

**State of California
Office of Administrative Law**

In re:
Air Resources Board

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 17, California Code of Regulations

OAL File No. 2013-0315-03 S

Adopt sections:

Amend sections: 94508, 94509

Repeal sections:

This rulemaking action amends regulations related to the volatile organic compound (VOC) content of windshield washing fluid (WWF) so as to permit the sale of WWF with higher VOC content in areas of the state in which freezing occurs. The action also permits, but does not require, manufacturers of WWF to change their product labels to add instructions for consumers on how to dilute concentrated WWF to adapt to travel in regions of the state which experience freezing.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2013.

Date: 4/25/2013



Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Director

Original: James Goldstene
Copy: Trini Balcazar

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z_2012-0821-22	REGULATORY ACTION NUMBER 2013-0315-035	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED IN THE OFFICE OF

2013 APR 25 PM 2:46

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

2013 MAR 15 PM 1:08

OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
AIR RESOURCES BOARD

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Consumer Products 2012	TITLE(S) 17	FIRST SECTION AFFECTED 94508	2. REQUESTED PUBLICATION DATE August 31, 2012
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Trini Balcazar	TELEPHONE NUMBER (916) 445-9564	FAX NUMBER (Optional) (916) 322-3928
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2012, 35-Z	PUBLICATION DATE 8-31-2012	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Consumer Products 2012	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND 94508, and 94509		
TITLE(S) 17	REPEAL		
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) November 6, 2012 - November 21, 2012			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Trini Balcazar, Regulations Coordinator	TELEPHONE NUMBER (916) 445-9564	FAX NUMBER (Optional) (916) 322-3928	E-MAIL ADDRESS (Optional) tbalcaza@arb.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>James N. Goldstene</i>	DATE 3/15/2013
TYPED NAME AND TITLE OF SIGNATORY James N. Goldstene, Executive Officer	

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ENDORSED APPROVED

APR 25 2013

Office of Administrative Law

FINAL REGULATION ORDER
REGULATION FOR REDUCING EMISSIONS
FROM CONSUMER PRODUCTS

SUBCHAPTER 8.5 CONSUMER PRODUCTS

Note: The amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text. Portions of the regulation that are nonsubstantively changed with renumbering are indicated by [Nonsubstantive changes to indicate renumbering]. The symbol "*****" means that intervening text not being amended not shown.

Amend title 17, California Code of Regulation, sections 94508 and 94509 to read as follows:

Article 2. Consumer Products

§ 94508. Definitions.

(a) For the purpose of this article, the following definitions apply:

(20) "Automotive Windshield Washer Fluid (Dilutable)" means any liquid dilutable or premixed product that is designed or labeled for use in a motor vehicle windshield washer fluid system either as an anti-freeze or for the purpose of cleaning, washing, bug removal, or wetting the windshield(s). "Automotive Windshield Washer Fluid" does not include any fluid which is placed in a new motor vehicle at the time the vehicle is manufactured. which meets the following criteria:

~~(A) the product is sold either in a container with a capacity of 10 gallons or more, or a container with a capacity of one quart or less; and~~

~~(B) the product is designed or labeled for use in a motor vehicle windshield washer fluid system either 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.~~

For the purpose of complying with the requirements for "Automotive Windshield Washer Fluid," the following definitions (A-D) apply:

(A) "Dilutable" means any product sold either in a container with a capacity of 10 gallons or more, or a container with a capacity of one quart or less.

(B) "Nontype "A" area" means all other areas of California that are not a "Type A area."

(C) "Premixed" means any product sold in a container with a capacity that is greater than one quart, but less than 10 gallons.

(D) "Type "A" area" means:

1. Before July 1, 2013, the following regions of California: 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.

2. On and after July 1, 2013, the counties listed in Table 94508(a)(20)(A), and areas defined by ZIP codes listed in Table 94508(a)(20)(B) below:

~~(21) "Automotive Windshield Washer Fluid (Pre-mixed)" means a liquid 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 10 gallons; and~~

~~(B) the product is designed or labeled 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 (Pre-mixed)" does not include any fluid which is placed in a new motor vehicle at the time the vehicle is manufactured.~~

[Note: Table 94508(a)(20)(A) and (B) are new tables. For clarity, the tables are not shown in an underline font.]

