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APPEARANCES

Board Members present:

Chairman G. Tanner Girard
Board Member Thomas E. Johnson
Board Member Nicholas J. Melas
Board Member Andrea S. Moore

Board Staff Members present:

Anand S. Rao, Senior Environmental Scientist

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On behalf of the Illinois EPA

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On behalf of Illinois Environmental
Regulatory Group and Willert Home
Products

NATIONAL PAINT & COATINGS ASSOCIATION, INC.
BY: Ms. Heidi K. McAuliffe
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Washington DC 20005
On behalf of National Paint & Coatings
Association, Inc.

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PROCEEDINGS

(April 30, 2008; 9:06 a.m.)

HEARING OFFICER FOX: Good morning, everyone, and welcome to this Illinois Pollution Control Board hearing. My name is Tim Fox and I am the hearing officer for this rulemaking proceeding, which is entitled "Proposed New 35 Illinois Administrative Code Part 223 Standards and Limitations for Organic Material Emissions for Area Sources." The Board's docket number for this rulemaking is R08-17. The Illinois Environmental Protection Agency filed this rulemaking proposal on January 2 of this year, 2008, and the Board accepted it for hearing in an order dated January 24 of 2008.

I want to introduce all those who are present here from the Board today. At my immediate right is Board Member Andrea Moore, who is the lead board member for this rulemaking, and two persons to my left is the Board's acting chairman, Dr. G. Tanner Girard. Also present at the far -- my far left is Board Member Nicholas J. Melas and, to my far right, Board Member Thomas E. Johnson. Also present, of course, at my immediate left is Anand Rao of the Board's technical staff, and I would also want to point out in the aqua jacket toward the back of the room Marie Tipsord, who is

1 Acting Chairman Girard's attorney assistant and doubtless
2 known to virtually everyone in the room. I wanted to
3 introduce Member Moore, if she wanted to make any brief
4 comments at the commencement of the hearing.

5 BOARD MEMBER MOORE: Only to welcome
6 everyone here this morning in an effort to try and
7 establish a really good and thorough record to make a
8 good, solid decision.

9 HEARING OFFICER FOX: Very good. Today, of
10 course, is the first rulemaking -- first hearing in this
11 rulemaking. The second is now scheduled to take place
12 beginning on Wednesday, June 4, in Chicago. The
13 proceeding is governed, of course, by the Board's
14 procedural rules. All information that is relevant and
15 that is not repetitious or privileged will be admitted
16 into the record. Please note that any questions that are
17 posed today either by the board members or by the Board's
18 staff are intended solely to assist in developing a clear
19 and complete record for decision and would not reflect
20 any prejudgment or predetermination on the proposal
21 itself.

22 For this first hearing, the Board on April 16,
23 2008, received prefiled testimony from the Illinois
24 Environmental Protection Agency by Mr. Rory Davis. On

1 the same date the Board also received prefiled testimony
2 from the National Paint & Coatings Association by
3 Ms. Heidi K. McAuliffe, and on April 14 of 2008 the Board
4 received prefiled testimony from the Consumer Specialty
5 Products Association by Mr. Joseph Yost.

6 We will begin the hearing with prefiled
7 testimony. Having discussed the procedural issues with
8 the participants before hearing, we will begin with the
9 Agency, which is the proponent, of course, of this
10 rulemaking, and any summary that they might like to offer
11 will of course be followed by questions that those who
12 are present here today may have for them on the basis of
13 that prefiled testimony. We would then turn to Mr. Yost,
14 who again is appearing on behalf of the Consumer
15 Specialty Products Association, and then would turn to
16 Ms. McAuliffe. Mr. Biel was kind enough to let me know
17 as a procedural matter that Ms. McAuliffe was delayed in
18 her flight arriving in Springfield but suggested that she
19 was likely to be here within approximately an hour or
20 two, as I recall, based on her change of travel plans.

21 The court reporter of course would clearly
22 appreciate having everyone speak clearly and loudly and
23 avoid speaking at the same time as another person so that
24 she can have the simplest possible job in making a clear

1 transcript, but you're likely veterans of these things
2 and you knew that anyway.

3 Are there any questions at all about our
4 procedures as we get started? Very well. Mr. Matoesian
5 on behalf of the Agency, why don't we begin with
6 Mr. Davis. His prefiled testimony is of course admitted
7 as if read.

8 MR. MATOESIAN: Yes.

9 HEARING OFFICER FOX: Would he prefer to
10 start with a brief summary of any kind or go right to
11 questions?

12 MR. MATOESIAN: I think we're ready to go to
13 questions.

14 HEARING OFFICER FOX: Excellent. Why don't
15 we have the court reporter swear him in, of course, first
16 of all. Would you anticipate any other agency persons
17 fielding questions that we might need to swear in or
18 should we take care of that if it happens?

19 MR. MATOESIAN: If it happens, we can take
20 care of it.

21 HEARING OFFICER FOX: Very good.

22 (Whereupon the witness was sworn in by the
23 reporter.)

24 HEARING OFFICER FOX: And having been sworn

1 in, Mr. Davis, you're ready for questions. Are any of
2 the participants here -- do any of them have any
3 questions they would like to pose to Mr. Davis at this
4 time?

5 MS. LURKINS: I do.

6 HEARING OFFICER FOX: And please state your
7 name and any organization you might represent for the
8 record.

9 MS. LURKINS: My name is Lauren Lurkins and
10 I'm from Hodge Dwyer Zeman. I'm here on behalf of
11 Illinois Environmental Regulatory Group and on Willert --
12 and for Willert Home Products.

13 My first question is, I -- for Mr. Davis, I
14 can -- I see in your prefiled testimony but I'd like to
15 clarify, is it the intent of the Agency to follow the OTC
16 rule?

17 MR. DAVIS: Yes.

18 MS. LURKINS: And turning to the technical
19 support document that was used as the basis for the
20 proposal, the Table 2.7.1, the "Estimated VOM Emission
21 Reductions for Consumer Products," how were the emissions
22 in the table determined?

23 MR. DAVIS: Those were taken from I believe
24 a California assessment, and they were actually then

1 redone for New Jersey and we adjusted those for the
2 emission factors in Illinois.

3 MS. LURKINS: And I also noticed that when
4 reviewing the table there were a number of categories
5 that were included in the proposed rule but left off of
6 the support document. Could you tell me -- You know, for
7 example, number 8 in the rule, antiperspirants, is not
8 included in the emissions table. Number 58, toilet and
9 urinal care products, is also included in the rule but
10 not in the emissions table. Could you tell me why those
11 were left off?

