

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1989

RIVERSIDE LABORATORIES, INC.,)
)
 Petitioner,)
)
 v.) PCB 87-62
)
ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

MS. SUSAN FRANZETTI AND MR. JAMES J. DENAPOLI, APPEARED ON BEHALF OF PETITIONER, RIVERSIDE LABORATORIES, INC.;

MS. DIANE ROSENFELD LOPATA AND MR. JOSEPH PODLEWSKI APPEARED ON BEHALF OF RESPONDENT, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

OPINION OF THE BOARD (by J.D. Dumelle):

This Opinion supports the Board Order of January 5, 1989.

This matter comes before the Board upon Petitioner's May 7, 1987, filing of a Permit appeal. Respondent, the Illinois Environmental Protection Agency (Agency), denied Petitioner's request for an operating permit renewal on April 3, 1987 and Petitioner has challenged that denial pursuant to 35 Ill. Adm. Code 105.102.

BACKGROUND

The uncontested facts are as follows:

Riverside owns and operates a manufacturing plant at 411 Union Street, Kane County, Geneva, Illinois. The facility is a one-story building of masonry and steel, consisting of 40,000 square feet; approximately 10,000 square feet is leased to another business enterprise. Petitioner currently employs 21 people at the Geneva facility, resulting in an annual payroll of \$700,000.

At this plant Petitioner saturates materials composed mainly of cellulose fibers with a resin and solvent mixture through the use of a 'dip duration' process. The result is an 'intermediate product' which is 40-80 percent resin by weight. This product is then sold and further processed by exposure to heat and pressure in enclosed molds which convert the saturated resin fiber into a hard, chemically resistant, thermoset plastic which is used in

furniture, shelving and exterior marine protective products. Petitioner utilizes four separate dip saturation product lines. (Petition pp. 2-5.)

Petitioner first submitted an application for operating permit to the Agency on April 5, 1972. The request concerned five resin impregnation lines. On May 23, 1973, the Agency issued the requested operating permit. (Petition p. 4.) Petitioner's permit was reviewed in 1977 and again in 1982. (Resp. Brief p. 4.) During the latest re-application process, Petitioner certified that all previously submitted data was still true and correct and resubmitted its application for operating permit on February 27, 1987. On April 3, 1987, the Agency denied the permit application; and on May 7, 1987 Petitioner filed this appeal.

The Agency denial of April 3, 1987 referenced three Board regulations as the reasons why the request was being denied. The reference regulations were 35 Ill. Adm Code 201.157, 201.160 and 215.204(c).

Pursuant to notice, hearings were held on July 13, and 14, 1988 in Geneva, Illinois. At hearing Petitioner called three witnesses. The first, Mr. Kenneth Guilette, is the president of Riverside Laboratories, Inc.; the second, Mr. Christopher Romaine, is the permit analyst who reviewed Petitioner's application; the third witness was Mr. Daniel Goodwin, a private consultant. Respondent called only Mr. Romaine. During the hearing, four non-party, private citizens appeared and submitted their statements into the record. These persons were Ms. Jane McMurray, Mr. John Schneider, Mr. Robert Kenyon and Mr. John Brayton.

Petitioner's first witness, Mr. Kenneth Guilette, holds a Bachelor's Degree of Science in Chemical Engineering and an M.B.A. (R. p. 24.) He has extensive experience in chemical and resin industries since 1963, including work at Dow Chemical Company, Northern Petrochemical and Mobil Chemical. (R. 25.) In 1986 Mr. Guilette acquired the assets of Riverside Laboratories, Inc. and became president. Mr. Guilette fully described the operations, the facility and the permit history. (R. pp. 26-31.)

Mr. Guilette testified that Petitioner manufactures a highly specialized product:

"The company produces thermosetting laminating papers. A thermoset material, as defined in the Modern Plastics Encyclopedia is a material that will undergo a chemical reaction by the action of heat, catalysts, ultra-violet light, etc... leading to a material which is in an infusible and crosslinked state.

Additionally, crosslinking is defined as the formation of chemical bonds between polymer molecules. When crosslinking is extensive, as it is in the thermosetting resins used by Riverside the reaction forms one infusible, insoluble super molecule of all the polymer chains. In addition, the crosslinking reaction decreases the specific volume of the polymer mass and causes some shrinkage to occur. The crosslinking results in a thermoset polymer which is infusible, insoluble and extremely hard and rigid. Riverside's product is typically 50% to 70% resin material. The balance is paper. The paper serves only as a decorative carrier for the product's resin system. The resin is reactive and contains heat sensitive catalysts which, during subsequent laminating operation by Riverside's customers, causes the resin to crosslink."

