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California Consumers for Freedom of Choice
Written Comments to the California Air Resources Board
Air Cleaner Regulation REVISED Draft

April 20, 2007

Introduction

Thank you again for the opportunity to participate in this workshop on the development of a regulation to limit the use and emission of ozone from indoor air cleaners. The California Consumers for Freedom of Choice (CCFC) is a diverse group of California consumers from throughout the State concerned over the California Air Resource's Board (CARB) rulemaking process as it affects the rights of consumers to select products emitting ozone from indoor air cleaners.

Our written comments today focus on the 3-21-07 Draft Proposed Regulation Order for the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices, and supplements the oral testimony provided at the March 29th Staff Workshop.

In our January 2007 comments, we offered just a few illustrations of the concerns of many of our members, who come from all walks of life, both residential and business environments, and with different experiences involving indoor air cleaners and the use of ozone:

- Unbreathable and non-livable environments due to smoke, odors and chemicals from wild fires and other disasters.
- Maintenance of indoor environments.
- Day Care for Children and Elderly.
- Schools with reported mold and bacteria problems.
- Portable air cleaners.

We also shared our guiding recommendations to the Board and Staff, including:

(1) That you take a fresh look at ozone and ozone technologies and the *latest science* substantiating its reasonably safe use,

- (2) That your regulations be flexible enough to permit usage against both known and unknown contaminants impacting indoor environments for years to come,
- (3) That your regulations allow for varying ozone usage amounts subject to perceived consumer needs even in indoor residential environments, provided there are reasonable warnings, disclosures or other safeguards in place, and
- (4) That your regulations provide consumers with the broadest number of choices, as opposed to the least restrictive choices, for the protection of themselves and their families in their individual indoor environments.

More specifically, we submitted 12 RULES for you to use as a benchmark on your regulations, including the following:

- Rules must not be geared to selectively benefit the agendas of any interest group and their membership to the detriment of consumers.
- Rules on testing must be reasonable and not exclusionary.
- Rules must provide consumers with legitimate safeguards, but in an appropriate measure using the “least restrictive means” (usage warnings, labeling requirements, etc.) so as not to limit the exercise of reasonable consumer choices.
- Rules must allow for the broadest array of consumer product choices and encourage research and development for new product choices.
- Rules must allow for the broadest consumer use of safe and proven ozone technologies, and at various levels based on the consumer’s determination of indoor air quality needs with appropriate and reasonable disclosure and warnings.
- Rules should err on the side of ***Consumer Choice***.
- Rules should weigh the benefits of choice over lesser risks involved, so as not to restrict individual consumer options.
- Rules must take into account the lack of any government control over pollutants and contaminants entering residential indoor air environments, and government’s relative inability to alert consumers in a timely manner to potentially dangerous contaminants entering residential indoor air environments.

We also commented on testing standards vs. less restrictive means of safeguarding consumer interests, for example with warning labels, based on our discovery that many known airborne and surface contaminants that are considered extremely dangerous by the State are still permitted, including tobacco products and chlorine, that are openly sold and used, often times in extremely high concentrations or dosages subject only to warning labels and disclosure requirements relating to their use, despite the fact that they are responsible for more deaths (thousands a year) and sickness in California than from any reported use or misuse of ozone emissions from indoor air cleaners or purifiers. We also commented that unreasonable testing standards could eliminate the use of some ozone based technologies to address hospital or medical facility acquired infections that according to press accounts affect millions of consumers nationwide, and over 200,000 reported deaths a year.

Therefore, we strongly urged that in lieu of rules to exclude safe indoor ozone technologies in occupied spaces where people are present, or higher levels where people are not present at the time the device is in use, the same level of warnings and label disclosures used for these other products should be more than acceptable!

So since January, what has happened that relates to this ongoing proceeding?

