

State of California  
AIR RESOURCES BOARD

Resolution 06-42

November 17, 2006

Agenda Item No.: 06-10-8

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 41712 of the Health and Safety Code requires the Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds (VOCs) emitted by consumer products, if the Board determines that adequate data exists for it to adopt the regulations, and if the regulations are technologically and commercially feasible and necessary;

WHEREAS, pursuant to Health and Safety Code section 41712, the Board has adopted the Regulation for Reducing VOC Emissions from Consumer Products (the "consumer products regulation"; title 17, California Code of Regulations (CCR), sections 94507-94517), and the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "aerosol coatings regulation"; title 17, CCR, sections 94520-94528);

WHEREAS, section 41712(d) of the Health and Safety Code requires the ARB to consider the effect regulations proposed for health benefit products will have on the efficacy of those products in killing or inactivating agents of infectious diseases, such as viruses, bacteria, and fungi, and the impact the regulations will have on the availability of health benefit products to California consumers;

WHEREAS, section 41712(e) of the Health and Safety Code requires that prior to adopting regulations governing health benefit products, the ARB shall consider any recommendations received from federal, state, or local public health agencies and medical experts in the field of public health;

WHEREAS, on November 15, 1994, the Board adopted the California State Implementation Plan for Ozone (SIP);

WHEREAS, achieving additional reductions from consumer products is an important element of the SIP and is necessary to attain State and federal air quality standards;

WHEREAS, on April 15, 2004, the United States Environmental Protection Agency designated 15 areas of California nonattainment for the new federal eight-hour ozone ambient air quality standard; California will need to achieve additional emission reductions beyond the existing one-hour ozone SIP targets in order to attain the more health-protective eight-hour ozone standard;

WHEREAS, staff has proposed amendments that will achieve about 9.4 tons per day statewide of VOC emission reductions from consumer products, and approximately 4 tons per day of emission reductions in the South Coast Air Basin by 2010;

WHEREAS, the proposed amendments would set 18 VOC limits affecting 15 product categories of consumer products to become effective on December 31, 2008, except the limits for "Floor Polish or Wax (for resilient flooring material)," "Floor Polish or Wax (for nonresilient flooring material)," and "Temporary Hair Color" products, which would become effective on December 31, 2010;

WHEREAS, the proposed amendments also include various modifications and clarifications to existing regulatory language, including amending several definitions and making various minor changes to correct errors or improve clarity;

WHEREAS, amendments are also proposed to the aerosol coatings regulation to clarify that several product categories are exempt from regulation under the aerosol coatings regulation;

WHEREAS, on July 13, 1989, October 12, 1990, and October 10, 1991, the Board identified methylene chloride (MeCl), trichloroethylene (TCE), and perchloroethylene (Perc), respectively as toxic air contaminants, pursuant to article 3 (commencing with section 39660), chapter 3.5, part 2, division 26 of the Health and Safety Code;

WHEREAS, the proposed amendments would prohibit the use of MeCl, Perc, and TCE in four product categories: "Bathroom and Tile Cleaner"; "Construction, Panel, and Floor Covering Adhesive"; "General Purpose Cleaner"; and "Oven Cleaner";

WHEREAS, the Board has considered the impact of the proposed amendments on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, the Board staff has consulted with the U.S. EPA regarding consumer product regulations promulgated by other state and local governments as provided in section 183(e) of the federal Clean Air Act;

WHEREAS, the Board finds that:

The proposed VOC limits will reduce VOC emissions by about 9.4 tons per day statewide by the year 2010, which equates to a reduction of approximately 4.0 tons per day in the South Coast Air Basin by 2010;

The proposed amendments are authorized by California law and satisfy the requirements of section 41712 of the Health and Safety Code;

There exist adequate data to support the adoption of the proposed amendments and to establish that the amendments are necessary, and are commercially and technologically feasible;

The proposed amendments are necessary to attain and maintain the state and federal ambient air quality standards, and to help fulfill California's SIP commitments to achieve emission reductions from consumer products;

The proposed standards are technologically and commercially feasible for each of the regulated consumer product categories;

The proposed amendments will not result in the elimination of a product form for any product category;

The economic impacts of the proposed amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons;

The proposed amendments significantly reduce human health, safety, or environmental risks;

ARB staff has considered recommendations received from the California Department of Health Services and other commenters regarding health benefit products affected by the proposed amendments, as provided in Health and Safety Code section 41712(e);

The proposed amendments will not have an adverse impact on the efficacy or availability of health benefit products in California;

The cost-effectiveness of the regulatory amendments was considered, and the amendments as approved are cost-effective;

The benefits to human health, public safety, public welfare, or the environment justify the costs of the regulatory amendments;

The reporting requirements of the proposed amendments which apply to businesses are necessary for the health, safety, and welfare of the people of the State; and

No reasonable alternative considered or that has otherwise been identified and brought to the attention of the ARB would be more effective in carrying out the purpose for which the amendments are proposed, or be as effective and less burdensome to affected private persons and businesses than the proposed amendments.

