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STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)
)
OMNIBUS CLEANUP OF THE)
VOLATILE ORGANIC MATERIALS)
FACT RULES APPLICABLE TO)
OZONE NONATTAINMENT AREAS:) R93-9
AMENDMENTS TO 35 ILL.) (Rulemaking)
ADM. CODE PARTS 203,)
211, 218 AND 219.)

The following is a transcript of a continued hearing held in the above-entitled matter at 100 West Randolph Street, Chicago, Illinois, on the 4th day of June, 1993, A.D., commencing at the hour of 10:00 o'clock a.m., before Ms. Diane O'Neill, Hearing Officer, presiding.

PRESENT:

Ms. Joan Anderson,
Board Member.

APPEARANCES:

Ms. Kathleen C. Bassi
Associate Counsel
Air Pollution Control
Division of Legal Counsel
2200 Churchill Road
Springfield, Illinois 62694

appeared on behalf of the IEPA;

Ms. Katherine D. Hodge
Hodge & Dwyer
215 East Adams Street
Suite 302
Springfield, Illinois 62701

appeared on behalf of IERG.

Members of the Public.

I N D E X

WITNESS:	PAGE:
Jerry L. Ledwig	46
Christopher Romaine	65

E X H I B I T S

None

HEARING OFFICER O'NEILL: Good morning.

This is the second hearing in the matter of Omnibus Cleanup of the Volatile Organic Material Rules Applicable to Ozone Nonattainment Areas, Amendments to 35 Illinois Administrative Code Parts 203, 211, 218 and 219. This is docket is number R93-9.

I am the Hearing Officer in this matter and my name is Diane O'Neill. The attending Board member today is Joan Anderson.

This hearing is held pursuant to the requirements of the Section 28.5. This hearing was requested at the first hearing in this matter held on May 7, 1993.

The purpose of this hearing is for the presentation of testimony, documents and comments by affected entities and all other interested parties.

The Board has received prefiled testimony from Jerry Ledwig on behalf of the Illinois Environmental Regulatory Group and Mr. Ledwig will testify here today.

I also note that the Board has received five comments in this matter. Comment number 1 is from the Department of Commerce and Community Affairs and notes that no small businesses will be negatively impacted by the changes in the proposal.

Comment number 2 is from Spectrolite's consortium and notes a typographical error in Section 291.211(c)(2).

Comment number 3 is from the Code Division of the Secretary of State's office and notes some changes that need to be made prior to second notice.

Comment number 4 is from the James River Paper Corporation and recommends a modification to Section 218.980(e) basically for clarification purposes.

And comment number 5 is from the Society of Plastics Industry and also suggests language to clarify Section 218980(e).

And do you have any other comments you would like to make at this time?

MRS. ANDERSON: None.

HEARING OFFICER O'NEILL: Then we can proceed with Mr. Ledwig.

MS. HODGE: Thank you very much.

My name is Katherine Hodge and I am here today representing the Illinois Environmental Regulatory Group.

With me is Mr. Jerry Ledwig and he will be testifying on behalf of IERG today.

(Witness sworn.)

JERRY L. LEDWIG,

having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Mr. Ledwig.

A. Good morning.

My name is Jerry L. Ledwig and I am the regulatory and legislative affairs advisor for Mobil Oil Corporation at its Joliet refinery.

I have more than 38 years of

industrial experience with more than 17 years in the environmental field. I currently serve as the work group chairman for the IERG RACT revision project.

IERG has been an active participant in this proceeding and in the predecessor rulemakings and the FIP litigation concerning RACT regulations applicable in the state.

The members of IERG's project work group have met on many occasions with the Illinois Environmental Protection Agency to negotiate the content of the Agency's proposal before you.

In particular, IERG was instrumental in drafting the proposed provisions for control of VOM emissions from cooling towers and non-SOCMI leaks.

This proceeding demonstrates that the informal negotiated rulemaking process currently in place is working well. IERG commends the Agency for its efforts in this

regard.

