

POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

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IN THE MATTER OF:

CLEAN-UP PART III AMENDMENTS) R04-20
TO 35 ILL. ADM. CODE PARTS) (RULEMAKING
211, 218, AND 219) - AIR)
)
)

IN THE MATTER OF:

TECHNICAL CORRECTIONS TO) R204-12
FORMULAS IN 35 ILL. ADM.) (RULEMAKING
CODE 214 "SULFUR LIMITATIONS) - AIR)
(CONSOLIDATED))

DATE: Wednesday, Thursday, May 6, 2004

TIME: 1:30 PM

PLACE: Illinois Pollution Control Board
Hearing Room
1021 N. Grand Avenue East.
Springfield, Illinois

Kimberly A. Ganz, CSR, RPR, RMR, CRR
IL Lic. #084-001691
MO Lic. #721

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1 HEARING OFFICER: Good afternoon,
2 welcome to the Illinois Pollution Control
3 Board. My name is Richard McGill and I'm
4 the hearing officer for this board
5 proceeding. For purposes of the hearing,
6 the board has consolidated two rulemaking
7 proposals. Docket R04-12 is a board
8 initiated rulemaking proposal to amend air
9 enforcement rules. That rulemaking is
10 captioned Technical Corrections to Formulas
11 in 35 Illinois Administrative Code 214,
12 sulfur limitations.

13 The second rulemaking proposal is in
14 docket R04-20. That was filed by the
15 Illinois Environmental Protection Agency.
16 The rulemaking is captioned Clean-up Part
17 III Amendments to 35 Illinois
18 Administrative Code, parts 211, 218 and
19 219.

20 Today is the second hearing. We had
21 our first hearing in Chicago on March 18.
22 No other hearings are currently scheduled
23 in this consolidated rulemaking. Also
24 present today on behalf of the board to my

1 far left board member Nick Melas; to my
2 immediate left Andrea Moore; and to my
3 right Anand Rao who is the head of the
4 board's technical unit. And I see also
5 Alisa Liu of our technical unit is in the
6 audience.

7 Today's proceeding is governed by the
8 board's procedural rules. All information
9 that is relevant and not repetitious or
10 privileged will be admitted into the
11 record. We are going to begin with the
12 agency's testimony on R04-20 in response to
13 questions raised at the first hearing.
14 That testimony will be followed by any
15 further questions of the board or members
16 of the public may have for the agency on
17 R04-20. After that, anyone else may
18 testify in R04-20 or R04-12. Those who
19 wish to testify will be sworn in and may be
20 asked questions about their testimony.
21 After that, if anyone has any questions on
22 the board initiated rulemaking proposal in
23 R04-12, they can state those on the record
24 for the board to later consider.

1 Then we will take up the Department of
2 Commerce and Economic Opportunity's
3 decision not to conduct an economic impact
4 study on either of these rulemaking
5 proposals. We will conclude with a few
6 procedural items. I would ask for the
7 Reporter's benefit, she's transcribing our
8 comments today so please speak slowly and
9 don't talk over one another so we get a
10 nice clean, clear transcript for the board
11 to review.

12 Are there any questions about the
13 procedures that we will be following? I
14 would ask the Reporter if you would go
15 ahead and swear in the Illinois
16 Environmental Protection Agency's
17 witnesses.

18 (Witnesses sworn.)

19 HEARING OFFICER: Thank you. I'm
20 going to turn it over now to Agency
21 Attorney Charles Matoesian.

22 MR. MATOESIAN: Thank you. Ladies and
23 gentlemen, my name is Charles Matoesian.
24 I'm appearing for the Illinois

1 Environmental Protection Agency. This is
2 the second hearing on amendments to 357
3 Illinois Administrative Code parts 211, 218
4 and 219. I will briefly discuss the
5 purpose of these amendments.

6 These are simply a clean-up of
7 existing regulations which result from
8 discussions with the United States
9 Environmental Protection Agency and
10 industry and which will reduce the burden
11 of complying with certain provisions and
12 increase the flexibility for complying with
13 certain other provisions.

14 Originally the subparts at issue were
15 adopted to satisfy the Clean Air Act
16 requirements. The amendments generally
17 clarify existing regulatory provisions with
18 the goals of reducing the burdens of and
19 affording greater flexibility in
20 demonstrating compliance. The amendments
21 are admission neutral and do not impact the
22 overall plans or goals of the Chicago area
23 or Metro East ozone area.

