ILLINOIS POLLUTION CONTROL BOARD
September 9, 1993

IN THE MATTER OF:	)	
	)	
OMNIBUS CLEANUP OF THE VOLATILE	)	
ORGANIC MATERIAL RACT RULES	)	R93-9
APPLICABLE TO OZONE NONATTAINMENT	)	(Rulemaking)
AREAS: AMENDMENTS TO 35 ILL. ADM.	)	
CODE PARTS 203, 211, 218 AND 219.	)	

Adopted Rule. Final Order.

OPINION OF THE BOARD (by B. Forcade):[1]

On March 16, 1993, the Illinois Environmental Protection Agency (Agency) filed this proposal for rule making. The proposal represents one part of Illinois' submittal of a complete state implementation plan (SIP). Pursuant to section 182(a) of the Clean Air Act (CAA), as amended in 1990, Illinois was to adopt and submit its plan by November 15, 1992.

The Board's responsibility in this matter arises from the Environmental Protection Act (Act)(415 ILCS 5/1 et. seq. (1992)). The Board is charged therein to "determine, define and implement the environmental control standards applicable in the state of Illinois." (415 ILCS 5/5(b)(1992).) More generally, the Board's rule making charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rule making and principal adjudicatory functions, whereas the Agency is responsible for carrying out the principal administrative duties. The latter's duties include administering the regulations that are today proposed for amendment.

This proposal was filed pursuant to section 28.5 of the Act. (415 ILCS 5/28.5 (1992).) Pursuant to the provisions of that section the Board is required to proceed within the set timetable toward the adoption of the regulation. The Board has no discretion to adjust this timetable under any circumstances.

Today, by a separate order, the Board acts to adopt the proposed amendments.

[1] The Board wishes to acknowledge the special contribution made by Diane O'Neill, who served as hearing officer throughout this proceeding.

PROCEDURAL HISTORY

The Agency filed this proposal on March 16, 1993 along with a "Motion for Waiver of Requirements" with the proposal. The Agency requested waiver of the following requirements: that the Agency submit the original and nine copies of the original and nine copies of the entire regulatory proposal, that the Agency submit an entire copy of the proposal to the Attorney General and the Department of Energy and Natural Resources (DENR), that copies of the incorporations by reference be included with the proposal and that the Agency submit copies of all documents on which it relied. The Agency also requested that it be permitted to file an original plus five complete copies of the proposal and four partial copies (without supporting exhibits). The Board granted the Agency's motion.

The Board adopted the first notice opinion and order in this proceeding without comment on the substance of the rule on March 25, 1993. The Board made some minor changes to the proposed regulations at first notice to comport with filing requirements of the Administration Code Unit of the Secretary of State's Office.

The Board held two hearings in this matter pursuant to section 28.5 on May 7, 1993 and June 4, 1993. The record in this proceeding was closed on June 22, 1993, 14 days after the receipt of the transcript from the June 4, 1993, hearing.

On July 22, 1993, the Board adopted the second notice opinion and order and submitted the second notice to the Joint Committee on Administrative Review (JCAR). A certification of no objection was received on August 30, 1993.

DISCUSSION

The proposed regulation amends Part 203, "Major Stationary Sources Construction and Modification," Part 211, "Definitions and General Provisions," Part 218, "Organic Material Emissions Standards and Limitations for the Chicago Area" and Part 219, "Organic Material Emission Standards and Limitations for the Metro East Area." Parts 218 and 219 meet the CAA requirement for states to submit a revision to the SIP that includes corrections to existing reasonably available technology (RACT) rules controlling emissions of volatile organic materials (VOM) in ozone nonattainment areas. The United States Environmental Protection Agency (USEPA) has found these rules approvable contingent on certain corrections. The proposal makes the changes required for USEPA approval. The Agency has also proposed other changes to correct errors and areas of awkwardness. Inclusion of Parts 203 and 211 are necessary to make the SIP submittal complete.

Changes to the proposed regulation were suggested at the hearings and in comments submitted to the Board. The Board will first summarize the testimony presented at hearing and the comments submitted to the Board. Details of the proposed changes will be discussed later in the opinion, section by section.

