

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 IN THE MATTER OF:)
)
4 EMISSIONS REDUCTION MARKET) R97-13
SYSTEM ADOPTION OF 35 ILL.) (Rulemaking)
5 ADM. CODE 205 AND)
AMENDMENTS TO 35 ILL.)
6 ADM. CODE 106)

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12 The following is the transcript of a
13 rulemaking hearing held in the above-entitled
14 matter, taken stenographically by Kim M. Howells,
15 CSR, a notary public within and for the County of
16 Cook and State of Illinois, before Charles M.
17 Feinen, Hearing Officer, at 100 West Randolph
18 Street, Room 9-040 Chicago, Illinois, on the 22nd
19 day of April, 1997, A.D., commencing at the hour of
20 9 o'clock a.m.

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1 A P P E A R A N C E S :

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HEARING TAKEN BEFORE:

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ILLINOIS POLLUTION CONTROL BOARD,
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-3473

6

BY: MR. CHARLES M. FEINEN

7

8 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

9 Mr. Richard McGill

10 Ms. Kathleen M. Hennessey

11 Mr. Joseph Yi

12 Ms. Elizabeth Ann

13 Ms. Marile McFawn

14

15 EMISSIONS REDUCTION MARKET SYSTEM MEMBERS PRESENT:

16 Mr. Richard M. Saines

17 Ms. Tracey L. Mihelic

18 Mr. Roy M. Harsch

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1 MR. FEINEN: Well, let's go on the record and
2 start this morning.

3 Good morning. It's roughly about 9 o'clock
4 this morning, April 22nd, Earth Day, I guess, for
5 all those who are keeping track.

6 We're going to start out this morning with
7 testimony from the ERMS Coalition, the continuation
8 from yesterday, and, hopefully, after ERMS we'll let
9 them all testify then as a panel, or as specific
10 questions come up, we'll do it that way. We'll have
11 all the testimony in first and then the
12 questioning.

13 If there's no motions or other matters
14 before we start, I believe we'll start out with a
15 short statement with Mr. Harsch from with the ERMS
16 Coalition from Gardner, Carton & Douglas.

17 Other than that, if there's nothing else,
18 we'll start out with Mr. Harsch.

19 Would you swear Mr. Harsch in, please?

20 (Witness sworn.)

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1 WHEREUPON:

2 R O Y M. H A R S C H ,
3 called as a witness herein, having been first duly
4 sworn, testified and saith as follows:

5 MR. HARSCH: Thank you very much. My name is
6 Roy Harsch. I'm a partner with Gardner, Carton &
7 Douglas, and I would like the opportunity today to
8 make a small statement hopefully to clarify some of
9 the points that were raised in yesterday's testimony
10 by two of the coalition members and, hopefully, to
11 clarify the points so we can avoid a number of the
12 questions by the agency today.

13 First of all, this is a rulemaking
14 proceeding that was generated out of a cooperative
15 effort of the Illinois EPA and the Illinois
16 environmental regulatory group and some of the
17 larger sources in Illinois. As counsel to a number
18 of smaller companies that have either single
19 facilities in the Chicago area or happen to have a
20 plant in the Chicago area with relatively small
21 levels of VOC emissions, it was my understanding
22 that this type of business entity or industrial
23 entity really had not participated in the
24 development of these draft rules, and to some

1 extent, these companies have basically not been
2 involved in the regulatory development process in
3 any of the rules before the Pollution Control Board
4 in the past.

5 Because of our ongoing work for these
6 companies, I thought that it was very important that
7 these rules be thoroughly understood by my clients
8 and by other companies that were similarly situated,
9 and that the agency and the board would understand
10 the impact that these rules would have on relatively
11 small sources.

12 It is for that reason that I initially
13 contacted Bharat Mathur and asked for the
14 opportunity to meet with the agency and go over what
15 were then draft rules. That has substantially
16 changed in the interim. On behalf of myself,
17 Gardner, Carton & Douglas, and our coalition, we'd
18 like to thank the agency for that opportunity.

19 Bharat and others that are here today came
20 to Chicago, put on a presentation, talked to a
21 number of companies that were similarly situated
22 here in this building, and generally the agency has
23 been very available and open to us and has accepted
24 a number of our suggestions.

1 In the ultimate development of the rule
2 that was filed and changes that have been made on
3 the record, it was the individual companies' hope
4 that are in the coalition that by studying the rule,
5 by having a lot of discussions with the agency,
6 those companies would understand how the rule as
7 proposed would apply to and affect that company.

8 Individually, what that meant was by and
9 large, as I think Mr. Fasano testified yesterday,
10 the critical element is establishing the baseline.
11 All of the coalition members have different
12 circumstances, and they have problems that are not
13 straightforward probably as many other companies of
14 that size will have in establishing the baseline.

15 It's just not going to be a clear cut
16 application, a numerical application, of the rule.
17 They're going to have to sit down and talk with the
18 agency, go through, and try to reach an agreement as
19 to the methodology of applying the rule as proposed
20 as it will finally be by the board assuming it's
21 enacted, so that they can calculate what the
22 baselines are.

23 A number of the coalition members
24 individually have been attempting to do that

1 throughout the pendency of this rulmaking
2 proceeding, and it is our intent that they're going
3 to continue to do that. They're going to keep
4 pestering the agency, working with the agency,
5 trying to work out the methodology by which they can
6 calculate and reach an agreement with the agencies
7 to what their baseline is.

8 It was our hope that for a number of the
9 companies we would complete that process and would
10 tell the board that, that we would have reached an
11 agreement with the agency assuming the rule had been
12 written, enacted in a way it's been written and
13 proposed so that that methodology would be before
14 the board, and we would, essentially, have reached
15 an understanding, explain that understanding through
16 an example so that two months from now, two years
17 from now there wouldn't be any disagreement.

18 That has not occurred today, but we intend
19 to continue to work with the agency on the
20 assumption that the board is going to enact this
21 rule.

22 Now, you're going to hear today, as you
23 heard yesterday, from individual coalition members
24 who really do not support the adoption of this

1 rule. They don't think it's necessarily reasonable
2 as applied for them to have to achieve further
3 reductions. It may be impossible as they will
4 explain to achieve further reductions, and it may be
5 economically unreasonable for them to have to buy
6 allocation units to comply.

7 That's what we were talking about yesterday
8 in terms of what agreements have been reached or
9 methodology. We're not to say that we had secret
10 meetings with the agency or we cut any deals with
11 the agency because that clearly was not the intent.

12 It was to sit down with the agency as much
13 as we do in permit situations and work through how
14 we would apply the draft rule or the proposed rule.

15 The second point that was raised yesterday
16 that I want to clarify is that the coalition clearly
17 understands what the agency's position is in this
18 rule in terms of the attainment of the ozone
19 standard. It is our understanding, and we accept,
20 that it is the agency's position that without
21 substantial reductions in ozone levels and ozone
22 precursors achieve at the boundary level coming into
23 the Chicagoland area that it will be impossible to
24 meet the standard.

1 We also understand and accept that it's the
2 agency's position that VOC reductions will be
3 necessary in the Chicagoland area to meet the
4 current ozone standard.

5 That's not to say that we don't -- some of
6 the coalition members don't believe individually
7 that if you have readings as high as 110 at the
8 boundary level of ozone that if you add into that
9 soup mix the NOX and VOCs that are also coming along
10 with that 110 that it's not probable that you would
11 have violations of the ozone standard in the Chicago
12 area if you were to happen to track that plume as it
13 blew into the Chicagoland area, nor is there any
14 assurance that if you have a value at 110 that
15 you're not going to have 121 the next day or some
16 other day.

17 That's essentially our understanding, and
18 with that, I'll turn it over to Tracey to go through
19 our individual witnesses and their prefiled
20 testimony.

21 MS. MIHELIC: Good morning. This morning we
22 will be presenting Robert Svendsen for Chase
23 Products Company, Arnold Horween, III, for Horween
24 Leather Company. In addition, we will be

1 withdrawing at this time Arnold Horween, Jr.'s
2 prefiled testimony since he was unable to attend
3 today in lieu of submitting today the testimony of
4 Arnold Horween, Jr., and Tom Culliton will also be
5 available for some additional questions.

6 We will also be presenting Bob Raymond from
7 RayVac Plastics, Hank Deveikis from TC Industries,
8 Steve Hultquist from Treasure Chest, Cheryl Smith
9 from Air Solutions, and Rich Trzuppek will also be
10 available. He's with Air Solutions also. He is a
11 consultant and has been representing members of the
12 coalition throughout these proceedings.

13 And we're going to begin this morning with
14 Robert Svendsen. I don't know if you want to swear
15 in all the witnesses.

16 MR. FEINEN: Let's do it one at a time since
17 multiple changes occurred.

18 Could you swear the witness, please?

19 (Witness sworn.)

20 WHEREUPON:

21 R O B E R T W. S V E N D S E N, J. R. ,
22 called as a witness herein, having been first duly
23 sworn, testified and saith as follows:

24 MR. SVENDSEN: Good morning. Let me say on

1 behalf of the Chase, I truly appreciate the
2 opportunity to be with you here this morning.

3 My name is Robert Svendsen, Jr., and I'm
4 president of Chase Products Company in Broadview,
5 Illinois, a western suburb.

6 MR. FEINEN: Could you speak up a little bit
7 louder?

8 MR. SVENDSEN: You bet.

9 My name is Robert Svendsen, and I am
10 president of Chase Products Company in Broadview,
11 Illinois, a western suburb.

12 Chase formulates and packages over 900
13 different aerosol and consumer products including
14 spray paints, decorative spray snow, bathroom
15 cleaners, household cleaners, and personal care
16 products; that is, deodorants, hair spray, shaving
17 creams and so on.

18 Chase is a job shop operation processing
19 these products based on customer demand on a
20 contract basis that is characterized by frequent
21 product changes and small production runs. Chase's
22 production is determined solely by customer demand.

23 Chase must have the flexibility to meet
24 changing market demands and to react quickly to

1 respond to consumer demands. These variations are
2 difficult to predict.

3 Chase's process is different from other
4 larger aerosol can filling operations because
5 Chase's run size is substantially smaller, and,
6 therefore, requires more frequent changeover.

7 For instance, Chase has over 4,000
8 different changeovers a year for different specific
9 production jobs in our plant. Further, Chase fills
10 approximately 900 different products as compared to
11 the one or 200 filled by larger operations, and one
12 or 200 is fairly expansive in terms of their product
13 operations. It's normally much smaller.

14 Chase has been involved in the
15 implementation of ERMS rules for over a year and is
16 a member of the coalition -- and has been a member
17 of the coalition. Initially, Chase hoped that these
18 rules would be reasonable as applied to its
19 operations.

20 However, Chase has realized that because
21 its already reduced VOM emissions to the greatest
22 extent technically feasible. Its only option to
23 achieve the reductions required by these rules is to
24 reduce production.

1 For instance, Chase has continuously
2 reformulated its products to contain less VOM. We
3 cannot, however, further reduce VOM content in these
4 formulations based on current technology.

5 Our formulations already meet California's
6 requirements and the Consumer Products Rule. In
7 addition, unlike larger aerosol can filling
8 operations since Chase's production is based on
9 customer demand of over 900 products with required
10 turnaround as quickly as one week, Chase cannot
11 predict which products will be ordered.

12 Consequently, it cannot rely upon
13 stockpiling products outside of the season.
14 Finally, add-on control is not technically
15 feasible. Accordingly, Chase's only option to
16 reduce emissions is to reduce production.

