adopt regulations to achieve the maximum feasible reduction in Volatile Organic Compound (VOC) emissions from consumer products (including aerosol coatings). To adopt such regulations, CARB must determine that adequate data exists to establish that the regulations are (1) necessary to attain State and federal ambient air quality standards, and (2) technologically and commercially feasible. Further, the regulations must not require the elimination of a product form, and must be necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. Health and Safety Code section 41712, subdivision (d) also requires CARB to consider the effect that regulations proposed for health benefit products will have on the products' efficacy in killing or inactivating agents of infectious diseases, and the impact of the proposed regulations on the availability of health benefit products to California consumers. Health and Safety Code section 41712, subdivision (e) stipulates that CARB must consider any recommendations from federal, State, or local public health agencies and public health experts prior to adopting regulations for health benefit products. CARB interprets Health and Safety Code section 41712 as being primarily directed at attaining State and federal air quality standards. CARB is also authorized to address toxic air contaminants (TAC) and greenhouse gas (GHG) emissions from consumer products under Health and Safety Code sections 38500 et seq. and 39650 et seq., respectively, as needed to meet California's air quality mandates and climate challenges, including for the protection of public health.

Pursuant to Health and Safety Code sections 39600, 39601, and 41712 primarily, CARB adopted the Regulation for Reducing Volatile Organic

Compound Emissions from Antiperspirants and Deodorants ("Antiperspirants and Deodorants Regulation") (Cal. Code Regs., tit., 17, §§ 94500-94506.5); the Regulation for Reducing Emissions from Consumer Products ("Consumer Products Regulation") (Cal. Code Regs., tit., 17, §§ 94507-94517); the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions ("Aerosol Coating Products Regulation") (Cal. Code Regs., tit., 17, §§ 94520-94528); the Tables of Maximum Incremental Reactivity (MIR) Values ("Tables of MIR Values") (Cal. Code Regs., tit., 17, §§ 94700-94701); and Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products" ("Method 310") (incorporated by reference in Cal. Code Regs., tit., 17, §§ 94506, 94515 and 94526).

CARB started regulating consumer products in 1989, with the adoption of the Antiperspirants and Deodorants Regulation. The Antiperspirants and Deodorants Regulation has been amended several times; the most recent amendments became effective on January 1, 2015. Antiperspirants and Deodorants are regulated using maximum VOC content standards based on the vapor pressure of VOCs.

CARB approved the general Consumer Products Regulation for adoption in 1990, and it has been amended numerous times since then; the most recent amendments became effective on January 1, 2019. To date, VOC standards are in place for 145 product categories under the general Consumer Products Regulation. Consumer products in this regulation are primarily regulated using VOC content standards. However, in 2019, an alternate compliance option for Multi-purpose Lubricant products became effective, allowing compliance to be determined based on a reactivity limit. Reactivity limits are expressed as grams of ozone formed per gram of product.

CARB adopted the Aerosol Coating Products Regulation in 1995 and has amended it several times since. In 1995, CARB adopted VOC content standards for six "General Coating" categories and 29 "Specialty Coating" categories. Amendments in 1998 addressed the continued commercial and technological feasibility of some of the VOC limits. In 2000, the regulation was amended to establish reactivity limits based on the MIR scale. The reactivity limits for the general categories became effective June 1, 2002, and the limits for the specialty categories became effective January 1, 2003. Minor amendments in 2004 and 2006 clarified exemptions and test methods, respectively. The Aerosol Coating Products Regulation was last amended in 2013; these amendments set new or lower reactivity limits for 16 aerosol coating categories.

CARB adopted the Alternative Control Plan Regulation in 1994. This regulation provides a voluntary alternative method to comply with the VOC limits in the Consumer Products Regulation by allowing manufacturers to set up alternative control plans to average the VOC emissions of regulated consumer products.

Amendments to the Alternative Control Plan Regulation became legally effective on January 8, 1996.

