

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**R12-8**  
**(Rulemaking - Air)**

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SEP 26 2011

STATE OF ILLINOIS  
Pollution Control Board

**TESTIMONY OF THE**  
**CONSUMER SPECIALTY PRODUCTS ASSOCIATION**

Joseph T. Yost  
Senior Director, Strategic Issues Advocacy

1667 K Street NW, Suite 300  
Washington, D.C. 20006  
(202) 833-7325

**Filed: September 22, 2011**

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**NOTICE**

TO: John Therriault, Clerk  
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**PLEASE TAKE NOTICE** that I have filed today with the office of the Pollution Control Board a copy of testimony that the Consumer Specialty Products Association will present on the REGULATORY PROPOSAL FOR AMENDMENTS TO 35 ILL. ADM. CODE PART 223 STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA SOURCES and APPEARANCE of the Consumer Specialty Products Association of copy of which is herewith served upon you.

DATED: September 22, 2011  
1667 K Street NW, Suite 300  
Washington, DC 20006  
202-833-7325

**Consumer Specialty Products Association**

By:   
Joseph T. Yost  
Senior Director, Strategic Issues Advocacy

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

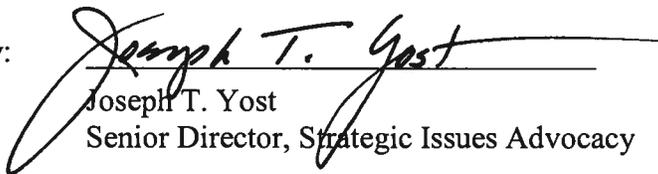
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**R12-8**  
**(Rulemaking - Air)**

**APPEARANCE**

The undersigned hereby enters an Appearance on behalf of the Consumer Specialty Products Association.

Respectfully Submitted,  
**CONSUMER SPECIALTY PRODUCTS ASSOCIATION**

By:   
Joseph T. Yost  
Senior Director, Strategic Issues Advocacy

DATED: September 22, 2011  
1667 K Street NW, Suite 300  
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202-833-7325

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**SYNOPSIS OF TESTIMONY**

The Consumer Specialty Products Association (CSPA) offers general support for the Illinois EPA’s proposed regulation because it is consistent with the Ozone Transport Commission’s Model Consumer Products Rule. By taking this action, the Agency will promulgate stringent regulatory standards that are consistent with the volatile organic compound (VOC) limits established by final regulations promulgated in Midwest and East Coast states. Regionally consistent state regulations will improve air quality without imposing unnecessary impediments to interstate commerce.

CSPA recommends that the Board make three necessary and reasonable revisions to the proposed requirements set forth at 35 IAC § 223.211. First, CSPA recommends that the Board revise 35 IAC § 223.211 to clearly articulate that the existing stock of products manufactured before the effective date of the new prohibitions (*i.e.*, July 1, 2012) may continue to be sold, supplied, or offered for sale in Illinois. Requiring manufacturers, distributors and retailers to dispose of otherwise usable and saleable products will create unintended adverse environmental impacts (*e.g.*, unnecessary land-filling) and adverse economic impacts on businesses.

Second, CSPA recommends that the Board delete the proposed restrictions for General Purpose Degreasers since this proposed action will produce minimal, if any, reductions in volatile

organic material (VOM) emissions. However, this proposed requirement will have the adverse effect of eliminating manufacturers' ability to produce (or distributors' and retailers' ability to sell) low-flammability products for use in Illinois, and thus it could create fire risks in the workplace.

Third, the Board should eliminate the reference to "Aerosol Adhesives" in 35 IAC § 223.211 since this product category is currently subject to existing regulations that are set forth at Section 223.208.

Fourth, the Board should make a necessary technical correction in the current table of standards set forth at Section 223.205(a) by replacing the term "Adhesives – Spray" (a term that is not defined anywhere in the regulation) with the term "Aerosol Adhesives" since this term is defined by Section 223.203 of the current regulation.

