

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED NEW 35 ILL. ADM. CODE)	R08-17
PART 223 STANDARDS AND)	(Rulemaking – Air)
LIMITATIONS FOR ORGANIC)	
MATERIAL EMISSIONS FOR AREA)	
SOURCES)	

NOTICE OF FILING

TO: John Therriault	Timothy J. Fox, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph	100 West Randolph Street
Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA U.S. MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an **ENTRY OF APPEARANCE OF ALEC M. DAVIS** and **ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S RESPONSE TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENTS** on behalf of the Illinois Environmental Regulatory Group, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP,

By: /s/ Katherine D. Hodge
One of Its Attorneys

Dated: July 25, 2008

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ENTRY OF APPEARANCE OF ALEC M. DAVIS

I, Alec M. Davis, hereby enter my appearance in this matter on behalf of the
Illinois Environmental Regulatory Group.

Respectfully submitted,

By: /s/ Alec M. Davis
Alec M. Davis

Dated: July 25, 2008

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IERG:001/ Filings/ EOA - AMC

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**ILLINOIS ENVIRONMENTAL REGULATORY
GROUP'S RESPONSE TO ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY'S POST-HEARING COMMENTS**

NOW COMES the ILLINOIS ENVIRONMENTAL REGULATORY GROUP (“IERG”), by one of its attorneys, and hereby submits its response to the Illinois Environmental Protection Agency’s (“Illinois EPA”) Post-Hearing Comments in the above-captioned rulemaking proceeding.

I. BACKGROUND

1. In this proceeding, the Illinois EPA has proposed regulations for consumer and commercial products beyond the scope of the national rule promulgated on September 11, 1998, and codified at 40 C.F.R. Part 59, Subpart C. The Illinois EPA stated in its “Technical Support Document for Control of Volatile Organic Material Emissions from Consumer and Commercial Products, Architectural and Industrial Maintenance Coatings, and Aerosol Coatings” (“TSD”), dated November 2007, that these proposed regulations are necessary to “...attain the 8 hour ozone NAAQS by 2010...” and that such regulations will “...reduce VOM emissions from the source category by 14.2% beyond...” the national rule. See TSD at 5 and 17.

2. It appears that the Illinois EPA believes that both the economic and technical foundation for its proposed rule and the formulation of the rule itself is derived

from the 2006 version of the Ozone Transport Commission Model Rule (“OTC 2006”). However, the documents submitted by the Illinois EPA in support of its proposal in this proceeding, which are listed in “Attachment A – Documents Relied Upon” (“Attachment A”) to the Regulatory Proposal filed on January 2, 2008, do not provide the economic and technical justification to support adoption of OTC 2006. Instead, Attachment A lists documents that were prepared to support adoption of the 2001 version of the OTC Model Rule (“OTC 2001”). OTC 2006 includes certain additional categories to, and changes in exemptions from OTC 2001. See Exhibit 3, admitted at the June 4, 2008 hearing.

3. The United States Environmental Protection Agency (“USEPA”) is currently developing a proposal to amend its own consumer and commercial products rule that is located at 40 C.F.R. Part 59, Subpart C, as noted above. The Illinois EPA has indicated that, once the USEPA proposes its consumer products rule, the Illinois EPA would review and likely defer to the USEPA rule. April 30, 2008 Hearing Transcript at 11-12.

4. IERG understands that the USEPA’s efforts to propose its consumer products rule have been delayed because the USEPA “continues to struggle with its assessment of the cost impacts” associated with certain additional categories to be added to the federal rule. See June 20, 2008, e-mail from Mr. Bruce Moore, the Consumer and Commercial Products Sector Team Leader at the Office of Air Quality Planning and Standards of the USEPA, to Lauren Lurkins, regarding the status of the USEPA’s consumer products proposed rule. See Exhibit 1 attached hereto. (IERG assumes these additional categories are the new categories added in OTC 2006.) In his e-mail, Mr.

