

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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5 IN THE MATTER OF: CLEAN-UP

6 AMENDMENTS TO 35 ILLINOIS

No. R98-15

7 ADMINISTRATIVE CODE PART 215

(Rulemaking)

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12 Proceedings held on December 22, 1997, at 1:00
13 p.m., at the Illinois Pollution Control Board, 600
14 South Second Street, Suite 402, Springfield, Illinois,
15 before the Honorable Audrey Lozuk-Lawless, Hearing
16 Officer.

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21 Reported by: Darlene M. Niemeyer, CSR, RPR
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A P P E A R A N C E S

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: Christina L. Archer, Esq.
Assistant Counsel, Bureau of Air
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On behalf of the Illinois EPA.

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E X H I B I T S

NUMBER	MARKED FOR I.D.	ENTERED
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(No exhibits were marked.)

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P R O C E E D I N G S

(December 22, 1997; 1:00 p.m.)

HEARING OFFICER LOZUK-LAWLESS: Good afternoon, everyone and welcome. My name is Audrey Lozuk-Lawless, and I am the hearing officer in this matter which the Board has docketed as Clean-Up Amendments to 35 Illinois Administrative Code Part 215 which the Board references as docket R98-15. Please indicate that if you submit anything to the Board as far as comments or briefs, docket R98-15.

Present today on behalf of the Board is Dr. Ronald Flemal. He is the presiding board member in this matter. Today is the second scheduled hearing and also the last scheduled hearing. The first was held last week in the Board's office, or actually on the eighth floor in Chicago.

As I mentioned earlier, the transcript will be on the board's web site. If you need it earlier than certainly call and we can have that sent out to you. Today's hearing will be governed by the Board's procedural rules which means that anything which is relevant and not repetitious or privileged will be admitted into evidence. All witnesses will be sworn and subject to cross-questioning.

This proceeding is a general state-wide

1 proceeding, hence, that's why we have the two
2 scheduled hearings. It was filed by the Illinois
3 Environmental Protection Agency on October 30, 1997,
4 and at today's hearing the Agency will present its
5 proposal and have the testimony of Mr. Gary Beckstead
6 as well as Mr. Dan Punzak. Then we will also hear
7 from any other persons today that would like to give
8 testimony or present comments.

9 The Board will then allow questions toward the
10 Agency's witnesses and then if you are testifying you
11 will also be open to questions. If Dr. Flemal or
12 myself ask any questions today please realize that is
13 just to form a complete record for any board members
14 that are not here today. I will open the floor up to
15 anyone that wants to ask any questions of any of the
16 witnesses at the very end.

17 Requests for additional hearings if you would like
18 to have them held will be pursuant to the Board's
19 procedural rules at 35 Illinois Administrative Code
20 102.161 which basically requires you as the proponent
21 to show why a request for an additional hearing in a
22 motion would basically show that failing to hold
23 another hearing would result in material prejudice to
24 you as the movant of that motion.

25 Dr. Flemal, do you have any questions?

1 BOARD MEMBER FLEMAL: Other than to welcome
2 everyone, no, nothing else.

3 HEARING OFFICER LOZUK-LAWLESS: Okay. Great.
4 Then we will turn to Ms. Tina Archer, the attorney
5 representative for the Agency.

6 MS. ARCHER: Thank you. My name is Christina
7 Archer. I am an Assistant Counsel for the Illinois
8 Environmental Protection Agency representing the
9 Agency in this matter today docketed rulemaking
10 R98-15. With me today who will testify is Mr. Gary
11 Beckstead from our Air Quality Planning Section and
12 Mr. Dan Punzak from our Permit Section.

13 The Illinois EPA is today asking the Illinois
14 Pollution Control Board to adopt this rulemaking
15 proposal affecting 35 Illinois Administrative Code
16 Part 215 for ozone attainment areas. The Illinois EPA
17 believes this rulemaking proposal is a minor and non
18 controversial clean up specifically affecting subparts
19 A, F and Z only.

