

ILLINOIS POLLUTION CONTROL BOARD
November 4, 1993

IN THE MATTER OF:	)	
	)	
STAGE II VAPOR RECOVERY IN	)	R93-28
THE METRO-EAST AREA: REPEAL	)	(Rulemaking)
OF 35 ILL. ADM. 219.586	)	

Proposed Rule.

First Notice.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

On October 21, 1993 the Illinois Environmental Protection Agency (Agency) filed a rulemaking petition in which it proposes that the Board repeal the Stage II vapor recovery controls applicable in the Metro-East area (Madison, Monroe, and St. Clair Counties, Illinois). By order of the same day the Board accepted the Agency's petition.

Repeal of the Stage II regulations is predicated upon promulgation by the United States Environmental Protection Agency (USEPA) of rules that govern on-board vapor recovery (OBVR) systems (see discussion following). The Board believes that it is in the public interest that Illinois be poised to react to the Metro-East Stage II situation immediately upon USEPA promulgation of the OBVR rules, which is now expected to occur no later than January 1994. Pursuant thereto, the Board today sends the repeal proposal to first notice. The Board believes that beginning the dialogue on this matter immediately will provide the best opportunity for both full consideration and expeditious resolution of this matter.

The Board notes that it today takes no position on the substantive merits of the proposal. The decision as to whether this proposal will proceed or not, and an opinion in support thereof, will be rendered by the Board only after public hearing and upon closure of the public comment period in this matter.

Given that the Metro-East area consists of three contiguous counties, the Board construes Section 28 of the Environmental Protection Act (415 ILCS 5/1 et seq.) (Act) as requiring one hearing in the affected area. Therefore, the Board will hold one hearing in one of the subject counties.

The Board also invites written public comment. The public comment period will remain open to a date following the hearing, the date to be specified by the hearing officer.

BACKGROUND

Stage II vapor recovery systems are designed to control and capture hydrocarbon vapors during the fueling of vehicle tanks. Vehicle fuel emissions consist of gasoline vapors displaced from the vehicle tank by dispensed liquid gasoline as the tank is filled. The Stage II system captures these vapors as they exit the vehicle's fuel fillpipe, thereby preventing escape of the vapors into the atmosphere. Vapor capture is accomplished by one of several types of devices attached to or part of the nozzle of the fuel dispensing system.

The Stage II regulations at issue occur at 35 Ill. Adm. Code 219.586. They were adopted by the Board in August 1992¹ in response to requirements of both the federal Clean Air Act and the Illinois Environmental Protection Act. In particular, the Clean Air Act requires that areas classified as "moderate ozone nonattainment areas" have Stage II regulations in place and submitted for approval to the USEPA by November 15, 1992. (42 USC 7511a(b)(3).) The Metro-East area is classified by the USEPA as a moderate ozone nonattainment area.

The Clean Air Act, however, does provide for a circumstance under which Stage II regulations are not required in moderate ozone nonattainment areas. That circumstance is that the USEPA promulgate regulations for OBVR². The Clean Air Act specifies that USEPA is to promulgate OBVR regulations by November 15, 1991. Nevertheless, USEPA had not promulgated OBVR regulations by November 15, 1992, and still has not promulgated them. The nexus between the Stage II regulations required as of November 15, 1992 and the USEPA's action on the OBVR regulations has also been recognized by the state legislature in its directive to the Board to address Stage II:

The Board shall adopt regulations requiring the owner or operator of a gasoline dispensing system that dispenses more than 10,000 gallons of gasoline per month to install and operate a system for the recovery of gasoline vapor emissions arising from the fueling of motor vehicles that meets the requirements of Section 182 of the federal Clean Air Act (42 USC 7511a). These

¹ In the Matter of: Stage II Gasoline Vapor Recovery Rules: Amendments to 35 Ill. Adm. Code Parts 215, 218 and 219, R91-30, August 13, 1992. In addition to the Metro-East Stage II regulations, Stage II regulations for the Chicago ozone nonattainment area were also adopted in R91-30. The Chicago area regulations are not at issue today. The effective date of the R91-30 regulations was August 24, 1992.

² OBVR systems accomplish vapor recovery through devices built into the vehicle rather than into the fuel pump.

regulations shall apply only in areas of the State that are classified as moderate, serious, severe or extreme nonattainment areas for ozone pursuant to Section 181 of the federal Clean Air Act (42 USC 7511), but shall not apply to areas classified as moderate nonattainment areas for ozone if the Administrator of the U.S. Environmental Protection Agency promulgates standards for vehicle-based (onboard) systems for the control of vehicle refueling emissions pursuant to Section 202(a)(6) of the federal Clean Air Act (42 USC 7521(a)(6) by November 15, 1992.