Riverside itself does not perform any laminating operations. But rather the thermosetting laminating papers produced by Riverside are an intermediate product which is used by customers for the production of laminated panels. Our customers use pressure and heat to bond the resin impregnated laminating papers to a wood based substrate such as particle board or plywood. In addition to being decorative, the laminating paper gives the final panel a hard, durable laminate surface which exhibits superior resistance to scuffs, stains, light, heat and moisture. The finished laminate panel is used in many applications in the construction, furniture, mobil home and remanufactured products industries. Most applications for these panels are kitchen and bath cabinets, store fixtures, storage systems, commercial and retail point of purchase displays, shelving and furniture."

(R. pp 30-33.)

Mr. Guilette further explained and described the raw materials used as the following: a special saturation grade paper in roll form; polyester resin; monomer; flow control agents; catalysts; inhibitors; release agents; adhesion promoters and solvents. (R. 36.) Mr. Guilette further described Riverside's manufacturing as a 4-step process consisting of solution preparation, dip saturation, drying and rewinding.

Upon saturation the impregnated web enters a 60 ft. long drying oven which removes the solvents via evaporation. (R. 42.) There are two temperature control zones in the dryer. The first stage is controlled at 170°F to avoid formation of blisters on the surface of the saturated web. The second zone is controlled at less than 200°F (if the temperature were to exceed 220°F the catalysts would be thermally activated causing the resin system to crosslink while in the oven). The saturated web is drawn through the oven at a production rate of 20 to 40 feet per minute. (R. 45.) Upon leaving the oven the saturated web is drawn through a cooling section where it is allowed to cool to approximately room temperature. It is then wound onto a finished product roll. To avoid the layers of paper sticking to themselves the paper is interleaved with a sheet of polyethylene. (R. 46.) At this point the product is sold to customers who process the product further.

Mr. Guilette testified that Riverside has examined four different methods of reducing VOC emissions. The four methods were reformulating the coating solution, thermal incineration, catalytic incineration and carbon absorption. These were all rejected for reasons of practicality, costs and safety. (R. p. 63.)

Petitioner next called Mr. Christopher Romaine, the permit analyst who reviewed the application and made the initial decision to deny the requested permit. Mr. Romaine was called as an adverse witness. (R. 87.) Mr. Romaine testified that he is currently the manager of the New Source Review Unit in the Permit Section in the division of Air Pollution Control. (R. 88.) Mr. Romaine has been involved in 5 to 10 permit renewals since 1980 at the rate of approximately one permit per year. Mr. Romaine stated that in preparing for this permit analysis he reviewed Board regulations and the record of the RACT I proceeding. (Contained in rulemaking proceeding R78-3, R78-4) (R. 99.) This application was reassigned to Romaine from a Mr. Punzak, a senior engineer in that division (R. 93), who prepared a draft permit denial, which was already in the file when Mr. Romaine was reassigned to the case. (R. 106.) Mr. Romaine further stated that a final denial letter was ultimately issued within 30 days of receipt of the application. (R. 106.) Mr. Romaine explained his reasons for denial and his calculations regarding VOM emissions at the plant. (R. 113, 125.) Romaine further explained his analysis into the meaning of the words 'surface' and 'coating' as these words are used in Board regulations. (R. 143.) Ultimately Mr. Romaine stated that Riverside must reduce its emissions by 34.5% in order to comply with the paper coating limitation for VOMs. (R. 150.)

Finally, Petitioner called Mr. Daniel J. Goodwin, President of Goodwin and Associates, a consultant for Riverside. Mr. Goodwin holds a B.S. in engineering and an M.B.A. and worked for

the Illinois Environmental Protection Agency from 1971 until 1984 in both Water and Air Pollution Divisions. (R. 177.)

Goodwin testified that in September of 1985 Goodwin and Associates was retained by Petitioner and asked to do the following:

1. Perform an independent evaluation of the applicability of 35 Ill. Adm. Code 215.204(c).
2. Identify pertinent previous determinations by IEPA concerning the applicability of 215.204(c).
3. Serve as expert witness in a formal proceeding involving his findings related to 215.204(c). (R. 178.)

