

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED SITE-SPECIFIC RULE)	
AMENDMENT APPLICABLE TO)	R11- _____
SAINT-GOBAIN CONTAINERS, INC.)	(Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE SECTION)	
217.152(b))	

NOTICE OF FILING

TO: Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an ENTRY OF APPEARANCE OF N. LADONNA DRIVER, ENTRY OF APPEARANCE OF MATTHEW C. READ, PETITION FOR SITE-SPECIFIC RULE AMENDMENT, MOTION TO WAIVE REQUIREMENT TO SUBMIT 200 SIGNATURES, and MOTION FOR EXPEDITED REVIEW, copies of which are herewith served upon you.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Petitioner,

Date: November 24, 2010

By: /s/N. LaDonna Driver
One of Its Attorneys

N. LaDonna Driver
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705
(217) 523-4900

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED SITE-SPECIFIC RULE)
AMENDMENT APPLICABLE TO) R11- _____
SAINT-GOBAIN CONTAINERS, INC.) (Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE SECTION)
217.152(b))

ENTRY OF APPEARANCE OF N. LADONNA DRIVER

NOW COMES N. LaDonna Driver, of the law firm HODGE DWYER &
DRIVER, and hereby enters her appearance in this matter on behalf of Saint-Gobain
Containers, Inc.

Respectfully submitted,

By: /s/ N. LaDonna Driver
One of its Attorneys

Date: November 24, 2010

N. LaDonna Driver
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Post Office Box 5776
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SGCO:005/Filings/EOA - NLD

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AT 35 ILL. ADM. CODE SECTION)
217.152(b))

ENTRY OF APPEARANCE OF MATTHEW C. READ

NOW COMES Matthew C. Read, of the law firm HODGE DWYER & DRIVER,
and hereby enters his appearance in this matter on behalf of Saint-Gobain Containers,
Inc.

Respectfully submitted,

By: /s/ Matthew C. Read
One of its Attorneys

Date: November 24, 2010

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SGCO:005/Filings/EOA - MCR

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PETITION FOR SITE-SPECIFIC RULE AMENDMENT

NOW COMES SAINT-GOBAIN CONTAINERS, INC. (“SGCI” or “Petitioner”), by and through its attorneys, HODGE DWYER & DRIVER, pursuant to 415 ILCS 5/27 and 5/28, and 35 Ill. Admin. Code §§ 102.202 and 102.210, and hereby petitions the Illinois Pollution Control Board (“Board”) for a Site-Specific Rule Amendment. This amendment would change 35 Ill. Admin. Code § 217.152(b), which currently sets a deadline for an emission unit to secure a legally enforceable order limiting NOx emissions to less than 30 percent of the emissions limitations set forth under Subpart G of Part 217, thereby allowing the emission unit to utilize the compliance date in such legally enforceable order, in lieu of that in 35 Ill. Admin. Code § 217.152(a) for installing pollution control and monitoring equipment. This change would not extend the compliance date established in 35 Ill. Admin. Code § 217.152(b) for installing pollution control and monitoring equipment on emission units that are included under such legally enforceable orders. That date, December 31, 2014, would remain unchanged. The Illinois Environmental Protection Agency (“Illinois EPA”) has stated its support for such an amendment.

I. PROPOSED SITE-SPECIFIC RULE AMENDMENT

SGCI owns and operates a glass manufacturing plant in Dolton, Illinois that includes three glass melting furnaces subject to Subpart G of 35 Ill. Admin. Code Part 217 (hereafter referred to as "Subpart G"). Subpart G requires such glass melting furnaces located in ozone and PM_{2.5} nonattainment areas in Illinois to meet a NOx emissions limitation of 5.0 lb/ton of glass produced, by January 1, 2012. 35 Ill. Admin. Code § 217.204. However, the rules contain an alternative compliance date for facilities with a legally enforceable order that, in this case, limits NOx emissions to less than 1.5 lb/ton as measured by a continuous emissions monitoring system ("CEMS"). 35 Ill. Admin. Code § 217.152(b).

This alternative compliance approach was specifically requested by SGCI because of an agreement that was being negotiated between SGCI, the United States Environmental Protection Agency, the Department of Justice, the Illinois Attorney General's office, the Illinois EPA and certain other states at the time the standards in Subpart G and the compliance dates in 35 Ill. Admin. Code § 217.152 were being promulgated. *See Board Order, First Notice, In the Matter of: Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R08-19 at 30-31, 81 (Ill.Pol.Control.Bd. May 7, 2009) (rulemaking hereafter referred to as "NOx Rulemaking")*. The negotiated agreement called for more significant NOx reductions at the Dolton plant than Subpart G would otherwise require.

To allow for implementation of such reductions, the parties agreed to an alternative compliance date of December 31, 2014. 35 Ill. Admin. Code § 217.152(b) was added to accommodate implementation of the negotiated agreement's requirements,

with an appropriate agreement being completed by December 31, 2009. However, the United States District Court for the Western District of Washington did not enter the Consent Decree meeting the requirements of 35 Ill. Admin. Code § 217.152(b) until May 7, 2010. To remedy this unintended consequence of the rules, SGCI seeks to change the deadline for obtaining a legally enforceable order, thus allowing its glass manufacturing plant at Dolton to qualify for the Consent Decree's compliance date of December 31, 2014, as Subpart G intended.

