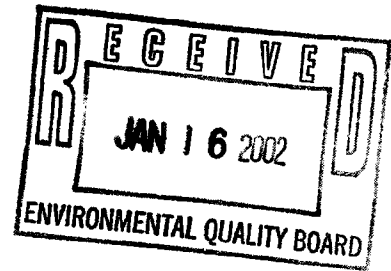


Original: 2228

Clean Air Council

Via Electronic Mail:

Environmental Quality Board
Rachel Carson State Office Building
15th Floor
400 Market St.
Harrisburg, PA 17101



**Clean Air Council Comments to Proposed Rulemaking on Consumer
Products: 25 Pa. Code Ch. 130; 31 Pa.B. 6163
January 16, 2002**

Clean Air Council is a statewide, non-profit environmental organization dedicated to protecting everyone's right to breathe clean air. The Council was founded in 1967 and maintains offices in Philadelphia, Harrisburg, and Wilmington, DE. The Council engages in education, advocacy, and government oversight in order to achieve air quality improvements.

Consumers today are faced with a dizzying array of products with countless uses for the home, office, yard, and personal hygiene and cosmetic needs. Many of these products are very useful; though some are superfluous but deemed desirable nonetheless by the consumer. Regardless of their relative utility, it is a fact that a high proportion of such products employ chemicals classified as volatile organic compounds (VOCs), and therefore contribute to ground level ozone pollution in our communities. Thus, the Clean Air Council is pleased to see that the Department is proposing to establish a rule in the Commonwealth to manage and reduce VOCs in consumer products in a more comprehensive manner than the 1998 federal regulation on consumer products.

Despite seeing value to expanded applicability of VOC standards, the Council does have concerns over some of the broad flexibility mechanisms in the proposed rule. It has been the Department's custom to attempt to provide flexibility options in regulatory packages in recent years. Some of these options have little impact on air emissions. It would appear that the same cannot be said of the mechanisms present in this proposed rule.

When taking account of the general exemptions, the innovative product exemption, variances and alternative control plans, it seems that a large percentage of otherwise included products and product categories will escape direct application of the VOC standards of the rule. If the goal is to reduce VOCs and ultimately the health effects attributable to ozone, as well as the close-range exposures to hazardous VOCs in the home, the many loopholes to this regulation serves the public poorly. For a time, it

may be that certain products will no longer be effective for their intended use if compelled to meet the VOC standards. That is an acceptable societal outcome in light of the health effects of continued use of the original formulation. Other products or techniques will arise to fill any gap left behind; such is the nature of human ingenuity. Environmental laws and regulations are often technology-forcing.

The Council does not take a specific position with regard to the stringency of the actual category-based VOC content percentages. It is expected, however, that having adopted these figures from the California Air Resources Board and the Ozone Transport Commission's model rule, the Department's standards reflect relatively aggressive reductions from present levels.

Some observations and recommendations on particular sections of the proposed regulations are offered below:

- §130.214 -- Charcoal Lighter Material: Despite the definition in 130.202 indicating that it includes that which is "incorporated in" charcoal, this does not seem to be sufficient assurance that the 0.020 lbs./ start VOC standard will in fact apply to products such as "Match Light," a popular charcoal which does not require the use of charcoal lighter fluid. The Council recommends that the definition be clarified further so that any argument regarding applicability would be avoided.

- With regard to "§ 130.335. Air fresheners," this exemption does not carry sufficient justification nor does it make sense. Air fresheners are not such a crucial product whose function cannot be achieved through very low or no-VOC reformulations that would justify an exemption in this regulation. Furthermore, 130.335(b) should be removed. Products qualified as insecticides appear to have their own exemption. For the air freshener portion of this subsection, the recommendation for paradichlorobenzene is puzzling. If the compound is not deemed problematic, then why is it considered a VOC?

- In the Administrative Requirements section, "§ 130.371 Code-dating," the public interest clearly favors the display of an actual *date* of manufacture. The option which allows a code merely *signifying* a date, with the meaning of the code provided subsequently to the Department, is useless to the consumer, and in fact prevents the consumer from making an independent assessment as to whether the product is likely to have low-VOC content. The Council advocates that this subsection be revised to require the common month-day-year dating format as the only form of compliance. Furthermore, the language describing the placement of the date on the product must be clarified or changed so that compliance is only obtained through display on the surface of the product or its package such that a consumer's shelf-inspection, without any manipulation or opening of flaps, lids, caps, etc., would find the date clearly visible.

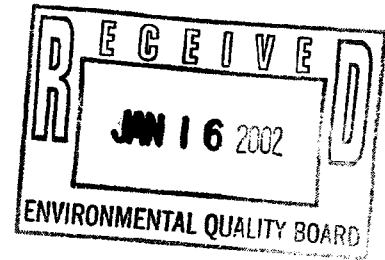
- The availability of Variances, at §130.411-130.414, should be eliminated or curtailed sharply. The “extraordinary reasons beyond the person’s control” which are the basis for the potential variance from the VOC standards may or may not prove easy to demonstrate depending on the DEP’s complete discretion. With three years warning of these impending standards, it is difficult to conceive of scenarios which would warrant such an accommodation. If not inclined to remove the section, DEP should revise it to specify a maximum length of time for which a variance could be granted. The Council recommends one year. In addition, although a “modification of variance” (§130.414) seems to contemplate public involvement, the regulation must be revised to provide an opportunity for the public to comment *before* a final order on a proposed variance is issued by the Department.

- Alternative Control Plans: This emissions averaging program is another opportunity for manufacturers to avoid meeting the VOC standards which are the fundamental basis of the regulation. Substantial VOC reductions otherwise achieved will be lost through the ACP mechanism. It is foreseeable that many companies will have product lines in which several or most products easily meet the new VOC standards, but one product may require a major reformulation to achieve the standard. Rather than investing in that reformulation which would eliminate VOCs (some of which may be hazardous), the ACP mechanism allows such a company to submit appropriate forms and calculations and simply avoid that obligation under the standard. As a consequence, consumers continue to be unwittingly exposed to hazardous air pollution at close proximity when such exposure could be avoided had more disciplined application of the regulation’s VOC standards been maintained by the Department.

In summary, Clean Air Council commends the Department for raising the bar on consumer products, as the adoption of this regulation is of benefit to the public, and pollution reductions will be achieved. The Council urges the Department, however, to make revisions to the regulation in order to deliver the maximum health benefits potential inherent in the VOC standards themselves. Far too many opportunities to avoid the standards exist in this proposed rulemaking, posing a legitimate concern that the entire effort to transition to non-hazardous products could be jeopardized.

The Council appreciates the opportunity to submit comments to this proposed rulemaking. Please direct questions or responses to: Michael Fiorentino, Esq., 105 N. Front St., Suite 106, Harrisburg, PA 17101.

FINAL COPY
January 16, 2002



Terry Black
Chief, Regulatory and Policy Development Section
Division of Air Resources Management
Bureau of Air Quality
Rachel Carson State Office Building
12th Floor
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8466

Dear Terry:

The Caulks, Sealants and Adhesives Committee of the National Paint & Coatings Association (NPCA) is pleased to provide comments on the proposed Subchapter B in Chapter 30 Consumer Products.

