ILLINOIS POLLUTION CONTROL BOARD
July 30, 1992

IN THE MATTER OF:	)	
	)	R91-24
EXEMPTIONS FROM THE DEFINITION OF VOM	)	(Identical in Substance Rules)

ADOPTED RULE. FINAL ORDER.

OPINION AND ORDER OF THE BOARD (by J. Anderson):[1]

This proceeding updates various provisions of Parts 203, 211, 215, 218, and 219 to reflect the now codified successor of USEPA's most recent version of "Recommended Policy on the Control of Volatile Organic Compounds." In effect, this docket completes the amendments adopted in R91-10, effective October 11, 1991. In that proceeding, the Board amended the Part 211 and 215 rules by our September 12, 1991 opinion and order in response to USEPA additions to the list of chemicals exempted from the definition of volatile organic materials (VOMs).[2] At 56 Fed. Reg. 11418, March 18, 1991, USEPA added five compounds and four classes of compounds to the list of negligibly photochemically-reactive compounds exempt from regulation under state implementation plans (SIPs). Those compounds constituted additions to those compounds exempted in R89-8, effective January 1, 1990. USEPA simultaneously proposed codification of the list at 56 Fed. Reg. 11387, on March 18, 1991. USEPA has now codified these exemptions effective March 4, 1992. (57 Fed. Reg. 3941 (Feb. 3, 1992).)

Unaffected by the R91-10 rulemaking, as discussed in the Board's opinion and order in that matter, were the definition of "volatile organic compound" at 35 Ill. Adm. Code 203.145 and the definitions of "volatile organic material" at later-adopted Sections 218.104 and 219.104. Part 203 sets forth the rules applicable to construction and modification of major stationary sources. Part 218 governs emissions of volatile organic material from stationary sources located in the Chicago metropolitan area (Cook, DuPage, Kane, Lake, McHenry and Will counties).[3] Part 219

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[1] The Board appreciates the contribution of Michael J. McCambridge, Board attorney, in this matter.

[2] USEPA consistently designates these "volatile organic compounds" or "VOCs." Both designations refer to the same matter, and all references in this opinion and order to "VOM" refer to what USEPA calls "VOC."

[3] Docket R91-28 concerns a proposed expansion of the Chicago metropolitan area for the purposes of VOM control. If adopted, this would expand the Chicago metropolitan area to

governs the emissions of volatile organic material from stationary sources located in the metropolitan East St. Louis area (Madison, Monroe, and St. Clair counties). The Board reserved this docket during the pendency of R91-10 in order to complete the amendments to Parts 203, 218, and 219, which were not affected by that matter. This proceeding extends the exemption to include all federally-exempted compounds for all organic emissions from stationary sources in Illinois.

The Board adopts this opinion and order pursuant to the identical-in-substance mandate under Section 9.1(e) of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1009.1(e)). Section 9.1(e) provides for quick adoption of regulations that are "identical in substance" to certain published federal policy statements. It further provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

The Board adopted a proposal for public comment in this matter on February 27, 1992. Notices of Proposed Amendments appeared on April 24, 1992, at 16 Ill. Reg. 6631 (Part 203), 16 Ill. Reg. 6606 (Part 211), 16 Ill. Reg. 6635 (Part 215), 16 Ill. Reg. 6643 (Part 218), and 16 Ill. Reg. 6676 (219). A public hearing occurred on May 12, 1992, as required pursuant to 42 U.S.C. § 4210 and 40 CFR 51.102.

Agency Motion for Expedited Consideration

The Agency filed a motion for expedited consideration of this matter on July 23, 1992. The Board hereby grants that motion.[4]

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include Goose Lake and Aux Sable townships in Grundy County and Oswego Township in Kendall County.

[4] The Board wishes to make special note of the following. We had already been proceeding at a fast pace in this rulemaking; the earliest the Board could have acted on this matter following the close of the public comment period was at the Board meeting of July 9, 1992 (after having put this matter on the discussions agenda for the June 23, 1992 meeting). However, we had taken a "pause" because of comments made at the May 12, 1992 hearing. We were anticipating a post-hearing comment from IERG (Tr. 34), and we were relying on an Agency statement that it was not prepared to give a date when it intended to file its proposed omnibus air corrections rulemaking petition and its assertion that the Board adoption need be in no hurry here, estimating that our adoption

The primary Federal Register citation to the codification of the federal policy statement into a definition that the Board uses in this opinion and order is as follows:

57 Fed. Reg. 3942	February 3, 1992 (amending 40 CFR 51.100(s) (definition of "volatile organic compound"), effective March 3, 1992).

This proceeding is also based on the last revision of the federal policy statement prior to the codification of the definition that now embodies it, at the following Federal Register citation:

56 Fed. Reg. 11418	March 18, 1991.

The March 18, 1991 revision to USEPA's "Recommended Policy on the Control of Volatile Organic Compounds" added five compounds and four classes of compounds to the list of negligibly-photochemically-reactive compounds exempted from regulation as volatile organic compounds. The February 3, 1992 action codified the existing USEPA policy, by adoption of the 40 CFR 51.100(s) definition of "volatile organic compound". USEPA simultaneously withdrew its recommended policy as moot on February 3, 1992. (57 Fed. Reg. 3943 (Feb. 3, 1992).)

In the course of codifying its policy, USEPA clarified it. USEPA added language that excludes a number of carbon compounds from the definition. USEPA clarified the monitoring requirement for exempted compounds and added specificity to the methods for testing for those compounds.

HISTORICAL SUMMARY

The Board adopted the original federal Recommended Policy statements and several subsequent revisions in October, 1989:

R89-8	104 PCB 505, October 18, 1989; 13 Ill. Reg. 17457, effective October 27, 1989.

The Board further implemented and adopted federal revisions to this policy as follows:

R91-10	September 12, 1991; 15 Ill. Reg. 15564 & 15595, effective October 11, 1991.
R91-24	This docket.

The Federal Register issues included in each docket are recited in that respective opinion and order.

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deadline was not until December, 1992. (Tr. 35-36.)