WHEREAS, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, the Board further finds that:

With the mitigation measures described below, the proposed amendments will not result in any significant adverse impacts on the environment, although there may be a slight, but not significant, increase in emissions of global warming compounds;

Although MeCl, Perc, and TCE are not currently used in Bathroom and Tile Cleaners, Construction, Panel, and Floor Covering Adhesives, General Purpose Cleaners, and Oven Cleaners, manufacturers could begin using these compounds in new formulations, in order to meet the proposed VOC standards for these product categories;

Adverse health and environmental impacts can occur from the use of MeCl, Perc, and TCE in these products, as described in the Initial Statement of Reasons, and mitigation measures are necessary and appropriate to prevent a potential increase in emissions of these toxic air contaminants;

The proposed amendments will eliminate an increase in emissions of MeCl, Perc, and TCE by prohibiting their use in Bathroom and Tile Cleaners; Construction, Panel, and Floor Covering Adhesives; General Purpose Cleaners; and Oven Cleaners;

No other feasible alternatives or mitigation measures would reduce the potential adverse environmental impacts from MeCl, Perc, and TCE use while at the same time providing the health benefits described in the Initial Statement of Reasons;

Suitable and effective alternative formulations that do not contain MeCl, Perc, and TCE are available for Bathroom and Tile Cleaners; Construction, Panel, and Floor Covering Adhesives; General Purpose Cleaners; and Oven Cleaners.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the adoption of the proposed amendments to sections 94507, 94508, 94509, 94510, 94511, 94512, 94513, 94514, 94515, 94516, 94517, 94523, title 17, CCR, as set forth in Attachment A, with the modifications set forth in Attachment B hereto.

BE IT FURTHER RESOLVED that the modifications set forth in Attachment B hereto reflect the Board's decision to specify an effective date of December 31, 2010 (instead of staff's proposed December 31, 2012, effective date) for the 10 percent VOC standards for Brake Cleaners, Carburetor or Fuel-injection Air Intake Cleaners, and General Purpose Degreasers (aerosols).

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take final action to adopt the amendments set forth in Attachment A, with the modifications set forth in Attachment B and such other conforming modifications as may be appropriate, after making the modified regulatory language and any additional supporting documents and information available to the public for a period of 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make modifications as appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if she determines that this is warranted after review of the comments.

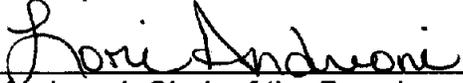
BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take the following actions: (1) monitor the progress of manufacturers in meeting the VOC limits, and (2) identify any significant problems in achieving the limits and propose any future regulatory modifications that may be appropriate.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to perform a technical assessment of manufacturers' progress towards meeting the ten percent VOC limits for Brake Cleaners, Carburetor or Fuel-Injection Air Intake Cleaners, and General Purpose Degreasers (aerosols), at least eighteen months before the December 31, 2010, effective date of the limits.

BE IT FURTHER RESOLVED that, following approval of the amendments by the Office of Administrative Law, the Board directs the Executive Officer to submit the amendments to the U.S. EPA for inclusion in the SIP.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to include in the SIP revision any additional documentation identified as necessary for approval under the federal Clean Air Act and U.S. EPA regulations, and to work with the U.S. EPA to ensure that the amendments are approved as a SIP revision.

I hereby certify that the above is a true and correct copy of Resolution 06-42, as adopted by the Air Resources Board.

  
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Lori Andreoni, Clerk of the Board

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RESOURCES AGENCY OF CALIFORNIA

Resolution 06-42

November 17, 2006

**Identification of Attachments to the Board Resolution**

**Attachment A:** Proposed Amendments to the Consumer Products Regulation and the Aerosol Coatings Regulation, as set forth in Appendix B to the Initial Statement of Reasons, released September 29, 2006.

**Attachment B:** Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on November 17, 2006, with further modifications made by the Board to the effective dates for three consumer product categories).

