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ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
REASONABLY AVAILABLE )  
CONTROL TECHNOLOGY (RACT))  
FOR VOLATILE ORGANIC )  
MATERIAL EMISSIONS FROM )  
GROUP IV CONSUMER & ) R10-20  
COMMERCIAL PRODUCTS: ) (Rulemaking - Air)  
PROPOSED AMENDMENTS TO )  
35 ILL. ADM CODE 211, )  
218 AND 219 )

THE RULEMAKING HEARING BEFORE THE ILLINOIS

POLLUTION CONTROL BOARD was held and taken in the  
above-entitled matter before Ann Marie Hollo, CSR, RPR, RMR,  
State of Illinois, at 9:00 o'clock A.M., on April 28, 2010,  
at the Illinois Pollution Control Board Hearing Room, 1021  
North Grand Avenue East, Springfield, Illinois 62794,  
pursuant to notice.

Keefe Reporting Company  
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Belleville, Illinois 62226  
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## 1 APPEARANCES:

2 Timothy J. Fox, Esq., Hearing Officer

3 Illinois Pollution Control Board Members:

4 G. Tanner Girard, Ph.D.

5 Thomas Johnson, Esq.

6 Anand Rao, Board's Technical Staff Member

7 Andrea S. Moore

8 Carrie Zalewski, Esq.

9

10 Hodge, Dwyer &amp; Driver

11 3150 Roland Avenue

12 P.O. Box 5776

13 Springfield, Illinois 62705

14 By: Monica T. Rios, Esq. and Katherine D. Hodge, Esq.

15

16 On behalf of S &amp; C Electric Company

17 Illinois Environmental Regulatory Group

18 215 East Adams Street

19 Springfield, Illinois 62701

20 By: Alec M. Davis, Esq.

21

22 Illinois Environmental Protection Agency

23 1021 North Grand Avenue East

24 Springfield, Illinois 62794-9274

25 By: Dana Vetterhoffer, Esq.

ALSO PRESENT: Marie Tipsord, Esq.

16

## I N D E X

## WITNESS

## PAGE

17

RORY DAVIS

18 Questions by Mr. Alec Davis

10, 13, 15, 29

19

Questions by Mr. Rao

12, 14, 19, 23, 26, 27,

30, 39, 43

20

Questions by Brd. Member Johnson

13, 14

21 Questions by Ms. Rios

18, 20, 23, 26, 28, 47

22

Questions by Brd. Member Dr. Girard

25

23 Questions by Hearing Officer Fox

38, 43, 45

24

## E X H I B I T S

25

## NUMBER

## MARKED

## ADMITTED

26

Exhibit 1

8

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28

1           HEARING OFFICER FOX: Good morning, and  
2           welcome to this Illinois Pollution Control  
3           Board hearing. My name is Tim Fox, and I am  
4           the hearing officer for this rulemaking  
5           proceeding entitled, "Reasonably Available  
6           Control Technology (RACT) for Volatile Organic  
7           Material Emissions From Group IV Consumer &  
8           Commercial Products: Proposed Amendments to 35  
9           Illinois Administrative Code 211, 218 and 219."

10           Also present from the Board today are to  
11           my immediate left, Board Member Andrea S.  
12           Moore, the lead Board member for this  
13           rulemaking. And to her left, the Board's  
14           acting chairman, Dr. G. Tanner Girard. And at  
15           his left, Board member Carrie Zalewski. At my  
16           far right is our Board Member Thomas E.  
17           Johnson, and my immediate right is Anand Rao of  
18           the Board's technical staff.

19           The docket number for this rulemaking is  
20           R10-20. The Illinois Environmental Protection  
21           Agency filed this proposal, this rulemaking  
22           proposal on March 8, 2010 under the fast-track  
23           rulemaking provisions at Section 28.5 of the  
24           Act in an order dated March 18, 2010. The  
25           Board accepted this proposal for hearing. As

1 required by Section 28.5(e), the Board within  
2 14 days of receiving the Agency's proposal,  
3 filed it for first notice under the Illinois  
4 Administrative Procedure Act. And the proposal  
5 appeared in Volume 34 of The Illinois Register  
6 on April 2nd of 2010 beginning at Page 4281 of  
7 that publication.

8 Today we are, of course, holding the first  
9 hearing in this rulemaking. The second hearing  
10 is now scheduled to take place beginning on  
11 Wednesday, May 19, 2010 in Chicago. And the  
12 third hearing is now scheduled to take place  
13 beginning on Wednesday, June 2, 2010 also in  
14 Chicago.

15 In an order dated March 18, 2010, the  
16 hearing officer directed participants wishing  
17 to prefile testimony for the first hearing to  
18 do so on or before Friday, April 16th of  
19 2010. And on April 15th, the Board received  
20 timely prefiled testimony from Mr. Rory Davis  
21 on behalf of the Illinois Environmental  
22 Protection Agency. And Mr. Davis is, of  
23 course, present here with us today.

24 Under Section 28.5(g)(1), this hearing,  
25 "Shall be confined to testimony by and

1 questions of the Agency's witnesses concerning  
2 the scope, applicability and basis of this  
3 rule." We will accordingly begin this hearing  
4 with Mr. Davis's prefiled testimony. Section  
5 28.5(f) provides that in order to expedite the  
6 hearing, this testimony is accepted into the  
7 record without reading, providing that  
8 Mr. Davis is sworn and available for questions,  
9 a step I think he'll be prepared to take in  
10 just a moment or two.

11 After introducing and swearing in  
12 Mr. Davis, we go right to questions. Although  
13 the Agency may have a brief summary or  
14 introduction to offer to those questions that  
15 others present may have for the Agency.

16 Generally this proceeding is governed by  
17 the Board's procedural rules. All information  
18 that is relevant and that is not repetitious or  
19 privileged will be admitted into the record.

20 Please note that any questions posed today  
21 by the Board or its staff are intended solely  
22 to assist in developing a clear and complete  
23 record for the Board's decision and do not  
24 reflect any prejudgment of the proposal.

25 I would ask, of course, for the benefit of

1           our court reporter that you speak as clearly  
2           and loudly as you can. We'll try to keep the  
3           door open so that it doesn't warm up in here  
4           too quickly. But avoid also, if you would  
5           please, speaking at the same time as another  
6           person for her benefit.

7           Any questions at all about our proceeding  
8           this morning? Very good.

9           Ms. Vetterhoffer, we may certainly turn to  
10          you for any kind of introduction or summary you  
11          may wish to offer.

12          MS. VETTERHOFFER: My name is Dana  
13          Vetterhoffer. I'm assistant counsel on behalf  
14          of the Illinois EPA.

15          This rulemaking is intended to satisfy  
16          cleaner act requirements regarding reasonably  
17          available controlled technology for volatile  
18          organic materials, or VOM, from Group IV  
19          consumer and commercial product categories in  
20          areas designated as non-attainment with respect  
21          to the 1997 8-hour ozone national ambient air  
22          quality standard. This rulemaking is in  
23          response to control techniques guidelines, or  
24          CTGs, issued by the United States Environmental  
25          Protection Agency in October of 2008. Illinois

1 EPA was required to submit revisions to its  
2 state implementation plan or SIP, S-I-P, in  
3 response to the CTGs in October of 2009.

