

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 REASONABLY AVAILABLE CONTROL )  
 TECHNOLOGIES (RACT) FOR VOLATILE )  
 ORGANIC MATERIAL EMISSIONS FROM )  
 GROUP II AND GROUP IV CONSUMER )  
 AND COMMERCIAL PRODUCTS: )  
 PROPOSED AMENDMENTS TO 35 ILL. )  
 ADM. CODE 211, 218 AND 219 )

R11-23  
 (Rulemaking-

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APR 27 2011

**STATE OF ILLINOIS**  
**Pollution Control Board**

REPORT OF THE PROCEEDINGS held in the  
 above entitled cause before Hearing Officer Tim  
 Fox, called by the Illinois Pollution Control  
 Board, taken by Steven Brickey, CSR, for the State  
 of Illinois, 100 West Randolph Street, Chicago,  
 Illinois, on the 27th day of April, 2011,  
 commencing at the hour of 9:15 a.m.

A P P E A R A N C E S

MR. TIM FOX, Hearing Officer  
MR. ANAND RAO,  
MS. CARRIE ZALEWSKI  
MS. ANDREA MOORE

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
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BY: MS. DANA VETTERHOFFER  
MR. DAVID E. BLOOMBERG  
MR. YOGINDER MAHAJAN

ILLINOIS ENVIRONMENTAL REGULATORY GROUP  
215 East Adams Street  
Springfield, Illinois  
(217) 522-5512

BY: MR. ALEC M. DAVIS

ALSO PRESENT: MR. PAUL BURGESS  
MS. STEPHANIE WILKERSON

REPORTED BY:

Steven J. Brickey, CSR  
CSR License No. 084-004675

1                   MR. FOX: Good morning, everyone,  
2 and welcome to this Illinois Pollution Control  
3 Board hearing. My name is Tim Fox and I'm the  
4 Hearing Officer for this rulemaking proceeding  
5 which is entitled, quote, Reasonably Available  
6 Control Technologies (RACT,) R-A-C-T, for Volatile  
7 Organic Material Emissions From Group II and Group  
8 IV Consumer and Commercial Products. Proposed  
9 Amendments to 35 Illinois Administrative Code Part  
10 211, 218, and 219.

11                   I want to recognize as present  
12 today from the Board to my immediate left Board  
13 Member, Andrea S. Moore, the lead Board Member for  
14 the rulemaking. At my far right, Board Member,  
15 Carrie Zalewski, and at my immediate right Anand  
16 Rao of the Board's technical staff.

17                   The Board docket number for the  
18 rulemaking is R11-23. The Illinois Environmental  
19 Protection Agency, or IEPA, filed this proposal on  
20 March 7th, 2011, under the, quote, Fast Track,  
21 unquote, rulemaking provisions at Section 28.5 of  
22 the Act.

23                   In an order dated March 17th,  
24 2011, the Pollution Control Board accepted the

1 proposal for hearing. As required by Section  
2 28.5(e), the Board within 14 days of receiving  
3 that proposal filed it for first notice under the  
4 Illinois Administrative Procedure Act and the full  
5 first notice proposal appeared at 35 Illinois  
6 Register Page 4887 on April 1st of 2011.

7 I do want to note that on April  
8 25th, 2011, on Monday of this week, the Agency  
9 filed a motion requesting that the Board amend the  
10 proposal in specified fashions. Today, we are, of  
11 course, holding the first hearing in this  
12 rulemaking. The second is now scheduled to take  
13 place beginning on Wednesday, May 18th, 2011, in  
14 Chicago and the third hearing, if it is necessary,  
15 is scheduled to take place on Wednesday, June 1st,  
16 2011, also in Chicago.

17 In an order dated March 17th,  
18 2011, the Hearing Officer directed participants  
19 wishing to pre-file testimony for the first  
20 hearing to do so on or before Friday, April 15th,  
21 2011, and on April 14th the Board received timely  
22 pre-filed testimony from the Illinois EPA by  
23 Mr. David Bloomberg and Mr. Yoginder Mahajan, both  
24 of whom are present here today with us.

1 Under Section 28.5(g)1, this  
2 hearing, quote, shall be confined to testimony by  
3 and questions of the Agency's witnesses concerning  
4 the scope, applicability and basis of the rule,  
5 unquote. Accordingly, we will begin this hearing  
6 with Mr. Bloomberg and Mr. Mahajan's pre-filed  
7 testimony. Section 28.5(f) provides in order to  
8 expedite this hearing that testimony is accepted  
9 into the record without reading provided that they  
10 are sworn and available for questions.

11 So after introducing and  
12 swearing in those two gentlemen, we will go right  
13 to questions that others may have on the basis of  
14 the pre-filed testimony that they have submitted  
15 to the Board. This proceeding is governed by the  
16 Board's procedural rules so that all information  
17 that is relevant and that is not repetitious or  
18 privileged will be admitted into the record.

19 I would ask you please to note  
20 any questions on the part of the Board members or  
21 the Board's staff are intended solely to assist in  
22 developing a clear and complete record and do not  
23 reflect any prejudgment or predisposition upon the  
24 proposal. I would ask for the benefit of the

1 court reporter, and a clear record, that you speak  
2 loudly and clearly and avoid speaking at the same  
3 time as any other person and, at this point, I'll  
4 simply ask if there are any questions about our  
5 procedures this morning?

6 Neither seeing nor hearing any,  
7 why don't we, Ms. Vetterhoffer, for the Agency,  
8 have the court reporter swear in Mr. Bloomberg and  
9 Mr. Mahajan so that we can get started.

10 WHEREUPON:

11 DAVID BLOOMBERG AND YOGINDER MAHAJAN  
12 called as witnesses herein, having been first duly  
13 sworn, depose and saith as follows:

14 MR. FOX: Thank you.

15 Ms. Vetterhoffer, before we get underway, would  
16 you like to have the pre-filed testimony of the  
17 Agency's two witnesses introduced and admitted as  
18 a hearing exhibit today?

19 MS. VETTERHOFFER: Yes, please.

20 MR. FOX: Very good. Construing  
21 that as a motion to admit the pre-filed testimony  
22 of Mr. Bloomberg as Hearing Exhibit No. 1 and  
23 Mr. Mahajan as Hearing Exhibit No. 2, is there any  
24 objection to granting this motion and admitting

1     them as hearing exhibits under those two numbers?  
2     Neither seeing nor hearing any, they will be  
3     marked and admitted as exhibits, Ms. Vetterhoffer.  
4     Again, Mr. Bloomberg's pre-filed testimony is  
5     No. 1 and Mr. Mahajan's pre-filed testimony as  
6     No. 2.

7                     Then, if the IEPA is prepared to  
8     do so, Ms. Vetterhoffer, we can begin if you wish  
9     with an introduction or other opening remarks and  
10    then proceed to questions of your witness.

11                    MS. VETTERHOFFER: Thank you. I'm  
12    Dana Vetterhoffer. I'm assistant counsel on  
13    behalf of the Illinois EPA. This rulemaking  
14    amends recently promulgated regulations that  
15    control emissions of volatile organic materials,  
16    or VOM, from Group II and Group IV Consumer and  
17    Commercial product categories in areas designated  
18    an non-attainment with respect to the 1997 eight  
19    hour ozone National Ambient Air Quality Standard.

20                    The majority of the Illinois  
21    EPA's proposed amendments are intended to correct  
22    deficiencies in these regulations as identified by  
23    the United States Environmental Protection Agency,  
24    or US EPA.

1                   The changes are necessary in  
2 order to obtain US EPA's approval of the rules as  
3 amendments to Illinois' State Implementation Plan,  
4 or SIP, and satisfy outstanding Clean Air Act  
5 requirements regarding reasonably available  
6 control technology for VOM.

7                   The Illinois EPA has worked  
8 closely with the US EPA in developing these  
9 amendments and in ensuring that the revised  
10 regulations will be approveable by US EPA.

11                   With me today is David  
12 Bloomberg, manager of the Compliance Unit in the  
13 Compliance Section of the Division of Air  
14 Pollution Control, Bureau of Air at the Illinois  
15 EPA and Yoginder Mahajan, Environmental Protection  
16 Engineer in the Air Quality Cleaning Section of  
17 the Division of Air Pollution Control, Bureau of  
18 Air at the Illinois EPA.

19                   Mr. Bloomberg is available today  
20 to answer questions regarding the Group II  
21 regulations and Mr. Mahajan is available to answer  
22 questions regarding the Group IV regulations and  
23 we're ready to proceed to questions. Thank you.

24                   MR. FOX: Very good. We are as



1 Ms. Vetterhoffer has indicated ready to proceed to  
2 questions. I would ask if you have a question  
3 you'd like to pose, just seek recognition by  
4 raising your hand. The first time that you speak,  
5 if you would, for the benefit of the record, just  
6 state your full name and any organization or  
7 association that you may represent. That would be  
8 very much appreciated.