24 With me is Mr. Gary Beckstead and

1 Mr. David Bloomberg. They are both EPA
2 protection engineers in the air quality
3 planning section of the Bureau of Air.
4 They will testify at greater length about
5 most of the changes and questions that were
6 asked at the prior hearing. I would just
7 like to clarify one thing. There were
8 several questions concerning a provision in
9 218 and parallel 219. 105(c)(2) about in
10 particular the very last statement, in
11 enforcement cases, LCL cannot be used to
12 establish compliance. Sufficient tests
13 must be performed to satisfy the DQO. Last
14 two sentences I should say. And did those
15 have an evidentiary effect. They were not
16 intended for any such effect. They were
17 taken from a guidance memo issued by the
18 United States Environmental Protection
19 Agency. The purpose of the agency was
20 merely to alert owners and operators as to
21 what type of information and testing they
22 would be expected to take, and looking at
23 the original memo, we notice that it
24 actually uses the advisory terms should not

1 be used or should run and somewhere along
2 the line, those were changed into much more
3 definite cannot and must not and so on.

4 So, since it does cause confusion and
5 really is not essential to the rulemaking,
6 we are asking to strike those last two
7 sentences from the record and just add a
8 few words to the previous sentence which
9 will just explain, make it flow better. In
10 other words, this is all listed in an
11 errata sheet that we will submit as an
12 exhibit. I would like to submit it now
13 first just as a way of brief foundation.

14 I prepared this with Mr. Beckstead and
15 Mr. Bloomberg. Mr. Beckstead, do you
16 recognize this document?

17 MR. BECKSTEAD: Yes, I do.

18 MR. MATOESIAN: What is it?

19 MR. BECKSTEAD: It is the errata sheet
20 changes that we want to submit to the
21 Pollution Control Board with regard to this
22 rulemaking.

23 MR. MATOESIAN: And Mr. Bloomberg, do
24 you recognize this?

1 MR. BLOOMBERG: Yes, I do.

2 MR. MATOESIAN: Do you agree with
3 Mr. Beckstead?

4 MR. BLOOMBERG: Yes.

5 MR. MATOESIAN: In that case, I would
6 like to submit this errata sheet as an
7 exhibit into the record.

8 HEARING OFFICER: Hand that to me,
9 thank you. I've been handed an errata
10 sheet by the agency. For the record, is
11 there any objection to entering this
12 document as a hearing exhibit? Seeing
13 none, I'm marking the errata sheet as
14 Hearing Exhibit No. 2 and entering it into
15 the record.

16 MR. MATOESIAN: Mr. Beckstead and
17 Mr. Bloomberg can testify in greater depth
18 about the purpose of this change we made
19 and then in addition, they will make some
20 additional testimony concerning the other
21 changes on the errata sheet and in answer
22 to your questions. So, at this point, I
23 would like to turn it over to
24 Mr. Beckstead.

1 MR. BECKSTEAD: My name is Gary
2 Beckstead. I'm with Illinois EPA. I'm an
3 environmental protection engineer in the
4 air quality planning section. I'm going to
5 read some of the questions that were asked
6 in our March 18 hearing meeting and give
7 responses to them and I will cover the
8 errata sheet changes that Mr. Matoesian has
9 already referred to.

10 The first question I'll be answering
11 came from Mr. Rao. It's in the transcripts
12 on page 11 and 12 of the original hearing,
13 the first hearing on March 18. When Mr.
14 Rao asked us what are the cost savings from
15 using the DQO/LCL alternative methodology
16 versus the U.S. EPA recommended capture
17 test methods, our response to that question
18 is this. From discussions with U.S. EPA's
19 Candace Sorrell, who is technical support
20 and author of "Guidelines For Determining
21 Capture Efficiency" which is Exhibit 8B of
22 our rulemaking, the following information
23 was obtained in regard to cost savings in
24 choosing the DQO/LCL alternative

1 methodology for determining capture
2 efficiency.

3 Because the DQO/LCL alternative
4 methodology eliminates the need to
5 construct or to test for total enclosure,
6 cost savings can be substantial. If there
7 is a low degree of variability in the
8 process parameter that is being measured to
9 determine capture efficiency, and the
10 DQO/LCL criteria is satisfied in the
11 minimum of three runs, optimal savings will
12 result. However, if there is a high degree
13 of variability in the measured parameter,
14 and several runs are necessary before the
15 DQO/LCL criteria are satisfied, cost
16 savings diminish. If 10 to 12 runs are
17 necessary before the DQO/LCL criteria are
18 met, there may be no cost savings over U.S.
19 EPA's recommended gas/gas or liquid/gas
20 methodologies and total enclosure
21 requirements.

22 Determining the actual cost to
23 construct the temporary total enclosure,
24 which would be the most expensive enclosure

1 required and result in the greatest cost
2 savings from using DQO/LCL, depends on many
3 variables such as the size of the
4 structure, the materials used in the
5 construction, the cost of the materials,
6 and the labor costs in building it.

7 Therefore, estimating costs to any degree
8 of accuracy without knowing the specific
9 costs of these variables is difficult.

