

September 26, 2011

via e-mail

Alexander Ryan-Bond
Environmental Associate
Ozone Transport Commission
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Washington, DC 20001
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Subject: Proposed 2014 OTC Model Rule for Consumer Products¹

Dear Mr. Ryan-Bond:

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to offer comments on recent amendments to the Ozone Transport Commission's (OTC's) Proposed 2014 Model Rule for Consumer Products. While CSPA member companies offer general support for the Proposed 2014 Model Rule, CSPA recommends that the OTC Stationary and Area Source Committee incorporate several necessary technical revisions in the final version of the 2014 Model Rule. These technical revisions will ensure consistency with parallel provisions of the California Air Resources Board's (CARB's) Consumer Products Regulation. CSPA's recommended revisions will *not* impact the emission reductions that will be achieved by the new limits on volatile organic compounds (VOCs) set forth in the Proposed 2014 Model Rule.

STATEMENT OF INTEREST

CSPA is a voluntary, non-profit national trade association representing approximately 240 companies engaged in the manufacture, formulation, distribution, and sale of 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, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. Through its product stewardship program Product Care[®], and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety, sustainability and environmental impacts of their products.

¹The 2014 Model Rule for Consumer Products was approved at the OTC Annual meeting in 2010. The current proposal was issued by the OTC Stationary and Area Source Committee in August 2011 and includes new VOC limits for Paint Thinners and Multipurpose Solvents, and several other technical revisions. The full text is posted on the OTC's website at: <http://www.otcair.org/document.asp?fview=meeting>. (Hereinafter referred to as "Proposed 2014 Model Rule.")

CSPA member companies manufacture and market more than two-thirds of the broad product categories covered by the current OTC Model Rule. Moreover, CSPA member companies manufacture and market 13 of the 15 product categories and forms included in the Proposed 2014 Model Rule.

COMMENTS

A. CSPA member companies offer general support for the Proposed 2014 Model Rule.

During the past 11 years, CSPA has worked cooperatively with the Ozone Transport Region (OTR) state environmental agency officials, OTC staff, environmental groups and other stakeholders to support the development of regionally consistent regulations for consumer products throughout the critically important Northeast and Mid-Atlantic Region. CSPA continues to support the OTC's efforts to develop a workable regulatory framework for OTR States to achieve the maximum technologically and commercially feasible VOC reductions to ensure compliance with their State Implementation Plan (SIP) commitments, as required by the federal Clean Air Act.

B. The definition for "General Purpose Degreaser" and "Lubricant" should be revised to require a label statement that is *identical* to the label statement required by CARB's regulation. In addition, CSPA recommends that the OTC also include CARB's recently approved technical revision to the definition for these two product categories.

As currently drafted, Sections 2(a)(85) and 2(a)(108) of the Proposed 2014 Model Rule requires manufacturers of General Purpose Degreasers and Lubricants that are used in the manufacturing process (and are thus outside the scope of the consumer products regulation) to include the following statement on the product label, "For Manufacturing Use Only." This proposed revision is similar – but not identical – to recently approved revisions to the definition for these product categories in CARB's regulation. 17 CCR §§ 94508(a)(71) and (a)(97).² See Attachment. Since the Proposed 2014 Model Rule requires a specific label statement, it is vitally important that the required wording is *identical* to the wording required by CARB's regulation.

In addition to making a necessary change in the required label statement, CSPA also recommends that the OTC incorporate a revision that CARB approved for the current two-pronged test used to determine whether a product qualifies as an industrial product. CARB's revision more correctly recognizes the current generally prevailing sales process in which manufacturers sell industrial products through distributors rather than directly to manufacturing facilities. This revision provides the type of clarity needed to ensure compliance with and the fair enforcement of applicable VOC limits. Thus, CSPA recommends that the OTC incorporate a similar revision in the final 2014 Model Rule.

