

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO THE
CALIFORNIA CONSUMER PRODUCTS REGULATION

Public Hearing Date: July 24, 1997

Public Availability Date: October 6, 1997

Deadline for Public Comment: October 21, 1997

At a public hearing held on July 24, 1997, the Air Resources Board ("the Board") considered amendments to the Regulation for Reducing Volatile Organic Compound (VOC) Emissions from Consumer Products (the "consumer products regulation"). The proposed amendments to the consumer products regulation are described in detail in the Initial Statement of Reasons released to the public on June 6, 1997.

At the hearing, the Board approved the amendments to the consumer products regulation with certain modifications to the originally proposed regulatory language. Following is a summary of the modifications:

- All VOC standards with January 1, 2000, effective dates were extended to January 1, 2001;
- The first tiers of the two-tiered VOC standards for four product categories were eliminated;
- The additional reporting requirements for the four product categories with two-tiered VOC standards were eliminated;
- The effective dates of the VOC standards were changed for "Automotive Rubbing or Polishing Compound," "Metal Polish/Cleanser," nonaerosol "Rubber and Vinyl Protectant," "Multipurpose Lubricant," and "Penetrant;"
- The VOC standards were increased for "Automotive Rubbing or Polishing Compound," "Heavy Duty Hand Cleaner or Soap," "Multipurpose Lubricant," "Penetrant," and "Carpet and Upholstery Cleaner (ready-to-use nonaerosols);" and
- Various other clarifications were also made to the regulatory language.

By this notice, the modified regulations are being made available for public comment prior to final action by the Board's Executive Officer. Attached to this notice is Board Resolution 97-37 (Enclosure 1), which approves the regulatory action. The text of the modified regulatory language is appended to the resolution as Enclosure 2. The originally proposed amendments are shown in underlined regular text to show additions and ~~strikeout~~ to indicate deletions. The modifications to the original proposal are shown in **bold double underline** to indicate additions, and **~~bold strikeout~~** to indicate deletions.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the amendments to sections 94508, 94509, 94510, 94512, and 94513, Title 17, CCR, after making the modified regulatory language available for a supplemental written comment period of at least fifteen (15) days, provided that the Executive Officer shall consider such written comments as may be submitted during the period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

Written comments on the proposed modifications shown in Enclosure 2 must be submitted to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California, 95812, no later than October 21, 1997, for consideration by the Executive Officer prior to final action. The Executive Officer will consider only comments relating to the modifications to the original proposal which are described in this notice.

Enclosures

Enclosure 1

State of California
AIR RESOURCES BOARD
Resolution 97-37
July 24, 1997

Agenda Item No.: 97

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "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, section 41712 of the Health and Safety Code directs the Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds (VOCs) emitted by consumer products, if the Board determines that adequate data exist for it to adopt the regulations, and if the regulations are technologically and commercially feasible and necessary;

WHEREAS, pursuant to section 41712 of the Health and Safety Code, the Board has adopted the Regulation for Reducing VOC Emissions from Consumer Products (title 17, California Code of Regulations (CCR), sections 94507-94517; the "consumer products regulation"), which was adopted in two phases; Phase I was approved on October 11, 1990, and Phase II was approved on January 9, 1992;

WHEREAS, on November 15, 1994, the Board adopted the California State Implementation Plan for Ozone (SIP), which incorporates the consumer products regulation as a component of the SIP;

WHEREAS, on February 14, 1995, the consumer products regulation was approved by the United States Environmental Protection Agency (U.S. EPA) as part of the SIP;

WHEREAS, the SIP includes a commitment to adopt the Mid-term Measures Regulation to achieve a 25 percent reduction in consumer products VOC emissions from the 1990 baseline by the year 2005;

WHEREAS, to help fulfill the ARB's SIP commitments, ARB staff has proposed amendments to the existing consumer products regulation (Phase I and Phase II) to add product category definitions and VOC standards for 18 additional consumer product categories; the VOC standards would become effective on various dates from the year 2001 to 2005;

