

State of California
AIR RESOURCES BOARD

Resolution 99-34

October 28, 1999

Agenda Item No.: 99-8-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (“ARB” or “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 requires 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 exists 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 three phases; Phase I was approved on October 11, 1990, Phase II was approved on January 9, 1992, and Phase III was approved on July 24, 1997;

WHEREAS, on November 15, 1994, the Board adopted the California State Implementation Plan (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 a component of the SIP;

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

WHEREAS, in September 1997 three environmental groups (Communities for a Better Environment, the Coalition for Clean Air, and the Natural Resources Defense Council) filed a lawsuit in federal District Court regarding California’s progress in achieving the 1994 SIP commitments;

WHEREAS, on January 28, 1999, the ARB reached a settlement agreement with the plaintiffs in the lawsuit; in the settlement agreement the ARB committed, among other things, to achieve 12 tons per day of reactive organic gas emission reductions (in the South Coast Air Basin in 2010) from measures adopted by December 31, 1999;

WHEREAS, the settlement agreement also committed the ARB staff to submit to the Board and propose for adoption a number of control measures, including a consumer products measure that would be submitted to the Board no later than the second quarter of 2000 and would be implemented from 2002 to 2004;

WHEREAS, to fulfill the terms of the settlement agreement and to help meet the 1994 SIP commitments, staff has proposed amendments to the consumer products regulation that will achieve an 18 ton per day reduction in VOC emissions statewide in 2005 (8 tons per day in the South Coast Air Basin in 2010 based on the 1994 SIP inventory);

WHEREAS, the proposed amendments would set VOC limits for 17 categories of consumer products; these limits would become effective from December 31, 2002, to December 31, 2004, depending on the product category;

WHEREAS, the proposed amendments would also consolidate and expand the reporting requirements for perchloroethylene and methylene chloride, delete outdated reporting requirements for hairsprays, and modify the Table of Standards to improve clarity;

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 proposed amendments to the consumer products regulation will specify VOC limits for two new categories of consumer products, and add more stringent VOC limits for fifteen previously regulated categories;

The VOC limits proposed for these 17 categories will reduce VOC emissions by about 18 tons per day statewide by the year 2005 (which equates to a 7.9 ton per day reduction in the South Coast Air Basin in 2010 based on the 1990 SIP inventory);

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 to help fulfill California's SIP commitments to achieve emission reductions from consumer products;

The amendments are necessary to meet a portion of the terms of the settlement agreement reached with Communities for a Better Environment, the Coalition for Clean Air, and the Natural Resources Defense Council on January 28, 1999;

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

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;

The regulatory amendments significantly reduce human health, safety, or environmental risks;

The incremental cost-effectiveness of the regulatory amendments was considered, and the amendments as adopted are cost-effective;

The benefits to human health, public safety, public welfare, or the environment justify the costs of the regulatory amendments;

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

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

Although the proposed amendments will provide an overall reduction in VOC emissions, a temporary adverse environmental impact may result from the proposed repeal of the ten percent VOC limit for nonaerosol general purpose degreasers, which is currently scheduled to become effective on January 1, 2001;

The amendments would also establish a more stringent VOC limit for nonaerosol general purpose degreasers, but this more stringent limit will not become effective until December 31, 2004, thereby resulting in a temporary emissions increase during the four-year period between January 1, 2001, and December 31, 2004;

The amendments will also modify the definition of "general purpose degreasers" to include solvents parts cleaners; this modification will make these products subject to the existing 1/1/2002 VOC limit for aerosol general purpose degreasers, and will result in emission reductions that will partially mitigate the temporary emissions increase from repealing the January 1, 2001 VOC limit for nonaerosol general purpose degreasers;

When the modification to the definition is taken into account, the average annual emissions increase from repealing the January 1, 2001 VOC limit will be approximately 0.49 tons per day statewide between 2001 and 2004;

Repealing the January 1, 2001 VOC limit for nonaerosol general purpose degreasers is appropriate because it will allow additional time for manufacturers to improve the emerging technologies that may be needed to develop commercially viable products that meet the more stringent 2004 VOC limits, and will avoid the significant cost impacts to many manufacturers that would result from implementing two separate VOC limits for nonaerosol degreasers within a relatively short period of time;

The considerations identified above override any adverse environmental impacts that may occur as a result of achieving fewer VOC reductions from nonaerosol general purpose degreasers between January 1, 2001 and December 31, 2004; and

The modification to the general purpose degreaser definition, as described above, is the only feasible mitigation measure that the ARB has been able to identify; no other feasible alternatives or mitigation measures would reduce the potential adverse environmental impacts while at the same time providing the benefits described above.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves proposed amendments to sections 94508, 94509, 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 take the following actions: (1) monitor the progress of manufacturers in meeting the VOC limits, (2) conduct technical assessments prior to the effective dates for each of the VOC limits, and (3) identify any significant problems in the achievement of the limits 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 approval 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 99-34, as adopted by the Air Resources Board.

Pat Hutchens, Clerk of the Board

Resolution 99-34

October 28, 1999

Identification of Attachments to the Board Resolution

Attachment A: Proposed amendments to the Consumer Products Regulation, sections 94508, 94509, and 94513, title 17, California Code of Regulations, as set forth in Appendix A to the Initial Statement of Reasons.

Attachment B: Staff's Suggested Changes to the Original Proposal (distributed at the Board hearing on October 28, 1999).