(415 ILCS 5/10, emphasis added)

Now, however, it appears that federal promulgation of OBVR regulations will in fact occur. The National Resources Defense Council (NRDC) and others have successfully brought suit against USEPA for failure to promulgate the OBVR regulations. (NRDC v. Reilly, No. 92-1137, D.C. Cir. Jan. 22, 1993.) The court has found that USEPA did not have the discretion to forego promulgation of the OBVR regulations, and accordingly ordered USEPA to proceed with the regulations. Additionally, a consent decree has been entered that requires that USEPA promulgate the OBVR regulations by January 22, 1994.

In recognition of these OBVR developments, the Agency on May 3, 1993 filed a motion with the Board requesting that the Board adopt an emergency rule that would extend the deadline upon which affected facilities in the Metro-East area were required under Section 219.586 to come into compliance with the Stage II requirements. By order of May 20, 1993 the Board granted the Agency's motion and adopted an emergency rule, the net effect of which was to temporarily move out the compliance date to October 15, 1993. That date is now past, and, absent further regulatory amendment, the affected facilities are again required to be in compliance with Stage II requirements.

It is the Agency's observation that absent repeal of the Stage II rules

... the specter is raised of a very large capital outlay in an economically depressed area of the State to satisfy a Clean Air Act requirement for only a very short period of time. Specifically, the Agency estimated that the capital outlay for installation of Stage II at the 400 area station would be approximately \$14 million. In January when the OBVR rules are promulgated, there is no longer a federal requirement for Stage II systems to be in place.

(Agency Statement of Reasons at p.2)

ADDITIONAL INFORMATION

In the interest of assuring a full record in this matter, the Board asks the Agency and interested persons to present the following particular information: (1) the number of facilities that have already installed some Stage II equipment, including those who may have done installation in conjunction with installing new tanks; (2) the remaining equipment or modifications necessary to operate Stage II vapor recovery in accordance with the in-place rule; and (3) cost estimates to complete installation that has begun, and estimated costs to operate a Stage II program in accordance with the in-place rule.

As a final matter, the Board observes that the Act at Section 10 specifies that Stage II "... regulations ... shall not apply ... if [USEPA] ... promulgates [OBVR] standards ... by November 15, 1992" (see full quotation above). In light of this language, the Board particularly asks interested persons to comment on whether USEPA's failure to promulgate OBVR regulations by November 15, 1992 constitutes an impediment to the Board's moving forward with repeal of the Metro-East Stage II regulations.

ORDER

The Board hereby adopts for first notice the following amendments to 35 Ill. Adm. Code 219 effectuating the repeal of Section 219.586. The Clerk of the Board is directed to file this proposal with the Secretary of State for publication in the Illinois Register.

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

PART 219
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
FOR THE METRO EAST AREA

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219.100	Introduction
219.101	Savings Clause
219.102	Abbreviations and Conversion Factors
219.103	Applicability
219.104	Definitions
219.105	Test Methods and Procedures
219.106	Compliance Dates
219.107	Operation of Afterburners

- 219.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
- 219.109 Vapor Pressure of Volatile Organic Liquids
- 219.110 Vapor Pressure of Organic Material or Solvent
- 219.111 Vapor Pressure of Volatile Organic Material
- 219.112 Incorporations by Reference
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Section

- 219.121 Storage Containers
- 219.122 Loading Operations
- 219.123 Petroleum Liquid Storage Tanks
- 219.124 External Floating Roofs
- 219.125 Compliance Dates (Repealed)
- 219.126 Compliance Plan (Repealed)

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section

- 219.141 Separation Operations
- 219.142 Pumps and Compressors
- 219.143 Vapor Blowdown
- 219.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section

- 219.181 Solvent Cleaning in General
- 219.182 Cold Cleaning
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- 219.186 Test Methods

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Section

- 219.204 Emission Limitations
- 219.205 Daily-Weighted Average Limitations
- 219.206 Solids Basis Calculation
- 219.207 Alternative Emission Limitations
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- 219.209 Exemption From General Rule on Use of Organic Material
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SUBPART G: USE OF ORGANIC MATERIAL

Section

- 219.301 Use of Organic Material
- 219.302 Alternative Standard

219.303 Fuel Combustion Emission Units
219.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

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219.405 Heatset-Web-Offset Lithographic Printing

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MANUFACTURING PLANT

Section
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219.422 Inspection Program Plan for Leaks
219.423 Inspection Program for Leaks
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219.426 Report for Leaks
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219.430 Compliance Date (Repealed)

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES;
ASPHALT MATERIALS

Section
219.441 Petroleum Refinery Waste Gas Disposal
219.442 Vacuum Producing Systems
219.443 Wastewater (Oil/Water) Separator
219.444 Process Unit Turnarounds
219.445 Leaks: General Requirements
219.446 Monitoring Program Plan for Leaks
219.447 Monitoring Program for Leaks
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219.449 Reporting for Leaks
219.450 Alternative Program for Leaks
219.451 Sealing Device Requirements
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Centrifuges and Vacuum Dryers
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Section

