

JUL 12 2005

STATE OF ILLINOIS
Pollution Control Board

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

R 04-20
(Rulemaking – Air)

IN THE MATTER OF:)
)
TECHNICAL CORRECTIONS TO)
FORMULAS IN 35 ILL. ADM. CODE 214)
"SULFUR LIMITATIONS")

R 04-12
(Rulemaking – Air)
(Consolidated)

PC#7

NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

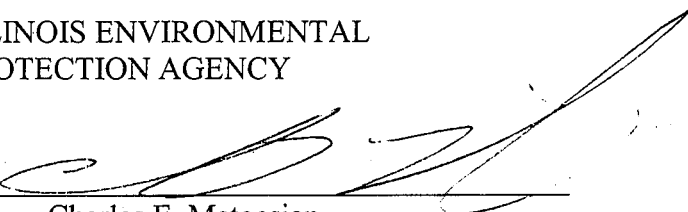
Richard R. McGill, Jr, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed with the Office of the Pollution Control Board the FIRST NOTICE COMMENTS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Date: July 11, 2005

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

1021 North Grand Avenue East
P.O. Box 19276
Spring field, IL 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON
RECYCLED PAPER

RECEIVED
CLERK'S OFFICE

JUL 12 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
CLEAN-UP PART III AMENDMENTS TO) R04-20
35 ILL. ADM. CODE PARTS 211, 218,) (Rulemaking - Air)
AND 219)

IN THE MATTER OF:) R04-12
) (Rulemaking - Air)
TECHNICAL CORRECTIONS TO) (Consolidated)
FORMULAS IN 35 ILL. ADM. CODE 214)
"SULFUR LIMITATIONS")
)

**FIRST NOTICE COMMENTS OF THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA" or "Agency"), 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" or "IPCB") efforts in this rulemaking to amend 35 Ill. Adm. Code Parts 211, 218, and 219 along with the consolidated Board initiated rulemaking to amend Part 214. 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 Agency also thanks the Board for this opportunity to present comments.

After reading the Board's Opinion and Order of April 21, 2005, and reviewing the May 6, 2004, hearing transcript along with various filings, the

Agency believes that much of the confusion in the record has stemmed from a misunderstanding of terminology.

While the Board agrees with many of the Agency's recommendations in R04-20, the Illinois EPA is concerned about the Board's concurrence with Smurfit that DQO/LCL should be on an "equal footing" with the standard (enclosure) protocols. However, Illinois EPA agrees that alternative testing should be available without a source having to first demonstrate that all standard protocols are "unsuitable", and never intended otherwise. Illinois EPA has attempted to use the same terminology in the current rulemaking when referring to DQO and LCL as the U.S. EPA did in the Seitz memo and U.S. EPA guidance document. The Board fears that there may be confusion with Section 218.108 when using the term "alternative" to describe DQO/LCL. However, it is more confusing to state that DQO/LCL should be on an "equal footing" as the existing protocols for determining capture efficiency ("CE"). This comparison is not of equals.

The U.S. EPA consistently uses the term "alternative test methods" to describe DQO and LCL.¹ The document attached to the Seitz memo, *Guidelines for Determining Capture Efficiency*, clearly separates the "Recommended CE Protocols and Test Methods" in chapter 2 from the "Requirements for Alternative

¹ In the Seitz memo, the US EPA states,

[t]his guideline document presents the TTE methods as EPA's recommended procedures. As indicated from our earlier investigation leading to the development of the TTE methods and confirmed by the CMT field study, the TTE methods are the most precise procedures for measuring CE.

Nevertheless, to provide flexibility and to reduce costs, EPA has developed two alternative methods, DQO and LCL, for determining CE which do not require a TTE.

CE Protocols” in chapter 3. Chapter 2 contains Permanent Total Enclosure (“PTE”) and Temporary Total Enclosure (“TTE”). The DQO/LCL is listed in chapter 3.² Chapter 2 further states that “the test methods for carrying out the recommended protocols have been revised and will be proposed in the Federal Register...as Method 204 through 204F.” *Guidelines*, 3. These test methods reference PTE and TTE, but not DQO/LCL, indicating they are not recommended methods. Table 2-1 of the *Guideline* document lists the recommended CE test methods, but does not include DQO/LCL. *Id.* at 10.