SGCI specifically requests the following change to 35 Ill. Admin. Code § 217.152:

Section 217.152 Compliance Date

- a) Compliance with the requirements of Subparts E, F, G, H, I and M by an owner or operator of an emission unit that is subject to any of those Subparts is required beginning January 1, 2012.
- b) Notwithstanding subsection (a) of this Section, compliance with the requirements of Subpart G of this Part by an owner or operator of an emission unit subject to Subpart G of this Part shall be extended until December 31, 2014, if such units are required to meet emissions limitations for NO_x, as measured using a continuous emissions monitoring system, and included within a legally enforceable order on or before ~~December 31, 2009~~ May 7, 2010, whereby such emissions limitations are less than 30 percent of the emissions limitations set forth under Section 217.204.

* * *

As discussed more fully herein, this change would have no substantive impact on the environment or the alternate date of compliance with Subpart G, which would not differ from that intended by the parties in the *NOx Rulemaking*. Instead, this amendment would merely allow SGCI to utilize the Consent Decree's compliance date of December 31, 2014, as the parties in the *NOx Rulemaking* originally intended.

II. STATEMENT OF REASONS

In support of this Petition, SGCI provides the following Statement of Reasons, which includes a Statement of Facts, Statement of Purpose and Effect of Proposal, Discussion of Applicable Section 27(a) Factors, and Affected Sources and Facilities and the Economic Impact of the Proposed Rule.

A. Statement of Facts

On August 20, 2009, the Board adopted rules for the control of NOx emissions from major stationary sources in nonattainment areas for, among other things, glass melting furnaces. *See* Board Order, Final Notice, *NOx Rulemaking* at 52, 53 (Ill.Pol.Control.Bd. Aug. 20, 2009). In the *NOx Rulemaking*, the Board adopted Subpart G, which imposed NOx emissions limitations of 5 lb/ton of glass produced on certain glass melting furnaces. *Id.* The Board also adopted a general compliance date of January 1, 2012, for these emissions limitations, which was codified at 35 Ill. Admin. Code § 217.152(a). *Id.* at 32.

The Subpart G emission limitations apply to SGCI's glass melting furnaces at its Dolton plant. At the request of SGCI, the Board also adopted a compliance date of December 31, 2014, at 35 Ill. Admin. Code § 217.152(b), for owners or operators of glass melting furnaces subject to Subpart G "if such units are required to meet emissions limitations for NOx, as measured using a continuous emissions monitoring system, and included within a legally enforceable order on or before December 31, 2009, whereby such emissions limitations are less than 30 percent of the emissions limitations set forth under Section 217.204." *Id.* The legally enforceable Consent Decree satisfying the requirements for 35 Ill. Admin. Code § 217.152(b) was not entered until May 7, 2010.

Therefore, SGCI now seeks to change the date by which a legally enforceable order must be secured to utilize the compliance date in 35 Ill. Admin. Code § 217.152(b).

1. Facility Description

SGCI owns and operates a glass container manufacturing plant at 13850 Cottage Grove Avenue in Dolton, Illinois. Saint-Gobain Containers, LLC Title V Permit, No. 95090177 at 4 (Issued June 26, 2001). Sand, soda ash, limestone, cullet, colorants, and refining agents are fed through natural gas-fired glass melting furnaces. *Id.* The furnaces are regenerative and continuously melt raw materials to make molten glass. *Id.* The molten glass is refined and homogenized, formed into bottles, inspected, packed, and shipped to customers. *Id.* NOx emissions from these glass melting furnaces will be limited by Subpart G. *Id.*

2. The NOx Rulemaking

SGCI participated in the *NOx Rulemaking*, which established the standards in Subpart G. After Illinois EPA filed a proposed rule in the *NOx Rulemaking* and presented testimony regarding its proposal, SGCI filed a public comment requesting an exception to the general compliance date “for entities that enter into an enforceable agreement with IEPA to install control technology that can achieve NOx emission rates significantly below the 5.0 lbs/ton limit pursuant to an enforceable schedule extending beyond 2010.” Post-Hearing Comments of Saint-Gobain Containers, Inc., *NOx Rulemaking*, Public Comment #2 at 1 (Nov. 25, 2008).

SGCI explained that it was in the process of negotiating such an agreement with Illinois EPA.¹ *Id.* SGCI further explained that without such an alternative compliance date, the proposed rule would require SGCI to install one type of control device even though SGCI was negotiating with the State of Illinois to install an alternative NOx control technology with “substantially greater reductions” by the end of 2014. *Id.* SGCI explained that it could not afford to install both the technology required to meet the regulatory compliance date initially proposed by Illinois EPA and the compliance date for the alternative control technology, which was scheduled to be installed by the end of 2014. *Id.* Therefore, if the alternative compliance date provision was not added, SGCI noted that the opportunity for greater long-term emission reductions may be lost. *Id.* Furthermore, SGCI explained that the earlier compliance date would require installation of six CEMS devices, whereas the alternative technology may only require the installation of one CEMS device. *Id.* at 1-2. Accordingly, SGCI suggested language similar to that which was later adopted by the Board at 35 Ill. Admin. Code § 217.152(b).