Mr. Goodwin concluded that Riverside Laboratories, Inc., is not a paper coating operation regulated by 35 Ill. Adm. Code 215.204(c). (R. 179.) In explaining his analysis Mr. Goodwin described his analytical scheme as one beginning with the actual language of the regulation; proceeding to a review of similar and dissimilar conclusions previously made by the Agency; and continuing through a review of technical feasibility and economic reasonableness of a regulation. (R. 181.)

In reviewing the language of the regulation Goodwin noted that the rule applies to "paper lines": "A coating line is defined as an operation when a surface coating is applied to a material and subsequently dried or cured." The term 'surface coating' is not defined in the Board regulations." (R. 185.) Goodwin testified that Riverside does not merely coat paper but saturates it, thereby creating a resin matrix which surrounds the cellulose fibers from one surface, through the paper web to the other surface without interruption. Goodwin noted that Riverside's product is not a film and the resin is not applied as a thin layer, but rather "as a matrix which surrounds and encloses the fibers of the paper in a continuous mass which is more than twice as thick as typical coated paper." (R. 186.)

Goodwin next examined similarities and dissimilarities of Riverside's product to typical members of the regulated community and process. Goodwin noted similarities such as a paper substrate that is coated with a solid material which is dissolved in solvent; and the coated sheet is dried in an oven and then wound into rolls. Goodwin highlighted the following differences between Riverside and a 'typical' paper coater:

1. Riverside uses saturation grade paper. This paper is designed specifically to be

amenable to complete saturation during the dip application procedure employed by Riverside. Technical properties of saturation grade paper differ substantially from other grades of paper commonly coated.

2. The method of resin application is unusual. In the Riverside case, the paper web is passed through a "dip tank" -- i.e., a trough filled with resin solution. While this application method may not be unique in Illinois, it is so uncommon that it is not described in any of USEPA's CTGs or in the IEPA Technical Support Document. The dip tank method is necessary because complete saturation of the paper is essential. Dip tanks ordinarily are not used for paper coating because saturation of the paper is usually undesirable.
3. Riverside coats both sides of the paper simultaneously. Typically, paper coating processes coat only one side at a time. in what amounts to separate coating and drying operations.
4. The saturated web leaving the Riverside line is 6-12 mils in thickness, which is considerably thicker than most coated paper products.
5. The ratio of the weight of the paper to the weight of the resin in the finished product produced by Riverside is much lower than for typical coated papers. For Riverside's production, the paper generally comprises only 30-50 percent of the product weight, while the typical coated paper is 90 percent paper.
6. The presence of silicone mold release agents in the impregnating solution used by Riverside renders catalytic incineration infeasible and poses design and maintenance problems for thermal incineration and carbon absorption as add-on control methods. While some of the paper coating operations that clearly do fall within the intended scope of applicability of the rule also use

silicone release agents, this is not the case for most of the paper coaters.

7. Riverside's impregnation solution contains diallyl phthalate (DAP), a reactive monomer which produces crosslinking of the polymeric molecular chains during the bonding of the laminating paper to the wood substrate by Riverside's customers. It is believed that presence of diallyl phthalate in the oven exhaust gas stream may pose a serious problem of fouling of the activated carbon if a carbon absorption control system were used. The presence of DAP in the exhaust stream, therefore, differentiates the Riverside process from most paper coaters in an important way.
8. There is no curing of the resin in the drying process; rather, the curing takes place in a subsequent process operated by Riverside's customers. Usually, curing - i.e., polymerization and/or crosslinking of the resin -- takes place in the drying oven of the coating line.
9. The rate of drying in the Riverside process is diffusion limited, not evaporation limited, due to the thickness of the saturated web. This means that an increase in drying air temperature or flow would have little effect on the drying rate. Most paper coating operations are evaporation limited.
10. Typically, paper coating ovens operate in a temperature range up to 450 Fahrenheit. The maximum drying temperature for the Riverside process is about 200 Fahrenheit, because the DAP and catalyst in the saturating solution will cause further polymerization and crosslinking above that temperature. This lower temperature would result in increased supplemental fuel usage if thermal incineration of VOC emissions would be installed.
11. A comparatively large volume of air per unit of production is passed through the Riverside ovens. This is necessary to

prevent occurrence of pockets of explosive solvent air mixtures. A large volume of air also facilitates uniform drying. This large volume of air leads to relatively high costs for add-on control equipment.

