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State of California
AIR RESOURCES BOARD

RESOURCES AGENCY OF CALIFORNIA

Resolution 97-14

March 27, 1997

Agenda Item No.: 97-2-1

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 (referred to as "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"), which was adopted in two phases; Phase I was approved on October 11, 1990, and Phase II was approved on January 9, 1992;

WHEREAS, a two-tiered standard for hairspray was included as part of the Phase I Board action; the first-tier standard of 80 percent VOC became effective on January 1, 1993, and the second-tier standard of 55 percent VOC will become effective on January 1, 1998;

WHEREAS, hairsprays represent the largest and single most significant source of consumer product VOC emissions in California, with an estimated 46 tons per day of emissions in 1990; the 80 percent VOC limit reduced these VOC emissions by approximately 7 tons per day statewide, and the 55 percent VOC limit will reduce VOC emissions by an additional 14 tons per day;

WHEREAS, on November 15, 1994, the Board adopted the California State Implementation Plan for Ozone (SIP), which incorporates the consumer products regulation (including the two-tiered standard for hairspray) as a component of the SIP;

WHEREAS, on February 14, 1995, the consumer products regulation was approved by the United States Environmental Protection Agency (U.S. EPA) as a component of the SIP;

WHEREAS, when the 55 percent VOC hairspray standard was approved, the Board directed staff to report on industry's progress in meeting the standard prior to 1998 and to recommend any necessary changes;

WHEREAS, in response to the Board's directive, staff has proposed amendments to: (1) postpone the effective date of the 55 percent VOC standard for hairsprays from January 1, 1998, until June 1, 1999; (2) establish reporting requirements for hairspray manufacturers; and (3) amend the variance provision to allow the Executive Officer to require mitigation of excess VOC emissions for manufacturers seeking variances for hairsprays after June 1, 1999;

WHEREAS, staff has also proposed to develop an early reduction credit program to reward those manufacturers who produce and sell 55 percent VOC hairsprays before June 1, 1999;

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 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:

Although the 55 percent VOC standard is technologically feasible, it is not commercially feasible by January 1, 1998;

Developments in new resin technologies and the supply of propellant systems have only recently allowed manufacturers to formulate promising prototype 55 percent VOC-compliant hairsprays;

Manufacturers need additional time to develop and refine prototype formulations, and conduct test marketing of their products to ensure that commercially viable products will be available to meet the basic market demand;

Additional time is warranted to help minimize any adverse impacts on manufacturers and any major disruption of products to the marketplace;

Companies representing a significant share of the hairspray market will be able to manufacture and bring to market commercially viable hairspray products, using a variety of available technologies, by June 1, 1999;

It is appropriate to postpone the 55 percent VOC hairspray standard to June 1, 1999, to ensure the commercial feasibility of the standard;

Postponement of the 55 percent VOC hairspray standard until June 1, 1999, will not create an emissions shortfall in the SIP, because the emission reductions from the 55 percent standard were not relied on in the SIP until the beginning of the 1999 summer ozone season;

The amendments will provide additional time for manufacturers to complete product formulation development and ensure this is accomplished in an expeditious manner;

It is appropriate to amend the consumer products regulation to require hairspray manufacturers to provide compliance plans demonstrating progress toward compliance with the 55 percent VOC standard for hairsprays;

The reporting requirements of the amendments will help staff to monitor and track the reformulation efforts of hairspray manufacturers to comply by June 1, 1999;

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

The amendments to the variance provision are necessary to ensure that the SIP is not compromised in the event a hairspray manufacturer is granted a variance after June 1, 1999;

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

The amendments are necessary to attain and maintain the state and federal ambient air quality standards and fulfill California's SIP commitments;

The amendments are technologically and commercially feasible;

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

The economic and cost 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;

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

Adverse environmental impacts may result from postponing the 55 percent VOC standard for hairsprays from January 1, 1998, to June 1, 1999, in that fewer VOC emission reductions (approximately 14 tons per day statewide) will be achieved during this 17-month period;

Postponement of the 55 percent VOC standard for hairsprays is necessary to preserve the commercial feasibility of the standard, to ensure that the basic market demand for hairsprays can be met, and to avoid disruption and adverse economic impacts in the hairspray market;

The considerations identified above override any adverse environmental impacts that may occur as a result of achieving fewer VOC reductions from hairsprays between January 1998 and June 1999;

There are no other feasible alternatives or mitigation measures that would reduce the potential environmental impacts while at the same time providing the benefits described above;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the amendments to sections 94509, 94513, and 94514, Title 17, CCR, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to take the following actions: (1) work with all interested parties to develop an early reduction credit program to reward those manufacturers that produce and sell 55 percent VOC hairspray products prior to June 1, 1999, and (2) schedule a Board hearing in 1997 to consider any appropriate regulatory actions necessary to implement the program. The credit program is to be available to hairspray manufacturers no later than January 1, 1998.

BE IT FURTHER RESOLVED that, following approval of the amendments by the Office of Administrative Law, the Executive Officer is directed to submit the amendments to the consumer products regulation 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 approvability 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.

I hereby certify that the above is a true and correct copy of Resolution 97-14, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Clerk of the Board