

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE)
PART 223 STANDARDS AND)
LIMITATIONS FOR ORGANIC)
MATERIAL EMISSIONS FOR AREA)
SOURCES)
)

08-17
R07 -
(Rulemaking - Air)

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STATE OF ILLINOIS
Pollution Control Board

NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

Matthew Dunn, Chief
Division of Environmental Enforcement
Office of the Attorney General
188 West Randolph St., 20th Floor
Chicago, IL 60601

Virginia Yang
Deputy Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL entitled "PROPOSED NEW 35 ILL. ADM. CODE PART 223 STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA SOURCES." MOTION FOR WAIVER OF REQUIREMENTS and APPEARANCE of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 31, 2007
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APPEARANCE

The undersigned, as one of its attorneys, hereby enters an Appearance on behalf of the Illinois Environmental Protection Agency.

Respectively Submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 28, 2007
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

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MOTION FOR WAIVER OF REQUIREMENTS

NOW COMES Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by its attorney, Charles E. Matoesian, and pursuant to 35 Ill. Adm. Code and 101.500, 102.110, 102.402, moves that the Illinois Pollution Control Board ("Board") waive certain requirements, namely that Illinois EPA submit the original and nine copies of the regulatory proposal including the incorporations by reference and all documents relied upon. In support of its Motion, Illinois EPA states as follows:

1. Section 102.200 of the Board's procedural rules requires that the original and nine copies of each regulatory proposal be filed with the Clerk. This entire regulatory proposal will likely consist of over 1,000 pages. Given the length of the proposal and the resources required to provide nine copies, Illinois EPA requests that it be allowed to file the original and four complete copies of the proposal plus five partial copies, the partial copies consisting of Table of Contents, Statement of Reasons, Technical Support Document, pleadings, and the proposed rule absent documents relied upon and incorporations by reference.

2. Section 27 (a) of the Environmental Protection Act ("Act") requires Illinois EPA to provide information supporting the proposal. 415 ILCS 5/27 (a). In doing so, the Illinois EPA

has provided documents which were directly relied upon while drafting the regulatory proposal. The list of documents relied upon is found in Attachment A. The documents listed in Attachment A are quite large in number and length. For that reason, Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file an original and four copies of the documents listed in Attachment A.

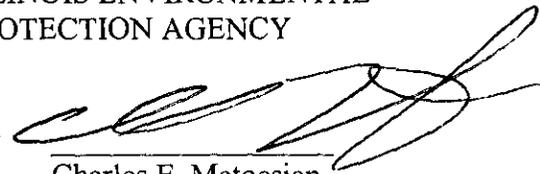
3. Section 5-75(a) of the Illinois Administrative Procedure Act (“IAPA”) provides in relevant part that an agency may incorporate by reference the regulations, standards and guidelines of an agency of the United States or a nationally recognized organization or association without publishing the incorporated material in full. 5 ILCS 100/5-75(a). Further, Section 5-75(b) of the IAPA provides in relevant part that the agency adopting a rule or regulation under the IAPA shall maintain a copy of the referenced rule, regulation, standard or guideline in at least one of its principal offices and shall make it available to the public upon request. 5 ILCS 100/5-75(b). In developing this proposed rulemaking, Illinois EPA has incorporated by reference certain documents. The documents incorporated by reference are readily accessible to, or are already within the possession of, the Board. Given this ease of accessibility, and the lengthy nature of the documents, Illinois EPA requests that the Board waive the normal copy requirements of Section 102.200 of the Board’s procedural rules and allow Illinois EPA to not file any copies of the documents listed in Attachment B which are denoted with an asterisk. Due to the number of documents, Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file an original and four copies of the remainder of the documents listed in Attachment B.

WHEREFORE, for the reasons set forth above, Illinois EPA requests that the Board

waive the copy requirement and allow Illinois EPA to provide the Board with an original and four complete copies of the proposal, along with five partial copies as described *supra*. Further, Illinois EPA requests that the Board allow Illinois EPA to file an original and four copies of the documents relied upon as listed in Attachment A. Finally, the Illinois EPA requests that the Board allow the Illinois EPA to file either no copies or an original and four copies of the incorporations by reference as listed in Attachment B.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:



Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED:

1021 N. Grand Ave., East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

Attachment A
Documents Relied Upon

1. Emission Inventory Improvement Program Volume III: Chapter 5 – Consumer and Commercial Solvent Use, Eastern Research Group, NC, August 1996.
2. Illinois 2002 Periodic Emissions Inventory and Milestone Demonstration, Illinois Environmental Protection Agency, Springfield, IL, November 2004.
3. Interim White Paper – Midwest RPO Candidate Control Measures, Source Category: Consumer and Commercial Products, MACTEC, December 1, 2005.
4. Example Complying Formulas, 2004 Consumer Products Amendments, State of California Air Resources Board, March 18, 2004.
5. Initial Statement of Reasons for the Proposed Amendments to the California Aerosol Coating Products, Antiperspirants and Deodorants, and Consumer Products Regulations, Test Method 310, and Airborne Toxic Control Measure for Para-Dichlorobenzene Solid Air Fresheners and Toilet/Urinal Care Products, State of California Air Resources Board, May 7, 2004.
6. Initial Statement of Reasons for Amendments to the California Consumer Products Regulation, State of California Air Resources Board, September 10, 1999.
7. National Volatile Organic Compound Emission Standards for Aerosol Coatings, Proposed Rule, 72 FR 38952-38991, July 16, 2007.
8. National Volatile Organic Compound Emission Standards for Aerosol Coatings, Cost Impacts Analysis, U.S. Environmental Protection Agency Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Research Triangle Park, North Carolina 27711, June 2007.
9. Interim White Paper - Midwest RPO Candidate Control Measures, Source Category, MACTEC, December 1, 2005.
10. Estimated VOC Emission Reductions and Economic Impact Analysis for Proposed Amendments to Chemically Formulated Consumer Products, The State of New Jersey Department of Environmental Protection, July 3, 2003.
11. Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions, Title 17, California Code of Regulations, Article 3, Aerosol Coating Products, Sections 94521-94524 and 94526, approved June 18, 2001.

12. Regulation for Reducing Volatile Organic Compound Emissions from Consumer Products, Title 17 California Code of Regulations Sections 94507, 94508, 94509, 94513, 94514, and 94515, November 19, 2000.
13. Staff Report for the Proposed Suggested Control Measure for Architectural Coatings, California Air Resources Board, June 2000.
14. Estimated VOC Emission Reductions and Economic Impact Analysis for Proposed Amendments to Architectural Coatings Rule, The State of New Jersey Department of Environmental Protection, June 12, 2003.
15. Illinois Base Year Ozone Inventory for 2002, Illinois Environmental Protection Agency, Springfield, IL, June 2006.
16. Model Rule for Consumer Products, Ozone Transport Commission, November 29, 2001.
17. AIM OTC Model Rule, Ozone Transport Commission, March 6, 2001.
18. Control Measure Development Support Analysis of Ozone Transport Commission Model Rules, E.H. Pechan and Associates, March 31, 2001.

Attachment B
Incorporations by Reference

- a) 40 CFR 59, Subpart D, Appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings, 64 Fed. Reg. 35002 (June 30, 1999). *
- b) 40 CFR 59, Subpart C, National Volatile Organic Compound Emission Standards for Consumer Products, (April 4, 2004). *
- c) 40 CFR 60, Appendix A, Method 24, Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings (July 1, 2006). *
- d) 40 CFR 82, Subpart A, Production and Consumption Controls, Appendices A and B July 1, 2006. *
- e) 29 CFR 1910.1200(d)(4), Hazard Communication July 1, 2006. *
- f) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA, 19103.
 - 1) ASTM E119-05a, Standard Test Methods for Fire Tests of Building Construction and Materials, approved November 1, 2005.
 - 2) ASTM Designation D523-89, Standard Test Method for Specular Gloss, approved May 10, 1999.
 - 3) ASTM D1640-03, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, approved December 1, 2003.
 - 4) ASTM Method D 3912-95, Test Method for Chemical Resistance of Coating Used in Light-Water Nuclear Power Plants, approved 2001.
 - 5) ASTM Method D 4082-02, Test Method for Effects of Radiation on Coatings Used in Light-Water Nuclear Power Plants, approved 2002.
 - 6) ASTM Designation D4214-98, Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films, approved August 10, 1998.