PUBLIC COMMENTS

The Notices of Proposed Amendments and requests for public comments appeared in the Illinois Register on April 24, 1992. The record remained open to receive public comments (PCs) until June 8, 1992. Connie Bradway of the Administrative Code Division of the Office of the Secretary of State submitted PC#1 on May 13, 1992. Nidhi D. Kapoor of the Agency submitted PC#2 on June 5, 1992. The Illinois Department of Commerce and Community Affairs (DCCA) submitted PC#3 on June 12, 1992. PC#4 was dated May 4, 1992 from Nidhi Kapoor, an Agency attorney. Chris Romaine, of the Agency, and Katherine D. Hodge, on behalf of the Illinois Environmental Regulatory Group (IERG) testified at the public hearing.

Three of the public comments do not require consideration as part of the Board's discussion of the substantive issues. PC#1 outlines a small number of Administrative Code format corrections we will make before filing the rules. None of these relate to the amended portions of the rules that appeared in the proposed opinion and order of February 27, 1992. PC#4 cites a number of errors in the text of the proposed rule, as it appeared in the proposed opinion and order. Many of these involve non-substantive corrections effected by Board staff to gain publication of the Notices of Proposed Amendments in the Illinois Register. The Board will effect changes to the text of the adopted amendments where necessary, in order to accommodate these comments. PC#3 states that DCCA has found the proposed amendments would have no significant impact on small businesses in Illinois. The following discussion addresses the comments submitted by the Agency in PC#2 and the hearing testimony.

The Board in this instance will not follow its frequent custom of holding identical in substance regulations for up to 30 days after adoption before filing them (deadlines permitting); the filing delay is intended primarily to afford the USEPA an opportunity for final comment where the rules are necessary to secure federal program authorization. The regulations here, however, are adopted in response to a State initiative rather than in response to a federal program requirement, and the Agency has requested that we expedite this proceeding.

DISCUSSION

At 56 Fed. Reg. 11418, March 18, 1991, USEPA announced a change in its "Recommended Policy on the Control of Volatile Organic Compounds", adding five halocarbon compounds and four classes of perfluorocarbon compounds to the list of negligibly photochemically reactive compounds exempt from regulation under state implementation plans. Those compounds are as follows:

1. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

2. Pentafluoroethane (HFC-125)

3. 1,1,2,2-tetrafluoroethane (HFC-134)

4. 1,1,1-trifluoroethane (HFC-143a)

5. 1,1-difluoroethane (HFC-152a)

Those classes of compounds are as follows:

1. Cyclic, branched, or linear, completely fluorinated alkanes.

2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.

3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.

4. Sulphur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Under this policy, states may not take credit for controlling these compounds in their ozone state implementation plans (SIPs). USEPA simultaneously proposed to amend the federal implementation plan (FIP) for Chicago and to amend 40 CFR 51 to add a general definition of VOM consistent with its policy revision. (57 Fed. Reg. 3945 (Feb. 3, 1992); 56 Fed. Reg. 11387 (Mar. 18, 1991).) USEPA adopted the new definition of VOM effective March 3, 1992. (57 Fed. Reg. 3941 (Feb. 3, 1992).) USEPA withdrew its policy revision as moot when it finally adopted the new definition of VOM, which, in effect, codified the revised policy. (57 Fed. Reg. 3944-45 (Feb. 3, 1992); see 56 Fed. Reg. at 11388 & 11419.)

Section 9.1(e) Mandate

In R91-10, the Board raised the issue of what impact the federal adoption of the exemptions as a rule and accompanying withdrawal of the recommended federal policy would have on its Section 9.1(e) mandate. After a full discussion of this issue, the Board determined that the Section 9.1(e) mandate would apply to a codified policy because the heart of the mandate is the language: "The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity." (Ill. Rev. Stat. 1989 ch. 111½, par. 1009.1(e).) The Board determined that the statutory language relating to "the U.S. Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of

volatile organic compounds in the Federal Register . . ." (Ill. Rev. Stat. 1989, ch. 111½, par. 1009.1(e)) further authorized us to employ an "unorthodox", non-codified source as the basis for the exemptions. (Opinion and order of September 12, 1991 in R91-10 at 5-7.) The Board concluded as follows:

> Under this analysis, the clear intent of the General Assembly is that the Board must adopt the federal exemptions by identical-in-substance rulemaking. The mandate that the Board apply federal policy statements to this end is further authorization to base those regulations on their presently-existing sole source: federal policy statements. If USEPA chooses to employ the more conventional regulatory approach of codifying the exemptions, the mandate remains that the Board must adopt those exemptions by identical-in-substance procedures.
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> The Board believes that this is the interpretation that will best implement the intent of the General Assembly as embodied in Section 9.1(e). If the Board errs in its assessment, the General Assembly is free to further clarify its intent by later legislative amendment. However, the Board believes that by proceeding with this rulemaking despite USEPA's prospective change in approach, we will achieve the benefits for Illinois industry that the General Assembly desires, and we will attain greater consistency with the federal scheme for ozone control.
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> Therefore, the Board is adopting the proposed amendments without regard to the possibility that USEPA will likely moot the federal policy statement upon which it is based. The possibility exists that the Board will face the prospect of basing future amendments on federal rules, rather than on the policy statements referred to in Section 9.1(e). The Board will address that issue when it arises.
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> (Opinion and order of September 12, 1991 in R91-10 at 7-8.)

The intervening codification of the recommended federal policy now confronts the Board with this issue. Without further elaboration of the reasons set forth in R91-10, the Board hereby determines that Section 9.1(e) mandates that we adopt the revised policy on negligibly-reactive compounds based on the codified USEPA exemptions from its definition of "volatile organic compound" (the same as "volatile organic material" in the Illinois Part 211, 215, 218, and 219 regulations) at 40 CFR 51.100(s). USEPA withdrew its recommended policy because it became moot as a result of the adoption of this definition as a

regulation. We view the withdrawal as a ministerial act having no further effect on the Board's mandate.

Parts Affected

In R91-10, the Board discussed the Agency observation that amendment of the Section 211.122 definition of VOM did not affect the corresponding definitions of "volatile organic compound", at Section 203.145, and "volatile organic material", at Sections 218.104 and 219.104.[5] Since Parts 218 and 219 became effective after the publication of the Notice of Proposed Amendments for R91-10, the Board could not include amendment of those Parts in that docket without causing significant delay. In fact, the Agency advocated delay in that docket until USEPA adopted the proposed 40 CFR 51.100(s) definition. The Board concluded that this did not warrant delay in the R91-10 proceeding. (See Opinion and order of September 12, 1991 in R91-10 at 8-10.) Rather, we reserved this docket to accomplish the amendment of Parts 203, 218, and 219 to reflect the revised federal recommended policy.