4 With me today is Rory Davis, an  
5 environmental protection engineer in the Air  
6 Quality Planning Section, Air Pollution Control  
7 Division of the Illinois EPA's Bureau of Air.

8 At this time, I'd like to move that  
9 Mr. Davis's prefiled testimony be entered into  
10 the record as an exhibit.

11 HEARING OFFICER FOX: Very good,  
12 Ms. Vetterhoffer.

13 Certainly you've heard the motion to admit  
14 that prefiled testimony as a hearing exhibit.  
15 Is there any objection to the motion? Neither  
16 seeing, nor hearing any, Ms. Vetterhoffer, that  
17 will be marked as Exhibit Number 1 and admitted  
18 into the record.

19 [WHEREBY, EXHIBIT NUMBER 1 WAS  
20 MARKED FOR IDENTIFICATION AND  
21 ADMITTED INTO THE RECORD.]

22 HEARING OFFICER FOX: And, again, under  
23 the statute and procedural rules, that will be  
24 entered as if read.

25 Are we prepared at this point to have the

1 court reporter swear in Mr. Davis for  
2 questions?

3 MS. VETTERHOFFER: Yes.

4 HEARING OFFICER FOX: Very good.

5 [WHEREUPON MR. RORY DAVIS WAS  
6 SWORN BY THE COURT REPORTER.]

7 HEARING OFFICER FOX: Very good.

8 Mr. Davis, thank you for your presence today.  
9 We are prepared to go to questions. If for the  
10 benefit of the record, you have questions that  
11 you would like to ask, please let me know that  
12 you'd like to be recognized. And particularly  
13 in your first question, if you would let me  
14 know your full name, any organization or client  
15 you might represent, and any position, that  
16 would be very helpful.

17 Is there anyone on behalf of the  
18 Environmental Regulatory Group or otherwise who  
19 would like to begin with questions?

20 MR. ALEC DAVIS: I'll start.

21 HEARING OFFICER FOX: Very good.

22 MR. ALEC DAVIS: My name is Alec Davis. I  
23 am general counsel of the Illinois  
24 Environmental Regulatory Group, and I am here  
25 on their behalf this morning. I have some

1 questions this morning for Mr. Davis. And I  
2 thank the Board for providing the opportunity,  
3 Hearing Officer Fox and members of the Board.

4 Turning our attention to the proposed  
5 Subpart JJ, that's the proposed portion of this  
6 rulemaking that deals with the miscellaneous  
7 industrial adhesives.

8 HEARING OFFICER FOX: Mr. Davis, could you  
9 help us with a citation of the part of and  
10 section number that you're referring to?

11 MR. ALEC DAVIS: That would be part 218  
12 and or 219, and it begins at .900.

13 HEARING OFFICER FOX: Thank you very much  
14 for letting me interrupt you. Please go ahead.  
15 I'm sorry.

16 MR. ALEC DAVIS: Okay. I'm going to let  
17 everyone find their place.

18 BOARD MEMBER MOORE: Does anyone have a  
19 page?

20 HEARING OFFICER FOX: Those were added by  
21 me. 101.

22 MR. RAO: 146 is the Bate's number.  
23 You're correct.

24 HEARING OFFICER FOX: Thank you for your  
25 patience. I think we're all set.

1 MR. ALEC DAVIS: Certainly.

2 I'll refer to them as point something  
3 because 218 and 219, as I understand it, are  
4 identical in this regard.

5 RORY DAVIS,  
6 having been previously sworn by the Court Reporter,  
7 testifies and saith as follows:

8 QUESTIONS

9 MR. ALEC DAVIS:

10 Q .900(a) describes the applicability -- I  
11 guess .900 entirely describes the applicability, but  
12 (a) establishes a 15 pounds per day VOM emission  
13 threshold to determine what sources are subject to  
14 the subpart, and that threshold, according to the  
15 proposal, is 15 pounds per day as determined in  
16 accordance with Section .904(a)(1)(B).

17 My question for the Agency is what  
18 universe of sources does the Agency anticipate  
19 receiving such a determination from?

20 A The technical support document list in  
21 table 4.2, there's 12 sources identified by the  
22 USEPA as being potentially affected. It may not be  
23 an exhaustive list, but they are the sources that we  
24 would expect or have been identified by the USEPA  
25 and IEPA that should be potentially affected

1 sources.

2 Q So you would not anticipate receiving a  
3 emissions threshold demonstration from sources other  
4 than those listed?

5 A We may. The definition of a miscellaneous  
6 adhesive application process is a source that has  
7 regularly occurring industrial processes consisting  
8 of one or more adhesive applicators in any  
9 associated drying areas. So this would cover major  
10 sources of industrial adhesive application.

11 Q If there's a source subject to this rule  
12 that's, say, performed a demonstration and found  
13 that they're not subject to this rule in light of  
14 not equal or exceeding the 15-pound per day  
15 threshold, what if any types of activities could  
16 cause that source to be required to submit an  
17 additional demonstration that they're not subject to  
18 the rule, if any?

19 A I believe it's a one-time demonstration.  
20 If they do have a adhesive application process, that  
21 they would have one demonstration, and that would be  
22 it. And notify us if they ever exceed the  
23 15-pound-per-day criteria.

24 Q I guess I have a few questions about the  
25 recordkeeping requirements that are necessary to

1 perform a demonstration.

2 MR. RAO: Mr. Davis, before you jump to  
3 your next question, can I ask a follow-up?

4 MR. ALEC DAVIS: Please.

5 QUESTIONS

6 BY MR. RAO:

7 Q Mr. Davis, you said that -- okay. Rory,  
8 you mentioned that it's a one-time demonstration  
9 that the Agency requires. If there is any change in  
10 the process -- they add applicators and things like  
11 that -- would they have to submit another  
12 demonstration? Or is it just they account for the  
13 extra emissions and do them whether they're subject  
14 to the rules or not?

15 A I would have to look at the exact language  
16 in 904(e), I think. Sorry. That's 904(a) under  
17 (a)(1)(B). (a)(1)(B), and also (a)(2) requires them  
18 to notify the Agency if they equal or exceed  
19 15 pounds per day.

20 So apart from an initial  
21 demonstration for anyone with an applicational  
22 process, if they've done an initial demonstration,  
23 if they were to equal or exceed 15 pounds per day,  
24 then they would have to notify us. I believe they  
25 have to keep records whether they've done a

1 demonstration or not. Those records would require  
2 them to calculate the VOM emissions.

3 MR. RAO: Thanks. Thank you.

4 MR. ALEC DAVIS: I guess I have a  
5 follow-up based on the response.

6 QUESTIONS

7 BY MR. ALEC DAVIS:

8 Q Could you please explain to me where this  
9 requirement to keep records is imposed on these  
10 sources that are needed to do this 15-pound-per-day  
11 demonstration? As I understand your response, it  
12 was a continuing obligation to keep some sort of  
13 records to ensure that they never exceeded the  
14 15-pound per day.

