



1 APPEARANCES:

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HEARING TAKEN BEFORE:  
ILLINOIS POLLUTION CONTROL BOARD

4

BY: MR. JOHN KNITTLE  
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Room 11-512

5

Chicago, Illinois 60601  
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JOHNSON & BELL  
BY: MS. SUSAN W. HORN  
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Appeared on behalf of Formel  
Industries;

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12

ALSO PRESENT:

13

Bonnie Sawyer and David Bloomberg on behalf  
of the Illinois Environmental Protection  
Agency and Jerry Trzupek.

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1 HEARING OFFICER KNITTLE: Good morning. My name  
2 is John Knittle. I'm a hearing officer with the  
3 Illinois Pollution Control Board. I'm also the assigned  
4 hearing officer for this matter entitled In The Matter  
5 Of Petition of Formel Industries Incorporated for an  
6 Adjusted Standard from 35 Illinois Administrative Code  
7 Section 218.401(a) (b) and (c), parentheses, the  
8 Flexograph Printing Rule, end parentheses. That's Board  
9 Document Number AS 2000-13.

10 Today's date is November 14th. It's  
11 approximately 10:35 a.m. I want to note for the record  
12 there are no members of the public here nor are there  
13 any employees of the Illinois Pollution Control Board  
14 here at this point in time. This hearing will be run  
15 pursuant to Section 106.806 which sets out the order of  
16 hearing for Adjusted Standards.

17 I want it noted and we went over this  
18 yesterday that I will not be making the ultimate  
19 decision in this matter, rather this decision will be  
20 made by the Illinois Pollution Control Board comprised  
21 of seven members throughout the state of Illinois. My  
22 duty is to do rulings on the evidence and ensure a clear  
23 record for the Board on which to base their decision.

24 Could I have the parties introduce themselves

1 at this time starting with the Petitioner?

2 MS. HORN: My name is Susan Horn, H-o-r-n, and  
3 I'm an attorney with Johnson & Bell in Chicago  
4 representing the petitioner Formel.

5 HEARING OFFICER KNITTLE: And who do you have  
6 with you today, Ms. Horn?

7 MS. HORN: I have Mr. Don O'Malley who is the  
8 president of Formel, Mr. Furlon Clemons who is employed  
9 with Bema and was a past employee of Formel, Mr. Rich  
10 Trzupek who is an environmental consultant with Huff &  
11 Huff, Mr. Jerry Trzupek who is also an employee of  
12 Huff & Huff.

13 HEARING OFFICER KNITTLE: Thank you and from the  
14 Illinois Environmental Protection Agency?

15 MS. SAWYER: I'm Bonnie Sawyer and with me today  
16 is David Bloomberg. He is an environmental engineer  
17 with the Illinois Environmental Protection Agency.

18 HEARING OFFICER KNITTLE: Thank you.

19 MS. HORN: John, can we go off the record for  
20 just one --

21 HEARING OFFICER KNITTLE: We definitely may.

22 (Discussion had off the record.)

23 HEARING OFFICER KNITTLE: We should also note as  
24 we did yesterday that even though this Adjusted Standard

1 Procedure involves air regulations, the Air Adjusted  
2 Standard procedure as set forth in Subpart E of the  
3 Board's regulations do not apply specifically because  
4 Section 106.501 scope and applicability sets out that  
5 whenever an Adjusted Standard is brought pursuant to 35  
6 Illinois Administrative Code 212.126, Air Adjusted  
7 Standard Procedures and Subpart E. That is not the case  
8 in these Adjusted Standard Procedures and we just want  
9 to note that for the record.

10 We are going to be running the hearing under  
11 Subpart G, which is the general Adjusted Standard  
12 provisions, starting at 106.701 and thus which is why  
13 we're using 106.806 for the order of the hearing and why  
14 the petition contents of the Adjusted Standard petition  
15 were followed and made pursuant to 106.705.

16 So that being said, we had the parties  
17 introduce themselves. Are there any preliminary matters  
18 from the Petitioner?

19 MS. HORN: No.

20 HEARING OFFICER KNITTLE: Anything from the  
21 Agency?

22 MS. SAWYER: No.

23 HEARING OFFICER KNITTLE: Let's get started then  
24 with opening statements, Ms. Horn.

1 MS. HORN: Thank you. Formel Industries, Inc.,  
2 is seeking an Adjusted Standard from 35 Illinois  
3 Administrative Code, Subpart H, Sections 218.401(a) (b)  
4 and (c) known as the Flexographic Printing Rule as it  
5 applies to the emissions of volatile organic material or  
6 VOM from its three central impression flexographic  
7 printing presses.

8 The evidence will show that Formel operates  
9 these flexographic printing presses to print images  
10 using inks onto high slip polypropylene, polyester and  
11 cellophane film, which is then converted into a package  
12 for food products for human consumption, such as pasta,  
13 candy and snack food items.

14 The evidence will show that Formel has been  
15 working with the Illinois Environmental Protection  
16 Agency since 1994 to address difficulties with the  
17 Flexographic Printing Rule. On May 17, 1999, Formel  
18 filed a petition seeking a variance from the rule.  
19 Following subsequent negotiations with the IEPA, Formel  
20 realized that the proposed relief that Formel was  
21 seeking was better applied as an Adjusted Standard.  
22 Therefore, Formel dismissed its petition for a variance  
23 and filed the present petition for an Adjusted Standard.

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1 seeks an Adjusted Standard requires the flexographic  
2 printers to use inks that contain either, one, no more  
3 than 40 percent VOM excluding water by volume or, two,  
4 no more than 25 percent VOM by volume of the volatile  
5 content of the ink.

6 If a source cannot use water-based inks, then  
7 the source must design and apply an approved control  
8 device. If a source chooses to comply with the  
9 Flexographic Printing Rule by equipping the flexographic  
10 printing press with an add-on control, then that control  
11 device must reduce the captured VOM emissions by at  
12 least 90 percent by weight for approved carbon  
13 absorption or incinerator systems or achieve an overall  
14 reduction of 60 percent in VOM emissions by alternative  
15 control systems that have been approved by the IEPA and  
16 the USEPA.

17 As the evidence will show, the regulation  
18 from which Formel requires an Adjusted Standard applies  
19 to sources with a potential to emit 25 tons per year or  
20 more of VOM. The initial RACT regulations applied to  
21 major sources with actual VOM emissions in excess of 100  
22 tons per year. In response to the adoption of the  
23 Federal Implementation Plan, the Board amended the RACT

24 rules to require that all Chicago area sources with

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1 maximum theoretical emissions of at least 100 tons per  
2 year implement RACT.

3 Pursuant to section 182(d) of the Clean Air  
4 Act, individual states within severe ozone nonattainment  
5 areas required to include all sources with the potential  
6 to emit of at least 25 tons per year as major sources,  
7 and those states must also adopt RACT regulations  
8 applicable to those sources. Therefore, the Illinois  
9 Pollution Control Board established the requirements in  
10 the Flexographic Printing Rule.

