

DRAFT - DO NOT CITE OR QUOTE

REGULATION FOR REDUCING VOLATILE ORGANIC COMPOUND EMISSIONS FROM CONSUMER PRODUCTS

Amend Article 2, Consumer Products, Sections 94507-94515, and 94517, Title 17, California Code of Regulations, to read as follows:

[Note: The preliminary draft regulatory language below is designed primarily to show draft proposed changes that would include the mid-term measures product categories in Article 2, Consumer Products. The draft proposed Mid-term Measures additions are shown in underlined regular text. For clarity, recently proposed or adopted amendments to Article 2 that are not yet legally effective are shown in *italics/strikeout italics*. These recently proposed or adopted amendments include the following: (1) amendments adopted by the Board in November 1996 that have not yet been approved by the Office of Administrative Law (including changes proposed at the hearing that are subject to a 15-day public comment period); and (2) changes that were approved by the Board in March, 1997.]

SUBCHAPTER 8.5 CONSUMER PRODUCTS

Article 2. Consumer Products

94507. Applicability

Except as provided in Sections 94509(I) and 94510, this article shall apply to any person who sells, supplies, offers for sale, or manufactures consumer products for use in the state of California.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94508. Definitions

- (a) For the purpose of this article, the following definitions apply:
- (1) *“Adhesive” means any product that is used to bond one surface to another by attachment. “Adhesive” does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For “Contact Adhesive,” “Construction and Panel Adhesive,” and “General Purpose Adhesive” only, “Adhesive” also does not include units of product, less packaging, which weigh more than one pound or consist of more than 16 fluid ounces. This limitation does not apply to aerosol adhesives. For the purpose of this article, “Aerosol Adhesive” means an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.*

DRAFT - DO NOT CITE OR QUOTE

- (2) “Aerosol Cooking Spray” means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.
- (3) “Aerosol Product” means a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. “Aerosol Product” does not include pump sprays.
- (4) “Agricultural Use” means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop. “Agricultural Use” does not include the sale or use of pesticides in properly labeled packages or containers which are intended for: (A) Home use, (B) Use in structural pest control, or (C) Industrial or Institutional use. For the purposes of this definition only:
- “Home use” means use in a household or its immediate environment.
- “Structural pest control” means a use requiring a license under Chapter 14 (commencing with Section 8500), Division 3, of the Business and Professions Code.
- “Industrial use” means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.
- “Institutional use” means use within the lines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.
- (5) “Air Freshener” means any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. “Air Freshener” includes dual purpose air freshener/disinfectant products. “Air Freshener” does not include products that are used on the human body, or products that function primarily as cleaning products as indicated on a product label or advertisement.
- (6) “All Other Carbon-Containing Compounds” means all other compounds which contain at least one carbon atom and are not a “Table B” or a “LVP-VOC.” *compound.*
- (7) “All Other Forms” means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, “all other forms” include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).
- (8) “Antimicrobial Hand or Body Cleaner or Soap” means a product which is designed to

DRAFT - DO NOT CITE OR QUOTE

reduce the level of microorganisms on the skin through germicidal activity, and is regulated as an over-the-counter drug by the U.S. Food and Drug Administration. “Antimicrobial Hand or Body Cleaner or Soap” includes, but is not limited to, (A) antimicrobial hand or body washes/cleaners, (B) foodhandler hand washes, (C) healthcare personnel hand washes, (D) pre-operative skin preparations and (E) surgical scrubs. “Antimicrobial Hand or Body Cleaner or Soap” does not include prescription drug products, antiperspirants, “Astringent/Toner,” deodorant, “Facial Cleaner or Soap,” “General-use Hand or Body Cleaner or Soap,” “Hand Dishwashing Detergent” (including antimicrobial), “Heavy-duty Hand Cleaner or Soap,” “Medicated Astringent/Medicated Toner,” and “Rubbing Alcohol.”

- (9) “Architectural Coating” means a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.
- (10) “ASTM” means the American Society for Testing and Materials.
- (11) “Astringent/Toner” means any product not regulated as a drug by the Food and Drug Administration (FDA) which is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate impregnated products. This category does not include any hand, face or body cleaner or soap products, “Medicated Astringent/Medicated Toner”, “Personal Fragrance Product”, cold cream, lotion, or antiperspirants.
- (12) “Automotive Brake Cleaner” means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.
- (13) “Automotive Hard Paste Wax” means an automotive wax or polish designed to protect and improve the appearance of automotive paint surfaces. “Automotive Hard Paste Wax” may also clean and/or polish the surface. “Automotive Hard Paste Wax” products typically contain significant quantities of polymers that leave a durable protective coating on the surface. “Automotive Hard Paste Wax” is a solid at room temperature and contains 0% water by formulation.
- (14) “Automotive Instant Detailer” means a product intended for use in a trigger spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry. “Automotive Instant Detailer” is designed primarily to provide improvement to automotive paint surfaces through light cleaning, increased gloss, and filling of fine surface defects.
- (15) “Automotive Rubbing or Polishing Compound” means a product designed primarily to remove oxidation, old paint, scratches or “swirl marks” from the painted surfaces of motor vehicles without leaving a protective barrier.
- (16) “Automotive Wax, Polish, Sealant or Glaze” means a product designed to leave a protective coating on the painted surfaces of motor vehicles that seals out moisture,

DRAFT - DO NOT CITE OR QUOTE

increases gloss, or otherwise enhances a motor vehicle's painted surfaces.

"Automotive Wax, Polish, Sealant or Glaze" includes, but is not limited to, products designed for use in autobody repair shops and "drive-through" car washes, as well as products designed for the general public. "Automotive Wax, Polish, Sealant or Glaze" does not include "Automotive Rubbing or Polishing Compound", "Automotive Hard Paste Wax", "Automotive Instant Detailer", automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

- (17) "Automotive Windshield Washer Fluid" means any liquid designed for use in a motor vehicle windshield washer fluid system either as an anti-freeze or for the purpose of cleaning, washing, or wetting the windshield(s). "Automotive Windshield Washer Fluid" does not include any fluid which is placed in a new motor vehicle at the time the vehicle is manufactured.
- (18) "Bathroom and Tile Cleaner" means a product designed to clean tile or surfaces in bathrooms. "Bathroom and Tile Cleaner" does not include products specifically designed to clean toilet bowls or toilet tanks.
- (19) "Bug and Tar Remover" means a product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish: (A) biological-type residues such as insect carcasses and tree sap or, (B) road grime, such as road tar, roadway paint markings, and asphalt.
- (20) "California Sales" means the sales (net pounds of product, less packaging and container, per year) in California for either the calendar year immediately prior to the year that the registration is due or, if that data is not available, any consecutive 12 month period commencing no earlier than 2 years prior to the due date of the registration. If direct sales data for California is not available, sales may be estimated by prorating national or regional sales data by population.
- (21) "Carburetor-Choke Cleaner" means a product designed to remove dirt and other contaminants from a carburetor. "Carburetor-Choke Cleaner" does not include products designed to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor.
- (22) "Carpet and Upholstery Cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles and/or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics. "Carpet and Upholstery Cleaner" does not include "General Purpose Cleaner", "Spot Remover", vinyl or leather cleaner, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.
- (23) "Charcoal Lighter Material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. "Charcoal

DRAFT - DO NOT CITE OR QUOTE

- Lighter Material” does not include any of the following: (A) electrical starters and probes,
(B) metallic cylinders using paper tinder, (C) natural gas, *and* (D) propane, *and* (E) fat wood.
- (24) “Colorant” means any pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.
- (25) “Construction and Panel Adhesive” means any one-component *household* adhesive having gap filling capabilities; and which distributes stress uniformly throughout the bonded area, resulting in a reduction or elimination of mechanical fasteners. ~~*These materials are applied from 1/10 gallon or 11 fluid ounce caulking cartridges.*~~
- (26) “Consumer” means any person who seeks, purchases, or acquires any consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not “consumers” for that product.
- (27) “Consumer Product” means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; *aerosol paints*; and automotive specialty products; but ~~*do*~~ does not include *other paint products*, furniture coatings, or architectural coatings.
- (~~→~~) ~~*“Contact Adhesive” means any household adhesive that: (A) is nitrile-based, or contains polychlorobutadiene (neoprene, chloroprene, bayprene), or latex, and (B) when applied to two substrates forms an instantaneous, non-repositionable bond, and (C) when dried to touch, exhibits a minimum 30 minute bonding range, and (D) bonds only to itself without the need for reactivation by solvents or heat.*~~
- (28) ~~*“Contact Adhesive” means an adhesive that: (A) is designed for application to both surfaces to be bonded together, and (B) is allowed to dry before the two surfaces are placed in contact with each other, and (C) forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other, and (D) does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces. “Contact Adhesive” does not include rubber cements that are primarily intended for use on paper substrates.*~~
- (29) “Container/Packaging” means the part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended.

