

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**  
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JUN 21 2004

IN THE MATTER OF: )  
)  
CLEAN-UP PART III )  
AMENDMENTS TO 35 ILL. )  
ADM. CODE PARTS 211, 218 AND 219 )  
)

R04-20  
(Rulemaking - Air)

STATE OF ILLINOIS  
Pollution Control Board

PC#1

NOTICE

TO:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601

Richard McGill  
Illinois Pollution Control Board  
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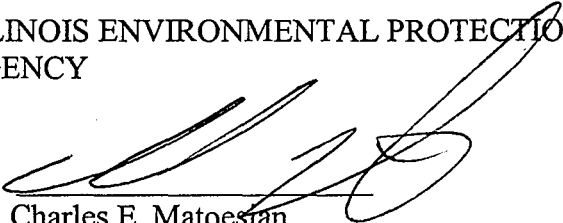
SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY a copy of which is herewith served upon you.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

By:

  
Charles E. Matoestan  
Assistant Counsel  
Division of Legal Counsel

DATED: June 18, 2004

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**POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by its attorney, Charles E. Matoesian, and hereby submits comments in the above rulemaking proceeding.

The Illinois EPA appreciates the Illinois Pollution Control Board's ("Board") efforts in this rulemaking to amend 35 Ill. Adm. Code Parts 211, 218, and 219. The Illinois EPA believes the proposed amendments will ease the compliance burden by clarifying existing regulations, reducing the recordkeeping and reporting requirements and updating testing practices. The changes are all designed to be part of a simple "clean-up" and are considered non-controversial.

The Illinois EPA submitted an errata sheet as an exhibit at the May 6th, 2004 hearing in Springfield, Illinois. That sheet made several, minor, changes to the proposal in response to questions raised by the Board and its staff at the earlier, March 18th hearing. Though the Illinois EPA responded to most issues raised at the first and second hearings in this matter on the record during those proceedings, a few outstanding issues remain to be addressed in these post-hearing comments. These comments therefore respond to questions proposed by the Illinois Environmental Regulatory Group ("IERG") at the May 6th hearing and are based upon the existence of the submitted errata sheet.

## RESPONSE TO QUESTIONS RAISED AT THE MAY 6TH, 2004 HEARING

The questioning from LaDonna Driver of IERG begins on page 25 of the transcript and continues through page 39, but the outstanding issues basically consist of the following three questions and responses.

Comment: *Is the proposed definition of carbon adsorber at Section 211.953 too general and somewhat deceiving as to what media is being covered?*

Response: As to the part of the comment regarding whether this definition is too general, the commenter felt that the first sentence by its self could “cover a lot of things beyond a carbon adsorber”. (Transcript, p. 35). As a result of this comment, Illinois EPA is revising the definition at Section 211.953 by including a semicolon between the first and second sentences to make the definition more specific to the general technology of adsorption that is being defined.

Therefore, the proposed definition is changed to read as follows:

Carbon Adsorber: A control device designed to remove and, if desired, recover volatile organic materials (VOMs) from process emissions; ~~Removal~~ removal is accomplished through the adherence of the VOMs onto the surface of highly porous adsorbent particles such as activated carbon. The term “carbon adsorber” describes any adsorber technology used as a control device even though media other than carbon may be used as the adsorbent, such as (but not limited to) oxides of silicon and aluminum.

In addressing the second part of the comment regarding this definition being “somewhat deceiving”, (Transcript, p. 36) the Illinois EPA offers this response:

The term “carbon adsorber” appears throughout 35 Illinois Administrative Code and separating or altering this basic terminology could have far reaching and unforeseen ramifications for the Illinois pollution control regulations.

Historically carbon has been the predominant media used as the absorbent for the removal and recovery (if desired) of volatile organic materials from process emissions by adsorption. As a result through usage, the term “carbon adsorber” has become accepted as synonymous with adsorber control technology in general, wherein VOM adheres to the surface of a porous adsorbent particle, regardless of the particle's composition.

Recently other materials have been introduced claiming to be a more efficient absorbent material than carbon, but the physical capturing of the VOM is the same basic process. These new materials include the oxides of silicon and aluminum in the form of molecular sieves with engineered openings designed to adsorb particular sizes of VOM molecules.

It has been demonstrated to Illinois EPA from compliance enforcement discussions with the manufacturers of these new adsorbent media that they recognize that their technology is still an adsorption process; however, from their perspective, monitoring such devices pursuant to the requirements of Sections 218.105(d) and 219.105(d) is not required because these Sections refer only to “carbon” adsorbers and not any other adsorber.