The Agency presented testimony in support of the proposal at the May 7, 1993 hearing from Mr. Christopher Romaine of the Agency. Mr. Romaine is the Manager of the New Source Review Unit of the Permit Section of the Division of Air Pollution Control. He notes that the USEPA has indicated approval of Parts 218 and 219 contingent on the State making certain corrections. The proposal is intended to accomplish all the necessary changes and address USEPA's concerns. He noted that the majority of changes involve grammar, punctuation, choice of wording, and proper regulatory format. (Tr. at 15.) In the proposal, the Agency altered the use of the terms "plant", "source", "unit" and "facility" to make the use of these terms consistent with the air programs. (Tr. at 16.) "Source" is used to refer to the entire site or complex. (Tr. at 16.) A "unit" refers to a piece of equipment or specific activity that is subject to an actual emission limit. (Tr. at 16.) The Agency notes that the use of these terms is consistent with the Clean Air Act. (Tr. at 19.) The definitions previously contained in Parts 218 and 219 have been moved to Part 211. (Tr. at 20.) Each definition has been given its own section number. (Tr. at 21.)

The Agency also presented an errata sheet at the hearing indicating corrections to be made due to errors and omissions in the proposal. (Exh. 1.) The errata sheet also added the citations for the Boiler and Industrial Furnace (BIF) and Resource Conservation Recovery Act (RCRA) rules to sections 218.429(g) and 219.429(g). (Tr. at 13 & 24.) The Agency also added the words "federally enforceable permit" to subparts PP, QQ, RR and TT of Parts 218 and 219. (Tr. at 13 & 24.) The Board will make the changes to the proposal as indicated on the errata sheet.

Mr. Jerry Ledwig testified on behalf of the Illinois Environmental Regulatory Group (IERG) in support of the proposal at the June 4, 1993 hearing. He noted that the informal negotiations prior to the filing of the proposal resulted in the initial issues of controversy being discussed and resolved. (Tr. at 48.) He recommended changes to several sections of the proposal mainly for the purpose of clarification. IERG notes that in sections 218.986 and 219.986, newly added subsections (d) and (e) need to be referenced in the general language of these sections. (Tr. at 51.) Similarly, reference to subsection (c) needs to be included in the general language of 218.966 and 219.966. (Tr. at 51.)

At hearing the Agency stated that it was in agreement with the corrections and additions presented by IERG. (Tr. at 57.) However, the Agency proposed that the Board not accept the addition of an omitted word to section 219.103. (PC 9 at 3.) The Agency contends that section 219.103 is not open in this docket and any change would require the Board going back to First Notice. (PC 9 at 3.) IERG filed a post-hearing comment stating that it agreed with the Agency and agreed to the postponement of this correction. (PC 13 at 1.) The Board will not adopt the correction proposed by IERG to 219.103 but leaves this correction to be made in another proceeding. The Board will add the word "Environmental" to section 218.103(a).

The Board received 13 comments in this matter. Comment #1 is from the Department of Commerce and Community Affairs and notes that the department has determined that the proposal will not have a negative impact on small business. Comment #2 is from Spectrulite Consortium (Spectrulite) and notes a typographical error in section 219.211(c)(2). Comment #3 is from the Code Division of the Secretary of State's Office and notes errors and changes to be corrected prior to second notice. The Board will make the corrections recommended by the Secretary State's Office. Comment #4 is from the James River Paper Company Inc., Handi-Kup Division (Handi-Kup) and recommends a modification to section 218.980(e) for clarification. Comment #5 is from the Society of Plastics Industry (SPI) and requests clarification of section 218.980(e). Comment #6 was filed by the American Automobile Manufacturers Association (AAMA). AAMA suggests modifications to several definitions and other sections of the proposal. (PC 6.)

The Board also received comments from Bennett Industries (PC 7) and the City of Chicago (PC 8) supporting the proposal as submitted by the Agency. The Agency filed its comments on the proposed changes and included a listing of the changes it recommends to the proposal. (PC 9.) R.R. Donnelley & Sons (Donnelley) and the Printing Industries of Illinois and Indiana (PII) filed comments on the notice requirements found in sections 218.105 and 219.105. (PC 10.)

Clear Lam Packaging, Inc. (Clear Lam) which operates a facility in Elk Grove Village, Illinois, filed a comment urging consideration of alternatives to line-by-line capture efficiency testing. (PC 11.) Clear Lam argues that line-by-line testing will interfere with production and that the testing is costly. (PC 11 at 2.) Clear Lam notes that the USEPA is studying alternate capture efficiency methods. (PC 11 at 4.) Clear Lam suggests adopting a compliance date consistent with federal requirements to at least July 1, 1993, and thereafter as extended. (PC 11 at 4.)