Now that USEPA has codified its policy on negligibly-reactive compounds, the Board proceeds to harmonize the definitions of VOM appearing at Parts 203, 211, 218, and 219 with that policy. Further, USEPA effected some minor clarifications of its recommended policy in the Federal Register preamble accompanying the adoption and in the text of the new definition of "volatile organic compound." The clarifications relate to exclusions of certain inorganic carbon compounds (i.e., the inclusion of only "organic" carbon compounds), the monitoring requirement, and state and federal authority to require monitoring. These clarifications warrant re-examination of the R91-10-amended Section 211.122 definition and Section 215.109 monitoring requirement.

The Agency raises the issue of whether Section 9.1(e) authorizes the Board to amend Parts 203, 215, 218, and 219 to embody the new federal definition. The Agency argues that the Board is without statutory authority to amend any definition but Part 211 in an identical in substance rulemaking pursuant to Section 9.1(e). The Agency argues that such amendments must

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[5] As previously noted, Part 203 sets forth the rules applicable to construction and modification of major stationary sources; Part 218 governs emissions of organic material from stationary sources located in the Chicago metropolitan area (Cook, DuPage, Kane, Lake, McHenry and Will counties); and Part 219 governs the emissions of organic material from stationary sources located in the metropolitan East St. Louis area (Madison, Monroe, and St. Clair counties).

occur in a "regular" rulemaking proceeding under Title VII of the Act. The Board disagrees.

As noted in our opinion and order of September 12, 1991 in R91-10 and cited again above, the first sentence of Section 9.1(e) states the Board's mandate:

> The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S.Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity.

We note that the scope of the mandate covers the state implementation plans without exception. The rest of Section 9.1(e) specifies procedures. Two problems relating to statutory construction have arisen in areas where the statutory procedural language of Section 9.1(e) differs from the identical in substance procedural language found elsewhere in the Act. The two pertinent statutory construction problems are: (1) the procedural language of this provision specifies that the Board use federal policy statements while remaining silent on the use of federal regulations; and (2) the language specifies that the Board shall amend its regulatory definition of volatile organic material in Part 211 while remaining silent on amending VOM definitions in other Parts.

Regarding the problem of statutory silence with respect to the use of federal regulations as the basis of Board rulemaking, the Agency has agreed with the Board that the Section 9.1(e) silence does not preclude the use of federal regulations. This is even though "federal regulations" are specified in all other identical in substance statutory provisions. Thus, the Board and the Agency have mutually rejected the principle of expressio unius est exclusio alterius[6] on this issue.[7] The interpretation

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[6] Meaning, "the expression of one thing excludes all others."

[7] The "federal policy statements" language was inserted because the Board needed express authority to use a federal policy statement. However, this begs the question relating to the absence of express authority to use federal regulations; "federal regulations" are specified in all other identical in substance statutory provisions. When Section 9.1(e) was originally drafted, the fact that the USEPA might choose to codify the exemptions was not foreseen. This buttresses the Board's construction of statutory intent. Similar unanticipated problems have occurred before where the Board determined that it

that Section 9.1(e) allows the use of federal rules was a perfectly appropriate statutory construction which avoided disharmony by looking at the silence problem in context, rather than by examining the chosen words in isolation.[8] Indeed, to have construed the omission in isolation would have rendered the section's mandate incapable of full implementation, since USEPA has already shifted to the use of federal regulations to implement its VOM exception policy and discontinued its use of technical policy statements.

The Board believes that one must similarly examine the specific reference to Part 211 in context, rather than in isolation. We must again first look to the mandate, quoted above. It is quite clear that the Board is mandated to adopt all of the federal exemptions that are exempted from regulation under the ozone SIP.[9] The only procedural authority in the Act for the Board to adopt the federal exemptions, without first considering their substantive merits, is the identical in substance procedure provided in Section 9.1(e). Moreover, the Board cannot consider the substantive merits of the exemptions because the Board must adopt the exemptions in any event so as not to conflict with Section 9.1(e), which specifically provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. The General Assembly intended that the identical in substance procedures, including those of Section 7.2(b) (also referenced in Section 9.1(e)) be stand-alone exceptions to the requirements for general rulemaking in the Act and the APA.

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was necessary to adopt certain federal RCRA statutory provisions notwithstanding the fact that its RCRA identical in substance mandate is to adopt federal regulations. (See, e.g., R87-39 (June 16, 1988) at 7, 8 & 10; see also R90-2 (July 3, 1990) at 17.)

[8] The canons of construction are rules of interpretative convenience rather than inflexible legal principles. . . . Thus, the doctrine of expressio unius, that the express statutory mention of certain things impliedly excludes others not mentioned, has ample exception where the court feels that the others were not intended to be excepted." (Nutting, C., Elliot, S. & Dickerson, R., Legislation at 471 (4th ed. 1969) (West)).)

[9] "In construing statutes, it is said that the preamble usually contains the motives and inducements to the making of the act, and resort to the preamble may therefore be useful in ascertaining the causes which lead to the passage of the act or the mischiefs intended to be remedied thereby." (Legislation, supra, at 500 (citing Prewitt v. Warfield (1941), 203 Ark.137, 156 S.W.2d 238).)

It is clear from the face of Section 9.1(e) that the federal exemptions from regulation are mandated to apply throughout Illinois. Thus, it also must follow that the federally-derived exemptions listed in the Part 211 definition supersede any differing VOM definitions found elsewhere in the regulations. Consequently, the only avenue for curing the problem is by simple correction of the conflicting definitions, without substantive review. The only procedural course of action for simple correction of the conflicting definitions is to use the identical in substantive procedure linked to the mandate.

To construe the specific mention of Part 211 as precluding correction of other Parts in an identical in substance proceeding is to create a regulatory gridlock that leaves definitions that, by their silence, are in conflict with the statute. We note that such a construction would never even allow any recodification that would place Part 211 anywhere else. To not be able to correct Parts 203 and 215 and the more recent Parts 218 and 219 is not compatible with the Board's statutory mandate. Thus, such a construction must be rejected.