The National Paint and Coatings Association is a voluntary non-profit industry association, originally organized in 1888 and comprising today of some 400 members who are engaged in the manufacture and distribution of paint, coatings, adhesives, sealants, caulks and related products, including the raw materials suppliers to the industry. As the preeminent organization representing the coatings industry in the United States, NPCA's primary role is to serve as ally and advocate on legislative, regulatory and judicial issues at the federal, state and local levels.

As you know, NPCA's Caulks, Sealants and Adhesives Committee has been intimately involved with the OTC workgroup in drafting the Consumer Products Model Proposal. But even before the OTC began its work, our committee was working diligently with California Air Resources Board staff persons, first negotiating a RACT/BARCT determination for adhesives and then later, incorporating this work into the consumer products rule that was adopted in 1998. Over the years, NPCA has been extensively involved in the development of volatile organic compound (VOC) regulations at all levels of government.

We recognize the difficult task before the Department of Environmental Protection in Pennsylvania in proposing a regulation that is consistent with the Model Proposal adopted by memorandum by the Ozone Transport Commission. We note that NPCA members manufacture and market products for a national market and conflicting and inconsistent VOC limits would make it extremely difficult to produce and market their products. Lack of uniformity in these

standards ultimately costs manufacturers and customers because of greatly increased production and distribution costs.

After reviewing proposed Subchapter B in Chapter 130 Consumer Products, we have the following comments for your consideration.

First, in reviewing the Table of Standards in Section 130.211, it appears that there have been some formatting problems which have resulted in the creation of an additional category and misaligned the standards for some existing categories. To realign the Table, adjust the position of "Edgebanding" so that the category is "Laminate Repair/Edgebanding" and ensure that it is assigned a VOC limit of 60. The VOC limits for the categories which follow, "Contact," "Construction, Panel and Floor Covering," "General Purpose," and "Structural Waterproof", should fall into the correct order.

On a more substantive matter, we propose a modification of the definition for "Adhesive" to limit the one gallon exclusion to contact adhesives only. General Purpose Adhesives and Construction, Panel and Floor Covering Adhesives should be subject to a size exclusion of units of product or more than one pound or 16 fluid ounces, less packaging. There are several reasons for this proposal.

When the model rule was first drafted and distributed for comment, the definition of "adhesive" contained an exclusion for adhesives sold in units of 16 ounces or greater. This definition mirrored the adhesive definition in the California consumer products regulation. Our industry urged the OTC workgroup to make a change in the definition and limit the exclusion to products sold in one gallon containers or greater for contact adhesives only. We intended that all other adhesives would remain subject to the 16 ounce size exclusion.

At the time, the OTC workgroup officials made changes to the rule in order to accommodate our committee's request. Upon reviewing the revised model rule, however, we failed to notice that the 16 ounce size exclusion was deleted entirely in favor of the one gallon size exclusion for contact adhesives and all other categories. While we believe that the one gallon size exclusion is the right one for contact adhesives, "Construction, Panel, and Floor Covering Adhesive," and "General Purpose Adhesives" should be subject to the 16 ounce size exclusion.

We have discussed this proposed modification to the definition of "Adhesive" with the OTC Workgroup Coordinator, Rob Sliwinski, who has agreed to include it in the Model Rule. We also requested that the states of Delaware and Maryland include this proposed change in their proposed rules. Both state environmental agencies have agreed to do so and have included this language or comparable language in their proposals.

We propose that the following language be substituted for the definition of "adhesive:"

~~"Adhesive—A product that is used to bond one surface to another by attachment. The term does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For "Contact Adhesive" only, the term does not include aerosol adhesives or units of product, less packaging, which consist of more than one gallon of the following materials:.. In addition, for "Construction, Panel, and Floor Covering Adhesive" and "General Purpose Adhesive," adhesive does not include aerosol adhesives or units of product of more than one pound or 16 fluid ounces, less packaging.~~

- ~~(i) —Contact adhesive.~~
- ~~(ii) —Construction, panel and floor covering adhesive on~~
- ~~(iii) —General purpose adhesive."~~

In drafting the language to effectuate this change, two issues come to the forefront. First, there is a need to make certain that the one-gallon and the 16 ounce size limitations do not apply to aerosol adhesives. Consequently, we propose to add this reference to the sentences referring to "Contact Adhesives" and "Construction, Panel & Floor Covering Adhesives" and "General Purpose Adhesives," rather than the initial portion of the definition which is the general definition of adhesive. Second, with regard to the "Construction, Panel & Floor Covering and General Purpose Adhesives" it should be clear that the size limitation is units of product of more than one pound or 16 fluid ounces, less packaging."

Making this change to the consumer products proposal will make the model rule more closely align with California's regulation which excludes all adhesives in sizes greater than one pound or 16 ounces and the other OTC states that have begun their rulemaking process. Furthermore, this modification does not change the amount of emission reductions that states can claim by adopting the OTC Model Rule. Emission reduction calculations were made using data from California where the size exemption is one pound or 16 fluid ounces.

In addition, adopting this modification will more accurately reflect the actual use and marketing of these products. Generally speaking, contact adhesives in units of more than one gallon are marketed to and used by industrial users. With regard to the "Construction, Panel and Floor Covering Adhesive" and "General Purpose Adhesives," these products tend to be marketed to and used by the industrial user in units of 16 fluid ounces or greater.

Please do not hesitate to contact me if you have any questions. Our committee sincerely appreciates the opportunity to provide our insight and industry experience to your efforts. We appreciate your efforts and that of your staff in working to ensure a uniform consistent rulemaking package. We are looking forward to working with you on the completion of this project.

With kind regards,

Heidi K. McAuliffe
Counsel, Government Affairs



A Product Line Group of
Motor and Equipment
Manufacturers Association

Automotive Chemical Manufacturers Council

1225 New York Avenue, NW
Suite 300
Washington, DC 20005
Phone: 202 / 393-MEMA
Fax: 202 / 737-3742

January 16, 2002

Pennsylvania Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 15th Floor
Harrisburg, PA 17101-2301

Re.: Proposed Regulation "Control of Emissions of Volatile Organic Compounds from Consumer Products"

To the Pennsylvania Environmental Quality Board:

The Automotive Chemical Manufacturers Council (ACMC), a product line group of the Motor & Equipment Manufacturers Association, represents nearly 50 manufacturers of chemical products used in, on, or in connection with, all types of motor vehicles and related service and maintenance equipment. Many of our members manufacture and market consumer automotive products used in Pennsylvania. Because of that interest, we offer the following comments on the proposed Pennsylvania regulation establishing a Subchapter B (relating to consumer products) in 26 Pa. Code Chapter 130 (relating to standards for products).

ACMC members support Pennsylvania in its efforts to address the Commonwealth's air quality issues. Particularly, our members applaud Pennsylvania's intent to implement regulations relating to the emissions of volatile organic compounds (VOCs) from consumer products in coordination with the efforts of states in the region and across the country. Many of the consumer and commercial products covered by the proposed Pennsylvania VOC regulations are sold and distributed nationally. A consistent, coordinated framework for individual states' consumer VOC regulations is essential to ensuring that products comply with each state's laws with a minimum of distribution disruption, consumer confusion or unwarranted costs.