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## TESTIMONY

### I. INTRODUCTION

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to present testimony to the Illinois Pollution Control Board (Board) on the proposed amendments to 35 Ill. Adm. Code Part 223 Standards and Limitations for Organic Material Emissions for Area Sources. The proposed amendments to 35 Ill. Adm. Code Part 223, Subpart B will add new regulatory limits on volatile organic materials (VOMs) in 11 broad categories (including subcategories) of consumer and commercial products. These proposed new VOM limits are consistent with the volatile organic compound (VOC)<sup>1</sup> limits contained in the Ozone Transport Commission’s (OTC’s) current Model Rule for Consumer Products<sup>2</sup> and with final regulations promulgated by Ohio,<sup>3</sup> Michigan,<sup>4</sup> Indiana<sup>5</sup> and 10 East Coast states.<sup>6</sup> This proposed regulation is

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<sup>1</sup> The terms “VOM” and “VOC” have the same meaning. See 35 IAC § 211.7150(a).

<sup>2</sup> The text of OTC’s current Model Rule for Consumer Products is posted at: [http://www.otcair.org/projects\\_details.asp?FID=99&fview=stationary#](http://www.otcair.org/projects_details.asp?FID=99&fview=stationary#) (hereinafter referred to as “OTC Model Rule.”)

<sup>3</sup> See Ohio Administrative Code Chapter 3745-112. The full text of the regulation is posted on the Ohio EPA website at: [http://www.epa.ohio.gov/dapc/regs/3745\\_112.aspx](http://www.epa.ohio.gov/dapc/regs/3745_112.aspx),

<sup>4</sup> See Mich. Admin. Code Rule 660. The full text of the regulation is posted on the Michigan DEQ website at: [http://www.michigan.gov/deq/0,1607,7-135-3310\\_4108-173523--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html).

<sup>5</sup> See Ind. Admin. Code Title 326 Rule 15. The full text of the regulation is posted at: <http://www.in.gov/legislative/iac/T03260/A00080.PDF> (see pp. 122-160).

<sup>6</sup> The following East Coast states have promulgated final regulations that impose similar VOC limits: Connecticut, Delaware, Maryland, Massachusetts, Maine, New Jersey, New York, Pennsylvania,

part of the comprehensive strategy developed by the Illinois Environmental Protection Agency (Illinois EPA or Agency) to reduce ground-level ozone to demonstrate attainment of the federal ozone air quality standard. If approved by the Board, the final rule will take effect on July 1, 2012.

CSPA filed written comments on the Agency's draft proposed amendments on June 24, 2011. CSPA commends the Illinois EPA for their concerted efforts to ensure that all interested stakeholders have an opportunity to participate in this open and transparent rulemaking process. CSPA's testimony before the Board is limited to the proposed regulation set forth at 35 Ill. Adm. Code Part 223 Subpart B: Consumer and Commercial Products (Sections 223.200-223.285).

## **II. STATEMENT OF INTEREST**

CSPA is national trade association representing the interests of approximately 240 companies engaged in the manufacture, formulation, distribution and sale of consumer and commercial products that help household and institutional customers create cleaner and healthier environments. Currently, 42 CSPA member companies have facilities (or headquarters) located in Illinois.

CSPA member companies' products include disinfectants that kill germs in homes, hospitals and restaurants; air fresheners that eliminate odors; pest management products for home, garden and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; and a host of other products used every day. These products are formulated and packaged in many forms and are generally marketed nationally. Through its product stewardship program Product Care<sup>®</sup> and scientific endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety, sustainability and environmental impacts of their products.

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Rhode Island and Virginia (note: the Virginia VOC regulation only applies in specified portions of the commonwealth).

CSPA member companies manufacture and market more than two-thirds of the broad product categories covered by the current provisions of 35 Ill. Adm. Code Part 223 and the proposed amendments presented for the Board's consideration today.

Since the late 1980s, CSPA has worked actively and cooperatively with Illinois,<sup>7</sup> California, Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas and Virginia to provide our industry's perspective on these states' consumer products regulations. In addition, CSPA is participating as an active stakeholder in efforts by the OTC and the Lake Michigan Air Directors Consortium (LADCO) to develop consistent regulatory requirements for consumer and commercial products in the Northeast, Mid-Atlantic and Midwest Regions.

CSPA also worked cooperatively with the U.S. Environmental Protection Agency (U.S. EPA) during the late 1990s as the Agency developed the current National Volatile Organic Compound Emission Standards for Consumer Products.<sup>8</sup> Currently, CSPA is working cooperatively with OTC States to urge the U.S. EPA to develop revisions to the National Consumer Products Rule by incorporating the new VOC limits and related provisions contained in the proposed 2014 OTC Model Rule.<sup>9</sup>

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<sup>7</sup> On April 30, 2008, CSPA presented testimony on the Proposed New 35 Ill. Admin. Code Part 223 Standards and Limitations for Organic Material Emissions for Area Sources (R08-7 Rulemaking – Air) at the Board's public hearing in Springfield, Illinois. In addition, on June 29, 2007, CSPA filed detailed written comments with the Illinois Environmental Protection Agency on the draft proposed rule.

