ILLINOIS POLLUTION CONTROL BOARD
March 16, 1990

IN THE MATTER OF:	)	
	)	
RACT DEFICIENCIES -	)	R89-16, Subdocket (A)
AMENDMENTS TO 35 ILL. ADM.	)	(Rulemaking)
CODE PARTS 211 AND 215	)	

PROPOSED RULE. SECOND NOTICE.

PROPOSED OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon a September 29, 1989 proposal for amendments to 35 Ill. Adm. Code 201, 211, and 215 filed by the Illinois Environmental Protection Agency (Agency)*. The Board proposed first notice on October 5, 1989, and the proposal was officially published in the Illinois Register on October 20 and 27, 1989 at 13 Ill. Reg. 16285 and 16645. A total of five days of public hearing were held--December 7 and 8, 1989 in Springfield, Illinois, December 14 and 15, 1989 and January 19, 1990 in Chicago, Illinois. Post-hearing comments were scheduled to be filed on February 9, 1990. Based upon the record of R89-16 Subdocket (A) compiled to date, the Board today proceeds to second notice on a select portion of the first notice proposal. The remainder of the R89-16(A) proposal, i.e., that which is not being proposed for second notice today, is being transferred to the subdocket (B) proposal created by Board Order of February 8, 1990.

BACKGROUND

This rulemaking proceeding has its inception, in part, in the settlement agreement submitted to resolve the lawsuit of Wisconsin v. Reilly. As part of that submittal, the State of Illinois agreed that it would submit to the United States Environmental Protection Agency (USEPA) "some or all of the reasonably available control technology (RACT) rules and RACT rule improvements specified for Illinois in Exhibit B," which exhibit includes a listing of deficiencies in the State Implementation Plan (SIP).

For its part in the settlement agreement, USEPA agreed:

> to propose as federal measures RACT rules in accordance with an EPA document dated May 25, 1988 entitled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification To Appendix D of November 24, 1987 Federal Register notice ("Bluebook") for Illinois to remedy the deficiencies described in Exhibit B, by December 31, 1989 and consistent with federal laws (including the

*The Board notes that Deborah Stonich, new Assistant to Board Member J. Anderson, earlier appeared on behalf of the agency in this proceeding. Ms. Stonich has not participated in the Board's deliberations on this proceeding whatsoever.

> Administrative Procedure Act), to promulgate rules by the following dates: (i) March 18, 1990, for rules that Illinois fails to submit to the Illinois Pollution Control Board by September 30, 1989, and for rules for which, by December 31, 1989, Illinois has failed to meet any one of the interim milestones specified in Exhibit C; or (ii) six months after any 1990 interim milestone specified in Exhibit C that Illinois has failed to meet, but in no event later than December 31, 1990. (Settlement Agreement, p. 13).

Exhibit C, referred to under USEPA's agreement, states in its entirety as follows:

EXHIBIT C

Action	Deadline
Illinois EPA proposals filed	9-30-89
Illinois Pollution Control Board decides EcIS question and publishes first notice	12-22-89
Pollution Control Board holds hearing and publishes second notice	3-16-90
JCAR completes action and PCB adopts final rule	5-25-90

As previously noted, the Agency filed its proposal on September 29, 1989, thereby satisfying the first "milestone" date of Exhibit C. In its proposal, the Agency certified that the proposed amendments meet the "required rule" definition contained in Section 28.2 of the Environmental Protection Act (Act), thereby invoking the Section 28.2 rulemaking process. The Board notes that this is one of the first rulemaking proceedings in which the Section 28.2 rulemaking process has been invoked. As a result, many of the issues presented herein are of first impression.

On October 5, 1989, the Board adopted the Agency's proposal for first notice. Without addressing the substantive merits of the proposal, the Board proceeded to first notice simply to begin the Administrative Procedure Act (APA) rulemaking process. The Board noted that previously unregulated sources might be affected and took its action to effectuate first notice publication in the Illinois Register to alert the potentially regulated community to the existence of this proceeding so that comments could be timely made. Also, while Illinois had in no way whatsoever committed in the settlement agreement to be bound by the rulemaking schedule set forth in Exhibit C, the Board stated that it would handle the proceeding on an expedited basis.

Further, on October 27, 1989, the Board decided that an Economic Impact Study (EcIS) need not be prepared, thereby satisfying the second "milestone" date of Exhibit C. The Board's discussion of the EcIS issue is set forth in the Order of that date and will not be restated here. As a general overview

of the Board's reasoning, the Board stated its belief that there would be ample potential for consideration of the economic impact absent the preparation of the EcIS. The Board noted that four days of hearing had been scheduled and that additional days could be scheduled as needed thereafter. Further, in response to an Agency assertion that there was a very limited degree to which the Board could modify the proposal because of its "required" nature, the Board specifically noted the issue of the interplay between Sections 28.2 and 27 of the Act and requested comment thereon.

The third "milestone" date of Exhibit C is March 16, 1990, by which the Board is to have held public hearings and to publish second notice. Public hearings have been held, and the objective of this Order is to proceed to second notice on certain of the proposed amendments. As a result, the third "milestone" date is satisfied.

REQUIRED RULEMAKING PROCEDURES

As previously noted, the Agency certified that the proposed amendments meet the "required rule" definition of Section 28.2 of the Act, thereby invoking the expedited Section 28.2 rulemaking process. Section 28.2 provides:

a. For the purposes of this Section, "required rule" means a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a state Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.7.

b. Whenever a required rule is needed, the Board shall adopt a rule which fully meets the applicable federal law, and which is not inconsistent with any substantive environmental standard or prohibition which is specifically and completely contained and fully set forth within any Illinois statute, except as authorized by this Act. In determining whether the rule fully meets the applicable federal law, the Board shall consider all relevant evidence in the record.

c. Within 21 days of the date that the Board accepts for hearing a proposal for a required rule, any person may request the Board to determine that an economic impact study should be prepared or that an economic impact study should not be prepared. Such request shall be made to the Board in writing and shall detail the reasons for the request. To aid the Board in determining whether an economic impact study is needed, the person filing a request that an economic study be prepared or requesting that an economic study not be

prepared shall describe to the extent reasonably practicable the universe of affected sources and facilities and the economic impact of the proposed required rule.

Within 60 days of the date that the Board accepts for hearing a proposal for a required rule, the Board shall determine whether an economic impact study should be conducted. The Board shall reach its decision based on its assessment of the potential economic impact of the rule, the potential for consideration of the economic impact absent such a study, the extent, if any, to which the Board is free under the statute authorizing the rule to modify the substance of the rule based upon the conclusions of such a study, and any other considerations the Board deems appropriate. The Board may identify specific issues to be addressed in the study.

d. If the Board determines that an economic impact study is necessary, the Department shall prepare an economic impact study in accordance with "An Act in relation to natural resources, research, data collection and environmental studies:, approved July 14, 1978, as amended. The economic impact study shall be prepared within 6 months of the date of the Board's decision that an economic impact study should be conducted. If the economic impact study is not submitted to the Board within that 6 month period, the Board may proceed to adopt a required rule without an economic impact study. If the Board notifies the Department that it will proceed to adopt a required rule without an economic impact study, the Department need not complete the economic impact study. To the extent possible consistent with subsection (b), the Board shall conduct a hearing on the economic impact of the proposed required rule.

During the course of this proceeding, three fundamental issues have arisen: (1) Is the Agency certification reviewable? (2) Is economic reasonableness and technical feasibility considered in a Section 28.2 rulemaking? and (3) What is the applicable federal law that the Board's rulemaking must fully meet?

(1) Agency Certification

On February 8, 1990, the Board adopted an Order in response to a motion filed by the "Industry Group" to dismiss or sever the proposed changes to the Generic and SOCMI Leaks rules. That Order addresses in detail the issue of what an Agency certification is and concludes that a certification is reviewable by the Board. Further, with regard to the specific issues raised

in that motion, the Board determined that the proposed amendments to the Generic and SOCMI Leaks rules were not founded upon federal law such as to fall within the purview of Section 28.2. Subdocket (B) was created to consider those amendments under the regular rulemaking provisions of Sections 27 and 28 of the Act. That discussion will not be duplicated here. That Order will stand as the Board's decision on this issue. The Board notes, however, that on March 15, 1990 the Agency filed a motion to reconsider that Order. The motion is not considered here as other participants have not as yet received, let alone responded to, the motion.

On January 10, 1990, Stepan Company filed a motion to strike and motion for application of Section 28 rulemaking, arguing essentially that the Agency's proposal fails to identify the "law" to which the proposed amendments will respond. On January 23, 1990, the Agency filed a motion for extension of time to respond to the motion. The Board granted the Agency's motion on January 25, 1990.

In its post-hearing comments, however, Stepan indicated that the Agency would, in its comments, provide written confirmation of its "interpretation of the statutory provision [Section 10] and of the inapplicability of the Generic Rule to Stepan by virtue thereof." Stepan further stated that in light of that understanding, the issue as to the status of the Agency proposal as a required rule under federal law as raised in its motion is moot.

On February 22, 1990, the Board adopted an order noting this language and noting that the Agency had in fact filed comments confirming Stepan's assertions. The Board construed Stepan's statement that the issue is moot as a request to withdraw its motion and granted the motion. As a result of the substantive actions taken today, which are discussed below, the Board does not believe it necessary to look further into the "required" nature of the remainder of the proposed amendments, beyond that which is discussed under number 3, below.

(2) Economic Reasonableness and Technical Feasibility

By far the most controversial issue raised in this proceeding is whether or not economic reasonableness and technical feasibility are to be considered in a Section 28.2 rulemaking. This issue was touched upon in the Board's Order of February 8, 1990; however, as post-hearing comments were scheduled to be filed on February 9, 1990, the Board opted to await all comments before addressing the issue. The Board today decides that economic reasonableness and technical feasibility are necessary considerations in a Section 28.2 rulemaking.

As discussed above, the Board decided on October 27, 1989 that an EcIS would not be conducted. Such decision was made pursuant to the second paragraph of Section 28.2(c). The reasons for such decision are addressed in the Order dated October 27, 1989. As an aside, the Board notes that another consideration also presented itself. The Exhibit C schedule of "milestone" dates has been previously noted. The Board notes that that schedule does not contemplate the preparation of an EcIS. In fact, the only way for the Board to meet the "milestone" dates is for an EcIS to not be prepared. In an

attempt to cooperate with and demonstrate good faith to the other parties of the Wisconsin lawsuit and in recognition of the fact that economic and technical information have traditionally been introduced during the hearing process, and fully expecting that such would be submitted during the hearings in this proceeding, the Board chose to attempt to meet the Exhibit C schedule over requiring the EcIS. Had the Board known what would transpire, perhaps that decision would be different.

On the first day of hearing, December 7, 1989, an Agency representative stated:

> The Agency is not offering testimony on the technical feasibility of compliance, the economical reasonableness of these proposed regulations or the affected facilities. This regulatory package contains corrections to deficiencies in the RACT rules identified by USEPA. According to the Settlement Agreement, if the Board fails to timely adopt the corrections in an approvable form, USEPA will promulgate federal corrections. In either case, emission sources will be required to come into compliance with rules implementing these corrections. In addition, this information is not necessary for the Board to adopt a rule that fully meets the applicable federal law. (Emphasis added.) (R. 14-15.)

At no time before that date was the Board ever given an indication by the Agency that it subscribed to this position. In fact, the Board notes that in another "required" rulemaking, R88- 21, Water Toxics, adopted January 25, 1990, an EcIS was prepared and economic reasonableness was considered. That notwithstanding, however, the Agency chose to let its proposal stand or fall with this position on the scope of a Section 28.2 rulemaking proceeding. The remainder of the December 7 and 8 hearings was devoted to Agency testimony on the federal justification of the proposed amendments and Agency statements that it was not prepared to respond to questions involving economic or technical justification.