Tables of MIR Values were first proposed for adoption in 2000, with amendments to the Aerosol Coating Products Regulation. The tables are used to determine the reactivity content of aerosol coatings, and for the alternate compliance option for Multi-purpose Lubricant products. Amendments to these tables were adopted in 2004 and 2010 to reflect updated science.

Method 310 was adopted in 1997, and has been amended numerous times, most recently on May 25, 2018. Method 310 is used to determine compliance with various regulatory requirements under the Consumer Products program, and is incorporated by reference in CCR, title 17, sections 94506 (Antiperspirants and Deodorants Regulation), 94515 (Consumer Products Regulation), and 94526 (Aerosol Coating Products Regulation).

The Proposed Amendments would require various consumer products to meet reduced VOC standards. In many cases, this would require manufacturers to reformulate the consumer products. The Proposed Amendments would achieve statewide VOC reductions of 3.00 tons per day (tpd) in 2023 and 9.80 tpd in 2031. In the South Coast Air Basin, VOC reductions from the proposed measures would total 1.25 tpd in 2023 and 4.03 tpd in 2031. Reducing VOC emissions is an important strategy for reducing ground-level ozone concentrations, which improves public health and helps to achieve State and federal ambient air quality standards. The Proposed Amendments would also streamline and clarify various regulatory provisions, improve program effectiveness, and add analytical test procedures.

Objectives and Benefits of the Proposed Regulatory Action

The primary purpose of the Proposed Amendments is to lower VOC emissions from the use of consumer products, in order to reduce the formation of ground-level ozone and help attain federal ambient air quality standards. By helping to expedite attainment of State and federal health-based air quality standards, the Proposed Amendments also provide health and wellness benefits for California residents. The Proposed Amendments achieve statewide VOC reductions of 3.00 tpd in 2023 and 9.80 tpd in 2031, including reductions of 1.25 tpd in 2023 and 4.03 tpd in 2031 in the South Coast Air Basin. Potential co-benefits of the Proposed Amendments include:

- Improvements to indoor air quality, depending on the extent that the proposed sunset of the Two Percent Fragrance Exemption reduces consumer product fragrance content;

- Ensuring that up to three tons per day of VOC emissions do not occur in future years by eliminating the Two Percent Fragrance Exemption for most regulated consumer product categories;
- Reduction of TAC emissions and the associated health risk, including among those repairing or maintaining automobiles, by extending the prohibition on the use of specified TACs in certain products, and by excluding products sold to Automotive Maintenance and Repair Facilities from the “Energized Electrical Cleaner” category; and
- Reducing GHG emissions by encouraging the use of innovative zero-emission compressed gas propellants in “Hair Finishing Spray,” “Dry Shampoo,” and “Personal Fragrance Products.”

Summary of Proposed Amendments

The Proposed Amendments would require various consumer products to meet reduced VOC standards. In many cases, this would require manufacturers to reformulate the consumer products. The Proposed Amendments would also streamline and clarify various regulatory provisions, improve program effectiveness, and add analytical test procedures. The specific proposals include modifications to the originally-proposed regulation that were approved at the Board Hearing and made available for two supplemental 15-day comment periods. The core proposals and 15-day changes are summarized below; this summary does not include every proposed amendment or 15-day change.

- **Manual Aerosol Air Freshener:** To achieve reductions from manually-operated aerosol air fresheners, the Proposed Amendments would transition the regulated categories of “Single-Phase Aerosol Air Freshener” and “Double-Phase Aerosol Air Freshener” to “Manual Aerosol Air Freshener” and “Automatic Aerosol Air Freshener.” “Automatic Aerosol Air Freshener,” for which lower VOC standards were determined to be infeasible, would retain the existing 30 percent by weight VOC standard; the larger “Manual Aerosol Air Freshener” category would be subject to 10 percent and 5 percent by weight VOC standards on January 1, 2023, and January 1, 2027, respectively.
- **Hair Care Products:** The Proposed Amendments include new or lower VOC standards for the following hair care categories:
 - For “Hair Finishing Spray,” a reduction of the applicable VOC content standard from 55 percent to 50 percent by weight, effective January 1, 2023;

