

October 20, 2006

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Subject: Initial Comments on the Proposed Amendments to the California Consumer Products Regulation (2006 Amendments)

Dear Mr. Mallory:

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to provide initial comments on the California Air Resources Board (ARB) Proposed Amendments to the California Consumer Products Regulation and the Aerosol Coatings Regulation, dated September 29, 2006.<sup>1</sup> CSPA has also submitted comments at various times during the rulemaking process this year, and we ask that these comments be made part of the rulemaking record as well.<sup>2</sup> These Proposed Amendments are planned for adoption during a hearing scheduled for November 16-17, 2006.

CSPA is a voluntary, non-profit national trade association representing more than 260 companies engaged in the manufacture, formulation, distribution, and sale of chemical specialties products for household, institutional, commercial and industrial use. CSPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products, air care products, industrial, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. These products are formulated and packaged in many forms and are generally marketed nationally.

This proposed regulation will have a significant impact on CSPA member companies. CSPA member products represent 16 of the 18 product categories proposed for new VOC limits, and those products represent the vast majority of the products that will need to be reformulated. CSPA member companies have expended between \$10-20 million to date in completing the massive 2003 Consumer and Commercial Products Survey and working through CSPA with ARB staff during this rulemaking. The economic impact assessment reported in the Initial Statement of Reasons estimates the cost of these regulatory amendments to our industry as almost \$200 million. This estimate assumes that all of these new VOC limits will prove to be

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<sup>1</sup> ABR's proposed 2006 Amendments to the California Consumer Products Regulation and other relevant documents are posted on the ARB website at: <http://www.arb.ca.gov/consprod/whatsnew.htm>.

<sup>2</sup> This includes CSPA comments submitted on January 13, February 7, April 10, June 16, August 11 and September 22, 2006.

technologically and commercially feasible. If this turns out not to be true, our industry's loss in product sales could be many times that amount.

CSPA and its members have worked closely and cooperatively with ARB since the first ARB consumer product regulations in the late 1980s, and through more than a dozen major rulemakings since. During the development of the proposed 2006 Amendments, CSPA assisted ARB staff in the development and execution of the 2003 Consumer and Commercial Products Survey, the review and correction of the resulting Survey data summaries, and the development of draft proposals for these regulatory amendments. CSPA's goal remains to assist the ARB in meeting its legally mandated goal of seeking technologically and commercially feasible reductions in VOC emissions and ozone formation impacts from the use of consumer products.

As we have made clear in our previous comments, CSPA supports many of the amendments now being proposed. The purpose of these initial comments is to identify those few specific areas where we believe that further modifications to the Proposed Regulation Order are needed prior to adoption at the November 16-17 Board hearing. While almost all of the new VOC limits being proposed represent significant and costly reformulation challenges for our industry, we believe that several of the proposed limits are neither technologically nor commercially feasible. There are also some instances where modifications to other proposed regulatory provisions are needed to avoid unintended adverse effects on the feasibility of complying with new or existing limits. It remains our intent to continue to work with ARB staff during this 45-day comment period to resolve all of these remaining issues.

## **I. Remaining Concerns on VOC Limits for Specific Categories**

### **Brake Cleaner**

A 10% VOC limit for brake cleaners is not technologically or commercially feasible. CSPA member companies manufacturing this product are willing to work, however, toward a 20% VOC limit for this category, and hope that it will prove technologically and commercially feasible by an effective date of December 31, 2009. We would also urge that ARB initiate an assessment beginning one year prior to the effective date to determine whether the standard is proving to be feasible, and make suitable adjustments if the limit is being found to be infeasible.

According to the Initial Statement of Reasons and Technical Support Document, ARB is seeking to justify this 10% limit for Brake Cleaners on the following:

- 5.0% of the current Brake Cleaner market in California consists of 21 complying products, with most of the 21 being in the aerosol form, but most of the 5.1% market share made up of non-aerosol products.
- An IRTA study funded by ARB during 2003-2004 found that water-based 10%-VOC brake cleaners "performed well" in field testing.
- A "Product Bulletin: Kyzen Cyber Solv" cited as dated September, 2006, on a recently introduced product that meets the proposed 10% limit.

