State of California
AIR RESOURCES BOARD

Resolution 00-15

May 25, 2000

Agenda Item No.: 00-5-1

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 section 41712 of the Health and Safety Code, the Board has adopted the Regulation for Reducing VOC Emissions from Consumer Products (title 17, California Code of Regulations (CCR), sections 94507-94517; the "consumer products regulation");

WHEREAS, the consumer products regulation includes two tiers of VOC limits for aerosol adhesives: a VOC limit of 75 percent by weight, effective January 1, 1997, and a VOC limit of 25 percent by weight, which is to become effective on January 1, 2002;

WHEREAS, section 41712(h)(3) of the Health and Safety Code requires the ARB to prepare a study and conduct a public hearing, on or before July 1, 2000, on the need for, and the feasibility of, establishing a more stringent standard or standards for aerosol adhesives;

WHEREAS, section 41712(h)(3) of the Health and Safety Code further specifies that if the Board finds that more stringent limits for aerosol adhesives are expected to become feasible, the Board shall adopt a standard or standards to implement these more stringent VOC limits; at a minimum, these standards must constitute "best available retrofit control technology;"

WHEREAS, section 40406 of the Health and Safety Code defines "best available retrofit control technology" as an emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of source;

WHEREAS, the staff has evaluated the need for, and the feasibility of, establishing a more stringent standard or standards for aerosol adhesives, and has concluded that it is feasible to establish more stringent standards than the existing 75% VOC standard; staff has also concluded that the future effective 25% VOC standard is not technologically or commercially feasible;

WHEREAS, based on the ARB staff's technical evaluation, the staff has proposed to eliminate the 25% VOC limit and amend the consumer products regulation to specify new VOC limits for three aerosol adhesives categories. (One category is further divided into seven subcategories);

WHEREAS, the ARB staff has concluded that the proposed new VOC limits for aerosol adhesives are the most stringent limits that are currently feasible and constitute best available retrofit control technology as defined in section 40406 of the Health and Safety Code;

WHEREAS, on July 13, 1989, October 12, 1990, and October 10, 1991, the Board identified methylene chloride (MeCl), trichloroethylene (TCE), 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 Board determined there is not sufficient available scientific evidence to support identification of threshold exposure levels for methylene chloride, TCE, and Perc below which no significant adverse health effects are anticipated (see title 17, CCR, section 93000);

WHEREAS, sections 39658 and 39666 of the Health and Safety Code authorize the Board to establish airborne toxic control measures (ATCMs) for substances identified as toxic air contaminants in accordance with specified criteria;

WHEREAS, for toxic air contaminants for which the Board has not specified a threshold exposure level, section 39666 of the Health and Safety Code requires ATCMs to be designed to reduce emissions to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, considering factors specified in section 39665, unless the Board determines, based on assessment of risk, that an alternative level of emissions reduction is adequate or necessary to prevent an endangerment of public health;

WHEREAS, staff has worked with the air pollution control districts and air quality management districts (districts), the affected industry, and the public, as required by Health and Safety Code section 39665, to prepare a report on the need for, and appropriate degree of, control of these toxic air contaminants;

WHEREAS, the Staff Report: Initial Statement of Reasons for the Proposed Amendments to the California Consumer Products Regulation Relating to Aerosol Adhesives (staff report), including Appendix G of the staff report, released on April 7, 2000, constitutes the report required under Health and Safety Code section 39665;

WHEREAS, the staff report addresses, to the extent data could reasonably be made available, the factors specified in Health and Safety Code section 39665(b);

WHEREAS, in accordance with Health and Safety Code section 39665(c), the staff report and relevant comments received during public consultation with the districts, affected sources, and the public were made available for public review and comment 45 days prior to the public hearing to consider the proposed amendments;

WHEREAS, staff has performed risk evaluations of methylene chloride, TCE, and Perc emissions from aerosol adhesives activities and has determined that there is risk to public health from the use of these compounds in aerosol adhesives, and because there are other consumer and industrial products and processes that use these toxic compounds, the cumulative exposure and risks from those sources may be significant;

WHEREAS, in order to reduce emissions of methylene chloride, TCE, and Perc from aerosol adhesives, staff has proposed amendments that would prohibit the use of these toxic air contaminants in aerosol adhesives manufactured for use in California, effective January 1, 2002;