12 MR. DAVIS: We actually didn't do our own
13 emission assessments for each product category. I
14 believe that when these were done, those products may not
15 have been in the list for the California Midterm Measures
16 II regulation, which is what the OTC model rule was based
17 off of, and then I think that was -- those were later
18 added and they -- I don't know that they ever did a -- an
19 emissions assessment for those specific products. Our
20 emission reduction estimates were taken from the MACTEC
21 white papers that were done for LADCO, and that included
22 the entire category, the consumer products, and didn't
23 break them down as -- in as much detail as the California
24 study.

1 MS. LURKINS: And how were the costs
2 determined?

3 MR. DAVIS: Those were also determined by
4 the -- from the California Midterm Measures II, and I had
5 stated in the -- in my testimony and the TSD, those were
6 probably overestimates, because most of the large
7 manufacturers of these products are marketing in
8 California and they'll not have to do as much
9 reformulation or R&D to formulate compliant products.

10 MR. RAO: Are they also marketing in OTC
11 states?

12 MR. DAVIS: Yeah, yeah, that -- also in the
13 OTC states they're -- you know, those rules go into
14 effect in 2009 also, so we would expect, you know, most
15 of the major manufacturers would have, you know, east
16 coast and California.

17 MS. LURKINS: My final question, I know that
18 USEPA is also coming out with a rule hopefully in May.
19 If they come out with something different from your
20 proposal, will you adjust your proposal to reflect that
21 information?

22 MR. DAVIS: Yeah. It was always -- well, we
23 would have to consider that, but it was always our
24 attempt to make our rules as consistent with the OTC

1 model rules, and I believe that's USEPA's intent also, to
2 make theirs as consistent with the state rules that are
3 out there already, so any changes I would assume we would
4 have to address.

5 MS. LURKINS: Thank you. Those are all my
6 questions.

7 HEARING OFFICER FOX: Thanks very much.
8 Mr. Yost?

9 MR. YOST: Yes, thank you, Mr. Fox.

10 Mr. Davis, two very quick questions. First of
11 all, if I may just preface my remarks by saying that your
12 agency did a commendable job of making this a very open
13 and transparent rulemaking process. You certainly
14 reached out to all the stakeholders and gave everybody an
15 opportunity to make suggestions, and we greatly
16 appreciate the extent to which the Agency really made
17 this very accessible and open to all potentially
18 interested stakeholders.

19 Secondly, also I'd like to say that I think as a
20 consequence, your proposed rule is pretty much dead-on
21 consistent with the OTC model rule, and the OTC model
22 rule provides a good framework. It's been used by 12
23 states and now Illinois, and I think it's a -- it would
24 provide significant benefits to this state, as it has

1 provided to other states.

2 Now to the question, two questions. The OTC
3 model rule provides a 90-day time period for responding
4 to requests for information, and not only is that in the
5 OTC model rule, but it's in the rules -- the regulations
6 that were promulgated by 11 other states and the District
7 of Columbia. The 30 days that the Department is
8 proposing, I understand 30 days may be consistent with
9 other regulatory frameworks that you have for other
10 potentially air regulations or other type of regulations,
11 but the 90 days is -- again, it's a standard. It's the
12 standard that's uniformly applied in these states, and
13 given the fact that many of these companies, as we
14 mentioned, are -- it was mentioned sell on a nationwide
15 basis, a number of these companies are multinational
16 companies, and to comply with a request for
17 information -- first of all, we support the right of the
18 Agency to ask for this information. It's critical for
19 enforcement purposes and we certainly support that. All
20 we're asking for is a more reasonable amount of time to
21 comply with an administrative requirement of producing
22 information, and we --

23 HEARING OFFICER FOX: Mr. Yost, I wonder if
24 we could interrupt just for a moment.

1 MR. YOST: Yes, sir.

2 HEARING OFFICER FOX: Since you've
3 approached offering testimony, if we could have the court
4 reporter swear you in, that'll take just a moment, and
5 then we can have you resume immediately.

6 MR. YOST: Thank you. I apologize.
7 (Whereupon the witness was sworn in by the
8 reporter.)

9 HEARING OFFICER FOX: I'm sorry for the
10 interruption.

11 MR. YOST: No, no, and certainly, Mr. Fox, I
12 apologize. I didn't mean to sort of cross that line of
13 testimony.

14 But would your agency consider amending the
15 proposed rule so that it in this case would be consistent
16 with the model rule and the rule regulations -- final
17 regulations in 11 other states with the 90-day time
18 period?

19 MR. DAVIS: Yeah, that's certainly something
20 we'd consider. Like you said, that was from our
21 compliance section. They thought that 90 days was a
22 little long. As far as I'm concerned, if it, you know,
23 keeps it consistent with the OTC model and, you know, any
24 other forthcoming rules, then I would be amenable to

1 that. It didn't end up in the errata. You know, we were
2 still having conversations about that within the Agency,
3 but I would certainly say that that's something we can
4 consider, you know, if that's going to be a major problem
5 for larger companies. One reason we didn't go right away
6 and -- or to a 90-day is that we don't really ask for any
7 reporting --

8 MR. YOST: Sure.

9 MR. DAVIS: -- and all of our reporting is
10 upon request.

11 MR. YOST: Okay.

12 MR. DAVIS: So the difference would be that
13 the 90 days that some states ask for, they're requiring
14 reporting, and we didn't anticipate, you know, actually
15 receiving reports.

16 MR. YOST: Okay. Absolutely, and -- but I
17 think also, Mr. Davis, with these -- the type of
18 information, product formulation, etc., that is
19 contemplated in Section -- section number here --
20 223.270, that's somewhat -- those are the same type of
21 reporting requirements, for instance, that California has
22 and that other states with the OTC have.

23 MR. DAVIS: Right.

24 MR. YOST: And thus, again, we just urge the

1 Agency to consider that, because again, on other major
2 points, the proposed rule is entirely consistent with the
3 OTC model. And thank you for entertaining that
4 consideration. The second point -- and this is really a
5 procedural matter --

6 MR. RAO: Mr. Yost, before you go to the
7 second --

8 MR. YOST: Yes, sir.

9 MR. RAO: -- I had a follow-up relating to
10 this 30-, 90-day issue.

11 MR. YOST: Yes, sir.

12 MR. RAO: I noticed that in addition to the
13 Section 223.270 --

14 MR. YOST: Yes.

15 MR. RAO: -- there's another section,
16 233.275, which deals with consumer products that contain
17 perchloroethylene and methylene chloride.

18 MR. YOST: Yes, sir.

19 MR. RAO: That section also specifies a time
20 period for, you know, responding to agency requests for
21 information, and it's -- I think the proposed time period
22 is 30 days.