- 7) ASTM D1613-03, Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products, approved October 1, 2003.
 - 8) ASTM E84-07, Standard Test Method for Surface Burning Characteristics of Building Materials, approved 2007.
 - 9) ASTM D4359-90, Standard Test Method for Determining Whether a Material is a Liquid or a Solid, approved 2006.
 - 10) ASTM E260-96, Standard Practice for Packed Column Gas Chromatography, reapproved 2006.
 - 11) ASTM D5043-04, Standard Test Methods for Field Identification of Coatings, approved 2004.
 - 12) ASTM E2167-01, "Standard Guide for Selection and Use of Stone Consolidants" (see section 4, Stone Consolidant), approved 2001.
 - 13) ASTM C836-06, Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course, approved 2006.
-
- g) South Coast Air Quality Management District (SCAQMD) Method 304-91, Determination of Volatile Organic Compounds in Various Materials, revised February 1996.
 - h) SCAQMD Method 303-91, Determination of Exempt Compounds, revised February 1993.
 - i) SCAQMD Method 318-95, Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, approved August 10, 1998.
 - j) Bay Area Air Quality Management District (BAAQMD) Method 43, Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials, amended May 18, 2005.
 - k) BAAQMD Method 41, Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotri fluoride, amended May 18, 2005.
 - l) California Air Resources Board (CARB) Method 310, Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products, amended May 5, 2005.

- m) SCAQMD Rule 1174, Ignition Method Compliance Certification Protocol (February 27, 1991).
- n) Cal. Admin. Code title 17 § 94509(h), Standards for Consumer Products (2005).
- o) California Code, Health and Safety Code, § 41712(h)(2) (2005).
- p) Cal. Admin. Code title 17, Article 4, Alternate Control Plan §§ 94540-94555, (1996).
- q) Cal. Admin. Code title 17 § 94511, Innovative Products (1997).
- r) Cal. Admin. Code title 17 § 94503.5, Innovative Products (1996).
- s) 7 USC 136 to 136y, FIFRA, Environmental Pesticide Control, published January 19, 2004, in Supplement III of the 2000 Edition of the United States Code.
- t) Federal Specification MMM-A-181D, Adhesives, Phenol, Resorcinol, or Melamine Base (1980).

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2. Appearance of Charles E. Matoesian, Assistant Counsel, for the Illinois Environmental Protection Agency
3. Proposal of Regulations by Director Douglas P. Scott
4. Agency Analysis of Economic and Budgetary Effects
5. Motion for Waiver of Requirements
6. Synopsis of Testimony
7. Statement of Reasons
8. First Notice Form for New 35 Ill. Adm. Code 223
9. Proposed New 35 Ill. Adm. Code 223
10. *Technical Support Document for Control of Volatile Organic Material Emissions from Consumer and Commercial Products, Architectural and Industrial Maintenance Coatings, and Aerosol Coatings, AQPSTR 07-02, Illinois Environmental Protection Agency, November, 2007.*
11. Documents Relied Upon (See Attachment A)
12. Incorporations by Reference (See Attachment B)
13. Certificate of Service

Attachment A
Documents Relied Upon

1. Emission Inventory Improvement Program Volume III: Chapter 5 – Consumer and Commercial Solvent Use, Eastern Research Group, NC, August 1996.
2. Illinois 2002 Periodic Emissions Inventory and Milestone Demonstration, Illinois Environmental Protection Agency, Springfield, IL, November 2004.
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- b) 40 CFR 59, Subpart C, National Volatile Organic Compound Emission Standards for Consumer Products, (April 4, 2004). *
- c) 40 CFR 60, Appendix A, Method 24, Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings (July 1, 2006). *
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 - 3) ASTM D1640-03, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, approved December 1, 2003.
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 - 5) ASTM Method D 4082-02, Test Method for Effects of Radiation on Coatings Used in Light-Water Nuclear Power Plants, approved 2002.
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 - 13) ASTM C836-06, Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course, approved 2006.
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- g) South Coast Air Quality Management District (SCAQMD) Method 304-91, Determination of Volatile Organic Compounds in Various Materials, revised February 1996.
 - h) SCAQMD Method 303-91, Determination of Exempt Compounds, revised February 1993.
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- o) California Code, Health and Safety Code, § 41712(h)(2) (2005).
- p) Cal. Admin. Code title 17, Article 4, Alternate Control Plan §§ 94540-94555, (1996).
- q) Cal. Admin. Code title 17 § 94511, Innovative Products (1997).
- r) Cal. Admin. Code title 17 § 94503.5, Innovative Products (1996).
- s) 7 USC 136 to 136y, FIFRA, Environmental Pesticide Control, published January 19, 2004, in Supplement III of the 2000 Edition of the United States Code.
- t) Federal Specification MMM-A-181D, Adhesives, Phenol, Resorcinol, or Melamine Base (1980).

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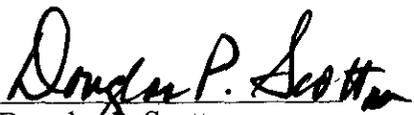
08-17
ROT -
(Rulemaking -- Air)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL OF
REGULATIONS

The Illinois Environmental Protection Agency moves that the Illinois Pollution Control Board adopt the attached regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Douglas P. Scott
Director

DATED: December 28, 2007

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-3397

**Agency Analysis of Economic and
Budgetary Effects of Proposed Rulemaking**

Agency: Illinois Pollution Control Board

Part/Title: **Part 223: STANDARDS AND LIMITATIONS FOR ORGANIC
MATERIAL EMISSIONS FOR AREA SOURCES**

Illinois Register Citation: _____

Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant explanation.

1. Anticipated effect on State expenditures and revenues.
 - (a) Current cost to the agency for this program/activity. \$0
 - (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.
2009; an estimated cost of \$50,000 annually
 - (c) Indicate the funding source, including Fund and appropriation lines, for this program/activity.
CAAPP fund
 - (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect.
N/A
 - (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above?
N/A

2. Economic effect on persons affected by the rulemaking:
 - (a) Indicate the economic effect and specify the persons affected:
Positive ___ Negative x No effect ___
Persons affected: **Consumers, Contractors, Manufacturers**
Dollar amount per person: **\$0.10 per person annually**
Total statewide cost: **Approximately \$1,283,197 annually**
 - (b) If an economic effect is predicted, please briefly describe how the effect will occur.

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SYNOPSIS OF TESTIMONY

It is currently anticipated that Illinois EPA will provide only one witness in support of the proposal: Rory Davis. Rory Davis, Environmental Engineer, Regulatory Unit, Air Quality Planning Section, Bureau of Air, will provide testimony on all aspects of the rule.

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STATEMENT OF REASONS

I. INTRODUCTION

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 27 and 28 of the Environmental Protection Act ("Act")(415 ILCS 5/27 and 28) and 35 Ill. Adm. Code 102.202(b), in support of the attached proposed new 35 Ill. Adm. Code Part 223 "Part 223," Standards and Limitations for Organic Material Emissions for Area Sources. These regulations are proposed to reduce volatile organic material emissions ("VOM") from various consumer products, architectural and industrial maintenance products, and aerosol coatings. If adopted, the rule will take effect on January 1, 2009.

II. STATEMENT OF FACTS

Effective July 17, 1997, the United States Environmental Protection Agency ("USEPA") revised the national ambient air quality standard ("NAAQS") for ozone from 0.120 parts per million to 0.080 parts per million, pursuant to its authority under Section 109 of the Clean Air Act ("CAA"). The time period used for measuring compliance for

ozone was also increased from 1 hour to 8 hours. The change from the previous 1 hour standard to the 8 hour standard was based on extensive air pollution research that indicated ozone is more harmful when a person is exposed to it over a longer period of time even if the ozone concentration is lower.

As such, the revised 8 hour standard is more stringent than the previous 1 hour standard. In order to ensure that there be one standard for ozone in the NAAQS, the 8 hour standard is not a new standard, but a revised standard. The 8 hour standard had an effective date of June 15, 2004, with the 1 hour standard being revoked one year later on June 15, 2005 (40 CFR Part 81).

Under the new NAAQS, Chicago and the Metro-East St. Louis area have been designated as moderate ozone nonattainment areas (“NAA”). Included in the Chicago NAA are Cook, DuPage, Kane, Lake, McHenry, and Will counties, as well as the Aux Sable Township and Goose Lake Township in Grundy County, and Oswego Township in Kendall County. The Illinois portion of the Metro-East St. Louis NAA is comprised of Jersey, Madison, Monroe, and St. Clair counties.

Ozone is not emitted directly by most sources. Rather, ozone precursors such as VOC, oxides of nitrogen (“NO_x”) and carbon monoxide (“CO”) are emitted and in the presence of direct sunlight and high ambient temperatures react to form ozone. Technical Support Document at 4. Ozone formation is thus most active during the summer months because of the direct sunlight and high ambient temperatures. As a powerful oxidant, ozone reacts readily with a wide range of substances. In humans, ozone acts as an irritant to the respiratory system and may damage lung and other tissues. This damage can lead to impaired breathing and reduced immunity to disease for people in good health. These

effects may be even more severe for young children, the elderly, and people with preexisting respiratory diseases such as asthma, bronchitis, or emphysema. Ozone oxidation can also damage plant tissue, reducing the yield of some crops, and damage certain other materials such as rubber. Id. at 5.

Significant, yet widely diffuse sources of VOM are the various forms of consumer products used by individual households and small businesses. These products can be generally grouped into three areas: consumer products; architectural and industrial maintenance coatings; and aerosol coatings. Together, these items emit about 10% of the total anthropogenic VOM emissions from sources in Illinois. Id. at 60.