11 The evidence will show that Formel is located  
12 in Franklin Park, Illinois in Cook County which is part  
13 of the Chicago area designated as a severe ozone  
14 nonattainment area. Therefore, Formel is subject to the  
15 requirements of the Flexographic Printing Rule.

16 The regulation of general applicability from  
17 which Formel seeks an Adjusted Standard does not specify  
18 a level of justification for an Adjusted Standard.  
19 Therefore, the requirements in Section 28.1 of the  
20 Illinois Environmental Protection Act found at 35 ILSC  
21 5/28.1 apply.

22 Section 28.1 of the Act states that the Board

23 may grant individual adjusted standards upon proof that,  
24 one, the factors relating to the petitioner are

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1 substantially and significantly different; two, the  
2 existence of those factors justifies an Adjusted  
3 Standard; three, the requested standard will not result  
4 in adverse environmental or health effects; and, four,  
5 the proposed Adjusted Standard is consistent with  
6 federal law.

7 As the evidence will show, these four factors  
8 in Section 28.1 of the Act have been met because Formel  
9 cannot use water-based inks for its product and because  
10 the approved control technologies will work only at  
11 unreasonable costs. Therefore, an Adjusted Standard is  
12 necessary for Formel.

13 I have nothing further.

14 HEARING OFFICER KNITTLE: Thank you, Ms. Horn.  
15 Ms. Sawyer?

16 MS. SAWYER: Good morning. My name is Bonnie  
17 Sawyer. I'm assistant counsel with the Illinois  
18 Environmental Protection Agency. The Illinois EPA has  
19 reviewed Formel's petition for an Adjusted Standard and  
20 we filed a response with the Pollution Control Board.  
21 In that response, we have recommended that the Board  
22 grant Formel an Adjusted Standard subject to conditions.

23                   Some of the important conditions include  
24                   Formel had originally requested that it be allowed to

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1                   use a monthly average for recordkeeping. We are  
2                   recommending that the Board require daily recordkeeping.  
3                   We are not testifying as to this issue because it is our  
4                   understanding that the petitioner in this matter is --  
5                   will accept and agree to do daily recordkeeping.

6                   Another condition that we recommend the Board  
7                   impose on any Adjusted Standard granted is that the  
8                   sources emission reduction market system baseline be set  
9                   at a lower level than the Adjusted Standard level so  
10                  that the seasonal emissions for the facility will be  
11                  accounted for in that program.

12                  Initially, the petitioner had requested an  
13                  annual limitation on emissions of 100 tons per year. I  
14                  believe currently the facility is permitted to emit 80  
15                  tons per year. We recommend that the Adjusted Standard  
16                  set no annual limitation on VOM emissions in that we  
17                  just rely on the permit to set that limitation.

18                  Additionally -- actually, not additionally,  
19                  these conditions are part of 12 conditions that we've  
20                  requested that the Board impose on any Adjusted Standard  
21                  granted, and we think all of those conditions are

22 important to ensure that the facility continues its  
23 efforts to try to find methods to come into compliance  
24 and that they provide the type of records that we feel

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1 we need to monitor their emissions.

2           There are a couple of conditions that I would  
3 like to clarify for the record. Condition number 4 of  
4 our response states that Formel must perform alone or in  
5 conjunction with others three experiments each year  
6 including any experiments requested by the Illinois EPA  
7 of alternative inks to determine if these inks are  
8 compliant with the Flexographic Printing Rule and  
9 technically feasible for Formel's printing operations  
10 and that's the first sentence of that condition.

11           I want to clarify that when we refer to  
12 experiments requested by the Illinois EPA that those  
13 experiments would be part of the three that the facility  
14 would have to perform within a given year or alone or in  
15 conjunction with others, not in addition to those three  
16 experiments.

17           The second condition I'd like to clarify is  
18 condition 7. It reads Formel shall not operate any  
19 other printing press at its Franklin Park, Illinois  
20 source without full compliance with the requirements of  
21 the Flexographic Printing Rule. We would like to modify

22 that so it would read Formel shall not operate any other  
23 flexographic printing press at its Franklin Park,  
24 Illinois source without full compliance with the

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1 requirements of the Flexographic Printing Rule. Just to  
2 clarify that, if the press is not subject to that rule,  
3 we have no expectation that the Adjusted Standard would  
4 require them to comply with that.

5 As I said, we are recommending that the Board  
6 grant this Adjusted Standard subject to conditions. Our  
7 agency has been involved in working with this facility  
8 and several others for a number of years, I think, since  
9 1994 in trying to help them to find methods to come into  
10 compliance. In addition, we've conducted our own  
11 investigation of possible compliant inks that may be  
12 available. As of this date, we haven't discovered  
13 something that appears to be feasible for these  
14 facilities, but we intend to continue with our efforts  
15 to work with these facilities to try to find compliant  
16 inks for them, and that is all I have.

17 HEARING OFFICER KNITTLE: Thank you, Ms. Sawyer.  
18 Ms. Horn, do you want to call your first witness? Let  
19 me retract. Ms. Sawyer, you have something else?

20 MS. SAWYER: Yeah. As I stated earlier, it's

21 our understanding that the petitioner is agreeing to the  
22 conditions that we have requested that the Board impose  
23 upon any Adjusted Standard granted and I would like it  
24 if the petitioner would clarify that on the record of

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1 this proceeding.

2 Ms. Horn, if you would like to do that?

3 HEARING OFFICER KNITTLE: Ms. Horn?

4 MS. HORN: I would be happy to clarify that.

5 Yes, Ms. Sawyer is correct. We have agreed to the  
6 conditions. They're found on page 19, 20 and 21 of the  
7 Agency's response to Formel's petition.

8 HEARING OFFICER KNITTLE: Thank you, Ms. Horn.

9 Anything further, Ms. Sawyer?

10 MS. SAWYER: No.

11 HEARING OFFICER KNITTLE: Thank you. Ms. Horn,  
12 you can begin calling your witnesses.

13 MS. HORN: I'd like to call Mr. Don O'Malley.

14 HEARING OFFICER KNITTLE: Would you swear him  
15 in, please?

16 DON O'MALLEY,

17 having been first duly sworn, was examined and testified  
18 as follows:

19 DIRECT EXAMINATION

20 by Ms. Horn

21 Q. Please state your name for the record.  
22 A. Don O'Malley.  
23 Q. And where do you live?  
24 A. 412 East Center, Lake Bluff, Illinois.