23 MR. YOST: Yes, sir, that's correct.

24 MR. RAO: You're okay with that 30 days or

1 is the Agency also looking at -- to see if that needs to
2 be changed to 90 days?

3 MR. DAVIS: I would say if we were to change
4 one, we'd probably change them all.

5 MR. YOST: But -- And actually, Mr. Rao, if
6 I -- this reporting requirement would be for products
7 that contain these three chlorinated compounds. Several
8 other states have this. Not all the OTC states have
9 this, but most do. It's sort of the majority of the
10 states who have that. The companies would -- Actually,
11 in some states it's mandatory that they have to file
12 this, and I believe it's March 1 in several of these
13 states, so with this type of information, the companies
14 would have it readily accessible. Our concern really
15 goes to -- and so therefore we really don't object --
16 although for consistency it would be nice to have 90
17 days, but we don't object to 30 days there because,
18 again, the companies at least for other states have
19 already developed that information, but with the
20 reporting requirements in 223.270, that's much broader --
21 potentially broader in nature and companies may not have
22 already developed that for -- in response to requirements
23 in other states. But thank you. You raised a very good
24 point.

1 MR. RAO: Yeah.

2 MR. YOST: And the two time frames are
3 important, but this is the more -- at least from our
4 perspective the more important of the two we would
5 suggest the Agency consider making revisions to.

6 MR. RAO: Okay. Yeah. I just wanted to
7 make sure that you were aware of that section.

8 MR. YOST: Yes, sir.

9 MR. RAO: Thirty days. Thank you.

10 MR. YOST: Thank you, Mr. Rao. Appreciate
11 it.

12 And then one other issue, Mr. Davis, the date --
13 the requirement for companies to file information about
14 their date codes, and again, this date codes,
15 companies -- and this is an essential provision of this
16 rule and essential provision of other states' consumers
17 products rule. The companies must have a date of
18 manufacture on their products. We certainly support
19 that. It's necessary. It's the way agencies can ensure
20 compliance, and we support the Agency's draft proposal to
21 follow California in providing for either a date of
22 manufacture, like let's say today, 4-30 of '08, or a
23 Julian date code in a specified format, and this is
24 consistent with California and consistent with the OTC

1 model, and also to provide some companies the flexibility
2 to have individual date codes. Date codes are used not
3 just only to convey information about dates, but many
4 companies use them for control purposes. They can tell
5 the batch the product was made, the plant, etc., and so
6 it has a wealth of information, and some companies like
7 to have unique date codes, and as the Agency has
8 proposed, those companies have to file an explanation,
9 which we fully support.

10 The problem is that when the OTC model was
11 drafted, it was drafted with the anticipation that the
12 rule be promulgated well before a year's time. The way
13 this rule is currently drafted, the companies would have
14 to provide information to the Agency no later than 12
15 months before the effective date of the standards in this
16 rule, which would be essentially 1-1-08. Well, this --
17 as you can tell, this is not even a final rule yet, so it
18 would have been impossible for companies to comply with
19 this. What we're asking is a very modest technical
20 amendment that would allow companies to provide
21 information six months after the date that this rule
22 becomes promulgated as a final rule, and as a precedent
23 for that -- although it's not binding precedent but it's
24 merely a persuasive precedent -- Michigan for instance,

1 Michigan came out with a rule -- it took them a while to
2 get the -- their first go-around -- back in 2006, I
3 believe, 2005, 2006. The years blend together. But they
4 did not promulgate the final rule until January, and
5 technically the company should have -- January 27.
6 Technically the company should have filed their date code
7 information on January 1. Michigan gave them until
8 July 1 to file information.

9 And so since we don't know exactly when this rule
10 will be promulgated as final, I would suggest that
11 instead of putting date certain, words to the effect
12 that -- again, it's provided in the testimony, but six
13 months after the date of promulgations of final rule,
14 that would give companies ample time to comply with this
15 and to give the Agency the information that's necessary
16 but also will ensure that companies don't unintentionally
17 violate an administrative provision of this rule.

18 MR. DAVIS: The Section 223.250, I believe
19 in our errata we tried to get most of the reporting on an
20 upon-request basis, and I believe we just missed putting
21 that on the product data.

22 MR. YOST: Okay.

23 MR. DAVIS: So actually, we wouldn't be
24 requesting or requiring -- if a company doesn't use a

1 Julian date code, we wouldn't really -- we'd like to not
2 require that they send us a report on their date coding
3 system and that the -- we would probably like to require
4 them to submit that explanation upon request, and that --
5 you know, if that -- we were to go 90 days, then that
6 would probably be a 90-day switch also, you know, but I
7 think that just didn't get into the errata. And we have
8 been receiving date codes, quite a few, and we never
9 really intended on receiving all of them, and the way the
10 OTC rule is written, people were, you know, submitting
11 them before we even had a final rule, and then we were
12 going to put that in the errata that those reports should
13 be submitted upon request.

14 MR. YOST: Mr. Davis, that's all the
15 questions I have. Thank you very much, sir.

16 MR. RAO: Just a follow-up. How will the
17 Agency know when to request that information? How will
18 you know these regulated entities are using unique date
19 codes if they don't let you know?

20 MR. DAVIS: As far as enforcement goes, the
21 date code is the enforcement mechanism. You know, they
22 have to be date coded. If they have a date code on them
23 that it's -- you know, it's obviously other than a Julian
24 date, then we'll request them. The enforcement we

1 foresee being, you know, spot checks and, you know, of
2 course if there are any complaints, but then, you know,
3 if they -- if that were the case, if it were not a Julian
4 date code, then, you know, we'd request that. Also we
5 had considered that, you know, a lot of other states are
6 receiving these codes too, so we may be able to get in
7 touch with them.

8 BOARD MEMBER JOHNSON: So are you going to
9 be in charge of the roving teams of agency people going
10 to Schnucks to check the --

11 MR. DAVIS: No, I will not be doing that.

12 HEARING OFFICER FOX: But just to -- and I'm
13 sorry to interrupt you, Mr. Rao.

14 MR. RAO: Yeah.

15 HEARING OFFICER FOX: It sounded as if you
16 had considered -- and I don't mean to commit you to
17 this -- a second errata sheet that would address that
18 issue among any others that might arise?

19 MR. DAVIS: Sure, yeah.

20 HEARING OFFICER FOX: Very good. Were there
21 any other questions for Mr. Davis? Mr. Biel, if you'd
22 identify yourself, please, for the --

23 MR. BIEL: Yeah. Mark Biel, executive
24 director of the Chemical Industry Council of Illinois. I

1 also have the pleasure of representing National Paint &
2 Coatings Association of Illinois. As part of some
3 comments that were filed by National Paint & Coatings
4 regarding the AIM rule, there was a concern regarding
5 labeling requirements --

6 MR. DAVIS: Right.

7 MR. BIEL: -- and I -- the proposed rule
8 stipulates VOM content of the coating be displayed on the
9 can, and what National Paint & Coatings had requested was
10 the possibility that for Section 223.320, Section (c),
11 clarifying that either VOM content or VOC content may be
12 displayed on the can, and for consistency purposes, I
13 think that was something they would like to see and
14 eliminate some confusion.

