State of California
AIR RESOURCES BOARD

CALIFORNIA CONSUMER PRODUCTS REGULATION PERTAINING TO AUTOMOTIVE WINDSHIELD WASHER FLUID PRODUCTS

Resolution 12-32

October 18, 2012

Agenda Item No.: 12-7-2

WHEREAS, Health and Safety Code sections 39600 and 39601 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, Health and Safety Code section 41712 requires the Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds (VOC) emitted by consumer products, if the Board determines that adequate data exist 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 Emissions from Consumer Products (the "Consumer Products Regulation;" title 17, California Code of Regulations (CCR), sections 94507-94517);

WHEREAS, on October 11, 1990, the Board approved adoption of provisions for Automotive Windshield Washer Fluid to maximize VOC emission reductions by setting a VOC standard of 35 percent by weight for products offered for sale in areas that routinely experience freezing temperatures, termed Type "A," because the higher VOC content is necessary to prevent the fluid from freezing, and by setting a VOC standard of 10 percent by weight for "all other areas," and these limits became effective on January 1, 1993;

WHEREAS, Type "A" areas were defined as Del Norte, Shasta and Trinity counties, and the Great Basin Valleys, Northeast Plateau, Mountain Counties, and Lake Tahoe Air Basins;

WHEREAS, on October 28, 1999, the Board approved adoption of amendments pertaining to Automotive Windshield Washer Fluid to lower the VOC standard for "all other areas" from 10 percent by weight to 1 percent by weight, and these amendments became effective December 31, 2002;

WHEREAS, on June 24, 2004, the Board approved adoption of amendments to the Consumer Products regulation to establish labeling provisions that allow dilutable

(concentrated) Automotive Windshield Washer Fluid products to be sold statewide provided that dilution instructions clearly specify the dilutions that apply for Type "A" areas and "all other areas," and those instructions are readily visible and understood;

WHEREAS, on November 17, 2006, the Board approved adoption of amendments pertaining to Automotive Windshield Washer Fluid to lower the VOC standard for Type "A" areas from 35 percent by weight to 25 percent by weight, and these amendments became effective December 31, 2008;

WHEREAS, on November 18, 2010, the Board approved adoption of VOC standards for several consumer products categories that result in a statewide VOC emissions decrease of 6.7 tons per day beginning on December 31, 2012, with further reductions occurring at the end of 2013;

WHEREAS, the proposed amendments would identify additional Type "A" areas in mountainous regions of Butte, Fresno, Glenn, Humboldt, Kern, Madera, Riverside, San Bernardino, San Diego, Santa Barbara, San Luis Obispo, Tehama, Tulare, and Ventura Counties, and these areas would be identified by ZIP code;

WHEREAS, the proposed amendments would allow, but not require, Automotive Windshield Washer Fluid with up to 25 percent by weight VOC content to be offered for sale in regions proposed to be added to the Type "A" areas;

WHEREAS, the proposed amendments would identify the existing Type "A" areas by county instead of air basin and the portions of Placer County that are Type "A" areas would be identified by ZIP code;

WHEREAS, the proposed amendments would allow labeling on concentrated (dilutable) Automotive Windshield Washer Fluid products to advise consumers to dilute the products to Type "A" specifications if traveling during times when freezing temperatures are expected;

WHEREAS, the proposed amendments would reorganize the definitions for Automotive Windshield Washer Fluid (Dilutable) and Automotive Windshield Washer Fluid (Premixed) into a single definition;

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 proposed amendments would become effective upon approval of the amendments by the Office of Administrative Law and upon filing with the Secretary of State;

WHEREAS, the proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income;
WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as

originally proposed if feasible alternatives or mitigation measures are available to eliminate or substantially lessen such impacts, or if any remaining significant impacts found to be unavoidable are found to be acceptable due to overriding considerations;

WHEREAS, Public Resources Code section 21080.5 allows public agencies with regulatory programs to prepare a plan or other written document in lieu of an environmental impact report or negative declaration once the Secretary of the Resources Agency has certified the regulatory program;

