

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED AIRBORNE TOXIC CONTROL MEASURE FOR EMISSIONS OF CHLORINATED TOXIC AIR CONTAMINANTS FROM AUTOMOTIVE MAINTENANCE AND REPAIR ACTIVITIES

The Air Resources Board (the ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce emissions of chlorinated toxic air contaminants from the use of several automotive consumer products. The proposed regulation is intended to reduce emissions from cleaning and degreasing products that are predominantly used in automotive maintenance and repair activities. The proposed regulation would establish prescriptive standards for these products.

DATE: April 27, 2000

TIME: 9:30 a.m.

PLACE: San Diego County Administration Center
Supervisors Chambers, Room 310
1600 Pacific Highway
San Diego, California

This item will be considered at a two-day meeting of the ARB, which will commence at 9:30 a.m. on April 27, 2000, and may continue at 8:30 a.m., April 28, 2000. This item may not be considered until April 28, 2000. Please consult the agenda for the meeting, which will be available at least 10 days before April 27, 2000, to determine the time when this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact ARB's Clerk of the Board by April 13, 2000, at (916) 322-5594, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of section 93111, title 17, California Code of Regulations (CCR), and proposed incorporation by reference of "Air Resources Board Test Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products," adopted September 25, 1997 as last amended September 3, 1999.

Background

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Chapter 1047, Statutes of 1983) and set forth in Health and Safety Code (HSC) sections 39650 - 39675, requires the ARB to identify and control air toxics in California. The Board identified methylene chloride (MeCl), trichloroethylene (TCE), and perchloroethylene (Perc) as toxic air contaminants (TACs) at its July 1989, October 1990, and October 1991 Board hearings, respectively. Each TAC was identified without a Board-specified threshold exposure level

Following the identification of a substance as a TAC, HSC section 39665 requires the ARB, with participation of the air pollution control and air quality management districts, and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. HSC section 39665(b) requires that this “needs assessment” address, among other things, the technological feasibility of proposed airborne toxic control measures (ATCMs) and the availability, suitability and relative efficacy of substitute products or processes of a less hazardous nature. A needs assessment for Perc was conducted from 1991 to 1993 as part of the ARB’s development of the ATCM for Emissions of Perchloroethylene from Dry Cleaning Operations, August 1993 (title 17, California Code of Regulations, sections 93109 and 93110). The ARB staff has prepared an Initial Statement of Reasons (ISOR) for this proposed regulation that serves as the report on the need and appropriate degree of regulation for the two other TACs, MeCl and TCE.

Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, HSC section 39666 requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC. Since Perc, MeCl, and TCE do not have Board-specified threshold exposure levels, HSC section 39666 also requires that the proposed ATCM 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, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the proposed ATCM, state law also requires assessment of the appropriateness of substitute products or processes.

It is important to note that the proposed ATCM is not a consumer products regulation. Consumer products regulations are developed under authority granted to the ARB by the California Clean Air Act (1998), and specifically HSC section 41712. HSC section 41712 requires the ARB to adopt regulations to achieve the maximum feasible reduction in reactive organic compounds (ROCs) emitted by consumer products (note: ROC is equivalent to VOC). As discussed previously, we are proposing this ATCM under the authority granted to the ARB by Assembly Bill 1807 (The Toxic Air Contaminant Identification and Control Program) as codified in HSC sections 39650 through 39675.

However, since the automotive consumer products industry has previously been subject to regulations developed under ARB’s Consumer Products Program, we have used the phrase

“consumer products” and definitions similar to those in ARB’s consumer products regulations in an attempt to make our ISOR more familiar and comprehensible to consumer products manufacturers, automotive maintenance and repair (AMR) facility operators, and others who may use these products.

