

May 29, 2020

via electronic transmission

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Subject: Draft Proposed Amendments to California Consumer Products Regulation; “Other Topics” Discussed During the Third Public Webinar¹

Dear Mr. Ramalingam, Mr. Calavita and Mr. Berghouse,

The Household & Commercial Products Association (HCPA) appreciates the opportunity to file additional comments on the draft proposed amendments that were presented and discussed during the third public workshop that was held on April 14.

1. HCPA does not object to the draft prohibition on use of perchloroethylene, methylene chloride and trichloroethylene.

HCPA has no objection to the draft prohibition on the use of perchloroethylene (Perc), methylene chloride (MeCl), and trichloroethylene (TCE) in the Aerosol Air Freshener and Aerosol Crawling Bug Insecticide product categories.

2. HCPA does not object to the draft proposal to prohibit the use of Parachlorobenzotrifluoride (1-Chloro-4-(trifluoromethyl)benzene or PCBTF).

HCPA has no objection to the draft prohibition on the use of PCBTF in the Aerosol Air Freshener and Aerosol Crawling Bug Insecticide product categories.

3. HCPA objects to the draft proposed definition for “Energized Electronic Cleaner.”

As an initial matter, HCPA supports clearly defined product categories. Energized electronic cleaners are aligned with the “Electronic Cleaner” product category. As such, the draft proposed

¹ On April 14, 2020, CARB staff conducted the third public workshop to discuss draft regulatory strategies for meeting the commitments for VOC reductions set forth in the 2016 State Strategy for the State Implementation Plan. A copy of the CARB staff’s PowerPoint presentation is found at: https://ww2.arb.ca.gov/sites/default/files/2020-04/Workshop_Presentation_April_14_2020_final_2.pdf. Other relevant documents are posted on the CARB website at: <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/regulatory-activity-workshops-meetings>.

definition for “Energized Electronic Cleaner” should be based on the language set forth in the current definition of “Electronic Cleaner” and not the language set forth in the definition of “Energized Electrical Cleaner.”

4. HCPA objects to the draft proposed definition for “Energized Electrical Cleaner.”

HCPA respectfully urges CARB staff to make the following changes to the draft proposed definition for “Energized Electrical Cleaner”:

(39) “Energized Electrical Cleaner” means an “Electrical Cleaner” product that meets **both** ~~all three~~ of the following criteria:

- 1) the product is labeled to clean and/or degrease electrical equipment, where cleaning and/or degreasing can only be performed when electrical current exists, or when there is a residual electrical potential from a component such as a capacitor;
- 2) the product label clearly displays the statements: “Energized Equipment use only. Not to be used for motorized vehicle maintenance, or their parts.”
- 3) ~~the product is exclusively sold directly or through distributors to establishments which operate or maintain energized electrical equipment. Sales to automotive repair establishments are prohibited.~~

As an initial matter, the term “establishment” is not defined as separate term in the CARB Consumer Products Regulation. The only explanation of the term “establishment” appears in the definition for “Institutional Product” or “Industrial and Institutional (I&I) Product” and includes, “...stores, automobile service and parts centers...”² This definition does not include “consumer.”³ Therefore, the use of the term “establishment” would prevent people from buying this product. Consequently, this provision would prohibit the sale of this product to independent electrical contractors and other people who need to use this type of product to safely clean electrical equipment “while current is running through it, or when residual current exists.”⁴

Moreover, the draft proposed prohibition on the “sale to automotive repair establishments” is, to the best of our knowledge, the first time that the CARB regulation would specifically limit the sale of products in a particular type of retail store. HCPA members are concerned that this establishes

² 17 CCR § 94508(a)(77).

³ The term “consumer” means “...any person who seeks, purchases, or acquires any consumer product for personal, family, household, or institutional use.” 17 CCR § 94508(a)(28).

⁴ CARB explained that “Energized Electrical Cleaner” products are “...designed to remove heavy dirt, grease, moisture, heavy oil or grime from electrical equipment that must be cleaned while current is running through it, or when residual current exists. Typical situations, where cleaning is done while equipment is energized, would be in applications where the equipment to be cleaned is operated on alternating current (AC). ...In instances where low voltage direct current (DC) is used as a power source, such as in motorized vehicles, use of an Energized Electrical Cleaner is not warranted.” CARB Initial Statement of Reasons for the Proposed 2004 Amendments (May 7, 2004) at p. VI-86.

a negative precedent. HCPA does not believe that CARB should be able to limit the type of consumer products that retail stores may sell.

5. HCPA members do not object to the draft proposed revision to the Alternative Control Plan (ACP).

The ACP⁵ is an innovative regulatory program that harnesses the power of the marketplace to obtain VOC reductions in consumer products, while providing flexibility to manufacturers.⁶ Since its adoption in 1995, the ACP has achieved significant quantifiable additional reductions beyond currently applicable VOC limits.⁷ HCPA members do not object to the draft proposal to amend the ACP because the changes mirror the EPA's well-established certification limit requirements, as set forth at 40 CFR 158.350.

6. HCPA members do not object to the draft proposed revision to the Innovative Product Exemption (IPE).

The IPE is an innovative regulatory provision that encourages manufacturers to develop new and innovative technologies in product formulation, design, delivery systems or other factors to achieve verifiable reductions in VOCs.⁸ HCPA members do not object to the draft proposal to clarify that combustion products are ineligible.

Conclusion

HCPA appreciates CARB Staff's consideration of issues addressed in this additional comment document. HCPA members are continuing to develop consensus positions on the Two-Percent Fragrance Exemption and the draft proposed provision on "Web-Based or Other Product Claims." We will provide supplemental comments at a future date.

⁵ 17 CCR §§ 94540-55.

⁶ CARB explained, "Although the existing 'command-and-control approach' is relatively simple to implement, its use of market forces is not necessarily maximized. The proposed ACP is intended to harness these market forces. By using market forces in a regulatory program such as the ACP, the ARB can obtain equivalent emission reductions from consumer products, while providing greater flexibility to manufacturers... ." See "Proposed Alterable Control Plan regulation for Consumer Products Staff Report," CARB (Aug. 1994), at p. I-5. <https://ww3.arb.ca.gov/consprod/regact/1994acp.pdf>.

⁷ Although the ACP is a "cap and trade" program, based upon the 20-year operational history of the ACP in California, the overwhelming majority emissions reduction credits are **not** traded to other manufacturers. Rather, the product manufacturers allow these emission reduction credits to expire, thus providing a significant environmental benefit to California.

⁸ CARB requires that manufacturers must demonstrate "...by clear and convincing evidence that, due to some characteristic of the product formulation, design, delivery systems or other factors, the use of the product will result in less VOC emissions." 17 CCR § 94511(a).

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Please contact us if you have questions about the issues addressed in these comments.

Respectfully,

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