

Title 17. California Air Resources Board

Notice of Public Hearing to Consider 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 California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption 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.

DATE: March 25, 2021

TIME: 9:00 A.M.

Please see the public agenda which will be posted ten days before the March 25, 2021, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the California Air Resources Board, Byron Sher Auditorium, 1001 I Street, Sacramento, California 95814.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., March 25, 2021, and may continue at 8:30 a.m., on March 26, 2021. Please consult the agenda for the hearing, which will be available at least ten days before March 25, 2021, to determine the day on which this item will be considered.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing during the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on February 5, 2021. Written comments not submitted during the hearing must be submitted on or after February 5, 2021, and received **no later than March 22, 2021**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing, to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any

suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

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

[Electronic submittal:](https://www.arb.ca.gov/lispub/comm/bclist.php) <https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

Authority and Reference

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38500, 38501, 38510, 38551, 38560, 38566, 38580, 39000, 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39607, 39650, 39656, 39659, 39701, 41503.5, 41504, 41511, 41700, and 41712. This action is proposed to implement, interpret, and make specific sections 38510, 38560, 38566, 38580, 39002, 39600, 39515, 39516, 39601, 39607, 39659, 39701, 40000, 41511, 41700, and 41712.

Informative Digest of Proposed Action and Policy Statement Overview (Gov. Code, § 11346.5, subd. (a)(3))

Sections Affected: Proposed amendments to California Code of Regulations, title 17, sections 94501, 94502, 94506, 94508, 94509, 94510, 94511, 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)):

1. North American Industry Classification System United States, 2017, Executive Office of the President, Office of Management and Budget (2017). Incorporated in section 94508 (a)(40)(C)(3);

2. IPCC's Fifth Assessment Report. Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestvedt, 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 in section 94511 (c)(2)(B);
3. 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 sections 94506(a)(1), 94515 (a)(1); and 94526(a)(1);
4. 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 [Insert date of amendment];

ASTM 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 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;

NIOSH Methods 1300 "Ketones I, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)." Incorporated by reference in section 2.1.28;

NIOSH: Methods 1401 "Alcohols II, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)." Incorporated by reference in section 2.1.30;

NIOSH: Methods 1402 "Alcohols III, NIOSH Manual of Analytical Methods, Fourth Edition (August 15, 1994)." Incorporated by reference in section 2.1.31;

NIOSH: Methods 1403 "Alcohols IV, NIOSH Manual of Analytical Methods, Fourth Edition (March 15, 2003)." Incorporated by reference in section 2.1.32;

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

ASTM D5381 - 93(2014) "Standard Guide for X-Ray Fluorescence (XRF) Spectroscopy of Pigments and Extenders (July 1, 2014)." Incorporated in section 94526 (a)(2);

ASTM D523- 08 "Standard Test Method for Specular Gloss (June 1, 2008)." Incorporated in section 94526 (a)(3); and

ASTM 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 in section 94526 (a)(4);

Method 310 is being amended by this regulation and thus the amendment date would be the date that the regulation is approved by CARB.

Background and Effect of the Proposed Regulatory Action:

Background on the Proposed Rulemaking

Section 41712 of the California Health and Safety Code 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 necessary to attain State and federal ambient air quality standards, that the regulations are technologically and commercially feasible, and necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form. Health and Safety Code section 41712(d) also

requires CARB to consider the effect of proposed regulations for health benefit products on product 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(e) further stipulates that CARB considers any recommendations from federal, State, or local public health agencies and public health experts prior to adopting regulations for health benefit products. Section 41712 is 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 (HSC sections 38500 et seq. and HSC sections 39650 et seq., respectively), as needed to meet California's air quality mandates, including the protection of public health.

Pursuant to Health and Safety Code sections 39600, 39601, and 41712 primarily, CARB has adopted the Regulation for Reducing Volatile Organic Compound Emissions from Antiperspirants and Deodorants (the "Antiperspirants and Deodorants Regulation," California Code of Regulations (CCR), title 17, sections 94500-94506.5); the Regulation for Reducing Emissions from Consumer Products (the "Consumer Products Regulation," CCR, title 17, sections 94507-94517); the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "Aerosol Coating Products Regulation," CCR, title 17, sections 94520-94528); the Tables of Maximum Incremental Reactivity (MIR) Values ("Tables of MIR Values," CCR, title 17, sections 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 sections CCR title 17, sections 94506, 94515 and 94526).

