March 22, 2021 sent *via* electronic mail

Clerks’ Office

California Air Resources Board

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Sacramento, California 95814

https://www.arb.ca.gov/lispub/comm/bclist.php

**Subject: Comments on consumerproducts2021; Board Agenda Item # 21-2-1**

Dear Board Members:

The Pine Chemicals Association International (PCA) appreciates the opportunity to

provide comments to the California Air Resources Board (CARB) on the proposed amendments to the state’s comprehensive Consumer Products Regulation.

The PCA is a global trade association composed of 80 companies in over 20 countries with various interests in the pine chemicals industry. It has actively represented the industry's interests, particularly those concerning environmental and regulatory initiatives, since 1947. A fuller description or our activities can be found on our website: <https://www.pinechemicals.org/default.aspx>.

Among the many products produced from the natural, renewable and sustainable raw materials of our nation’s forests are the terpenes that form the bulk of turpentine. Many useful and irreplaceable products are derived from these terpenes, for example, many flavors and fragrances; resins for adhesives; and disinfectants. Many consumer products are made attractive by the presence of fragrances and many of these are terpene-based. Therefore, we are particularly concerned about the impact of the Proposed Sunset of the Two Percent Fragrance Exemption - Section 94510(c)(2).

1. **Comments on the Proposed Sunset of the Two Percent Fragrance Exemption -**

 **Section 94510(c)(2)**

PCA members do not support the proposed sunset of the current two percent fragrance

exemption which impacts almost all regulated products manufactured on or after January 1, 2031. Fragrance is an important component of almost every consumer product: it encourages proper product use; covers base malodors; and creates a mechanism for product manufacturers to differentiate between brands and products. For the past 30 years, the current exemption that allows product formulators to include a *de minimis* level of fragrance in products to meet customers’ expectations and provide flexibility to comply with CARB’s increasingly stringent VOC regulatory standards. The proposal to sunset the two percent fragrance exemption will constitute a *de facto* reduction of the VOC standards for almost every product category included in the Consumer Products Regulation.

Manufacturers only use the necessary amount of fragrance ingredients required to cover the

malodor of base active ingredients, to prevent over-use by consumers – a significant safety issue - and to differentiate their brands and products. CARB’s own data provides irrefutable evidence that product manufacturers do not over-use the current fragrance exemption. According to the Household and Commercial Products Association the sunset of the two percent fragrance exemption is estimated to result in producing *only 0.3 tons per day of additional VOC reductions* towards meeting California’s State Implementation Plan (SIP) commitment for 2031. This seems to be an insignificant benefit compared to the high costs of reformulating the fragrances and monitoring each individual product to ensure that formulators are meeting the requirements of the regulations. When compared the huge unregulated emissions of natural terpenes from trees in Californian forests, the monoterpenes portion of the Fragrance Exemption pales into insignificance.

1. **Comments on the Proposed 0.25 Percent Exemption for the VOC Content of Fragrance in “General Purpose Cleaner” (nonaerosol) and “General Purpose Degreaser” (nonaerosol) products**

PCA member companies support CARB's proposed Section 94510(c)(1), which will allow

manufacturers to use up to 0.25% by weight of monoterpenes for “General Purpose Cleaner”

(nonaerosol) and “General Purpose Degreaser” (nonaerosol) products as part of two percent

fragrance exemption for products manufactured before January 1, 2031. This will provide

much-needed flexibility to comply with the very stringent VOC standards.

PCA also requests that CARB modify the date of this proposed provision to take effect

immediately upon publication of the final rule. This will eliminate any potential uncertainty

about compliance with applicable VOC standards for these two product categories during the

time period between the date the final regulation is published and the January 1, 2023 effective

date stated in the proposed amendment. We recommend that the following change be

included in text of Section 94510(c)(1) in the final regulation:

§ 94510. Exemptions

\* \* \* \*

 (c) Except for Pressurized Gas Duster, the VOC limits specified in Section 94509(a)

shall not apply to the following:

(1) For “General Purpose Cleaner” (nonaerosol) and “General Purpose

Degreaser” (nonaerosol) products manufactured ~~between January 1, 2023,~~

~~and December 31, 2030~~, before January 1, 2031, fragrances up to a combined 2 percent by weight and monoterpenes up to a combined 0.25 percent by weight, not to exceed a combined total of 2 percent fragrances and monoterpenes by weight.

PCA member companies also support the proposed Section 94510(c)(3), which provides an

exemption for fragrances and/or monoterpenes up to a combined 0.25 percent by weight for the “General Purpose Cleaner” (nonaerosol) and “General Purpose Degreaser” (nonaerosol) products that are manufactured on or after January 1, 2031.

