II.

DEVELOPMENT OF PROPOSED AMENDMENTS

A. PUBLIC PROCESS FOR DEVELOPING PROPOSED LIMITS

In this Chapter, we discuss the process used to involve the public in developing the 2004 Amendments and the staff evaluation of emission reduction strategies. In order to involve the public in the development of the proposed 2004 Amendments, a subcommittee of the Consumer Products Working Group, titled the Consumer Products Regulation Workgroup (CPRWG), was established in 2002. Participation in the CPRWG was open to any member of the public. The CPRWG participated in the development of the 2001 Survey and later the 2004 Amendments. Numerous meetings were held with the CPRWG while developing the survey.

Five public CPRWG meetings and one public workshop were conducted between March 2003 and March 2004 to develop the 2004 Amendments. At the first workgroup meeting in March 2003, staff discussed the logistics and timeline for the upcoming consumer products regulatory activity.

At the second CPRWG meeting, staff discussed the amended State Implementation Plan (SIP) settlement agreement, the reporting requirements for aerosol adhesives, the 2003 Consumer Products Survey (2003 Survey), and other general consumer products issues. Prior to the workgroup meeting, we posted the 2001 Survey Preliminary Data Summaries, a list of potential categories to be regulated, and a list of proposed regulatory changes to our consumer products website.

At the third CPRWG meeting, staff discussed proposed regulatory category definitions, proposed VOC limits for product categories identified at the second workgroup meeting, and specific language proposed for regulatory concept changes that were outlined at the second workgroup meeting.

At the fourth CPRWG meeting and Consumer Products Regulation public workshop, which were held on consecutive days, we presented the latest proposed regulatory category definitions with modified proposed VOC limits and updated language for the proposed regulatory changes. Some of the category definitions, VOC limits and proposed regulatory language were modified based on comments received, further staff analysis, and meetings with associations and individual companies. The public workshop was broadcast through our ARB webcast system, for those interested individuals who were unable to attend in person.

A chronology of the meetings held is shown in Table II-1. Workgroup meeting and workshop notices are contained in Appendix C.

Table II-1
Chronology of Workgroup Meetings and Public Workshop

Date	Meeting	Location
March 11, 2003	1st Workgroup Meeting for the CPRWG	Sacramento, CA with teleconference available
October 21, 2003	2nd Workgroup Meeting for the CPRWG	Sacramento, CA with teleconference available
December 16, 2003	3rd Workgroup Meeting for the CPRWG	Sacramento, CA with teleconference available
March 10, 2004	4th Workgroup Meeting for the CPRWG	Sacramento, CA with teleconference available
March 11, 2004	Public Workshop on the proposed 2004 Amendments	Sacramento, CA with webcast available

To solicit additional information and comments, staff held numerous individual meetings, teleconferences, and video conferences with industry representatives. At several of these meetings, requested by industry associations, industry representatives presented technical information related to reformulating of products for consideration in the rulemaking process. Staff also reviewed survey data, performed shelf surveys, and researched technical literature, patents, and trade journals during the development of the proposed 2004 Amendments.

B. STAFF EVALUATION OF EMISSION REDUCTION OPPORTUNITIES

Development of the proposed 2004 Amendments began with the review of the "2001 Consumer and Commercial Products Survey" (2001 Survey). The 2001 Survey covered about 48 categories of consumer products, representing an estimated 25 percent of the total consumer products inventory, on an emissions basis (Appendix D). The focus of the 2001 Survey was primarily on categories that had not previously been regulated and where an opportunity for emission reductions were identified. In addition, several categories were surveyed primarily for the purpose of improving inventory numbers or to gain a better understanding of a general category of products. The categories surveyed included a broad range of hydrocarbon-based solvents, adhesives, household and personal care products.

After the Survey data were compiled, staff prioritized product categories for possible regulation. This process began with the elimination of categories where staff believed no viable opportunity for reduction existed. As a result of this process, staff initially identified 20 product categories for potential emission reduction opportunities which included 18 previously unregulated categories and two categories that had been already regulated. The total VOC emissions from the identified categories comprised approximately 10.6 tpd statewide in 2001.

After further review, staff postponed consideration of some product categories to provide adequate time to evaluate the feasibility of VOC reductions and/or time to address complicated technical issues. In addition, staff revised emission estimates to address product mis-categorization, products that were already regulated under local air district rules, and reporting errors. The proposed VOC limits were developed based on the Survey results, input from interested parties, and identified repackaging opportunities and reformulation options.

During the workgroup and workshop process, staff presented specific proposals and alternatives to the public for consideration. After additional investigation of the product categories, staff added some product categories, deleted other categories, reorganized categories based on similarities in product function or other criteria, and increased or reduced the proposed VOC limits for product categories based on technical information provided by interested parties and staff's research efforts. Staff went through multiple iterations of presenting proposals, considering comments, and performing internal analysis, and as a result is currently proposing VOC limits for 15 product categories.

C. ALTERNATIVES CONSIDERED

The Government Code section 11346.2 requires the ARB to consider and evaluate reasonable alternatives to the proposed regulation and provide the reasons for rejecting those alternatives. Staff identified three alternatives approaches to the setting of proposed VOC limits: "No Action," "Set Different VOC Limits," and "Set VOC Limits for Different Categories."

Alternative One- No Action

A "No Action" alternative would be to not adopt the proposed new measures (i.e., VOC limits), or delay adoption of the proposed new measures. The citizens of California would not benefit from the improved air quality that would result from the reduction of VOC emissions and ground-level ozone being proposed. Associated health benefits would be lost, including the estimated reduction of potential excess cancers from the proposed ATCM for PDCB (See Chapter VII). "No Action" would result in failure to meet our CONS-1 SIP and SIP lawsuit settlement commitments (See Chapter I). In the case of not meeting the SIP commitments, there is a potential for loss of federal funds. Not meeting the SIP lawsuit settlement commitments could subject ARB to further litigation. However, this alternative would have no cost on business.

Alternative Two – Set Different VOC Limits

As was discussed in Subsection B above, staff thoroughly evaluated each category that was surveyed for which it was believed potential for emission reductions existed. Staff initially proposed limits that were perceived as attainable based on the information available at the time. Staff further evaluated the categories. Industry representatives provided additional information pertinent to the categories and in some

cases proposed alternative VOC limits. Staff analyzed each category and determined the most appropriate limit from all of the alternatives proposed or considered. Some of the limits were determined to be too high, in that they did not achieve the maximum feasible reductions, and others were determined to be too low, as they would have eliminated a product form, were too costly or were not deemed to be technologically or commercially feasible. The final proposal contained limits that were determined to obtain the maximum feasible reduction, were commercially and technologically feasible, preserved product forms as required by law, were cost effective, and together achieved the necessary emission reductions to meet the ARB's commitments.

Alternative Three – Set VOC Limits for Different Categories

Staff had initially proposed 20 categories for regulation. Upon further analysis of available information and industry comments, some categories were eliminated from consideration. Staff believed, based on the available information, that it was not appropriate to regulate every category initially proposed for regulation. Considering all available information, staff determined that for certain categories, the setting of VOC limits would not achieve significant reductions, or could not be set such that it could be demonstrated that the limits were commercially or technologically feasible, or cost effective. Staff proposed VOC limits for 15 categories that would together achieve the maximum feasible reductions and meet the ARB's commitments. It should be noted that ARB has already set VOC limits for over 80 categories of consumer products and did not consider regulating all but two of the already regulated categories in these regulatory amendments.