CARB started regulating consumer products in 1989 with adoption of the Antiperspirants and Deodorants Regulation. At that time, the Board established standards based on the vapor pressure of VOCs. The Antiperspirants and Deodorants Regulation has been amended several times, and the most recent amendments became effective on January 1, 2015. Antiperspirants and Deodorants are regulated using mass-based standards.

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 this regulation. Consumer products in this regulation are primarily regulated using mass-based VOC standards. However, in 2019, an alternate compliance option for Multi-purpose Lubricant products that allows compliance to be determined based on a reactivity limit became effective.

CARB adopted the Aerosol Coating Products Regulation in 1995, and has amended it several times since. In 1995, CARB adopted mass-based VOC limits

for six “General Coating” categories and 29 “Specialty Coating” categories. Amendments in 1998 addressed the 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 regulation became legally effective on January 8, 1996.

Tables of MIR Values were first proposed for adoption in 2000, along 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), 94515 (Consumer Products), and 94526 (Aerosol Coating Products).

Effect of the Proposed Rulemaking

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, 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 proposals would also streamline and clarify various regulatory provisions, improve program effectiveness, and add analytical test procedures.

Public Process

The proposed amendments are the culmination of a public process conducted by CARB over the last seven years to identify the most technically-sound strategies to effectively help California meet its air quality challenges. This extensive regulatory development process included the following CARB actions:

1. Spring 2014 - Spring 2019: Development and implementation of a survey that solicited relevant product information for the years 2013, 2014, and 2015; evaluation of the survey responses; and publication of comprehensive survey data summarizing the emissions, reactivity, and ozone-forming potential of over 400 categories of consumer products, with extensive opportunity for public review of draft summary data and opportunities for feedback from product manufacturers and other interested stakeholders.
2. Spring- Fall 2019: CARB held fourteen public work group meetings and workshops to evaluate the 47 consumer product categories CARB identified from the survey work described above, as being responsible for the greatest VOC emissions and ozone-forming potential. CARB also met with individual stakeholders and stakeholder groups to collect more information on products and provide additional opportunities for stakeholder input.
3. Summer 2019 – Winter 2020: CARB held thirteen additional public work group meetings and workshops to identify and refine proposed VOC reduction strategies for specific consumer product categories, and to develop other proposed regulatory updates to improve program effectiveness and clarity.

This regulatory development process is described in more detail in Chapter XII of the Initial Statement of Reasons (ISOR).

Objectives and Benefits of the Proposed Regulatory Action:

VOC Reduction Measures

The primary purpose of the Proposed Amendments is to achieve additional VOC reductions that offset emission growth in the sector and help attain State and federal ozone standards, particularly in the South Coast. These include the following:

- Manual Aerosol Air Freshener: To achieve reductions from manually-operated aerosol air fresheners, staff proposes to 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 Fresher," 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: Staff proposes to adopt or reduce VOC standards for the following hair care categories, as follows:
 - “Hair Finishing Spray”: Reduce the applicable VOC content standard from 55 percent to 50 percent by weight on January 1, 2023.
 - “Dry Shampoo”: Adopt 55 percent and 50 percent VOC content standards applicable on January 1, 2023, and January 1, 2029, respectively.
 - “Hair Shine” and “Temporary Hair Color”: Reduce the applicable VOC content standards for both categories from 55 percent to 50 percent by 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): Staff proposes to 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 and would retain a 15 percent by weight VOC standard for the aerosol product form.

- Sunset of the Two Percent Fragrance Exemption: Staff proposes to sunset the Two Percent Fragrance Exemption. This proposal would achieve needed VOC reductions, promote transparency and equity, facilitate program enforcement, and help to address growing public health concerns regarding exposure to fragrance ingredients. Staff’s proposal would retain the exemption for a portion of the fragrance and monoterpene content of Air Freshener, Disinfectant, Sanitizer, non-aerosol General Purpose Cleaner, and non-aerosol General

¹ The applicable product fragrance content threshold would remain the current 20 percent for products manufactured before January 1, 2023, with staff proposing to lower the fragrance threshold to 7 percent for products manufactured between January 1, 2023, and December 31, 2030, and raise the threshold to ten percent fragrance for products manufactured beginning on January 1, 2031.

