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BEFORE THE

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ENVIRONMENTAL PROTECTION
INDEPENDENT REGULATORY
ENVIRONMENTAL QUALITY BOARD

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IN RE: Proposed Rulemaking Consumer Products

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PUBLIC HEARING

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2007

BEFORE: FRANCINE CARLINI, Chair
Daniel L. Lapato, Member

HEARING: Monday, November 26, 2007
1:00 p.m.

LOCATION: DEP SW Regional Office
Delaware River Conference Room
2 East Main Street
Norristown, PA 19401

WITNESSES: Dan Pourreau

Reporter: Josh Hess

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OPENING REMARKS

By Francine Carlini

4 - 9

TESTIMONY

By Dan Pourreau

9 - 13

CERTIFICATE

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E X H I B I T S

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NONE OFFERED

P R O C E E D I N G S

CHAIR:

I would like to welcome you to the Environmental Quality Board's public hearing on the proposed rulemaking to amend 25 Pennsylvania Code Chapter 130, Subchapter B, relating to consumer products. My name is Francine Carlini, and I am the program manager of the air quality program in DEP's Southeast region. I call this hearing to order at 1:05 p.m. The purpose of this hearing is to formally accept testimony on the proposed consumer products rulemaking.

In addition to this hearing, two other public hearings are scheduled today in Harrisburg and Pittsburgh to accept public testimony on this proposed rulemaking. The objective of the proposed rulemaking is to reduce volatile organic compounds, or VOCs, emitted from consumer products. VOCs, when in the presence of oxides of nitrogen and light and heat create ozone through a chemical reaction process. When ground level ozone is present in concentrations in excess of the federal health based eight-hour standard, public health and welfare are adversely affected.

1 The Federal Environmental Protection
2 Agency has concluded that there is an association
3 between high levels of ambient ozone and increased
4 hospital admissions for respiratory ailments such as
5 asthma. While children, the elderly and those with
6 respiratory problems are most at risk, even healthy
7 individuals may experience increased respiratory
8 ailments and other symptoms when they are exposed to
9 high levels of ambient ozone while engaged in
10 activities that involve physical exertion. Though
11 such symptoms are often temporary, repeated exposure
12 could result in permanent lung damage.

13 High levels of ground level ozone
14 also cause damage to crops and vegetation, buildings
15 and synthetic fibers, including nylon, and reduce
16 visibility on roadways and in natural areas. This
17 proposed rulemaking, which is a part of the
18 Commonwealth's strategy to achieve and maintain the
19 eight-hour ozone standard throughout the state expands
20 upon the consumer products regulation, adopted by the
21 EQB in July 2002 by adding VOC content limits for an
22 additional 11 categories of consumer products.

23 The proposed rulemaking also amends
24 the VOC content limits for one category of consumer
25 products currently regulated. The proposed rulemaking

1 adds definitions for approximately 30 new items. I'm
2 sorry, approximately 30 new terms, including those
3 that relate to the new product categories that will be
4 regulated, and amends definitions for approximately
5 110 existing terms to provide clarity. While there
6 are federal VOC content limits codified at 40 CFR part
7 59, subpart C, for certain consumer products already
8 regulated by Chapter 130, Subchapter B, there are no
9 federal limits for the additional products that will
10 be regulated by this proposed rulemaking.

11 If approved, the proposed regulatory
12 revisions contained in this rulemaking will be
13 submitted to the United States Environmental
14 Protection Agency as a revision to the state
15 implementation plan, known as the SIP. The SIP, which
16 is a requirement of the Clean Air Act, is a plan that
17 provides for the implementation, maintenance and
18 enforcement of a national ambient air quality
19 standard.

20 As a member of the ozone transport
21 region, the Department of Environmental Protection
22 consulted with the Ozone Transport Commission member
23 of states, the District of Columbia and
24 representatives of the major consumer products trades
25 associations in the development of this proposal. The

1 proposal is consistent with regulatory initiatives
2 that will be undertaken by other jurisdictions in the
3 ozone transport region to address regional transport
4 of ozone precursor emissions.

5 In addition, the Department consulted
6 with the Air Quality Technical Advisory Committee, the
7 Citizen's Advisory Council and the Small Business
8 Compliance Advisory Committee on the proposed
9 rulemaking. On September 15th, 2007, the EQB
10 published these proposed regulations for public review
11 and comment in the Pennsylvania Bulletin. In
12 addition, notices for this hearing and the hearings in
13 Harrisburg and Pittsburgh were published in the
14 October 6th and October 27th, 2007 editions of the
15 Pennsylvania Bulletin and in 11 newspapers across the
16 state. In order to give everyone an equal opportunity
17 to comment on this proposal, I would like to establish
18 the following ground rules.

19 I will first call upon the witnesses who
20 have pre-registered to testify at this hearing. After
21 hearing from these witnesses, I will provide any other
22 interested parties with the opportunity to testify as
23 time allows. Testimony is limited to ten minutes for
24 each witness. Organizations are requested to
25 designate one witness to present testimony on its

1 behalf. Each witness is asked to submit three written
2 copies of his or her testimony to aid in transcribing
3 the hearing.

4 Please hand me your copies prior to
5 presenting your testimony. Please state your name,
6 address and affiliation for the record prior to
7 presenting your testimony. We would appreciate your
8 help by spelling names and terms that may not be
9 generally familiar, so that the transcript can be as
10 accurate as possible. Because the purpose of the
11 hearing is to receive comments on the proposal, EQB or
12 DEP staff may question witnesses.