In essence, the Board believes that it is inconsistent to address the "federal policy statement/regulation" problem by, on the one hand, construing it in the context of the mandate, while, on the other hand, addressing the "Part 211/other Parts" problem by construing it in isolation from the mandate. We believe that the mention of "federal policy statements" and "Part 211" are examples of the "ample exception" from the doctrine of "expressio unius", noted above,[10] where mention of certain things does not mean that the legislature intended that others be excepted.

We also note that it is inconsistent to construe the silence relating to codified federal exemptions in context while construing the silence relating to codification of the exemptions at Parts other than Part 211 in isolation. This is especially so where the definitions at Parts 218 and 219 did not even exist and the Part 211 definition applied throughout the state when the legislature drafted Section 9.1(e).

For the reasons stated above, the Board maintains that the mandate of Section 9.1(e) must be construed in context. We conclude that the Board not only has the authority but also a mandate to bring Parts 203, 218 and 219 into harmony with Part 211. Further, the identical in substance procedure of Section 9.1(e) is the only statutory procedure by which the conflicting provisions can be "corrected" to conform to Part 211.

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[10] See supra notes 6 & 8.

Federal Clarification of "Organic"

At 40 CFR 52.741(a), USEPA has a definition of "organic material." This definition excludes certain carbon compounds that are not organic. On February 3, 1992, USEPA excluded certain of these compounds from the definition of "volatile organic compound" with the following language: "any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate." (40 CFR 51.100(s), as added at 57 Fed. Reg. 3945 (Feb. 3, 1992) (effective March 3, 1992).)

This added language is identical to the Illinois definition of "organic compound", and is essentially similar to parallel language in the definitions of "organic material", as presently codified at 35 Ill. Adm. Code 211.122, 218.104, and 219.104. The definitions of "volatile organic material", also at these Sections, depend on the definition of "organic compound" in such a way that there is no need for the Board to add language to further clarify any of these three definitions. The Section 203.145 definition of "volatile organic compound" includes, inter alia, exclusion of "carbon monoxide, carbon dioxide, carbonic acid, metal carbides, metal carbonates, [and] ammonium carbonate . . .." Therefore, no revision of this Section is required by this federal clarification.

The Agency comments in PC# 2 that the Board should integrate the definition of "organic material" into the definition of "volatile organic material", so there is only one definition. While the Board agrees that this may be desirable, the present record will not allow this at this time. There has been no consideration of the possible substantive effect of doing so. For example, is the bare phrase "organic material" material to any segment of the air regulations other than the definition of "volatile organic material"? The Board cannot effect such an amendment in the limited context of this rulemaking.

The Federal Monitoring Requirement

The codification of the USEPA policy in the definition of "volatile organic compound" at 40 CFR 51.100(s) raises issues related to the monitoring requirement. In adopting R91-10, the Board embodied its best understanding of the previously-enunciated USEPA policy relating to the occasional need to monitor for negligibly-reactive compounds. The Board observed that there were certain circumstances under which USEPA stated that monitoring might be required as a precondition to a compound's exemption. However, we noted that Senn Park Nursing Center v. Miller (118 Ill. App. 3d 504, 455 N.E.2d 153 (1st Dist. 1983), aff'd 104 Ill. 2d 169, 470 N.E.2d 1069 (1984)) would require codification of any authority to require any such monitoring. In conclusion, we codified the USEPA-enumerated

circumstances that would necessitate monitoring:

> [W]here direct quantification of volatile organic material emissions is not possible due to any of the following circumstances which make it necessary to quantify the exempt compound emissions in order to quantify volatile organic material emissions:
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> a) VOMs and exempted compounds are mixed together in the same emissions;
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> b) There are a large number of exempted compounds in the same emissions; or
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> c) The chemical composition of the exempted compounds in the emissions is not known.
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> (35 Ill. Adm. Code 215.109; see R91-10 Opinion and order of September 12, 1991 at 15-16.)

In the codified policy, USEPA authorizes the states to require monitoring for the exempted compounds. Whether or not Illinois reserves the authority to require monitoring, USEPA reserves the right to require such monitoring that demonstrates the amount of exempt compounds in a source's emissions. USEPA states as follows in the new definition of VOM:

> (2) For purposes of determining compliance with emissions limits, [VOM] will be measured by the test methods in the approved State implementation plan (SIP) or 40 CFR part 60, appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as [VOM] if the amount of such compounds is accurately quantified, and such exclusion is approved by the [state].
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> (3) As a precondition to excluding these compounds as [VOM] or at any time thereafter, the [state] may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the [state], the amount of negligibly-reactive compounds in the source's emissions.
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> (4) For purposes of Federal enforcement for a specific source, the [US]EPA shall use the test methods specified in the applicable EPA-approved SIP, in a permit issued pursuant to a program approved or promulgated under title V of the [federal Clean Air] Act, or under 40 CFR part 51, subpart I or

> appendix S, or under 40 CFR parts 52 or 60. The [US]EPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the above provisions.

Thus, the purpose of the monitoring is to quantify VOMs, as the Board perceived in R91-10. Further, although USEPA is leaving to state discretion whether the state requires the source to monitor or whether the state itself monitors, USEPA will require the monitoring as needed to quantify VOMs. (See 57 Fed. Reg. 3944 (Feb. 3, 1992).)

As to analytic methodology for analyses, the present Illinois definition of VOM refers to the methods incorporated by reference at 35 Ill. Adm. Code 215.105.[11] That Section includes numerous references--among them is 40 CFR 60. If part of an approved SIP, the methods would satisfy the first segment of new 40 CFR 51.100(s)(2). Further, since Section 215.105 refers to 40 CFR 60, it includes 40 CFR part 60, appendix A. It thus includes the source in the second segment of section 51.100(s)(2). We believe that no amendment is necessary to either Section 211.122 (definition of VOM) or Section 215.105 incorporations by reference) on this basis.

For these reasons, the Board believes that we accurately assessed the scope of the federal policy on September 12, 1991 in R91-10. No amendment to any Section is necessary based on further federal elaboration of its policy. The Board concludes that it is necessary to include the circumstances enumerated as subsections (a) through (c).

The minor amendment that the Board proposed was to add a Board Note to Section 215.109 that would direct the attention of the regulated community to the federal definition at 40 CFR 51.100(s)(2) through (s)(4). In particular, this Board Note directed attention to federal paragraph (s)(4) and 57 Fed. Reg. 3944 (Feb. 3, 1992), in which USEPA makes it clear that it remains not bound by state determinations as to monitoring for negligibly-reactive compounds.