DRAFT - DO NOT CITE OR QUOTE

“Container/Packaging” includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

- (30) “Crawling Bug Insecticide” means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders. “Crawling Bug Insecticide” does not include products designed to be used exclusively on humans or animals, *or any house dust mite product. For the purposes of this definition only:*

“House dust mite product” means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

“House dust mite” means mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

- (31) “Device” means any instrument or contrivance (other than a firearm) which is designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.
- (32) “Disinfectant” means any product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.). “Disinfectant” does not include any of the following: (A) products designed solely for use on human or animals, (B) products designed for agricultural use, (C) products designed solely for use in swimming pools, therapeutic tubs, or hot tubs, (D) products which, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.
- (33) “Distributor” means any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.
- (34) “Double Phase Aerosol Air Freshener” means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

DRAFT - DO NOT CITE OR QUOTE

- (35) “Dual Purpose Air Freshener/Disinfectant” means an aerosol product that is represented on the product container for use as both a disinfectant and an air freshener, or is so represented on any sticker, label, packaging, or literature attached to the product container.
- (36) “Dusting Aid” means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. “Dusting Aid” does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.
- (37) “Engine Degreaser” means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.
- (38) “Executive Officer” means the Executive Officer of the Air Resources Board, or his or her delegate.
- (39) “Existing Product” means any formulation of the same product category and form sold, supplied, manufactured, or offered for sale in California prior to the effective date of this article or any subsequently introduced identical formulation.
- (40) “Fabric Protectant” means a product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of water into the fabric's fibers. “Fabric Protectant” does not include silicone-based products whose function is to provide water repellency, or products designed for use solely on fabrics which are labeled “for dry clean only” and sold in containers of 10 fluid ounces or less.
- (41) “Facial Cleaner or Soap” means a product designed primarily to clean the face. “Facial Cleaner or Soap” includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms. “Facial Cleaner or Soap” does not include prescription drug products, “Antimicrobial Hand or Body Cleaner or Soap,” “Astringent/Toner,” “General-use Hand or Body Cleaner or Soap,” “Medicated Astringent/Medicated Toner,” or “Rubbing Alcohol.”
- (42) *“Fat Wood” means pieces of wood kindling with high naturally-occurring levels of sap or resin which enhance ignition of the kindling. “Fat wood” does not include any kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.*
- (43) “Flea and Tick Insecticide” means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs. “Flea and Tick Insecticide” does not include products that are designed to be used exclusively on humans or animals and their bedding.

DRAFT - DO NOT CITE OR QUOTE

- (44) “Flexible Flooring Material” means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl and vinyl composite flooring.
- (45) “Floor Polish or Wax” means a wax, polish, or any other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. “Floor Polish or Wax” does not include “spray buff products”, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coatings regulations.
- (46) “Floor Wax Stripper” means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax. “Floor Wax Stripper” does not include products designed to remove floor wax solely through abrasion.
- (47) “Flying Bug Insecticide” means any insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats. “Flying Bug Insecticide” does not include “wasp and hornet insecticide”, ~~or~~ products that are designed to be used exclusively on humans or animals, *or any moth-proofing product. For the purposes of this definition only, “moth-proofing product” means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.*
- (48) “Fragrance” means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of 2 mm of Hg at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.
- (49) “Furniture Maintenance Product” means a wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. “Furniture Maintenance Product” does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.
- (50) “Furniture Coating” means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.
- (51) “Gel” means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.
- (52) “General Purpose Adhesive” means any non-aerosol *household* adhesive designed for use on a variety of substrates. “General Purpose Adhesive” does not include (A)

DRAFT - DO NOT CITE OR QUOTE

contact adhesives, *(B)* construction and panel adhesives, *(C)* adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls), or *(D)* adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

- (53) “General Purpose Cleaner” means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. “General Purpose Cleaner” includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces.
- (54) “General Purpose Degreaser” means any product designed to remove grease, grime, oil and other oil-based contaminants from a variety of substrates. “General Purpose Degreaser” does not include “Engine Degreaser”, “General Purpose Cleaner”, “Metallic Parts Cleaner”, or “Metal Polish/Cleanser”.
- (55) “General-use Hand or Body Cleaner or Soap” means a product designed to be used routinely on the skin to clean or remove typical or common dirt and soils. “General-use Hand or Body Cleaner or Soap” includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. “General-use Hand or Body Cleaner or Soap” does not include prescription drug products, “Antimicrobial Hand or Body Cleaner or Soap”, “Astringent/Toner”, “Facial Cleaner or Soap”, “Hand Dishwashing Detergent” (including antimicrobial), “Heavy-duty Hand Cleaner or Soap”, “Medicated Astringent/Medicated Toner”, or “Rubbing Alcohol.”
- (56) “Glass Cleaner” means a cleaning product designed primarily for cleaning surfaces made of glass. Glass cleaner does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.
- (57) “Hairspray” means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.
- (58) “Hair Mousse” means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.
- (59) “Hair Shine” means any product designed for the primary purpose of creating a shine when applied to the hair. “Hair Shine” includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. “Hair Shine” does not include “Hairspray”, “Hair Mousse”, “Hair Styling Gel” or spray gel, or products whose primary purpose is to condition or hold the hair.

DRAFT - DO NOT CITE OR QUOTE

- (60) “Hair Styling Gel” means a high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.
- (61) “Heavy-Duty Hand Cleaner or Soap” means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer’s ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water. “Heavy-duty Hand Cleaner or Soap” does not include prescription drug products, “Antimicrobial Hand or Body Cleaner or Soap”, “Astringent/Toner”, “Facial Cleaner or Soap”, “General-use Hand or Body Cleaner or Soap”, “Medicated Astringent/Medicated Toner” or “Rubbing Alcohol.”
- (62) “Herbicide” means a pesticide product designed to kill or retard a plant’s growth, but excludes products that are: (A) for agricultural use, or (B) restricted materials that require a permit for use and possession.
- ~~(→) “Household Adhesive” means any household product that is used to bond one surface to another by attachment. “Household Adhesive” does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. “Household Adhesive” also does not include units of product, less packaging, which weigh more than one pound or consist of more than 16 fluid ounces.~~
- ~~(→) Household Sealants and Caulking Compounds means any product designed to fill in cracks, close or secure an object, or to prevent seepage of moisture or air.~~
- (63) “Household Product” means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.
- (64) *“Household Sealants and Caulking Compounds” means any product designed to fill in cracks, close or secure an object, or to prevent seepage of moisture or air.*
- (65) “Insect Repellent” means a pesticide product that is designed to be applied on human skin, hair or attire worn on humans in order to prevent contact with or repel biting insects or arthropods.
- (66) “Insecticide” means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are: (A) for agricultural use, or (B) for a use which requires a structural pest control license under Chapter 14 (commencing with Section 8500) of the Business and Professions Code, or (C) restricted materials that require a permit for use and possession.

DRAFT - DO NOT CITE OR QUOTE

- (67) “Insecticide Fogger” means any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.
- (68) “Institutional Product” or “Industrial and Institutional (I&I) Product” means a consumer product that is designed for use in the maintenance or operation of an establishment that: (A) manufactures, transports, or sells goods or commodities, or provides services for profit; or (B) is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. “Establishments” include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theatres, or transportation companies. “Institutional Product” does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.
- (69) “Label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.
- (70) “Laundry Prewash” means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents and/or provides specialized performance.
- (71) “Laundry Starch Product” means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. “Laundry Starch Product” includes, but is not limited to, fabric finish, sizing, and starch.
- (72) “Lawn and Garden Insecticide” means an insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.
- (73) “Liquid” means a substance or mixture of substances which is capable of a visually detectable flow as determined under ASTM D-4359-90. “Liquid” does not include powders or other materials that are composed entirely of solid particles.
- (74) “Lubricant” means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. “Lubricant” does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oil or other products designed to be added to fuels; and products for use on the human body or animals.