12. The concentration of solvent vapor in the oven exhaust gas stream is low. Because of this, the supplemental fuel cost for a thermal incineration system would be relatively great.
13. The speed of movement of Riverside's saturated web through the drying oven is relatively slow, due to the thickness of the saturated web and the resulting low rate of mass-transfer of solvent into the drying air.
14. As the dried laminating paper is wound onto the take-up roll after emerging from the oven, Riverside interleaves polyethylene film with the laminating paper to prevent adhesion of the layers of the finished product on the roll. This is necessary because of the slight stickiness of the product. The interleaving of coated paper with polyethylene is an expensive measure and it is not commonly done with coated paper products.
15. Fugitive emissions of VOC due to solvent evaporation in storage and handling comprise about 10 percent of the total VOCs used. This is lower than the usual fraction of fugitive losses due to equipment design and material handling methods established for material conservation and fire safety reasons. This reduces the opportunity for relatively easy, cheap, reductions in fugitive emissions. Fugitive emissions for coating plants are usually about 30 percent of total solvent losses.
16. Riverside's product is an intermediate product which cannot be used for its intended purpose without extensive further processing by the customer, using costly specialized equipment. This

additional process includes a chemical transformation which is essential to the ultimate use of the product. Most coated papers are suitable for ultimate use as they come off the coating line, and require only cutting and forming. Further chemical transformation of the coating material is rare.

17. Riverside's products have a definite shelf life of six months, and then only if storage temperatures are kept below 70 Fahrenheit. Most coated paper products have an indefinite shelf life.

In summary, Goodwin concluded "the cumulative weight of all of these differences constitutes a compelling argument that the Riverside process is not 'paper coating' within the intent of the rule." (R. 194.) Additionally, Goodwin stated that it was exactly these differences (in operating process) that rendered most VOM reducing options infeasible; and he explained four methods reviewed; thermal incineration, catalytic incineration, carbon adsorption, and coating reformulation. (R. 195.) Goodwin concluded that "there is no technology available that will clearly enable Riverside Laboratories to comply with a 2.9 pound/gallon VOC emission unit for each of its lines." (R. 197.)

Finally, Mr. Goodwin examined two other facilities that IEPA has determined are not paper coating operations and attempted to analogize these to this case at issue. (R. 203.) In explaining the difference between his conclusion and Mr. Romaine's, Goodwin stated that Mr. Romaine's analysis failed to look beyond the language of the regulation to find the Board's ultimate intent. (R. 206.)

At hearing and in its brief, the Agency objected to the introduction of Goodwin's testimony claiming that the information contained therein was not made available to the Agency and therefore inadmissible. In support of this contention the Agency cited City of East Moline v. EPA, PCB 86-218, decided September 8, 1988. To this extent the Agency's reliance is misplaced.

Petitioner's Exhibit No. 9 comprises an exhibit contained in the Agency Record. As such this document was in the Agency's possession when making its decision on the permit application. Goodwin's 1985 report contains detailed information on Riverside's Manufacturing operations; compares those operations to typical paper coating operations; and contains Goodwin's study, review and explanation of his conclusion that Riverside was not subject to the papercoating regulations set forth at 35 Ill. Adm. Code 215.204(c).

In reviewing the original (1985) report, which the Agency already possessed, and comparing this to Goodwin's 17 point study presented at hearing, the Board finds that the 17 point study and explanation was merely a further analysis of facts already presented to the Agency. The 1985 study contains data explaining Riverside's process, other similar and dissimilar processes and further analyses differences and distinctions. In large measure this is identical to Goodwin's 17 point study and explanation. The Agency has failed to identify any facts set forth at hearing which were not in the 1985 report.

An expert's analysis of facts previously submitted to the Agency are not inadmissible pursuant to East Moline, supra.

This Board is capable of discerning a subsequent reasoned analysis from an attempt to supplement a permit record. In this case Goodwin's analysis does not set forth new facts unpossessed by the Agency when making its permit decision. Thus it is admissible.