17 Since Chase cannot reduce production and
18 remain competitive, we've already begun looking for
19 alternative sites outside of Illinois for our
20 operations. For example, Iowa and south of the
21 border of the country of Mexico are currently
22 courting Chase.

23 Iowa has recently begun utilizing the fact
24 that Iowa will not place the environmental

1 restrictions on Chase's operations that Illinois
2 has.

3 Although it pains me to consider moving my
4 family's business from this area, I may be left with
5 no other option if the Illinois Pollution Control
6 Board enacts the ERMS rules.

7 As a result, Chase is opposed to the
8 implementation of the ERMS rules for sources such as
9 Chase. Chase has already lost business because of
10 the current restrictions placed on its operations by
11 Illinois' RACT rules.

12 If the board implements the ERMS rules,
13 Chase may have to turn more business away including
14 that of its current customers. It is unlikely that
15 it will be economically feasible for Chase to
16 purchase ATUs. More importantly, my competitors
17 will use the fact that I buy -- that I must buy ATUs
18 against us in bids for business by calling me a
19 polluter. That is a very real fact when you create
20 this market.

21 In agreement with the other coalition
22 members, I believe that if these rules were adopted,
23 both the agency and the board are electing an easier
24 way out of a difficult dilemma. Requiring reduction

1 from stationary sources again rather than to direct
2 its attention to other potential sources of
3 emissions such as mobile sources.

4 If the agency continues in this path this
5 rule could force Chase to no longer be a viable
6 operation in Chicago.

7 Chase thanks the board for the opportunity
8 to testify at this hearing and requests that the
9 board consider the issues raised by the coalition
10 before adopting these rules.

11 MS. MIHELIC: Now, we'll have Arnold
12 Horween, III.

13 MR. FEINEN: Do you want to move his prefiled
14 testimony?

15 MS. MIHELIC: Oh.

16 MR. SAINES: Yes.

17 Mr. Svendsen, I am showing you a document.
18 Would you please review that document and identify
19 for me whether that is a copy of your prefiled
20 testimony?

21 MR. SVENDSEN: Yes.

22 MR. SAINES: Is that a fair and accurate copy?

23 MR. SVENDSEN: Yes, it is.

24 MR. SAINES: Thank you.

1 At this time, we'd like to move to submit
2 prefiled testimony of Robert Svendsen for Chase
3 Products Company into the record as Exhibit --

4 MR. FEINEN: 67, I believe.

5 MR. SAINES: -- 67. Okay.

6 MR. FEINEN: Is this the same --

7 MR. SAINES: It is indeed.

8 MR. FEINEN: -- that was prefiled on April 4th?

9 MR. SAINES: That's correct.

10 MR. FEINEN: I'm marking as Exhibit No. 67, the
11 prefiled testimony of Mr. Svendsen which appeared
12 in, I guess, the April 4th filing of Gardner,
13 Carton & Douglas on behalf of the ERMS Coalition.

14 If there's no objection to entering that
15 into the record, I'll do so. Seeing none, it will
16 be entered into the record as Exhibit No. 67, the
17 prefiled testimony of Robert Svendsen for Chase
18 Products Company.

19 (Exhibit No. 67 marked
20 for identification,
21 4/22/97.)

22 Thank you.

23 MS. SAWYER: Are you going to go through the
24 testimony of each of these witnesses before

1 questions are asked?

2 MR. FEINEN: I think I would like to go that way
3 today because I think some of the questions might be
4 all answered with one person answering them.

5 MS. MIHELIC: This is Arnold Horween, III, for
6 Horween Leather Company, and he will be testifying
7 on behalf of Horween Leather Company.

8 For the record, let it reflect that we've
9 withdrawn Arnold Horween, Jr.'s testimony which was
10 prefiled.

11 MR. FEINEN: So he's not reading his testimony
12 into the record?

13 MS. MIHELIC: Yes.

14 MR. FEINEN: So will it be marked as an
15 exhibit?

16 MS. MIHELIC: We will not move his testimony as
17 an exhibit at this time.

18 Would you swear in the witness?

19 (Witness sworn.)

20 WHEREUPON:

21 A R N O L D H O R W E E N , I I I ,
22 called as a witness herein, having been first duly
23 sworn, testified and saith as follows:

24 MR. HORWEEN: Good morning. My name is Arnold

1 Horween, III. I am executive vice-president of
2 Horween Leather Company in Chicago, Illinois.

3 Horween has been operating since 1904.
4 Horween has actively participated in developing
5 environmental regulations for leather coating
6 operations in the Chicago area for several years.
7 Our primary concern with these rules is determining
8 how to calculate our baseline and achieve the
9 reductions being mandated.

10 Due to the uniqueness of our operation and
11 the impact the market has on our production, it is
12 impossible for Horween to state any year's
13 representative. For instance, all significant
14 emissions of VOM derive from the application of VOM
15 containing coatings, stains, or dyes.

16 The amount of VOM-containing material we
17 use depends upon the product being made and the
18 condition of the hide being tanned. It is not
19 solely dependent upon the amount of leather that we
20 finish.

21 For instance, if the fad in the market is
22 for unfinished looking leather, we may not use VOM
23 containing materials to finish the leather.
24 However, if the fad in the market is for leather

1 that is more polished or has more luster, we must
2 use coating with VOM to finish the leather.

3 The majority of VOMs for Horween's process
4 is from the finishing of the leather. Accordingly,
5 depending upon the demand of the market, Horween
6 could finish the same amount of sides in two years
7 and have dramatically different VOM emissions.

8 An additional impact on Horween VOMs
9 emissions of which Horween has no control is the
10 condition of the hides. We do not make a product
11 from a uniform raw material but a living creature.
12 Each hide is different. It is not until we almost
13 complete processing the hides before we finish them
14 that we are able to determine the exact quality of
15 the hide.

16 As a result, it is not until this stage
17 that we can determine if the entire hide meets the
18 customer standard. If not, we process those hides
19 to minimize waste but must also process additional
20 hides to fill the customer's order.

21 If the hide is slightly imperfect, it may
22 simply require additional finishing. Consequently,
23 the exact same customer order could court in
24 significantly different amounts of VOM emissions.

1 We are unable to predict what we will
2 produce at any specific time of the year. For
3 example, we currently finish leather used in Gap
4 products. The Gap uses eight seasons in this year,
5 not four, and produces eight seasons of different
6 leather goods.

7 Accordingly, every eight to 12 weeks, we
8 must be able to produce new and different products.
9 We may be informed of the amount of leather which
10 will be needed for the order eight to 12 weeks in
11 advance but will not know what colors or look of
12 leather, the lustrous look or faded look, is desired
13 until two to three weeks before we must deliver the
14 final product.

15 Accordingly, we have no idea how much
16 coatings or what type of coatings we'll use to
17 finish this leather until the last minute. Horween
18 must be able to finish this leather in that
19 two-to-three-week period or we will lose this
20 customer.

21 We may not know if the order will cause us
22 to exceed our ATU allotment until we begin finishing
23 the leather. At this time, we will not be able to
24 stop finishing the leather to ensure that we can

1 obtain ATUs on the market at a reasonable cost
2 without losing the customer.

3 This risk is not a once-in-a-lifetime
4 chance for Horween. It is a risk that we encounter
5 each season depending upon our baseline emissions.
6 This risk may make operating in Chicago no longer
7 feasible. To reduce this risk, our only option is
8 to ensure that if the board adopts these rules, we
9 obtain a reasonable and flexible baseline.

10 Last July, my father, Arnold Horween, Jr.,
11 attended a meeting at which the agency agreed that
12 Horween's situation is unique because the same
13 amount of production can have dramatically different
14 emissions.

15 At that meeting, it's my understanding that
16 the agency stated that based upon the uniqueness of
17 the situation a reasonable option for calculating
18 our ERMS baseline would be to determine the amount
19 of the VOM emissions that is representative of the
20 tanning of one side of lustrous leather of Horween
21 during one ozone season and then apply this factor
22 to production during two of the ozone seasons.
23 Horween has been unable to discuss this calculation
24 further with the agency during this proceeding due

1 to my father's back injury.

2 When the 12 percent reduction is required,
3 Horween's only option will be to cut back
4 production. There are no coatings available which
5 contain less VOM content than those already applied
6 in our operations and which meet our customers'
7 demands.

8 Due to the size of the rooms at our
9 facility and fairly high air flows and minimal
10 volumes of emissions, add-on control also is not an
11 available option. At one meeting, the agency
12 suggested that Horween stockpile inventory outside
13 of the ozone season. This is not a viable option.

14 Horween cannot stockpile inventory outside
15 of ozone seasons because Horween cannot predict what
16 color or look will be ordered. Since the finishing
17 of the product determines the look and Horween
18 cannot finish the product until it is ordered, it is
19 unrealistic for Horween to stockpile inventory.

20 Although the agency has espoused that a
21 market of ATUs will be borne from which we can
22 purchase emissions, based on 90 years on a market
23 demand business, Horween has severe doubts that ATUs
24 will be available at a reasonable cost when needed.

1 Sources may not know whether ATUs will
2 actually be for sale or the cost of an ATU until the
3 ozone season is over. Horween's operations demand
4 the flexibility to produce the fad leather on a
5 just-in-time basis.

6 Without the flexibility to fluctuate with
7 the market demands immediately, Horween will be
8 unable to remain a viable competitor in this
9 market.

10 If we cannot meet our customers' demands,
11 the customers will go elsewhere. As a result, if
12 the board adopts these rules along with other
13 members of the coalition, Horween could be forced to
14 move its operations out of Chicago and likely out of
15 Illinois.

16 Our competitors are not subject to the same
17 restrictions as us. More of our competitors are
18 opening facilities in Mexico and Asia. As a result,
19 we are already competing with companies who can
20 produce the leather at a cheaper cost due to cheaper
21 labor.

22 One of our advantages is our ability to
23 develop, produce, and deliver new leather upon
24 immediate demand. Piling further restriction on our

1 ability to produce the leather upon the customer's
2 demand will result in our customers using competing
3 products.

4 In addition, as discussed during the RACT
5 rulemaking process for leather tanning and
6 operations, we supply a certain market which
7 requires a higher quality leather. If we have to
8 reduce VOM emissions and use coatings that do not
9 meet our quality standards, our laws will no
10 longer -- I'm sorry, will be no different than other
11 leathers available at a cheaper cost.

12 As a result, our customers will no longer
13 pay the premium for our goods and will likely buy
14 leather from another company which can produce
15 speciality leathers resulting in the loss of the
16 foundation of our business.

17 Further, the board should recognize that by
18 adopting these rules, the board will be
19 significantly restricting the growth of all
20 manufacturing companies in Chicago. For companies
21 such as Horween, which have no control alternatives
22 available, we are unable to expand assuming we can
23 continue to operate.

24 I cannot assume ATUs will be available, nor

1 can I pass on the cost of purchasing these ATUs to
2 our customers. Due to the reasons already set forth
3 above, we are already competing against companies
4 with less production costs and, hence, lower
5 prices.

6 In addition, in my opinion, these rules
7 will deter companies from opening places in the
8 Chicago metropolitan area. If we were not already
9 located here and these rules were adopted, Chicago
10 would not be a city which we would like to consider
11 for locating a plant.

