

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PROPOSED NEW 35 ILL. ADM. CODE)
PART 223 STANDARDS AND) R08 - 017
LIMITATIONS FOR ORGANIC) (Rulemaking - Air)
MATERIAL EMISSIONS FOR AREA)
SOURCES)
)

NOTICE

TO:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the TESTIMONY OF RORY DAVIS and ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST ERRATA SHEET TO ITS PROPOSAL FOR THE ADDITION OF 35 ILL. ADM. CODE 223 a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

DATED: April 16, 2008

1021 North Grand Avenue East
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

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TESTIMONY OF RORY DAVIS

My name is Rory Davis. I am an Environmental Protection Engineer in the Air Quality Planning Section, Air Pollution Control Division of the Illinois Environmental Protection Agency's ("Illinois EPA" or "Agency") Bureau of Air. I have been employed by the Agency in the Air Quality Planning Section for two and one half years. Prior to that, I worked at the Illinois Department of Transportation for four years as an Engineering Technician. I have a Bachelor of Science degree in Computational Physics as well as a Bachelor of Science degree in Mathematics from Illinois State University. I also have a Masters degree in Engineering from the University of Illinois at Chicago. My graduate studies consisted of an interdisciplinary program involving coursework from the Chemical Engineering and Mechanical Engineering fields with a concentration on Environmental Engineering.

In my current position with the Agency my duties include providing technical support for regulatory proposals. I will be providing testimony regarding the proposed rule regulating consumer and commercial products, architectural and maintenance coatings, and aerosol coatings.

Proposed Regulation for Consumer Products, Architectural and Industrial Maintenance ("AIM") Coatings and Aerosol Coatings

The Illinois EPA has proposed the regulation for consumer products, AIM coatings, and aerosol coatings in order to reduce emissions of volatile organic material ("VOM") from the affected categories. The proposed regulation sets VOM content limits for consumer products and AIM coatings sold in Illinois, and the aerosol coatings portion of the rule is intended to limit VOM emissions from those coatings through a reactivity-based standard. Under the proposed rule non-compliant products from these categories would not be allowed to be sold in Illinois, offered for sale in Illinois, or supplied or manufactured for sale in Illinois after January 1, 2009. It is the position of the Illinois EPA that these rules will have the effect of aiding in the attainment of the National Ambient Air Quality Standards for ozone, and that the rule is both technically feasible and economically reasonable.

In drafting the proposed regulation, the Illinois EPA sought at all times to ensure that the regulation would be as consistent as possible with similar regulations in other parts of the country. This aspect is especially important in rules regulating commonly used products to ensure that uniform products can be sold and used in regions with similar limits, and to reduce the cost to industry of implementing rules by limiting the cost of reformulation, packaging, and shipping. The Illinois EPA conducted extensive outreach with the affected industries in order to address these concerns, and has proposed a regulation that reflects these efforts and the input of a number of specifically affected parties. To my knowledge, the proposal has addressed all concerns that were presented during outreach to the satisfaction of the affected parties and the Agency.

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The consumer products and AIM coating portions of the proposed rule are based on rules currently in effect in the Ozone Transport Commission ("OTC") states in the Northeast of the United States. The aerosol coatings portion of the rule is based upon the California Air Resources Board ("CARB") rule affecting the same source category, as well as on a proposed federal regulation, that was likewise based on the CARB rule. It is my understanding that proposals mirroring the three portions of the proposed regulation are in various stages of development for consideration as national rules set forth by the United States Environmental Protection Agency ("USEPA"). The Illinois EPA has determined that it is in the best interest of the State of Illinois, in order to meet ozone attainment goals, to go forward with state rules regulating these specific source categories in order to ensure an effective date of January 1, 2009. At the time the proposed regulation was submitted to the Board it was considered unlikely that national rules for these source categories would be finalized and in effect by January 1, 2009.

Reduction of VOM in Illinois Due to the Proposed Rules

Based upon estimates by the OTC and the Lake Michigan Air Directors Consortium ("LADCO") in the cases of the consumer products and AIM coatings, and by CARB in the case of aerosol products, significant reductions of VOM from the affected source categories will be achieved by the adoption of the proposed regulation. In some cases the following reduction estimates may be slight over estimates due to the aforementioned similar rules in the OTC and California having the effect of some national manufacturers selling compliant products nationwide in response to regional rules. However, in all cases the reductions are stated in terms of reductions for 2002

inventory estimates, and over estimates of reductions would simply reflect reductions that have already occurred due to these similar regional rules.

In the case of consumer products, it was estimated that a reduction of 14.2% from 2002 VOM levels from the source category could be achieved by the adoption of the proposed rules. This would account for a reduction of approximately 17.72 tons of VOM per day, or around 6468 tons of VOM reduction per year in Illinois. This also equates to a reduction of almost 1% of total anthropogenic VOM emissions statewide.

In the case of AIM coatings, it was estimated that a reduction of 21% from 2002 VOM levels from AIM coatings could be achieved by the adoption of the proposed rules. This would account for a reduction of approximately 12.21 tons of VOM per day or around 4456 tons of VOM annually.

In the case of aerosol coatings, it was estimated that the proposed limits would result in a 19.4% reduction of VOM emissions from aerosol coating products beyond the current federal rules. This would account for a reduction of approximately 1.97 tons of VOM per day or around 719 tons of VOM per year.

