

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN - 6 2004

IN THE MATTER OF:)
)
CLEAN-UP PART III)
AMENDMENTS TO 35 ILL.)
ADM. CODE PARTS 211, 218 AND 219)
)

R04- 20
(Rulemaking - Air) POLLUTION CONTROL BOARD

NOTICE

TO:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

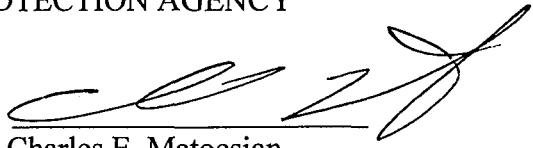
Matthew Dunn, Chief
Attorney General's Office
James R. Thompson Center
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Katherine D. Hodge
Executive Director
Illinois Environmental Regulatory Group
3150 Roland Avenue
Springfield, IL 62703

Jonathan Furr
Chief Legal Counsel
Illinois Dept. of Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL FOR CLEAN-UP PART III AMENDMENTS TO 35 ILL. ADM. CODE PARTS 211, 218 AND 219 and APPEARANCE of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: January 5, 2004
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

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TABLE OF CONTENTS OF REGULATORY SUBMITTAL

Following is a Table of Contents of all pleadings and documents included with the proposed regulatory action:

1. Notice of Proposal
2. Appearance of Charles E. Matoesian, Assistant Counsel, for the Illinois Environmental Protection Agency
3. Director Renee Cipriano's Proposal of Amendments
4. Statement of Reasons
5. Proposed Amendments to 35 Ill. Adm. Code Part 211:
The original and nine (9) copies
6. Proposed Amendments to 35 Ill. Adm. Code Part 218:
The original and nine (9) copies
7. Proposed Amendments to 35 Ill. Adm. Code Part 219:
The original and nine (9) copies
8. Materials Incorporated by Reference
 - a. 40 CFR 51, Appendix M (62 FR 32500)
 - b. "Guidelines for Determining Capture Efficiency"
 - c. "Revised Capture Efficiency Guidance for Control of Volatile Organic Compound Emissions," Memorandum by

John S. Seitz, Director, Office of Air Quality Planning and Standards, United States Environmental Protection Agency, February, 1995.

9. Proof of Service
10. Disk in Microsoft Word containing:
 - a. Proposed Amendments to 35 Ill. Adm. Code Part 211
 - b. Proposed Amendments to 35 Ill. Adm. Code Part 218
 - c. Proposed Amendments to 35 Ill. Adm. Code Part 219

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POLLUTION CONTROL BOARD

APPEARANCE

The undersigned, as one of its attorneys, hereby enters an Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: January 5, 2004
P.O. Box 19276
Springfield, Illinois 62794-9276
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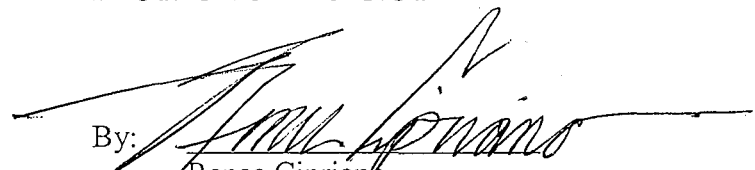
ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL OF AMENDMENTS

THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency"), pursuant to 35 Ill. Adm. Code 102.202, moves that the Board accept for hearing the Agency's proposal for amendment of 35 Ill. Adm. Code Parts 211, 218 and 219. This regulatory proposal includes: 1) the proposed amendments; 2) the Statement of Reasons; 3) a statement regarding an economic impact study; and 4) an Appearance for the attorney representing the Illinois EPA.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: 
Renee Cipriano
Director

DATED:

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-3397

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POLLUTION CONTROL BOARD

STATEMENT OF REASONS

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 27 and 28 of the Environmental Protection Act ("Act")(415 ILCS 5/27 and 28) and 35 Ill. Adm. Code 102.202(b), in support of the attached proposed amendments. Included in this proposal are amendments to 35 Ill. Adm. Code Parts 211, 218 and 219 (respectively, "Part 211," "Part 218" and "Part 219"). In addition to the Authority note, the Subparts of Part 218 and Part 219 to which amendments are proposed are: Subpart A, General Provisions; Subpart F, Coating Operations; Subpart H, Printing and Publishing; Subpart Z, Dry Cleaners; Subpart HH, Motor Vehicle Refinishing; and Appendix B. This proposal amends the most recent version of Parts 211, 218 and 219 as found on the Board's website.¹

I. ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL

These proposed amendments are simply a "clean-up" of existing regulations which result from discussions with the USEPA and industry and which will reduce the burden of complying with certain provisions and increase the flexibility for complying with certain other provisions. Originally, the Subparts at issue were adopted to satisfy Clean Air Act ("CAA") requirements. Section 182(b)(1) of the CAA, 42 USC Section 7511a(b)(1) required all moderate, serious, severe or extreme ozone nonattainment areas to achieve a 15% reduction in volatile organic material ("VOM") by 1996. In Illinois, the Chicago area is classified as a severe ozone nonattainment area. The Metro-East St. Louis ("Metro-East") area was, until recently, classified as a moderate ozone nonattainment area. Illinois was thus charged with developing a plan to reduce VOM emissions in the Chicago and Metro-East areas by 15%.

Illinois identified various measures to reduce VOM emissions and submitted same as a 15% Rate of Progress Plan ("15% ROP"). The ROP was adopted in rulemakings R94-12, R94-15, R94-16, R94-21, R94-19, R94-20, R94-31, R94-32 and R94-33. Many of the

¹ The Board inadvertently omitted Appendix B of 35 Ill. Adm. Code Part 218 from its website. However, Appendix B has not previously been repealed and is presented as an element of Part 218 in this rulemaking.

provisions in this rulemaking were developed or amended to accomplish the 15% ROP Plan.

The amendments generally clarify existing regulatory provisions with the goals of reducing the burdens of, and affording greater flexibility in, demonstrating compliance. The amendments are emissions neutral, and do not impact the overall plans or goals of the Chicago nonattainment area or Metro-East ozone area. The Illinois EPA proposes the following amendments: updating the test methods for capture efficiency (CE); clarifying the term "carbon adsorber"; clarifying the applicable requirements for screen printers; clarifying the description of certain categories of sealers and topcoats; clarifying the monitoring requirements, applicability, equations, and recordkeeping and reporting for lithographic printing operations; and clarifying that sources may turn off their natural gas fired afterburners outside the ozone season; deleting the requirements applicable to perchloroethylene dry cleaning facilities; deleting the requirement that auto finishing shops annually re-register with Illinois EPA and deleting the coating purchasing recordkeeping requirements; and, correcting miscellaneous grammatical and typographical errors. The Illinois EPA further proposes to add two definitions in Part 211 as necessary in light of the proposed amendments to Parts 218 and 219 and to amend the Authority note.

The Illinois EPA technical staff has prepared a brief synopsis of the testimony which would be offered, if requested at a hearing. If technical questions in regards to the proposed changes should occur at the Board hearing, Gary Beckstead, Illinois EPA Air Quality Planning Engineer, will be available to respond. The synopsis is below.

The changes proposed in this rulemaking are non-substantive corrections and updates to the existing Illinois Administrative Code Parts 218 and 219 regulations for the Chicago and Metro East areas. In addition, several definitions were added to Part 211 as a result of these changes. Because the changes were not substantive, no technical support documents or written testimony are provided.

The proposed corrections and updates make the Illinois regulations more user friendly, facilitate their use, and clarify misinterpretations that have occurred in the use of these regulation since their adoption. Any impacts that might occur as a result of the proposed changes will benefit the users without adverse economic or environmental impacts.