12 As a long time manufacturing company in
13 Chicago, it is our belief that these rules could
14 eventually phase out manufacturing operations in
15 Chicago. We have grave concerns about the impact of
16 these rules on our ability to operate in Chicago or
17 remain competitive. However, because we do not know
18 what our baseline would be, we cannot tell you how
19 great of an impact these rules will have at this
20 time.

21 I simply know that if we are not able to
22 account for the uniqueness of our operations, we
23 will have to consider operating outside of this
24 area. I do not believe that that is the intention

1 WHEREUPON:

2 R O B E R T R A Y M O N D , S R. ,
3 called as a witness herein, having been first duly
4 sworn, testified and saith as follows:

5 MR. RAYMOND: Good morning. I am Robert
6 Raymond, Sr., president of RayVac Plastic
7 Decorators, Inc.

8 RayVac is a family-owned business founded
9 in 1968 by my wife Barbara and myself. We coat
10 decorative plastic products such as toys, model
11 kits, and reflectors and other miscellaneous
12 particular parts.

13 We are located in extreme western Kane
14 County in a predominantly agricultural area on
15 Highway 30 only four miles east of the DeKalb County
16 line, which is the western boundary of the Chicago
17 nonattainment area.

18 Our son Robert joined our business 14 years
19 ago, and it is our hope that he can continue to
20 operate the business after my wife and I retire. My
21 primary concerns with the proposed ERMS rules are
22 two-fold.

23 One, to ensure that I can comply with the
24 rules and still stay in business, and, two, to

1 ensure that RayVac will not have to make the second
2 round of reductions after 1999 unless both mobile
3 and area sources also reduce emissions by their
4 proportionate share.

5 As explained in my prefiled testimony,
6 RayVac cannot reduce emissions any further without
7 risking going out of business. Starting in late
8 1993, we engaged in the VOM reductions effort to
9 become a minor source to avoid major source
10 regulations.

11 Initially, we investigated adding add-on
12 control and discovered we simply could not afford
13 it. Then we looked into water-based coatings and
14 learned that none exist for our type of production.
15 We've realized that the only way we were able to
16 reduce emissions was to reduce production.
17 Consequently, we began turning away business.

18 We managed to reduce our emissions to the
19 greatest extent possible and still stay in
20 business. It was still not sufficient to become a
21 minor source, and because of this, we are still a
22 major source.

23 Consequently, we are subject to the ERMS
24 rules. Being caught in our own catch 22, we are now

1 required to use our emissions from the years we
2 turned away business in an attempt to avoid major
3 source regulations to calculate our ERMS baseline.

4 This puts RayVac in a very difficult
5 position. If we are required to use 1994 through
6 1996 to calculate our emissions, we will be left
7 with a baseline that at best will allow us no growth
8 in production and at worse will force us to shut
9 down our operations.

10 Despite the agency's contention that we
11 could resolve our dilemma by purchasing ATUs on the
12 market to stay in business, the cost of purchasing
13 the ATUs even at a cost of \$2,850 exceeds any profit
14 that we would generate in producing that ton of
15 emissions. That is why we met with the agency and
16 discussed how the rules would apply to us and
17 whether we can use alternative years to calculate
18 our emissions since 1994 through 1996 are not
19 representative for our production.

20 1990 through 1992 are also not
21 representative because of the recession in the late
22 '80s and early '90s. Since we really only have one
23 year which is representative, we discussed using
24 1993 only as our baseline year. The agency rejected

1 this proposal. I understand that the rules are
2 currently proposed to require two years of data.

3 However, the rules should be more flexible
4 to allow sources with only one year of
5 representative production to establish their
6 baseline with one year of emission data and avoid
7 having to calculate a baseline with emissions data
8 that are not representative of these operations.

9 The agency has agreed that the years 1994
10 through 1996 are not representative. Instead of
11 those years, the agency has agreed that RayVac may
12 use 1993 and, if representative, 1997 as its
13 baseline years. However, if 1997 is not
14 representative, the agency stated that we would have
15 to use one year from 1994 through 1996 in place of
16 1997.

17 The agency has also agreed to the
18 methodology we are using to calculate RayVac's
19 voluntarily over-compliance emissions credit set
20 forth in the prefiled testimony. We reduced
21 emissions and achieved over-compliance emission
22 credits based upon installing bead blaster to clean
23 various metal parts as opposed to using a cold
24 cleaning tank.

1 Currently, the use of the bead blaster
2 produces zero VOMs. Consequently, as stated in the
3 prefiled testimony and as I have stated here today,
4 we can achieve no further VOM reductions without
5 reducing production. Any further reduction in
6 production could put RayVac out of business.

7 My second major concern with the proposed
8 ERMS rules is that they are replacing a
9 disproportionate share of the burden of reducing
10 emissions on stationary sources rather than on
11 potential other sources of emissions. As a small
12 business in the Chicago area, it will be all we can
13 do to withstand the initial reductions required from
14 these rules.

15 The agency and the board have already
16 significantly regulated these sources to achieve
17 reductions in emissions. If reductions are needed,
18 the agency should be looking into other sources and
19 not simply keep coming back to the same stationary
20 sources that it already regulated, or at a minimum,
21 wait until those sources are also regulated
22 proportionately.

23 When considering the adoption of these
24 rules, I ask that you also consider the future of

1 RayVac Plastic and the lives of many people we
2 touched through our employment and community
3 involvement. We are unable to reduce emissions by
4 adding controls or switching coatings and cannot
5 afford to buy ATUs at the anticipated market price.

6 The proposed ERMS rules do not provide
7 RayVac with many options. Our only hope of
8 surviving is to have a baseline that is
9 representative of our normal production such as
10 1993's production and not reduce production levels.
11 Without this, these rules are likely to force RayVac
12 out of business.

13 When we founded our business in 1968, most
14 of our customers and even our competitors were
15 located within the city limits of Chicago. In 1972,
16 we built a new plant in our hometown. Over the
17 years, I have watched both customers and competitors
18 fail or move away from Chicago first to the suburbs
19 and in some cases out of the state. At the present
20 time, I only have one regular customer in Chicago.

21 I never dreamed that one day I would have
22 to seriously consider relocating my business to a
23 neighboring state. Under the present business
24 climate, it is hard to imagine new business being

1 attracted to this area. If one day we are forced to
2 choose between failure or relocation, we will not
3 fail.

4 RayVac thanks the board for the opportunity
5 to testify at this hearing and requests that the
6 board considers the issues raised by the coalition
7 before adopting these rules. Thank you.

8 MR. SAINES: Mr. Raymond, I'm showing you a
9 document. Please review it and identify whether
10 that is your prefiled testimony as filed on
11 April 4th?

12 MR. RAYMOND: Yes, it is.

13 MR. SAINES: Is this a fair and accurate copy of
14 your testimony?

15 MR. RAYMOND: Yes, it is.

16 MR. SAINES: Thank you. At this time, I'd like
17 to move to submit the prefiled testimony of Robert
18 Raymond, Sr., of RayVac Plastic Decorators, Inc.
19 into the record as Exhibit 68.

20 MR. FEINEN: I'm marking as Exhibit 68 the
21 prefiled testimony of Robert Raymond, Sr., of RayVac
22 Plastic Decorators, Inc., which is the same as the
23 prefiled testimony dated April 4th as Exhibit
24 No. 68.

1 I'll enter this into the record unless
2 there's any objections of doing so. Seeing none,
3 I'll enter that into the record as Exhibit 68, the
4 prefiled testimony of Robert Raymond, Sr., of RayVac
5 Plastic Decorators, Inc.

6 (Exhibit No. 68 marked
7 for identification,
8 4/22/97.)

9 MS. MIHELIC: The coalition now will present
10 Hank Deveikis from TC Industries.

11 MR. DEVEIKIS: Good morning.

12 MS. McFAWN: Good morning.

13 MS. MIHELIC: Could you swear in the witness?

14 (Witness sworn.)

15 WHEREUPON:

16 H A N K D E V E I K I S ,
17 called as a witness herein, having been first duly
18 sworn, testified and saith as follows:

19 MR. DEVEIKIS: Good morning. My name is Hank
20 Deveikis. I'm the safety manager for TC Industries
21 located in Crystal Lake, Illinois. My
22 responsibilities include directing the company's
23 safety and environmental programs.

24 TC processes is steel parts. VOM emissions

1 occur from the following sources: Heat treating
2 sources, painting operations, paint burn-off ovens,
3 incinerators, boilers, and storage tanks.

4 During some of its processes, TC quenches
5 steel parts for petroleum-based liquid immediately
6 after certain heat-treating steps to increase the
7 hardness of the steel.

8 TC is proposing to the agency in a separate
9 proceeding that this material is not a volatile
10 organic material or contains less than five percent
11 VOM. If the agency agrees that it is not a VOM or
12 contains less than five percent VOM, TC will have
13 less than 15 tons of actual emissions per season,
14 ignoring any credit TC has for using over-compliant
15 paints.

16 If the agency rejects TC's proposal, TC is
17 a smaller source of VOM emissions but still subject
18 to the ERMS rules. None of the VOM emissions are
19 directly related to TC's primary business,
20 fabricating steel parts. Rather, they are a result
21 of accommodations made for our customers such as
22 painting and operating the plant.

23 TC already uses materials with minimal VOM
24 content. TC is not aware of any materials with

1 which it could replace the ones they are currently
2 using with less VOM content. Since VOM emissions
3 are minimal and our facility is larger, it is not
4 technically feasible to control emissions.

5 Since the VOM emissions result from
6 specific customer demand as a secondary operation
7 and from necessary maintenance operations of our
8 plant, purchasing one ton of ATUs even at \$2,800 is
9 not economically reasonable. TC retained Air
10 Solutions, Incorporated, to assist them in drafting
11 its Title V application and to calculate its ERMS
12 baseline.

13 TC has calculated seasonal emissions based
14 upon five-twelfths of the total annual emissions.
15 TC should receive some credit for average emission
16 reductions for applying paints which have less VOM
17 emissions than that required by the applicable
18 rules.

19 In agreement with the other coalition
20 members, I believe that if these rules are adopted,
21 both the agency and the board are electing the easy
22 way out of a difficult dilemma, requiring reductions
23 from the stationary sources again rather than
24 directing its attention to the potential sources of

1 emissions such as mobile sources.

2 If the agency does not agree that the
3 quench oil is not a VOM or contains minimal VOM and
4 continues on the path, this rule could significantly
5 restrict TC's ability to expand and maintain
6 operations in the Chicago area.

7 TC would like to thank the board for the
8 opportunity to testify at this hearing and request
9 that the board consider the issues raised by TC and
10 other members of the coalition before adopting these
11 rules.

12 Thank you.

13 MR. SAINES: Mr. Deveikis, I'm handing you a
14 document. Please review that document and identify
15 whether that is your prefiled testimony as filed on
16 April 4th.

17 MR. DEVEIKIS: Yes, it is.

18 MR. SAINES: Is that a fair and accurate copy of
19 your prefiled testimony?

20 MR. DEVEIKIS: Yes, it is.

21 MR. SAINES: At this time, I'd like to move to
22 submit prefiled testimony of Hank Deveikis for TC
23 Industries, Incorporated, into the record as
24 Exhibit 69.

1 MR. FEINEN: I'm marking as Exhibit 69 --
2 Mr. Deveikis or Deveikis?

3 MR. DEVEIKIS: Deveikis.

4 MR. FEINEN: Deveikis. Excuse me.

5 That's his prefiled testimony of April 4th
6 for TC Industries, Inc. If there's no objection,
7 I'll enter that into the record. Seeing none,
8 that's entered into the record. That's the prefiled
9 testimony of Hank Deveikis for TC Industries, Inc.