Minnesota Mining & Manufacturing Company (3M), which manufactures pressure sensitive tapes and adhesives at a facility

in Bedford Park, Illinois, filed a comment suggesting additional consideration of the capture efficiency protocols. (PC 12.) 3M urges consideration of alternatives to line-by-line capture efficiency testing. (PC 12 at 3.) 3M notes that additional discussion with the Agency is needed in this area. (PC 12 at 4.) 3M further notes that it may be necessary to pursue relief in a separate proceeding at a later date. (PC 12 at 4.)

The Board notes that neither Clear Lam nor 3M presented alternate language for testing requirements. As noted by 3M this is a concern that requires additional discussion between the regulated community and the Agency. Therefore, the Board will proceed with the language as proposed by the Agency and leave any modification for future rule makings or a separate proceeding.

The Board notes that comments 9 through 13 were filed with the Board on the last day of the comment period. These comments were timely filed and will be considered by the Board. However, because these comments were filed at the end of the comment period, other interested parties, especially the Agency, are unable to comment on the issues raised by these comments. The Board also notes that many of the comments raise issues that were not previously presented at hearing. The Board maintains that the rule making process works best where all aspects of a particular issue are addressed on the record. Therefore, the Board encourages the filing of comments early in the comment period. The Board also strongly suggests that issues be raised at hearing and not during the comment period, whenever possible.

The Board notes that on May 20, 1993, an emergency rule was adopted to amend section 219.586(d). (In the Matter of: Emergency Rule Amending the Stage II Gasoline Vapor Recovery Rule in the Metro-East Area, 35 Ill. Adm. Code 219.586(d), (May 20, 1993), R93-12.) The emergency rule extended the compliance deadline for stage II vapor recovery for facilities in the Metro-East area that commenced construction after November 1, 1990. The compliance date was extended from May 1, 1993 to October 1, 1993. This emergency rule became effective on May 24, 1993, and will expire on October 21, 1993.

The Agency's rule making proposal also recommended changes to section 219.586 but was not intended to adopt or amend the change made in the emergency rule. Adoption of this section as proposed would have the effect of superseding the emergency rule. This was not the intent of this rule making and the emergency rule was not raised during any of the hearings or in any of the comments submitted during the comment period. In order to eliminate any possible effect on the emergency rule, the Board will adopt the amendments to section 219.586 recommended in this proposal but will specify an effective date of October 21, 1993 in the source note of this section. Therefore, the proposed amendments to section 219.586 will not be effective until after

the emergency rule has expired and the emergency rule will not be affected by the adoption of these amendments. The amendments to Parts 203, 211, 218 and 219 with the exception of section 219.586 will be effective as filed with the Code Unit of the Secretary of State's Office.

The Board will also add the following Board note to section 219.586:

> 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 rule became effective on May 24, 1993 and shall expire on October 21, 1993.

The Board also made several nonsubstantive changes in response to comments from JCAR. These changes are incorporated in the Board's order. Other than the changes approved by JCAR, the language adopted today is the same as the language proposed at second notice.

The participants in this proceeding were in general agreement with the proposal. For the most part, in areas where there was disagreement, an agreement was worked out between the parties.

Many of the changes recommended are minor and need not be listed in this opinion. However, the Board will note some of the more substantial changes but will not discuss these changes. Sections 211.3070, 211.3090, 211.3110, 211.3130 and 211.3150 were rearranged and renumbered so that the sections are in alphabetical order. Sections 218.926(c), 218.946(b), 218.966(b) and 218.986(c) provide for approval of alternate control plans by the Agency and approval by the USEPA as a SIP revision. Approval through a "federally enforceable permit" was added to these sections. The same language was also added in the related sections in Part 219. A paragraph of the exemptions for the control requirements in subparts PP, RR and QQ of both Parts 218 and 219 was added in each subpart. The exemption for all subparts was previously only found in subpart TT.