Moore also stated that the USEPA plans to propose its consumer products amendments in late summer or early fall of 2008, with promulgation following in spring of 2009. Id.

II. THE ILLINOIS EPA'S PROPOSAL

5. As noted above, the Illinois EPA has stated that it based the consumer products rule proposed in this proceeding upon the OTC Model Rule. April 30, 2008 Hearing Transcript at 11-12. However, notwithstanding the Illinois EPA's testimony at the two hearings held in this proceeding and its Post-Hearing Comments, there continues to be considerable confusion as to which version of the OTC Model Rule the Illinois EPA relied upon as its basis.

6. The Illinois EPA cited OTC 2001 at Reference 16 in TSD and in Attachment A of its Regulatory Proposal. At the June 4, 2008 Hearing (hereafter "Hearing"), in an effort to better understand the complete basis for the Illinois EPA's proposed rule, IERG offered a redlined copy of OTC 2006, showing changes made between OTC 2001 and OTC 2006. See Exhibit 3. Neither Exhibit 3, nor any version of OTC 2006, however, was included by the Illinois EPA as a reference in its TSD or in Attachment A.

7. The Illinois EPA's public statements prompt confusion regarding the basis for its proposed rule:

- At Hearing, the Illinois EPA stated "neither rule was the sole basis for our rule," which IERG would interpret to mean that neither OTC 2001 nor OTC 2006 was solely relied upon by the Illinois EPA in drafting its proposal. Hearing Transcript at 14.
- The Illinois EPA also repeatedly stated that when it began drafting its proposed rule, it used OTC 2001 as its basis. Id. at 12.
- The Illinois EPA stated that while the current text of its proposal "is probably closer to the 2006 and its limits," "a lot of the

technical support might have come from earlier, and I believe that there wasn't much updating to that technical support for the 2006 ruling." Hearing Transcript at 12-13.

- The Illinois EPA, however, then admitted that there were "significant changes" made between OTC 2001 and OTC 2006. Id. at 18.
- Thereafter, in its Post-Hearing Comments, the Illinois EPA stated that "[i]t should be noted, as it was a number of times at the public hearing, that the proposed regulation was not in fact based on the 2001 OTC Model Rule. The 2006 OTC Model Rule was used as a resource, in addition to input from affected industries . . ." Illinois EPA Post-Hearing Comments at ¶ 3 and 4.

8. The Illinois EPA's Post Hearing comment stating that OTC 2001 was not used as a basis for the proposed rule and OTC 2006 was used as a resource for developing the proposed rule contradicts the documentation submitted by the Illinois EPA, as well as testimony of the Illinois EPA at Hearing, wherein, as detailed above, the Illinois EPA stated that OTC 2001 and OTC 2006, combined, were used as the basis for its proposed rule.

9. As discussed in more detail below, IERG has conducted a thorough review of the sources cited by the Illinois EPA as a basis for its proposed rule, and has concluded that the Illinois EPA relied upon emission reduction estimates and economic impact information developed for OTC 2001 but structured the rule to conform most closely to the more restrictive provisions of OTC 2006.

III. DISCUSSION

A. The Illinois EPA has Proposed a Rule Consistent with OTC 2006, yet Relied on OTC 2001 for its Technical Support

10. In the Introduction to its TSD, the Illinois EPA stated that the emissions reductions from its proposed rule will help Illinois attain the 8 hour NAAQS by 2010.

TSD at 5. The TSD further stated in Section 2.7 that such emission reductions will amount to 14.2% for the consumer and commercial products rule beyond those achieved by the federal rule. Id. at 29.

11. The Illinois EPA confirmed that the 14.2% reduction from the consumer and commercial products rule was used in its recent attainment demonstration. Illinois EPA Post-Hearing Comments at ¶ 1.

12. In its TSD and Attachment A, the Illinois EPA stated that, in drafting its proposed rule, it relied on MACTEC's "Interim White Paper – Midwest RPO Candidate Control Measures" for the source category of "Consumer and Commercial Products" ("MACTEC White Paper"). TSD at Reference 3; Attachment A at Reference 3. In particular, the MACTEC White Paper was cited by the Illinois EPA as the basis for the 14.2% reduction in volatile organic material ("VOM") emissions that will result from implementing the OTC Model Rule.

