

ILLINOIS POLLUTION CONTROL BOARD
December 17, 1987

IN THE MATTER OF:)
)
PARTICULATE EMISSION LIMITATIONS,) R82-1 (Docket B)
RULE 203(g)(1) AND 202(b) OF)
CHAPTER 2)

PROPOSED RULE. FOURTH FIRST NOTICE.
PROPOSED OPINION AND ORDER OF THE BOARD (by J. D. Dumelle):

On March 14, 1986, the Board adopted an Interim Order in R82-1 separating that proceeding into two dockets: Docket A: Particulates and Docket B: Opacity. At that time the Board intended to proceed to second notice on the particulate rules while further considering the opacity rules. However, the Joint Committee on Administrative Rules (JCAR) refused to allow the Board to proceed in that manner. Therefore, on May 9, 1986, the Board adopted a Fourth Second Notice order including both the opacity and the particulate rules.

Second notice was received by JCAR on May 16, 1986, and was considered by JCAR on June 23, 1986, at which time it objected to each of the opacity rules but none of the particulate rules. In response the Board determined that it would withdraw the opacity rules but proceed to adopt and file the particulate rules. The Board adopted a Resolution and Order to that effect on July 2, 1986, and indicated that a new first notice order would be adopted concerning the opacity rules in the near future under Docket B. On August 14, 1986, the Board adopted a Third First Notice Order. As more than one year has passed since the date first notice commenced, Section 5.01(d) of the Illinois Administrative Procedure Act (APA) precludes the rule from being adopted, or from being filed with the Secretary of State. Therefore, the Board today sends the proposed rules to Fourth First Notice so that final rules may ultimately be adopted.

Pre-Third First Notice activities need not be repeated here: only activities occurring since August 14, 1986 will be addressed. After publication of Third First Notice, the Administrative Code Division of the Secretary of State's Office filed comments. Those suggested changes have been made at Fourth First Notice. On November 20, 1986, the Agency filed a Revised Opacity Proposal, which was addressed at hearing on November 24, 1986. Comments were filed by (1) the Illinois Environmental Protection Agency (Agency), (2) Commonwealth Edison, and (3) Illinois Power Company. On November 4, 1987, the Joint Committee

on Administrative Rules filed a letter pointing out that the one-year period since First Notice had expired and that further action would require a new First Notice. On November 9, 1987, the Board received a letter from Mr. Michael Hayes, Manager of the Division of Air Pollution Control, of the Agency, expressing the Agency's position that opacity regulations remain necessary and requesting prompt promulgation of the opacity standards by adoption of a new First Notice. This is that new First Notice.

In the interest of expediency, the Board adopts for Fourth First Notice the same proposal as was adopted for Third First Notice -- but with a few amendments. First, in its comments, the Agency suggested certain revisions to Section 212.124(d), the defense provision, based on issues that arose at hearing. The Agency stated its position that the record does not support extending the Adjusted Opacity Standards Procedures to "process sources" and offered revised language.

Also, the Board has proposed a Subpart E to 35 Ill. Adm. Code 106 entitled "Air Adjusted Standards Procedures". Proposed Subpart E is similar to 35 Ill. Adm. Code 106. Subpart D, which relates to RCRA adjusted standards procedures. The sections which comprise Subpart E are generic procedural rules which the Board will reference whenever adjusted standards procedures are provided for in the Board's air pollution regulations. The Board believes that a separate Subpart for air adjusted standard procedures is appropriate to address the particular requirements associated with the air regulations. Accordingly, those provisions previously set forth in Section 212.126 which address generic procedures are now located in 35 Ill. Adm. Code 106. Subpart E. The Board requests comment on this action.

Other changes include the following, all of which occur in Section 212.126. In subsection (d), the 20 day limitation was changed to 10 days. In subsection (e), the 10 day notice requirement was changed to 30 days. In subsection (f), references to 35 Ill. Adm. code 230 have been revised to 40 CFR 60, Appendix A (1986) and the language necessary to properly incorporate them by reference has been added. In subsection (h), the language following "... after receiving the written report" has been replaced with "of any deficiencies in the results of the performance tests." In subsection (i)(2), "process or activity" has been replaced with "source or control equipment". In subsection (i)(7), "supports the requested adjusted standard" was replaced with "has sent notice of deficiencies in the results of the performance test pursuant to subsection (h) above and a copy of said notice." In subsection (j)(1), language was added to clarify that performance tests are to be conducted in accordance with USEPA Test Method 9, 40 CFR 60, Appendix A (1986). In Subsection (k), the final sentence has been deleted.

