

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1996

IN THE MATTER OF:)
)
15% ROP PLAN: CLEAN-UP PART I -) R96-2
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking - Air)
219.585(a) AND 219.APPENDIX E)

Adopted Rule. Final Action.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon a petition for rulemaking filed by the Illinois Environmental Protection Agency (Agency). The Agency requests that the Board make two amendments to its air emissions regulations applicable in the Metro-East St. Louis area (Madison, Monroe, and St. Clair Counties). The principal amendment establishes a uniform annual date of June 1 upon which all regulated gasoline facilities must comply with 7.2 psi Reid vapor pressure (RVP) gasoline requirements; currently the June 1 date applies to retail outlets and wholesale purchaser-consumer facilities, whereas the date applicable to other facilities (i.e., refiners, distributors, bulk terminals) is May 1. The second proposed amendment is a housekeeping matter that corrects an error in the identification number of a marine terminal at 35 Ill. Adm. Code 219.Appendix E.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (1994)). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois" (415 ILCS 5/5(b)). More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

Today the Board adopts the Agency's proposed rules for final action and sends them to the Administrative Code Division of the Office of Secretary of State for publication and assignment of an effective date pursuant to Section 5 of the Illinois Administrative Procedure Act (5 ILCS 100/5-40(d) (1994)).

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PROCEDURAL HISTORY

The Agency filed its petition on September 6, 1995. The petition was accompanied by a motion to expedite decision. The Board granted the motion and additionally on September 21, 1995 adopted the Agency's proposal for first notice. First notice publication occurred at 19 *Illinois Register* 14267 (October 13, 1995).

Hearings were held before hearing officer Audrey Lozuk-Lawless on October 25, 1995 in Springfield, Illinois, and on October 26, 1995 in Edwardsville, Illinois. At both hearings the Agency presented testimony in support of its proposal. Testimony in support of the proposal was also received from Amoco Oil Company and the Illinois Environmental Regulatory Group. Shell Oil Company filed the only public comment and supported the proposed rulemaking to provide consistency with the USEPA regulations.

By order of December 7, 1995 the Board adopted the proposal for second notice. The matter was accordingly filed with the Joint Committee on Administrative Rules (JCAR). On January 23, 1996 JCAR voted no objection to adoption of the proposal.

The Board observes that the amendment regarding the 7.2 psi RVP compliance date has been before the Board on a prior occasion as the subject of an emergency rule adopted by the Board in February 1995¹; the emergency rule was in effect for the 1995 ozone season. Today's action is, in effect, adoption of that rule on a permanent basis.

The Agency contends, as it did in the emergency rule proceeding, that the uniform June 1 compliance date "is appropriate at this time in view of the need for consistency between the Board's rules and USEPA's regulations" (Motion at ¶3), and that the "change should be accomplished as quickly as possible to address concerns of enforceability of the current rule" (*Id.*).

¹ In the Matter of: Emergency Rule Amending 7.2 psi Reid Vapor Pressure Requirement in the Metro-East Area, 35 Ill. Adm. Code 219.585(a), R95-10, adopted by Board order of February 23, 1995, effective March 10, 1995.

NATURE OF TODAY'S RULES

Section 182(b)(1) of the Clean Air Act, as amended in 1990, requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of volatile organic material (VOM) by 1996. In Illinois, the Chicago and Metro-East areas are classified as "severe" and "moderate" nonattainment for ozone, respectively, and as such are subject to the 15% reduction requirement. Illinois has met its 15% reduction obligations by designing a 15% Rate of Progress (ROP) plan, which included adoption of a series of regulations designed to decrease VOM emissions. The ROP provisions are incorporated into Illinois' State Implementation Plan (SIP) for the control of ozone.

One of the 15% ROP provisions is a requirement that only low volatility gasoline be sold during the ozone season. Low volatility gasoline evaporates less readily, and hence is less prone to generating emissions of VOM.