15 MR. DAVIS: Right. We did consider that.
16 We'll have to take a second look at that. That could be
17 included. We did in our definition try to clear that up,
18 that VOM content is VOC content. I suppose it could read
19 clearer in the rule. It wasn't our intent that products
20 sold in Illinois would have to be labeled with a VOM
21 rather than VOC. Obviously, if they have a VOC content,
22 that would -- you know, it was our intent from the
23 definition of VOM and VOC in the definition section that,
24 you know, if you have a VOC content on your label, then

1 obviously that would be fine for a VOM. We can consider,
2 you know, in Section (c) here VOM or VOC content maybe
3 with some quotation marks. I don't know exactly how we'd
4 write that. But it really wasn't our intent to have
5 separate labeling for Illinois and other states.

6 MR. BIEL: Okay. Mr. Fox, that was the only
7 question I had. I did talk to Heidi. She was at the
8 airport as of -- Springfield airport as of ten minutes
9 ago. You know how abundant the cabs are out there, so
10 she was hopeful that she would be here relatively
11 quickly, and that was ten minutes ago, so --

12 HEARING OFFICER FOX: Very good. I
13 appreciate the update. Certainly we can continue in the
14 meantime with any additional questions. Ms. Lurkins?
15 Mr. Yost?

16 MR. YOST: Those are all the questions I
17 have, Mr. Fox.

18 HEARING OFFICER FOX: We can certainly
19 return to you. I suspect that there are board members
20 and staff that have some questions for you, Mr. Davis.
21 Mr. Rao, please go ahead.

22 MR. RAO: Mr. Davis, on page 3 of your
23 testimony, you state at the time the proposed regulation
24 was submitted to the Board, it was considered unlikely

1 that national rules for these sources to be finalized and
2 in effect by January 1, 2009. As indicated by National
3 Paint & Coating Association, the USEPA has finalized its
4 proposal for aerosol coating. Would you please comment
5 on whether the Board should continue to consider the
6 portion of the Agency's proposal dealing with aerosol
7 coating since NPCA has recommended that we withdraw that
8 portion of the rule?

9 MR. DAVIS: We were doing some -- We looked
10 into this prior to this hearing. The aerosol portion
11 that has the USEPA -- or the national rule is -- has been
12 finalized, and I believe that legal challenges are open
13 until May 23. If that were to clear all the challenges
14 and becomes a final rule, then we would consider
15 withdrawing that portion of the rule.

16 MR. RAO: I have a related question. In
17 terms of how those rules are implemented in Illinois,
18 with a number of other air rules, when USEPA adopts a
19 rule, we still go through the rulemaking at the state
20 level. Would these rules -- if the USEPA adopts, you
21 know, the coating rules and it, you know, goes through
22 the appeal period, will that become self-implementing in
23 the state and we don't have to go through this
24 rulemaking?

1 MR. DAVIS: I believe so. Well, for the
2 aerosol portion, yeah, I believe that -- I don't think
3 that we have to do a state rule when the national rule
4 becomes effective. Is that -- Was that your question?

5 MR. RAO: Yes.

6 MR. DAVIS: It's self -- okay.

7 MR. RAO: Yeah. And --

8 HEARING OFFICER FOX: Mr. Davis, do you --
9 you have referred and other participants have referred as
10 well to the USEPA's final action on that aerosol coating
11 issue. Do you by any chance have available for
12 introduction as an exhibit in this proceeding a copy of
13 that document from the Federal Register or other legal
14 source?

15 MR. DAVIS: I believe at my desk I do.

16 MR. MATOESIAN: I have one at my desk too as
17 well.

18 HEARING OFFICER FOX: Is that something that
19 perhaps if we take a break we could have you introduce
20 after the break?

21 MR. MATOESIAN: Sure.

22 HEARING OFFICER FOX: Excellent. That'd be
23 very helpful for the Board's record. I'd appreciate it.

24 MR. MATOESIAN: Actually, I brought a copy

1 with me, if you'd like.

2 (Discussion held off the record.)

3 MR. RAO: Mr. Davis, on page 5 of your
4 testimony you state that the regulations with identical
5 limits in the OTC region and California support the
6 technical feasibility of the proposed rules since they
7 already adopted these rules. Could you please comment on
8 whether any of the Region 5 states are planning to adopt
9 or already have adopted similar rules?

10 MR. DAVIS: I believe that Ohio has already
11 adopted. I'm not sure about Michigan. They were having
12 some trouble. I think they -- Michigan also -- Michigan
13 and Ohio. I don't believe Indiana or Wisconsin yet.

14 MR. RAO: And I had a few questions
15 regarding the rule language. It's more --

16 MR. DAVIS: Sure.

17 MR. RAO: -- about consistency. The first
18 section is 223.203. I think it's the definitions
19 section, page 6 of the proposed rules. This section
20 states that definitions contained in this section apply
21 only to the provisions of this subpart, and when you go
22 to the first definition of adhesive, it states that
23 adhesive means for purposes of this part any product that
24 is used to bond one surface to other materials, so can

1 you please clarify whether this definition extends beyond
2 the subpart or is it applicable only to subpart (b)?

3 MR. DAVIS: That would be -- It should just
4 be for the subpart, and in doing the definitions, we had
5 them separate and then we had them together and then we
6 separated them again at the request of one of -- you
7 know, one of our stakeholders. We should probably check
8 and see if there's any --

9 MR. RAO: Okay.

10 MR. DAVIS: -- any more, but I would say
11 that that's a good catch and that that should be changed.
12 And all the definitions should be for the subpart only --

13 MR. RAO: Okay.

14 MR. DAVIS: -- because having definitions
15 for all three parts did cause a few problems, so we
16 separated them back out. Usually the definitions are all
17 at the beginning, but --

18 BOARD MEMBER JOHNSON: And you were
19 referring to adhesives.

20 BOARD MEMBER MOORE: Right.

21 MR. RAO: Yeah.

22 BOARD MEMBER JOHNSON: Okay.

23 MR. RAO: And, yeah, we did go through the
24 rules, you know, maybe not in-depth since our rulemaking

1 coordinator just left our agency, so we may find more of
2 this and bring it up at the second hearing. Okay. The
3 second question on the rules is at Section 223.207. It's
4 on page 36 of the rule. This section sets forth that the
5 effective date of VOM standards for consumer products
6 that are registered under Federal Insecticide, Fungicide
7 and Rodenticide Act, also known as FIFRA, will be January
8 1, 2010. Could you please explain why the compliance
9 date for these products are set one year later than the
10 others?

