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BEFORE THE

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
Amendments to 35 Illinois)
Administrative Code, Part 223,) DOCKET R12-8
Standards and Limitations for)
Organic Material Emissions for)
Area Sources)

Hearing held, pursuant to notice, on Thursday,
October 6, 2011, at the hour of 9:00 a.m., at 1021
N. Grand Ave. East, Springfield, Illinois, before
TIMOTHY FOX, duly appointed Hearing Officer.

L.A. REPORTING SERVICE
(312)419-9292

REPORTER: LAUREL A. PATKES, CSR #084-001340

1 BOARD MEMBERS:

2 ANDREA S. MOORE
3 JENNIFER A. BURKE
4 THOMAS E. JOHNSON

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APPEARANCES:

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7 CHARLES MATOESIAN
8 Assistant Counsel
9 IEPA

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1 HEARING OFFICER FOX: Good morning
2 and welcome to this Illinois Pollution Control Board
3 hearing. My name is Tim Fox, and I'm the hearing
4 officer for this rulemaking proceeding which is
5 entitled: In the Matter of Amendments to 35
6 Illinois Administrative Code, Part 223, Standards
7 and Limitations for Organic Material Emissions for
8 Area Sources.

9 We have had, in addition to
10 the Agency, the proponent prefiled testimony
11 submitted to the Board by a second participant. We
12 had expected him to be present. He may be
13 unavoidably delayed. What we will do is convene as
14 we have just done at 9 a.m. at the scheduled time
15 and go off the record to allow him some time to
16 arrive. We'll go back on the record at 9:15 whether
17 he is here or not. Thank you.

18 (Recess taken.)

19 HEARING OFFICER FOX: We have come
20 back on the record at 9:15.

21 The kind Mr. Davis of the
22 Agency has indicated that Mr. Yost is not available
23 and not intending to be present for our hearing
24 today so we will proceed.

1 I do want to note for the
2 record that present today from the Board, my
3 immediate left is Board Member Andrea S. Moore, the
4 lead board member for this assigned to this
5 rulemaking proceeding. At my far right is Board
6 Member Thomas E. Johnson, and at my immediate right
7 is Board Member Jennifer A. Burke.

8 The docket number for this
9 rulemaking assigned by the Board is R12-8. The
10 Illinois Environmental Protection Agency filed its
11 rulemaking proposal on July 13th of 2011, and in an
12 order dated August 4, 2011, the Board accepted this
13 proposal for hearing and did grant the Agency's
14 motion for a waiver of specified copy requirements.

15 Today, we are, of course,
16 holding the first hearing in this rulemaking. The
17 second is now scheduled to take place beginning on
18 Thursday, November 17, 2011 in Chicago.

19 In an order dated August 4,
20 2011, the hearing officer directed participants
21 wishing to prefile testimony for this hearing to do
22 so on or before Thursday, September 22nd of 2011,
23 and on that date on September 22nd, the Board did
24 receive prefilled testimony by Mr. Rory Davis on

1 behalf of the IEPA.

2 On September 26, the Board
3 also received prefiled testimony from Mr. Joseph
4 Yost on behalf of the Consumer Specialty Products
5 Association, or CSPA, and that has been posted as
6 well to the Board's website through the clerk's
7 office online.

8 We will begin this hearing
9 today with the prefiled testimony by Mr. Davis on
10 behalf of the Agency, and under the Board's
11 procedural rules, that will be entered into the
12 record as if read, but if Mr. Davis would like to
13 begin with a brief summary of introduction, that
14 would certainly be appropriate.

15 At that point, we will turn to
16 questions that the board members or any other
17 participants may have for the Agency, and once we
18 have completed that, we can see whether there is
19 anyone present who did not prefile testimony but
20 would like to testify today or offer a public
21 comment here today.

22 I do want to note for the
23 record that there is a sheet at the door on which
24 any person can indicate that they wish to testify by

1 signing in, but I can plainly see that no one has
2 done so at this point in our proceedings.

