

ILLINOIS POLLUTION CONTROL BOARD
September 20, 1985

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

PROPOSED ORDER FIRST NOTICE

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

On August 26, 1985, the Illinois Environmental Protection Agency ("Agency") filed a motion to reopen the record in this regulatory proceeding in three areas. The Agency proposes to amend 35 Ill. Adm. Code 215.207, 215.500 and to add a new Subpart Z regulating petroleum dry cleaners. On September 18, 1985, Interlake, Inc., LTV Steel Company and National Steel Corporation ("Steel Industry") filed a memorandum in opposition to the Agency's motion to reopen the record. In a separate order, dated today, the Board grants the Agency's motion to reopen the record and directs the hearing officer to schedule hearings for the proposed Section 215.207 amendment and the new rules regulating petroleum dry cleaners. The Board, in the instant order, proposes the Agency's amendment to Section 215.500 for first notice.

The Steel Industry, in its memorandum in opposition to the Agency's motion to reopen the record, asserts that the Board lacks the authority to grant the Agency's request. The Steel Industry argues that "this Board may not reopen a proceeding subsequent to its adoption of a rule by final notice, ...even to consider new evidence..." citing Modine Mfg. Co. v. Pollution Control Board, 40 Ill. App. 3d 498, 351 N.E.2d 875 (1976) and Lloyd A. Fry Roofing v. Pollution Control Board, 46 Ill. App. 3d 412, 361 N.E.2d 23 (1977). In Modine, an adjudicatory variance, the court held that the Board did have the authority, under Section 5(d) of the Act, to hold an additional hearing. In the context of regulatory proceedings, the Board has broad authority to hold hearings under Section 28 of the Act. In Lloyd A. Fry Roofing Company, the court held that an administrative agency is not normally required to open a case record and consider new evidence, but that it is clearly within an agency's discretion. The Board finds that there is no legal prohibition to reopen the record. Additionally, the Steel Industry argues that under the Illinois APA, the Board is prohibited to alter a rule after second notice, except in response to JCAR objection or suggestions. The Board agrees that this is an accurate statement of the law. Today's action does not violate this law as the Board is proposing an amendment to an adopted rule by proceeding

to first notice. The Steel Industry's objection is noted but is not persuasive.

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, 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 20, 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 steel industry, 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 steel industry's assertion that the Board had 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 states that the effect of excluding Subpart K provisions from coke by-product recovery plants is to de-regulate the majority of emission sources. Since all three of the affected facilities are in nonattainment areas for ozone, the result is to allow an increase in emissions from these now unregulated sources.

The Board proposes to amend Section 215.500 today consistent with the Agency's proposed language and the original language proposed by the Board for first notice over a year ago. The Board will schedule a hearing in this matter in order to resolve the confusion regarding this section. The Board notes that part of the confusion is caused by the wording of the section, which is somewhat awkward. Hopefully, this problem can be corrected in second notice.

ORDER

The following amendment to 35 Ill. Adm. Code 215.500 is directed to first notice for publication in the Illinois Register:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 215
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

SUBPART A: GENERAL PROVISIONS

Section	
215.100	Introduction
215.101	Clean-up and Disposal Operations
215.102	Testing Methods
215.103	Abbreviations and Conversion Factors
215.104	Definitions
215.105	Incorporations by Reference
215.106	Afterburners

SUBPART B: ORGANIC EMISSIONS FROM STORAGE
AND LOADING OPERATIONS

Section	
215.121	Storage Containers
215.122	Loading Operations
215.123	Petroleum Liquid Storage Tanks
215.124	External Floating Roofs
215.125	Compliance Dates and Geographical Areas
215.126	Compliance Plan

SUBPART C: ORGANIC EMISSIONS FROM
MISCELLANEOUS EQUIPMENT

Section	
215.141	Separation Operations
215.142	Pumps and Compressors
215.143	Vapor Blowdown
215.144	Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section	
215.181	Solvent Cleaning in General
215.182	Cold Cleaning
215.183	Open Top Vapor Degreasing
215.184	Conveyorized Degreasing
215.185	Compliance Plan

SUBPART F: COATING OPERATIONS

Section	
215.202	Compliance Schedules
215.204	Emission Limitations for Manufacturing Plants
215.205	Alternative Emission Limitations

215.206 Exemptions from Emission Limitations
215.207 Internal Offsets
215.208 Testing Methods for Solvent Content
215.209 Exemption from General Rule on Use of Organic Material
215.210 Alternative Compliance Schedule
215.211 Compliance Dates and Geographical Areas
215.212 Compliance Plan
215.213 Special Requirements for Compliance Plan