At hearing on December 9, 2008, Steven Smith and Ty Sibbitt testified on behalf of SGCI. Mr. Sibbitt explained that in its public comment, SGCI “asked for a very narrow exception which allowed us to agree to postpone the date for compliance with both the emissions rate and installation of CEMS until the end of 2014.” December 9, 2008 Hearing Transcript, *NOx Rulemaking* at 11 (Ill.Pol.Control.Bd. Jan. 5, 2009). Mr. Sibbitt further explained that the discussions referenced in SGCI’s public comment were

¹ Although SGCI and Illinois EPA testified as to settlement discussions between each other, the legally enforceable Consent Decree at issue was entered in this enforcement action initially brought by the United States, in which Illinois later intervened and filed a separate complaint. However, Illinois EPA and the Illinois Attorney General, on behalf of the People of Illinois, signed on as parties to the Consent Decree.

in the context of the negotiations of a consent decree. *Id.* at 13. Mr. Sibbitt stated that he expected SGCI to reach an agreement with Illinois EPA by early 2009, but that because of uncertainty in the negotiations, he could not give an exact date. *Id.* at 14. Mr. Sibbitt went on to explain that in negotiations with Illinois EPA, SGCI discussed installing Selective Catalytic Reduction (“SCR”) technology and CEMS by the end of 2014. *Id.*

SGCI then reiterated its request for the alternative compliance date in pre-hearing comments on January 20, 2009 and proposed new language for the alternative compliance date. Pre-Hearing Comments of Saint-Gobain Containers, Inc., *NOx Rulemaking*, Public Comment #4 at 1-2 (Jan. 20, 2009). Illinois EPA explained that it hoped to agree on revisions that allowed SGCI “the flexibility to comply with the more stringent requirement at the later date.” Testimony of Robert Kaleel, *NOx Rulemaking* at 2 (Jan. 20, 2009).

Later that month, Illinois EPA filed a Motion to Amend Rulemaking Proposal (“Motion”) that proposed language identical to the language proposed by SGCI and substantively identical² to the language eventually adopted by the Board. Illinois EPA explained that “the compliance date has been generally extended until January 1, 2012, in applicable sections, with a further extension until December 31, 2014, for owners and operators of glass melting furnaces, provided such owners and operators are required to meet a more stringent emissions limitation, as measured using a CEMS, and included within a legally enforceable order.” Motion, *NOx Rulemaking* at 3 (Jan. 30, 2009).

² Although substantively identical to language adopted by the Board, due to a realignment of subparts in the proposed rule, the reference to Subpart F was later changed to Subpart G.

At the next hearing, Robert Kaleel testified on behalf of Illinois EPA and explained that the new amendments resolve the outstanding issues or comments provided by SGCI. February 3, 2009 Hearing Transcript, *NOx Rulemaking* at 13 (Ill.Pol.Control.Bd. Feb. 11, 2009). The Board acknowledged SGCI's request and added Illinois EPA's suggested language to the proposed rule at first notice. Board Order, First Notice, *NOx Rulemaking* at 30-31, 81 (Ill.Pol.Control.Bd. May 7, 2009). The Board later adopted this language in its Final Notice. Board Order, Final Notice, *NOx Rulemaking* at 32 (Ill.Pol.Control.Bd. Aug. 20, 2009).

SGCI was very involved with Illinois EPA in the Subpart G rulemaking. All parties understood that the alternative provision at 35 Ill. Admin. Code § 217.152(b) was included for SGCI and that the alternative compliance approach would provide more NOx emission reductions than the general compliance requirements of Subpart G.

3. Legally Enforceable Order

After the Board adopted Subpart G, the requisite legally enforceable order satisfying 35 Ill. Admin. Code § 217.152(b) was not entered by December 31, 2009. In fact, the United States did not file a complaint against SGCI until January 20, 2010 and did not lodge a proposed settlement until January 21, 2010. *See* Notice of Lodging of Consent Decree Under the Clean Air Act, 75 Fed. Reg. 4105 (Jan. 26, 2010). Following a public comment period, the court entered the Consent Decree on May 7, 2010. Exhibit A.

Under the Consent Decree, glass melting furnaces #2 and #3 at the Dolton plant are limited to NOx emissions of 6.2 lb/ton until December 31, 2014. Exhibit B at 30. SGCI must install pollution control equipment consisting of SCR devices at all three

Dolton furnaces by December 31, 2014. *Id.* at 33. Furthermore, the Consent Decree specifies that “no later than the first Operating Day after [December 31, 2014], SGCI must commence operation of SCR to control emissions from all three furnaces.” *Id.* at 39. The SCR must be designed for at least a 90 percent removal efficiency, and when the SCR is operating, SGCI must continuously operate it according to the vendor recommendations to minimize emissions to the extent practicable, considering ammonia slip. *Id.* at 40. Additionally, the Consent Decree generally requires that after December 31, 2014, SGCI not “emit more than 1.3 pounds of NO_x per ton of glass produced.” *Id.*

The general emissions limitations in Subpart G limit NO_x emissions from a glass melting furnace to 5.0 lb/ton of container glass produced on an ozone season and annual basis. 35 Ill. Admin. Code § 217.204(a). The Consent Decree limits NO_x emissions from the glass melting furnaces at the Dolton plant to an average of 1.3 lb/ton of glass produced after December 31, 2014. This limit in the Consent Decree is 26 percent of the general emission limitation at 35 Ill. Admin. Code § 217.204(a). The Consent Decree also requires SGCI to install, calibrate, certify, maintain, and operate CEMS on each of the Dolton SGCI glass melting furnaces by December 31, 2014. Exhibit B at 97-100.