<sup>8</sup> 40 C.F.R. Part 59, Subpart C (2011). EPA's National Volatile Organic Compound Emission Standards for Consumer Products (hereinafter referred to as "National Consumer Products Rule") was promulgated as a final rule in 1998. The text of EPA's regulation is posted at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_05/40cfr59\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/40cfr59_05.html).

<sup>9</sup> The proposed 2014 OTC Model Rule is scheduled to be considered at the OTC's Fall Meeting on Nov. 10, 2011, in Wilmington, DE. If approved, the Model Rule will establish Jan. 1, 2014, as the effective date for the new VOC limits and related enforcement provisions.

### III. COMMENTS

A. CSPA Supports Regionally Consistent Consumer Products Regulations. Therefore, Our Member Companies Express General Support for the Agency's Proposed Amendments.

CSPA member companies strongly support the promulgation of regionally consistent regulations for consumer products throughout the Midwest and East Coast. Thus, CSPA is on record as supporting the OTC Model Rule because it promotes consistent state regulations in broad regions of the country.<sup>10</sup> In addition, CSPA is on record as supporting individual state regulations based on the OTC Model Rule in Illinois and other Midwest and East Coast states.

CSPA strongly believes that interstate commerce should not be impaired by the promulgation of different state regulations. Moreover, the adoption of consistent regional regulations is a practical necessity for small- and medium-size businesses since these companies generally lack the staff resources to ensure that the companies' products comply with a patchwork of different (and potentially conflicting) state-specific requirements.

B. CSPA Recommends that the Board Make Three Necessary and Reasonable Revisions to the Proposed Provisions of 35 IAC § 223.211.

As currently drafted, Sec. 223.211 of the proposed amendment incorporates an "optional" provision in the current OTC Model Rule<sup>11</sup> that prohibits the manufacture, sale, supply or offering for sale of specified consumer product categories that contain methylene chloride, perchloroethylene or trichloroethylene. The prohibition on the manufacture and sale of these products is proposed to take effect on July 1, 2012. For reasons set forth below, CSPA

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<sup>10</sup> During the past 11 years, CSPA participated actively as a stakeholder in all phases of the OTC's open and transparent process to develop and revise the Model Consumer Products Rule.

<sup>11</sup> The explanatory section of the OTC Model Rule states that the document contains some provisions that restrict the use of certain compounds that may not cause or contribute to ozone formation. The note states, "...it is up to each state to decide whether it wishes to include regulation of said compounds in its state-specific rulemaking. OTC takes no position on whether to include these compounds in such a rulemaking." See OTC Model Rule at p. 1.

respectfully urges the Board to incorporate three reasonable and necessary revisions to Section 223.211 in the final regulation.

1. Section 223.211 should be revised to clearly state that product existing stock manufactured before the effective date of the new prohibitions may continue to be sold, supplied, or offered for sale in Illinois.

As currently drafted, as of July 1, 2012, Section 223.211 will restrict broad categories of products that contain perchloroethylene, methylene chloride and trichloroethylene from being sold, supplied, offered for sale or manufactured for use in Illinois. However, the proposed section is silent on what, if anything, manufacturers, distributors and retailers must do with existing product stock that was manufactured before the July 1, 2012, effective date of the prohibitions. This omission creates an untenable situation in which otherwise usable and sale products would have to be disposed of; thus, creating unintended environmental impacts caused by land filling large quantities of products. A majority of states that impose similar prohibitions on the use of chlorinate compounds provide a three-year sell-through period to ensure that product manufacturers, distributors and retailers have an adequate amount of time to ensure that non-compliant products are withdrawn from the shelves. The other states that restrict the use of these chemical compounds do *not* impose any sell-through limitation since, as a practical matter, existing stock of these products are generally sold quickly (possibly in less than three years).<sup>12</sup>

To eliminate potential environmental problems and to reduce compliance burden for manufacturers, distributors and retailers, CSPA recommends that the Board revise Section 223.211 to clearly state that products manufactured before July 1, 2012, may continue to be sold, supplied or offered for sale in Illinois.