11 MR. DAVIS: I believe that that was to give
12 those products maybe a little bit more time to
13 reformulate. If Mr. Yost has -- --

14 MR. YOST: Actually, if I can address that,
15 Mr. Rao, the CSPA represents a large number of consumer
16 products that are regulated by FIFRA. For instance, if
17 something kills mold and mildew, that's a FIFRA-regulated
18 product. You don't normally think of that as a
19 pesticide, but it is. That product is regulated by
20 the --

21 MR. BIEL: The Department of Agriculture.

22 MR. YOST: Okay. The Department of
23 Agriculture regulates pesticides. If there's any change
24 in formulation or labels, manufacturers of regulated

1 pesticide products have to get approval by USEPA and in
2 Illinois by the Department of Agriculture. Thus, the --
3 all the state rules that -- for consumer products,
4 California, OTC-based rules, etc., provide one additional
5 year because it takes that additional time to work
6 through other sister agencies to get approval for any
7 type of change, even a label change, for instance, so
8 that's the rationale for that additional year. And
9 again, this provision is dead-on consistent with existing
10 California regulations and every other state consumer
11 product regulations based on the OTC.

12 MR. RAO: Thank you very much --

13 MR. YOST: Yes, sir.

14 MR. RAO: -- for the clarification. Next
15 one is on Section 233.208 on the same page. Subsection
16 (a) refers to California Code Section 41712, subsection
17 (h)(2). Could you please clarify whether this California
18 rule is incorporated by reference in the proposed rules,
19 or should we do that?

20 MR. DAVIS: I believe it was, but -- are you
21 suggesting it wasn't or --

22 MR. RAO: Well, no, because usually when you
23 cite to a rule, it also says as incorporated by reference
24 somewhere.

1 MR. DAVIS: Oh, I see.

2 MR. RAO: So I didn't see that.

3 MR. MATOESIAN: I would say -- It is
4 incorporated under 120(o), page 5, but we should have
5 stated as incorporated by reference, so we'll put that
6 into the errata.

7 MR. RAO: Okay. Thanks. And could you also
8 check if there are other sections in the rule that need a
9 similar fix?

10 MR. MATOESIAN: Okay.

11 MR. RAO: And my next question is on
12 223.230, subsection (e). It's on page 39. Subsection
13 (e) sets forth that VOM limits specified in 223.205(a)
14 shall not apply to any LVP-VOM. It's low vapor pressure
15 VOM. Could you please clarify whether this provision is
16 intended to exclude LVP-VOM in determining compliance
17 with the VOM standards that if a product containing
18 LVP-VOM would still be subject to the VOM standards if it
19 contains other types of VOMs?

20 MR. DAVIS: I'm not sure I understand your
21 question.

22 MR. RAO: If a product contains LVP-VOM, is
23 that exempted from the standard?

24 MR. DAVIS: I believe it's not counted in

1 the --

2 MR. RAO: It's not counted? But if it
3 contains other VOM, other types of VOM, it's still
4 subject to the standard.

5 MR. DAVIS: Yes.

6 MR. RAO: Okay. And that was just a
7 clarification. My final question is I think maybe a
8 typographical error, but I just wanted to get that on the
9 record. It's on Section 223.285, subsection (c). This
10 section refers to an ASTM standard. It's ASTM
11 D4359-90(2000)e1. Could you please clarify whether the
12 last two letters, "e1," referenced in the standard is a
13 typographical error, or is it part of the standard?

14 MR. DAVIS: I believe that should be e1.

15 MR. RAO: e1. Because when I look at the
16 incorporations by reference, I didn't see that as part of
17 the standard names. When you go to Section 223.120 on
18 page 4, it just lists this as --

19 MR. DAVIS: Sure.

20 MR. RAO: -- ASTM D4359-90. Could you
21 please just take a look at that and make sure we have the
22 correct name of the standard? That's all I have.

23 MR. DAVIS: Sure. I think that's just a
24 more specific cite.

1 MR. RAO: Okay.

2 MR. DAVIS: And one should --

3 MR. RAO: Maybe we just ought to fix the --
4 okay. Thank you very much.

5 HEARING OFFICER FOX: Do any of the board
6 members have a question for Mr. Davis? Mr. Yost?

7 MS. MCAULIFFE: Hi.

8 HEARING OFFICER FOX: I should have the
9 record reflect that you must be Heidi McAuliffe and that
10 you joined us during some of the questions that were
11 posed to Mr. Davis. Welcome. I'm sorry for your travel
12 difficulties.

13 MS. MCAULIFFE: Thank you very much, and I
14 do apologize for being late. I had intended to be here
15 yesterday evening and here on time for the hearing this
16 morning. So I do have just some -- a few questions, if
17 you don't mind.

18 HEARING OFFICER FOX: If you would just
19 identify yourself and the organization you represent for
20 the benefit of the court reporter, please go ahead.

21 MS. MCAULIFFE: Very good. My name is Heidi
22 McAuliffe. I am counsel for government affairs, National
23 Paint & Coatings Association. National Paint & Coatings
24 Association has a caulk, sealants and adhesives

1 committee. Our member companies that participate in that
2 committee manufacture caulks, sealants and adhesives that
3 are covered by the consumer products rule. We also have
4 a spray paint manufacturers' committee that consists of
5 manufacturers and suppliers to the aerosol coatings
6 industry, so I'm here on behalf of those members who are
7 covered by the consumer products rule and by the proposed
8 aerosol coatings rulemaking, the rule that you have in
9 front of you today.

10 With regard to the consumer products rule, I have
11 reviewed all the rules. With regard to the adhesives and
12 sealants provisions in there, I have found them to be
13 consistent with the OTC model rule and the California
14 rule, and I applaud your efforts on that behalf. We are
15 very concerned with consistency and uniformity across the
16 country with these regulations. I think the only concern
17 that we had was some of the reporting requirements.

18 HEARING OFFICER FOX: If I may interrupt
19 you, Ms. McAuliffe, I -- it's -- you're on the verge, I
20 think, of offering some testimony. Why don't we swear
21 you in so you can proceed right through that and then to
22 any questions that you might have. And I apologize for
23 breaking in.

24 MS. MCAULIFFE: Very good.

1 (Whereupon the witness was sworn in by the
2 reporter.)

