State of California
AIR RESOURCES BOARD

Resolution 00-11

April 27, 2000

Agenda Item No.: 00-4-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, on July 13, 1989, October 12, 1990, and October 10, 1991, the Board identified methylene chloride (MeCl), trichloroethylene (TCE), perchloroethylene (Perc), respectively as toxic air contaminants, pursuant to Article 3 (commencing with section 39660), Chapter 3.5, Part 2, Division 26 of the Health and Safety Code;

WHEREAS, the Board determined there is not sufficient available scientific evidence to support identification of threshold exposure levels for MeCl, TCE, and Perc below which no significant adverse health effects are anticipated (see title 17, California Code of Regulations, section 93000);

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants for which the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires ATCMs to be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment of public health;

WHEREAS, on November 21, 1996, pursuant to section 41712 of the Health and Safety Code, the Board adopted amendments to the Consumer Products Regulation at title 17, California Code of Regulations, sections 94507-94517, which included exempting Perc as a volatile organic compound (VOC);

WHEREAS, concurrently with adopting amendments to the Consumer Products Regulation, the Board directed staff to conduct an assessment of the need to control Perc use in consumer products under the State's Toxic Air Contaminant Identification and Control Program (Health and Safety Code sections 39665-39675), to monitor Perc emissions from consumer products, and to provide mitigation if necessary;

WHEREAS, staff has worked closely with the air pollution control districts and air quality management districts (districts), the affected industry, and the public, as required by Health and Safety Code section 39665 to prepare a report on the need for, and appropriate degree of, control of these toxic air contaminants;

WHEREAS, the Staff Report: Initial Statement of Reasons for the Proposed Airborne Toxic Control Measure for Emissions of Chlorinated Toxic Air Contaminants from Automotive Maintenance and Repair Activities released on March 10, 2000 (staff report), along with the report Perchloroethylene Needs Assessment for Automotive Consumer Products: Status Report presented to the Board on June 26, 1997 and updated in the May 1998 Memorandum, constitute the reports required under Health and Safety Code section 39665;

WHEREAS, staff has proposed an ATCM for automotive maintenance and repair activities (AMR ATCM), set forth in Attachment A, which was developed through the sharing of information and discussions of draft versions that were made available to the public for review and comment at public meetings on January 21, 2000 and March 29, 2000;

WHEREAS, in accordance with Health and Safety Code section 39665(c), the staff report and relevant comments received during public consultation with the districts, affected sources, and the public were made available for public review and comment 45 days prior to the public hearing to consider the proposed ATCM;

WHEREAS, based on comments received during the 45 day comment period prior to the public hearing, modifications to the proposal for the AMR ATCM are proposed as set forth in Attachment B;

WHEREAS, the staff report discusses, to the extent data could reasonably be made available, the factors specified in Health and Safety Code section 39665(b), namely the rate and extent of present and anticipated future emissions, estimated levels of human exposure, and risks associated with those levels; the stability, persistence, transformation products, dispersion potential, and other physical and chemical characteristics of the toxic air contaminants when present in the ambient air; the categories, numbers, and relative contribution of present or anticipated sources of the toxic air contaminants; the availability and technological feasibility of measures to reduce or eliminate emissions, the anticipated effect of measures on levels of exposure, and the degree to which the proposed AMR ATCM is compatible with, or applicable to, recent technological improvements or other actions; the approximate cost of each measure, the magnitude of risks as reflected by the amount of emissions, and the reduction in risk which can be attributed to each measure; the availability, suitability, and relative efficacy of substitute compounds of a less hazardous nature; and the potential adverse health, safety, or environmental impacts that may occur as a result of implementation of the measures;

WHEREAS, staff has performed risk evaluations of MeCl, TCE, and Perc emissions from AMR activities using U.S. EPA-approved and ARB-recommended air dispersion models, and these evaluations indicate potential cancer risks at specific AMR facilities up to 60 chances in a million and potential cancer risks at generic AMR facilities up to 110 chances in a million at off-site receptor locations;

WHEREAS, the AMR ATCM as modified in Attachment B would reduce emissions of MeCl, TCE, and Perc by prohibiting automotive brake cleaners, carburetor or fuel-injection air intake cleaners, engine degreasers, and general purpose degreasers manufactured after June 30, 2001 and sold or intended for sale in California from containing these toxic air contaminants, and would prohibit automotive maintenance and repair facility owners and operators from using these automotive consumer products in their facilities after December 31, 2002 if the products contain MeCl, TCE, or Perc;

