

State of California
AIR RESOURCES BOARD

Resolution 06-42

November 17, 2006

Agenda Item No.: 06-10-8

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 Health and Safety Code section 41712, the Board has adopted the Regulation for Reducing VOC Emissions from Consumer Products (the "consumer products regulation"; title 17, California Code of Regulations (CCR), sections 94507-94517), and the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "aerosol coatings regulation"; title 17, CCR, sections 94520-94528);

WHEREAS, section 41712(d) of the Health and Safety Code requires the ARB to consider the effect regulations proposed for health benefit products will have on the efficacy of those products in killing or inactivating agents of infectious diseases, such as viruses, bacteria, and fungi, and the impact the regulations will have on the availability of health benefit products to California consumers;

WHEREAS, section 41712(e) of the Health and Safety Code requires that prior to adopting regulations governing health benefit products, the ARB shall consider any recommendations received from federal, state, or local public health agencies and medical experts in the field of public health;

WHEREAS, on November 15, 1994, the Board adopted the California State Implementation Plan for Ozone (SIP);

WHEREAS, achieving additional reductions from consumer products is an important element of the SIP and is necessary to attain State and federal air quality standards;

WHEREAS, on April 15, 2004, the United States Environmental Protection Agency designated 15 areas of California nonattainment for the new federal eight-hour ozone ambient air quality standard; California will need to achieve additional emission reductions beyond the existing one-hour ozone SIP targets in order to attain the more health-protective eight-hour ozone standard;

WHEREAS, staff has proposed amendments that will achieve about 9.4 tons per day statewide of VOC emission reductions from consumer products, and approximately 4 tons per day of emission reductions in the South Coast Air Basin by 2010;

WHEREAS, the proposed amendments would set 18 VOC limits affecting 15 product categories of consumer products to become effective on December 31, 2008, except the limits for "Floor Polish or Wax (for resilient flooring material)," "Floor Polish or Wax (for nonresilient flooring material)," and "Temporary Hair Color" products, which would become effective on December 31, 2010;

WHEREAS, the proposed amendments also include various modifications and clarifications to existing regulatory language, including amending several definitions and making various minor changes to correct errors or improve clarity;

WHEREAS, amendments are also proposed to the aerosol coatings regulation to clarify that several product categories are exempt from regulation under the aerosol coatings regulation;

WHEREAS, on July 13, 1989, October 12, 1990, and October 10, 1991, the Board identified methylene chloride (MeCl), trichloroethylene (TCE), and 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 proposed amendments would prohibit the use of MeCl, Perc, and TCE in four product categories: "Bathroom and Tile Cleaner"; "Construction, Panel, and Floor Covering Adhesive"; "General Purpose Cleaner"; and "Oven Cleaner";

WHEREAS, the Board has considered the impact of the proposed amendments 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, 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 VOC limits will reduce VOC emissions by about 9.4 tons per day statewide by the year 2010, which equates to a reduction of approximately 4.0 tons per day in the South Coast Air Basin by 2010;

The proposed amendments are authorized by California law and satisfy the requirements of section 41712 of the Health and Safety Code;

There exist adequate data to support the adoption of the proposed amendments and to establish that the amendments are necessary, and are commercially and technologically feasible;

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

The proposed amendments will not result in the elimination of a product form for any product category;

The economic impacts of the proposed 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 proposed amendments significantly reduce human health, safety, or environmental risks;

ARB staff has considered recommendations received from the California Department of Health Services and other commenters regarding health benefit products affected by the proposed amendments, as provided in Health and Safety Code section 41712(e);

The proposed amendments will not have an adverse impact on the efficacy or availability of health benefit products in California;

The cost-effectiveness of the regulatory amendments was considered, and the amendments as approved 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 proposed amendments which apply to businesses are necessary for the health, safety, and welfare of the people of the State; and

No reasonable alternative considered or that has otherwise been identified and brought to the attention of the ARB would be more effective in carrying out the purpose for which the amendments are proposed, or be as effective and less burdensome to affected private persons and businesses than the proposed amendments.

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

With the mitigation measures described below, the proposed amendments will not result in any significant adverse impacts on the environment, although there may be a slight, but not significant, increase in emissions of global warming compounds;

Although MeCl, Perc, and TCE are not currently used in Bathroom and Tile Cleaners, Construction, Panel, and Floor Covering Adhesives, General Purpose Cleaners, and Oven Cleaners, manufacturers could begin using these compounds in new formulations, in order to meet the proposed VOC standards for these product categories;

Adverse health and environmental impacts can occur from the use of MeCl, Perc, and TCE in these products, as described in the Initial Statement of Reasons, and mitigation measures are necessary and appropriate to prevent a potential increase in emissions of these toxic air contaminants;

The proposed amendments will eliminate an increase in emissions of MeCl, Perc, and TCE by prohibiting their use in Bathroom and Tile Cleaners; Construction, Panel, and Floor Covering Adhesives; General Purpose Cleaners; and Oven Cleaners;

No other feasible alternatives or mitigation measures would reduce the potential adverse environmental impacts from MeCl, Perc, and TCE use while at the same time providing the health benefits described in the Initial Statement of Reasons;

Suitable and effective alternative formulations that do not contain MeCl, Perc, and TCE are available for Bathroom and Tile Cleaners; Construction, Panel, and Floor Covering Adhesives; General Purpose Cleaners; and Oven Cleaners.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the adoption of the proposed amendments to sections 94507, 94508, 94509, 94510, 94511, 94512, 94513, 94514, 94515, 94516, 94517, 94523, title 17, CCR, as set forth in Attachment A, with the modifications set forth in Attachment B hereto.

BE IT FURTHER RESOLVED that the modifications set forth in Attachment B hereto reflect the Board's decision to specify an effective date of December 31, 2010 (instead of staff's proposed December 31, 2012, effective date) for the 10 percent VOC standards for Brake Cleaners, Carburetor or Fuel-injection Air Intake Cleaners, and General Purpose Degreasers (aerosols).

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take final action 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 she 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, and (2) identify any significant problems in achieving the limits and propose any future regulatory modifications that may be appropriate.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to perform a technical assessment of manufacturers' progress towards meeting the ten percent VOC limits for Brake Cleaners, Carburetor or Fuel-Injection Air Intake Cleaners, and General Purpose Degreasers (aerosols), at least eighteen months before the December 31, 2010, effective date of the limits.

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 are approved as a SIP revision.

I hereby certify that the above is a true and correct copy of Resolution 06-42, as adopted by the Air Resources Board.

/s/

Lori Andreoni, Clerk of the Board

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Amendments to the Consumer Products Regulation and the Aerosol Coatings Regulation, as set forth in Appendix B to the Initial Statement of Reasons, released September 29, 2006.

Attachment B: Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on November 17, 2006, with further modifications made by the Board to the effective dates for three consumer product categories).