The Board invited public comment as to whether the existing regulatory language adequately embodies USEPA's codified policy

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[11] The Sections 218.104 and 219.104 definitions of VOM provide: "For purposes of determining compliance with emission limits, VOC will be measured by the approved test methods. . . ." (35 Ill. Adm. Code 218.104 & 219.104 (definitions of "volatile organic material").)

and intent. In addition to the amendments to Sections 203.145, 218.104, and 219.104, the Board opened the monitoring provision at 35 Ill. Adm. Code 215.109 by proposing a minor amendment. This would have allowed amendment had public comments indicated the need to do so. The Agency raised significant concerns with regard to the monitoring requirement that the Board must address.

Initially, the Agency suggests that the Board should proceed to amend Part 211 only, and that we leave the Part 203, 215, 218, and 219 amendments for a future omnibus air corrections docket. (Tr. 7-8.) This issue has been fully discussed. The Agency also suggests that the Board basically copy the federal definition, including the provision for monitoring it contains, into the Part 211 definition of "volatile organic material". (Tr. 20-21; Ex. 1.) The discussion below deals with the propriety of a fully-integrated definition, but for the purposes of this segment, a comparison of the Agency's alternative and the proposed language is warranted.

The Agency proposes the following language relating to monitoring for exempted compounds:

> 2) For purposes of determining compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR part 60, appendix A, incorporated by reference at Sections 215.105, 218.112, and 219.112, as applicable or by source-specific test methods which have been established pursuant to a permit issued pursuant to a program approved or promulgated under Title V of the Clean Air Act or under 40 CFR Part 51, Subpart I or Appendix S, incorporated by reference at Sections 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified, and such exclusion is approved by the Agency.
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> (3) As a precondition to excluding these compounds as VOC or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
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> (4) The USEPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected

in any of the above provisions.

As is apparent, this deviates little from the language of the federal definition of VOC. With respect to each of these subsections, the Board has ample reasons to primarily decline to follow the Agency's suggestions, although we change some of the wording of the proposed amendments in response to the Agency's comments.

As an initial aside, the Agency has suggested that it has reason to believe that the exemptions as proposed would not gain federal SIP approval by USEPA. (PC#2 at 3.) However, the Agency is non-specific in detailing any potential deficiencies in this context, and in response to a hearing officer question intended to gain any specific information, the Agency witness chiefly involved in this process was unaware of any discussions with USEPA. (Tr. 33.) This is insufficient, without more, to address federal SIP approvability.

The major elements of 40 CFR 51.100(s)(2), which the Agency wants the Board to incorporate as a first subsection to the Section 211.122 definition of VOM, are as follows:

1. Specification of test methods for determining compliance with VOM emission limitations (those specified by the SIP or 40 CFR 60, appendix A), and

2. Provision for exclusion of exempted compounds from measured emissions if (1) the amount of the exempted compounds in the emissions is accurately quantified and (2) the state approves the exclusion.

Sections 215.102, 218.105, and 219.105 already specify the test methods to be used for determining compliance, and all three Sections reference 40 CFR 60, appendix A. Nothing would be gained by repetition in the definition of VOM. In and of themselves, the testing methods used will not determine whether any compound is exempted from regulation. The federal exemptions are the real focus of this proceeding. Similarly, Section 215.109, adopted September 12, 1991 in R91-10, clearly requires that in order to quantify VOM emissions, members of the regulated community must quantify the amount of exempted compounds in their emissions where their monitoring includes exempted compounds. The Board does not believe that addition of this language to the definition adds to the Agency's authority.

As to the language added to the federal base text by the Agency--i.e., that relating to source-specific testing methods incorporated into an Agency-issued permit and the string of citations to various federal rules--the Agency has presented nothing to support a conclusion that this is in fact part of the federal rule. Further, conferring the authority on the Agency by

Section 215.109 to require monitoring of exempted compounds would render redundant the appearance of such language in the definition. These conditions could include provisions for test methodology and emissions monitoring that excludes exempted compounds. If it desires any authority for alternative testing methodology that it does not already posses, or if it wants clarification that it can deviate from the methods specified by Sections 215.102, 218.105, and 219.105, this is a subject more appropriate to a general rulemaking proceeding. Therefore, the Agency assertions that the Illinois exemptions from the definition of VOM, the actual subject of this matter, are somehow different from those promulgated by USEPA appear unfounded.

The major elements of 40 CFR 51.100(s)(3) that the Agency seeks to incorporate into the definition of VOM are as follows:

1. The state may require a source to submit monitoring or testing methods and results quantifying its emissions of exempted compounds,

2. The state may require such methods and results as a precondition to exemption of these compounds, and

3. The state may require such methods and results at any time.

Similarly to the first subsection the Agency wants to add, Section 215.109 allows the Agency to require the monitoring under circumstances where the measurement of VOMs for the purposes of compliance would include measurement of exempted compounds--i.e., where exempted compounds somehow interfere with the actual object of monitoring: the quantification of VOM emissions. As discussed in R91-10, this is as far as USEPA stated it intended to go with the monitoring. To go even farther and grant the language the Agency requests would go too far. First, as discussed in R91-10, Illinois administrative law would require the codification of the circumstances where an agency can require the monitoring of something beyond the pale of regulation. Second, the Agency's proposed language would grant it carte blanche to require monitoring under any circumstances. This is clearly beyond the scope of the federal rule exempting the compounds. Third, the federal language allows, it does not mandate, that a state may require the monitoring and testing. Fourth, Section 9.1(e) requires that the Board adopt exemptions for these compounds, not authorize the Agency to exempt them once it is satisfied with testing and monitoring. Finally, there is another important point the Agency did not raise.

Unless compounds in a source's emissions that should be exempt are indeed recognized as exempted, their continued regulation as VOM raises the problems of (a) being inconsistent with Section 9.1(e), and (b) creating a question as to how to

assure that the SIP is consistent with USEPA not allowing the states to take credit for reductions in emissions of exempted compounds.

For the foregoing reasons, the Board declines to add the Agency-recommended language to the Section 211.122 definition of "volatile organic material". However, in the course of its arguments, the Agency highlights two possible deficiencies in the Board's embodiment of the federal exemptions. First, USEPA states that the state may require the submission of testing methods with monitoring results. The Board will add language to Section 215.109 that clarifies that the Agency may require submission of the methodologies along with the numbers.