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1 Q. Where are you employed?  
2 A. Formel Industries.  
3 Q. What is your position with Formel?  
4 A. President.  
5 Q. What are your duties as president of Formel?  
6 A. Just about everything. Mostly sales, marketing,  
7 all hiring/firing, management, production scheduling. I  
8 mean just about -- I'm involved in just about everything  
9 that goes on.  
10 Q. Where is Formel located?  
11 A. 2355 North 25th Avenue, Franklin Park, Illinois.  
12 Q. How many employees do you currently have?  
13 A. About 25.  
14 Q. Do you use any type of printing presses in your  
15 operations?  
16 A. Flexographic printing presses.  
17 Q. How many do you have?  
18 A. Three.  
19 Q. What type of flexographic printing presses are

20 they?

21 A. Central impression.

22 Q. And how old are they?

23 A. Twenty-five, 35 years old.

24 Q. Could you explain how they work briefly?

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1 A. How much detail do you want?

2 Q. Briefly.

3 A. God, I don't know. We put large rolls of film  
4 on, polypropylene, polyester and cellophane and then we  
5 apply one to six colors. We use solvent-based inks. We  
6 use rubber or photopolymer plates that are -- these  
7 plates are placed on cylinders that are various sizes  
8 depending on the size of package that you want to make.  
9 Most of the products we do are for food packaging and we  
10 basically print pictures on packages.

11 Q. Do they have drying stations?

12 A. They have in between deck drying. Each color  
13 requires a separate deck and the presses that we have  
14 six decks and in between each deck, there is a drying  
15 station and then after the printing process, before it  
16 is rewound on the roll, it goes through an overhead  
17 drier too.

18 Q. Approximately how much time does the image have  
19 to dry between stations?

20           A.    It depends on how fast the press is running.  We  
21           run anywhere from 400 to 1000 feet a minute, and the  
22           decks are 18 inches apart, about 18 inches apart, so if  
23           you figured 400 feet a minute, how fast that is between  
24           one station and the next.  So each station you're

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1           applying a coating of ink and then the next station  
2           usually applies another coating of ink over that ink, so  
3           you have to be totally dried or the next station will  
4           pick that ink off and contaminate that ink and blur the  
5           image and it will be nonusable.

6           Q.    What type of film does Formel print on?

7           A.    The majority of the film we do is polypropylene.  
8           It's bi-actually oriented polypropylene, then we print  
9           cellophane and polyester.  They're all basically the  
10          same type of ultra clear food packaging type films.

11          Q.    Could you give me examples of what type of a  
12          package you produce?

13          A.    Most of the packaging we do is for candy or  
14          bakery items.  The things that people know are if you  
15          are in the gas station and you go up to the counter,  
16          there will be a plastic drum there and it's filled with  
17          atomic fire balls or jaw breakers, all those individual  
18          wrappers that contain the ball we would print those.

19                   We do -- if you go to Burger King and on the  
20 counter there's a display that has danish or donuts or  
21 something like that, we would print the film for that.  
22 It's mostly -- what we print is mostly a dust cover.  
23 It's a real high clarity film. It's just to keep the  
24 product clean and obviously it's printed to make it look

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1 attractive.

2           Q. In relation to other printers in the industry,  
3 is Formel a large or a small shop?

4           A. We're considered small, very small. No one  
5 seems to go into our end of the business anymore, so  
6 there's no up-and-coming small companies at least in --  
7 around where we are. So of all the companies in the  
8 Chicagoland area, we're in there with the smallest.

9           Q. Are you considered a job shop?

10          A. Yes.

11          Q. Could you explain what that means?

12          A. It means that we don't run one product and run  
13 millions and millions and millions of items. We run a  
14 job for each customer. Customers have a variety of  
15 products and each one of their products requires a  
16 custom film with a custom size and a custom print, so  
17 that we run anything from a thousand impressions to a  
18 million impressions. It just depends on what the

19 customer is looking for.

20 Q. How do the smaller jobs relate to your press  
21 operations?

22 A. In what regard?

23 Q. Setting them up, breaking them down?

24 A. Well, regardless of the size of the job, it all

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1 requires the same amount of setup. It depends on the  
2 number of colors. Obviously the more colors you have,  
3 the more setup time is required, but if you have -- if  
4 we want to print a thousand impressions or a million  
5 impressions, the initial setup that's required is the  
6 same.

7 Q. How many jobs would Formel complete in a typical  
8 day or what's the range?

9 A. I mean, we could run one or we could run five.  
10 It depends and we could go into one job and then say  
11 it's only one setup, but we'll do 20 variations of that  
12 job through the course of the day, pulling cylinders in  
13 and out and changing colors on it so that you run  
14 varieties of items, but it's never the same. Every day  
15 is different and every job we have -- there are no two  
16 jobs that are alike.

17 You have hundreds of customers and every

18 customers' jobs are completely different, so there's no  
19 flow to it. Everything is where you have to stop, pull  
20 all the cylinders up, clean up all the decks, change all  
21 the inks and then when you go into the next job, it's  
22 completely different than the job we ran before.

23 Q. What would be the shortest job you think,  
24 approximately?

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1 A. The job I took yesterday was for 1200 pouches,  
2 six by nine -- six and a half by nine and it is three  
3 colors, 100 percent lay down of ink and two other  
4 combination colors for an advertising promotion.

5 Q. How long do you think that would take you to  
6 print?

7 A. From start to finish, cleanups and everything,  
8 five hours.

9 Q. Do you run jobs that go more than one day?

10 A. We have a few jobs that go more than one day,  
11 but limited. I mean, we're more -- the bigger companies  
12 have the philosophy big companies want to deal with big  
13 companies so that small companies deal with small  
14 companies. Obviously the smaller companies have the  
15 shorter runs. We don't do business with any fortune 500  
16 companies. Our largest customers are privately owned  
17 businesses. We don't have any big guys that we do

18 business with, so the volumes are not large enough to  
19 run.

20 Q. Switching gears to one last question that I have  
21 for you, could you explain how you have participated  
22 over the years in the Adjusted Standard proceedings?

23 A. You mean --

24 Q. What's your involvement been since '94?

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1 A. We've been working with the Illinois EPA since  
2 '94 as Ms. Sawyer said earlier. We started out -- a  
3 gentleman by the name of Mike Siciliano and I went down  
4 and joined the Illinois EPA Small Business Task Force  
5 which was designed to open the communications between  
6 the Illinois EPA and the small businesses out there to  
7 make it easier for the small businesses to comply and  
8 from that initial visit, we've been extremely active.

9 That task force actually worked for a year or  
10 so and issued a paper that was submitted to the Federal  
11 EPA in reference to suggestions from our group on how to  
12 improve communications and cooperation between the  
13 government and small business. We were involved in the  
14 Amnesty Program. We worked with them on actually  
15 understanding more about what the pollution standards  
16 were and we put together a dinner about four years ago,

17 five years ago where we -- Bema Film Systems and Formel  
18 put together a dinner at the Holiday Inn where we  
19 invited 50 of the wide web flexo printers in the  
20 Chicagoland area of which maybe 25 or so showed up and a  
21 representative from the IEPA came and spoke and a  
22 consultant came in and spoke and from there we worked  
23 with them supplying them with a lot of information.