9 On the basis of that testimony,  
10 is there any question on the part of those present  
11 this morning?

12 MR. DAVIS: You can go ahead.

13 MR. BURGESS: My name is Paul  
14 Burgess from Label Master. I'm a regulatory  
15 specialist there. I have a question for  
16 Mr. Mahajan. Am I pronouncing that correctly?

17 MR. MAHAJAN: Yes.

18 MR. BURGESS: One sentence of your  
19 testimony says "The US EPA defines RACT as the  
20 lowest emission limitation that a particular  
21 source is capable of meeting by the application of  
22 control technology that is reasonably available  
23 considering technological and economic  
24 feasibility." Could you please expand on what

1 your definition of the term "economic feasibility"  
2 is specifically as it relates to the business  
3 environment in Illinois? How is that  
4 determination made that these were economically  
5 feasible changes?

6 MR. MAHAJAN: This determination is  
7 made by the US EPA. They're the one that did the  
8 study and gave us the guidelines and we relied on  
9 that.

10 MR. BLOOMBERG: These rules, both  
11 the Group II and Group IV, and another group,  
12 which we're not dealing with now, which was Group  
13 III, are based on control techniques guidelines  
14 which were issued by US EPA and although they call  
15 them guidelines what they really mean is follow  
16 these or we won't accept your rulemaking, which is  
17 kind of why we're here, and in those CTG's, they  
18 have done studies and determined what is  
19 economically feasible nationwide.

20 MR. BURGESS: Is that a matter of  
21 the public record that we can look at?

22 MR. BLOOMBERG: Yes. Actually, I  
23 believe the CTG's were entered as part of the  
24 first rulemakings for both of these. So you

1 should be able to just look them up on the Board's  
2 website.

3 MR. BURGESS: Thank you very much.  
4 I have no further questions at this time.

5 MR. FOX: Mr. Burgess has indicated  
6 he has completed his questions at this point. Are  
7 there any other questions for the Agency and its  
8 witnesses?

9 MR. DAVIS: I have a few questions.  
10 Good morning. My name is Alec Davis and I  
11 represent the Illinois Environmental Regulatory  
12 Group, or IERG. On behalf of IERG, I'd like to  
13 thank the Board for this opportunity to  
14 participate and the Agency for the timely  
15 proceeding in getting this rule through.

16 My questions this morning are  
17 entirely focused on the cleaning solvents portion  
18 of the rulemaking, which, if recollection serves,  
19 fall under the Group II category. So,  
20 Mr. Bloomberg, if you could be so kind.  
21 Generally, my focus is on understanding the  
22 applicability, the exceptions and then what  
23 requirements will fall on various hypotheticals to  
24 understand how those operate and understand that

1 there's some confusion amongst some of the  
2 regulating community just in understanding what  
3 they're facing and where they fit into the grand  
4 scheme once these amendments will be in place.

5 So turning our attention to  
6 218.187, as I understand it Part 219 is identical  
7 so I'll refer to 218, but my questions apply also  
8 to 219 and that would be the solvent cleaning  
9 Subpart E. I'll let everyone find our place here.

10 Does the Illinois EPA intend to  
11 exclude emissions from cleaning operations  
12 associated with the source categories listed in  
13 Section 218.187(a)2(b) from being counted towards  
14 the 500 pounds per calendar month applicability  
15 threshold contained in Section 218.187(a)1.

16 MR. BLOOMBERG: Yes, I believe that  
17 language is in there.

18 MR. DAVIS: If a facility has only  
19 cleaning operations associated with the source  
20 categories listed in Section 218.187(a)2(b), what  
21 are that facilities' obligations, if any, under  
22 the full Section 218.187?

23 MR. BLOOMBERG: None, if the  
24 proposal is passed as it has been submitted.

1 MR. DAVIS: Looking then in  
2 conjunction with the applicability section in A  
3 turning our attention to the recordkeeping and  
4 reporting requirements in Subsection E of the same  
5 section we've been discussing, does Subsection  
6 (e)1 apply to facilities who only have cleaning  
7 operations listed in (a)2(b)? I think that's a  
8 reiteration of the question I asked previously.

9 MR. BLOOMBERG: If the proposal is  
10 accepted, then, no. And let me just clarify the  
11 reason I keep saying if the proposal is accepted.  
12 Because this is a modification to the rule, as the  
13 rule currently stands, all of the people you're  
14 asking about did have certification requirements  
15 and those certifications would have been due a few  
16 weeks ago on April 1st. So that's why I'm  
17 clarifying if the proposal goes through.

18 MR. DAVIS: I appreciate the  
19 clarification. Thank you. Still looking at the  
20 (a)2(b) exempt cleaning operations. If those  
21 types of cleaning operations were located at a  
22 facility that is subject to the rule, meaning  
23 otherwise, and complies with the rules  
24 requirements for nonexempt cleaning operations at

1 its facility what, if any, requirements are  
2 applicable to those operations?

3 MR. BLOOMBERG: None. No additional  
4 requirements under the proposal. Although I would  
5 recommend that a source, you know, be prepared for  
6 a field inspector by at least having that  
7 information on hand so when the inspector walks in  
8 and says "How come those aren't included?" they  
9 can just say "Oh, because..." It just makes  
10 things smoother for everybody involved.

11 MR. DAVIS: I think we can  
12 appreciate seeing that. Thank you. I guess  
13 going -- you mentioned the certification. My  
14 understanding was this is a one-time certification  
15 unless there was some changes at the source that  
16 necessitate an additional certification?

17 MR. BLOOMBERG: It was until this  
18 rule proposal. With the new changes coming in,  
19 most sources that are still subject will need to  
20 certify once again by January 1st and that is for  
21 multiple reasons, one of which, and most  
22 importantly, is the applicability level has  
23 changed. So having certified being exempt from 15  
24 pounds a day, well now you've got 500 pounds per

1 month. They're essentially equivalent, but  
2 they're -- US EPA has basically said they need to  
3 certify exemptions. Certainly the ones, the  
4 sources that are fully exempt as you asked about  
5 earlier, don't need to send in another  
6 certification, but those that -- and by fully  
7 exempt, I mean, have exempt -- part of exempt  
8 categories only. Different types of exemptions so  
9 it gets a little bit confusing, but anybody else  
10 does need to recertify.

11 MR. DAVIS: Thank you. My final  
12 questions have to do with the exemptions in  
13 218.187(a)2(c). I would note that (a)2(a) and  
14 (a)2(b) exempt those cleaning operations from the  
15 Subsection E recordkeeping and reporting  
16 requirements, but that those contained in (a)2(c)  
17 do not. Could you please elaborate some as to why  
18 you did not similarly exempt those cleaning  
19 operations in (a)2(c) from the subsection  
20 requirements?

21 MR. BLOOMBERG: Mainly because of  
22 (c)v, or Roman numerette v, 5, little V, and 13  
23 XII because those are specific gallon per day  
24 requirements. US EPA said those records need to

1 be kept by the source. So as they said the -- and  
2 then in addition, US EPA specifically told us  
3 they -- I will quote to you. Exempting the  
4 cleaning operations identified in (a)2(c) is not  
5 acceptable. That is a direct quote from US EPA.  
6 It is needed -- again, quote, needed to be able to  
7 adequately enforce this rule, end quote. And that  
8 was in an e-mail.

9 MR. DAVIS: So it's your  
10 understanding that all of the cleaning operations  
11 contained in (a)2(c) needed to be subject to the  
12 recordkeeping and reporting requirements?

13 MR. BLOOMBERG: That is what US EPA  
14 told us, yes.

15 MR. DAVIS: All right. That's it  
16 for me. Thank you very much.

17 MR. BLOOMBERG: Mr. Fox?

18 MR. FOX: Yes, Mr. Bloomberg. I'm  
19 sorry for my --

20 MR. BLOOMBERG: That's okay. I just  
21 want to clarify. We're not entirely sure that the  
22 CTG's were -- are on the Board's website. If  
23 they're not, then should we request -- you can  
24 request from Dana and we will get you copies of



1 the CTG's.

2 MR. FOX: Mr. Bloomberg, I'm glad  
3 you brought that up. Mr. Burgess, I want to make  
4 note at the conclusion of the hearing that I can  
5 be available to help bring your attention to our  
6 web page and any claims that may be there that  
7 would provide a downloadable -- free, downloadable  
8 copy of the compliance techniques guidelines that  
9 Mr. Bloomberg has referred to. I believe it's  
10 about a 40 to 50 page document.

11 MR. BLOOMBERG: It depends on which  
12 one. Some are longer than others.

13 MR. FOX: And that would contain  
14 some of the analysis that the Agency's witnesses  
15 have referred to, but rather than do that on the  
16 record any longer, I can meet with you at the  
17 conclusion of the hearing to help you do that.

