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Subject: BOV Technology

Dear Mr. Sefcik:

The National Aerosol Association (NAA) appreciates the opportunity to comment on the proposal before the National Conference on Weights and Measures (NCWM). Our understanding is that the proposal is recommending that products that use BOV technology be allowed to be sold by volume. The NAA believes that BOV technology is an aerosol. There are several government citations that support our conclusion. Therefore the products using BOV technology need to express the net contents in weight.

The government citations are as follows

- NIST Handbook 130 sections 2.2.6 and 2.2.7 references the Office of Weights and Measures of the National Institute of Standards 10.3. "Aerosol and Similar Pressurized Containers" "The declaration of the quantity on an aerosol package and on a similar pressurized package shall disclose the net quantity of the commodity (including propellant), in terms of weight, that will be expelled when the instructions for use as shown on the container are followed."
- CFR 49 section 171.8. "Aerosol means any non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas."
- CFR 49 section 173.306a(3) states "When in a metal container for the sole purpose of expelling a non-poisonous (other than a Division 6.1 Packing Group II material) liquid, paste or powder, provided all of the following conditions are met. Special exceptions for shipment of aerosols in the ORM-D class are provided in paragraph (i) of this section.

Our interpretation of that section is fairly straightforward. BOV, piston, Sepro or other similar technology, are still aerosol product albeit a barrier aerosol. Therefore if a product is in a metal container with a limited quantity of compressed gas the product needs to meet the requirements established for aerosol cans by the DOT and the internal pressure that the can contents would produce at 130F (2N, 2P or 2Q).

In conclusion, BOV is simply one of the barrier pack aerosol options available to fillers/marketers, the others being "bag-in-can" and "piston" technology. These are all aerosol package forms. Thus, these type of products need to declare the contents in weight. In addition it would be very confusing to the consumer



to have one package defined by weight and the other volume; especially when they look identical on the shelf.

The NAA will review the proposal and we will inform you of our intent to be present at the meeting in January 2012. Any questions or comments feel free to contact me at [djraymond@reg-resources.com](mailto:djraymond@reg-resources.com) or at 440-474-4999.

Again, on behalf of the NAA, we thank you for this opportunity to comment.

Sincerely,

Doug Raymond