- For “Dry Shampoo,” the addition of 55 percent and 50 percent VOC content standards, effective January 1, 2023, and January 1, 2029, respectively; and
 - For “Hair Shine” and “Temporary Hair Color,” a reduction of the applicable VOC content standards for both categories from 55 percent to 50 percent, effective January 1, 2029.
- Personal Fragrance Product (PFP): The Proposed Amendments would reduce the applicable VOC standard for aerosol PFP and PFP with less than or equal to 7 percent fragrance from 75 to 70 percent by weight on January 1, 2023. The applicable fragrance threshold would increase to 10 percent, with a VOC standard of 50 percent by 2031. In addition, the VOC standard for the less than one percent of PFP products with a VOC content above 20 percent would increase from 65 to 75 percent to streamline and simplify program implementation by maintaining a single fragrance threshold for the overall PFP category.¹
 - Crawling Bug Insecticide (Aerosol): The Proposed Amendments would lower the applicable VOC standard from 15 percent to 8 percent by weight as of January 1, 2030. Due to technical feasibility challenges, a separate “Bed Bug Insecticide” category would be defined that would retain a 15 percent by weight VOC standard for the aerosol product form.
 - Sunset of the Two Percent Fragrance Exemption: The Proposed Amendments would sunset the Two Percent Fragrance Exemption, achieving needed VOC reductions and facilitating program enforcement. The exemption would be retained for a portion of the fragrance and monoterpene content of “Air Freshener”, “Disinfectant”, “Sanitizer”, non-aerosol “General Purpose Cleaner”, and non-aerosol “General Purpose Degreaser” products due to potential technical feasibility challenges of complying without any exemption in these product categories.
 - The Proposed Amendments would also extend the prohibition on the use of perchloroethylene, trichloroethylene, methylene chloride, and p-chloro- α,α,α -trifluorotoluene (PCBTf) to “Manual Aerosol Air Freshener,” “Finishing Spray,” “Dry Shampoo,” “Hair Shine,” “Personal Fragrance Products,” and “Crawling Bug Insecticide (Aerosol) products.” This proposal is to ensure that compliance with proposed VOC standards is achieved in a manner that protects public health.
 - The Proposed Amendments would also improve program transparency, enforceability, and effectiveness, and reflect lessons learned since the last significant regulatory amendments in 2013, through the following:

Updated Definition of Energized Electrical Cleaner

“Energized Electrical Cleaner” (EEC) products are almost entirely comprised of perchloroethylene, a TAC, and trichloroethylene, a VOC and a TAC. EEC products are needed solely to safely clean or degrease electrical equipment where a residual current exists at the time cleaning or degreasing occurs. Significant quantities of “Energized Electrical Equipment” continue to be sold to automotive maintenance and repair facilities, despite CARB adopting a previous regulation to prevent the use of EEC in motor vehicle maintenance and repair operations, for which it is not needed. When motor vehicle maintenance and repair establishments use EEC products, the public is unnecessarily exposed to TACs, endangering public health. The Proposed Amendments would update the definition of “Energized Electrical Cleaner” to exclude products sold to automotive maintenance and repair facilities. EEC products sold to automotive maintenance and repair facilities would likely be considered to be general purpose degreasers (depending on label claims) and be subject to a VOC standard and TAC prohibitions. Automotive maintenance and repair facilities could continue to purchase automotive maintenance products that comply with CARB VOC standards and TAC prohibitions. Staff’s proposal would also require that automotive retail establishments maintain for a minimum of five years, and make available to CARB upon request, records they already create regarding “Energized Electrical Cleaner” sales.