18 MR. BURGESS: Thank you.

19 MR. FOX: Sure. Were there any  
20 other questions on the part of those who are here  
21 for the Agency's witnesses? Very well. We can  
22 certainly turn back to those. Mr. Bloomberg, I  
23 did have some questions and if there are any  
24 follow ups, we'll certainly get back to the

1 representatives from Label Master and IERG.

2 I wanted to direct your  
3 attention specifically to what has been designated  
4 as Public Comment No. 1 in this proceeding that  
5 was filed by Specialty Graphics Industry  
6 Association and the Printing Industry of  
7 Illinois/Indiana Association and I certainly want  
8 to note that the motion to amend that was filed by  
9 the Agency on Monday of this week addressed quite  
10 specifically some of the issues and some of the  
11 proposals raised in that, but I did want to draw  
12 your attention to a couple of them.

13 The first under solvent cleaning  
14 they had raised on page two of their comment  
15 referred to the applicability of an exemption to,  
16 quote, the cleaning of substrates prior to screen  
17 printing and it didn't appear that the Agency's  
18 motion to amend or any other filing had addressed  
19 that and I wanted simply to see whether the Agency  
20 had a position on that proposed addition and, if  
21 so, what that was?

22 MR. BLOOMBERG: We do intend to file  
23 a response to this. We are in discussions with  
24 US EPA because as everybody here knows, US EPA

1 needs to approve any of the changes we make.  
2 We're still having those discussions. We were not  
3 able to finish those discussions before this  
4 hearing. We will file a specific response as soon  
5 as we can. At this time -- did we hear  
6 specifically? That one in particular especially  
7 we need to go back and get more information for US  
8 EPA.

9 MR. FOX: Very good. I appreciate  
10 that response, Mr. Bloomberg. The second question  
11 I had related to the second proposed change that  
12 they had raised on page two of their comment and  
13 that proposed striking or deleting Subsection 218  
14 and 219.187(a)2(c)14 and that appears to stem from  
15 confusion on their part on the applicability to  
16 specific printing devices and operations and,  
17 again, I'd simply ask if that was something you  
18 examined and developed a position on and, if so,  
19 what that was?

20 MR. BLOOMBERG: We have. We have  
21 talked to US EPA about that one and that one was  
22 one of the more simpler ones. That one is fine.  
23 I don't think anybody, us or US EPA, is going to  
24 object to deleting an exemption.

1                   MR. BURGESS: In other words, to  
2 clarify, if a second notice of opinion and order  
3 on the part of the Board were to strike that  
4 exemption, that would be satisfactory consistent  
5 with the Agency's position on their proposal here?

6                   MR. BLOOMBERG: Yes. And, again,  
7 that will be part of -- I will submit proposed  
8 language along with our response to these  
9 comments.

10                  MR. FOX: Very good. I have  
11 effectively the same question, Mr. Bloomberg, for  
12 you. Mr. Mahajan, if you have something to offer,  
13 I don't mean to exclude you by any means. They  
14 had proposed a revision touching I think at least  
15 roughly on the issue that Mr. Davis had raised on  
16 behalf of IERG on the exemption from the record  
17 and recordkeeping and reporting requirements in  
18 Subsection 187(e) and they had asked whether that  
19 exemption could be specifically added for certain  
20 exempt operations and, again, I wonder if you had  
21 a position on that or were still examining the  
22 question?

23                  MR. BLOOMBERG: I presume you're  
24 talking about their comment number three, which

1 refers to 218.187(a)2(c)?

2 MR. FOX: Much clearer than my  
3 question, yes.

4 MR. BLOOMBERG: As I have answered  
5 earlier, US EPA has specifically told us no.

6 MR. FOX: Very good. No, they would  
7 not approve an amendment reflecting the request in  
8 paragraph three of the SGIA's comment?

9 MR. BLOOMBERG: Correct.

10 MR. FOX: Very good. I had one  
11 final question. On number four, the request  
12 number four on the part of the Specialty Graphics  
13 Industry on page three of their comments they had  
14 proposed a revision of reporting -- revision of  
15 Section 218.187(e) regarding an emissions  
16 adjustment factor for used shop towels and I  
17 wondered, again, if that was an issue that the  
18 Agency has examined and arrived at a position on?

19 MR. BLOOMBERG: We are still in  
20 discussions as a preliminary matter. It appears  
21 that will be okay, but it will mean increased  
22 recordkeeping. Any time you add something like  
23 that, US EPA wants to balance it by making sure  
24 you're actually keeping the records. Especially

1 since this relates directly to keeping somebody  
2 below the applicability cutoff.

3 So we will need to get more  
4 specific with US EPA and then more specific in our  
5 response to these comments which we will send to  
6 the Board, of course.

7 MR. FOX: It sounds like there's  
8 implementation questions and recordkeeping  
9 questions that are specifically still unresolved?

10 MR. BLOOMBERG: Correct.

11 MR. FOX: Very good. Mr. Bloomberg,  
12 thank you. Those were the four questions that I  
13 had on the basis of the record here today. Are  
14 there any other questions on the part of those who  
15 were present here today?

16 MR. RAO: Mr. Bloomberg, when do you  
17 anticipate to file these changes? Would it be  
18 before this second hearing?

19 MR. BLOOMBERG: We certainly intend  
20 to. Because it's US EPA, you know, we have been  
21 pushing them, but we can only push them so far  
22 because we're not their bosses. So they know  
23 we're in this process. They know the importance  
24 of it. So I think we expect to have it before the

1 second hearing date.

2 MR. RAO: Thanks.

3 MR. FOX: No other questions,  
4 Mr. Rao, or on part of the Board or Board staff?

5 MS. MOORE: No.

6 MR. FOX: Why don't we in order to  
7 deal with some procedural issues go off the record  
8 briefly if we may.

9 (Whereupon, a break was taken  
10 after which the following  
11 proceedings were had.)

12 MR. FOX: We can go back on the  
13 record. Thank you very much. I want to address  
14 before we adjourn this morning a few procedural  
15 issues. First, under Section 27(b) of the  
16 Environmental Protection Act, the Board must  
17 request that the Department of Commerce and  
18 Economic Opportunity, or DCEO, conduct an economic  
19 impact study of proposed rules before the Board  
20 adopts them.

21 The Board then must make either  
22 the study itself or the Department's explanation  
23 for not performing one available to the public at  
24 least 20 days before public hearing. In a letter

1 dated March 17th of 2011, the Board's acting  
2 chairman, G. Tanner Girard requested that DCEO  
3 conduct an economic impact study of this proposal  
4 and the Board specifically requested a response no  
5 later than April 6th of 2011, which is just more  
6 than 20 days before this scheduled first hearing.

7 DCEO has not responded in any  
8 fashion to the Board's request. Is there anyone  
9 who would like to testify regarding that request  
10 from the Board or the lack of response by DCEO?  
11 Neither seeing nor hearing any indication that  
12 anyone does, I'll move along.

13 The second hearing in this  
14 docket has been scheduled already to take place  
15 Wednesday, May 18th, 2011, at 9:00 a.m. in Chicago  
16 with a deadline to file pre-filed testimony of  
17 Friday, May 6th. Under Section 28.5(f)2, the  
18 second hearing in a Fast Track rulemaking such as  
19 this one, quote, shall be devoted to presentation  
20 of testimony, documents and comments by affected  
21 entities and all other interested parties, close  
22 quote.

23 Section 28.5(f)1 provides that,  
24 quote, within seven days after the first hearing,



1 any person may request that the second hearing be  
2 held, close quote.

3 The Board's procedural rules at  
4 Section 102.304(c) elaborate that this request may  
5 be made on the record at hearing or in writing by  
6 filing it with the Board and serving it upon the  
7 service list during that seven-day period.

8 Do any of the participants here  
9 today wish to address the matter of a second  
10 hearing on the record?

11 MR. BURGESS: Not, at this time.

12 MR. FOX: Neither seeing nor hearing  
13 any indication that anyone does wish to address  
14 that hearing, then under Section 28.5 as I just  
15 cited, the Board will hold open a seven-day period  
16 during which a person may request that the second  
17 hearing be held as scheduled. In the event that  
18 it does not receive such a request, the Board  
19 would expect to issue a Hearing Officer order  
20 cancelling the additional hearings setting the  
21 deadline to close the record with post hearing  
22 comments.

23 In order to clarify that that  
24 seven-day period is underway, I will issue a

1 Hearing Officer order as soon as possible to make  
2 sure that any interested parties, those on the  
3 service list or notice list are aware that that  
4 opportunity is open for that seven-day period.

5 I do want to note that the third  
6 hearing has been scheduled to take place on  
7 Wednesday, June 1st, 2011, here in Chicago again.  
8 Under Section (f)3 of Section 28.5, that hearing,  
9 quote, shall be devoted solely to any Agency  
10 response to the material submitted at the second  
11 hearing and to any response by other parties,  
12 close quote.

13 That section also provides,  
14 quote, that the third hearing shall be cancelled  
15 if the Agency indicates to the Board that it does  
16 not intend to introduce any additional material,  
17 close quote.