3 HEARING OFFICER FOX: Sorry to interrupt
4 you. Please go ahead.

5 MS. MCAULIFFE: My only concern with the
6 consumer products regulation with regard to those
7 particular categories was the time requirement for
8 responding to a request for information, and I would urge
9 you to make that consistent with the OTC model rule, as I
10 think the time differences are much tighter in your
11 proposed regulation, and those are the types of
12 provisions that -- even though the standards and the
13 definitions are the same for manufacturers, those are the
14 types of provisions that can drive the regulatory people
15 crazy and tie them up for a period of time, whether
16 they're large or small companies, so I would encourage
17 you to address that.

18 With regard to the aerosol coatings, I understand
19 that I did miss the pivotal question that I came to ask
20 you about the aerosol coatings proposal, and that was how
21 you feel about the USEPA's final rule and whether or not
22 you would withdraw your rulemaking in the event there's
23 no challenge to it, so I think I would just like to add
24 on a few comments to that, as I'm pleased to hear that

1 you're -- you would consider withdrawing that rulemaking,
2 because I believe there would be very significant issues
3 for the Illinois EPA if you went forward with that
4 rulemaking. The table of MIR values is a very
5 significant item in that rulemaking that will require a
6 great deal of maintenance and care, I believe, over the
7 years; that I think it would be perhaps difficult for the
8 Agency, difficult I think very much for manufacturers
9 that have to comply with that rulemaking if we had to --
10 well, let me back up a little.

11 The table of MIR values is being updated right
12 now by California. That updating has to take place on a
13 periodic basis to reflect the current science for
14 reactivity. Once California updates their table of MIR
15 values, that sort of updating would have to take place
16 anywhere else that there is a reactivity rule where those
17 compounds have been incorporated into the rulemaking, so
18 EPA -- USEPA, now that they have their proposed
19 rulemaking out there with their own table of reactivity
20 values, will find themselves in a position to where they
21 have to update their table on a periodic basis, which is
22 a significant effort on their part, and I -- and for any
23 agency to go through that kind of a rulemaking on such a
24 very complex scientific issue, so I think it would be a

1 very wise decision on your part to avoid that type of
2 maintenance activity for the table of MIR values, and the
3 difficulty for manufacturers would be if there was
4 changes in California and then there was slightly -- you
5 know, a time lag between the changes in the EPA and then
6 there was a time difference between the changes in
7 Illinois, it would be very difficult for manufacturers to
8 maintain compliant products across the country if these
9 reactivity values were kind of changing in a wave, you
10 know, first in California, then somewhere else and then
11 somewhere else.

12 So we see that as a very significant issue with
13 the aerosol coatings category and a very difficult issue
14 to coordinate from state agency to state agency and
15 federal agency, so I would really encourage you to go
16 forward with your plans or your efforts to consider
17 withdrawing the aerosol coatings regulation.

18 HEARING OFFICER FOX: Very good. Did you
19 have questions, Ms. McAuliffe, that you'd wish to pose to
20 the Agency at this point?

21 MS. MCAULIFFE: The question I think I have
22 is what would be your time frame for withdrawing the
23 aerosol proposal?

24 MR. DAVIS: I believe May 23 is when the

1 national rule kind of gets out of the woods --

2 MS. MCAULIFFE: Right. That would be --

3 MR. DAVIS: -- for legal challenge. Sixty
4 days.

5 MS. MCAULIFFE: -- sixty days from the date
6 of final publication.

7 MR. DAVIS: And I think that's May 23. Our
8 second hearing is scheduled for --

9 BOARD MEMBER JOHNSON: June 4.

10 MR. DAVIS: -- June 4, so that would --

11 MS. MCAULIFFE: Okay. So assuming there's
12 no untoward events with regard to EPA's final rule, that
13 would be your --

14 MR. DAVIS: Yeah. It is our position we
15 will withdraw. At the time of filing we didn't have a
16 final rule.

17 MS. MCAULIFFE: Right.

18 MR. DAVIS: And we've been promised things
19 before.

20 MS. MCAULIFFE: I understand. So have we.
21 Very good. I think that's the only question that I had.

22 HEARING OFFICER FOX: Very good. Very good.
23 Mr. Yost, you had --

24 MR. YOST: Yes, if I may, yes, sir. I just

1 realized I forgot to ask a question.

2 Mr. Davis, one very quick question. In
3 Section 223.205, as it was set forth in the standards,
4 there is a list of sections; for instance, the FIFRA
5 section, the exemption section, the innovative product
6 provision and also the alternative control plan. Again,
7 these are dead-on consistent with the OTC model rule.
8 The one thing that I noticed there that was missing,
9 though, is a variance provision. Is there a general
10 variance provision in the Illinois EPA rules that would
11 be applicable here to the consumer product regulation as
12 well?

13 MR. DAVIS: I believe so. I think we took
14 out any variance procedure because Illinois has its own
15 variance procedures that we follow.

16 MR. YOST: Okay. I thought that might be
17 the case. I just wanted to confirm that.

18 MR. DAVIS: Yeah.

19 MR. YOST: And I think history, let's just
20 use California as a example. History shows that there's
21 a very limited number of variances that are requested,
22 but they are very important, so as long as there's a
23 mechanism in place, we greatly appreciate that insight.
24 Thank you.

1 HEARING OFFICER FOX: Were there any
2 participants at all with any additional questions for
3 Mr. Davis at the Agency? The Board's members or staff,
4 did they wish to bring anything up with him? Very good.
5 We appear to be complete with the questions based on your
6 prefiled testimony, Mr. Davis, and I appreciate it very
7 much on behalf of the Board, I'm sure. Thank you for
8 your time and your work.

9 What I would like to propose -- this is slightly
10 unusual in terms of timing -- is to take a very short
11 break very soon in the course of the hearing.
12 Mr. Matoesian did produce copies of the federal documents
13 that of course we've been referring to that have taken
14 action on the aerosol coatings issue. What I'd like to
15 do is just take a brief break to get copies of those so
16 that they can be provided, and we can entertain a motion
17 to admit them as an exhibit for this hearing and
18 certainly give everyone a chance to lodge any objections
19 that they might have on the admission of those documents.
20 Why don't we take a short break and resume at ten
21 o'clock, at which time we can take care of that, and,
22 Mr. Yost, we can turn to your prefiled testimony and any
23 questions that we might have of you.

24 MR. YOST: Thank you, Mr. Fox.

1 HEARING OFFICER FOX: Absolutely. We'll see
2 you here in ten minutes.

3 (Brief recess taken.)

4 HEARING OFFICER FOX: Thank you all for your
5 promptness in returning after the break, and I think
6 without surprising him I can turn things over very
7 quickly to Mr. Matoesian for a moment or two.