20 The proposal intends to delete definitions in Part
21 215 that are already located in Part 211. The
22 proposal will also request to delete requirements
23 currently located in Part 215 for ozone nonattainment
24 areas that were subsequently moved into Parts 218 and
25 219. The proposal also requests to add a de minimus

1 coating exemption of 2,500 gallons to Section
2 215.206(a) as well as adding an exemption for touch up
3 and repair coatings and the related record keeping and
4 reporting requirements for such touch up and repair
5 coatings.

6 The proposal would also request to delete the
7 requirements applicable to Road Master Corporation
8 located in Olney, Illinois, as well as deleting the
9 requirements for perchloroethylene dry clears since
10 perchloroethylene was deleted by U.S. EPA as a
11 hazardous air pollutant.

12 The proposal would also request to imply the
13 consistent terms source and emission unit throughout
14 the clean up. The Illinois EPA has been in contact
15 with most affected facilities, we believe, as well as
16 the U.S. EPA, and the Illinois EPA believes that all
17 parties are in agreement with the proposal thus far.
18 The Illinois EPA believes the proposal will not have
19 an adverse impact on the environment and the Illinois
20 EPA believes the proposal is technically feasible and
21 economically reasonable.

22 Mr. Beckstead has prefiled his testimony in this
23 matter. He will also read that into the record today,
24 and I have a few questions for Mr. Punzak to clarify
25 some questions that the Board had asked at the first

1 hearing. Thank you.

2 HEARING OFFICER LOZUK-LAWLESS: Thank you, Ms.
3 Archer.

4 Would you please swear in Mr. Beckstead.

5 (Whereupon the witness was sworn by the
6 Notary Public.)

7 G A R Y B E C K S T E A D,
8 having been first duly sworn by the Notary Public,
9 saith as follows:

10 THE WITNESS: My name is Gary Beckstead. My
11 academic credentials include a Bachelor of Ceramic
12 Engineering Degree from Georgia Institute of
13 Technology, Atlanta, Georgia, and a Master of Science
14 Degree in Metallurgical Engineering from Stanford
15 University, Stanford, California. I have been
16 employed by the Illinois Environmental Protection
17 Agency since April of 1991 as an Environmental
18 Protection Engineer in the Air Quality Planning
19 Section of the Division of Air Pollution Control in
20 the Bureau of Air.

21 In general, I am involved in the review of
22 emissions inventories and in preparation of technical
23 support for proposed ozone regulations affecting
24 stationary point sources. In this capacity I have
25 responsibility for projects that address the expansion

1 and applicability of Reasonably Available Control
2 Technology on sources emitting ozone precursors.

3 In addition, I have responsibility for quality
4 control and quality assurance of ozone inventories and
5 the evaluation of point source emissions. I have
6 prepared technical support for rulemakings R91-28,
7 R93-14, R94-16, and R94-21.

8 Rulemaking R91-28 involved the geographic
9 expansion of RACT to sources emitting volatile organic
10 material that were located in Goose Lake Township in
11 Grundy County and Oswego Township in Kendall County.
12 I reviewed the IEPA emissions inventory for
13 potentially affective sources and evaluated the impact
14 that this rulemaking would impose.

15 For rulemaking R93-14 I evaluated the impact of
16 changing the definition of major source from 100 tons
17 per year to 25 tons per year in the Chicago ozone
18 nonattainment area, which was required pursuant to the
19 Clean Air Act as amended in 1990. I have also
20 technically assisted in evaluating Illinois point
21 source emissions to determine potential emission
22 reductions for meeting the requirements of the Clean
23 Air Act and the 15 percent rate of progress plan.

24 Rulemakings R94-16 and R94-21 were based on the
25 findings from this evaluation. I was responsible for

1 evaluating the impact and reasonableness of lowering
2 the applicability level for air oxidation processes
3 which R94-16 addressed and of tightening surface
4 coating standards which R94-21 addressed.

5 In regards to the present proposal before the
6 Board which addresses Clean-Up Amendments for 35
7 Illinois Administrative Code Part 215, I have the
8 responsibility of technically reviewing any proposed
9 changes and determining the environmental impact,
10 evaluating any control requirement changes for
11 consistency with other existing Illinois regulations,
12 and assessing the affect on impacted sources that the
13 proposed amendments may have.

