

ATTACHMENT B

**PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED
AMENDMENTS TO THE CALIFORNIA CONSUMER PRODUCTS REGULATIONS**

Staff's Suggested Modifications to the Original Proposal

PRESENTED AT THE SEPTEMBER 24, 2009 HEARING
OF THE AIR RESOURCES BOARD

Note: Shown below are the staff's suggested modifications to the originally proposed regulatory text set forth in Appendix B to the Staff Report: Initial Statement of Reasons, released August 7, 2009. Only those portions containing the suggested modifications are included.

Comments and Suggested Modifications to the Original Proposal

This document is printed in a style to indicate changes from the originally proposed regulatory language. All originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Staff's suggested modifications to the original proposal are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. All proposed modifications will be made available to the public for a fifteen-day comment period prior to final adoption.

Suggested Modifications to section 94508, Definitions.

Staff is suggesting modifications to two of the definitions in section 94508: the definition for "Multi-purpose Solvent" (section 94508(a)(106)) and the newly proposed definition for "Paint Clean-up" (section 94508(a)(114)). The originally proposed language may create confusion because the "Multi-purpose Solvent" definition states that "Multi-purpose Solvent" excludes certain products "...which qualify under another definition in section 94508." Staff's original proposal was to add a new definition for "Paint Clean-up" to section 94508, but staff's intention is that such products are included in the "Multi-purpose Solvent" category, not excluded. To avoid confusion, staff is recommending that the definition of "Paint Clean-up" be deleted as separate definition in section 94508, and that all references to "Paint Clean-up products be instead placed within the definition of "Multi-purposed Solvent."

Modify title 17, California Code of Regulations (CCR), section 94508(a)(106) and (114) to read as follows:

(106)~~(102)~~"Multi-purpose Solvent" means:

- (A) for products manufactured before January 1, 2008: any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving

other organic materials. "Multi-purpose Solvent" includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. "Multi-purpose Solvent" does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

- (B) for products manufactured on or after January 1, 2008: any liquid product designed or labeled to be used for dispersing, ~~or dissolving,~~ or removing contaminants or other organic materials. "Multi-purpose Solvent" also includes: ~~(A)(1)~~ products that do not display specific use instructions on the product container or packaging, ~~(B)(2)~~ products that do not specify an end-use function or application on the product container or packaging, ~~and (C)(3)~~ solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories; (4) "Paint Clean-up" products, and (5) products labeled to prepare surfaces for painting. For the purposes of this definition only, "Paint clean-up" means any liquid product labeled for cleaning oil-based or water-based paint, lacquer, varnish, or related coatings from, but not limited to, painting equipment or tools, plastics, or metals. "Multi-purpose Solvent" does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines, solvents labeled exclusively for the clean-up of application equipment used for polyaspartic and polyurea coatings, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment. "Multi-purpose Solvent" also does not include any product making any representation that the product may be used as, or is suitable for use as a consumer product which qualifies under another definition in section 94508; such products are not Multi-purpose Solvents and are subject to the "Most Restrictive Limit" provision of section 94512.

~~(114) "Paint Clean up" means any liquid product labeled for cleaning oil-based or water-based paint, lacquer, varnish, or related coatings from, but not limited to, painting equipment or tools, plastics, or metals.~~

Note – See the last page in this Attachment B for additional proposed modifications to section 94508(a), Definitions, related to "Aromatic Compound."

Suggested Modifications to section 94512, Administrative Requirements.

1. The originally proposed amendments required the labeling of VOC content in percent by weight as determined from actual formulation data for Multi-purpose Solvents and Paint Thinners. Staff is concerned that this requirement may conflict with existing requirements of the local air districts, that certain size containers of VOC solvents must display the maximum VOC expressed in grams of VOC per liter of

material. Staff is therefore recommending that the originally proposed VOC labeling requirement be deleted. In future rulemakings, staff will consider whether a requirement for VOC content labeling should be applied more generally to some or all consumer products categories. Staff proposes the following modification to section 94512(e):

Modify title 17, CCR, section 94512(e) to read as follows:

(e) Additional Requirements for Multi-purpose Solvent and Paint Thinner.

~~(1) In addition to the requirements specified in section 94512(a), (b), and (c), both the manufacturer and responsible party for each Multi-purpose Solvent and Paint Thinner sold or offered for sale in areas of California outside the South Coast Air Quality Management District shall ensure that all products manufactured on or after the effective date for the category specified in section 94509(a), meet the following requirements:~~

~~(A) Each product container must clearly display the VOC content in percent by weight as determined from actual formulation data.~~

~~(B) The information required by this subsection 94512(e)(1), shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging.~~

~~(C) No person shall remove, alter, conceal, or deface the information required by this subsection 94512(e)(1) prior to final sale of the product.~~

2. It has been recommended that in addition to the options originally proposed for the labeling of flammable or extremely flammable Multi-purpose Solvents and Paint Thinners, manufacturers should also have the option to display the proposed language in a contrasting square or rectangle on the product label. It has also been recommended that requirements for font size be added, and that the required statements be expressed in Spanish as well as English. Staff agrees with the recommendations and is proposing the following modifications to section 94512(e):

Modify title 17, CCR, section 94512(e) to read as follows:

~~(1)(2)~~ In addition to the requirements specified in section 94512(a), (b), and (c), and (e)(1):

(A) Except as provided below in section 94512(e)(2)(1)(B), effective December 31, 2010, until December 31, 2015, no person shall sell, supply, offer for sale, or manufacture for use in California any “Flammable” or “Extremely Flammable” Multi-purpose Solvent or Paint

Thinner named, on the Principle Display Panel as “Paint Thinner,” “Multi-purpose Solvent,” “Clean-up Solvent,” or “Paint Clean-up.”

