

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CONTROL MEASURE FOR PERCHLOROETHYLENE DRY CLEANING OPERATIONS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the existing dry cleaning regulation to further reduce emissions of perchloroethylene (Perc) from dry cleaning operations.

DATE: May 25, 2006

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium, Second Floor
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on May 25, 2006, and may continue to 8:30 a.m., May 26, 2006. Please consult the agenda for the meeting, which will be available at least ten days before May 25, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. An interpreter will be available at the public hearing for those who wish to give testimony in Korean. For Korean translation please contact Ms. Linda Keifer at (916) 323-4327 or lkeifer@arb.ca.gov. If you are a person with limited English in a language other than Korean and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 93109, title 17, California Code of Regulations (CCR).

Background: In 1991, ARB identified Perc as a toxic air contaminant (TAC). As required by State law, ARB then evaluated the need to reduce the emissions of Perc. In 1993, the Board found there was a need to reduce Perc emissions and approved a regulation to reduce emissions from Perc dry cleaning operations (title 17, California Code of Regulations, section 93109). In general, control measures are based on the best available control technology (BACT) or a more effective control method in

consideration of cost and risk, among other factors. The regulation sets forth the requirements for Perc dry cleaning equipment, operations and maintenance, recordkeeping, and reporting.

As permitted under State law, in 2002, the South Coast Air Quality Management District (South Coast AQMD) amended its Rule 1421, Control of Perchloroethylene Emissions from Dry Cleaning Systems (Rule 1421). These amendments prohibit new or relocated Perc dry cleaning facilities and will phase out the use of Perc in existing dry cleaning operations by December 1, 2020 within the South Coast AQMD. Rule 1421 required converted machines to be phased out by July 1, 2004. In addition, all existing Perc dry cleaners in the South Coast AQMD are required to use secondary control and comply with Rule 1402, Control of Toxic Air Contaminants from Existing Sources, which limits the lifetime cancer risk from a facility to no more than 25 in a million, by November 1, 2007. Prior to December 1, 2020, if an existing facility chooses to replace its existing machine with a new Perc machine, the facility would need to purchase a secondary control machine and comply with Rule 1401, New Source Review of Toxic Air Contaminants. Rule 1401 limits the lifetime cancer risk from a facility to less than 10 in a million.

In 2003, ARB began a technical evaluation of ARB's existing regulation. As a result of the evaluation, ARB found that more can be done to reduce emissions of Perc from dry cleaning operations. The proposed amendments to the regulation would reduce emissions of Perc from dry cleaning operations by one ton per day throughout California through the use of currently available BACT. This would correspond to a reduction in Perc emissions of approximately 40 percent and would result in a reduction of risk by up to 80 percent.

Description of the Proposed Regulatory Action: The proposed amendments to the regulation are designed to use currently available emission reduction technologies to further reduce the public's exposure to Perc from dry cleaning operations. The amended regulation will impact the type of equipment being used in the Perc dry cleaning industry. The existing regulation prohibits the use of transfer, vented, and self-service machines. The proposed amended regulation will, over time, expand this prohibition to include 1) the use of primary control and converted dry cleaning machines; 2) secondary control dry cleaning machines that have not been certified by the ARB; 3) drying cabinets; and 4) dip tank operations in Perc dry cleaning facilities. Also, new co-residential Perc facilities will be prohibited. Existing co-residential facilities will be required to phase out their use of Perc dry cleaning machines.

Existing Perc facilities will be required to use BACT, which the proposal identifies as an integral secondary control Perc dry cleaning machine, or an alternative non-Perc cleaning system. New Perc facilities will be required to use integral secondary control dry cleaning machines and have a 300 feet buffer zone. Additionally, for dry cleaning operations that use a solvent that contains a TAC other than Perc, the proposed regulation will require facilities to install, operate, and maintain BACT as required by applicable air pollution control or air quality management district (local air district) rules

or regulations. If there is no local air district rule or regulation the facilities will be required to submit to and have approved by the local air district a control method or methods that achieve reductions in the risk associated with the TAC that equal or exceed the reductions for Perc.