Our review of the draft Pennsylvania regulations reveals the Commonwealth's awareness of these important issues. However, it appears that certain VOC standards set forth in the table of standards proposed at § 130.211 are not consistent with those adopted and proposed by other states, or with the Proposed Model Consumer and Commercial Products Regulation developed by the Ozone Transport Commission. We understand from your staff that these inconsistencies were unintended. With that in mind, we believe that the following changes are in order prior to finalizing the proposed Pennsylvania regulation in order to maintain consistency with the OTC model rule (all figures are expressed as a percentage of VOC by weight):

	<u>Proposed PA Limits</u>	<u>VOC Limits in OTC Model Rule</u>
Adhesives		
Edgebanding	80	60
Contact	15	80
Construction, Panel and Floor Covering	10	15
General Purpose	15	10
Structural Waterproof	currently no limit	15
Air Freshener		
Solids/Gels	18	3
Engine Degreasers	5	35
General Purpose Degreasers		
Non-aerosols	50	4

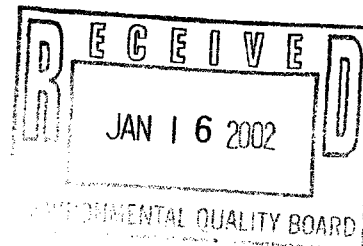
Pennsylvania is one of the first of the mid-Atlantic states to propose consumer products VOC regulations. It has the opportunity to provide an example to the states that will later follow this path. We strongly support the efforts Pennsylvania is taking to implement these regulations in a coordinated fashion.

We appreciate the opportunity to comment and look forward to working with the Commonwealth of Pennsylvania on this issue. If there are any questions, or if additional information is required, please contact (202) 393-6362.

Submitted on behalf of ACMC by:



Ann McCulloch
ACMC Manager



Original: 2228



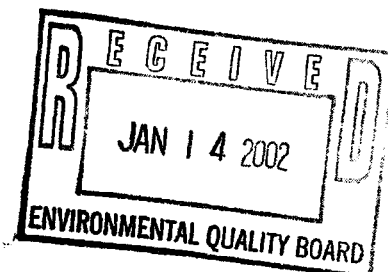
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REVIEW COMMISSION

January 14, 2002

Via electronic transmission and
Overnight delivery

Pennsylvania Environmental Quality Board
Rachel Carson State Office Building, 15th Floor
400 Market Street
Harrisburg, Pennsylvania 17101-2301



Subject: Proposed Consumer Products Regulations^{1/}

Dear Environmental Quality Board Member:

The Consumer Specialty Products Manufacturers Association (CSPA) appreciates the opportunity to comment on the proposed regulations for consumer products. In summary, we believe that the proposed rule provides a fair but technically challenging regulatory framework that will protect the environment and will allow manufacturers to produce and sell widely-used consumer products in Pennsylvania. CSPA attended the public hearing on December 13, 2001, in Harrisburg and presented oral testimony in support of the proposed regulations.

STATEMENT OF INTEREST

CSPA is a voluntary, non-profit national trade association representing approximately 220 companies engaged in the manufacture, formulation, distribution, and sale of chemical specialties products for household, institutional (e.g., hospitals, restaurants, office buildings, schools) and industrial use. CSPA member companies manufacture and market at least 30 (i.e., two-thirds) of the 45 consumer product categories and approximately 60 (i.e., more than three-quarters) of the 80 different types of products covered by the proposed regulations. Moreover, CSPA has a significant presence in Pennsylvania; eleven of our member companies have facilities in the Commonwealth. One of CSPA's largest members, the Crown Cork & Seal Company, has its world headquarters in Philadelphia.

^{1/} Annex A, Title 25, Environmental Protection, Part I. Department of Environmental Protection. Subpart C. Protection of Natural Resources, Article III. Air Resources Chapter 130. Standards for Products, Subchapter B. Consumer Products, See <http://www.dep.state.pa.us/dep/subject/eqb/eqb01.htm#September>.

COMMENTS

I. CSPA Supports Uniform Regulatory Standards for Consumer Products Throughout the Mid-Atlantic and Northeast States.

CSPA worked constructively and cooperatively with the state environmental agency officials in the Ozone Transport Commission's (OTC's) Consumer Products Workgroup. We commend the Workgroup's efforts to establish *uniform* clean air regulations within the 12 states and the District of Columbia that comprise the Ozone Transport Region (OTR). The adoption of a uniform set of regulations ensures that interstate commerce will not be impaired by the promulgation of numerous – and potentially conflicting – regulations in different states.

CSPA supports the DEP's proposed regulation because it is materially consistent with the OTC model rule.^{2/} As a general proposition, CSPA strongly supports the OTC's regulatory approach of basing the standards for volatile organic compounds – and other important regulatory provisions – on the regulations adopted in California. Moreover, CSPA fully supports the position articulated by the OTC Stationary/Area Source Committee in its most recent report:

The stakeholders strongly urge the OTC States to adopt uniform consumer product regulations. The [Stationary/Area Source] Committee recognizes the need for such regional consistency, and recommends that the OTC accept this mode rule, as modified, and that every effort should be made to adopt this rule uniformly across the OTR.^{3/}

Moreover, CSPA ***strongly supports*** the Environmental Quality Board's conclusion that, "...it is important that the proposed regulations be implemented consistently and uniformly as negotiated. Any deviation from the proposed regulations by altering the limits set forth in the regulations may hinder the ability of manufacturers to comply with the regulations."^{4/}

Thus, by adopting the proposed rule, Pennsylvania will take a positive step toward promulgating clean air regulations, with respect to the volatile organic compound (VOC) content of consumer products, that will be uniform with regulations promulgated by the other 11 states (and the District of Columbia) in the Ozone Transport Region (OTR).

^{2/} OTC Consumer Products Model Rule, http://www.sso.org/otc/Publications/2001/modelrule_cp_010306_final.PDF, March 28, 2001.

^{3/} Executive Summary of the Report of the Stationary/Area Source Committee, http://www.sso.org/otc/SAS/SAS_Ctee_execsum_010306.PDF, March 6, 2001, at 3.

^{4/} 31 Pa. B. 6136 (Nov. 9, 2001) at 3.

II. Discussion of Important Provisions of the OTC Model Consumer Products Rule

A. The DEP Should Correct Three Numerical Errors in the Table of Standards to Maintain Consistency with the Standards Set by the Model OTC Rule.

The current draft of the proposed regulations contains two numerical errors in the table of standards. The first error is the omission of the appropriate standard for the product category "air fresheners -- solids / gels." *See* Proposed Rule at p. 35. Under the OTC Model Rule the standard for this product category is 3 percent VOC.^{5/} The second error is an incorrect standard for the product category "engine degreasers -- aerosols." In the current draft of the proposed rule, the standard is erroneously set at 5 percent. *Id.* Under the OTC Model Rule the standard for this product category is 35 percent VOC.^{6/} Finally, the DEP omitted the standard for the product category "general purpose degreasers -- non-aerosols." *See* Proposed Rule at p. 36. Under the OTC Model Rule the standard for this product category is 4 percent VOC.^{7/} This comment is offered as a constructive observation of an apparent inadvertent drafting error. CSPA fully appreciates the fact that the DEP worked long and hard to develop a comprehensive set of regulations that are consistent with both the Commonwealth's regulatory drafting requirements and the OTC Model Rule.

