

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CONTROL MEASURE FOR PERCHLOROETHYLENE DRY CLEANING OPERATIONS AND ADOPTION OF REQUIREMENTS FOR MANUFACTURERS AND DISTRIBUTORS OF PERCHLOROETHYLENE

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the existing dry cleaning regulation that would phase out the use of perchloroethylene (Perc) from dry cleaning operations and to consider the adoption of requirements for manufacturers and distributors of Perc.

DATE: January 25, 2007

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 January 25, 2007, and may continue to 8:30 a.m., January 26, 2007. This item may not be considered until January 26, 2007. Please consult the agenda for the meeting, which will be available at least ten days before January 25, 2007, 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); and proposed adoption of sections 93109.1 and 93109.2, title 17, 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, CCR, 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 existing 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.

From 2003 to 2005, staff performed an evaluation of the effectiveness of the Dry Cleaning ATCM. Although the evaluation showed that Perc emissions from dry cleaning decreased by about 70 percent, ARB staff found that more can be done to reduce emissions of Perc from dry cleaning operations. As a result of this evaluation, the staff developed proposed amendments to the Dry Cleaning ATCM, which the Board considered on May 25, 2006.

At the May 25, 2006 hearing, the Board heard testimony from many interested parties, including the affected industries, industry associations, environmental groups, local air pollution control districts, and other interested individuals. Although some of the testimony was supportive of ARB staff's proposal, many commenters suggested that ARB phase out the use of Perc in dry cleaning operations. The commenters based their recommendation primarily on the toxic effects of Perc and that there are available alternative dry cleaning technologies.

After hearing the public comments and considering the staff's proposal, the Board made a decision not to proceed with the proposed rulemaking and directed staff to return to the Board with a new proposal to phase out the use of Perc in dry cleaning operations. The Board also directed staff to consider the cost impacts of the proposal and evaluate ways to minimize these through possible financial assistance programs.

Description of the Proposed Regulatory Action: The proposed regulatory amendments announced in this Notice are designed to phase out the use of Perc from dry cleaning operations. The amended regulation would 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 would, over time, expand this prohibition to include: 1) the sale or lease of any new Perc machine; 2) drying cabinets; and 3) dip tank operations in Perc dry cleaning facilities. In addition, for a new facility, no person would be permitted to install or operate any Perc dry cleaning machine or engage in Perc water-repelling operations.

Over time, all operators of existing Perc facilities would be required to remove from service their existing machines by a specified date. The proposed amendments to the existing regulation would also require some additional recordkeeping and reporting, and good operating practices.

The proposal also includes requirements for Perc solvent manufacturers and distributors in new sections 93109.1 and 93109.2, title 17, CCR. The requirements relate to information that will be used to facilitate the implementation of Health and Safety Code, section 41998 (Assembly Bill 998, chapter 821, statutes of 2003).

The staff will present the proposal to the Board for consideration at a public hearing. After considering the proposal, the alternatives discussed below, and the public comments, the Board may choose to adopt these provisions or alternative requirements.

Description of Alternatives: The Board may consider alternative approaches to the proposal. These alternatives span a range of approaches. Since one common solvent that could be used in place of Perc causes 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 increasing or shortening specified dates in the regulation which require the phase out of Perc dry cleaning operations. 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 United States Environmental Protection Agency (U.S. EPA) first promulgated technology-based emissions standards to control emissions of Perc from dry cleaning facilities in 1993. The current California regulation was granted federal equivalency on May 21, 1996 (Volume 61, Federal Register, page 25397). Effective July 27, 2006, U.S. EPA promulgated revisions to their 1993 standards to further limit emissions of Perc from existing and new dry cleaning facilities. Based on a review of U.S. EPA's final rule, staff is confident that the emissions-related requirements of the proposed amended regulation are more stringent than U.S. EPA's 2006 final rule. However, if

adopted by the Board, the proposed amended Dry Cleaning ATCM will need to be submitted to U.S. EPA for a federal equivalency determination.

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 and Adoption of Requirements for Manufacturers and Distributors of Perchloroethylene” (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 January 25, 2007 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 Lori Andreoni, Clerk of the Board, (916) 322-5594, 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/perc07/perc07.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 mandates 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 costs or savings to state or local agencies.