14 In my technical review I have found that the
15 proposed changes will not have any adverse
16 environmental affects. That the proposed changes do
17 not impose control requirements that are inconsistent
18 with other existing Illinois regulations and that
19 impacted sources are not adversely affected by the
20 changes proposed.

21 I am now available for any technical questions
22 that the Board may have of me.

23 HEARING OFFICER LOZUK-LAWLESS: Thank you, Mr.
24 Beckstead.

25 Are there any questions from anyone in the

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1 audience?

2 Ms. Archer, do you have any questions that you
3 would like to ask your witness?

4 MS. ARCHER: Not at this point.

5 HEARING OFFICER LOZUK-LAWLESS: Okay. Thank you,
6 Mr. Beckstead.

7 Seeing no questions, Ms. Archer, would you like to
8 have Mr. Punzak testify?

9 MS. ARCHER: Yes, if we may do a question and
10 answer.

11 HEARING OFFICER LOZUK-LAWLESS: Certainly.

12 MS. ARCHER: All right.

13 HEARING OFFICER LOZUK-LAWLESS: Would you swear in
14 Mr. Punzak.

15 (Whereupon the witness was sworn by the
16 Notary Public.)

17 D A N P U N Z A K,
18 having been first duly sworn by the Notary Public,
19 saith as follows:

20 DIRECT EXAMINATION

21 BY MS. ARCHER:

22 Q Dan, could you please state your name and
23 occupation for the record.

24 A Dan Punzak. I am an engineer in the Permit
25 Section of the Division of Air Pollution Control at

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1 the Illinois EPA. I have been there for close to 20
2 years.

3 Q What are some of your job duties as a permit
4 analyst at the Illinois EPA?

5 A I tend to specialize in sources emitting
6 volatile organic materials. My degree is in chemical
7 engineering and a field like that relates more to that
8 than say the -- I tend not to get as involved with
9 particulate matter or something like that.

10 Q So you mostly look at sources that emit VOM?

11 A Yes.

12 Q Also, as part of your job duties do you look
13 at Illinois current air pollution regulations and
14 whether those regulations need be revised from time to
15 time?

16 A Yes, as I come along a regulation that
17 doesn't seem appropriate to be somewhere I will
18 suggest it to somebody.

19 Q Okay. Are you involved in this Clean-Up
20 proposal before the Board today affecting 35 Illinois
21 Administrative Code, Part 215?

22 A Yes.

23 Q How would you characterize the nature of that
24 proposal?

25 A Rather noncontroversial. I mean, it doesn't

1 seem to me like there are any significant changes that
2 would affect a large number of people. Only a small
3 number of people would be affected.

4 Q Okay. Does one of the proposed revisions in
5 this Clean-Up to Part 215 have to do with Road Master
6 Corporation located in Olney, Illinois?

7 A Yes.

8 Q How did you first become aware of Road
9 Master's situation?

10 A Well, I have worked on their permit for a
11 number of years, and at one point they got a -- I was
12 involved, I believe, in -- I don't remember to what
13 extent. When they originally adopted the rule it was
14 a site specific rule and because they had what were
15 called certain type of coders, and I forget the name
16 for it now. It is -- it is a special rule for a
17 certain type of coater that they had at that plant and
18 since then they have decided that they -- to shutdown
19 those type of coaters and have gone to other types of
20 coating which don't need -- and they comply with those
21 other regulations.

22 Q So Road Master did have a permit from the
23 Illinois EPA at one point for those operations?

24 A Yes.

25 Q And what happened to those operations?

13

1 A They have been shut down. We withdrew their
2 permits. Before we -- I should probably correct
3 here. Just within the last few months -- I should
4 have told you before we started the hearing. The
5 company, they were bought out and they are now called
6 Brunswick Bicycle Company. Their permits now are
7 issued to a company called Brunswick Bicycles. But it
8 is essentially the same company as Road Master.