The Consent Decree is legally enforceable since it is binding on SGCI. *See Id.* at 10. Upon entry by the court, the Consent Decree constituted a final judgment. *Id.* at 154. In fact, the Consent Decree explicitly states that the court retains jurisdiction of the case after the entry of the consent decree to “enforce compliance with the terms and conditions...and to take any action necessary or appropriate for its interpretation, construction, execution, modification, or adjudication of disputes.” *Id.* at 148.

Therefore, aside from the effective date, the Consent Decree meets the requirements of an order necessary to activate the compliance date under 35 Ill. Admin. Code § 217.152(b), since the Consent Decree requires the installation of SCR by December 31, 2014, which will limit NOx emissions to 26 percent of the emissions limitations in 35 Ill. Admin. Code § 217.204; requires the installation of CEMS on all three Dalton glass melting furnaces by December 31, 2014, to measure NOx emissions; and would be legally enforceable. Therefore, by changing the date by which the Consent Decree must be entered, the Board would allow SGCI to take advantage of the December 31, 2014 compliance date, as it originally intended.

4. Letter from Illinois EPA

On December 29, 2009, when it was clear that SGCI would be unable to obtain the necessary legally enforceable order to utilize the compliance date in 35 Ill. Admin. Code § 217.152(b), Illinois EPA sent SGCI a letter discussing the deadline for an order. Exhibit C. Specifically, Illinois EPA noted that although John Kim, Chief Legal Counsel, signed the Consent Decree on behalf of Illinois EPA, the Consent Decree still had to be filed in federal court and made available for public comment before final entry by the court. *Id.* at 2. Therefore, Illinois EPA acknowledged that “there is no possibility that the global consent decree can be entered by the judge on or before December 31, 2009.” *Id.* at 2.

Accordingly, Illinois EPA noted that the Consent Decree “may not be legally enforceable on December 31, 2009 even though all parties to the [Consent Decree] are in agreement as to its terms as executed.” *Id.* at 3. Illinois EPA further noted that during the *NOx Rulemaking*, “Illinois EPA and SGCI believed that the global consent decree

would be finalized by late summer 2009.” *Id.* Accordingly, Illinois EPA stated that the “short period of time following December 31, 2009, before the [Consent Decree] is entered will be taken into consideration, along with the Illinois EPA’s commitment to support SGCI on an adjusted standard proceeding or site-specific rulemaking amending Section 217.152(b) to remove the December 31, 2009 deadline, and to enter another expeditious deadline sometime in the first half of 2010.” *Id.* This proceeding seeks to enter a deadline of May 7, 2010, to replace the original deadline of December 31, 2009, for the Consent Decree.

B. Statement of Purpose and Effect of Proposal

The purpose of extending the deadline to obtain an appropriate legally enforceable order is to provide SGCI the opportunity to efficiently comply with the Consent Decree and Subpart G, as the parties in the *NOx Rulemaking* originally intended. The effect of adopting the proposal would be to allow the eventual installation of NOx control technology with much greater effectiveness than otherwise required by Subpart G without first having to install less effective and potentially duplicative equipment. Environmental, Technical, and Economic Justifications are provided below.

1. Environmental Justification

Changing the deadline for obtaining a legally enforceable order meeting the requirements of 35 Ill. Admin. Code § 217.152(b) would have no environmental impact beyond that intended by the Board when adopting the existing rule. SGCI is merely petitioning the Board to change the date that a legally enforceable order is required to be secured. Such a change would leave the Consent Decree’s compliance date for the

installation of pollution controls intact. In essence, this change would merely allow SGCI to take advantage of a compliance date provided for its benefit in the first place.

The December 31, 2014 compliance date would allow SGCI to avoid installing less effective pollution control equipment before installing more effective pollution control equipment required by the Consent Decree. The long-term NO_x emissions reductions required by the Consent Decree will far outweigh any short-term benefit of only installing technology required to meet the emissions limitations in Subpart G. Further, the Consent Decree limits two of the furnaces to 6.2 lb/ton until December 31, 2014.

2. Technical Justification

SGCI requests a change to the 35 Ill. Admin. Code § 217.152(b) compliance date provision. The Board adopted the December 31, 2014 compliance date at 35 Ill. Admin. Code § 217.152(b) for the sole benefit of SGCI. Under this petition, the Consent Decree's compliance date for installing pollution controls remains unchanged from the compliance date set forth for in the existing rule. Under this December 31, 2014 compliance date, SGCO would install SCR, which is more effective at controlling NO_x than the emission reductions contemplated by Subpart G's general 5 lb/ton limit. In fact, upon installation, SGCO will be limited to emitting 26 percent of the NO_x otherwise allowed by Subpart G. Therefore, the long-term benefit of the December 31, 2014 compliance date would greatly outweigh compliance with the general emissions limitations in Subpart G.