15 A I believe it's just an implied obligation  
16 that they will have to notify us if they ever meet  
17 or exceed 15 pounds per day by 94(a)(2). Well, I'm  
18 not certain to answer that. I'm not certain that,  
19 you know, there's any specific recordkeeping  
20 requirements. They'd certainly have to keep track  
21 of their emissions --

22 QUESTIONS

23 BY MR. JOHNSON:

24 Q Other than the initial, anybody who has an  
25 adhesive application operation has to do it? And

1 initially show you that they either are subject to  
2 this or they're not?

3 A Right. So if they are subject to that  
4 applicability, then to satisfy (a) -- sorry --  
5 904(a)(2), they would necessarily have to keep track  
6 of their emissions so that they are complying with  
7 (a)(2).

8 QUESTIONS

9 BY MR. RAO:

10 Q Do you think it would make sense to have a  
11 provision in there to say that you've got to show  
12 continued compliance, or at least, you know,  
13 periodically measure your emissions?

14 A We can certainly consider that for the  
15 next hearing.

16 MR. RAO: Thanks.

17 QUESTIONS

18 BY MR. JOHNSON:

19 Q I think Anand was asking about if one of  
20 these companies changes their method of application,  
21 or you know, brings in new machinery or increases  
22 the amount of work they do, then does that trigger  
23 another compliance requirement or showing of  
24 compliance?

25 A Perhaps it should. And we can consider

1 adding language to require that. Most of our  
2 language was directly from the USEPA control  
3 techniques guidelines. Their recordkeeping  
4 reporting is not usually as detailed as what we  
5 would use.

6 MR. ALEC DAVIS: Can I have just a second  
7 please?

8 HEARING OFFICER FOX: Absolutely.

9 MR. ALEC DAVIS: I'm ready to proceed.

10 HEARING OFFICER FOX: Please go ahead,  
11 Mr. Alec Davis.

12 QUESTIONS

13 BY MR. ALEC DAVIS:

14 Q 900(a) describes that not only is it the  
15 miscellaneous industrial adhesive application  
16 operations, but also includes the related cleaning  
17 activities in this computation. Could you just  
18 please describe what you intend that additional  
19 included related cleaning activities to kind of  
20 encompass.

21 A I believe that the related cleaning  
22 activities are detailed in the CTG here, if  
23 everybody has got a copy of that. And it's on  
24 Page 20 if we've got the same page numbers for the  
25 CTGs.

1                   The work practices for cleaning  
2 materials and sources are required to include VOM  
3 emissions from related cleaning activities for the  
4 industrial adhesive applications. And so the  
5 adhesive operation and the cleaning operations would  
6 be considered criteria for applicability also.

7           Q     My last line of questioning has to do with  
8 .902 in the same Subpart JJ, and those would be the  
9 testing requirements to demonstrate compliance. And  
10 for the sake of understanding, I will refer you also  
11 to the existing 218 and 219.105, which are the  
12 testing requirements for some various coatings,  
13 solutions --

14          A     That's 105?

15          Q     Yeah. My question is, if you compare the  
16 testing requirements in .902 and .105 -- and  
17 105(a)(2) of A and B of 105(a)(2) include an option  
18 for the use of formulation data in determining VOM  
19 content. And I guess my question was, if the Agency  
20 had considered a similar option; that is, the use of  
21 formulation data in the case of adhesives. And if  
22 it had not, whether it would consider doing so.

23          A     We did not consider that because it wasn't  
24 in the CTG for the category, but we would consider  
25 it an option for calculating VOM content from a

1 formula similar to the metal parts or metal and  
2 plastic parts coatings.

3 Q To clarify, the 105 is coatings, inks and  
4 fountain solutions. I just wanted to make sure I  
5 was clear because it's metal parts and plastics.  
6 Thank you.

7 A And to be clear, the rule allows for ASTM  
8 methods of VOM content or manufacturer  
9 specifications for that. For the coatings, there's  
10 an option for -- you know, if you're mixing  
11 coatings, or in this case, mixing adhesives with  
12 either, you know, non-VOM materials or materials  
13 with VOM, you know, that could affect your VOM  
14 content. And we would be open to considering an  
15 option for the adhesive sources to use this kind of  
16 formulary approach.

17 MR. ALEC DAVIS: Thank you very much.

18 HEARING OFFICER FOX: That concludes your  
19 questions, Mr. Davis?

20 MR. ALEC DAVIS: It does. Thank you.

21 HEARING OFFICER FOX: Ms. Rios, we're  
22 absolutely in order for you to go ahead if  
23 you'd like to.

24 MS. RIOS: Good morning. I'm here with  
25 Kathy Hodge from Hodge, Dwyer & Driver. We're

1 here on behalf of S & C Electric Company. And  
2 we have a few questions regarding the coatings  
3 sections.

4 QUESTIONS

5 BY MS. RIOS:

6 Q So I'll start with a question on the  
7 definition of extreme high-gloss coating, that  
8 Section 211.2200(a). And that section defines  
9 high-gloss coating to mean metal parts and products  
10 coating that shows a reflectance of 7500 or more  
11 according to a specific ASTM standard.

12 And our question is, if the Agency  
13 questioned a facility on their reflectance level of  
14 a coating, how would the facility show that its  
15 coating meets the definition in that section?

16 A The Agency would accept records of  
17 testing, and I think it's ASTM (d) 523 for  
18 reflectance.

19 Q Would those --

20 MR. RORY DAVIS: Do we need to allow the  
21 Board to get to where we're going here?

22 MS. RIOS: Oh, it's 211.2200(a). It is  
23 the definition of extreme high-gloss.

24 MR. RORY DAVIS: And we would -- or we  
25 could accept records of tests performed by the

1 applicator.

2 BY MS. RIOS:

3 Q So just to clarify, would records of  
4 testing have to be from the facility operator, or  
5 are they the actual manufacturer of the coating?

6 A Either.

7 Q Okay. Moving on to --

8 MR. RAO: Ms. Rios, I had a follow-up on  
9 this.

10 MS. RIOS: Sure.

11 QUESTIONS

12 BY MR. RAO:

13 Q This is just relating to the rule  
14 language. In this Subsection A, you cite the ASTM  
15 D 523. Should we add the 80 next to that?

16 A Dash --

17 Q 80, yeah. Because you say, "As adopted in  
18 1980." And when I went through the incorporated  
19 reference section -- that is ASTM D 523-80 -- I just  
20 want to make sure that's the standard you're  
21 referencing to.

22 A Sure, I believe so.

23 Q And one more. When you talk about  
24 reflectance, you have 75 or more on a 600 meter.  
25 Should that be 75 percent or more?

1           A     Yeah, 75 percent.

2                   MR. RAO:  Okay.  Thanks.

3                                   QUESTIONS

4  BY MS. RIOS:

5           Q     My next question is on Section 218.204  
6  (q)(2).  It would be on Page 91 of the Board's -- 90  
7  and 91 of the Board's notice.