DRAFT - DO NOT CITE OR QUOTE

- (75) “LVP-VOC *Compound*” means any compound which contains at least one carbon atom and has either of the following:
- (A) a vapor pressure less than 0.1 mm Hg at 20°C, or
 - (B) more than 12 carbon atoms, if the vapor pressure is unknown.
- (76) “Manufacturer” means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.
- (77) “Medicated Astringent/Medicated Toner” means any product regulated as a drug by the Food and Drug Administration (FDA) which is applied to the skin for the purpose of cleaning or tightening pores. “Medicated Astringent/Medicated Toner” includes, but is not limited to, clarifiers and substrate impregnated products. “Medicated Astringent/Medicated Toner” does not include any hand, face or body cleaner or soap products, “Personal Fragrance Products”, “Astringent/Toner,” cold cream, lotion, antiperspirants, or products that must be purchased with a doctor’s prescription.
- (78) “Metallic Parts Cleaner” means any organic liquid that is intended to be used to dissolve grease, dirt and other contaminants solely from miscellaneous metallic parts. “Metallic Parts Cleaner” does not include “Metal Polish/Cleanser”.
- (79) “Metal Polish/Cleanser” means any product designed primarily to improve the appearance of finished metal, metallic or metallized surfaces by physical or chemical action. To “improve the appearance” means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny. “Metal Polish/Cleanser” includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals. “Metal Polish/Cleanser” does not include “Automotive Wax, Polish, Sealant or Glaze”, wheel cleaner, “Paint Remover or Stripper”, products designed and labeled exclusively for automotive and marine detailing, or industrial products designed for use in degreasing tanks.
- (80) “Multi-purpose Dry Lubricant” means any lubricant designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (“moly”), or polytetrafluoroethylene (“teflon”) on surfaces, and is designed for general purpose lubrication, or for use in a wide variety of applications.
- (81) “Multi-purpose Lubricant” means any lubricant designed for general purpose lubrication, or for use in a wide variety of applications. “Multi-purpose Lubricant” does not include “Multi-purpose Dry Lubricants”, “Penetrants”, or “Silicone-based Multi-purpose Lubricants”.
- (82) “Multi-purpose Solvent” means any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials. “Multi-purpose Solvent” includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. “Multi-purpose

DRAFT - DO NOT CITE OR QUOTE

Solvent” does not include solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

- (83) “Nail Polish” means any clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats and top coats.
- (84) “Nail Polish Remover” means a product designed to remove nail polish and coatings from fingernails or toenails.
- (85) “Non-Carbon Containing Compound” means any compound which does not contain any carbon atoms.
- 86) “Nonresilient Flooring” means flooring of a mineral content which is not flexible. “Nonresilient Flooring” includes terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.
- (87) “Non-Selective Terrestrial Herbicide” means a terrestrial herbicide product that is toxic to plants without regard to species.
- (88) “Oven Cleaner” means any cleaning product designed to clean and to remove dried food deposits from oven walls.
- (89) “Paint” means any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.
- (90) “Paint Remover or Stripper” means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. “Paint Remover or Stripper” does not include “Multi-purpose Solvent”, paint brush cleaner and hand cleaner products that claim to remove paints and other related coatings from skin.
- (→) ~~“Paint Stripper” means any product designed to strip or remove paint from a substrate without markedly affecting the substrate itself.~~
- (91) “Penetrant” means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. “Penetrant” does not include “Multi-purpose Lubricants” that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

DRAFT - DO NOT CITE OR QUOTE

- (92) “Person” shall have the same meaning as defined in Health and Safety Code Section 39047.
- (93) “Personal Fragrance Product” means any product which is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor, including cologne, perfume, aftershave, and toilet water. “Personal Fragrance Product” does not include: (A) products exclusively for human axillae; (B) medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body; (C) mouthwashes, breath fresheners and deodorizers; (D) lotions, moisturizers, powders or other skin care products used primarily to alleviate skin conditions such as dryness and irritations; (E) products designed exclusively for use on human genitalia; (F) soaps, shampoos, and products primarily used to clean the human body; and (G) fragrance products designed to be used exclusively on non-human animals.

~~(→) “Percent-By-Weight” means the total weight of VOC except those VOCs exempted under Section 94510, expressed as a percentage of the total net weight of the product exclusive of the container or package as calculated according to the following equation:-~~

$$\text{Percent-By-Weight} = \frac{B - C}{A} * 100$$

~~where,~~

~~A = net weight of unit (excluding container and packaging)~~

~~B = weight of VOCs, as defined in Section 94508, per unit~~

~~C = weight of VOCs, exempted under Section 94510, per unit~~

- (94) “Pesticide” means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term “pesticide” will not include any substance, mixture of substances, or device which the *United States* Environmental Protection Agency does not consider to be a pesticide.
- (95) “Principal Display Panel or Panels” means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the “principal display panel” shall pertain to all such “principal display panels”.
- (96) “Product Brand Name” means the name of the product exactly as it appears on the principal display panel of the product.
- (97) “Product Category” means the applicable category which best describes the product as listed in this Section 94508.

DRAFT - DO NOT CITE OR QUOTE

- (98) “Product Form”, for the purpose of complying with Section 94513 only, means the applicable form which most accurately describes the product's dispensing form as follows:
- A = Aerosol Product
 - S = Solid
 - P = Pump Spray
 - L = Liquid
 - G = Gel
 - O = Other
- (99) “Propellant” means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.
- (100) “Pump Spray” means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.
- (101) “Responsible Party” means the company, firm or establishment which is listed on the product's label. If the label lists two companies, firms or establishments, the responsible party is the party which the product was “manufactured for” or “distributed by”, as noted on the label.
- (102) “Restricted Materials” means pesticides established as restricted materials under Title 3, California Code of Regulations, section 6400.
- (103) “Retailer” means any person who sells, supplies, or offers consumer products for sale directly to consumers.
- (104) “Retail Outlet” means any establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.
- (105) “Rubber and Vinyl Protectant” means any product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, and household products such as vinyl covers, clothing, and accessories. “Rubber and Vinyl Protectant” does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance enhancing or protective substance on the tire.
- (106) “Rubbing Alcohol” means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.
- (107) “Selective Terrestrial Herbicide” means a terrestrial herbicide product that is only toxic to undesirable plant species.

DRAFT - DO NOT CITE OR QUOTE

- (108) “Semisolid” means a product that, at room temperature, will not pour, but will spread or deform easily, including gels, pastes, and greases.
- (109) “Shaving Cream” means an aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor, or other wet-shaving system, in the removal of facial or other bodily hair.
- (110) “Silicone-based Multi-purpose Lubricant” means any lubricant designed and labeled to (A) provide lubricity primarily through the use of polydimethylsiloxane (“silicone”), and (B) is designed for general purpose lubrication, or for use in a wide variety of applications. “Silicone-based Multi-purpose Lubricant” does not include products designed and labeled exclusively to release manufactured products from molds.
- (111) “Single Phase Aerosol Air Freshener” means an aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.
- (112) “Solid” means a substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90.
- (113) “Spot Remover” means any product designed to remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing which does not require subsequent laundering to achieve stain removal. “Spot Remover” does not include dry cleaning fluid, “Laundry Prewash”, “Carpet and Upholstery Cleaner”, or “Multi-purpose Solvent”.
- (114) “Spray Buff Product” means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.
- (115) “Table B Compound” means any carbon-containing compound listed as an exception to the definition of VOC in Section 94508.
- (116) “Terrestrial” means to live on or grow from land.
- (117) “Type A Propellant” means a compressed gas such as CO₂, N₂, N₂O, or compressed air which is used as a propellant, and is either incorporated with the product or contained in a separate chamber within the product's packaging.
- (118) “Type B Propellant” means any halocarbon which is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).
- (119) “Type C Propellant” means any propellant which is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).