3. Economic justification

Without this change, SGCI would be required to install a less effective pollution control device to meet the emissions limitations in 35 Ill. Admin. Code § 217.204 by January 1, 2012, and later install more effective pollution control equipment to meet the requirements of the Consent Decree by December 31, 2014. Furthermore, as explained by SGCI in its comments filed in the *NOx Rulemaking*, the earlier compliance date would require installation of six CEMS devices, whereas the alternative technology may only require the installation of one CEMS device. Post-Hearing Comments of Saint-Gobain Containers, Inc., *NOx Rulemaking*, Public Comment #2 at 1-2 (Nov. 25, 2008).

SGCI cannot afford to install both the technology required to meet the general compliance date of January 1, 2012, and SCR, which must be installed by December 31, 2014. *Id.* at 1. Therefore, the change would allow SGCI to install more effective pollution control equipment in the future without the inefficient use of resources to meet interim, less stringent limitations.

C. 27(a) Factors

When promulgating regulations, the Board must take into account “the existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications, the nature of the existing air quality, or receiving body of water, as the case may be, and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.” 415 ILCS 5/27(a).

When applied to the site-specific rule amendment proposed for the Dolton plant in this Petition, these factors weigh in favor of adopting the amendment. Specifically, the

Dolton plant will continue to operate at the same location as a glass manufacturing plant, which is located in an industrial area. The physical conditions of the area will improve as a result of the proposed site-specific rule amendment. That is, the pollution control equipment installed at the Dolton plant will improve the air quality in the area surrounding the plant in the long run.

Under the National Ambient Air Quality Standards, the area is currently classified as nonattainment for fine particular matter ("PM_{2.5}"), 70 Fed. Reg. 944, 968 (Jan. 5, 2005), and moderate nonattainment for 8-hour ozone. 69 Fed. Reg. 23857 (Apr. 30, 2004). We understand that the Chicago area has demonstrated attainment for the 8-hour ozone and PM_{2.5} standards and that Illinois EPA will soon be requesting redesignation for attainment. Therefore, this proceeding should have no detrimental impact on the area's attainment designations. Further, the SCR pollution control equipment installed on the three Dolton furnaces will support continued attainment of the PM_{2.5} and 8-hour ozone standards when compared to pollution controls otherwise required to meet the general limits in Subpart G. Under the Consent Decree, SGCI will be limited to emitting 26 percent of the NOx otherwise allowed under the general emission limitation at 35 Ill. Admin. Code § 217.204(a).

Furthermore, the proposed site-specific rule amendment would be technically feasible and economically reasonable, while imposing both the terms of the Consent Decree and the general compliance date in 35 Ill. Admin. Code § 217.152(a) would not. As explained above, the earlier 2012 compliance date would require installation of controls that would soon be removed in favor of SCR, as well as installation of six CEMS devices, whereas the SCR technology may only require the installation of one CEMS

device. Post-Hearing Comments of Saint-Gobain Containers, Inc., *NOx Rulemaking*, Public Comment #2 at 1-2 (Nov. 25, 2008).

It would not be economically reasonable to impose interim requirements on SGCI that would require the installation of temporary and duplicate equipment, only to have SGCI later remove the equipment during the installation of more effective equipment soon after. SGCI cannot afford to install both the technology required to meet the general compliance date of January 1, 2012, and the alternative control technology, which must be installed by December 31, 2014. *Id.* at 1.

Further, since the Board originally intended for the compliance deadline in 35 Ill. Admin. Code § 217.152(b) to apply to SGCI, these factors were weighed by the Board in the *NOx Rulemaking*. At that time, the Board specifically found “the adopted regulations technically feasible and economically reasonable.” Board Order, Final Notice, *NOx Rulemaking* at 8 (Ill.Pol.Control.Bd. Aug. 20, 2009). As discussed above, requiring SGCI to meet the general compliance date of January 1, 2012 would impose an undue burden on SGCI by requiring the installation of extensive interim pollution controls and monitoring equipment, all of which would have to be replaced for the equipment required by the Consent Decree.

D. Affected Sources and Facilities and the Economic Impact of the Proposed Rule

The Board acknowledged that the compliance date at 35 Ill. Admin. Code § 217.152(b) was added to the rules solely because of SGCI’s unique situation. Board Order, First Notice, *NOx Rulemaking* at 30-31 (Ill.Pol.Control.Bd. May 7, 2009).

Therefore, this change would only affect SGCI's glass manufacturing plant in Dolton, Illinois.

The proposed amendment would have the same economic impact as the Board intended for the rule adopted in the *NOx Rulemaking*. That is, it would allow SGCI to take advantage of a compliance date of December 31, 2014 for installing certain pollution control and monitoring equipment. Without this change, SGCI would be required to install less effective pollution control devices to meet the general deadline of January 1, 2012, and later remove those control devices to install SCR to meet the requirements of the Consent Decree by December 31, 2014. The proposed rule would allow SGCI to efficiently use its resources for the best emission control measures over the long term.