24 Mike Siciliano has been extremely active. We

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1 worked with the Chicago Commerce Association. I mean,  
2 it's -- it was like one thing led to another and led to  
3 another and led to another and during that whole course  
4 of time, obviously we did all our testing. We had six  
5 or seven different ink companies. We did all the  
6 water-based ink tests. We submitted the information to  
7 the EPA and worked with them and the EPA came back to us  
8 and, you know, made suggestions on ways of doing stuff.

9 We contacted representatives in California.  
10 We talked to ink companies in California because their  
11 standards were very rigid too. I mean, I could go on  
12 and on. It's been an ongoing process of six years. We  
13 went through biofiltration. There's been a whole lot of  
14 things and Mike Siciliano, the guy who deserves the  
15 majority of the credit, has just been an extremely  
16 active participant with the IEPA.

17 MS. HORN: Thank you. I have no further  
18 questions.

19 HEARING OFFICER KNITTLE: Ms. Sawyer?

20 MS. SAWYER: I just have a couple of questions.

21 CROSS-EXAMINATION

22 by Ms. Sawyer

23 Q. Mr. O'Malley, you mentioned biofiltration.

24 Could you explain what you mean by that, what you did in

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1 reference to that?

2 A. One of the things we've always been looking for  
3 is a better way of destruction, okay, and we found a  
4 guy, it was a professor at the University of Arizona,  
5 who came out with a system called biofiltration and it's  
6 basically instead of destroying it, you -- it's a  
7 biodegradation. You basically put a football field  
8 behind your plant and you pump everything in there and  
9 the enzymes in the soil eat up the contaminants, VOCs  
10 and there were a couple of companies in California that  
11 were using this.

12 There was a company out here in the western  
13 suburbs that was using it successfully, not for that but  
14 for elimination of odors and so we were working  
15 extensively to get into that thing. It works. It's a

16 viable alternative. It's not listed in the Illinois  
17 state regulation as a viable alternative.

18 We introduced it to Federal EPA, I mean, as  
19 something to work on, but it's kind of died out. One of  
20 the companies in California expanded their operation and  
21 they didn't have enough room to expand their bed, so  
22 they tore it up and they went back to catalytic  
23 oxidation and so it's one of those things that's there,  
24 but there's so many ramifications to it, so many things

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1 that have to be done it's just not used yet.

2 Q. Are there problems that Formel had specifically  
3 in terms of using this type of technology?

4 A. Number one, I'd have to move my business. Once  
5 I move my business, I'd fall under completely different  
6 regulations. The second thing is since it's so new,  
7 it's not covered by the state of Illinois as a viable  
8 alternative. It's not listed there. So you have to  
9 change -- we would have to change the law. Then once  
10 you have it installed, the community you go into has to  
11 approve this thing and there's a lot of things like  
12 whether you put a roof over it, whether you don't put a  
13 roof over it, is there contamination that goes into the  
14 water.

15 I mean, it's a great idea. It just is going

16 to require a lot of time and a lot of money and the  
17 other thing is most converters don't have the property  
18 next to their businesses. I mean, we're totally  
19 landlocked where we are now. I mean, I said I'd need a  
20 football field of ground and we just don't have it.

21 Q. So when you referred to problems that you  
22 have -- that you would have to move to a new location,  
23 you just do not have the space available at your current  
24 location to use this?

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1 A. Yeah, we're so little. We had to move our  
2 offices to another location because there was no room in  
3 the building.

4 Q. And by space, that would be the space available  
5 to have one of the beds needed for --

6 A. Right. There's nothing. There's no room around  
7 our plant at all.

8 MS. SAWYER: That's all the questions I have.  
9 Thank you.

10 HEARING OFFICER KNITTLE: Any redirect,  
11 Ms. Horn?

12 MS. HORN: No.

13 HEARING OFFICER KNITTLE: Thank you,  
14 Mr. O'Malley. You could step down.

15 Ms. Horn, you ready to call your next  
16 witness?

17 MS. HORN: I'm like to called Furlon Clemons.

18 HEARING OFFICER KNITTLE: Mr. Clemons, have a  
19 seat, please, and would you swear him in?

20 FURLON CLEMONS,  
21 having been first duly sworn, was examined and testified  
22 as follows:

23 DIRECT EXAMINATION

24 by Ms. Horn

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1 Q. Would you state your name for the record?

2 A. Furlon Clemons.

3 Q. Where do you live?

4 A. 1820 Concordia Lane, Schaumburg, Illinois.

5 Q. Where are you employed?

6 A. Bema Film Systems.

7 Q. Where did you work prior to joining Bema?

8 A. Formel Industries.

9 Q. What were your job duties at Formel?

10 A. Plant manager.

11 Q. What types of inks did Formel use?

12 A. Solvent-based inks.

13 Q. Could you tell me the difference between virgin  
14 inks and recycled inks?

15           A.    Yes, ma'am.  Virgin inks are something that you  
16           receive from the ink company that you have not opened.  
17           Reworked inks are something that you used on the press  
18           that you've already poured solvent into them.

19           Q.    When you were employed at Formel, approximately  
20           how many containers of each type were in Formel's ink  
21           room?

22           A.    In the ink room itself, probably about 450  
23           five-gallon containers.

24           Q.    And about how many virgin ink containers?

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1           A.    Maybe at the most probably 50 virgin containers.

2           Q.    Do the solvents and inks contain VOM?

3           A.    Yes, they do.

4           Q.    Do you add additional solvent to the ink?

5           A.    Yes, ma'am, we do.

6           Q.    Why do you do that?

7           A.    To be able to control the ink to the proper  
8           viscosity to be able to print the correct image and  
9           control the shade of the color.

10          Q.    What percent solvents do the inks come from the  
11          manufacturer approximately?

12          A.    Approximately 40 to 75 percent.

13          Q.    When you add solvent, approximately what

14 percentage do they come to when they're ready to run?

15 A. It all depends on the viscosity level that  
16 you're going to be able to run the ink at to be able  
17 to -- the speeds you're going to run it and the drying  
18 system that you have on your presses. Normally you're  
19 going to add anywhere from 25 to 35 percent solvent into  
20 that ink.

21 Q. How do water-based inks differ from  
22 solvent-based inks?

23 A. They're made with water and a different  
24 formulization than solvent and you cut them back with

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1 water.

2 Q. Did you participate in any water-based ink  
3 trials while you were employed at Formel?

4 A. Yes, ma'am, I did.

5 Q. Can you tell me what you did?

6 A. A few of the jobs I set up and tried to control,  
7 very unsuccessful to do it forming of the inks, not  
8 being able to dry, no adhesion to the material,  
9 offsetting, pick off.