13. The MACTEC White Paper provided that "[a]ll products manufactured for sale or use within an OTC State after January 1, 2005 would need to comply with the VOC content limits in the OTC Model Rule." MACTEC White Paper at 3. This statement indicates that OTC 2001 was the basis for the MACTEC White Paper that the Illinois EPA relied upon in drafting its proposal. OTC 2006 could not set a compliance date of January 1, 2005, because it was not finalized until September 13, 2006. Instead, OTC 2001 had a compliance date of January 1, 2005. See Exhibit 3.

14. In its Post-Hearing Comments, the Illinois EPA attached an updated version of the MACTEC White Paper, dated March 10, 2006, and noted in paragraph 4 of its Post-Hearing Comments that it (the updated MACTEC White Paper) "is essentially

unchanged in any way pertaining to the questions posed at hearings. The estimated reductions for the OTC model rule for consumer products remain 14.2% beyond existing federal rules, and include the additional categories in the 2006 OTC model rule. It should be noted, as it was a number of times at the public hearing, that the proposed regulation was not in fact based on the 2001 OTC Model Rule.” Illinois EPA Post-Hearing Comments at ¶ 4. This statement is incorrect. First, the Illinois EPA affirmed the 14.2% reduction that originated in the technical information prepared in support of OTC 2001. The Illinois EPA, however, stated in its next sentence that its proposed regulation was not based on OTC 2001. The formulation of the Illinois EPA’s rule may well have come from its review of OTC 2006, which itself is derived from OTC 2001, as shown in Exhibit 3, but the technical basis for the rule is clearly from OTC 2001.

15. Also in support of the 14.2% emission reduction, the MACTEC White Paper cited to a document prepared by E.H. Pechan & Associates, Inc., entitled “Control Measure Development Support Analysis of Ozone Transport Commission Model Rules” (“Pechan Document”) and dated March 31, 2001. Because of its date, it is clear that the Pechan Document was also prepared in reference to OTC 2001, and not OTC 2006. The Illinois EPA also listed the Pechan Document as a reference in its TSD and Attachment A. See TSD at Reference 18; Attachment A at Reference 18.

16. In paragraph 5 of its Post-Hearing Comments, the Illinois EPA referenced Exhibit 3, which it also discussed at Hearing. Illinois EPA Post-Hearing Comment at ¶ 5. As set forth above, at Hearing, the Illinois EPA’s witness admitted that there were “significant changes” made between OTC 2001 and OTC 2006, as shown in Exhibit 3. Hearing Transcript at 18. Also at Hearing, Dr. Anand Rao of the Illinois Pollution

Control Board (“Board”) asked “[s]ince you will be submitting that document later in your comment, would it be possible for you to highlight some of these significant changes and how they’re reflected in your rules?” Hearing Transcript at 19. While the Illinois EPA correctly stated in its Post-Hearing Comments that Exhibit 3 “is highlighted to reflect the changes from the 2001 and 2006 versions of the OTC Model Rule for Consumer Products,” the Illinois EPA failed to respond to Dr. Rao’s question. In its Post-Hearing Comments, the Illinois EPA did not show how OTC 2006 compares to its proposed rule. The details of the differences between the two documents are necessary for understanding the Illinois EPA’s basis for its changes. Therefore, IERG respectfully requests that the Board require the Illinois EPA to provide this information to the Board for purposes of this rulemaking proceeding.