8                   MR. RAO:  Did you say 218.204(q)?

9                   MS. RIOS:  (q)(2), yeah.

10                   HEARING OFFICER FOX:  Ms. Rios, for  
11                    clarity, the heading of that Subpart 2 is  
12                    "Plastic Parts and Products Miscellaneous"; is  
13                    that correct?

14                   MS. RIOS:  That's correct.

15                   HEARING OFFICER FOX:  Thank you for your  
16                    clarification.

17  BY MS. RIOS:

18           Q     In this proposed new section, it allows  
19                   for use of any coating category in less than  
20                   50 gallons if total usage of all the coatings does  
21                   not exceed 200 gallons per year and there is not a  
22                   substitute compliant coating available.  Does this  
23                   exemption apply solely to the total usage of  
24                   coatings for plastic parts and products, or does the  
25                   exemption apply more broadly such as to other

1 categories like metal parts?

2 A The exemption is just for plastic parts.  
3 That was an exemption in the CTG for this category,  
4 not the metal parts coating category.

5 Q The 5200-gallon exemption requires that  
6 there be no substitute compliant coatings available.  
7 In some circumstances, such as with coatings for  
8 fuses, the coating must meet certain specifications  
9 because of the function it serves. If a substitute  
10 coating that serves the same function as the  
11 original coating is not available, does such a  
12 situation meet the exemptions criteria that a  
13 substitute compliant coating is not available?

14 A Yes, that would be a situation where it  
15 meets the criteria.

16 Q How should a facility approach a situation  
17 where a client's specifications for a product  
18 specifically calls for the use of a certain coating  
19 and the facility has no knowledge of whether there  
20 are substitute compliant coatings available?

21 A A facility should ask their coating  
22 supplier if there are available compliant coatings  
23 that meet the specifications they're looking for.  
24 If a source makes a good faith effort to determine  
25 whether there was a compliant coating, that would

1 satisfy the criteria. And I believe there are some  
2 resources in the industry that can let sources know  
3 whether there's compliant coatings available in  
4 certain applications.

5 Q I just have a few more questions. These  
6 are on the extreme performance coating definition at  
7 Section 211.2210.

8 Specifically we're looking at  
9 Subsection (b), and 1, 2 and 3, the criteria for  
10 meeting the definition of extreme performance  
11 coating or EPC.

12 How does the Agency determine whether  
13 a coating meets the definition of EPC?

14 A The Agency would determine whether it's  
15 extreme performance coating by the definition and  
16 the coating would have to be intended for use in an  
17 environment that has chronic exposure to corrosive,  
18 caustic or acidic agents -- chemicals, mixtures or  
19 solutions exposed to high temperatures or heavy  
20 abrasion.

21 Q So is that determination left up to the  
22 facility to make?

23 A The facility is responsible for using  
24 compliant coatings according to the rule. The  
25 Agency would make a determination whether the

1 sources are interpreting the rule correctly.

2 Q Okay. How does the Agency interpret  
3 chronic exposure to corrosive abrasion?

4 A Chronic exposure is repeated, or regular  
5 or repeated exposure to a corrosive agent. And I  
6 don't believe the Illinois EPA or the USEPA has a  
7 precise definition for chronic exposure.

8 Q When you say regular and repeated, does  
9 that mean exposed daily, weekly, monthly?

10 A Like I said, we don't have a precise  
11 definition for that. One response we had was we  
12 would know it if we saw it.

13 QUESTIONS

14 BY MR. RAO:

15 Q Is there a difference in the way the  
16 Agency views chronic exposure and repeated exposure?

17 A I don't know. I can look into that.  
18 Maybe we can clarify that.

19 QUESTIONS

20 BY MS. RIOS:

21 Q The EPC definition states that EPC  
22 coatings include, but are not limited to coatings  
23 applied to locomotives, railroad cars, farm  
24 machinery and heavy-duty trucks. Their criteria in  
25 Section 211.2210(b) also lists repeated heavy

1 abrasion, including mechanical wear and repeated  
2 scrubbing with industrial grade solvent, cleansers  
3 or scouring agents. How does the Agency define or  
4 interpret exposure to repeated heavy abrasion?

5 A In the case of repeated abrasion from an  
6 industrial process, you know, you'd have mechanical  
7 wear from industrial process or from the repeated  
8 cleaning of a surface with solvent or abrasion. I  
9 think this would have to be determined on a  
10 case-by-case basis. But I think in most cases, it  
11 would be fairly apparent where there's heavy  
12 abrasion.

13 Q And what's the basis for that  
14 interpretation?

15 A Well, you'd have to go to the definition.  
16 And, you know, repeated heavy abrasion would be  
17 mechanical wear and repeated scrubbing with the  
18 solvent or cleansers, scouring agents.

19 Q Like farm machinery or heavy-duty trucks,  
20 some types of electrical equipment are exposed to  
21 abrasive dust and other elements. Does the Agency  
22 consider such exposure to be heavy abrasion?

23 A No, no. Dust normally present in the air,  
24 I would not consider, to be heavy abrasion.

25 DR. GIRARD: Can I ask a quick question?

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QUESTIONS

BY DR. GIRARD:

Q How would the Illinois EPA distinguish an industrial grade solvent, cleanser or scouring agent from other types of solvents, cleansers and scouring agents?

A I think an industrial grade solvent or cleanser or scouring agent would be not something you would buy as a consumer product, rather something that's used mainly for industrial use.

Q So there's no definition anywhere that deals -- I mean, many times it's the same chemicals, and it may just be in different concentrations. So is there a definition anywhere that would distinguish what you're saying is basically industrial versus, you know, personal use?

A I don't believe there is. I can look into that and see if there's a clear definition for what's industrial cleanser, abrasive or scouring agent. I think that would just rule out something that's normally used at home, like any kind of soap or cleanser. I'm not sure what kind of home solvents would be used, but I think that's mainly just to distinguish it from everyday cleaning products. But I can look into the definition, and

1 you know, maybe we can clarify that. Or there may  
2 be some kind of definition that the USEPA uses.

3 DR. GIRARD: Thank you.

4 QUESTIONS

5 BY MR. RAO:

6 Q Are all these products, when they're sold,  
7 are they marketed as industrial grade solvents? Do  
8 you know?

9 A I'm not sure.

10 Q Not sure? Okay. Because I'd like some  
11 industry Drano.

12 QUESTIONS

13 BY MS. RIOS:

14 Q Just to follow up on a couple of those  
15 questions.

16 What about a Brillo pad, would that  
17 be abrasive cleaning?

18 A I would say that would be, yes, abrasive.

19 Q And what about exposure to roadway dust,  
20 would that be considered abrasive?

21 A I would say that it's abrasive, but I  
22 wouldn't consider it heavy abrasion for the purposes  
23 of this Board. And, again, it would be a  
24 case-by-case determination, but I wouldn't say that  
25 every car on the road is subject to heavy abrasion

1 just because it's driving.