- More forest fires & destruction in California.
- More media reports on hospital and medical acquired infections in local hospitals and doctors' offices; and the State of California now officially recognizes that approximately 5 to 10 % of hospitalized patients develop one or more Healthcare Associated Infections (HAI) EVERY YEAR! That's equivalent to 240,000 patients, at a cost of approximately \$3.1 billion dollars, and resulting in not only long-term sickness but in death, too! Indeed, Senate Bill 739 enacted last session establishes an advisory committee to study this alarming problem with a goal to prevent "prolonged and unnecessary hospitalizations and decreasing mortality rates resulting from HAI."
- Reports on sub-standard conditions in VA hospitals and facilities in California and elsewhere, including indoor environmental challenges, such as mold, bacteria and viruses.
- Updated reports on Avian Bird Flu viruses and projected # of deaths and people getting sick. A new report last week projected that a pandemic would make 30% of the population ill, and would kill 2.5% of those who got sick, translating into about 90 million people getting sick and 2.25 million dying. According to this report, "health experts say another flu epidemic is inevitable."
- Release of the UC Berkeley Survey of the use of Ozone-Generating Air Cleaners by the California Public. Some interesting data there, but of interest to us was: (a) among the reasons given for purchasing an air cleaner by respondents were removal of particulate as well as microbial, bacteria, mold and chemical contaminants, and protecting children; (b) 73% of owners of air cleaners that emitted ozone by design were aware of this; (c) Owners of ozone-generating air cleaners by design tended to use their air cleaners on a regular basis, year-round; and (d) 81% of owners of ozone-generating air cleaners by design and 71% of owners of by-product air cleaners believe indoor air quality has improved.
- And of course, on January 9th we had the publicly filed written comments on the December, 2006 Staff draft.

REVISED STAFF REGULATION

We applaud Staff on the progress they have made with this new draft, as Staff has a difficult mission here. And in the spirit of producing additional insight and assistance for Staff and the ARB Members, we offer the following comments.

Public Policy

From a public policy perspective, the current draft still unduly restricts a consumer's right to choose the technologies and products to provide for and protect their indoor air quality environments! Also, the draft unduly restricts a consumer's right to choose operational features and benefits for them and their family's indoor environment. You can purchase a car capable of being driven at deadly speeds that could cause injuries and death to the driver, passengers and others; you can choose to buy a gun and keep it in your home without a mandatory gun lock to prevent misuse by others; you can buy and use ovens that operate using gas and electricity designed to be set at dangerous temperatures for users and possibly others in the home; you can freely emit Environmental Tobacco Smoke (ETS), a proven source of carcinogens and respiratory toxicants into any public or private premise from persons recently smoking outside of these premises on their clothing, hair and skin; you can purchase without any restriction on the use of chlorine intended for "super-chlorination" in swimming pools, despite the known medical and health implications involved; and any employer can buy or lease copiers and printers equipped with ozone generators that have no independent controls for regulating either the amount or concentration of ozone. BUT you want to deny consumers the right to select air cleaner options that carry a de minimis impact compared to these other products!

The new staff draft also fails to address these critical areas from the consumers' perspective:

- The optional use of greater than 0.05 ppmv of ozone technologies in circumstances where the residential or commercial premises, or specific rooms or areas therein, are non-occupied or unoccupied while the technologies are in use, with appropriate warnings, labeling, or other reasonable advisories to ventilate the areas following use and before re-occupancy or access.
- Consumers access to any air purification cleaners/devices capable of quickly addressing microbial, bacteria, and odor contaminations airborne, surfaces, or both. There appears to be no logical reason why consumers should not be permitted the right to knowingly select equipment with flexible options.
- Consumers Right To Choose, or Freedom Of Choice, in selecting technologies and the equipment with these technologies to give them the power to decide how best to address microbial, bacteria, and odor contaminations, both airborne and surfaces in their homes or businesses in responsible ways.
- On testing and testing policy, the staff draft still contains a possible bias that could result in the exclusion of reasonable and beneficial consumer choices. While possibly unintended, the draft appears to favor certain air cleaning technologies to the exclusion of others. As we have said in our prior written comments and publicly at the December workshop, this law was created, crafted, drafted, and in large part its enactment was facilitated by many of the special interests participating in these proceedings. As sometimes happens in the legislative process, the consumers' right to choose or freedom to make personal

choices affecting their welfare and the welfare of their families, is reduced in importance and relegated in favor of special interests. The rule making process, in contrast, should be guided by the right to choose, and conflicts between special interests and consumer interests should be resolved in favor of the consumers' broader interests.

