



Daniel B. Pourreau
Technical Advisor

Lyondell Chemical Company
3801 West Chester Pike
Newtown Square, PA 19073

Phone: 610-359-2411
Fax: 610-359-2328
Email: dan.pourreau@lyondellbasell.com

June 25, 2008

Honorable Board Members
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814
Attn: Ms. Lori Andreoni, Board Secretary
<http://www.arb.ca.gov/lispub/comm/bclist.php>

Subject: Proposed Amendments to the California Consumer Products Regulations; Board
Agenda Item # 08-6-5

Dear Honorable Board Members:

LyondellBasell Industries appreciates the opportunity to comment on the proposed amendments to the Consumer Products rule. LyondellBasell is the developer and leading producer of tertiary-butyl acetate (TBAC, CAS # 540-88-5). We developed TBAC in response to an urgent need for low reactivity solvents in the 1990s and petitioned the US EPA for a VOC exemption in 1997. This request was granted in 2004 despite opposition from CARB and OEHHA staffs. Since the EPA exemption, 49 states have either exempted it or recognize the EPA exemption while they update their VOC definitions. CARB has done neither and does not mention TBAC in the proposed amendments.

CARB and OEHHA's objection in 2001 was that there was insufficient toxicological information data to properly assess the potential risk of exempting TBAC. Nonetheless, CARB staff asked OEHHA to estimate a theoretical cancer risk for humans based on chronic data for its TBA metabolite. The OEHHA analysis was published in 2004 and its conclusions were sharply criticized by leading experts in carcinogenicity. To date, the OEHHA analysis has not been validated by the Carcinogen Identification Committee and neither TBA nor TBAC has been listed as a potential carcinogen in CA or elsewhere. In 2007, we provided OEHHA and CARB with the results of additional toxicology studies and expert opinions that confirm that TBAC and TBA are not genotoxic and are unlikely to be carcinogenic to humans. These new studies have still not been reviewed by OEHHA.

In its 2006 Environmental Risk Assessment for TBAC, CARB staff concluded that the health benefits of exempting TBAC outweighed the potential risks and recommended its exemption in consumer products:

"Staff recommends exempting TBAC from the definition of VOC from the California Consumer Products Regulations based on its low reactivity. However, staff will further evaluate appropriate consumer products categories that are most likely to use TBAC, to

determine whether or not use in these products could pose unacceptable exposures. If staff determines that the use of TBAC in certain products could cause unacceptable exposures, we will propose appropriate mitigation measures in the Consumer Products Regulations at the time the exemption is proposed as an amendment. We further encourage the air pollution control districts in California, as they update their applicable rules, to also determine whether or not use of TBAC in certain products would pose unacceptable exposures.”

CARB staff has apparently not done what it said it would do, which is to evaluate TBAC use in consumer product categories likely to use it. These product categories include adhesives, caulks, and sealants, automotive wax/polish/sealant/glaze, barke, carburetor, and air intake cleaners, engine degreasers, paint strippers and graffiti removers, silicone based lubricants, and aerosol undercoatings. TBAC is unlikely to be used in household or personal care products, with the possible exception of nail polish and removers, because of its strong odor and flammability.

It is unfortunate that CARB staff continues to focus on OEHHA’s speculative concerns instead of the significant and tangible health and environmental benefits that will result when TBAC is exempted. OEHHA’s concerns about TBAC’s potential chronic toxicity are also of questionable relevance to non-occupational use of consumer products. There is still an urgent need for safer and effective consumer products that do not contribute to a serious ozone problem in California. In many of the product categories for which CARB is proposing stricter VOC content limits, VOC-exempt TBAC is the answer to that need.

We have done our job by bringing a superior product to the market in answer to a real health risk and by providing additional studies to address OEHHA’s concerns. We respectfully request that you ask CARB staff to complete their analysis and exempt TBAC where its use does not pose unacceptable exposures. We are confident that when all the evidence is fairly considered, TBAC will be exempted and will begin to help reduce ozone and particulate matter from California’s air.

Thank you for considering these comments.

Sincerely,



Daniel B. Pourreau
Technical Advisor

cc via email: Joe Yost (CSPA), Doug Fratz (CSPA)