The Agency opposes some of the changes to the definitions contained in Part 211 recommended by AAMA. For some definitions the Agency has proposed alternate language to address the concerns presented by AAMA. AAMA has also suggested changes to Parts 218 and 219 regarding compliance dates, exemptions, record keeping and reporting. The Agency opposes these changes. AAMA also asks the Board to allow for reconsideration of measurement protocols found in section 218.105 should USEPA issue final guidance or final rules in this area.

Donnelley and PII recommend removing the USEPA from the notice and approval requirements found in 218.105 and 219.105. Donnelley also notes that 219.105(c)(1)(B)(ii) applies only to its facility in Chicago and therefore, should not be included in the regulations pertaining to the Metro-East area. Donnelley and PII contend that the term "construction" should be deleted from the phrase "federally enforceable construction permit" in sections 218.402(a)(2) and 219.402(a)(2). The Board will delete the term "construction" as requested because this term was deleted from similar sections in the proposal. The other issues presented by Donnelley and PII are discussed later in the opinion under the relevant section.

The discussion following is a section by section analysis of the significant changes recommended as well as a discussion of the areas in contention.

PART 211

Section 211.610

AAMA contends that the definition for "automobile" is too broad and proposes adding "which has four wheels, is used predominately for carrying less than 12 passengers and is not a light-duty truck" to the definition in the proposal. (PC 6 at 2.) AAMA notes that without this additional language the definition could include trucks or motorcycles. (PC 6 at 2.)

The Agency agrees with AAMA's modification to this definition but recommends further refinement to include three wheel vehicles. (PC 9 at 6.) The Agency further recommends that "12 or fewer" be used to designate the passenger capacity of the vehicle. (PC 9 at 6.)

The Board will modify this definition in accordance with the recommendation presented by AAMA as modified by the Agency.

Section 211.630

AAMA requests that the word "eventual" be deleted from this definition. (PC 6 at 2.) AAMA notes that the definition as proposed would draw into the regulatory scheme all parts manufacturing operations, which may be already regulated elsewhere. (PC 6 at 2.)

The Agency is in agreement with this proposed change (PC 9 at 6) and the Board will make the change as requested.

Section 211.690

AAMA notes that the definition of "day" in the proposed amendments is not consistent with the definition of "day" found in the Federal Model RACT Rules. (PC 6 at 3.) The proposal defines "day" as "the consecutive 24 hours beginning at 12:00 a.m. (midnight) local time." (PC 6 at 3.) The Federal Model RACT Rules define "day" as "a period of 24 consecutive hours beginning at midnight local time, or beginning at a time consistent with a facility's operating schedule." (PC 6 at 3.)

AAMA contends that emissions or compliance calculations conducted by industries which operate on shifts may have to be prorated if the shift is not completed by the end of the 24 hour period. (PC 6 at 3.) The need to prorate such calculations can be avoided if "day" is defined consistently with the facilities operating schedule. (PC 6 at 3.)

The Agency suggests alternative language for the definition of day. (PC 9 at 7.) The Agency notes that the definition should be limited to Parts 218 and 219 and procedures added to maintain enforceability. (PC 9 at 7.) The Agency proposes the following language:

> "Day" means for purposes of Part 218 or Part 219, the consecutive 24 hours beginning at 12:00 a.m. (midnight) local time or beginning at a fixed time consistent with the source's operating schedule, as provided below. A source may use a day beginning at a time other than midnight which is consistent with its operating schedule provided that the owner or operator of the source first notifies the Agency in writing of such alternative, describing why it would be more reasonable to maintain records on this basis. The owner or operator shall notify the Agency in writing prior to any change in the time at which a day begins.

(PC 9 at 7.)

The Board will accept the proposed language submitted by the Agency.

Section 211.1930

AAMA contends that the proposed definition of emission rate is too narrow and restricts the source owner or operator to hourly emission rates. (PC 6 at 4.) AAMA requests that "one-hour" be replaced with "in a particular time period" in the following definition:

> "Emission rate" means, if not otherwise stated in a specific provision, the total quantity of a particular specified air contaminant discharged into the atmosphere in any one-hour period. For example, if not

> otherwise specified in 35 Ill. Adm. Code 218 or 219, emission rate means the total quantity of volatile organic material discharged into the atmosphere in any one-hour period.

(PC 6 at 4.)

AAMA contends that this change will allow the use of other emission measurement time-frames. (PC 6 at 4.)