Respondent called Mr. Christopher Romaine as its only witness. Mr. Romaine was the permit analyst who reviewed the application in 1987. Mr. Romaine is currently the manager of the New Source Review Unit and has held that position for three or four years. (R. 268.) Mr. Romaine holds a bachelor's degree in engineering. (R. 315.) Mr. Romaine further stated that petitioner's original application package demonstrated compliance with applicable regulations.

In responding to Mr. Goodwin's review of Romaine's report, Romaine testified that he did not believe that differences in the method of applying the resin to the paper web was significant; although he noted dip saturation was "an uncommon method, certainly." (R 304.) Likewise Mr. Romaine testified that he did not attribute significance to the fact that Riverside's product leaves the plant in an "intermediate state" nor was Mr. Romaine convinced by the fact that since Riverside's ovens operate at a (relatively) low temperature it shows that it was not intended to be regulated by the paper coating rules. Mr. Romaine further explained petitioner's status in the standard industrial classification (SIC) and Illinois Manufacturing Directory.

Mr. Romaine further stated that Riverside was sent a "minor permit renewal form" (which is a short document basically requesting the applicant to certify that all previously submitted data is still accurate) because the Agency did not consider Riverside to be capable of emitting in excess of 25 tons of VOM per year. (R. 358.)

As noted above, four members of the public attended the hearing and entered their comments into the record. First, Ms. Jane McMurray testified against relaxing the emission controls at

Riverside. She described the neighborhood as residential ("your typical neighborhood ... with lots of kids and ... Wheeler Park to the east"). (R. 325.) Ms. McMurray testified that sometimes her eyelids get swollen and she believes this to be caused by Riverside. On cross-examination Ms. McMurray admitted that there are also an auto body shop and other coating operations nearby. (R. 327.)

Next, Mr. John Schneider entered his objections on the record. Mr. Schneider corroborated Ms. McMurray's statements concerning the neighborhood. Mr. Schneider also testified about "strong odors" and a "lacquer smell" which he believes are emanating from petitioner's facility. Mr. Schneider also complained of "the lack of perimeter security at the Riverside site." (R 392.) Mr. Schneider also mentioned excessive noise as bothersome; but stated that "a sound barrier was installed and it seemed to be working." (R. 394.)

Next, Mr. Robert Kenyon testified in support of Mr. Schneider's conclusions and statements. Mr. Kenyon, who has lived nearby for 24 years, testified that the area has changed greatly over the years and that he is concerned about industrial hazards and pollutants from nearby manufacturers and industries.

Lastly, Mr. John Brayton entered his objection onto the record. As a member of the local fire department Mr. Brayton was concerned that a fire truck call could not gain access to the area on the Wheeler Park side. Additionally, Mr. Brayton did not like the fact that Riverside Labs does not possess a vapor detection system. His feeling is that a sprinkler system is totally inadequate. (R. 402.)

PRELIMINARY ISSUES

As a preliminary issue, Petitioner claims that it was a mistake for the Agency to deny a requested permit rather than issue a more information letter pursuant to 35 Ill. Adm. Code 201.158.

The relevant facts are that Petitioner's permit was scheduled to expire on May 18, 1987; on February 27, 1987, the application for permit renewal was dispatched; and on April 3, 1987, the denial letter was issued.

35 Ill. Adm. Code 201.158 states that an application for permit is not deemed filed until all required data is submitted. It further states that if the Agency fails to notify an applicant of an incomplete application package within 30 days of receiving the incomplete package, the effective date of filing is the date of the Agency's receipt. Finally, Section 201.158 states an applicant may treat a notice of incompleteness as a denial for purposes of appeal.

Nowhere does Section 201.158 or any other regulation require the Agency to issue Notice Of Incompleteness as opposed to denials; therefore Petitioner's claim of error is unjustified. At most, Section 201.158 establishes a scheme for computing filing dates; it does not impose an affirmative duty on the Agency.

A second threshold matter raised by Petitioner must be addressed at this time. At p. 16 of its Reply Brief Petitioner argues that the Board's Opinion in East Moline is in error and should not be followed at precedent. East Moline is currently on appeal and the Board will not comment on this further, except to say that for the reasons set forth in that Opinion, the Board declines to accept Petitioner's invitation to reverse the East Moline decision at this time.

PERMIT

The ultimate issue in this case is whether or not Riverside Laboratories, Inc. is a paper coating operation subject to VOM emission limitations set forth at 35 Ill. Adm. Code 215.204 (C.).