The members of IERG are very pleased that the initial issues of controversy in this proceeding have been discussed and resolved to the point that IERG has only minor comments on the Agency's proposal today.

Unfortunately, due to the size and the complexity of this proposal, IERG members and staff continue to identify some problem areas, changes in definitions which were not immediately apparent, but which could have substantial impact on the regulated community.

Therefore, IERG reserves the right to address such matters at the next hearing, if one is requested by the Agency, or in written post-hearing comments.

Due to the nature of these fast track hearings, IERG urges the Board to give increased weight to post-hearing comments.

Comment number 4.

As to IERG's comments and suggested changes today, please see proposed

Section 211.4870, which contains the definition of polystyrene plant.

In our discussions with the Agency, we were concerned with the use of the word plant in this definition and considered substitutions for the term.

IERG proposes that Board delete the term plant and add the following language so that the definition would be as follows:

"Polystyrene plant means any collection of process units and associated storage facilities at a source engaged in using styrene to manufacture polystyrene resin."

We have revised our comment number 5 from the prefiled testimony.

After the filing of our testimony, IERG had discussions with the Agency and now supports the definition as proposed in

Section 211.6550.

Comment number 6.

Also see proposed sections 218.980(e) and 219.980(e).

IERG believes that the Agency inadvertently included sources following fuel combustion in this subsection. This should be units to remain consistent with the Agency's intent regarding the use of the terms source and emission unit.

Therefore, IERG proposes that sources be deleted and that units be added in its place after fuel combustion.

Comment number 7.

Also see proposed sections 218.986 and 219.986 which specify control requirements for certain sources, including some non-contact process water cooling towers, subsection (d), and looks from components subject to the control requirements of subpart TT, which is subsection (e).

Subsections (d) and (e) should be

reflected in the general language of sections 218.986 and 219.986 as well.

IERG asks the Board to amend the introductory language in sections 218.986 and 219.986 as follows:

"Every owner
or operator of an emission
unit subject to this
subpart shall comply with
the requirements of
subsection (a), (b), (c),
(d) or (e) below."

Also sections 218.966 and 219.966 should be amended such that the wording would comply with sections -- comply with (a), (b) or (c) below. (c), added.

Comment number 8.

See also proposed sections 218.986 (d) and 219.986 (d) which indicate a compliance date of August 15, 1994 or upon initial startup.

After consultation with the

Agency regarding insufficient time for applications for permit modifications, it was agreed that the compliance date should be extended.

Therefore, IERG requests the Board to extend the compliance date for existing subject cooling towers until March 15, 1995, as it will coincide with other compliance dates for the VOM rules.

Comment 9.

See also proposed sections -- and this is an insert to my prefiled testimony -- 218.966(c), and 219.966(c) and 218.986(e) and 219.986(e) in which no compliance date is specified for the non-SOCMI leaks control requirements.

Again, after consultation with the Agency, it was agreed that March 15, and a correction here for a typographical error, it should be 1995 added after the word measures.

IERG requests the Board to add this compliance date to the rule.

Comment number 10.

Also see sections 218.986(e)(1) and 219.986(e)(1).

IERG requests the Board to clarify the shutdown language in this provision.

Again, the Agency is in agreement that IERG's suggested language would enhance the rule.

IERG requests the Board to amend subsections 218.966(c)(1), which is an insert to my prefiled testimony, and 218.986(e)(1), and another insert in the prefiled testimony would be 219.966 (c)(1), and 219.986(e)(1) as follows:

"Repair any component..., unless the leaking component cannot be repaired until the next process unit shutdown, in which case...."

My comment number 11.

Also see proposed sections 218/219.926(c), 218/219.946(b), 218/219.966(b), and 218/219.986(c).

All of these non-CTG subparts include a provision for compliance via alternative control plans with the approval of the Agency and USEPA as a SIP revision.