17. Also, the Illinois EPA stated that, notwithstanding its failure to include Exhibit 3 as support, it relied upon Exhibit 3 in the development of its regulatory proposal. Moreover, the Illinois EPA agreed that Exhibit 3 contained the following categories in addition to those included in OTC 2001:

- a. Adhesive Removers:
 - i. Floor or Wall Covering
 - ii. Gasket or Thread Locking
 - iii. General Purpose
 - iv. Specialty
- b. Adhesives:
 - i. Contact General Purpose
 - ii. Contact Special Purpose
- c. Air Fresheners:
 - i. Solids/Semisolids (changed form Solids/Gel)
- d. Anti-Static Product, Non-Aerosol
- e. Electrical Cleaner
- f. Electronic Cleaner
- g. Fabric Refresher:
 - i. Aerosol
 - ii. Non Aerosol

- h. Footwear or Leather Care Products:
 - i. Aerosol
 - ii. Solid
 - iii. Other Forms
- i. Graffiti Remover:
 - i. Aerosol
 - ii. Non-Aerosol
- j. Hair Styling Products:
 - i. Aerosol and Pump Sprays
 - ii. All Other Forms
- k. Shaving Gel
- l. Toilet/Urinal Care:
 - i. Aerosol
 - ii. Non-Aerosol
- m. Wood Cleaner:
 - i. Aerosol
 - ii. Non-Aerosol

Exhibit 3 at 20-24; Hearing Transcript at 23-26.

18. Moreover, the Illinois EPA stated that it is accurate that under OTC 2001, exemption (i) would apply to both air fresheners and insecticides containing at least 98% para-dichlorobenzene.¹ Hearing Transcript at 26. Further, the Illinois EPA agreed that under OTC 2006, exemption (i) only applies to insecticides containing 98 percent para-dichlorobenzene.² Id. at 27. Therefore, in addition to the new categories, Exhibit 3 includes a modification of at least one exemption, namely exemption (i), thus subjecting additional products to regulation.

19. Since it is clear that the Illinois EPA based the technical support for the rulemaking on OTC 2001, including the emission reductions achieved by OTC 2001, and

¹ In OTC 2001, exemption (i) stated the following: "The VOC limits specified in section 3(a) shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene." OTC 2001 at 33.

² In Exhibit 3 (redlined OTC 2006), exemption (i) stated the following: "The VOC limits specified in Section 3(a) shall not apply to: ~~air fresheners and~~ (1) insecticides containing at least 98% para-dichlorobenzene. . . . Exhibit 3 at 29-30.

OTC 2001 did not include a number of categories and modified at least one exemption, IERG asserts that the Illinois EPA's goal of VOM emissions reduction could be achieved without these additional categories and without the modified exemption.

20. The Illinois EPA's response at paragraph 6 of its Post-Hearing Comments was internally inconsistent and confusing. Illinois EPA Post-Hearing Comments at ¶ 6. The first part of the response stated that the total emission reduction estimated to come from the proposed rule was unchanged from the 14.2% reduction produced by OTC 2001 because the additional categories added in the Illinois EPA's proposed rule did not provide additional reductions. If this is true, it would lead one to question the rationale for including the categories at all. If the reasoning behind adding the new categories is to provide a more explicit representation of previous categories, then IERG respectfully requests that the Board require the Illinois EPA to provide this information to the Board for purposes of this rulemaking proceeding. The second part of the response was also unclear, as it makes no sense that the 14.2% emission reduction produced by OTC 2001 beyond the emissions derived from the federal rule codified at 40 C.F.R. Part 59, Subpart C, would remain unchanged, even when additional emission reduction categories are included in the Illinois EPA's proposed rule. In the third part of its response here, the Illinois EPA again stated that some of the additional categories did not provide additional emission reductions because they were already included in the existing categories from OTC 2001. IERG respectfully requests that the Board require the Illinois EPA to provide this information to the Board for purposes of this rulemaking proceeding. In essence, the Illinois EPA's response at paragraph 6 of its Post-Hearing Comments would lead one to

conclude that any category or limit beyond OTC 2001 is not necessary to achieve the 14.2% reduction the Illinois EPA has relied upon.