AB 2276 Statutory Guidance & Recommended Drafting Changes

Since Staff at this stage of the proceedings is being guided by the specific language of AB 2276 as well as reasonable interpretations thereof, we believe it is important to point out in our Comments those statutory provisions that we believe form the basis for our recommendations.

As a general statement, we remind staff of Legislative Counsel's Digest, that AB 2276: *"would require the state board, on or before December 31, 2008, to develop and adopt regulations, consistent with federal law and including specified elements, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces." (underlining added)*

1. SCIENCE: One of keys to the Legislature's enactment of AB 2276, we submit, was concerns over the science then available to the Legislature on ozone related issues. For example:

Section 41985. The Legislature finds and declares all of the following:

(e) Ozone is not an effective cleaner for indoor air when operated at levels that are safe for human occupation. Independent studies cited by the United States Environmental Protection Agency and the Consumers Union have shown that ozone-generating air cleaning devices do not destroy microbes or reduce indoor air pollutants effectively enough to provide any measurable health benefits. (underlining added)

Based on the number of newer studies we have found on the benefits of ozone and oxidation technologies, it is clear that there is in fact more science to at least question these statutory findings that there is no proof of any benefits to the use of ozone in the indoor air cleaning process that can produce measurable health benefits. For example, we direct staff's attention to the following that we have found through simple Internet searches: Wien Products, Inc. studies (including Peer Review Studies) on substantially lowering the concentration of many airborne viral and bacteria sized particles; Kansas State University Studies on (a) reducing common bacteria and fungi on surfaces, and (b) reducing microbial populations on surfaces, including but not limited to Avian H5N8 Virus; International Ozone Association studies and publications; and the University of Cincinnati Peer Review Study on "Control of Aerosol Contaminants in Indoor Air." These studies alone would appear to support that ozone may in fact be an effective technology that can be used in addressing certain types of indoor air contaminants in both occupied and non-occupied or unoccupied space, as well as being able to significantly

destroy or inactivate microbes or reduce indoor air pollutants effectively enough to provide some measurable health benefits.

2. OCCUPIED SPACE: Another legislative concern, we submit, involved the generation or use of ozone solely in “occupied spaces” as opposed to “non-occupied or unoccupied spaces.” For example:

Section 41985.5. For purposes of this article, the following terms have the following meanings:

(a) “Federal ozone emissions limit for air cleaning devices” means the level of generation of ozone above which the device would be considered adulterated or misbranded pursuant to Section 801.415 of Title 21 of the Code of Federal Regulations, specifically the generation of ozone at a level in excess of 0.05 part per million by volume of air circulating through the device or causing an accumulation of ozone in excess of 0.05 part per million by volume of air when measured under standard conditions at 25 degrees Celsius (77 degrees Fahrenheit) and 760 millimeters of mercury in the atmosphere of enclosed space intended to be occupied by people for extended periods of time. (underlining added)

Section 41986

(a) On or before December 31, 2008, the state board shall develop and adopt regulations, consistent with federal law, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces. (underlining added)

(c) The regulations may include any or all of the following elements:

(4) Any other element the state board determines to be necessary to protect the public health from emissions of ozone from indoor air cleaning devices that exceed the emission concentration standard for ozone emissions from air cleaning devices and are used in occupied spaces. (underlining added)

(e) It is the intent of the Legislature that this section be interpreted and applied in a manner that is consistent with federal law. The regulations adopted by the state board pursuant to this section shall be consistent with federal law. The state board may, to the extent a waiver is required, seek a preemption waiver from the federal government to authorize the state board to adopt regulations that are more stringent than federal law.