Furthermore, as part of the outreach for this rulemaking, all the proposed changes were reviewed by the constituents of the Illinois Environmental Resource Group (IERG) and have been found acceptable. IERG is an environmental association composed of a wide variety of industrial firms that are regulated by 35 Ill. Adm. Code Parts 218 and 219.

a. Capture Efficiency

CE test methods are required by the CAA and included in the Chicago Federal Implementation Plan. The measurement of CE is critical to determining the effectiveness of volatile organic compound (VOC) emission control systems. On June 16, 1997, USEPA published a final rule in the Federal Register updating the CE test methods located at 40 CFR 51, Appendix M (62 Fed. Reg. 32500 [June 16, 1997]). Additionally, on January 9, 1995, USEPA issued a guidance document entitled "Guidelines for Determining Capture Efficiency" that revised the existing USEPA approved gas/gas and liquid/gas CE test methods and introduced two new alternative CE test protocols. This was followed by a memorandum by John S. Seitz, Director, Office of Air Quality Planning and Standards, United States Environmental Protection Agency, in February, 1995 entitled "Revised Capture Efficiency Guidance for Control of Volatile Organic Compound Emissions." USEPA developed the two alternative methods in order to provide additional regulatory flexibility and reduce compliance costs. The two alternative methods are statistical approaches to determining CE and are referred to as the Data Quality Objective (DQO) and Lower Confidence Limit (LCL). These methods define sets of approval criteria which, when met by the data obtained from the measurement of applicable process parameters using USEPA approved procedures and protocols, may be used to determine VOC capture system compliance with a regulatory CE standard.

The proposal amends Sections 218.105(c), 219.105(c), 218.112 and 219.112 to reflect the use of USEPA revised CE testing methods which will be incorporated by reference (and Appendix B will be deleted). Also, the proposal adds the option for sources to use USEPA approved alternative CE test methods, also to be incorporated by reference. Additionally, the proposal clarifies that the alternative CE test methods are considered equivalent alternative test methods pursuant to Sections 218.108(b) and 219.108(b). The CE amendments provide for a mass balance approach to determining CE compliance using the DQO/LCL methodology and provisions for simultaneous testing of multiple lines or emission units sharing a common control device. Further, the proposal will include the correct terminology and symbols regarding the mass of VOM that escapes from a total temporary enclosure or a building enclosure. The correct terminology "uncaptured" VOM, will replace the existing terminology "fugitive" VOM in Section 218.105(c)(2)(A), (B), (C) and (D) and Section 219.105(c)(2)(A), (B), (C) and (D). Lastly, the proposal amends the recordkeeping and reporting requirements to include advance notification of CE testing in the new Sections 218.105(c)(4) and 219.105(c)(4).

b. Carbon Adsorbers and Control Device Monitoring

The carbon adsorbers provision is based upon a federally issued Control Technique Guidelines (CTG) document. This proposal was added to the clean-up agenda in response to concerns from industry over the limiting nature of the term "carbon" in "carbon adsorbers", and to reflect the changing technology in the field of adsorbers and the media used in them, such as aluminum and silicon oxides. The proposal clarifies that the term "carbon adsorber" as used in 35 Ill. Adm. Code 218.105(d) and 219.105(d)

refers to adsorbers in general not just those using activated carbon as the adsorbent. The proposal does so by way of a new definition at Section 211.953. Finally, the proposal requires a continuous recorder on temperature monitoring devices in Sections 218.105(d)(2)(B) and 219.105(d)(2)(B).

c. Screen Printers

In response to questions from industry, the Illinois EPA proposes to clarify in Sections 218.204(c) and 219.204(c) that screen printing on paper falls under Subpart TT, Other Emission Units, rather than the paper coating regulations in Subpart F. The current Board note for paper coating exempts printing operations if they fall under Sections 218.401 and 219.401 of Subpart H, Printing and Publishing. However, screen printing activities do not fall under Subpart H but rather are regulated under Subpart TT, which is a generic catch-all regulation. In addition to modifying the Board note, the Illinois EPA proposes adding the definition of "screen printing on paper" to Part 211 at Section 211.5880.