3 This proceeding is, of course,
4 governed by the Board's procedural rules so that all
5 information relevant and that is not repetitious or
6 privileged will be admitted into the record, and I
7 would certainly note that any questions posed by the
8 Board are intended just to assist in developing a
9 clear and complete record and do not reflect any
10 predetermination of the Agency's rulemaking
11 proposal.

12 And with that, I can see
13 whether there are any questions about our
14 procedures.

15 Neither seeing nor hearing
16 any, Mr. Matoesian, it's the point where we can turn
17 to you to begin the Agency's presentation.

18 MR. MATOESIAN: Thank you.

19 I would just like to say I'm
20 Charles Matoesian appearing for the Illinois
21 Environmental Protection Agency. I'm assistant
22 counsel in the Bureau of Air, Division of Legal
23 Counsel, and with me today is Mr. Rory Davis who is
24 an environmental protection engineer in the Bureau

1 of Air, Illinois Environmental Protection Agency.

2 I would just start by -- I
3 would like to enter his testimony as read as an
4 exhibit.

5 HEARING OFFICER FOX: Very good.

6 If we may receive a copy of
7 that, Mr. Matoesian, that would be great.

8 Mr. Matoesian has moved that
9 the Board admit the prefiled testimony of Mr. Rory
10 Davis as Hearing Exhibit No. 1.

11 Is there any objection to the
12 motion?

13 Neither seeing nor hearing
14 any, Mr. Matoesian, it will be marked as Hearing
15 Exhibit No. 1 and admitted into the record under
16 that exhibit number.

17 (Whereupon Hearing Exhibit 1 was
18 marked for identification and
19 admitted into evidence at this
20 time.)

21 HEARING OFFICER FOX: Were there
22 any other housekeeping details that you wish to take
23 care of this morning?

24 MR. MATOESIAN: Yes. I'd like to

1 make an oral motion.

2 HEARING OFFICER FOX: Very good,
3 Mr. Matoesian. Please proceed.

4 MR. MATOESIAN: Okay. Under Part
5 223, it was a new part created in our prior
6 rulemaking, and there was some strange transposition
7 error. The Board order sending the final notice was
8 correct, but for some reason, the published version
9 in the Illinois Register had an incorrect notation;
10 specifically, in Section 223.205(a)(6) and (a)(17).
11 (a)(6) says under (A) Aerosol -- it should say 40
12 HVOM and 10 MVOM, but for some reason, it says 40
13 HVOM and 10 HVOM.

14 Similarly, under (B)
15 Nonaerosol, it should read 0 HVOM and 0 MVOM but for
16 some reason, it says 0 MVOM and 0 MVOM.

17 On No. 17, deodorant, (A)
18 Aerosol, again, it should read 0 HVOM and 10 MVOM,
19 but instead, it reads 0 HVOM and 10 HVOM.

20 And for (B) Nonaerosol, it
21 should read 0 HVOM and 0 MVOM but instead reads, 0
22 MVOM and 0 MVOM.

23 We would just move that the
24 Board amend the rule to reflect the proper language

1 as in the Board final order.

2 HEARING OFFICER FOX: Very good,
3 Mr. Matoesian.

4 And just to be clear for the
5 record, you are referring to the Part 223 standards
6 adopted in rulemaking 8-17, am I correct?

7 MR. MATOESIAN: Yes.

8 HEARING OFFICER FOX: And that
9 became final in 2009 if memory serves me correctly.

10 MR. MATOESIAN: Yes.

11 HEARING OFFICER FOX: And again,
12 just to be certain, the changes are in Subsections
13 (a)(6) and (a)17 that you had described on the
14 record here today, correct?

15 MR. MATOESIAN: Yes, correct.

16 HEARING OFFICER FOX: Thank you
17 very much for letting me clarify that Mr. Matoesian.
18 We do have that in the transcript of hearing and
19 we'll certainly take that under advisement as a
20 motion to amend as part of this rulemaking
21 proceeding 12-8.