21. In addition, Table 2.7.1 of the TSD, entitled “Estimated VOM Emission Reductions for Consumer Products,” did not include the additional categories listed above in paragraph 17. TSD at 30-33. At Hearing, the Illinois EPA was asked to review Table 2.7.1 of the TSD and identify the new categories that were added in OTC 2006. Hearing Transcript at 29-30. The Illinois EPA’s response at paragraph 7 of its Post-Hearing Comments did not address the question that was asked at Hearing. See Illinois EPA Post-Hearing Comments at ¶ 7. Table 2.7.1 totals approximately to the 14.2% reduction the Illinois EPA claimed. It, therefore, follows that emission reductions from the new categories were not considered by the Illinois EPA, and are not necessary to achieve the required 14.2% emission reduction that the Illinois EPA is relying upon to attain its air quality goals. Note too that some of the categories were included in OTC 2006 for purposes other than VOM reductions.³ The Illinois EPA should provide explanation to the Board as to why it included the additional categories in its proposed rule. At present, the Illinois EPA has not yet provided such an explanation, nor did it respond to the question it was asked at Hearing on this particular issue. IERG respectfully requests that the Board require the Illinois EPA to provide such information to the Board for purposes of this rulemaking proceeding.

22. The Illinois EPA admitted that it did not include the ozone reducing impact of emission reductions from at least some of these categories. Hearing Transcript

³ See Exhibit 3 at 1, Note 1.

at 30-31. Further, the Illinois EPA admitted that it does not know the emission reductions to be achieved from adding these additional categories. Id. at 31.

23. The Illinois EPA was asked whether the OTC estimated emission reductions for the additional categories for OTC 2006. Hearing Transcript at 31. The Illinois EPA's response at paragraph 8 is not responsive. See Illinois EPA Post-Hearing Comments at ¶ 8. First, the reference to "response 8" is incorrect. Second, the Illinois EPA stated on several occasions during the Hearing that CARB, OTC and the State of New Jersey developed such estimates. In fact, the Illinois EPA even used the category breakdown from New Jersey as its basis for Table 2.7.1 of the TSD that provides a category-by-category breakdown of emission reductions. The Illinois EPA appears to have simply copied the information in its proposal directly from these sources without conducting any analysis as to the basis for each source. The Illinois EPA, in its Post-Hearing Comments, instead, stated that such analysis is not necessary because LADCO/MACTEC "considered" the additional categories. The Illinois EPA should explain for the Board in what way the additional categories were considered, and how, if at all, their emission reductions figured into the 14.2% reduction. IERG respectfully requests that the Board require the Illinois EPA to provide such information to the Board for purposes of this rulemaking proceeding.

24. As discussed at Hearing, Exhibit 3 denotes with an asterisk certain compounds that are affected by OTC 2006 and "may not cause or contribute to the formation of ozone, but due to their hazardous nature are included in [Exhibit 3] . . ." Exhibit 3 at 1, Note 1. The Illinois EPA admitted that it did not do an independent analysis of the compounds denoted with an asterisk to determine whether there was an air

quality impact on ozone formation. Hearing Transcript at 34-35. For example, the OTC noted the following new subcategories with an asterisk: (i) products containing ozone-depleting compounds; (l) requirements for contact adhesives, electronic cleaners, footwear or leather care products, and general purpose degreasers; (m) requirements for adhesive removers, electrical cleaners, and graffiti removers; (n) requirements for solid air fresheners and toilet/urinal care products. See Exhibit 3 at 27-29.

25. In paragraph 9 of its Post-Hearing Comments, the Illinois EPA noted that subcategory (i) of Exhibit 3 regarding “products containing ozone-depleting compounds”⁴ is “regulated for other purposes in Illinois and federally and should not be included in an area source VOM regulation.” Illinois EPA Post-Hearing Comments at ¶ 9. IERG agrees with this response of the Illinois EPA. However, no information has been provided by the Illinois EPA as to its basis for including (or not excluding) other new subcategories of compounds that, as the OTC stated, may not cause or contribute to the formation of ozone.