The second point raised by the Agency is more troublesome. The Agency highlights that the proposed exemptions do not provide for monitoring under Parts 218 and 219. This is problematic because the Board did not propose a counterpart to Section 215.109 in either of those two Parts. Administrative Code rules do not normally allow adoption of a rule not initially proposed by the adopting agency. Narrow exceptions to this general rule exist where the new provision is actually a part of the original rulemaking proposal. Since the federally-encouraged testing and monitoring requirement is included in the exemptions proposed for these parts, the Board will adopt and file new Sections 218.113 and 219.113 entitled "Testing and Monitoring for Exempted Compounds" which reference to the monitoring requirement of Section 215.109. If an Administrative Code problem arises with the use of this approach, we will adopt these Sections in a subsequent docket.

The major elements of 40 CFR 51.100(s)(4), which the Agency advocates that the Board incorporate into the definition of VOM, do not include any state requirement. Rather, this federal provision merely states the methods USEPA will use to determine compliance and reserves USEPA's right to determine appropriate testing or monitoring methods notwithstanding the state. The State of Illinois has no authority to enforce this provision. The Board Note to Section 215.109 includes the gist of this information and directs attention to its source: 40 CFR 51.100(s)(4). This is enough. The Agency further advocates that the Board adopt a series of incorporations by reference of federal testing and monitoring provisions. This suggestion also goes beyond the scope of this proceeding (since they are not requirements for state exemption of these compounds), and as such, they are more appropriate to another proceeding.

The foregoing obviates individualized consideration of the various alternative options the Agency presented for Board consideration. The Board believes that the course we are taking in this proceeding is the one that best fulfills our mandate under Section 9.1(e) and that most fully embodies the federal

exemptions from regulated volatile organic materials. In so saying, we of course will revisit this in another docket if the Agency feels that further action is justified.

Review of Exemptions

An ancillary to the issues of testing and monitoring is that of the mode for review of Agency decisions. The regulatory language chosen at Section 215.109 would require a source to provide monitoring or testing methods and results as a precondition to exemption of the listed compounds from its emissions. The Board anticipates that the Agency will implement today's amendments pursuant to 35 Ill. Adm. Code 201.209. If necessary, this would give a permittee an opportunity to submit the required testing and monitoring information that would demonstrate its VOM emissions. If the Agency is satisfied with the information submitted, a modified permit may issue. This is a Section 39 action of the Agency. Otherwise, if a permit issues with conditions objectionable to the source, or if no permit issues, the source can appeal the Agency determination pursuant to Section 201.210 and Section 40 of the Act. Thus, the rights of appeal are preserved in the regulated community.

The above discussions of the issues raised by the public comments and hearing testimony addresses specific approaches the Board has taken to each Section involved in this proceeding. Thus, we will not reiterate the comments in the following discussions as they relate to each specific Section amended.

Amendments to Section 203.145

The Section 203.145 definition of "volatile organic compound" applies only within Part 203. The Board adopted it on March 10, 1988 in R85-10, effective March 22, 1988. The words "volatile organic compound" appear in Sections 203.206(b) ("major stationary source"), 203.207(b) ("major modification of a source"), 203.209(e) (significant emissions determination), 203.303(d)(3) and (e) (baseline emissions offsets determinations), and 203.306 (analysis of alternative sites, processes, controls, etc.). This definition is identical to the Part 211 definition of "volatile organic material" with three major exceptions:

1. The Section 203.145 definition includes within its own terms both the compounds exempted from the Section 211.122 definitions of "organic material" (as not "organic") and "volatile organic material" (as negligibly-reactive),

2. The Section 203.145 definition does not refer to analytical procedures for quantification of volatile species (rather, this provision refers to volatility);

and

3. Section 203.145 does not include several negligibly reactive compounds exempted from the Section 211.122 definition in R89-8 (October 18, 1989) and R91-10 (September 12, 1991):

from R89-8:

chlorodifluoroethane (HCFC-142b)
dichlorofluoroethane (HCFC-141b)
dichlorotrifluoroethane (HCFC-123)
tetrafluoroethane (HFC-134a)

from R91-10:

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
1,1-difluoroethane (HFC-152a)
pentafluoroethane (HFC-125)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1-trifluoroethane (HFC-143a)
The following classes of compounds:
cyclic, branched, or linear, completely fluorinated alkanes;
cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;
sulphur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

The differences based on the unitary structure of Section 203.145 are immaterial. The fact that the definition of "volatile organic compound" does not refer to a separate definition of "organic compound" does not affect its meaning. This structural difference does not affect the size of the regulated community or the activities that fall within the Board's regulations.

The differences based on references to analytical methods are not major, but they could potentially cause some entity to fall under the purview of Part 203 that is not subject to regulation under Part 215 or vice versa. Section 203.145 defines the objects of interest as "present in the atmosphere in a gaseous state." Section 211.122 defines those objects for the purposes of Part 215) as "participat[ing] in atmospheric photochemical reactions." The purpose of the Section 203.145 definition is to permit entities subject to regulation under Part 215. To the extent there are species that are "present in the

atmosphere in a gaseous state" or "participat[ing] in atmospheric photochemical reactions" but not both, there is a potential gap between the permit requirement and the emissions limitations.

It is interesting to note the extent of the changes made by USEPA in adopting its section 51.100(s) definition of "volatile organic compound." USEPA simultaneously amended its sections 51.165(a)(1)(xix), 51.166(b)(29), and part 51, appendix S (II)(A) lists of volatile organic compound exclusions to take the form of a definition of "volatile organic compound", which states that the meaning of this term is given at section 51.100(s). 40 CFR 51.165 sets forth the federal permit requirements. Section 51.166 sets forth the prevention of significant deterioration requirements. Appendix S is a clarification of the USEPA offset policy. These are all subjects within the scope of Part 203 of the Illinois rules. In adopting the definition of VOM, USEPA stated that it intended only to codify existing policy and not to effect any substantive change. (See 57 Fed. Reg. 3943 (Feb. 3, 1992).) Therefore, USEPA now employs the same definition of "volatile organic compound" for all purposes--for both permitting and for setting emissions limitations, and it is their apparent intent that this was always so.