WHEREAS, staff has also proposed to add labeling requirements and standards for manufacturers of non-aerosol floor wax strippers, and reporting requirements to track any increased use of Perchloroethylene and methylene chloride;

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, the Board staff has consulted with the U.S. EPA regarding consumer product regulations promulgated by other state and local governments as provided in section 183(e) of the federal Clean Air Act;

WHEREAS, the Board finds that:

The VOC standards specified for the 18 additional consumer products categories will reduce VOC emissions by about 16 tons per day by the year 2005;

Consumer products are currently being sold in California that comply with each of the proposed VOC standards;

The amendments to the consumer products regulation are authorized by California law and satisfy the requirements of section 41712 of the Health and Safety Code;

There exists adequate data to support the adoption of the amendments to the consumer products regulation and to establish that the amendments are necessary, and are commercially and technologically feasible;

The amendments are necessary to attain and maintain the state and federal ambient air quality standards and help to fulfill California's SIP commitments;

The standards are technologically and commercially feasible for each of the regulated consumer product categories;

In order to provide formulation flexibility and reduce costs for manufacturers, it is appropriate to modify the original proposal to specify that: (1) the initial VOC standards will first become effective in the year 2001, instead of the year 2000, and (2) the two-tiered VOC standards originally proposed for certain product categories will be changed to a single-tier VOC standard for these categories, thereby requiring manufacturers to reformulate their products only once, instead of twice;

The amendments will not result in the elimination of a product form for any product category; The economic impacts of the amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons; and

The reporting requirements of the consumer products regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State;

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

The amendments to the consumer products regulation will not result in any significant adverse impacts on the environment;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to sections 94508, 94509, 94510, 94512, and 94513, title 17, California Code of Regulations, as set forth in Attachments A and B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted after review of the comments.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to form working groups with all interested parties to develop standardized test methods to measure the performance attributes of “automotive wax, polish, sealant, or glaze” products and “automotive” rubbing or polishing compounds,” and to return to the Board to consider any appropriate regulatory modifications to the proposed standards if the Executive Officer determines that this is warranted based on the results of the testing.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take the following actions: (1) monitor the progress of manufacturers in meeting the VOC standards, (2) conduct technical assessments prior to the effective dates for each of the VOC standards, and (3) identify any significant problems in the achievement of the standards and propose any future regulatory modifications that may be appropriate;

BE IT FURTHER RESOLVED that, following approval of the amendments by the Office of Administrative Law, the Board directs the Executive Officer to submit the amendments to the U.S. EPA for inclusion in the SIP.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to include in the SIP revision any additional documentation identified as necessary for approvability under the federal Clean Air Act and U.S. EPA regulations, and to work with the U.S. EPA to ensure that the amendments to the consumer products regulation are approved as a SIP revision.

I hereby certify that the above is a true and correct copy of Resolution 97-37, as adopted by the Air Resources Board.

/S/

Pat Hutchens, Clerk of the Board

Enclosure 2

**AMENDMENTS TO THE REGULATION FOR REDUCING VOLATILE ORGANIC
COMPOUND EMISSIONS FROM CONSUMER PRODUCTS**

[Note: The originally proposed amendments for this rulemaking action are shown in underlined regular text to indicate additions and ~~strikeout~~ to indicate deletions. The modifications to the original proposal are shown in **bold double underline** to indicate additions and ~~bold-strikeout~~ to indicate deletions.

In the interests of clarity and completeness, the text below also shows other amendments that have been proposed or approved by the Board, but have not yet been submitted to the Office of Administrative Law and are not yet legally effective. These recent amendments are identified by *italics* to indicate additions and *italicized strikeouts* to indicate deletions. The italicized amendments and deletions are not part of the present proposal. They were previously considered by the Board at public hearings held in March 1997 and November 1996. Also shown below in *italics* are proposed amendments that are part of the November 1996 rulemaking action and were made available for a 15-day public comment period from March 17, 1997 to April 1, 1997.]

Modifications to the originally proposed amendments

Amend section 94508(a)(36), Title 17, CCR, to read as follows:

Section 94508(a)(36).....