DRAFT - DO NOT CITE OR QUOTE

- (120) “Undercoating” means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound. “Undercoating” includes, but is not limited to, rubberized, mastic, or asphaltic products.
- (121) “Usage Directions” means the text or graphics on the product's principal display panel, label, or accompanying literature which describes to the end user how and in what quantity the product is to be used.
- (122) “Volatile Organic Compound (VOC)” means any compound containing at least one atom of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and excluding the following:
- (A) methane,
methylene chloride (dichloromethane),
1,1,1-trichloroethane (methyl chloroform),
trichlorofluoromethane (CFC-11),
dichlorodifluoromethane (CFC-12),
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113),
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114),
chloropentafluoroethane (CFC-115),
chlorodifluoromethane (HCFC-22),
1,1,1-trifluoro-2,2-dichloroethane (HCFC-123),
1,1-dichloro-1-fluoroethane (HCFC-141b),
1-chloro-1,1-difluoroethane (HCFC-142b),
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124),
trifluoromethane (HFC-23),
1,1,2,2-tetrafluoroethane (HFC-134),
1,1,1,2-tetrafluoroethane (HFC-134a),
pentafluoroethane (HFC-125),
1,1,1-trifluoroethane (HFC-143a),
1,1-difluoroethane (HFC-152a),
cyclic, branched, or linear completely methylated siloxanes,
the following classes of perfluorocarbons:
1. cyclic, branched, or linear, completely fluorinated alkanes;
 2. cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 3. cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 4. sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, and
- (B) the following low-reactive organic compounds which have been exempted by the U.S. EPA:
- acetone,
ethane,

DRAFT - DO NOT CITE OR QUOTE

parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene);
perchloroethylene (tetrachloroethylene).

- (123) *“VOC Content” means the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined pursuant to sections 94515(a) and (b).*
- (→) ~~“Wasp and Hornet Insecticide” means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray a high volume directed stream or burst from a safe distance at the intended pest or its hiding place.~~
- (124) “Wasp and Hornet Insecticide” means any insecticide product designed for use against wasps, hornets, yellow jackets, or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or other hiding place.
- (125) “Wax” means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). “Wax” includes, but is not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.
- (126) “Wood Floor Wax” means wax-based products for use solely on wood floors.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

DRAFT - DO NOT CITE OR QUOTE

94509. Standards for Consumer Products

- (a) Except as provided in Sections 94510, 94511, and 94514, no person shall sell, supply, offer for sale, or manufacture for sale in California any consumer product which, at the time of sale or manufacture, contains volatile organic compounds in excess of the limits specified in the following Table of Standards after the specified effective dates.

**Table of Standards
Percent Volatile Organic Compounds by Weight**

Product Category	1/1/93	1/1/94	Future Effective (Date)
Air Fresheners			
Single Phase Aerosols	70		30 (1/1/96)
Double Phase Aerosols	30		
Liquids/Pump Sprays		18	
Solids/Gels	3		
Dual Purpose Air Freshener/ Disinfectant Aerosols		60	
Automotive Windshield Washer Fluids:			
Type A Areas*	35		
All Other Areas	10		
Bathroom and Tile Cleaners			
Aerosols		7	
All Other Forms		5	
Engine Degreasers	75		50 (1/1/96)
Floor Polishes/Waxes			
Products for Flexible Flooring Materials		7	
Products for Nonresilient Flooring		10	
Wood Floor Wax		90	

* Type A Areas include only the following: Del Norte, Shasta and Trinity Counties; the Great Basin Valley, Lake Tahoe, Mountain Counties, and Northeast Plateau Air Basins, as defined in Title 17, California Code of Regulations, Sections 60105, 60108, 60111, and 60113.

DRAFT - DO NOT CITE OR QUOTE

Table of Standards (continued)

Percent Volatile Organic Compounds by Weight

Product Category	1/1/93	1/1/94	Future Effective (Date)
Furniture Maintenance Products			
Aerosols		25	
All Other Forms Except Solid or Paste Forms		7	
General Purpose Cleaners		10	
Glass Cleaners			
Aerosols	12		
All Other Forms	8		6 (1/1/96)
Hairsprays	80		55 (1/1/98) (6/1/99)
Hair Mousses		16	
Hair Styling Gels		6	
Insect Repellents			
Aerosols		65	
Laundry Prewash			
Aerosols/Solids		22	
All Other Forms		5	
Nail Polish Removers		85	75 (1/1/96)
Oven Cleaners			
Aerosols/Pump Sprays	8		
Liquids	5		
Shaving Creams		5	

=====

DRAFT - DO NOT CITE OR QUOTE

Table of Standards (Phase II)

Percent Volatile Organic Compounds by Weight

Product Category	1/1/95	Future Effective (Date)
<i>Adhesives</i>		
<i>Aerosol [See 94509(i)]</i>	75	25 (1/1/2002)*
<i>Contact</i>	80	
<i>Construction and Panel</i>	40	
<i>General Purpose</i>	10	
Aerosol Cooking Sprays	18	
Automotive Brake Cleaners		50 (1/1/97)
Charcoal Lighter Material	See 94509(h)	
Carburetor-Choke Cleaners	75	
Dusting Aids		
Aerosol	35	25 (1/1/97)
All Other Forms	7	
Fabric Protectants	75	60 (1/1/97)
<i>Household Adhesives</i>		
<i>Aerosol</i>	75	25 (1/1/97)
<i>Contact</i>	80	
<i>Construction and Panel</i>	40	
<i>General Purpose</i>	10	

* The Board will hold a public hearing by June 1, 2000, to review and consider any appropriate modifications to the 25 percent VOC standard for aerosol adhesives.

DRAFT - DO NOT CITE OR QUOTE

Table of Standards (Phase II - continued)

Percent Volatile Organic Compounds by Weight

Product Category	1/1/95	Future Effective (Date)
Insecticides		
Crawling Bug	40	20 (1/1/98)
Flea and Tick	25	
Flying Bug	35	
Foggers	45	
Lawn and Garden	20	
Laundry Starch Products	5	
Personal Fragrance Products		
Products with 20% or less fragrance	80	75 (1/1/99)
Products with more than 20% fragrance	70	65 (1/1/99)

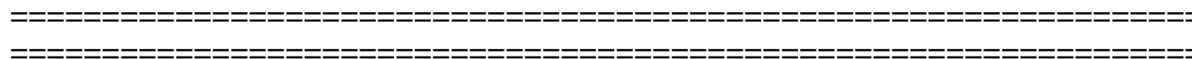


Table of Standards (Phase III)

Percent Volatile Organic Compounds by Weight

<u>Product Category</u>	<u>1/1/2000</u>	<u>1/1/2002</u>	<u>1/1/2005</u>
<u>Automotive Rubbing or Polishing Compound</u>			
<u>All Other Forms</u>		<u>13</u>	
<u>Semisolids</u>		<u>3</u>	

DRAFT - DO NOT CITE OR QUOTE

Table of Standards (Phase III-continued)

Percent Volatile Organic Compounds by Weight

<u>Product Category</u>	<u>1/1/2000</u>	<u>1/1/2002</u>	<u>1/1/2005</u>
<u>Automotive Wax, Polish, Sealant or Glaze</u>			
<u>Semisolids</u>		<u>10</u>	
<u>Hard Paste Waxes</u>		<u>45</u>	
<u>All Other Forms</u>		<u>10</u>	
<u>Instant Detailers</u>	<u>1</u>		
<u>Bug and Tar Remover</u>		<u>40</u>	
<u>Carpet and Upholstery Cleaner</u>			
<u>Aerosols</u>	<u>7</u>		
<u>Non-aerosols</u>	<u>.05</u>		
<u>Floor Wax Stripper</u>		<u>3</u>	
<u>General Purpose Degreaser</u>			
<u>Aerosols</u>	<u>50</u>		
<u>Non-aerosols</u>	<u>10</u>		
<u>Hair Shine</u>			<u>55</u>
<u>Heavy-duty Hand Cleaner or Soap</u>		<u>10</u>	<u>5</u>
<u>Metal Polish/Cleanser</u>		<u>30</u>	
<u>Multi-purpose Lubricant (excluding solid or semisolid products)</u>			<u>60</u>
<u>40</u>			
<u>Non-selective Terrestrial Herbicide, Non-aerosols</u>		<u>3</u>	
<u>Paint Remover or Stripper</u>		<u>65</u>	<u>50</u>