Given what we submit is clear guidance above, then from both a legal and public policy basis, we recommend staff consider the following definitional changes on the application of any ozone limiting regulations in occupied space, as opposed to non-occupied or unoccupied space.

For example:

Adding to the definition sections (94801. Definitions) of “occupied space” and then adding a new definition for “non-occupied or unoccupied space” with the underscored and bolded language below:

- Section 94801. (19) “Occupied space” means area within a building that is physically occupied by human beings **during the use of any indoor air cleaning device.**
- Section 94801. (19 B) “**Non-occupied or Unoccupied space**” means area **within a building that is not physically occupied by human beings during the use of any indoor air cleaning device.**

Adding into Section 94802. Standards for Indoor Air Cleaning Devices the underscored and bolded language below:

- Section 94802 (a) Except as provided in Section 94803 (Exemptions), Title 17, California Code of Regulations, no person or business shall manufacture for use in California, sell, supply, offer for sale, or introduce into commerce in California after September 30, 2008 any indoor air cleaning device unless the device is certified by ARB to produce an emission concentration not exceeding 0.050 ppmv, as specified in Section 94804, **except for those indoor air cleaning devices capable of producing an emission concentration exceeding 0.050 ppmv for use in non-occupied or unoccupied space as defined in Section 94801, and meeting the label requirements below;** is labeled as required in Section 94806; meets all requirements of this article; and continues to meet the ozone emissions limit as determined by the test procedure in Section 94805.

Clarifying in Section 94803. Exemptions to make more clear when even industrial or commercial type equipment can be used in spaces not then physically occupied by human beings during the use of any indoor air cleaning device, with the underscored and bolded language below:

- Section 94803 (a) Industrial use: The provisions of this article do not apply to indoor air cleaning devices manufactured, advertised, marketed, labeled, and used solely for industrial use **or for use in non-occupied or unoccupied space as defined in Section 94801,** provided that they are marketed solely through industrial supply outlets or businesses and prominently labeled as “solely for industrial use”, or alternatively, “not for residential **occupied space** use”.
- Section 94803 (b) Commercial use in unoccupied spaces: The provisions of this article do not apply to indoor air cleaning devices manufactured, advertised, marketed, labeled, and used solely for commercial use in unoccupied spaces **or for residential use in non-occupied or unoccupied space as defined in Section 94801,** provided they are prominently labeled as “solely for commercial use in

unoccupied spaces”, or alternatively, “not for use in occupied spaces” and “not for residential occupied space use”.

3. TESTING: On the important issue of testing devices capable of emitting ozone, we submit that AB 2276 is most concerned over “occupied space” where people will be present, and that it is the ARB that will decide upon testing procedures and not Underwriters Laboratory. For example:

Section 41985.5. For purposes of this article, the following terms have the following meanings:

(a) “Federal ozone emissions limit for air cleaning devices” means the level of generation of ozone above which the device would be considered adulterated or misbranded pursuant to Section 801.415 of Title 21 of the Code of Federal Regulations, specifically the generation of ozone at a level in excess of 0.05 part per million by volume of air circulating through the device or causing an accumulation of ozone in excess of 0.05 part per million by volume of air when measured under standard conditions at 25 degrees Celsius (77 degrees Fahrenheit) and 760 millimeters of mercury in the atmosphere of enclosed space intended to be occupied by people for extended periods of time. (underlining & bolding added)

Section 41986

(b) The regulations shall include all of the following elements:

(2) Testing procedures for manufacturers to utilize to determine ozone emissions from devices. In developing the procedures, the state board shall consider existing and proposed testing methods, including, but not limited to, those developed by the American National Standards Institute and Underwriters Laboratory. (underlining & bolding added)

(3) Certification procedures that enable the state board to verify that an indoor air cleaning device meets the emission concentration standard for ozone emissions using the testing procedures adopted by the state board. (underlining added)

Based on our reading of Staff Draft Section 94804 on Certification Requirements and Section 94805 on Test Method, there appears to be some inconsistency in following the statutory guidance above. For example, Staff appears to be delegating the entire testing protocols and methods to Underwriters Laboratories. We submit that the Board is not required to delegate, but only to “consider” existing and proposed testing methods of Underwriters Laboratory as well as others. Further, we submit that the Board has the complete discretion to selectively adopt those portions of any “existing” or “proposed testing methods” they believe to be the appropriate or pertinent under all the circumstances here, including the changes in technology, product manufacturing, the latest science, and the ever growing threats of microbial, bacterial and other airborne and

surface contaminants to California consumers in their homes, businesses, schools, recreational facilities, air planes, hospitals, etc.