9 Q Okay. So you have been in contact with Road
10 Master and now Brunswick regarding the withdrawal of
11 their permits?

12 A Yes. I thought I talked to them like a year
13 ago or something and he said he was going to -- I was
14 even looking at a -- where somebody from the field
15 report said he talked to them about it, about sending
16 it in. I don't know. I talked to them just this
17 morning and he said he thought he sent a letter in
18 saying that he wanted the rule withdrawn, but he was
19 going to look in his records but he didn't get back to
20 me in time. But he agreed that that is what they
21 wanted to do.

22 Q This contact that you have talked about, this
23 is someone associated with Road Master or Brunswick?

24 A Yes. The name is Marty Puckett. He is the
25 environmental manager.

1 Q And it is your understanding that Mr. Puckett
2 does want their site specific rule withdrawn?

3 A Yes.

4 Q And he is planning to file something with the
5 Agency documenting that that fact?

6 A Yes, either find that old letter or send me a
7 new one.

8 MS. ARCHER: All right. That's all I have. Thank
9 you.

10 THE WITNESS: Okay.

11 HEARING OFFICER LOZUK-LAWLESS: Thank you, Mr.
12 Punzak.

13 Do you have any questions for Mr. Punzak?

14 BOARD MEMBER FLEMAL: No, no thank you.

15 HEARING OFFICER LOZUK-LAWLESS: Are there any
16 questions for Mr. Punzak? All right. Thank you very
17 much, sir.

18 Now, Ms. Donelan, would you like to say anything
19 on the record today.

20 MS. DONELAN: I would like to make a comment. I
21 would like to first hear the testimony from Goodwin &
22 Broms if that's okay.

23 HEARING OFFICER LOZUK-LAWLESS: Okay. That is
24 fine. No problem.

25 MS. DONELAN: Okay.

1 HEARING OFFICER LOZUK-LAWLESS: Mr. Charles
2 Gjersvik, would you like to testify today?

3 MR. GJERSVIK: Yes, I would.

4 HEARING OFFICER LOZUK-LAWLESS: Okay. Would you
5 please swear in Mr. Gjersvik.

6 (Whereupon the witness was sworn by the
7 Notary Public.)

8 C H A R L E S B. G J E R S V I K,
9 having been first duly sworn by the Notary Public,
10 saith as follows:

11 THE WITNESS: I have copies of the testimony if
12 that would help you, too.

13 My name is Charles Gjersvik. I reside at 6131
14 Horseview Drive in Springfield, Illinois, and am
15 employed as a Senior Air Quality Specialist with
16 Goodwin & Broms, Incorporated, Consulting
17 Environmental Engineers, of Springfield.

18 I am testifying here today as an employee of
19 Goodwin & Broms, Incorporated, but not on behalf of
20 any specific client. Goodwin & Broms, Inc. counts
21 many small and medium sized industrial firms among its
22 clientele, and one of the services we perform
23 frequently for those clients involves advising and
24 assisting them in complying with the Illinois air
25 pollution regulations as they pertain to use of

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1 coatings.

2 The Agency is to be commended for its initiative
3 to clarify and streamline the regulations governing
4 the use of coatings in ozone attainment areas, as
5 manifest in the proposed amendments which are the
6 subject of this hearing. Goodwin & Broms agrees with
7 all of the changes proposed by the Agency. We do,
8 however, wish to propose two further changes which we
9 believe are consistent with the Agency's general
10 purpose for this proceedings.

11 First, we recommend that the exemption from
12 emission limitations in the Agency's proposed Section
13 215.206(a)(2) be made available to coating plants
14 using up to 5,000 gallons per year of coatings, rather
15 than the 2,500 gallons per year as proposed by the
16 Agency. The rationale for this higher exemption level
17 is to achieve consistency with the permit exemption
18 level of 5,000 gallons per year specified in Section
19 201.146(g). Compliance by small coating plants can be
20 made much simpler if the permit exemption and the
21 emission limitation exemption go hand-in-hand.

