

ILLINOIS POLLUTION CONTROL BOARD  
May 19, 1988

IN THE MATTER OF: )  
 )  
PETITION TO AMEND 35 ILL. )  
ADM. CODE PART 214, SULFUR ) R86-31  
LIMITATIONS (CIPS Coffeen )  
Generating Station) )  
 )

PROPOSED RULE. FIRST NOTICE.

ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board upon a Motion for Reconsideration filed by Central Illinois Public Service Company (CIPS) on April 21, 1988. Specifically, CIPS asks the Board to reconsider the rule that the Board proposed for Second Notice by its Order of March 10, 1988. The Board notes that the Joint Committee on Administrative Rules filed its Certification of No Objection on April 13, 1988.

On May 4, the Hearing Officer entered a Hearing Officer Statement stating that he had been in contact with representatives of the Illinois Environmental Protection Agency (Agency) and the Monterey Coal Mine (Monterey). According to the Hearing Officer, neither the Agency nor Monterey object to CIPS' motion. Monterey filed a statement to this effect on May 11, 1988.

The Hearing Officer also issued an Order on May 9, 1988 in which he ordered CIPS to file by May 13, 1988, proposed language which would, if adopted, remedy CIPS' problem concerning the triggering of the monitoring actions imposed by the rule. Also, CIPS was given the opportunity to address the general issue of whether it is appropriate for the Board to grant motions for reconsideration subsequent to the Board's proposing a rule for Second Notice. The Hearing Officer ordered interested persons to file comments upon CIPS' filing by May 18, 1988. Monterey filed a comment with the Hearing Officer on May 18, 1988. The Board accepts this filing. Although Monterey agrees with CIPS' proposed change, it believes that the Board should not have to go back to First Notice in order to make that change. The Agency filed no comment.

In its motion, CIPS requests that the Board alter its proposed rule so that the ambient air monitoring and stack testing will be triggered by the U.S. Environmental Protection Agency's approval of a State Implementation Plan revision which allows CIPS to emit a level in excess of 55,555 pounds per any hour. The March 10th version of the rule triggers the monitoring

actions upon CIPS operating at a level in excess of 765 net megawatts.

As its motion recounts, CIPS had expressed concern regarding the timing of the monitoring requirements in its First Notice comments:

CIPS pointed out in the Comments that it could not undertake the monitoring program the Board was requiring until the United States Environmental Protection Agency (USEPA) had approved the higher emission limit because the current State Implementation Plan (SIP), at least in USEPA's view, contains a lower emission limit and the Board's monitoring program is required to be conducted while CIPS is operating, or at least able to operate, at the new, higher limitation. In explaining this problem, CIPS pointed out that in its pending litigation with USEPA it anticipated being constrained by a Federal District Court order not to exceed the current SIP limit of 55,555 pounds of sulfur dioxide per hour. CIPS had calculated that this limit equated to a maximum load on the Coffeen Station of approximately 765 net megawatts. In November, 1987, CIPS recalculated this and determined that the emission limit equated to a load limit of 759 megawatts based on the worst case coal.

CIPS may have erred in not making clearer to the Board exactly what that means....

(CIPS' Motion, p. 2)

In its March 10th decision, the Board had sought to remedy the timing problem as follows:

CIPS is currently operating under a load limitation of 765 net megawatts (MW) in order to achieve compliance with 55,555 lbs. standard. The Board will require CIPS to begin its ambient air monitoring and modeling program 6 months after it begins operating at a level in excess of 765 net MW. By linking the timing of the monitoring and modeling program to an event within CIPS' control, CIPS will not be forced into non-compliance

with either a Board rule or a federal court order.

(Proposed Opinion and Order, March 10, 1988, p. 5)

CIPS now asserts that when utilizing "normal quality of coal from Monterey, CIPS would be able to exceed 765 megawatts without ever exceeding the 55,555 pound limitation." (CIPS' Motion, p. 5). In its motion, CIPS also informs the Board of the status of the federal enforcement action brought against CIPS.

CIPS now has reached agreement on a Consent Order with USEPA which was noticed for 30 days for comment in the March 23, 1988 Federal Register and will be entered sometime thereafter by the District Court. A copy of the Consent Decree is attached for the Board's information as Exhibit A. For a period of two years after the Court enters the Consent Decree, it will limit emissions from the Coffeen Station to 55,555 pounds per hour. Of course, if during that two years, USEPA approves the revised emission limit, CIPS would request that the Court modify the Consent Decree and CIPS would expect USEPA to concur.