(B) Section 94512(e)(2)(1)(A) does not apply to products that meet any of the following criteria:

1. Products which include an attached “hang tag,” ~~or sticker,~~ or contrasting square or rectangular area on the Principle Display Panel that displays, at a minimum, the following statements: “Formulated to meet California VOC limits; see warnings on label: *Vea las advertencias en la etiqueta, formulado complacientes con leyes de California.*” in a font size as large as or larger than the signal word as specified in title 16, Code of Federal Regulations, section 1500.121.

2. Products where the Principle Display Panel displays, in English and Spanish and a font size as large as or larger than the font size of any other words on the panel, the common name of the chemical compound (e.g., “Acetone,” “Methyl acetate,” etc.) that results in the product meeting the criteria for “Flammable” or “Extremely Flammable.”

(C) For the purposes of this subsection (e)(2)(1), a product is “Flammable” or Extremely Flammable” if it is labeled as “Flammable” or “Extremely Flammable” on the product container, or if the product meets the criteria for these terms specified in title 16, Code of Federal Regulations, section 1500.3(c)(6).

Suggested Modifications to section 94515, Test Methods.

Staff is proposing the deletion of proposed section 94515(h)(1) because it is duplicative. The process outlined for determining VOC and GWP content is already specified in subsections 94515(a), (b), (c) and (g), and section 94515(h)(1) is therefore unnecessary. Further, it has been recommended that responsible parties and manufacturers should be allowed 30 working days, rather than 10 working days, to provide to the Executive Officer formulation data for products selected for compliance testing with the proposed aromatic compound content limit. Staff agrees and is proposing the following modifications to section 94515(h):

Modify title 17, CCR, section 94515(h) to read as follows:

(h) ~~VOC and~~ Aromatic compound content determination for Multi-purpose Solvent and Paint Thinner products using ARB Method 310.

~~(1) VOC content:~~

~~Testing to determine compliance with the requirements of this article, shall be performed using Air Resources Board Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997 and as last amended on [Date of Amendment], which is incorporated herein by reference. Alternative methods which are shown to accurately determine the concentration of VOCs in a subject product or its emissions may be used upon approval of the Executive Officer.~~

~~(2) Aromatic compound content:~~

~~Testing to determine aromatic compound content shall be conducted using ARB Method 310 in conjunction with product formulation data.~~

~~(1)(A) Upon written notification from the Executive Officer, the Multi-purpose Solvent or Paint Thinner responsible party or manufacturer shall have 40 30 working days to provide to the Executive Officer, in writing, formulation data as specified in part (A) (4) for products selected for compliance testing:~~

~~(A)(4) The weight fraction to the nearest 0.1 percent of each ingredient including: water, VOC, LVP-VOC, total inorganic compounds, and any compound specified in section 94508(a)(152). For hydrocarbon solvents the BIN number as listed in section 94701 (a) or (b), and the initial boiling point and dry point of the solvent shall be specified. Individual compounds present in an amount less than 0.1 percent by weight, are not required to be reported.~~

~~(B)(2) By March 1, 2010, and each year thereafter the responsible party shall provide to the Executive Officer contact information for the person who is to receive the letter.~~

~~(C)(3) For the purpose of this subsection a Material Safety Data Sheet does not meet the requirement for formulation data.~~

~~(2)(B) A violation is established if:~~

~~(A)(4) the formulation data supplied by the responsible party or manufacturer shows that the product does not meet the applicable VOC or aromatic content standard; and/or~~

~~(B)(2) the responsible party or manufacturer fails to respond to the notice and provide formulation data within the 40 30 working day specified time frame specified in this subsection.~~

Note – See the last page in this Attachment B for additional proposed modifications to section 94515(h), Test Methods.

Proposed modifications to section 94508(a), Definitions, related to the definition of “Aromatic Compound,” and proposed modifications to proposed section 94515(h) related to compliance testing for Aromatic Compound content in Multi-purpose Solvent and Paint Thinner products.

Staff has proposed a definition for “Aromatic Compound” in section 94508(a). This definition would be used to define the compounds that would be subject to the proposed limit of one percent by weight aromatic compound content specified in proposed section 94509(u). As proposed, “Aromatic Compound” means a VOC that contains one or more benzene or equivalent heterocyclic rings. It has come to staff’s attention that certain chemicals containing a benzene ring may be useful as emulsifiers or surfactants in reformulated “Paint Thinner” and “Multi-purpose Solvent” products. These compounds are likely large, low volatility compounds that are negligibly or non-reactive with respect to ozone formation. Staff intends to evaluate whether an allowance or exclusion for such compounds should be provided in the definition of “Aromatic Compound.” For example, staff would evaluate whether physical properties such as carbon number, initial boiling point, or some other chemical property could be used to further define the “Aromatic Compound” types subject to the one percent by weight aromatic compound content limit. The outcome of this evaluation may necessitate further modifications to the compliance testing procedures for aromatic compound content contained in proposed section 94515(h). Additional modifications to section 94515(h) may also be proposed to clarify what constitutes a violation of the aromatic compound content limit, and to further clarify the process for determining a violation. The text of all proposed modifications will be made available to the public for a fifteen-day comment period.