18 Expedited copies of today's  
19 transcript are expected to be available to the  
20 Board later today. Shortly after the Board  
21 receives the transcript, it will be available on  
22 the Board's website under this docket number  
23 R11-23. I've been corrected. It was tomorrow we  
24 were expecting to have the transcript available

1 and I apologize for my haste.

2 In addition, any person may file  
3 written public comments in this rulemaking with  
4 the clerk of the Board. Those may be made through  
5 the clerk's office, online or COOL and any  
6 questions about electronic filing through COOL  
7 should be directed to our clerk before filing.  
8 Please check with the clerk's office to be sure  
9 that you have the most recent version of the  
10 service list. If you have questions about  
11 procedural aspects of this, you may certainly  
12 contact me through information listed on the  
13 Board's web page.

14 Are there any other questions or  
15 issues that need to be addressed before we adjourn  
16 this morning? Neither seeing nor hearing any, I  
17 want to thank everyone for participating this  
18 morning and we are adjourned for our first  
19 hearing. Thank you.

20

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22

23


24

1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF COOK )  
4

5 I, Steven Brickey, Certified Shorthand  
6 Reporter, do hereby certify that I reported in  
7 shorthand the proceedings had at the trial  
8 aforesaid, and that the foregoing is a true,  
9 complete and correct transcript of the proceedings  
10 of said trial as appears from my stenographic  
11 notes so taken and transcribed under my personal  
12 direction.

13 Witness my official signature in and for  
14 Cook County, Illinois, on this 27<sup>th</sup> day of  
15 April, A.D., 2011.

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\_\_\_\_\_  
STEVEN BRICKEY, CSR  
8 West Monroe Street  
Suite 2007  
Chicago, Illinois 60603  
Phone: (312) 419-9292  
CSR No. 084-004675

<b>A</b>	5:18 6:17 7:3	<b>amends</b> 7:14	4:6,7,20,21 13:16 24:5	4:20 6:15 19:3 22:18	26:15,20,20 27:4
<b>able</b> 11:1 16:6 19:3	<b>admitting</b> 6:24	<b>analysis</b> 17:14	<b>areas</b> 7:17	22:24 23:14	<b>Board's</b> 3:16
<b>about</b> 6:4 13:14 15:4 17:10 19:21 20:24 27:6 27:10	<b>adopts</b> 23:20	<b>Anand</b> 2:2	<b>arrived</b> 21:18	23:19,24	5:16,21
<b>above</b> 1:8	<b>affected</b> 24:20	3:15	<b>asked</b> 13:8 15:4 20:18	24:6 27:7	11:1 16:22
<b>accept</b> 10:16	<b>aforesaid</b> 28:8	<b>Andrea</b> 2:3	<b>asking</b> 13:14	27:15	24:1,8 25:3
<b>acceptable</b> 16:5	<b>after</b> 5:11	3:13	<b>aspects</b> 27:11	<b>begin</b> 5:5 7:8	26:22 27:13
<b>accepted</b> 3:24 5:8 13:10,11	23:10 24:24	<b>another</b> 10:11 15:5	<b>assist</b> 5:21	<b>beginning</b> 4:13	<b>bosses</b> 22:22
<b>Accordingly</b> 5:5	26:20	<b>answer</b> 8:20 8:21	<b>assistant</b> 7:12	<b>behalf</b> 7:13 11:12 20:16	<b>both</b> 4:23 10:10,24
<b>Act</b> 3:22 4:4 8:4 23:16	<b>again</b> 7:4 14:20 16:6 19:17 20:6 20:20 21:17 26:7	<b>answered</b> 21:4	<b>associated</b> 12:12,19	<b>being</b> 12:13 14:23	<b>Box</b> 2:5
<b>acting</b> 24:1	<b>Agency</b> 2:4 3:19 4:8 6:7 7:23 11:7 11:14 18:9 18:19 21:18 26:9,15	<b>anticipate</b> 22:17	<b>association</b> 9:7 18:6,7	<b>believe</b> 10:23 12:16 17:9	<b>break</b> 23:9
<b>actually</b> 10:22 21:24	20:5	<b>anybody</b> 15:9 19:23	<b>attention</b> 12:5 13:3 17:5 18:3 18:12	<b>below</b> 22:2	<b>Brickey</b> 1:10
<b>Adams</b> 2:9	6:17 17:14	<b>anyone</b> 24:8 24:12 25:13	<b>available</b> 1:2 3:5 5:10 8:5 8:19,21 9:22 17:5 23:23 26:19 26:21,24	<b>benefit</b> 5:24 9:5	2:15 28:5 28:20
<b>add</b> 21:22	17:21 18:17	<b>apologize</b> 27:1	<b>Avenue</b> 2:5	<b>besides</b> 2:7 4:23 5:6 6:8,11,22 8:12,19 10:10,22 11:20 12:16 12:23 13:9 14:3,17 15:21 16:13 16:17,18,20 17:2,9,11 17:22 18:22 19:10,20 20:6,11,23 21:4,9,19 22:10,11,16 22:19	<b>briefly</b> 23:8
<b>added</b> 20:19	20:5	<b>appear</b> 18:17	<b>avoid</b> 6:2	<b>Bloomberg</b> 2:7 4:23 5:6 6:8,11,22 8:12,19 10:10,22 11:20 12:16 12:23 13:9 14:3,17 15:21 16:13 16:17,18,20 17:2,9,11 17:22 18:22 19:10,20 20:6,11,23 21:4,9,19 22:10,11,16 22:19	<b>bring</b> 17:5
<b>addition</b> 16:2 18:20 27:2	<b>ago</b> 13:16	<b>appeared</b> 4:5	<b>aware</b> 26:3	<b>bit</b> 15:9	<b>brought</b> 17:3
<b>additional</b> 14:3,16 25:20 26:16	<b>ahead</b> 9:12	<b>appears</b> 19:14 21:20 28:10	<b>a)2(a)</b> 15:13	<b>Bureau</b> 8:14 8:17	<b>Burgess</b> 2:12 9:13,14,18 10:20 11:3 11:5 17:3 17:18 20:1 25:11
<b>address</b> 23:13 25:9 25:13	<b>Air</b> 1:3 7:19 8:4,13,14 8:16,17,18	<b>applicability</b> 5:4 11:22 12:14 13:2 14:22 18:15 19:15 22:2	<b>a)2(b)</b> 13:7 13:20 15:14	<b>business</b> 10:2	
<b>addressed</b> 18:9,18 27:15	<b>Alec</b> 2:11 11:10	<b>applicable</b> 14:2	<b>a)2(c)</b> 15:16 15:19 16:4 16:11		<hr/> <b>C</b> <hr/>
<b>adequately</b> 16:7	<b>along</b> 20:8 24:12	<b>application</b> 9:21	<b>A.D</b> 28:15		<b>C</b> 2:1
<b>adjourn</b> 23:14 27:15	<b>already</b> 24:14	<b>apply</b> 12:7 13:6	<b>a.m</b> 1:13 24:15		<b>calendar</b> 12:14
<b>adjourned</b> 27:18	<b>although</b> 10:14 14:4	<b>appreciate</b> 13:18 14:12 19:9	<hr/> <b>B</b> <hr/>		<b>call</b> 10:14
<b>adjustment</b> 21:16	<b>Ambient</b> 7:19	<b>appreciated</b> 9:8	<b>back</b> 17:22 17:24 19:7 23:12		<b>called</b> 1:9 6:12
<b>ADM</b> 1:5	<b>amend</b> 4:9 18:8,18	<b>approval</b> 8:2	<b>balance</b> 21:23		<b>cancelled</b> 26:14
<b>Administr...</b> 3:9 4:4	<b>amendment</b> 21:7	<b>approve</b> 19:1 21:7	<b>based</b> 10:13		<b>cancelling</b> 25:20
<b>admit</b> 6:21	<b>amendments</b> 1:5 3:9 7:21 8:3,9 12:4	<b>approveable</b> 8:10	<b>basically</b> 15:2		<b>capable</b> 9:21
<b>admitted</b>		<b>April</b> 1:12	<b>basis</b> 5:4,13 9:9 22:13		<b>Carrie</b> 2:3 3:15
			<b>before</b> 1:8		<b>categories</b> 7:17 12:12 12:20 15:8
					<b>category</b> 11:19
					<b>cause</b> 1:8
					<b>certain</b> 20:19
					<b>certainly</b>