III. PURPOSE AND EFFECT OF THE PROPOSAL

Consumer and commercial products are currently regulated by the USEPA under the consumer and commercial products rule promulgated on Sept. 11, 1998, and codified at 40 CFR Part 59 Subpart C. Id. at 5. This national rule currently limits the VOM content of 24 product categories. Id. VOM emissions from these categories are estimated to have been reduced by 20 percent from uncontrolled levels. Id. at 5. However, the emissions due to the 24 categories currently being regulated by the USEPA account for only 48 percent of the consumer and commercial products emission inventory. Id. at 5-6.

Architectural and industrial maintenance coatings (“AIM”) are currently regulated by the USEPA under the AIM coatings rule promulgated on Sept. 11, 1998, and codified at 40 CFR Part 59 Subpart D. Id. at 6. This national rule includes container labeling requirements and is estimated to reduce VOM emissions from AIM coatings by approximately 20% from uncontrolled levels. Id.

Currently there are no Illinois regulations dealing specifically with the reactivity of various organic compounds. *Id.* The proposed rule for aerosol coatings would change this by limiting the content of various VOM compounds based upon their reactivity and their likelihood to form ground level ozone. *Id.* This proposed rule is based upon the California Air Resources Board (“CARB”) Regulation for Reducing the Ozone Formed by Aerosol Coating Product Emissions that has been employing reactivity based standard since January 1, 2003¹. *Id.* Aerosol Coatings are considered to be a Group III Consumer Product, and accordingly are also regulated by 40 CFR Part 59 Subpart C. *Id.*

Many large sources of VOM in Illinois are already regulated by the State but additional control measures are needed to achieve compliance with the 8-hr ozone NAAQS. In order to attain the new USEPA ozone NAAQS by 2010 and to protect the health of Illinois citizens, the Illinois EPA proposes this rulemaking. This proposal seeks to reduce VOM emissions from consumer products, AIM products, and aerosol coatings. Together, these sources emit a significant amount of VOM in Illinois. The proposal is divided into four subparts. Subpart A is a brief, general subpart, Subpart B regulates consumer products, Subpart C regulates AIM, and Subpart D regulates aerosol coatings.

In evaluating the potential for the reduction of VOM emissions from consumer and commercial products, architectural and industrial maintenance coatings, and aerosol coatings, Illinois EPA has reviewed the findings of several groups that researched the issue. The groups are MACTEC, an environmental firm that is under contract with the Lake Michigan Air Directors Consortium (“LADCO”), the Ozone Transport Commission

¹ Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions, Title 17, California Code of Regulations, Article 3, Aerosol Coating Products, Sections 94521-94524 and 94526, approved June 18, 2001.

(“OTC”), an organization in the eastern United States created under the CAA, and the CARB. *Id.* at 7. The OTC and CARB have drafted candidate measures for the reduction of VOM that go beyond the current VOM limits, and MACTEC, CARB, and USEPA have independently projected the potential reductions and the associated cost of additional control through these measures. *Id.*

The Illinois EPA anticipates a significant reduction in VOM emissions from the affected area sources if this proposal is adopted. When added together the emission of VOM from consumer products, AIM coatings, and aerosol coating products account for approximately 9.86% of all anthropogenic VOM emissions in the State of Illinois. *Id.* at 60. The estimated reductions of VOM add up to slightly more than 10,000 tons annually, or a reduction of approximately 28.5 tons per day. *Id.* at 60. Admittedly, some of these reductions have already taken place due to nationwide compliance by many of the larger manufacturers of these products. *Id.* at 60-61. However, adoption of these limits in Illinois will further the trend towards nationwide compliance, leading to much larger reductions.

I. Consumer Products

As defined in the USEPA rule, consumer products means any household or institutional product (including paints, coatings, and solvents), or substance, or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds (“VOC”) (40 CFR § 59.202). *Id.* at 8. The USEPA uses the term VOC, while the Illinois EPA uses the term VOM. The terms are interchangeable. Consumer and commercial products are chemically formulated products used by

household and institutional consumers including, but not limited to, detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, home, lawn and garden products, disinfectants, sanitizers, aerosol paints, and automotive specialty products. Not included are other paint products, furniture coatings, or architectural coatings. Id.

The source category of consumer products is broken down by the USEPA into seven categories: personal care products; household products; automotive aftermarket products; adhesives and sealants; FIFRA regulated products; coatings and related products; and miscellaneous products. Id. at 14. The description “consumer and commercial products” also refers to aerosol adhesives, including aerosol adhesives used for consumer, industrial, and commercial uses. Id. at 8. For the purposes of the proposed regulation, the source category is divided into 59 product categories, each with a VOM limit given in percent by weight. Id. at 9.

In November of 2004, the Illinois EPA prepared the Illinois Periodic Emissions Inventory and Milestone Demonstration. Id. at 15, n. 2. It was determined that in Illinois, consumer and commercial product emissions account for approximately 4.95% of the total anthropogenic VOM emissions. Id. at 9. Consumer and commercial products account for approximately 4.93% of total anthropogenic VOM emissions in the East St. Louis NAA and approximately 9.2% of total anthropogenic VOM emissions in the Chicago NAA. Id. Consumer and commercial products are estimated to emit 81.86 tons of VOM per day in Illinois. Id., Table 2.2.3.

The most effective approaches for achieving reductions in this source category are reformulating products currently employing VOM solvents and replacing them with

water based formulations or formulations employing acetone or other exempt solvents. Id. at 16. Other measures for reductions in this category include increasing the solids content of products, formulating non-VOM propellants for products, or changing the valves, containers, or delivery systems of the products to reduce VOM content. Id. MACTEC estimates that adopting the OTC Model Rule for Consumer Products will result in a 14.2% reduction in VOM emissions from consumer and commercial product beyond those achieved by the current federal rule. Id. at 29. This translates into a reduction of approximately 6,468 tons of VOM per year in Illinois. Id. This estimate is based on figures from the 2002 inventory in Illinois and would represent a reduction of nearly 1% of the total anthropogenic VOM emissions in the State. Id.

2. AIM

An AIM coating, for the purposes of this proposed regulation, is a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Id. at 34. Coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered “Architectural Coatings” for the purposes of this rule. Id. AIM coatings are used to protect and beautify homes, office buildings, factories, pavements, curbs and on a variety of surfaces inside and outside of such structures such as metal, wood, plastic, concrete, and wallboard. AIM coatings are applied by brush, roller, or spray gun, and are applied by consumers, contractors, or maintenance staff. The emission of VOM from this category results when the solvent carrying the coating material evaporates and leaves the coating material on the surface during application and drying. Id. For the purposes of the proposed regulation, this

source category is broken down into 49 coating categories, each with a specific VOM content limit. Id. at 35.

It has been estimated by MACTEC that AIM coatings account for approximately 4.30% of the total anthropogenic VOM emissions in Illinois. Id. at 34. AIM coatings account for approximately 4.28% of total anthropogenic VOM emissions in the East St. Louis NAA and approximately 8.01% of total anthropogenic VOM emissions in the Chicago NAA. Id. MACTEC further estimated that the proposed regulation would result in a reduction of VOM emissions of 21% beyond the current federal regulation. Id. at 45. Adoption of the proposed regulation will account for the reduction of 12.21 tons of VOM per day or 4,456 tons of VOM annually. Id. at 45.

The proposed regulation was written by the Illinois EPA based on the AIM OTC Model Rule in order to maintain consistency with the OTC states that have adopted rules based on the model rule. Id. at 39. In addition, the AIM OTC Model Rule and its VOM content limits were written based on the affected coatings and VOM content limits in CARB's suggested control measures ("SCM") for AIM coatings in order that the coating formulations of the eastern states in the OTC would be consistent with formulations being used in California. Id. at 39.

3. Aerosol Coatings

An aerosol coating product, for the purposes of the proposed regulation, means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marketing applications. Id. at 46. Aerosol coatings are listed as a Group III consumer product in CAA section

183(e). Id. The emission of VOM from aerosol coatings result when the solvent carrying the coating material evaporates and leaves the coating material on the surface during application and drying, as well as from the propellants that are used to apply the coating. Id. at 46.

While aerosol coatings are considered to be a consumer product, and emissions of VOM from aerosol coatings are currently regulated by limits given in a percent by weight, more effective measures for the reduction of VOM emissions from this specific product category have been developed. These measures, currently employed in California, involve the regulation of aerosol coatings by their potential to create ground level ozone. Id. at 46. This is achieved by assigning maximum incremental reactivity (“MIR”) factors to the various solvents used in aerosol coatings, and then setting limits on the product-weighted maximum incremental reactivity (“PWMIR”) that is allowed for the different categories of aerosol coatings. Id. These limits reflect the number of grams of ozone that can potentially be produced by each gram of the product. Id. This methodology for the specific reduction of ozone produced by aerosol coatings allows for the reformulation of coatings that result in less ozone being produced by the use of the coating, while still allowing for a relatively high percentage of VOM by weight that may be necessary for the usefulness of the product. Id. 46-47.