WHEREAS, that portion of the ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations has been certified by the Secretary of Resources Agency (CEQA Guidelines, section 15251(d));

WHEREAS, in accordance with ARB's certified regulatory program at title 17, CCR, section 60005 (b), and the policy and substantive requirements of CEQA, as part of the Staff Report, ARB staff has prepared an assessment of the potential for significant adverse and beneficial environmental impacts associated with proposed amendments and a succinct analysis of those impacts;

WHEREAS, the environmental analysis found that the amendments will not result any significant adverse impacts on the environment; The analysis found that the proposed amendments would result in a loss of VOC emissions reductions by 0.12 tons per day, but this loss of emissions benefits is offset by VOC reductions occurring from standards for other consumer product categories that are realized beginning December 31, 2012;

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 United States Environmental Protection Agency (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 amendments are authorized by California law and satisfy the requirements of section 41712 of the Health and Safety Code;

It is appropriate to add to Type "A" areas mountainous regions of Butte, Fresno, Glenn, Humboldt, Kern, Madera, Riverside, San Bernardino, San Diego, Santa Barbara, San Luis Obispo, Tehama, Tulare, and Ventura Counties, because these areas routinely experience freezing temperatures during the winter months, and in these areas allow the sale of a higher VOC content Premixed Automotive Windshield Washer Fluid to help prevent hazardous driving conditions;
It is appropriate to identify the areas being added to Type "A" by ZIP code to make it easy to understand the areas being added;

Adding areas to Type "A" allows Premixed Automotive Windshield Washer Fluid products with up to 25 percent by weight VOC content to be offered for sale in these areas;

It is appropriate to identify existing Type "A" areas by county rather than by air basin and identify the portions of Placer County that are Type "A" areas by ZIP code to make it easier to identify the areas where Premixed Automotive Windshield Washer Fluid products with higher VOC content are allowed to be sold; and

Modifications to the labeling requirements for dilutable (concentrated) Automotive Windshield Washer Fluid products to allow labels to include advisory language that the product may be diluted to Type "A" specifications if traveling during times when freezing temperatures are expected, are appropriate and a benefit to public safety.

WHEREAS, in consideration of the Initial Statement of Reasons, written comments, and public testimony it has received, the Board further finds that:

On the basis of the whole record, including the environmental analysis and comments received, there is no substantial evidence that the amendments will result in any significant adverse impacts on the environment; Although the amendments result in a small loss in VOC emission benefits, consumer product VOC emissions will continue to decline compared to current conditions due to other VOC limits adopted by the Board; Furthermore, future planned ARB rulemakings will more than offset the small loss in VOC emissions benefits.

The Executive Officer is the decision maker for the purposes of title 17, CCR, section 60007, and no final decision will be made until comments on the environmental analysis are fully considered and the written responses are approved;

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 cost-effectiveness of the proposed amendments was considered;

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

The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income; and

No reasonable alternative considered or that has otherwise been identified and brought to the attention of the Board 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.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the proposed amendments to sections 94508 and 94509, title 17, CCR, as set forth in Attachment A hereto, with the modifications described in Attachment B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt sections 94508 and 94509, title 17, CCR, after making the modified regulatory language, with such other conforming modifications as may be appropriate, available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modifications as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED that the Executive Officer, as the final decision maker for the purposes of title 17, CCR section 60007, shall consider all comments raising significant environmental issues, and if appropriate, conduct any further environmental analysis as required for a regulatory program certified under Public Resource Code section 21080.5, consider any modifications to the regulation to incorporate all feasible mitigation or alternatives that could eliminate or substantially lessen any significant adverse environmental impacts that may be identified, and approve the written responses to comments raising significant environmental issues prior to taking final action to adopt the regulatory amendments.

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 State Implementation Plan (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 12-32, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Manager, Office of Legal Affairs

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October 18, 2012

Identification of Attachments to the Board Resolution

Attachment A: Proposed Amendments to the Consumer Products Regulation, as set forth in Appendix A to the Initial Statement of Reasons, released August 29, 2012.

Attachment B: Staff's Suggested Modifications to the Original Proposal, presented at the October 18, 2012 public hearing.