26. The Illinois EPA was asked whether it considered amending its proposal to be consistent with the technical and economic support it has provided (which clearly

⁴ In Exhibit 3, subcategory (i) stated the following: “*Products containing ozone-depleting compounds.* For any consumer product for which standards are specified under subsection (a), no person shall sell, supply, offer for sale, or manufacture for sale in (OTC State) any consumer product which contains any of the following ozone-depleting compounds:

CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane),
CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane),
CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane),
CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane),
halon 1301 (bromotrifluoromethane), halon 2402 (dibromotetrafluoroethane),
HCFC-22 (chlorodifluoromethane), HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane),
HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane),
HCFC-141b (1,1-dichloro-1-fluoroethane), HCFC-142b (1-chloro-1,1-difluoroethane),
1,1,1-trichloroethane, and carbon tetrachloride.”

Exhibit 3 at 27.

comes from OTC 2001), or in the alternative, whether it has considered offering the additional support needed to justify the rule it is proposing which is derived from OTC 2006. Hearing Transcript at 39. In paragraph 10 of its Post-Hearing Comments, the Illinois EPA stated that CARB researched the additional categories for the purpose of “similar rulemakings.” The Illinois EPA admitted throughout the Hearing that the OTC and CARB both had an additional goal of regulating hazardous air pollutants when they developed their rules. The OTC made this clear in the introductory notes of Exhibit 3. See Exhibit 3 at 1. The Illinois EPA should include all the documents it relied upon in developing its proposed rule, and not reference documents it did not use. For instance, if the Illinois EPA principally relied upon the MACTEC White Paper or the various versions of the OTC Model Rule, but did not review the references on which those documents are based, then the Illinois EPA should not cite them as a reference and not introduce them into the record, since they will only obfuscate the facts that are relevant to determining the Illinois EPA’s basis for its proposal.

27. The Illinois EPA was asked whether it would go forth and do its own technical analysis for the additional categories. Hearing Transcript at 40. The Illinois EPA’s response at paragraph 11 of its Post-Hearing Comments stated that it would not be doing such an analysis, and that the additional categories did not significantly impact the overall percentage emission reduction of the proposed regulation. Illinois EPA Post-Hearing Comment at ¶ 11. If that is the case, again, IERG questions why the additional categories are included in the proposal at all.

B. The Illinois EPA has Proposed a Rule Consistent with OTC 2006, yet Relied on OTC 2001 for its Economic Support

28. The Illinois EPA admitted that it did not do its own analysis of the compliance cost associated with adding the additional categories. Hearing Transcript at 32. Instead, Illinois EPA relied on the analysis of other resources as to the costs, and stated that, if other resources did not consider the costs, then the Illinois EPA would not have considered the costs. Id. The Illinois EPA also agreed that it is possible that it did not consider the cost of compliance associated with modified exemption (i). Id. at 33.

29. At Hearing, the Illinois EPA was asked whether it would go forth and do its own economic analysis for the additional categories. Hearing Transcript at 40. The Illinois EPA's response at paragraph 11 of its Post-Hearing Comments stated that it would not be doing such an analysis, and that the additional categories did not significantly impact the overall economic impact of the proposed regulation, which it stated in its TSD as being \$800/ton of VOM emissions reduced. Illinois EPA Post-Hearing Comments at ¶ 11. Yet, the updated MACTEC White Paper demonstrated that additional categories beyond OTC 2001 have a control cost of \$4,800/ton. MACTEC White Paper (March 10, 2006) at 2 and 6. Because of the significant economic impact of these additional categories, the Illinois EPA should be required to provide its own analysis of the compliance costs associated with the categories.

C. The Illinois EPA has not Provided Sufficient Support for its Proposal

30. The Illinois EPA was asked whether the Board should go forward with the adoption of the rule without technical and economic analyses for certain affected categories. Hearing Transcript at 40. In paragraph 12 of its Post-Hearing Comments, the Illinois EPA claimed that appropriate technical and economic analyses have been

performed for all affected categories. Illinois EPA Post-Hearing Comments at ¶ 12.