The Agency opposes this change and considers the change unnecessary. (PC 9 at 8.) The Agency contends that the definition does not limit the time period for measurements to a one-hour period and that the time period for measurements is controlled by testing and monitoring methodology. (PC 9 at 8.) The Agency also maintains that the change would damage the enforceability of existing emission standards where a compliance time period is not explicitly stated. (PC 9 at 8.) The Agency notes that the USEPA has found the changes as proposed by the Agency acceptable. (PC 9 at 9.)

The Board finds the change as suggested by AAMA unnecessary and therefore will not make the suggested change.

Section 211.2210

AAMA requests that "exposure to high impact" be added to the definition of "extreme performance coating" in the proposal. (PC 6 at 4.) AAMA contends that this addition is consistent with USEPA's original CTG for miscellaneous metal parts coatings. (PC 6 at 4.) AAMA notes that the bumper of the automobile receives a coating to protect it from high impact and that this coating should be recognized as an "extreme performance coating." (PC 6 4.)

The Agency opposes the change to this definition proposed by AAMA. (PC 9 at 9.) The Agency notes that coatings applied to automobiles already qualify as "extreme performance coatings." (PC 9 at 10.) Further, the Agency notes that there are no standard approaches to distinguish high impact and that the USEPA has not recognized "exposure to high impact" as a distinct criterion. (PC 9 at 10.)

The Board will not add "exposure to high impact" to the definition of "extreme performance coating" as this term is not defined in the regulation.

Section 211.4870

IERG proposes deleting the word plant from the definition of "polystyrene plant" and proposes a new definition. (Tr. at 49.) IERG suggests the following definition: "polystyrene plant means

any collection of process units and associated storage facilities at a source engaged in using styrene to manufacture polystyrene resin." (Tr. at 49.)

The Agency is in agreement with the change in definition suggested by IERG (PC 9 at 4) and the Board will make this change to the proposal.

Section 211.6310

AAMA suggest that the definition of "start-up" be modified to exclude trial functioning or cycling of equipment of facilities for the purpose of alignment, checking leaks, the setting of parameters, "debugging" etc., as part of the start-up process and should only include start-ups for the purpose of producing saleable items. (PC 6 at 5.) AAMA requests that the following definition be adopted:

> "Start-up" means the setting in operation of a source or of its control or emission monitoring equipment for the purpose of or in connection with the production of products, but excludes brief periods of operation for the purpose of functioning, aligning or optimizing equipment performance, and excluding delay that is beyond the reasonable control of the owner or operator.

(PC 6 at 5.)

The Agency opposes the change to the definition of "start-up". (PC 9 at 10.) The Agency notes that the only change in this definition was the substitution of "emission unit" for "emission source". (PC 9 at 10.) The Agency argues that the proposed change could be broad, reaching beyond the automobile industry and such implications have not been addressed in this proceeding. (PC 9 at 10.)

The Board finds that the implications of the change proposed by AAMA have not been fully addressed in this proceeding and that the record does not support the change in definition. Therefore, the Board will not make the proposed change.

Section 211.6550

IERG proposed a change to the definition of "synthetic organic chemical or polymer manufacturing plant". IERG proposed replacing "chemicals or polymers" with "one or more of the chemicals or polymers listed in 35 Ill. Adm. Code 215, Appendix D". (Prefiled testimony of J. Ledwig at 3.) However, after discussions with the Agency, IERG notes that it now supports the definition as proposed. (Tr. at 49.)

The Agency lists a change to this section based on IERG comments. (PC 9, Attachment A at 5.) However, the change listed is different than that proposed by IERG. The Board will not change this definition because IERG has withdrawn its support for the change at hearing and supports the definition as proposed by the Agency.

Section 211.6670

AAMA suggests the definition of "topcoat" be modified to state what "topcoat" is, rather than what "topcoat" is not. (PC 6 at 6.) The following alternate definition is proposed:

> "Topcoat" is the surface coating applied for the purpose of establishing the color and/or surface quality, including at least one color and zero or multiple clear coats.

(PC 6 at 6.)

The Agency opposes the proposed change to the definition of "topcoat". (PC 9 at 11.) The Agency argues that "topcoat" is generally recognized as being limited to automobile and light-duty truck coating. (PC 9 at 11.) The Agency questions whether the definition proposed by AAMA distinguishes topcoat from final repair coat. (PC 9 at 11.)