Finally, the Board notes that it has included in the proposal amendment to Section 212.113, the Incorporations by Reference section, for purposes of correctly incorporating 40 CFR 60. This is not a substantive amendment. Also, in response to comments, the Board has amended the term "visual" emissions to "visible".

As the above-noted revisions alter the impact of the proposed regulations, the Board will take no position at this time on the remainder of the comments filed during previous First Notice periods. The Board believes that the revisions may affect the continued applicability of the previously-filed comments and requests further comment on these issues. For the sake of efficiency, the Board notes that comments need not be duplicated. Previous comments, if still applicable, may be incorporated by reference.

ORDER

The Board hereby proposes the following amendments for First Notice:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 106
HEARINGS PURSUANT TO SPECIFIC RULES

SUBPART A: HEATED EFFLUENT DEMONSTRATIONS

Section
106.101 Petition
106.102 Requirements for Petition
106.103 Parties
106.104 Recommendation
106.105 Notice and Hearing
106.106 Transcripts
106.107 Opinion and Order

SUBPART B: ARTIFICIAL COOLING LAKE DEMONSTRATIONS

Section
106.201 Petition
106.202 Notice and Hearing
106.203 Transcripts
106.204 Effective Date

SUBPART C: SULFUR DIOXIDE DEMONSTRATIONS

Section

- 106.301 Petition
- 106.302 Requirements for Petition
- 106.303 Parties
- 106.304 Recommendation
- 106.305 Notice and Hearing
- 106.306 Transcripts

SUBPART D: RCRA ADJUSTED STANDARD PROCEDURES

Section

- 106.401 Petition (Repealed)
- 106.402 Notice of Petition (Repealed)
- 106.403 Recommendation (Repealed)
- 106.404 Response (Repealed)
- 106.405 Public Comment (Repealed)
- 106.406 Public Hearings (Repealed)
- 106.407 Decision (Repealed)
- 106.408 Appeal (Repealed)
- 106.410 Scope and Applicability
- 106.411 Joint or Single Petition
- 106.412 Request to Agency to Join as Co-Petitioner
- 106.413 Contents of Petition
- 106.414 Response and Reply
- 106.415 Notice and Conduct of Hearing
- 106.416 Opinions and Orders

SUBPART E: AIR ADJUSTED STANDARD PROCEDURES

Section

- 106.501 Scope and Applicability
- 106.502 Joint or Single Petition
- 106.503 Request to Agency To Join As Co-Petitioner
- 106.504 Contents of Petition
- 106.505 Response and Reply
- 106.506 Notice and Conduct of Hearing
- 106.507 Opinions and Orders

Appendix Old Rule Numbers Referenced

AUTHORITY: Implementing Sections 5, 22.4, 27, 28 and 28.1 and authorized by Section 26 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111^{1/2}, pars. 1005, 1022.4, 1027, 1028, 1028.1 and 1026).

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, page 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at _____ Ill. Reg. _____, effective _____.

SUBPART E: AIR ADJUSTED STANDARD PROCEDURES

Section 106.501 Scope and Applicability

This Subpart applies only whenever provision for an adjusted standard, as provided in Section 28.1 of the Environmental Protection Act (Act), is contained in a regulation of general applicability in 35 Ill. Adm. Code 200 through 245.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.502 Joint or Single Petition

A person may initiate an adjusted standard proceeding either by filing a petition jointly with the Illinois Environmental Protection Agency (Agency), or by filing a petition singly.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.503 Request to Agency To Join As Co-Petitioner

- a) The Agency may, in its discretion, act as a co-petitioner in any adjusted standard proceeding.
- b) Any person may request Agency assistance in initiating a petition for adjusted standard. The Agency may require the person to submit to the Agency any background information in the person's possession relevant to the adjusted standard which is sought. The Agency shall promptly notify the person in writing of its determination either to join as a co-petitioner, or to decline to join as a co-petitioner. If the Agency declines to join as a co-petitioner, the Agency shall state the basis for this decision.
- c) Discretionary decisions made by the Agency pursuant to this Section are not appealable to the Board.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.504 Contents of Petition

- a) The petitioner shall file ten copies of the petition for adjusted standard with the Clerk of the Pollution Control Board (Board), and shall serve one copy upon the Agency.
- b) The petition shall contain the following information:

- 1) Identification of the regulation of general applicability for which an adjusted standard is sought;
- 2) A written statement, signed by the petitioner and the Agency, if the Agency is a co-petitioner, or an authorized representative, outlining the scope of the evaluation, the nature of, the reasons for and the basis of the adjusted standard, consistent with the level of justification contained in the regulation of general applicability;
- 3) The nature of the petitioner's operations and control equipment; and
- 4) Any additional information which may be required in the regulation of general applicability.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.505 Response and Reply

- a) Within 21 days after the filing of a petition, the Agency shall file a response to any petition in which it has not joined as a co-petitioner. This response shall include the Agency's comments concerning the Board's action on the petition.
- b) The petitioner may file a reply within 14 days after the filing of any Agency response.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.506 Notice and Conduct of Hearing

- a) The Board will hold at least one public hearing prior to granting an adjusted standard.
- b) The hearing officer will schedule the hearing. The Clerk will give notice of hearing in accordance with 35 Ill. Adm. Code 102.124.
- c) The proceedings will be in accordance with 35 Ill. Adm. Code 102.160 through 102.164.

(Source: Added at ____ Ill. Reg. _____, effective _____)

Section 106.507 Opinions and Orders

- a) The Board will adopt an order and opinion stating the facts and reasons leading to the final Board determination, consistent with any considerations which may be specified in the regulation of general applicability or Section 27(a) of the Act.
- b) The Board will issue such other orders as the Board deems appropriate, including, but not limited to, accepting or rejecting the petition, requiring the submission of further information or directing that further hearings be held.
- c) SUCH BOARD ORDERS AND OPINIONS WILL BE MAINTAINED FOR PUBLIC INSPECTION BY THE CLERK OF THE BOARD AND A LISTING OF ALL DETERMINATIONS MADE PURSUANT TO THIS SUBPART WILL BE PUBLISHED IN THE ILLINOIS REGISTER AND THE ENVIRONMENTAL REGISTER AT THE END OF EACH FISCAL YEAR.
- d) A FINAL BOARD DETERMINATION MADE UNDER THIS SUBPART MAY BE APPEALED PURSUANT TO SECTION 41 OF THE ACT.

(Source: Added at ____ Ill. Reg. _____, effective _____)

The Board hereby proposes the following amendments for First Notice:

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE B: AIR POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
 FOR STATIONARY SOURCES

PART 212
~~VISUAL~~ VISIBLE AND PARTICULATE MATTER EMISSIONS

SUBPART A: GENERAL

- Section
- 212.100 Scope and Organization
- 212.110 Measurement Methods
- 212.111 Abbreviations and Units
- 212.112 Definitions
- 212.113 Incorporations by Reference

SUBPART B: VISUAL EMISSIONS

- Section
- 212.121 Opacity Standards

- 212.122 Limitations for Certain New Sources
- 212.123 Limitations for All Other Sources
- 212.124 Exceptions
- 212.125 Determination of Violations
- 212.126 Adjusted Opacity Standards Procedures

SUBPART D: PARTICULATE MATTER EMISSIONS FROM INCINERATORS

Section

- 212.181 Limitations for Incinerators
- 212.182 Aqueous Waste Incinerators
- 212.183 Certain Wood Waste Incinerators
- 212.184 Explosive Waste Incinerators

SUBPART E: PARTICULATE MATTER EMISSIONS FROM
FUEL COMBUSTION EMISSION SOURCES

Section

- 212.201 Existing Sources Using Solid Fuel Exclusively Located in the Chicago Area
- 212.202 Existing Sources Using Solid Fuel Exclusively Located Outside the Chicago Area
- 212.203 Existing Controlled Sources Using Solid Fuel Exclusively
- 212.204 New Sources Using Solid Fuel Exclusively
- 212.205 Existing Coal-fired Industrial Boilers Equipped with Flue Gas Desulfurization Systems
- 212.206 Sources Using Liquid Fuel Exclusively
- 212.207 Sources Using More Than One Type of Fuel
- 212.208 Aggregation of Existing Sources

SUBPART K: FUGITIVE PARTICULATE MATTER

Section

- 212.301 Fugitive Particulate Matter
- 212.302 Geographical Areas of Application
- 212.304 Storage Piles
- 212.305 Conveyor Loading Operations
- 212.306 Traffic Areas
- 212.307 Materials Collected by Pollution Control Equipment
- 212.308 Spraying or Choke-Feeding Required
- 212.309 Operating Program
- 212.310 Minimum Operating Program
- 212.312 Amendment to Operating Program
- 212.313 Emission Standard for Particulate Collection Equipment
- 212.314 Exception for Excess Wind Speed
- 212.315 Covering for Vehicles