On December 13, 1989, the Hearing Officer issued an Order directing the Agency, and requesting USEPA, to be prepared to respond to certain questions at the December 14, 1989 hearing.
The specific questions are as follows:

1. Describe, to the extent reasonably practicable, the types of Illinois sources and facilities that are within "the universe of affected sources and facilities" subject to the proposed required rules.

2. Describe, to the extent reasonably practicable, by type, approximately how many such sources and facilities would be affected by the proposed required rules.

3. Describe, to the extent reasonably practicable, the anticipated economic effects of the proposed required rules on sources and facilities. Will the effect and timing of these rules result in more stringent standards in Illinois than elsewhere?

4. Has either the IEPA or USEPA determined, formally or informally, whether the proposed required rules are technically feasible? Economically reasonable?

5. If either answer to #4 is "yes", what was the nature of the determination, and when and how was it made?

6. Is it the position of either the IEPA or the USEPA that the substance of the proposed required rules cannot be altered or modified in any significant substantive way (excluding typographical errors and other non-substantive matters) if USEPA is to grant its approval? If so, what is the authority for this position? Has this authority been asserted in writing?

7. If the answer to #6 is "no", what procedure(s) and what USEPA official(s) determine whether a modification is approvable?

At hearing on December 14, 1989, the Agency offered certain responses to these questions on a deficiency by deficiency basis. The substance of such responses is addressed below under the specific deficiencies. These responses constitute the extent of the information submitted by the Agency regarding economic reasonableness and technical feasibility.

At hearing on December 14, 1989, the Board received testimony from Mr. Sidney Marder, Executive Director of the Illinois Environmental Regulatory Group (IERG), on the issue of considering economic reasonableness and technical feasibility in a Section 28.2 proceeding. Mr. Marder noted that he participated in the drafting of Section 28.2, along with many others. Mr. Marder stated his view that:

> There is no way that the business community would have agreed to a change in the Environmental Protection Act that would have incorporated a provision that would have allowed the Agency to categorically say that a federally mandated rule does not require the inclusion or the consideration of economic impact or technical feasibility. (R. 261.)

Mr. Marder further noted his view that Industry representatives traded off the need for an EcIS as a formal document in certain cases, but specifically retained the right to economic and technical data pursuant to Section 27 of the Act. (R. 262.)

At hearing on December 15, 1989, the Board received testimony from Mr. James Harrington, appearing on behalf of the Illinois Steel Group and the Illinois Manufacturers Association. Mr. Harrington testified on the history of Section 28.2 of the Act. After providing background information, Mr. Harrington stated

> During this time, it was never suggested by the Governor's Office, Ms. Witter, or Mr. Haschemeyer for the Agency, or from anyone else that the requirement for economic reasonableness, technical feasibility considerations would be deleted from rulemaking pursuant

> to Section 28.2. Indeed, in phone conversations, I believe industry was assured that these requirements would continue in effect. And that, therefore, industry would be protected from the adoption of rules without the consideration of economic reasonableness, or technical feasibility. (R. 496-497.)

On January 18, 1990, the Illinois Steel Group filed a Memorandum of Law Regarding Adoption of RACT Rules, which provided argument in support of Mr. Harrington's position.

In post-hearing comments, most if not all of the industry participants stated that a Section 28.2 rulemaking proceeding must include a consideration of economic reasonableness and technical feasibility.

In post-hearing comments, the Agency submitted a brief regarding its interpretation of Section 28.2 of the Act and an affidavit of Mr. Delbert Haschemeyer. The Agency offers the affidavit of Mr. Haschemeyer, Deputy Director of the Agency, in response to the positions stated by Mr. Marder and Mr. Harrington, noted above. In his affidavit, Mr. Haschemeyer states that the basic agreement between the participants which formed the foundation for Section 28.2(c) and (d) included:

> That the economic impact study (EcIS) process with the involvement of Economic Technical Advisory Committee (ETAC) was cumbersome, time consuming and frequently non-productive. That a new process was needed which offered greater flexibility for the development and consideration of economic information to the extent such information was relevant and necessary to the Board's consideration.
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> That the role of economic information in a required rule and the Board's ability to consider economic information would vary depending on the nature of the Federal requirements and the nature of the proposed rule....
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> The question presented is whether economic information is relevant to the Board's consideration of the substance of the rule. That is, would consideration of economic information change the substance of the rule. If not, then the Board could proceed without such consideration. (Affidavit pp. 2-3)

Finally, Mr. Haschemeyer states that the Board's need to consider economic information in required rulemakings is contained entirely and exclusively in Section 28.2 and that depending on the nature of the Federal requirement and the nature of the proposed rule, that need can vary from none at all to the need for a full blown EcIS and consideration thereof.

The Agency's brief argues basically as follows. The first issue is whether the rules proposed are indeed needed to meet the requirements of federal law. It is the Agency's position that the rules proposed herein are needed in order for Illinois to meet the requirements of Sections 110(a) and 172(b) of the Clean Air Act (CAA). Thus, it argues that the applicability requirements of Section 28.2 have been met. The second issue is whether the

rules proposed fully meet the applicable federal law under Section 28.2 and whether they, or some other rules which fully meet the applicable federal law, should be adopted by the Board. The Agency notes that if a rule is needed to meet the requirements of the federal CAA, the Board is mandated by Section 28.2 to adopt a rule which fully meets the applicable federal law. The Agency continues:

> Several arguments have been offered asserting that the Board must consider the economic reasonableness, economic impact and technical feasibility of proposed regulations in a proceeding pursuant to Section 28.2 of the Act. Under the plain language of the section, this depends upon whether there is more that one alternative which "fully meets the applicable federal law", since the Board must adopt a rule which does so. If there is only one alternative that the Board can determine will satisfy the standard for a required rule, the Board must adopt that proposal. Obviously consideration of other factors would be unnecessary and irrelevant in such a situation.
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> A review of the record establishes that the Agency has provided a substantial body of relevant evidence to the Board to support its assertion that adoption of its proposed rules will fully meet the applicable federal law, including the CAA. Such evidence includes written documentation and sworn testimony by USEPA representatives. The USEPA testimony was that the Agency proposals, if adopted by the Board, will meet the requirements of applicable federal law.... Nothing comparable has been provided for any alternatives to this Agency's proposal. In the absence of specific competing proposals, with supporting evidence in the record showing alternatives which meet the applicable federal law, the Board has no choice but to comply with its statutory mandate and adopt the Agency's proposals. (Agency Brief pp. 4-5.)

Finally, the Agency believes that resort to the legislative history behind the enactment of Section 28.2 is unnecessary because the statute is clear and unambiguous on its face.

With this final comment the Board concurs. The Board does not believe it necessary to look beyond the language of Section 28.2 of the Act to determine whether economic reasonableness and technical feasibility are to be considered in a Section 28.2 rulemaking.

Section 28.2 specifically contemplates the potential for preparation of an EcIS. The fundamental distinction between the rulemaking procedures of Section 28.2 and the regular rulemaking procedures is that if an EcIS is requested in a Section 28.2 rulemaking the Board can proceed after 6 months of the date the EcIS was requested whether or not the EcIS is submitted. Nowhere in Section 28.2 does it say that economic reasonableness and technical feasibility, which are required by Section 27, are not to be considered in a required rule proceeding. It is a basic rule of statutory construction that, if reasonably possible to do so without violence to the spirit and language of

the statute, the provision being construed should be interpreted so as to give the statute efficient operation and effect as a whole. See, e.g. Pliakos v. Illinois Liquor Control Commission, 143 N.E.2d 47, 11 Ill. 2d 456 (1957). In order to give all provisions of Title VII of the Act there intended effect, the Board believes that it is required to consider economic reasonableness and technical feasibility in any rulemaking unless the statutory authority for that rulemaking explicitly exempts those issues from consideration, such as in Section 17.5 of the Act, or unless the statutory language clearly indicates that those issues need not be considered, such as in Section 7.2 of the Act.

Section 27* has been construed by the courts as a

> broad requirement that the Board "take into account" certain factors in promulgating its pollution control regulations reflects a legislative recognition of the complexities of pollution control technology and of the differing levels of sophistication of control methods associated with various types of pollution. The requirement of Section 27 is a flexible one and of necessity requires that a great deal of discretion be exercised by the Board. Shell Oil Co. v. IPCB, 37 Ill. App. 3d 264 346 N.E.2d 212 221 (1976).

In the context of cases affirming the Board's adoption of a prior set of RACT rules adopted by the Board, the appellate courts have stated that the Section does not mandate any particular standards with which the Board must comply, and does not establish that the Board must support its regulatory conclusions with any given, specified quantum of evidence. Illinois State Chamber of Commerce v. IPCB, 177 Ill. App. 3d 923, 532 N.E.2d 987 (1988); Stepan Co. v. IPCB, N.E.2d , Ill. App.3d (no. 3-88-004, Third Dist., February 8, 1990), (slip op.as 8), Section 27 does, however, require the Board to "take into account" economic reasonableness when making its decisions. There is no conflict between the mandates of Section 27 and 28.2, although Section 28.2 may limit Section 27's broadest scope.

Thus, economic reasonableness and technical feasibility will be taken into account in a Section 28.2 proceeding, as any other consideration required by Section 27 of the Act. However, the weight that will be given to those

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*Section 27(a) of the Act states in relevant part:

> In promulgating regulations under this Act, the Board shall take into account the existing physical conditions, the character of surrounding land uses, zoning classifications, the nature of the existing air quality, or receiving body of water, as the case may be, and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.

considerations can depend upon certain variables, which include but are not limited to, the nature of the subject matter, the specifity of the federal requirements, and any federal deadline.

This proceeding, entitled "Reasonably Available Control Technology Deficiencies", is a somewhat unusual proceeding. It is a proceeding in which economic reasonableness considerations are inherent in the subject matter. Further, it is a proceeding involving the same issues as the Board has considered in previous rulemakings. During the past several years, the Board has conducted many rulemakings resulting in the adoption of Illinois' existing RACT rules. The Board determined, based on records that included Economic Impact Studies, that the existing regulations constitute RACT in Illinois. Thus, the Board is being asked to reevaluate those prior determinations, which themselves involved considerations of economic reasonableness and technical feasibility. The Board is not persuaded to now completely ignore those considerations in correcting the deficiencies in those rules.

The Agency's arguments concerning economic reasonableness and technical feasibility will, therefore, be directed to the "weight" that those considerations should receive. To support its view that economic information is not necessary for the Board to adopt the proposed rules, the Agency relies upon the language in Section 28.2(c), which states:

> ...the extent, if any, to which the Board is free under the statute authorizing the rule to modify the substance of the rule based upon the conclusions of such a study,...

The Board notes that this language is relevant to the Board's decision as to whether an EcIS shall be prepared, and only to that issue. This language is not relevant to, and does not affect, the Board's underlying authority to consider economic reasonableness and technical feasibility in promulgating regulations under Section 28.2. Further, the Board notes that identical language is also found in Section 27(a), paragraph 1 of the Act, and has not been interpreted to limit the scope of the Board's obligations in rulemaking.

Further, the Agency apparently believes that because USEPA has stated that the proposal, if adopted, would be approved and because no other participant has offered an alternative to which USEPA has made the same statement*, its proposal is the only alternative and must therefore be adopted. The Agency appears to equate the number of proposals with the number of potential alternatives. The Board cannot and does not accept this argument. First, the Board notes that the Agency itself has proposed a number of alternatives to its original proposal as the record developed and as it better understood the ramifications of its proposal. Second, it is the

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*The Board notes the Agency's reliance upon USEPA's letter to support its proposal but is troubled by the Agency's reliance on the letter to argue against any alternatives. The Board questions how a USEPA letter addressing alternatives would be forthcoming. In other words, what is the likelihood of any participant other than the Agency obtaining such a letter in a timely manner?

province of the Board to determine whether alternatives exist based upon the information in a given record. The Board's determination cannot be limited in this respect solely by the number of proposals filed in a rulemaking proceeding. Again, under Section 28.2 of the Act, the Board is to determine whether the proposed rule fully meets the applicable federal law. To yield to the procedure suggested by the Agency would be a clear abdication of the Board's mandate under the Act.