2 Q So in some cases, exposure to roadway dust  
3 could be heavy abrasion?

4 A I can't really think of one.

5 QUESTIONS

6 BY MR. RAO:

7 Q Can the argument be made if someone is  
8 using a vehicle on unpaved roads a lot where there  
9 is, you know, dust, can they claim that they're, you  
10 know, using extreme performance coating in that  
11 situation?

12 A It's not in the definition for heavy  
13 abrasion. It's repeated heavy abrasion, including  
14 mechanical wear and repeated scrubbing with  
15 industrial grade solvents, cleansers or scouring  
16 agents is how the heavy abrasion is defined.

17 Q So in terms of implementing this  
18 provision, you know, whoever is subject to this  
19 extra performance -- you know, they're using this.  
20 Is it their call to look at the definition and say,  
21 you know, whether the coating is extreme performance  
22 coating? Or do they have to make that claim and the  
23 Agency kind of has the final say on whether it's  
24 high performance coating?

25 A Right. They're responsible for using

1 compliant coatings if they're -- and, yes, it would  
2 be the Agency's call to determine whether they're  
3 interpreting the definition correctly.

4 Q Okay.

5 A Right. And it would be in a permit for,  
6 you know, what kind of coatings they're using and so  
7 forth.

8 QUESTIONS

9 BY MS. RIOS:

10 Q Some facilities clean equipment by  
11 blasting CO2 pellets at the equipment. Would such  
12 cleaning be considered repeated heavy abrasion,  
13 including repeated scrubbing with industrial grade  
14 solvent cleansers or scouring agents?

15 A I would consider solid CO2 at high  
16 pressure to be a scouring agent, yes.

17 Q Is it true that S & C Electric Company and  
18 the Agency have engaged in discussions related to  
19 the interpretation and applicability of proposed  
20 revisions to EPC definition since last fall?

21 A Yes.

22 Q And is the Agency willing to continue  
23 those discussions?

24 A Yes, we are.

25 MS. RIOS: That's all. Thank you.

1 HEARING OFFICER FOX: Thank you, Ms. Rios.

2 Mr. Alec Davis, did you have additional  
3 questions?

4 MR. ALEC DAVIS: Yes, I do.

5 HEARING OFFICER FOX: Please go ahead.

6 QUESTIONS

7 BY MR. ALEC DAVIS:

8 Q The definition section, part 211, 211.3785  
9 contains the definition of military specification  
10 coatings. And it reads that military specification  
11 coating means for purposes of 35 Illinois  
12 Administrative Code 218 and 219, a coating which has  
13 a formulation approved by the United States Military  
14 Agency for use on military equipment. I was  
15 wondering whether the Agency intends for that  
16 definition to include sealants used in ammunition  
17 manufacturing.

18 A Sealants?

19 Q Sealants.

20 A I have to check into that and reply before  
21 the next hearing. I haven't really looked at the  
22 military specifications.

23 MR. ALEC DAVIS: Okay. Thank you.

24 HEARING OFFICER FOX: Anything further?

25 MR. ALEC DAVIS: No, nothing further.

1 Thanks.

2 HEARING OFFICER FOX: Ms. Rios, on your  
3 part?

4 MS. RIOS: No.

5 HEARING OFFICER FOX: Very good. We  
6 certainly can return to you if you have any  
7 questions based on those that the Board itself  
8 has and I think would like to turn now to.

9 And, Mr. Davis, if you would receive a few  
10 more questions, I think we have some about the  
11 language of the rule, that Mr. Rao is the  
12 suitable person to begin those.

13 MR. RAO: We have a few general questions  
14 about your testimony, and then we'll do the  
15 language.

16 MR. RORY DAVIS: Okay.

17 QUESTIONS

18 BY MR. RAO:

19 Q On Page 3 of your testimony, you note that  
20 add-on controls for miscellaneous industry adhesives  
21 must achieve a capture and control efficiency of  
22 85 percent. Could you please explain the rationale  
23 for requiring a lower efficiency for adhesives as  
24 compared to 90 percent for miscellaneous metal and  
25 plastic parts? Is that a determination made by

1 USEPA?

2 A It was. We didn't do any independent  
3 research on, you know, what we wanted the total  
4 control efficiency to be. We did take that directly  
5 from the CTG's two categories.

6 Q Would it be possible to kind of get back  
7 to us on why the lower efficiency for adhesives?

8 A Sure.

9 Q Some technical reasons. Okay. Thanks.

10 On Page 4, you state that the  
11 proposed rules allow for compliance flexibility,  
12 including an emissions averaging option for  
13 fiberglass boat manufacturing materials. Could you  
14 please explain how the emissions averaging option  
15 may be used to comply with the limits.

16 A It is a complicated one.

17 Q I couldn't figure it out.

18 A Okay. I did figure it out.

19 Q Good.

20 A It's a multistep process, and I'll have to  
21 get back into that because I haven't looked at it in  
22 a while. And it's in the CTG.

23 Q Okay.

24 A It's Page 24 is where it starts.

25 HEARING OFFICER FOX: And you're

1           referring, Mr. Rory Davis, to Page 24 of the  
2           CTG for the fiberglass boat manufacturing; is  
3           that correct?

4           MR. RORY DAVIS: Yeah, but it doesn't look  
5           like it starts there. Okay. The weighted  
6           average is calculated.

7 BY MR. RAO:

8           Q     You're on Page 24?

9           A     It looks like it starts on 27. On the  
10          table of contents it was 24, but --

11          Q     Is that the equation 1 where you are?

12          A     Right. Yeah, equation 1 has the weighted  
13          monomer VOC content. There's that equation.

14          Q     Okay.

15          A     More or less what that breaks down to is  
16          the different weights of the different kinds of  
17          products that go into the boat manufacturing  
18          materials, and that's on the next page after  
19          equation 2. So you have a weighted factor of 46 for  
20          resin and a weighted factor of 159 for pigment and  
21          gel coat and so forth. And these are all based on,  
22          I believe, the various allowable VOC contents for  
23          these, for these different products. So then you  
24          have that averaging option. And then what I think  
25          you're looking at is the next averaging option,

1 which involves those again. And this is where it  
2 gets complicated.

3 Q Now that I know where it is in the CTG, I  
4 can take a look.

5 MR. JOHNSON: The modern dance majors are  
6 sweating.

7 MR. RORY DAVIS: So you've got equation 2  
8 with the weighted factors. And then you  
9 also -- more or less what you have is --

10 HEARING OFFICER FOX: Just for  
11 clarification, referring to equation 2, are you  
12 in the proposed rule language or still in the  
13 CTG?

14 MR. RORY DAVIS: Still in the CTG. And  
15 they should be actually the same in the rule  
16 equation, equation 2.

17 BY MR. RAO:

18 Q Look on Page 28 of the CTG.

19 A So what happens is the source is required  
20 to comply with equation 2.

21 Q Okay.

22 A When they do the averaging option, they're  
23 going to need equation 3 to calculate those factors  
24 in equation 2. That is where you get your MR, MPG,  
25 MCG, MTR, MTG for equation 2 is from -- actually,

1 equation 4, it kind of goes backwards. From  
2 equation 4, you plug in your PVs from equation 4  
3 into equation 3, and you have your -- right. And  
4 then that limit has to meet or be below what your  
5 limit would be from equation 2.