10 I've attempted to make a general
11 estimate based on Illinois costs and field
12 experiences and have found that costs range
13 for a temporary total closure can run
14 anywhere in the range from 12,500 to
15 \$50,000.

16 To estimate overall cost savings, the
17 costs of additional DQO/LCL test runs over
18 and above that required using the
19 recommended U.S. EPA methodology would have
20 to be determined; however, such costs would
21 not be available until after the fact.

22 Cost savings from not building a temporary
23 enclosure would be diminished as test costs
24 increase.

1 I again made an estimate of what could
2 cost us from field experience and from
3 talking to our field representatives and I
4 have a range of from \$4,250 to \$8,750 per
5 run. So, you can see from those numbers,
6 and as indicated by U.S. EPA, a large
7 number of test runs would eliminate the
8 cost savings provided by the DQO/LCL
9 method. Again, however, if only the
10 minimum of three runs is required,
11 appreciable savings could result.

12 Because exact costs are required on a
13 case-by-case basis to determine the
14 savings, if any, that using the DQO/LCL
15 alternative method might provide, U.S. EPA
16 and Illinois EPA are unable to provide any
17 better estimates than the general estimates
18 presented above.

19 I would like to also in the transcript
20 in response in the Chicago hearing of March
21 18 correct what I said on page 11 of the
22 transcript after Mr. Rao has asked me do
23 you have any estimates of what's, you know,
24 the cost savings that these industries will

1 save by moving away from the existing
2 protocol, if I could change my testimony
3 where I say I know that building a
4 temporary closure, as you will appreciate,
5 could be an expensive proposition with the
6 DQO and LCL, all of that cost is eliminated
7 if the process parameter chosen as accepted
8 and they do meet the statistical
9 requirements and measurements.

10 If I could change that paragraph that
11 I just read to read I know that building a
12 temporary total enclosure as you can well
13 appreciate could be an expensive
14 proposition and the need for such an
15 enclosure is eliminated with the DQO/LCL
16 alternative protocol. All the costs for
17 the enclosure is eliminated if the process
18 parameter chosen is acceptable and the
19 respective statistical criteria of DQO or
20 LCL is met.

21 The next question which I'll address
22 has to do with one of the subjects that Mr.
23 Matoesian has covered in his errata sheet
24 and I will discuss the rationale to those

1 changes. The Illinois Pollution Control
2 Board's question was, would it be
3 acceptable to add language limiting
4 subsection 218.105(c)(2)(E) and 219.105
5 (c)(2)(E) to only the DQO/LCL alternative
6 protocol? That's addressed on page 20 of
7 the transcript and as I said there in our
8 previous hearings that we would see no
9 problem with that.

10 The suggestion that we had is just
11 clarifying the first sentence of that
12 section which reads mass balance using
13 DQO/LCL. I've inserted the words using the
14 DQO/LCL alternative method such that it
15 would read for a liquid/gas input where an
16 owner or operator is using the DQO/LCL
17 alternative protocol and not using
18 enclosure as described in method 204 of the
19 appendix of 40 CFR Part 51, et cetera, et
20 cetera. Would the Illinois Pollution
21 Control Board find that acceptable? Is
22 that your concern, Mr. Rao?

23 MR. RAO: Yes.

24 MR. BECKSTEAD: I would also like to

1 change my testimony in regard to on page 16
2 of the transcript, I believe Mr. McGill, I
3 believe, is speaking. The Illinois
4 Pollution Control Board question is, the
5 question I had was the language provides
6 that sufficient tests must be performed to
7 satisfy the DQO. Does that mean that those
8 tests are required to prove a violation?
9 My response was no, that -- I think I can
10 answer that question. No, it's to prove,
11 you know, it's to prove the purpose of DQO
12 and the additional test to satisfy DQO
13 competence levels and not to prove
14 violations at all but to prove compliance.
15 It shouldn't be used to prove a violation.
16 It shouldn't be used to prove -- well, I
17 guess -- excuse me. I'm repetitious there.
18 Strike that last comment.

19 I'd like that to read a source under
20 enforcement would be required to
21 demonstrate compliance by satisfying the
22 DQO. Satisfying the DQO criteria is
23 delineated in U.S. EPA's guiding document
24 "Guidelines For Determining Capture

1 Efficiency" (Exhibit 8B) yields a precise
2 result to a 95 percent confidence level.
3 In matters of enforcement, the
4 demonstration of compliance by the source
5 will require that that confidence level be
6 met which LCL does not provide. This
7 approach is in agreement with the guidance
8 provided by John Seitz, Director of U.S.
9 EPA office of air quality planning and
10 standards memorandum of February 7, 1995,
11 which is Exhibit C in our rulemaking.

