

State of California
AIR RESOURCES BOARD

Resolution 98-55

November 19, 1998

Agenda Item No.: 98-13-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the "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 directs the Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds (VOCs) emitted from 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 section 41712 of the Health and Safety Code, the Board has adopted the Regulation for Reducing VOC Emissions from Antiperspirants and Deodorants (title 17, California Code of Regulations (CCR), sections 94500-94506; the "antiperspirant and deodorant regulation"), which was approved on November 8, 1989;

WHEREAS, pursuant to section 41712 of the Health and Safety Code, the Board has adopted the Regulation for Reducing VOC Emissions from Consumer Products (title 17, CCR, sections 94507-94517; the "consumer products regulation"), which was adopted in three phases; Phase I was approved on October 11, 1990, Phase II was approved on January 9, 1992, and Phase III was approved on July 24, 1997;

WHEREAS, section 41712(i) of the Health and Safety Code requires the Board, on or before January 1, 1995, to adopt a regulation that achieves the maximum feasible reduction in VOCs emitted from the use of aerosol paints (aerosol coatings);

WHEREAS, section 41712(a) of the Health and Safety Code defines the "maximum feasible reduction" in emissions from aerosol coatings as at least a sixty percent reduction from the 1989 baseline year, including acetone emissions in that baseline year;

WHEREAS, to fulfill the requirements of section 41712 of the Health and Safety Code, on March 23, 1995, the Board adopted the Regulation for Reducing VOC Emissions from Aerosol Coatings (title 17, CCR, sections 94520-94528; the "aerosol coatings regulation"), which establishes VOC limits for 35 categories of aerosol coatings;

WHEREAS, the aerosol coatings regulation specifies VOC limits that are scheduled to become effective on December 31, 1999; these limits would result in a sixty percent reduction from the 1989 baseline emissions;

WHEREAS, section 41712(i)(3) of the Health and Safety Code requires the Board to hold a public hearing by December 31, 1998, on the technological or commercial feasibility of achieving full compliance with the final VOC limits by December 31, 1999;

WHEREAS, section 41712 allows the Board to extend the effective date of the final VOC limits by not more than five years, if the Board determines that a sixty percent reduction in emissions is not technologically or commercially feasible;

WHEREAS, section 41712 specifies that during any such extension of time, the most stringent interim VOC limits are to apply;

WHEREAS, the staff has evaluated the feasibility of the December 31, 1999, VOC limits, and has concluded that twelve of the 1999 limits are not technologically or commercially feasible, even with the maximum allowable five-year extension; that eleven of the 1999 limits do not represent the most stringent feasible limits and staff has proposed more stringent limits for these categories; and the effective date of all of the final VOC limits should be extended until January 1, 2002;

WHEREAS, the U.S. Environmental Protection Agency has exempted methyl acetate from the federal VOC definition (63 FR 17331);

WHEREAS, the Eastman Chemical Company has petitioned the Board to exempt methyl acetate from the VOC definitions in the Board's regulations;

WHEREAS, the California Environmental Quality Act (CEQA) 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 finds that:

Twelve of the existing December 31, 1999, VOC limits are not technologically or commercially feasible, even with the maximum allowable five-year extension;

Eleven of the existing December 31, 1999, VOC limits do not represent the most stringent

feasible limits;

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

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

The proposed amendments are necessary to attain and maintain the state and federal ambient air quality standards;

The proposed VOC limits are technologically and commercially feasible for each of the 35 categories of aerosol coatings;

It is appropriate to extend the final compliance date until January 1, 2002;

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;

It is appropriate to exempt methyl acetate from the VOC definitions in the Board's regulations because of its relatively low reactivity;

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

No adverse environmental impacts will result from exempting methyl acetate from the VOC definitions in the aerosol coatings regulation, the consumer products regulation, and the antiperspirant and deodorant regulation;

Adverse environmental impacts may result from amending the December 31, 1999, VOC limits in the aerosol coatings regulation, in that the amendments will result in less emission reductions (approximately 3.2 tons per day statewide), when compared to the emission reductions that would be achieved in the future from implementing the currently specified December 31, 1999, VOC limits;

Revised VOC limits and a two-year extension of the December 31, 1999, effective date in the aerosol coatings regulation are necessary to develop technologically and commercially viable products, avert disruption of the aerosol coatings market, and ensure that

acceptable aerosol coatings will continue to be available to consumers;

The considerations identified above override any adverse environmental impacts that may occur as a result of achieving less VOC reductions from aerosol coatings; and

No other feasible alternatives or mitigation measures would reduce the potential adverse environmental impacts while at the same time providing the benefits described above.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the proposed amendments to sections 94501, 94508, 94521, 94522 and 94524, title 17, CCR, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue working with all interested parties to develop a voluntary, reactivity-based regulation for aerosol coatings, and to return to the Board no later than December 31, 1999, with a proposed regulation.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to evaluate emerging technologies for aerosol coatings to determine if additional emission reductions can be achieved before 2005, and to return to the Board with proposed regulatory limits if such limits are technologically and commercially feasible.

BE IT FURTHER RESOLVED that if the Executive Officer determines that additional emission reductions from aerosol coatings are not feasible before 2005, the Board directs the Executive Officer to develop substitute enforceable measures to deliver the emission reductions needed to meet rate-of-progress and attainment milestones identified in the State Implementation Plan.

I hereby certify that the above is a true and correct copy of Resolution 98-55, as adopted by the Air Resources Board.

Pat Hutchens, Clerk of the Board

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Identification of Attachment to the Board Resolution

Attachment A: Proposed amendments to the Consumer Products Regulation, the Antiperspirant and Deodorant Regulation and the Aerosol Coatings Regulation, sections 94501, 94508, 95421, 95422 and 94524, title 17, California Code of Regulations, as set forth in Appendix A to the Initial Statement of Reasons.