

September 24, 2013

Via e-mail

Clerk of the Board  
Air Resources Board  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, California 95814  
<http://www.arb.ca.gov/lispub/comm/bclist.php>

Re: Proposals for 2013 Amendments to the Consumer Products Regulation, Aerosol Coatings Regulation, and Related Regulations; Board Agenda Item #13-8-3

Dear Board Members:

The Consumer Specialty Products Association<sup>1</sup> (CSPA) appreciates this opportunity to review and comment on the ARB proposals for 2013 Amendments to the Consumer Products Regulation, Aerosol Coatings Regulation, and other related regulations contained in the “Staff Report: Initial Statement of Reasons for Proposed Rulemaking,” dated August 7, 2013.<sup>2</sup> Numerous CSPA member companies manufacture and/or market aerosol coatings and/or aerosol adhesives, and have engaged in this rulemaking over the past two years. Many other CSPA member companies are involved in other types of consumer products that are indirectly impacted by some of the proposed provisions. We appreciate the consideration of our written comments filed during this rulemaking dated October 10, 2012, March 21, 2013, May 17, 2013, July 8, 2013 and July 26, 2013, these documents are incorporated herein by reference.

CSPA’s goal has been to assist ARB staff in assuring that the 2013 Amendments to the Aerosol Coatings and Consumer Products Regulations are both feasible and necessary. CSPA has coordinated efforts with the American Coatings Association (ACA) in relation to the feasibility of revised product standards, and with numerous other consumer product industry associations as

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<sup>1</sup> The Consumer Specialty Products Association (CSPA) is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$100 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. CSPA member companies employ hundreds of thousands of people globally. Products CSPA represents include disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers and candles that eliminate odors; pest management products for home, lawn and garden, and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day. Through its product stewardship program, Product Care<sup>®</sup>, and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety and sustainability of their products. For more information, please visit [www.cspa.org](http://www.cspa.org).

<sup>2</sup> The ARB “Staff Report: Initial Statement of Reasons (ISOR),” proposed amendment to the regulations and other relevant documents are posted at: <http://www.arb.ca.gov/regact/2013/cp2013/cp2013.htm>.

it relates to some of the other proposed regulatory provisions to assure a consistent industry response.

## **I. Proposed Amendments to the Regulation for Reducing Emissions from Consumer Products**

### **A. Proposed Definitional Changes**

CSPA supports the revised definitions for General Purpose Cleaner, General Purpose Degreaser, Multi-Purpose Lubricant, and Multi-Purpose Silicone Lubricant, along with the new definitions for Special Purpose Cleaner and Special Purpose Degreaser, which provide additional clarity for these categories. We continue to recommend that ARB establish an enforcement advisory to record how this distinction between general-purpose/multi-purpose and special-purpose products is being interpreted.

CSPA supports the revised definitions for Fabric Protectant, Footwear or Leather Care Product, Rubber/Vinyl Protectant, Undercoating, and Waterproofer. We also support the modifications to the definitions for Paint Thinners and Multi-Purpose Solvents, but continue to encourage ARB to ensure that products whose primary purpose is subject to other standards not be further regulated in these categories. However, CSPA is concerned that these revised definitions appear to become effective immediately; definitions requiring product changes should be provided future effective dates.

CSPA supports the positions of the Personal Care Products Council (PCPC) regarding the various definitions relating to hair care products. CSPA also supports the new definition for Screen Printing Adhesive. CSPA also strongly supports the addition of the exemption for HFO-1234ze within the definition of Volatile Organic Compound (VOC) to provide consistency with Federal regulations.<sup>3</sup>

### **B. Limits for Aerosol Adhesives**

CSPA is not opposing the revised VOC limits for various categories of Aerosol Adhesives, and is supportive of the revised 55% VOC limit for the Screen Printing Adhesive subcategory. Although some challenges may be encountered, our members believe that these new limits will prove technologically and commercially feasible.

### **C. Effective Date for the 10% VOC Limit for Multi-Purpose Lubricant**

CSPA fully supports extending the effective date for the very challenging future-effective regulatory limit for Multi-Purpose Lubricants from 2015 to 2018. There is compelling evidence to substantiate the fact that our members are having significant difficulties finding technology capable of meeting the 10% VOC limit that is scheduled to become effective in 2015. This modification would provide our members the additional time needed to conduct the research and development necessary to discover the new technologies to meet this very aggressive technology-forcing standard, and assure that the products are commercially as well as technologically feasible.