“Dry Cleaning Fluid” means any non-aqueous liquid product designed **and labeled exclusively** for use ~~solely~~ on: (1) fabrics which are labeled “for dry clean only”, such as clothing or drapery; ~~;~~ **or (2) “S-coded” fabrics.** “Dry Cleaning Fluid” includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer’s residence or work place. “Dry Cleaning Fluid” does not include “Spot Remover” or “Carpet and Upholstery Cleaner”. **For the purposes of this definition, S-coded fabric means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee.**”

Amend section 94508(a)(77), Title 17, CCR, to read as follows:

Section 94508(a)(77).....

“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 oils or other products designed to be added to fuels; ~~or~~ products for use on the human body or animals; ~~;~~ **or products that are (1) sold to establishments which manufacture or construct goods or commodities, and (2) labeled “not for retail sale.”**”

 Amend section 94509(a) of Subchapter 8.5, Article 2, Consumer Products, Title 17, CCR, to read as follows:

Section 94509(a).....

Table of Standards
(Phase III-continued)
Percent Volatile Organic Compounds by Weight

<u>Product Category</u>	<u>1/1/20001</u>	<u>1/1/2002</u>	<u>1/1/2003</u>	<u>1/1/2005</u>
<u>Automotive Rubbing or Polishing Compound</u>		<u>15</u>		<u>17</u>
<u>Automotive Wax, Polish, Sealant or Glaze</u>				
<u>Hard Paste Waxes</u>				<u>45</u>
<u>Instant Detailers</u>	<u>3</u>			
<u>All Other Forms</u>				<u>15</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 (dilutables)</u>	<u>.1</u>			
<u>Non-aerosols (ready-to-use)</u>	<u>2.5</u>	<u>3</u>		
<u>Floor Wax Stripper (non-aerosols)</u>		<u>3</u>	<u>(See 94509(j))</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>58</u>
<u>Metal Polish/Cleanser</u>		<u>30</u>		<u>30</u>
<u>Multi-purpose Lubricant (excluding solid or semisolid products)</u>		<u>60</u>	<u>50</u>	<u>45</u>

**Table of Standards
(Phase III-continued)**

Percent Volatile Organic Compounds by Weight

Product Category	<u>1/1/2000</u>	<u>1/1/2002</u>	<u>1/1/2003</u>	<u>1/1/2005</u>
<u>Non-selective Terrestrial</u> <u>Herbicide, Non-aerosols</u>		<u>3</u>		
<u>Paint Remover or Stripper</u>		<u>65</u>		<u>50</u>
<u>Penetrant</u>		<u>60</u>	<u>50</u>	<u>45</u>
<u>Rubber and Vinyl</u> <u>Protectant</u> <u>Non-aerosols</u>	<u>3</u>		<u>3</u>	
<u>Aerosols</u>				<u>10</u>
<u>Silicone-based Multi-purpose</u> <u>Lubricant (excluding solid or</u> <u>semisolid products)</u>				<u>60</u>
<u>Spot Remover</u> <u>Aerosols</u>	<u>25</u>			
<u>Non-aerosols</u>	<u>8</u>			
<u>Undercoating</u> <u>Aerosols</u>		<u>40</u>		
<u>Wasp and Hornet Insecticide</u>				<u>40</u>

Amend section 94509(c), Title 17, CCR, to read as follows:

Section 94509(c).....

- (c) *Sell-through of products.* Notwithstanding the provisions of Section 94509(a) or 94509(j), 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.

Amend section 94509(e), Title 17, CCR, to read as follows:

Section 94509(e).....

- (e) *Products containing ozone-depleting compounds.* **Effective January 1, 1993, for** ~~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.

Amend section 94509(j), Title 17, CCR, to read as follows:

Section 94509(j).....