III. SYNOPSIS OF TESTIMONY

Ty Sibbitt will testify on behalf of SGCI. His testimony will focus on the efforts to obtain a legally enforceable order meeting the requirements of 35 Ill. Admin. Code § 217.152(b) by the original December 31, 2009 deadline, and why such an order was not obtained until May 7, 2010. Mr. Sibbitt will also address the reduction in NOx emissions and the pollution control equipment required by the Consent Decree.

IV. MOTION FOR WAIVER OF SIGNATURE REQUIREMENT

In a separate Motion filed simultaneous with this Petition, Petitioner respectfully request that the Board waive the requirement, set forth at 35 Ill. Admin. Code § 102.202(g), that a petition for rulemaking be signed by at least 200 persons.

V. EXHIBITS

The following exhibits are included by Petitioner in support of the site-specific rule amendment proposed, and are hereby made a part of this Petition:

- A. Exhibit A - *U.S. et al. v Saint-Gobain Containers, Inc.*, 2:10-cv-00121-TSZ (W.D. Wash. May 7, 2010) (order to enter consent decree).
- B. Exhibit B – Consent Decree between Plaintiff United States of America and Defendant Saint-Gobain Containers, Inc., 2:10-cv-00121-TSZ (W.D. Wash. Apr. 22, 2010).
- C. Exhibit C - Letter from John Kim, Illinois EPA to Ty Sibbitt, SGCI regarding Saint-Gobain Containers Rule Change (Dec. 29, 2009).

VI. CONSISTENCY WITH FEDERAL LAW

In the *NOx Rulemaking*, the Board adopted rules with the intent of allowing SGCI to take advantage of a compliance date of December 31, 2014, for the installation of SCR NOx pollution control and CEMS. This action would not change the ultimate compliance date for SGCI, but rather the timing of the procedural qualifier for that compliance date.

The proposed Site-Specific Rule Amendment is intended to amend the Illinois State Implementation Plan, and, as such, the State must provide reasonable notice and hold a public hearing. 40 U.S.C. § 7410(a)(2). SGCI is filing, with this Petition, a Motion for Expedited Review, which asks the Board to move this proceeding to First Notice and schedule a public hearing as soon as possible.

VII. STATEMENT OF RECENCY

The change requested by SGCI would amend an existing Board rule. As such, SGCI states that this Petition requests an amendment to the most recent version of the rule, as published on the Board's web site. *See* 35 Ill. Admin. Code § 102.202(i).

VIII. INAPPLICABLE REQUIREMENTS

When information required under 35 Ill. Admin. Code § 102.202 or 102.210 is inapplicable, justification for the inapplicability is required. 35 Ill. Admin. Code § 102.202(k) and 102.210(g). SGCI does not incorporate by reference any material into the

proposed rule amendment, and, therefore, does not provide copies of such documents. *See* 35 Ill. Admin. Code § 102.202(d). Additionally, no published study or research report was used when developing this rule amendment. Therefore, SGCI does not provide a descriptive title or other description of any study or research report in its Petition. *See* 35 Ill. Admin. Code § 102.202(e) and 102.210(c).

IX. CONCLUSION

Petitioner respectfully request that the Board grant the site-specific relief requested herein. The proposed change would allow SGCI to receive the benefit of an alternative compliance date for the installation of pollution control and monitoring equipment, which the Board has already deemed appropriate. Without such a change, SGCI would be required to install unnecessary duplicative pollution control and monitoring equipment to meet interim standards, which may jeopardize its ability to comply with the Consent Decree and drastically reduce emissions.

WHEREFORE, Petitioner, Saint-Gobain Containers, Inc., respectfully requests that the Board grant the site-specific relief requested herein.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Petitioner,

Date: November 24, 2010

By: /s/N. LaDonna Driver
One of Its Attorneys

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SCGO:005/Fil/Site Specific Rule Petition

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED SITE-SPECIFIC RULE)
AMENDMENT APPLICABLE TO) R11- _____
SAINT-GOBAIN CONTAINERS, INC.) (Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE SECTION)
217.152(b))

MOTION TO WAIVE REQUIREMENT TO SUBMIT 200 SIGNATURES

NOW COMES SAINT-GOBAIN, INC. (“SGCI”), by and through its attorneys, HODGE DWYER & DRIVER and requests the Illinois Pollution Control Board (“Board”) to waive the requirement, under 35 Ill. Adm. Code § 102.202(g), to submit 200 signatures with its Petition for Site-Specific Rule Amendment (“Petition”) stating as follows:

1. SGCI owns and operates a glass container manufacturing plant in Dolton, Illinois, which produces glass bottles.
2. The plant includes three glass melting furnaces, and NOx emissions from these furnaces will be governed by 35 Ill. Admin. Code Part 217, Subpart G (hereafter referred to as “Subpart G”) at the time of the appropriate compliance date. Generally, emissions units must comply with the NOx emissions limitations in Subpart G and monitor compliance through the use of CEMS by January 1, 2012. 35 Ill. Admin. Code § 217.152(a). However, a compliance date of December 31, 2014 is available to owners and operators of emission units that are covered under a legally enforceable order in place by December 31, 2009, which limits NOx emissions to 30 percent of the limits in Subpart G. 35 Ill. Admin. Code § 217.152(b).