12 HEARING OFFICER: Let me interrupt
13 you. You refer to an exhibit. You're
14 referring to an exhibit to your rulemaking
15 proposal?

16 MR. BECKSTEAD: Right. The amendments
17 to the original proposed language at
18 218.105(c)(2) and 219.105(c)(2) are being
19 made to help clarify this matter. The new
20 proposed language was presented by Mr.
21 Matoesian in the errata sheet where we
22 strike the last sentence in that section
23 (c)(2) striking the statement in
24 enforcement cases, LCL cannot be used to

1 establish compliance, sufficient tests must
2 be performed to satisfy the DQO. That is
3 struck. We propose to strike that adding
4 the words in the previous sentence, adding
5 the words compliance demonstration arising
6 in enforcement matters. So that sentence
7 will read, for purpose of establishing
8 emission credits, for offsets, shutdowns,
9 trading, and compliance demonstrations
10 arising in enforcement matters, the DQO
11 must be satisfied. Does that answer your
12 dilemma that you made about the evidentiary
13 issues or are we still at ends there,
14 Mr. McGill?

15 HEARING OFFICER: Well, I certainly
16 can't speak for the board. They'll have to
17 take a look at the language.

18 MR. BECKSTEAD: We did discuss it with
19 our enforcement people and they found this
20 wording acceptable to them and they
21 presented a very similar argument to you
22 that it should read that this onus is on
23 the source to demonstrate, in an
24 enforcement case, to demonstrate that they

1 are in compliance. They would have to go
2 to the DQO level.

3 HEARING OFFICER: And this does
4 address, I think, some of the concerns I've
5 got. I just can't -- none of us at this
6 point can say unequivocally that the
7 language is fine.

8 MR. BECKSTEAD: I also have additional
9 corrections to the transcript which
10 probably is best worded -- Mr. Bloomberg
11 will be speaking on screen printing and
12 lithographic printing and, therefore, the
13 comments that I made on page 19, I made a
14 comment to that subject. On pages 22 and
15 23 I made comments to the subject, and on
16 page 24. Mr. Bloomberg is our expert. He
17 was not there at the previous hearing, is
18 here today, and he'll address those subject
19 matters and I would prefer that his
20 testimony be in place of mine on those
21 matters, if that is possible.

22 HEARING OFFICER: That's fine.

23 MR. BECKSTEAD: With that, I'm
24 completed.

1 HEARING OFFICER: Thank you.

2 MR. MATOESIAN: Thank you,
3 Mr. Beckstead. Now, Mr. Bloomberg will
4 testify.

5 MR. BLOOMBERG: Good afternoon. My
6 name is David E. Bloomberg. I'm employed
7 by the EPA as an environmental protection
8 engineer in the ozone regulatory unit of
9 the air quality planning section within the
10 Division of Air Pollution Control. I've
11 been at the agency in this capacity for 12
12 and a half years. My academic credentials
13 include a Bachelor of Science degree in
14 ceramic engineering from the University of
15 Illinois at Champaign-Urbana.

16 Among my other duties, I'm the
17 agency's primary technical contact dealing
18 with printing operations and one of the
19 primary contacts, along with Gary
20 Beckstead, for coating operations. As part
21 of the assignments in my current position,
22 I prepared the technical support document
23 for the previous lithographic printing
24 rulemaking and helped to write the

1 regulation. I've also provided regulatory
2 language and technical support for this
3 cleanup. I am here today to answer
4 questions that had been asked at the
5 previous hearing in Chicago and also to
6 respond to any additional questions that
7 might arise regarding the portions of this
8 rulemaking with which I have been involved.

9 On pages 18 through 20 of the
10 transcript, Board Member Moore, Mr. Rao,
11 and Hearing Officer McGill asked if the
12 agency's proposed definition of screen
13 printing on paper would include all
14 substrates listed in the definition of
15 paper coating, or if it would truly only be
16 limited to paper substrates. The answer is
17 that the definition should be extended to
18 all substrates listed in the paper coating
19 definition, as they would all have similar
20 issues. Just as the term paper in paper
21 coating is not limited literally to paper
22 only, the same would be true of screen
23 printing on paper.

24 On page 23 of the transcript, Ms. Liu

1 asked if the E-sub-p in the equation within
2 sections 218/219.406 (b)(1)(A)(ii) should
3 have been changed to a sigma. The answer
4 is no, it should not have been. That was
5 changed in error and we thank Miss Liu for
6 catching it. It should remain E-sub-p.

