

November 14, 2006

Sent *via* e-mail

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

Subject: Final Comments on the Proposed Amendments to the California Consumer Products Regulation (2006 Amendments); Agenda Item # 06-10-8

Dear Honorable Board Members:

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to provide final comments on the California Air Resources Board's (ARB's) Proposed Amendments to the California Consumer Products Regulation and the Aerosol Coatings Regulation, dated September 29, 2006.¹ CSPA also filed initial comments on October 20, 2006, to identify key issues with the proposed rule that require consideration prior to adoption. CSPA has continued to work with CARB staff since filing those comments to develop compromise positions that will allow CSPA and the consumer products industry to agree to work toward implementation of these new requirements in the hope that they prove to be technologically and commercially feasible.

CSPA is a voluntary, non-profit national trade association representing more than 260 companies engaged in the manufacture, formulation, distribution, and sale of consumer specialty 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 and 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.

In these comments, we are identifying specific proposed changes in the proposed rule amendments. If these final changes in these few specific areas of the Proposed Regulation Order are made prior to adoption at the November 16-17 Board hearing, we are willing to accept the challenge of determining whether these new requirements will be technologically and commercially feasible for our members and their products.

I. Remaining Changes Needed in Proposed Regulation Order

Section 94509(a) Brake Cleaner

In our initial comments, filed on October 20, 2006, we outlined our strong concerns that the 10% VOC limit proposed to be effective in 2008 did not represent a technologically and commercially feasible standard for Brake Cleaners. Since filing those comments, CSPA and the

¹ 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>.

Automotive Specialty Products Alliance (ASPA) continued to work with ARB staff to seek a resolution to our concerns. As a result of those efforts, CSPA and ASPA agreed to accept adoption of a 20% VOC limit effective December 31, 2008, and a 10% VOC limit effective December 31, 2012, for Brake Cleaners.

Our members have committed to expending the considerable resources needed to develop products meeting these ambitious standards and seek to establish their commercial viability in the California marketplace and automotive repair facilities. They are also committing to take the necessary risks with brand names that have been built in value over many years. We cannot be certain at this time, however, whether either of these two VOC limits and implementation dates will prove to be technologically and commercially feasible. We therefore are also asking that ARB commit to reconsider these limits expeditiously in the future if one or both prove to be infeasible. If our best efforts fail to develop effective and commercially viable brake cleaners, it is essential that this issue be addressed before effective automotive maintenance is seriously compromised.

Section 94509(a) Carburetor or Fuel-Injection Air Intake Cleaner

In our initial comments, filed on October 20, 2006, we outlined our strong concerns that the 10% VOC limit proposed to be effective in 2008 did not represent a technologically and commercially feasible standard for Carburetor or Fuel-Injection Air Intake Cleaners. Since filing those comments, CSPA and ASPA continued to work with ARB staff to seek a resolution to our concerns. As a result of those efforts, CSPA and ASPA agreed to accept adoption of a 20% VOC limit effective December 31, 2008, and a 10% VOC limit effective December 31, 2012, for Carburetor or Fuel-Injection Air Intake Cleaners.

Our member companies have committed to expending the considerable resources needed to develop products meeting these ambitious standards and seek to establish their commercial viability in the California marketplace and automotive repair facilities. They are also committing to take the necessary risks with brand names that have been built in value over many years. We cannot be certain at this time, however, whether either of these two VOC limits and implementation dates will prove to be technologically and commercially feasible. We therefore are also asking that ARB commit to reconsider these limits expeditiously in the future if one or both prove to be infeasible. If our best efforts fail to develop effective and commercially viable carburetor or fuel-injection air intake cleaners, it is essential that this issue be addressed before effective automotive maintenance is seriously compromised.

Section 94509(a) Engine Degreaser (Aerosol)

In our initial comments, filed on October 20, 2006, we outlined our strong concerns that the 10% VOC limit proposed to be effective in 2008 did not represent a technologically and commercially feasible standard for Engine Degreasers. Since filing those comments, CSPA and ASPA continued to work with ARB staff to seek a resolution to our concerns. As a result of those efforts, CSPA and ASPA agreed to accept adoption of a 10% VOC limit effective December 31, 2010 for Engine Degreasers.

Our members have committed to expending the considerable resources needed to develop products meeting this ambitious standard and seek to establish their commercial viability in the California marketplace. They are also committing to take the necessary risks with brand names that have been built in value over many years. We cannot be certain at this time, however, whether this VOC limit and implementation date will prove to be technologically and commercially feasible. We therefore are also asking that ARB commit to reconsider this limit expeditiously in the future if it proves to be infeasible.