15:3 17:22	<b>clerk's</b> 27:5,8	20:4	<b>D</b>	<b>developed</b>	10:4,19
17:24 18:7	<b>close</b> 24:21	<b>Construing</b>	<b>Dana</b> 2:7	19:18	<b>effectively</b>
22:19 27:11	25:2,21	6:20	7:12 16:24	<b>developing</b>	20:11
<b>certification</b>	26:12,17	<b>Consumer</b>	<b>date</b> 23:1	5:22 8:8	<b>eight</b> 7:18
13:14 14:13	<b>closely</b> 8:8	1:4 3:8 7:16	<b>dated</b> 3:23	<b>devices</b> 19:16	<b>either</b> 23:21
14:14,16	<b>Code</b> 1:5 3:9	<b>contact</b> 27:12	4:17 24:1	<b>devoted</b>	<b>elaborate</b>
15:6	<b>come</b> 14:8	<b>contain</b>	<b>David</b> 2:7	24:19 26:9	15:17 25:4
<b>certifications</b>	<b>coming</b> 14:18	17:13	4:23 6:11	<b>Different</b>	<b>electronic</b>
13:15	<b>commencing</b>	<b>contained</b>	8:11	15:8	27:6
<b>certified</b>	1:13	12:15 15:16	<b>Davis</b> 2:11	<b>direct</b> 16:5	<b>emission</b> 9:20
14:23 28:5	<b>comment</b>	16:11	9:12 11:9	18:2	<b>emissions</b> 1:3
<b>certify</b> 14:20	18:4,14	<b>control</b> 1:1,2	11:10 12:18	<b>directed</b> 4:18	3:7 7:15
15:3 28:6	19:12 20:24	1:9 3:2,6,24	13:1,18	27:7	12:11 21:15
<b>chairman</b>	21:8	7:15 8:6,14	14:11 15:11	<b>direction</b>	<b>end</b> 16:7
24:2	<b>comments</b>	8:17 9:22	16:9,15	28:12	<b>enforce</b> 16:7
<b>change</b> 19:11	20:9 21:13	10:13	20:15	<b>directly</b> 22:1	<b>Engineer</b>
<b>changed</b>	22:5 24:20	<b>Cook</b> 28:3,14	<b>day</b> 1:12	<b>discussing</b>	8:16
14:23	25:22 27:3	<b>COOL</b> 27:5	14:24 15:23	13:5	<b>ensuring</b> 8:9
<b>changes</b> 8:1	<b>Commerce</b>	27:6	28:14	<b>discussions</b>	<b>entered</b>
10:5 14:15	23:17	<b>copies</b> 16:24	<b>days</b> 4:2	18:23 19:2	10:23
14:18 19:1	<b>Commercial</b>	26:18	23:24 24:6	19:3 21:20	<b>entirely</b>
22:17	1:4 3:8 7:17	<b>copy</b> 17:8	24:24	<b>Division</b> 8:13	11:17 16:21
<b>check</b> 27:8	<b>community</b>	<b>correct</b> 7:21	<b>DCEO</b> 23:18	8:17	<b>entities</b> 24:21
<b>Chicago</b> 1:11	12:2	21:9 22:10	24:2,7,10	<b>docket</b> 3:17	<b>entitled</b> 1:8
4:14,16	<b>complete</b>	28:9	<b>deadline</b>	24:14 26:22	3:5
24:15 26:7	5:22 28:9	<b>corrected</b>	24:16 25:21	<b>document</b>	<b>environment</b>
28:22	<b>completed</b>	26:23	<b>deal</b> 23:7	17:10	10:3
<b>cited</b> 25:15	11:6	<b>correctly</b>	<b>dealing</b> 10:12	<b>documents</b>	<b>Environme...</b>
<b>claims</b> 17:6	<b>compliance</b>	9:16	<b>deficiencies</b>	24:20	2:4,9 3:18
<b>clarification</b>	8:12,13	<b>counsel</b> 7:12	7:22	<b>done</b> 10:18	7:23 8:15
13:19	17:8	<b>counted</b>	<b>defines</b> 9:19	<b>downloada...</b>	11:11 23:16
<b>clarify</b> 13:10	<b>complies</b>	12:13	<b>definition</b>	17:7,7	<b>EPA</b> 4:22
16:21 20:2	13:23	<b>County</b> 28:3	10:1	<b>draw</b> 18:11	7:13,24 8:7
25:23	<b>concerning</b>	28:14	<b>deleting</b>	<b>due</b> 13:15	8:8,10,15
<b>clarifying</b>	5:3	<b>couple</b> 18:12	19:13,24	<b>duly</b> 6:12	8:18 9:19
13:17	<b>conclusion</b>	<b>course</b> 4:11	<b>Department</b>	<b>during</b> 25:7	10:7,14
<b>Clean</b> 8:4	17:4,17	22:6	23:17	25:16	12:10 15:2
<b>cleaning</b> 8:16	<b>conduct</b>	<b>court</b> 1:24	<b>Departmen...</b>		15:24 16:2
11:17 12:8	23:18 24:3	2:24 6:1,8	23:22	<b>E</b>	16:5,13
12:11,19	<b>confined</b> 5:2	<b>CSR</b> 1:10	<b>depends</b>	<b>E</b> 2:1,1,7	18:24,24
13:6,20,21	<b>confusing</b>	2:15,15	17:11	12:9 13:4	19:8,21,23
13:24 15:14	15:9	28:20,23	<b>deposeth</b>	15:15	21:5,23
15:18 16:4	<b>confusion</b>	<b>CTG's</b> 10:17	6:13	<b>earlier</b> 15:5	22:4,20
16:10 18:13	12:1 19:15	10:23 16:22	<b>designated</b>	21:5	<b>EPA's</b> 7:21
18:16	<b>conjunction</b>	17:1	7:17 18:3	<b>East</b> 2:5,9	8:2
<b>clear</b> 5:22 6:1	13:2	<b>currently</b>	<b>determinat...</b>	<b>economic</b>	<b>equivalent</b>
<b>clearer</b> 21:2	<b>considering</b>	13:13	10:4,6	9:23 10:1	15:1
<b>clearly</b> 6:2	9:23	<b>cutoff</b> 22:2	<b>determined</b>	23:18,18	<b>especially</b>
<b>clerk</b> 27:4,7	<b>consistent</b>	<b>c)v</b> 15:22	10:18	24:3	19:6 21:24
				<b>economically</b>	