6 Q Okay. Thank you. Yeah, because I'm sure  
7 the industries that are subject to these rules are  
8 already familiar with this, but I just wanted to  
9 make sure that --

10 A And hopefully I've got that on the record  
11 correctly.

12 Q All right.

13 A If I could restate? Yeah.

14 Equation 4 is used to determine  
15 factors for equation 3. Equation 3 is used to  
16 determine factors to meet or be below the limits set  
17 by equation 2 for the facility.

18 Q Is the emission averaging available for  
19 miscellaneous metal and plastic parts and other  
20 coatings also?

21 A Emissions averaging similar to this?

22 Q Yes.

23 A No.

24 Q No? Thanks.

25 On page 4 of your testimony, you

1 state that there are no fiberglass boat  
2 manufacturing facilities in Illinois non-attainment  
3 areas. In a recent adjusted standard proceeding  
4 before the Board in Royal Fiberglass Boats,  
5 Incorporated -- it was docketed as AS 09-4 -- the  
6 Board heard testimony that additional state VOM  
7 requirements, like the 8-pound-per-hour rule, act as  
8 a deterrent for new facilities to be sited in  
9 Illinois. Could you please clarify whether  
10 fiberglass boat manufacturing facilities subject to  
11 the proposed rules would also be subject to  
12 additional state VOM requirements like the  
13 8-pound-per-hour rule?

14 A I'm not certain that I'm familiar with the  
15 8-pound rule that you're talking about.

16 Q Okay. It's a state rule. I think it's  
17 under Part 201.

18 A Okay.

19 Q You know, if you're not familiar with  
20 this, you don't have to answer this right now. I  
21 guess I'll pose the questions on the record. If you  
22 can get back to us, that's fine.

23 A Sure.

24 Q Because since this issue is raised and  
25 there was a concern about new facilities not moving

1 in the state because of the, you know, state rule  
2 requirement.

3 A Sure. I would say that it is a deterrent  
4 for new facilities moving into a non-attainment  
5 area, but this is going to be a national rule for  
6 all non-attainment areas. The state rule would be  
7 different, though.

8 Q And my question is more about the state  
9 rule.

10 A Okay.

11 Q So continuing. If so, comment on whether  
12 additional state requirements could deter any new  
13 facilities from being constructed in Illinois  
14 non-attainment areas, and also comment on the merits  
15 of exempting fiberglass boat manufacturing  
16 facilities complying with the proposed regulations  
17 from additional state VOM control requirements like  
18 the 8-pound-per-hour rule.

19 A The merits of exempting those facilities?

20 Q Yes.

21 A I could discuss that in writing.

22 Q Get back with that. Thanks.

23 On pages 4 and 5, you state that the  
24 Agency relied on USEPA's cost estimates to evaluate  
25 the economic impact of the proposed regulations.

1 Please comment on whether the Agency, as a part of  
2 its outreach, made any efforts to collect economic  
3 or VOM emission reduction data from the sources  
4 impacted by the proposed regulations to compare the  
5 cost effectiveness of the USEPA's estimates.

6 A We did not. We did not do any outreach to  
7 get economic data from sources. We took what was in  
8 the CTG as a pounds per gallon or pounds per ton and  
9 then kind of applied that to our emissions from  
10 those affected sources.

11 Q And as a part of the outreach, when you  
12 were discussing these rules with, you know,  
13 facilities that would be affected by the proposed  
14 rules, did any of the affected sources have any  
15 issues with the economic information that you'd  
16 relied on?

17 A I don't think that they did. One thing I  
18 think I do state in the TSD for maybe all four of  
19 the regulated categories is, these are estimates of  
20 cost per ton and estimates for reduction percentage.  
21 In a few cases in these rules, a lot of these  
22 reductions have taken place because the CTG is  
23 catching up with NESHAP or catching up with current  
24 industrial norms.

25 So the estimates, you know, for

1 reductions as well as the estimates for the  
2 cost -- you know, the cost could be high and the  
3 reductions could also be high because a facility  
4 that's already complying via, you know, just how  
5 they're running their business would probably not  
6 incur any additional costs. And also we probably  
7 would not anticipate any emission reductions from  
8 them if they're currently meeting these standards  
9 already.

10 MR. RAO: Thank you.

11 HEARING OFFICER FOX: I had what I hope is  
12 a quick question for you, Mr. Davis.

13 QUESTIONS

14 BY HEARING OFFICER FOX:

15 Q In Section 211.101, which addresses  
16 incorporations by reference, the proposed new  
17 Subsections F and G seek to incorporate two  
18 specifications from the American Architectural  
19 Manufacturers Association. And under Section 5-75  
20 (a) of the Administrative Procedures Act, I wonder  
21 if you would be able to supplement the proposal with  
22 the address or contact information for that  
23 organization, if the EPA would require us to list  
24 for the benefit of any interested party who would  
25 wish to get a copy of the specifications.

1           A     Sure.

2           Q     Great. Thank you very much.

3                     And I also want to address in  
4 section -- I'm sorry -- in Part 211, Section 200,  
5 there is a definition in which the heading uses  
6 hyphenation to link the three terms that are part of  
7 that definition. Yet the substance in the  
8 definition and the text of the definition does not  
9 do so. And I wonder -- although it's a minor  
10 inconsistency, if that's one that you could clarify  
11 and fix for us please.

12                    MR. RORY DAVIS: Sure. We'll look into  
13 how CTG has it, whether it's hyphenated or not.

14                    HEARING OFFICER FOX: And much  
15 appreciated. Thank you.

16                                    QUESTIONS

17 BY MR. RAO:

18           Q     In Section 211.715, it's the definition  
19 for bed liner.

20           A     Okay.

21           Q     The proposed language talks about a  
22 multicomponent coating applied to a cargo bed after  
23 the application of the top coat. Should the rule  
24 language also include that this cargo bed of light,  
25 or you know, automobile or a light truck in there?

1 Or are there cargo beds that are not part of any  
2 automobiles?

3 A You mean make that specific to light-duty  
4 trucks?

5 Q Yeah.

6 A I don't know if they're making the  
7 El Caminos anymore.

8 Q I still see those Subarus.

9 A I can check into that.

10 Q Okay.

11 A I'm not sure whether the rule is split for  
12 automobile and light-duty trucks. It may always be  
13 together.

14 HEARING OFFICER FOX: I think it's  
15 together.

16 MR. RORY DAVIS: If it's under one  
17 section --

18 BY MR. RAO:

19 Q If you can just limit it to that Subpart  
20 or Subsection Q like you did in some of the  
21 definitions.

22 A Okay.

23 Q The next definition is marine coating.  
24 It's 211.3640. This definition applies to -- under  
25 the definition, a motor vehicle weatherstrip

1 adhesive. And when I was looking at the definition  
2 for motor vehicle weatherstrip adhesives, it's kind  
3 of repetitive. And I was wondering if the Agency  
4 would look and see if they could incorporate this  
5 definition in the definition of motor vehicle  
6 weatherstrip adhesives.