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<sup>3</sup> 17 CCR § 94508(a)(151).

#### **D. New 10% VOC Limit for Aerosol Multi-Purpose Solvent and Paint Thinner**

CSPA does not oppose the new 10% VOC limit for these aerosol products that will take effect in 2016. Although some challenges may be encountered, our members believe that these new limit will prove technologically and commercially feasible.

#### **E. Incorporation of South Coast Limits for Non-Aerosol Multi-Purpose Solvent and Paint Thinner**

CSPA supports ARB's proposal to clarify that the South Coast AQMD standards for these products apply in that District, while maintaining the existing ARB 30% and 3% standards as applying in all other parts of the state. While we do not believe that incorporation of the 25 g/L VOC standard from the South Coast regulation is necessary to accomplish this goal (and could cause confusion since the standard is enforced by different test methodologies), we understand the importance of clarifying what standards apply in each jurisdiction. However, CSPA urges that ARB not use this action as precedent for any other categories consumer products.

We also like to note that although the Table of Standards makes it clear that 30% and 3% VOC limits for non-aerosol Multi-Purpose Solvents and Paint Thinners apply only in "all other areas of the state" (i.e., outside of the South Coast Air Quality Management District), Section 94509(p)(4)(B) subsections (2) and (3) provides "additional requirements" for South Coast products that imply that both the 3% and 25 g/L standards will be effective (in 2013 and 2015, respectively). As a general matter, CSPA strongly opposes the simultaneous application of dual VOC standards to a single product category.

#### **F. New Chlorinated Solvent Restrictions for Special Purpose Cleaner and Special Purpose Degreaser**

CSPA does not oppose the inclusion of new restrictions on specified chlorinated solvents in Aerosol Screen Printing Adhesive, Aerosol Multi-Purpose Solvent, Aerosol Paint Thinner, and the newly defined categories of Special Purpose Cleaner and Special Purpose Degreaser.

#### **G. New GWP Restrictions for Aerosol Screen Printing Adhesive, Aerosol Paint Thinner, and Aerosol Multi-Purpose Solvent**

CSPA does not oppose the new restriction on Global Warming Potential (GWP) for Aerosol Screen Printing Adhesive (effective in 2017), Aerosol Paint Thinner and Aerosol Multi-Purpose Solvent (both effective in 2016).

#### **H. Revised Test Methodology for Non-Aerosol Multi-Purpose Solvents and Paint Thinners and Modifications to Method 310**

Section 94515(j) provides new compliance test methodology relating to the new 25 g/L VOC limit for Non-Aerosol Multi-Purpose Solvents and Paint Thinners sold in the South Coast. CSPA does not concur with the proposed special treatment of "methyl esters with 17 or more carbon atoms" (apparently meant to assure that soy methyl ester solvents will comply) over other materials of similar volatility. We support exemption of all low volatility alternatives; one technology should not be selected over others.

We would also note that the language in this section differs with the proposed changes in Method 310, which calls for the analysis and exemption of “methyl palmitate.” Typical soy methyl ester solvents contain 10-15% methyl palmitate, with the balance being mainly other C-17 to C-19 esters, so there is a significant technical difference between Section 94515(j) and Method 310.

In addition, we would note that there is an apparent technical error in the equations in both Section 94515(j) and Method 310. In each case, the total amount of methyl esters with 17 or more carbons (or methyl palmitate) is subtracted from the total non-water volatile matter. However, available data show that typical soy methyl ester solvents are determined to contain only about 5% non-water volatile materials using the initial procedures in Method 310. The equation therefore could result in 100% of the soy methyl ester weight being subtracted from the 5% that is included in the volatile portion. A negative VOC content could result.

Elsewhere in Method 310, ARB is proposing to eliminate the isoteniscope method for vapor pressure determination currently in Section 3.6.3. While we do not object to the deletion, since it is no longer used by ARB, we urge ARB to continue to consider as valid vapor pressure data developed by the isoteniscope methodology. Much of the vapor pressure data that currently exists was developed by that method, and there is no reason to retest using other methodology.