8 MR. MATOESIAN: Yes. I'll just introduce as
9 Hearing Exhibit 1 the Federal Register for Monday, March
10 24, 2008, which is the USEPA national volatile organic
11 compound emission standards for aerosol coatings final
12 rule, and then as Hearing Exhibit 2 I will admit a second
13 Federal Register from that same day that has a minor
14 amendment to the primary rule.

15 HEARING OFFICER FOX: And for the record,
16 thank you for your help in obtaining copies of those. I
17 appreciate it. And may I ask you to provide a copy to
18 the witnesses, please?

19 MR. MATOESIAN: Okay.

20 HEARING OFFICER FOX: And Mr. Matoesian has
21 distributed copies. Ms. Lurkins, were you able to get a
22 copy?

23 MS. LURKINS: Yes.

24 HEARING OFFICER FOX: I'm sorry. Was there

1 a motion -- If I have forgotten it, Mr. Matoesian, I'm
2 sorry. Was there a motion to admit that?

3 MR. MATOESIAN: Yes, I made a motion to
4 admit them.

5 HEARING OFFICER FOX: Was there any
6 objection on the part of any participant to the admission
7 of those? They will be admitted. As Mr. Matoesian
8 indicated, Hearing Exhibit No. 1 is the March 24, 2008,
9 Federal Register containing the final rule to which he
10 referred, and Hearing Exhibit No. 2 is from the same
11 March 24 Federal Register, the minor amendment to which
12 he also referred. Those will be admitted into the record
13 as those exhibit numbers.

14 When we broke for a few moments, Mr. Davis had
15 concluded his testimony and there were no apparent
16 further questions for him. Mr. Yost, that leads us to
17 you, as I think I indicated before the break. Your
18 prefiled testimony is of course admitted as if read into
19 the record on the basis of that prefiling a couple of
20 weeks ago. You've already been sworn in by the court
21 reporter, and if you would like to offer any summary of
22 your testimony, that would be great. We could also
23 proceed directly to questions if that would be your wish.

24 MR. YOST: Thank you. If I could just very

1 briefly summarize, Mr. Fox.

2 HEARING OFFICER FOX: Please go ahead.

3 MR. YOST: To very briefly summarize, the
4 CSPA, by way of explanation, represents a broad range of
5 consumer product manufacturers. We currently have
6 approximately 260 members, and they manufacture products
7 that are covered by this rule. In fact, at least
8 two-thirds of the proposed VOM limits here would have a
9 direct impact on CSPA member companies. CSPA has
10 participated very actively in the Illinois EPA
11 rulemaking, and we've also participated in every other
12 state that has initiated a rulemaking to develop a
13 consumer products regulation. We appreciate, again, the
14 very significant degree that the Agency went to to ensure
15 an open and transparent rulemaking process, but we
16 believe that the proposed rule is consistent with the OTC
17 model.

18 Again, we -- during the questions I raised two
19 technical amendments that we would like the Agency to
20 consider. We appreciate the Agency's willingness to
21 consider that. These standards are very stringent. They
22 will impose a burden, particularly on regional companies.
23 The CSPA represents a variety of companies, many who
24 market products on a nationwide basis, and to the extent

1 that these companies market products nationwide, they
2 generally comply with California VOC limits. California
3 would essentially set the lowest common denominator for
4 these nationwide manufacturers. Thus, those products are
5 compliant with California and are -- will be compliant
6 with the Agency's proposed limits.

7 The concern, however, is that there are regional
8 companies, companies that may not market products outside
9 of Illinois or, if they do market products outside of
10 Illinois, may not market products or sell products
11 outside even in some of the regional -- the states that
12 are contiguous with Illinois. For instance, Ohio has a
13 final rule, but that does not take effect until 1-1-09,
14 and Michigan has a final rule; I believe in 2006 it was
15 implemented. They amended that recently to include other
16 provisions that will ultimately make it entirely
17 consistent with what the Illinois EPA Agency is proposing
18 here.

19 But the point I'm trying to make is that it is
20 absolutely essential that adequate lead time be provided
21 for some of these regional companies. We don't represent
22 very many of those companies, so to a certain extent, I'm
23 not speaking directly for our members, although we may
24 have some that manufacture, a very limited number, but I

1 think the January 1, 2009, effective date is absolutely
2 critical. We support the Agency's adoption of that. It
3 is consistent with what the other states are doing.

4 So in summary, I'd just like to say that the
5 comprehensive strategy that the Agency has developed will
6 achieve benefits for this state, and the fact that it's
7 uniform makes it feasible for companies, especially large
8 companies, to comply with these Illinois regulations.
9 Again, we appreciate the opportunity to address the
10 Board. If there are any questions, I'll be happy to
11 answer any that you may have.

12 HEARING OFFICER FOX: Very good. Thank you,
13 Mr. Yost. Were there questions on the part of any of the
14 participants in this hearing? Anything they'd like to
15 direct to Mr. Yost? Seeing none, did anyone from the
16 Board, either the members or the staff, have a question
17 for Mr. Yost on the basis of his testimony?

18 MR. RAO: I just had one question.

19 MR. YOST: Certainly, Mr. Rao.

20 MR. RAO: It's mainly related to the USEPA's
21 rulemaking on consumer products. In your testimony you
22 had indicated that those rules may be finalized in
23 May 2008.

24 MR. YOST: Yes, sir.

1 MR. RAO: Do you have any idea as to whether
2 it's moving along to meet that deadline or --

3 MR. YOST: Based on recent discussions with
4 the USEPA staff that's responsible for developing that
5 rule, May is the target date, and in terms of the
6 implementation date, it could possibly be May of 2009 or
7 maybe August of 2009. The lead staff person is a
8 gentleman named Mr. Bruce Moore, and Mr. Moore was the
9 person responsible for spearheading the USEPA's
10 development of the existing national rule that's in
11 effect in 1998, so he is I think the best person within
12 the entire USEPA to answer that question, and his latest
13 indication is May. Sorry for the expanded answer. I
14 just want you to understand we got it from the best
15 source possible from the USEPA.

16 MR. RAO: Thank you.

17 HEARING OFFICER FOX: Any further questions
18 on anyone's part for Mr. Yost at this point? Neither
19 seeing or hearing any indication that there are,
20 Mr. Yost, certainly I'll thank you for your time and for
21 your information. I know that the Board appreciates it.

22 MR. YOST: Thank you again for the
23 opportunity, Mr. Fox.

24 HEARING OFFICER FOX: Very well. And that

1 allows us to turn to Ms. McAuliffe, and you of course
2 have been sworn in and your prefiled testimony is
3 admitted into the record as if read. Would you like to
4 offer any summary or any further summary of your
5 testimony or would you be available to proceed to any
6 questions that people may have for you?