It is true that the U.S. EPA states in the *Guideline* that the DQO/LCL test methods can “also be used in an alternative CE test method.” *Id.* at 10. However, the context is clear that these alternative methods are not preferred. In addition, the *Guideline* document states “[t]he purpose of the DQO is to allow sources to use alternative CE test procedures while ensuring reasonable precision consistent with pertinent requirements of the Clean Air Act.” *Id.*

The sole purpose of including alternative testing in the rules is to provide such flexibility, which U.S. EPA has developed based on two sets of approval criteria that when either of them is met, allow the use of the data obtained from alternative protocols and test methods for determining capture efficiency.

Alternative capture efficiency protocols and test methods must meet either the requirements of the DQO approach or the LCL approach and the additional criteria presented in guidance document GD-035 (the *Guidelines*).

² Chapter 2 even begins with the passage, “[t]he CE determination protocols and test methods recommended by EPA are largely unchanged from those issued in the April 1990 guidance memo and codified in the Chicago FIP.^{1,2} The EPA continues to recommend the use of a PTE, TTE, or BE for determining CE.”

For clarification, the LCL/DQO is not a method, but rather a statistical analysis of data collected during the capture efficiency testing. The alternative protocol is essentially measuring capture efficiency without an enclosure, which has inherent variability; hence, the requirement to conduct a statistical analysis of the data collected. Even though the U.S. EPA Method 204 test series was developed for TTE and Building Enclosure ("BE") testing, the same procedures can also be used in an alternative capture efficiency test method. For example, a traditional liquid/gas mass balance test could employ Method 204F to measure liquid VOC input and Method 204B to measure captured VOC emissions.

The LCL approach is to "provide sources, which may be performing much better than their applicable regulatory requirement, a screening option by which they can demonstrate compliance. The approach uses less precise set of data population and avoids additional test runs which might otherwise be needed to meet the DQO while still being assured of correctly demonstrating compliance." *Guidelines*, 15. LCL is designed to reduce "false positive" or so called "Type II errors" that may erroneously indicate compliance where more variability in results are obtained. "The LCL approach compares the 80 percent (2-sided) LCL for the mean measured CE value to the applicable CE regulatory requirement. The LCL approach requires that either the LCL be greater than or equal to the applicable CE regulatory requirement or that the DQO is met." *Guidelines*, 16.

The DQO approach allows sources to use alternative CE test procedures while ensuring reasonable precision consistent with pertinent requirements of the Clean Air Act. "The DQO requires that the width of the 2-sided 95 percent

confidence interval of the mean measured value be less than or equal to 10 percent of the mean measured value...This ensures that 95 percent of the time, when the DQO is met, the actual capture efficiency value will be ± 5 percent of the mean measured value (assuming that the test protocol is unbiased)." *Guidelines*, 10.

As stated above, by referring to DQO/LCL as alternatives, the Agency is not suggesting that a source must first demonstrate why it cannot use a recommended procedure (such as TTE) before it is allowed to use DQO or LCL. The Board seems to misunderstand the Illinois EPA position. A source is free to use DQO/LCL without first demonstrating that it cannot use a recommended method.³ The Illinois EPA does not seek to require any such determination. Rather, DQO/LCL are alternatives because they do not have the level of precision found in the recommended methods. As such, if the source cannot provide "solid" numbers from DQO/LCL testing (values that meet the required accuracy for these methods), the Illinois EPA could require a U. S. EPA recommended method pursuant to the authority granted in Section 201.282(a).

A second issue concerns the question of whether the Illinois EPA is seeking to shift the burden of proof in enforcement cases by insisting that the complete relevant text of the Seitz memo be referenced. This reads, "[t]he LCL should not be used, however, for enforcement purposes to confirm noncompliance; sufficient test runs should be run to meet the DQO protocol." This is not a shifting of the burden of proof. The burden of proof in enforcement

³ Although the LCL cannot be used in certain, specified, circumstances such as establishing emission credits for offsets, shutdowns, and trading and to confirm non-compliance in enforcement proceedings.

cases is on the Illinois EPA. The language of the Seitz memo supports this. It states, “for enforcement purposes to *confirm noncompliance...*” (emphasis added). It is the Agency that would be confirming noncompliance, not a source. The language intends that the Agency must not use a number derived solely from LCL testing to prove that a source is non-compliant. This makes sense because, as its name suggests, the lower confidence limit only provides a floor below which one knows capture efficiency exists. But the CE may be higher. That is, an LCL estimated CE value of 68% only means that the CE is at least 68%, but it may be 69% or 70%, or greater. If the standard of CE is 70% in a particular situation, the Agency doesn’t know if a source with an LCL estimated CE value of 68% is out of compliance or not. Further testing would be needed.