Definition of Monoterpene

As part of the modifications approved at the Board Hearing and provided for in the 15-Day comment period, the Proposed Amendments would add a definition for “Monoterpene.” This would provide additional regulatory certainty to regulated parties regarding which product ingredients are considered a “monoterpene” and therefore would be eligible for the monoterpene content exemptions. The Proposal would also identify specific chemical names and their associated Chemical Abstracts Service (CAS) registry numbers for “Monoterpene” compounds in order to specify the substances classified as monoterpene.

Fragrance Exemption

The Proposed Amendments were modified during the 15-day change process to include a minor change to the Exemptions section language to ensure that non-aerosol “General Purpose Cleaner” and non-aerosol “General Purpose Degreaser”-products manufactured between the effective date of the Proposed Amendments and

December 31, 2022 continue to be eligible for the combined fragrance and monoterpene exemption to address feasibility challenges.

Alternative Control Plan and Innovative Product Exemption Eligibility Criteria

The Proposed Amendments would update Alternative Control Plan (ACP) eligibility criteria to prohibit emission reduction credits from being generated by products less than a minimum threshold below the applicable VOC standard, and would update Innovative Product Exemption (IPE) eligibility criteria to exclude products that demonstrate a reduction in VOCs based upon product combustion. Both proposals are intended to ensure ACP and IPE provisions continue to generate real air quality and public health benefits, and to encourage product innovation, while providing regulatory compliance flexibility where appropriate to still achieving State and federal air quality goals.

IPE Eligibility Criteria

The air quality, climate change, and potential health or environmental benefits of compressed gas propellants relative to high global warming-potential hydrofluorocarbons (HFCs) like HFC-152a or other liquefied petroleum gas propellants make it an excellent choice, from an air quality and public health perspective, for use in formulating aerosol consumer products. However, the existing methods for determining product compliance with the applicable VOC standards (based upon ingredient weight) may make manufacturers less likely to utilize compressed gas propellants, due to their low density relative to other VOC exempt propellants, such as HFC-152a, that have a higher global warming potential. The Proposed Amendments would remedy this disincentive by providing additional IPE eligibility criteria to encourage product manufacturers to develop and market innovative aerosol products that utilize compressed air, carbon dioxide, or nitrogen propellants.

The Proposed Amendments to the IPE eligibility criteria were modified during the 15-day change process to provide additional eligibility criteria for innovative products that do not use compressed gas propellants but achieve the same ozone-forming potential (OFP) and GHG benefits required of an "Innovative Compressed Gas Propellant Product." The proposed inclusion of eligibility criteria for innovative products that do not utilize compressed gas propellants is intended to provide flexibility for additional product types and

intended to provide additional opportunities for product innovation to provide GHG reductions.

Tables of Maximum Incremental Reactivity (MIR) Values:

The Proposed Amendments would add the hydrofluoroolefin 1-Chloro-3,3,3-Trifluoropropene (HFO-1233zd), Alkane Mixed - Minimally 90 percent C13 and higher carbon number, and Diethyl Carbonate to the "Tables of Maximum Incremental Reactivity (MIR) Values", for the purposes of using the ROC in aerosol coating products, as specified in CCR, title 17, section 94522, and in "Multi-purpose Lubricant" products that qualify for an alternate compliance option.

The addition of MIR values for these three ROCs would provide manufacturers additional flexibility to use these low-reactive substances in products and could encourage the development of less reactive aerosol coatings and multi-purpose lubricants.

Plastic Pipe Adhesive

The Proposed Amendments would create a new special purpose aerosol adhesive category and VOC standard for plastic pipe labeled exclusively to bond segments of acrylonitrile butadiene styrene (ABS), polyvinyl chloride (PVC), and/or chlorinated polyvinyl chloride (CPVC) together. The feasibility of the "Mist Spray Adhesive" VOC standard of 30 percent by weight that became effective in 2017 was not considered for these products. The current proposal would set a more feasible standard of 60 percent by weight VOC, and exclude them from the "Mist Spray Adhesive" category.

