

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
CLEAN-UP) **R09-19**
AMENDMENTS TO 35 ILL.) **(Rulemaking - Air)**
ADM. CODE PART 243)
)

NOTICE

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

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the MOTION TO FILE INSTANTER A REQUEST TO ADD AN AMENDMENT TO PART 223 TO THE CURRENT RULEMAKING of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Charles E. Matoesian

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: July 29, 2009

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
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**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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CLEAN-UP) **R09-19**
AMENDMENTS TO 35 ILL.) **(Rulemaking - Air)**
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**MOTION TO FILE INSTANTER A REQUEST TO ADD AN AMENDMENT TO
PART 223 TO THE CURRENT RULEMAKING**

NOW COMES the Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“ Illinois EPA” or “ Agency”), by its attorney, and pursuant to 35 Ill. Adm. Code 101.502 and 102.402, moves that the Illinois Pollution Control Board (“ Board”) allow for the filing instanter of an amendment to Part 223 as part of this Clean-Up rulemaking of Part 243.

On January 2, 2008, the Illinois EPA filed a proposal with the Illinois Pollution Control Board (“ Board”) to add a new Part 223, entitled "Proposed New 35 ILL. ADM. CODE Part 223 Standards and Limitations for Organic Material Emissions for Area Sources." The Board accepted this proposal in Rulemaking R08-17. Following hearings, this rulemaking was adopted and published in the Illinois Register on June 19, 2009 in Vol. 33, Issue 25, p. 8224.

Soon after the publishing of the rule, it came to the Agency’ s attention that one category of coatings was mis-labeled. The mistake occurs in Section 223.205, where the coating is labeled, “ Adhesives – Construction, Panel and Floor Contact” when it should be labeled “ Adhesives – Construction, Panel and Floor Covering.” The changing of the final word “ contact” to “ covering” is the only change requested by the Agency. As the

record in R08-17 has closed the Agency prays that the Board allow this change to be included in the current rulemaking.

The word contact in the category “ Adhesives – Construction, Panel and Floor Contact” is simply a typographical error. There is a definition for the proper category in Section 223.203 for “ Construction, Panel and Floor Covering Adhesives.” The unintended word “ Contact” also does not make sense contextually because it is unclear whether “ Contact applies to just floor contact adhesives or also contact adhesives that are construction and panel adhesives also. Further, if it were the correct term there would necessarily be definitions for those categories. As it is, changing the one word from “ contact” to “ covering” matches the category up exactly with the definition and the appropriate limit.

This change also makes the Illinois rule consistent with similar rules in other states and regions which is important when considering the needs of manufacturers and retailers for uniformity. Moreover, consistency between the Illinois rule and other state rules was a goal of the Agency when proposing the consumer products rule.

Correcting this typographical error should have no substantial effect on regulated entities and should clear up any confusion about the category in the future.

WHEREFORE, for the reasons set forth above, the Illinois EPA moves that the Board allow this motion and pray that it be allowed to make the change to Part 223 in the current rulemaking docket.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

DATED:

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STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached MOTION TO FILE INSTANTER A REQUEST TO ADD AN AMENDMENT TO PART 223 TO THE CURRENT RULEMAKING, upon the following persons:

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

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

/s/ Charles E. Matoesian

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

Dated: July 29, 2009

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R08-17 & R09-19 SERVICE LIST

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