The Board will not change the definition of "topcoat." The Board notes that the Agency did not propose any change to the definition of topcoat, but only moved the existing definition from section 218.104 and 219.104.

PART 218

Section 218.105

AAMA notes that none of the four protocols for measurement delineated in section 218.105(c)(2) and Appendix B of Part 218 are reasonably applicable to an automotive coating operation. (PC 6 at 6.) On December 29, 1992, the USEPA published notice of the availability of draft revised test method protocols at 57 Fed. Reg. 61897. (PC 6 at 6.) AAMA requests the opportunity to move for reconsideration of this section should USEPA issue final guidance or final rules incorporating protocol applicable to automobile coating operations. (PC 6 at 7.)

The Agency argues that AAMA's request for an opportunity for reconsideration is beyond the scope of the proposal and also is procedurally inappropriate. (PC 9 at 11.) The Agency also notes that it has stated on the record that when there are final test methods and protocols for measuring capture efficiency, the

Agency will propose amendments to the appropriate sections. (PC 9 at 11, Tr. at 28.)

The Board denies AAMA's request for an opportunity for reconsideration of the measuring protocols in section 218.105(c) if USEPA should issue final guidance or rules. The Board finds that any changes in measuring protocols would need to be addressed in a new rule making procedure and reconsideration of adopted rules is not permitted by the Board's procedural rules. The Board notes that after the beginning of the second notice period, no substantive changes can be made to the proposed regulation, except in response to objections or suggestions from the Joint Committee on Administrative Rules. (35 Ill. Adm Code 102.343.) Accordingly, reconsideration of a regulation after second notice or adoption is not possible except by filing a proposal for a new rule making.

Donnelley and PII note that 218.105(d)(3)(A) requires notification to both the Agency and the USEPA of monitoring equipment failure and 218.105(d)(3)(D) requires the filing of a report of the malfunction to both the Agency and the USEPA. (PC 10 at 2.) Donnelley argues that requiring notification to two separate agencies is unnecessary. (PC 10 at 2.) They contend that such notices and reports should only be submitted to the Agency and that "USEPA" should be deleted from the applicable sections. (PC 10 at 2.)

Donnelley and PII have included an April 29, 1993, letter from the Agency supporting the deletion of "USEPA" from the notification requirements of sections 218.105(d)(3)(A) and 218(d)(3)(D). (See PC 10, attachment 1.)

The Board perceives the letter from the Agency as an indication that the Agency is in agreement with the deletion of the term "USEPA" from those required to receive notification in the indicated sections of the proposal. Therefore, the Board will make this change to the regulation.

Donnelley and PII also note that approval is required by both the Agency and the USEPA in 218.105(c)(1)(B)(i), 218.105(d)(2)(A) and 218.105(d)(3)(C) for the use of averaging times, monitoring equipment, or operating conditions that are different than those specified in the regulations. (PC 10 at 2.) For example, proposed section 218.105(d)(3)(C) provides, "The period of such adsorber operation does not exceed 360 hours in any calendar year without the approval of the Agency and USEPA". Donnelley and PII argue that requiring a company to obtain two separate approvals from two independent regulatory bodies is unduly burdensome and could result in conflicting decisions. (PC 10 at 3.)

Donnelley and PII also suggest a revision to allow the Agency to grant approvals as conditions to new or modified federally enforceable state operating permits. (PC 10 at 3.) They contend that this would allow for joint agency review without requiring the regulated community to obtain two separate approvals. (PC 10 at 3.) Donnelley and PII state that the Agency has proposed similar amendments. (PC 10 at 3.) The Agency has proposed amending sections 218.926(c), 219.926(c), 218.946(b), 219.946(b), 218.966(b), 219.966(b), 218.986(c) and 219.986(c) which initially required approval of alternative control plans by the Agency and "USEPA as a SIP revision" to now require approval by the Agency and "USEPA in a federally enforceable permit or SIP revision". Donnelley and PII assert that this amendment proposed by the Agency is similar to the changes requested for section 218.105 and that corresponding changes should be made.

As the Board previously noted, this comment was filed on the last day of the comment period, so the Agency has not responded to the issues raised by Donnelley and PII regarding approval by USEPA in sections 218.105.

The Board finds that the language employed in this section is consistent with permitting requirements found in section 39.5 of the Act and in other sections of the regulations. Therefore, this requirement is not unduly burdensome.