IERG understands that the Agency intends to propose amendments to these sections which would allow alternative control plans to be effective upon inclusion in the federally enforceable state operating permit. IERG strongly supports such a change.

Comment number comment 12.

Concerning the proposed Board note following sections 218.986(a) and 219.986(a). This Board note is extremely important to members of IERG and others in the regulated community and IERG urges the Board to adopt the same.

One final comment number 13, which is not in my prefiled testimony. Also see

sections 218.103 (a)(1), citation to a FIP litigation case.

We have a typographical error. It refers to the Environmental Regulatory Group, we should insert the Illinois Environmental Regulatory Group, whereas it just shows it as Illinois Regulatory Group.

Thank you for the opportunity to offer this testimony today. I will be happy to answer any questions you may have.

HEARING OFFICER O'NEILL: Okay.

MS. BASSI: I have one clarification question, first of all.

BY MS. BASSI:

Q. When you were talking about sections 986(e)(1).

MRS. ANDERSON: Excuse me.

What paragraph are you referring to in the testimony?

MS. BASSI: No.

I am talking about what he was just saying.

MRS. ANDERSON: Thank you.

MS. BASSI: I don't know if it was in the testimony or not. I was following along just taking notes, Mrs. Anderson.

MRS. ANDERSON: Okay.

MS. BASSI: This would have been the fourth to the last item that you were talking about.

Q. You referred to Section 986(e)(1). And I believe that was in the written testimony. Okay.

Then you added --

A. The shutdown language?

Q. Yes. You added some sections. Could you tell me again?

A. I added two sections in there.

Q. Could you tell me again what you added?

A. 218.966(c)(1).

Q. Okay.

A. And also I added 219.966(c)(1).

Q. Okay.

MS. HODGE: And just for clarification,

this deals with control requirements for non-SOCMI leaks, and the prefiled testimony addressed changes in subpart TT.

Mr. Ledwig's addition today also recommends changes to the same provision in subpart RR.

MS. BASSI: I have a second request. Could I have a moment, please?

HEARING OFFICER O'NEILL: Sure.

BY MS. BASSI:

Q. There was one issue, the Agency appreciates the corrections and additions that Mr. Ledwig's testimony is providing to the Hearing Officer for second notice and we agree with all of them that he has described today.

The last item that he described today, item number 12 in his prefiled testimony, refers to a Board note.

This Board note is one that was an item of concern to USEPA and I wanted to take this opportunity to inform the Board that the issue with USEPA has been resolved and no

one will be proposing any changes to the language to that Board note.

A further item of clarification. Mr. Ledwig referred to changes in sections 926(c), 946(b), 966(b), and 986(b).

And I believe those are in your prefiled testimony as well.

These were included, I believe, in Exhibit 1 that the Agency presented at the first hearing, I believe.

MRS. ANDERSON: What paragraph are you referring to?

MS. HODGE: Paragraph number 11.

Those changes I believe were in your errata sheet.

MS. BASSI: That's right.

MS. HODGE: Presented at the last hearing.

MRS. ANDERSON: I guess I would appreciate, in the testimony Mr. Ledwig states that the Agency intends to propose amendments.

Are you simply clarifying that we already have them?

MS. BASSI: Yes.

MRS. ANDERSON: Thank you.

MS. BASSI: There was paragraph 11 in Mr. Ledwig's prefiled testimony. Okay.

And this was the very last item, it is on page 5 of Exhibit 1 that the Agency presented at hearing a month ago. So there is nothing new, this is already in. And we have no further questions.

HEARING OFFICER O'NEILL: Are there any other questions for Mr. Ledwig?

Mrs. Anderson.

MRS. ANDERSON: In your testimony, paragraph 3 of your testimony. The last sentence is what I would request you testify on.

You testified that due to the nature of these fast-track hearings, IERG urges the Board to give increased weight to post-hearing comments.