1. **PCA respectfully requests that CARB clearly defines the term “monoterpenes” in**

 **the final regulation.**

The proposed amendments to sections 94510(c)(1) and (c)(3) use the term “monoterpenes” but this term is not well-defined. A carefully written definition will provide clarity and eliminate the uncertainty for regulated parties to decide whether their products comply with the amended provisions of sections 94510(c)(1) and (c)(3) and the applicable VOC standards.

PCA requests that CARB add a new section 94509(s) in the final regulation to

provide the following definition for “monoterpenes.”

94509. Standards for Consumer Products.

\* \* \* \*

(s) Requirements for Monoterpenes. The provisions relating to sections 94510(c)(1) and

94510(c)(3) apply to:

“Monoterpenes,” which means the following chemicals, as listed in the table

below, used in General Purpose Cleaner (nonaerosol) and General Purpose

Degreaser (nonaerosol) products.

Table 94509(s)

Specified Monoterpenes relating to sections 94510(c)(1) and 94510(c)(3)

|  |  |
| --- | --- |
| **MONOTERPENE** | **CAS REGISTRY NUMBER** |
| d-limonene | 5989-27-5 |
| l-limonene | 5989-54-8 |
| dipentene (dl-limonene) | 138-86-3 / 7705-14-8 |
| α-pinene | 80-56-8 |
| α-Pinene (laevo isomer) | 7785-26-4 |
| β-pinene | 127-91-3 |
| β-Pinene (laevo isomer) | 18172-67-3  |

This recommended definition is based on the CARB guidance document titled, *“Guidance Pertaining to the Two Percent Fragrance Exemption and Limonene.”* To thedefinition of “specified monoterpenes” is added “dipentene,” which is a racemic mixture of the two stereospecific forms of d-limonene and l-limonene.

For clarity PCA recommends that CARB include the American Chemical Society CAS Registry

Numbers for the specifically listed chemical compounds and their associated isomers. The CAS

numbers will provide the necessary clarity for product manufacturers and fragrance houses to

comply with the amended provisions of Sections 94510(c)(1) and 94510(c)(3). CAS numbers

serve as an internationally observed substance identifier by scientists, industry, and regulatory

agencies. Including the CAS numbers will remove any potential ambiguity by ensuring that the

exemption applies only to these specified monoterpenes. If desirable PCA would be willing to discuss this definition during the comment period.

We also respectfully request that upon publication of the final rule, CARB withdraw the Guidance Document since the issues addressed in this document will be incorporated in the final regulation.

1. **For Future Rulemaking PCA Recommends Revision of the Definition for the “Institutional Product” or “Industrial and Institutional (I&I) Product”**

PCA respectfully requests that CARB revise the current definition for the “Institutional Product”

or “Industrial and Institutional (I&I) Product” category to more clearly define what products that are subject to the Consumer Products Regulation. It seems to us that there is some potential

ambiguity as to whether products sold to industrial facilities are subject to statewide VOC

standards. Therefore, PCA believes that CARB should revise the current definition for the

“Industrial and Institutional (I&I) Product” category to provide a clear regulatory delineation between: (1) consumer and commercial product categories that are subject to these

statewide VOC limits; and (2) industrial products that are used only in the manufacturing process, which are outside of the scope of CARB’s comprehensive statewide regulation.

CARB Advisory Number 307 provides some clarity in determining whether “industrial” products

are regulated by the stringent statewide VOC limit. In pertinent part, the Advisory states that the current regulatory definition for the term “Institutional Product” or Industrial and Institutional (I&I) Product” excludes “... products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment … .43 However, as a practical matter, it is often difficult for both CARB and product manufacturers to determine whether products sold to industrial facilities throughout the state fit into this narrowly-drawn exclusion.

To remove potential ambiguity about the applicability of CARB’s statewide VOC standards to

products that are sold to industrial facilities, PCA recommends that CARB consider

the following revision to the current definition of “Institutional Products” or “Institutional and

Industrial (I&I) Products,”

§ 94508. Definitions.

(a) For the purpose of this article, the following definitions apply:

\* \* \* \*

(77)

“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” 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 (A) exclusively sold

directly or through distributors to establishments which manufacture or

construct goods or commodities; and (B) labeled exclusively for "use in the

manufacturing process only.”

This recommended revision is identical to the narrowly-tailored exemption provision in the

current definition for the General Purpose Degreaser, Lubricant and Single Purpose Degreaser

product categories.

**Conclusion**

PCA appreciates the opportunity to comment on a difficult and complex rulemaking process. If CARB has any technical questions concerning our comments, please address them to:

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Yours truly,



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