Exclusion of Denatured Alcohol Products Used to Maintain Electrical Equipment Owned by Public Utilities from the "Multi-purpose Solvent" Definition

The Proposed Amendments would create a narrow exclusion to the definition of "Multi-purpose Solvent" for products used to maintain electrical equipment owned by public utilities. This narrow exemption is necessary for denatured alcohol products that are specified by utility equipment manufacturers as the sole method of maintaining specialized electrical equipment.

Test Method Sections and Method 310 Updates

The Proposed Amendments to Sections 94506, 94515, and Method 310 would improve clarity and consistency, remove and add several reference test methods, and revise equations to better reflect how

CARB staff calculates VOC and ROC. The Proposed Amendments to section 4.2.1.2 of Method 310 were modified as part of the 15-day change process to add a statement clarifying that volatile non-VOCs are not counted toward the VOC content of a product. The Proposed Amendments to Subsections 3.4.2 and 3.4.3 in Sections 94506, 94515, and Method 310, as well as Sections 5.4.2 and 5.4.3 of Method 310 were modified as part of the second 15-day change process to clarify when CARB takes enforcement action after VOC results have been determined.

Additional non-substantive changes were made in the 15-day changes to correct typographical or grammatical errors, change numbering or formatting, and to improve clarity.

Description of Regulatory Action

On February 2, 2021, CARB released the Notice of Public Hearing (45-Day Notice) and Staff Report: Initial Statement of Reasons for Rulemaking (Staff Report), entitled "Public Hearing to Consider 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," for public review. The Staff Report contains a thorough description of the rationale for the Proposed Amendments. On February 2, 2021, all references relied upon and identified in the Staff Report were made available to the public. CARB received 59 written comments during the 45-Day Notice comment period.

On March 25, 2021, CARB conducted a public hearing, where the Board considered the Proposed Amendments to the existing Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Products Regulation; Alternative Control Plan Regulation; the Tables of Maximum Incremental Reactivity Values; Test Method 310; and received written and oral comments from the public. At the conclusion of the hearing, the Board approved Resolution 21-7 for adoption of the Proposed Amendments.

In accordance with Government Code section 11346.8, the Board directed the Executive Officer to adopt the Proposed Amendments after making any appropriate conforming modifications, as well as any additional supporting documents and information, available to the public for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration, if warranted.

Subsequent to the hearing, CARB released a Notice of Public Availability of Modified Text and Availability of Additional Documents and Information (15-

Day Notice) on August 19, 2021. These modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report.

The text of the proposed regulatory and Staff Report modifications was posted on CARB's website at <https://ww2.arb.ca.gov/rulemaking/2021/consumerproducts2021>, accessible to all stakeholders and interested parties. CARB received 12 written comments during the comment period, which closed on September 3, 2021.

On February 16, 2022, the California Air Resources Board (CARB or Board) submitted the Final Statement of Reasons (FSOR) for the rulemaking action entitled "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" to the Office of Administrative Law for its review and approval. CARB released a "Second Notice of Public Availability of Modified Text" (Second 15-Day Notice) to announce additional proposed modifications to the regulatory language on May 23, 2022. These modifications do not change implementation of the regulation in any way that affects the conclusions of the environmental analysis included in the Staff Report.

The text of the proposed regulatory and Staff Report modifications for the Second 15-Day Notice was posted on CARB's website at <https://ww2.arb.ca.gov/rulemaking/2021/consumerproducts2021>, and was accessible to all stakeholders and interested parties. CARB received two written comments during the second 15-day public comment period, which started on May 23, 2022, and closed on June 7, 2022.

Comparable Federal Regulations

The U.S. Environmental Protection Agency (U.S. EPA) has promulgated a federal consumer products rule under section 183(e) of the federal Clean Air Act (CAA) (40 CFR Part 59, subpart C, sections 59.201 et seq.). The rule specifies VOC limits for a number of consumer product categories and is similar in format to CARB's Consumer Products Regulation.