The Agency asserts that if a source uses LCL and determines that its CE appears to be below the allowable limit, the source must move on to using DQO (which requires additional runs to satisfy the statistical methodology) or standard capture efficiency testing. The burden the source has is providing the Agency with a solid number. Sources have always had this burden under Section 201.282. The LCL cannot do this. Hence, another method must be used.

The Agency notes from a reading of the Board's Opinion and the May 6, 2004, hearing transcript that there could be a misunderstanding of the import of Mr. Beckstead's testimony on pages 16-19 and 33-34 of the transcript. In these pages the burden of sources is discussed. The intent of the Agency, and Mr. Bloomberg speaks to this on page 34, was that the sources have a duty to show the Agency that they are in compliance. If their LCL testing does not show this,

the Agency can require DQO or standard testing. The intent was not to suggest that in an enforcement action, the source has the burden of proving that it is in compliance. Rather, the source has an ongoing duty to show it is in compliance through testing, monitoring, recordkeeping and reporting. In enforcement cases, the "burden of proof" remains with the Agency.

The obligation of providing the Illinois EPA with solid information is reasonable. Sources may use DQO/LCL as it saves them time and money. But it is their business decision to do so. If the LCL cannot confirm compliance, or they cannot test to DQO certainty, they must still be in compliance. Hence, the Agency must continue to have the ability to require additional standard testing to ensure compliance with the law and the regulations. It is true that once an enforcement action begins, the burden shifts to the Agency to prove non-compliance. But the source must still have the duty of giving the Agency a solid number to understand the source's position.

Because of this, the Agency must have the ability to require further testing if it is necessary. The proposed Board language would remove this authority from the Agency. Currently, Section 201.282(a) gives the Agency the ability to "require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Agency, at such reasonable times as may be specified by the Agency and at the expense of the owner or operator of the emission source or air pollution control equipment." The Agency's reading of the Board's changes and comments indicate that the Agency could no longer require sources to do standard capture efficiency

testing, thus removing an ability the Agency already has been given and opening up a loophole in enforcement cases – the Agency could not require a company to do more than testing in accordance with LCL even if LCL failed to show compliance, yet at the same time the Agency cannot use that testing to prove noncompliance.

The Board claims that while the Agency can't prove noncompliance using LCL, the Agency could still introduce it as evidence in an enforcement case. Then the Board would simply "decide what weight, if any, to give such evidence." (Order, p. 23). This however, risks a great waste of resources. Not all enforcement cases come before the Board. Some go to the Circuit Court where familiarity with the issues and terminology might not be so general. To base an entire enforcement action on a soft number, LCL, which only expresses the lower floor for CE, and bring this matter to the Board for decision as to the relative weight to give that LCL when no further testing has been done, or can be required, wastes enormous Agency and Board efforts and will clog the system. It is even questionable if the Attorney General would be willing to pursue such a claim. It also wastes the resources of honest companies who may conduct LCL analysis believing it to be sufficient. Only later, before the Board, would they find out they had achieved nothing.

Even worse, companies who know they are out of compliance would be able to use the LCL as a shield, hiding behind the LCL's mere suggestion of non-compliance but knowing that LCL cannot prove noncompliance and that the Agency cannot require further testing. Such a source could gamble that the

Agency will not have the resources to pursue the matter to a full hearing, or if the matter is pursued, that the lack of precision in the LCL will cause the Board to assign it little weight. Nor could the Agency use alternate means to determine CE compliance as in the case where a source merely has inadequate or missing records. Such a scenario cannot be allowed to occur.