The Board adopted low volatility gasoline regulations for the Metro-East area in docket R94-12, In the Matter of: 15% ROP Plan Control Measures for VOM Emissions - Part I: Pressure/Vacuum Relief Valves and 7.2 RVP (September 15, 1994). "Low volatility" gasoline, as defined for the Metro-East area, is gasoline with a Reid vapor pressure not exceeding 7.2 pounds per square inch (psi), with some latitude provided for ethanol blends. (see 35 Ill. Adm. Code 219.585(b) and (c).) The definition of what constitutes low volatility gasoline is not at issue in the instant matter.

What is at issue is the annual "regulatory control period" during which the low volatility gasoline regulations are in effect. The regulatory control period consists of that annual period during which "no person shall sell, offer for sale, dispense, supply, offer for supply, or transport for use in Illinois" gasoline that is other than low volatility gasoline. (see 35 Ill. Adm. Code 219.585(a).) As currently crafted, the regulatory control period is bifurcated, with a period extending from June 1 to September 15 applicable to retail outlets and wholesale purchaser-consumer facilities, and a period from May 1 to September 15 for "all other facilities". (*Id.*) The "other facilities" include refiners, distributors, and bulk terminals (collectively as "supply facilities").

Thus the existing regulations require that supply facilities comply with the low volatility gasoline regulations each year at a date that is a month earlier than the retail and consumer facilities they service. Today's action removes this

bifurcation, thereby establishing the same regulatory control period of June 1 to September 15 for all affected facilities.

It is important to note that removal of the current bifurcated regulatory control period under Illinois law is not equivalent to removal of all volatility limitations during the month of May. Rather, the result is return to volatility limits prescribed by the United States Environmental Protection Agency (USEPA) under federal law.

USEPA regulates gasoline volatility under Section 211(h) of the Clean Air Act. As part of that authority, USEPA has specified maximum gasoline volatility limits for various non-attainment areas; these apply unless a lower volatility limit is adopted within a SIP. For the Metro-East area during the month of May the USEPA-specified volatility limit is 9.0 psi RVP. (*Federal Register*, Vol. 55, No. 212, June 11, 1990, p. 23867.) Thus, the consequence of today's action is equivalent to raising the May limitation for supply facilities from 7.2 to 9.0 psi gasoline.

JUSTIFICATION

The justification that the Agency presents for today's action is essentially the same as the justification that the Board found compelling in adopting the identical amendments as an emergency rule in February 1995 under docket R95-10. That is, the amendment eases an economic hardship without detriment to the environment and air quality.

Hardship

In adopting the emergency rule in R95-10, the Board specifically identified three areas of hardship: 1) for the refiners, acceleration of production schedules to supply lower volatility gasoline for only one small area of a larger market area; 2) for pipelines, the need to ship a separate, low RVP to the Illinois market during the month of May; and 3) for gasoline distributors, the shortening of time to blend down their tanks from higher volatility winter gasoline and the resulting rise of the risk of being out of compliance. (R95-10 slip op. at p. 5, February 23, 1995.) The Agency asserts in the instant matter that each of these areas of hardship remains. (Statement of Reasons at p. 3; Exh. #1 at p. 4.)

Some portion of this hardship results from the fact that the Metro-East area is part of the larger St. Louis metropolitan area and market. In the Missouri part of the metropolitan area,

pursuant to federal law, supply facilities are not required to comply with the 7.2 psi gasoline requirements until June 1; during May the federal standard of 9.0 psi applies. Thus, Metro-East supply facilities, if they wish to compete in the full metropolitan market, must during the month of May accommodate two different gasoline volatility laws.

The Agency has undertaken an analysis of the economic effect caused by the difference in regulations in the two parts of the metropolitan area, and observes:

Revising the bulk supplier compliance date from May 1 to June 1, would delay the need for the more expensive, lower volatility gasoline by a month. In order to determine the monthly amount of fuel sold in the Metro-East area, statewide gasoline and ethanol-blended gasoline sales figures for 1990, were estimated for 1996 using gasoline sales growth figures from the Illinois Department of Transportation ("IDOT"). Total gasoline and ethanol-blend sales in the Metro-East area were estimated by apportioning statewide sales to the three-county area based on the areas fraction of statewide vehicle miles traveled. Using these IDOT-supplied figures, it is estimated that approximately 23,600,000 gallons of gasoline and ethanol-blended gasoline would be sold in May 1996. Applying the 1 to 2 cent per gallon cost increase estimate, contained in the TSD [technical support document] for R94-12, for the lower volatility fuel, gasoline suppliers will save between \$236,000 and \$472,000 through the compliance date change to June 1. (Exh. #1 at p. 4-5.)