3. Attached to this Motion is the Petition, in which SGCI is seeking a site-specific rule amendment to change the date by which a qualifying legally enforceable order must be obtained in order to meet the requirements for the 2014 compliance date under 35 Ill. Admin. Code § 217.152(b).

4. Such a change to the compliance date provision would allow SGCI to install more effective pollution control devices in the future, thereby reducing emissions of NOx in the long term.

5. The change would also allow SGCI to operate in compliance with both the Board's regulations and a Consent Decree adopted by the federal court in the Western District of Washington. See Exhibit B to Petition.

6. The Board has waived signature requirements for site-specific rulemaking petitions in the past, including recently in *In the Matter of: Ash Pond Closure Rules (Hutsonville Power Station): Proposed 36 Ill. Adm. Code Part 840.101 through 840.144*, R09-21 at 1-2 (Ill.Pol.Control.Bd. June 18, 2009). See also *In the Matter of: Abbott Laboratories' Proposed Site Specific Amendment to Applicability Section of Organic Material Emission Standards and Limitations for the Chicago Area; Subpart T: Pharmaceutical Manufacturing (35 Ill. Adm. Code 218.480(b))*, R08-8 at 2 (Ill.Pol.Control.Bd. Oct. 4, 2007); *In the Matter of: Petition of Central Illinois Light Company (E.D. Edwards Generating Station) for Site-Specific Air Regulation: 35 Ill. Admin. Code 214.561*, R02-21 at 4 (Ill.Pol.Control.Bd. May 2, 2002).

7. Granting this motion is in the public's best interest. SGCI employs over 390 people at its Dolton plant. This site-specific rule amendment is necessary to enable SGCI to operate its plant in compliance with Board regulations and the Consent Decree.

Additionally, this site-specific rule will result in the installation of pollution control equipment that will limit NOx emissions from the glass melting furnaces to below 30 percent of the general emission limitations in Subpart G.

8. The Illinois Environmental Protection Agency has stated its support for such a site-specific rule amendment. *See* Exhibit C to Petition.

WHEREFORE, Petitioner, Saint-Gobain, Inc., through its attorneys, respectfully requests the Illinois Pollution Control Board to waive the requirement to submit 200 signatures in support of its Petition for Site-Specific Rule Amendment.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Petitioner,

Date: November 24, 2010

By: /s/N. LaDonna Driver
One of Its Attorneys

N. LaDonna Driver
Matthew C. Read
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705
(217) 523-4900

SCGO:005/Filings/Mtn to Waive Requirement to Submit 200 Signatures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED SITE-SPECIFIC RULE)
AMENDMENT APPLICABLE TO) R11- _____
SAINT-GOBAIN CONTAINERS, INC.) (Site-Specific Rule – Air)
AT 35 ILL. ADM. CODE SECTION)
217.152(b))

MOTION FOR EXPEDITED REVIEW

NOW COMES SAINT-GOBAIN CONTAINERS, INC. (“SGCI” or “Petitioner”), by and through its attorneys, HODGE DWYER & DRIVER, pursuant to 35 Ill. Admin. Code § 101.512, and hereby requests the Illinois Pollution Control Board (“Board”) to expedite review of SGCI’s Petition for Site-Specific Rule Amendment (“Petition”). In support of this Motion for Expedited Review (“Motion”), SGCI state as follows:

1. SGCI owns and operates a glass container manufacturing plant in Dolton, Illinois, which produces glass bottles.

2. The plant includes three glass melting furnaces, and NOx emissions from these furnaces are governed by 35 Ill. Admin. Code Part 217, Subpart G (hereafter referred to as “Subpart G”) at the time of the appropriate compliance date. Generally, emission units must comply with the NOx emissions limitations in Subpart G and compliance must be monitored using CEMS by January 1, 2012. 35 Ill. Admin. Code § 217.152(a). However, an alternate compliance date of December 31, 2014, is available to owners and operators of emission units that are covered under a legally enforceable order in place by December 31, 2009, which limits NOx emissions to 30 percent of the limits in Subpart G. 35 Ill. Admin. Code § 217.152(b).

3. Simultaneously with this Motion, SGCI is filing a Petition that more fully describes the purpose and effect of the proposed Site-Specific Rule Amendment. SGCI is

seeking a site-specific rule amendment to change the date by which a qualifying legally enforceable order must be obtained in order to meet the requirements for a compliance date of December 31, 2014 under 35 Ill. Admin. Code § 217.152(b).

4. Such a change to the compliance date provision would allow SGCI to install more effective pollution control devices in the future, thereby reducing emissions of NOx in the long term. This change would allow SGCI to take advantage of the December 31, 2014 compliance date, as the rule originally intended.

5. The change would also allow SGCI to operate in compliance with both the Board's regulations and a Consent Decree adopted by the federal court in the Western District of Washington. *See Exhibit B to Petition.*

6. SGCI seeks to have the proposed Site-Specific Rule Amendment adopted as soon as possible because operation of the three glass melting furnaces is critical to the functioning of its plant. The Site-Specific Rule Amendment is necessary to enable SGCI to operate its plant in compliance with Board regulations and the Consent Decree.