B. The Title for § 130.334 Should Be Revised so that It Is Consistent with the Title for § 130.213.

In the current draft of this proposed regulation, the title for § 130.213 correctly refers to the broad scope of consumer products that are registered with both the U.S. Environmental Protection Agency and the Pennsylvania Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).^{8/} However, as currently drafted, the title for § 130.334 incorrectly refers to only a portion of the products regulated by FIFRA. Specifically, the title omits any reference to antimicrobial products (sometimes called disinfectants, sanitizers and germicides). The DEP can easily correct this inadvertent drafting error by making the title for § 130.334 consistent with the title for § 130.213 as follows:

§ 130.334. ~~Insecticides, fungicides, and rodenticides~~ *Products registered under FIFRA*

This minor revision would allow the DEP to avoid any potential confusion about the applicability of section 130.334 to antimicrobial products.

^{5/} OTC Consumer Products Model Rule, *supra.* at 25.

^{6/} OTC Consumer Products Model Rule, *supra.* at 26.

^{7/} OTC Consumer Products Model Rule, *supra.* at 26.

^{8/} *See* 7 U.S.C. §§ 136-136y.

C. The DEP Should Consider Making Several Practical Revisions to the Regulatory Provisions Governing the Alternative Control Plan.

During the past six (or seven) years, California's alternative control plan (ACP) regulation has benefited the State by encouraging and certifying millions of pounds of surplus VOC emission reductions credits. Thus, it is entirely reasonable and appropriate for Pennsylvania's proposed regulations to contain this important regulatory provision. Once promulgated as a final rule, the Commonwealth of Pennsylvania should be able to achieve similar proportionate environmental benefits.

CSPA would like to offer three practical revisions to the current provisions governing Pennsylvania's procedure for granting an ACP agreement. First, we recommend that the DEP revise the procedural requirements of §130.454 (a)(2) to provide responsible parties a period of 15 working days (instead of five working days) after receipt of a written request from the Department.^{9/} While CSPA fully supports the right of the DEP to request relevant information from responsible ACP parties to substantiate their claim of an ACP, the practical realities of business would likely render the current five-day period too short a timeframe for a complete production of all necessary documentation. Moreover, the recommended 15-day period is more consistent with the timeframe provided in other sections of the proposed rule.

Second, CSPA recommends that the DEP revise §130.458(a)(2) to only require manufacturers to provide general information about any changes to a product's formulation rather than provide the formula itself.^{10/} Manufacturers have a legitimate business interest in protecting proprietary business information. Accordingly, CSPA recommends that the proposed regulation be revised to authorize the DEP to request specific information about changes to a product's formulation rather than the product formula itself.

Finally, CSPA strongly urges the DEP to revise the provisions of §130.463 to provide greater protection for manufacturers' legitimate expectations of confidentiality for highly sensitive business information.^{11/} CSPA urges the DEP to balance the need for public access to information to ensure that the regulation also includes adequate protections for confidential business information. Specifically, CSPA believes that the public interest would not be compromised if the DEP makes public details such as the names of product that are included in an ACP agreement, the VOC percentage of each ACP product, the annual sales (in pounds) of each product, and basic calculation of the Surplus Emission Reduction Credits (SERCs) earned and used/traded, but not the product formula. Accordingly, the regulations should be revised as follows:

^{9/} § 130.454 pertains to recordkeeping and availability of requested information.

^{10/} §130.458 sets forth the requirements for the responsible ACP party to provide the DEP with notification of any modifications to an ACP.

^{11/} §130.463 sets forth the procedural protections for confidential business information submitted by a responsible ACP party to the DEP.

§130.463. Treatment of information.

The information required by §§130.451-130.464 (relating to ACP for consumer products) is ~~public information which may not be claimed as confidential~~ ***related to product formulation shall be protected as confidential business information.*** All other information ~~related to a product formula~~ submitted to the Department to meet the requirements of this regulation shall be handled in accordance with the procedures specified in applicable Pennsylvania laws and regulations.

These proposed revisions would ensure that manufacturers' legitimate expectations of confidentiality be protected. This interest is particularly acute when dealing with the formulation of the innovative products that are typically included in an ACP agreement.

CONCLUSION

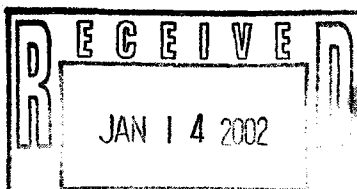
CSPA supports the DEP's proposed regulation because it is materially consistent with the OTC model rule. The adoption of a uniform set of regulations in the Mid-Atlantic and Northeastern States will provide environmental protections uniformly in Pennsylvania and throughout the OTR states – without needlessly impairing interstate commerce. In addition, CSPA urges the DEP to consider and adopt the technical and practical revisions set forth in our comments.

CSPA and our member companies look forward to continuing our active participation as a stakeholder in this important rulemaking process. If you have any questions, please do not hesitate to contact me at (202) 872-8110.

Respectfully submitted,

Joseph T. Yost
Director, State Affairs

cc: Terry Black, Bureau of Air Quality, Pennsylvania Department of Environmental Protection
Patricia Grim, Bureau of Air Quality, Pennsylvania Department of Environmental Protection
CSPA Air Quality Special Committee Members
Catherine C. Beckley, Esq., The Cosmetic, Toiletry, and Fragrance Association



Summary of the Consumer Specialty Products Association's Position on the Proposed Consumer Products Rule

The Consumer Specialty Products Association (CSPA) appreciates this opportunity to comment on the proposed regulations for consumer products. CSPA member companies manufacture and market at least 30 (*i.e.*, two-thirds) of the 45 consumer product categories and approximately 60 (*i.e.*, more than three-quarters) of the 80 different types of products covered by the proposed regulations. These consumer specialty products are formulated and packaged in many forms. The majority of these products are marketed *nationally* – although some of our members also market these products on a *regional* basis.

CSPA Strongly Supports the Adoption of Uniform Consumer Products Regulations in the Northeast and Mid-Atlantic States

CSPA commends the Pennsylvania Department of Environmental Protection (DEP), and in particular, Mr. Terry Black (Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality), for his leadership of the OTC Consumer Products Workgroup. CSPA believes that the model rule produced by the OTC Workgroup provides a fair and flexible regulatory framework that will protect the environment and will allow manufacturers to produce and to sell widely used consumer products in Pennsylvania and states.

CSPA strongly supports the DEP's decision to base its VOC limits and other important regulatory provisions on California's consumer products regulations. This approach will ensure the harmonization of regulatory standards for consumer products in Pennsylvania -- and throughout the OTR states. Therefore, as a threshold issue, CSPA strongly urges the DEP to make several technical revisions to the proposed regulation so that it more closely tracks the provisions of the OTC Model Consumer Products Rule. The following revisions will help to ensure uniformity among the other Northeast and Mid-Atlantic States that are seeking VOC reductions:

- DEP should correct the three errors in the table of standards to maintain consistency with the standards set by the Model OTC Rule.
- The title for provisions dealing with FIFRA-regulated products should be as follows:
§ 130.334. ~~Insecticides, fungicides, and rodenticides~~ *Products registered under FIFRA*
This minor revision would allow the DEP to avoid any potential confusion about the applicability of section 130.334 to antimicrobial products.
- DEP should revise the provisions of the proposed regulations to provide greater protection for manufacturers' legitimate expectations of confidentiality for highly sensitive business information. Accordingly, the regulations should be revised as follows:
§130.463. Treatment of information. The information required by §§130.451-130.464 (relating to ACP for consumer products) ~~is public information which may not be claimed as confidential~~ *related to product formulation shall be protected as confidential business information.* All other information ~~related to a product formula~~ submitted to the Department to meet the requirements of this regulation shall be handled in accordance with the procedures specified in applicable Pennsylvania laws and regulations.