DRAFT - DO NOT CITE OR QUOTE

Table of Standards (Phase III-continued)

Percent Volatile Organic Compounds by Weight

<u>Product Category</u>	<u>1/1/2000</u>	<u>1/1/2002</u>	<u>1/1/2005</u>
<u>Penetrant (no greases)</u>		<u>60</u>	<u>40</u>
<u>Rubber and Vinyl</u>			
<u>Protectant</u>			
<u>Non-aerosols</u>	<u>3</u>		
<u>Aerosols</u>			<u>5</u>
<u>Selective Terrestrial</u>			
<u>Herbicide</u>			
<u>Non-aerosols</u>		<u>0.01</u>	
<u>Silicone-based Multi-purpose</u> <u>(excluding solid or</u> <u>semisolid products)</u>			<u>60</u>
<u>Spot Remover</u>			
<u>Aerosols</u>	<u>20</u>		
<u>Non-aerosols</u>	<u>8</u>		
<u>Undercoating</u>			
<u>Aerosols</u>	<u>40</u>		<u>20</u>
<u>Wasp and Hornet Insecticide</u>			
<u>25</u>			

(b) *Products that are diluted prior to use*

- (1) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted *with water or non-VOC solvent* prior to use, the limits specified in subsection (a) shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection (b), “minimum recommended dilution” shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.
- (2) *For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, the limits specified in subsection (a) shall apply to the product only after the maximum recommended dilution has taken place.*

DRAFT - DO NOT CITE OR QUOTE

- (c) *Sell-through of products.* Notwithstanding the provisions of Section 94509(a), a consumer product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale for up to ~~three years~~ *eighteen months* after each of the specified effective dates. ~~This subsection (c) does not apply to any product with a specified effective date of 1/1/93 that is sold, supplied, or offered for sale in the Bay Area Air Quality Management District.~~ This subsection (c) also does not apply to any consumer product which does not display on the product container or package the date on which the product was manufactured, or a code indicating such date.
- (d) *Products registered under FIFRA.* For those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. Section 136-136y), the effective date of the VOC standards specified in subsection (a) is one year after the date specified in the Table of Standards. For those consumer products that are registered under FIFRA, the ~~three year~~ *eighteen-month* period provided in subsection (c) shall also begin one year after the date specified in the Table of Standards.
- (e) *Products containing ozone-depleting compounds.* Effective January 1, 1993, for any consumer product for which standards are specified under subsection (a), no person shall sell, supply, offer for sale, or manufacture for sale in California any consumer product which contains any of the following ozone-depleting compounds: CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane), CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane), CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane), halon 1301 (bromotrifluoromethane), halon 2402 (dibromotetrafluoroethane), HCFC-22 (chlorodifluoromethane), HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane), HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane), HCFC-141b (1,1-dichloro-1-fluoroethane), HCFC-142b (1-chloro-1,1-difluoroethane), 1,1,1-trichloroethane, and carbon tetrachloride.
- (f) The requirements of section 94509(e) shall not apply to any existing product formulation that complies with the Table of Standards which is sold, supplied, offered for sale in California prior to the effective date of this article, or any product formulation that is sold, supplied, or offered for sale in California prior to the effective date of this article that is reformulated to meet the Table of Standards, ~~as long as~~ *provided* the ozone depleting compound content of the reformulated product does not increase.
- (g) The requirements of section 94509(e) shall not apply to any ozone depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.
- (h) *Requirements for charcoal lighter materials.* ~~Requirements for Charcoal Lighter Material~~ *The following requirements shall apply to all charcoal lighter material*

DRAFT - DO NOT CITE OR QUOTE

products as defined in section 94508(a)(15):

(1) Regulatory Standards

- (A) In all areas of California except the South Coast Air Quality Management District, ~~after January 1, 1993~~, no person shall sell, supply, or offer for sale ~~after~~ *after* January 1, 1993 any charcoal lighter material product unless at the time of the transaction:
1. the manufacturer or distributor of the charcoal lighter material has been issued a currently effective certification pursuant to subsection (h)(2).
 2. the charcoal lighter material meets the formulation criteria and other conditions specified in the applicable Executive Order issued pursuant to subsection (h)(2).
 3. the product usage directions for the charcoal lighter material are the same as those provided to the Executive Officer pursuant to subsection (h)(2)(C).
- (B) In the South Coast Air Quality Management District, the regulatory standards specified in subsection (h)(1)(A) shall be applicable upon the effective date of this subsection.

(2) Certification Requirements

- (A) No charcoal lighter material formulation shall be certified under this subsection unless the applicant for certification demonstrates to the Executive Officer's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.020 pound of VOC per start, using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol, dated February 27, 1991 (the "SCAQMD Rule 1174 Testing Protocol"). *The provisions relating to LVP-VOC in sections 94508(a)(59) and 94510(d) shall not apply to any charcoal lighter material subject to the requirements of sections 94509(a) and (h).*
- (B) The Executive Officer may approve alternative test procedures which are shown to provide equivalent results to those obtained using the SCAQMD Rule 1174 Testing Protocol.
- (C) A manufacturer or distributor of charcoal lighter material may apply to the Executive Officer for certification of a charcoal lighter material formulation in

DRAFT - DO NOT CITE OR QUOTE

accordance with this subsection (h)(2). The application shall be in writing and shall include, at a minimum, the following:

1. the results of testing conducted pursuant to the procedures specified in SCAQMD Rule 1174 Testing Protocol.
 2. the exact text and/or graphics that will appear on the charcoal lighter material's principal display panel, label, and any accompanying literature. The provided material shall clearly show the usage directions for the product. These directions shall accurately reflect the quantity of charcoal lighter material per pound of charcoal that was used in the SCAQMD Rule 1174 Testing Protocol for that product, unless:
 - i) the charcoal lighter material is intended to be used in fixed amounts independent of the amount of charcoal used, such as certain paraffin cubes, or
 - ii) the charcoal lighter material is already incorporated into the charcoal, such as certain "bag light," "instant light" or "match light" products.
 3. For a charcoal lighter material which meets the criteria specified in subsection (h)(2)(C)2.i, the usage instructions provided to the Executive Officer shall accurately reflect the quantity of charcoal lighter material used in the SCAQMD Rule 1174 Testing Protocol for that product.
 4. Any physical property data, formulation data, or other information required by the Executive Officer for use in determining when a product modification has occurred and for use in determining compliance with the conditions specified on the Executive Order issued pursuant to section (h)(2).
- (D) Within 30 days of receipt of an application, the Executive Officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 30 days of receipt of additional information, the Executive Officer shall advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete.
- (E) If the Executive Officer finds that an application meets the requirements of this subsection (h)(2), then he or she shall issue an Executive Order certifying the charcoal lighter material formulation and specifying such conditions as are necessary to insure that the requirements of this subsection (h) are met. The Executive Officer shall act on a complete application within 90 days after the application is deemed complete.

DRAFT - DO NOT CITE OR QUOTE

(3) Notice of Modifications

For any charcoal lighter material for which certification has been granted pursuant to subsection (h)(2), the applicant for certification shall notify the Executive Officer in writing within 30 days of: (i) any change in the usage directions, or (ii) any change in product formulation, test results, or any other information submitted pursuant to subsection (h)(2) which may result in VOC emissions greater than 0.020 pound of VOC per start.

(4) Revocation of Certification

If the Executive Officer determines that any certified charcoal lighter material formulation results in VOC emissions from the ignition of charcoal which are greater than 0.020 pound of VOC per start, as determined by the SCAQMD Rule 1174 Testing Protocol and the statistical analysis procedures contained therein, the Executive Officer shall revoke or modify the certification as is necessary to assure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.020 pound of VOC per start. The Executive Officer shall not revoke or modify the prior certification without first affording the applicant for the certification an opportunity for a hearing in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1, Article 4 (commencing with section 60040), to determine if the certification should be modified or revoked.