ATTACHMENT B

FOR CONSIDERATION BY THE AIR RESOURCES BOARD AT THE PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE CONSUMER PRODUCTS REGULATION

OCTOBER 28, 1999

Staff's Suggested Modifications to the Original Proposal

This attachment shows the staff's suggested modifications to the originally proposed amendments. Only those portions containing the suggested modifications are included.

The originally proposed amendments to sections 94508 and 94509, title 17, California Code of Regulations (CCR), for this rulemaking action are shown in underlined regular text to indicate additions and ~~strikeout~~ to indicate deletions. The suggested modifications are shown in double-underlined to indicate additions and ~~bold-strike-out~~ to indicate deletions. All proposed modifications will be made available to the public for a fifteen day comment period.

Suggested Modifications to the originally proposed amendments

Amend section 94508(a)(18) and (19), title 17, CCR, to read as follows:

(18) "Automotive Windshield Washer Fluid (Dilutable)" means any liquid ~~**sold in a 1 quart container or less, and**~~ which meets the following criteria:

(A) the product is sold either in a container with a capacity of 55 gallons or more, or a container with a capacity of one quart or less; and

(B) the product is designed for use in a motor vehicle windshield washer fluid system as an anti-freeze or for the purpose of cleaning, washing, bug removal, or wetting the windshield(s).

"Automotive Windshield Washer Fluid (Dilutable)" does not include any fluid which is placed in a new motor vehicle at the time the vehicle is manufactured.

(19) "Automotive Windshield Washer Fluid (Pre-Mixed)" means any liquid ~~**sold in a container greater than 1 quart in volume**~~ which meets the following criteria:

(A) the product is sold in a container with a capacity that is greater than one quart, but less than 55 gallons; and

(B) the product is designed for use in a motor vehicle windshield washer fluid system as an anti-freeze or for cleaning, washing, bug removal, or wetting the windshield(s).

"Automotive Windshield Washer Fluid (Pre-Mixed)" does not include any fluid which is placed in a new motor vehicle at the time the vehicle is manufactured.

Amend section 94509(a), title 17, CCR, to read as follows:

(Note: the Table of Standards shown below is a condensed version which displays only the consumer products categories where staff has suggested modifications.)

**Table of Standards
Percent Volatile Organic Compound by Weight**

Product Category	Effective Date ¹	VOC Standard ²
Air Fresheners*: double phase aerosols	1/1/93 <u>12/31/2004</u>	30 <u>20</u> <u>25</u>
----- single phase aerosols	1/1/93 1/1/96	70 30
----- dual purpose air fresheners/disinfectant aerosols	1/1/94	60
----- liquid/pump sprays	1/1/93	18
----- solids/gels	1/1/93	3
=====	=====	=====
* See sections 94510(f) and 94510(g) for exemptions that apply to certain air fresheners.		
Automotive Windshield Washer Fluids: Type "A" areas*	1/1/93	35
----- All other areas (all forms) <u>Dilutable and Pre-Mixed</u> ^{1/}	1/1/93 <u>12/31/2002</u>	10 <u>1</u> <u>after dilution</u> <u>as specified in</u> <u>section</u> <u>94509(b)(1)</u>
^{1/} See section 94508(a)(18), section 94508(a)(19), and section 94509(l) for provisions that apply to Automotive Windshield Washer Fluids.		
----- <u>Pre-Mixed</u>	<u>12/31/2002</u>	<u>1</u> <u>(as packaged</u> <u>in container)</u>
=====	=====	=====
* Type "A" areas include only the following: Del Norte, Shasta and Trinity Counties; the Great Basin Valley, Lake Tahoe, Mountain Counties, and Northeast Plateau Air Basins, as defined in Title 17, California Code of Regulations, Sections 60105, 60108, 60111, and 60113.		
General Purpose Cleaners (all forms) (aerosols and non-aerosols):	1/1/94	10
----- <u>non-aerosols (dilutables)</u>	<u>12/31/2004</u>	<u>1</u>
-----	-----	-----

non-aerosols (ready-to-use) <u>non-aerosols</u>	<u>12/31/2004</u>	3 <u>4</u>
General Purpose Degreasers: aerosols	1/1/2002	50
-----	-----	-----
non-aerosols non-aerosols (dilutables)	1/1/2001 <u>12/31/2004</u>	10 <u>1</u>
-----	-----	-----
--	1/1/2001	10
non-aerosols (ready-to-use) <u>non-aerosols</u>	<u>12/31/2004</u>	3 <u>4</u>
Glass Cleaners: aerosols	1/1/93	12
-----	-----	-----
all other forms <u>non-aerosols</u>	1/1/93	8
-----	1/1/96	6
-----	<u>12/31/2004</u>	<u>4</u>
-----	-----	-----
non-aerosols (dilutables)	<u>12/31/2004</u>	<u>1</u>
-----	-----	-----
non-aerosols (ready-to-use)	<u>12/31/2004</u>	<u>4</u>

Amend section 94509(b)(1), Title 17, CCR, to read as follows:

(b) *Products that are diluted prior to use*

- (1) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in subsection (a) shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection (b), “minimum recommended dilution” shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains. **The provisions of this subsection (b)(1) shall not apply to automotive windshield washer fluid products sold in containers with a capacity greater than one quart.**

Add subsection 94509(l) to read as follows:

- (l) Automotive Windshield Washer Fluids. The provisions of subsection 94509(b)(1) shall not apply to “Automotive Windshield Washer Fluid (Pre-Mixed)” as defined in section 94508(a)(19).