Table 94508(a)(20)(A) Counties that are Type "A" Areas	
Air Basin	Counties
Great Basin Valleys	Alpine, Inyo, Mono
Lake Tahoe	El Dorado
Mountain Counties	Amador, Calaveras, El Dorado, Mariposa, Nevada, Plumas, Sierra, Tuolumne
Northeast Plateau	Lassen, Modoc, Siskiyou
North Coast	Del Norte, Trinity
Sacramento Valley	Shasta

Table 94508(a)(20)(B) Type "A" Areas Identified by ZIP Code					
County*	ZIP Code	County*	ZIP Code	County*	ZIP

					Code
Butte	95954	Placer	95703	San Bernardino	92315
Butte/Tehama	95942	Placer	95713	San Bernardino	92317
Fresno	00017	Placer	95714	San Bernardino	92321
Fresno	93621	Placer	95715	San Bernardino	92325
Fresno	93628	Placer	95717	San Bernardino	92339
Fresno	93664	Placer	95722	San Bernardino	92352
Fresno/Tulare	93633	Placer	95724	San Bernardino	92358
Glenn	00047	Placer	96140	San Bernardino	92382
Humboldt	00050	Placer	96141	San Bernardino	92385
Kern	00016	Placer	96142	San Bernardino	92397
Kern	93255	Placer	96143	San Diego	91962
Kern	93285	Placer	96145	Santa Barbara	00032
Kern/Ventura	93225	Placer	96146	Tehama	00037
Kern	93226	Placer	96148	Tehama	00038
Kern/Ventura/ Santa Barbara/ San Luis Obispo	93252	Placer	96161	Tehama	96063
Madera	00020	Placer	96162	Tulare	00026
Madera	93643	Riverside	92549	Tulare	93260
Madera	93644	Riverside	92561	Tulare	93262
Placer	95602 (portion)**	San Bernardino	91759	Tulare	93265
Placer	95603 (portion)**	San Bernardino	92256	Tulare	93271
Placer	95631 (portion)**	San Bernardino	92305		
Placer	95701	San Bernardino	92314		

* County name is provided as a point of reference only. Except as specified for ZIP codes 95602, 95603, and 95631, all portions of the identified ZIP codes are Type "A" areas.

** Only the portion of ZIP codes 95602, 95603, and 95631 that lie to the east of Range 9 east, Mount Diablo Baseline and Meridian.

§94508(a)(21) – (a)(159) [Nonsubstantive changes to indicate renumbering].

~~(96)~~~~(97)~~ "Lubricant" means:

(C) "Lubricant" includes the following subcategories (1-9):

1.~~(1)~~ "Anti-seize Lubricant" means any lubricant designed or labeled exclusively for use in high temperature or high pressure conditions to prevent moving metal parts from seizing or galling, and/or to facilitate disassembly of metal parts. A

lubricant that meets the definition for “Dry Lubricant” or “Firearm Lubricant” is not an “Anti-seize Lubricant.”

~~2.(2)~~ “Cutting or Tapping Oil” means any lubricant designed or labeled exclusively for drilling, cutting, or tapping metals.

~~3.(3)~~ “Dry Lubricant” means any lubricant which provides lubricity solely by depositing a thin film of solid material including, but not limited to, graphite, molybdenum disulfide (“moly”), polytetrafluoroethylene or closely related fluoropolymer (“teflon”), or boron nitride on surfaces.

~~4.(4)~~ “Firearm Lubricant” means any lubricant designed or labeled exclusively for use on firearms or their parts to lubricate and/or to provide corrosion or rust prevention.

~~5.(5)~~ “Gear, Chain, or Wire Lubricant” means any lubricant designed or labeled exclusively for use on gears, chains, or wire ropes.