Once again, the Agency refers the Board to the language of the John Seitz's memorandum of February 7, 1995, in regards to Implementation of Capture Efficiency Guidance. The memo states on page 3:

[f]or the purpose of CE testing to determine compliance with VOC RACT requirements, any of the CE testing methods described in the attached document are acceptable to EPA. Such testing includes initial compliance certification, **enforcement action where noncompliance is suspected**, and periodic testing as may be required pursuant to EPA's enhanced monitoring rules. **The LCL should not be used, however for enforcement purposes to confirm noncompliance; sufficient test runs should be run to meet the DQO protocol.** (emphasis added)

It is on the basis of the above quoted U. S. EPA statement that the language used at Section 218.105(c)(2) was formulated. Also, the Board should remember the language from the 1995 Guidance document which the Board quotes in its Opinion on page 9. "The LCL approach requires that either the LCL be greater than or equal to the applicable CE regulatory requirement or that the DQO is met" (emphasis added). This clearly shows that if the LCL is not greater than or equal to the applicable CE regulatory requirement, there must be further testing. It is the Agency's interpretation of this statement that if sufficient runs are made to satisfy the DQO criteria and the resulting calculated CE does not meet the regulatory requirement, noncompliance is confirmed. As previously mentioned,

further authority for additional testing exists at section 201.282(a), wherein the Agency can request a source to test to the DQO level or to standard protocol if DQO cannot be satisfied. The Board's opinion would remove this authority from the Agency. It is also questionable whether the U.S. EPA would approve language as part of the SIP which differs so strikingly from their own guidance.

For these reasons the Illinois EPA urges the Board to adopt the entire passage from the Seitz memo plus an additional phrase to add clarity. Selectively quoting from the memo risks disapproval from the U.S. EPA and regulatory confusion. The Agency agrees with the Board that for the sake of clarity, the applicable language on DQO/LCL should be moved from 218 and 219.105(c)(2) to 218 and 219.105(c)(2)(E). Thus, the only alteration to the Board's proposed language that the Agency requests is to add the particular clause from the Seitz memo back to the final sentence of subpart (c)(2)(E) along with a further clause ensuring that the Agency's existing authority is preserved.⁴

Accordingly, the Agency recommends that the description of this subpart be revised to further clarify it as an acceptable "Equivalent Alternative Protocol" in both Section 218.105(c)(2)(E) and Section 219.105(c)(2)(E), as follows:

- E) Equivalent Alternate Protocol: Mass balance using Data Quality Objective (DQO) or Lower Confidence Limit (LCL) Analysis protocol.

For a liquid/gas input where an owner or operator is using the DQO/LCL statistical analysis protocol and not using an enclosure as described in Method 204 of Appendix M of 40 CFR Part 51, incorporated by

⁴ Along with a change in the title to 218 and 219.105(c)(2)(E) and a few word changes for lucidity.

reference in Section 218.112 of this Part, the VOM content of the liquid input (L) must be determined using Method 204A or 204F in Appendix M of 40 CFR Part 51. The VOM content of the captured gas stream (G) to the control device must be determined using Method 204B or 204C in Appendix M of 40 CFR Part 51. The results of capture efficiency calculations (G/L) must satisfy the DQO or LCL statistical analysis ~~requirements protocol~~ as described in Section 3 of USEPA's "Guidelines for Determining Capture Efficiency," incorporated by reference at 218.112 of this Part. Where capture efficiency testing is done to determine emission reductions for the purpose of establishing emission credits for offsets, shutdowns, and trading, the LCL ~~statistical analysis protocol~~ cannot be used for these applications. In enforcement cases, the LCL protocol cannot confirm non-compliance; sufficient tests must be performed to satisfy the DQO; failure to satisfy the DQO shall require capture efficiency to be determined using one of the standard protocols described in subsection (c)(2)(A), (B), (C) or (D) above.

A further facet of the DQO/LCL issue is whether LCL can be used for emission credits from shutdowns. The Board agrees with the Agency that LCL cannot be used to establish shutdown emission credits. However, the Illinois Environmental Regulatory Group ("IERG") questioned this. The Agency thanks the Board for agreeing with the Agency on this issue and simply states in further support of this, the following. First, the Illinois EPA reads the Board's proposed language for 218/219.105(c)(2)(E)⁵ wherein it states "[w]here capture efficiency testing is done..." to mean any past CE testing, not just CE testing specifically for

⁵ "Where capture efficiency testing is done to determine emission reductions for the purpose of establishing emission credits for offsets, shutdowns, and trading, the LCL protocol cannot be used for these applications. In enforcement cases, the LCL protocol cannot confirm non-compliance."

the shutdown.⁶ Secondly, a source shutting down cannot use LCL to establish emission credits because of the imprecision of the resulting figure. As LCL only provides a lower confidence limit, the result provided from the statistical analysis does not provide an actual level of emission reductions, only a lower limit that would overestimate the emissions and thus provide too many credits to a source.