10 Q. What does offsetting and pick off mean?

11 A. Offsetting is when one color actually separates  
12 and you see another image on the back side of the layer  
13 of the material. After it's rolled up, it actually

14 comes off the web and stays on the back side of the  
15 material. Pick off is when you -- the next color picks  
16 off the previous color that you printed.

17 Q. Those things are not obviously desirable?

18 A. No, ma'am.

19 MS. HORN: I have no further questions.

20 HEARING OFFICER KNITTLE: Ms. Sawyer,  
21 cross-exam?

22 MS. SAWYER: No questions.

23 HEARING OFFICER KNITTLE: Thank you,  
24 Mr. Clemons. Please step down. Let's go off the record

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1 for a second.

2 (Discussion had off the record.)

3 (Recess taken.)

4 HEARING OFFICER KNITTLE: We are back on the  
5 record after a short recess continuing with Ms. Horn's  
6 case in chief.

7 Ms. Horn, your next witness, please.

8 MS. HORN: I'd like to call our third and  
9 hopefully final witness, Mr. Rich Trzupsek.

10 HEARING OFFICER KNITTLE: Thank you. Could you  
11 swear him in, please?

12 RICHARD TRZUPEK,

13 having been first duly sworn, was examined and testified  
14 as follows:

15 DIRECT EXAMINATION

16 by Ms. Horn

17 Q. Please state your name for the record and spell  
18 your last name.

19 A. It's Richard Trzupsek. The last name is spelled  
20 T-r-z-u-p-e-k.

21 Q. Where do you live?

22 A. In Streamwood, Illinois.

23 Q. Where are you currently employed?

24 A. Huff & Huff Incorporated of LaGrange, Illinois.

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1 Q. What is your occupation?

2 A. I'm an environmental consultant.

3 Q. Will you describe your educational background?

4 A. I have a bachelor's degree in chemistry from  
5 Loyola University of Chicago.

6 Q. Do you have any training or experience in air  
7 regulations specifically with regard to the printing  
8 industry?

9 A. I do.

10 Q. Would you tell us what that is?

11 A. I have been consulting for the printing industry  
12 for 18 years primarily regarding air quality regulations

13 and control.

14 Q. Are you familiar with Formel's printing  
15 operations?

16 A. I am.

17 Q. How long have you worked with Formel?

18 A. I worked with Formel for the past three years.

19 Q. Could you describe your involvement with these  
20 Adjusted Standard proceedings on behalf of Formel?

21 A. I've been involved in analyzing Formel's  
22 operation, the viability of using water-based ink at  
23 Formel's operation, applicable regulations and the  
24 viability of control at Formel's operations.

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1 Q. Were you involved with the negotiations and the  
2 analysis and calculations that form the basis for  
3 Formel's petition for an Adjusted Standard?

4 A. I was.

5 Q. Could you please describe the Flexographic  
6 Rule -- Flexographic Printing Rule?

7 A. In essence, the Flexographic Printing Rule  
8 provides three options for control for a flexographic  
9 printer subject to the rule; one is the use of compliant  
10 inks which are described in the rule in which you  
11 described in your opening statement; two is the use of

12 capture and control equipment that meet requirements  
13 specifically stated in the rule; and three is use of a  
14 mixture of compliant and noncompliant inks that on a  
15 daily weighted average basis meet the subject percent  
16 volatility requirements.

17 Q. Formel is subject to the Flexographic Printing  
18 Rule?

19 A. They are.

20 Q. Are they located in a nonattainment area?

21 A. Formel is located in a nonattainment area.

22 Q. Could you tell us how the Flexographic Printing  
23 Rule specifically affects Formel's operations?

24 A. It requires them to meet one of the three

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1 control requirements that I specified earlier.

2 Q. Could you go into a little bit of detail about  
3 printing using solvent-based inks versus water-based  
4 inks?

5 A. Water-based inks use a chemical or catalytic  
6 action to set the image on the film as opposed to a  
7 solvent-based ink which evaporates to leave the image on  
8 the film. The difference matters in terms of printing  
9 on a plastic film because of the speed with which you  
10 need to set the image firmly.

11 The solvent-based inks flash off the solvent

12 very quickly in the time frame described by Mr. O'Malley  
13 within that 18 inch time period so that the film is  
14 firmly -- the printing image is firmly set by the time  
15 you reach the next color. The catalytic action that  
16 water-based inks use take somewhat longer and  
17 experiences that at the normal speeds where the press  
18 runs the image cannot be firmly set in such a way that  
19 would give a quality result.

20 Q. Did you hear Mr. Clemons' testimony regarding  
21 the problems Formel experienced with water-based inks?

22 A. I did.

23 Q. Based on your experience, do you agree with his  
24 conclusions?

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1 A. I do.

2 Q. What are the three add-on control options  
3 available to Formel?

4 A. The three basic options are use of a gas  
5 absorber or scrubber, use of a carbon absorber or use of  
6 some type of oxidation system.

7 Q. Could you explain the three of them in any order  
8 you choose?

9 A. Scrubber is essentially a water wash or a water  
10 spray that is used to remove VOC from the gas stream.

11 The carbon absorber is the gas stream passes through a  
12 carbon bed and the carbon absorbs VOCs from the gas  
13 stream. Oxidation is either catalytic or thermal. In  
14 either case, you're working at one elevated temperature  
15 or another where the VOCs are oxidized either through  
16 the aid of catalytic action or through the aid of very  
17 high temperatures.

18 Q. In your opinion, are any of the three options  
19 you just discussed appropriate for Formel?

20 A. Technically, it's our opinion that carbon  
21 absorption would be disqualified because the alcohols do  
22 not absorb well to the carbon and because they are  
23 difficult to keep in the recovered stream. After the  
24 carbon is desorbed with steam, the steam is recondensed.

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1 The VOCs are in the recondensed water and it's difficult  
2 to keep the VOCs in the water stream.

3 We also feel a scrubber or gas absorber,  
4 while it could be installed, would be very difficult to  
5 meet required control efficiencies because of the  
6 volatility of the VOCs that Formel uses.

7 Q. So I think that leaves us with oxidation.

8 A. Oxidation, the oxidation technologies we  
9 disqualified catalytic. Some printers can use catalytic  
10 oxidation, other printers have difficulty with it

11 because of contaminants and the decision of the printers  
12 that we worked with was that they would be unwilling to  
13 take a risk, that they would contaminate the catalyst  
14 and be able to use it, so we were left with recuperative  
15 or regenerative thermal oxidation and those were the two  
16 that we evaluated the cost on for purposes of this  
17 petition.

18 Q. Could you briefly explain the cost of those  
19 options?

20 A. We analyzed the cost based on the amount of VOC  
21 controlled and the cost of control using EPA methodology  
22 which ourselves and the state of Illinois worked  
23 together to develop what would be the correct control  
24 costs. For a recuperative thermal oxidizer, we came out

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1 with a control cost of \$18,041 per ton controlled and  
2 for a regenerative thermal oxidizer we came out with a  
3 control cost of \$10,911 per ton.