219.581 Bulk Gasoline Plants
219.582 Bulk Gasoline Terminals
219.583 Gasoline Dispensing Facilities - Storage Tank Filling
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219.585 Gasoline Volatility Standards
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219.877 Emissions Limitation at Polystyrene Plants(Renumbered)
219.879 Compliance Date (Repealed)
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219.883 Special Requirements for Compliance Plan (Repealed)
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Section 219.Appendix A: List of Chemicals Defining Synthetic
Organic Chemical and Polymer
Manufacturing
Section 219.Appendix B: VOM Measurement Techniques for Capture
Efficiency
Section 219.Appendix C: Reference Test Methods For Air Oxidation
Processes
Section 219.Appendix D: Coefficients for the Total Resource
Effectiveness Index (TRE) Equation

AUTHORITY: Implementing Section 10 and authorized by Section
28.5 of the Environmental Protection Act (Ill. Rev. Stat. 1991,
ch. 111½, par. 1010) (P.A. 87-1213, effective September 26, 1992)
[415 ILCS 5/10 and 28.5].

SOURCE: Adopted at R91-8 at 15 Ill. Reg. 12491, effective August
16, 1991; amended in R91-24 at 16 Ill. Reg. 13597, effective
August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13883,
effective August 24, 1992; emergency amendment in R93-12 at Ill.
Reg. 8295, effective May 24, 1993, for a maximum of 150 days,
amended in R93-9 at 17 Ill. Reg. 16918, effective September 27,

1993 and October 21, 1993; amended in R93-28 at _____ Ill. Reg.
_____, effective _____.

SUBPART Y: GASOLINE DISTRIBUTION

Section 219.586 Gasoline Dispensing Operations - Motor
Vehicle Fueling Operations (Repealed)

- a) For the purposes of this Section, the following definitions apply.
- 1) Average monthly volume means the amount of motor vehicle fuel dispensed per month from a gasoline dispensing operation based upon a monthly average for the 2-year period of November, 1990 through October, 1992 or, if not available, the monthly average for the most recent twelve calendar months. Monthly averages are to include only those months when the operation was operating.
 - 2) Certified means any vapor collection and control system which has been tested and approved by CARB as having a vapor recovery and removal efficiency of at least 95% (by weight) shall constitute a certified vapor collection and control system. CARB testing and approval is pursuant to the CARB manual, incorporated by reference at 219.112 of this Part.
 - 3) Completion of installation means the successful passing of one or more of the following tests applicable to the installed vapor collection and control system: Dynamic Backpressure Test, Pressure Decay/Leak Test, and Liquid Blockage Test, incorporated by reference at 219.112 of this Part.
 - 4) Constructed means fabricated, erected or installed; refers to any facility, emission source or air pollution control equipment.
 - 5) CARB means California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.
 - 6) Employee means any person who performs work for an employer.
 - 7) Operation means any building, structure, installation, operation or combination thereof located on contiguous properties and under common ownership that provides for the dispensing of motor vehicle fuel.

- 8) Gasoline dispensing operation means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.
 - 9) Modification means any change, removal or addition, other than an identical replacement, of any component contained within the vapor collection and control system.
 - 10) Motor vehicle means any self-propelled vehicle powered by an internal combustion engine including, but not limited to, automobiles and trucks. Specifically excluded from this definition are watercraft and aircraft.
 - 11) Motor vehicle fuel means any petroleum distillate having a Reid vapor pressure of more than 27.6 kilopascals (kPa) (four pounds per square inch) and which is used to power motor vehicles.
 - 12) Owner or operator means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.
 - 13) Reid vapor pressure for gasoline, shall be measured in accordance with either the method ASTM D323 or a modification of ASTM D323 known as the "dry method" as set forth in 40 CFR 80, Appendix E, incorporated by references in 35 Ill. Adm. Code 219.112 of this Part.
 - 14) Vapor collection and control system means any system certified by CARB which limits the discharge to the atmosphere of motor vehicle fuel vapors displaced during the dispensing of motor vehicle fuel into motor vehicle fuel tanks.
- b) The provisions of subsection (c) below shall apply to any gasoline dispensing operation which dispenses an average monthly volume of more than 10,000 gallons of motor vehicle fuel per month. Compliance shall be demonstrated in accordance with the schedule provided in subsection (d) below.
- c) No owner or operator of a gasoline dispensing operation subject to the requirements of subsection (b) above shall cause or allow the dispensing of motor vehicle fuel at any time from a motor fuel dispenser unless the dispenser is equipped with and utilizes a

vapor collection and control system which is properly installed and operated as provided below:

- 1) Any vapor collection and control system installed, used or maintained has been CARB certified.
 - 2) Any vapor collection and control system utilized is maintained in accordance with the manufacturer's specifications and the certification.
 - 3) No elements or components of a vapor collection and control system are modified, removed, replaced or otherwise rendered inoperative in a manner which prevents the system from performing in accordance with its certification and design specifications.
 - 4) A vapor collection and control system has no defective, malfunctioning or missing components.
 - 5) Operators and employees of the gasoline dispensing operation are trained and instructed in the proper operation and maintenance of a vapor collection and control system.
 - 6) Instructions are posted in a conspicuous and visible place within the motor fuel dispensing area and describe the proper method of dispensing motor vehicle fuel with the use of the vapor collection and control system.
- d) In conjunction with the compliance provisions of Section 219.105 of this Part, operations subject to the requirements of subsection (c) above shall demonstrate compliance according to the following:
- 1) Operations that commenced construction after November 1, 1990, must comply by May 1, 1993.

[BOARD NOTE: The Board adopted an emergency rule in R93-12, extending the compliance date in Section 219.586(d)(1) from May 1, 1993 to October 15, 1993. This emergency rule became effective on May 24, 1993 and will expire on October 21, 1993.]
 - 2) Operations that commenced construction before November 1, 1990, and dispense an average monthly volume of more than 100,000 gallons of motor fuel per month must comply by November 1, 1993.
 - 3) Operations that commenced construction before November 1, 1990, and dispense an average monthly

volume of less than 100,000 gallons of motor fuel per month must comply by November 1, 1994.

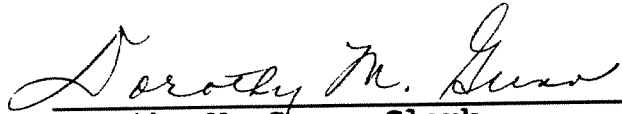
- 4) New operations constructed after the adoption of this Section shall comply with the requirements of subsection (c) above upon startup of the operation.
- 5) Existing operations previously exempted from but which become subject to the requirements of subsection (c) above after May 1, 1993 shall comply with the requirements of subsection (c) above within six calendar months of the date from which the operation becomes subject.
- e) Any gasoline dispensing operation that becomes subject to the provisions of subsection (c) above at any time shall remain subject to the provisions of subsection (c) above at all times.
- f) Upon request by the Agency, the owner or operator of a gasoline dispensing operation which claims to be exempt from the requirements of this Section shall submit records to the Agency within 30 calendar days from the date of the request which demonstrate that the gasoline dispensing operation is in fact exempt.
- g) Recordkeeping and reporting:
 - 1) Any gasoline dispensing operation subject to subsection (c) above shall retain at the operation copies of the registration information required at subsection (h) below.
 - 2) Records and reports required pursuant to this subsection shall be made available to the Agency upon request. Records and reports which shall be maintained by the owner or operator of the gasoline dispensing operation shall clearly demonstrate:
 - A) That a certified vapor collection and control system has been installed and tested to verify its performance according to its specifications.
 - B) That proper maintenance has been conducted in accordance with the manufacturer's specifications and requirements.
 - C) The time period and duration of all malfunctions of the vapor collection and control system.

- D) The motor vehicle fuel throughput of the operation for each calendar month of the previous year.
 - E) That operators and employees are trained and instructed in the proper operation and maintenance of the vapor collection and control system and informed as to the potential penalties associated with the violation of any provision of this Section.
- h) Any gasoline dispensing operation subject to subsection (c) above shall be exempt from the permit requirements specified under 35 Ill. Adm. Code 201.142, 201.143 and 201.144 for its vapor collection and control systems, provided that:
- 1) Upon the installation of a vapor collection and control system, the owner or operator of the gasoline dispensing operation submits to the Agency a registration which provides at minimum the operation name and address, signature of the owner or operator, the CARB Executive Order Number for the vapor collection and control system to be utilized, the number of nozzles (excluding diesel or kerosene) used for motor vehicle refueling, the monthly average volume of motor vehicle fuel dispensed, the location (including contact person's name, address, and telephone number) of records and reports required by this Section, and the date of completion of installation of the vapor collection and control system.
 - 2) The registration is submitted to the Agency within 30 days of completion of such installation.
 - 3) A copy of the registration information is maintained at the gasoline dispensing operation.
 - 4) Upon the modification of an existing vapor collection and control system, the owner or operator of the gasoline dispensing operation submits to the Agency a registration that details the changes to the information provided in the previous registration of the vapor collection and control system and which includes the signature of the owner or operator. The registration must be submitted to the Agency within 30 days of completion of such modification.

(Source: Repealed at ____ Ill. Reg. _____, effective _____.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 4th day of November, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board