The Board is not persuaded that the Agency's proposal is the only alternative which would be approvable. USEPA has stated that the Agency's proposal is approvable. However, this does not mean that ipso facto other alternatives would not also be approvable. In fact, a representative of USEPA, in response to a question regarding whether the substance of the proposal could be altered, testified at hearing as follows:

> I think our position would be that there is a set of words and substance that we have evaluated and indicated to the Board is acceptable. I mean, you can rewrite that a zillion different ways, depending on how you choose to rewrite it. It is possible that the substance has been changed inadvertently, or whatever. I think that our position would be if somebody wants to take that risk they are certainly free to do so. If on the other hand they choose not to take that risk, they have before them a set of words and substance that we have determined to be acceptable. So I would say that, yes, it can be changed but somebody runs a risk when they change it. (R. 311.)

USEPA itself recognizes that there could be other approvable alternatives.

Herein lies the problem. The Board is not persuaded by the record that other alternatives do not exist. USEPA recognizes that other alternatives may in fact exist. The Agency itself argues that if alternatives do exist, the Board must consider economic reasonableness and technical feasibility. But the Agency decided early on that its proposal, and only its proposal*, would fully meet the applicable federal law: therefore, the Agency concluded that its proposal was the only alternative; therefore, the Agency determined not to offer evidence of economic impact, economic reasonableness, or technical feasibility. Without information in the record on economic impact and technical feasibility, the Board is precluded from considering, in any meaningful way, alternatives to the Agency proposal. It would appear, therefore, that the Board and the Agency are at an impasse.

The Board therefore adopts a construction of the Act which comports with the plain direction of the legislature to decide that proposed rules fully meet the applicable Federal law. Consistent with its above-described construction of Section 28.2 of the Act, the Board will proceed to second notice with the proposed amendments to the extent that the Board can take into

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*Query how the Agency could know, on December 7, 1989, that no other participant would obtain a similar letter from USEPA by the close of the record on February 9, 1990.

account, based upon the record, those considerations required under Section 27(a) of the Act and to the extent that the Board can determine that the proposed amendments fully meet the applicable federal law.

(3) Applicable Federal Law

Section 28.2(b) of the Act states that "[w]henever a required rule is needed, the Board shall adopt a rule which fully meets the applicable federal law,..." The third significant issue in this proceeding is: what will fully meet the applicable federal law? Note that this issue is closely related to, but is distinguishable from, the issue of what forms the basis for an Agency certification of a proposal as "required."

In its Certification the Agency stated that several sections of the CAA support the "general" basis for this regulatory package. The Agency stated:

> Section 110 of the CAA requires that each state adopt and submit to USEPA a plan which provides for the implementation, maintenance and enforcement of national ambient air quality standards (NAAQS) for criteria pollutants. Ozone is a criteria pollutant with a primary NAAQS adopted by USEPA on February 8, 1979. Section 110(a)(2)(h)(ii) gives the Administrator of USEPA the authority to require revisions to the State Implementation Plan (SIP) whenever it is determined to be substantially inadequate to achieve the national ambient air quality primary or secondary standard. The proposed regulations are to be part of the Illinois SIP for ozone. The proposed revisions address regulations that have been identified as deficient by USEPA.
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> (Agency Certification, p. 2).

Further, the Agency states:

> Additional federal justification establishing this regulatory package as a "required rule" differs widely for each deficiency. A description of the additional federal justification for each deficiency is provided in attached Table 1.
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> (Agency Certification, p. 3).

The Agency submitted a list of the justification documents as part of its proposal. Included in this list of "justification" documents are: the SIP call letter; USEPA's proposed post-1987 ozone and carbon monoxide plan, published November 24, 1987; the clarification of Appendix D of the November 24, 1987 publication (Blue Book), and various other correspondence and memoranda.

While the Board has generally accepted the required nature of this proceeding as being based upon certain sections of the Clean Air Act and the SIP Call Letter, the Board notes that it is troubled by the Agency's reliance upon some of these other documents to support the substantive aspects of the proposed amendments. The Board has serious questions about how much weight to

give to these "justification" documents. For example, the November 24, 1987 Federal Register--entitled "State Implementation Plans; Approval of Post-1987 Ozone and Carbon Monoxide Plan Revisions for Areas Not Attaining the National Ambient Air Quality Standards; Notice"--is simply that, a Notice of Proposed Policy. Nowhere in the record is there any indication that this document was approved, or finalized, after the consideration of public comment. In other words, this is merely a proposal that has not been adopted. Moreover, the Blue Book, which has been cited widely in this proceeding, is a "clarification" of the appendix to the November 24, 1987, "proposed policy." If the Federal Register notice is "one step removed" from being a federal requirement, is the Blue Book two steps removed? The Board realizes that this question seems awkward, but the record gives little insight into the relative merit of each document.

The Illinois Steel Group's (ISG) Memorandum of Law Regarding Adoption of the RACT Rules (P.C. #9), filed January 18, 1990, addresses the Board's concerns to a certain extent. The ISG argues, in part, that:

> [t]he IEPA has confused federal "law" with federal" guidelines", when the two are not the same. Federal "law" clearly encompasses statutory provisions, as well as administrative provisions enacted through legal procedure. Federal agency findings lack the force of law when they are arrived at through procedures other that those required by law. (ISG Memo, at 10).

The Board agrees. Therefore, in reviewing the proposed amendments which the Board will proceed with after considering economic reasonableness and technical feasibility, the Board will look to ensure satisfaction of the requirements of federal law, not federal guidance. The Board will address this more specifically, where appropriate, under the individual deficiencies.

Finally, the Board notes that after the December 15, 1990 hearing, USEPA sent to the Board (P.C. 8) some materials which included a draft report of "Technical Support Documentation For Federal RACT Rules For Illinois". This document contains information which purports to address technical support, environmental impacts and costs of control for USEPA's proposed amendments to Illinois' SIP. The Board notes that under some of the Deficiencies involved in this proceeding, this federal document suggests extremely high cost per ton of VOM reduced. However, the Board cannot place great reliance upon this information. The Board notes that this information is part of a "Draft Report" subject to public comment in the federal rulemaking and that the Board had no one to question as to the contents of the draft document. In other words, this document is equivalent to unsworn testimony. As such, the Board will give little weight to its contents.

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*The Board notes that, on February 15, 1990, it completed the rulemaking of R88-30, Limits to the Volatility of Gasoline, which has the potential to result in the reduction of 200 tons per day of ozone precursor emissions during the months of July and August in the Chicago metropolitan area alone. Compliance with this new regulation should do much to assist the state in demonstrating compliance with the NAAQS for ozone.

THE DEFICIENCIES

Some general remarks concerning the Board's economic analysis in this proceeding are in order, prior to discussing particular deficiencies. As has been previously discussed, the Board must consider the broad duty and authority dictated by Section 27(a) to "take into account" various factors in light of "the specifications of particular classes of regulations elsewhere in [the] Act". Again, as earlier discussed, the specifications of Section 28.2(b) are that the Board "adopt a rule which fully meets the applicable law", "which is not inconsistent with any substantive environmental standard", and that the Board "consider all relevant evidence in the record." It is clear from the prior case law interpreting Section 27 that the Board need not "produce direct evidence that the control technologies necessary to meet...standards are technically feasible and economically reasonable for a substantial number of the sources throughout the state, [as this] would necessarily limit the Board's regulations to a contemplation of existing technology only." Shell Oil, supra, 346 N.E.2d 221. What level of consideration lesser than this is sufficient to avoid the invalidation of rules as "clearly arbitrary, unreasonable or capricious" (Illinois Coal Operator's Association v. Pollution Control Board, 59 Ill. 2d 305, 310, 319N.E.2d 782, 785, by a reviewing court has not been clearly articulated in the case law.

The Board must then, on a case-by-case basis, determine what level of consideration of what quantity of information is necessary to reasonably support adoption of a rule.

As the Board has noted throughout this Opinion, the record supporting many of the proposed rules is thin, and much of the economic information which is in this record can be afforded little weight. Because of the mandate of Section 28.2 (which the Board also construes as including a directive to act consistent with the milestone dates of the Wisconsin settlement), the Board has no time, in this docket, to itself strengthen this record or to direct and allow the participants to do so. The Board must "take the record as it finds it."

Giving the words "take into account" their ordinary meaning, * in some deficiency areas the Board is simply unable to fulfill its statutory directive based on this record. While the Board is highly aware that rulemaking decisions must be made on less than perfect information in order to timely comply with federal deadlines, the Board will not presently proceed to adopt rules whose reasonableness, for the State of Illinois, cannot be determined by this technically qualified Board even in light of the long history of these proceedings. Where the Board cannot, in all good conscience, presently proceed to make the required findings, the Board will defer further consideration to a Docket B, which was opened on February 22, 1990.

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*The Shell Oil court, quoting from J.E. Rodale, The Synonym Finder, described the phrase in its general sense as meaning "allow for, make allowances for, weigh carefully, consider, take into consideration, bear in mind, remember, realize, appreciate, have in one's mind." 346 N.E.2d at 219.

The Board wishes to emphasize that its approach in this particular proceeding should not be taken as representative of the approach to be taken in all future Section 28.2 rulemakings; each must be handled based on the specifics of the mandate to implement the federal program involved.

Finally, the Board notes that because of the limited time available to review the extensive record and to prepare this opinion, the Board is only addressing those issues which are dispositive of a given proposed amendment. In other words, where the Board determines not to proceed with an amendment based upon insufficient information in the record for the Board to take into account the economical reasonableness, the Board's analysis stops at that point. That is not to imply that the proposed amendment stands or falls on economic reasonableness alone. It is simply the attempt to expedite this proceeding to meet the schedule in the Settlement Agreement that the Board does not go on to address the other Section 27(a) considerations.

DEFICIENCY 1 - Surface Coating Exemption

To correct this deficiency, the Agency proposed amendments to Sections 201.146(g), 215.206, and 215.211.

Revised Section 201.146(g) would eliminate the exemption from permit requirements for painting lines using 5,000 gallons per year or less at facilities in the state that will be subject to the coating requirements in Part 215, Subparts F an PP.

Revised Sections 215.206(a) and (b) pertain to the counties of Cook, DuPage, Kane, Lake, McHenry, Will, Macoupin, Madison, Monroe and St. Clair for coating categories other than wood furniture coating. Subsection (a) would reduce the exemption for the different RACT categories of coating lines from 25 T/yr for the coating plant to 15 lb/day for each RACT grouping of coating lines. Subsection (b) would state that any coating line that has ever been subject to the limitations of Section 215.205 cannot use reductions in emissions to qualify for the exemption under Section 215.206(a).

Section 215.206(a)(3) would delete an exemption for National Can Corporation as it is no longer operating in Loves Park, Illinois.

Section 215.206(d) would continue the current 25 T/yr exemption level for wood furniture coating facilities in the state. The requirement that emissions be limited by an operating permit is deleted. The exemption is also altered by the addition of a provision that a wood furniture coating plant will continue to remain subject to Subpart F in certain counties once it becomes subject to this Subpart.

New Section 215.211(d) is added to allow newly subject facilities one year from the date of adoption to achieve compliance with the regulations.