In conclusion, CSPA feels that the openness of both the Pennsylvania and the OTC process allowed the development of fair and workable regulations that will provide environmental protections *uniformly* in Pennsylvania and throughout the Ozone Transport Region states -- without needlessly impairing interstate commerce.

1 BEFORE THE PENNSYLVANIA DEPARTMENT
2 OF ENVIRONMENTAL PROTECTION

3
4 IN RE: ENVIRONMENTAL QUALITY
5 BOARD

6 PUBLIC HEARING

7 BEFORE: DENVER McDOWELL, Chairman
8 Terry Black
9 Sharon Trostle

10 LOCATION: DEP- Southcentral
11 Regional Office
12 Susquehanna River
13 Conference Room A
14 909 Elmerton Avenue
15 Harrisburg, Pennsylvania

16 HEARING: Thursday, December 13,
17 2001, at 2:00 p.m.

18 WITNESSES: Catherine Beckley
19 Joseph Yost
20 Heidi McAuliffe

21 Reporter: Denise L. Travis

22

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I N D E X

INTRODUCTION

Mr. McDowell

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SPEAKERS

Ms. Beckley

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Mr. Yost

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Ms. McAuliffe

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CERTIFICATE

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EXHIBIT PAGEPAGENUMBERIDENTIFICATIONIDENTIFIED

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P R O C E E D I N G S

MR. MCDOWELL:

I'm going to read an
opening remark, and then
we'll take the testimony
after that.

The proposed
amendments to
Pennsylvania's Air Quality
Regulations and the State
Implementation Plan,
Consumer Products.

I would like to
welcome you to this
Environmental Quality
Board public hearing on a
proposal to reduce
volatile organic compound
emissions from consumer
products.

My name is Denver
McDowell. I'm the Chief
of the Environmental
Planning and Habitat

1 Protection Division in the
2 Pennsylvania Game
3 Commission. I'm Executive
4 Director Vern Ross's
5 alternate to the
6 Environmental Quality
7 Board.

8 Also with me today
9 from the Department of
10 Environmental Protection
11 are, to my left, Terry
12 Black, Chief, Regulation
13 and Policy Development
14 Section, Bureau of Air
15 Quality; to my left,
16 Sharon Trostle, Regulatory
17 Coordinator, Policy
18 Office.

19 Notice of the
20 proposed amendments was
21 printed in the
22 Pennsylvania Bulletin and
23 in nine major newspapers
24 around the state on
25 November 10, 2001.

1 This proposal reduces
2 volatile organic compound
3 emissions from 45
4 categories of consumer
5 products. The proposal
6 expands upon the Federal
7 Consumer Products Rule
8 promulgated in 1998, which
9 regulates 24 product
10 categories and achieves
11 about a 20 percent
12 reduction in emissions on
13 a national basis.
14 Pennsylvania's proposal
15 has been developed to
16 capture additional
17 reductions from these
18 products. Examples of
19 products include household
20 cleaning products, hair
21 sprays, automobile care
22 products, personal hygiene
23 products, and in-home and
24 in -- or home-use
25 pesticides.

1 This proposal is part
2 of the Commonwealth's
3 strategy to attain and
4 maintain the one-hour
5 National Ambient Air
6 Quality Standard for
7 Ozone. It is based on the
8 Ozone Transport Commission
9 model rule and the
10 California Air Resources
11 Board program. The other
12 ozone transportation
13 region states have
14 committed to adopting
15 similar regulations.
16 These combined efforts
17 will maximize the
18 effectiveness of the rule
19 and together with
20 California are expected to
21 create a national
22 standard.

23 The regulation, if
24 approved, will be
25 submitted to the EPA as a

1 revision to the State
2 Implementation Plan.

3 In order to give
4 everyone an equal
5 opportunity to comment on
6 this proposal, I would
7 like to establish the
8 following ground rules:

9 First, I will first
10 call upon the witnesses
11 who have preregistered to
12 testify at today's hearing
13 as included on the
14 schedule of witnesses.
15 After hearing from these
16 witnesses, I will provide
17 any other interested
18 parties with the
19 opportunity to testify as
20 time allows.

21 Second, oral
22 testimony is limited to
23 ten minutes for each
24 witness.

25 Third, organizations

1 are requested to designate
2 one witness to present
3 testimony on its behalf.

4 Fourth, each witness
5 is asked to submit three
6 written copies of the
7 testimony to aid in
8 transcribing the hearing.
9 Would you please hand me
10 your copies prior to
11 presenting your testimony?

12 Fifth, please state
13 your name and address for
14 the record prior to
15 presenting your testimony.

16 And sixth, we would
17 also appreciate your help
18 in spelling the names and
19 terms that may not be
20 generally familiar so that
21 the transcript can be as
22 accurate as possible.

23 Interested persons
24 may submit written
25 comments in addition to or

1 in place of oral testimony
2 presented here. All
3 comments must be received
4 by the Environmental
5 Quality Board by January
6 16, 2002. Comments should
7 be addressed to the
8 Environmental Quality
9 Board, Post Office Box
10 8477, Harrisburg,
11 Pennsylvania, 17105-8477.
12 Comments can also be
13 E-mailed to
14 RegComments@state.pa.us.

15 All comments received
16 at today's hearing and in
17 writing by January the
18 16th will be considered by
19 the Environmental Quality
20 Board and become part of a
21 comment response document
22 prepared for the
23 Environmental Quality
24 Board's review prior to
25 taking final action on

1 this regulation.

2 Anyone interested in
3 a transcript of this
4 hearing may contact the
5 reporter here today to
6 arrange to purchase a
7 copy.

8 I will now call the
9 first witness. Catherine
10 Beckley, please.

11 MS. BECKLEY:

12 Yes. Here are my
13 copies.

14 My name is Catherine
15 Beckley, and I am
16 Associate General Counsel
17 for The Cosmetic,
18 Toiletry, and Fragrance
19 Association in Washington,
20 D.C.

21 Since 1894, CTFA has
22 been the national trade
23 association for the
24 personal care products
25 industry. Our members

1 manufacture the majority
2 of cosmetics sold in the
3 U.S. CTFA also represents
4 600 member companies, with
5 approximately one-half
6 manufacturing raw
7 materials and packaging.

8 Based on our
9 association's most recent
10 state facility survey,
11 CTFA represents 15
12 companies in Pennsylvania
13 employing over 2,100
14 workers in the area of
15 manufacturing, research
16 and development,
17 distribution and
18 warehousing of personal
19 care products included in
20 the proposed rule.

