

ILLINOIS POLLUTION CONTROL BOARD  
September 11, 1986

IN THE MATTER OF: )  
 )  
VOLATILE ORGANIC MATERIAL ) R82-14  
EMISSIONS FROM STATIONARY )  
SOURCES: RACT III )

INTERIM OPINION AND ORDER OF THE BOARD (by B. Forcade):

This Interim Opinion and Order by the Board deals with issues involving two separate source categories under consideration in the RACT III rulemaking. The first category is Subpart U: Coke Manufacture and By-Product Recovery and the second category is Subpart P: Printing and Publishing, heatset web offset printing.

1. Coke Oven By-Product Recovery - Section 215.500

The Board adopted final rules covering this category on August 21, 1985 (9 Ill. Reg. 13960, effective August 28, 1985). Immediately following this action, the Illinois Environmental Protection Agency ("Agency") filed a motion to reopen the record in this area (Agency Motion to Reopen Record, August 26, 1985). The Board, by Order of September 20, 1985, reopened the record, proposed new language for Section 215.500, and scheduled hearings which were held on December 2 and 3, 1985. The matter was stayed at the request of the Agency pending United States Environmental Protection Agency ("USEPA") review of the issue.

Section 215.500 outlines the interrelationship between Subpart K: Use of Organic Material and Subpart U: Coke Manufacture and By-Product Recovery. Subpart U applies to four specific sources of emissions. Subpart K applies to a number of other sources, not enumerated in Subpart U. As originally proposed by the Agency, Section 215.500 provided for Subpart K controls where controls were not specifically provided in Subpart U. For the four emission sources specified in Subpart U, compliance with Subpart K was not required, thereby creating an "exception."

On August 10, 1984, the Board proposed Section 215.500 for first notice in the form advocated by the Agency. In response to first notice public comment by the Illinois Steel Group ("ILSG"), the Board modified Section 215.500 to exclude Subpart K provisions from applying to coke by-product recovery plants. This change, made at second notice and adopted as final on August 21, 1985, was based on the ILSG's assertion that the Board erroneously interpreted the Agency's

intent regarding Subpart K and that no party desired that subpart to apply to this industrial category. No comments were received from the Agency until after final adoption of this modification.

The Agency's August 26, 1985, motion to reopen the record and proposed amendment to Section 215.500 stated that excluding Subpart K provisions from coke by-product recovery plants de-regulates the majority of emission sources. Since all three of the affected facilities are in non-attainment areas for ozone, the result is to allow an increase in emissions from these now unregulated sources. Consequently, the Board again proposed for first notice the language originally proposed by the Agency. Hearings were held December 2 and 3, 1985.

On January 29, 1986, the Agency moved to stay further consideration of proposed Section 215.500 pending USEPA review of what would be considered RACT in this category. On June 27, 1986, the Agency moved the Board to withdraw proposed Section 215.500 and to maintain the current Section 215.500 adopted at 9 Ill. Reg. 13960, effective August 28, 1985. The basis for this action was a USEPA, Region V, recommendation to headquarters regarding a rule for coke by-product recovery plants adopted by the state of Alabama in December, 1985. Region V of USEPA believes that the Alabama rule will likely be consistent with any coke by-product NESHAPS for benzene promulgated in the future. Therefore, Region V recommended to USEPA Headquarters that the Alabama rule or something similar be considered RACT for coke by-product recovery plants. The Alabama rule has been submitted to USEPA as part of that state's ozone State Implementation Plan ("SIP"). There is a certain degree of confidence that the Alabama rule will be approved as RACT (Agency Status Report, paragraphs 2-3, June 27, 1986).

The Agency believes that if USEPA Headquarters approves the "Alabama rule" as RACT and accepts USEPA's recommendation, and if the volatile organic material ("VOM") emission reduction under the present Illinois regulation can be shown to be equivalent to the reductions under the Alabama rule, then the Board's existing regulations could be approved by USEPA as RACT for this source category. Preliminary emission reduction comparisons made by the Agency showed that the emission reductions under the existing Illinois rule may be less than that achieved under the Alabama rule. Additional requirements to control the coke oven gas ("COG") bleeder may ultimately be necessary in these rules. However, all Illinois coke by-product recovery plants have flares to control the excess COG. If this additional requirement becomes necessary, the impact would be minimal (Id., paragraphs 4-5).

The ILSG filed comments August 29, 1986, supporting the withdrawal of proposed Section 215.500. The ILSG stated that as the Alabama rule was not a part of the existing regulatory record that it has not been evaluated by ILSG. Consequently, the ILSG did not respond to the Agency's statements regarding potential minimal impacts if additional control on the COG bleeder are required. If and when the Alabama rule becomes part of the regulatory record, it will be reviewed by ILSG to assess the potential impact.