² CARB approved these revisions at a public hearing held on November 18, 2010. Based upon recent discussions with senior CARB staff, it is anticipated that the California Office of Administrative Law (OAL) will complete its review of this rulemaking package by mid-November 2011. Documents related to CARB's recently approved regulation are posted at: <http://www.arb.ca.gov/regact/2010/cp2010/cp2010.htm>.

Therefore, CSPA recommends the following technical revision to the definition for the “General Purpose Degreaser” and “Lubricant” product categories in the final version of the 2014 Model Rule:

<p><i>Italicized text</i> = text added to the Proposed 2014 Model Rule Stricken text = text deleted from Proposed 2014 Model Rule</p>
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(85) "General Purpose Degreaser" means any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. “General Purpose Degreaser” does not include “Engine Degreaser”, “General Purpose Cleaner”, “Adhesive Remover”, “Electronic Cleaner”, “Electrical Cleaner,” “Energized Electrical Cleaner,” “Metal Polish/Cleanser”, or Oven or Grill Cleaner, **or** products used exclusively in “solvent cleaning tanks or related equipment,” or products that are (i) ~~sold exclusively~~ ***exclusively sold directly or through distributors*** to establishments which manufacture or construct goods or commodities; and (ii) labeled ~~“For Manufacturing Use Only”~~ ***exclusively for “use in the manufacturing process only.”*** “Solvent cleaning tanks or related equipment” includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

(108) "Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. “Lubricant” does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals or products that are (i) ~~sold exclusively~~ ***exclusively sold directly or through distributors*** to establishments which manufacture or construct goods or commodities; and (ii) labeled ~~“For Manufacturing Use Only”~~ ***exclusively for “use in the manufacturing process only.”***

By incorporating CARB’s technical revision, the OTC states can avoid any potential confusion caused by a requirement for a different label statement (*i.e.*, “use in the manufacturing process only” in California and “For Manufacturing Use Only” in East Coast states). Moreover, as a practical matter, even a slight variation in the required wording of the label statement for these two products categories could create compliance problems and imposes unnecessary economic burdens on companies since many consumer products are manufactured and marketed on a nationwide basis.

C. The OTC should correct two inadvertent typographical errors in Section 3(a) Table of Standards.

First, as currently drafted, the VOC limits for the Bathroom and Tile Cleaner product category contain typographical errors in the second and third columns in Table of Standards. Therefore,

CSPA recommends that the final version of the 2014 Model Rule’s Table of Standards should be corrected as:

Product Category	Effective Date: <i>before 1/1/2009</i>	Effective Date: 1/1/2009	Effective Date: 1/1/2014
Bathroom & Tile Cleaner			
Aerosol	7	7	
All Other Forms	5	5	N/A
Non-aerosol	N/A	N/A	<u>1</u>

Second, the Table of Standards should cite the correct name for the redefined “Oven or Grill Cleaner” product category (not “oven cleaner”) for the 4% VOC standard that will take effect on January 1, 2014. In addition, the reference to “Aerosol / Pump-Sprays” should be corrected to read “Aerosol.” Therefore, CSPA recommends the following corrections in the Table of Standards:

Product Category	Effective Date: <i>before 1/1/2009</i>	Effective Date: 1/1/2009	Effective Date: 1/1/2014
Oven or Grill Cleaners:			
Aerosol / Pump-Sprays	8	8	
Liquids	5 ⁺	5 ⁺	N/A
Non-aerosol	N/A	N/A	<u>4</u>

These corrections are necessary to ensure that the final version of the 2014 Model Rule contains references to accurate VOC limits and product categories.

- D. The OTC should correct an inadvertent error in the proposed restriction on the use of methylene chloride, perchloroethylene or trichloroethylene in “Oven or Grill Cleaners.”

As currently drafted, the proposed restriction on the use of methylene chloride, perchloroethylene or trichloroethylene (*i.e.*, chlorinated compounds) in the Oven or Grill Cleaner product category is incorrectly included in Section 3(l) of the Model Rule. This error would have the impermissible effect of *retroactively* imposing the restriction as of January 1, 2009.