For the purposes of the proposed regulation this source category is broken down into 36 aerosol coating categories, each with a specific PWMIR limit. Id. at 47. It is estimated that VOM emissions from aerosol coatings in Illinois are 10.15 tons per day. Id., Table 4.2.2. It has been estimated by the USEPA that the proposed limits would result in a 19.4% reduction of VOM emissions from aerosol coating products beyond a

baseline level set in 1990. Id. at 58. It is estimated that the proposed rule will result in a 19.4% reduction in equivalent VOM emissions, accounting for an equivalent reduction of 1.97 tons per day or approximately 719 tons per year in Illinois. Id. at 58.

4. Flexibility in Compliance Measures

Manufacturers of products in the consumer products category are allowed greater flexibility in complying with proposed VOM limits including provisions for an alternate control plan (“ACP”) and the innovative products provision (“IPP”). Id. at 19.

The innovative products provision allows qualified manufacturers to sell products that have VOC contents greater than the applicable VOC limit, provided they demonstrate that such products actually emit less VOC than representative products that comply with the VOC limit. Id. In California and in the OTC region, where limits similar to those in the proposed Illinois regulation have been adopted, various manufacturers have formulated technologically-advanced products that are more concentrated, higher in efficacy, or have some other chemical or physical properties that permit users to release less VOC when using such products. Id. at 19-20. These innovative products, if approved by Illinois EPA, shall be allowed under the proposed regulation, as the environmental impact due to the products will be equal to or less than comparable affected products. Id. at 20.

The ACP provision allows for approved manufacturers of affected consumer products to use emissions averaging for their product lines. Id. In general, emissions averaging under approved ACP plans lets manufacturers choose the least-cost or most advantageous reformulation option for its product lines. Rather than directly complying with each and every VOC limit, manufacturers can choose to “overcomply” with some

reformulations in order to offset the “undercompliance” of other product lines. *Id.* The ACP provision allows for the same amount of VOM emission reduction for averaged products while providing an added degree of flexibility for manufacturers in compliance.

Regarding aerosol products, the method of limiting the reactivity or the PWMIR of the ingredients of a coating in order to reduce the amount of ozone formed as a result of aerosol coating use provides manufacturers with a great deal of flexibility in compliance measures. *Id.* at 52. The proposed regulation still allows for a relatively high percentage of VOM by weight for the products in order to maintain the same or similar performance characteristics, and allows for the use of a wide variety of solvents and propellants, provided that the PWMIR of a given product does not exceed the limit for that particular category. *Id.* at 52. In this way the proposed regulation can be effective in reducing the amount of ozone formed as a result of aerosol coatings while not imposing stricter VOM limits on manufacturers of the coatings.

IV. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The geographic region subject to the proposed regulations for VOM emitting sources is the entire State of Illinois. Manufacturers prefer statewide, or even regionwide, standards so as to keep the number of product lines to a minimum. There are numerous manufacturing facilities which produce VOM emitting products and still more retail operations which sell VOM emitting products. VOM emitting products are used by virtually every household in the state. Appendix A of the Technical Support Document lists the affected manufacturers.

V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

The technology for controlling VOM emissions from consumer products, AIM, and aerosol products is largely available or being developed. The most effective approach for achieving reductions in the consumer products category is by reformulating products currently employing VOM solvents and replacing them with water based formulations or formulations employing acetone or other exempt solvents. *Id.* at 16. Other measures for reducing VOM emissions from consumer products include: increasing the solids content of products; formulating non-VOM propellants for products; or changing the valves, containers, or delivery systems of the products. *Id.* The Illinois EPA's analysis, explained in detail in Sections 2.3 – 2.7 (consumer products), 3.3 – 3.6 (AIM) and, 4.3 – 4.7 (aerosol coatings) of the Technical Support Document, demonstrates the technical feasibility and economic reasonableness of this proposed rulemaking. It should also be noted that these products are already available, or scheduled to become available in California and Northeastern states.

VI. COMMUNICATION WITH INTERESTED PARTIES

These regulations are being proposed after the interested parties have had an opportunity to review the proposal and discuss any issues with Illinois EPA. Several drafts of this proposed rulemaking were distributed to various stakeholders for comment. Comments were received by the Illinois EPA on each of these drafts, and this proposal incorporates many of the concerns and suggestions put forth in these comments. Such comments can generally be categorized into the following areas: the Illinois EPA should not propose a rule but rather should wait for the USEPA to propose a national rule; if the Illinois EPA does propose a rule, it should follow the expected format of the USEPA proposal based upon the OTC model rule; and various minor revisions.

VII. THE ILLINOIS EPA's PROPOSAL

The following is a Section-by-Section summary of the Illinois EPA's Proposal.

35. Ill. Adm. Code 223

Subpart A: General Provisions

Section 223.100 **Severability**

This section states that if any Section, subsection, or clause of this Part is found invalid, such finding shall not affect the validity of this Part as a whole or any Section, subsection, or clause not found invalid.

Section 223.105 **Abbreviations and Acronyms**

This Section lists the various abbreviations used in this Part. Unless otherwise specified within the Part, the abbreviations used in Part 223 shall be the same as those found in 35 Ill. Adm. Code 211.

Section 223.120 **Incorporations by Reference**

This Section lists the materials that are incorporated by reference. Any incorporations do not include later amendments or editions.

Subpart B: Consumer and Commercial Products

Section 223.200 **Purpose**

The purpose Section spells out the objective of Subpart B, which is to limit emissions of VOM by requiring reductions in the VOM content of consumer and commercial products.

Section 223.201 **Applicability**

The Applicability Section explains that Subpart B shall apply to any person who sells, supplies, offers for sale, or manufactures consumer products for use in Illinois, except as provided in Section 223.230, below (exemptions).

Section 223.203 **Definitions for Subpart B**

As stated, this Section lists the definitions contained in this Subpart and notes that they apply only to the provisions of this Subpart. The Section also reminds the reader of the primacy of Part 211, noting that unless otherwise defined in the Section, the definitions of terms used in Subpart B shall have the meanings specified for those terms in 35 Ill. Adm. Code Part 211.

Section 223.205 **Standards**

The Standards Section holds that except as provided in Section 223.207 (products registered under the Federal Insecticide Fungicide and Rodenticide Act), Section 223.230 (exemptions), Section 223.240 (innovative product exemption), or Section 223.245 (alternative control plans), no person shall sell, supply, offer for sale, or manufacture for sale in Illinois any consumer product manufactured on or after January 1, 2009, which contains VOM in excess of the limits specified in the Standards Section. It also notes that no person shall sell, supply, offer for sale, or manufacture for sale in Illinois, on or after January 1, 2009, any antiperspirant or deodorant that contains any compound listed under Subsection B.

Section 223.206 **Diluted Products**

This Section notes that for consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with *water or non-VOM* solvent prior to use, the limits specified in the Standards Section must apply

to the product only after the minimum recommended dilution has taken place. The Section further notes that the minimum recommended dilution shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

Conversely, the Section notes that for consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOM solvent prior to use, the limits specified in the Standards Section shall apply to the product only after the maximum recommended dilution has taken place.

Section 223.207 **Products registered under FIFRA**

This Section explains that for those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA, 7 U.S.C. Section 136-136y), the effective date of the VOM standards will be January 1, 2010.

Section 223.208 **Requirements for Aerosol Adhesives**

Based upon California Code section 41712(h)(2), this Section asserts that the standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. With certain listed exceptions, no person shall sell, supply, offer for sale, use or manufacture for sale in Illinois any aerosol adhesive which, at the time of sale, use, or manufacture, contains VOM in excess of the specified standard.

Section 223.208(b) explains what is needed to qualify as a “Special Purpose Spray Adhesive.” To do so, the product must meet one or more of the definitions for “Special Purpose Spray Adhesive” specified in Section 223.203 (Definitions), but if the product label indicates that the product is suitable for use on any substrate or application

not listed in one of the definitions for “Special Purpose Spray Adhesive,” then the product is to be classified as either a “Web Spray Adhesive” or a “Mist Spray Adhesive.” However, if a product meets more than one of the definitions specified in Section 223.203 for “Special Purpose Spray Adhesive” and is not classified as a “Web Spray Adhesive” or “Mist Spray Adhesive” under Section 223.203, then the VOC limit for the product shall be the lowest applicable VOM limit specified in Section 223.205(a) (Standards).

Lastly, the Section allows no person to sell, supply, offer for sale, or manufacture for use in Illinois any aerosol adhesive which contains either methylene chloride, perchloroethylene, or trichloroethylene after January 1, 2009 and notes that all aerosol adhesives must comply with the labeling requirements specified in Section 223.265 (Additional Labeling Requirements for Aerosol Adhesives, Adhesive Removers, Electronic Cleaner, Electrical Cleaner, Energized Electrical Cleaner, and Contact Adhesives).

Section 223.209 **Requirements for Floor Wax Strippers**

This Section notes that on or after January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Illinois any floor wax stripper unless certain special labeling requirements concerning dilution ratios are met.