SUBPART L: PARTICULATE MATTER EMISSIONS

FROM PROCESS EMISSION SOURCES

Section
212.321 New Process Sources
212.322 Existing Process Sources
212.323 Stock Piles

SUBPART N: FOOD MANUFACTURING

Section
212.361 Corn Wet Milling Processes

SUBPART O: PETROLEUM REFINING, PETROCHEMICAL
AND CHEMICAL MANUFACTURING

Section
212.381 Catalyst Regenerators of Fluidized Catalytic Converters

SUBPART Q: STONE, CLAY, GLASS
AND CONCRETE MANUFACTURING

Section
212.421 New Portland Cement Processes
212.422 Portland Cement Manufacturing Processes

SUBPART R: PRIMARY AND FABRICATED METAL
PRODUCTS AND MACHINERY MANUFACTURE

Section
212.441 Steel Manufacturing Processes
212.442 Beehive Coke Ovens
212.443 By-Product Coke Plants
212.444 Sinter Processes
212.445 Blast Furnace Cast Houses
212.446 Basic Oxygen Furnaces
212.447 Hot Metal Desulfurization Not Located in the BOF
212.448 Electric Arc Furnaces
212.449 Argon-Oxygen Decarburization Vessels
212.450 Liquid Steel Charging
212.451 Hot Scarfing Machines
212.452 Measurement Methods
212.455 Highlines on Steel Mills
212.456 Certain Small Foundries
212.457 Certain Small Iron-melting Air Furnaces

SUBPART S: AGRICULTURE

Section
212.461 Grain Handling and Drying in General
212.462 Grain Handling Operations
212.463 Grain Drying Operations

SUBPART T: CONSTRUCTION AND WOOD PRODUCTS

Section
212.681 Grinding, Woodworking, Sandblasting and Shotblasting

Appendix A Rule into Section Table
Appendix B Section into Rule Table
Appendix C Past Compliance Dates

Illustration A Allowable Emissions from Solid Fuel Combustion
Emission Sources Outside Chicago
Illustration B Limitations for all New Process Emission Sources
Illustration C Limitations for all Existing Process Emission
Sources

AUTHORITY: Implementing Section 10 and authorized by Section 27
of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch.
111 1/2, pars. 1010 and 1027)

SOURCE: Adopted as Chapter 2: Air Pollution, Rules 202 and
203: Visual and Particulate Emission Standards and Limitations,
R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in
R77-15, 32 PCB 403, at 3 Ill. Reg. 5, p. 798, effective
February 3, 1979; amended in R78-10, 35 PCB 347, at 3 Ill. Reg.
39, p. 184, effective September 28, 1979; amended in R78-11, 35
PCB 505, at 3 Ill. Reg. 45, p. 100, effective October 26, 1979;
amended in R78-9, 38 PCB 411, at 4 Ill. Reg. 24, p. 514,
effective June 4, 1980; amended in R79-11, 43 PCB 481, at 5 Ill.
Reg. 11590, effective October 19, 1981; codified at 7 Ill. Reg.
13591; amended in R82-1 (Docket A) at 10 Ill. Reg. 12637,
effective July 9, 1986; amended in R85-33 at 10 Ill. Reg. 18030,
effective October 7, 1986; amended in R84-48 at 10 Ill. Reg. 691,
effective December 18, 1986; amended in R84-42 at 11 Ill. Reg.
1410, effective December 30, 1986

Section 212.113 Incorporations by Reference

The following materials are incorporated by reference:

- a) ASME Power Test Code 27-1957, Determining Dust
Concentration in a Gas Stream, American Society of

Mechanical Engineers, United Engineering Center, 345 E. 47th Street, New York, NY 10017.

- b) Ringelmann Chart, Information Circular 833 (Revision of IC7718), Bureau of Mines, U.S. Department of Interior, May 1, 1967.
- c) 40 CFR 60, Appendix A, 42 Fed. Reg. 41,754 (August 18, 1977) (1986)
- d) ASAE Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers, American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085.
- e) U.S. Sieve Series, ASTM-E11, American Society of Testing Materials, 1916 Race Street, Philadelphia, PA 19103.
- f) This Part incorporates no future editions or amendments.