- Two suggested generic complying product formulations for aerosol and non-aerosol brake cleaners in the cost-assessment section.

CSPA strongly believes that none of these provide accurate and reliable evidence of the technical or commercial feasibility of a 10% VOC limit for this category. The following summarizes our assessments of each:

- The 5.0% market share of complying products in 2003 has diminished considerably in the past three years. Our members with significant sales of these products have experienced a 45% to 75% reduction of the sales of these products since their introduction, and have received extensive customer feedback that the products are not meeting their requirements. This experience indeed demonstrates the commercial *infeasibility* of these products.
- CSPA and ASPA funded an independent scientific assessment of the 2004 IRTA study. That assessment by Sierra Research, "Analysis of IRTA Report on Water-Based Automotive Products," Report No. SR2006-08-02, dated August, 2006, is attached to these comments as Attachment A. The Sierra Research review found very serious flaws in the methodology and conduct of the IRTA study, and concluded that, "the results of the IRTA study do not support the conclusions that have been drawn by IRTA and CARB Staff nor CARB's proposed VOC content regulations for the subject products." In short, the IRTA study fails to provide *any* accurate and reliable evidence that 10%-VOC brake cleaners are technologically and commercially feasible.
- CSPA found no evidence that the product bulletin dated September, 2006, exists. We have obtained, however, a product bulletin on Kyzen Cyber Solv Aerosol Maintenance Cleaner dated Spring, 2004. That bulletin promotes the product for use in "general degreasing," "engine degreasing," and several other specific uses. The bulletin makes no claims that the product can be used as a brake cleaner, nor does it claim to provide the kinds of technical performance characteristics (fast drying, lack of residue, etc.) needed for brake cleaning.
- The typical generic complying formulation suggested by CARB for aerosol brake cleaners (10% hydrocarbon propellant, 88% water, 1% surfactant, and 1% organics) does not represent a template for any technologically and commercially feasible brake cleaners. CSPA is not aware of any potential formulation of this type that would provide the kinds of performance characteristics (*e.g.*, greasy soil removal, fast drying, lack of residue) needed for brake cleaners.

CSPA member companies will be providing additional technical and commercial information in support of these conclusions, and the consensus position of the brake cleaner industry that a 10% VOC limit is not feasible.

#### Carburetor or Fuel-Injection Air Intake Cleaner

A 10% VOC limit for carburetor or fuel-injection/air-intake cleaners is not technologically or commercially feasible. CSPA member companies manufacturing this product are willing to work, however, toward a 20% VOC limit for this category, and hope that it will prove

technologically and commercially feasible by an effective date of December 31, 2009. We would also urge ARB to initiate an assessment beginning one year prior to the effective date to determine whether the standard is proving to be feasible, and make suitable adjustments if the limit is being found to be infeasible.

According to the Initial Statement of Reasons and Technical Support Document, ARB is seeking to justify this 10% limit for carburetor or fuel-injection/air-intake cleaners on the following:

- 3.3% of the current carburetor or fuel-injection/air-intake cleaners market in California consists of 2 complying products.
- An IRTA study funded by ARB during 2003-2004 found that soy-ester-based 10%-VOC carburetor or fuel-injection/air-intake cleaners “performed well” in field testing.
- A suggested generic complying product formula for aerosol carburetor or fuel-injection/air-intake cleaners in the cost-assessment section.