15:1	<b>fall</b> 11:19,23	16:18 17:2	<b>grand</b> 2:5	<b>hour</b> 1:13	<b>indication</b>
<b>event</b> 25:17	<b>far</b> 3:14	17:13,19	12:3	7:19	24:11 25:13
<b>everybody</b>	22:21	19:9 20:10	<b>granting</b>	<b>hypothetic...</b>	<b>Industry</b>
14:10 18:24	<b>fashion</b> 24:8	21:2,6,10	6:24	11:23	18:5,6
<b>everyone</b> 3:1	<b>fashions</b> 4:10	22:7,11	<b>Graphics</b>		21:13
12:9 27:17	<b>Fast</b> 3:20	23:3,6,12	18:5 21:12	<hr/> <b>I</b> <hr/>	<b>information</b>
<b>examined</b>	24:18	25:12	<b>group</b> 1:4,4	<b>identical</b>	5:16 14:7
19:18 21:18	<b>feasibility</b>	<b>free</b> 17:7	2:9 3:7,7	12:6	19:7 27:12
<b>examining</b>	9:24 10:1	<b>Friday</b> 4:20	7:16,16	<b>identified</b>	<b>inspector</b>
20:21	<b>feasible</b> 10:5	24:17	8:20,22	7:22 16:4	14:6,7
<b>exceptions</b>	10:19	<b>from</b> 1:3 3:7	10:11,11,11	<b>IEPA</b> 3:19	<b>intend</b> 12:10
11:22	<b>few</b> 11:9	3:12 4:22	10:12 11:12	7:7	18:22 22:19
<b>exclude</b>	13:15 23:14	7:16 9:14	11:19	<b>IERG</b> 11:12	26:16
12:11 20:13	<b>field</b> 14:6	12:11,13	<b>guess</b> 14:12	11:12 18:1	<b>intended</b>
<b>exempt</b> 13:20	<b>file</b> 18:22	14:23 15:14	<b>guidelines</b>	20:16	5:21 7:21
14:23 15:4	19:4 22:17	15:19 16:5	10:8,13,15	<b>II</b> 1:4 3:7	<b>interested</b>
15:7,7,7,14	24:16 27:2	16:24 18:1	17:8	7:16 8:20	24:21 26:2
15:18 20:20	<b>filed</b> 3:19 4:3	19:14 20:16		10:11 11:19	<b>introduce</b>
<b>Exempting</b>	4:9 18:5,8	24:10 28:10	<hr/> <b>H</b> <hr/>	<b>III</b> 10:13	26:16
16:3	<b>filing</b> 18:18	<b>full</b> 4:4 9:6	<b>hand</b> 9:4	<b>ILL</b> 1:5	<b>introduced</b>
<b>exemption</b>	25:6 27:6,7	12:22	14:7	<b>Illinois</b> 1:1,9	6:17
18:15 19:24	<b>final</b> 15:11	<b>fully</b> 15:4,6	<b>haste</b> 27:1	1:11,12 2:4	<b>introducing</b>
20:4,16,19	21:11	<b>further</b> 11:4	<b>having</b> 6:12	2:6,9,10 3:2	5:11
<b>exemptions</b>	<b>find</b> 12:9	<b>f)3</b> 26:8	14:6,23	3:9,18 4:4,5	<b>introduction</b>
15:3,8,12	<b>fine</b> 19:22		19:2	4:22 7:13	7:9
<b>exhibit</b> 6:18	<b>finish</b> 19:3	<hr/> <b>G</b> <hr/>	<b>hear</b> 19:5	7:20 8:3,7	<b>involved</b>
6:22,23	<b>first</b> 4:3,5,11	<b>G</b> 24:2	<b>hearing</b> 1:8	8:14,18	14:10
<b>exhibits</b> 7:1,3	4:19 6:12	<b>gallon</b> 15:23	2:2 3:3,4	10:3 11:11	<b>issue</b> 20:15
<b>expand</b> 9:24	9:4 10:24	<b>gave</b> 10:8	4:1,11,14	12:10 28:1	21:17 25:19
<b>expect</b> 22:24	18:13 23:15	<b>Generally</b>	4:18,20 5:2	28:14,22	25:24
25:19	24:6,24	11:21	5:5,8 6:6,18	<b>Illinois/Ind...</b>	<b>issued</b> 10:14
<b>expected</b>	27:18	<b>gentlemen</b>	6:22,23 7:1	18:7	<b>issues</b> 18:10
26:19	<b>fit</b> 12:3	5:12	7:2 17:4,17	<b>immediate</b>	23:7,15
<b>expecting</b>	<b>focus</b> 11:21	<b>gets</b> 15:9	19:4 22:18	3:12,15	27:15
26:24	<b>focused</b>	<b>getting</b> 11:15	23:1,24	<b>impact</b> 23:19	<b>IV</b> 1:4 3:8
<b>expedite</b> 5:8	11:17	<b>Girard</b> 24:2	24:6,11,13	24:3	7:16 8:22
<b>Expedited</b>	<b>follow</b> 10:15	<b>glad</b> 17:2	24:18,24	<b>implement...</b>	10:11
26:18	17:24	<b>go</b> 5:12 9:12	25:1,5,10	8:3 22:8	
<b>explanation</b>	<b>following</b>	19:7 23:7	25:12,14,17	<b>importance</b>	<hr/> <b>J</b> <hr/>
23:22	23:10	23:12	25:19,21	22:23	<b>J</b> 2:15
<b>e)1</b> 13:6	<b>follows</b> 6:13	<b>goes</b> 13:17	26:1,6,8,11	<b>importantly</b>	<b>January</b>
<b>e-mail</b> 16:8	<b>foregoing</b>	<b>going</b> 14:13	26:14 27:16	14:22	14:20
	28:8	19:23	27:19	<b>included</b>	<b>June</b> 4:15
<hr/> <b>F</b> <hr/>	<b>four</b> 21:11,12	<b>good</b> 3:1 6:20	<b>hearings</b>	14:8	26:7
<b>facilities</b>	22:12	8:24 11:10	25:20	<b>increased</b>	<b>just</b> 9:3,5
12:21 13:6	<b>Fox</b> 1:9 2:2	19:9 20:10	<b>held</b> 1:7 25:2	21:21	11:1 12:2
<b>facility</b> 12:18	3:1,3 6:14	21:6,10	25:17	<b>indicated</b> 9:1	13:10 14:9
13:22 14:1	6:20 8:24	22:11	<b>help</b> 17:5,17	11:5	14:9 16:20
<b>facing</b> 12:3	11:5 16:17	<b>governed</b>	<b>hold</b> 25:15	<b>indicates</b>	24:5 25:14
<b>factor</b> 21:16		5:15	<b>holding</b> 4:11	26:15	

<b>K</b>	L.A 1:24 2:24	13:22 <b>means</b> 20:13 <b>meet</b> 17:16 <b>meeting</b> 9:21 <b>Member</b> 3:13 3:13,14 <b>members</b> 5:20 <b>mentioned</b> 14:13 <b>modification</b> 13:12 <b>Monday</b> 4:8 18:9 <b>Monroe</b> 28:21 <b>month</b> 12:14 15:1 <b>Moore</b> 2:3 3:13 23:5 <b>more</b> 19:7,22 22:3,4 24:5 <b>morning</b> 3:1 6:5 9:11 11:10,16 23:14 27:16 27:18 <b>most</b> 14:19 14:21 27:9 <b>motion</b> 4:9 6:21,24 18:8,18 <b>move</b> 24:12 <b>much</b> 9:8 11:3 16:16 21:2 23:13 <b>multiple</b> 14:21 <b>must</b> 23:16 23:21	4:14 8:1 <b>necessitate</b> 14:16 <b>need</b> 14:19 15:2,5,10 15:24 19:7 22:3 27:15 <b>needed</b> 16:6 16:6,11 <b>needs</b> 19:1 <b>Neither</b> 6:6 7:2 24:11 25:12 27:16 <b>new</b> 14:18 <b>None</b> 12:23 14:3 <b>nonexempt</b> 13:24 <b>non-attain...</b> 7:18 <b>North</b> 2:5 <b>note</b> 4:7 5:19 15:13 17:4 18:8 26:5 <b>notes</b> 28:11 <b>notice</b> 4:3,5 20:2 26:3 <b>number</b> 3:17 20:24 21:11 21:12 26:22 <b>numbers</b> 7:1 <b>numurette</b> 15:22	21:21 <b>once</b> 12:4 14:20 <b>one</b> 9:18 10:7 14:21 17:12 19:6,21,21 19:22,22 21:10 23:23 24:19 <b>ones</b> 15:3 19:22 <b>one-time</b> 14:14 <b>online</b> 27:5 <b>only</b> 12:18 13:6 15:8 22:21 <b>open</b> 25:15 26:4 <b>opening</b> 7:9 <b>operate</b> 11:24 <b>operations</b> 12:11,19 13:7,20,21 13:24 14:2 15:14,19 16:4,10 19:16 20:20 <b>opinion</b> 20:2 <b>opportunity</b> 11:13 23:18 26:4 <b>order</b> 3:23 4:17 5:7 8:2 20:2 23:6 25:19,23 26:1 <b>organic</b> 1:3 3:7 7:15 <b>organization</b> 9:6 <b>other</b> 6:3 7:9 11:7 17:20 18:18 20:1 22:14 23:3 24:21 26:11 27:14 <b>others</b> 5:13	17:12 <b>otherwise</b> 13:23 <b>outstanding</b> 8:4 <b>ozone</b> 7:19
<b>L</b>	<b>M</b> M 2:11 <b>made</b> 10:4,7 25:5 27:4 <b>Mahajan</b> 2:8 4:23 6:9,11 6:23 8:15 8:21 9:16 9:17 10:6 20:12 <b>Mahajan's</b> 5:6 7:5 <b>Mainly</b> 15:21 <b>majority</b> 7:20 <b>make</b> 17:3 19:1 23:21 26:1 <b>makes</b> 14:9 <b>making</b> 21:23 <b>manager</b> 8:12 <b>March</b> 3:20 3:23 4:17 24:1 <b>marked</b> 7:3 <b>Master</b> 9:14 18:1 <b>material</b> 1:3 3:7 26:10 26:16 <b>materials</b> 7:15 <b>matter</b> 1:2 10:20 21:20 25:9 <b>may</b> 4:13 5:13 9:7 17:6 23:8 24:15,17 25:1,4,16 27:2,4,11 <b>mean</b> 10:15 15:7 20:13 21:21 <b>meaning</b>	<b>Monday</b> 4:8 18:9 <b>Monroe</b> 28:21 <b>month</b> 12:14 15:1 <b>Moore</b> 2:3 3:13 23:5 <b>more</b> 19:7,22 22:3,4 24:5 <b>morning</b> 3:1 6:5 9:11 11:10,16 23:14 27:16 27:18 <b>most</b> 14:19 14:21 27:9 <b>motion</b> 4:9 6:21,24 18:8,18 <b>move</b> 24:12 <b>much</b> 9:8 11:3 16:16 21:2 23:13 <b>multiple</b> 14:21 <b>must</b> 23:16 23:21	<b>new</b> 14:18 <b>None</b> 12:23 14:3 <b>nonexempt</b> 13:24 <b>non-attain...</b> 7:18 <b>North</b> 2:5 <b>note</b> 4:7 5:19 15:13 17:4 18:8 26:5 <b>notes</b> 28:11 <b>notice</b> 4:3,5 20:2 26:3 <b>number</b> 3:17 20:24 21:11 21:12 26:22 <b>numbers</b> 7:1 <b>numurette</b> 15:22	<b>P</b> P 2:1,1 <b>page</b> 4:6 17:6 17:10 18:14 19:12 21:13 27:13 <b>paragraph</b> 21:8 <b>part</b> 3:9 5:20 9:10 10:23 12:6 15:7 17:20 19:15 20:3,7 21:12 22:14 23:4 <b>participants</b> 4:18 25:8 <b>participate</b> 11:14 <b>participating</b> 27:17 <b>particular</b> 9:20 19:6 <b>parties</b> 24:21 26:2,11 <b>passed</b> 12:24 <b>Paul</b> 2:12 9:13 <b>people</b> 13:13 <b>per</b> 12:14 14:24 15:23 <b>performing</b> 23:23 <b>period</b> 25:7 25:15,24 26:4 <b>person</b> 6:3 25:1,16 27:2 <b>personal</b> 28:11 <b>Phone</b> 28:22 <b>place</b> 4:13,15	
		<b>N</b> N 2:1 <b>name</b> 3:3 9:6 9:13 11:10 <b>National</b> 7:19 <b>nationwide</b> 10:19 <b>necessary</b>	<b>O</b> <b>object</b> 19:24 <b>objection</b> 6:24 <b>obligations</b> 12:21 <b>obtain</b> 8:2 <b>off</b> 23:7 <b>offer</b> 20:12 <b>office</b> 27:5,8 <b>Officer</b> 1:8 2:2 3:4 4:18 25:19 26:1 <b>official</b> 28:13 <b>Oh</b> 14:9 <b>okay</b> 16:20		



