State of California
AIR RESOURCES BOARD

Resolution 90-60

October 11, 1990

Agenda Item No.: 90-16-1

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, the Legislature in 1988 enacted the California Clean Air Act of 1988 (Stats. 1988, ch. 1568) to address the problem of air pollution in California;

WHEREAS, in the California Clean Air Act the Legislature declared that attainment of the Board's health-based ambient air quality standards is necessary to protect public health, particularly of children, older people, and those with respiratory diseases, and directed that these standards be attained at the earliest practicable date;

WHEREAS, section 41712 of the Health and Safety Code directs the Board to adopt by January 1, 1992 regulations to achieve the maximum feasible reduction in reactive organic compounds 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, following a November 8, 1989 public hearing, the Board approved a regulation to reduce volatile organic compound (VOC) emissions from antiperspirants and deodorants, Title 17, California Code of Regulations, sections 94500-94506 (the "antiperspirant regulation");

WHEREAS, following a June 15, 1990 public hearing, the Board approved a regulation for reducing VOC emissions from consumer products in the Bay Area Air Quality Management District, Title 17, California Code of Regulations, sections 94520-94527 (the "Bay Area regulation");

WHEREAS, the Bay Area regulation was designed to meet the requirements of a court order issued on January 10, 1990 by the United States District Court for the Northern District of California (the "Court Order"), and was also designed to satisfy the provisions of an agreement with the Bay Area Air Quality Management District (BAAQMD) under which the Board agreed to achieve, by February 1, 1993, a three ton per day reduction in consumer product VOC emissions in the BAAQMD (the "BAAQMD Agreement");

WHEREAS, staff has proposed a statewide regulation to reduce VOC emissions from consumer products in California, Title 17, California Code of Regulations, sections 94507-94517 (the "statewide regulation");

WHEREAS, to provide consistency with the provisions of the proposed statewide regulation, staff has proposed modifications to the antiperspirant regulation;

WHEREAS, because the proposed statewide regulation will comply with the provisions of the Court Order and BAAQMD Agreement, the Bay Area regulation is no longer necessary and staff has proposed that it be repealed;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which 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:

Consumer products represent one of the few remaining emission sources that have not been controlled, and control of these emissions is necessary in order to attain and maintain national and state ambient air quality standards;

Emissions from all forms of consumer products are expected to increase steadily in the future unless they are controlled effectively;

VOC emissions from consumer products contribute to concentrations of ozone and PM10 in the state;

The national and state ambient air quality standards for these pollutants are violated in the many areas of the state, and over 90 per cent of the state's population currently lives in areas that are nonattainment for these pollutants;

The proposed regulations will result in a significant reduction in VOC emissions from consumer products, and concomitant reductions in ozone and PM10 levels;

The proposed regulations will achieve a total emissions reduction of approximately 45 tons per day in California by 1998;

The proposed regulations will achieve an emissions reduction of at least three tons per day in the BAAQMD by January 1, 1993, and will therefore comply with the provisions of the Court Order and the BAAQMD Agreement;

Because the proposed regulations will comply with the provisions of the Court Order and BAAQMD Agreement, the Bay Area regulation is no longer necessary;

It is appropriate to amend the antiperspirant regulation in order to provide consistency with the provisions of the proposed statewide regulation;

The cost-effectiveness ratios for reducing emissions from consumer products through the proposed VOC limits are within the range of other control measures adopted to reduce emissions of these pollutants;

There exists adequate data to support the adoption of the emission limits and other requirements contained in the proposed regulations;

The proposed regulations are necessary to attain and maintain the state and national ambient air quality standards;

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

For each product category, consumer products currently exist which meet the standards of the proposed regulations;

The proposed regulations are technologically and commercially feasible; and

WHEREAS, the Board further finds that:

The Board has determined, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, that this regulatory action will not have any significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves sections 94503.5, 94506.5, and 94507-94517, Title 17, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board hereby approves amendments to sections 94504, 94505, and 94506, California Code of Regulations, as set forth in Attachment A hereto.

BE IT FURTHER RESOLVED that the Board hereby approves the repeal of Article 3, Consumer Products in the Bay Area Air Quality Management District, sections 94520-94526, Title 17, California Code of Regulations, as set forth in Attachment A hereto;

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to repeal sections 94520-94526, Title 17, California Code of Regulations, and to adopt sections 94503.5, 94504, 94505, 94506, 94506.5, and 94507-94517, Title 17, California Code of Regulations, after making them 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 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 Board directs the Executive Officer to consult with the consumer product manufacturers who must achieve the future effective VOC limits specified in the Table of Standards for hairsprays, single phase aerosol air fresheners, engine degreasers, and nail polish remover, to provide biennial reports (beginning in 1992) on their progress to the Board, and in these reports to identify any significant problems and propose any regulatory modifications that may be appropriate; the regulated public and other interested parties shall be consulted in the preparation of such reports and shall be provided with an opportunity to make oral and written comments to the Board in conjunction with the reports.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to gather additional data on the feasibility of a five per cent VOC standard for laundry prewash (all other forms) and bathroom and tile cleaners, and to return to the Board in 1991 if the data indicates that modification of the standard is necessary.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to study the issue of whether a longer sell-through period is necessary for small volume retailers of consumer products, and to report to the Board in 1991 on whether the regulations should be amended to specify a longer sell-through period or other special provisions for small volume stores.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to survey the amount of VOC emissions from charcoal lighter fluid in the state, and to report to the Board in 1991 on whether it may be appropriate to adopt a regulatory standard for charcoal ligher fluid.