CSPA strongly believes that *none* of these supporting factors provide accurate and reliable evidence of the technical or commercial feasibility of a 10% VOC limit for this category. The following summarizes our assessments of each:

- The 3.3% market share of complying products in 2003 is unlikely to include any aerosol products that meet the regulatory definition for this product category.
- CSPA and ASPA funded an independent scientific assessment of the 2004 IRTA study. That assessment by Sierra Research, “Analysis of IRTA Report on Water-Based Automotive Products,” Report No. SR2006-08-02, dated August, 2006, is attached to these comments as Attachment A. The Sierra Research review found very serious flaws in the methodology and conduct of the IRTA study, and concluded that, “the results of the IRTA study do not support the conclusions that have been drawn by IRTA and CARB Staff nor CARB’s proposed VOC content regulations for the subject products.” The formula field tested by IRTA was based on soy ester, a low-vapor-pressure solvent that would result in an oily coating being left on carburetor and air intake surfaces that would result in entrapment of particulate soils from the air, thereby defeating the purpose of the product. In short, the IRTA study fails to provide *any* accurate and reliable evidence that 10% carburetor or fuel-injection/air-intake cleaners are technologically and commercially feasible.
- The typical complying formulation suggested by CARB for carburetor or fuel-injection/air-intake cleaners (50% acetone, 5% carbon dioxide, 10% methanol, and 35% soy methyl ester) does not represent a feasible formula for any technologically and commercially feasible carburetor or fuel-injection/air-intake cleaners. This formulation would fail to remove most of the types of soils found in carburetors or air intakes, while leaving an oily coating that would serve to collect particulate soils.

CSPA member companies will be providing additional technical and commercial information in support of these conclusions, and the consensus position of the carburetor or fuel-injection/air-intake cleaners industry that a 10% VOC limit is not feasible.

### Engine Degreaser (Aerosol)

CSPA also continues to believe that a 10% VOC limit for engine degreasers is not technologically or commercially feasible. CSPA member companies manufacturing this product are willing to work, however, toward a 15% VOC limit for this category, and hope that it will prove technologically and commercially feasible by an effective date of December 31, 2009. We would also urge that ARB initiate an assessment beginning one year prior to the effective date to determine whether the standard is proving to be feasible, and make suitable adjustments if the limit is being found to be infeasible.

According to the Initial Statement of Reasons and Technical Support Document, ARB is seeking to justify this 10% limit for Engine Degreaser on the following:

- 9.0% of the current Engine Degreaser market in California consists of 4 complying products.
- An IRTA study funded by ARB during 2003-2004 found that water-based 10%-VOC Engine Degreasers “performed well” in field testing.
- A “Product Bulletin: Kyzen Cyber Solv” cited as dated September, 2006, on a recently introduced product that meets the proposed 10% limit.
- Two suggested generic complying product formulations for aerosol Engine Degreasers in the cost-assessment section.

CSPA strongly believes that none of these provide accurate and reliable evidence of the technical or commercial feasibility of a 10% VOC limit for this category. The following summarizes our assessments of each:

- The 9.0% market share of complying products in 2003 probably represents products for light-duty degreasing only. VOC solvents are needed to penetrate the thick baked-on oils and greases found on heavily soiled engines. These VOC solvents are not emitted into the air during use, however, and are collected with the emulsified soils for disposal.
- CSPA and ASPA funded an independent scientific assessment of the 2004 IRTA study. That assessment by Sierra Research, “Analysis of IRTA Report on Water-Based Automotive Products,” Report No. SR2006-08-02, dated August, 2006, is attached to these comments as Attachment A. The Sierra Research review found very serious flaws in the methodology and conduct of the IRTA study, and concluded that, “the results of the IRTA study do not support the conclusions that have been drawn by IRTA and CARB Staff nor CARB’s proposed VOC content regulations for the subject products.” In short, the IRTA study fails to provide *any* accurate and reliable evidence that 10% engine degreasers are technologically and commercially feasible.
- CSPA found no evidence that the product bulletin dated September, 2006, exists. We have obtained, however, a product bulletin on Kyzen Cyber Solv Aerosol Maintenance Cleaner dated Spring, 2004. That bulletin promotes the product for use in “general degreasing,” “engine degreasing,” and several other specific uses. ARB has provided no information regarding the performance of the product or its commercial acceptance.