At hearing on December 14, 1989, in response to the Hearing Officer Order questions noted above, the Agency offered the following responses. The

proposed changes conceivably would go to plants that are involved in automobile or light duty truck coating, can coating, coil coating, fabric coating, vinyl coating, metal furniture coating, large appliance coating, magnet wire coating, miscellaneous metal parts and products coating, and heavy off highway vehicle products as those operations are defined in the Board's rules.

In response to question 2 relating to which sources would be affected, the Agency stated:

> This is a very hard question to answer, because we are trying to predict the effect for facilities that we really don't have very good records on. Obviously, we have concentrated our efforts on the larger facilities. That is where we have detailed permit application information....Roughly, I have to say, that if we are going from 25 tons per year to an applicability that is on the order of one ton per year, you could not [sic] double the number of affected facilities. It might be triple. It might be fifty percent increase. (R. 168-169.)

In response to the question regarding anticipated economic effects, the Agency stated:

> All I can say is sort of a broad statement that the effects could be variable. There are some facilities who I would expect already comply with the rule or would have to have minimum changes in operations....There are others that would have to make minor changes, switch coatings, maybe some coincidental equipment changes that they might want to make anyway, or some other changes in operations...There are also others where there could be significant changes. I mean, they might have to undertake expenditures to alter their process equipment or to install control equipment. Process equipment changes would be necessary in some cases to allow compliant coatings to be used. (R. 170.)

Based upon the record, the Board believes that this amendment will have an effect. In light of the generality of this information and the lack of economic information in the record, the Board is not persuaded that this amendment is RACT for Illinois. The Board, therefore, will not proceed with any of these proposed amendments, except for one. The Board believes that the exemption for National Can Corporation's Loves Park facility can be deleted as it is no longer in operation. The Board has, therefore, retained this deletion.

DEFICIENCY 4(a) - Fabric Coating Definition

The revised definition of "fabric coating" clarifies that coating operations include saturation of the substrate.

At hearing on December 14, 1989, in response to Hearing Officer Order, the Agency's response to the questions noted above includes the following:

> I don't know of any sources that would be affected by the proposed rules. I also doubt the proposed rule would lead to a significant change...
>
> Well, based on my previous answer I would expect there to be no [economic] effect on facilities. Of course, there might be somebody out there that could be significantly affected if they had to install control equipment. (R. 172-173.)

Based upon this testimony, the Board will proceed with the proposed amendment, as written. Taking into account the Section 27(a) considerations, the Board believes that proceeding with the proposed amendment is appropriate.

DEFICIENCY 4(b) - Paper Coating Definition

The revised definition of "paper coating" would specify that coating operations include saturation of the substrate.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency states:

> At this point, I am only aware of one facility that would be affected by the proposed rule, and that's Riverside Laboratories. That's the only operation where I know that the change in the language by including the term saturation as a means of how paper coating can be applied would bring that facility into the scope of the Board's paper coating rules...
>
> ...the effect on Riverside can certainly be significant if it had to install control equipment. (R. 174-175.)

The Board notes that Riverside has been an active participant in this proceeding--Riverside participated at hearing and submitted post-hearing comments, i.e., Public Comment #20. Generally, Riverside objects to the Agency's proposed modification because it argues that there is no basis for including saturation operations in the definition of paper coating. Riverside argues that the Agency has failed to support the modification by appropriate technical or economic data and has chosen to ignore the technical feasibility and economic reasonableness requirements of the Act. In addition, Riverside argues that its process is unique and is not comparable to paper coating as envisioned by the Agency or the Board. Riverside suggests that the Board should follow its previous rulings and the rulings of the State and Federal Courts and reject the modification proposed by the Agency.

Based upon the record, the Board believes that this amendment will have an effect. However, because the information in the record indicates that at least Riverside will be affected by this change, and because the only information in the record relating to economic reasonableness and technical feasibility of the Agency's proposal was submitted by Riverside in opposition to the Agency proposal*, the Board is not persuaded that these rules are RACT for Illinois. The Board notes as an aside that it is aware of its prior rulings in this area and that its prior rulings need not preclude, in and of

themselves, a rulemaking whereby Riverside's operations are brought within the purview of the paper coating rules. In other words, the Board held that Riverside does not fall within the existing definition of paper coating, based upon the history of that term's adoption. PCB 87-62, January 5, 1989. That does not mean that Riverside's operations are forever precluded from being brought within that definition. If a rulemaking record supports including Riverside's operations in the definition of paper coating, then the Board can so promulgate.

However, in this proceeding, the record does not support proceeding with the Agency's proposed amendments.

DEFICIENCY 4(c) - Transfer Efficiency

The revised definition of "transfer efficiency" changes the transfer efficiency calculation from a total coating volume basis to a coating solids basis.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> ...only two categories of coatings are in that universe. The first is automobile coating which specifically includes transfer efficiency in certain footnotes for adjusted standards. There is only one automobile manufacturing plant in nonattainment areas and that is Ford Motor Company on Torrence Avenue. The other category is wood furniture coating, which again requires a minimum transfer efficiency of 65 percent for application of surface--whatever, wood furniture surface coating.
>
> I don't believe any of the facilities would be affected by the proposed rule.
>
> Based upon my previous analysis, I don't think it will have any [economic] effect. (R. 177-178.)

Based upon this testimony, the Board will proceed with the proposed amendments, as written. Taking into account the Section 27(a) considerations, the Board believes that proceeding with the proposed amendment is appropriate.

DEFICIENCY 4(d) - Coating Definition

Revised Section 211.122 specifies a new definition for "coating" that includes materials applied to a substrate for decorative, protective or other functional purposes. This section also changes the statewide definition of "can coating", "coating", "coil coating", "large appliance coating", "prime coat", "prime surface coat", and " topcoat" so they are consistent with the

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*The Board notes that the information and argument in the Agency's post-hearing comments is generally directed towards Riverside's alternate proposal and the information offered by Riverside at hearing.

definition of coating and to clarify that coating operations include saturation of the substrate. Finally, revised Section 215.104 changes the definition of "furniture coating application" so that it is consistent with the definition of coating in Section 211.122.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> This change conceivably could apply to all the coating categories in the Board's rules. As a practical matter, the type of situation where this change has become important is for applications where a coating is applied for something other than appearance purposes, that is decoration or corrosion resistance, what is otherwise known as a functional coating. My belief is that functional coatings appear to most commonly arise in the paper coating category and miscellaneous metal parts.
>
> If there is somebody out there who is affected I would have to classify the effect as variable. Returning to the discussion for general coating applicability, there might be minimal costs, there might be some minor costs if some changes have to be made. But they are not particularly difficult. Or there could be significant cost or efforts required. (R. 179-181.)

On February 9, 1990, Comment #19 was filed by Modine Manufacturing (Modine). Modine states that under the current Board rules it is not subject to the Board's coating regulation. Modine states that it does not believe that this new definition of coating which expands the coverage of the term from that understood in the USEPA's Control Technology Guideline (CTG), will impose additional compliance costs on Modine.

Based upon the record, the Board believes that this amendment will have an effect. In light of the generality of this information and the lack of economic information in the record, the Board is not persuaded that this amendment is RACT for Illinois. As a result, the Board will not proceed with this proposed amendments.

DEFICIENCY 4(e) - Vinyl Coating

Revised Section 211.122 changes the definition of "vinyl coating" to exclude organisols and plastisols.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> I am not aware of anyone that would actually be affected by the proposed rule. I am not aware of any circumstance where organisols or plastisols have been applied and given credit toward compliance for a vinyl coating plant. (R. 182-183.)

Based upon this testimony, taking into account the Section 27(a) considerations, the Board will proceed with the proposed amendments, as

written. As the record indicates that it will or should have no economic effect upon the people of the State of Illinois, the Board believes that proceeding with the proposed amendment is consistent with the statutory requirements.

DEFICIENCY 4(f) - Automobile or Light Duty Truck Refinishing

This definition is added in Section 211.122 to indicate that the term includes the repainting of used automobiles or light duty trucks.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> ...I would say that the only person who might be affected would have been Ford Motor Company in Illinois, or in the Chicago area, who manufactures automobiles...My understanding is that refinishing of automobiles at Ford Motors has been considered as a part of the automobile coating operation. So I don't believe they are affected by the rule.
>
> Based on my analysis there should be no [economic] effects. (R. 184-185.)

Based upon this testimony, taking into account the Section 27(a) considerations, the Board will proceed with the proposed amendments, as written. As the record indicates that it will or should have no economic effect upon the people of the State of Illinois, the Board believes that proceeding with the proposed amendment is consistent with the statutory requirements.

DEFICIENCY 9 - Test Methods

This deficiency contains the bulk of the proposed amendments. Generally, the test methods and procedures define the manner in which measurements to determine compliance with an emission limit or other control requirement shall be conducted. Provisions addressing testing are located throughout 35 Ill. Adm. Code 215. For test measurements to be consistent and reliable, the methods and procedures should be well-defined, standardized, and up-to-date. Numerous changes are proposed to accomplish this general objective. For convenience, the Board will address the proposed amendments in the numerical order used by the Agency in its Statement of Reasons, filed with the proposal.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency discussed the amendments proposed to the test methods in a general context, rather that on an item by item basis. As to all of the proposed changes under deficiency no. 9, the Agency stated:

> Testing deficiency covers several different aspects. The first one is sort of the tightening of testing methods. I would like to describe that as an incremental effect that will affect everybody, if and when they have to test. *** The tightening of the test procedures will add some percentage to those costs. Whether it is ten percent or 20 percent, I don't know exactly.

> Now, turning again to another general category with regard to test methods, that is discretion, elimination of discretion with regard to test methods, elimination of discretion with regard to emission limits. Based on my experience, the Agency has exercised its discretion rarely, if at all, so with those particular categories of eliminated discretion I would not expect to see a significant impact.
>
> The final point of testing is what I would call the other changes, some of the changes to compliance procedures, applicability levels. Again, for those things where it is affected, where those particular sources or categories are affected, I would not see a significant change based on current practice. We have not been interpreting the rules or carrying out the rules significantly different than the way they are proposed to be changed. (R. 186-189.)

1. Section 211.122 Definition of Alternative Test Method

For reasons set forth in the first notice opinion, this definition was deleted.

2. Section 211.122 Volatile Organic Material Content

A new definition of "volatile organic material content" is proposed for inclusion in Section 211.122. This term is used in and supports the following sections dealing with the volatile organic material content of substances: Sections 215.208, 215.409, 215.467 and 215.614. The volatile organic content of a coating or similar material is defined as the emissions of volatile organic material which would result from the use or release of the material without control equipment.

Taking into account the Section 27(a) considerations, the Board does not believe that this definition, in and of itself, will have any economic effect on the people of the State of Illinois. It is simply a definition of a term used in the rules. Thus, the Board will proceed to second notice with the definition as proposed at first notice.

3. Sections 215.102(a) Testing Methods for VOM Emissions

Section 215.102(a) is proposed to provide current methods for testing organic material and volatile organic material emissions. The section is expanded to include measurement of vent flow rate as well as concentration to address emissions in quantitative terms., i.e., kg/hour. The accepted methods for measurement are all USEPA methods. This section is referenced by Section 215.127(a), 215.410(a), 215.464(a), 215.585(a), 215.615(a) and 215.886(a). (The Board notes that Section 215.585 has been used in R88-30, Limits to Gasoline Volatility, adopted February 15, 1990. Thus, the changes proposed to Section 215.585 in this proceeding have been moved to Section 215.586.)

The Board notes that these proposed changes specify that testing is to be conducted in accordance with Section 215.102. As this is basically an updating of the test methods, taking into account the Section 27(a) considerations, the Board does not believe that it will have a significant economic effect upon the people of the State of Illinois. Therefore, the Board has retained the proposed amendments, as revised in accordance with the discussion under number 6 below, at second notice.