7 MS. MCAULIFFE: I'd be available to proceed
8 right to questions.

9 HEARING OFFICER FOX: Excellent. Are there
10 any of the other participants who would wish to pose a
11 question to Ms. McAuliffe on the basis of her testimony?
12 I don't see any indication that there is, but the board
13 members or the board staff may have a question for her at
14 this point.

15 MR. RAO: I have just one question.
16 Miss McAuliffe, earlier before you came and asked the
17 Agency a question about whether they were going to
18 withdraw their portion of the rules that -- you know,
19 when the USEPA has already finalized the rules, and they
20 said they'll wait until the appeal period is over to do
21 that. In case there's some roadblocks to the USEPA rule,
22 I'm assuming that this rule will go forward. My question
23 is that you had indicated, you know, concerns about the
24 MIR values table and how -- the maintenance of the table

1 by the Agency. In case if this rule goes forward for
2 whatever reason, do you think the rule should have some
3 provision which requires the Agency to make sure this
4 table is consistent with any updates done by California?

5 MS. MCAULIFFE: I would certainly recommend
6 that in the event there's no challenge to the EPA rule
7 that you go forward with withdrawal of the rule. As I
8 said before, the table of MIR values is vital to the
9 aerosol coatings regulation. A manufacturer cannot
10 figure out the reactivity -- relative reactivity of its
11 formula without knowing the reactivity factor or the MIR
12 value for each and every volatile component in that
13 formula, so having an accurate MIR value for the
14 compounds is very important. Having an accurate
15 scientifically, you know, peer-reviewed MIR value that's
16 consistent from California to, you know, Maine and North
17 Carolina is also important for a manufacturer's, you
18 know, compliance efforts.

19 If in fact we're subject to three different
20 aerosol coatings regulations, one in California, one in
21 Illinois and the USEPA rule, the worst possible situation
22 would be the -- you know, sort of a time wave of the
23 change in California, then resonating at some point with
24 Illinois, resonating at some point with EPA and getting

1 through all these different rulemaking processes. If
2 there was some way to tie the table of MIR values to
3 activities in California to update those MIR values, that
4 would probably be the best scenario. That's probably
5 unlikely for EPA, but hopefully your administrative
6 procedures and your rulemaking processes would allow you
7 to do it in EPA -- or in Illinois, but if you could tie
8 your rule incorporated by reference or however you would
9 do that under your rulemaking, then, you know, any
10 changes that are generated in California would
11 automatically become effective in Illinois. That would
12 be the best possible situation that I could foresee in
13 that event.

14 MR. RAO: Okay. Thank you very much.

15 BOARD MEMBER JOHNSON: That leads to just
16 one question. You referred to California standards as
17 the lowest common denominator. By that you meant the
18 highest degree of regulation?

19 MR. YOST: Yes, sir. Those are the
20 strictest standards, which of course your state is about
21 to adopt --

22 BOARD MEMBER JOHNSON: Right, right.

23 MR. YOST: -- most of those standards, and
24 in fact, you're adopting the standards that are currently

1 in effect in California right now.

2 BOARD MEMBER JOHNSON: Okay. Thank you.

3 MR. YOST: Yes, sir.

4 HEARING OFFICER FOX: Were there any further
5 questions for Ms. McAuliffe on the part of the Board or
6 the Board's staff? Ms. McAuliffe -- I'm sorry. Did I
7 see an indication of a question?

8 MR. DAVIS: No. That's okay.

9 HEARING OFFICER FOX: Very well.

10 Ms. McAuliffe, thank you as well for your time and your
11 preparation for the hearing. We appreciate your
12 information very much.

13 MS. MCAULIFFE: Thank you for the
14 opportunity.

15 HEARING OFFICER FOX: Not at all. We appear
16 to have come to the end of the prefiled testimony, and
17 while I have -- had left at the door a sheet on which
18 potential witnesses could sign up, that was signed by
19 Mr. Yost, who has of course offered a summary of his
20 testimony and responded to questions, and Ms. Lurkins
21 from Hodge Dwyer Zeman, who indicated that she did not
22 wish to offer testimony. Is that correct, Ms. Lurkins?

23 MS. LURKINS: That's correct.

24 HEARING OFFICER FOX: Very well. So we have

1 come to the end of the nonexistent testimony by persons
2 who did not prefile it, and that brings us close to a
3 point of adjournment. I do want to address a couple of
4 quick procedural issues, however.

5 In this docket, anyone may file written public
6 comments with the Board's clerk, and those may be made
7 electronically. I think you are all familiar with the
8 process of the electronic filing through our Clerk's
9 Office On-Line, and any questions about electronic filing
10 through COOL can certainly be addressed to our assistant
11 clerk, John Therriault, for help. Those filings with the
12 Board, whether paper or electronic, must also be served
13 on the hearing officer and on those persons whose names
14 are on the service list, and before filing, please check
15 with me or -- to ensure that you have the most recent and
16 current version of the service list.

17 The court reporter indicates that copies of the
18 transcript of this hearing should be available to the
19 Board by May 6, next Wednesday, and very soon after that
20 transcripts should be posted to the Board's Web site
21 under this docket number, R08-17. Once posted, of course
22 they can be viewed and downloaded and printed out free of
23 charge.

24 The second hearing is now scheduled to take place

1 beginning at 9 a.m. on Wednesday, June 4, in Chicago, and
2 the deadline for prefiling testimony for that second
3 hearing is Wednesday, May 21. If anyone has questions
4 about the procedural aspects of this rulemaking, you may
5 certainly contact me, and my e-mail address and direct
6 phone number are in the notice of hearings and any future
7 hearing officer order that would go out.

8 Have I overlooked any matters that need to be
9 addressed at this time? Seeing no indication that I
10 have, I'd like to repeat my thanks certainly to the
11 witnesses and those who have helped prepare them for your
12 time and efforts. The hearing is adjourned. Thank you.

13 (Hearing adjourned)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF BOND)

3

4 I, KAREN WAUGH, a Notary Public and Certified
5 Shorthand Reporter in and for the County of Bond, State
6 of Illinois, DO HEREBY CERTIFY that I was present at the
7 Illinois Pollution Control Board, Springfield, Illinois,
8 on April 30, 2008, and did record the aforesaid Hearing;
9 that same was taken down in shorthand by me and
10 afterwards transcribed, and that the above and foregoing
11 is a true and correct transcript of said Hearing.

12 IN WITNESS WHEREOF I have hereunto set my hand
13 and affixed my Notarial Seal this 6th day of May, 2008.

14

15

16

Notary Public--CSR

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#084-003688

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