7 A I think we can accomplish that, yes.

8 Q I may have stated the wrong definition.  
9 It's in reference to the -- what's that? The  
10 pleasure crafts coating.

11 A I see.

12 Q Pleasure craft surface coating. And the  
13 next definition is motor vehicle adhesive at Section  
14 211.3961 and motor vehicle weatherstrip at 211.967.  
15 These two definitions apply to adhesives used at a  
16 facility that is not an automobile or light truck  
17 assembly facility. Can you please clarify the  
18 proposed intent for limiting the definitions only to  
19 non auto or light truck facilities? Basically my  
20 question is, you know, if the same adhesives are  
21 used in an auto manufacturing facility, the  
22 definition should apply to them.

23 A That one is from the CTG. I think why  
24 it's in there is not because it's not an automobile  
25 or light-duty truck adhesive. It's because it's at

1 the assembly coating facility. So it's for new  
2 vehicles, rather than, you know, maybe some  
3 aftermarket repair adhesives.

4 Q So this applies to like aftermarket  
5 facilities?

6 A I think so, but not adhesives used at the  
7 assembly facility for new vehicles.

8 Q Okay. Okay.

9 A I'm not certain why USEPA made that  
10 distinction, but that's what the --

11 Q If the same adhesive is used in a new auto  
12 manufacturing facility, then it could still be  
13 covered under the rules?

14 A I think that there's a number of specific  
15 products in the CTG that are not coatings, but  
16 there's a separate table that we also included in  
17 the proposal that has a number of -- I forget what  
18 they call them. I think they're commonly used  
19 materials at those facilities. They're not  
20 necessarily coatings. They're sealants and  
21 adhesives, but they are regulated by the CTG for  
22 assembly coatings or for assembly coating  
23 facilities. And I think they made that distinction  
24 for, you know, aftermarket or repair adhesives.

25 MR. RAO: Okay. Thanks.



1 not propose these definitions under Part 211 instead  
2 of 204(q)(1).

3 A That was 204(q).

4 Q (1).

5 A (1).

6 Q There are two definitions.

7 A I believe that marine engine coatings  
8 might -- does that appear under another subsection?  
9 Okay. There's marine coatings and there's marine  
10 engine coatings, and I think that was just for  
11 clarification on that one. There was another  
12 definition in here also?

13 Q Corrosion resistant basecoat. There are  
14 two definitions. We were just wondering when we  
15 were looking at the rules why they were not put in  
16 for 211 instead of, you know, putting it in the main  
17 rules.

18 A There may be a corrosion resistant  
19 basecoat in another section, and I would have to  
20 assume that's why we did that. It's not for metal  
21 parts or miscellaneous metal parts coatings. It  
22 could be for automobile coatings.

23 Q Okay.

24 A It could be for a number of coatings that  
25 are in different sections in 218. And that we

1 usually wouldn't put, you know, one definition in  
2 211 and then the same definition for the purposes of  
3 204(q)(1) in 211 again, just to clarify in that  
4 section, the definition for those, if they happen to  
5 be in a different section.

6 MR. RAO: Okay. Thanks.

7 QUESTIONS

8 BY HEARING OFFICER FOX:

9 Q And I have a question, Mr. Davis. And  
10 this may very well be one that you would need to, if  
11 you're kind of enough, look at for us.

12 It requires a comparison between  
13 Part 218 Section 208(b)(1), and a comparison with  
14 the companion in 219, also 208(b)(1). And these two  
15 sections both actually address the applicability for  
16 wood furniture coating. Of course, not a specific  
17 subject of the proposal that we're here today, but  
18 this language has been submitted to first notice.  
19 The 218.208(b)(1) provides that limitations apply to  
20 specific coating lines if the source is not  
21 regulated by a number of subparts. In Section  
22 218.208(b)(1) that does not include Subpart Z.  
23 However, the companion Section 219.208(b)(1) does  
24 refer to Subpart Z and would presumably apply to  
25 those parts that are regulated by Subpart Z. And,

1 again, if it's suitable for post-hearing comments,  
2 if you could account for the discrepancy in the  
3 treatment of Subpart Z in the dry-cleaning  
4 operations, we would greatly appreciate that, but  
5 that just appears to be a small, but significant  
6 difference between the language, the applicability  
7 language in the two parts dealing with the separate  
8 attainment areas.

9 A Okay. That is correct.

10 Q And I had one other question; again,  
11 comparing the parts, the companion parts in 218 and  
12 219. And focusing especially on Section 219.204,  
13 the Agency's proposal for Part 204 did not include a  
14 Subsection O, which makes perfectly clear sense  
15 because that is a new section, subsection that's  
16 separately proposed in the document number 10-8  
17 that's now before the Board. However, the proposal  
18 in this document 10-20 does appear to skip a  
19 Subsection P and proceed directly to a Subsection Q  
20 with an apparent gap. Is that something you could  
21 account for, that break in alphabetical order, that  
22 apparent break from alphabetical order?

23 A We'll have to check that. That may be  
24 group 2 and group 3 in some products, but we'll  
25 check on that.

1           Q     And 10-8, the document that I referred to,  
2     is the group 2, and that does propose to add a  
3     Subsection 0. And at least to that extent, the gap  
4     does make pretty clear sense. But there doesn't  
5     appear to be a P proposed in any of the two  
6     preceding VOM RACT dockets 10-8 or 10-10, which  
7     recently was refiled for publication as an adopted  
8     rule. And if the Agency has any way to account for  
9     that, we'd be grateful to hear it.

10           A     Sure.

11                   HEARING OFFICER FOX: Thank you. That,  
12     for the time being, concludes the questions on  
13     the part of the Board members and the Board  
14     staff.

15                   Mr. Alec Davis and Ms. Rios, Ms. Hodge,  
16     did you have any follow-up questions?

17                   MS. RIOS: I do.

18                   HEARING OFFICER FOX: Ms. Rios, go ahead.

19                                   QUESTIONS

20     BY MS. RIOS:

21           Q     Going back to the definition of the  
22     performance coating in 211.2210, Subsection A  
23     includes coatings that are exposed to ambient  
24     weather conditions, but this factor does not appear  
25     in Subsection B of that definition. And we were

1 wondering if you could think of any situations where  
2 a surface could be exposed to a corrosive agent in  
3 the course of exposure to ambient weather  
4 conditions.

5 A Could you repeat the question please?

6 Q Sure. Could you think of any situations  
7 where a surface could be exposed to a corrosive  
8 agent in the course of exposure to ambient weather  
9 conditions?

10 A I think that would be possible.

11 Q What about a metal surface on a product  
12 that is located on a beachfront property?

13 A I would have to check into exactly, you  
14 know, what would -- you know, beachfront property,  
15 if that would be chronically corrosive or just  
16 normal outdoor use.