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<sup>12</sup> See Conn. Agencies Regs. § 22a-174-40(d)(5)  
<http://www.ct.gov/dep/lib/dep/air/regulations/mainregs/sec40consumerprod.pdf> at p. 40-23  
7 DE Admin. Code 1141 §2.3.8  
<http://regulations.delaware.gov/AdminCode/title7/1000/1100/1141.pdf> at p. 37.  
R.I. Air Pollution Control Reg. No. 31 § 3.9(a)  
[http://www.dem.ri.gov/pubs/regs/regs/air/air31\\_09.pdf](http://www.dem.ri.gov/pubs/regs/regs/air/air31_09.pdf) at p. 39.

2. Based upon workplace safety reasons, the Board should delete the proposed restrictions for the General Purpose Degreaser product category.

In general, product formulators continue to make a concerted effort to eliminate the use of perchloroethylene, methylene chloride and trichloroethylene (*i.e.*, chlorinated compounds) in their products. However, there are limited situations when the use of these chemical compounds is necessary to produce low-flammability general purpose degreaser products that can be used by facilities' maintenance operations in which ignition sources (*e.g.*, metal parts contacting other metal parts) may be present. There is a legitimate workplace safety concern that a spark from such ignition sources could cause a fire if it comes into contact with flammable vapors.

Moreover, as articulated in comments CSPA filed with The Illinois EPA on June 24, 2011, perchloroethylene and methylene chloride are exempted from the definition of "VOM" for the purposes of compliance with VOM limitations or VOM content requirements since these compounds have very low photochemical reactivity. *See* 35 IAC § 211.7150(a) and 40 C.F. R. § 51.100(s). Consequently, the Agency's proposed restriction on the General Purpose Degreaser product category will produce minimal, if any, reduction of VOM emissions, and thus, is not necessary to achieve attainment of federal ozone standards.

CSPA urges the Board to consider: (1) workplace safety reasons for the continuing use of low-flammable general purpose degreaser products; and (2) the fact that minimal, if any, amount of VOM emissions will be achieved by the proposed restriction. Therefore, CSPA recommends that the Board *delete* the restriction on the General Purpose Degreaser category in Section 223.211 of the final rule.

3. The Board should make a necessary technical correction to proposed Section 223.

As currently drafted, Section 223.211 proposes to restrict the use of perchloroethylene, methylene chloride and trichloroethylene in eight product categories; the proposed restrictions will take effect on July 1, 2012. This proposed list of product categories includes "Aerosol Adhesives," a

product category that is subject to existing requirements currently set forth at Section 223.208. The existing provisions of Section 223.208 include a restriction on the use of perchloroethylene, methylene chloride and trichloroethylene that has been in effect since July 1, 2009. Since the Aerosol Adhesive product category is subject to existing regulatory requirements, CSPA recommends that the Board delete the reference to “Aerosol Adhesives” in Section 223.211 of the final regulation.

Therefore, for the reasons stated above in Section III B of this Testimony, CSPA recommends that the Board make the following revisions in the final regulation:

<p><b><i>Italicized text</i></b> = text added to the Illinois EPA’s proposed regulation <b><del>Stricken text</del></b> = text deleted from the Illinois EPA’s proposed regulation.</p>
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Section 223.211 Requirements for Adhesive Removers, ~~Aerosol Adhesives~~, Contact Adhesives, Electrical Cleaners, Electronic Cleaners, Footwear or Leather Care Products, ~~General Purpose Degreasers~~, and Graffiti Removers

- a. ~~Effective July 1, 2012, n~~No person shall sell, supply, offer for sale, or manufacture for use in Illinois any Adhesive Removers, ~~Aerosol Adhesives~~, Contact Adhesives, Electrical Cleaners, Electronic Cleaners, Footwear or Leather Care Products, ~~General Purpose Degreasers~~, and Graffiti Removers ***manufactured on or after July 1, 2012***, that contain any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene
- b. Impurities

The requirements of Section 211(a) do not apply to any Adhesive Removers, ~~Aerosol Adhesives~~, Contact Adhesives, Electrical Cleaners, Electronic Cleaners, Footwear or Leather Care Products, ~~General Purpose Degreasers~~, and Graffiti Removers containing methylene chloride, perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01% by weight.

CSPA believes that these recommended revisions are both necessary and reasonable.

- C. The Board should make a necessary technical revision in the current table of standards set forth at Section 223.205(a).