The Board notes that in post-hearing comments, Abbott Laboratories (P.C. 21) proposed that the Board amend Section 215.102(b)(2). While Abbott's proposal may have merit, the Agency specifically requested that any other proposals be processed separate from this proceeding. Thus, the Board does not address Abbott's proposal at this time. Further, the Board notes that Abbot has a pending site-specific rulemaking (R88-14) in which the proposed amendment can be considered.

4. Section 215.105 Incorporations by Reference

Section 215.105 is revised to update the edition or issuance date of certain materials incorporated by reference and to add three new items: American Society for Testing and Materials Methods D2504-83, D2382-83 and D4457.

This is simply a matter of updating the incorporations by reference section. The Board has retained the proposed amendments at second notice.

5. Deletion of Equivalent Control Requirements

This proposed section would eliminate the Agency's authority to approve equivalent control measures which are not specifically identified in the rule. Similar changes are also proposed to eliminate equivalent control requirements in Sections 215.124, 215.241, and 215.601.

The Board has received objections to this amendment. On February 9, 1990, Allsteel, Inc., filed its comments which include the following statement:

> The Agency's proposal narrows the Agency's own authority to approve alternative test methods and requires all such changes to be treated as SIP revisions subject to USEPA approval. This proposal is extremely unrealistic given the time frames of the SIP approval process and leaves open the question of enforcement while approval is pending. The proposal should be rejected. (P.C. 14, at p.4.)

Also on February 9, 1990, Stepan Company stated:

> Stepan would also like to reiterate and underscore the comments of other industry representatives relating to the necessity of insuring flexibility with regard to the selection of test methods. The selection of an appropriate test method is by nature site-specific. A regulatory prescription of a single test methodology under these regulations is unduly burdensome and must be rejected by the Board. (P.C. 12, at 3-4.)

The Board will not proceed with these proposed changes at this time. Taking into account the considerations of Section 27(a), the Board is not persuaded that the proposed changes constitute RACT in Illinois. The Board has no idea of what the Agency has approved in the past. If the Agency has approved certain equivalent controls, what will be the status of those approvals? Further, the Board is concerned by the comment that test methods are by nature site-specific. Before the Board adopts a specific test method for a class of operations, the Board must have information indicating that it is the appropriate test. Finally, the Board questions the necessity of deleting alternate equivalent controls. So long as equivalency is demonstrated, what difference does it make how the controls are implemented?

As the Board is not persuaded that the proposed changes constitute RACT in Illinois, the Board will not proceed with the changes in this subdocket.

6. Deletion of Test Procedures as "Approved by the Agency"

The proposed revisions delete the use of unspecified procedures as "approved by the Agency" for determination of compliance. A new section, Section 215.128 is proposed to provide a specific compliance method. This new method was adopted by USEPA for its New Source Performance Standard, 40 CFR 60, Subpart Kb. Similar changes are proposed to Sections 215.124(a)(8), 215.208(a), 215.447(a)(1) and (2), 215.464(a), 215.582(b) and 215.586(a), 215.603(c).

The Board notes that the comments discussed above also apply to these proposed actions. However, the Board will proceed with these proposed changes, as amended at second notice. Generally, the Board has no objection to specifying test methods for certain processes. However, the record does not support limiting the potential universe of test methods. The Board has added a provision in the sections which specify test methods allowing for alternate test methods. The language that the Board has added is basically as follows:*

> Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

The Board is not persuaded by the record to limit the types of test methods that may be employed. The Board's concern is that the test results be accurate. If an alternate method is at least as accurate as the specified method and someone prefers to use it, so be it.

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*The Board notes that virtually identical language was added to Section 215.585(g) in R88-30, Limits to Gasoline Volatility, adopted February 15, 1990. As the language was the result of an agreement with the Joint Committee on Administrative Rules (JCAR), the Board does not anticipate an objection from JCAR.

USEPA's concern appears to be that the most current methods be employed and that all methods be specified in the SIP. (See Blue Book, p. 2-12). Where equivalency is demonstrated, the alternate test method may be the most current. As far as the test method being specified in the SIP, if a specification of test methods in an operating permit does not suffice, the Board can, if so requested, update its rules periodically to include the alternate test methods the Agency has approved.

7. Request by the Agency for Testing

Several sections provide for formal demonstrations of compliance by testing upon a reasonable request by the Agency. Those provisions are proposed to be deleted and replaced by paragraph (b) in new Section 215.127 and Section 215.128. These proposed sections address test methods and procedures. The wording of the new paragraph only addresses a request by the Agency for a formal demonstration of compliance by testing. It does not address the method of testing or other means by which compliance or noncompliance may be determined.

Sections involved are as follows: Sections 215.124(a)(8), 215.404(a)/215.410(b), 215.464(a)/215.464(b), 215.565(b), 215.615(b), and 215.886(b).

Basically, the new language being proposed is similar to the language being deleted. The differences are as follows--(1) a "reasonable request" is now a "request", and (2) "methods approved by the Agency" has been changed in accordance with the discussion under Paragraph no. 6, above.

The Board is concerned by the deletion of the word reasonable in these sections. Although the word "reasonable" has been the source of many a discussion with the Joint Committee on Administrative Rules (JCAR), the Board believes that this is a situation where "reasonable" must remain. "Reasonable" adds to this provision the notion that an unreasonable request may be the subject of an appeal. Were it not to be included, any and all requests by the Agency would require compliance. The Board is not persuaded to make such a change based upon this record. Thus, the term "reasonable" has been added to each of the sections involved to maintain the status quo. The Board sees no reason why this should threaten federal approvability.

8. Advance notice to the Agency for testing

Certain of the existing sections require advance notice to the Agency for emissions testing to demonstrate compliance. These sections are proposed for deletion. New sections are proposed which require the same notice to the Agency. Again, the Board does not see any substantive change. It appears to be primarily a clean-up of the rules. Section involved are as follows: Sections 215.124(a)(9), 215.127(c), 215.128(b), 215.410(c), 215.464(c), 215.586(c), and 215.615(c).

As there is little, if any, difference from the present language, the Board will proceed to second notice with the proposed amendments.

9. Addition of emission test methods

New sections are proposed which provide current test methods and procedures for determination of compliance with these requirements. The test method is provided in paragraph (a), which refers to Section 215.102(a). The sections involved are the same as those noted in the two preceding paragraphs above.

The Board will proceed to second notice with these changes. The language in issue here merely refers to the test methods in Section 215.102.

Miscellaneous

Much of the remainder of the proposed amendments are specific references to the up-dated test methods. The Board has retained the specific references; however, as noted above, the Board added language providing for alternate test methods.

In Section 215.602, Exemptions, the Board has retained the proposed amendment which would translate the gallons per month into liters per month. However, the Board has not proceeded with the proposed sentence that stated:

> If a perchloroethylene dry cleaning operation is ever subject to the requirements of this Subpart, the requirements of the Subpart will continue to apply to the operation notwithstanding a reduction in emissions so as to qualify for exemption.

The record does not provide substantive reasons why the provision is included in the proposal. The Board is troubled by what could result from this provision. It would appear that of two separate operations, both doing the same amount of business, one could be subject to the rules and the other would not. The Board requires more information before it will promulgate a rule to have such an effect.

DEFICIENCY 11 - Petroleum Refinery Monitoring Program for Leaks

Revised Section 215.447(b)(1) removes the present exemption from leak monitoring requirements for inaccessible valves at petroleum refineries statewide. New Section 215.447(b)(2) provides for inaccessible valves at petroleum refineries statewide to be tested at least once each calendar year. Refineries must provide an identification of these valves and a reason why these valves are inaccessible. Any valve not identified under this section falls instead under the normal monitoring program for leaks given in Section 215.447.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> This rule applies to petroleum refineries. I believe there are six in the state: Clark, Blue Island; Mobil, Joliet; Union Oil, Lemont; Clark, Wood River; Shell, Wood River; and Marathon, Robinson.

> Texaco, Lawrenceville is currently in a shut down status. I am not sure if it would start up again. *** I believe they would all be affected. All would be affected, as I believe all of them would have at least one so-called inaccessible valve. (R. 190-191.)

With respect to anticipated economic affects, the Agency stated:

> This I can't really answer. I can only say it would depend on some of the inaccessible components they have, the degree of inaccessibility, and their capabilities to reach those inaccessible components. In general, because we are talking about changes in practices, not installing new equipment necessarily, I would characterize these as sort of at most an intermediate level of impact. (R. 191.)

This proposed amendment poses a somewhat more difficult analysis. On the one hand, noone has challenged or objected to the proposed amendment. On the other hand, the testimony suggests that there will be impact, but the extent of that impact appears to be uncertain, yet not minimal.

Arguably, based upon this testimony, the Board can assess economic reasonableness considerations. However, the Board notes that the difficulty of reaching these "inaccessible" components can differ from source to source. Unfortunately, the record does not provide much guidance. Further, the Board is aware that requiring monitoring of inaccessible valves can raise health and safety concerns.

In light of these uncertainties, the Board is not persuaded to proceed with the proposed amendment. Although the Board is aware of the documents the Agency submitted in support of this amendment (i.e., the SIP Call Letter; the Blue Book, page 2-13; the Federal Letter; and the Settlement Agreement), the Board notes that none of these documents specifically address the economic or technical implications of complying with the rule.

Based upon the record, taking into account the considerations of Section 27(a), the Board is not persuaded that the proposed amendment is RACT for Illinois.

DEFICIENCY 13 - Bulk Gasoline Plant Exemption

Revised Section 215.581(e)(2) changes the statewide exemption level of 350,000 gallons per year for "load in" vapor balance systems (Stage I) at bulk gasoline plants throughput to 4000 gallons per day as determined by a 30 day running average.

Revised Section 215.581(f)(1) changes the applicability level for throughput for "load out" vapor balance systems (Stage I) at bulk gasoline plants from 1,000,000 gallons per year to 4000 gallons per day as determined by a 30 day running average. The rule will apply to bulk plants that either (1) distribute gasoline to gasoline dispensing facilities requiring load in vapor balance (Stage I) or (2) are located in Boone, Cook, DuPage, Kane, Lake, Madison, McHenry, Peoria, Rock Island, St. Clair, Tazewell, Will or Winnebago counties.

New Section 215.581(h) provides that newly subject bulk gasoline plants will have one year from the date of adoption of the revised sections to achieve compliance. New Section 215.581(i) adds a provision that a bulk gasoline plant will continue to remain subject to Section 215.581 once it becomes subject to this section.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> Bulk gasoline plant is a defined term in the Board's rules. It is a facility that receives gasoline from a terminal and then distributes it to smaller facilities. I believe there is somewhere between five hundred and a thousand of those facilities in the State. Many of those already comply with the Board's rules. *** Dr. Reed has already testified that the change in the applicability level doesn't appear to be a very significant change. We are going from 350,000 gallons per year to four thousand gallons per day. Those seemed pretty comparable. However, there might be a couple of facilities where that moves from not being subject to being subject. *** In terms of if somebody becomes subject to the rule, they would have to install a vapor valve system if not already installed. I don't know how much one of those costs. I think I would qualify it as something intermediate. It is hardware that is installed as operational equipment. (R. 192-193.)

Although this proposed amendment would not appear to have much impact, the Board will not proceed. The testimony indicates that there may be some new facilities brought within the purview of the regulation. These new facilities would have to install a vapor valve system, if one is not already installed. However, the record gives no guidance as to how much such a system would cost. The record fails to persuade the Board that these rules are RACT for Illinois. As a result, the Board will not proceed with these proposed amendments in this subdocket.