We are concerned over testing that will likely exclude beneficial products capable of addressing microbial, bacterial and other airborne and surface contaminants. For example, Mr. Paul Overbeck, the Executive Director for the International Ozone Association at the December 9, 2006 Staff Work Shop illustrated our collective concerns over the UL “2 inch” or “tail pipe” test. In this test, the ozone emission is measured 2 inches away from the device as a means to exclude those devices that are capable of exceeding 0.05 ppmv. When a personal purifier device worn around Mr. Montoya’s neck manufactured by Wien Products, Inc. was tested by Mr. Overbeck using a measuring device placed approximately 2 inches above the purifier, the ozone emissions exceeded the 0.05 ppmv; however, when Mr. Overbeck placed the measuring device 2 inches below Mr. Montoya’s nose, the ozone emissions were below 0.05 ppmv. It is our understanding that this particular UL test was developed approximately thirty years ago. Even if we knew the circumstances under which UL adopted this test, we submit that this test has outlived its usefulness and importance for the purposes of these proceedings and should be excluded.

We are equally concerned over the inclusion of testing for ozone emissions for devices intended for use in non-occupied or unoccupied residential space when people are not present, including purifier devices offering operational features for either manual or programmable use of ozone for use in occupied space when people are present, as well as for use in non-occupied or unoccupied space when people are not present at the time. We submit that adequate labeling and warnings should suffice to protect the public interest here so that a consumer can optionally choose devices capable of being used in occupied space and meeting the Federal 0.05 ppmv standard, and also capable of being used in non-occupied space where ozone emissions may exceed 0.05 ppmv.

There are other technical concerns that we have, such as making sure that the test chamber reflects “real world” conditions on air flow, contamination, ozone decay and dilution. We would also align ourselves with the earlier filed comments from the International Ozone Association relating to testing from December 13, 2006 as well as their supplemental comments on the Current Ozone Test filed in January, 2007. At a minimum, Staff should conform Sections 94804 and Section 94805 to remove mandatory compliance with UL Standard 867 “in its entirety” as currently drafted.

4. LABELING: We submit that adequate labeling covering the use of ozone both in occupied and non-occupied spaces is a key measure to protect the public interest that the Legislature addressed here, as it has done in countless other cases involving products where operational parameters are recommended. For example:

Section 41986.

(b) The regulations shall include all of the following elements:

(4) (A) Package labeling requirements that indicate that an indoor air cleaning device is certified as meeting the emission concentration standard for ozone emissions.

(B) The state board shall consider recommendations of affected industries and the public in developing the labeling requirements. (underlining added)

(C) The label for an indoor air cleaning device that is not a medical device shall include the following statement: "This air cleaner complies with the federal ozone emissions limit."

(D) The label for an indoor air cleaning device that is a medical device shall be labeled in compliance with federal law, including Section 801.415 of Title 21 of the Code of Federal Regulations.

As discussed more fully below, we submit that conforming Staff's Draft Labeling Requirements here can fulfill the legislative guidance and traditional legislative policy to use labeling as a lesser restrictive means of regulation where appropriate to protect the public interests of consumers. These recommended changes can meet the legislative elements above, and provide a means for all California consumers to be fully apprised of usage of devices with ozone emissions that meet the federal ozone emissions limit, as well as any optional usage that would exceed the federal ozone emissions limit in non-occupied spaces.