(CIPS' Motion, p. 2)

In response to the Hearing Officer's Order, CIPS filed Proposed language which would resolve its concerns regarding the timing of the monitoring and stack test. In addition, CIPS asserted that nothing in the Act or Board regulations precludes the Board from considering a motion for reconsideration subsequent to a Board's Second Notice proposal. In fact, CIPS states that there is even a policy need to allow such motions at this juncture in light of the procedures enunciated in the Board's Resolution 88-1. The regulatory scheme set forth by Res. 88-1 provides that the first time the Board takes a substantive position with regard to a rulemaking is when it proposes a rule for Second Notice. Consequently, if motions for reconsideration may not be entertained after the Board proposes a rule for Second Notice, then the public, including the rule's proponent, will be precluded from responding to the Board's substantive position until after final adoption. Such a public response would then take the form of either another motion for reconsideration or an appeal to the Appellate Court.

In proposing the Second Notice version of the rule, it was the intention of the Board to cause CIPS to conduct ambient air monitoring after it began emitting SO<sub>2</sub> at levels in excess of currently allowed limits. This would provide data to illustrate

the impact of the higher emissions level upon the ambient air quality. Given the record, the Board believed that an operation level of 765 net MW was equivalent to an emission level of 55,555 pounds per hour, which is the current emission limitation. Since an operating level is generally more readily determinable than an emission level, the Board triggered the monitoring upon CIPS' operating in excess of 765 net MW. Now, it is apparent from CIPS' motion that the 765 net MW trigger is not appropriate.

CIPS proposed change is consistent with the Board's intention concerning this rulemaking. The Board notes that the draft consent decree if entered by the Federal District Court, would impose a requirement that CIPS install, by September 30, 1988, a continuous emission monitor (CEM) which would measure CIPS' SO<sub>2</sub> emissions. After installation of a CEM, CIPS would be able to determine, with relative ease, Coffeen's exact level of emissions at any point in time.

Given all of the circumstance involved, the Board will alter the proposed rule in accordance with CIPS request. Specifically, the Board will delete the language concerning 765 net MW and add the phrase "is legally able and begins to operate at an emission rate greater than 55,555 pounds of sulfur dioxide per hour: to subsections (b) and (d). Since JCAR has already issued a Certificate of No Objection on the Board's version of the rule which is proposed for Second Notice, the Board must propose this new version of the rule for First Notice rather than proposing a second, Second Notice. While such a course of action does not seem efficient, it is the path required by JCAR and the Secretary of State.

The Board hereby proposes the following rule for First Notice to be published in the Illinois Register:

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE B: AIR POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS  
 FOR STATIONARY SOURCES

PART 214  
 SULFUR LIMITATIONS  
 SUBPART X: UTILITIES

Section 214.562      Coffeen Generating Station

- a) The emission standards of this subsection shall apply only if the requirements of subsections (b), (c), and (d) are fulfilled. Notwithstanding any other limitation contained in this Part, whenever the coal burned is mined exclusively from the mine that is presently known as Monterey Coal Company's No. 1 Mine located south of Carlinville, emission of sulfur dioxide from Units 1 and

2 at the Central Illinois Public Service Company's (CIPS) Coffeen Generating Station (Coffeen), located in Montgomery County, shall not exceed either of the following emission standards:

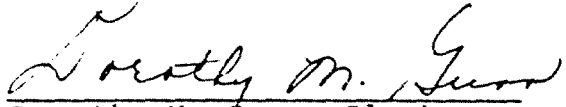
- 1) 29,572 kilograms of sulfur dioxide in any one hour (65,194 lbs/hr); and
  - 2) 11.29 kilograms of sulfur dioxide per megawatt-hour of heat input (7.29 lbs/mmBtu).
- b) CIPS shall conduct an ambient sulfur dioxide monitoring and dispersion modeling program designed to demonstrate that the emission standards of subsection (a) will not cause or contribute to violations of any applicable primary or secondary sulfur dioxide ambient air quality standard as set forth in Section 243.122. Such ambient monitoring and dispersion modeling program shall be operated for at least one year commencing no later than 6 months after Coffeen is legally able and begins to operate at an emission rate greater than 55,555 pounds of sulfur dioxide per hour.
- c) No more than 15 months after the commencement of the ambient monitoring and dispersion modeling program of subsection (b), CIPS shall apply for a new operating permit. CIPS shall submit to the Environmental Protection Agency (Agency), at the time of the application, a report containing the results of the ambient monitoring and dispersion modeling program of subsection (b) and the results of all relevant stack tests conducted prior to the report's submission.
- d) No later than six months after Coffeen is legally able and begins to operate at an emission rate greater than 55,555 pounds of sulfur dioxide per hour, a stack test shall be conducted in accordance with Section 214.101(a), in order to determine compliance with emission standards set forth in subsection (a). After the stack test is conducted, the results shall be submitted to the Agency within 90 days. The requirements of this subsection do not preclude the Agency from requiring additional stack tests.

(Source: Added at Ill. Reg.  
effective )

IT IS SO ORDERED.

J.D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 19~~th~~ day of May, 1988, by a vote of 7-0.



Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board