DEFICIENCY 15 - Solvent Metal Cleaning

Revised Section 215.181 removes the exemptions from control and operating requirements for cold cleaners, open top vapor degreasers and conveyorized degreasers for certain counties. New Section 215.186 allows newly subject cold cleaners, open top vapor degreasers and conveyorized degreasers one year to achieve compliance from the date of adoption of revised Section 215.181.

At hearing on December 14, 1989, in response to the Hearing Officer Order, the Agency stated:

> We are talking about going from applicability level of 15 pounds per day to eliminating that essentially as zero in VOM emissions. We are looking at a category of sources that we haven't really focused our attention on. So it is hard to speculate. *** There could be quite a few degreasers which currently have not been required to comply with the Board's rule that would be required to comply with

> the Board's rules. *** I would have to go back to the general description of variable economical effects. There may be some degreasers that already comply with the Board's rules but are not subject to those limitations at the present time. There may be other sources which have to make minor changes, installing shut off operating practices. There may be a few sources out there who have to make significant changes, either replacing a degreaser or installing control equipment. (R. 195-196.)

Here too, the record does not persuade the Board that these rules are RACT for Illinois. The Board is unable to determine who might be affected and what effect there might be. The Agency itself admits that this is a category of sources that has not been focused upon. As a result, the Board will not proceed to second notice with this proposed amendment in this subdocket.

STATEWIDE APPLICABILITY

In its final comments, the Agency states that the following proposed rules apply statewide: all the definitions for Part 211, 35 Ill. Adm. Code 215.447, 215.581, and the sections correcting the test methods deficiency (deficiency 9). The Agency notes that both it and USEPA acknowledged that statewide applicability is not federally required. However, in this proceeding, as well as all other regulatory proceedings, the Agency asserts that the Board may adopt rules that go beyond what is federally required. Apparently, the Agency requests that the Board adopt the proposed amendments so as to apply on a statewide basis.

While the Board does not necessarily agree that it may adopt a rule which goes beyond what is federally required in a Section 28.2 proceeding, the Board notes that the Agency's request is not germane in light of the amendments with which the Board is proceeding. The definitional changes and test method updates do not lend themselves to application in geographical areas less than state-wide. The proposed amendments which specify applicability in certain geographical areas have been transferred to subdocket (B); thus, the Board is not here presented with the question of whether to make them apply state-wide.

IERG MOTION TO FILE AND AGENCY MOTION TO STRIKE

On February 20, 1990, the Illinois Environmental Regulatory Group (IERG) filed its post-hearing comments under a motion to file instanter. In support of its motion, IERG states that the nature and substance of its comments was affected by the Board's Order of February 8, 1990, and that it was unable to complete the preparation and review of its Comments by the due date.

On February 27, 1990, the Agency filed a motion to strike the post-hearing comments of the IERG. The Agency argues that IERG filed its post-hearing comments after a Board scheduled deadline without sufficient cause. The Agency argues that there is nothing in IERG's comments that have any arguable connection to the Board's Order of February 8, 1990. The Agency therefore requests that the Board strike IERG's comments.

On March 7, 1990, IERG filed its response to the Agency's motion. IERG states that the late filing of its comments will not delay the proceeding and that additional reasons led to the filing of the comments late.

Although IERG's post hearing comments were filed after the date set by Board Order, the comments were filed under motion to file instanter. The Board notes that the delayed filing has not prejudiced the Board's timetable for adoption of the Second Notice Order in this matter. As a result, the Agency's motion is hereby denied. IERG's motion to file is granted.

SECTION 215.585

The Board notes that the Order includes amendments to Section 215.585 which were adopted on February 15, 1990, in R88-30(A), Limits to Gasoline Volatility. After the filing of those adopted amendments with the Secretary of State, the Board discovered that two subsections were incorrect; subsections (e) and (h) contained the first notice language without the changes made in response to comments received during the first notice period. As the Secretary of State's Administrative Code Division's regulations do not allow the Board to file corrections, the Board must correct the language of those subsections by regular rulemaking procedures. As those subsections were adopted pursuant to proper notice and comment and as Section 215.585 was proposed for amendment in this proceeding, the Board is simply adding the correct language to this Order so as to effectuate filing of the correct language with the Secretary of State. This is not a substantive change to this proceeding or to R88-30(A). It is simply to get what the Board adopted on February 15, 1990 onto the Secretary of State's official files. The language proposed as Section 215.585 in this proceeding has accordingly been renumbered to Section 215.586.

SUBDOCKET B

The proposed amendments with which the Board is not today proceeding to second notice are hereby placed into subdocket(B). Consistent with the Board's Order of February 8, 1990, the Agency is directed to inform the Board of its intentions with respect to the subdocket (B) proposed amendments in light of the federal parallel processing.

This opinion supports the following Order.

ORDER

The Board hereby proposes the following rules for second notice. The Clerk is directed to submit the proposed amendments to the Joint Committee on Administrative Rules (JCAR).

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

PART 211

SUBPART B: DEFINITIONS

Section

211.121 Other Definitions
211.122 Definitions

Section 211.122 Definitions

"Automobile or Light Duty Truck Refinishing": the repainting of used automobiles or light duty trucks.

"Fabric Coating": the coating of a textile substrate, including operations where the coating impregnates the substrate.

"Transfer Efficiency": ~~the weight or volume~~ ratio of the amount of coating solids ~~adhering to the material being coated divided by the weight or volume~~ deposited onto a part or product to the total amount of coating solids ~~delivered to the coating applicator and multiplied by 100 to equal a percentage~~ used.

"Vinyl Coating": the application of a topcoat or printing to vinyl coated fabric or vinyl sheets; provided, however, that the application of an organisol or plastisol is not vinyl coating.

Volatile Organic Material Content: the emissions of volatile organic material which would result from the exposure of a coating, printing ink, fountain solution, tire spray, dry cleaning waste or other similar material to the air, including any drying or curing, in the absence of any control equipment. VOMC is typically expressed as Kg VOM/liter (lb VOM/gallon) of coating or coating solids, or Kg VOM/Kg (lb VOM/lb) of material.

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

PART 215
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

SUBPART A: GENERAL PROVISIONS

Section
215.100 Introduction
215.101 Clean-up and Disposal Operations
215.102 Testing Methods
215.103 Abbreviations and Conversion Factors

215.104 Definitions
215.105 Incorporations by Reference
215.106 Afterburners
215.107 Determination of Applicability

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section
215.121 Storage Containers
215.122 Loading Operations
215.123 Petroleum Liquid Storage Tanks
215.124 External Floating Roofs
215.125 Compliance Dates and Geographical Areas
215.126 Compliance Plan
215.127 Emissions Testing
215.128 Measurement of Seal Gaps

SUBPART E: SOLVENT CLEANING

Section
215.181 Solvent Cleaning in General
215.182 Cold Cleaning
215.183 Open Top Vapor Degreasing
215.184 Conveyorized Degreasing
215.185 Compliance Plan

SUBPART F: COATING OPERATIONS

Section
215.202 Compliance Schedules
215.204 Emission Limitations for Manufacturing Plants
215.205 Alternative Emission Limitations
215.206 Exemptions from Emission Limitations
215.207 Compliance by Aggregation of Emission Sources
215.208 Testing Methods for ~~Solvent~~ Volatile Organic Material Content
215.209 Exemption from General Rule on Use of Organic Material
215.210 Alternative Compliance Schedule
215.211 Compliance Dates and Geographical Areas
215.212 Compliance Plan
215.213 Special Requirements for Compliance Plan

SUBPART H: SPECIAL LIMITATIONS FOR SOURCES IN MAJOR URBANIZED AREAS WHICH ARE NONATTAINMENT FOR OZONE

Section
215.240 Applicability
215.241 External Floating Roofs
215.245 Flexographic and Rotogravure Printing
215.249 Compliance Dates

SUBPART P: PRINTING AND PUBLISHING

Section
215.401 Flexographic and Rotogravure Printing
215.402 Exemptions
215.403 Applicability of Subpart K
215.404 Testing and Monitoring (Repealed)
215.405 Compliance Dates and Geographical Areas
215.406 Alternative Compliance Plan
215.407 Compliance Plan
215.408 Heatset Web Offset Lithographic Printing
215.409 Testing Methods of Volatile Organic Material Content
215.410 Emissions Testing

SUBPART Q: LEAKS FROM SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING EQUIPMENT

Section
215.420 Applicability
215.421 General Requirements
215.422 Inspection Program Plan for Leaks
215.423 Inspection Program for Leaks
215.424 Repairing Leaks
215.425 Recordkeeping for Leaks
215.426 Report for Leaks
215.427 Alternative Program for Leaks
215.428 Compliance Dates
215.429 Compliance Plan
215.430 General Requirements
215.431 Inspection Program Plan for Leaks
215.432 Inspection Program for Leaks
215.433 Repairing Leaks
215.434 Recordkeeping for Leaks
215.435 Report for Leaks
215.436 Alternative Program for Leaks
215.437 Open-Ended Valves
215.438 Standards for Control Devices
215.439 Compliance Date

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section
215.441 Petroleum Refinery Waste Gas Disposal
215.442 Vacuum Producing Systems
215.443 Wastewater (Oil/Water) Separator
215.444 Process Unit Turnarounds
215.445 Leaks General Requirements
215.446 Monitoring Program Plan for Leaks
215.447 Monitoring Program for Leaks
215.448 Recordkeeping for Leaks
215.449 Reporting for Leaks

215.450 Alternative Program for Leaks
215.451 Sealing Device Requirements
215.452 Compliance Schedule for Leaks
215.453 Compliance Dates and Geographical Areas

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Section
215.461 Manufacture of Pneumatic Rubber Tires
215.462 Green Tire Spraying Operations
215.463 Alternative Emission Reduction Systems
215.464 Emissions Testing ~~and Monitoring~~
215.465 Compliance Dates and Geographical Areas
215.466 Compliance Plan
215.467 Testing Methods for Volatile Organic Material Content

SUBPART Y: GASOLINE DISTRIBUTION

Section
215.581 Bulk Gasoline Plants
215.582 Bulk Gasoline Terminals
215.583 Gasoline Dispensing Facilities
215.584 Gasoline Delivery Vessels
215.585 Gasoline Volatility Standards
215.586 Emissions Testing

SUBPART Z: DRY CLEANERS

Section
215.601 Perchloroethylene Dry Cleaners
215.602 Exemptions
215.603 ~~Testing and Monitoring~~ Leaks
215.604 Compliance Dates and Geographical Areas
215.605 Compliance Plan
215.606 Exception to Compliance Plan
215.607 Standards for Petroleum Solvent Dry Cleaners
215.608 Operating Practices for Petroleum Solvent Dry Cleaners
215.609 Program for Inspection and Repair of Leaks
215.610 Testing and Monitoring
215.611 Exemption for Petroleum Solvent Dry Cleaners
215.612 Compliance Dates and Geographical Areas
215.613 Compliance Plan
215.614 Testing Method for Volatile Organic Material Content of Wastes
215.615 Emissions Testing

SUBPART AA: PAINT AND INK MANUFACTURING

Section
215.620 Applicability
215.621 Exemption for Waterbase Material and Heatset Offset Ink
215.623 Permit Conditions
215.624 Open-top Mills, Tanks, Vats or Vessels

215.625 Grinding Mills
215.628 Leaks
215.630 Clean Up
215.636 Compliance Date

SUBPART BB: POLYSTYRENE PLANTS

Section
215.875 Applicability of Subpart BB
215.877 Emissions Limitation at Polystyrene Plants
215.879 Compliance Date
215.881 Compliance Plan
215.883 Special Requirements for Compliance Plan
215.886 Emissions Testing ~~and Monitoring~~

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
215.920 Applicability
215.923 Permit Conditions
215.926 Control Requirements

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
215.940 Applicability
215.943 Permit Conditions
215.946 Control Requirements

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
215.960 Applicability
215.963 Permit Conditions
215.966 Control Requirements

Section 215.102 Testing Methods

~~a) The total organic material concentrations in an effluent stream shall be measured by a flame ionization detector, or by other methods approved by the Illinois Environmental Protection Agency (Agency) according to the provisions of 35 Ill. Adm. Code 201.~~

a) Volatile organic material or organic material concentrations in a stream is measured by Method 18, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Measurement of Gaseous Organic Compounds incorporated by reference in Section 215.105 except as follows. ASTM D-4457, incorporated by reference in Section 215.105, may be used for halogenated organic compounds. Method 25, 25A or 25B, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105 may be

substituted for Method 18 provided the source owner or operator submits calibration data and other proof that this method provides the information in the emission units of the applicable standard. The volumetric flow rate and gas velocity is determined in accordance with Methods 1, 1A, 2, 2A, 2C, 2D, 3 and 4, 40 CFR Part 60, Appendix A, incorporated by reference in Section 215.105. Any other alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

b) Measurement of Vapor Pressures

1) For a single-component, the actual vapor pressure shall be determined by ASTM (American Society of Testing and Materials) Method D-2879-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be obtained from a published source such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973), Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984), CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-1987), Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

2) For a mixture, the actual vapor pressure shall be determined by ASTM Method D-2879-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be taken as either:

A) If the vapor pressure of the volatile organic liquid is specified in the applicable rule, the lesser of the sum of the actual vapor pressure of each component or each volatile organic material component, as determined in accordance with Section 215.102(b)(1), weighted by its mole fraction; or

B) If the vapor pressure of the organic material or volatile organic material is specified in the applicable rule, the sum of the actual vapor pressure of each such component as determined in accordance with Section 215.102(b)(1) weighted by its mole fraction.