10 (Exhibit No. 69 marked
11 for identification,
12 4/22/97.)

13 MR. FEINEN: We'll go on to the next
14 witness.

15 MS. MIHELIC: Thank you.

16 Stephen R. Hultquist will be presenting
17 testimony for Treasure Chest Company, however, he
18 has laryngitis. So if the board does not object, I
19 will simply read in his summary of his prefiled
20 testimony that he's going to present here today.

21 MR. FEINEN: All right. I don't think there's a
22 problem with that.

23 Is there any objection from the audience to
24 having Ms. Mihelic read in his summary?

1 I'm assuming that you'll enter into the
2 record his prefiled testimony?

3 MS. MIHELIC: Yes.

4 MS. McFAWN: Do you think you can answer
5 questions?

6 MR. HULTQUIST: Yes.

7 MS. MIHELIC: Stephen is an environmental
8 manager for Treasure Chest Advertising Company --
9 excuse me. Can we swear in the witness?

10 Do you want to swear --

11 MR. FEINEN: Actually, what I was going to do
12 was have you read it in then --

13 MS. MIHELIC: Okay.

14 MR. FEINEN: -- have him sworn in and testify
15 that that's what he would have testified to.

16 Just go ahead and read.

17 MS. MIHELIC: He's an environmental manager for
18 Treasure Chest Advertising Company, Incorporated.

19 He is responsible for maintaining
20 environmental compliance for all air
21 pollution-related issues at 18 Treasure Chest
22 facilities.

23 Treasure Chest's facility in Elk Grove
24 Village, Illinois, consists of six heat set web

1 offset lithographic printing presses conducted to
2 two thermal oxidizing devices to control volatile
3 organic material emissions.

4 Treasure Chest produces advertising
5 materials and other items. Examples of Treasure
6 Chest products include advertising inserts, direct
7 mail flyers and Sunday comics.

8 VOM emissions from the printing presses
9 consist primarily of ink oils as well as a small
10 percentage of fountain solution additive, typically
11 ethylene glycol, and cleaning solvents used. As
12 discussed in the prefiled testimony, the Printing
13 Association has submitted a petition to the U.S. EPA
14 to delist ink oils as a VOM.

15 Since these compounds make up the majority
16 of Treasure Chest's VOM emissions, the
17 ozone-creating potential of the facility is
18 negligible. If U.S. EPA delists these oils,
19 Treasure Chest would not be a major source. In the
20 meantime, however, Treasure Chest remains concerned
21 about the ERMS rules.

22 In its prefiled testimony, Treasure Chest
23 discussed the impact of New Source Review Rules on
24 its ERMS baseline. Although this remains a concern

1 for other coalition members, upon review of their
2 permit history, this is no longer an issue for
3 Treasure Chest. Rather, Treasure Chest's primary
4 concerns are what will constitute best available
5 technology, how the agency will make this
6 determination, and whether source which contains a
7 BAT to determination will be required to reduce
8 emissions after 1999 if further reductions are
9 required.

10 Treasure Chest achieves 95.9 percent
11 destruction on its two oxidizers. Upon a review of
12 BAT determinations made for heat set lithographic
13 printing operations nationwide, since 1990, BAT has
14 been determined to be 95 percent at a maximum of
15 control of VOM emissions from these sources.

16 Treasure Chest's level of control will meet
17 BAT in these circumstances, but based upon the
18 current language of ERMS, it is unclear if it would
19 meet BAT, B-A-T, not B-A-C-T.

20 Treasure Chest believes that the language
21 regarding BAT determination should be clarified to
22 provide more information regarding what the agency
23 will rely upon to make these determinations.

24 In agreement with other coalition members,

1 Treasure Chest also believes that if the ERMS rules
2 are adopted both the agency and the board are
3 electing the easy way out of a difficult dilemma,
4 once again, requiring reductions from stationary
5 sources rather than directing its attention to other
6 sources of emissions.

7 Steve lives and operates in the South Coast
8 air quality basin. Based on their 1996 annual
9 report -- the South Coast 1996 Annual Report, the
10 key factor to reducing the ozone levels to their
11 lowest levels ever was reformulated gasoline. Thus,
12 based on mobile sources and not stationary sources,
13 introduction of reformulated gasoline enhanced the
14 South Coast's march to cleaner air.

15 In addition, by requiring paint to zero
16 VOMs, it is expected that by the year 2008 VOM
17 emissions will be reduced by almost 22,000 tons a
18 year.

19 Based upon the district's projection alone,
20 Steve believes that the agency could be looking to
21 New Sources for the rejection sought in this
22 rulemaking.

23 Treasure Chest thanks the board for the
24 opportunity to testify at this hearing and requests

1 that the board consider the issues raised by
2 Treasure Chest and the other coalition members
3 before adopting these rules.

4 MR. FEINEN: Why don't we swear in the witness?

5 (Witness sworn.)

6 WHEREUPON:

7 S T E P H E N R. H U L T Q U I S T ,
8 called as a witness herein, having been first duly
9 sworn, deposeth and saith as follows:

10 MS. MIHELIC: And is what I read here today the
11 testimony that you would have presented if you did
12 not have laryngitis?

13 MR. HULTQUIST: Yes, it is.

14 MS. MIHELIC: And could you also look at what's
15 been marked as your prefiled testimony, and is this
16 an accurate copy of the prefiled testimony as
17 submitted by Treasure Chest on April 4, 1997?

18 MR. HULTQUIST: Yes, it is.

19 MS. MIHELIC: And is it correct that Treasure
20 Chest is withdrawing its remarks in its prefiled
21 testimony but is submitting the remainder of the
22 testimony?

23 MR. HULTQUIST: Yes.

24 MR. SAINES: At this time, I'd like to move to

1 have the prefiled testimony of Stephen R. Hultquist
2 for Treasure Chest Advertising Company submitted
3 into the record as Exhibit 70.

4 MR. FEINEN: Yeah. Moving that with the
5 deletion of the discussion of New Source -- New
6 Source Review that begins, I believe, on Page 5 of
7 the prefiled -- Page 3 of the prefiled testimony and
8 continues on down to Part II or Page 4 of the
9 remarks area, with those portions deleted or struck,
10 you're moving this document into the record.

11 I'm going to mark the prefiled testimony of
12 Mr. Hultquist for the Treasure Chest Advertising
13 Company with the amendments of taking out the NSR
14 discussion as Exhibit No. 70.

15 If there are no objections entered into the
16 record as amended, I'll do so. Seeing none, I'll
17 enter that into the record as Exhibit No. 70, the
18 prefiled testimony of Stephen Hultquist for Treasure
19 Chest Advertising Company as it appeared on the
20 April 4 filing with the deletion of the discussion
21 of NSR, which starts on Page 3 and ends on Page 4
22 above remarks.

23 Thank you.

24

1 (Exhibit No. 70 marked
2 for identification,
3 4/22/97.)

4 MS. MIHELIC: At this time, we'd like to present
5 the testimony of Cheryl Smith from Air Solutions,
6 Inc., and also sworn in Rich Trzupcek who's also from
7 Air Solutions, Inc.

8 MR. FEINEN: Before we proceed with their
9 testimony, if I'm correct, just to keep this
10 straight, the testimony of John Sutton has been
11 withdrawn so it will be filed as a public copy?

12 MS. MIHELIC: Yes.

13 MR. FEINEN: Thank you.

14 MS. MIHELIC: And could you swear in both
15 witnesses?

16 (Witnesses sworn.)

17 WHEREUPON:

18 C H E R Y L S M I T H ,

19 R I C H A R D T R Z U P E C ,

20 called as witnesses herein, having been first duly
21 sworn, testified and saith as follows:

22 MS. MIHELIC: At this time, they will now be
23 summarizing their testimony. Cheryl Smith will be
24 simply entering in her testimony that was prefiled.

1 MR. SAINES: Miss Smith, would you look at that
2 document please and identify it? Is that a copy of
3 your prefiled testimony as submitted on April 4th?

4 MS. SMITH: Yes, it is.

5 MR. SAINES: Is that a fair and accurate copy of
6 the testimony?

7 MS. SMITH: Yes, it is.

8 MR. SAINES: Thank you.

9 At this time, we'd like to submit the
10 prefiled testimony of Cheryl Smith for TC
11 Industries, Incorporated and Chase Products Company
12 into the record as Exhibit 71.

13 MR. FEINEN: I'm marking as Exhibit No. 71 the
14 prefiled testimony of Cheryl Smith for TC
15 industries, Inc. and Chase Products Company. If
16 there's no objections to entering that into the
17 record, I'll do so. Seeing none, that will be
18 entered into the record as Exhibit No. 71. That is
19 the prefiled testimony of Cheryl Smith for TC
20 Industries, Inc. and Chase Products Company.

21 (Exhibit No. 71 marked
22 for identification,
23 4/22/97.)

24 MS. MIHELIC: For the record, if I could just

1 have both of them state their names and for whom
2 they work.

3 MS. SMITH: My name is Cheryl Smith. I work for
4 Air Solutions. I'm the consultant.

5 MR. TRZUPEK: My name is Richard Trzuppek. I'm a
6 principal with Air Solutions.

7 MS. MIHELIC: And do you currently both
8 represent members of the coalition?

9 MS. SMITH: Yes, we do.

10 MR. TRZUPEK: Yes.

11 MS. MIHELIC: And have you been assisting them
12 in the development of the air baselines and
13 determining some of the potential impacts of these
14 rules on corporations?

15 MR. TRZUPEK: That's correct.

16 MS. SMITH: Yes.

17 MS. MIHELIC: No further questions.

18 MR. FEINEN: Are there any other witnesses?

19 MS. MIHELIC: There are no other witnesses.

20 MR. FEINEN: Okay. Let's take a 15-minute
21 break, and when we come back, we'll come back to the
22 questioning of the witnesses.

23 (Break taken.)

24 MR. FEINEN: Let's go back on the record.

1 I think there's one person up on the panel
2 who hasn't been sworn in.

3 Why don't we just swear him in now and take
4 care of that just in case he does respond to a
5 question?

6 MS. MIHELIC: And that's Tom Culliton with
7 Horween Leather Company.

8 (Witness sworn.)

9 WHEREUPON:

10 T H O M A S C U L L I T O N ,
11 called as a witness herein, having been first duly
12 sworn, deposeth and saith as follows:

13 MR. FEINEN: That was Tom --

14 MS. MIHELIC: C-u-l-l-i-t-o-n.

15 MR. FEINEN: Let's start out with the agency's
16 prefiled questions.

17 MS. SAWYER: We'll start with our prefiled
18 questions for Mr. Svendsen on Chase Products.

19 Is Chase required to obtain a Clean Air Act
20 permit program permit?

21 MR. SVENDSEN: Yes.

22 MS. SAWYER: Is Chase required to obtain this
23 permit because it is considered a major source of
24 volatile organic material emissions as defined by

1 the Clear Air Act?

2 MR. SVENDSEN: Yes.

3 MS. SAWYER: What were the annual VOM emissions
4 from Chase in 1994, '95 and 96?

5 MR. SVENDSEN: In the years you've listed, '94
6 was 39.2, 1995 was 28.6, and 1996 was 28.4.

7 MS. SAWYER: What were Chase's annual sales
8 dollars in 1996?

9 MS. MIHELIC: We object to this question as to
10 proprietary information. Chase is a privately-held
11 company, and it is irrelevant.