22 Did you have any other details
23 that you wish to take care of?

24 MR. MATOESIAN: No, I do not.

1 HEARING OFFICER FOX: Very good.

2 Why don't we ask the court
3 reporter -- it seems that it's time to turn to any
4 questions that we may have of Mr. Davis. If he
5 could be sworn in, we could turn to those very
6 quickly.

7 (Whereupon the witness was sworn
8 by the reporter.)

9 HEARING OFFICER FOX: Mr. Davis,
10 thank you very much for your presence today.

11 Did you have any introduction
12 or any other remarks with which you wanted to begin
13 here this morning?

14 MR. DAVIS: In general, and like my
15 testimony says, we're proposing to add several
16 categories to our current consumer products rules.
17 The addition of these categories would make our
18 rules mirror the current Ozone Transport Commission
19 rules that were amended in 2006.

20 The Agency feels that the
21 categories are, there's compliant products that are
22 economically reasonable in all the categories we're
23 proposing, and these same rules are in effect in
24 generally all of the OTC states and several Midwest

1 states.

2 HEARING OFFICER FOX: And to
3 clarify, Mr. Davis, the OTC references to the Ozone
4 Transport Commission states in the northeastern part
5 of the country?

6 MR. DAVIS: That's correct.

7 HEARING OFFICER FOX: Very good.
8 Thank you for letting me clarify.

9 All right. With that,
10 Mr. Davis, thank you for those remarks.

11 We can see whether any of the
12 board members have any questions on the basis of the
13 proposal or the support for it?

14 I am not seeing or hearing
15 any.

16 I do have one question on
17 which I'd like to ask your indulgence, Mr. Davis.

18 The statement of reasons
19 identifies generally the potentially affected
20 entities including the geographical regions that are
21 affected.

22 My request is -- and if the
23 Agency could do this, it would be very
24 appreciated -- if there is a list of the potentially

1 products.

2 HEARING OFFICER FOX: And I
3 appreciate that clarification. That in particular
4 would be helpful recognizing, as you've identified
5 in the technical support documents, some of the
6 other documents, these are sold in a wide range of
7 supermarkets, drugstores and other retail
8 establishments, they could number in the tens of
9 thousands conceivably. So the manufacturers would
10 be of particular interest to the Board. I
11 appreciate your clarification on that.

12 Any other follow-up questions
13 on the part of the Board?

14 Why don't we go off the record
15 very briefly and just discuss a quick procedural
16 issue.

17 (Whereupon an off-the-record
18 discussion transpired at this
19 time.)

20 HEARING OFFICER FOX: Back on the
21 record then.

22 The second hearing in this
23 docket has been scheduled to take place on Thursday,
24 November 17, 2011 at 1 p.m. at the Board's offices

1 HEARING OFFICER FOX: It is in the
2 Board's record of this proceeding. It hasn't been
3 admitted, of course, as a hearing exhibit here
4 today, but that has been received and filed by the
5 Board.

6 MR. MATOESIAN: And we could file
7 questions concerning it if we have any?

8 HEARING OFFICER FOX: Yes,
9 absolutely so, absolutely so.

10 MR. MATOESIAN: All right. Thank
11 you.

12 HEARING OFFICER FOX: And if you
13 wish to file those on or before the deadline for
14 prefiled testimony at the second hearing,
15 Mr. Matoesian, we'd certainly be happy to field
16 those as well and make those part of our record.

17 MR. MATOESIAN: Okay. Good. Thank
18 you.

19 HEARING OFFICER FOX: Anything
20 further on the part of the Agency?

21 MR. MATOESIAN: No.

22 HEARING OFFICER FOX: Very good.

23 Anything further on the part
24 of any of the board members?

1 STATE OF ILLINOIS)
)SS.
2 COUNTY OF SANGAMON)

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CERTIFICATE

5 I, Laurel A. Patkes, Certified Shorthand
6 Reporter in and for said County and State, do hereby
7 certify that I reported in shorthand the foregoing
8 proceedings and that the foregoing is a true and
9 correct transcript of my shorthand notes so taken as
10 aforesaid.

11 Dated October 8, 2011.

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Certified Shorthand Reporter

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