Section 223.210 **Products Containing Ozone-Depleting Compounds**

This Section forbids the sale of consumer products which contain certain ozone-depleting substances. Certain exceptions are made for reformulations which meet the standards set in Section 223.205(a) or if reformulated to meet Section 223.205(a), provided the ozone-depleting compound content of the reformulated product does not

increase. The prohibition on sales also does not apply to any ozone depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

Section 223.220 **Requirements for Charcoal Lighter Material**

Section 223.220 forbids the sale, supply, or offer for sale on or after January 1, 2009, of any charcoal lighter material product unless at the time of the transaction the manufacturer can demonstrate that they have been issued an effective certification by the CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, Section 94509(h), of Title 17 of the California Code of Regulations. This certification remains in effect for Illinois for as long as the CARB certification remains in effect. Alternatively, the person may demonstrate that at the time of the transaction the manufacturer had been issued a certification by an air pollution agency of another state and the USEPA that was current at the time of the transaction.

Upon request by the Agency, a manufacturer claiming to have a certification as specified in subsection 223.220(a) must submit to the Agency a copy of the certification decision, including all conditions applicable to the certification established by CARB or the air pollution agency of another state and the USEPA.

Section 223.230 **Exemptions**

This Section lists the various products which are not covered by the regulation. These include: any consumer product manufactured in Illinois for shipment and use outside of Illinois; for antiperspirants or deodorants, ethanol shall not be considered a medium volatility organic material (MVOM) for purposes of the content standards specified in Section 223.205(a); the VOM limits specified in Section 223.205(a) shall not

apply to fragrances up to a combined level of two percent by weight contained in any consumer product and shall not apply to colorants up to a combined level of two percent by weight contained in any antiperspirant or deodorant; the requirements of Section 223.205(a) for antiperspirants or deodorants shall not apply to those volatile organic materials that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two mm Hg or less at 20°C; the VOM limits specified in Section 223.205(a) shall not apply to any LVP-VOM; and the requirements of Section 223.250 (Product Dating) shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. Section 136/136y). In addition, the VOM limits specified in Section 223.205(a) shall not apply to: air fresheners that are comprised entirely of fragrance, less compounds not defined as VOM under Section 211.7150 or exempted under subsection 223.230(f); insecticides containing at least 98% para-dichlorobenzene; adhesives sold in containers of one fluid ounce or less; and, bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent active ingredients.

Section 223.240 **Innovative Product Exemption**

This Section states that any manufacturer of consumer products which has been granted an Innovative Product exemption by the CARB under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the California Code of Regulations shall be exempt from the limits in 223.205(a) for the period of time that the CARB Innovative Products

exemption remains in effect, provided that all consumer products within the CARB Innovative Products exemption are contained in the limits in 223.205(a) of this regulation. Any manufacturer claiming such an exemption on this basis must submit to the Agency a copy of the CARB Innovative Product exemption decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption.

The Section also establishes special recordkeeping requirements. All information specified in the innovative product exemption approving an innovative product application shall be maintained by the responsible party for a minimum of three years after the expiration of such exemption. Such records shall be clearly legible and maintained in good condition during this period. In addition, the records specified shall be made available to the Agency, or its authorized representative, upon request.

Section 223.245 **Alternative Compliance Plans**

The purpose of this section is to provide an alternative method to comply with the limits in Section 223.205(a). This alternative is provided by allowing responsible ACP parties the option of voluntarily entering into separate ACPs for consumer products, as specified in this Subpart. Only responsible ACP parties for consumer products may enter into an ACP.

If allowed, any manufacturer of consumer products which has been granted an ACP Agreement by the CARB under the provisions in Subchapter 8.5, Article 4, Sections 94540-94555, of Title 17 of the California Code of Regulations shall be exempt from the limits in Section 223.205(a) for the period of time that the CARB ACP Agreement remains in effect provided that all ACP Products used for emissions credits within the

CARB ACP Agreement are contained in Section 223.205(a). Any manufacturer claiming such an ACP Agreement on this basis must submit to the Agency a copy of the CARB ACP decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption.

In addition, all information specified in the ACP Agreement approving an ACP shall be maintained by the responsible ACP party for a minimum of three years after the expiration of such ACP. Such records shall be clearly legible and maintained in good condition during this period. Such records shall be made available to the Agency or its authorized representative upon request.

Section 223.250 **Product Dating**

This Section establishes the duty for all manufacturers of a consumer product subject to Section 223.205(a) to clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date. The Section develops a to indicate the date of manufacture and excuses manufacturers using such code from compliance with the additional product dating requirements in Section 223.255(a), if the code is represented separately from other codes on the product container so that it is easily recognizable.

This date or code shall be displayed on each consumer product container or package no later than twelve months prior to the effective date of the applicable standard specified in Section 223.205(a). The Section mandates that the date or datecode shall be located on the container or inside the cover/cap so that it is readily observable or obtainable by simply removing the cap/cover. Alternatively, information may be

displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.

These requirements shall not apply to products containing no VOM (as defined in Section 223.203), or containing VOM at 0.10% by weight or less.

Section 223.255 **Additional Product Dating Requirements**

This Section establishes additional product dating requirements. For instance, if a manufacturer uses a code other than specified in 223.250(b) indicating the date of manufacture for any consumer product subject to Section 223.205(a), an explanation of the date portion of the code must be filed with the Agency no later than 12 months prior to the effective date of the applicable standard. Beyond this, if a manufacturer changes any code indicating the date of manufacture for any consumer product subject to this Section, an explanation of the modified code must be submitted to the Agency before any products displaying the modified code are sold, supplied, or offered for sale in Illinois.

The Section also forbids the erasing, alteration, defacing, or otherwise removing or making illegible any date or code indicating the date of manufacture from any regulated product container without the express authorization of the manufacturer. Nor may any manufacturer shall affix a date-code that is not true for the date the item was manufactured.

Finally, date code explanations for codes indicating the date of manufacture are considered public information and may not be claimed as confidential.

Section 223.260 **Most Restrictive Limit**

This Section holds that notwithstanding the definition of “product category” in Section 223.203, if anywhere on the principal display panel of any consumer product

manufactured *before* January 1, 2009, or any FIFRA-registered insecticide manufactured before January 1, 2010, any representation is made that the product may be used as, or is suitable for use as, a consumer product for which a lower VOC limit is specified in Section 223.205(a), then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products and insecticide foggers.

Similarly, notwithstanding the definition of “Product Category” in Section 223.203, if anywhere on the container or packaging of any consumer product manufactured on or *after* January 1, 2009, or any FIFRA-registered insecticide manufactured on or after January 1, 2010, or on any sticker or label affixed thereto, any representation is made that the product may be used as, or is suitable for use as, a consumer product for which a lower VOC limit is specified in Section 223.205(a), then the lowest VOM limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products and insecticide foggers.

Section 223.265 **Additional Labeling Requirements for Aerosol Adhesives, Adhesive Removers, Electronic Cleaners, Electrical Cleaners, Energized Electrical Cleaners, and Contact Adhesives**

This Section requires, in addition to the requirements specified in Sections 223.250, 223.260, and 223.270, that both the manufacturer and responsible party for each aerosol adhesive, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, and contact adhesive product subject to this regulation shall ensure that all products clearly display certain information on each product container which is manufactured on or after January 1, 2009. This includes: the product category as specified in Section 223.205(a) or an abbreviation; the applicable VOM standard for the

product that is specified in Section 223.205(a) except for Energized Electrical Cleaner, expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the Agency; that if the product is included in an alternative control plan approved by the Agency, and the product exceeds the applicable VOM standard specified in Section 223.205(a), the product shall be labeled with the term “ACP” or “ACP product”; that if the product is classified as a special purpose spray adhesive, the applicable substrate and/or application or an abbreviation of the substrate and/or application that qualifies the product as special purpose shall be displayed; and, that if the manufacturer or responsible party uses an abbreviation as allowed by this Section, an explanation of the abbreviation must be filed with the Agency before the abbreviation is used.

Furthermore, the information required in Section 223.250(a), shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging. Information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.

Lastly, no person shall remove, alter, conceal, or deface the information required in Subsection 223.265(a) prior to final sale of the product.

Section 223.270 **Reporting Requirements**

This Section requires that, upon request, a responsible party must submit to the Agency certain information within 30 days of a request by the Agency. This includes the name, address, and telephone number of the responsible party and the name and telephone number of the party's designated contact person. For each product subject to

Section 223.205(a), the following information must be submitted: the product brand name; the product label; the product category to which the consumer product belongs; the applicable product form(s) listed separately; and an identification of the product as a household product, institutional product, or both. Moreover, separate Illinois sales in pounds per year, to the nearest pound, and the method used to calculate Illinois sales for each product form must be reported. Also, for information submitted by multiple companies, an identification of each company which is submitting relevant data separate from that submitted by the responsible party. All information from each company shall be submitted by the date requested by the Agency.