Therefore, it is the intent of this amendment to close that unforeseen loop hole for absorbent media other than carbon, and do it in a manner that does not disturb the other areas of 35 Illinois Administrative Code Parts 218 and 219, which might cause undesired regulatory repercussions. The term “carbon adsorber” is meant to describe adsorber technology in general throughout Title 35 of the Illinois Administrative Code.

The wording of the proposed definition has been chosen so that the regulatory requirements imposed upon carbon adsorbers is not lessened but that adsorbers using other media beside carbon are included and required to meet the same regulatory obligations.

IERG and its peer reviewers drew no exception to this definition in its exhaustive review prior to the Illinois EPA's filing of this amendment and although a misinterpretation to a casual reader may occur, the intent of the definition to users of the rule is evident. The Illinois EPA assures IERG and its constituency that it is not trying to deceive anybody. The Illinois EPA is only trying to keep the playing field level for all types of adsorbers and the various media that might be used as the absorbent in these control devices, now and in the future.

*Comment: In Sections 218.105(c)(2) and 219.105(c)(2), is it the Illinois EPA's intent that at any point that a facility wants to establish emission credits for offsets or shutdowns that they are going to have to do testing to satisfy the DQO?*

Response: The LCL/DQO alternative protocol has been offered by U.S. EPA in response to industries request for less costly ways to determine capture efficiency. The Illinois EPA is incorporating these alternative protocols at the insistence of U.S.EPA and as a courtesy to the regulated community. The alternative LCL/DQO protocol need not ever be used. The U.S.EPA has determined that the standard gas/gas and liquid/gas protocols are still the most accurate and reliable methods for determining capture efficiency.

However, if a source chooses to use the LCL/DQO alternative protocol, there are certain requirements that must be met. One of which is that if credits for offsets, shutdowns, or trading are being established based on data arrived at from using the alternative protocol, the DQO must be satisfied. Satisfying the DQO yields a result accurate to a 95% confidence level, whereas satisfying the LCL yields a result accurate to only a 90% confidence level. U.S. EPA considered a higher confidence level to be necessary in such matters as well as in enforcement matters.

This is not meant to require every source that is establishing credits for offsets and shutdowns to test using the alternative LCL/DQO protocol. This is not an added layer of testing, but if a source does choose to use this protocol they should be aware that DQO must be satisfied in the instances mentioned.

Comment: *In Sections 218.105(c)(2) and 219.105(c)(2), is it the Illinois EPA's intent that proving noncompliance in an enforcement case where the LCL/DQO alternative protocol has been used would require the DQO to be satisfied?*

Response: At the close of their study regarding methodologies for determining capture efficiency, U.S. EPA concluded that the most accurate and most reliable methodologies are the standard gas/gas and liquid/gas protocols. However, U.S. EPA considered the LCL/DQO alternative methodology as acceptable alternatives. In matters of enforcement regarding compliance or for establishing credits for offsets, shutdowns, or trading, U.S. EPA requested that the DQO be satisfied.

As a result of the many discussions that have arisen over the use of DQO in enforcement cases, the Illinois EPA proposes to add the following language at the end Section 218.105(c)(2). Note that this language shows changes from the errata sheet submitted at the May 6th hearing.

The language reads:

2) Capture Efficiency Protocols

The capture efficiency of an emission unit shall be measured using one of the protocols given below. Appropriate test methods to be utilized in each of the capture efficiency protocols are described in Appendix M of 40 CFR Part 51 incorporated by reference at Section 218.112. Any error margin associated with a test method or protocol may not be incorporated into the results of a capture efficiency test. If these techniques are not suitable for a particular process, then an alternative capture efficiency protocol may be used, pursuant to the provisions of Section 218.108(b) of this Part. For purposes of determining capture efficiency using an alternative protocol, sources shall satisfy the data quality objective (DQO) or the lower confidence level (LCL) statistical analysis methodologies as

presented in USEPA's "Guidelines for Determining Capture Efficiency" incorporated by reference at Section 218.112 of this Part. LCL can be used to establish compliance with capture efficiency requirements. For purposes of establishing emission credits for offsets, shutdowns, trading, and compliance demonstrations arising in enforcement matters, the DQO must be satisfied.

If a sources chooses to use the LCL/DQO alternative methodology, failure to satisfy the DQO in matters of enforcement or for establishing credits for offsets, shutdowns, or trading shall require capture efficiency to be determined using one of the gas/gas or liquid/gas protocols described in subsections (c)(2)(A), (B), (C), or (D).