The current provisions of Section 223.205(a)(1) establish VOM limits for the “Adhesives – Spray” product category. This term is not defined in either the current regulation or the proposed

revisions. Therefore, CSPA recommends that the Board replace the term “Adhesives – Spray” with the term “Aerosol Adhesives” since this term is defined by Section 223.203 of the current regulation. This revision would ensure consistency with the term used by CARB’s regulation.<sup>13</sup> Finally, the revision would be consistent with the OTC Model Rule, which uses the term “Adhesives” in the Table of Standards.<sup>14</sup>

#### **IV. CONCLUSION**

While the proposed regulation contains stringent VOM limits, CSPA supports the Illinois EPA’s proposal because it is consistent with the OTC Model Rule and the final regulations promulgated by Ohio, Michigan, Indiana and 10 East Coast states. Moreover, CSPA is committed to continuing to work cooperatively with the Illinois EPA to improve air quality.

CSPA commends the Illinois EPA for conducting a very open and transparent process to develop this proposed regulation. We appreciate the opportunity to participate as an active stakeholder in this important process to develop a technologically challenging set of new VOM limits and related enforcement provisions that are part of the Illinois EPA’s comprehensive strategy to demonstrate attainment of the federal Clean Air Act’s strict ozone standard.

**WHEREFORE**, for the reasons stated above, the Consumer Specialty Products Association requests that the Board revise proposed Section 223.211 to clearly state that existing product stock manufactured before the July 1, 2012, effective date of the new prohibitions may continue to be sold, supplied, or offered for sale in Illinois. Second, the Board should delete the

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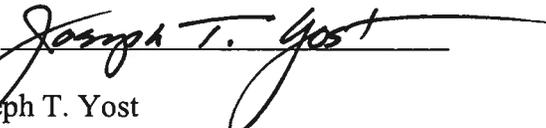
<sup>13</sup> The term “Adhesive: Aerosol” is used in CARB’s Table of Standards. *See* Cal. Code Regs. Title 17, § 94509(a).

<sup>14</sup> The term “Adhesives” is used in the OTC Model Rule. *See* Section 3(a) of the OTC Model Rule.

proposed restrictions for General Purpose Degreasers set forth at 35 IAC § 223.211. This proposed action will ensure that manufacturers have the continued ability to produce low-flammability general purpose degreaser products. Third, the Board should eliminate the reference to “Aerosol Adhesives” in 35 IAC § 223.211 since this product category is currently subject to existing regulations set forth at Section 223.208. Finally, the Board should revise the current text of Section 223.205(a) by deleting the term “Adhesives – Spray” and replacing it with the term “Aerosol Adhesive.”

Respectfully submitted,

**CONSUMER SPECIALTY PRODUCTS ASSOCIATION**

By:   
Joseph T. Yost  
Senior Director, Strategic Issues Advocacy

DATED: September 22, 2011  
1667 K Street NW, Suite 300  
Washington, DC 20006  
202-833-7325

District of Columbia

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**PROOF OF SERVICE**

I, the undersigned do hereby state and attest to the fact that I have served the attached copy of the testimony that the Consumer Specialty Products Association will present on the REGULATORY PROPOSAL FOR AMENDMENTS TO 35 ILL. ADM. CODE PART 223 STANDARDS AND LIMITATIONS FOR ORGANIC MATERIAL EMISSIONS FOR AREA SOURCES and APPEARANCE upon the person to whom it is directed, by placing a copy in an envelope addressed to:

John Therriault, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 606018  
[www.ipcb.state.il.us](http://www.ipcb.state.il.us)

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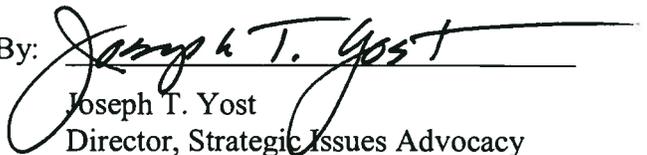
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and mailing same by First Class Mail from Washington, DC, with sufficient postage affixed, as indicated above.

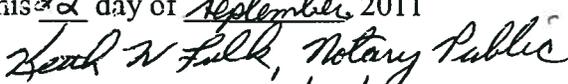
DATED: September 22, 2011

CONSUMER SPECIALTY PRODUCTS  
ASSOCIATION

1667 K Street NW, Suite 300  
Washington, DC 20006  
202-833-7325

By:   
Joseph T. Yost  
Director, Strategic Issues Advocacy

SUBSCRIBED AND SWORN TO BEFORE ME

this 22 day of September 2011  
  
My Commission Expires 4/30/14