Concerning each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest one-tenth of a percent (0.1%) shall be reported: total Section 223.205(a) compounds; total LVP-VOMs that are not fragrances; total all other carbon-containing compounds that are not fragrances; total all non-carbon-containing compounds, and; total fragrance. For products containing greater than two percent by weight fragrance, the percent of fragrance that are LVP-VOMs; and the percent of fragrance that are all other carbon-containing compounds; and total paradichlorobenzene. For each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following: each Section 223.205(a) compound; and each LVP-VOM that is not a fragrance; and if the product includes a propellant, both the weight percent comprised of propellant for each product; and an identification of the type of propellant, such as Type A, Type B, Type C, or a blend of the different types.

The Section also requires that in addition to the requirements of subsection (a)(6), the responsible party shall report or shall arrange to have reported to the Agency, the net percent by weight of each ozone-depleting compound which is: listed in Section 223.210(a) and contained in a product subject to reporting under subsection 223.270(a) in any amount greater than 0.1% by weight.

Finally, all manufacturers must submit to the Agency the information requested above upon commencement of the selling of each such product in Illinois.

Section 223.275 **Special Recordkeeping Requirements for Consumer Products that Contain Perchloroethylene or Methylene Chloride**

This Section establishes special recordkeeping requirements. The requirements of this Section shall apply to all responsible parties for consumer products that are subject to Section 223.205(a) and contain perchloroethylene or methylene chloride and Energized Electrical Cleaners as defined in Section 223.203, that contain perchloroethylene or methylene chloride. For the purposes of this Section, a product “contains perchloroethylene or methylene chloride” if the product contains 1.0 percent or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

Concerning reporting, for each consumer product that contains perchloroethylene or methylene chloride, the responsible party shall report certain listed information for products sold in Illinois, upon request of the Agency, within 30 days written notice. This includes: the product brand name and a copy of the product label with legible usage instructions; the product category to which the consumer product belongs; the applicable product form(s) (listed separately); for each product form, the total sales in Illinois during the calendar year to the nearest pound (exclusive of the container or packaging), and the

method used for calculating the Illinois sales; and the weight percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the consumer product.

Section 223.280 **Calculating Illinois Sales**

This Section states that if direct sales data for Illinois are not available, sales may be estimated by prorating national or regional sales data by population.

Section 223.285 **Test Methods**

This Section states that testing to determine compliance with the requirements of this chapter shall be performed using CARB Method 310, Determination of Volatile Organic Materials (VOM) in Consumer Products, adopted September 25, 1997, and as last amended on May 5, 2005, which is incorporated by reference in Section 223.120. It also notes that compliance with the requirements of this Subpart may also be demonstrated through calculation of the VOM content from records of the amounts of constituents used to make the product pursuant to certain listed criteria.

Subpart C: Architectural and Industrial Maintenance Coatings

Section 223.300 **Purpose**

The purpose Section spells out the objective of Subpart C, which is to limit emissions of VOM by requiring reductions in the VOM content of architectural and industrial maintenance coatings and required work practices to minimize VOM emissions in the application of architectural and industrial maintenance coatings to surfaces.

Section 223.305 **Applicability**

The Applicability Section explains that Subpart C shall apply to any person who supplies, sells, offers for sale, or manufacturers any architectural coating for use within the state of Illinois, as well as any person who applies or solicits the application of any

architectural coating within Illinois. The Section also lists who Subpart C does not apply to. The Subpart does not apply to:

- a) Any architectural coating that is sold or manufactured for use outside of the state of Illinois or for shipment to other manufacturers for reformulation or repackaging.
- b) Any aerosol coating product.
- c) Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

Section 223.307 **Definitions for Subpart C**

This Section lists the definitions contained in this Subpart and notes that they apply only to the provisions of this Subpart. The Section also reminds the reader of the primacy of Part 211, noting that unless otherwise defined in the Section, the definitions of terms used in Subpart C shall have the meanings specified for those terms in 35 Ill. Adm. Code Part 211

Section 223.310 **Standards**

Section 223.310 states that except as provided in subsection 223.310(c) (Most Restrictive VOM Limit), no person shall manufacture, blend, or repackage for sale within Illinois, supply, sell, or offer for sale within Illinois, or solicit for application or apply within Illinois, any architectural coating manufactured on or after January 1, 2009, which contains a VOM content in excess of the corresponding limit specified in the Section. The Section also explains the method of diluting concentrated substances, forbids excessive thinning of coating, delineates painting practices, provides special rules for Rust Preventive Coatings and explains how the VOM content limit is to be determined for substances not listed in Section 223.310(a).

Finally, the Section proclaims that if anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on their behalf, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Section 223.310(a), then the most restrictive VOM content limit shall apply. Several exceptions are listed to this policy.

Section 223.320 **Container Labeling Requirements**

This Section prescribes that each manufacturer of any architectural coatings subject to this Subpart shall display certain information on the coating container (or label) in which the coating is sold or distributed. This includes: the date code (the date the coating was manufactured); thinning recommendations (a statement of the manufacturer's recommendation regarding thinning of the coating, unless thinned with water); and, the VOM Content (either the maximum or the actual VOM content of the coating, as supplied, or the actual VOM content [in grams per liter] including the maximum thinning as recommended by the manufacturer). Beyond this, for “Industrial Maintenance Coatings,” in addition to the information specified above, each manufacturer shall display on the label or the lid one or more of the following descriptions: “For industrial use only;” “For professional use only;” and, “Not for residential use” or “Not intended for residential use.”

Other special labeling provisions are covered by this Section. For “Clear Brushing Lacquers,” the labels shall prominently display the statements “For brush application only,” and “This product must not be thinned or sprayed.” For “Rust

Preventive Coatings,” the label shall prominently display the statement “For Metal Substrates Only.” For “Specialty Primers, Sealers, and Undercoaters,” the labels shall prominently display one or more of the following descriptions listed: “For blocking stains;” “For fire-damaged substrates;” “For smoke-damaged substrates;” “For water-damaged substrates;” or, “For excessively chalky substrates.” The labels of “Quick Dry Enamels” shall prominently display the words “Quick Dry” and the dry hard time. The labels of “Non-Flat High-Gloss Coatings” shall prominently display the words “High Gloss.” Lastly, effective January 1, 2010, the labels of all “Stone Consolidants” shall prominently display the statement “Stone Consolidant - For Professional Use Only.”

Section 223.330 **Record Keeping and Reporting Requirements**

Under the AIM rule, certain coatings must follow prescribed record keeping and reporting requirements. The following are in this category. “Clear Brushing Lacquers” manufacturers shall report, for products sold in Illinois, upon request of the Agency, the number of gallons of clear brushing lacquers sold in the state during the preceding calendar year; and the method used by the manufacturer to calculate state sales. “Rust Preventive Coatings” manufacturers shall report, for products sold in Illinois, upon request of the Agency, the number of gallons of rust preventive coatings sold in the state during the preceding calendar year, and the method used by the manufacturer to calculate state sales. “Specialty Primers, Sealers, and Undercoaters” manufacturers shall report, for products sold in Illinois, upon request of the Agency, the number of gallons of specialty primers, sealers, and undercoaters sold in the state during the preceding calendar year, and the method used by the manufacturer to calculate state sales. For “Toxic Exempt Compounds,” for each architectural coating that contains

perchloroethylene or methylene chloride, the manufacturer shall report the following information for products sold in Illinois, upon request of the Agency: the product brand name and a copy of the product label with the legible usage instructions; the product category listed in Section 223.210(a) to which the coating belongs; the total sales in Illinois during the calendar year to the nearest gallon; and the volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.

Manufacturers of recycled coatings must submit a letter to the Agency self-certifying their status as a Recycled Paint Manufacturer upon request of the Agency and shall report, for products sold in Illinois, upon request of the Agency, the number of gallons of recycled coatings sold in the state during the preceding calendar year, and the method used by the manufacturer to calculate state sales. Finally, manufacturers of “Bituminous Roof Coatings” or “Bituminous Roof Primers” shall report, for products sold in Illinois, upon request of the Agency, the number of gallons of “Bituminous Roof Coatings” or “Bituminous Roof Primers” sold in the state during the preceding calendar year, and the method used by the manufacturer to calculate state sales.

Section 223.340 Compliance Provisions and Test Methods

For the purpose of determining compliance with the VOM content limits in Section 223.310(a), the VOM content of a coating shall be determined by using the procedures described in subsections 223.340(a)(1) or 223.340(a)(2), as appropriate. The VOM content of a tint base shall be determined without colorant that is added after the tint base is manufactured. This Section therefore presents the formulas which must be used. Section 223.340(a)(1) uses the following formula:

$$\text{VOM Content} = \frac{(W_s - W_w - W_{em})}{(V_m - V_w - V_{em})}$$

Where:

VOM content = grams of VOM per liter of coating
 W_s = weight of volatiles, in grams
 W_w = weight of water, in grams
 W_{em} = weight of exempt materials, in grams
 V_m = volume of coating, in liters
 V_w = volume of water, in liters
 V_{em} = volume of exempt materials, in liters

This represents, with the exception of low solids coatings, the VOM content in grams of VOM per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds.