The differences in the Section 203.145 and 211.122 definitions relating to exempted compounds are the primary focus of this docket. The Section 203.145 definition includes all compounds exempted under the federal recommended policy as of the date of its adoption (March 10, 1988). USEPA has since twice updated that policy (at 54 Fed. Reg. 1987, January 18, 1989, and at 56 Fed. Reg. 11418, March 18, 1991). The Board followed suit by amending the Section 211.122 definition of "volatile organic material" in R89-8, October 18, 1989 (effective October 27, 1989), and R91-10, September 12, 1991 (effective October 11, 1991). However, the Board did not amend the Section 203.145 definition at those times. Rather, the Board reserved this docket for that purpose. Today, we amend 35 Ill. Adm. Code 203.145 so all the compounds exempted from regulation under Part 215 (and Parts 218 and 219) are also exempted from regulation under Part 203.

Since Part 203 sets forth the permitting requirements for activities regulated under Part 215 (for which Section 211.122 provides the operative definition of "volatile organic material"), the Board believes that the Section 203.145 definition of "volatile organic compound" should have the same meaning that "volatile organic material" has for the purposes of Part 215. We believe that this is presently the case, but identical meaning is best accomplished through the same definitional language. The most efficient way to accomplish this is to place the definitional language in one location and refer to it from all other locations. This has the combined effects of more closely tracking the federal definition of "volatile organic

compound" and exempting all negligibly-reactive compounds from state regulation as VOMs. This also facilitates future amendments and minimizes the possibility of future oversight and the resulting discrepancies.

For these reasons, the Board amends Section 203.145 so that "volatile organic compound", for the purposes of Part 203, means "volatile organic material", as that term is defined at Section 211.122. The Board does not take the additional step at this time of substituting "volatile organic material" for "volatile organic compound" where that term appears at Sections 203.206(b), 203.207(b), 203.209(e), 203.303(d)(3) and (e), and 203.306. The Board invited public comment as to whether this approach and the chosen language adequately embody USEPA's codified policy and intent.

Amendments to Section 211.122

The Board amends the Section 211.122 definition of "volatile organic material" to indicate the source of the exempted compounds. The Board adds a Board Note to this provision to reference the federal 40 CFR 51.100(s) definition of "volatile organic compound" and 57 Fed. Reg. 3941 (Feb. 3, 1992), at which USEPA adopted it. The Note also references 35 Ill. Adm. Code 215.109, the monitoring requirement.

Amendments to 215.109

The Board amends Section 215.109 to indicate the source of the monitoring requirement for negligibly-reactive, exempted compounds. The Board adds a Board Note to this provision to reference 56 Fed. Reg. 11418 (Mar. 18, 1991), when USEPA introduced the concept of such monitoring, and the federal 40 CFR 51.100(s) definition of "volatile organic compound" and 57 Fed. Reg. 3941 (Feb. 3, 1992), at which USEPA adopted it. The Note also references 35 Ill. Adm. Code 211.122, the definition of "volatile organic material".

The Board adopts a change to the proposed amendment of this Section. As discussed, the Board adds reference to the Agency's authority to require the submission of testing and methods for testing and monitoring. Thus, the preamble now reads as follows:

> Any provision of 35 Ill. Adm. Code 211 notwithstanding, the Agency may require an owner or operator to submit monitoring or testing methods and results for any of the compounds listed at 35 Ill. Adm. Code 211.122 as exempted from the definition of "volatile organic material," demonstrating the amount of exempted compounds in the source's emissions, as a precondition to such exemption, where direct quantification of volatile organic material emissions is not possible due

> to any of the following circumstances which make it necessary to quantify the exempt compound emissions in order to quantify volatile organic material emissions:
> . . . .

This more linearly tracks the federal language of 40 CFR 51.100(s)(3) while retaining the limitations enunciated by USEPA without codification and felt necessary by the Board to comport with Illinois administrative law.

Amendments to Sections 218.104 and 219.104

As outlined above, Part 218 sets forth the rules applicable to emissions of volatile organic materials in the greater Chicago metropolitan area, and Part 219 sets forth the rules applicable for those emissions in the East St. Louis metropolitan area. Each Part became effective on August 16, 1991 (by Board orders of July 25, 1991, in R91-7 for the Chicago area and R91-8 for the East St. Louis area).[12] Section 218.104 sets forth the definition of VOM for Part 218, and Section 219.104 sets forth the definition for Part 219. Both definitions use identical language, with the exception of some language in Section 218.104 relating to the 3M Bedford Park facility, and both are essentially similar to the Section 211.122 definition of VOM prior to the VOM update, in R91-10. The language at Section 218.104 relating to the 3M facility exempts the classes of compounds exempted from the Section 211.122 definition in R91-10. The language in both Sections 218.104 and 219.104 relating to the treatment of the exempted compounds adds nothing to the language already at Section 211.122.

For reasons similar to those recited for the Section 203.145 amendments above, the Board believes that references at 35 Ill. Adm. Code 218.104 and 219.104 to the definition of VOM at Section 211.122 is the preferred method of updating these definitions. This method assures not only that the present Part 215 exemptions become Parts 218 and 219 exemptions, it assures harmony in meaning of the same term for all areas of the state. It also minimizes the likelihood of future disparity through subsequent updates. Therefore, we amend Sections 218.104 and 219.104 so that "volatile organic material", for the purposes of Parts 218 and 219, means "volatile organic material", as that term is defined at Section 211.122.

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[12] As also noted, this is less than 30 days before the Board Order that adopted the R91-10 amendments to the definition of VOM. Therefore, Parts 218 and 219 could not have become a part of that proceeding.

Sections 218.113 and 219.113

As discussed above, the Board omitted the monitoring requirements from the proposed amendments to Parts 218 and 219. We correct that omission by adopting these two new Sections which refer to the monitoring requirement of Section 215.109. The Board believes that the monitoring and testing requirement is an integral part of the federal exemption of the various compounds. Inclusion of those exemptions in Parts 218 and 219 would necessitate inclusion of the testing and monitoring requirement.

This opinion supports the following order:

ORDER

The Board hereby adopts the following amendments to its definitions of "volatile organic compound", at 35 Ill. Adm. Code 203.145, and "volatile organic material", at 35 Ill. Adm. Code 211.122, 218.104, and 219.104, and to the Section governing the monitoring for negligibly-reactive compounds, 35 Ill. Adm. Code 215.109, and adds new sections 218.113 and 219.113 pertaining to monitoring for negligibly-reactive compounds.