7 On page 22 of the transcript, Miss Liu
8 asked if the term retention factor was the
9 same as the term emission adjustment factor
10 in section 218/219.411 (a)(1)(B)(iii). The
11 intent was that they would mean the same;
12 however, upon revisiting the language, in
13 fact they are not. The retention factor is
14 the inverse of the emission adjustment
15 factor. Thus, the language in that section
16 and the corresponding portion in section
17 219, the newly added words retention factor
18 should in fact say emission adjustment
19 factor.

20 On page 24 of the transcript, Miss Liu
21 asks about the 0.8 value given to the new
22 factor "R" in the equation of sections
23 218/219.406 (b)(1)(A)(ii). That value is
24 the same as the emission adjustment factor

1 for heatset web offset printing discussed
2 in sections 218 and 219.411(a)(1)(B)(iii)
3 and should have been included in the
4 equation when that part of the regulation
5 was added originally.

6 As to its origin, I will quote from
7 the technical support document for
8 controlling VOM emissions from lithographic
9 printing operations, October 1994, in the
10 original rulemaking for this section.

11 "Since the substrate retains some of the
12 VOM print in the ink, a retention factor of
13 0.95 shall be used when calculating
14 emissions from non-heatset inks and a
15 factor of 0.20 when calculating emissions
16 from heatset inks. These factors were used
17 in U.S. EPA's model plants as described in
18 the draft CTG."

19 Also on page 24 of the transcript, Mr.
20 Rao followed up by asking if the CTG was
21 incorporated by reference in the rule. The
22 answer is no, it was not. In general, we
23 did not incorporate CTGs and specifically
24 in this case, it was a draft CTG that was

1 never officially finalized by U.S. EPA
2 though they did issue a follow-up
3 Alternative Control Techniques or ACT
4 document. Both of these documents were
5 listed as references in the technical
6 support document of the 1994 rulemaking.

7 If there are any follow-up questions,
8 I'm available to answer them.

9 MR. MATOESIAN: I believe that is all
10 the testimony we will have.

11 HEARING OFFICER: Thank you. Off the
12 record for a moment.

13 (A discussion was held off the
14 record.)

15 HEARING OFFICER: We will now move on
16 to questions for the agency's witnesses.
17 If you are a member of the public and have
18 a question, if you would please signal me
19 first and after I acknowledge you, state
20 your name, title, and any organization
21 you're representing here today. The board
22 does not have any follow-up questions at
23 this point, so, I'll open it up to members
24 of the public present and ask if anyone has

1 any questions for the agency. Go ahead.

2 MS. DRIVER: LaDonna Driver, Hodge
3 Dwyer Zeman, outside counsel for the
4 Illinois Environmental Regulatory Group.

5 HEARING OFFICER: You may proceed.

6 MS. DRIVER: We appreciate the
7 opportunity to be here today. I do have to
8 say that we are playing a little bit of
9 catch up late with this board proceeding
10 because neither I nor IERG's general
11 counsel received notice of this hearing or
12 the one in Chicago, so we are going to be
13 brief here, I think. We just had a couple
14 of things that we want to address and we
15 also appreciate the Illinois EPA discussing
16 with us their concepts about this proposal.
17 We were able to talk about a couple of
18 things and reach some agreement and
19 understanding of what the agency was trying
20 to do. So, we just have a couple of things
21 to deal with.

22 Also, I just want to note for the
23 record that Brenda Carter, IERG's project
24 manager, is here with us today but at this

1 time, we do not intend to provide any
2 testimony, just wanting to clarify a couple
3 of things, and I think my questions are
4 really for Mr. Beckstead.

5 On the changes for 211, 218 and 219
6 preliminarily, Mr. Beckstead, if you could,
7 provide just a general discussion, I guess,
8 about the benefit to industry from now
9 being able to use the DQO and the LCL
10 approach as opposed to the traditional
11 full-blown TTE method of testing?

12 MR. BECKSTEAD: Starting in 1992, U.S.
13 EPA called a moritorium on capture
14 efficiency testing to investigate the
15 possibilities of lowering costs to industry
16 for this testing. At the conclusion of
17 that moritorium, John Seitz, the Director
18 of the office of air quality planning for
19 the U.S. EPA issued a new guidance document
20 called Guideline For Determining Capture
21 Efficiency. In that memorandum and in that
22 document Mr. Seitz stated that U.S. EPA
23 still felt that their existing protocols
24 were the most accurate available; however,

1 due to industry's questions in regards to
2 costs, he introduced an alternative
3 protocol or two alternative protocols
4 called data quality objective and lower
5 confidence limit. These are statistical
6 approaches to measuring capture efficiency
7 through measuring a process parameter
8 continually -- well, continually at a
9 minimum of three runs which could be as
10 short as 20 minutes to determine capture
11 efficiency if the statistical criteria is
12 met.

13 Mr. Seitz stated that he had worked
14 closely with industry, the Kahn
15 Manufacturing Institute, in developing
16 these and they were confident that they
17 were of sufficient accuracy that the
18 environmental impact would not be
19 compromised in using these.