I hereby certify that the above is a true and correct copy of Resolution 90-60, as adopted by the Air Resources Board.

Judith M. Lounsbury

Judith M. Lounsbury, Board Secretary

State of California
AIR RESOURCES BOARD

Response to Significant Environmental Issues

Item: Public Hearing to Consider the Adoption of a Statewide Regulation For Reducing Volatile Organic Compound Emissions from Consumer Products

Agenda Item No.: 90-16-1

Public Hearing Date: October 11, 1990

Response Date: December 28, 1990

Issuing Authority: Air Resources Board

Comment: The Board received comments alleging that certain significant adverse environmental effects could result from the adoption of the proposed regulations. One commenter stated that adoption of the regulations might increase the rate of global warming, because the regulations would allow the use of substitute aerosol propellants with some global warming potential. A few commenters also suggested that the proposed volatile organic compound (VOC) standards might result in more air pollution, not less, because: (1) products reformulated to meet the standards may be less efficacious than existing products, thereby resulting in greater product use and more VOC emissions, and (2) reformulated products might use VOCs with greater photochemical reactivity, thereby causing increased ozone formation.

Finally, some commenters suggested that the one-year "sell-through" period [section 94509(c)] could result in negative environmental impacts if retailers chose to dispose of noncomplying products that remained on the shelves at the end of the one-year period. It was alleged that such disposal could result in a one-time increase in solid waste and a corresponding increase in VOC emissions from products that were sent to landfills.

Response: The Board has determined, pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, that this regulatory action will not have a significant adverse impact on the environment. The Board has summarized and responded to all comments from the public, including comments raising environmental issues, in the "Final Statement of Reasons for Rulemaking, including Summary of Comments and Agency Response". Each potential environmental impact is also briefly discussed below.

Global Warming Impacts

With respect to global warming impacts, the regulations would allow hydroflurocarbon compounds (HFCs) to be used as substitute propellants for the currently used hydrocarbon propellants. HFCs are "greenhouse gases" that can contribute to global warming. If industry finds that HFCs are technically suitable for use as propellants, and chooses to use these compounds, it is possible that there may be an extremely slight increase in global warming as a result of this regulation.

However, the Board has determined that any increase in global warming which might occur as a result of this regulatory action is so small that it will not constitute a significant adverse impact on the environment. At most, HFC emissions would be a few tons a day compared to 100 million tons a day of carbon dioxide, the gas which is the primary contributor to the greenhouse effect. In addition, there are mitigating factors which will serve to reduce global warming impacts. This regulatory action will result in some reduction in ground level ozone. Since ozone itself is a compound with some global warming potential, the ozone reduction would partially offset any global warming impact from increased use of HFCs. There are also some aerosol consumer products that are still legally allowed to use chlorofluorocarbon (CFC) propellants. CFCs have as high as 15 times the global warming potential of HFCs, and also cause the depletion of stratospheric ozone. If industry is successful in reformulating aerosols to use HFC compounds as propellants, the use of chlorofluorocarbon compounds may be eliminated in those applications where CFCs are still used. Therefore, the Board believes that any global warming impact as a result of this regulation is likely to be nonexistent of perhaps environmentally positive.

Impacts from reformulated products

There is no credible evidence that reformulated products as a class will be less efficacious than existing products. The basis for this conclusion is contained in the Staff Report, the Technical Support Document, and the responses to numerous comments in the Final Statement of Reasons. In addition, the regulation will result in a 45 percent reduction in VOCs that are contained in the product categories for which standards are specified. Even if some reformulated products are less efficacious than some existing products, it is not reasonable to believe that any reduction in efficacy would come even remotely close to offsetting the significant VOC reductions that will be achieved by the regulation. With regard to the reactivity issue, the response to Comment #22 explains why the Board does not believe that California's overall ozone problem would worsen if manufacturers choose to use more "reactive" VOCs in reformulated products. The Board has therefore determined that no significant environmental

impacts will result from the reformulation of consumer products to meet VOC standards specified in the regulation.

Impacts from the one-year "sell-through" period

The Board has determined that no significant environmental impacts will result from the one year sell-through period. The basis for this conclusion is set forth on pages 46-48 of the Staff Report, and the response to Comments #69-71 in the Final Statement of Reasons which are incorporated herein by reference.

CERTIFIED: Pat Hutchens
Board Secretary

Date: August 12, 1991

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