Although the federal regulation is similar in many aspects to the California regulation, it does not include a number of product categories that are currently regulated under the CARB regulation, including Personal Fragrance Products, Energized Electrical Cleaner, Dry Shampoo, Bed Bug Insecticide and Plastic Pipe Adhesive. For the categories that are regulated under both rules, many of CARB's limits are more stringent than the U.S. EPA's limits, such as standards for Hair Finishing Spray products.

U.S. EPA's rule also differs in that it applies nationwide to consumer product manufacturers, importers, and distributors, but not to retailers, while the CARB regulation applies to any person, including retailers, who "sells, supplies, offers for sale, or manufactures consumer products for use in the State of California."

Finally, U.S. EPA's rule has an unlimited "sell-through" period for noncomplying products manufactured before the effective date of the limits, whereas California law (Health and Safety Code section 41712) limits the sell-through period to three years.

U.S. EPA's consumer products rule also does not prohibit the use of certain TACs in consumer products, and there is no comparable federal regulation related to reducing GHG emissions from consumer products.

On March 24, 2008, U.S. EPA set national VOC emission standards for aerosol spray paints (aerosol coatings), (40 CFR Part 59, subpart E, National Volatile Organic Compound Emission Standards for Aerosol Coatings). This national regulation, modeled after CARB's Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions, established reactivity-based emission standards for aerosol spray paints. On December 24, 2008, U.S. EPA published amendments to the rule to move the applicability and initial compliance dates for aerosol coatings from January 1, 2009, to July 1, 2009. The reactivity limits and product categories in the national rule mirror CARB's aerosol coatings regulation prior to CARB's aerosol coating regulation amendments adopted in 2013. CARB's regulation also differs in that it applies to the commercial application of aerosol coatings and has no exemption for any of the manufacturers. The national rule also does not prohibit the use of certain TACs.

Thus, CARB's Consumer Products program is more stringent overall than the federal program. Because California has unique air quality problems, reducing VOC and GHG emissions from all categories, including consumer products, to the maximum extent feasible is necessary to attain the federal and State ambient air quality standards, including for ozone.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D))

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded there are no state laws that are inconsistent or in conflict with the proposed amendments.

Pesticides and Pest Control Operations (Cal. Code Regs., tit. 3, div. 6, et seq.)

Consumer and commercial insecticide products are regulated by the California Department of Pesticide Regulation (CDPR). Commercial Insecticides used by

licensed pest control operators and generally either contain higher levels of active ingredients than their consumer-use counterparts or contain restricted materials that require a permit for possession and use and are excluded from CARB's Consumer Products Regulation and thus excluded from these Proposed Amendments. Consumer insecticide products are regulated by both CARB and CDPR, but these regulations are consistent and compatible since CDPR regulations do not contain VOC content standards. Therefore, the Proposed Amendments are consistent with State pesticides and pest control laws.

Safer Consumer Products (Cal. Code Regs., tit. 22, div. 4.5, et seq.)

Product-chemical combinations are regulated by the California Department of Toxic Substances Control (DTSC) as part of their Safer Consumer Products (SCP) Program. This program seeks first to identify, and then to prioritize for evaluation, chemicals in consumer products that have the potential to have adverse impacts to public health and environment; and next to establish a process for evaluating potential safer alternatives.

This process includes the identification of product-chemical combinations which may be described in terms similar to those product categories defined in CARB's Consumer Products Regulation and these Proposed Amendments. For example, products described in the SCP Program as Beauty, Personal Care, and Hygiene products may be included in the CARB Consumer Product Regulation categories "Hair Finishing Spray", "Dry Shampoo", or "Personal Fragrance Product". While the SCP program does prioritize product categories that are also included in these Proposed Amendments, the SCP program has not determined that any product-chemical combinations are of concern. Furthermore, any such determination would not seek to limit the VOC content in products in these categories. Rather, it would only seek to identify specific chemicals that may be of concern in specific products. Therefore, the Proposed Amendments are consistent with the Safer Consumer Products (SCP) Program.

Hence, there are no state laws that are inconsistent with or in conflict with the Proposed Amendments.