Therefore, CSPA recommends that the OTC delete the reference to the Oven or Grill Cleaner product category in Section 3(l) and follow CARB’s regulation³ by including the Oven or Grill Cleaner product category in the list of products specified in Section 3(o) of the Model Rule with an effective date of January 1, 2014, and an optional sell-through limit of January 1, 2017.

- E. The OTC should withdraw the proposed restriction on the use of alkylphenol ethoxylate surfactant compounds in the “Oven or Grill Cleaner” product category.

As currently drafted, proposed Section 3(l)(4) would apply CARB’s recently approved restriction on the use of alkylphenol ethoxylate surfactant compounds to the “Oven or Grill Cleaner”

³ See CARB’s current regulation at 17 CCR § 94509(p); <http://www.arb.ca.gov/consprod/regs/2009/cpreg2010.pdf>

product category. This is a provision from CARB's 2010 Amendments (which has not yet been published as a final rule). Therefore, CSPA respectfully requests that the OTC withdraw this proposed restriction since it is outside the scope of the CARB requirements that the OTC originally stated would be included in the OTC's 2014 Model Rule.

- F. The OTC should delete the annual reporting requirement set forth Section 6(d) since under the express terms of this provision, the special reporting requirement expired in March 2011.

Section 7(d) was included in the OTC's 2005 Model Rule. It was subsequently modified in the 2009 Model Rule to include two options. The first option (*i.e.*, the provision included in the original Model Rule) required companies that produced products containing specified chemical compounds to file an annual report for calendar years 2005-2010.⁴ The second option requires companies to provide specified information within 90 days of receiving a written request from a state environmental agency.

CSPA does not object to the OTC retaining the second option in the 2014 Model Rule. However, CSPA respectfully urges the OTC to delete "Option 1" since, by its express terms, the annual reporting requirement terminated on March 1, 2011.

- G. The OTC should establish January 1, 2014, as the effective date for the new restrictions on the Paint Thinner and Multipurpose Solvents product categories.

As currently drafted, Section 3(p) of the Proposed 2014 Model Rule erroneously cites January 1, 2011, as the effective date for new restrictions on the Paint Thinner and Multipurpose Solvent product categories. CSPA recommends that OTC to correct this apparent drafting error by changing the effective date for these provisions to January 1, 2014. This revision will ensure internal consistency with the January 1, 2014 effective date for the new VOC limits for the Paint Thinner and Multipurpose Solvent product categories.

CONCLUSION

While the new VOC limits contained in the Proposed 2014 Model Rule are very challenging, the new limits are technologically and commercially feasible since they are consistent with the regulatory standards established by California's stringent regulation. The OTC Model Rule has – and will continue to – promote the development of regionally consistent regulations in East Coast states. The OTC Model Rule also promotes consistent regulations in the Midwest as a result of LADCO states' pragmatic action to use the OTC Model Rule as the basis for their state regulations. Therefore, CSPA member companies offer general support for the Proposed 2014 Model Rule.

⁴ Only four states and the District of Columbia included "Option 1" reporting requirements in their final regulations. *See* D. C. Mun. Regs. title 20, § 730.1(d); Md. Regs. Code § 26.11.32.14C; Mich. Admin. Code R, 336.1660 and R, 336.1661; N.Y. Comp. R. & Regs. title 6, § 235-7.1(d); 9 VAC § 5-40-7360E. A majority of other states incorporated "Option 2" requirement for companies to report information only upon receiving a request from a state agency.

CSPA recommends that the OTC include several technical corrections that are needed to ensure consistency with the California regulation. These technical corrections do not change applicable VOC limits. Rather, the revisions will eliminate any potential confusion caused by a requirement for a different label statement for the General Purpose Degreaser and Lubricant product categories. Furthermore, CSPA recommends that the OTC incorporate CARB's recently approved revision to more accurately recognize the prevailing sales process in which manufacturers sell industrial products through distributors rather than directly to manufacturing facilities.