17 Q How about a metal surface on a product  
18 that is located near an intersection in a major  
19 roadway in Chicago where salt is routinely used in  
20 the wintertime?

21 A I think it could be. I don't know that we  
22 would want to define that as chronically corrosive.  
23 The trouble in doing so would be if you define  
24 chronically corrosive too broadly, you make the VOM  
25 limits for a much wider array of coatings, the

1 higher VOM limit, when, you know, they may or may  
2 not be outdoor use, or outdoor use near a roadway or  
3 a parking lot or a beachfront.

4 I don't believe the Agency was  
5 looking to make, you know, normal outdoor use  
6 chronically corrosive. From conversations with the  
7 USEPA, I know that the ambient weather was removed  
8 from the definition of extreme performance coatings,  
9 and it was intentional. And, you know, their  
10 viewpoint was that there are compliant coatings for  
11 outdoor use that would not need the VOM limit for  
12 extreme performance coatings.

13 MS. RIOS: That's all.

14 HEARING OFFICER FOX: Thank you, Ms. Rios.

15 Mr. Alec Davis?

16 MR. ALEC DAVIS: I have no further  
17 questions.

18 HEARING OFFICER FOX: Very good. Do any  
19 of the Board members wish to pose a follow-up  
20 question? Mr. Rao?

21 MR. RAO: I'm done.

22 HEARING OFFICER FOX: Very good. We  
23 appear to have exhausted the questions for the  
24 Agency on the part of the folks that are here  
25 today.

1           If we may go off the record briefly and  
2 address a couple procedure issues.

3                           [WHEREUPON THERE WAS A SHORT  
4                           DISCUSSION OFF THE RECORD.]

5           HEARING OFFICER FOX: I do want to address  
6 a few procedural and other issues before we  
7 adjourn.

8           First, under Section 27(b) of the  
9 Environmental Protection Act, the Board must  
10 request that the agency known as the Department  
11 of Commerce and Economic Opportunity, or DCEO,  
12 conduct an economic impact study of proposed  
13 rules before the Board adopts them. The Board  
14 then must make either the economic impact study  
15 or the department's explanation for not  
16 conducting one available to the public at least  
17 20 days before a public hearing such as this  
18 one.

19           In addition, Section 28.5(g) allows the  
20 Board to request an economic impact study in a  
21 manner that will not prevent timely adoption  
22 for the second notice opinion and order under  
23 Section 28.5(n).

24           Pursuant to that, in a letter dated  
25 March 18, 2010, the Board's acting chairman,

1 Dr. G. Tanner Girard, did request that DCEO  
2 conduct an economic impact study of this  
3 rulemaking proposal and specifically requested  
4 a response no later than April 1st of 2010.  
5 More, of course, than 20 days before this  
6 scheduled first hearing.

7 In a letter dated April 1, 2010 and  
8 received by the Board on April 7th, DCEO  
9 responded to the Board's request, and stated in  
10 pertinent part that, "At this time, the  
11 department is unable to undertake such an  
12 economic impact study. Therefore I must  
13 respectfully decline your request." The Board  
14 notified the public of this response by posting  
15 it to the clerk's office on line, or COOL,  
16 under this docket number R 10-20.

17 Is there anyone present who would like to  
18 testify regarding either the request from the  
19 Board or the response to that request from  
20 DCEO?

21 Neither seeing nor hearing any, let me  
22 proceed to a separate issue.

23 The second hearing in this docket is now  
24 scheduled to take place Wednesday, May 19, 2010  
25 at 10:00 a.m. in Chicago with a deadline of

1 Friday, May 7, 2010 for prefiling testimony.  
2 Under Section 28.5(f) of the Act, the second  
3 hearing in a fast-track rulemaking, such as  
4 this one, "Shall be devoted to presentation of  
5 testimony documents and comments by affected  
6 entities and all other interested parties."  
7 Section 28.5 also provides that within seven  
8 days after the hearing, any person may request  
9 that the second hearing be held. Furthermore,  
10 the Board's procedural rules of Section  
11 102.304(c) provide that this request may be  
12 made on the record at hearing or in writing by  
13 filing it with the Board and serving it upon  
14 the service list.

15 Do any of the participants wish to address  
16 the matter of the second hearing on the record  
17 this morning?

18 MS. HODGE: May we have just a few minutes  
19 to consult?

20 HEARING OFFICER FOX: Absolutely so,  
21 Ms. Hodge.

22 [WHEREBY A SHORT BREAK WAS  
23 TAKEN.]

24 HEARING OFFICER FOX: And we had taken a  
25 break and gone off the record for a short time

1 with an open issue regarding requests for the  
2 second hearing as scheduled to go ahead and  
3 take place. And I suppose the best course is  
4 simply to repeat the question, whether any of  
5 the participants wish to avail themselves of  
6 the opportunity to request a second hearing on  
7 the record here at the first hearing.

8 And neither seeing nor hearing any request  
9 of that nature, I will simply note that the  
10 Board will hold open, as required by the Act,  
11 Section 28.5, a seven-day period during which  
12 any person may request that that second hearing  
13 be held as scheduled. In the event it does not  
14 receive such a request, the Board would expect  
15 to cancel the additional hearings through the  
16 issuance of a hearing officer order at the  
17 conclusion of that seven-day period.

18 I do want to note that the third hearing  
19 has been scheduled to take place on Wednesday,  
20 June 2nd of 2010 in Chicago under Section 28.5  
21 (f)(3). That hearing, "Shall be devoted solely  
22 to any Agency response to the material  
23 submitted at the second hearing and to any  
24 response by other parties." Section 28.5(f)(3)  
25 also provides that the third hearing shall be

1 canceled if the Agency indicates to the Board  
2 that it does not intend to introduce any  
3 additional material.

4 We have requested expedited copies of the  
5 transcript of today's hearing and would expect  
6 that those should be available at the Board by  
7 Friday, April 30th. And certainly after the  
8 Board receives those, we will move very quickly  
9 to make them available on the Board's Web site  
10 where they can be viewed, downloaded and  
11 printed.

12 In addition, I do want to note that anyone  
13 may file written public comments in this  
14 rulemaking by filing them with the clerk of the  
15 Board. They may also be made through the  
16 Board's clerk's office on line. Again, COOL.  
17 And any questions about electronic filing  
18 through COOL should be directed to the clerk's  
19 office. Filings with the Board, whether paper  
20 or electronic, must also be served on the  
21 hearing officer and on those persons on the  
22 service list. And before filing, I would urge  
23 you, please, to check with the clerk's office  
24 to ensure that you have the most recent version  
25 of that service list.



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CERTIFICATE

I, ANN MARIE HOLLO, a Certified Shorthand Reporter for the State of Illinois, CSR# 084-003476, do hereby certify that a hearing was held in the aforementioned matter at the Illinois Pollution Control Board Hearing Room, 1021 North Grand Avenue East, Springfield, Illinois 62794.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this hearing is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my signature on April 29, 2010.

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Ann Marie Hollo