

State of California
AIR RESOURCES BOARD

Final Statement of Reasons for Rulemaking,
Including Summary of Comments and Agency Responses

PUBLIC HEARING TO CONSIDER
ADOPTION OF PROPOSED AMENDMENTS TO
THE CALIFORNIA REGULATION FOR REDUCING EMISSIONS
FROM CONSUMER PRODUCTS PERTAINING TO
AUTOMOTIVE WINDSHIELD WASHER FLUID PRODUCTS

Hearing Date: October 18, 2012
Agenda Item No. 12-7-2

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I. INTRODUCTION

On October 18, 2012, the Air Resources Board (the "Board" or "ARB") conducted a public hearing to consider amendments to the California Consumer Products Regulation, sections 94507-94517, title 17, California Code of Regulations (CCR). The amendments modify regulatory provisions pertaining to Automotive Windshield Washer Fluid (AWWF) products by expanding the areas (termed Type "A") where higher volatile organic compound (VOC) content ready-to-use AWWF products may be offered for sale. Type "A" areas are regions of the State where freezing temperatures are common and higher VOC AWWF products are needed to prevent the AWWF from freezing. The amendments also clarify that concentrated AWWF products may contain language advising consumers to dilute the product to Type "A" specifications if traveling when freezing temperatures are expected.

An Initial Statement of Reasons for Proposed Rulemaking (ISOR or staff report) entitled "Proposed Amendments to the California Regulation for Reducing Emissions from Consumer Products Pertaining to Automotive Windshield Washer Fluid Products," along with the references relied upon and identified in the staff report, were made available to the public on August 29, 2012. The ISOR, which is incorporated by reference herein, contained a description of the rationale for the proposed amendments. This Final Statement of Reasons for Rulemaking (FSOR) updates the ISOR by identifying and explaining the modification that was made to the original proposal. The FSOR also summarizes the written and oral comments received during the rulemaking process, and contains the ARB's responses to those comments.

After receiving written and oral comments at the hearing, the Board adopted Resolution 12-32, which initiated steps toward final adoption of the proposed amendments. In accordance with Government Code section 11346.8(c),

Resolution 12-32 directed the Executive Officer to adopt the regulations after making the regulatory language available for a 15-day public comment period.

As defined in Government Code section 11345.5(a)(6), the Board has determined that this regulatory action will not create costs or savings to any State agency, or affect federal funding to the State. The Board has also determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the State pursuant to Part 7 (commencing with section 17500), Division 4, title 2 of the Government Code.

Compliance with Section 11346.9 (a)(5) of the Government Code

For the reasons set forth in the Staff Report, in staff's comments and responses at the hearing, and in this FSOR, the Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective as and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board.

II. MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL

Table 94508(a)(20)(B) of section 94508(a) was modified to add ZIP code 92325 for the community of Crestline in San Bernardino County to the areas defined as Type "A." This ZIP code was inadvertently omitted during drafting of the originally proposed amendments. The modified proposal was made available for a 15-day comment period, beginning November 6, 2012.

III. SUMMARY OF COMMENTS MADE DURING THE 45-DAY AND 15-DAY COMMENT PERIODS AND AGENCY RESPONSES

A. List of Commenters

The tables below identify the comments received during the 45-day and 15-day comment periods that presented an objection or recommendation specifically directed towards the regulation or the procedures followed. The tables provide a correlation between (1) the abbreviation used in this Section III to refer to a comment letter or testimony; and (2) the name of the person(s) signing the comment letter or presenting the testimony.

1. 45-Day Comments

Commenter Abbreviation	Commenter
ASPA	Sean R. Moore, Automotive Specialty Products Alliance Written testimony: October 16, 2012

CCA	Bill Magavern, Coalition for Clean Air Oral testimony: October 18, 2012
CAWA/AAIA1	Norman Plotkin, California Wholesaler's Association and Automotive Aftermarket Industry Association Written testimony: October 18, 2012
CAWA/AAIA2	Norman Plotkin, California Wholesaler's Association and Automotive Aftermarket Industry Association Oral testimony: October 18, 2012
CSPA1	D. Douglas Fratz, Consumer Specialty Products Association Written testimony: October 15, 2012
CSPA2	Nicole Quinonez, Consumer Specialty Products Association Oral testimony: October 18, 2012

2. 15-Day Comments

Commenter Abbreviation	Commenter
CSPA3	D. Douglas Fratz, Consumer Specialty Products Association Written testimony: November 20, 2012

B. Comments and Agency Responses

1. 45-Day Comments

- B-1. Comment:** ARB's proposed modification to the definition of the AWWF product category enhances the overall clarity of the applicable regulatory requirements. CSPA strongly supports ARB's proposal to consolidate all definitions pertaining to the AWWF in a single modified definition. This modification will enhance the overall clarity of the definition for this particular product category. (CSPA1)
- B-2. Comment:** The modified definition of the AWWF product category in ARB's proposal improves the clarity of the applicable requirements. ASPA strongly supports ARB's proposal to consolidate all definitions pertaining to the AWWF category in a single modified definition. (ASPA)
- B-3. Comment:** The current description of Type "A" area lists: (1) specific air basins that are defined in other sections of the California Code of Regulations, or (2) entire counties. The current reference to specified air basins is *not* readily comprehensible. Therefore we support ARB's proposal to include the names of the counties that comprise the air basins in the Type "A" area. (CSPA1, ASPA)
- B-4. Comment:** We support ARB's proposal to use the U.S. Postal Service's ZIP codes to identify the freezing regions of the State that are being added to the Type "A" area. (CSPA1, ASPA)