Purpose Degreaser products due to potential technical feasibility challenges of complying without any exemption in these product categories.

Staff also proposes to prohibit the future use of perchloroethylene, trichloroethylene, methylene chloride, and p-chloro- α,α,α -trifluorotoluene (PCBTF) in "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.

Proposed Amendments to Improve Program Effectiveness

This section describes the proposed amendments to improve program transparency, enforceability, and effectiveness, and to reflect lessons learned since the last significant regulatory amendments in 2013.

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 "Energized Electrical Cleaner" 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 their health. Staff is therefore proposing to 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 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.

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 VOC 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 encourage product innovation, while providing regulatory compliance flexibility where appropriate to still achieving air quality goals.

IPE Eligibility Criteria for Products Utilizing Compressed Gas Propellants

The air quality, climate change, and potential health or environmental benefits of compressed gas propellants relative to 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.

Tables of Maximum Incremental Reactivity (MIR) Values

Staff is proposing to add the following additional reactive organic compounds (ROC) to the Tables of Maximum Incremental Reactivity (MIR) Values, MIR Values for Compounds (CCR, title 17, section 94700), so that the ROC can be used 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, as specified in CCR, title 17, section 94509:

- 1-Chloro-3,3,3-Trifluoropropene (HFO-1233zd);
- Alkane Mixed - Minimally 90% C13 and higher carbon number; and
- Diethyl Carbonate.

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

CARB staff is proposing to 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), 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

CARB staff is proposing to 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 310 Updates

CARB staff is proposing amendments to Method 310 to make updates for clarity and consistency, to remove and add several reference test methods, and to revise equations to better reflect how CARB staff calculates VOC and ROC.

Comparable Federal Regulations:

The United States 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. For the categories that are regulated under both rules, many of CARB's limits are more stringent than the U.S. EPA's limits.

U.S. EPA's rule also differs in that it applies nationwide to consumer product manufacturers, importers, and distributors, but not 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 toxic air contaminants, and there is no comparable federal regulation related to reducing greenhouse gas 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 these regulations are neither inconsistent nor incompatible with existing State regulations.

Mandated by Federal Law or Regulations (Gov. Code, §§ 11346.2, subd. (c), 11346.9)

The proposed regulatory action is not mandated by federal law or regulations.

Disclosure Regarding the Proposed Regulation

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subs. (a)(5)&(6)):

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs or mandate to any local agency or school district, whether or not reimbursable by the State under

Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Results of the Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

The Executive Officer has made an initial determination that the proposed regulatory action is not a major regulation under the range of cost estimates considered. In Health and Safety Code section 57005(b), the California Environmental Protection Agency (CalEPA) defines a “major regulation” as any regulation that will have an economic impact on the State’s business enterprises in an amount exceeding \$10 million per year, as estimated by the board, department, or office within the agency proposing to adopt the regulation in the assessment required by Government Code section 11346.3(a). This proposal is not considered a major regulation under CalEPA’s definition because staff does not expect the cost of compliance to exceed \$10 million in any year.

Separately, in California Code of Regulations, title 1, section 2000(g), the Department of Finance (DOF) defines a major regulation as a regulation subject to Office of Administrative Law review that has an estimated economic impact on business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the regulation is estimated to be filed with the Secretary of State through 12 months after the regulation is estimated to be fully implemented, as estimated by the agency. This proposal is not considered a major regulation under DOF’s definition because staff does not estimate an economic impact exceeding \$50 million in any 12-month period.

Effect on Jobs/Businesses

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

Benefits of the Proposed Regulation

The objective of the proposed regulatory action is to help meet federal air quality standards and protect the health of California residents. The consumer products program has been and remains a critical part of California's overall efforts to reduce ozone formed in the lower atmosphere from emissions associated with the use of chemically formulated consumer products. Ground-level ozone remains one of California's greatest air quality challenges. The majority of California residents continue to be exposed to pollutant concentrations that exceed federal health-based ambient air quality standards for ozone.