12:4,9 24:14 26:6 <b>Plan</b> 8:3 <b>please</b> 5:19 6:19 9:24 15:17 27:8 <b>point</b> 6:3 11:6 <b>Pollution</b> 1:1 1:9 3:2,24 8:14,17 <b>portion</b> 11:17 <b>pose</b> 9:3 <b>position</b> 18:20 19:18 20:5,21 21:18 <b>possible</b> 26:1 <b>post</b> 25:21 <b>pounds</b> 12:14 14:24,24 <b>predisposit...</b> 5:23 <b>prejudgment</b> 5:23 <b>preliminary</b> 21:20 <b>prepared</b> 7:7 14:5 <b>present</b> 2:12 3:11 4:24 9:10 22:15 <b>presentation</b> 24:19 <b>presume</b> 20:23 <b>previously</b> 13:8 <b>pre-file</b> 4:19 <b>pre-filed</b> 4:22 5:6,14 6:16,21 7:4 7:5 24:16 <b>printing</b> 18:6 18:17 19:16 <b>prior</b> 18:16 <b>privileged</b> 5:18	<b>procedural</b> 5:16 23:7 23:14 25:3 27:11 <b>Procedure</b> 4:4 <b>procedures</b> 6:5 <b>proceed</b> 7:10 8:23 9:1 <b>proceeding</b> 3:4 5:15 11:15 18:4 <b>proceedings</b> 1:7 23:11 28:7,9 <b>process</b> 22:23 <b>product</b> 7:17 <b>Products</b> 1:4 3:8 <b>promulgated</b> 7:14 <b>pronouncing</b> 9:16 <b>proposal</b> 3:19 4:1,3,5 4:10 5:24 12:24 13:9 13:11,17 14:4,18 20:5 24:3 <b>proposals</b> 18:11 <b>proposed</b> 1:5 3:8 7:21 18:20 19:11 19:13 20:7 20:14 21:14 23:19 <b>Protection</b> 2:4 3:19 7:23 8:15 23:16 <b>provide</b> 17:7 <b>provided</b> 5:9 <b>provides</b> 5:7 24:23 26:13 <b>provisions</b> 3:21	<b>public</b> 10:21 18:4 23:23 23:24 27:3 <b>push</b> 22:21 <b>pushing</b> 22:21 <b>P.O</b> 2:5 <hr/> <b>Q</b> <b>Quality</b> 7:19 8:16 <b>question</b> 9:2 9:10,15 13:8 19:10 20:11,22 21:3,11 <b>questions</b> 5:3 5:10,13,20 6:4 7:10 8:20,22,23 9:2 11:4,6,7 11:9,16 12:7 15:12 17:20,23 22:8,9,12 22:14 23:3 27:6,10,14 <b>quite</b> 18:9 <b>quote</b> 3:5,20 5:2 16:3,5,6 16:7 18:16 24:19,22,24 25:2 26:9 26:12,14,17 <hr/> <b>R</b> <b>R</b> 2:1 <b>RACT</b> 1:3 3:6 9:19 <b>raised</b> 18:11 18:14 19:12 20:15 <b>raising</b> 9:4 <b>Randolph</b> 1:11 <b>Rao</b> 2:2 3:16 22:16 23:2 23:4 <b>rather</b> 17:15 <b>reading</b> 5:9	<b>ready</b> 8:23 9:1 <b>really</b> 10:15 <b>reason</b> 13:11 <b>reasonably</b> 1:2 3:5 8:5 9:22 <b>reasons</b> 14:21 <b>receive</b> 25:18 <b>received</b> 4:21 <b>receives</b> 26:21 <b>receiving</b> 4:2 <b>recent</b> 27:9 <b>recently</b> 7:14 <b>recertify</b> 15:10 <b>recognition</b> 9:3 <b>recognize</b> 3:11 <b>recollection</b> 11:18 <b>recommend</b> 14:5 <b>record</b> 5:9,18 5:22 6:1 9:5 10:21 17:16 20:16 22:13 23:7,13 25:5,10,21 <b>recordkeep...</b> 13:3 15:15 16:12 20:17 21:22 22:8 <b>records</b> 15:24 21:24 <b>refer</b> 12:7 <b>referred</b> 17:9 17:15 18:15 <b>refers</b> 21:1 <b>reflect</b> 5:23 <b>reflecting</b> 21:7 <b>regarding</b> 8:5,20,22 21:15 24:9 <b>Register</b> 4:6	<b>regulating</b> 12:2 <b>regulations</b> 7:14,22 8:10,21,22 <b>regulatory</b> 2:9 9:14 11:11 <b>reiteration</b> 13:8 <b>related</b> 19:11 <b>relates</b> 10:2 22:1 <b>relevant</b> 5:17 <b>relied</b> 10:8 <b>remarks</b> 7:9 <b>repetitious</b> 5:17 <b>REPORT</b> 1:7 <b>reported</b> 2:14 28:6 <b>reporter</b> 6:1 6:8 28:6 <b>REPORTE...</b> 1:24 2:24 <b>reporting</b> 13:4 15:15 16:12 20:17 21:14 <b>represent</b> 9:7 11:11 <b>representat...</b> 18:1 <b>request</b> 16:23 16:24 21:7 21:11 23:17 24:8,9 25:1 25:4,16,18 <b>requested</b> 24:2,4 <b>requesting</b> 4:9 <b>required</b> 4:1 <b>requireme...</b> 8:5 11:23 13:4,14,24 14:1,4 15:16,20,24 16:12 20:17	<b>respect</b> 7:18 <b>responded</b> 24:7 <b>response</b> 18:23 19:4 19:10 20:8 22:5 24:4 24:10 26:10 26:11 <b>revised</b> 8:9 <b>revision</b> 20:14 21:14 21:14 <b>right</b> 3:14,15 5:12 16:15 <b>Roman</b> 15:22 <b>roughly</b> 20:15 <b>rule</b> 5:4 11:15 13:12 13:13,22 14:18 16:7 <b>rulemaking</b> 1:3 3:4,14 3:18,21 4:12 7:13 10:16 11:18 24:18 27:3 <b>rulemakings</b> 10:24 <b>rules</b> 5:16 8:2 10:10 13:23 23:19 25:3 <b>R-A-C-T</b> 3:6 <b>R11-23</b> 1:2 3:18 26:23 <hr/> <b>S</b> <b>S</b> 2:1 3:13 <b>saith</b> 6:13 <b>same</b> 6:2 13:4 20:11 <b>satisfactory</b> 20:4 <b>satisfy</b> 8:4 <b>saying</b> 13:11 <b>says</b> 9:19 14:8 <b>scheduled</b> 4:12,15
---	---	---	--	--	---