22 If the Agency's proposal is adopted as proposed,
23 facilities which have annual coating usage between
24 2,500 gallons and 5,000 gallons will continue to be
25 subject to the applicable emission limitation of

17

1 Subpart F of Part 215 even though no permit is
2 required unless the facility is a major source subject
3 to the CAAPP permit requirements.

4 The potential increase in allowable emissions for
5 a given facility associated with the difference
6 between a 2,500 gallon threshold and a 5,000 gallon
7 threshold of emission limitation applicability is very
8 modest. For air dried coating of miscellaneous metal
9 parts, as an example, a facility might choose to use a
10 coating containing 7.5 pounds VOM per gallon coating
11 as applied instead of a 3.5 pound VOM per gallon
12 compliance coating. The additional 2,500 gallon per
13 year of allowable usage of the higher solvent coating
14 could thus result in an additional 5 tons per year of
15 VOM emitted. Such a small increase in an attainment
16 area would have no discernible impact on ozone levels,
17 and the regulatory streamlining that would result from
18 the change would more than justify the increase.

19 The second further change to the Agency's proposal
20 recommended by Goodwin & Brooms, Inc. is the addition
21 of explicit language to the rules to clarify that
22 powder coatings and coatings whose VOM content is de
23 minimus, e.g., less than one percent VOM by weight,
24 need not be counted in the determination of annual
25 coating usage pursuant to proposed Section

1 215.206(a)(2). In other words, when applying the
2 2,500 gallon per year exemption from the emission
3 limitations as proposed by the Agency, powder coatings
4 and de minimus VOM content coatings would not be
5 counted in the annual coating usage calculation.

6 While the Agency's Statement of Reasons seems to
7 imply that powder coatings should not be counted, it
8 is silent regarding coatings such as water/borne
9 adhesives containing a small amount of residual
10 monomer in the resin. Since such materials emit
11 little or no VOM during application and curing, they
12 can safely be ignored with regard to emission
13 limitations.

14 The ideal method for addressing this issue would
15 be by adding appropriate language to the definition of
16 "coating" in Part 211, but inasmuch as no other
17 changes to Part 211 have been proposed, that method
18 may not be viable as a practical matter at this stage
19 of the rulemaking. Therefore, we are offering two
20 alternatives as proposed language changes to
21 accomplish the needed clarification of the rules.

22 Alternative A: Amend the definition of "coating"
23 in Section 211.1190(a) to read as follows:

24 A) "Coating" means, for the purposes of 35
25 Illinois Administrative Code 215, a material applied

1 to a substrate for decorative, protective or other
2 functional purposes. Such material shall include, but
3 is not limited to paints, varnishes, sealers,
4 adhesives, diluents and thinners. For the purposes of
5 the exemptions provided in 35 Illinois Administrative
6 Code 201.146(g) and 35 Illinois Administrative Code
7 215.206(a)(2), powder coating and coating materials
8 containing less than one percent by weight VOM as
9 applied shall not be considered coating.

10 Alternative B: Amend the Agency's proposed
11 language at Section 215.206(a)(2) to read as follows:

12 2) Coating plants in which the total coating usage
13 exclusive of powder coatings and coating materials
14 containing less than one percent by weight VOM as
15 applied, does not exceed 9,463 meters per year, and
16 then in parenthesis, 2,500 gallons per year.

17 Finally, we want to call attention to the fact
18 that some Agency air permit staff have interpreted
19 Section 201.146(g) to require inclusion of powder
20 coatings in determining applicability of the permit
21 exemption for sources which use less than 5,000
22 gallons per year of coating. Logically, the same
23 interpretation would be applied for the 2,500 gallon
24 per year exemption from emission limitations, in the
25 absence of explicit contrary language.

1 Yet, the Agency's Statement of Reasons seems to
2 contemplate that powder coatings need not be counted
3 in determining applicability of the Section
4 215.206(a)(2) exemption. Even if the Board rejects
5 our proposal to amend the rules to clarify this
6 matter, a clear statement of the intended
7 interpretation is needed from the Board in this
8 proceeding.