In my mind, I am confused by that statement, because to me it would be a

contradiction that we would backend the hearings into the comment period, where nothing could be aired.

And, second, I don't understand what is unique about these hearings as compared to any negotiated rulemaking.

I am essentially maybe asking if you did not intend to ask us to make a legal determination, giving greater weight to post-hearing comments, but simply as a practical comment, I certainly would appreciate that, I understand that.

But, if you are formally asking us to give increased weight, which is a legal term, to post-hearing comments, then I would ask, are you suggesting that at these hearings we diminish the airing of issues at hearing as a factor in making our decision?

I am asking the question in a long way because I suspect I don't think you meant it to be so legalistic.

MS. HODGE: Mrs. Anderson, if I may answer

this.

No, we did not intend that. We did not intend the Board to, you know, deviate from its current course of action in giving weight to hearing testimony and post-hearing comments.

The comment was inserted for practical reasons, as you stated, and it was only because this is a fast proceeding and, it is true, we have been negotiating this for many months, but it is a voluminous rulemaking. The issues are complex.

And some of the changes to Mr. Ledwig's testimony today became apparent only in the last couple of days.

And I suspect if everyone sits down and goes through the proposal again, we may find some more typos and so forth.

And that was why the comment was put into the prefiled testimony.

MRS. ANDERSON: I will put into the record that my confusion is that the last thing I

would choose for giving greater weight for post-hearing comments would be in a fast-track rulemaking, and that is simply, I just wanted that clear.

The whole idea was to get everything up front and not at the backend. But, I also appreciate the practical considerations that you are thinking of.

Thank you for clarifying the record.

HEARING OFFICER O'NEILL: Are there any other questions or comments?

MS. HODGE: I have just a brief comment.

And this is an issue that was discussed only this morning and IERG does intend to offer some comments on it after the close of the hearing in post-hearing comments.

We have discussed the issue with the Agency and I don't believe there is any objection, but it has to do with Section 218.980(e).

And this section contains a list

of exemptions. And the subsection appears only in subpart TT of the rule, yet it references that these exemptions apply to subpart PP, QQ, RR as well as TT.

And it's been somewhat confusing to me and to members of the regulated community and we have suggested to the Agency that perhaps this list of exemptions should appear in the other rule, the subparts PP, QQ and RR as well as TT.

And we will offer comments on that and we will consult with the Agency on that matter.

MS. BASSI: The Agency has no objection to that, and I was just thinking about the practical side of this.

We will include this also in our comments. We will provide you with language in our comments as to how we think this should appear.

MS. HODGE: Okay. Thank you.

MRS. ANDERSON: I just want to say that I

personally fully appreciate -- I didn't want my prior comments to be misinterpreted as not fully appreciating the consultation that has gone on in these proceedings. That was not my intent.

MS. HODGE: I stated that we have nothing further with Mr. Ledwig.

I do have just a couple of items that I would like to clarify with Mr. Romaine, if that is appropriate at this time.

HEARING OFFICER O'NEILL: All right.

We are going to deal with testimony that Mr. Romaine presented at the first hearing to clarify it?

MS. HODGE: That is correct.

HEARING OFFICER O'NEILL: Okay.

CHRISTOPHER ROMAINE,

having been previously duly sworn,
was examined and testified further as follows:

CROSS EXAMINATION

BY MS. HODGE:

Q. Okay.

The first matter that I just need a little bit of clarification on, Mr. Romaine, is in Section 218.966(c)(2)(a) and the same language also shows up in 218.986(e)(2)(a).

And this provision indicates that for certain leaks regulated facilities would have to keep a report on the name and identification of the leaking component.

And my question to you is could you clarify what the Agency's intent is by identification of the leaking component?

A. Well, the purpose is that the identification has to be a little bit more understandable than simply putting in a serial number.

We would like the process unit

the component is located in or the type of component to make it a meaningful record for somebody reviewing it.

Simply a serial number would be very hard for us to make any useful data out of that.