- The typical generic complying formulation suggested by CARB for aerosol engine degreasers (10% hydrocarbon propellant, 88% water, 1% surfactant, and 1% organics) does not represent a template for any technologically and commercially feasible heavy-duty engine degreasers. CSPA is not aware of any potential formulation of this type that would provide the kinds of performance characteristics (*e.g.*, thick baked-on soil penetration) required for engine degreasers.

CSPA member companies will be providing additional technical and commercial information in support of these conclusions, and the consensus position of the engine degreaser industry that a 10% VOC limit is not feasible.

#### General Purpose Degreaser (Aerosol)

This category includes a wide variety of products aimed at varying consumers and uses in the automotive, commercial and industrial markets. CSPA continues to believe that the 10% limit for this category is not feasible for all types of products. CSPA member companies manufacturing this product are willing to work, however, toward a 20% VOC limit for this category, and hope that it will prove technologically and commercially feasible by an effective date of 12/31/09. We would also urge that ARB initiate an assessment beginning one year prior to the effective date to determine whether the standard is proving to be feasible, and make suitable adjustments if the limit is being found to be infeasible.

According to the Initial Statement of Reasons and Technical Support Document, ARB is seeking to justify this 10% limit for aerosol general purpose degreasers on the following:

- 3.1% of the current aerosol general purpose degreaser market in California consists of 21 complying products.
- An IRTA study funded by ARB during 2003-2004 found that water-based 10%-VOC aerosol general purpose degreasers “performed well” in field testing.
- Two suggested generic complying product formulations for aerosol general purpose degreasers in the cost-assessment section.

CSPA strongly believes that none of these provide accurate and reliable evidence of the technical or commercial feasibility of a 10% VOC limit for this category. The following summarizes our assessments of each:

- The 3.1% market share of complying aerosol general purpose degreaser products in 2003 probably represents products for specialized uses that involve light-duty degreasing only.
- CSPA and ASPA funded an independent scientific assessment of the 2004 IRTA study. That assessment by Sierra Research, “Analysis of IRTA Report on Water-Based Automotive Products,” Report No. SR2006-08-02, dated August, 2006, is attached to these comments as Attachment A. The Sierra Research review found very serious flaws in the methodology and conduct of the IRTA study, and concluded that, “the results of the IRTA study do not support the conclusions that have been drawn by IRTA and CARB Staff nor CARB’s proposed VOC content regulations for the subject products.” In short,

the IRTA study fails to provide *any* accurate and reliable evidence that 10% general purpose degreasers are technologically and commercially feasible for automotive maintenance, and does not even attempt to assess the needs of other commercial and industrial use sectors.

- CSPA found no evidence that the product bulletin dated September, 2006, exists. We have obtained, however, a product bulletin on Kyzen Cyber Solv Aerosol Maintenance Cleaner dated Spring, 2004. Although that bulletin promotes the product for use in “general degreasing,” “engine degreasing,” and several other specific uses, ARB has provided no information regarding the performance of the product or its commercial acceptance.
- The typical generic complying formulation suggested by CARB for aerosol general purpose degreasers (25% acetone, 7% d-limonene, 3% 2-butoxyethanol, 3.5% carbon dioxide, 55% LVP hydrocarbon, and 6.5% dipropylene glycol monobutyl ether) may provide a reasonable template for some types of degreasing. However, this type of high-LVP formulation would not be suitable for applications where an oily residue would result in safety problems due to slippery surfaces or re-soiling due to collecting particulate soils.

CSPA member companies will be providing additional technical and commercial information in support of these conclusions, and the consensus position of the aerosol general purpose degreaser industry that a 10% VOC limit is not feasible.

#### Floor Polish or Wax

A 1% VOC limit for Floor Polish or Wax is not technologically or commercially feasible for all products in the category. We therefore now urge that ARB establish a limited subcategory for floor polish or wax products that must be regularly burnished and establish a 3% VOC limit for that subcategory. The definitional changes needed for this new limit are provided later in these comments.

#### Furniture Maintenance Product (Non-Aerosol)

A 3% VOC limit for non-aerosol furniture maintenance products may be technologically and commercially feasible for some types of products currently included in this category, but it is not feasible for others. We therefore continue to recommend that ARB establish a VOC limit of 4% for this product category.