In addition, the recommended corrections in the Table of Standards will ensure that the final version of the 2014 Model Rule contains references to accurate VOC limits and product categories. Finally, CSPA recommends that the OTC delete an expired special reporting requirement and make a necessary correction to the effective date of proposed new restrictions for two product categories.

CSPA will continue to support the OTC's efforts to promote consistent regional regulatory requirements for OTR states to achieve technological and commercially feasible VOC reductions that are needed to ensure compliance with states' SIP commitments. We appreciate the opportunity to file comments on the Proposed 2014 Model Rule and will be happy to answer any questions that the Stationary & Areas Source Committee members may have about issues presented in these comments.

Respectfully submitted,



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cc: Kenneth A. Newkirk, P.E., New York State Dept. of Environmental Conservation, Division of
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- (66 65) "Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of 2 mm of Hg at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.
- (67 66) "Furniture Maintenance Product" means a wax, polish, conditioner, or any other product labeled for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors, and other furniture surfaces including but not limited to acrylics, ceramic, plastics, stone surfaces, metal surfaces, and fiberglass. "Furniture Maintenance Product" does not include "Dusting Aid," "Wood Cleaner," and products designed solely for the purpose of cleaning, or products designed to leave a permanent finish such as stains, sanding sealers and lacquers.
- (68 67) "Furniture Coating" means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.
- (69 68) "Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.
- (70 69) "General Purpose Adhesive" means any non-aerosol adhesive designed for use on a variety of substrates. "General Purpose Adhesive" does not include (A) contact adhesives, (B) construction, panel, and floor covering adhesives, (C) adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls), or (D) adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).
- (71 70) "General Purpose Cleaner" means a ~~general purpose cleaning product labeled to clean for use on a variety of hard surfaces, including small appliances.~~ "General Purpose Cleaner" includes, but is not limited to, products designed or labeled for general floor cleaning, kitchen, countertop, or sink cleaning, and cleaners designed or labeled to be used on a variety of hard surfaces such as stovetops, cooktops, or microwaves.
- (72 71) "General Purpose Degreaser" means:
- (A) for products manufactured before December 31, 2012: any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. "General Purpose Degreaser" does not include "Engine Degreaser," "General Purpose Cleaner," "Adhesive Remover," "Electronic Cleaner,"

“Electrical Cleaner,” “Energized Electrical Cleaner,” and “Metal Polish/or Cleanser,” “General Purpose Degreaser” also does not include products used exclusively in “solvent cleaning tanks or related equipment,” or products that are (A) sold exclusively to establishments which manufacture or construct goods or commodities; and (B) labeled “not for retail sale.”

“Solvent cleaning tanks or related equipment” includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

(B) for products manufactured on or after December 31, 2012: any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. “General Purpose Degreaser” does not include “Adhesive Remover,” “Electrical Cleaner,” “Electronic Cleaner,” “Energized Electrical Cleaner,” “Engine Degreaser,” “General Purpose Cleaner,” “Metal Polish or Cleanser,” or “Oven or Grill Cleaner.” “General Purpose Degreaser” also does not include products used exclusively in “solvent cleaning tanks or related equipment,” or products that are (A) exclusively sold directly or through distributors to establishments which manufacture or construct goods or commodities; and (B) labeled exclusively for “use in the manufacturing process only.” “Solvent cleaning tanks or related equipment” includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

~~(73~~ 72) “General-use Hand or Body Cleaner or Soap” means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils. “General-use Hand or Body Cleaner or Soap” includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. “General-use Hand or Body Cleaner or Soap” does not include prescription drug products, “Antimicrobial Hand or Body Cleaner or Soap,” “Astringent/Toner,” “Facial Cleaner or Soap,” “Hand Dishwashing Detergent” (including antimicrobial), “Heavy-duty Hand Cleaner or Soap,” “Medicated Astringent/Medicated Toner,” or “Rubbing Alcohol.”

~~(74~~ 73) “Glass Cleaner” means a cleaning product designed or labeled primarily for cleaning surfaces made of glass. “Glass Cleaner” does not include products designed or labeled solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

~~(75~~ 74) “Global Warming Potential (GWP)” means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.