Accordingly, DQO or standard testing must be used. Not every source shutting down would be required to do such further testing, however. Testing would only be required if: 1) the source previously used LCL to estimate CE; 2) the source has not done DQO or standard testing to establish CE after the LCL testing; 3) the source is shutting down, and; 4) the source wishes to take emission credits from its shutdown. In the circumstance where only LCL testing has been done previously, or the source wishes to do new testing for the shutdown credits, the LCL analysis to estimate CE cannot be used to establish those credits. There should be no concern that if a source did testing via the DQO methodology at one point and then later decided to shut down, it would be required to do another DQO test simply to determine emission credits. It was certainly never the Agency's intent to indicate this.

To ensure that sources are aware of the meaning of this requirement, the Agency proposes that the Board may wish to include a Board Note in both Sections 218 and 219.105(c)(2)(E), as follows:

⁶ Nevertheless, the Agency still believes that 218 and 219.105(c)(2)(E) must have the passage “; sufficient test runs should be run to meet the DQO protocol; failure to satisfy the DQO shall require capture efficiency to be determined using one of the standard protocols described in subsection (c)(2)(A), (B), (C) or (D) above.” appended to the last sentence.

(Board note: Sources should be aware that where LCL was utilized in testing emission units that are the subject of later requests for establishing emission credits for offsets, shutdowns and trading, prior LCL results may not be relied upon in determining the appropriate amount of credits, such that additional testing at the DQO or standard method level may be required to establish the appropriate amount of credits.)

In its first set of comments, dated August 2, 2004, Smurfit raised a question involving capture efficiency testing of whether LCL could be used to determine ERMS emissions or credits for various programs. The Seitz Memo states that “the LCL protocol cannot be used” for “the purpose of establishing emission credits for offsets, shutdowns, and trading.” First, it appears that all parties are in agreement that LCL cannot be used to determine baselines. However, Smurfit commented that use of LCL should be acceptable for determining seasonal emissions, just not baselines. Smurfit believes that only baseline calculations are actually “establishing emission credits.” Furthermore, the LCL method will only underestimate capture efficiency. Therefore, sources would only be hurting themselves if they used it and had to account for additional emissions.

The Board has directed the Agency to “specifically address Smurfit’s contention that the LCL could be used to calculate actual seasonal emissions, just not the baseline for ERMS.” (Board Order, p. 23) The problem is with the use of the word “actual.” Because LCL underestimates capture and therefore overestimates emissions, sources would not, in fact, be calculating “actual seasonal emissions.” Furthermore, the ERMS rule itself in Section 205.300(b)(1)

notes that sources must submit "Actual seasonal emissions of VOM from the source."

The integrity of the trading program is based on the use of actual seasonal emissions, and while there is a surplus of allotment trading units now, the Agency cannot guarantee that the present situation will continue. If sources overestimate their emissions, the integrity of the program could be jeopardized. This is the same concern as with the calculation of shutdown credits. The imprecision of LCL limits its applicability in situations where accuracy is required. As its name indicates, the LCL provides the *lower confidence* limit, it does not provide substance.

Smurfit filed First Notice comments with the Board on July 7, 2005. The Illinois EPA urges the Board to disregard these additional proposed changes, as they only serve to further confuse the issues at hand. The Illinois EPA has already discussed some of the changes newly proposed by Smurfit, above, but other, additional changes go even further in the wrong direction. One such concern is the suggestion that the Board fully strike the Seitz memo sentence regarding emission credits from the rule. Obviously, the Illinois EPA cannot support such a drastic measure, and it seems unlikely that U.S. EPA would approve a rule in that condition either.

Several other points need to be addressed further. The suggestion that the phrase, "or equipment configuration," be added to the rule in the discussion of when certain alternatives may be used is unnecessary and should not be included.

The use of such alternative capture efficiency testing described in that sentence is dependent on the requirements of 218.108(b).