4 Q. What are the basic terms of the Adjusted  
5 Standard that Formel has requested and Illinois has set  
6 forth in its response?

7 A. It requires Formel to use inks containing no  
8 more than 82 percent VOC by weight on a daily weighted  
9 average basis.

10 Q. Does the standard as you understand it contain  
11 an emissions limit for Formel yearly?

12 A. It does not contain an annual emissions limit as  
13 I understand.

14 Q. What's your understanding why it does not?

15 A. Because there is an annual emissions limit  
16 currently contained in Formel's operating permit.

17 Q. Does the Flexographic Printing Rule require  
18 daily recordkeeping or monthly recordkeeping?

19 A. It depends on your means of compliance. If one  
20 is complying by means of a daily weighted average, it  
21 requires daily recordkeeping.

22 Q. Does that apply to Formel?

23 A. Yes, it does.

24 Q. Has Formel agreed, as you understand it, to do

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1 the daily recordkeeping?

2 A. Yes.

3 Q. Will this daily recordkeeping, in your opinion,  
4 be difficult for Formel?

5 A. Yes, it will in my opinion.

6 Q. At this time, I would like to -- actually it's  
7 already in the VCR, but we'd like to show Mr. Trzupke  
8 what's marked for identification as Petitioner's  
9 Exhibit 1 which is the video that's currently in the

10 VCR.

11 Please let the record reflect that I've  
12 previously provided Ms. Sawyer and Mr. Bloomberg with a  
13 copy of this exhibit.

14 Could you tell me what Exhibit 1 is?

15 A. It's a video record of a typical print job that  
16 we observed at Formel Industries.

17 Q. You were present when the video was made?

18 A. I was.

19 Q. Did you act as a narrator on a portion of the  
20 video?

21 A. I acted as the narrator for the first portion of  
22 the video.

23 Q. Who acted as the narrator for the last portion  
24 of the video?

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1 A. Jerry Trzupek also of Huff & Huff.

2 Q. Is Mr. Trzupek here today?

3 A. Yes, he is.

4 Q. What does the video show?

5 A. The video shows the operation of the press, the  
6 way inks were formulated, the way solvent is added and  
7 the number of different colors of ink that Formel  
8 Industry uses.

9 Q. Why did Formel make the video?

10 A. In order to document the nuances and  
11 difficulties involved in keeping a daily record. We  
12 understand -- Formel understands that daily records are  
13 required and that Formel will have to file certification  
14 specifying how they are going to keep those daily  
15 records. The purpose of the video was to document  
16 what's involved in the actual operation so that together  
17 with the Agency we might arrive at a reasonable means of  
18 keeping a daily record that shows compliance with the  
19 standard.

20 Q. At this time, I would like to show Mr. Trzupsek  
21 what's marked as Petitioner's Exhibit 2, the Blue Ribbon  
22 Honey Bun package.

23 Please let the record reflect that I have  
24 also just given Ms. Sawyer and Mr. Bloomberg a copy of

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1 Petitioner's Exhibit 2.

2 Mr. Trzupsek, can you identify that exhibit?

3 A. Yes, that is the product that was printed the  
4 day we were filming at Formel.

5 MS. HORN: At this time, I'd like to request  
6 that Petitioner's Exhibit 1 and 2 be entered into  
7 evidence.

8 HEARING OFFICER KNITTLE: Ms. Sawyer,

9 Petitioner's 1, the video?

10 MS. SAWYER: No objection.

11 HEARING OFFICER KNITTLE: How about

12 Petitioner's 2 the package -- was that Blue Ribbon Honey  
13 Buns?

14 MS. HORN: That's true, it is.

15 MS. SAWYER: No objection.

16 HEARING OFFICER KNITTLE: Both will be admitted.

17 MS. HORN: At this time, I request the Hearing  
18 Officer's permission to have Mr. Trzupsek place the  
19 videotape which is Exhibit 1 and explain the printing  
20 operation as shown on the videotape.

21 HEARING OFFICER KNITTLE: Okay. Ms. Sawyer, any  
22 objection to that?

23 MS. SAWYER: No.

24 THE WITNESS: The time on the tape is 9:16 a.m.,

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1 October 25th, and we're looking at the press where this  
2 actual job would be run on the day that we were filming.  
3 I've muted the sound for purpose of this hearing, but on  
4 the tape, various people who were there will be  
5 introducing themselves.

6 The time on the tape is 9:20 a.m. We're  
7 looking at Formel's ink room and several of the inks

8 that are used in the printing operation. A great  
9 majority of the inks that are stored at Formel, as is  
10 the case with most printers, are reworked inks.  
11 Reworked inks refer to inks that are -- have been  
12 formulated from virgin inks and solvent added during the  
13 day and then put back into drums after they're used. We  
14 also refer to them as recycled inks.

15 The time on the tape is 9:32 a.m. and we're  
16 looking at pressmen setting up the job. As is the case  
17 with flexographic printers of this size, they typically  
18 run their job out of buckets where the colors, of  
19 course, are formulated. In this shot, you could see  
20 three of the buckets with the pumps installed. The ink  
21 is pumped from the buckets up into the decks where the  
22 color is applied to the image and then the inks are  
23 returned. In the foreground of the shot, there is a red  
24 solvent container which is used to adjust viscosity in

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1 the ink and at this point in the tape, we can see the  
2 pressmen getting one of the colors ready by adding ink  
3 and adding some solvent.

4 The time on the tape is 9:33 a.m. We're  
5 watching the pressmen check the viscosity of the ink  
6 with a number Zahn tuck. It holds the ink in -- a  
7 predetermined amount of ink and let's it drain through a

8 hole of specific size. The pressman times it. If the  
9 timing is incorrect, if it's too slow, he'll add  
10 additional solvent, if it's too fast, he may add some  
11 additional ink to get it to the correct viscosity for  
12 the run. The viscosity corresponds within plus or minus  
13 a given amount of error to the amount of solvent that's  
14 contained in the ink.

15 We see at 9:34 the pressmen adding solvent to  
16 the ink to adjust viscosity which is typical of the way  
17 the jobs are run. We'll also note here for the record  
18 that these type of adjustments happen at Formel  
19 typically once every 15 minutes because of evaporative  
20 losses as the job runs. It also happens at each deck so  
21 if they're running a five-color job, you'll have one  
22 adjustment every 15 minutes for five colors. The same  
23 for a six-color job, et cetera.

24 The remainder of the tape shows various

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1 additional adjustments to viscosity, some of the job  
2 running and there's commentary provided which explains  
3 what exactly is going on at any moment in time during  
4 the tape.