## **II. CSPA Recommendations for Additional Amendments to the Consumer Products Regulation**

While we understand that time and resources prevented some issues from being addressed in this rulemaking, CSPA continues to recommend that changes be considered in a future rulemaking to further clarify the regulation in two areas.

### **A. Clarification of Manufacturer-Use Products Versus Consumer Products**

Compliance with the Consumer Products Regulation often requires manufacturers to determine whether a product is a Consumer Product subject to the regulation or a manufacturing-use-only product that is not subject to the regulation, and may therefore be subject to district or other regulations. This distinction is most clearly described in the definitions of Lubricants and Multi-purpose Degreasers. We therefore recommend that the language from those definitions become part of the general definition through its use in defining “Institutional Product.” We therefore recommend the following revision:

(83) “Institutional Product” or “Industrial and Institutional (I&I) Product” means a consumer product that is designed for use in the maintenance or operation of an establishment that: (A) manufactures, transports, or sells goods or commodities, or provides services for profit; or (B) is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. “Establishments” include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. “Institutional Product” includes products sold in retail outlets or wholesale locations to non-manufacturing consumers. “Institutional Product” does not include household products and products that are ~~incorporated into or used exclusively in the manufacture or~~

~~construction of the goods or commodities at the site of the establishment~~  
(1) exclusively sold directly or through distributors to establishments that manufacture or construct goods or commodities, and (2) labeled exclusively for "use in the manufacturing process only."

This change would allow products to be clearly labeled and sold as: (1) consumer products subject to ARB regulations, or (2) non-consumer manufacturer-use products. If ARB is unwilling to apply this clarification across all categories of Consumer Products, we recommend that the language currently used for defining General Purpose Degreasers and Lubricants be incorporated into other category definitions where there is a similar interface between Consumer Products for household, institutional and commercial users, and industrial products sold to and used by manufacturers.

In addition, we recommend that ARB Enforcement Division create an Enforcement Advisory to document specific interpretations of this provision so that both manufacturers and regulators have a clearer mutual understanding of the bright line between Consumer Products and industrial products (*i.e.*, products used only in the manufacturing process).

### **B. Clarification That Multiple Dilutions Can Meet Different Categorical Limits**

We continue to believe that allowing dilutable products to label different dilutions to meet different category VOC limits is both reasonable and appropriate—why require a concentrated product with multiple uses to be manufactured and labeled separately? The problem is that the regulation is not clear regarding how to handle the Minimum Recommended Dilution provision<sup>4</sup> and Most Restrictive Limit provision<sup>5</sup> when both apply. We recommend the following two revisions to clarify the issue:

#### **§ 94509(b)**

*(b) Products that are diluted prior to use*

(1) Except for “Automotive WindshieldWasher Fluid (Dilutable),” for consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in subsection (a) shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection (b), “minimum recommended dilution” shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains. If differing use dilutions are provided for uses subject to differing product category limits, the “minimum recommended dilution” applies separately to each product category limit.

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<sup>4</sup> 17 CCR § 94509(b).

<sup>5</sup> 17 CCR § 94512(a).

**§ 94512(a)**

(a) *Most Restrictive Limit.*

(2) Notwithstanding the definition of “product category” in Section 94508, if anywhere on the container or packaging of any consumer product manufactured on or after January 1, 2007, *or any FIFRA-registered insecticide manufactured on or after January 1, 2008*, or on any sticker or label affixed thereto, any representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC limit is specified in Section 94509(a), then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners and insecticide foggers. Dilutable products may provide different recommended dilutions to meet each of the various limits that apply to each specific product category.

If the above is not acceptable, we are willing to work with ARB staff to develop more appropriate regulatory language to accomplish this goal.

**III. Proposed Amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions**

**A. General Definition of Aerosol Coating Product**

CSPA fully supports the added provision in Section 94521(a)(2) that excludes products regulated under the Consumer Products and Antiperspirant/Deodorant Regulations are not Aerosol Coating Products subject to this regulation. This new provision provides the clarity needed to assure no product will be subject to requirements of two different regulatory provisions.