In addition, the proposed amended regulation will require all Perc dry cleaning facilities to be equipped with enhanced ventilation systems. Facilities will be given a choice to utilize one of the following: a local ventilation system, a partial vapor barrier room, or a full vapor barrier room. Perc wastewater treatment also requires BACT. Facilities are given the choice to have their wastewater hauled away by a registered hazardous waste transporter, which is regulated in California by a federally authorized State program under the responsibility of the California Department of Toxic Substances Control (DTSC), or treated in a Perc wastewater treatment unit that meets specific requirements.

The proposed amendments to the existing regulation will also require some additional recordkeeping and reporting, and good operating practices. The testing requirements have been amended to be specific to secondary control systems for Perc dry cleaning machines and to clarify the documentation that manufacturers must submit in order to receive ARB certification.

The staff will be presenting these proposed amendments to the Board for consideration. After considering the proposed amendments, the alternatives discussed below, and the public comments, the Board may choose to adopt these amendments or alternative requirements.

Description of Alternatives: The Board may consider alternative approaches to the proposed amendments to the dry cleaning regulation. These alternatives span a range of approaches. The Board could choose to prohibit the use of Perc in new or existing dry cleaning operations by specified dates, either as has been done in the South Coast AQMD rule or through a more effective option. Since one common alternative to the use of Perc involves the release of smog-forming emissions, the Board could also prohibit the use of machines that emit smog-forming emissions as a mitigating action associated with restricting the use of Perc. Non-toxic and non-smog forming alternatives are also available (for example, water-based cleaning and carbon dioxide cleaning). Given these alternatives, the Board could consider requirements related to the use of only non-toxic and non-smog forming emissions by specified dates. The Board could also consider shortening specified dates in the regulation which require certain emission control requirements to be implemented. Finally, the Board could consider specifying risk thresholds above which Perc dry cleaning facilities could not operate, similar to the South Coast AQMD requirements.

COMPARABLE FEDERAL REGULATIONS

The U.S. EPA promulgated technology-based emissions standards to control emissions of Perc from dry cleaning facilities. The current California regulation was granted

federal equivalency on May 21, 1996 (Volume 61, Federal Register, page 25397). Currently, U.S. EPA is accepting comments on a proposed rule to revise standards to limit emissions of Perc from existing and new dry cleaning facilities. Based on the preliminary proposals, staff is confident that the emissions-related requirements of the proposed amended regulation are more stringent than U.S. EPA's proposed rule.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a "Staff Report: Initial Statement of Reasons for the Proposed Amendments to the Control Measure for Perchloroethylene Dry Cleaning Operations" (Staff Report) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, if any.

Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the May 25, 2006, hearing. In addition, copies of the Executive Summary and the full text of the proposed regulatory language will be available in Korean. The Staff Report is also available on the internet at the website listed below, or by contacting the staff listed below.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Robert Krieger, Manager of the Emissions Evaluation Section, at (916) 323-1202 or by email at rkrieger@arb.ca.gov, or Mei Fong, Air Resources Engineer, at (916) 324-2570 or by email at sfong@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the Staff Report, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/perc06/perc06.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in

reasonable compliance with the proposed regulations are presented below and in specific detail in the Staff Report.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs or savings, as explained below, to a state agency or in federal funding to the State, costs or mandate to local agencies whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

The Department of Corrections operates ten dry cleaning machines at ten correctional facilities in California. Nine of the ten dry cleaning machines are Perc machines and will likely require enhanced ventilation. Seven of the ten dry cleaning machines are Perc primary machines and will likely need to be replaced. In addition, secondary machines will be required to have sample ports installed. The Department of Corrections can comply with the amendments by either replacing their existing primary machines with secondary machines or with an alternative dry cleaning process. Depending on the alternative chosen and whether the Department of Corrections has already budgeted for changing out the machines, a switch can result in either a net savings or net increase in cost when compared to current Perc dry cleaning.