9 Thank you for the opportunity to present these
10 suggestions.

11 HEARING OFFICER LOZUK-LAWLESS: Thank you. Does
12 the Agency have any questions?

13 MS. ARCHER: Yes, we do.

14 HEARING OFFICER LOZUK-LAWLESS: Do you want a
15 minute?

16 MS. ARCHER: Could we hear what IERG has to say
17 and then take a short break and follow-up?

18 HEARING OFFICER LOZUK-LAWLESS: Sure.

19 MS. ARCHER: I would like to point out that we did
20 talk with Mr. Gjersvik this morning a little bit about
21 this. This is the first time we have actually seen
22 the testimony in writing. I would appreciate in the
23 future if this would be prefiled. However, we will
24 respond as much as we can today and also in written
25 comments.

1 HEARING OFFICER LOZUK-LAWLESS: All right. Thank
2 you.

3 MS. ARCHER: Thank you.

4 HEARING OFFICER LOZUK-LAWLESS: Okay. Ms.
5 Donelan. Please swear in the witness.

6 (Whereupon the witness was sworn by the
7 Notary Public.)

8 C A S S A N D R A J. D O N E L A N,
9 having been first duly sworn by the Notary Public,
10 saith as follows:

11 MS. DONELAN: My name is Cassandra Donelan, and I
12 am the project manager for the Illinois Environmental
13 Regulatory Group or IERG. IERG has reviewed the
14 Agency's proposal for the Clean-Up Amendments entitled
15 the Organic Material Emission Standards and
16 Limitations at 35 Illinois Administrative Code 215 and
17 would like to express its support. IERG has also
18 reviewed Goodwin & Broms testimony and is generally
19 supportive of their proposed changes as well.

20 Thank you. That's my only comment.

21 HEARING OFFICER LOZUK-LAWLESS: Thank you. Are
22 there any questions for Ms. Donelan?

23 MS. ARCHER: No. Could we just take a few minutes
24 to respond to Mr. Gjersvik?

25 HEARING OFFICER LOZUK-LAWLESS: Yes, we will take
22

1 a short break.

2 MS. ARCHER: Thank you.

3 (Whereupon a short recess was taken.)

4 HEARING OFFICER LOZUK-LAWLESS: Back on the
5 record.

6 Okay. Ms. Archer?

7 MS. ARCHER: Yes, I just have a few questions for
8 Mr. Gjersvik.

9 HEARING OFFICER LOZUK-LAWLESS: All right.

10 CROSS EXAMINATION

11 BY MS. ARCHER:

12 Q Mr. Gjersvik, are you aware of any sources in
13 the attainment areas that emit between 2,500 gallons
14 and 5,000 gallons of coatings?

15 A Yes.

16 Q Okay. Are you --

17 A Coating as currently defined by the
18 regulations, including powder coatings?

19 Q Yes.

20 A Yes.

21 Q Are you at liberty to share any of those
22 companies with us?

23 A One is a question I asked Mr. Punzak about,
24 Schumacher Electric, and while we are not here
25 representing any client today, so using the names of

1 the clients is strictly for clarification of these
2 matters for the Board. They use a VOM -- there is no
3 VOM in their powder coatings. When asked -- then the
4 question was posed to Mr. Punzak about do we consider
5 powder coating in the definition of coating and for
6 the 5,000 gallons exemption, and his answer was yes.

7 It is a very hard call. Looking at the regulation
8 it does not specifically exclude powder coating the
9 way the rules definition is presented. Reasonable
10 minds could make two interpretations of that very
11 easily.

12 HEARING OFFICER LOZUK-LAWLESS: You were talking
13 about a question that you had asked Mr. Punzak before
14 we went to hearing today?

15 THE WITNESS: That is correct. This was back
16 several months ago during a request for a small source
17 operating permit for Schumacher Electric.

18 HEARING OFFICER LOZUK-LAWLESS: Okay.

19 MS. ARCHER: Just to clarify, Mr. Gjersvik, the
20 reason why I ask that is that the Illinois EPA is only
21 aware of one facility, which would be the Sunstrain
22 (spelled phonetically) Corporation in Rockford who
23 would be impacted by this exemption. We would just
24 make sure for our own records that we know of all the
25 impacted facilities and would be glad to work with

1 them in the context of this rulemaking.