(Source: Amended at _____ Ill. Reg. _____,
effective _____)

Section 212.121 Opacity Standards

For the purposes of this Subpart, all ~~visual~~ visible emission opacity standards and limitations shall be considered equivalent to corresponding Ringelmann Chart readings, as described under the definition of opacity (35 Ill. Adm. Code 211.122).

~~(Board Note: This Subpart as it applies to sources regulated by Subpart B has been ruled invalid by the Illinois Supreme Court, Celotex v. IPCB et al., 68 Ill. Dec. 108, 445 N.E.2d 752.)~~

(Source: Amended at _____ Ill. Reg. _____,
effective _____)

Section 212.123 Limitations for All Other Sources

- a) No person shall cause or allow the emission of smoke or other particulate matter, ~~from any other emission source into the atmosphere of~~ with an opacity greater than 30 percent, into the atmosphere from any emission source other than those sources subject to Section 212.122.
- b) Exception: The emission of smoke or other particulate matter from any such emission source may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such more opaque emissions permitted during any 60 minute period shall occur from only one such emission source located within a 305 m

(1000 ft) radius from the center point of any other such emission source owned or operated by such person, and provided further that such more opaque emissions permitted from each such emission source shall be limited to 3 times in any 24 hour period.

(Source: Amended at _____ Ill. Reg. _____,
effective _____)

Section 212.124 Exceptions

- a) Startup. Sections 212.122 and 212.123 shall apply during times of startup except as provided in the operating permit in 35 Ill. Adm. Code 201.
- b) Emissions of water and water vapor. Sections 212.122 and 212.123 shall not apply to emissions of water or water vapor from an emission source.
- c) Adjusted standards. An emission source which has obtained an adjusted opacity standard pursuant to Section 212.126 shall be subject to that standard rather than the limitations of Section 212.122 or 212.123.
- de) Compliance with the particulate regulations of this Part a defense.

- 1) For all emission sources not subject to Section 212.124(d)(2) below:

Section 212.123 shall not apply if it is shown that the emission source was, at the time of such emission, in compliance with the applicable mass emissions limitations of this Part.

- 2) For all emission sources subject to Sections 212.201, 212.202, 212.203 or 212.204 and either Section 212.122 or 212.123:

A) An exceedance of the limitations of Section 212.122 and 212.123 is prima facie evidence of a violation of the applicable particulate limitations of this Part. It shall be a defense to a violation of the applicable particulate limitations if, during a subsequent performance test conducted within a reasonable time not to exceed 60 days, under the same operating conditions for the source and the control devise(s), and in accordance with Section 212.110, the owner or operator shows that the source is in compliance with the mass emission limitations.

- B) It shall be a defense to an exceedance of the opacity limit if, during a subsequent performance test conducted within a reasonable time not to exceed 60 days, under the same operating conditions of the source and the control device(s), and in accordance with Section 212.110, the owner or operator shows that the source is in compliance with the allowable mass emissions limitation while, simultaneously, having visible emissions equal to or greater than the opacity exceedance as originally observed.

(Source: Amended at _____ Ill. Reg. _____,
effective _____)

Section 212.126 Adjusted Opacity Standards Procedures

- a) Pursuant to Section 28.1 of the Act, and in accordance with 35 Ill. Adm. Code 106 Subpart E, adjusted visible emissions standards for emission sources subject to Sections 212.201, 212.202, 212.203, or 212.204 and either Section 212.122 or 212.123 shall be granted by the Board to the extent consistent with federal law based upon a demonstration by such a source that the results of a performance test conducted pursuant to this Section and Section 212.110 show that the source meets the applicable particulate mass emission limitations at the same time that the visible emissions exceed the otherwise applicable standards. Such adjusted opacity limitations:
- 1) Shall be specified as a condition in operating permits issued pursuant to 35 Ill. Adm. Code 201;
 - 2) Shall substitute for that limitation otherwise applicable;
 - 3) Shall not allow an opacity greater than 60 percent at any time; and
 - 4) Shall allow opacity for one six-minute averaging period in any 60 minute period to exceed the adjusted opacity standard.
- b) For the purpose of establishing an adjusted opacity standard, any owner or operator of an emission source which meets the requirements of subsection (a), above, may request the Agency to determine the average opacity of the emissions from the emission source during any performance test(s) conducted pursuant to Section

212.110. The Agency may refuse to accept the results of emissions tests conducted pursuant to this Section which are conducted without prior review and approval of the test specifications and procedures by the Agency.