d. Wood Furniture

The wood furniture rule is based upon a CTG. In response to questions from industry, the Illinois EPA proposes clarifying the descriptions for "topcoats" and "sealers" used in the coating of wood furniture. Currently, in the regulations at Sections 218.204(l)(2)(B) and 219.204(l)(2)(B), the categories of sealers and topcoats are divided into "acid-cured alkyd amino" and "non-acid-cured alkyd amino." The Illinois EPA is proposing to alter the wording to be more unambiguous than the existing descriptions.

e. Lithographic Printing

This proposal corrects the heatset web offset lithographic printing VOM maximum theoretical emissions ("MTE") equation in Sections 218.406(b)(1)(A)(ii) and 219.406(b)(1)(A)(ii). Discussions with the USEPA resulted in an agreement that the Illinois EPA would undertake this modification. The Illinois EPA also proposes to correct the required accuracy of fountain solution temperature monitors for refrigerated fountain solutions in Sections 218.410(a)(2) and 219.410(a)(2) from "0.3°C or 0.5°F" to "1°C or 2°F" since there is not currently readily-available equipment on the market to meet the more stringent limits. The proposal will also clarify the recordkeeping and reporting language in Sections 218.411(a)(1)(B)(iii) and 219.411(a)(1)(B)(iii). Additionally, the proposal will correct typographical errors in Sections 219.410 and 219.411 to reflect the correct Part number in Sections 219.410(b) and 219.410(b)(1)(A) and Section 219.411(a)(2)(B)(vi). The proposal will add the word "lithographic" to printing lines in Sections 218.411(a)(1)(B)(i) and 219.411(a)(1)(B)(i) to clarify that only lithographic printing lines should be counted in determining the number of days of operation. This proposal also changes the word "or" to "and" in Sections 218.411(d)(1) and 219.411(d)(1) to clarify that sources must have submitted a certification by March

15, 1996, and upon startup of any new lines after that. The proposal also clarifies that when using an impervious substrate, such as plastic or metals, no retention factor is used for inks in determining emissions for applicability purposes. (Sections 218.411(a)(1)(B)(iii) and 219.411(a)(1)(B)(iii)).

The Illinois EPA proposes adding recordkeeping and reporting requirements for fountain solutions where the VOM is added with automatic feed equipment, as this was inadvertently left out of prior lithographic printing rulemakings. These occur in Sections 218.410(b)(2) and 219.410(b)(2), and in new Sections 218.411(c)(2)(D) and 219.411(c)(2)(D). In addition, the Illinois EPA is proposing at Sections 218.407(a)(1)(E) and 219.407(a)(1)(E) to clarify that sources may turn off their natural gas fired afterburners outside the ozone season consistent with Sections 218.107 and 219.107.

f. Perchloroethylene Dry Cleaners

The USEPA exempted perchloroethylene from the definition of a VOM (61 Fed. Reg. 4588 (February 7, 1996)) because it was determined that perchloroethylene had negligible photochemical reactivity. Pursuant to Section 9.1(e) of the Act, 415 ILCS 5/9.1(e), the Board is mandated to exempt from the definition of VOM those compounds that USEPA determines to be exempt from regulation. The Board adopted a final rule in R96-16 (21 Ill. Reg. 2461 (February 6, 1997)) delisting perchloroethylene as a VOM. The Illinois EPA now proposes to repeal Sections 218.601, 218.602, 218.603 and 219.601, 219.602 and 219.603 which regulate the use of VOM at perchloroethylene dry cleaning facilities. The exemption of perchloroethylene from the definition of VOM will not affect any efforts by the Illinois EPA to achieve the national ambient air quality standards (NAAQS) in the Chicago ozone nonattainment area as the Illinois EPA's 1990 baseline inventory for VOM emissions was corrected in 1993 to reflect the anticipated delisting of perchloroethylene. In addition, perchloroethylene continues to be regulated as a hazardous air pollutant under Section 112 of the CAA, 42 U.S.C. § 7412. Pursuant to CAA Section 112(d), USEPA issued a National Emission Standard for Hazardous Air Pollutants (NESHAP) for perchloroethylene dry cleaners in 58 Fed. Reg. 49354 (September 22, 1993). The Illinois EPA is delegated authority to implement this perchloroethylene NESHAP, and thus to regulate perchloroethylene as a hazardous air pollutant.

