State of California
AIR RESOURCES BOARD

Resolution 09-51

September 24, 2009

Agenda Item No.: 09-8-4

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, sections 94507-94517);

WHEREAS, the Board has also adopted test Method 310, "Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products;"

WHEREAS, the Legislature has enacted the California Global Warming Solutions Act of 2006 (Health and Safety Code section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California, and creates a comprehensive multi-year program to reduce greenhouse gas emissions that cause global warming;

WHEREAS, Health and Safety Code section 38510 designates ARB as the State agency charged with monitoring and regulating sources of greenhouse gases that cause global warming in order to reduce these emissions;

WHEREAS, on April 15, 2004, the United States Environmental Protection Agency (U.S. EPA) designated 15 areas of California nonattainment for the federal ambient air quality standard for ozone of 0.08 parts per million averaged over eight hours;

WHEREAS, on September 25, 2007, ARB adopted the State Strategy for California's State Implementation Plan (SIP), which sets forth ARB's plan to attain the federal ozone standard;

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

WHEREAS, staff has proposed amendments that, when fully implemented, will achieve about 14.7 tons per day of VOC emission reductions from consumer products;

WHEREAS, the proposed amendments would set a lower VOC limit for Double Phase Aerosol Air Freshener, which would become effective on December 31, 2012, and would establish two tiers of new VOC limits for Multi-purpose Solvent and Paint Thinner which would become effective on December 31, 2010, and December 31, 2013, respectively;

WHEREAS, the proposed amendments would prohibit the use of compounds with a global warming potential (GWP) value above 150 in three product categories: Double Phase Aerosol Air Freshener, Multi-purpose Solvent, and Paint Thinner;

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

WHEREAS, staff has also proposed various amendments to modify and update Method 310, including updates to test method citations and equations specified for the calculation of VOC content;

WHEREAS, the Board has identified methylene chloride (MeCl), trichloroethylene (TCE), and perchloroethylene (Perc), 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 the product categories of Multi-purpose Solvent and Paint Thinner;

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 Board is committed to evaluating community impacts of proposed regulations, including environmental justice concerns;

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 amendments to reduce VOC emissions are authorized by California law and satisfy the requirements of Health and Safety Code section 41712;

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 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 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 limits will reduce VOC emissions by about 14.7 tons per day in 2013;

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 has been considered;

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

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

The proposed amendments are consistent with ARB's environmental justice policies and equally benefit residents of any race, culture, or income;
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 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 (which are part of the proposed amendments), the proposed amendments will not result in any significant adverse impacts on the environment;

Prohibiting compounds with a GWP value above 150 for Double Phase Aerosol Air Freshener, Multi-purpose Solvent, and Paint Thinner products will ensure that manufacturers do not begin using high-GWP compounds in products that are reformulated to meet the proposed VOC standards;

Setting a one percent aromatic compound content limit for Multi-purpose Solvent and Paint Thinner products will ensure that the expected reductions in ozone forming potential will occur as products are reformulated to meet the proposed VOC standards for these product categories;

Requiring specific labeling for certain Multi-purpose Solvent and Paint Thinner products will alert consumers of a potential change in product formulation which could present a fire hazard if used improperly;

Adverse health and environmental impacts could occur from the use of MeCl, Perc, and TCE in Multi-purpose Solvents and Paint Thinners, and mitigation measures are necessary and appropriate to prevent a potential increase in emissions of these toxic air contaminants;

Prohibiting MeCl, Perc, and TCE in Multi-purpose Solvents and Paint Thinners will ensure that manufacturers do not begin using these compounds in products that are reformulated to meet the proposed VOC standards for these product categories; and

Suitable and effective alternative formulations that do not contain MeCl, Perc, and TCE are available for the categories of Multi-purpose Solvent and Paint Thinner.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the adoption of the proposed amendments to sections 94508, 94509, 94510, 94511, 94512, 94513, and 94515, title 17, California Code of Regulations, and the proposed amendments to ARB Method 310, as set forth in Attachment A, with the modifications set forth in Attachment B hereto.

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 the Executive Officer determines that this is warranted.

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 three percent VOC limits for Multi-purpose Solvents and Paint Thinners, commencing June 30, 2012. The technical assessment will include an evaluation of the air quality impact of implementing the future three percent by weight VOC limit combined with the one percent by weight VOC aromatic compound limit. In addition, the data collected will enable staff to determine whether a reactivity-based approach to regulating these products would be more appropriate than a mass-based approach.

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; provided, however, that the Executive Officer shall delay submitting the future three percent VOC limit for Multi-purpose Solvents and Paint Thinners until after the completion of the technical assessment, and staff's determination of whether a reactivity-based approach to regulating these products would be more appropriate than a mass-based approach.

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 09-51, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

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September 24, 2009

Identification of Attachments to the Board Resolution

Attachment A: Proposed Amendments to the Regulation for Reducing Emissions from Consumer Products and Proposed Amendments to Test Method 310, as set forth in Appendix B to the Initial Statement of Reasons, released August 7, 2009.

Attachment B: Staff's Suggested Modifications to the Original Proposal (distributed at the Board hearing on September 24, 2009).