**Attachment B to Resolution 06-42**

FOR CONSIDERATION BY THE AIR RESOURCES BOARD AT THE  
PUBLIC HEARING ON THE PROPOSED AMENDMENTS  
TO THE CALIFORNIA CONSUMER PRODUCTS REGULATION  
AND THE AEROSOL COATINGS REGULATION

November 17, 2006

Staff's Suggested Modifications to the Original Proposal

Note: This attachment shows the modifications to the originally proposed amendments that were approved by the Air Resources Board (Board) on November 17, 2006. This attachment is identical to the one distributed at the November 17, 2006 hearing except that the effective dates for three consumer product categories have been changed. The three categories are: Brake Cleaners, Carburetor or Fuel-injection Air Intake Cleaners, and General Purpose Degreasers (aerosols). At the Board hearing staff proposed a 10 percent VOC standard for these three categories, effective December 31, 2012, but the Board decided to approve a 10 percent VOC standard with an effective date of December 31, 2010. This attachment reflects the Board's decision.

Only those portions containing the approved modifications are included. The originally proposed regulatory language is shown in underline, and the text to be removed is shown in ~~strikeout~~. The modifications 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.

***Amend section 94508(a), title 17, California Code of Regulations, to read as follows:***

- (39) "Disinfectant" means any product ~~intended~~ that is labeled to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.). "Disinfectant" does not include any of the following: (A) products ~~designed~~ labeled solely for use on humans or animals, (B) products ~~designed~~ labeled solely for agricultural use, (C) products ~~designed~~ labeled solely for use in swimming pools, therapeutic

tubs, or hot tubs, (D) products, which are (1) sold exclusively to medical or veterinary establishments, and (2) are labeled to be used on heat sensitive critical, or semi-critical medical devices, or medical equipment surfaces prior to high level disinfection, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes and (E) products, which are subject to a VOC standard under another regulated category in section 94509(a), as dictated by the primary use indicated on the principal display panel pre-moistened wipe or towelette products sold exclusively to medical or veterinary establishments.

(46) "Electronic Cleaner" means a product labeled for the removal of dirt, moisture, dust, flux, or oxides from the internal components of electronic or precision equipment such as circuit boards, and the internal components of electronic devices, including but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers. Electronic Cleaner does not include "General Purpose Cleaner," "General Purpose Degreaser," "Dusting Aid," "Pressurized Gas Duster," "Engine Degreaser," "Electrical Cleaner," "Energized Electrical Cleaner," "Anti-Static Product," ~~or~~ or products designed to clean the casings or housings of electronic equipment, or products that are (A) sold exclusively to establishments which manufacture or construct goods or commodities, and (B) labeled "not for retail sale."

(978) "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 organic liquid product designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning or dispersing or dissolving or removing contaminants or other organic materials. "Multi-purpose Solvent" includes (A) products that do not display specific use instructions on the product container or packaging, (B) products that do not specify an end-use function or application on the product container or

packaging, and (C) solvents used in institutional facilities, except 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. "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 a definition in section 94508; such products are not Multi-purpose solvents and are subject to the "Most Restrictive Limit" provision of section 94512.

(123) "Sanitizer" means any product that is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. section 136 et seq.) and is labeled to reduce, but not necessarily eliminate, microorganisms in the air, on surfaces, or on inanimate objects. "Sanitizer" includes food contact and non-food contact products. "Sanitizer" does not include (A) "Disinfectant," (B) products labeled solely for use on humans or animals, (C) products labeled solely for agricultural use, and (D) products, which are subject to a VOC standard under another regulated category in section 94509(a), as dictated by the primary use indicated on the principal display panel, pre-moistened wipe or towelette products sold exclusively to medical or veterinary establishments.

*Note - See the last page in this Attachment B for additional proposed modifications to the definitions of "Disinfectant" and "Sanitizer."*

Amend the Table of Standards set forth in section 94509(a), title 17, California Code of Regulations, to read as follows:

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

Product Category	Effective Date <sup>1</sup>	VOC Standard <sup>2</sup>
<u>Brake Cleaners</u>	<u>1/1/97</u> <u>12/31/2002</u> <u>12/31/2008</u> <u>12/31/2010</u>	<u>50</u> <u>45</u> <del><u>40</u></del> <u>20</u> <u>10</u>
Carburetor or Fuel-injection Air Intake Cleaners **	1/1/95 12/31/2002 12/31/2008 12/31/2010	75 45 <del>40</del> 20 10
=====	=====	=====
** See section 94509(k) for the effective date of the VOC limit for <u>Carburetor or Fuel-injection Air Intake Cleaners</u> .		
Electronic Cleaner*	12/31/200 <u>6</u> <u>7</u>	75
=====	=====	=====
[* See sections <u>94509(m)</u> and <u>94512(d)</u> for additional requirements that apply to <u>Electrical Cleaners</u> .]		
Engine Degreasers:	1/1/93 1/1/96	75 50
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aerosols	12/31/2004 12/31/200 <u>8</u> <u>10</u>	35 10
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non-aerosols	12/31/2004	5