g. Motor Vehicle Refinishing

The motor vehicle refinishing proposal contains two amendments. First, Illinois EPA seeks to strike the requirement in Sections 218.792 and 219.792 that all shops must annually re-register with the Illinois EPA. The Illinois EPA has determined that the requirement serves no useful purpose and provides an unnecessary burden on regulated sources and on the Illinois EPA.

Secondly, and due to the implementation of a national rule that limits the VOM content of coatings being manufactured, the Illinois EPA proposes to eliminate certain recordkeeping requirements. The national rule limits the VOM content of coatings being

produced to the precise level the Illinois EPA limits the VOM content of coatings being used. Therefore, the only coatings that should be available for purchase and for resale should necessarily comply with the Illinois coating usage limits. As such, it is proposed that the requirement in Sections 218.790 and 219.790 for tracking coating purchases be repealed. The USEPA has approved rule revisions striking these recordkeeping requirements in other states.

h. Miscellaneous

In addition to the above amendments, the rule corrects numerous typographical errors, grammatical mistakes, and other minor inconsistencies. These changes should have no quantifiable effect on sources. The miscellaneous changes occur throughout the Sections mentioned above plus Sections 218.405 and 219.405. In addition, in Sections 218.112(d), (e), (f), (g), (h) and (i) the citation to the Code of Federal Regulations was amended to add the number "40" to the citation.

II. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The geographic areas affected by this proposal are the Chicago ozone non-attainment area and the Metro-East ozone area as described in 35 Ill. Adm. Code 218.103 and 219.103, respectively. The sources potentially affected by the proposal are those subject to the various subparts to which the Illinois EPA proposes amendments. Again, however, any impact to a source will be beneficial.

III. PURPOSE AND EFFECT OF THE PROPOSAL

This proposal is a minor clean-up of the rules at 35 Ill. Adm. Code 218, 219 and necessarily the definitions at 35 Ill. Adm. Code 211. It is intended to have no real impact upon sources except in that it reduces compliance burdens, clarifies terms and procedures, and reduces recordkeeping requirements.

IV. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

The amendments to 35 Ill. Adm. Code 218, 219 and 211 do not impose new requirements. The Illinois EPA therefore believes that an analysis of technical feasibility and economic reasonableness is not appropriate.

V. COMMUNICATION WITH INTERESTED PARTIES

These amendments are being proposed after discussions with USEPA and with the Illinois Environmental Regulatory Group. These amendments are in response to concerns raised by USEPA and certain affected facilities, as well as Illinois EPA.

VI. CONCLUSION

The Illinois EPA's proposal is a minor clean-up of the rules at 35 Ill. Adm. Code Parts 218 and 219 and the definitions at 35 Ill. Adm. Code Part 211. The intent is to reduce recordkeeping requirements, clarify terms and provide greater flexibility in achieving compliance with the regulations, as well as to address minor typographical and grammatical errors.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and requests the Board adopt these proposed rules for the State of Illinois.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: January 5, 2004

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P.O. Box 19276
Springfield, IL 62794-9276

Due to the volume of this pleading,
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at

312/814-3629

to view this file.