Section 94509(a) General Purpose Degreaser (Aerosol)

In our initial comments, filed on October 20, 2006, we outlined our strong concerns that the 10% VOC limit proposed to be effective in 2008 did not represent a technologically and commercially feasible standard for aerosol General Purpose Degreasers. Since filing those comments, CSPA and ASPA continued to work with ARB staff to seek a resolution to our concerns. As a result of those efforts, CSPA and ASPA agreed to accept adoption of a 20% VOC limit effective December 31, 2008, and a 10% VOC limit effective December 31, 2012, for aerosol General Purpose Degreasers.

Our members have committed to expending the considerable resources needed to develop products meeting these ambitious standards and seek to establish their commercial viability in the California marketplace and numerous commercial and industrial facilities. They are also committing to take the necessary risks with brand names that have been built in value over many years. We cannot be certain at this time, however, whether either of these two VOC limits and implementation dates will prove to be technologically and commercially feasible. We therefore are also asking that ARB commit to reconsider these limits expeditiously in the future if one or both prove to be infeasible. If our best efforts fail to develop effective and commercially viable general purpose degreasers for some applications, it is essential that this issue be addressed before effective the commercial and industrial operations that rely on these products are seriously impacted.

Section 94509(a) Disinfectant (Non-Aerosol)

CSPA has agreed to the revised proposed limit of 1% VOC for liquid disinfectant products based upon the clear understanding provided by ARB staff that the limit applies only to those products that have the sole purpose of disinfecting surfaces. This limit is not feasible for products that perform other functions, such as cleaning, which could subject them to this limit due to the application of the current Most Restrictive Limit provision. Both the definition and the most restrictive limit provision must be modified to clarify that the 1% VOC limit will not apply to products that clean and disinfect, such as toilet bowl cleaners. Unless such modifications are made, CSPA must respectfully oppose the 1% VOC limit in this category to avoid the elimination of public health products.

Section 94509(a) Sanitizer (Non-Aerosol)

CSPA has agreed to the revised proposed limit of 1% VOC for liquid sanitizer products based upon the clear understanding provided by ARB staff that the limit applies only to those products

that have the sole purpose of sanitizing surfaces. This limit is not feasible for products that perform other functions, such as cleaning, which could subject them to this limit due to the application of the current Most Restrictive Limit provision. Both the definition and the most restrictive limit provision must be modified to clarify that the 1% VOC limit will not apply to products that clean or freshen as well as sanitize, such as fabric refreshers. Unless such modifications are made, CSPA must respectfully oppose the 1% VOC limit in this category to avoid the elimination of public health products.

Sections 94508(a)(57) and 94509(a) Floor Polish or Wax

As outlined in CSPA's initial comments filed on October 20, 2006, the 1% VOC limit for Floor Polish or Wax is not technologically or commercially feasible for all products in the category, despite the proposed implementation date of December 31, 2010. Therefore, in CSPA's initial comments, we urged ARB to establish a limited subcategory for floor polish or wax products that must be regularly burnished and establish a 3% VOC limit for that subcategory, and provided the definitional changes needed for this new limit.

Since filing those comments, CSPA continued to work with ARB staff to seek a resolution to our concerns. While we continue to believe that a subcategory with a 3% limit should be developed, CSPA and its members are now willing to accept the 1% limit proposed for the two subcategories of Floor Polish or Wax products, based on the willingness of ARB staff to consider submissions under the Innovative Products provision² for products whose burnishability and durability allow lower usage to maintain floors for a given time period, and therefore result in lower VOC emissions than a representative product that complies with the 1% VOC limit. It is vitally important, however, that these Innovative Product applications be allowed based on a reasonable level of scientific evidence so that this regulatory alternative is cost-effective for companies.

Sections 94508(a)(39) and 94508(a)(123) Disinfectant and Sanitizer Definitions

A very significant problem has been identified regarding the definitions for the product categories of non-aerosol "Disinfectants" and "Sanitizers" that are proposed for VOC limits for the first time. The proposed definitions for these categories use the undefined term "primary use," which would not provide a clear distinction regarding which products are to be subject to the new limits for these categories. CSPA agreed to the proposed VOC limits for these categories based on the clear understanding provided by ARB staff that the new limits would apply only to products where the sole use pattern for the products is to disinfect or sanitize and therefore disinfectant and sanitizer products already regulated in other categories would not be impacted.³ Additionally, CSPA agreed to the proposed limits based on their applying only to the products evaluated as non-aerosol "Disinfectants" or "Sanitizers" in the 2003 Survey.

² Cal. Code Regs. Title 17, § 94511.

³ Disinfectant or sanitizer products that clean or freshen soft and/or hard surfaces are already subject VOC restrictions under Section 94509. Examples of these categories include general purpose cleaners, toilet/urinal care products, bathroom and tile cleaners, glass cleaners and fabric refreshers.