2 THE WITNESS: If I could then add to that, we do
3 have another client that has not asked us to pursue an
4 issue with them. So since they have not asked us, I
5 don't feel that it is appropriate to disclose their
6 name. It is not who you had mentioned before. They
7 are currently exempted by several different exemptions
8 from permitting altogether. But in doing an
9 environmental audit of their facility, VOM or
10 coatings -- materials that meet the definition of
11 coatings that had less than one percent VOM per
12 gallon -- I am sorry -- less than one percent VOM by
13 weight, and they were white glues, conceivably would
14 have to all be summed together to determine the
15 applicability of the exemption, the 5,000 gallon per
16 year exemption.

17 MS. ARCHER: We will address this further, this
18 point further in comments, and I would like the
19 opportunity to talk to Mr. Gjersvik more about this
20 also.

21 THE WITNESS: We welcome the opportunity.

22 MS. ARCHER: Thank you. I have a couple of other
23 questions.

24 HEARING OFFICER LOZUK-LAWLESS: Okay.

25 Q (By Ms. Archer) Are you aware of when the

25

1 U.S. EPA calculates the VOM content how they do that?

2 A I --

3 Q For example, is that on a solids basis? Does
4 that include water or exclude water? Do you know?

5 A I think you have to look at the source for
6 what you are looking at. We typically look at the
7 MSDS unless the manufacturer excludes those items
8 which are exempt from the definition of VOM, but you
9 can't -- I don't believe you can make a categorical
10 statement. You have to look at the applicability for
11 the different materials that you are looking at at the
12 time.

13 Q Okay. So is it true that the U.S. EPA
14 calculates VOM content on a solids basis excluding
15 water and nonphotochemically reactive compounds?

16 A I am not sure of the answer to that
17 question.

18 Q Okay. In your testimony that you cited
19 today, requesting to exempt VOM compounds that have
20 less than one percent VOM by weight --

21 A Yes.

22 Q -- you mentioned that was as applied?

23 A Yes.

24 Q Okay. Does that calculation include water?

25 A No, it does not.

1 MS. ARCHER: Okay. I don't believe I have
2 anything further at this time. We will address any
3 other outstanding issues in comments.

4 HEARING OFFICER LOZUK-LAWLESS: All right. So
5 then you will comment on the Alternative A and the
6 Alternative B proposed?

7 MS. ARCHER: Oh, I can comment on those.

8 HEARING OFFICER LOZUK-LAWLESS: All right. If you
9 would.

10 MS. ARCHER: Sure. Alternative A at this time I
11 don't believe it is possible to amend the definition
12 of coating in Part 211. At this point 35 Illinois
13 Administrative Code Part 215 is the only part that is
14 open in this rulemaking. I don't foresee opening Part
15 211 in the near future to amend this definition.

16 At this point the Illinois EPA would stick by its
17 proposal as laid out in its Statement of Reasons.
18 However, we will be talking further with affected
19 facilities and we will address that further in
20 comments.

21 HEARING OFFICER LOZUK-LAWLESS: Okay.

22 BOARD MEMBER FLEMAL: I have a question regarding
23 the powder coatings. You note in your statement that
24 the Agency's Statement of Reasons seems to imply that
25 powder coatings should not be counted. Would you

27

1 point us to the portion of the Statement of Reasons
2 that you base that statement on?

3 MR. GJERSVIK: I would have to go through it and
4 find it. I do not recall it offhand, but I would be
5 more than happy to get back to you with my impression
6 of where that was in the Statement of Reasons.

7 BOARD MEMBER FLEMAL: Okay. Let me turn it around
8 and ask the Agency, then.

9 Was it your intention in the statement of reasons
10 to imply that powder coatings should not be counted?

11 MS. ARCHER: No. It was our intention to include
12 powder coatings consistent with our permitting.

13 BOARD MEMBER FLEMAL: So then perhaps what we have
14 here is a misunderstanding of a statement that you
15 have made, would be your best judgment as to the issue
16 of powder coatings?