- (B) Acute or chronic exposure to corrosive, caustic or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions; or
- (C) Frequent exposure to temperatures above 121°C (250°F); or
- (D) Frequent heavy abrasion, including mechanical wear and frequent scrubbing with industrial solvents, cleansers, or scouring agents; or
- (E) Exterior exposure of metal structures and structural components.

(97) "Lubricant" means:

- (A) for products manufactured before December 31, 2012: a product that reduces friction, heat, noise, or wear between moving parts, or loosens rusted or immovable parts or mechanisms. "Lubricant" does not include automotive power steering fluids; products designed and labeled exclusively to release manufactured products from molds; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are (1) sold exclusively to establishments which manufacture or construct goods or commodities, and (2) labeled "not for retail sale."
- (B) for products manufactured on or after December 31, 2012: a product that reduces friction, heat, noise, or wear between moving parts, or loosens rusted or immovable parts or mechanisms. "Lubricant" does not include automotive power steering fluids; products designed and labeled exclusively to release manufactured products from molds; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are (1) exclusively sold directly or through distributors to establishments which manufacture or construct goods or commodities, and (2) labeled exclusively for "use in the manufacturing process only." "Lubricant" includes products labeled for use in food-servicing environments that include, but are not limited to, restaurants and food stores.
- (C) "Lubricant" includes the following subcategories (1-9):
 - (1) "Anti-seize Lubricant" means any lubricant designed or labeled exclusively for use in high temperature or high pressure conditions to prevent moving metal parts from seizing or galling, and/or to facilitate disassembly of metal parts. A lubricant that meets the definition for "Dry Lubricant" or "Firearm Lubricant" is not an "Anti-seize Lubricant."

- (2) “Cutting or Tapping Oil” means any lubricant designed or labeled exclusively for drilling, cutting, or tapping metals.
- (3) “Dry Lubricant” means any lubricant which provides lubricity solely by depositing a thin film of solid material including, but not limited to, graphite, molybdenum disulfide (“moly”), polytetrafluoroethylene or closely related fluoropolymer (“teflon”), or boron nitride on surfaces.
- (4) “Firearm Lubricant” means any lubricant designed or labeled exclusively for use on firearms or their parts to lubricate and/or to provide corrosion or rust prevention.
- (5) “Gear, Chain, or Wire Lubricant” means any lubricant designed or labeled exclusively for use on gears, chains, or wire ropes.
- (6) “Multi-purpose Lubricant” means any lubricant designed or labeled for general purpose lubrication, or a lubricant labeled for use in a wide variety of applications. Products that meet the definition for “Anti-seize Lubricant,” “Cutting or Tapping Oil,” “Dry Lubricant,” “Firearm Lubricant,” “Gear, Chain, or Wire Lubricant,” “Penetrant,” “Rust Preventative or Rust Control Lubricant,” or “Silicone-based Multi-purpose Lubricant” are not “Multi-purpose Lubricants.”
- (7) “Penetrant” means a lubricant designed or labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. Lubricants that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts are not “Penetrant” products.
- (8) “Rust Preventative or Rust Control Lubricant” means any lubricant designed or labeled primarily for the prevention or control of rust. A Lubricant that meets the definition for “Firearm Lubricant” is not a “Rust Preventative or Rust Control Lubricant.”
- (9) “Silicone-based Multi-purpose Lubricant” means any lubricant which is designed or labeled for general lubrication or for use in a wide variety of applications, in which lubricity is primarily provided through the use of silicone compounds including, but not limited to, polydimethylsiloxane.

~~(104) “Multi-purpose Dry Lubricant” means any lubricant which is: (A) designed or labeled to provide lubricity solely by depositing a thin film of graphite, molybdenum disulfide (“moly”), or polytetrafluoroethylene or closely related fluoropolymer (“teflon”) on surfaces, and (B) designed or labeled for general purpose lubrication, or for use in a wide variety of applications.~~