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VIA E-MAIL

California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Amendments To The Control Measure For Perchloroethylene Dry Cleaning Operations January 25, 2007 Hearing

Dear Board Members:

We represent the Northern California Korean Dry Cleaners' Association, which represents small drycleaners who would be directly affected by the proposed revised ATCM for perchloroethylene ("perc") emissions from drycleaners, set for public hearing on January 25 in Sacramento. We believe that the proposed ATCM as currently written will have a devastating impact on the Association's member's ability to continue in business. We submit these comments on behalf of the Association, which also speaks for Korean dry cleaners' associations statewide for purposes of the January 25 hearing.

There are several legal problems with proceeding with the proposed amendments. We summarize the most troubling of those problems here.

1. Failure To Adequately Consider The Impact On Small, Family-Owned Businesses. There is no question that the proposed ATCM will drive hundreds if not thousands of small, family-owned and sole proprietor dry cleaning businesses throughout the state into bankruptcy or out of business altogether. Since an estimated 70% of small dry cleaners in California are owned and operated by families of Korean descent, this ATCM will have a disproportionate impact on our clients' members.

The Board's initial statement of reasons for the proposed ATCM must describe any reasonable alternatives that would lessen any adverse impact on small businesses, and the reasons for rejecting those alternatives. Cal. Gov. Code § 11346.2(b)(3)(B). The Board's reasons in this regard seem to assume that these small businesses would pass their increased costs to their customers. We believe the Board fails to consider that many small dry cleaners will not be able to afford the capital expenditure necessary to change machines to begin with and

simply go out of business. Others may lose business to larger operations that can absorb the additional capital costs without raising prices. The Board does not seem to consider or explain the reasons for rejecting any proposed alternatives that would specifically lessen the adverse economic impact on small dry cleaners in particular. *See*, Cal. Gov. Code § 11346.9(a)(5).

Government Code section 11346.5(a)(13) requires that the Board determine that no reasonable alternative considered by the agency or brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. We submit that this determination has not been made, and allowing use of more efficient, cleaner machines for a longer period of time than contemplated by the proposed ATCM would be more effective and far less burdensome on small Korean dry cleaners.

2. Failure To Consider Improved Technology Of Perc Dry Cleaning Machines. One of the factors that the Board must consider in adopting an ATCM is "recent technological improvements or other actions which emitting sources have implemented or taken in the recent past to reduce emissions." Cal. Health & Safety Code § 39665(b)(4). Similarly, when considering what is the best available technology, or the need for a "more effective control method," the Board must consider whether "an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health." Cal. Health & Safety Code § 39666(c). The safe and efficient technology developed in the latest generations of perc dry cleaning machines does not seem to have been considered by the Board. The Association submits that the perceived need to reduce perc emissions could be achieved simply by replacing older generation machines with the latest and best perc machines currently available on the market.

3. Failure To Consider The Potentially Hazardous Nature Of Alternatives. Another factor the Board must consider is the "availability, suitability, and relative efficacy of substitute compounds of a less hazardous nature." Cal. Health & Safety Code § 39665(b)(6). As you probably know, hydrocarbon-based "VOC" machines are the most popular replacement for perc machines. While there are other alternatives, as a practical matter, the proposed ATCM would result in a significant increase in the number of VOC machines installed throughout the state. The Board does not appear to consider the hazards presented by these machines; nor is there any guarantee that having switched to VOC machines, small dry cleaners will not be facing another ban in the near future.

4. Failure To Postpone The Hearing To Accommodate Those Most Impacted By The Proposed ATCM. The Association has requested that the Board continue the January 25 hearing until such time as the numerous members of the Association can be contacted and informed of the proposed ATCM and its potentially devastating impact on their businesses. California Government Code section 11346.8(b) specifically authorizes postponement of a public hearing. Here, the Association's members are more often than not unsophisticated, family-run small businesses with limited electronic communications and overwhelming work loads. Word of the proposed ATCM change travels by word-of-mouth, such as at monthly dry cleaner association meetings. Additionally, these small business owners have to plan long in advance to arrange store coverage to allow them to travel to Sacramento and attend a public

meeting. At this time the Association is extremely concerned that the majority of its members are not even aware of the coming changes, let alone have the ability to submit comments or attend the hearing. This puts into question whether the Associations' members' rights to due process are being disregarded, thus tainting the legitimacy of the hearing process itself.

Thank you for your consideration of the foregoing issues. We urge the Board to adopt the proposed ATCM only with amendments proposed by the Association and its members that will ease the heavy, disproportionate burden it will have on small dry cleaners.

Very truly yours,

Geoffrey H. Yost

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cc: Lawrence Lim, Northern California Korean Dry Cleaners' Association (by e-mail)
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