Section 203.145 Volatile Organic Compound

"Volatile Organic Compound" means ~~any chemical compound of carbon, released to or present in the atmosphere in a gaseous state, including compounds which are liquids at standard conditions, but excluding the following compounds: methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metal carbides, metal carbonates, ammonium carbonate, 1,1,1-trichloroethane (methylchloroform), methylene chloride, trichlorotrifluoroethane (Freon 113), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115). Standard conditions means a temperature of 70 F and a pressure of 14.7 pounds per square inch absolute (psia).~~"volatile organic material", as that term is defined at 35 Ill. Adm. Code 211.122.

(Source: Amended at 16 Ill. Reg. , effective)

Section 211.122 Definitions

. . .

"Volatile Organic Material":

Any organic compound which participates in atmospheric photochemical reactions unless

specifically exempted from this definition. Volatile organic material emissions shall be measured by the reference methods specified under 40 CFR 60, Appendix A (1986) (no future amendments or editions are included), or, if no reference method is applicable, may be determined by mass balance calculations.

For purposes of this definition, the following are not volatile organic materials:

Chlorodifluoroethane (HCFC-142b)
Chlorodifluoromethane (CFC-22)
Chloropentafluoroethane (CFC-115)
2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
Dichlorodifluoromethane (CFC-12)
Dichlorofluoroethane (HCFC-141b)
Dichloromethane (Methylene chloride)
Dichlorotetrafluoroethane (CFC-114)
Dichlorotrifluoroethane (HCFC-123)
1,1-Difluoroethane (HFC-152a)
Ethane
Methane
Pentafluoroethane (HFC-125)
Tetrafluoroethane (HFC-134a)
1,1,2,2-Tetrafluoroethane (HFC-134)
Trichloroethane (Methyl chloroform)
Trichlorofluoromethane (CFC-11)
Trichlorotrifluoroethane (CFC-113)
1,1,1-Trifluoroethane (HFC-143a)
Trifluoromethane (FC-23)

and the following classes of compounds:

Cyclic, branched, or linear, completely fluorinated alkanes.

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.

Sulphur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

BOARD NOTE: Derived from 40 CFR 51.100(s) (definition of "volatile organic compound"), as added at 57 Fed.

Reg. 3941 (Feb. 3, 1992). USEPA or the Agency may require monitoring to demonstrate the amount of an exempted compound in a source's emissions on a case-by-case basis as a pre-condition to exemption of that compound under certain circumstances, such as where VOMs and exempted compounds are mixed together, there are a large number of exempted compounds, or the chemical composition of the exempted compounds is not known. See 35 Ill. Adm. Code 215.108; 56 Fed.Reg. 11419-20.

. . .

Section 215.109 Monitoring for Negligibly-Reactive Compounds

Any provision of 35 Ill. Adm. Code 211 notwithstanding, the Agency may require an owner or operator to submit monitoring or testing methods and results for any of the compounds listed at 35 Ill. Adm. Code 211.122 as exempted from the definition of "volatile organic material," demonstrating the amount of exempted compounds in the source's emissions, as a precondition to such exemption, where direct quantification of volatile organic material emissions is not possible due to any of the following circumstances which make it necessary to quantify the exempt compound emissions in order to quantify volatile organic material emissions:

a) VOMs and exempted compounds are mixed together in the same emissions;

b) There are a large number of exempted compounds in the same emissions; or

c) The chemical composition of the exempted compounds in the emissions is not known.

Board Note: Derived from the USEPA "Recommended Policy on the Control of Volatile Organic Compounds", as amended at 56 Fed. Reg. 11418, March 18, 1991, and subsequently codified as 40 CFR 51.100(s), as added at 57 Fed. Reg. 3941 (Feb. 3, 1992). See also 35 Ill. Adm. Code 211.122 for the basic definition of "volatile organic material." USEPA is not bound by any state determination as to monitoring. 40 CFR 51.100(s)(4).

(Source: Amended at 16 Ill. Reg. , effective

Section 218.104 Definitions

The following terms are defined for the purpose of this Part.

. . .

"Volatile organic material (VOM) or volatile organic compound (VOC)" means ~~any organic compound which participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds: methane, ethane, methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), methylene chloride (dichloromethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), FC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane) and HCFC-142b (chlorodifluoroethane). These compounds have been determined to have negligible photochemical reactivity.~~"volatile organic material", as that term is defined at 35 Ill. Adm. Code 211.122.

~~In addition, for the 3M Bedford Park facility in Cook County, the following compounds shall not be considered as volatile organic material or volatile organic compounds (and are, therefore, to be treated as water for the purpose of calculating the "less water" part of the coating or ink composition) for a period of time not to exceed one year after the date USEPA acts on 3M's petition, pending as of the date of promulgation of this rule, which seeks to have these compounds classified as exempt compounds: (1) cyclic, branched, or linear, completely fluorinated alkanes, (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and (4) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.~~

~~For purposes of determining compliance with emission limits, VOC will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.~~

. . .

Section 218.113 Monitoring for Negligibly-Reactive Compounds

The requirements of 35 Ill. Adm. Code 215.109, which allows the Agency to require testing and monitoring for negligibly-reactive compound as a precondition to their exemption from the definitior of "volatile organic compound", shall apply to owners and operators of sources subject to this Part.

Section 219.104 Definitions

The following terms are defined for the purpose of this Part.

. . .

"Volatile organic material (VOM) or volatile organic compound (VOC)" means ~~any organic compound which participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds: methane, ethane, methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), methylene chloride (dichloromethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), FC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane) and HCFC-142b (chlorodifluoroethane). These compounds have been determined to have negligible photochemical reactivity.~~"volatile organic material", as that term is defined at 35 Ill. Adm. Code 211.122.

~~For purposes of determining compliance with emission limits, VOC will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.~~

. . .

Section 219.113 Monitoring for Negligibly-Reactive Compounds

The requirements of 35 Ill. Adm. Code 215.109, which allows the Agency to require testing and monitoring for negligibly-reactive compound as a precondition to their exemption from the definition of "volatile organic compound", shall apply to owners and operators of sources subject to this Part.

IT IS SO ORDERED.

B. Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion and order was adopted on the 30th day of July, 1992, by a vote of 6-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board