## **II. Changes Needed in Definitions and Other Provisions**

### Section 94508(a)(57) Floor Polish or Wax

To promulgate a 1% VOC limit for all Floor Finish or Wax products for non-wood surfaces except for those products that require regular high-speed burnishing, we recommend that the following three definitions be adopted to create the new Burnishable Floor Polish category:

“Floor Polish or Wax” means a product designed or labeled to polish, wax, condition, protect, temporarily seal, or otherwise enhance floor surfaces by leaving a protective finish that is designed or labeled to be periodically replenished. “Floor Polish or Wax” does not include “spray buff products,” “Floor Wax Strippers,” products designed or labeled for unfinished wood floors, or coatings subject to architectural coatings regulations. “Floor Polish or Wax” may be used on resilient or flexible flooring material including but not limited to asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring, or nonresilient flooring material, including flooring of a mineral content which is not flexible. “Floor Polish or Wax” does not include “Burnishable Floor Polish” or “Wood Floor Wax”.

“Burnishable Floor Polish” means a “Floor Polish or Wax” that is labeled for use exclusively on floors in institutional or commercial facilities that utilize frequent ultra-high-speed burnishing using machines operating at 1500 rpm or greater.

“Burnishable Floor Polish” products must be labeled exclusively for use where the floor finish must be burnished as part of its maintenance program. All “Burnishable Floor Finish” products must be reported by the manufacturer, supplying all of the information outlined in Section 94513 to the Executive Officer prior to sale in California.

“Wood Floor Wax” means a wax-based “Floor Polish or Wax” “product labeled for use solely on wood floors.

#### Section 94508(a)(121) Rubber/Vinyl Protectant

This revised definition, to be effective 12/31/08, appears to be intended to clarify the definition to include products that protect only rubber or only vinyl (thereby including additional products in the category and making them subject to this VOC limit), as well as to move some products from this category to the Vinyl/Fabric/Leather/Polycarbonate Coating subcategory under Section 94521(a) of the Aerosol Coatings Regulation. This is a category of products that was deferred from the 2003 Consumer and Commercial Products Survey, and there is therefore inadequate data to review the impact of this modification at this time. The voluntary and very limited survey reported in the Staff Report as having been conducted earlier this year is not sufficient to evaluate this modification. CSPA therefore recommends that this modification be deferred until the next Consumer and Commercial Products Survey (now being proposed to cover the year 2006) is conducted next year to provide the data needed to assess this modification as part of the final CONS-2 regulation.

### **III. Summary and Conclusions**

CSPA and its member companies have reviewed the proposed VOC limits and other regulatory modifications being proposed by ARB staff. Our initial review, as presented in these comments, has found some limits that are clearly *not* feasible. In those categories where the limits proposed are not feasible, CSPA is proposing feasible alternative VOC limits that will provide the very



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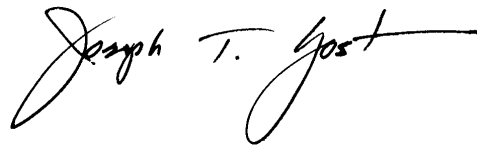
significant reductions in VOC content needed by ARB to achieve its legally mandated emission reduction target.

Once again, CSPA appreciates the opportunity to comment on these important draft regulatory changes to the California Consumer Products Regulation. Please contact us any time if you have questions regarding any of the issues raised in these comments.

Respectfully submitted,



D. Douglas Fratz  
Vice President, Scientific & Technical Affairs



Joseph T. Yost  
Director, State Affairs

Attachment (1)

cc: Robert D. Fletcher, P.E., Division Chief, Stationary Source Division  
Robert D. Barham, Ph.D., Assistant Division Chief, Stationary Source Division  
Janette M. Brooks, Chief, Air Quality Measures Branch, Stationary Source Division  
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CSPA Air Quality Special Committee and Task Forces