*Proposed Modifications to the definition of "Rubber and Vinyl Protectant,"  
("Rubber/Vinyl Protectant") in the Consumer Products Regulation and section  
94523 (Exemptions) in the Aerosol Coatings Regulation*

The Consumer Products Regulation contains a definition of "Rubber and Vinyl Protectant" that was approved by the ARB in 1997. This definition was intended to include tire protectants (e.g. tire dressings, tire shines, tire coatings, etc.). Due to a drafting error, however, the definitional language did not clearly state that tire protectants which protected only rubber surfaces (as opposed to rubber and vinyl surfaces) were considered to be "Rubber and Vinyl Protectants." There was also ambiguity in the Aerosol Coatings Regulation about whether some rubber and vinyl protectants and fabric protectants might be regulated as "aerosol coatings" under this regulation.

The proposed amendments released on September 29, 2006, were designed to clearly specify that tire protectants are "Rubber and Vinyl Protectants" regulated under the Consumer Products Regulation and are not aerosol coatings regulated under the Aerosol Coatings Regulation. The proposed amendments were also designed to eliminate any overlap between the two regulations so that an individual product would be subject to either the Consumer Products Regulation or the Aerosol Coatings Regulation, but not both.

Since the proposed amendments were released to the public, staff has become aware that additional modifications may be needed to further improve clarity. For some products it may still be unclear whether they are subject to the Consumer Products Regulation or the Aerosol Coatings Regulation, and other products may be inappropriately categorized as "rubber and vinyl protectants" instead of "aerosol coatings" regulated under the Aerosol Coatings Regulation. Staff intends to work with the regulated community to explore modified language that would eliminate any remaining overlap between the two regulations and insure that all products are properly categorized. The text of all proposed modifications will be made available to the public for a fifteen-day comment period.

*Proposed Modifications to the definitions of "Disinfectant" and "Sanitizer," and section 94512(a) (Most Restrictive Limit provision) in the Consumer Products Regulation*

The existing Consumer Products Regulation contains a definition of "Disinfectant." Staff's proposal released on September 29, 2006, included proposed amendments to the definition of "Disinfectant" and a new proposed definition for "Sanitizer." Because disinfectants and sanitizers are health benefit products, staff has consulted with the California Department of Health Services (DHS) to ensure these products maintain their current level of efficacy. Staff is proposing additional modification to the definitions of "Disinfectant" and "Sanitizer." These modifications are set forth in the first two pages of Attachment B.

In addition, staff has become aware that further modifications to the definitions, or the proposed limit for non-aerosol disinfectants and sanitizers, may be needed to ensure that public health is not compromised. For example, staff is evaluating whether an exclusion for all wipe/towelette products is appropriate, or whether the exclusion should be limited to medical end-use wipe/towelette products only. Staff also intends to work with the regulated community and DHS to further evaluate whether an exclusion for other specialized non-aerosol disinfectants and sanitizers is appropriate to ensure efficacy.

Additionally, staff is aware that some other currently regulated categories, including, but not limited to, "Bathroom and Tile Cleaner" and "Fabric Refreshers" may also make disinfecting or sanitizing claims. Because of these claims, staff is evaluating whether a modification to the most restrictive limit provision contained in section 94512(a), or other definitional changes, are appropriate to ensure that these products are regulated as intended rather than as Disinfectants or Sanitizers. The text of all proposed modifications will be made available to the public for a fifteen-day comment period.

**State of California  
Environmental Protection Agency  
AIR RESOURCES BOARD**

**Notice of Decision and  
Response to Significant Environmental Issues**

Item: California Consumer Products Regulations

Approved By: Resolution 06-42

Adopted by: Executive Order R-07-008

Agenda Item: 06-10-8

Public Hearing Date: November 17, 2006

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental issues pertaining to this item. The Staff Report identified no adverse environmental effects.

Response: N/A

Certified: *Trini Balcazar*  
Trini Balcazar, Regulations Coordinator

Date: September 18, 2007

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