WHEREAS, in October 1999, the Board approved amendments to the Consumer Products Regulation that are expected to result in decreased emissions of VOCs, including 3.3 tons per day from automotive consumer products;

WHEREAS, the Board has considered the impact of the proposed AMR ATCM on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code;

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations; the Board finds that:

1. Adverse health and environmental impacts may result from the presence of MeCl, TCE, and Perc in automotive consumer products, and mitigation measures are necessary to reduce emissions of these toxic air contaminants;

2. The AMR ATCM would minimize emissions of MeCl, TCE, and Perc from the use of automotive consumer products in automotive maintenance and repair activities;

3. Adoption of the AMR ATCM is not expected to result in any significant adverse environmental impact; any potential adverse environmental impacts, including possible increased VOC emissions from product reformulations, are expected to be minimal; and

4. The considerations identified above override any adverse environmental impacts that may occur as a result of increased VOC emissions from product reformulations or change in use from chlorinated products to non-chlorinated products, and no feasible alternatives or mitigation measures would reduce the potential adverse environmental impacts while at the same time providing the benefits described above.

WHEREAS, in consideration of the staff report and the written comments and public testimony it has received, the Board further finds that:

1. In accordance with Health and Safety Code section 39666(c), the AMR ATCM has been designed, in consideration of the factors specified in Health and Safety Code section 39665(b), to reduce emissions to the lowest level achievable through application of BACT;

2. The AMR ATCM would reduce MeCl, TCE, and Perc emissions in California from the four automotive consumer product categories by approximately 5.2 tons per day and would reduce ambient levels of MeCl, TCE, and Perc, which would achieve both near-source and overall statewide risk reduction benefits;

3. Emission reductions resulting from the AMR ATCM would also positively affect impacts on wastewater treatment, hazardous waste disposal, and worker exposure from MeCl, TCE, and Perc;

4. The AMR ATCM could result in increased emissions of VOCs (other than TCE) up to 2.3 tons per day statewide because of automotive consumer product reformulations, but considering both the AMR ATCM and the October 1999 Consumer Product Regulation, a net reduction of VOC emissions of at least one ton per day statewide is expected;

5. Without the control measures of the AMR ATCM, emissions of MeCl, TCE, and Perc from automotive consumer product categories may increase;

6. The economic and cost impacts of the AMR ATCM have been analyzed as required by California law, and the analysis of these impacts, as set forth in the staff report for this regulatory action, indicates that the average cost to consumers is approximately $0.02 per unit;

7. Affected businesses will be able to absorb the costs of the AMR ATCM with no significant adverse impacts on their profitability, or alternatively, will be able to seek relief under the variance provisions of the AMR ATCM for extensions to their compliance dates;

8. Alternative products that comply with the AMR ATCM are currently available and in use, and are suitable and effective; and

9. No alternative considered would be more effective at carrying out the purpose for which the ATCM is proposed, or be as effective and less burdensome to the affected private persons and businesses than the AMR ATCM.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves section 93111, title 17, California Code of Regulations, as set forth in Attachment A with modifications as set forth in Attachment B.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt section 93111, title 17, California Code of Regulations, after making the modified regulatory language and any additional supporting documents and information available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification and additional supporting documents and information as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if the Executive Officer determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to institute a program of public outreach regarding the AMR ATCM to all sectors of affected industry, end users, and the public for the purposes of informing them about the requirements and effective dates of the AMR ATCM, and urging them to accelerate as much as possible the timeframes for eliminating the subject chlorinated toxic air contaminants from AMR activities.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to send the adopted AMR ATCM to the districts for implementation and enforcement and to provide assistance to the districts in implementing and enforcing the AMR ATCM.

BE IT FURTHER RESOLVED that the Board directs the staff to monitor the use of other toxic air contaminants in automotive consumer products, and toxic air contaminants in other consumer products, to determine whether additional assessments of the need to control these toxic air contaminants should be conducted, and to propose additional ATCMs if they are warranted.

I hereby certify that the above is a true and correct copy of Resolution 00-11, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Clerk of the Board

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