~~6.(6)~~ “Multi-purpose Lubricant” means any lubricant designed or labeled for general purpose lubrication, or a lubricant labeled for use in a wide variety of applications. Products that meet the definition for “Anti-seize Lubricant,” “Cutting or Tapping Oil,” “Dry Lubricant,” “Firearm Lubricant,” “Gear, Chain, or Wire Lubricant,” “Penetrant,” “Rust Preventative or Rust Control Lubricant,” or “Silicone-based Multi-purpose Lubricant” are not “Multi-purpose Lubricants.”

~~7.(7)~~ “Penetrant” means a lubricant designed or labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. Lubricants that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts are not “Penetrant” products.

~~8.(8)~~ “Rust Preventative or Rust Control Lubricant” means any lubricant designed or labeled primarily for the prevention or control of rust. A Lubricant that meets the definition for “Firearm Lubricant” is not a “Rust Preventative or Rust Control Lubricant.”

~~9.(9)~~ “Silicone-based Multi-purpose Lubricant” means any lubricant which is designed or labeled for general lubrication or for use in a wide variety of applications, in which lubricity is primarily provided through the use of silicone compounds including, but not limited to, polydimethylsiloxane.

NOTE: Authority cited: Sections 38501, 38510, 38560, 38560.5, 38562, 38580, 39600, 39601 and 41712, Health and Safety Code. Reference: Sections 38501, 38510, 38560, 38560.5, 38562, 38580, 39002, 39600, 40000 and 41712, Health and Safety Code.

§ 94509. Standards for Consumer Products.

[Note: Only those parts of the Table of Standards proposed for amendment are shown.]

(a) Except as provided in Sections 94510 (Exemptions), 94511 (Innovative Products), 94514 (Variances), 94540 through 94555 (Alternative Control Plan), and 94567(a)(1) (Hairspray Credit Program), Title 17, California Code of Regulations, no person shall sell, supply, offer for sale, or manufacture for sale in California any consumer product which, at the time of sale or manufacture, contains volatile organic compounds in excess of the limits specified in the following Table of Standards after the specified effective dates.

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

Product Category	Effective Date ¹	VOC Standard ²
Automotive Windshield Washer Fluid <u> </u> *: Type "A" areas*	1/1/93 12/31/2008	35 25
=====	=====	=====
*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.		
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All other areas** <u>Nontype "A" areas</u>	1/1/93 12/31/2002	10 1
=====	=====	=====
**See section 94508(a)(20), section 94508(a)(21) , section 94509(b)(3), and section 94509(l) for provisions that apply to Automotive Windshield Washer Fluid.		

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

(3) For "Automotive Windshield Washer Fluids (Dilutable)" for which the front panel of the product label specifically states that the product should be diluted (e.g. identified as a "concentrate") prior to use;

(A) the VOC limits specified in section 94509(a) shall apply to the product only after the minimum recommended dilution has taken place;

(B) for the purpose of complying with the VOC limits specified in section 94509(a), different dilution instructions for “Type “A” areas” and Nontype “A” areas ~~other areas~~ of California may be specified on the product label if the dilution instructions meet the following criteria:

1. The instructions are readily visible, and
2. The instructions can be easily understood by the consumer, and
3. The instructions clearly specify the recommended dilutions ~~to that applies~~ in “Type “A” areas” and Nontype “A” areas ~~in other areas~~ of California, and

If the dilution instructions specified on the product label meet these criteria, the VOC limits specified in section 94509(a) shall apply to the product only after the minimum recommended dilution has taken place for the area in which the product is sold, supplied, or offered for sale.

(C) The dilution instructions on the product label may indicate that the consumer follow the dilution instructions for Type “A” areas if traveling during times when freezing temperatures are expected.

(4) For products sold in pump spray containers, the VOC limits specified in section 94509(a) shall apply to the product prior to any minimum recommended dilution.

NOTE: Authority cited: Sections 38500, 38501, 38510, 38560, 38560.5, 38562, 38580, 39600, 39601, 39650, 39658, 39659, 39666 and 41712, Health and Safety Code. Reference: Sections 38505, 39002, 39600, 39650, 39655, 39656, 39658, 39659, 39666, 40000 and 41712, Health and Safety Code.