(5) Notwithstanding any other provision of this subsection 94509(h), charcoal lighter material products manufactured prior to January 1, 1993, may be sold, supplied, or offered for sale until July 1, 1994, in all areas of California except the South Coast Air Quality Management District. Charcoal lighter material products subject to SCAQMD Rule 1174 and sold, supplied, or offered for sale in the South Coast Air Quality Management District shall meet the requirements of section 94509(h) upon the effective date of this subsection, regardless of the date on which the products were manufactured.

(i) Requirements for aerosol adhesives. As specified in Health and Safety Code section 41712(h)(2), the 75 percent VOC standard for aerosol adhesives applies to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in sections 94510, 94511, and 94514, no person shall sell, supply, offer for sale, use or manufacture for sale in California any aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of 75 percent by weight.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94510. Exemptions

(a) This article shall not apply to any consumer product manufactured in California for

DRAFT - DO NOT CITE OR QUOTE

shipment and use outside of California.

- (b) The provisions of this article shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale in California a consumer product that does not comply with the VOC standards specified in Section 94509(a) or 94509(h), as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of California, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to California. This subsection (b) does not apply to consumer products that are sold, supplied, or offered for sale by any person to retail outlets in California.
- (c) The *requirements of VOC limits specified in* Section 94509(a) shall not apply to fragrances up to a combined level of 2 percent by weight contained in any consumer product.
- (d) *The VOC limits specified in Section 94509(a) shall not apply to any LVP-VOC.*
- ~~(d) The requirements of Section 94509(a) shall not apply to any VOC which:
 - (1) has a vapor pressure of less than 0.1 mm Hg at 20 degrees Centigrade, or
 - (2) consists of more than 12 carbon atoms, if the vapor pressure is unknown.~~
- (e) The requirements of Section 94512(b) shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. Section 136/136y).
- (f) The *requirements of VOC limits specified in* Section 94509(a) shall not apply to air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs under Section 94508 or exempted under Section 94510 ~~(e)(d)~~.
- (g) The *requirements of VOC limits specified in* Section 94509(a) shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.
- (h) The ~~requirements of VOC limits specified in~~ Section 94509(a) shall not apply to:
 - (1) existing personal fragrance products or personal fragrance products in development on or before April 1, 1992, provided that both (i) the registration data specified in section 94513 is submitted for every such product by the date specified in section 94513(a), or prior to July 1, 1993, whichever date occurs later, and (ii) such product is sold in California prior to January 1, 1994. For the purposes of this subsection, a product “in development” means:
 - (A) a product which a fragrance materials manufacturer is designing at the request of a personal fragrance product manufacturer, or
 - (B) a product which is the subject of a written marketing profile or other documentation authorizing the creation and marketing of the product.

DRAFT - DO NOT CITE OR QUOTE

- (2) Personal fragrance products in development may be registered to qualify for this exemption under hypothetical trade names or pseudonyms, provided that the actual trade name is supplied to the Executive Officer within 30 days of marketing such products, or January 1, 1994, whichever occurs first.
- (i) The ~~requirements of~~ VOC limits specified in Section 94509(a) shall not apply to adhesives sold in containers of 1 fluid ounce or less.
- (j) The ~~requirements of~~ VOC limits specified in Section 94509(a) shall not apply to any VOC which is a fragrance in a personal fragrance product.
- (k) The ~~requirements of~~ VOC limits specified in Section 94509(a) shall not apply to bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5 percent (%) active ingredients.
- (l) The 1/1/99 VOC limits specified in Section 94509(a) for personal fragrance products shall not apply to such products which have been sold in California prior to 1/1/99.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94511. Innovative Products

- (a) The Executive Officer shall exempt a consumer product from the ~~requirements of~~ VOC limits specified in Section 94509(a) if a manufacturer demonstrates by clear and convincing evidence that, due to some characteristic of the product formulation, design, delivery systems or other factors, the use of the product will result in less VOC emissions as compared to:
- (1) the VOC emissions from a representative consumer product which complies with the VOC ~~standards~~ limits specified in Section 94509(a), or
- (2) the calculated VOC emissions from a noncomplying representative product, if the product had been reformulated to comply with the VOC ~~standards~~ limits specified in section 94509(a). VOC emissions shall be calculated using the following equation:

$$E_R = \frac{E_{NC} \times VOC_{STD}}{VOC_{NC}}$$

Where:

DRAFT - DO NOT CITE OR QUOTE

E_R = The VOC emissions from the noncomplying representative product, had it been reformulated.

E_{NC} = The VOC emissions from the noncomplying representative product in its current formulation.

VOC_{STD} = the VOC *standard limit* specified in 94509(a).

VOC_{NC} = the VOC content of the noncomplying product in its current formulation.

If a manufacturer demonstrates that this equation yields inaccurate results due to some characteristic of the product formulation or other factors, an alternative method which accurately calculates emissions may be used upon approval of the Executive Officer.

- (b) For the purposes of this section, “representative consumer product” means a consumer product which meets all of the following criteria:
- (1) the representative product shall be subject to the same VOC limit in Section 94509(a) as the innovative product.
 - (2) the representative product shall be of the same product form as the innovative product, unless the innovative product uses a new form which does not exist in the product category at the time the application is made.
 - (3) the representative product shall have at least similar efficacy as other consumer products in the same product category based on tests generally accepted for that product category by the consumer products industry.
- (c) A manufacturer shall apply in writing to the Executive Officer for any exemption claimed under subsection (a). The application shall include the supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage. In addition, the applicant must provide any information necessary to enable the Executive Officer to establish enforceable conditions for granting the exemption including the VOC content for the innovative product and test methods for determining the VOC content. All information submitted by a manufacturer pursuant to this section shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022.
- (d) Within 30 days of receipt of the exemption application the Executive Officer shall determine whether an application is complete as provided in section 60030(a), Title 17, California Code of Regulations.
- (e) Within 90 days after an application has been deemed complete, the Executive Officer shall determine whether, under what conditions, and to what extent, an exemption from the

DRAFT - DO NOT CITE OR QUOTE

requirements of Section 94509(a) will be permitted. The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Executive Officer shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to insure that emissions from the product will meet the emissions reductions specified in subsection (a), and that such emissions reductions can be enforced.

- (f) In granting an exemption for a product the Executive Officer shall establish conditions that are enforceable. These conditions shall include the VOC content of the innovative product, dispensing rates, application rates and any other parameters determined by the Executive Officer to be necessary. The Executive Officer shall also specify the test methods for determining conformance to the conditions established. The test methods shall include criteria for reproducibility, accuracy, sampling and laboratory procedures.
- (g) For any product for which an exemption has been granted pursuant to this section, the manufacturer shall notify the Executive Officer in writing within 30 days of any change in the product formulation or recommended product usage directions, and shall also notify the Executive Officer within 30 days if the manufacturer learns of any information which would alter the emissions estimates submitted to the Executive Officer in support of the exemption application.
- (h) If the VOC *standards limits specified in Section 94509(a)* are lowered for a product category through any subsequent rulemaking, all innovative product exemptions granted for products in the product category, except as provided in this subsection (h), shall have no force and effect as of the effective date of the modified VOC standard. This subsection (h) shall not apply to those innovative products which have VOC emissions less than the *appropriate applicable* lowered VOC *standard limit* and for which a written notification of the product's emissions status versus the lowered VOC *standard limit* has been submitted to and approved by the Executive Officer at least 60 days before the effective date of such *standard limits*.
- (i) If the Executive Officer believes that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in subsection (a), the Executive Officer may modify or revoke the exemption as necessary to assure that the product will meet these criteria. The Executive Officer shall not modify or revoke an exemption without first affording the applicant an opportunity for a public hearing held in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1, Article 4 (commencing with Section 60040), to determine if the exemption should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

DRAFT - DO NOT CITE OR QUOTE

94512. Administrative Requirements

- (a) **Most Restrictive Limit.** Notwithstanding the definition of “product category” in Section 94508, if anywhere on the principal display panel of any consumer product, any representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC *standard limit* is specified in Section 94509(a), then the lowest VOC *standard limit* shall apply. This requirement does not apply to general purpose cleaners.
- (b) **Code-Dating.** Each manufacturer of a consumer product subject to Section 94509(a) or 94509(h) shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date. This date or code shall be displayed on each consumer product container or package no later than twelve months prior to the effective date of the applicable standard specified in Section 94509. *No person shall erase, alter, deface or otherwise remove or make illegible any date or code-date from any regulated product container without the express authorization of the manufacturer.*

The requirements of this provision shall not apply to:

- (1) personal fragrance products of 2 milliliters or less, which are offered to consumers free of charge for the purpose of sampling the product; *or*
- (2) *products containing no VOCs (as defined in section 94508(a)(90)), or containing VOCs at 0.10% by weight or less.*
- (c) If a manufacturer uses a code indicating the date of manufacture, for any consumer product subject to section 94509(a) *or 94509(h)* an explanation of the code must be filed with the Executive Officer of the ARB no later than twelve months prior to the effective date of the applicable standard specified in section 94509.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.

Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94513. ~~Registration~~Reporting Requirements

- (a) ~~Upon 90 days written notice, the Executive Officer may require any responsible party to report information for any consumer product or products the Executive Officer may specify including, but not limited to, all or part of the following information: No later than 90 days after the effective date of this section 94513, all responsible parties for the following household and I&I products must register products that are sold in the State of California during the calendar year prior to the year the registration is due: (1) products for which a VOC standard is specified in Section 94509(a), (2) products approved as an innovative product under Section 94511, and (3) products claiming exemptions under Section 94510(f), Section 94510(g), or Section 94510(h). All registrations shall include~~

DRAFT - DO NOT CITE OR QUOTE

the following information:

- (1) the name of the responsible party and the party's address, telephone number, and designated contact person;
- (2) any claim of confidentiality made pursuant to Title 17, California Code of Regulations, Section 91011;
- (3) the product brand name for each consumer product subject to registration and upon request by the Executive Officer, the product label;
- (4) the product category to which the consumer product belongs;
- (5) the applicable product form(s) listed separately;
- (6) an identification of each product brand name and form as a "Household Product", "I&I Product", or both;
- (7) separate California sales in pounds per year, to the nearest pound, and the method used to calculate California sales for each product form;
- (8) for registrations submitted by two companies, an identification of the company which is submitting relevant data separate from that submitted by the responsible party. All registration information from both companies shall be submitted by the date specified in Section 94513(a);
- (9) for each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest one-tenth of a percent (0.1%):
 - (A) Total Table B Compounds
 - (B) Total LVP-VOCs ~~Compounds~~ that are not fragrances
 - (C) Total All Other Carbon-Containing Compounds that are not fragrances
 - (D) Total All Non-Carbon-Containing Compounds
 - (E) Total Fragrance
 - (F) For products containing greater than two percent by weight fragrance, but excluding "personal fragrance products":
 - (i) the percent of fragrance that are LVP-VOCs ~~Compounds~~, and
 - (ii) the percent of fragrance that are all other carbon-containing compounds
 - (G) For "personal fragrance products", the density of the fragrance
 - (H) Total Paradichlorobenzene
- (10) for each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following:

DRAFT - DO NOT CITE OR QUOTE

- (A) Each Table B Compound
 - (B) Each LVP-VOC ~~Compound~~ that is not a fragrance
- (11) if applicable, the weight percent comprised of propellant for each product;
- (12) if applicable, an identification of the type of propellant (Type A, Type B, Type C, or a blend of the different types);
- (b) In addition to the requirements of section 94513(a)(10), the responsible party shall report or shall arrange to have reported to the Executive Officer the net percent by weight of each ozone-depleting compound which is (1) listed in section 94509(e) and (2) contained in a product subject to registration under section 94513(a) in any amount greater than 0.1 percent by weight.
- ~~(c) Upon 90 days written notice, the Executive Officer may also require any manufacturer to supply all or part of the registration data listed in Section 94513(a) for any consumer product or products that the Executive Officer may specify.~~
- ~~(d)(c)~~ All information submitted by ~~manufacturers~~ responsible parties pursuant to Section 94513 shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022.
- (d) *Special Reporting Requirements for Aerosol Adhesives*
- On or before March 31, 1999, all responsible parties for aerosol adhesives shall report to the Executive Officer the following information for products sold or offered for sale in California:*
- (1) data regarding product sales and composition for the year 1998, including the information listed in Section 94513(a), and any other information that the Executive Officer may specify; and*
 - (2) a written update of the research and development efforts undertaken to achieve the January 1, 2002, VOC limit. The written update must include detailed information about the raw materials (solvents, propellants, resins, and polymers) and hardware (valves, actuators, cans) used in product reformulation, the testing protocols used, the results of the testing, and the cost of reformulation efforts.*
- (e) *Special Reporting Requirements for Perchloroethylene-Containing Consumer Products*
- (1) The requirements of this subsection shall apply to all responsible parties for perchloroethylene-containing consumer products sold or offered for sale in California on or after January 1, 1996. For the purposes of this subsection, "perchloroethylene-containing consumer product" means any consumer product that is required to comply with any VOC standard specified in section 94509(a) and contains 1.0 percent or more by weight (exclusive of the container or packaging) of perchloroethylene*

DRAFT - DO NOT CITE OR QUOTE

(tetrachloroethylene).

- (2) *Reporting Requirements to Establish Baseline. On or before March 1, 1997, or 60 days after the effective date of this subsection (e) (whichever date occurs later), all responsible parties for perchloroethylene-containing consumer products shall report to the Executive Officer the following information for each product:*
- (A) *the product brand name and a copy of the product label with legible usage instructions;*
 - (B) *the product category to which the consumer product belongs;*
 - (C) *the applicable product form(s) (listed separately);*
 - (D) *for each product form listed in (C), the total amount of the consumer product sold in California between January 1, 1996 and December 31, 1996, to the nearest pound (exclusive of the container or packaging), and the method used for calculating the California sales;*
 - (E) *the weight percent, to the nearest 0.10 percent, of perchloroethylene in the consumer product;*
- (3) *Reporting Requirements for New Perchloroethylene-Containing Products Sold in California On or After January 1, 1997. Responsible parties for new perchloroethylene-containing consumer products sold or offered for sale in California in 1997, 1998, 1999, 2000, or 2001 shall provide the information specified in subsections (e)(2)(A) through (e)(2)(E) by March 1st of the year immediately after the year in which the product is first sold or offered for sale in California. For products introduced after January 1, 2002, responsible parties are not required to submit this information unless specifically requested to do so by the Executive Officer.*
- (4) *Annual Reporting Requirements. On or before March 1, 1998, March 1, 1999, March 1, 2000, March 1, 2001, and March 1, 2002, all responsible parties subject to the requirements of this subsection shall provide to the Executive Officer an update which reports, for the previous calendar year, any changes in the annual California sales, perchloroethylene content, or any other information provided pursuant to subsections (e)(2)(A) through (e)(2)(E). After March 1, 2002, responsible parties are not required to submit this information unless specifically requested to do so by the Executive Officer.*
- (5) *Upon request, the Executive Officer shall make the information submitted pursuant to this subsection available to publicly owned treatment works in California, in accordance with the procedures for handling of confidential information specified in Title 17, California Code of Regulations, sections 91000-91022.*
- (A) *On or before July 1, 2002, the Executive Officer shall evaluate the information,*

DRAFT - DO NOT CITE OR QUOTE

along with data on influent and effluent levels of perchloroethylene as reported by publicly-owned treatment works personnel and any other relevant information, to determine if it is likely that publicly-owned treatment works are experiencing increased levels of perchloroethylene, relative to 1996 levels, that can be attributed to consumer products which contain perchloroethylene.

(B) If the Executive Officer determines that it is likely that increased perchloroethylene levels at the publicly-owned treatment works are caused by increased levels of perchloroethylene in consumer products subject to this regulation, then the Executive Officer shall, in conjunction with the publicly-owned treatment works and other appropriate parties, implement measures which are feasible, appropriate, and necessary for reducing perchloroethylene levels at the publicly-owned treatment works.