Description of the Proposed Regulatory Action

The proposed ATCM would minimize emissions of Perc, MeCl, and TCE from AMR activities by regulating automotive consumer product content and usage. Specifically, the proposed ATCM requires that brake cleaners, carburetor or fuel-injection air intake cleaners (carburetor cleaners), engine degreasers, and general purpose degreasers manufactured after December 31, 2002 and sold or intended for sale in California not contain Perc, MeCl, or TCE. The proposed ATCM provides that a product is considered to contain Perc, MeCl, or TCE if it has one percent or more (by weight) of any one of the three TACs. This allowed content accounts for the detection limit of the prescribed test method. The proposed ATCM also prohibits AMR facility owners and operators from using these automotive consumer products if they contain Perc, MeCl, or TCE in their facilities after June 30, 2005.

Administrative Requirements

The proposed regulation would provide manufacturers an 18-month sell-through period for the specified Perc, MeCl, or TCE-containing automotive consumer products manufactured on or before December 31, 2002. The sell-through period would end June 30, 2004. In addition, AMR facility owners and operators would be provided 12 months from the end of the sell-through period to use chlorinated products.

For compliance purposes, manufacturers would be required to display a date or date-code on the product container indicating date of manufacture and to provide the date-code key to the ARB.

Variances

The proposed regulation is not expected to cause or result in significant economic hardship to any person or manufacturer. However, to further reduce this possibility, any person who cannot comply with the requirements of the proposed ATCM, due to reasons beyond the person’s reasonable control, may apply in writing for a variance. The proposed variance procedures for the ATCM closely mirror other ARB variance procedures specified in ARB regulations.

Test Method

Testing is necessary to determine compliance with the proposed standards. The proposed test method is a modification of Air Resources Board Test Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, as last amended September 3, 1999, which is to be incorporated by reference.

Comparable Federal Regulations

There are no comparable federal regulations covering emissions from the use of automotive consumer products containing chlorinated toxic air contaminants in automotive maintenance and repair activities. Staff reviewed federal regulations governing worker safety (the requirements for cleaning asbestos brakes and the use of aerosol products in the vicinity of ignition sources) to ensure there were no conflicting provisions.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action which includes the full text of the proposed regulatory language, a summary of the environmental and economic impacts of the proposal, and supporting technical documentation. Copies of the ISOR may be obtained from the ARB's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (April 27, 2000). To obtain the ISOR in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 322-4505, TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento Area. This notice, the ISOR, and all subsequent regulatory documents are being made available on the ARB Internet site for this rulemaking, <http://www.arb.ca.gov/regact/amr/amr.htm>.

The staff has also compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified below.

The ARB has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulatory action.

Further inquiries regarding this matter should be directed to the agency contact person for this rulemaking, Mr. Tony Andreoni, Manager, Process Evaluation Section, Stationary Source Division, at (916) 324-6021.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred in reasonable compliance with the proposed regulatory action are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the State, costs or mandate to any local agency or school district 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 savings to local agencies. However, the ARB may incur additional implementation or enforcement costs at some future time.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on businesses and private persons. The Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), that the regulation may affect small business. However, the Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(8), that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The Executive Officer has determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

Finally, in accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action should have negligible impacts on the creation or elimination of jobs within the State of California, negligible impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and negligible impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed amendments can be found in the ISOR.

Before taking final action on the proposed regulatory action, the ARB must determine that no alternative considered by the agency 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 or businesses than the proposed action.

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 ARB, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, or 2020 L Street, 4th Floor, Sacramento, CA 95814, no later than 12:00 noon Pacific Time April 26, 2000, or received by the Clerk of the Board at the hearing. To be considered by the ARB, e-mail submissions must be addressed to amr@listserv.arb.ca.gov and received at the ARB no later than 12:00 noon Pacific Time April 26, 2000.

The ARB requests, but does not require 30 copies of any written submission. Also, the ARB requests that written and e-mail statements be filed at least 10 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 any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 39650, 39655, 39656, 39658, 39659, 39665, and 39666, Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 39650, 39655, 39656, 39658, 39659, 39666, and 40000, Health and Safety Code.

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, the ARB may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are 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, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



for MICHAEL P. KENNY
EXECUTIVE OFFICER

Date: February 29, 2000