A summary of these benefits is provided; please refer to "Objectives and Benefits," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3) discussion on page 5.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. As explained in the ISOR, the proposed amendments are likely to have a cost impact on some individual businesses. Staff has estimated that the total direct cost for consumer product manufacturers to comply with the proposed amendments is about \$17.9 million dollars per year for 15 years, or a total of about \$267.7 million. Annualized non-recurring direct costs for consumer products manufacturers is estimated to be about \$34.2 million. There is an estimated annual recurring cost savings of about \$3.4 million. If all assumed compliance costs are passed on to the consumer, without consideration of typical retail mark-up, we estimate the average annual cost to a consumer to be about \$0.01 per unit.

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Staff has confirmed that there are 13 small businesses in California that may be affected by the proposed amendments. Of the 13 businesses, one manufactures Personal Fragrance Products, eight manufacture Hair Finishing Spray, two manufacture Dry Shampoo, and two manufacture both Hair Finishing Spray and Dry Shampoo. The average revenue for small businesses that manufacture Personal Fragrance Products, Hair Finishing Spray, and Dry Shampoo is \$5,324,950, \$3,681,744, and \$4,579,789, respectively.

Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The proposed VOC standards do not mandate the use of specific technologies or equipment, or prescribe specific actions or procedures, as they, as a whole, set emission reduction standards which may be met in multiple ways. However, out of an abundance of caution, CARB staff have evaluated some provisions of the Proposed Amendments that may be viewed as prescriptive if read in isolation—prohibition on the use of TACs in certain categories, and exclusion of products sold to automotive maintenance and repair facilities from being considered “Energized Electrical Cleaner.” CARB considered performance standard alternatives to these potentially prescriptive provisions, out of an abundance of caution, and found that performance standard alternatives would not meet the objectives of the regulation. More information is given in the ISOR.

State Implementation Plan Revision

If adopted by CARB, CARB plans to submit the proposed regulatory action to the U.S. EPA for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

Environmental Analysis

When the Revised Proposed 2016 State Strategy for the SIP was developed, CARB prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). Because the Proposed Amendments implement one of the measures in CARB's adopted Revised Proposed 2016 State Strategy for the SIP, "Consumer Products," the environmental impact of the Proposed Amendments were already examined as part of the EA for that Plan. The report is entitled: Final Environmental Analysis for the Revised Proposed 2016 State Strategy for the State Implementation Plan, or "Final EA." The Final EA concluded that implementation of the SIP Strategy measures could result in short-term and long-term beneficial impacts to air quality, energy demand, and greenhouse gases. It further concluded that the proposed measures would result in less-than-significant impacts to: energy demand, hazards and hazardous materials, land use and planning, mineral resources, population and housing, public services, and recreational services. The Final EA also concluded that there could be potentially significant and unavoidable adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation/traffic, and utilities and service systems.

Staff has determined that a new Environmental Impact Analysis is not required for the current Proposed Amendments because the Proposed Amendments do not present any effects that were not examined in the prior Final EA, and because there are no changes proposed to the originally-approved project that involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects than previously identified in the prior Final EA for the 2016 SIP Strategy. The basis for reaching this conclusion is provided in Chapter VII of the ISOR report.

Special Accommodation Request

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al cotb@arb.ca.gov o (916) 322-5594 lo más pronto posible, pero no menos de diez días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Joseph Calavita, Manager, Implementation Section, at joe.calavita@arb.ca.gov or Josh Berghouse, Air Pollution Specialist, Implementation Section, at josh.berghouse@arb.ca.gov.

Availability of Documents

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to Consider the Proposed Amendments to the Antiperspirants and Deodorants Regulation; Consumer Products Regulation; Aerosol Coating Product Regulation; Alternative Control Plan Regulation; the Tables of Maximum Incremental Reactivity Values; and Test Method 310.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on January 5, 2021. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, at (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Hearing Procedures

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2021/consumerproducts2021>

California Air Resources Board



Richard W. Corey
Executive Officer

Date: January 19, 2021

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.ARB.ca.gov) (www.ARB.ca.gov).