The Board will grant the Agency's motion to withdraw proposed Section 215.500 which is currently in first notice. Due to the uncertainty regarding USEPA's final determination on RACT requirements for coke by-product recovery plants, the prudent course of action is to withdraw the recent proposal pending more explicit guidance from USEPA. This action will leave the existing Subpart U rules intact. If future amendments or modifications are required for the existing rules, these can be addressed in subsequent action.

2. Heatset Web Offset - Agency's Proposed Amendment to the Definition of Volatile Organic Material.

Rules regulating heatset web offset ("HWO") printing were a part of the Agency's original regulatory proposal that initiated this rulemaking in 1982. Numerous merit hearings were conducted. Due to the complex issues involved in regulating this subcategory, a separate economic impact study ("EcIS") was prepared by the Department of Energy and Natural Resources ("DENR"). EcIS hearings were held. The Board proposed rules for first notice on August 10, 1984. During the first notice comment period, the Printing Industry of Illinois ("PII") requested an additional hearing. On May 30, 1985, the Board, as a vehicle for focusing unresolved issues, proposed different language based on the draft Control Techniques Guidelines ("CTG") for this category, and directed the matter to further hearings. At the written request of the PII, hearings were stayed pending certain regulatory developments purportedly relevant to this proceeding. First notice hearings were held on April 1 and 2, 1986, in Chicago. The final comment period ends September 30, 1986.

At the April 1, 1986, hearing, the Agency, for the first time, proposed a regulatory amendment to the current definition of 'volatile organic material' ("VOM") found at Section 215.104. The Agency proposed to add the following subsection to the existing definition of VOM (which is expressed in terms of vapor pressure at 294.3 K (70 F)):

- "c) Any organic materials which participate in atmospheric photochemical reactions or are measured by the applicable reference methods specified under any subpart of 40 CFR 60, unless specifically exempted from this definition."

The Agency testified that this change would only impact the HWO printers and that no other known industrial process or category would come under the proposed regulation (R. 3906-3908). This contention was questioned variously at hearing by the attending Board staff and the PII (R. 3908, 3911, 3914-3918).

The Board does not question the sincerity of the Agency's contention regarding this proposed amendment. However, it does believe that there may be some unintended impact beyond the scope of the Agency's review of industrial sources. The definition of VOM is a key term used throughout the Board's ozone control regulations. While not attempting to prejudge the issue, the Board believes that the proposed definitional change could have significant impact beyond the HWO printing category. Additionally, the proposal of this amendment creates certain procedural problems as it relates to the R82-14 HWO category. The proposed rules regulating HWO are in an advanced procedural stage. Numerous merit, EcIS and first notice hearings have been held and the comment record will close on September 30, 1986. But for the proposed redefinition of VOM, the factual record in this area is as fully developed as it can reasonably be. This matter is nearly ready for decision.

Other procedural issues that arise as a result of the Agency's proposed redefinition of VOM include whether sufficient notice and hearing have been provided in at least two counties; whether there was an adequate description in the notice provided for the April 1 and 2, 1986, hearings (at the time notice was provided, the Board had no knowledge of the Agency's planned redefinition of VOM which was presented at hearing on April 1, 1986); and whether a separate EcIS determination needs to be made regarding the Agency proposal.

In order to resolve these issues, the Board believes that the Agency's proposed redefinition of VOM must be separated from the R82-14 proceeding and docketed as a new proceeding. This will allow a thorough analysis with all the safeguards provided by the Environmental Protection Act and Administrative Procedures Act while not unduly delaying the proposed rules in the HWO category. Therefore, by the accompanying order, the Agency's proposed redefinition of VOM is docketed as a new regulatory proceeding and hearings are authorized.

ORDER

1. The proposed amendment to Section 215.500 which was directed to first notice on September 20, 1985, and published at 9 Ill. Reg. 17723, November 15, 1985, is hereby withdrawn. The Clerk of the Board is directed to file a Notice of Withdrawal of Proposed Amendment with the Secretary of State.
2. The proposed amendment to the definition of 'volatile organic material' found at Section 215.104 which was made by the Illinois Environmental Protection Agency on April 1, 1986, is hereby severed from the R82-14, RACT III, regulatory proceeding and is separately docketed as a new proceeding. Hearings are authorized in this matter.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Opinion and Order was adopted on the 14 day of September, 1986, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board