The Department of Corrections may incur a capital cost for purchasing a spare set of gaskets and a spare lint filter while they are still operating their Perc machines and for replacing their Perc machines. The Department of Corrections operates 12 dry cleaning machines at 12 correctional facilities in California. Eleven of the 12 dry cleaning machines are Perc machines and will need to be replaced by non-Perc dry cleaning systems. During the first three years of implementation, a total of 7 of the machines will need to be replaced because they will be 15 years old or older. The remaining 5 Perc machines will need to be replaced as they reach 15 years of age. Based on the spare gaskets, spare lint filter, installation and machine costs, the estimated fiscal cost impact to the Department of Corrections during the first three years will range from \$169,500 to \$522,000, and the total cost to comply with the proposed amendments over its lifetime ranges from \$268,000 to \$892,000. The proposed regulatory action will not affect federal funding to the State.

The ARB's staff will be preparing an implementation guidance document and assisting the local air pollution control and air quality management districts (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 2008-2009 or 2009-2010. The estimated cost to ARB would be one quarter of a person/year, or approximately \$25,000. In addition, ARB will see a loss of revenue from fees collected under the "Hot Spots" program due to the proposed amendments. During the first three years, ARB will see an estimated loss of \$22,000 and at full implementation \$355,000. However, this fee may be offset if alternatives are required to report under the "Hot Spots" program. All implementation costs from this rulemaking action would be absorbed within the existing ARB budget.

There is no additional enforcement cost associated with the proposed amendments because the proposed amendments do not require additional oversight from the local air districts. In fact, because the enforcement cost is directly proportional to the number of Perc facilities and/or equipment, as the Perc facilities discontinue the use of Perc equipment, there will be a decrease in the number of hours the local air districts will have to spend on annual inspection of facilities. In addition, because of the discontinued use of Perc in the dry cleaning facilities, local air districts will lose the fees that are being collected from the Perc facilities under the "Hot Spots" program as a source of revenue. However, during the first three years, local air districts will see a net cost savings that will range from \$30,000 to \$70,000. Overall, there will be net cost savings for local air districts that range from \$1,769,000 to \$3,301,000 over the lifetime of the proposed regulation.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The cost impact on the businesses varies depending on the non-Perc dry cleaning technology chosen by the facility 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 capital expenditure required by the proposed amendments is the incremental capital cost of purchasing alternative dry cleaning equipment compared to a Perc dry cleaning machine at the end of the useful life of the Perc machine. The useful life of a Perc machine, based on surveys of the industry, has been established to be 15 years. Because of the range of alternatives that are available, staff estimates the proposed amendments to the Dry Cleaning ATCM will require an additional incremental capital investment ranging from \$1,000 (water-based cleaning system) to \$144,350 (Carbon Dioxide system) for a facility. When replacing a Perc machine with the most popular alternative technology, a high flash point hydrocarbon process, the additional capital investment will range from \$18,500 to \$24,350.

The annual recurring costs for the alternative technologies are generally similar to or slightly higher than the recurring costs for operating and maintaining a Perc dry cleaning machine. A key variable in recurring cost is labor costs which tend to be somewhat higher for the alternative technologies. However, with proper training, experience, and advances in the technologies, it is possible that the differences in labor costs will be significantly reduced in future years.

The primary customers of dry cleaning facilities are individual consumers. Most dry cleaning businesses are likely to pass their compliance costs onto their customers in the form of higher prices for their services. To the extent that dry cleaning businesses are able to pass all of the cost increase onto their customers, ARB staff has estimated the potential cost increase to consumers based on the facility owners' recovery of their short term (five years) net cash outflow. For those facilities that replace their existing machine with a hydrocarbon machine when the existing machine is 15 years old, ARB staff estimates that the typical owner would have to charge an additional \$0.56 per garment. The owners of co-residential facilities, because they are estimated to lose three years of the useful life for their machines, would have to increase their cost per garment by about \$0.63.

Perc distributors and manufacturers are required under the proposed provisions to keep records of their Perc purchases and Perc sales to dry cleaners. They are also required to report to ARB the annual Perc sales to dry cleaners, if applicable, and to report to ARB the contact information of any new Perc distributor. Because record keeping is a routine part of doing business, staff anticipates the record keeping and reporting requirements to result in minimal cost based on additional labor of approximately eight hours or less per year per Perc distributor and manufacturer.

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 email before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, January 24, 2006**, and addressed to the following:

Postal mail: 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>

Facsimile submittal: (916) 322-3928

The Board requests but does not require 30 copies of any written submission. Also ARB requests that written, facsimile, and email 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, 39666, and 41998; and sections 7412 and 7416, title 42, United States Code. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39650, 39655, 39656, 39658, 39659, 39666, 39674, 41998, and 42402.4; sections 7412 and 7414, title 42, United States Code; and sections 63.14, 63.99, 63.320, 63.321, 63.322, 63.323, and 63.324, title 40, Code of Federal Regulations.

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: November 28, 2006

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs see our Web –site at www.arb.ca.gov.