- (j) Requirements for Floor Wax Strippers. **After an effective date of January 1, 2002, no person shall sell, supply, offer for sale, or manufacture for use in California any floor wax stripper unless the following requirements are met:**
- (1) The label of each non-aerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3 percent by weight or less.
 - (2) **If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper** ~~The label of each non-aerosol floor wax stripper~~ must specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of 12 percent by weight or less.
 - (3) The terms “light build-up”, “medium build-up” or “heavy build-up” are not specifically required, as long as comparable terminology is used.

Amend section 94510(b), Title 17, CCR, to read as follows:

Section 94510(b).....

- (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.

Amend section 94512(b), Title 17, CCR, to read as follows:

Section 94512(b).....

- (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.

Amend section 94513(g)(1), Title 17, CCR, to read as follows:

Section 94513(g)(1).....

- (g) Special Reporting Requirements for Consumer Products that Contain Methylene Chloride or

Perchloroethylene, and are Subject to the Phase III VOC Standards

- (1) The requirements of this subsection apply to all responsible parties for consumer products that: (A) are subject to the Phase III VOC standards specified in section 94509(a), and (B) are sold or offered for sale in California after the effective date of this subsection (g), and (C) contain methylene chloride or perchloroethylene. For the purposes of this subsection, a product “contains methylene chloride or perchloroethylene” if the product contains 1.0 percent or more by weight (exclusive of the container or packaging) of either methylene chloride or perchloroethylene.
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Amend section 94513(g)(3), Title 17, CCR, to read as follows:

Section 94513(g)(3).....

- (3) The information specified in subsection (g)(2) shall be reported on or before the following dates:
- (A) For those Phase III product categories with initial effective dates of January 1, 2001, the first report is due on or before March 1, 1999 2000, and shall cover products sold or offered for sale in California during the previous calendar year. Subsequent reports covering the previous calendar year are due on or before each March 1 thereafter until March 1, 2006, when the last report is due.
- (B) For those Phase III product categories with initial effective dates of January 1, 2002, the first report is due on or before March 1, 2001, and shall cover products sold or offered for sale in California during the previous calendar year. Subsequent reports covering the previous calendar year are due on or before each March 1 thereafter until March 1, 2006, when the last report is due.
- (C) **For those Phase III product categories with initial effective dates of January 1, 2003, the first report is due on or before March 1, 2002, and shall cover products sold or offered for sale in California during the previous calendar year. Subsequent reports covering the previous calendar year are due on or before each March 1 thereafter until March 1, 2006, when the last report is due.**
- (D) For those Phase III product categories with initial effective dates of January 1, 2005, the first report is due on or before March 1, 2004, and shall cover products sold or offered for sale in California during the previous calendar year. Subsequent reports covering the previous calendar year are due on or before each March 1 thereafter until March 1, 2006, when the last report is due.
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Delete section 94513(h), Title 17, CCR, as follows:

Section 94509(h).....

~~**(h) Special Reporting Requirements for Phase III Product Categories with Second-Tier VOC Limits (i.e., Heavy-Duty Hand Cleaners, Multipurpose Lubricants, Paint Removers or Strippers, and Penetrants)**~~

~~**This subsection (h) applies to each responsible party for any Heavy-Duty Hand Cleaner, Multipurpose Lubricant, Paint Remover or Stripper, or Penetrant, if the responsible party intends to sell, supply, offer for sale, or manufacture the product for sale in California after January 1, 2002. Each such responsible party shall submit to the Executive Officer the following information, for each product, on or before March 1 of the years 2003, 2004, 2005, and 2006:**~~

~~**(1) data regarding product sales and composition, including the information specified in section 94513(a), and any other information that the Executive Officer may specify, for the previous calendar year (i.e., the calendar years 2002, 2003, 2004, and 2005);**~~

~~**(2) a written report of the research and development efforts undertaken during the previous calendar year to achieve the applicable VOC standard by January 1, 2005. Each written report must include a detailed description of the raw materials (e.g., solvents, propellants, resins, and polymers) and hardware (e.g., valves, actuators, and cans) used in product reformulation, the testing protocols used, the results of the testing, and the cost of reformulation efforts. The obligation to submit a report for a product shall cease when the responsible party achieves compliance with the applicable January 1, 2005 VOC standard.**~~