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 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 finds that:

VOC limits more stringent than the currently specified 75% limit are feasible for aerosol adhesives; however, the 25% VOC limit, which is to become effective on January 1, 2002, is not technologically or commercially feasible;

It is appropriate to eliminate the 25% VOC limit and amend the consumer products regulation to specify new VOC limits for three aerosol adhesives categories (with one category further divided into seven subcategories);

The VOC limits proposed for these categories and subcategories will reduce VOC emissions by about 0.2 tons per day statewide by the year 2002, as compared to the emissions resulting from the existing 75% VOC limit;

The proposed VOC limits for aerosol adhesives are the most stringent limits that are currently feasible and constitute best available retrofit control technology as defined in section 40406 of the Health and Safety Code;

The proposed amendments would not fully implement all district plans adopted pursuant to section 40910 of the Health and Safety Code (California Clean Air Act Plans), since these plans assume that emission reductions would be achieved from implementing a 25% VOC standard for aerosol adhesives; however, a 25% VOC standard for aerosol adhesives is not achievable;

The amendments to the consumer products regulation are authorized by California law and satisfy the requirements of section 41712 of the Health and Safety Code;

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

Adequate data exists to establish that the amendments are necessary and fulfill the requirements of Health and Safety Code section 41712;

The standards are technologically and commercially feasible, and the amendments will not result in the elimination of a product form for any product category;

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

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

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

Adverse environmental impacts may result from the amendments in that the amendments will result in less emission reductions (approximately 1 ton per day statewide), when compared to the emission reductions that would be achieved in the future from implementing the currently specified January 1, 2002, VOC limit;

Revised VOC limits are necessary to develop technologically and commercially feasible products, avert disruption of the aerosol adhesives market, and ensure that acceptable aerosol adhesives will continue to be available to consumers and industrial users;

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

WHEREAS, with regard to the proposed prohibition on the use of methylene chloride, TCE, and Perc in aerosol adhesives, and in consideration of the staff report and the written comments and public testimony it has received, the Board further finds that:

In accordance with Health and Safety Code section 39666(c), the amendments have been designed, in consideration of the factors specified in Health and Safety Code section 39665(b), to reduce emissions of methylene chloride, TCE, and Perc to the lowest levels achievable through application of BACT;

The amendments would reduce methylene chloride, TCE, and Perc emissions from aerosol adhesives in California by approximately 18 tons per year and would reduce ambient levels of methylene chloride, TCE, and Perc, which would achieve both near-source and overall statewide risk reduction benefits;

If the use of these compounds were not prohibited, emissions of methylene chloride and Perc from aerosol adhesives could increase;

Suitable alternative formulations of aerosol adhesives are available that do not use methylene chloride, TCE, or Perc; and

No alternative considered would be more effective at carrying out the purpose for which the amendments are proposed, or be as effective and less burdensome to the affected private persons and businesses than the amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed amendments to sections 94508, 94509, 94512, and 94513, title 17, California Code of Regulations, as set forth in Attachments A and B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer 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 he determines that this is warranted after review of the comments.

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 to the consumer products regulation are approved as a SIP revision.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to evaluate emerging technologies for aerosol adhesives to determine if additional emission reductions will be feasible in the future, and to report to the board no later than July 1, 2004, on the extent to which further VOC reductions from aerosol adhesives can be achieved.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with aerosol adhesives manufacturers to voluntarily phase out methylene chloride, TCE, and Perc more quickly than the schedule required by the amendments and, if necessary, to return to the Board with a more rapid mandatory phase-out schedule for these compounds.

I hereby certify that the above is a true and correct copy of Resolution 00-15, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Clerk of the Board

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RESOURCES AGENCY OF CALIFORNIA

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Identification of Attachments to the Board Resolution

Attachment A: Proposed amendments to the Consumer Products Regulation, sections 94508, 94509, 94512, and 94513, title 17, California Code of Regulations, as set forth in Appendix A to the Initial Statement of Reasons, released April 7, 2000.

Attachment B: Staff's Suggested Changes to the Original Proposal (distributed at the Board hearing on May 25, 2000).