5 HEARING OFFICER KNITTLE: And that was from  
6 10:01 forward?

7 THE WITNESS: Yes. That is from 10:01 forward.

8 HEARING OFFICER KNITTLE: Thank you. Anything  
9 further for this witness, Ms. Horn?

10 MS. HORN: I have one final question.

11 BY MS. HORN:

12 Q. I'll ask you two final questions because I'm  
13 sure IEPA is interested in it. Did you hear  
14 Mr. O'Malley's testimony regarding biofiltration?

15 A. Yes, I did.

16 Q. In your opinion, is biofiltration a viable  
17 option for Formel?

18 A. There are two types of biofiltration systems  
19 sold today. One is the one Mr. O'Malley described which  
20 is a soil-base system. We have generally found that to  
21 be difficult in the midwest. It's a cheaper system, but  
22 because of the fact that we have a frost line in the  
23 midwest, soil-based systems which require heating, which  
24 also changes absorption rate and you have a difficult

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1 heating system, makes it -- has subjected those systems  
2 mostly to the south and southwest where they've been  
3 more successful, so I would be very hesitant to call  
4 that system viable.

5 The other system is above-ground systems  
6 which the microbes are mounted on polymer and there is a

7 number of companies selling those controlled environment  
8 systems. Capital costs are generally more expensive  
9 than equivalent capital costs for oxidation systems, so  
10 they have limited use although they don't have the same  
11 difficulty as the soil-based systems.

12 Additionally, there's a regulatory obstacle,  
13 I think, as Mr. O'Malley pointed out that the  
14 Flexographic Rule itself is written so that any other  
15 technology other than carbon absorption or oxidation  
16 requires a SIP revision which presents a regulatory  
17 viability question as well.

18 MS. HORN: Thank you. I have no further  
19 questions.

20 HEARING OFFICER KNITTLE: Ms. Sawyer, any  
21 cross-exam?

22 CROSS-EXAMINATION

23 by Ms. Sawyer

24 Q. Mr. Trzupsek, you worked with Formel in

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1 developing information about the cost of add-on control  
2 equipment at this facility?

3 A. Yes, I did.

4 Q. Can you explain any unique problems that this  
5 facility might confront if it were to install add-on

6 control equipment?

7 A. Yes. There is a couple of items, one, it's a  
8 very small shop, so the only way to effectively control  
9 all VOC would be through, in my opinion, a permanent  
10 total enclosure which is difficult because of the  
11 smallness of the shop and the amount of equipment in the  
12 area.

13 Secondly, there is really not a place to put  
14 on add-on control within the floor of the shop. The  
15 only real location that could be placed would be on the  
16 roof of the shop. Structurally, that roof is not strong  
17 enough to hold an oxidizer on its own, so they would  
18 have to make extensive structural modifications to place  
19 a control device there.

20 Q. And, Mr. Trzupsek, you referred to specific cost  
21 figures in your testimony. Are those the same cost  
22 figures that were presented in the original petition for  
23 an Adjusted Standard? Are you aware of whether those  
24 are the same cost figures?

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1 A. No. It's actually -- after we had originally  
2 filed, we -- in discussions with the State, I believe we  
3 made some modifications to those cost figures.

4 Q. I'd like to show you this, if you'd like to see  
5 this first, this is an attachment that we had on our

6 response that we filed with the Pollution Control Board  
7 and just so the Board knows what documentation to look  
8 for in terms of the cost figures that you referred to,  
9 could you take a look at this and is this the cost  
10 figures that Formel prepared?

11 MS. HORN: Could we go off the record for just a  
12 minute?

13 HEARING OFFICER KNITTLE: Yes.

14 (Discussion had off the record.)

15 HEARING OFFICER KNITTLE: Ms. Sawyer, you're  
16 continuing with your cross-examination?

17 MS. SAWYER: Sure.

18 BY MS. SAWYER:

19 Q. Not exactly sure where we left off, but in your  
20 testimony you stated the cost of control for a couple of  
21 different types of control equipment. Were those costs  
22 the numbers originally submitted in their Adjusted  
23 Standard petition?

24 A. Those were the costs originally submitted,

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1 correct.

2 Q. And subsequent to that date, did the petitioner  
3 supply Illinois EPA with updated cost information?

4 A. Yes, they did.

5 Q. What I've shown you is an attachment to our  
6 response. Could you please take a look at that  
7 attachment and is that the information that was  
8 subsequently sent to Illinois EPA?

9 A. This is that information, yes.

10 Q. Could you just define in the same types of --  
11 the same terms that you did previously the cost of  
12 control in that document?

13 A. Yes. We added additional costs that would be  
14 unique to Formel including a crane necessary to install  
15 the oxidizers on the roof, the structural supports,  
16 additional duct work and electrical system and cost of  
17 lost production for the extensive installation phase  
18 that Formel would have to endure.

19 When those costs were added, using EPA  
20 methodology, it raised the cost of recuperative thermal  
21 oxidation control to \$20,162 per ton and regenerative  
22 thermal oxidation control to \$12,441 per ton.

23 Q. And the cost that you just identified there, are  
24 those more accurate than the costs originally submitted

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1 in your petition?

2 A. Yes, they are.

3 Q. So those are the costs that -- those are the  
4 costs that I know our agency looked at when we evaluated

5 our response to the petition. Are those also the costs  
6 that the Board should look at when reviewing the  
7 Adjusted Standard petition?

8 A. Yes, it is. These are the costs that are most  
9 accurate and the Board should consider.

10 HEARING OFFICER KNITTLE: Off the record for a  
11 second?

12 (Discussion had off the record.)

13 HEARING OFFICER KNITTLE: And, Ms. Sawyer, we  
14 talked off the record. We want to identify where those  
15 figures exactly can be found.

16 MS. SAWYER: Those figures can be found in the  
17 response of the Illinois Environmental Protection Agency  
18 filed on October 13th, 2000, and they are found as  
19 attachment number A -- attachment A to our response.

20 HEARING OFFICER KNITTLE: Thank you.

21 BY MS. SAWYER:

22 Q. Mr. Trzupsek, during your direct testimony, you  
23 stated that daily recordkeeping was required when  
24 compliance was determined using daily weighted

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1 averaging. Isn't it true that the Flexographic Printing  
2 Rules require daily recordkeeping no matter what method  
3 the sources using to comply?

4 A. Of different types, yes, that is true.

5 Q. Just a couple more questions. Going to the  
6 video that we viewed a small portion of and that we've  
7 viewed completely back at our agency, the pails that  
8 supply ink to the press, are those pails covered?

9 A. Normally they are, yes.

10 HEARING OFFICER KNITTLE: Let's go off the  
11 record for a second.

12 (Discussion had off the record.)

13 HEARING OFFICER KNITTLE: Ms. Sawyer, resuming  
14 your cross-examination.

15 BY MS. SAWYER:

16 Q. And there is a pan that actually supplies ink to  
17 the rollers during the printing process. Is this pan  
18 covered?

19 A. At each printing unit, they cover as much as is  
20 possible depending on the job and the practicalities of  
21 covering for that particular job at that time.