Q. But would it be appropriate just to refer to a flange within this process unit or does the Agency want something more specific?

A. That would be acceptable.

Q. Okay.

MS. BASSI: I have a clarification question.

You referred only to section 218.966. I assume you also mean 219.966?

MS. HODGE: Yes, I do. And I must say I only have a copy of Part 218 in front of me today.

Q. Okay.

The next question that I have, Mr. Romaine, has to deal with the applicability

of proposed Section 218.980(a) and also Section 219.980(a).

And could you please clarify somewhat the concept of the threshold for applicability of these rules versus the threshold for control of the same rules?

A. Well, the applicability of the provision you identified, in fact, of subparts PP, QQ, RR, is probably one of the more complicated aspects of these rulings.

That is because the applicability process is a two-stage process. The first stage process makes an applicability determination looking at the entire plant or source, and the second stage makes an applicability or control requirement determination looking at whether particular individual machinery should be controlled.

And, of course, those two things deal with different populations.

The plantwide applicability determination is made from a larger population

of machines potentially than the actual emission that is potentially subject to the control requirement.

Now, the first stage looks at whether the plant meets the criteria for eligibility as a major source for these rules, the stage that is a hundred tons per year, and it is expressed in maximum theoretical emission.

So it is a plantwide determination, trying to see whether emissions exceed one hundred tons per year.

The things that go into to that, first of all, are only process emission units. So that new combustion emission units and incinerators don't go into the count for applicability, whether the source is a major source.

Then we identify a new term, and it is not apparent in the rules, but it is control technique guideline.

Many of the rules that we have

for VOC controls for purposes of reasonably available control technology or RACT are used in USEPA control techniques guidelines. USEPA makes a distinction between rules pursuant to their guidelines and rules that have not been addressed by them.

The specific listing of rules and applicable provisions, there is a listing of rules that are considered to be control technique guideline document rules as found in the Board rules.

Well, the applicability determination for these subparts for these subparts PP, QQ, RR and TT, only looks at rules -- just a second -- considers in their entirety any process units that have not been addressed by control technique guideline rules.

Basically, it hasn't been addressed by a RACT rule somewhere else. So it addresses things like glass coating, leather coating, cooling towers that have not specifically been addressed by control

technique guidelines.

It also includes actually in those case examples by RACT, but it also includes some things that we have developed that are in the rules but are not pursuant to control technique guidelines. Things like heatset web offset printing or wood furniture, those are rules that we have, those were not developed pursuant to control technique guidelines.

The next thing that is certainly in all its entirety, is any emission unit that has not been addressed by the control technique guideline rule.

Now, the more complicated issue that you are alluding to is what is done for control technique guideline emission units. These are emission units that, in fact, have been generally addressed by control technique guideline but don't meet the applicability control technique -- the applicability criteria for the rule.

Typically we refer to those as subthreshold emission units. Subthreshold emission units subject to CTG rules also count toward the applicability of whether the plant meets the one hundred tons per year criteria.

The most common example of those sub threshold units that we come across at least in terms of their numbers is storage tanks.

Storage tanks are addressed by subpart (b), but only tanks above a certain size, storing materials with a certain vapor pressure are actually subject to control requirements.

So tanks that are too small, or storing things where the vapor pressure is too low, subthreshold emission units, the emissions from those also count toward the determination of whether the plant qualifies as a hundred ton per year source for the purposes of these rules.

Once you have gone through that

process, and determined that the plant qualifies, then you go to the second stage and look at the individual emission units.

And again there is a list here to go through. Again for control requirements, control requirements only apply to non-control technique guideline process emission units.

So even though the subthreshold units, subthreshold CTG units, have counted toward applicability, they are never candidates for actual control.

So a small storage tank may contribute a couple pounds or a ton of emissions toward applicability, but it never has to meet the requirements of these rules because the appropriate requirements are contained in the storage tank rules.

The next thing that is excluded is things specifically been addressed by categorical rules.