12 MS. SAWYER: Well, Chase has made statements
13 with regards to their profitability and there
14 ability to purchase ATUs on the market. I think
15 this question is relevant to that line of testimony.

16 MS. MIHELIC: Their annual sales has nothing
17 really to do with their profit with respect to that
18 statement.

19 MS. SAWYER: If I could ask the question, what
20 was Chase's annual profit in 1996?

21 MS. MIHELIC: And again we're going to object as
22 to proprietary information. It's a privately-held
23 company, and, again, it is irrelevant, and Rob can
24 go into why it is irrelevant at this point.

1 MR. SVENDSEN: First of all, as, again, a
2 privately-held company, we've never published those
3 figures because they're not very interesting,
4 No. 1.

5 No. 2, as it relates to our business where
6 we have six different sales divisions that service
7 distinct classes of trade, if we were to take on a
8 major marketers contract filing work, for example,
9 we would produce 40 million units of Niagara Spray
10 Starch for Corn Products Corporation at a filling
11 fee of five cents a unit.

12 Well, in that case, we're not buying
13 anything. We don't buy the can, the cap, the valve,
14 the contents. We're adding a fee for our labor and
15 or filling services.

16 On the other hand, if we were to take that
17 product and we were to be a custom manufacturer
18 where we bought all these components on the same
19 40-million unit and then build them for the can, the
20 cap, the valve, and components, and what have you,
21 you'd have a completely blown up sales picture.

22 So the sales issue from our standpoint
23 fluctuates from year to year. We can only tell you
24 that as an operating entity, our sales in the

1 traditional sense as you would relate to them have
2 decreased, and our production has decreased in units
3 and in sales dollars.

4 The number of our profitability or our
5 sales dollars are interesting really to us and our
6 banker and my mother.

7 MS. SAWYER: Who are the aerosol can filling --.

8 MR. FEINEN: Are you withdrawing that
9 questioning? Are you withdrawing that?

10 MS. SAWYER: Yeah, that's fine.

11 MR. FEINEN: Okay.

12 MR. SVENDSEN: Who are some other?

13 MS. SAWYER: Who are the other aerosol can
14 filling operations in the Chicago area?

15 MR. SVENDSEN: CCL Industries has a facility in
16 Niles, Illinois, Hydrosol is in the southwestern
17 suburbs of the city, High San Corporation is in the
18 southwestern suburbs of the city, Acro Pac
19 Corporation is in Elkhart, Indiana, ourselves,
20 Seymour of Sycamore is in Sycamore, Illinois,
21 SC Johnson Corporation, Racine, Wisconsin, probably
22 the third largest -- the largest single aerosol
23 manufacture in the world.

24 I don't know if you consider Racine close

1 to the city or not, but it's within the area. From
2 Racine to Elkhart, we happen to be, I think, the
3 epicenter of the aerosol business.

4 MS. SAWYER: How many aerosol cans do each of
5 the operations you identified in response to the
6 last question fill annually?

7 MR. SVENDSEN: It's only a guess on my part
8 because these companies are also privately held, but
9 if I had to guess, I'd say SC Johnson is the
10 largest. It's probably over 300 million. CCL,
11 Niles, formerly the Barr-Stalfort Plant, is probably
12 over a 100 million units. Hydrosol, High San are
13 probably somewhere between 25 and 60 million units.
14 Acro Pac in Elkhart, Indiana, is probably 125
15 million units.

16 There is also an aerosol facility of
17 Sherwin-Williams Corporation in Holland, Michigan,
18 on the other side of the lake I don't think pertains
19 to us at all, but that's another facility.

20 Those are just guesses on my part. I don't
21 know for sure.

22 MS. SAWYER: Do you know how many aerosol cans
23 Seymour of Sycamore fills?

24 MR. SVENDSEN: Oh. Twenty-five, 40 million,

1 somewhere in there.

2 MS. SAWYER: We will withdraw Questions 7
3 through 12 based on the statements made by
4 Mr. Harsch regarding that testimony.

5 And that is all the questions we have for
6 Mr. Svendsen.

7 MR. FEINEN: Why don't we just continue on with
8 all your questions. Wait a minute. Excuse me.
9 Mr. Chiaruttini?

10 MR. CHIARUTTINI: Al Chiaruttini, Jefferson
11 Smurfit Corporation. I guess it's the appropriate
12 time to ask.

13 MR. FEINEN: If it's a follow-up question.

14 MR. CHIARUTTINI: From what I understand of your
15 testimony, you're saying that sales dollars and
16 profit regardless of what the proprietor numbers
17 are, are not at all related to the amount of
18 emissions that may occur in production in the course
19 of a year?

20 MR. SVENDSEN: Say that again.

21 MR. CHIARUTTINI: If I understood your testimony
22 correctly, sales dollars and/or profit are not
23 necessarily related to the amount of VOM emissions
24 during the course of production a year?

1 MR. SVENDSEN: That's correct.

2 MS. McFAWN: Oh. I have a question before we
3 move on.

4 When you were testifying, I got the
5 impression that you didn't mention the option of
6 purchasing ATUs. Could you explain why it wouldn't
7 be an option for Chase?

8 MR. SVENDSEN: The issue of purchasing ATUs is
9 two-fold. No. 1 are the really unknown economic
10 conditions as they relate to us on an annual basis.
11 We don't know whether that will be economically
12 reasonable for us or not.

13 MS. McFAWN: Can you hear? Sorry. Go on.

14 MR. SVENDSEN: And, further, in our industry,
15 it's already been demonstrated that in a trading
16 market as proposed, we would be known as a polluter,
17 and in competitive situations if you were buying
18 ATUs, our competition forthrightly would say I don't
19 think you want to buy from Chase they have problems
20 with their Illinois State EPA, they're buying air
21 quality units that cause them trouble, and over the
22 long haul, we think we're going to have problems
23 action.

24 That's a very prevalent type of tactic in

1 our industry. Anybody that has an environmental
2 problem whether it's ground, air, water, it's
3 exploited to you its fullest in the market. And the
4 whole market system then becomes largely a burden
5 instead of a market health.

6 MS. McFAWN: But aren't some of the customers
7 educated enough to understand that this is not a
8 question of pollution but this is a legitimate way
9 of equalizing it?

10 MR. SVENDSEN: Our customers are concerned only
11 with their own -- usually, these are large billion
12 dollar corporations that we're dealing with.

13 They're really concerned with their own
14 shareholder value and long-term results from their
15 suppliers. They're not really concerned about their
16 suppliers at all. They're concerned about
17 themselves, exactly what --

18 MS. McFAWN: No, but they, too, will be faced
19 with similar dilemmas, and since you're not
20 producing a waste product, they're not worried down
21 the line about being involved in liability
22 questions.

23 MR. SVENDSEN: Their only concern with an
24 uninterrupted source of supply, and if they feel

1 that we are environmentally at risk with
2 regulations, they won't buy from us because of that
3 risk and potential for interrupted supply.

4 MS. McFAWN: But you're not at risk because you
5 purchased an ATU?

6 MR. SVENDSEN: In their minds, they feel that if
7 there's a corporation that does not buy ATUs and one
8 that does, the ones that polluted, they've got
9 problem, the other one doesn't.

10 MS. McFAWN: Well, I'm surprised at their lack
11 of sophistication because when you're speaking --

12 MR. SVENDSEN: It surprises me too, but it's
13 true.

14 MS. McFAWN: Yeah. When you speak of Corn
15 Products, I find that hard to believe.

16 MR. SVENDSEN: There's national marketer. The
17 business has many tentacles and facets. There's
18 private label and control brands. There are
19 national marketers, Proctor & Gamble, Carter
20 Wallace, Gillette Corporation.

21 There are a whole group of people that
22 market their products quite differently than other
23 groups in other markets as far as classes and
24 trades. So there's not a template that can be

1 applied, you know, a one-size-fits-all type of
2 template reached.

3 And these people generally -- these
4 retailers generally and other distributors of our
5 product, not necessarily retailers, really want the
6 path of resistance to be the most reliable source of
7 supply.

8 If it's tainted in some way, if they have
9 an environmental problem, they'd rather not deal
10 with it.

11 MS. McFAWN: So is that one of the problems and
12 the price of the ATU?

13 MR. SVENDSEN: The price of the ATU is unknown
14 to us. In a given situation, it may fit; it may not
15 fit. I don't know what that situation will be. I
16 can't think it will be economic benefit, it will be
17 an economic problem for us because it will be added
18 cost to the cost of goods.

19 MS. McFAWN: Thank you.

20 MR. TRZUPEK: I did want to contribute one thing
21 to this discussion, and that is I'm familiar with
22 most of the competitors that Mr. Svendsen talked
23 about, and those who are located in the attainment
24 areas have significantly greater allowable

1 emissions, significantly greater in terms of gross
2 quantity and per ton and per can produced.

3 Acro Pac, for example, in the attainment
4 area has about 250 -- close to 250 tons of available
5 emissions. The business advantage that they get
6 from that is significant compared to Chase, a direct
7 competitor.

8 It speaks in terms of the issue that
9 Mr. Svendsen was talking about that Acro Pac has
10 available room. They are not constricted by
11 environmental regulations where as the perception
12 can be seen by Mr. Svendsen's customers that his
13 emissions are being clamped down, he has less room,
14 he is a less reliable supplier that someone who has
15 ten times the available emissions.

16 MR. FEINEN: Mr. Chiaruttini, do you have any
17 follow up?

18 MR. CHIARUTTINI: I guess I have a follow-up
19 question, not so much a comment.

20 In your competing for business with
21 competitors, it would be in the attainment area or
22 out of state, if this other competition suggests to
23 the potential customer that your company has a
24 potential problem from a liability source point of

1 view, not necessarily an environmental point of
2 view, and you were in the ATU program and the
3 program was in effect and you guessed wrong for
4 purchasing ATU emissions, what would happen to your
5 firm when you would not be able to meet a customer's
6 required supply by contract, and how would that
7 ripple into the marketplace if you did not have
8 ATUs?

9 MR. SVENDSEN: It would be quick. It would be
10 quick and deadly.

11 MR. CHIARUTTINI: It would be disastrous?

12 MR. SVENDSEN: Yes, it would. It would be
13 deadly.

14 MR. CHIARUTTINI: Thank you.

15 MR. SVENDSEN: It would be deadly. We would be
16 done.

17 MR. MATHUR: Bharat Mathur with the Illinois
18 EPA.

19 You used the word polluter. Is that a word
20 that is out of the Environmental Protection Act, or
21 where did you get that word.

22 MR. SVENDSEN: That's just a colloquial thing I
23 can hear in almost every office I go into whether
24 it's air, water, or ground.

1 MR. MATHUR: Has the agency ever used that word
2 with you?

3 MR. SVENDSEN: I don't think so. I don't think
4 so.

5 MR. MATHUR: Are you in compliance with all of
6 your air regulations?

7 MS. MIHELIC: Objection as to the relevancy of
8 this questioning at this point in time.

9 MR. FEINEN: Any response?

10 MR. MATHUR: I'm just trying to find out if
11 Chase Products is a polluter or simply an emitter in
12 compliance with all regulations.

13 MR. FEINEN: How about if I just ask the
14 questions this way?

15 When you use the term "polluter," are you
16 meaning anyone who emits any kind of emissions
17 whether one ton or 70 tons or 100 tons or well,
18 they're emitting something.