20 The advantage of DQO and LCL is that
21 the requirement for a temporary total
22 enclosure or a total enclosure, questions
23 can be eliminated through the statistical
24 approach so your savings are really -- a

1 person or source does not have to build
2 that temporary total enclosure. That is
3 the primary savings plus the shorter test
4 time which allows a source much more
5 flexibility in meeting their capture
6 efficiency requirements, we feel, and U.S.
7 EPA does also.

8 MS. DRIVER: Can you give an example
9 of what you term the process parameter that
10 would be monitored during this type of
11 analysis?

12 MR. BECKSTEAD: Well, in talking about
13 our field testing personnel, Kevin Madison,
14 he said primarily this will be used in a
15 mass balance type measurement of capture
16 efficiency. We've always had difficulty
17 with that even though we didn't feel there
18 was times it was accurate. There was also
19 times that the result can be very erratic.
20 So, trying to determine the fugitive
21 emissions that are escaping from your
22 building, what is going to the collector
23 with a statistical measurement of your
24 liquid plus what the collector actually

1 does see -- the control device, excuse me,
2 the control device actually sees, in
3 measuring those consistently, statistically
4 you can determine that you will reach a
5 value that will tell you your capture
6 efficiency in a pretty accurate way.

7 I'm sorry I can't be more specific
8 than that but we've included in our
9 proposal specifically addressing mass
10 balance so if a person wants to use this
11 alternative protocol, we don't have to
12 continually come to the board addressing
13 the specifics and adjusted standards so
14 they can use that. It's an acceptable
15 alternative and U.S. EPA has already given
16 us approval for it, so, therefore we have
17 included it in our regulations which should
18 expedite things even more.

19 MS. DRIVER: So even with the DQO and
20 the LCL, we still have some physical
21 testing going on?

22 MR. BECKSTEAD: Oh, yes.

23 MS. DRIVER: Thank you. Going to
24 Section 218.105(c)(2) which is the subject

1 of the errata sheet, one of the issues
2 raised in the errata sheet -- it might be
3 the easiest way to look at it.

4 Specifically looking at what is now the
5 last sentence of that paragraph, this
6 sentence gets to establishing emission
7 credits for offsets, shutdowns, trading,
8 and states that the DQO must be satisfied.

9 Is it the agency's intent with this
10 revision that at any point that a facility
11 wants to establish emission credits for
12 offsets or shutdowns, that they are going
13 to have to now do testing to satisfy the
14 DQO?

15 MR. BECKSTEAD: I think we probably
16 should go to -- could we answer that after
17 in response?

18 MS. DRIVER: Certainly.

19 MR. BLOOMBERG: Are you basically
20 asking if they wouldn't have to do testing
21 now, is this going to force them to do
22 testing?

23 MS. DRIVER: Correct. Just for the
24 board's benefit, my question is, there are

1 situations now and historically have been
2 when a facility is shutting down or just
3 going to do internal offsets, the
4 establishment of the credits for that have
5 been done in permitting but not by and
6 large with testing required?

7 MR. BLOOMBERG: The only thing this is
8 trying to say is that LCL can't be used in
9 those situations, DQO must be used instead.
10 We are not trying to add another layer that
11 says if you're trying to get credit for the
12 IERG's rule, you must perform DQO.

13 MR. BECKSTEAD: That wasn't the intent
14 at all.

15 MR. BLOOMBERG: The intent was just to
16 limit it.

17 MR. BECKSTEAD: If you're using
18 alternatives, you've used alternative in a
19 DQO and LCL in capture efficiency and
20 determining your emissions, you'll have to
21 take that to the DQO, satisfy the DQO
22 criteria before we can then establish your
23 credits, your offsets.

24 MS. DRIVER: I understand. So, if

1 they have done it with testing in the DQO
2 in the past, they still have to do that for
3 the credits?

4 MR. BECKSTEAD: Right.

5 MS. DRIVER: Would you all consider
6 maybe clarifying that in the language?

7 MR. BECKSTEAD: Let us take that into
8 consideration and get back to you on that.

9 HEARING OFFICER: You will have an
10 opportunity certainly in the public comment
11 to or to file an errata sheet or the public
12 comment with any additional changes you
13 want the board to consider.

14 MS. DRIVER: And just to follow up on
15 Mr. Bloomberg what you said, this language
16 when it talks about emission trading, not
17 talking about IERG here as I understand it.

18 MR. BLOOMBERG: NO, that is just meant
19 to be a general statement, you know,
20 limiting so that to make the point that LCL
21 cannot be used in those cases.