(f) Special Reporting Requirements for Hairsprays

This subsection (f) applies to each responsible party for any hairspray product that has greater than a 55 percent VOC content, if the responsible party intends to sell, supply, offer for sale, or manufacture the product for sale in California after January 1, 1998. Each such responsible party shall submit to the Executive Officer the following information:

(1) On or before January 1, 1998, a compliance plan shall be submitted that details the responsible party's schedule for achieving compliance with the June 1, 1999 55 percent VOC standard for hairsprays.

(2) Program updates for each compliance plan shall be submitted by the following dates: April 1, 1998, July 1, 1998, October 1, 1998, January 1, 1999, March 1, 1999 and May 1, 1999; except that the obligation to submit updates shall cease when the responsible party achieves compliance with the 55 percent VOC standard.

(3) Each compliance plan and update shall include the projected sequence and dates of all key events pertaining to the development of 55 percent VOC hairspray formulas including, at a minimum, the following information: information on the types of formulations to be tested; formulation data; prototype testing; toxicity, corrosion, and stability tests; packaging and valve testing; safety and efficacy testing; consumer market testing and consumer acceptance testing; schedule for plant modifications and large scale production; the expected date of production of hairsprays that meet the June 1, 1999 standard; and a back-up plan that describes the manufacturer's intended actions should the chosen compliance method or technology not succeed.

NOTE: Authority cited: Sections 39600, 39601, 41511, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 40000, 41511, and 41712, Health and Safety Code.

DRAFT - DO NOT CITE OR QUOTE

94514. Variances

- (a) *Applications for variances.* Any person who cannot comply with the requirements set forth in Section 94509, because of extraordinary reasons beyond the person's reasonable control may apply in writing to the Executive Officer for a variance. The variance application shall set forth:
- (1) the specific grounds upon which the variance is sought;
 - (2) the proposed date(s) by which compliance with the provisions of Section 94509 will be achieved; ~~and~~
 - (3) a compliance report reasonably detailing the method(s) by which compliance will be achieved, *and*
 - (4) *for applicants requesting a variance from the June 1, 1999 55 percent VOC standard for hairspray products, the variance application shall also include a plan describing how the applicant will mitigate the excess VOC emissions that would be emitted during the period of the variance.*
- (b) *Notices and public hearings for variances.* Upon receipt of a variance application containing the information required in subsection (a), the Executive Officer shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in Section 94509 is necessary and will be permitted. A hearing shall be initiated no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 30 days prior to the hearing. The notice shall state that the parties may, but need not be, represented by counsel at the hearing. At least 30 days prior to the hearing, the variance application shall be made available to the public for inspection. ~~Information submitted to the Executive Officer by a variance applicant may be claimed as confidential, and such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022. The Executive Officer may consider such confidential information in reaching a decision on a variance application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.~~
- (c) *Treatment of confidential information.* Information submitted to the Executive Officer by a variance applicant may be claimed as confidential, and such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022. The Executive Officer may consider such confidential information in reaching a decision on a variance application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.
- ~~(d)~~ (d) *Necessary findings for granting variances.* No variance shall be granted unless all of the following findings are made:

DRAFT - DO NOT CITE OR QUOTE

- (1) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with Section 94509 would result in extraordinary economic hardship.
- (2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.
- (3) that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.

~~(d)~~(e) *Variance orders.* Any variance order shall specify a final compliance date by which the requirements of Section 94509 will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

~~(e)~~(f) *Situations in which variances shall cease to be effective.* A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

~~(f)~~(g) *Modification and revocation of variances.* Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from requirements of Section 94509 after holding a public hearing in accordance with the provisions of subsection (b).

(h) Special conditions in variance orders for hairspray products.

In imposing conditions in variance orders granted from the June 1, 1999 55 percent VOC standard for hairspray products, the Executive Officer, in addition to any other conditions that may be imposed, shall require the applicant to mitigate the excess VOC emissions that would be emitted during the period of the variance. If this mitigation requirement would result in an extraordinary economic hardship to the applicant, or if other good cause exists, the Executive Officer may waive all or part of this requirement.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code.

Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94515. Test Methods

[Note: Additional changes to section 94515(a) will be proposed in a separate Notice of Availability of Modified Text]

- (a) *VOC content determinations using ARB Method 310.* Testing to determine compliance with the requirements of this article; shall be performed using ~~one or more of the following analytical methods which are incorporated by reference herein: (1) Method 24-24A, Part 60, Title 40, Code of Federal Regulations, Appendix A, July 1, 1988; (2)~~

DRAFT - DO NOT CITE OR QUOTE

~~Method 18, Federal Register 48, no. 202, October 18, 1983; (3) Method 1400, NIOSH Manual of Analytical Methods, Volume 1, February 1984, or (4) Environmental Protection Agency Method 8240 "GC/MS Method for Volatile Organics," September 1986. Air Resources Board (ARB) Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted [date of adoption], which is incorporated herein by reference. Alternative methods which are shown to accurately determine the concentration of VOCs in a subject product or its emissions may be used upon approval of the Executive Officer.~~

- (b) *VOC content determinations using product formulation and records.* Testing to determine compliance with the requirements of this article may also be demonstrated through calculation of the ~~volatile organic compound~~ VOC content from records of the amounts of constituents used to make the product, pursuant to the following criteria:

(1) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records must be kept for at least three years.

(2) For the purposes of this section 94515(b), the VOC content shall be calculated according to the following equation:

$$\text{VOC Content} = \frac{B - C}{A} \times 100$$

where,

A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs, as defined in Section 94508(a)(90), per unit

C = total weight of VOCs exempted under Section 94510, per unit

(3) If product records appear to demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using ARB Method 310, the results of ARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this article.

- (c) *Determination of liquid or solid.* Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90 (May 25, 1990), which is incorporated by reference herein.
- (d) *Compliance determinations for charcoal lighter material products.* Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991), which is incorporated by reference herein.

DRAFT - DO NOT CITE OR QUOTE

- (e) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-90 (Sept. 28, 1990), which is incorporated by reference herein.
- (f) *Fragrance content determinations for personal fragrance products.* Testing to determine the percent by weight of fragrance in personal fragrance products shall be performed according to the Association of Official Analytical Chemists (AOAC) Official Method of Analysis No. 932.11, 1990, “Essential Oil in Flavor Extracts and Toilet Preparations, Babcock Method” (AOAC Official Methods of Analysis, 15th Edition, 1990), which is incorporated by reference herein.
- (g) *No person shall create, alter, falsify, or otherwise modify records in such a way that the records do not accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and any other test, processes, or records used in connection with product manufacture.*

NOTE: Authority cited: Sections 39600, 39601, 39607, 41511, and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 39607, 40000, 41511, and 41712, Health and Safety Code.

94516. Severability

Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, and 41712, Health and Safety Code. Reference: Sections 39002, 39600, 40000, and 41712, Health and Safety Code.

94517. Federal Enforceability

For purposes of federal enforceability of this article, the Environmental Protection Agency is not subject to approval determinations made by the Executive Officer under Sections 94511, ~~and 94514,~~ and 94515. Within 180 days of a request from a person who has been granted an exemption or variance under Section 94511 or 94514 an exemption or variance meeting the requirements of the Clean Air Act shall be submitted by the Executive Officer to the Environmental Protection Agency for inclusion in the applicable implementation plan approved or promulgated by the Environmental Protection Agency pursuant to Section 110 of the Clean Air Act, 42 U.S.C., Section 7410. Prior to submitting an exemption granted under Section 94511 as a revision to the applicable implementation plan, the Executive Officer shall hold a public hearing on the proposed exemption. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to the Environmental

DRAFT - DO NOT CITE OR QUOTE

Protection Agency, every person who requests such notice, and to any person or group of persons whom the Executive Officer believes may be interested in the application. Within 30 days of the hearing the Executive Officer shall notify the applicant of the decision in writing as provided in Section 94511(f). The decision may approve, disapprove, or modify an exemption previously granted pursuant to Section 94511.

NOTE: Authority cited: Section 39600, 39601, 39602, and 41712, Health and Safety Code.
Reference: Sections 39002, 39600, 39602, 40000, and 41712, Health and Safety Code.