It has since come to our attention that the current Most Restrict Limit provisions in Section 94512(a) — especially the new provision adopted under Section 94512(a)(3) — could be interpreted to make these new VOC limits apply to many hundreds of products that are already regulated in other categories, and for which the new limits were not evaluated by ARB and in many cases are not feasible. We therefore urge that the following changes be made in both the proposed definitions and Most Restrictive Limit provision to clarify what products will be subject to the new VOC limits:

1. In the definitions for “Disinfectant” and “Sanitizer” in Sections 94508(39) and 94508(123), the phrase “as dictated by the primary use indicated on the principal display panel” must be deleted.
2. In the Most Restrictive Limit provision in Sections 94512(a)(1) and 94512(a)(2), the following sentence must be added: “FIFRA-registered products that carry a claim of “disinfectant” or “sanitizer” but which are subject to VOC limits specified in Section 94509(a) for other product categories based on claims on the principal display panel shall not be subject to the VOC limits for non-aerosol Disinfectant or Sanitizer.”

CSPA also supports the exclusion from the definitions of non-aerosol Disinfect and Sanitizer of any other types of antimicrobial products that were not included in the 2003 Survey data used to assess the feasibility of these new VOC limits.

Resolution of this two-part issue is essential to assuring that these new VOC limits are technologically and commercially feasible and being adopted based on adequate data. CSPA cannot agree to the new VOC limits for non-aerosol “Disinfectants” and “Sanitizers” if these issues are not clearly resolved.

Section 94508(a)(46): CSPA supports the proposed revision to the definition for “Electronic Cleaner” to exclude products that are not for retail sale and sold only to manufacturers. However, we believe that it would be a better solution to simply extend the effective date of the limit for this category in Section 94509(a) by one year to December 31, 2007. This obviates the need for labeling and allows companies that produce these products to determine what alternative formulation technologies might be available to replace HFC-141b.

Sections 94523(a) and 94508(a)(121) Rubber/Vinyl Protectants

The proposed revision, to be effective December 31, 2008, appears to be intended to remove any ambiguity that the definition includes 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 to this category from the Vinyl/Fabric/Leather/Polycarbonate Coating subcategory under Section 94521(a) of the Aerosol Coatings Regulation. These are categories of products that were deferred from the 2003 Consumer and Commercial Products Survey, and there are 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 urges 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. CSPA does not object, however, to moving ahead with the clarification that protectants labeled only for use on rubber or only for use on vinyl are included.

II. Comments on Other Proposed Limits and Provisions

Section 94508(a)(9): CSPA has no objection to the proposed revision to the definition for “All Other Forms” to clarify that liquid-impregnated towelettes are considered subject to VOC limits for the liquid product form.

Section 94508(a)(21): CSPA has no strong objection to the proposed revision to the definition for “Bathroom and Tile Cleaner” to reference directly the defined category of “Toilet/Urinal Care Product.” We are concerned, however, that this could present increased ambiguity in light of the new provision in Section 94512(a)(3) that states that products in a category excluded from the definition of another category may still be subject to the “Most Restrictive Limit” provision. We would ask for clarification in the record that all Toilet/Urinal Care Products will not be subject automatically to limits for Bathroom and Tile Cleaners simply due to toilets and urinals being “surfaces in bathrooms.”

Section 94508(a)(22): CSPA has no objection to the proposed revision to the definition for “Brake Cleaner” to remove the term “Automotive”.

Section 94508(a)(25): CSPA supports the proposed revision to the definition for “Carburetor or Fuel-Injection Air Intake Cleaner” to exclude products introduced directly into air intake vacuum lines, since the VOC content of these products is combusted. This is also true for some of the VOC content of most of the products in this category. We urge ARB to correct the emissions inventory to remove VOC content that is not actually emitted into ambient air.

Section 94508(a)(51): CSPA has no objection to the proposed revision to the definition for “Fabric Protectant” that is aimed at clarifying that film-forming products are excluded from the category, and considered subject to the Aerosol Coating Regulation.

Section 94508(a)(63): CSPA supports the proposed revision to the definition for “Furniture Maintenance Product” that clarifies that furniture can be made of materials other than wood. We hope that this will decrease the ambiguity caused by the new provision in Section 94512(a)(3) that states that products in a category excluded from the definition of another category may still be subject to the “Most Restrictive Limit” provision.

Section 94508(a)(67): CSPA has no objection to the proposed revision to the definition for “General Purpose Cleaner” which would clarify the types of surfaces on which these types of products are used.

Section 94508(a)(86): CSPA has no objection to the proposed revision to the definition for “Laundry Starch/Sizing/Fabric Finish” to clarify that sizing and fabric finish products are included.