- B-5. Comment:** ARB’s proposed modifications will promote public safety by expanding Type “A” area to include other parts of the state that routinely experience freezing temperatures. The use of freeze-resistant pre-mixed (*i.e.* ready-to-use) AWWF products enables drivers to maintain clear vision that is necessary to safely operate vehicles. By expanding the “Type A” area to include narrowly-defined additional parts of the State (identified by ZIP codes) that routinely experience freezing, ARB will promote public safety by ensuring that drivers will be able to use freeze-resistant AWWF products. (CSPA1)
- B-6. Comment:** ARB’s proposed modifications will promote public safety by including additional parts of the State which routinely experience freezing temperatures in the Type “A” area. The use of freeze-resistant pre-mixed (*i.e.* ready-to-use) AWWF products enables drivers to maintain clear vision during the winter months when drivers in colder areas of the State must routinely contend with ice, snow, freezing rain and road spray on their windshields. Expanding the Type “A” area to include narrowly-defined additional parts of the State (identified by ZIP codes) that routinely experience freezing, ARB will ensure drivers will be able to use freeze-resistant AWWF products to maintain the clear vision necessary to safely operate their vehicles in freezing conditions – a boon to public safety. (ASPA)
- B-7. Comment:** ARB’s proposed modification to the labeling requirements for dilutable products (*i.e.*, concentrated) AWWF products will improve safety for drivers who occasionally travel to areas of the State that experience freezing temperatures. We support this proposed revision since it will allow manufacturers to provide instructions on product labels that clearly communicate the fact that drivers may legally mix dilutable AWWF to a specified level and thereby ensure that the product will not freeze in the vehicle’s windshield washer reservoir. (CSPA1, ASPA)
- B-8. Comment:** We support CARB staff proposal to redefine Type “A” areas by adding definitions to section 94508(a) for Type “A” and Nontype “A” areas as well as including a table of added ZIP codes in the definition of Type “A” areas. This will assist our members in identifying those areas in the State where windshield wiper fluid is allowed to be sold as well as provide our members in the expanded Type “A” area the ability to offer for sale ready-to-use AWWF with a 25 percent VOC content. (CAWA/AAIA1)
- B-9. Comment:** We support staff recommendations to allow dilutable (concentrated) AWWF products to be sold statewide with the caveat that those products must include dilution language for Type “A” and Nontype “A” areas. We understand the proposal would clarify that labeling instructions may include language to inform the consumer to dilute the product for Type “A” areas if traveling to these areas in the winter. (CAWA/AAIA1)

- B-10. Comment:** The ZIP code we believe is a very reasonable approach, something that was well understood and that we can implement and we can incorporate into our distribution processes, and so we want to recognize that. It's a common sense solution. (CAWA/AAIA2)
- B-11. Comment:** The dilution approach we believe also recognizes both human behavior and the realities. We believe this is a win-win solution. We thank you for your time and effort and the staff's outreach to us. So, once again, we're here in support. (CAWA/AAIA2)
- B-12. Comment:** CSPA supports the proposed modifications to the regulatory requirements for the windshield wiper fluid product category for the following reasons: The proposed modification to the definition of the windshield wiper fluid product category enhances the overall clarity of the applicable regulatory requirements. The modifications will promote public safety by expanding Type "A" area to include other parts of the State that routinely experience freezing temperatures. And the proposed modifications to the labeling requirements for concentrated windshield wiper fluid products will improve safety for drivers who occasionally travel to areas of the State that experience freezing temperatures. In conclusion, CSPA appreciates the opportunity to participate in the ARB's open and transparent process to develop the proposed modifications to regulatory requirements related to the windshield wiper fluid. (CSPA2)

Agency Response to Comments B-1 through B-12: Comments noted. At the October 18, 2012, hearing, the Board approved staff's proposal with the staff's suggested modification.

- B-13. Comment:** We have no problem with the amendments that are proposed today, and just want to make sure that the Board and staff are making sure that the increase -- the small increase in VOC emissions that is projected is kept to that very small amount and it doesn't grow beyond that. (CCA)

Agency Response: Comment noted. Staff crafted the proposal to ensure that any emissions increases are kept to a minimum by using ZIP codes to define discrete areas where higher VOC content AWWF products are needed to provide freeze protection.

2. 15-Day Comments

- B-14. Comment:** CSPA supports the inclusion of an additional ZIP code in San Bernardino County to the Type "A" area listed in Table 94508(a)(20)(B). As noted during the Board's public hearing, this particular area of San Bernardino County experiences freezing temperatures during the winter months. Thus, the modification will further enhance public safety by eliminating potentially hazardous conditions that could occur if: (1) the AWWF froze in the residents' automobile windshield washer reservoirs; or (2) froze when applied to the windshield while residents are driving. (CSPA3)

Agency Response: Comment noted. At its October 18, 2012, hearing, the Board approved staff's proposal with the suggested modification to include an additional ZIP code to Type "A" areas.