21 Since 1989, CTFA has
22 been an active participant
23 in several state
24 rulemakings, for example,
25 California, Texas, and

1 Oregon, on volatile
2 organic compounds, VOCs,
3 in consumer products.
4 Currently, CTFA is working
5 with the Ozone Transport
6 Region states of
7 Pennsylvania, Delaware,
8 and Maryland on their
9 state rules. And we've
10 participated as a key
11 stakeholder in the state
12 rule -- as a key
13 stakeholder in the
14 adoption of the Ozone
15 Transport Commission's
16 Model Consumer Product
17 Rule.

18 At the national
19 level, CTFA has worked
20 with the U.S. EPA on its
21 rulemaking to limit VOCs
22 in commercial -- consumer
23 and commercial products.
24 In fact, CTFA was a joint
25 intervenor in a federal

1 court case; and we
2 supported EPA's authority
3 to draft a national
4 regulation under the Clean
5 Air Act Amendments of
6 1990.

7 CTFA supported the
8 Ozone Transport
9 Commission, OTC, Model
10 Consumer Product Rule
11 because we believe such a
12 regional ozone reduction
13 regulatory approach for
14 the Northeast and
15 Mid-Atlantic states is
16 more efficient for the
17 individual states and the
18 affected companies.

19 CTFA also thinks that
20 following the OTC model
21 ensures greater uniformity
22 among OTC states that wish
23 to adopt a consumer
24 product rule. Therefore,
25 CTFA strongly supports the

1 Pennsylvania Environmental
2 Quality Board's analysis
3 of the State's proposed
4 rulemaking that states,
5 quote, It is important
6 that the proposed
7 regulations be implemented
8 consistently and uniformly
9 as negotiated. Any
10 deviation from the
11 proposed regulations by
12 altering the limits set
13 forth in the regulations
14 may hinder the ability of
15 manufacturers to comply
16 with the regulations.

17 In terms of specific
18 comments about the rule,
19 CTFA supports both the
20 proposed VOC standards in
21 the regulation and the
22 2005 effective date for
23 consumer products to
24 comply.

25 Second, CTFA supports

1 the proposal's efficient
2 approach to an innovative
3 product application, the
4 inclusion of a variance
5 process, and a workable
6 alternate control plan.

7 In conclusion, CTFA
8 thanks the board and the
9 staff of DEP's Bureau of
10 Air Quality for
11 considering our comments.
12 CTFA looks forward to
13 continued participation as
14 a key stakeholder in this
15 process. And I will be
16 submitting comments in
17 January with some specific
18 drafting changes before
19 the proposal is finalized.

20 And I thank you, and
21 I would be glad to answer
22 any questions.

23 MR. MCDOWELL:

24 Thank you.

25 MS. TROSTLE:

1 No questions.

2 MS. BECKLEY:

3 Any questions?

4 MR. BLACK:

5 No.

6 MR. MCDOWELL:

7 Our next presenter

8 will be Joseph Yost.

9 MR. YOST:

10 Thank you.

11 Thank you and good
12 afternoon. My name is
13 Joseph Yost. I represent
14 CSPA, or the Consumer
15 Specialty Products
16 Association. We are
17 located at 900 17th
18 Street, Northwest, Suite
19 300 in Washington, D.C.

20 CSPA appreciates this
21 opportunity to comment on
22 the proposed regulations
23 for consumer products.
24 And the CSPA looks forward
25 to actively participating

1 as a stakeholder in this
2 important rulemaking
3 procedure.

4 As a little bit of
5 background as to who CPSA
6 is, we're a voluntary,
7 nonprofit trade
8 association that was
9 established in 1914. CPSA
10 represents companies
11 engaged in the
12 manufacture, formulation,
13 distribution, and sale of
14 products for households,
15 institutions -- when I say
16 "institutions," I mean
17 schools, office buildings
18 like this, restaurants,
19 hospitals. And we also
20 sell products for
21 industrial use. Moreover,
22 CPSA has a significant
23 presence in Pennsylvania.
24 Eleven of our member
25 companies have facilities

1 here in the Commonwealth.
2 And one of our member
3 companies, Crown Cork and
4 Seal, has their worldwide
5 headquarters in
6 Philadelphia.

7 CSPA member companies
8 manufacture and market at
9 least 30, or two-thirds,
10 of the 45 consumer product
11 categories that will be
12 covered by this proposed
13 regulation. And we
14 manufacture or market at
15 least 60 of the 80
16 different product -- types
17 of products covered by
18 these proposed
19 regulations.

20 These products are
21 packaged in many forms.
22 And for the most part,
23 they are marketed
24 nationally, although some
25 of our members also market

1 products on a regional
2 basis.

3 Since the late 1980s,
4 CSPA has work actively and
5 cooperatively with
6 California, Massachusetts,
7 New Jersey, New York,
8 Oregon, and Texas to
9 provide our industry's
10 perspective on these
11 states' consumer products
12 regulations. In addition,
13 CSPA worked cooperatively
14 with the U.S.

15 Environmental Protection
16 Agency as it developed its
17 national consumer products
18 rule.

19 CSPA and CTFA
20 participated as joint
21 intervenors in support of
22 the U.S. Environmental
23 Protection Agency in a
24 suit that challenged the
25 EPA's authority to

1 promulgate clean air
2 regulations.

3 As a threshold
4 matter, I would like to
5 state that CSPA strongly
6 supports uniform consumer
7 product regulations
8 throughout the
9 Mid-Atlantic and
10 Northeastern states. The
11 CSPA commends the
12 Pennsylvania Department of
13 Environmental Protection
14 and, in particular, Mr.
15 Terry Black for his
16 leadership on the OTC's
17 Consumer Products
18 Workgroup. CSPA believes
19 that the model rule
20 produced by the OTC
21 Workgroup provides a fair
22 and flexible regulatory
23 framework that will
24 protect the environment
25 and will allow

1 manufacturers to produce
2 and to sell widely used
3 consumer products in
4 Pennsylvania.

5 Specifically, CSPA
6 strongly supports the
7 DEP's decision to base its
8 VOC limits and other
9 important regulatory
10 provisions on California's
11 consumer products
12 regulations. This
13 approach will ensure the
14 harmonization of
15 regulatory standards for
16 consumer products in
17 Pennsylvania and
18 throughout the Ozone
19 Transport Region states.
20 Thus, CSPA strongly
21 supports the Environmental
22 Quality Board's conclusion
23 that, to quote, It is
24 important that the
25 proposed regulations be

1 implemented consistently
2 and uniformly as
3 negotiated. Any deviation
4 from the proposed
5 regulations by altering
6 the limits set forth in
7 the regulations may hinder
8 the ability of
9 manufacturers to comply
10 with these regulations.

11 And again, I would
12 just like to reiterate as
13 a threshold matter, CSPA
14 strongly urges the DEP to
15 adopt the OTC model rule.
16 And as such we would like
17 to offer several technical
18 revisions to the proposed
19 regulations so that it
20 will more closely track
21 the provisions in the OTC
22 model rule. Making these
23 technical revisions will
24 help to ensure uniformity
25 among the other Northeast

1 and Mid-Atlantic states
2 that are seeking to reduce
3 VOC reductions through
4 adoption of this rule.

5 There are three
6 separate issues that I
7 would like to address in
8 terms of the technical
9 revisions. First, the DEP
10 should correct three
11 errors in the table of
12 standards to maintain
13 consistency with the
14 standards set by the OTC
15 model.