- c) Any request for the determination of the average opacity of emissions shall be made in writing, including all test specifications and procedures, and submitted to the Agency at least thirty days before the proposed test date.
- d) The Agency will advise the owner or operator of an emission source which has requested an opacity determination of any deficiencies in the proposed test specifications and procedures as expeditiously as practicable but no later than 10 days prior to the proposed test date so as to minimize any disruption of the proposed testing schedule.
- e) The owner or operator shall give written notice to the Agency of the time and place of the performance test at least 30 days prior to the date of that test and shall allow Agency personnel to be present during that test.
- f) The method for determining an adjusted opacity standard is as follows:
 - 1) A minimum of 60 consecutive minutes of opacity readings obtained in accordance with USEPA Test Method 9, 40 CFR 60, Appendix A (1986), incorporated by reference in Section 212.113, shall be taken during each sampling run. Therefore, for each performance test (which normally consists of three sampling runs), a total of three sets of opacity readings totaling three hours or more shall be obtained.
 - 2) After the results of the performance tests are received from the emission source, the status of compliance with the applicable mass emission limitation shall be determined by the Agency. In accordance with USEPA Test Method 5, 40 CFR 60, Appendix A (1986), incorporated by reference in Section 212.113, the average of the results of the three sampling runs must be less than the allowable mass emission rate in order for the source to be considered in compliance. If compliance is demonstrated, then only those test runs with results which are less than the allowable mass emission rate shall be considered as acceptable test runs for the purpose of establishing an adjusted opacity standard.

- 3) The opacity readings for each acceptable sampling run shall be divided into sets of 24 consecutive readings. The average opacity for each set shall be determined by dividing the sum of the 24 readings within each set by 24.
- 4) The second highest six-minute average shall be selected as the adjusted opacity standard.
- g) The owner or operator shall submit a written report of the results of the performance test to the Agency at least 30 days prior to filing a petition for an adjusted standard with the Board.
- h) If, upon review of such owner's or operator's written report of the results of the performance test(s), the Agency determines that the emission source is in compliance with all applicable emission limitations for which the performance tests were conducted, but fails to comply with the requirements of Section 212.122 or 212.123, the Agency shall notify the owner or operator as expeditiously as practicable, but no later than 20 days after receiving the written report of any deficiencies in the results of the performance tests.
- i) The owner or operator may petition the Board for an adjusted visible emission standard pursuant to 35 Ill. Adm. Code 106 Subpart E. In addition to the requirements of 35 Ill. Adm. Code 106 Subpart E the petition shall include the following information:

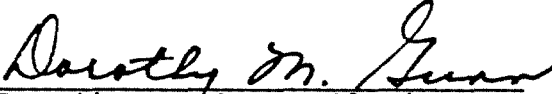
 - 1) A description of the business or activity of the petitioner, including its location and relevant pollution control equipment;
 - 2) The quantity and type of materials discharged from the source or control equipment for which the adjusted standard is requested;
 - 3) A copy of any correspondence between the petitioner and the Agency regarding the performance test(s) which form the basis of the adjusted standard request;
 - 4) A copy of the written report submitted to the Agency pursuant to subsection (g) above;
 - 5) A statement that the performance test(s) were conducted in accordance with the conditions and procedures accepted by the Agency pursuant to Section 212.110;

- 6) A statement regarding the specific limitation requested; and
- 7) A statement as to whether the Agency has sent notice of deficiencies in the results of the performance test pursuant to subsection (h) above and a copy of said notice.
- j) In order to qualify for an adjusted standard the owner or operator must justify as follows:
 - 1) That the performance test(s) were conducted in accordance with USEPA Test Method 9, 40 CFR 60, Appendix A (1986), incorporated by reference in Section 212.113, and the conditions and procedures accepted by the Agency pursuant to Section 212.110;
 - 2) That the emission source and associated air pollution control equipment were operated and maintained in a manner so as to minimize the opacity of the emissions during the performance test(s); and
 - 3) That the proposed adjusted opacity standard was determined in accordance with subsection (f).
- k) Nothing in this Section shall prevent any person from initiating or participating in a rulemaking, variance, or permit appeal proceeding before the Board.

(Source: Amended at _____ Ill. Reg. _____,
effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Proposed Opinion and Order was adopted on the 17th day of December, 1987 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board