Section 39.5 of the Act establishes the Clean Air Act Permit Program. (415 ILCS 5/39.5 (1992).) This section gives the Agency the authority to grant permits providing the USEPA has not objected to the issuance of the permit. (415 ILCS 5/39.5(a)(10)(A)(vi) (1992).) Under the permit program, the Agency provides a copy of the permit application and supporting information to the USEPA. (415 ILCS 5/39.5 (a)(9)(A) (1992).) The USEPA may object to the issuance of the permit and the Agency may not issue the permit until the objection has been resolved. (415 ILCS 5/39.5 (a)(9)(F) (1992).)

While the contested regulatory language does not state the form of "approval" from the Agency and the USEPA, the Board interprets this language, essentially, as not intended to be inconsistent with the section 39.5 statutory provisions regarding the role of the Agency and the USEPA in the issuance of a federally enforceable permit. The Agency has not articulated any other "approval" process than that contemplated in section 39.5 permit issuance.

Therefore, the Board will not delete the requirement of USEPA approval from these sections as requested by Donnelley and PII.

Section 218.106

AAMA requests that the compliance dates be modified as many of the changes proposed impose requirements on sources not previously covered by the rules. (PC 6 at 8.) AAMA proposes a deadline of May 5, 1995, as provided for in the Clean Air Act. (PC 6 at 8.) However, AAMA notes that the extension should be conditioned upon the owner or operator demonstrating that the extension is necessary due to equipment or process changes needed to meet the change in requirements. (PC 6 at 8.) In support of this modification AAMA references the compliance requirements found in sections 218.105(d)(2)(B) and 218.211(f)(3). (PC 6 at 8.)

The Agency notes that it has represented that compliance with these sections will be expected when the new provisions become effective. (PC 9 at 12.) The Agency opposes changes to the compliance dates, as such changes would complicate the section, making it cumbersome and confusing. (PC 9 at 12.)

The Board will not extend the compliance dates as established in the proposal.

Section 218.108

AAMA suggests that the section 218.108 be modified to avoid the added burden of USEPA approval of any exemptions, variations or alternatives from the more stringent requirements. (PC 6 at 9.)

The Agency notes that this section is not open in this proceeding and therefore AAMA cannot propose changes to the section. (PC 9 at 10.)

The Board will not make any changes to this section because this section is not open in this proceeding.

Section 218.211

AAMA proposes changing the requirement in section 218.211(f)(3) that daily VOM compliance calculations be maintained "at the source" to "at a easily accessible location." (PC 6 at 12.) AAMA believes that this change is necessary to account for information retained electronically. (PC 6 at 12.)

The Agency opposes this change. (PC 9 at 13.) The Agency notes that the intent of this section is to provide an inspector with access to the records necessary for the inspection. (PC 9 at 13.) The Agency argues that the proposed change could interfere with the ability of the inspector to have access to the records necessary for the inspection. (PC 9 at 13.)

The Board will not make the change as requested by AAMA. The Board finds that the inspections by the Agency could be limited if necessary information is not readily available.

AAMA also proposes that "day" in section 218.211(f)(4) be replaced with "working day." (PC 6 at 12.) This provision requires the reporting of a violation by sending a copy of the record to the Agency within 15 days from the end of the month in which the violation occurred. (PC 6 at 12.) AAMA contends that while 15 days may appear to provide adequate time, the loss of time due to weekends or holidays could interfere with timely reporting. (PC 6 at 12.)

The Agency contends that this change is not appropriate. (PC 9 at 13.) The Agency argues that prompt notification should be made regardless of whether the plant is operating on specific days. (PC 9 at 13.)

The Board will not change "day" to "working day" in this section. The Board finds that the 15 days should provide a sufficient period of time to report the violation.

Section 218.980

IERG contends that the Agency inadvertently included "sources" following combustion fuel in section 218.980(e). (Tr. at 50.) IERG maintains that the term should be "units" to remain consistent with the Agency's use of the terms. (Tr. at 50.)

This section provides an exemption to the control requirements of Subparts PP, QQ, RR and TT for specified sources. Handi-Kup asserts that under the proposal, blending and preliminary expansion operations in the production of polystyrene foam packaging would no longer be exempt. (PC 4 at 2.) Handi-Kup suggest adding language to this provision to clarify that "storage and extrusion of scrap where blowing agent is added to polystyrene foam resin at the source" is excluded from the exemption. (PC 4 at 3.)