16 The current draft of
17 the proposed regulations
18 contains two omissions and
19 one numeric error in the
20 table of standards. The
21 first error is the
22 omission of the
23 appropriate standard for
24 the product category air
25 fresheners, solids/gels.

1 Under the OTC model the
2 standard for this product
3 category is 3 percent.
4 This number was omitted
5 from the DEP's draft
6 model.

7 The second error is
8 an incorrect standard for
9 the product category
10 engine degreasers-
11 aerosols. In the current
12 draft of the proposed
13 rule, the standard is
14 erroneously set at 5
15 percent. Under the OTC
16 model, the standard for
17 this product category is
18 35 percent.

19 Finally, the DEP
20 omitted the standard for
21 the product category
22 category general purpose
23 degreasers- nonaerosols.
24 Under the OTC model rule,
25 the standard for this

1 product category is 4
2 percent VOC.

3 These comments are
4 offered as a constructive
5 observation of an apparent
6 inadvertent drafting
7 error. CSPA fully
8 appreciates the fact that
9 the DEP worked long and
10 hard to develop a
11 comprehensive set of
12 regulations that are
13 consistent with both the
14 Commonwealth's regulatory
15 drafting requirements and
16 the OTC model rule.

17 The second issue I
18 would like to call to
19 attention is the need to
20 change the title for
21 certain provisions dealing
22 with FIFRA regulated
23 products so that these
24 titles are consistent
25 throughout the regulation.

1 In the current draft
2 of the proposed
3 regulation, the title for
4 section -- I'm sorry to
5 give you these numbers. I
6 had an overhead, but --
7 well, just bear with me.
8 It's all in the written
9 comments.

10 The title for Section
11 130.213 correctly refers
12 to the broad scope of
13 consumer products that are
14 registered with the U.S
15 Environmental Protection
16 Agency and the
17 Pennsylvania Department of
18 Agriculture under the
19 Federal Insecticide,
20 Rodenticide, and Fungicide
21 Act, or FIFRA. However,
22 as currently drafted, the
23 title for Section 130.334
24 incorrectly refers to only
25 a portion of the products

1 regulated by FIFRA.
2 Specifically, the title
3 omits any reference to
4 antibacterial -- excuse me
5 -- antimicrobial
6 products. These
7 antimicrobial products are
8 sometimes called
9 disinfectants, sanitizers,
10 and germicides.

11 The DEP can easily
12 correct this inadvertent
13 drafting error by making a
14 slight title change. And
15 it's written out, but
16 essentially what you just
17 say is products registered
18 under FIFRA. I'll submit
19 written comments to
20 further elaborate on this.

21 This minor revision
22 would allow the DEP to
23 avoid any potential
24 confusion about the
25 applicability of section

1 130.334 to antimicrobial
2 products.

3 The last issue I
4 would like to address is a
5 recommendation that the
6 DEP consider making
7 several practical
8 revisions to the
9 regulatory section dealing
10 with the alternative
11 control plan.

12 By way of background,
13 during the past six or
14 seven years, California's
15 alternative control plan,
16 or ACP, regulation has
17 benefited the State by
18 encouraging and certifying
19 millions of pounds of
20 surplus VOC reduction
21 credits. Thus, it is
22 entirely reasonable and
23 appropriate for
24 Pennsylvania's proposed
25 regulations to contain

1 this important regulatory
2 provision. Once
3 promulgated as a final
4 rule, the Commonwealth of
5 Pennsylvania should be
6 able to achieve similar
7 proportionate
8 environmental benefits.

9 CSPA would like to
10 offer three practical
11 revisions to the current
12 provisions governing the
13 ACP agreement.

14 First, we recommend
15 that the DEP revise the
16 procedural requirements
17 for the proposed
18 regulations to provide
19 responsible parties a
20 period of 15 days, instead
21 of the current 5 days, to
22 respond after receiving a
23 written request from the
24 Department.

25 While CSPA fully

1 supports the right of the
2 DEP to request relevant
3 information from
4 responsible ACP parties to
5 substantiate their claim
6 of an ACP, the practical
7 realities of business
8 would likely render the
9 current five-day period
10 too short a time frame for
11 a complete production of
12 all necessary
13 documentation. Moreover,
14 the recommended 15-day
15 period is more consistent
16 with the time frame
17 provided in other sections
18 of the proposed rule.

19 Second, CSPA
20 recommends that the DEP
21 revise the proposed rule
22 to only require
23 manufacturers to provide
24 general information about
25 changes to a product's

1 formulation rather than
2 provide the formula
3 itself. Manufacturers
4 have a legitimate business
5 interest in protecting
6 proprietary business
7 information. Accordingly,
8 CSPA recommends that the
9 proposed regulation be
10 revised to authorize the
11 DEP to request specific
12 information about changes
13 to a product's formulation
14 rather than the formula
15 itself.

16 Finally, CSPA
17 strongly urges the DEP to
18 revise the provisions in
19 the proposed regulations
20 to provide greater
21 protection for
22 manufacturers' legitimate
23 expectations of
24 confidentiality for highly
25 sensitive business

1 information. CSPA urges
2 the DEP to balance the
3 need for public access to
4 information with the need
5 to ensure that the
6 regulation also includes
7 adequate protection for
8 confidential business
9 information.

10 Specifically, CSPA
11 believes the public
12 interest would not be
13 compromised if the DEP
14 makes public details such
15 as (1) the names of the
16 products that are included
17 in the ACP agreement; (2)
18 the VOC percentage of each
19 ACP product; (3) the
20 annual sales, in pounds,
21 of each product; and (4)
22 basic calculation of the
23 Surplus Emission Reduction
24 Credits, or SERCs, earned
25 or used or traded, but

1 again, not the product
2 formula.

3 And in the written
4 document, I have specific
5 suggestions as to how to
6 make slight wording
7 changes in Section
8 130.463.

9 These three technical
10 revisions to the ACP
11 provision would ensure
12 that manufacturers'
13 legitimate expectations of
14 confidentiality would be
15 protected. This interest
16 is particularly acute when
17 dealing with the
18 formulation of the
19 innovative products that
20 are typically included in
21 an ACP agreement.

22 And in conclusion,
23 CSPA would like to restate
24 our strong support for the
25 adoption of uniform

1 consumer product rules in
2 Pennsylvania and the other
3 Mid-Atlantic and
4 Northeastern states that
5 comprise the Ozone
6 Transport Region. We feel
7 that the openness of both
8 the Pennsylvania and the
9 OTC process allowed for
10 the development of fair
11 and workable regulations
12 that will provide
13 environmental protections
14 uniformly in Pennsylvania
15 and throughout the OTR
16 states without needlessly
17 impairing interstate
18 commerce.

19 Thank you again for
20 allowing me this
21 opportunity to speak to
22 you this afternoon. I
23 look forward to your
24 questions.

25 MR. MCDOWELL:

1 Thank you.

2 MS. TROSTLE:

3 I don't have any
4 questions.

5 MR. BLACK:

6 No. Thank you.

7 MR. YOST:

8 Thank you.

9 MR. MCDOWELL:

10 Thank you very much.

11 Does anybody else
12 wish to make any comments?

13 Okay. Give us your
14 name and address, please.

15 MS. MCAULIFFE:

16 My name is Heidi
17 McAuliffe.

18 MR. MCDOWELL:

19 Would you please come
20 up closer?

21 (Witness complies.)