7. We understand that Section 217.152(b) has been submitted to USEPA, along with the other Subpart G provisions, for approval as a revision to Illinois' SIP. USEPA has not yet acted on the SIP revision request.

8. 40 U.S.C. § 7410(a)(2) requires that reasonable notice and a public hearing be held for SIP provisions.

9. SGCI requests that the Board proceed to First Notice under the Illinois Administrative Procedures Act, 5 ILCS 100/1-1, *et seq.*, without reaching a decision on the merits, but accepting the Site-Specific Rule Amendment language proposed by SGCI in its Petition for the sole purpose of First Notice.

10. SGCI also requests that a public hearing be scheduled as soon as possible in accordance with 42 U.S.C. § 7410(a)(2), as well as Section 28(a) of the Illinois Environmental Protection Act, 415 ILCS 5/28(a), and that such a hearing serve also as the hearing that may be required during First Notice under Section 5-40(b) of the Illinois Administrative Procedure Act. 5 ILCS 100/5-40(b) and 40 C.F.R. § 51.102(a).

11. The proposed Site-Specific Rule Amendment may be sent to First Notice without a decision being reached on merits of the proposal by the Board. *See e.g.* Board Order, First Notice, *In the Matter of: Proposed Site Specific Rule for City of Springfield, Illinois, Office of Public Utilities, City Water, Light and Power and Springfield Metro Sanitary District from 35 Ill. Adm. Code 302.208(g): New 35 Ill. Adm. Code 303.446, R09-8 at 2* (Ill.Pol.Control.Bd. Sep. 16, 2008); Board Order, First Notice, *In the Matter of: Petition of W.R. Grace & Company – Connecticut, and the Illinois Environmental Protection Agency for Site-Specific Air Regulation: 35 Ill. Adm. Code 218.940(h), R98-16 at 1* (Ill.Pol.Control.Bd. Dec. 18, 1997).

12. If the Board approves this Petition, it is possible that this Site-Specific Rule Amendment could be forwarded to USEPA prior to its action on the pending SIP reduction request for Subpart G, thereby fostering efficiency of regulatory resources.

13. SGCI believes the information necessary for the Board to proceed to First Notice in this rulemaking, and schedule a public hearing, is contained in the Petition. If more information is needed, SGCI will fully cooperate to expeditiously provide additional information to the Board and its hearing officer.

14. Time is of the essence due to the delay in securing a qualifying legally enforceable order to limit NOx emissions. Without an appropriate site-specific rule

amendment in place by January 1, 2012, Board regulations will require SGCI to comply with emissions limitations in Subpart G at that time. As a practical matter, SGCI would need to know far in advance of January 1, 2012 whether it will need pollution control and monitoring equipment installed at that time.

15. Therefore, SGCI will be materially prejudiced if this Motion is denied because of the approaching compliance date in the Board's regulations.

16. As required by 35 Ill. Admin. Code § 101.512, this Motion is accompanied by an affirmation attesting that the facts cited herein are true.

WHEREFORE, for the above and foregoing reasons, Saint-Gobain Containers, Inc. hereby respectfully requests the Illinois Pollution Control Board to expedite review in this matter. Petitioner requests that the Board send the proposed Site-Specific Rule Amendment to First Notice without the Board reaching a decision on the merits of the proposal, and schedule a public hearing as soon as possible.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Petitioner,

Date: November 24, 2010

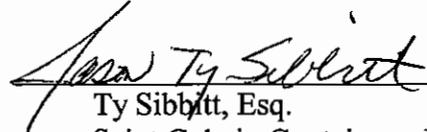
By: /s/N. LaDonna Driver
One of Its Attorneys

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AFFIDAVIT

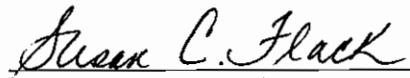
STATE OF INDIANA)
) SS.
COUNTY OF DELAWARE)

I, Ty Sibbitt, being first duly sworn on oath, affirm that, based upon appropriate inquiry, the facts set forth in the Motion for Expedited Review above are true and correct.



Ty Sibbitt, Esq.
Saint Gobain Containers, Inc.
1509 S. Macedonia Avenue
Muncie, Indiana 47307

Subscribed and sworn to before me
this 18th day of November, 2010.



Notary Public

SGCO:005/Fil/Mtm for Expedited Review



CERTIFICATE OF SERVICE

I, N. LaDonna Driver, the undersigned, certify that I have served the attached ENTRY OF APPEARANCE OF N. LADONNA DRIVER, ENTRY OF APPEARANCE OF MATTHEW C. READ, PETITION FOR SITE-SPECIFIC RULE, MOTION TO WAIVE REQUIREMENT TO SUBMIT 200 SIGNATURES, and MOTION FOR EXPEDITED REVIEW, upon:

Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on November 24, 2010; and upon:

Gina Roccaforte, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-92

Matthew Dunn, Esq.
Division Chief of Environmental
Enforcement
Office of the Attorney General
69 West Washington Street, 18th Floor
Chicago, Illinois 60602

Virginia Yang, Esq.
Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on November 24, 2010.

By: /s/N. LaDonna Driver
N. LaDonna Driver