17 MS. ARCHER: That would be my impression as of
18 this point.

19 BOARD MEMBER FLEMAL: Okay. One of the -- I will
20 address this to the Agency, as well. One of the
21 positions that Mr. Gjersvik takes, as I understand it,
22 in his statement, is that there should not be, if we
23 can help it, a distinction between whether you have an
24 exemption and whether you need a permit. It is my
25 understanding that, in fact, we have quite a large

1 number of circumstances where facilities are subject
2 to regulations that are not subject to permitting. Is
3 that not, in fact, a correct understanding?

4 MS. ARCHER: That is correct, yes. Should I be
5 answering this?

6 HEARING OFFICER LOZUK-LAWLESS: Well, if you are
7 talking about simply the proposal and the intent of
8 the proposal, it is okay for her to do that.

9 MS. ARCHER: I believe Mr. Beckstead could answer
10 this question.

11 MR. BECKSTEAD: Could you give me the question
12 again, Doctor?

13 BOARD MEMBER FLEMAL: Is it unusual where we would
14 have a circumstance where the facility would be
15 subject to the regulations but not require a permit as
16 part of the regulatory scheme?

17 MR. BECKSTEAD: I can't recall it happening that
18 often. I am sure that there are situations out there
19 that it does occur, but as in this proposal, we have
20 been confronted with a situation where the
21 applicability was tripped so this source was involved,
22 the only one that we thought was impacted was involved
23 in having to be regulated by two separate subparts.
24 But we felt it was unnecessary to have them control
25 such a small amount of the percentage of their total

1 emissions to our coating regulations, and that is why
2 we proposed this exemption. But they were still
3 caught in the applicability, so they were permitted
4 there. The situation that you are talking about, I am
5 sure that does happen, Doctor, but I am not sure it
6 happens as much as we would like to believe.

7 HEARING OFFICER LOZUK-LAWLESS: Mr. Punzak could
8 also comment on that.

9 MR. PUNZAK: One area where you couldnot be
10 permitted but yet still regulated in this coating area
11 would be it is not in the 215 area but in 218, the --
12 we say that you have to use compliant coatings if you
13 are over -- I forget. There is a certain amount, but
14 I think it can be less than -- you can be using less
15 than 5,000 gallons. I think it is like ten tons a
16 year or something like that. So it is possible that
17 they would still have to use compliant coatings even
18 though we said they didn't need a permit at that
19 level.

20 BOARD MEMBER FLEMAL: But that is an exceptional
21 circumstance rather than one you encounter with
22 regularity?

23 MR. PUNZAK: Yes, it is an exception.

24 HEARING OFFICER LOZUK-LAWLESS: Any other comments
25 or questions?

1 Okay. Then seeing no other comments or questions
2 I want to remind everyone that the record in this
3 matter closes on January 20th and the Board intends it
4 will go to first notice probably on January 22. So
5 the mailbox rule will not apply and you need to get
6 your comments to the Board's office before January
7 20th.

8 Okay. This hearing is adjourned. Thank you.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4 I, DARLENE M. NIEMEYER, a Notary Public in and for
5 the County of Montgomery, State of Illinois, DO HEREBY
6 CERTIFY that the foregoing 31 pages comprise a true,
7 complete and correct transcript of the proceedings
8 held on the 22nd of December A.D., 1997, at 600 South
9 Second Street, Springfield, Illinois, in the matter
10 of: Clean-Up Amendments to 35 Illinois Administrative
11 Code, Part 215, in proceedings held before the
12 Honorable Audrey Lozuk-Lawless, Hearing Officer, and
13 recorded in machine shorthand by me.

14 IN WITNESS WHEREOF I have hereunto set my hand and
15 affixed my Notarial Seal this 2nd day of January A.D.,
16 1998.

17

18

19 Notary Public and
Certified Shorthand Reporter and
20 Registered Professional Reporter

21 CSR License No. 084-003677
My Commission Expires: 03-02-99

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