22 Q. And have you been to Formel on -- you've already  
23 testified that you were there on the occasion that the  
24 videotape was filmed. Have you been there on other

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1 occasions and observed their printing operations?

2 A. Yes, I have.

3 MS. SAWYER: I think we have nothing further at

4 this time.

5 HEARING OFFICER KNITTLE: Ms. Horn, any redirect  
6 examination?

7 MS. HORN: No.

8 HEARING OFFICER KNITTLE: Thank you, sir. You  
9 could step down.

10 (Discussion had off the record.)

11 HEARING OFFICER KNITTLE: Ms. Horn, any further  
12 witnesses for the petitioner in this case?

13 MS. HORN: No.

14 HEARING OFFICER KNITTLE: Thank you.

15 Ms. Sawyer, do you have any witnesses you want to call?

16 MS. SAWYER: No. The Agency has no witnesses.

17 HEARING OFFICER KNITTLE: Then, of course, we  
18 don't have any rebuttal witnesses, now do we?

19 MS. HORN: No, not unless we want to make them  
20 up.

21 HEARING OFFICER KNITTLE: Let's move on then.

22 Ms. Horn, any motions before we get going on closing  
23 statements?

24 MS. HORN: No.

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1 HEARING OFFICER KNITTLE: How about you,  
2 Ms. Sawyer?

3 MS. SAWYER: No.

4 HEARING OFFICER KNITTLE: All right. Let's  
5 start with closing statements starting with the  
6 petitioner.

7 MS. HORN: I have a very brief closing. Formel  
8 requests that the Board grant an Adjusted Standard as an  
9 alternative to the RACT regulations adopted by the Board  
10 and the Flexographic Printing Rule. To require Formel  
11 to comply with the requirements of 35 Ill.  
12 Administrative Code, Subpart H, Section 218.401 would  
13 result in substantial economic hardship to Formel with  
14 no corresponding or proportional environmental benefit.  
15 Moreover, it is not technically feasible for Formel to  
16 comply with the Flexographic Printing Rule because, one,  
17 water-based inks will not work and, two, an oxidizer  
18 presents unreasonable expenses for design and  
19 installation for presses that were designed with control  
20 in mind.

21 Formel has met the four factors in  
22 Section 28.1 of the Act, therefore, Formel respectfully  
23 requests that the Board grant Formel an Adjusted  
24 Standard from 35 Ill. Administrative Code, Subpart H,

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1 218.401 as that rule applies to the emissions of VOM  
2 from the flexographic printing operations at Formel in

3 Franklin Park, Cook County, Illinois.

4 HEARING OFFICER KNITTLE: Thank you, Ms. Horn.

5 Ms. Sawyer, anything on closing arguments?

6 MS. SAWYER: Briefly, yes. I just wanted to  
7 reemphasize that the Agency is recommending that the  
8 Board grant this Adjusted Standard, but we are also  
9 recommending that certain conditions be imposed upon any  
10 Adjusted Standard granted and we wanted to further  
11 emphasize that on the record of this proceeding, the  
12 petitioner has agreed to those conditions that we are  
13 recommending.

14 Based on what we've learned about Formel from  
15 viewing the video primarily and from some discussions  
16 with the petitioner, we believe that daily recordkeeping  
17 is feasible for the facility and we intend to work with  
18 them to develop an appropriate method for them to  
19 maintain records on that basis and that is all that we  
20 have.

21 HEARING OFFICER KNITTLE: Thank you very much.

22 Any rebuttal arguments there, Ms. Horn?

23 MS. HORN: No.

24 HEARING OFFICER KNITTLE: Let's go off the

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1 record, please.

2 (Discussion had off the record.)

3 HEARING OFFICER KNITTLE: We're back on the  
4 record after a discussion relating to posthearing  
5 briefs. Ms. Horn, I take it you do not want to file a  
6 posthearing brief in this matter?

7 MS. HORN: No, we do not.

8 HEARING OFFICER KNITTLE: Ms. Sawyer, you also  
9 do not intend to file a posthearing brief?

10 MS. SAWYER: No, we do not.

11 HEARING OFFICER KNITTLE: As we stated off the  
12 record, public comments will be accepted until  
13 November 28th, year 2000 in this matter. Those are  
14 posthearing comments. I'm going to allow parties if, in  
15 fact, there is a posthearing comment and they change  
16 their mind about filing a posthearing brief, they have  
17 to contact the hearing officer on or before  
18 November 28th.

19 If there's a posthearing comment you want to  
20 address, I will then set up a briefing schedule. If  
21 there's not, that will be the close of the record in  
22 this case. If you call me on November 28th just to  
23 double check to make sure there's not posthearing  
24 comments filed, we can talk about it then. In fact,

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1 what we'll probably do is set up a status conference,

2 but we'll do that after the hearing.

3 I want to note for the record that I did not  
4 have any credibility problems. I did not find any  
5 credibility problems with any of the three witnesses and  
6 that decision is based on my legal judgment and  
7 expertise such that it is, also that there are no  
8 members of the public present at this point to provide  
9 public comment.

10 We're going to go off the record and  
11 reconvene at 1:00 just to make sure that members of the  
12 public are given ample opportunity to provide comment if  
13 they so desire, so let's go off the record until 1:00  
14 and we'll reconvene at that point in time.

15 (Recess taken.)

16 HEARING OFFICER KNITTLE: We are on the record  
17 after a short recess. It's approximately 1:05 p.m., and  
18 I note for the record that there are no members of the  
19 public present wishing to provide public comment, so  
20 we're going to close this hearing. I also want to note  
21 that we do have two exhibits. I accepted them both, the  
22 videotape and the Blue Ribbon Honey Bun plastic bag.

23 Is there anything else from either party?

24 MS. HORN: No.

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MS. SAWYER: No.

HEARING OFFICER KNITTLE: I see shaking of heads  
and no responses, so we're going to close the hearing.  
Thank you all very much.

(End of proceeding.)

1 STATE OF ILLINOIS )  
2 COUNTY OF DUPAGE ) SS:

3 I, Michele J. Losurdo, Certified Shorthand  
4 Reporter of the State of Illinois, do hereby certify  
5 that I reported in shorthand the proceedings had at the  
6 taking of said hearing, and that the foregoing is a  
7 true, complete, and accurate transcript of the  
8 proceedings at said hearing as appears from my  
9 stenographic notes so taken and transcribed under my  
10 personal direction and signed this \_\_\_\_\_ day of  
11 \_\_\_\_\_, 2000.

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15 Notary Public, DuPage County, Illinois  
16 CSR No. 084-004285  
Expiration Date: May 31, 2001.

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19 SUBSCRIBED AND SWORN TO  
20 before me this \_\_\_\_\_ day  
of \_\_\_\_\_, A.D., 2000.

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22 \_\_\_\_\_  
Notary Public

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