Identical language is presented for Section 219.105(c)(2). However, the errata sheet submitted on May 6th inadvertently contained internal references to Section 218. This error is corrected here. The Illinois EPA regrets this error. The corrected Section 219.105(c)(2) language reads:

2) Capture Efficiency Protocols

The capture efficiency of an emission unit shall be measured using one of the protocols given below. Appropriate test methods to be utilized in each of the capture efficiency protocols are described in Appendix M of 40 CFR Part 51 incorporated by reference at Section 219.112 ~~218.112~~. Any error margin associated with a test method or protocol may not be incorporated into the results of a capture efficiency test. If these techniques are not suitable for a particular process, then an alternative capture efficiency protocol may be used, pursuant to the provisions of Section 219.108(b) ~~218.108(b)~~ of this Part. For purposes of determining capture efficiency using an alternative protocol, sources shall satisfy the data quality objective (DQO) or the lower confidence level (LCL) statistical analysis methodologies as presented in USEPA's "Guidelines for Determining Capture Efficiency" incorporated by reference at Section 219.112 ~~218.112~~ of this Part. LCL can be used to establish compliance with capture efficiency requirements. For purposes of establishing emission credits for offsets, shutdowns, trading, and compliance demonstrations arising in enforcement matters, the DQO must be satisfied.

If a sources chooses to use the LCL/DQO alternative methodology, failure to satisfy the DQO in matters of enforcement or for establishing credits for offsets, shutdowns, or trading shall require capture efficiency to be determined using one of the gas/gas or liquid/gas protocols described in subsections (c)(2)(A), (B), (C), or (D).



This proposed language is consistent with the language in Sections 218.105(c)(2)(E) and 219.105(c)(2)(E) and should resolve issues regarding proving compliance. The source that chooses the LCL/DQO alternative methodology must satisfy DQO or test under one of the standard protocols.

### CORRECTIONS TO THE TRANSCRIPT

The Illinois EPA would like to point out two minor errors in the transcript. The first is on page six, line two. The transcript states, "the second hearing on amendments to 357 Illinois Administrative Code..." This is merely a transcription error, but the "357" should be replaced by "35." The line should thus read, " the second hearing on amendments to 35 Illinois Administrative Code..."

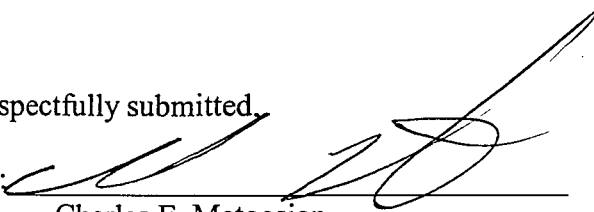
The second correction concerns page 32, line 17. The line reads "...talking about IERG here as I understand it." The acronym IERG refers to the Illinois Environmental Resource Group while the correct acronym is "ERMS" which stands for Emission Reduction Market System." The line should thus read "...talking about ERMS here as I understand it."

CONCLUSION

The Illinois EPA thanks the Board for the opportunity to participate in this rulemaking proceeding and encourages the Board to proceed expeditiously towards the adoption of a first notice opinion and order amending Parts 211, 218, and 219.

Respectfully submitted,

By:



Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

Dated: June 18, 2004

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PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached POST-HEARING COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY upon the person to whom it is directed, by placing it in an envelope addressed to:

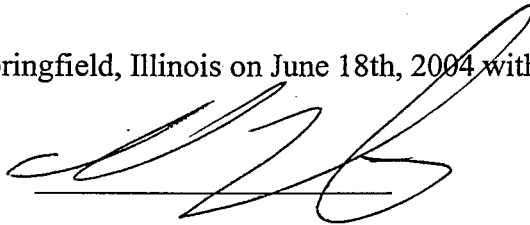
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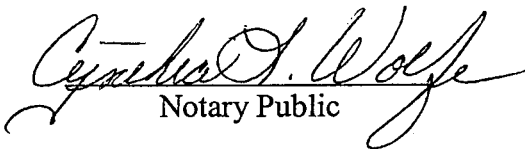
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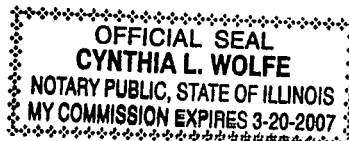
and mailing it by First Class Mail from Springfield, Illinois on June 18th, 2004 with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

this 18th day of June, 2004

  
Notary Public



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