13 However, the witnesses may not
14 question the EQB or DEP staff. In addition to or in
15 place of oral testimony presented at today's hearings,
16 interested persons may also submit written comments on
17 this proposal. All comments must be received by the
18 EQB on or before December 26th, 2007. Comments should
19 be addressed to the Environmental Quality Board, P.O.
20 Box 8477, Harrisburg, Pennsylvania, 17105-8477.
21 Comments may also be e-mailed to regcomments, that's
22 R-E-G-C-O-M-M-E-N-T-S, @state.pa.us.

23 All comments received at this hearing
24 as well as written comments received by December 26th,
25 2007, will be considered by the EQB and will become

1 included in a comment response document, which will be
2 prepared by the Department and reviewed by the EQB
3 prior to the Board taking its final action on this
4 regulation. Anyone interested in a copy of the
5 transcript of this hearing may contact the reporter
6 here this afternoon to arrange to purchase a copy.
7 And I will call the first witness, which is Dan
8 Pourreau.

9 MR. POURREAU:

10 Good afternoon. Did you need my home
11 address, work address or any address?

12 CHAIR:

13 I think you can just give your work
14 address.

15 MR. POURREAU:

16 Okay. My name is Dan Pourreau. I
17 represent Lindell Chemical Company. Lindell is
18 headquartered out of Houston, but I work in Newtown
19 Square at 3801 West Chester Pike in Newtown Square.
20 I'm also a Pennsylvania resident, so the
21 Commonwealth's air quality and economic health are
22 also important to me. Let me first talk about
23 Lindell. Lindell is a raw materials supplier to
24 formulators of consumer products, as well as
25 architectural paints and industrial maintenance

1 coatings, which are regulated under Subchapters B and
2 C respectively of the chapter which is being proposed
3 to be amended today. And I appreciate the opportunity
4 to comment on your proposed amendments to the consumer
5 products rule in Chapter 130 and also to request a
6 minor change to Subchapter C, architectural coatings,
7 as part of your final rule. First I'd like to say
8 that as a Lindell employee and PA resident, I support
9 the DEP's effort to improve air quality by reducing
10 VOC emissions from both products and point sources.

11 We support the proposed amendments to
12 Subchapter B, consumer products, and are requesting
13 that the definitions of the VOC and exempt compounds
14 also be deleted from Subchapter C, which regulate
15 architectural industrial maintenance coatings. These
16 definitions were left over from the OTC model rule and
17 became outdated in 2004 when the USEPA added four ---
18 actually five new compounds to that list of VOC exempt
19 compounds.

20 And with your permission, I'd like to
21 explain why this change to Subchapter C would be good
22 for Pennsylvania's air quality, would simplify
23 rulemaking, save DEP resources and would make it
24 easier for Pennsylvania formulators to comply with VOC
25 regulations while providing superior environmental

1 products. As you know, VOCs are precursors to ozone,
2 in particular matter which are criteria pollutant and
3 also lung irritants.

4 Some volatile organic compounds
5 produce negligible amounts of ozone and PM and they
6 are therefore exempted from VOC regulations.
7 Formulators currently comply with VOC regulations
8 either by reducing the amount of VOC solvents
9 contained in their products or by replacing these VOCs
10 with exempt solvents or both. And because exempt
11 compounds do not produce significant amounts of ozone
12 and PM, both approaches result in similar air quality
13 improvements.

14 Exempt solvents are an essential tool
15 for industrial coatings that have stringent
16 performance and productivity requirements or must be
17 applied outdoors year round. Now, historically the
18 USEPA has kept a list of exempt compounds that are
19 less photo chemically reactive than ethane. And in
20 2004 they updated that list by adding five new
21 compounds. The Pennsylvania DEQ's definition of a VOC
22 and of an exempt compound were automatically updated
23 because they referred to the U.S. definition in 40 CFR
24 51.100 Chapter.

25 And I've shown this on this slide,

1 those definitions which are in your general definition
2 of --- your general provisions Chapter 121.1. Now,
3 because Subchapter B, consumer products is silent on
4 the VOC definition, it defaults to the general
5 definition. Subchapter C on the other hand includes
6 the outdated California definitions that were part of
7 the OTC model rule.

8 And Terry Black who recently retired
9 and wrote this rule explained to me that this was not
10 the intent, but that the issue never came up during
11 the common period for that particular rulemaking. So
12 we are asking today that the DEP correct this
13 oversight as part of its amendments to Subchapter B
14 and Chapter 130 overall. Now, technically all that is
15 required is that the definitions of the VOC and exempt
16 compound be deleted simply from Subchapter C. This
17 will harmonize the VOC definition for AM coatings with
18 those of other products, as well as with other state
19 and federal definitions.

20 It will make VOC definition updates
21 automatic and help industry bring environmentally
22 superior products to market quicker and at a lower
23 cost. And most importantly it will reduce ozone and
24 PM formation from architectural and industrial
25 maintenance coating emissions throughout the state.

1 The National Paint and Coating Association also
2 supports this request. And we have both
3 organizations, Lindell and the NPCA have submitted
4 written comments to that effect. I thank you again
5 for your consideration. I'd be happy to answer any
6 questions.

7 CHAIR:

8 I think what I'll do is leave the
9 record open for maybe another 15 minutes in case
10 somebody should come and want to testify. And if not,
11 then I'll close the hearing around 1:30.

12 OFF THE RECORD

13 CHAIR:

14 With no other witnesses present on
15 behalf of the Environmental Quality Board, I hereby
16 adjourn this meeting at 1:30 p.m.

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18 * * * * *

19 MEETING CONCLUDED AT 1:30 P.M.

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C E R T I F I C A T E

I hereby certify that the
foregoing proceeding 11/20 Carlini
was reported by me, that I have read this
transcript on 12/11/07, and I attest
that this transcript is a true and
accurate record of the proceeding.



Court Reporter .