19 Are you using the term of polluter in that
20 sense?

21 MS. MIHELIC: He's saying that that's what he is
22 called. He's not saying he thinks he's that. He's
23 saying his customers have that perception, him being
24 a polluter.

1 MR. SVENDSEN: Yes.

2 MR. FEINEN: Does that help any?

3 MS. McFAWN: Let the record reflect that he
4 responded yes to Ms. Mihelic's statement.

5 MR. FEINEN: Mr. Svendsen, was that statement
6 from Ms. Mihelic true?

7 MR. SVENDSEN: Yes.

8 MR. FEINEN: Does that help your line of
9 questioning?

10 MR. MATHUR: Very clear.

11 Mr. Svendsen, when you gave a response to a
12 question as to what your annual emissions were in
13 '94, '95, and 96, I believe you responded
14 approximately 39, 28, and 28 tons per year.

15 MR. SVENDSEN: 39, 28, 24.

16 MR. MATHUR: Those were annual emissions?

17 MR. SVENDSEN: Yes.

18 MR. MATHUR: And you do realize that this
19 program is talking about regulating seasonal
20 emissions?

21 MR. SVENDSEN: Yes.

22 MR. MATHUR: So is it fair to say that your
23 seasonal emissions would be approximately
24 five-twelfths for a five-month season?

1 MR. SVENDSEN: Yes, I have that information.

2 MR. MATHUR: So your seasonal emissions would be
3 roughly five-twelfths or an average of 30 tons per
4 year?

5 MR. SVENDSEN: Say that again.

6 MR. MATHUR: So if your annual average emissions
7 were approximately 30 tons per year, your seasonal
8 emissions would be approximately five-twelfths?

9 MS. MIHELIC: I think this is better directed
10 toward Cheryl Smith who has submitted the
11 calculations and some emissions data who has been
12 doing the calculations for Chase Products.

13 Rob Svendsen is not doing the actual
14 calculations.

15 MR. MATHUR: I'm not looking for exactness. I'm
16 just trying to understand what Mr. Svendsen's
17 understanding is of his seasonal emissions.

18 MR. SVENDSEN: My understanding of our seasonal
19 emissions for '94, '95, and '96, is that your
20 question, what do I understand they are to be for
21 the seasonal emissions?

22 MR. MATHUR: (Nodding head.)

23 MR. SVENDSEN: In '94, they were 16.87, in '95
24 they were 15.10, and in '96 there were 13.15.

1 MR. MATHUR: As I quickly calculate it, is it
2 not true that your average emissions are less than
3 15 tons per season?

4 MR. SVENDSEN: It would appear so, yes.

5 MR. MATHUR: So if you so elected, you could
6 take an exemption from this rule on the basis of
7 less than 15 tons per season emissions?

8 MR. MATHUR: I really don't know. I really
9 don't know.

10 MR. MATHUR: Are you aware that there is an
11 exemption in the rule --

12 MR. SVENDSEN: I'm not aware.

13 MR. MATHUR: -- of facilities that limit their
14 emissions to 15 tons per season?

15 MR. HARSCH: Provided you're willing to cap 15
16 tons during the season, correct, Bharat --

17 MR. MATHUR: That's correct.

18 MR. HARSCH: -- for all future --

19 MR. FEINEN: Let me try it this way. Why don't
20 we just get Mr. Svendsen to answer the question, and
21 if you believe we need to counsel Mr. Svendsen
22 before he answers the question, why don't we do that
23 in that fashion and try not to have a barraging
24 system coming out here on the record?

1 MR. MATHUR: Let me clarify my question.

2 Are you aware that the agency has provided
3 flexibility in this rule such that those sources
4 that elect to limit their emissions to 15 tons a
5 season can be exempted from the applicability of
6 this rule?

7 MR. HARSCH: I'm going to object to that
8 question as to calling whether it's flexible or
9 not. That's a very rigid limitation on one's future
10 ability to admit.

11 We will stimulate on behalf of the client
12 that there is such as provision in the rules,
13 Bharat.

14 MR. MATHUR: Thank you.

15 MR. FEINEN: Mr. Svendsen, could you answer the
16 question whether or not you're aware of this?

17 MR. SVENDSEN: Can I have the question again?

18 MR. FEINEN: Sure.

19 MR. SVENDSEN: What is the question?

20 MR. FEINEN: Can the court reporter read back
21 the question?

22 (Record read.)

23 MR. SVENDSEN: (No response.)

24 MS. McFAWN: If you know, are you aware of that

1 exemption?

2 MR. SVENDSEN: Yes, I'm aware.

3 MR. MATHUR: Thank you.

4 I have no further questions.

5 MR. FEINEN: Should we move on to the next set
6 of questions from the agency then?

7 MS. SAWYER: Sure. But these questions were
8 directed to the prefiled testimony of Arnold
9 Horween, Jr., and that testimony has been withdrawn
10 so. . .

11 MR. FEINEN: Okay. That's fine.

12 When I was listening to him reading into
13 the testimony, some of the same things he testified
14 to.

15 MS. SAWYER: Yeah, some of the things are the
16 same, some are not.

17 MR. FEINEN: You don't want to --

18 MS. SAWYER: No. I'll ask some of the
19 questions.

20 Is Horween required to obtain a Clean Act
21 permit program permit?

22 MR. HORWEEN: Yes.

23 MS. SAWYER: Is Horween required to obtain this
24 permit because it is considered a major source of

1 volatile organic material emissions as defined by
2 the Clean Air Act?

3 MR. HORWEEN: Yes.

4 MS. SAWYER: Has any representative of Horween
5 met with the Illinois EPA to specifically discuss
6 Horween's baseline emissions?

7 MS. SAWYER: That's been attempted, but that
8 hasn't happened because of my father's injury.

9 MS. SAWYER: We'll withdraw Questions 4 through
10 8. They were more directed to the original prefiled
11 testimony.

12 Question 9, has the VOM content of the
13 stains and other coatings of Horween changed between
14 1904 and the present?

15 MS. MIHELIC: We object to this question as to
16 the relevancy going back to 1904, going back to 1990
17 perhaps.

18 MS. SAWYER: Well, we were just addressing this
19 to a specific statement in the -- it was directed to
20 part of the prefiled testimony that Horween's
21 operations haven't changed since 1904. I'm not
22 certain that Mr. --

23 MS. MIHELIC: I believe they stated they've been
24 operating since 1904.

1 MR. FEINEN: I believe they're willing to answer
2 for 1990 to the present. I'm not quite sure what
3 you're getting at in 1904.

4 MS. SAWYER: Okay. That's fine. If he wants to
5 answer the question in relationship to 1990, that's
6 fine.

7 MR. HORWEEN: Well, since 1990, there have been
8 changes. I mean, it's an evolving process all the
9 time. I mean, we're constantly trying to improve
10 what we're doing.

11 I mean, again, because of the variable
12 nature of the business, it would be -- it's almost
13 impossible to quantify exactly what the changes were
14 even in that period.

15 MS. SAWYER: Prior to the establishment of the
16 25-ton per year major source of applicability
17 threshold in 35 Illinois Administrative Code,
18 Part 218, Subpart PP, what VOM emission standards
19 were Horween subject to?

20 MR. HORWEEN: I'm not aware of that.

21 MR. HARSCH: Object to the question. It calls
22 for a legal conclusion.

23 MS. SAWYER: I don't think it calls for a legal
24 conclusion. I'm simply asking this source, who

1 testified about their VOM emissions, what
2 regulations they were subject to prior to that
3 time. I think it's simply the issue.

4 MR. HARSCH: If you want to ask the question
5 with respect to a specific rule, we'd be happy to
6 address that. There are a lot of environmental
7 regulations out there. So you want to ask if
8 they're subject to a specific rule or not.

9 MR. FEINEN: Why don't we break the question
10 down into two parts and see if we can go at it this
11 way because I think -- was Horween subject to any
12 regulations prior to the 25-ton per year source
13 threshold in Part 218, Subparagraph PP.

14 MS. MIHELIC: Any regulations?

15 MR. HARSCH: Can we go off the record for a
16 second?

17 MR. FEINEN: Sure.

18 Let's go off the record.

19 (Discussion had off
20 the record.)

21 MR. FEINEN: So why don't we go back on the
22 record and ask that question.

23 MS. SAWYER: Prior to the establishment of the
24 25-ton per year major source applicability threshold

1 RACT-type rules, was Horween subject to any RACT
2 rules?

3 MR. HARSCH: Since I'm sworn in and as the air
4 pollution counsel for Horween Leather I'd like to
5 answer that if I can since, Arnold, Sr. is not
6 here.

7 The answer is prior to the adoption of the
8 25-ton RACT regulations Horween's maximum potential
9 to emit was less than 100 tons. So they were not
10 subject to any RACT regulations.

11 Is that correct, Tom?

12 MR. CULLITON: That's correct.

13 MS. SAWYER: That's correct? Is that you're
14 answer?

15 MR. CULLITON: That's correct.

16 MS. SAWYER: Okay. Did Horween have to reduce
17 its VOM emissions to comply with 35 Illinois
18 Administrative Code, Part 218 Subpart BB?

19 MR. CULLITON: No.

20 MS. MIHELIC: Well --

21 MR. CULLITON: Could you reread the question
22 please?

23 MR. FEINEN: Reread the question, and then if
24 you want to clarify your answer, why don't we do

1 that on the record?

2 (Record read.)

3 MR. CULLITON: The answer is no and that we had
4 to not use certain coatings that we would have
5 otherwise used.

6 MS. McFAWN: Had you been using those coatings
7 previously?

8 MR. CULLITON: Up to that time, yeah.

9 MS. SAWYER: I'm sorry?

10 MR. CULLITON: We could no longer use certain
11 coatings at that point in time.

12 MR. HARSCH: A clarification point, again, since
13 I'm sworn in, as Mr. Beckstead is aware since he was
14 part of those discussions and part of the agency
15 team in developing the RACT regulations for leather
16 coating operations, Horween Leather worked
17 exclusively with the agency in establishing what
18 were the appropriate RACT regulations in the
19 proceedings for the 25-ton source category.

20 MS. SAWYER: Okay. Is the shiny leather
21 referred to in your testimony a speciality leather?

22 MS. MIHELIC: Objection. They didn't refer to
23 shiny leather. I think you are relying on the
24 prefiled -- you may want to change that to -- I

1 think he used lustrous.

2 MS. SAWYER: Okay. Fine.

3 Is the lustrous leather referred to in your
4 testimony a speciality leather?

5 MR. HORWEEN: Not by definition, no.

6 MS. SAWYER: What is Horween's VOM emissions per
7 1,000 square feet of lustrous leather?

8 MS. SAWYER: That can vary depending upon, you
9 know, the final look that the people are looking
10 for.

11 MS. SAWYER: Is there an average?

12 MR. HORWEEN: Well, there is. I mean, there are
13 historical averages, looking back, but there's no
14 way to predict looking forward depending upon the
15 needs of that market.

16 MS. SAWYER: Do you know what the historical
17 average is?

18 MR. HORWEEN: Let's see. To our calculations,
19 over an annual period -- you're still on lustrous
20 leather or speciality leathers?

21 MS. SAWYER: Lustrous.

22 MR. HORWEEN: Oh, no. In terms of lustrous
23 leathers, no. There's no way to know that. It
24 depends entirely on what the market is looking for.