However, the information provided by IERG herein demonstrates that the Illinois EPA's claim is not supported by the record in this proceeding.

31. In light of the information contained herein, IERG respectfully requests the Board to consider the following three options as solutions for curing the deficiencies of the Illinois EPA's proposed rule:

Option 1 : The Board could choose to simply wait for the USEPA to adopt the federal consumer and commercial products rule. As detailed above, the USEPA is currently devoting its resources to evaluating the economics of OTC 2006, and anticipates issuing a proposed rule in late summer or early fall of 2008.

Option 2 : The Board could choose to proceed to First Notice on OTC 2001. Reliance on OTC 2001 would mean deletion of the categories added in OTC 2006 and use of exemption (i) from OTC 2001. This action is justified because, as detailed above, both the technical and economic support for the Illinois EPA's proposal that is currently in the record is for OTC 2001 only, and the 14.2% emission reduction derived from OTC 2001 was used by the Illinois EPA in its attainment demonstration.

Option 3 : The Board could choose to require the Illinois EPA to provide sufficient support and justification so that the Board may meaningfully consider the technical feasibility and economic reasonableness of OTC 2006.

IV. CONCLUSION

WHEREFORE, the ILLINOIS ENVIRONMENTAL REGULATORY GROUP hereby respectfully requests the Illinois Pollution Control Board to take action consistent with these comments.

Respectfully submitted,

By: /s/ Katherine D. Hodge
Katherine D. Hodge

Dated: July 25, 2008

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IERG:001/Filings/final Response to IEPA Post-Hearing Comments 7.25.08

Lauren C. Lurkins

From: Moore.Bruce@epamail.epa.gov
Sent: Friday, June 20, 2008 7:28 AM
To: Lauren C. Lurkins
Cc: Rosenthal.Steven@epamail.epa.gov
Subject: Re: Consumer Products Rule Status and Clarification.

Hi Lauren,

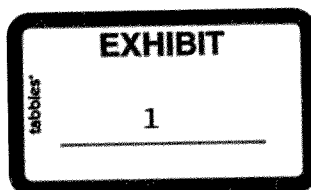
Yes, there is some confusion somewhere. The 183(e) Group IV activity will be 4 CTGs covering all 5 categories in Group IV (misc metal products coatings and plastic parts coatings are being addressed by a single CTG as "miscellaneous metal and plastic parts coatings"). We had originally considered doing a national rule for miscellaneous industrial adhesives, but on further consideration are developing a CTG instead. The Group IV proposal and draft CTGs should be signed by 6/27 and the notice should be published in the FR in early July. There will be a 30 to 45 day comment period (depending on whether a hearing is requested). We are under court order to finalize the CTGs by 9/30/08.

We have been on hold with the CP and AIM rule amendments (being done jointly in a single action amending both subparts C and D of Part 59). We were having trouble assessing the cost impacts on companies who are not currently manufacturing products that comply with California or other State rules more stringent than our old 1998 rules for these categories. We've come up with a possible solution and will be getting further information from the trade associations (CSPA, NPCA, etc.) to fill in the gaps using a tool that they helped us develop. If this works, we plan to propose these amendments in late summer or early fall, with promulgation following in spring of 2009 (following the Administration transition -- there will be a moratorium on most final rules between November and March or April). We expect to have the compliance date January 1, 2010 for both amended rules. I know we're WAY behind on our commitment to the States to get these rules out.

I hope that helps answer your questions and clarify what's going on.

Bruce

Bruce Moore
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CERTIFICATE OF SERVICE

I, Katherine D. Hodge, the undersigned, hereby certify that I have served the attached ENTRY OF APPEARANCE OF ALEC M. DAVIS and ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S RESPONSE TO ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S POST-HEARING COMMENTS on behalf of the Illinois Environmental Regulatory Group upon:

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via electronic mail on July 25, 2008; and upon:

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by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois, on July 25, 2008.

By: /s/ Katherine D. Hodge
Katherine D. Hodge