22 MS. DRIVER: I think we would like to
23 see some clarification on that in the rule
24 just so industry doesn't see this as a new

1 requirement. Also in this section with
2 this errata sheet, we have, as you
3 mentioned previously, taken out the last
4 two sentences about LCL cannot be used to
5 establish compliance and the understanding
6 now is that back to the sentence we were
7 just discussing has now been revised to
8 state that compliance demonstrations
9 arising in enforcement matters, the DQO
10 must be satisfied and Mr. Beckstead, you
11 said if the facility is trying to establish
12 compliance in an enforcement case, you're
13 going to have to do the DQO?

14 MR. BECKSTEAD: Right, that is
15 correct.

16 MS. DRIVER: What about the other
17 side? The party who is trying to perhaps
18 establish non compliance against the
19 facility in the enforcement case, does this
20 statement also cover that situation as
21 well?

22 MR. BECKSTEAD: That they would have
23 to have DQO evidence to prove non
24 compliance, yes, it would.

1 MS. DRIVER: So, for the party trying
2 to show non compliance, the LCL would not
3 be sufficient.

4 MR. BECKSTEAD: No.

5 MR. BLOOMBERG: I think we should add
6 to that that not being an enforcement
7 attorney, I think that probably it would be
8 frowned upon if the source in question had
9 LCL and refused to do to the level of DQO
10 because they knew it would prove them non
11 compliant. We can't -- the agency can't do
12 the test. It's the source that is doing
13 the testing and, therefore, it's up to the
14 source to do it to the proper and necessary
15 level.

16 MR. MATOESIAN: I think perhaps we
17 should take that question as well back for
18 consideration to management before we
19 answer it.

20 MR. BECKSTEAD: I guess I should add
21 and I mentioned in the hearing, the
22 previous hearing, that in the event there
23 is controversy about the use of DQO/LCL,
24 the existing recommended protocol can be

1 called upon. If everything fails in the
2 statistical approach and everybody is
3 uncomfortable, we can always revert back to
4 the recommended U.S. EPA. This is added.
5 This DQO is added to reduce costs and more
6 flexibility for the source but as far as
7 environmental problems, if we have
8 environmental problems going back to the
9 recommended protocol should be our option.

10 MS. DRIVER: I think the final
11 question that I have goes to primarily Part
12 211 and the definition of carbon absorber,
13 and this definition becomes important for
14 the testing issues that we are talking
15 about in 218 and 219 is kind of being one
16 of the pieces of equipment that are covered
17 by these provisions. The definition that
18 is proposed in the first sentence defines
19 the carbon absorber as being a control
20 device designed to remove and recover
21 possibly VOM from process emissions period.
22 That sentence to my understanding of what
23 happens at facilities could cover a lot of
24 things beyond a carbon absorber and I

1 understand that you have some language
2 beyond that but I wonder if we might could
3 revise that somewhat?

4 MR. BECKSTEAD: Without the rest of
5 the definition, I could see how you could
6 draw exception to that sentence.

7 MS. DRIVER: Also the last part of
8 this goes to other types of technology
9 besides carbon media and would you consider
10 perhaps, if that's your intent and
11 plausible that it would be, perhaps
12 amending the title of this section somewhat
13 so that it's not deceptive as to what media
14 is covered by this unit.

15 MR. BECKSTEAD: I need some
16 clarification.

17 MS. DRIVER: The title of the
18 provision has carbon absorber but the last
19 sentence of the provision states that it
20 covers not only a carbon media but other
21 media as well, aluminum, oxide, silicone.
22 I'm concerned that people, just looking at
23 the title of the provision, could be a
24 little bit deceived by what exactly is

1 covered by this provision.

2 MR. BECKSTEAD: Well, this is kind of
3 the dilemma that got us into this, the
4 definition. The term carbon absorber is
5 used throughout our regulations. Just
6 refer to this as absorber or something
7 other than carbon absorber, our hands are
8 kind of tied. We have always used the
9 terminology carbon absorber but it used to
10 refer to any kind of absorber technology,
11 but the term in our rules and our
12 regulations for years historically has been
13 called carbon absorber. Everybody used
14 that phraseology.

15 MS. DRIVER: But it has not been
16 defined this way that entire time.

17 MR. BECKSTEAD: No, it hasn't. We are
18 kind of -- our hands are kind of tied at
19 this stage but we will take it into
20 consideration to see.

21 MR. BLOOMBERG: If we did change it,
22 then we would have to change terminology in
23 the entire set of regulations, so just as
24 paper coating includes film and other items

1 that aren't technically paper, we felt the
2 best way was to include other items, other
3 absorbers in carbon absorber. Also if we
4 were to change it, for example, to carbon
5 or silicone and aluminum absorbers and
6 someone came out with yet another type of
7 absorber, we would be back to square one
8 again and having a control device that is
9 not specifically discussed anywhere.