Section 223.340(a)(2) uses the following formula:

$$\text{VOM Content (ls)} = \frac{(W_s - W_w - W_{em})}{(V_m)}$$

Where:

VOM content (ls) = the VOM content of a low solids coating in grams per liter of coating
 W_s = weight of volatile, in grams
 W_w = weight of water, in grams
 W_{em} = weight of exempt materials, in grams
 V_m = volume of coating, in liters

This represents, for low solids coatings, the VOM content in units of grams of VOM per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds.

Section 223.340(b) lists criteria necessary to perform the calculations in Section 223.340(a). To wit, to determine the physical properties of a coating in order to perform the calculations in subsection 223.340(a), the reference method for VOM content is

USEPA Method 24, except as provided in subsections 223.350 and 223.360. An alternative method to determine the VOM content of coatings is SCAQMD Method 304-91 (Revised February 1996), incorporated by reference in Section 223.120. The exempt compounds content shall be determined by SCAQMD Method 303-91 (Revised August 1996), incorporated by reference in subsection Section 223.120.

To determine the VOM content of a coating, the manufacturer may use USEPA Method 24, or an equivalent alternative method, as provided in Section 223.350, formulation data, or any other reasonable means for predicting that the coating has been formulated as intended (e.g., quality assurance checks, recordkeeping). However, if there are any inconsistencies between the results of a Method 24 test and any other means for determining VOM content, the Method 24 results will govern, except when an equivalent alternative method is approved as specified in Section 223.350. The Agency may require the manufacturer to conduct a Method 24 analysis.

Section 223.350 **Alternative Test Methods**

This Section allows the use of other test methods demonstrated to provide results that are acceptable for purposes of determining compliance with subsection 223.340(b), after review and approved in writing by the Agency and the USEPA.

Section 223.360 **Methacrylate Traffic Coating Markings**

This Section denotes that analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to a modification of USEPA Method 24 (40 CFR 59, subpart D, Appendix A), or an equivalent method approved by the CARB. However, this method has not been approved for methacrylate multi-

component coatings used for purposes other than as traffic marking coatings or for other classes of multi-component coatings.

Section 223.370 **Test Methods**

This Section lists certain test methods, and incorporates them by reference, stating that they shall be used to test coatings subject to the provisions of this Subpart.

Subpart D: Aerosol Coatings

Section 223.400 **Purpose**

The purpose Section states that the reason for the Subpart is to limit emissions of volatile organic materials by requiring reductions in the VOM content of Aerosol Coating products.

Section 223.405 **Applicability**

The Applicability Section explains that Subpart D shall apply to any person who sells, supplies, offers for sale, applies, or manufactures aerosol coating products for use in the state of Illinois, except as provided in Section 223.420 (exemptions).

Section 223.407 **Definitions for Subpart D**

As stated, this Section lists the definitions contained in this Subpart and notes that they apply only to the provisions of this Subpart. The Section also reminds the reader of the primacy of Part 211, noting that unless otherwise defined in the Section, the definitions of terms used in Subpart D shall have the meanings specified for those terms in 35 Ill. Adm. Code Part 211.

Section 223.410 **Limits and Requirements for Aerosol Coating Products**

This Section sets the reactivity requirements for aerosol coating products based upon their date of manufacture. Those manufactured beginning January 1, 2009, must comply with the reactivity requirements specified in Section 223.410(b).

Section 223.410(b) lists the reactivity limits for aerosol coating products manufactured beginning January 1, 2009. Except as provided in Sections 223.410(a) and 223.420, no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois, any aerosol coating product which, at the time of sale, use, or manufacture, contains reactive organic compounds that have a PWMIR in excess of the limits specified after January 1, 2009. The limit is listed as “Product-Weighted Grams Ozone per Gram Product.”

Pursuant to Subsection 223.410(c), if an aerosol coating product is subject to both a general coating limit and a specialty coating limit, as listed in subsection 223.410(b), the specialty limit coating shall be used so long as the product meets all the criteria of the applicable specialty coating category as defined in Section 223.407. However, notwithstanding the provisions of Sections 223.410(c) and 223.430, high temperature coatings that contain at least 0.5 percent by weight of an elemental metallic pigment in the formulation, including propellant, shall be subject to the limit specified for metallic coatings.

In addition, notwithstanding the provisions of Section 223.410(a) and (b), an aerosol coating product manufactured prior January 1, 2009, may be sold, supplied, offered for sale, or applied for up to January 1, 2012. This provision, found in Subsection 223.410(e), does not apply to any product which does not display on the product

container or package the date on which the product was manufactured, or a code indicating such date.

Special rules govern products containing methylene chloride or trichloroethylene. If the product is subject to the reactivity limits specified in Section 223.410(b), no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois any aerosol coating product which contains methylene chloride or trichloroethylene. However, this prohibition does not apply to any aerosol coating product containing methylene chloride or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01% by weight of the product.

Similarly, special rules govern products containing perchloroethylene or ozone depleting substances. If the product is subject to the reactivity limits specified in Section 223.410(b), no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois any aerosol coating product which contains perchloroethylene. In addition, for any aerosol coating product subject to the reactivity limits specified in Section 223.410(b), no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois any aerosol coating product which contains an ozone depleting substance identified by the USEPA in the Code of Federal Regulations, 40 CFR Part 82, Subpart A, under Appendices A and B, July 1, 1998. These two requirements, found in Subsections 223.410(g)(1) and (g)(2) shall not apply to any aerosol coating product containing perchloroethylene, or an ozone depleting substance as identified in Section 223.410(g)(1) or (g)(2), that are present as impurities in a combined amount equal to or less than 0.01% by weight of the product.

Multicomponent kits, as defined in Section 223.407, are also treated differently. For these, no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois any multi-component kit, in which the total weight of VOM and methylene chloride contained in the multi-component kit $(\text{Total VOM} + \text{MC})_{\text{actual}}$ is greater than the total weight of VOM and methylene chloride that would be allowed in the multi-component kit if each component product in the kit had separately met the applicable VOM standards $(\text{Total VOM} + \text{MC})_{\text{standard}}$ as calculated below:

$$(\text{Total VOM} + \text{MC})_{\text{actual}} = (\text{VOM}_1 \times W_1) + (\text{MC}_1 \times W_1) + (\text{VOM}_2 \times W_2) + (\text{MC}_2 \times W_2) + (\text{VOM}_n \times W_n) + (\text{MC}_n \times W_n)$$

$$(\text{Total VOM} + \text{MC})_{\text{standard}} = (\text{STD}_1 \times W_1) + (\text{STD}_2 \times W_2) + (\text{STD}_n \times W_n)$$

Where:

- VOM = the percent by weight VOM of the component product
- MC = the percent by weight methylene chloride of the component product
- STD = the VOM standard specified in Section 223.410(a) which applies to the component product
- W = the weight of the product contents (excluding container)

Subscript 1 denotes the first component product in the kit

Subscript 2 denotes the second component product in the kit

Subscript n denotes any additional component product

Conversely, no person shall sell, supply, offer for sale, apply, or manufacture for use in Illinois any multi-component kit, as defined in Section 223.407, in which the *Kit PWMIR* is greater than the Total Reactivity Limit. The Total Reactivity Limit represents the limit that would be allowed in the multi-component kit if each component product in

the kit had separately met the applicable Reactivity Limit. The Kit PWMIR and Total Reactivity Limit are calculated as in equations (A), (B) and (C) below:

- A) $\text{Kit PWMIR} = (\text{PWMIR}_{(1)} \times W_1) + (\text{PWMIR}_{(2)} \times W_2) + \dots + (\text{PWMIR}_{(n)} \times W_n)$
- B) $\text{Total Reactivity Limit} = (\text{RL}_1 \times W_1) + (\text{RL}_2 \times W_2) + \dots + (\text{RL}_n \times W_n)$
- C) $\text{Kit PWMIR} \leq \text{Total Reactivity Limit}$

Where:

- W = the weight of the product contents (excluding container)
- RL = the Reactivity Limit specified in Section 223.410(b)
- Subscript 1 denotes the first component product in the kit
- Subscript 2 denotes the second component product in the kit
- Subscript n denotes any additional component product

The Section further prohibits the sale, supply, offer for sale, application, or manufacture for use in the state of Illinois any aerosol coating product assembled by adding bulk paint to aerosol containers of propellant, or with the reactivity limits specified in Section 223.410(b) for products subject to those limits.

Finally, Section 223.410(j) explains the assignment of maximum incremental reactivity (MIR) values. In order to calculate the PWMIR of aerosol coating products as specified in Section 223.407, the MIR values of product ingredients are assigned as follows:

- A) Any ingredient which does not contain carbon is assigned a MIR value of 0.0.
- B) Any aerosol coating solid, including but not limited to resins, pigments, fillers, plasticizers, and extenders is assigned a MIR value of 0.0.