For example, conforming Section 94806. Labeling Requirements for "non-occupied or unoccupied space use" by inserting new paragraphs (a)(1) and (a)(2) after (a) below, with the underscored and bolded language below:

- (a) All indoor air cleaning devices for use in occupied spaces are required to display a certification label on the product packaging after completion of requirements of Section 95804 prior to sale in California, unless satisfying the requirements for exemption as specified in Section 94803.
- **(a)(1) All indoor air cleaning devices for use or optional use in non-occupied or unoccupied spaces as defined in Section 94801 shall display a certification label on the product packaging**
- **(a)(2) All indoor air cleaning devices for use in non-occupied or unoccupied spaces as defined in Section 94801 shall include as part of the labeling requirement: CAARB has determined that ozone emissions of 0.050ppmv or less pose no risks to human health in occupied spaces; ozone emissions greater than 0.050ppmv may pose a risk in occupied spaces depending on various factors including the level and type of indoor contaminants and air circulation and ventilation, and should be restricted to use in non-occupied or unoccupied spaces during operation of the device when emissions are greater than 0.050ppmv.**

Having more flexible definitions, testing protocol that recognizes the realities of everyday indoor air quality conditions, and using disclosure and warning labels on par with speeding cars, tobacco use, improper gun safety, chlorine use, oven use, etc., then we are on more of a level playing field, and these LESS restrictive means of regulation, we

submit, still meet the public policy issues intended by AB 2276. Otherwise, we submit the ARB final rule will ultimately fail under judicial scrutiny!

Additional Comments

So we ask the CAARB, through its Staff at this point in these proceedings, these most crucial and potentially life-saving questions:

Who will decide how quickly a consumer can remove odors from their homes?

Who will decide how quickly a consumer can remove smoke from their homes?

Who will decide how quickly a consumer can remove surface bacteria, germs, mold and other contamination from their homes?

Who will decide how quickly a consumer can inactivate or remove microbial agents, such as bacteria, mold and viruses, from the breathable air in their homes?

Who will decide how quickly a consumer can reduce the threat of Avian Influenzas, such as the Bird Flu, from the breathable air in their homes?

Who will decide how quickly a consumer can control what is in their breathable air for themselves, their families, while at home, in their cars, at work, or in any indoor environment?

Who will decide whether a consumer can choose these activities affecting their indoor air quality in their residences or businesses while they are occupied by them while an air cleaner is in use, or are unoccupied by them while an air cleaner is in use?

Now ask these same questions but preface each with:

- What technologies will be available for consumers to choose?
- And then, what products will be available for consumers to choose?
- And finally, what operational options will be available for consumers to choose, provided there are adequate usage disclosures and labeling?

Based on the oral and written comments from some of the other participants to these proceedings, they state that since they drafted and crafted AB 2276, they believe their positions should be controlling here in this proceeding; namely that they want to clear the decks of any consumer choices that conflict with their policies, their testing methods, the products and technologies they manufacture or recommend. In some cases, we have seen media stories and even written advisories circulating through public schools and teacher associations representing final Board positions already taken that are in line with those of select interest groups, including an outright “ban” on all devices emitting any ozone whatsoever.

It boils down simply to this: Will the CAARB tell the millions and millions of California Consumers that they are deferring the decisions of how quickly and even how thoroughly consumers can address legitimate concerns over protecting themselves and their families, and even their employees, from the very real threats posed by microbial, bacteria, and

odor contaminations, including possible Bird Flu viruses, pandemic or otherwise, TO THE:

- American Lung Association, whose business and financial contributors include manufacturers of the HEPA Filter air cleaner technology products they exclusively recommend, which apparently do not produce ozone and appear to be exempt from these regulations; or
- Underwriters Laboratory, whose testing protocol appears to be streamlined against newer technologies by virtue of the 2 inch tailpipe requirement, and fails to address the natural reduction of ozone that takes place when exposed to microbial, bacteria, and odor contaminations in the air and on surfaces; or
- The Appliance Manufacturers Association, whose membership apparently wants to make sure the State of California DOES NOT impose similar ozone producing regulations on their members' equipment, such as photocopiers, printers, and all electric motor kitchen and other home appliances, many of which may well exceed the proposed standards adopted here.