Environmental/Air Quality Impact

The Board in adopting the emergency rule in R95-10 was persuaded that changing the regulatory control period would have little environmental effect. (R95-10 slip op. at p. 4, February 23, 1995.) Again, the Board is presented in the instant matter with the same argument:

If the May 1 Illinois supplier compliance date were changed to June 1, the current USEPA 9.0 psi RVP May standard would still be in effect. Therefore, no increase in VOM emissions would occur. (Exh. #1 at p. 5.)

One measure of the impact today's rule will have on air quality is the impact it will have on Illinois' inventory of emission reductions, and hence ability to comply with the Clean

Air Act's requirement to produce emission reductions. The Agency addresses this point thusly:

From an emission reduction point of view, changing the compliance date to June 1 would result in only a small loss of potential VOM emissions reductions. The Agency estimated in the TSD for R95-10 that the amount of emission reductions which would have been obtained from affected gasoline storage terminals and bulk storage plants during the month of May is approximately 0.27 TPD [tons per day]. However, the 15 Percent ROP plan 7.2 psi RVP gasoline emissions reduction credit of 8.55 TPD, contained in the TSD for docket R94-12, should not be reduced because the ROP plan reduction is based on calculation methodologies which incorporate both driving patterns and meteorological conditions representative of summer (June through August) conditions. (Exh. #1 at p. 5.)

CORRECTION AMENDMENT

In addition to the issue of the regulatory control period for low volatility gasoline, the Board also adopts today the Agency's recommendation to correct an error regarding the identification number for the Clark Oil Company, as found in 35 Ill. Adm. Code 219. Appendix E. The correction changes the number from 197800AAA to 119050AAA.

The Clark Oil Company terminal is subject to the Marine Vessel Loading rules. These rules were adopted by the Board in docket R94-15, In the Matter of: 15% ROP Plan Control Measures for VOM Emissions - Part II Marine Vessel Loading: Amendments 35 Ill. Adm. Code Parts 211, 218 and 219 (October 20, 1994). The incorrect identification number was adopted at that time.

CONCLUSION

The Board finds that the record before us justifies adoption of the rule changes proposed by the Agency. Accordingly, we today adopt those changes.

ORDER

The Board directs that the following amendments be submitted to the Secretary of State for final notice pursuant to Section 5-40 of the Illinois Administrative Procedure Act.

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

PART 219
ORGANIC MATERIAL EMISSION STANDARDS AND
LIMITATIONS FOR THE METRO EAST AREA

SUBPART Y: GASOLINE DISTRIBUTION

Section 219.585 Gasoline Volatility Standards

- a) No person shall sell, offer for sale, dispense, supply, offer for supply, or transport for use in Illinois gasoline whose Reid vapor pressure exceeds the applicable limitations set forth in subsections (b) and (c) below during the regulatory control periods, which shall be June 1 to September 15 ~~for retail outlets and wholesale purchaser consumer facilities and from May 1 to September 15 for all other facilities.~~
- b) The Reid vapor pressure of gasoline, a measure of its volatility, shall not exceed 7.2 psi (49.68 kPa) during the regulatory control period in 1995 and each year thereafter.
- c) The Reid vapor pressure of ethanol blend gasolines having at least nine percent (9%) but not more than ten percent (10%) ethyl alcohol by volume of the blended mixture, shall not exceed the limitations for gasoline set forth in subsection (b) of this Section by more than 1.0 psi (6.9 kPa). Notwithstanding this limitation, blenders of ethanol blend gasolines whose Reid vapor pressure is less than 1.0 psi above the base stock gasoline immediately after blending with ethanol are prohibited from adding butane or any product that will increase the Reid vapor pressure of the blended gasoline.
- d) All sampling of gasoline required pursuant to the provisions of this Section shall be conducted in accordance with the procedures contained in 40 CFR Part 80, Appendix D, Sampling Procedures for Fuel Volatility, which are incorporated by reference in Section 219.112 of this Part.