10 HEARING OFFICER: I had the same
11 question that Miss Driver just raised and I
12 did a word search and found carbon absorber
13 throughout the air regs and we would have
14 to open up a number of parts that are not
15 currently part of this rulemaking.

16 MR. BECKSTEAD: That is where we
17 started, too.

18 HEARING OFFICER: But certainly you
19 can, you know, take it under advisement as
20 you've indicated.

21 MR. RAO: It's possible to define
22 absorber technology and say it includes
23 carbon absorber used in all the different
24 parts of the rules.

1 MR. BLOOMBERG: You get back to the
2 same problem where you have monitoring
3 requirements for carbon absorbers which
4 should apply to any type of absorber but it
5 says in the rule carbon absorber.

6 HEARING OFFICER: Did you have any
7 further questions?

8 MS. DRIVER: I think that's all we
9 have.

10 HEARING OFFICER: I want to thank you
11 for coming today. I apologize that you did
12 not get notice. I checked our notice list
13 and we have Robert Masina for IERG at 215
14 East Adams and Kathy Hodge at Hodge Dwyer
15 Zeman, 3150 Roland Avenue address. So
16 based on this list, you guys were intended
17 to and should have gotten notice. It may
18 have just gotten lost. But I'm glad you're
19 here today and look forward to you
20 participating the rest of the way.

21 MS. DRIVER: Thank you.

22 HEARING OFFICER: Are there any other
23 questions for the agency's witnesses?
24 Seeing none, at this point I'm going to ask

1 if anyone else is interested in offering
2 any testimony on either the agency's
3 initiated rulemaking or the board initiated
4 rulemaking? Seeing none, I'm going to move
5 on to one last item which is the economic
6 impact study issue.

7 Section 27B of the Environmental
8 Protection Act requires the board to
9 request that the Department of Commerce and
10 Economic Opportunity conduct an economic
11 impact study on proposed rules before the
12 board about the rules. The board must make
13 the economic impact study or DCEO
14 explanation for not conducting one
15 available to the public at least 20 days
16 before public hearing. The board requests
17 the DCEO conduct an economic impact study
18 on each of these rulemaking proposals.
19 DCEO declined to conduct the studies in
20 part because it lacks the resources to
21 prepare them.

22 Would anyone like to testify regarding
23 DCEO's explanation for not conducting
24 economic impact study on either of these

1 rulemakings? Seeing none, I'll just ask is
2 there anyone who wishes to testify or pose
3 any more questions today on either of these
4 rulemaking proposals? Seeing none, just a
5 few procedural items before we adjourn.
6 First, to clarify the record regarding
7 hearing Exhibit 1 which was admitted at the
8 first hearing. That exhibit consists of
9 five board orders as we stated at the first
10 hearing; however, one of those orders which
11 is the April 20, 1995, board order in
12 docket R94-31 is relevant to the proposal
13 on R04-20, not the R04-12 proposal.

14 The other four orders are relevant
15 with that. I'll note that anyone may file
16 written public comments on either or both
17 of these rulemaking proposals with the
18 clerk of the board. I have the current
19 notice and service lists up here next to me
20 for this consolidated rulemaking. You can
21 let me know if you want to be added to
22 either of those lists. Persons on the
23 notice list receive only board hearing
24 officer orders. Those on the service list

1 receive copies of those orders and filings
2 made by other participants. For example,
3 if you file public comment with the clerk
4 of the board, you must serve a copy of your
5 public comment to those persons on the
6 service list. Copies of the transcript of
7 today's hearing should be available at the
8 board's Chicago office by May 14. Shortly
9 after that, the transcript should be
10 available on the board's website at
11 www.ipcb.state.il.us. There you will also
12 find both rulemaking proposals R04-12 and
13 R04-20 and board orders throughout this
14 proceeding. If anyone has any questions
15 about the procedural aspects of this
16 rulemaking, I can be reached by telephone
17 at (312) 814-6983 or e-mail at
18 mcgillr@ipcb.state.il.us.

19 Are there any other matters that need
20 to be addressed at this time? Seeing none,
21 I would like to thank everyone for
22 participating today. This hearing is
23 adjourned.

24 HEARING ADJOURNED:

1 STATE OF ILLINOIS) SS
2 COUNTY OF WASHINGTON)

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I, KIMBERLY A. GANZ, Lic. No. 084-1691, a Certified Shorthand Reporter in and for the County of Washington, State of Illinois, DO HEREBY CERTIFY that the foregoing transcript was taken down in shorthand by me and afterwards transcribed under my direction by computer transcription and said transcript is herewith returned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Seal this 11TH day of May, 2004.

Kimberly A. Ganz

Certified Shorthand Reporter