1 MS. SAWYER: Is it less than speciality
2 leather?

3 MS. MIHELIC: Objection. He's just testified
4 that he doesn't know.

5 MR. HORWEEN: Not necessarily. I mean, it could
6 be either way.

7 MS. SAWYER: What was the total number of -- I'm
8 going to withdraw Questions 14 and 15 and ask
9 Question 16.

10 What was the total number of sides of
11 leather coated at Horween in 1994 and 1995 and
12 1996?

13 MR. HORWEEN: In 1994, we coated 331, 450 sides;
14 1995, it was 340,300 sides; 1996, it was 259,048
15 sides.

16 MS. SAWYER: And how many sides of lustrous
17 leather did Horween coat in each of those years?

18 MR. HORWEEN: Well, we don't really keep track
19 of it that way. I don't know that specifically.

20 MS. SAWYER: Do you know how many sides of
21 speciality leather Horween coated in '94, '95, and
22 96?

23 MR. HORWEEN: Yes. Of our speciality leathers
24 in '94, we coated 277,188; '95, it was 268,995; and

1 '96, it was 207,699.

2 MS. SAWYER: What were Horween's annual VOM
3 emissions in 1994, 1995, and 1996?

4 MR. HORWEEN: In 1994, it was 54,255 tons; 1995,
5 it was 62.764 tons; in 1996, it was 49.239 tons.

6 MS. SAWYER: That's all the questions I have.

7 MR. FEINEN: Are you withdrawing 19 through 25?

8 MS. SAWYER: Well, those questions were based on
9 prefiled testimony.

10 MR. FEINEN: Okay. Thank you. Follow up
11 Mr. Chiaruttini?

12 MR. CHIARUTTINI: From what I understood, you
13 say that your VOM emissions do not necessarily
14 relate to the number of sides of product that you
15 haven't produced. So you have lesser, you have more
16 VOMs or if you have more, you have lesser VOMs
17 because of what you do?

18 MR. HORWEEN: That's correct.

19 MR. CHIARUTTINI: Thank you.

20 MR. FEINEN: Shall we move on then to the
21 questions from Mr. Raymond, Sr. of RayVac?

22 MS. SAWYER: Sure.

23 Okay. Mr. Raymond, you testified on
24 Page 18 of your prefiled testimony that as currently

1 proposed, the ERMS rules require RayVac to choose an
2 additional year which has lower VOMs or lower
3 emissions than is representative of RayVac's
4 anticipated operations.

5 What were RayVac's VOM emissions in 1990,
6 '91, '92, '93, '94, '95, and 96?

7 MR. RAYMOND: I will begin with 1990 and then
8 read them through.

9 MS. SAWYER: Okay.

10 MR. RAYMOND: 1990, the annual emissions were
11 30.74 tons; 38.61 tons; 37 tons; 54 tons; 44.67
12 tons; 45.72 tons; for 1996, it was 36.52 tons.

13 MS. SAWYER: Is 1993 representative of RayVac's
14 historical emissions in any year since 1990?

15 MR. RAYMOND: Just 1993.

16 MS. SAWYER: I'm going to withdraw Question 2.
17 Question 3, hasn't RayVac reduced VOM emissions in
18 the past by switching cleaning methods?

19 MR. RAYMOND: Yes, we did. We were able to
20 eliminate all our VOMs by removing a cold cleaning
21 tank. So that source is down to zero. There are no
22 further reductions available in that area.

23 MS. SAWYER: What were your annual sales for
24 1996?

1 MS. MIHELIC: Same objection as before. That's
2 proprietary information, it's a privately-held
3 company, and in addition it's irrelevant.

4 MR. FEINEN: I think I'm going to agree with
5 both.

6 MS. SAWYER: What's that?

7 MR. FEINEN: I'll agree with their objections.
8 Sustained.

9 MS. SAWYER: Was the desire to reduce methylene
10 chloride usage in emissions a consideration when
11 RayVac decided to install the beat blaster referred
12 to in your testimony?

13 MR. RAYMOND: Yes, it was the motivating
14 factor. The present method is more costly to us,
15 but it has eliminated the source of the VOC, so
16 we're willing to pay that price.

17 MS. SAWYER: Was one of the reasons you
18 eliminated methylene chloride or wanted to eliminate
19 methylene chloride usage because it was a hazardous
20 air pollutant?

21 MR. RAYMOND: That is correct. And by making a
22 change, we resulted in an over-compliance with VOM
23 emissions.

24 MS. SAWYER: We will withdraw Questions 6

1 through 11 based on statements made by Mr. Harsch
2 and the clarification he provided.

3 MR. MATHUR: I have a follow-up question, Bharat
4 Mathur with the Illinois EPA.

5 Mr. Raymond, as you read out in response to
6 the question as to what your annual emissions were
7 in the years '90 through '96, as you read out the
8 numbers, you had high emissions in '93 and '94?

9 MR. SAINES: I object. That's a relative term.

10 MR. MATHUR: The high estimations that you read
11 out were in '93 and '94 and '95, is that not true?

12 MR. RAYMOND: That is correct. The emissions
13 for those years were greater.

14 MR. MATHUR: The two highest years in what you
15 read out were '93 and '95, is that not true?

16 MR. RAYMOND: That is correct.

17 MR. MATHUR: Is it not true that the average of
18 the emissions that you read out for '93 and '95, the
19 two highest years, would be approximately 50 tons
20 per year?

21 MR. RAYMOND: Approximately.

22 MR. MATHUR: And these are annual emissions?

23 MR. RAYMOND: That is correct.

24 MR. MATHUR: Are you aware that the ERMS program

1 is regulating seasonal emissions?

2 MR. RAYMOND: Yes, I am.

3 MR. MATHUR: And are you aware that the season
4 is defined as five months long?

5 MR. RAYMOND: Yes.

6 MR. MATHUR: So if we were to estimate seasonal
7 emissions based on an average annual emissions of 50
8 tons per year, seasonal emissions would be
9 approximately 21 tons per seasons?

10 MR. RAYMOND: That is correct.

11 MR. MATHUR: And the ERMS rule would require a
12 reduction of 12 percent; is that correct?

13 MR. RAYMOND: As I understand it.

14 MR. MATHUR: So the reduction amount that the
15 ERMS rule would expect from your source would be
16 roughly two and a half tons per season?

17 MR. RAYMOND: Yeah.

18 MR. MATHUR: Is that correct?

19 MR. RAYMOND: Yes.

20 MR. MATHUR: And is it not right that you
21 mentioned in your testimony that the average price
22 per ATU were 2850?

23 MR. RAYMOND: That is the number I have been
24 told, correct.

1 MR. MATHUR: So if ATUs of two and a half tons
2 equivalent were available, it is then true that the
3 cost of compliance should you pursue acquisition of
4 ATUs would be 2850 multiplied by two and a half or
5 approximately 6,000 tons?

6 MS. MIHELIC: Objection.

7 MR. SAINES: Objection.

8 MR. MATHUR: Dollars. Sorry.

9 MR. SAINES: Well, that's not the objection.
10 The objection is that question ignores the content
11 of the testimony.

12 The testimony is that 1993 is the only
13 truly representative year based on the voluntary
14 emission reductions program that they engaged in in
15 late 1993. So while these numbers, as you asked for
16 them, exist it's our testimony and Mr. Raymond's
17 testimony that 1993 is the only truly representative
18 year.

19 So for compliance purposes in determining
20 what your baseline is, Mr. Raymond is here today to
21 testify that he is asking for 1993 as his year. So
22 if you want to recalculate the figures and base it
23 on 54 tons as Mr. Raymond is testifying to as his
24 representative, we can recalculate that.

1 By using the numbers as they are laid out,
2 you're assuming the end results, and we haven't
3 reached that conclusion yet. So we don't know what
4 the cost of compliance is going to be.

5 MS. MIHELIC: Objection. It also assumes that
6 an ATU will actually be 2850. That is a proposed
7 cost by the agency.

8 MR. FEINEN: Well, Mr. Mathur's questions were
9 based on a lot of assumptions. One of them would be
10 that it can be an assumption that the baseline will
11 be determined by using both 1993 and '95, which I
12 believe you're witness testified he doesn't believe
13 it's representative.

14 I'm going allow the question based on all
15 these assumptions that were built into this
16 hypothetical Bharat Mathur was building up to --

17 MR. SAINES: Okay.

18 MR. FEINEN: -- with the knowledge that you're
19 client or your witness doesn't necessarily agree
20 that the baseline will be determined that way or
21 should be determined that way.

22 MR. HARSCH: Mr. Hearing Officer, in directing
23 the witness to answer that question, you are
24 ignoring the fact that the compliance purposes that

1 Bharat mentioned it took a mere 12 percent
2 reduction. If, in fact, his 19 -- his emissions are
3 greater than that mathematical average to achieve
4 compliance with the rule, he will have to purchase
5 additional ATUs beyond to cover the 12 percent plus
6 those emissions that are greater than the numerical
7 average of those two years.

8 MS. SAWYER: I have a question. Is Mr. Harsch
9 testifying at this point, or is he speaking --

10 MR. FEINEN: No. He is responding to my
11 overruling the objection, and I'm still going to
12 overrule the objection and allow the witness to
13 answer the question based upon this hypothetical.
14 If you feel the need to redirect --

15 MR. HARSCH: I'd be happy to.

16 Thank you.

17 MS. MIHELIC: What was your question?

18 MR. RAYMOND: Are you ready for me to attempt to
19 answer it?

20 Speaking hypothetically, I follow your
21 calculations. I don't necessarily agree with them,
22 but I follow them. You came up with a figure of
23 around \$6,000 a year if we are 12 percent or two
24 tons over. If they are available at 2850 tons, that

1 is a correct figure.

2 My concern is that, No. 1, are they going
3 to be available? I also heard a figure that
4 possibly I'm going to have to buy them from the
5 state for \$10,000 a ton. In either case, even at
6 the \$2,850 figure, we do not -- if I generated --
7 for every ton I generated and had to buy at \$2,850,
8 I would definitely lose money on it.

9 If I had to buy them at \$10,000 a ton, I
10 could be so prosperous, I went broke. So that's not
11 really a fair hypothetical question.

12 MR. MATHUR: I have no further questions.

13 MR. HARSCH: I have a clarification question.

14 Mr. Raymond, if your marketing efforts are
15 successful and you increase your business as you're
16 endeavoring to do now and you are required to use
17 the two years that Mr. Mathur has asked in his
18 question, let's assume you have an additional ten
19 tons in emissions in 1999, would that require you to
20 purchase even more additional ATUs?

21 MR. RAYMOND: It absolutely would, and there
22 would be no profit generated by any of the extra
23 production. In fact, we would be losing money.

24 MR. HARSCH: No further questions.

1 MR. FEINEN: Any follow-up?

2 Let's move on then to Mr. Deveikis, if I
3 pronounced that correctly. I'm sorry if I didn't.

4 MS. SAWYER: Good morning, Mr. Deveikis on
5 behalf TC entries.

6 Is TC required to obtain a Clean Air Act
7 permit program permit?

8 MR. DEVEIKIS: Yes, we are.

9 MS. SAWYER: Is TC required to obtain this
10 permit because it is considered a major source of
11 volatile organic material emissions as defined by
12 the Clean Air Act?

13 MR. DEVEIKIS: Yes.

14 MS. SAWYER: What were TC's annual sales dollars
15 in 1996?

16 MS. MIHELIC: The same objection as before,
17 proprietary information, it's a privately-held
18 company, and it's irrelevant.