**B. Other Revisions to Definitions**

CSPA remains somewhat concerned that the use of the terms “Ingredient” (defined), component and constituent (both undefined) seem to be used interchangeably. As the term is used by our industry, an ingredient is an intentionally added material that can have multiple components/constituents. (Indeed, all ingredients, no matter how pure, contain multiple components, and virtually all have multiple components over 0.1%.) This has been appropriately addressed in the development of the industry voluntary ingredient communication program, and in the ongoing development of the *CSPA Consumer Product Ingredient Dictionary*.<sup>6</sup>

CSPA supports the clarified definition for “Reactivity Limit,” which now refers to the “Product-Weighted MIR.” The use of “Reactivity Limit” elsewhere in the regulation is now consistent with the revised definition for this term. CSPA also supports the clarification that self-priming paints do not have to comply with both the Primer and Flat or Nonflat standards, and the

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<sup>6</sup> For more information on the CSPA Consumer Product Ingredients Dictionary, *see* [http://www.cspa.org/index.php?page=shop.product\\_details&flypage=flypage.tpl&product\\_id=21&category\\_id=6&vmcchk=1&option=com\\_virtuemart&Itemid=32](http://www.cspa.org/index.php?page=shop.product_details&flypage=flypage.tpl&product_id=21&category_id=6&vmcchk=1&option=com_virtuemart&Itemid=32).

clarifications to the definition for “Mold Release Coating” and “Vinyl/Fabric/Leather/Plastic Coating.”

### **C. Revised Limits for General Coatings and Specialty Coatings Categories**

CSPA supports the positions taken by ACA regarding the revised VOC limits and effective dates for various categories of General Coatings. We also support ACA’s positions on the new limits for Specialty Coatings categories that are set to avoid reformulations while translating the PWMIR Reactivity Limits to use the updated 2010 MIRs. CSPA specifically supports the limits proposed for Mold Release and Vinyl/Fabric/Leather/Plastic Coatings.

### **D. Section 94522(c) Prohibition of Alternative Control Plans (ACPs)**

CSPA continues to recommend that this provision be removed in its entirety, and believe that the ACP Regulation<sup>7</sup> can be revised to handle Aerosol Coatings subject to reactivity limits just as it handles Consumer Products subject to mass-based percent VOC limits.

### **E. Section 94522(i) Effective Date of 2010 MIRs**

In our previous comments we raised concern regarding barriers to early compliance to the new limits if the flexibility was not given to use them prior to the rule’s filing date with the Secretary of State. This may not be a common problem, but occasionally there may be new product formulations that comply with the new limit and new MIRs, but not the old limit and old MIRs. We urge ARB to apply appropriate enforcement discretion to allow early compliance, and not take enforcement actions against products that comply with the new limits and new MIRs.

### **F. Table 94526(b)(4)(A) Hydrocarbon Solvent Fraction**

CSPA understands the need for this analytical approach for assessing compliance of products formulated with hydrocarbon mixtures that are provided MIR values in one of the 24 Bins defined in Section 94700 Table of MIR Values. We urge ARB to make reasonable allowance for any good faith compliance using the Bin values that (for unforeseen technical reasons) do not fully agree with the MIR values in this new table.

## **IV. Additional Comments on Staff Report and Initial Statement of Reasons**

CSPA believes that the estimated overall cost to comply with the proposed regulation--\$26.5 million over the next five years—significantly underestimates the cost of this regulation, and overestimates its cost effectiveness. While our members have agreed to accept these many new standards and revisions, reformulations can be especially difficult for aerosol products, especially coatings and adhesives. The costs of many new provisions do not seem to have been assessed, including the new chlorinated solvent restrictions and the new MIR limits created by removing the exemptions for Electrical Coatings, Mold Release Coatings and Rust Converter Coatings. Even in cases where product reformulations are not required, the regulation triggers requirements to reassess every product using the updated MIR values, and potential label changes to assure compliance with revised definitions.

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<sup>7</sup> 17 CCR §§ 94540-55.

## V. Summary and Conclusions

CSPA appreciates the changes that have been made to this proposed regulation in response to our previous comments, and also appreciates the opportunity to review and comment on these revised proposals for the 2013 Amendments. We have sought to work cooperatively with ARB to assure that the final regulation provides clear and feasible requirements for our members.

We look forward to continuing to work with you and other stakeholders toward our common goals of feasible regulations and improved air quality in California

Respectfully,



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