On August 23, 1979 the Pollution Control Board issued its opinion in Docket. R78-3,4. This docket covered the Board's adoption of Section 215.204(c). The opinion explained the relationship between RACT and Docket R78-3,4 as follows:

RACT and this Proceeding

RACT has been defined as "the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility" (R. 43). In response to the 1977 Clean Air Act Amendments, USEPA has published Control Technique Guidelines (CTG) for fifteen emission source categories that were determined to be sources that could be further controlled by RACT (R. 44). The purpose of this proceeding is to consider the implementation of RACT on these fifteen emission source categories. RACT is based on controlling emissions through reduction rather than through substitution. These reductions are to be achieved by retrofitting add-on control equipment, by changing to water-borne or high solids coatings in place of organic materials or by converting to low-solvent coatings" R78-3,4 pp. 11.

Many of the reasonably available control technologies (RACT) regulations were based on the control technology guidelines (CTG's) documents published for selected industrial categories. In the CTG for paper coating operations (USEPA 1977), "Control Of Volatile Organic Emissions From Existing Stationary Sources- Volume II: Surface Coating of ... Paper," reference is made to the 1972 edition of the U.S. Department of Commerce's Standard Industrial Classification (SIC) Grouping 2641. However, the CTG cautions that "some types of paper coating with organic solvents, however, may not fall within any of these groups." In reviewing the 1972 SIC Manual, grouping 2641 Paper Coating & Glazing, there is no reference or inclusion of the resin impregnation paper product manufactured by Riverside Laboratories, Inc.

Additionally, that portion of the Board's opinion in R78-3,4 which addresses paper coating is also lacking any reference to Riverside's product and is lacking any reference to the process used by Riverside or the type or class of product produced by Riverside. That opinion, in pertinent part, states as follows:

Rule 205(n)(1)(C) Paper Coating

Paper coating refers to the application of a surface coating to paper, metal foil, plastic films, pressure sensitive tapes, etc. This rule does not cover operations in which a material, such as plastic, is obtained in sheets and/or rolls and converted into a package (R. 1526-7). Rotogravure is considered to be printing in this case and therefore will be covered by a different rule (R. 517) since equipment that is used for printing and paper coating is excluded from this rule. Examples of paper coating products include adhesive tapes; adhesive labels; decorated, coated and glazed paper; book coverings; office photocopier paper; carbon paper; typewriter ribbons and photographic film (R. 515) methods of compliance include incineration, carbon adsorption and substitution of low solvent or water-based coatings (R78-3,4 p. 19).

Clearly the regulation was directed toward "the application of a surface coating to paper." The evidence in this case demonstrates that whatever Riverside's process is, it is not a surface coater regulated by Section 215.204(c). Petitioner saturates materials composed mainly of cellulose fibers with a resin and solvent mixture, via a dip saturation process. Pet'n p. 2. Although it is true that the surface must necessarily become coated, this is not the type of coating process the Board contemplated in promulgating Section 215.204(c).

That this is true is highlighted by the fact that a more recent edition of the SIC manual addressed the issue of coating and laminated paper manufacturers not regulated by RACT. New SIC number 2672 Coated and Laminated Paper, Not Elsewhere Classified contains what might be Riverside's product, "Resinous Impregnated Paper, except for Packaging-mfpm." The Board notes that this issue was not litigated in this proceeding and the Board makes no such determination at this time.

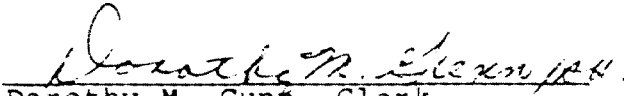
The language of the Opinion demonstrates that the Board was using USEPA's CTG's as guidance during R78-3,4. The CTGs in existence at that time did not address Riverside's process and it was not until 1987 that a SIC manual including resinous impregnated paper was issued. Clearly the Board did not intend for Riverside's process to be subject to the paper coating rules governing resinous impregnated paper. The Board finds that resinous impregnated paper created via Riverside's current process was not included, nor was it intended to be regulated via 35 Ill. Adm. Code 215.204(c).

This constitutes the Board's finding of fact and conclusions of law in this matter.

IT IS SO ORDERED

Board Members B. Forcade and J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 19th day of JANUARY, 1989, by a vote of 5-2.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board