Section 215.104 Definitions

"Furniture Coating Application Line": The combination of coating application equipment, flash-off area, spray booths, ovens, conveyors, and other equipment operated in a predetermined sequence for purpose of applying coating ~~materials~~ to wood furniture.

Section 215.105 Incorporation by Reference

The following materials are incorporated by reference:

a) American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103:

1) ASTM D 1644-59 Method A

2) ASTM D 1475-60

3) ASTM D 2369-~~73~~81

4) ASTM D 2879-83 (Approved 1983)

5) ASTM D 323-82 (Approved 1982)

6) ASTM D 86-82 (Approved 1982)

7) ASTM E 260-73 (Approved 1973), E 168-67 (Reapproved 1977), E 169-63 (Reapproved 1981), E 20 (Approved 1985)

8) ASTM D 97-66

9) ASTM D 1946-67

10) ASTM D 2382-76

11) ASTM D 2504-83

12) ASTM D 2382-83

13) ASTM D-4457-85

b) Federal Standard 141a, Method 4082.1.

c) National Fire Codes, National Fire Prevention Association, Battery March Park, Quincy, Massachusetts 02269 (1979).

d) United States Environmental Protection Agency, Washington, D.C., EPA-450/2-77-026, Appendix A.

e) United States Environmental Protection Agency, Washington, D.C., EPA-450/2-78-051 Appendix A and Appendix B (December 1978).

f) Standard Industrial Classification Manual, published by Executive Office of the President, Office of Management and Budget, Washington, D.C., 1972

g) 40 CFR 60~~,~~ ~~Appendix~~ A ~~(1986)~~ (July 1, 1988).

h) United States Environmental Protection Agency, Washington D.C., EPA-450/2-78-041.

(BOARD NOTE: The incorporations by reference listed above contain no later amendments or editions.)

Section 215.122 Loading Operations

a) No person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere during the loading of any organic material from the aggregate loading pipes of any loading facility having through-put of greater than 151 cubic meters per day (40,000 gal/day) into any railroad tank car, tank truck or trailer unless such loading facility is equipped with submerged loading pipes, submerged fill, or a device that is equally effective in controlling emissions and is approved by the Agency according to the provisions of 35 Ill. Adm. Code 201.

b) No person shall cause or allow the loading of any organic material into any stationary tank having a storage capacity of greater than 946 1 (250 gal), unless such tank is equipped with a permanent submerged loading pipe, submerged fill, or an equivalent device approved by the Agency according to the provisions of 35 Ill. Adm. Code 201, or unless such tank is a pressure tank as described in Section 215.121(a) or is fitted with a recovery system as described in Section 215.121(b)(2).

c) Exception: If no odor nuisance exists the limitations of this Section shall only apply to the loading of volatile organic liquid with a vapor pressure of 17.24 kPa (2.5 psia) or greater at 294.3°K (70°F).

Section 215.124 External Floating Roofs

a) In addition to meeting the requirements of Section 215.123(b), no owner or operator of a stationary storage tank equipped with an external floating roof shall cause or allow the storage of any volatile petroleum liquid in the tank unless:

1) The tank has been fitted with a continuous secondary seal extending from the floating roof to the tank wall (rim mounted secondary seal) or any other device which controls volatile organic material emissions with an effectiveness equal to or greater than a rim mounted secondary seal;

2) Each seal closure device meets the following requirements:

A) The seal is intact and uniformly in place around the circumference of the floating roof between the floating roof and tank wall; and

B) The accumulated area of gaps exceeding 0.32 centimeter (1/8 inch) in width between the secondary seal and the tank wall shall not exceed 21.2 square centimeters per meter of tank diameter (1.0 square inches per foot of tank diameter)~~, as determined by methods or procedures approved by the Agency;~~

3) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers across at least 90 percent of the area of the opening;

4) Openings are equipped with projections into the tank which remain below the liquid surface at all times;

5) Inspections are conducted prior to May 1 of each year to insure compliance with Section 215.124(a);

6) The secondary seal gap is measured prior to May 1 of each year; ~~in accordance with methods or procedures approved by the Agency;~~

7) Records of the types of volatile petroleum liquid stored, the maximum true vapor pressure of the liquid as stored, the results of the inspections and the results of the secondary seal gap measurements are maintained and available to the Agency, upon verbal or written request, at any reasonable time for a minimum of two years after the date on which the record was made~~;~~.

~~8) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material source required to comply with Section 215.124(a), at his own expense, demonstrates compliance by methods or procedures approved by the Agency; and~~

~~9) A person planning to conduct a volatile organic material emission test to demonstrate compliance with Sections 215.123 and 215.124 notifies the Agency of that intent not less than 30 days before the planned initiation of the tests so that the Agency may observe the test.~~

b) ~~The requirements of Section 215.124(a)~~ Subsection (a) ~~shall not~~ does not apply to any stationary storage tank equipped with an external floating roof:

1) Exempted under Section 215.123(a)(2) through 215.123(a)(6);

2) Of welded construction equipped with a metallic type shoe seal having a secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal);

3) Of welded construction equipped with a metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled-type seal, or other closure device of equivalent control efficiency approved by the Agency in which a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia) at 294.3° K (70° F) is stored; or

4) Used to store crude oil.

Section 215.127 Emissions Testing

a) Any tests of organic material emissions, including tests conducted to determine control equipment efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.

b) Upon a reasonable request by the Agency, the owner or operator of an organic material emission source required to comply with this Subpart shall conduct emissions testing, at such person's own expense, to demonstrate compliance.

c) A person planning to conduct an organic material emission test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

Section 215.128 Measurement of Seal Gaps

a) Any measurements of secondary seal gaps shall be conducted in accordance with the methods and procedures specified in 40 CFR 60, Subpart Kb, incorporated by reference in Section 215.105.

b) A person planning to conduct a measurement of seal gaps to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned performance of the tests so the Agency may observe the test.

Section 215.206 Exemptions from Emission Limitations

a) In Counties other than Cook, DuPage, Kane, Lake, McHenry, Macoupin, Madison, Monroe, St. Clair and Will the limitations of this Subpart shall not apply to:

1) Coating plants whose emissions of volatile organic material as limited by the operating permit will not exceed 22.7 Mg/year (25 T/year), in the absence of air pollution control equipment; or.

2) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance provided that:

A) The operation of the source is not an integral part of the production process;

B) The emissions from the source do not exceed 363 kg (800 lbs) in any calendar month; and,

C) The exemption is approved in writing by the Agency.

~~3) Interior body spray coating material for three-piece steel cans used by National Can Corporation at its Rockford can manufacturing plant in Loves Park, Illinois, provided that:~~

~~A) The emission of volatile organic material from the interior body spray coating line shall not exceed 0.70 kg/l (5.8 lb/gal) of coating material, excluding water, delivered to the coating applicator; and~~

~~B) The emission of volatile organic material shall comply with the provisions of Section 215.204 by use of the internal offset provisions of Section 215.207 computed on a weekly weighted average basis.~~

b) The limitations of Section 215.204(j) shall not apply to the Waukegan, -- Illinois, facilities of the Outboard Marine Corporation, so long as the emissions of volatile organic material related to the surface coating of miscellaneous metal parts and products at those facilities do not exceed 35 tons per year.

c) Notwithstanding the limitations of Section 215.204(k)(2), the John Deere Harvester-Moline Works of Deere and Company, Moline, Illinois, shall not cause or permit the emission of volatile organic material from its existing green and yellow flocoating operations to exceed a weekly average of 6.2 lb/gal.

Section 215.208 Testing Methods for ~~Solvent~~ Volatile Organic Material Content

a) ~~The following methods of analyzing the solvent content of coatings, as revised from time to time, or any other equivalent procedure approved by the Agency, shall by sued as applicable:~~

~~1)~~ ASTM D ~~1644 59~~ Method A

~~2)~~ ASTM D ~~1475 60~~

~~3)~~ ASTM D 2269 ~~73~~

~~4)~~ ~~Federal Standard 141a, Method 4082.1~~

The VOM content of coatings shall be determined by Method 24, 40 CFR Part 60, Appendix A, incorporated by reference in Section 215.105, except for glues and adhesive coatings, two component reactive coatings forming volatile reaction products, coatings requiring energy other than heat to initiate curing, and coatings requiring high temperature catalysis for curing. For printing inks, the volatile organic material content shall be determined by Method 24A, 40 CFR Part 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

b) Transfer efficiency shall be determined by a method, procedure or standard approved by the USEPA, under the applicable new source performance standard or until such time as USEPA has approved and published such a method, procedure or standard, by any appropriate method, procedure or standard approved by the Agency.

Section 215.241 External Floating Roofs

The requirements of subsection 215.124(a) shall not apply to any stationary storage tank equipped with an external floating roof:

a) Exempted under Section 215.123(a)(2) through (a)(6);

b) Of welded construction equipped with a metallic-type shoe seal having a secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal);

c) Of welded construction equipped with a metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled-type seal, or other closure device of equivalent control efficiency approved by the Agency in which a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia) at 294.3°K (70°F) is stored; or

d) Used to store crude oil with a pour point of 50°F or higher as determined by ASTM Standard D97-66 incorporated by reference in Section 215.105.

Section 215.404 Testing and Monitoring (Repealed)

~~a) Upon a reasonable request of the Agency, the owner or operator of a volatile organic material source subject to this Subpart shall at his own expense demonstrate compliance by methods or procedures approved by the Agency.~~

~~b) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.~~

Section 215.409 Testing Methods for Volatile Organic Material Content

The volatile organic material content of fountain solution and all coatings shall be determined by Method 24, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105 The volatile organic material content of printing inks shall be determined by Method 24A, 40 CFR Part 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

Section 215.410 Emissions Testing

a) Any tests of volatile organic material emissions, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.

b) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material emission source required to comply with the limits of this Subpart shall conduct emissions testing, at his own expense, to demonstrate compliance.

c) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

Section 215.421 General Requirements

a) The owner or operator of a plant which has more than 1,500 components in gas or light liquid service, which components are used to manufacture the synthetic organic chemicals or polymers listed in Appendix D, shall conduct leak inspection and repair programs in accordance with this Subpart for that ~~equipment~~ component containing more than 10 percent volatile organic material as determined by ASTM method E-260, E-168, and E-169, incorporated by reference in Section 215.105. ~~A component shall be considered to be leaking if the volatile organic material concentration exceeds 10,000 ppm when measured at a distance of 0 cm from the component.~~ The provisions of this Subpart are not applicable if the products listed in Appendix D are made from natural fatty acids for the production of hexadecyl alcohol.

b) A component shall be considered to be leaking if the volatile organic material concentration exceeds 10,000 ppm when measured at a distance of 0 cm from the component as determined by Method 21, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105.

