

UPDATED INFORMATIVE DIGEST

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

Sections Affected: Amendments to sections 94508 and 94509 title 17, California Code of Regulations (CCR).

Background:

Section 41712 of the California Health and Safety Code requires the Air Resources Board (ARB or Board) to achieve the maximum feasible reduction in volatile organic compound (VOC) emissions from consumer products. As part of the regulatory process, ARB must determine that adequate data exist for it to adopt the regulations. ARB must also determine that the regulations are technologically and commercially feasible, and necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form. Section 41712 is primarily directed at attaining the State and federal ozone standards.

Pursuant to Health and Safety Code section 41712, ARB has adopted the Regulation for Reducing VOC Emissions from Consumer Products (the "Consumer Products Regulation", title 17, CCR, sections 94507-94517). The regulation has been amended numerous times to adopt VOC limits for over 100 different product categories. These limits have reduced VOC emissions from consumer products by about 50 percent. Most recently, in November 2010, the Board approved and subsequently adopted new or lower VOC limits for 11 product categories. When fully effective, these amendments will result in VOC emission reductions of about 7 tons per day. About 6.7 tons per day of these reductions were realized at the end of 2012, with the remaining reductions occurring at the end of 2013.

Automotive Windshield Washer Fluid (AWWF) products were first regulated under "Phase I" of the Consumer Products Regulation adopted in October of 1990. The regulation set VOC limits for AWWF products based upon areas where they are sold. At that time, it was acknowledged that areas experiencing freezing temperatures (termed Type "A" areas) during the winter months require products with higher VOC content to prevent the fluid from freezing. To address this need, the Board adopted a VOC limit of 35 percent by weight for Type "A" areas and a 10 percent by weight VOC limit for all other areas of the State. The limits became effective in 1993. Subsequent amendments lowered the VOC limit from 10 to 1 percent by weight for areas outside of Type "A," effective December 2002. In 2008, a 25 percent by weight VOC limit became

effective in Type “A” areas. Overall, VOC emissions from AWWF products have been reduced by over 25 tons per day.

AWWF products are sold as both ready-to-use (premixed) products and dilutable concentrated products. Premixed products make up the majority of the market. In Type “A” areas premixed products can be sold with a VOC content of up to 25 percent by weight, while in all other areas of the State premixed products must contain no more than 1 percent by weight VOC. Dilutable products may be sold in all areas of the State as long as the product labels include clear dilution instructions for Type “A” and all other areas.

Description of Adopted Regulatory Action:

On October 18, 2012, ARB approved for adoption amendments to the existing Consumer Products Regulation. These amendments redefine Type “A” areas because the existing description did not include some areas that routinely experience freezing temperatures in the winter. The areas added to Type “A” are mountainous areas of the following counties: Butte, Fresno, Glenn, Humboldt, Kern, Madera, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tehama, Tulare, and Ventura. The adopted amendments also add one area to the existing Type “A” areas within Placer County.

The effect of including these new areas in Type “A” is to allow, but not require, the sale of premixed AWWF with a VOC content of up to 25 percent by weight, rather than the current 1 percent by weight product.

The new areas are described by ZIP codes. ZIP codes are easily understood and succinctly identify the areas added to Type “A,” while minimizing the emissions impacts. The amendments also clarify the existing Type “A” areas by listing these areas by county name rather than by air basin.

In addition, the amendments allow additional instructions to be included on the labels of concentrated products. Responsible Parties may include, along with the currently required dilution instructions, language advising consumers to dilute the product for Type “A” specifications if traveling to areas where freezing temperatures are expected.

Consumers should benefit from the adopted amendments by having access to AWWF products that provide freeze protection, and by having clear language on the labels of concentrated products indicating that these products can be diluted for Type “A” areas, regardless of their location, when traveling to areas where freezing temperatures are expected.

Because premixed AWWF products with a 25 percent by weight VOC content may be sold in the new Type “A” areas, the amendments result in a small increase in VOC emissions. Staff estimates the statewide VOC emission increase to be about 0.12 tons per day. However, the estimated statewide VOC reduction of 6.7 tons per day from

VOC limits adopted as part of the 2010 rulemaking for consumer products, which became effective at the end of 2012, more than offsets the small increase in VOC emissions from this proposal. Thus, overall VOC emissions from consumer products will continue to decline

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) has promulgated a national consumer products rule under section 183(e) of the federal Clean Air Act: *National Volatile Organic Compound Emission Standards for Consumer Products*. (40 CFR Part 59, subpart C, sections 59.201 *et seq.*) The rule specifies VOC limits for a number of consumer product categories, and is similar in format to ARB's Consumer Products Regulation.

Although the national regulation is similar in many aspects to the California regulation, it does not include a number of product categories that are currently regulated under the ARB regulation. For the categories that are regulated under both rules, many of ARB's limits are more stringent than the U.S. EPA's limits. Such is the case for the AWWF category. The national VOC limit is 35 percent by weight for all areas whether freezing temperatures exist or not. Because California has unique air quality problems, reducing VOC emissions from all categories, including consumer products, to the maximum extent feasible is necessary to attain the federal and State ambient air quality standards for ozone.

The U.S. EPA's rule also differs from ARB's regulation in that it applies nationwide to consumer product manufacturers, importers and distributors (but not retailers), while the ARB regulation applies to any person (including retailers) who "sells, supplies, offers for sale, or manufactures consumer products for use in the State of California." Finally, the U.S. EPA's rule has an unlimited "sell-through" period for noncomplying products manufactured before the effective date of the limits, whereas California law limits the sell-through period to three years.

Changes to Underlying Laws: None

Changes to the Effect of the Regulation: None

Changes to the Proposed Regulation since the Publication of the Notice:

Staff proposed, and the Board approved, one modification to the originally proposed amendments. 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.