We think the answer is **NO**, and that Staff and ultimately the Board will approve a reasoned set of regulations that truly are in the California consumers' best interests. Part of that equation will be to ensure that the testing and other requirements impose no greater restrictions than those on other comparable or even more dangerous activities; and that means not imposing greater controls on, or restrictions on, consumer choice than the State presently does over the following types of activities. For example:

- (a) Cars capable of going up to 40 to 60 miles per hour OVER ANY POSTED SPEED LIMITS where speed related car accidents account for countless deaths and thousands of injuries every year to drivers, passengers, and innocent bystanders; or
- (b) Ovens or stoves capable of going up to 100 degrees or more above ANY recommended recipe or cooking instructions; or
- (c) High use office or home copiers and printers and facsimile machines that generate ozone during each and every use regardless of the concentration or amount generated in occupied areas; or
- (d) The permitted use as well as the amount in any hour or over any daily period of time, of "Tobacco smoking" in homes, especially those where MINOR CHILDREN and INFANTS are present; or
- (e) The permissible amount and level of Environmental Tobacco Smoke (ETS), also known as "second hand smoke contamination," a proven source of carcinogens and respiratory toxicants and recently determined to be a "Toxic Air

Contaminant” according to the Air Resources Board, taken into any public or private premise from persons recently smoking outside of these premises on their clothing, hair and skin; or

(f) Chlorine used in outdoor and indoor swimming pools, both public and private, a known carcinogen and toxic chemical, yet the State permits the sale and use of chlorine with just labeling requirements and usage disclosures. We even permit the “excessive concentrations” use or “super-chlorination” in swimming pools, again solely with warning labels disclosing NOT TO SWIM or even come into contact with the water during the “super-chlorination” process that can last from hours to several days. We are sure Staff and the Board are aware of how dangerous chlorine can be in comparison with ozone at greater than 0.05 ppmv, but still the State considers labeling with disclosures sufficient to protect the public and consumer’s interests! And if for a moment anyone forgets how potentially dangerous chlorine can be, look no further than the news of several weeks ago in the Iraq conflict when Chlorine gas explosions were intentionally set off in moving trucks causing horrific casualties among innocent Iraqis.

And what is the downside to making the recommended changes in definitions, testing parameters, and labeling & disclosure requirements in order to address these legitimate consumer concerns and options?

We submit there is no downside at all, as providing all California consumers with legitimate choices on controlling their own indoor air and surface environments, and that of their families correctly meets the public interest standards for these rulemaking proceedings. We further submit that the overriding guidance for you to rely upon as you continue with this rulemaking is one of protecting the broad interests of all consumers in dealing with known and predictable indoor air quality problems today, as well as those that may be less predictable now, but inevitable sometime in the future. Preparedness is critical, and the rules and regulations ultimately adopted here must be flexible enough to foster the future technological options that consumers can choose from, too. Any rule or regulation that would directly or indirectly inhibit, cloud or create uncertainty about *freedom of choice* involving the protection of one’s personal indoor air quality or that of one’s family, subject to certain broadly accepted and reasoned standards, must be rejected!

Conclusion

Again, we want to thank and commend CAARB Staff for their approach to these proceedings, where we get a chance to review their latest materials, then share our preliminary thoughts with Staff and other interested parties and listen to theirs as well, and then we have time to prepare more in-depth comments, all geared to help the process and staff present what we hope is a more informed and reasonable proposed regulation from a California consumers’ perspective to the formal Board.

At the end of this important and historical process, what should remain in everyone's mindset is that indoor air quality is all about consumers' freedom of choice over the products that best meet their individualized needs today and in the future, and the success or failure of this rulemaking process will be judged by how well it helps to legitimately take away consumers' fears of what is in the indoor air they breathe, and what resources they have to protect themselves and their families in what could be the coming indoor air pollution and pandemic flu wars.

Sincerely,

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