Section 215.445 Leaks: General Requirements

a) The owner or operator of a petroleum refinery shall:

~~a)~~1) Develop a monitoring program plan consistent with the provisions of Section 215.446;

~~b)~~2) Conduct a monitoring program consistent with the provisions of Section 215.447;

~~c)~~3) Conduct all tests for leaks in accordance with Method 21, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105.

e)4) Record all leaking components which have a volatile organic material concentration exceeding 10,000 ppm consistent with the provisions of Section 215.448;

d)5) Identify each component consistent with the monitoring program plan submitted pursuant to Section 215.446;

e)6) Repair and retest the leaking components as soon as possible within 22 days after the leak is found, but no later than June 1 for the purposes of Section 215.447(a)(1), unless the leaking components cannot be repaired until the unit is shut down for turnaround; and

f)7) Report to the Agency consistent with the provisions of Section 215.449.

b) A component shall be considered to be leaking if the volatile organic material concentration exceeds 10,000 ppm when measured at a distance of 0 cm from the component as determined by Method 21, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105.

Section 215.464 Emissions Testing and Monitoring

a) Upon a request of the Agency, the owner or operator of a volatile organic material source required to comply with Sections 215.461 through 215.464 shall, at his own expense, demonstrate compliance by methods or procedures approved by the Agency.

b) A person planning to conduct a volatile organic material emission test shall notify the Agency of the intent to test not less than 30 days before the planned initiation of the test so the Agency may at its option observe the test.

a) Any tests of volatile organic material emissions, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.

b) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material emission source required to comply with a limit of Sections 215.461 through 215.464 shall conduct emissions testing, at such person's own expense, to demonstrate compliance.

c) A person planning to conduct a volatile organic material emission test to demonstrate compliance shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

Section 215.467 Testing Methods for Volatile Organic Material Content

The volatile organic material content for all VOM emitting materials except printing inks shall be determined by Method 24, 40 CFR 60, Appendix A,

incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

Section 215.582 Bulk Gasoline Terminals

a) No person ~~may~~ shall cause or allow the transfer of gasoline into any delivery vessel from any bulk gasoline terminal unless:

1) The bulk gasoline terminal is equipped with a vapor control system that limits emission of volatile organic material to 80 mg/l (0.00067 lbs/gal) of gasoline loaded;

2) The vapor control system is operating and all vapors displaced in the loading of gasoline to the delivery vessel are vented only to the vapor control system;

3) There is no liquid drainage from the loading device when it is not in use;

4) All loading and vapor return lines are equipped with fittings which are vapor tight; and

5) The delivery vessel displays the appropriate sticker pursuant to the requirements of Section 215.584(b) or (d); or, if the terminal is driver-loaded, the terminal owner or operator shall be deemed to be in compliance with this section when terminal access authorization is limited to those owners and/or operators of delivery vessels who have provided a current certification as required by Section 215.584(c)(3).

~~b) Emissions of organic material from bulk gasoline terminals shall be determined by the procedure described in EPA-450/2-77-026, Appendix A, as revised from time to time, or by any other equivalent procedure approved by the Agency.~~

b)~~c)~~ Bulk gasoline terminals were required to take certain actions to achieve compliance which are summarized in Appendix C.

c)~~d)~~ The operator of a bulk gasoline terminal shall:

1) Operate the terminal vapor collection system and gasoline loading equipment in a manner that prevents:

A) Gauge pressure from exceeding 18 inches of water and vacuum from exceeding 6 inches of water as measured as close as possible to the vapor hose connection; and

B) A reading equal to or greater than 100 percent of the lower explosive limit (LEL measured as propane) when tested in accordance with the procedure described in EPA 450/2-78-051 Appendix B; and

C) Avoidable leaks of liquid during loading or unloading operations.

2) Provide a pressure tap or equivalent on the terminal vapor collection system in order to allow the determination of compliance with 215.582(d)(1)(A); and

3) Within 15 business days after discovery of the leak by the owner, operator, or the Agency, repair and retest a vapor collection system which exceeds the limits of subsection (d)(1)(A) or (B).

Section 215.584 Gasoline Delivery Vessels

a) Any delivery vessel equipped for vapor control by use of vapor collection equipment:

1) Shall have a vapor space connection that is equipped with fittings which are vapor tight;

2) Shall have its hatches closed at all times during loading or unloading operations, unless a top loading vapor recovery system is used;

3) Shall not internally exceed a gauge pressure of 18 inches of water or a vacuum of 6 inches of water;

4) Shall be designed and maintained to be vapor tight at all times during normal operations;

5) Shall not be refilled in Illinois at ther than:

A) A bulk gasoline terminal that complies with the requirements of Section 215.582 or

B) A bulk gasoline plant that complies with the requirements of Section 215.581(b)(1) and (2).

6. Shall be tested annually in accordance with ~~the pressure-vacuum test procedure described in EPA 450/2-78-051 Appendix A.~~ Method 27, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Each vessel must be repaired and retested with 15 business days after discovery of the leak by the owner, operator, or the Agency, when it fails to sustain:

A) A pressure drop of no more than three inches of water in five minutes; and

B) A vacuum drop of no more than three inches of water in five minutes.

b) Any delivery vessel meeting the requirements of Subsection (a) shall have a sticker affixed to the tank adjacent to the tank manufacturer's data plate which contains the tester's name, the tank identification number and the date of the test. The sticker shall be in a form prescribed by the Agency, and shall be displayed no later than December 31, 1987.

c) The owner or operator of a delivery vessel shall:

1) Maintain copies of any test required under Subsection (a)(6) for a period of 3 years;

2) Provide copies of these tests to the Agency upon request; and

3) Provide annual test result certification to bulk gasoline plants and terminals where the delivery vessel is loaded.

d) Any delivery vessel which has undergone and passed a test in another state which has a USEPA-approved leak testing and certification program will satisfy the requirements of Subsection (a). Delivery vessels must display a sticker, decal or stencil approved by the state where tested or comply with the requirements of Subsection (b). All such stickers, decals or stencils shall be displayed no later than December 31, 1987.

Section 215.585 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) during the regulatory control periods, which shall be July 1 to August 31 for retail outlets, wholesale purchaser-consumer facilities, and all other facilities.

b) The Reid vapor pressure of gasoline, a measure of its volatility, shall not exceed 9.5 psi (65.5 kPa) during the regulatory control period in 1990 and each year thereafter.

c) The Reid vapor pressure of ethanol blend gasolines shall not exceed the limitations for gasoline set forth in subsection (b) 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 by one or more of the following approved

methods or procedures which are incorporated by reference in Section 215.105.

1) For manual sampling, ASTM D4057;

2) For automatic sampling, ASTM D4177;

3) Sampling Procedures for Fuel Volatility, 40 CFR 80 Appendix D.

e) The Reid vapor pressure of gasoline shall be measured in accordance with either test method ASTM D323 or ~~in the case of gasoline-oxygenate blends which contains water-extractable oxygenates,~~ a modification of ASTM D323 known as the "dry method" as set forth in 40 CFR 80, Appendix E, incorporated by reference in Section 215.105. For gasoline - oxygenate blends which contain water-extractable oxygenates, the Reid vapor pressure shall be measured using the dry method test.

f) The ethanol content of ethanol blend gasolines shall be determined by use of one of the approved testing methodologies specified in 40 CFR 80, Appendix F, incorporated by reference in Section 215.105.

g) Any alternate to the sampling or testing methods or procedures contained in subsections (d), (e), and (f) 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 an 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 procedures, the Agency shall approve the proposed alternative.

h) Each refiner or supplier that distributes gasoline or ethanol blends shall:

1) During the regulatory control period, ~~document and clearly designate~~ 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 Section 215.585(b) and (c). Any facility receiving this gasoline shall be provided with a copy of ~~the accompanying document specifying the Reid vapor pressure~~ 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.

2) Maintain records for a period of ~~two~~ one 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.

Section 215.586 Emissions Testing

a) Any tests of organic material emissions from bulk gasoline terminals, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the Test Methods and Procedures for the Standards of Performance for Bulk Gasoline Terminals, 40 CFR 60.503, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

b) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material emission source subject to this Subpart shall conduct emissions testing, at such person's own expense, to demonstrate compliance.

c) A person planning to conduct an organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

Section 215.601 Perchloroethylene Dry Cleaners

The owner or operator of a dry cleaning facility which uses perchloroethylene shall:

a) Vent the entire dryer exhaust through a properly designed and functioning carbon adsorption system or equally effective control device; and

b) Emit no more than 100 ppmv of volatile organic material from the dryer control device before dilution, or achieve a 90 percent average reduction before dilution; and

c) Immediately repair all components found to be leaking liquid volatile organic material; and

d) Cook or treat all diatomaceous earth filters so that the residue contains 25 kg (55 lb) or less of volatile organic material per 100 kg (220 lb) of wet waste material; and

e) Reduce the volatile organic material from all solvent stills to 60 kg (132 lb) or less per 100 kg (220 lb) of wet waste material; and

f) Drain all filtration cartridges in the filter housing or other sealed container for at least 24 hours before discarding the cartridges; and

g) Dry all drained filtration cartridges in equipment connected to a carbon absorption system meeting the requirements of subsections (a) and (b) or an emission reduction system or in a manner that will eliminate emission of volatile organic material to the atmosphere.

Section 215.603 ~~Testing and Monitoring~~ Leaks

~~a)~~ ~~Compliance with Section 215.601(a), (f) and (g) shall be determined by a visual inspection;~~

~~b)~~ ~~Compliance with Section 215.601(c)~~ The presence of leaks shall be determined for purposes of Section 215.601 (c) by a visual inspection of the following: hose connections, unions, couplings and valves; machine door gaskets and seatings; filter head gasket and seating; pumps; base tanks and storage containers; water separators; filter sludge recovery; distillation unit; diverter valves; saturated lint from lint baskets; and cartridge filters; ~~and~~

~~c)~~ ~~Compliance with Section 215.601(b), (d) and (e) shall be determined by methods or procedures approved by the Agency.~~

Section 215.614 Testing Method for Volatile Organic Material Content of Wastes

The volatile organic material content of wastes shall be determined by Method 24, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

Section 215.615 Emissions Testing

a) Any tests of volatile organic material emissions, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.

b) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material emissions source subject to this Subpart shall conduct emissions testing, at such person's own expense, to demonstrate compliance.

c) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

Section 215.886 Emissions Testing ~~and Monitoring~~

~~a) Upon a reasonable request of the Agency, the owner or operator of a polystyrene plant subject to this Subpart shall at his own expense demonstrate compliance by use of the following method: 40 CFR 60, Appendix A, Method 25 - Determination of Total Gaseous Non-Methane Organic Emissions as Carbon (1984). The incorporation by reference contains no later amendments or editions.~~

~~b.) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the agency may observe the test.~~

a) Any tests of volatile organic material emissions, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.

b) Upon a reasonable request by the Agency, the owner or operator of a polystyrene plant subject to this Subpart shall conduct emissions testing, at his own expense, to demonstrate compliance.

c) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16th day of March, 1990 by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board