So if there is a rule for something elsewhere like heatset, web offset

printing or wood furniture, that's not a candidate for control. It doesn't apply to things that have been specifically exempted.

And if you look at subsection (e) of these particular applicability sections, there is a list of specific things that are exempted.

And then finally to make it even more complicated, a source has the option of excluding certain operations pursuant to subsection (c). And these subsections allow a source to exclude up to 5 -- well, emission units with up to 5 tons per year of emissions, if they also meet -- each individual unit meets a particular applicable criterion, either each emission unit has to be 1 ton or less than 2 and-a-half tons.

So, I guess the important thing is that there is one determination for looking at whether the plant is eligible which has some special wording about looking at subthreshold units, and you have to understand what is a CTG

rule as listed in the Board rules specifically by listing.

Once you pass that test, then you start looking at the individual emission units to see if they are meeting legibility for control requirements, and there's another set of criteria you have to go through for that.

And there are some specific times of operations that are excluded from control requirements.

Q. Thank you.

I have just one follow up on that, Mr. Romaine.

Could you clarify for us the Agency's intent in Section 218.980(d)?

And I will note that this same language appears in the other non-CTG RACT rules, and I note that the Agency has proposed an amendment to this section, but it is my understanding that the Agency's intent is the same and, is that correct, and could you clarify this for us somewhat?

A. Well, yes.

The Agency's intent is the same. This particular provision deals with what is a subthreshold unit and tries to make that distinction.

The original language was felt to be a little bit awkward. We hope that this revised language was a little bit clearer.

And basically the distinction which is trying to be made is that a source is considered regulated by the subpart if it is actually subject to emission limits, control requirements.

An emission unit is not considered regulated if it doesn't meet the applicability criteria even though it is in broad terms addressed.

So the things that are not regulated would be the subthreshold operations that would contribute toward the determination of whether the plant or source meets the hundred ton per year major criteria.

Q. Thank you.

I have just one more question. And this deals with the list of exemptions in 218.980(e) and also it appears in 219.980(e).

And in particular the exemption for what is in the proposal today as fuel combustion sources; however, we have recommended that it be changed to fuel combustion units.

And could you provide some examples of the type of units that would be covered by this exemption?

A. Certainly, this particular exemption, fuel combustion units would certainly cover things like boilers, water heaters, steam-generating units.

It would also include things like reciprocating engines and turbines which are used for generation of power.

MS. HODGE: Thank you.

I don't have any more questions for Mr. Romaine.

HEARING OFFICER O'NEILL: Are there any other questions or comments?

Then that concludes the presentation of testimony today.

And Section 28.5 allows for a third hearing to be held if the Agency requests.

MS. BASSI: The Agency does not request a third hearing.

HEARING OFFICER O'NEILL: Okay.

Therefore, the act requires that the Board adopt second notice in this matter within a 130 days from the receipt of the proposal.

This proposal was received by the Board on March 16, 1993. Therefore, the Board must proceed to second notice before July 24, 1993.

The Board meeting preceding that date is July 22, 1993. The record in this matter will close 14 days after the receipt of the transcript and the Board has requested

expedited transcripts in this matter, so that the Board can expect receipt of those in a short period of time.

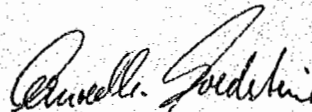
You will need in be in contact with the clerk's office or get in contact with me to see when the transcripts are received by the Board to determine when the record or the filing of any post-hearing comments need to be filed.

With that, this hearing is concluded.

HEARING CONCLUDED

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, Arnold N. Goldstine, a notary public and Certified Shorthand Reporter in and for the County of Cook and State of Illinois, do hereby certify that the foregoing is a true and complete stenographic record of the proceedings had in the above-entitled matter and, that the foregoing was reduced to printed transcript via computed-aided transcription, under my personal control and supervision.



Arnold N. Goldstine