- e) The Reid vapor pressure of gasoline shall be measured in accordance with the procedures contained in "Tests for Determining Reid Vapor Pressure (RVP) of Gasoline and Gasoline-Oxygenate Blends" as set forth in 40 CFR 80, Appendix E, incorporated by reference in 35 Ill. Adm. Code 219.112 of this Part.
- f) The ethanol content of ethanol blend gasolines shall be determined by use of one of the approved testing methodologies specified in 40 CFR Part 80, Appendix F, incorporated by reference in 35 Ill. Adm. Code 219.112 of this Part.
- g) Any alternate to the sampling or testing methods or procedures contained in subsections (d), (e), and (f) of this Section must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of one or more approved test methods or procedures. Such data shall accompany any request for Agency approval of any alternate test procedure. If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test methods or will achieve results equivalent to the approved test methods or procedures, the Agency shall approve the proposed alternative.
- h) Recordkeeping and reporting:
 - 1) Each refiner or supplier that distributes gasoline or ethanol blends shall:
 - A) During the regulatory control period, state that the Reid vapor pressure of all gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois complies with the Reid vapor pressure limitations set forth in 35 Ill. Adm. Code 219.585(b) and (c) of this Part. Any source receiving this gasoline shall be provided with a copy of an invoice, bill of lading, or other documentation used in normal business practice stating that the Reid vapor pressure of the gasoline complies with the State Reid vapor pressure standard.
 - B) Maintain records for a period of three years on the Reid vapor pressure, quantity shipped

and date of delivery of any gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois. The Agency shall be provided with copies of such records if requested.

- 2) Records and reports required by subsections (h)(2)(A) and (h)(2)(B) below shall be made available to the Agency upon request. During the regulatory control period, the owner or operator of a gasoline dispensing operation subject to this Section shall:
- A) Retain a copy of an invoice, bill of lading, or other documentation used in normal business practice stating that the Reid vapor pressure of the gasoline complies with the State Reid vapor pressure standard as provided in subsection (h)(1)(A) above; and
 - B) Maintain records for a period of three years on the Reid vapor pressure, quantity received and date of delivery of any gasoline or ethanol blends arriving at the gasoline operation.

(Source: Amended at 19 Ill. Reg. _____ effective _____
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Section 219.Appendix E: List of Affected Marine Terminals

The following table identifies the expected volatile organic material (VOM) emission reductions, in pounds per day in 1996, from the control of the marine vessel loading of gasoline and crude oil from the listed sources, their successors, and assigns. Such reduction of VOM emissions must occur after November 1990 and may not include reductions resulting from compliance with any federally required controls or from any measures included in any State Implementation Plan adopted by the State of Illinois to satisfy any other Clean Air Act requirement.

Facility	Permit#	Reduction
Phillips Pipeline Co. Facility ID # 163020AAB	73040515014	10
Clark Oil and Refining Corp. Facility ID # 197800AAA <u>119050AAA</u>	72110678053	468

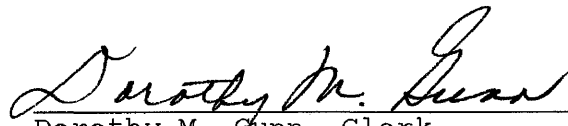
Marathon Pipe Line Co. Facility ID # 119050AAF	73021451001	2,417
Conoco Pipe Line Co. Facility ID # 119050AAK	73031095011	2,759
Shell Oil Co. Facility ID # 119090AAA	87120058128	7,554
Amoco Distribution Center Facility ID # 119115AAY	73020080007	10,443

(Source: Amended at 19 Ill. Reg. _____, effective _____
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IT IS SO ORDERED.

Board Member J. Theodore Meyer Dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 1st day of February, 1996, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board