The Proposed Rule is Economically Reasonable and Cost Effective

The costs associated with the proposed regulation are based on research conducted and data collected by CARB and the OTC. These cost figures are discussed in greater detail in the technical support document for this rule, and are broken down into specific costs for each product in the broader categories. The detailed presentations of the cost estimates can be found for consumer products in sections 2.5 and 2.6 of the technical support document; for AIM coatings in sections 3.4 and 3.5; and for aerosol

coatings in sections 4.5 and 4.6. These cost estimates fall within a range generally considered to be cost effective and reasonable.

It should be noted, as it is in the technical support document, that the cost estimates for all three portions of the proposed rule are most likely over-estimates due to similar rules being in effect in the OTC States and in California. Manufacturers of affected products and their consumers have already assumed a great deal of the costs because research and development of alternative compliant products, including alternative delivery systems, reformulations, and repackaging, has been conducted for the similar rules in other regions of the United States.

On a dollar per ton basis the cost effectiveness of each portion of the proposed rule is stated in the technical support document as approximately \$800 per ton of VOM for consumer products, \$6400 per ton of VOM for AIM coatings, and \$1272 per ton of VOM for aerosol coatings. As stated above, it is reasonable to assume, especially in the case of AIM coatings, that these figures are over-estimates for the cost of implementation in Illinois that include initial costs that will not be incurred because of existing similar rules in other regions.

Proposed Regulation is Technically Feasible

As previously noted, regulations with identical VOM limits to those in the proposed rule are in effect in the OTC region and California. This is evidence that the proposed limits are technically achievable, and indeed compliant products in every product category are commercially available and in use in these regions. More detailed discussions of the technical feasibility of the proposed limits can be found in the technical

support documents written by CARB and the OTC in support of their current regulations that the proposed rule has been based on. These documents have been submitted as supporting documents for this rulemaking process. This support for the feasibility of the limits was, of course, composed before the OTC and CARB rules were adopted, and has since been confirmed by the availability of compliant products where these rules are in effect.

Summary of Testimony

In summary, the proposed rule for consumer products, AIM coatings, and aerosol coatings is an economically reasonable and cost effective measure for reducing VOM emissions from the affected source categories on a statewide basis. The product VOM limits in the rule are also technically feasible, and have been achieved where the aforementioned OTC and CARB rules are in effect. My belief is that the Illinois EPA has proposed a well constructed and well considered rule that reflects the experience gained from similar rules and the extensive input of the affected industries.

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST ERRATA SHEET TO ITS PROPOSAL FOR THE ADDITION OF 35 ILL. ADM. CODE 223

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorney Charles E. Matoesian, and submits this First Errata Sheet to its proposal for the addition of 35 Ill. Adm. Code 223. The Illinois EPA proposes the following amendments to the text of the rules submitted in its proposal to the Board dated January 2, 2008:

1. *Amend Section 223.270(b) to clarify that companies only have to submit ozone-depleting compound information to the Illinois EPA upon request. It was not intended that companies should be required to provide this information without a request from the Illinois EPA.*
 - b) In addition to the requirements of subsection (a)(6) of this Section the responsible party shall report or shall arrange to have reported to the Agency, upon request, the net percent by weight of each ozone-depleting compound which is:
 - 1) Listed in Section 223.210(a); and
 - 2) Contained in a product subject to reporting under subsection (a) of this Section in any amount greater than 0.1% by weight.
2. *Amend Section 223.270(c) to say that manufacturers need only submit to the Illinois EPA the information requested in subsections (a) and (b) of Section 223.270 upon request. It was not the intention of the Illinois EPA to require every manufacturer to submit information every time they sell a new product in Illinois.*

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- c) In addition, all manufacturers must submit to the Agency upon request, the information requested in subsections (a) and (b) above upon commencement of the selling of each such product in Illinois.
3. *Amend Section 223.310(a)(29) so that it correctly states the limit for Nuclear Coatings VOM Content as 450 Grams/liter and pounds/gallon of coating. The OTC model rule amended the figure but it was inadvertently left the same.*

29) Nuclear Coating 450 (3.8)

~~29) Nuclear Coating 550 (4.6)~~

4. *Amend Section 223.440(d) to say that companies only have to send us the explanation of date codes for aerosol coating products upon request by the Illinois EPA. It was not the intention of the Illinois EPA to require this information from all companies for all products.*

- d) For any aerosol coating product subject to Section 223.410(a), if the manufacturer or responsible party uses a code indicating the date of manufacture or an abbreviation of the coating category as defined in Section 223.407, an explanation of the code or abbreviation may be requested by ~~must be filed with~~ the Agency. ~~prior to the use of the code or abbreviation.~~

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

Charles E. Matoesian
Assistant Counsel

DATED: April 16, 2008

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have electronically served the attached TESTIMONY OF RORY DAVIS and ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST ERRATA SHEET TO ITS PROPOSAL FOR THE ADDITION OF 35 ILL. ADM. CODE 223 upon the following person:

John Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

and mailing it by first class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

SEE ATTACHED SERVICE LIST

ILLINIOS ENVIRONMENTAL
PROTECTION AGENCY

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

DATED: April 16, 2008

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SERVICE LIST

Timothy Fox, Hearing Officer
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Mark A. Biel
Chemical Industry Council of Illinois
400 W. Monroe, Suite 205
Springfield, IL 62704

Matthew J. Dunn, Chief
Office of Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, IL 60602

Katherine D. Hodge
Monica Rios
215 E. Adams St.
Springfield, IL 62701

Virginia I. Yang
Illinois Department of Natural Resources
Office of Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271