SUBPART K: USE OF ORGANIC MATERIAL

Section
215.301 Use of Organic Material
215.302 Alternative Standard
215.303 Fuel Combustion Emission Sources
215.304 Operations with Compliance Program
215.305 Viscose Exemption (Repealed)

SUBPART N: VEGETABLE OIL PROCESSING

Section:
215.340 Hexane Extraction Soybean Crushing
215.342 Hexane Extraction Corn Oil Processing
215.344 Recordkeeping for Vegetable Oil Processes
215.345 Compliance Determination
215.346 Compliance Dates and Geographical Areas
215.347 Compliance Plan

SUBPART P: PRINTING AND PUBLISHING

Section
215.401 Flexographic and Rotogravure Printing
215.402 Exemptions
215.403 Applicability of Subpart K
215.404 Testing and Monitoring
215.405 Compliance Dates and Geographical Areas
215.406 Alternative Compliance Plan
215.407 Compliance Plan

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND POLYMER
MANUFACTURING

Section
215.420 General Requirements
215.421 Inspection Program Plan for Leaks
215.422 Inspection Program for Leaks
215.423 Repairing Leaks
215.424 Recordkeeping for Leaks
215.425 Reporting for Leaks
215.426 Alternative Program for Leaks

- 215.427 Compliance Dates and Geographical Areas
- 215.428 Compliance Plan

SUBPART R: PETROLEUM REFINING AND RELATED
INDUSTRIES; ASPHALT MATERIALS

- Section
- 215.441 Petroleum Refinery Waste Gas Disposal
- 215.442 Vacuum Producing Systems
- 215.443 Wastewater (Oil/Water) Separator
- 215.444 Process Unit Turnarounds
- 215.445 Leaks: General Requirements
- 215.446 Monitoring Program Plan for Leaks
- 215.447 Monitoring Program for Leaks
- 215.448 Recordkeeping for Leaks
- 215.449 Reporting for Leaks
- 215.450 Alternative Program for Leaks
- 215.451 Sealing Device Requirements
- 215.452 Compliance Schedule for Leaks
- 215.453 Compliance Dates and Geographical Areas

SUBPART S: RUBBER AND MISCELLANEOUS
PLASTIC PRODUCTS

- Section
- 215.461 Manufacture of Pneumatic Rubber Tires
- 215.462 Green Tire Spraying Operations
- 215.463 Alternative Emission Reduction Systems
- 215.464 Testing and Monitoring
- 215.465 Compliance Dates and Geographical Areas
- 215.466 Compliance Plan

SUBPART U: COKE MANUFACTURE AND
BY-PRODUCT RECOVERY

- Section
- 215.500 Exception
- 215.510 Coke By-Product Recovery Plants
- 215.512 Coke By-Product Recovery Plant Leaks
- 215.513 Inspection Program
- 215.514 Recordkeeping Requirements
- 215.515 Reporting Requirements
- 215.516 Compliance Dates
- 215.517 Compliance Plan

SUBPART W: AGRICULTURE

- Section
- 215.541 Pesticide Exception

SUBPART X: CONSTRUCTION

Section
215.561 Architectural Coatings
215.562 Paving Operations
215.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
215.581 Bulk Gasoline Plants
215.582 Bulk Gasoline Terminals
215.583 Gasoline Dispensing Facilities

SUBPART Z: DRY CLEANERS

Section
215.601 Perchloroethylene Dry Cleaners
215.602 Exemptions
215.603 Testing and Monitoring
215.604 Compliance Dates and Geographical Areas
215.605 Compliance Plan
215.606 Exception to Compliance Plan

Appendix A Rule into Section Table
Appendix B Section into Rule Table
Appendix C Past Compliance Dates
Appendix D List of Chemicals Defining Synthetic Organic
Chemical and Polymer Manufacturing

AUTHORITY: Implementing Section 10 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 $\frac{1}{2}$, pars. 1010 and 1027).

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601; Notice of Corrections at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R82-14 at 9 Ill. Reg. _____, effective _____, 1985.

SUBPART U: COKE MANUFACTURE AND
BY-PRODUCT RECOVERY

Section 215.500 Exception

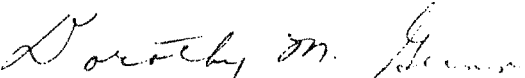
Except as provided in this Subpart, the provisions of Subpart K shall not apply to coke by-product recover plants.

(Source: Amended at 9 Ill. Reg. _____, effective _____, 1985).

IT IS SO ORDERED

Board Member J. Theodore Meyer dissented

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of September, 1985, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board