- C) For any ROC not covered under subparagraphs (A) and (B) of this paragraph (1), each ROC is assigned the MIR value set forth in Appendices A and B to this Part.
- D) Except as provided in paragraph (3) of this subsection, only ROCs listed in Appendices A and B to this Part, can be used to comply with the reactivity limits specified in Section 223.410(b).
- E) All individual compounds in an amount equal to or exceeding 0.1 percent shall be considered ingredients in calculating the PWMIR. Such individual compounds shall be considered ingredients whether or not they are reported by the manufacturer pursuant to Appendix A and B.

Section 223.410(j)(2) explains the calculation of PWMIR Values, as noted below:

- A) The MIR values dated January 1, 2009, shall be used to calculate the PWMIR for aerosol coating products.
- B) If a new ROC is added to Appendices A and B to this regulation, then the new ROC may be used in aerosol coating products, and the MIR value for the new ROC shall be used to calculate the PWMIR after the effective date of the MIR value.

Lastly, Section 223.410(j)(3) details the calculation of the MIR value for any aromatic hydrocarbon solvent with a boiling range different from the ranges specified in subsection (b) of Appendix B of this Part shall be assigned as follows:

- A) If the solvent dry point is lower than or equal to 420 degrees F, the MIR value specified in subsection (b) of Appendix B of this Part for Bin 23 shall be used.
- B) If the solvent initial boiling point is higher than 420 degrees F, the MIR value specified in subsection (b) of Appendix B of this Part for Bin 24 shall be used.

Section 223.420 Exemptions

This Section lists the various products which are not covered by the regulation. These include: aerosol lubricants, mold releases, automotive underbody coatings, electrical coatings, cleaners, belt dressings, anti-static sprays, layout fluids and removers, adhesives, maskants, rust converters, dyes, inks, and leather preservatives or cleaners. In

addition, this Subpart shall not apply to any aerosol coating product manufactured in Illinois for shipment and use outside of Illinois. Nor, as Section 223.420(c) states, shall the provisions of this Subpart apply to a manufacturer, distributor, or responsible party who sells, supplies, or offers for sale in Illinois an aerosol coating product that does not comply with the limits specified in subsection 223.410(b), as long as the manufacturer, distributor, or responsible party can demonstrate both that the aerosol coating product is intended for shipment and use outside of Illinois, and that the manufacturer, distributor, or responsible party has taken reasonable prudent precautions to assure that the aerosol coating product is not distributed to Illinois. However, subsection (c) does not apply to aerosol coating products that are sold, supplied, or offered for sale by any person to retail outlets in Illinois. Finally, the requirements in subsection 223.410(b) prohibiting the application of aerosol coating products that exceed the limits specified in the subsection 223.410(b) shall apply only to commercial application of aerosol coating products.

Section 223.430 **Most Restrictive Limit**

Except as otherwise provided in Section 223.410(c), if anywhere on the container of any aerosol coating product subject to the specified limits in subsection 223.410(b), or on any sticker or label affixed thereto, or in any sales or advertising literature, any representation is made that the product may be used as, or is suitable for use as a product for which a lower limit is specified, then the lowest applicable limit shall apply.

Section 223.440 **Labeling Requirements**

This Section explains the duties of both the manufacturer and responsible party for each aerosol coating product subject to this Subpart, to ensure that all products clearly

display the certain information on each product container which is manufactured 90 days or later after January 1, 2009.

Also, products subject to the reactivity limits specified in Section 223.410(b) shall display: the applicable reactivity limit for the product that is specified in Section 223.410(b); the aerosol coating category as defined in Section 223.407; and, the day, month, and year on which the product was manufactured, or a code indicating such date.

The Section further requires that the information required shall be displayed on the product container in a readily observable and clear manner. It also forbids anyone from removing, altering, concealing, or defacing such information prior to final sale of the product. Finally, for any aerosol coating product subject to Section 223.410(a), if the manufacturer or responsible party uses a code indicating the date of manufacture or an abbreviation of the coating category as defined in Section 223.407, an explanation of the code or abbreviation must be filed with the Agency prior to the use of the code or abbreviation.

Section 223.450 **Reporting Requirements**

This Section requires that any responsible party for an aerosol coating product subject to this Subpart which is sold, supplied, or offered for sale in Illinois, must supply the Agency, upon request, the company name, mail address, contact person, and the telephone number of the contact person. For responsible parties who do not manufacture their own aerosol coating products, the responsible party shall also supply the information specified for those manufacturers which produce products for the responsible party. The responsible party shall also notify the Agency within 30 days of any change in the information supplied to the Agency.

Moreover, upon written notice, each manufacturer or responsible party subject to this Subpart shall submit to the Agency a written report with the following information for each product they manufacture under their name or another company's name: the brand name of the product; a copy of the product label; the owner of the trademark or brand names; the product category as defined in Section 223.407; the annual Illinois sales in pounds per year and the method used to calculate Illinois annual sales, and; the product formulation data. Concerning the product formulation data, for products subject to the reactivity limits specified in Section 223.410(b), the WMIR and the weight fraction of all ingredients including: water, solids, each ROC, and any compounds assigned a MIR value of zero as specified in Section 223.410(j), and Appendices A or B to this Part. Each ROC must be reported as an ingredient if it is present in an amount greater than or equal to 0.1% by weight of the final aerosol coatings formulation. If an individual ROC is present in an amount less than 0.1% by weight, then it does not need to be reported as an ingredient. In addition, an impurity does not need to be reported as an ingredient if it meets the following definition:

[for] the purpose of this section, an “impurity” means an individual chemical compound present in a raw material which is incorporated into the final aerosol coatings formulation, if the compound is present below the following amounts in the raw material:

- A) For individual compounds that are carcinogens, as defined in 29 CFR section 1910.1200(d)(4), each compound must be present in an amount less than 0.1% by weight in order to be considered an “impurity.”
- B) For all other compounds present in a raw material, a compound must be present in an amount less than one percent by weight in order to be considered an “impurity”;

The Section also requires an identification of each product brand name as a “household,” “industrial,” or “both” product, and any other information necessary to determine the emissions or the product-weighted MIR from aerosol coating products. Such information requested in this Subsection 223.450(b) may be supplied as an average for a group of aerosol coating products within the same coating category when the products do not vary in VOM content by more than two percent (by weight), and the coatings are based on the same resin type, or the products are color variations of the same product (even if the coatings vary by more than two percent in VOM content).

Lastly, upon written request, the responsible party for aerosol coating products subject to this Subpart shall supply the Agency with a list of all exempt compounds contained in any aerosol coating product within 15 working days.

Section 223.460 Test Methods

This Section states that compliance with the requirements of this Subpart shall be determined by using certain, prescribed, test methods. However, alternative test methods which are shown to accurately determine the VOM content, ingredient name and weight percent of each ingredient, exempt compound content, metal content, specular gloss, or acid content may also be used after approval in writing by the Agency.

Appendix A Maximum Incremental Reactivity

Appendix A contains “Tables of Maximum Incremental Reactivity (MIR) Values” for the organic compounds covered by the Subpart.

Appendix B MIR Values for Hydrocarbon Solvents.

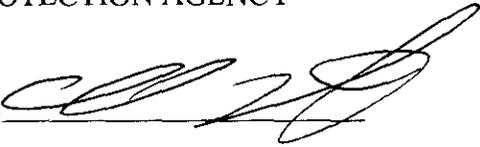
Appendix B contains the MIR values for both “Aliphatic Hydrocarbon Solvents” and “Aromatic Hydrocarbon Solvents” covered by the Subpart.

VIII. CONCLUSION

The Agency proposes a new rule at 35 Ill. Adm. Code 223 to reduce emissions of VOM from various consumer products, architectural and industrial maintenance products and aerosol emissions.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and requests the Board adopt this proposed new Part 223 for the State of Illinois.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 28, 2007

1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

CERTIFICATE OF SERVICE

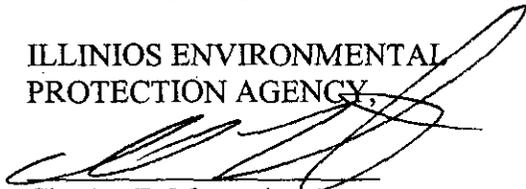
I, the undersigned, an attorney, state that I have served the attached REGULATORY PROPOSAL entitled "PROPOSED NEW 35 ILL. ADM. CODE PART 223 STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA SOURCES," MOTION FOR WAIVER OF REQUIREMENTS and APPEARANCE upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218
(Overnight Mail)

Matthew Dunn, Chief
Division of Environmental Enforcement
Office of the Attorney General
188 West Randolph St., 20th Floor
Chicago, IL 60601
(First Class Mail)

Virginia Yang
Deputy Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702
(First Class Mail)

and mailing it from Springfield, Illinois, with sufficient postage affixed, as indicated above.

ILLINIOS ENVIRONMENTAL
PROTECTION AGENCY,


Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: December 31, 2007
1021 North Grand Ave. East
Springfield, IL 62794-9276
217.782.5544
217.782.9143 (TDD)