24:6,14 25:17 26:6 <b>scheme</b> 12:4 <b>scope</b> 5:4 <b>screen</b> 18:16 <b>second</b> 4:12 19:10,11 20:2 22:18 23:1 24:13 24:18 25:1 25:9,16 26:10 <b>section</b> 3:21 4:1 5:1,7 8:13,16 12:13,15,20 12:22 13:2 13:5 21:15 23:15 24:17 24:23 25:4 25:14 26:8 26:8,13 <b>see</b> 18:19 <b>seeing</b> 6:6 7:2 14:12 24:11 25:12 27:16 <b>seek</b> 9:3 <b>send</b> 15:5 22:5 <b>sentence</b> 9:18 <b>serves</b> 11:18 <b>service</b> 25:7 26:3 27:10 <b>serving</b> 25:6 <b>setting</b> 25:20 <b>seven</b> 24:24 <b>seven-day</b> 25:7,15,24 26:4 <b>SGIA's</b> 21:8 <b>shop</b> 21:16 <b>shorthand</b> 28:5,7 <b>Shortly</b> 26:20 <b>signature</b> 28:13 <b>similarly</b> 15:18	<b>simpler</b> 19:22 <b>simply</b> 6:4 18:19 19:17 <b>since</b> 22:1 <b>SIP</b> 8:4 <b>smoother</b> 14:10 <b>solely</b> 5:21 26:9 <b>solvent</b> 12:8 18:13 <b>solvents</b> 11:17 <b>some</b> 12:1,1 14:15 15:17 17:12,14,23 18:10,10 23:7 <b>somebody</b> 22:1 <b>something</b> 19:17 20:12 21:22 <b>soon</b> 19:4 26:1 <b>sorry</b> 16:19 <b>sounds</b> 22:7 <b>source</b> 9:21 12:12,19 14:5,15 16:1 <b>sources</b> 14:19 15:4 <b>speak</b> 6:1 9:4 <b>speaking</b> 6:2 <b>specialist</b> 9:15 <b>Specialty</b> 18:5 21:12 <b>specific</b> 15:23 19:4 19:16 22:4 22:4 <b>specifically</b> 10:2 16:2 18:3,10 19:6 20:19 21:5 22:9	24:4 <b>specified</b> 4:10 <b>Springfield</b> 2:6,10 <b>SS</b> 28:2 <b>staff</b> 3:16 5:21 23:4 <b>Standard</b> 7:19 <b>stands</b> 13:13 <b>started</b> 6:9 <b>state</b> 1:10 8:3 9:6 28:1 <b>States</b> 7:23 <b>stem</b> 19:14 <b>stenographic</b> 28:10 <b>STEPHAN...</b> 2:12 <b>Steven</b> 1:10 2:15 28:5 28:20 <b>still</b> 13:19 14:19 19:2 20:21 21:19 22:9 <b>Street</b> 1:11 2:9 28:21 <b>strike</b> 20:3 <b>striking</b> 19:13 <b>studies</b> 10:18 <b>study</b> 10:8 23:19,22 24:3 <b>subject</b> 13:22 14:19 16:11 <b>submit</b> 20:7 <b>submitted</b> 5:14 12:24 26:10 <b>Subpart</b> 12:9 <b>subsection</b> 13:4,5 15:15,19 19:13 20:18 <b>substrates</b> 18:16	<b>Suite</b> 28:21 <b>sure</b> 16:21 17:19 21:23 26:2 27:8 <b>swear</b> 6:8 <b>swearing</b> 5:12 <b>sworn</b> 5:10 6:13 <hr/> <b>T</b> <hr/> <b>take</b> 4:12,15 24:14 26:6 <b>taken</b> 1:10 23:9 28:11 <b>talked</b> 19:21 <b>talking</b> 20:24 <b>Tanner</b> 24:2 <b>technical</b> 3:16 <b>techniques</b> 10:13 17:8 <b>technological</b> 9:23 <b>Technologies</b> 1:3 3:6 <b>technology</b> 8:6 9:22 <b>term</b> 10:1 <b>testify</b> 24:9 <b>testimony</b> 4:19,22 5:2 5:7,8,14 6:16,21 7:4 7:5 9:9,19 24:16,20 <b>thank</b> 6:14 7:11 8:23 11:3,13 13:19 14:12 15:11 16:16 17:18 22:12 23:13 27:17 27:19 <b>Thanks</b> 23:2 <b>their</b> 18:14 19:12,15 20:5,24 21:13 22:22 <b>things</b> 14:10	<b>think</b> 13:7 14:11 19:23 20:14 22:24 <b>third</b> 4:14 26:5,14 <b>three</b> 20:24 21:8,13 <b>threshold</b> 12:15 <b>through</b> 11:15 13:17 27:4,6,12 <b>Tim</b> 1:8 2:2 3:3 <b>time</b> 6:3 9:4 11:4 19:5 21:22 25:11 <b>timely</b> 4:21 11:14 <b>today</b> 3:12 4:10,24 6:18 8:11 8:19 22:13 22:15 25:9 26:20 <b>today's</b> 26:18 <b>told</b> 16:2,14 21:5 <b>tomorrow</b> 26:23 <b>touching</b> 20:14 <b>towards</b> 12:13 <b>towels</b> 21:16 <b>Track</b> 3:20 24:18 <b>transcribed</b> 28:11 <b>transcript</b> 26:19,21,24 28:9 <b>trial</b> 28:7,10 <b>true</b> 28:8 <b>turn</b> 17:22 <b>turning</b> 12:5 13:3 <b>two</b> 5:12 6:17 7:1 18:14	19:12 <b>types</b> 13:21 15:8 <hr/> <b>U</b> <hr/> <b>under</b> 3:20 4:3 5:1 7:1 11:19 12:21 14:4 18:13 23:15 24:17 25:14 26:8 26:22 28:11 <b>understand</b> 11:24,24 12:6 <b>understan...</b> 11:21 12:2 14:14 16:10 <b>underway</b> 6:15 25:24 <b>Unit</b> 8:12 <b>United</b> 7:23 <b>unless</b> 14:15 <b>unquote</b> 3:21 5:5 <b>unresolved</b> 22:9 <b>until</b> 14:17 <b>ups</b> 17:24 <b>used</b> 21:16 <hr/> <b>V</b> <hr/> <b>v</b> 15:22,22 <b>various</b> 11:23 <b>version</b> 27:9 <b>very</b> 6:20 8:24 9:8 11:3 16:16 17:21 19:9 20:10 21:6 21:10 22:11 23:13 <b>Vetterhoffer</b> 2:7 6:7,15 6:19 7:3,8 7:11,12 9:1 <b>volatile</b> 1:3 3:6 7:15 <b>VOM</b> 7:16
---	---	---	---	---	--

8:6	17:21	20 23:24 24:6	4887 4:6
<b>W</b>	<b>wonder</b>	2007 28:21	<b>5</b>
<b>walks</b> 14:7	20:20	2011 1:12	5 15:22
<b>want</b> 3:11 4:7	<b>wondered</b>	3:20,24 4:6	50 17:10
16:21 17:3	21:17	4:8,13,16	500 12:14
18:7,11	<b>words</b> 20:1	4:18,21	14:24
23:13 26:5	<b>worked</b> 8:7	24:1,5,15	<b>522-5512</b>
27:17	<b>writing</b> 25:5	26:7 28:15	2:10
<b>wanted</b> 18:2	<b>written</b> 27:3	211 1:5 3:10	<b>6</b>
18:19	<b>X</b>	215 2:9	6th 24:5,17
<b>wants</b> 21:23	XII 15:23	217 2:6,10	60603 28:22
<b>web</b> 17:6	<b>Y</b>	218 1:5 3:10	62794-9276
27:13	<b>Yoginder</b> 2:8	12:7 19:13	2:6
<b>website</b> 11:2	4:23 6:11	218.187 12:6	<b>7</b>
16:22 26:22	8:15	12:22	7th 3:20
<b>Wednesday</b>	<b>Z</b>	218.187(a)1	782-5544 2:6
4:13,15	Zalewski 2:3	12:15	<b>8</b>
24:15 26:7	3:15	218.187(a)...	8 28:21
<b>week</b> 4:8	<b>0</b>	12:13,20	<b>9</b>
18:9	084-004675	218.187(a)...	9:00 24:15
<b>weeks</b> 13:16	2:15 28:23	15:13 21:1	9:15 1:13
<b>welcome</b> 3:2	<b>1</b>	218.187(e)	
<b>well</b> 14:24	1 6:22 7:5	21:15	
17:21	18:4	219 1:5 3:10	
<b>were</b> 10:4,14	1st 4:6,15	12:6,8	
10:23 13:21	13:16 14:20	219.187(a)...	
16:22 17:19	26:7	19:14	
19:2 20:3	100 1:11	25th 4:8	
20:21 22:12	102.304(c)	27th 1:12	
22:15 23:11	25:4	27(b) 23:15	
26:24	1021 2:5	28.5 3:21	
<b>West</b> 1:11	13 15:22	25:14 26:8	
28:21	14 4:2	28.5(e) 4:2	
<b>we'll</b> 17:24	14th 4:21	28.5(f) 5:7	
<b>we're</b> 8:23	15 14:23	28.5(f)1	
10:12,17	15th 4:20	24:23	
16:21 19:2	17th 3:23	28.5(f)2	
22:22,23	4:17 24:1	24:17	
<b>we've</b> 13:5	18th 4:13	28.5(g)1 5:1	
<b>WILKERS...</b>	24:15	<b>3</b>	
2:12	187(e) 20:18	312 1:24 2:24	
<b>wish</b> 7:8 25:9	19276 2:5	28:22	
25:13	1997 7:18	35 1:5 3:9 4:5	
<b>wishing</b> 4:19	<b>2</b>	<b>4</b>	
<b>witness</b> 7:10	2 6:23 7:6	40 17:10	
28:13		419-9292	
<b>witnesses</b> 5:3		1:24 2:24	
6:12,17		28:22	
11:8 17:14			