19 MS. SAWYER: TC Industries is a privately-held
20 company?

21 MR. DEVEIKIS: Yes, it is.

22 MS. SAWYER: So TC Industries does not file a
23 report with the -- so TC does not file a report on
24 its sales dollars with the Securities and Exchange

1 Commission?

2 MR. DEVEIKIS: I couldn't answer that question.

3 I don't know.

4 MS. SAWYER: Is Thomas Hayward, Jr. the CEO of
5 TC Industries?

6 MR. DEVEIKIS: Yes, he is.

7 MS. SAWYER: Is Barry Ontko the CFO of
8 TC Industries?

9 MR. DEVEIKIS: Yes, he is.

10 MS. SAWYER: Are you aware that Mr. Ontko
11 submitted a report on September 18, 1996, indicating
12 that sales dollars from April 1, 1995, to March 31,
13 1996, were 79 million -- approximately 79 million?

14 MR. DEVEIKIS: No.

15 MS. McFAWN: Who did he file that report with?

16 MS. SAWYER: This is a Dun & Bradstreet report.

17 MR. HARSCH: We object to this line of
18 questioning. TC Industries is a privately-held
19 corporation currently undergoing corporate
20 reorganization; is that correct?

21 MR. DEVEIKIS: Yes.

22 MR. HARSCH: Changing from a Subchapter S to a
23 Subchapter C?

24 MR. DEVEIKIS: Yes.

1 MS. SAWYER: Well, I mean, it was public
2 information we pulled off Dun & Bradstreet.

3 MS. MIHELIC: We still object to the question.

4 MS. SAWYER: Did TC propose in its cap
5 application that quench oil not be considered a
6 volatile organic material?

7 MR. DEVEIKIS: No.

8 MS. SAWYER: When did TC switch to lower VOM
9 coatings?

10 MR. DEVEIKIS: To the best of my knowledge, it
11 was in the early 1990s.

12 MS. SAWYER: And why did TC switch at that
13 time?

14 MR. DEVEIKIS: From what I understand there were
15 several reasons. No. 1, were the environmental
16 reasons. As far as I'm aware, we were using a
17 solvent-based paint, and we were using a paint that
18 contained some chromium xylenes in it, and we also
19 were able to change operation of our plant which
20 would allow us to start using a compliant paint and
21 also one that was a water-based paint.

22 MS. SAWYER: Has any representative of TC met
23 with the Illinois EPA to specifically discuss
24 baseline emissions?

1 MR. DEVEIKIS: I believe our attorneys have met
2 with the agency but no one specifically from TC
3 Industries has.

4 MS. SAWYER: I'll withdraw Questions 8 through
5 11 based on the statements and clarifications
6 provided by Mr. Harsch -- eight through 13.

7 We'll move into our prefiled questions for
8 Mr. Hultquist.

9 MR. HARSCH: May I ask a follow-up question.

10 MR. FEINEN: Sure.

11 MR. HARSCH: Are you aware that TC Industries
12 made a substantial effort in the mid-1990s to reduce
13 its VOC emissions below 25 tons per year?

14 MR. DEVEIKIS: Yes, we did.

15 MR. HARSCH: And the purpose of that was to try
16 to move to a non-major source of VOC emission?

17 MR. DEVEIKIS: Correct.

18 MR. HARSCH: Is that the basis in part why TC
19 reduced its VOC emissions?

20 MR. DEVEIKIS: Yes.

21 MR. HARSCH: And the reference in your testimony
22 to the quench oil in the separate proceedings is
23 with respect to a request to reconsider an operating
24 permit denial or an operating permit for the quench

1 oil tanks?

2 MR. DEVEIKIS: Correct.

3 MR. HARSCH: Is the reason why the cap
4 application does not include the demonstration that
5 you were asked about is that you were hopeful that
6 you would be able to replace the existing quench
7 operations with a water-based quench oil -- excuse
8 me, a polymer quench oil?

9 MR. DEVEIKIS: Correct.

10 MR. HARSCH: No further questions.

11 MS. SAWYER: Okay. Moving on to Mr. Hultquist
12 for Treasure Chest, we will withdraw all of the
13 questions addressed to Mr. Hultquist because he has
14 laryngitis -- no, because he withdrew the portion of
15 his testimony on New Source Review and the other
16 portion of our questions related to the area that
17 Mr. Harsch has already clarified.

18 MR. FEINEN: Does that conclude all your
19 prefiled questions?

20 MS. SAWYER: That's it.

21 MR. FEINEN: Any other questions from the
22 audience of this panel of witnesses?

23 I have a few questions. I was just
24 wondering -- if you can't answer this question

1 that's fine. If your attorneys object to it, that's
2 fine too.

3 I was wondering if, Mr. Svendsen, you broke
4 down the cost of operation per ton of VOM?

5 MR. SAINES: Are you referring to Mr. Svendsen
6 or Mr. Raymond?

7 MR. FEINEN: Mr. Svendsen. I'm sorry. I'm
8 looking at Mr. Raymond.

9 MR. SVENDSEN: No.

10 MR. FEINEN: No?

11 MR. SVENDSEN: No.

12 MR. FEINEN: Thank you.

13 This question -- I hate to ask
14 Mr. Hultquist, but maybe his attorney can respond to
15 it, or we can repeat what he says loudly for us.

16 Mr. Hultquist, you mentioned in your
17 testimony that you requested the U.S. EPA to delist
18 or determine that your material is not VOM.

19 MR. HULTQUIST: Delist, yes.

20 MR. FEINEN: Do you have any idea when this
21 determination would be made.

22 MS. MIHELIC: Rich could answer it.

23 MR. TRZUPEK: Yes. It's currently under review
24 with about 20 other delisting petitions, and action

1 should be expected in the next year or two. I'd
2 like to point out though that whether or not its
3 delisted, how much ozone these oils produce, like a
4 lot of people here, is very marginal.

5 So on the spectrum of chemical activity
6 here, how much ozone is created whether or not it's
7 delisted, the amount of ozone is created is very
8 small whether it's delisting or not.

9 So the impact of reducing emissions from
10 sources like that on the actual environmental
11 benefit will be negligible.

12 MR. FEINEN: Will it make a difference to
13 whether or not-- and I forget who you represented.

14 MR. TRZUPEK: Treasure Chest.

15 MR. FEINEN: -- Treasure Chest. Will the ERMS
16 proposal apply to them?

17 MR. TRZUPEK: If it's delisted and it's no
18 longer a VOM, within the time frame of ERMS, then
19 they would no longer be a major VOM source.

20 I don't think we'll see final action all
21 the way to the state by that time.

22 MR. FEINEN: Thank you.

23 And then a follow up to Mr. Harsch's
24 question about the polymer switch from quench oil to

1 Mr. Deveikis, do you know if that's a feasible or a
2 reality or possible change for TC Industries?

3 MR. DEVEIKIS: Actually, we thought it was. We
4 thought we found a substitute for the oil, and we
5 actually ran all our tests through their quality
6 control in the past and everything. We actually
7 made the switch for a brief time, and it just -- we
8 found out that it didn't cut our quality standards
9 and went into the largest array of products that we
10 have and only to specific certain size products.

11 MR. FEINEN: Thank you.

12 I'm just looking through my notes.

13 (Brief pause.)

14 MR. FEINEN: Maybe this is a question directed
15 to Mr. Harsch.

16 You made a statement that you're
17 continuing -- the coalition is continuing to work
18 with the agency to develop a methodology for
19 baseline determinations. So it seems to me that you
20 had some kind of an idea of what the coalition
21 believes is a method for developing baseline. I was
22 wondering if you can expand or not expand.

23 MR. HARSCH: The individual coalition members as
24 testified yesterday by Ralph Fasano intend to

1 continue to work individually with the agency to
2 establish what their baseline would be assuming
3 those rules are enacted as they're currently out.

4 I think everybody here today has met with
5 the agency or the agency has followed up with a
6 question pointing out which members have not yet met
7 with the agency, but I think it is each of the
8 coalition members' intent to move down that path
9 should it be necessary.

10 If TC is successful in its operating permit
11 request to show the agency that it's not VOC
12 material, they would drop out, for example. So the
13 baseline then would become irrelevant.

14 MR. FEINEN: Thank you.

15 I don't have any further questions.

16 Are there any other questions for the
17 witnesses?

18 MS. McFAWN: I have one for Mr. Hultquist, and
19 I'm sure counsel can answer on your behalf.

20 You mentioned a 1996 air quality report
21 that addresses reformulating gasoline?

22 MR. HULTQUIST: Yes.

23 MS. McFAWN: Is that a sizeable report, or is it
24 something that can be submitted to the board?

1 MR. HULTQUIST: It's right here (indicating).

2 MS. McFAWN: Thank you.

3 MS. MIHELIC: Would you like a copy?

4 MS. McFAWN: That would be fine.

5 MR. FEINEN: Why don't you -- we're not going to
6 have a public comment period until May 16th. Why
7 don't you submit it along -- as soon as you can get
8 it done, why don't you submit it? That will be
9 fine, I guess, for now.

10 Is this a document that's readily available
11 to everyone?

12 MS. MIHELIC: Um-hum, you can.

13 MR. HARSCH: Identify on the record.

14 MS. MIHELIC: It's the AQMD Air Quality Annual
15 Report, 1996. It does not have a specific date on
16 it. It's a document of approximately -- oh. It is
17 dated March 1997 on the back page. It's a document
18 of approximately 16 pages, double sided.

19 MS. McFAWN: Thank you.

20 MR. FEINEN: Thank you.

21 At this point, I want to thank everyone for
22 participating thus far. I think it's been an
23 interesting and informative hearing process so far
24 in the past four or five months.

1 There's one outstanding motion that I think
2 I will rule on it at the hearing officer order. It
3 deals with Mr. Trepanier's prefiled testimony motion
4 for me to reconsider. I will do that in a
5 proceeding which will also spell out the public
6 comment period time, which is May 16th as we
7 discussed yesterday.

8 So if there's nothing else further, I think
9 I'll close the record at this time, which is
10 something I thought I'd never say.

11 Okay. I'll close the record and --

12 MS. McFAWN: Before you close the record, I just
13 want to say on behalf of the board that everyone is
14 most diligent in examining this rule, and we
15 appreciate that, and we look forward to your public
16 comments.

17 And following up on what Mr. Feinen just
18 said, the record in other rulmakings before the
19 board isn't as tedious and as long as this one has
20 been. So efforts, believe me, are appreciated by
21 the board because it's important that we understand
22 the nuances as well as the general picture
23 presented.

24 So thank you. Again, we look forward to

1 your public comments.

2 MR. FEINEN: Let's just put this on the record
3 too.

4 I'm requesting that both days hearings are
5 expedited. So, hopefully, that will be a short
6 turnaround. So, hopefully, by the middle of next
7 week these should be available or on the web and so
8 forth.

9 Thank you very much.

10 (Whereupon, the above-entitled
11 proceedings were adjourned
12 pursuant to agreement, to be
13 continued sine die.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3

4 I, KIM M. HOWELLS, CSR, do hereby state
5 that I am a court reporter doing business in the
6 City of Chicago, County of Cook, and State of
7 Illinois; that I reported by means of machine
8 shorthand the proceedings held in the foregoing
9 cause, and that the foregoing is a true and correct
10 transcript of my shorthand notes so taken as
11 aforesaid.

12

13

14 _____
KIM M. HOWELLS, CSR
Notary Public, Cook County, IL.

15

16

SUBSCRIBED AND SWORN TO
17 before me this _____ day
18 of _____, A.D., 1996.

18

19 _____
Notary Public

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21

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