Section 94508(a)(97): CSPA has no objection to the proposed revision to the definition for “Multiple Purpose Solvent” that restricts the category to products that do not meet the definitions for other regulated consumer product categories. It is important to note, however, that this provision serves to change the classification of many current products, and the impacts of this change have yet to be fully assessed. CSPA will support the ARB’s efforts to further assess this change when this category is considered for a potential VOC limit (which we believe must be reactivity-based) in the upcoming rulemaking (*i.e.*, ARB’s 2007 Amendments to the Consumer Products Regulation).

Section 94509(a) Automotive Windshield Washer Fluid

CSPA believes that the proposed 25% VOC limit for products used in Type-A areas represents a goal that is likely to be technologically or commercially feasible for our industry. CSPA also has no objections to the technical revision proposed for the definition of this product category. CSPA members therefore accept the proposed 25% VOC limit and will seek to market effective products meeting this new standard.

Section 94509(a) Bathroom and Tile Cleaner

CSPA member companies manufacturing these products believe that the 1% VOC limit proposed may be feasible for the non-aerosol form in this category. CSPA members therefore accept the proposed 1% VOC limit and will seek to market effective products meeting this new standard.

Section 94509(a) Disinfectant

CSPA supports the VOC limits proposed for the aerosol and non-aerosol forms of these important health protection products, but only if the issues related to the definitions and Most Restrictive Limit provision noted earlier in these comments are fully resolved.

Section 94509(a) Furniture Maintenance Product

While the 3% limit may be technologically feasible to achieve, it will add significant cost to many products, and could impact the commercial feasibility for some companies. We would recommend a slightly higher limit of 4% instead be adopted, which would provide some reduction below the current 7% limit (especially if a limit-to-limit assessment is done), and also provide more efficacy in the cleaning nature of the product without a substantial cost increase.

Section 94509(a) General Purpose Cleaner

CSPA member companies manufacturing these products believe that the 8% VOC limit proposed may be feasible for the aerosol form in this category. CSPA members therefore accept the proposed 8% VOC limit and will seek to market effective products meeting this new standard.

Section 94509(a) Laundry Starch/Sizing/Fabric Finish

CSPA member companies manufacturing these products believe that the 4.5% VOC limit proposed may be feasible for the aerosol form in this category. CSPA members therefore accept the proposed 4.5% VOC limit and will seek to market effective products meeting this new standard.

Section 94509(a) Oven Cleaner

The proposed 1% limit may be feasible for the non-aerosol form in this category. Our members are therefore willing to accept a 1% limit and work to reformulate non-complying products by December 31, 2008.

Section 94509(a) Sanitizer

CSPA supports the VOC limits proposed for the aerosol and non-aerosol forms of these important health protection products, but only if the issues related to the definitions and Most Restrictive Limit provision noted earlier in these comments are fully resolved.

Section 94509(p) Requirements for Bathroom and Tile Cleaners, Construction, Panel and Floor Covering Adhesives, General Purpose Cleaners and Oven Cleaners

CSPA members are willing to accept the proposed prohibition (effective December 31, 2008) of the use of methylene chloride, perchloroethylene or trichloroethylene in these product categories. We are not aware of any current use of these chlorinated solvents in these products.

CSPA Review of Initial Statement of Reasons and Technical Support Documents

CSPA has also thoroughly reviewed the Initial Statement of Reasons and related documents developed to support this proposed regulation. Our comments on these documents can be found in Attachment 1 to these comments.

III. Summary and Conclusions

CSPA and its member companies have thoroughly reviewed the proposed VOC limits and other regulatory modifications being proposed, and have found a number of changes that must be made before our industry can accept the challenge of seeking to determine whether these new VOC limits prove to be technologically and commercially feasible.

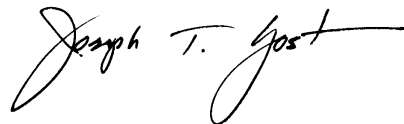
The new VOC limits, along with the other related provisions, being proposed present a very serious and costly formulating and marketing challenge. We hope that all of these proposed provisions will prove feasible in the short time frames allowed for compliance. In at least a few instances, our members have yet to identify feasible product technologies to meet these new VOC standards. We are therefore asking that ARB commit to work with us to reevaluate these limits in the future if they prove to be technologically and commercially infeasible.

Once again, CSPA appreciates the opportunity to comment on these important proposed 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
David Mallory, P.E., Manager, Measures Development Section
Carla Takemoto, Manager, Implementation Section, Stationary Source Division
Judy Yee, Manager, Technical Evaluation Section, Stationary Source Division
Trish Johnson, Measures Development Section, Stationary Source Division
CSPA Air Quality Special Committee and Task Forces