The proposed regulatory action will not affect federal funding to the State.

The ARB will be preparing an implementation guidance document and assisting the local air districts with implementation and technical issues related to the amended control measure. The development of the guidance document and most of the assistance to the local air districts will be a one-time cost that will be incurred during fiscal year 2006-2007 or 2007-2008. The estimated cost to ARB would be one quarter of a person/year, or approximately \$25,000. All implementation costs from this rulemaking action would be absorbed within the existing ARB budget.

The proposed amendments to the regulation will require the local air districts to annually report to ARB the total Perc purchases made by the dry cleaning industry in addition to implementation and enforcement activities. The estimated cost impact for the first fiscal year is between \$29,000 and \$46,000, and the estimated cost impact for the first three years is between \$840,000 and \$1,300,000. This estimate is based on local air district assessment of the cost to enforce the proposed amendments. It is anticipated that the local air districts will be able to absorb this additional cost impact within their existing budgets and resources. However, should additional resource be necessary, the local air districts have legal authority under Health and Safety Code Section 40510 and 42311 to levy service charges, fees, or assessments sufficient to fund the requirements of this proposed regulation.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The cost impact on the businesses varies depending on how much a facility is already in compliance with the

requirements of the proposed regulation and the decision of the Board. However, the ARB staff has estimated the cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed requirements. The estimated cost impact for a typical dry cleaner includes initial costs ranging from no cost impact (facility is in full compliance) to \$23,000 for the incremental cost of a new integrated secondary control machine.

There are about 860 secondary control Perc machines in California outside of the South Coast AQMD. Some of these facilities may already be in compliance with all the requirements of the proposed amendments and, therefore, may not incur additional initial costs. However, most of the facilities will incur an annual cost to arrange for enhanced leak checks and drum concentration checks as specified by the proposed amendments. Assuming that the local air districts already conduct routine inspections of dry cleaning facilities due to the requirements of the existing Dry Cleaning ATCM, the increased time to conduct the new inspections is two person-hours and a cost of about \$20 annually.

We estimate an annual ongoing cost savings of about \$500 for the typical dry cleaner that purchases a secondary machine. This is calculated from cost savings due to reduced Perc usage, maintenance cost for the secondary control, and cost for the annual leak check. However, for the facilities that opted to use a hydrocarbon dry cleaning process, it is estimated that there would be an annual ongoing cost savings of about \$1,100, mostly due to lowered solvent cost.

The proposed amendments to the regulation will have some additional requirements for testing and certification of integral secondary control machines. This will impact machine manufacturers. We estimate that each certification will incur additional costs ranging from \$600 to \$3,400. This estimate accounts for additional labor, electricity, and gas costs.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact, apart from the impacts described above, directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may have a significant effect on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Some marginal dry cleaning businesses may not have the capital necessary to comply with the amendments, which may result in closure. In order to minimize the economic impact to dry cleaners and minimize the likelihood of facility closures, the proposed amendments to the regulation include a phase-out period which allows dry cleaners, in

most cases, to maximize the remaining useful life of their non-complying dry cleaning machines.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, May 24, 2006**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic submittal : <http://www.arb.ca.gov/lispub/comm/bclist.php> **no later than 12:00 noon, May 24, 2006.**

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, May 24, 2006.**

The Board requests but does not require 30 copies of any written submission. Also ARB requests that written, facsimile, and e-mail statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

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

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in Health and Safety Code sections 39600, 39601, 39650, 39655, 39656, 39658, 39659, 39665, and 39666, Health and Safety Code; sections 7412 and 7416, title 42, United States Code. Reference: Health and Safety Code sections 39650, 39655, 39656, 39658, 39659, and 39666, Health and Safety Code; sections 7412 and 7414, title 42, United States Code; Sections 63.320, 63.321, 63.323, and 63.324, title 40, Code of Federal Regulation

HEARING PROCEDURES

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

Following the public hearing, ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Catherine Witherspoon
Executive Officer

Date: March 28, 2006