22 MR. MCDOWELL:

23 Thank you.

24 MS. MCAULIFFE:

25 My name is Heidi

1 McAuliffe. I'm with
2 National Paint & Coatings
3 Association. We represent
4 the Caulk, Sealants, and
5 Adhesives Committee at
6 National Paint & Coatings
7 Association. I just have
8 a few comments on the
9 format and content of the
10 rule.

11 Let me just say a few
12 words about the history of
13 our committee's
14 involvement with the rule.
15 As you heard from the
16 other trade associations
17 that are here, we too have
18 worked with the OTC
19 throughout their history
20 and their tenure with the
21 OTC rule. And it's been a
22 very open give-and-take
23 exchange with regard to
24 the rule. We really
25 appreciate that kind of

1 access and that kind of
2 exchange of ideas and
3 information.

4 From our perspective,
5 it's been a fairly upbeat
6 and easy exercise for us.
7 There was a lot of
8 groundwork already laid in
9 California. Our committee
10 had participated very
11 extensively in the
12 rulemakings in California.
13 And in fact, our committee
14 essentially wrote the
15 subcategory definition for
16 the adhesives categories
17 that are contained in the
18 California rule, which
19 were embraced entirely by
20 the OTC. So we were very
21 grateful for that. And
22 like the other trade
23 groups here, we're very
24 interested in having a
25 uniform rule on the West

1 Coast and the East Coast.

2 For compliance
3 matters and for clean air
4 matters and for all of the
5 things that really matter
6 with regard to this
7 rulemaking, that is a very
8 important element. So we
9 are very grateful for that
10 and thank you for that
11 effort. Anyway, so we do
12 have a long history with
13 the rule. I appreciate
14 your efforts to getting
15 this rule to this point.

16 I really have two
17 substantive comments to
18 make. One is with regard
19 to one of the definitions.
20 I'd like to propose a
21 change to the adhesives
22 definition. And then
23 there's something in the
24 table of comments I want
25 to point when out to -- or

1 in the table of standards.

2 With regard to
3 adhesives definition,
4 early on in the OTC
5 process, our committee
6 wrote a letter to the
7 Commission asking for some
8 specific size exclusions
9 for different adhesives
10 products. And I will
11 admittedly say that I'm
12 not sure we were very
13 clear in what we were
14 asking for. What we had
15 asked for was that the --
16 for contact adhesives
17 specifically, the size
18 would be limited to one
19 gallon -- one gallon --
20 not more than one gallon.
21 Excuse me. In our letter,
22 however, like I said, I
23 don't think that we were
24 very clear.

25 What happened with

1 the OTC is when they
2 drafted the definition for
3 adhesives, they applied
4 that size exclusion to
5 contact adhesives plus
6 construction panel and
7 floor covering adhesives
8 and general purpose
9 adhesives. The change was
10 made, and we never caught
11 the discrepancy in what we
12 had asked for. And the OTC
13 finalized their rule, I
14 believe, in March --
15 sometime in March of 2001.

16 So when we did
17 finally get a chance to go
18 through with it with
19 fine-tooth comb and come
20 up with the problem that
21 we had with this
22 particular definition, we
23 made the different phone
24 calls and asked for the
25 change to be made at the

1 time.

2 As far as I know,
3 most of the states have
4 agreed to make this change
5 to the rule. Maryland has
6 already published their
7 rule, and it contains this
8 change to the adhesives
9 definition. I have spoken
10 with New York, and they
11 have agreed to do so also.
12 And I would like to
13 encourage you to make this
14 change also.

15 I believe that I
16 E-mailed you comments in
17 September regarding exact
18 language that we would
19 propose with regard to the
20 definition. And I'll be
21 repeating those in our
22 comments when I submit
23 them at a later point.
24 That is the first --
25 that's basically the first

1 point I wanted to cover.

2 Secondly, with regard
3 to the table of standards,
4 I believe I found a
5 problem here that you
6 probably want to address.
7 In the adhesives aerosol
8 section, there is -- there
9 are several categories and
10 subcategories. Under the
11 aerosol section, there is
12 a category for mist spray
13 and web spray. And then
14 there are several special
15 purpose spray adhesives.

16 One of the special
17 purpose sprays are the
18 polyolefin adhesives.
19 Another one is the
20 laminate
21 repair/edgebanding. The
22 way that it turned up in
23 your table of standards is
24 polyolefin and laminate
25 repair at a VOC limit of

1 60 and then another
2 category of edgebanding
3 with a VOC limit of 80.
4 And I believe what it
5 should be -- what would be
6 consistent with the model
7 rule and the other state
8 rules I've reviewed is the
9 laminate
10 repair/edgebanding at a
11 VOC limit of 60. The VOC
12 limit of 80 belongs with
13 the contact adhesives.
14 And then construction
15 panel and floor covering
16 at 15, general purpose at
17 10, and structural
18 waterproof at 15.
19 And those changes, I
20 believe, would line you up
21 with all the rest of the
22 -- with the OTC proposal
23 and all of the other state
24 proposals that I have
25 seen.

1 MR. BLACK:

2 You'll send them in
3 to us?

4 MS. MCAULIFFE:

5 Absolutely.

6 I have no other
7 comments. Again, I
8 appreciate the process
9 that you've provided here
10 in Pennsylvania to give us
11 a lot of access to your
12 staff and working with the
13 rule. And again, our
14 industry is interested in
15 two things, uniformity
16 across the country in the
17 consumer products rule and
18 they're also very
19 interested in the
20 flexibility -- the
21 flexible compliance
22 provisions that are
23 contained in the rule.
24 And I applaud your efforts
25 in that direction.

1 The variance
2 procedure, the ACP, and
3 the innovative products
4 provision are important to
5 the industry considering
6 many of these VOC limits
7 for some of the adhesives
8 categories are technology
9 forcing. And our industry
10 may be looking a lot at
11 the flexible compliance
12 provisions. Thank you for
13 this opportunity.

14 MR. MCDOWELL:

15 Thank you. Any
16 questions?

17 MS. TROSTLE:

18 No.

19 MR. BLACK:

20 No.

21 MR. MCDOWELL:

22 Thank you.

23 MS. MCAULIFFE:

24 Thank you.

25 MR. MCDOWELL:

1 Any other commenters?

2 (No response.)

3 MR. MCDOWELL:

4 Does that mean we're
5 finished?

6 MS. TROSTLE:

7 That means we're
8 finished.

9 MR. MCDOWELL:

10 We're finished.

11 (Hearing adjourned at 2:30 p.m.)

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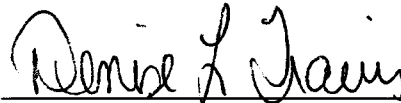
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24

25

CERTIFICATE

I hereby certify that the
proceedings are contained fully and accurately in
the notes taken by me during the hearing of the
foregoing cause and that this is a correct
transcript of the same.

A handwritten signature in cursive script, reading "Denise L. Travis", is written over a horizontal line.

Denise L. Travis, Reporter

Notary Public in and for the
Commonwealth of Pennsylvania

My commission expires
April 20, 2002