Of great concern to the Illinois EPA is Smurfit's suggestion that the Board delete the sentence, "[a]ny error margin associated with a test method or protocol may not be incorporated into the results of a capture efficiency test." This sentence is not part of the Agency's proposed modification and is already in the U.S. EPA approved Board regulations. The Illinois EPA strenuously opposes removal of this existing language, especially without any technical support from Smurfit or a showing that the U.S. EPA would accept the deletion of this sentence. Overall, the Illinois EPA believes Smurfit's latest comments should be disregarded in favor of the clarified language suggested by the Illinois EPA and IERG.

In summary, concerning the use of DQO/LCL, the Agency thanks the Board for its consideration. Where the record evidences some confusion over the use of LCL, the Agency believes that itself, IERG, and the Board actually agree on most aspects of its use. While the Agency believes that DQO/LCL are not on an "equal footing" with standard testing, the Agency neither believes that a source must justify its use of DQO/LCL. Nor does the Agency seek to shift the burden of proof in enforcement cases onto sources. Rather, because of the limited applicability of the LCL, the Agency merely wishes to reaffirm its already existing authority to require accurate and complete testing when necessary. The Agency further agrees that the removal of the pertinent DQO/LCL language from 218 and 219.105(c)(2) and placement in 218 and 219.105(c)(2)(E) does add

clarity. Indeed, the Agency's only requested change to the Board's proposed language in the entire rulemaking occurs at the end of 218 and 219.105(c)(2)(E).⁷

The Agency wishes to remind the Board that DQO/LCL are relatively new methods and have not yet seen frequent use nationwide. If there is any conflict over how they should be incorporated into the rules, the Board should err on the side of being conservative. DQO and LCL are not on an equal footing with standard test methods, they are simply being added to give companies additional options and increase flexibility.

Beyond CE testing, there is the issue of the term "carbon adsorber." In its order announcing first notice, the Board agreed with the Agency on the proposed change of the definition "carbon adsorber" to include other, non-carbon, media. The Agency thanks the Board for this finding that people will not be confused by the fact that "carbon adsorber" can include non-carbon media. In addition, it must be remembered that when processing permits, the Agency can assist applicants with any questions they have. Finally, the Agency is pleased that the Board understands the enormous burden that would result from the opening of numerous sections of the rules in order to replace all use of the generic term "carbon adsorber."

In comments filed on July 1, 2005, the Printing Industry of Illinois/Indiana Association ("PII") raises several concerns with the amendments to the lithographic rules found at 218.204(c) and 219.204(c). A major concern of the PII are the differences between requirements placed on sources in non-attainment areas and sources in attainment areas. More specifically, the "confusion"

⁷ Beyond a few clarifying changes to the title and body of 218 and 219.105(c)(2)(E).

resulting from differences between Parts 218 and 219 on the one hand and those in Part 215 on the other. PII asserts that "the Illinois EPA has offered no rationale for these significant differences." PII Letter at 2. The basic rationale is that there are many differences between what is expected of sources in non-attainment areas ("NAA") and those in attainment areas. Moreover, these are Board rules, not Agency rules. Simply put, Part 215 at one time applied statewide. Later, Parts 218 and 219 were created to cover the Chicago and Metro-East NAAs, respectively. Many sections of the Parts parallel each other, others do not. It is not unexpected that there would be different regulations to handle sources within NAAs and those without. Indeed, the sources in NAAs need more stringent standards both to reduce ozone formation and to comply with U.S. EPA requirements. As but one example, Part 211 even defines coating and coating lines differently for Part 215 and Parts 218 and 219. See Sections 211.1190 and 211.1230, respectively.

Turning to PII's concern over the Board notes found at Sections 218.204(c) and 219.204(c), the changes made to the Board Notes are intended to clarify the existing situation. The Board Note applies to flexographic and rotogravure printing, not lithographic printing. The removal of "Subpart H" was intended to further this clarification. PII's wording, however, would inappropriately expand the meaning of Subsection 204(c) well beyond the current scope. In fact, the note in 218 and 219.204(c) pre-dates the rulemaking for the current version of the lithographic printing regulation, and thus could not have been intended to cover emissions limitations which were not yet even proposed. As part of the

rulemaking creating Parts 218 and 219, the wording of the note was changed to limit the exemption to flexographic and rotogravure printing. This was part of the process leading to U.S. EPA acceptance of Illinois' regulations.

PII has not offered any technical support for the necessity or the merit of their proposal. Nor have they explained the environmental effects of their suggested change. To agree with PII's reasoning would exempt a group of sources from following the rule with unforeseeable environmental impacts. The Illinois EPA urges the Board not to make the changes proposed by PII, but to move forward with the language proposed in the First Notice.

