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SUPPLEMENTARY INFORMATION:

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I. What Did EPA Propose?

EPA proposed to approve Illinois' test averaging rules. EPA proposed this action on April 15, 2002, at 67 FR 18115, based on a submittal by the Illinois Environmental Protection Agency on October 9, 2001.

Illinois' submittal includes a new part 283 of Title 35 of the Illinois Administrative Code, entitled General Procedures for Emissions Tests Averaging. A core feature of these rules is that evaluations of compliance of sources having relatively stable emissions with mass emission limits shall be on the basis of the average of three test runs whenever feasible. The rules further specify that the emissions tests must be in conformance with a test plan that the source must submit prior to compliance testing. Sources may request permission from IEPA to make minor deviations from the test plan. "Minor deviations" are defined in the rule to include only those testing procedures that do not affect the level of emissions measured and do not affect how other sources in the source category might be tested.

The averaging of three test runs is standard practice. Almost all air emission compliance tests in Illinois use methods given in Appendix A to Title 40 Code of Federal Regulations part 60 (40 CFR part 60). While EPA only requires these methods for assessing compliance with new source performance standards, in practice these methods are used nearly universally in evaluating compliance with limits applicable to older as well as newer sources. Averaging provisions for the 40 CFR part 60 methods are given in 40 CFR 60.8(f), stating that "unless otherwise specified * * *, each performance test shall consist of three separate runs using the applicable test method * * *. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply." Further text of 40 CFR 60.8(f) explains that compliance may be judged on the basis of an average of two test runs if for specified reasons a valid third test run cannot be obtained. These provisions represent standard practice

in compliance assessments. EPA proposed to approve Illinois' rules because it judged them consistent with this standard practice.

It may be noted that visible emission tests are addressed somewhat differently from the mass emission tests addressed in 40 CFR 60.8. Visible emission tests, including opacity observations under Method 9 and tests of the duration of visible emissions under Method 22, involve many observations per hour (240 observations per hour in the case of Method 9), so that measurement uncertainty is addressed in these methods without averaging the results for multiple hours. That is, averaging of three test runs is standard practice only for mass emissions testing, where each test run produces only one mass emissions result. Illinois clearly intended its averaging of three test runs to apply only to mass emissions testing, and EPA's approval actions reflect that understanding.

II. What Did Commenters Say and What Is EPA's Response?

EPA received one letter commenting on its proposed rulemaking. This letter was co-signed by the Environmental Law & Policy Center, the American Lung Association of Metropolitan Chicago, and the Illinois Chapter of the Sierra Club. The following discussion is organized in comment-response format, presenting each issue or concern raised by the commenters followed by EPA's response.

Comment: The commenters observe that averaging results from three test runs provides a less stringent test of compliance than treating any one test run with excessive emissions as a violation. The commenters therefore consider Illinois' adoption of a rule providing for averaging of three test runs to be a relaxation of Illinois' rules. The commenters state that such a relaxation is impermissible under Clean Air Act section 110(l) and (for nonattainment areas) section 193 and under rules for prevention of significant deterioration unless special demonstrations of acceptability are provided.

Response: EPA agrees that averaging three test runs is less stringent than using each test run as an independent test of compliance. However, EPA does not agree that Illinois is in fact relaxing its compliance assessments.

As stated in Illinois' technical support document for its state rulemaking, "The purpose of these * * * rules is to codify an existing Agency policy." Thus, compliance assessments after this rule change are no less stringent than compliance assessments before this rule

change; Illinois used an average of three test runs to assess compliance before this rule change and will continue to use an average of three test runs after this rule change. Thus, this rule change merely formalized existing practice, and did not relax the procedures by which Illinois assesses compliance.

Similarly, approval of these rules into the State Implementation Plan (SIP) does not relax the approach EPA will use to assess compliance, since EPA's approach for assessing compliance before Illinois adopted these rules is the same as the approach it will use afterward, *i.e.* generally assessing compliance based on an average of three test runs.

Thus, Illinois' formalization of this practice does not represent a relaxation, since in fact Illinois and EPA will be assessing compliance in the same way after this revision as before. Since EPA does not consider this a relaxation, the provisions of sections 110(l) and 193 and the prevention of significant deterioration provisions do not apply.

The purpose of addressing compliance on the basis of a three run average is to address measurement uncertainty. Under normal circumstances, EPA believes that results from one test run do not provide sufficient reliability to demonstrate compliance or noncompliance with mass emission limits. Use of a three run average (or, when necessary and appropriate, at least a two run average) provides a better degree of confidence in the compliance assessment.

Comment: The commenters state that "there are inadequate safeguards built into the rule to assure that averaging is only used to remedy random results that are a result of inaccurate test methods." The commenters cite example test results included in IEPA's testimony during its rule adoption process (test results of 201, 166, and 154 ppm, showing compliance on average with a 200 ppm limit). The commenters believe this testimony demonstrates that test result variability that IEPA views as reflecting testing variability in fact represents variability in source operations and source emission rates. The commenters believe this evidence contradicts IEPA's claims that its rule addresses modest variability in test results and not variability in source emission rates. The commenters believe that the rule allows sources to be treated as complying with applicable limits on average when in fact the sources are going in and out of compliance.

Response: Consecutive test runs on a facility that by objective measures is being operated in the same manner can yield test result differences like those