214 SULFUR LIMITATIONS

When reviewing the Board proposal for R 04-12, the Illinois EPA noticed several errors and inconsistencies worth bringing to the Board's attention.

1. In Section 214.184(b), the new metric formula appears to have an incorrect value. Agency technical staff believe that the formula:

$$E=0.4536 \times 20,000(H_s/300)^2$$

should read:

$$E=4.8824 \times 20,000(H_s/300)^2$$

2. In Section 214.184(c), the definition of Pi contains a typographical error. The definition reads "percentage or total..." and should read:

P_i= (for i=1,2,...n) percentage of total emissions E emitted from source i expressed as decimal equivalents (e.g., 21% = 0.21), and

3. In Section 214.421(b), to remain consistent, the definition of "E" should have "(in lbs/hr or kg/hr)" added, so as to read:

E= allowable sulfur dioxide emission rate (in lb/hr or kg/hr):

4. In concert with this change, Section 214.421(d) should have the listings for "E" stricken, as in:

Parameter	Metric	English
E	kg/hr	lbs/hr

5. In Appendix C, the definition of "P" contains the passage:

Example: 21%=0.21.

This should be in parentheses to conform with the unamended version of the rules. Thus, the passage should read:

(Example: 21%=0.21.)

6. In Appendix C, under Step 2, the new Metric equation contains a value that seems to have been rounded, when the English equation does not.

The equation thus reads:

$$Q_H = 67D^2V(T-286)/T$$

when it should read:

$$Q_H = 66.8D^2V(T-286)/T$$

7. Finally, throughout Part 214, the Board has replaced the notation "mm" with "M" when denoting 1,000,000. However, in common usage "M" is often used to denote 1,000. For the sake of clarity, the Agency requests that the Board note in Part 214 that for purposes of the Part, "M" denotes 1,000,000.

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 second notice opinion and order amending Parts 211, 218, and 219 and consolidated Board initiated rulemaking to amend Part 214.

Respectfully submitted,

By: 

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

Dated: July 11, 2005

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

PROOF OF SERVICE

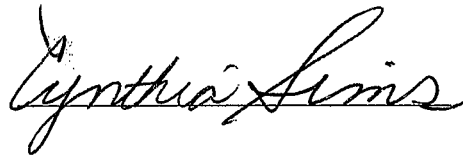
I, the undersigned, on oath state that I have served the attached First Notice Comments of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing it in an envelope addressed to:

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Richard R. McGill, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

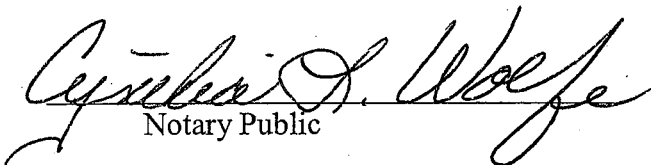
SEE ATTACHED SERVICE LIST

and mailing it by First Class Mail from Springfield, Illinois on July 11, 2005, with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

this 11th day of July, 2005



Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST R 04-20

&

R 04-12

N Ladonna Driver
Hodge, Dwyer & Zeman
3150 Roland Avenue
Springfield, Illinois 62705-5776

Roy C. Cobb, Jr.
Senior Environmental Counsel
Smurfit-Stone Container Enterprises, Inc.
8182 Mary Land Avenue
Clayton, MO 63105

Claire Manning
Brown, Hay & Stephens
700 First Mercantile Bank Building
205 South Fifth Street
P.O. Box 2459
Springfield, Illinois 62705-2459

RoseMarie Cazeau
Office of the Attorney General
Environmental Bureau
188 West Randolph, 20th Floor
Chicago, Illinois 60601

Jonathan Furr
Chief Legal Counsel
Illinois Department of Natural Resources
One Natural Resource Way
Springfield, Illinois 62702-1271.

Robert A Messina
IERG
3150 Roland Avenue
Springfield, Illinois 62703

Joanne Rock
Executive Vice President
Printing Industry of Illinois/Indiana Assoc
70 East Lake Street
Chicago, Illinois 60601

Marcia Kinters
Vice President-Government Affairs
Specialty Graphic Imaging Assoc
10015 Main Street
Fairfax, Virginia 22031-3489