SPI requests clarification of the language of the provision. (PC 5 at 1.) SPI also notes that proposals to regulate emissions at the preliminary expansion (or pre-expansion) stage should be flexible to allow an owner or operator to select other types of pollution or emission controls. (PC 5 at 2.)

The Agency agrees with the recommendations presented by IERG and Handi-Kup. (PC 9 at 3 & 4.) The Agency notes that its intent in this rule is to control blending, preliminary expansion, or blending and preliminary expansion. (PC 9 at 5.) Additionally, the Agency notes that while this is more stringent than what SPI would prefer, flexibility is provided for in the Illinois

regulatory system through the use of adjusted standards or site-specific rules. (PC 9 at 5.)

The Board will make the changes noted by IERG and Handi-Kup to this section but will not make any additional changes to this section.

Section 218.966 and Section 218.986

IERG requests clarification of the shutdown language in sections 218.966(c)(1) and 218.986(e)(1). (Tr. at 53.) IERG requests the following amendment: "Repair any component. . ., unless the leaking component cannot be repaired until the next process until shutdown, in which case. . ." IERG also requests that a compliance date of March 15, 1995, be added to these sections. (Tr. at 52.)

The Agency has no objection to these amendments (PC 9 at 3) and the Board will add the proposed language in the order.

PART 219

Section 219.105

Donnelley and PII note that 219.105(d)(3)(A) and 219.105(d)(3)(D) requires notification to both the Agency and the USEPA of monitoring equipment failure. (PC 10 at 2.) Approval from both the Agency and the USEPA is required by sections 219.105(c)(1)(B)(i), 219.105(d)(2)(A) and 219.105(d)(3)(C). (PC 10 at 2.) Donnelley and PII argue that requiring notification to two separate agencies and joint approval is unnecessary and unduly burdensome. (PC 10 at 2.) They contend that such notices and reports should only be submitted to the Agency and that "USEPA" should be deleted from the applicable sections. (PC 10 at 2.) They also suggest a revision to allow the Agency to grant approvals as conditions to new or modified federally enforceable state operating permits. (PC 10 at 3.) This would allow for joint agency review without requiring the regulated community to obtain two separate approvals. (PC 10 at 3.)

The Board notes that these are the same changes that were recommended for section 218.105. The Board will make the changes to this section similar to the changes made to section 218.105. USEPA will be deleted from the notification requirements found in sections 219.105(d)(3)(A) and 219.105(d)(3)(D). The Board will not make any changes to the approval requirements.

Donnelley and PII also contend that section 219.105(c)(1)(B)(ii) should be deleted because the facility is located in Chicago and therefore the rule should not appear in the rules for the Metro East area. (PC 10 at 5.) After deleting

this section the remaining sections would need to be renumbered. (PC 10 at 5.)

The Board will delete this section and renumber the remaining sections accordingly.

Section 219.106

AAMA notes that its comments on section 218.106 are also applicable to section 219.106. (PC 6 at 12.) Based on the comments presented on section 218.106, the Board will not extend the compliance dates of the proposed regulation.

Section 219.108

AAMA notes that its comments on section 218.108 are also applicable to section 219.108. (PC 6 at 12.) However, because this section was not open in this proceeding the Board will not make any changes to this section.

Section 219.211(c)(2)

This section, as stated in the proposal, reads in part as follows:

> On and after a date consistent with section 219.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject ~~coating line subject to the limitations of Section 219.204 and complying by means of Section 219.204~~ shall collect . . .

Spectrulite contends that "coating line" should not be removed from this section. (PC 2 at 2.) Spectrulite notes that "coating line" was not stricken from similar language found in section 218.211(c)(2) and that the provision as amended is not clear. (PC 2 at 2.)

The Agency agrees that "coating line" was inadvertently struck through. (PC 9 at 4.) The Board will remove the strike through from this term.

Section 219.966 and Section 219.986

IERG requests clarification of the shutdown language in sections 219.966(c)(1) and 219.986(e)(1). (Tr. at 53.) IERG requests the following amendment: "Repair any component. . ., unless the leaking component cannot be repaired until the next process unit shutdown, in which case. . ." IERG also requests that a compliance date of March 15, 1995 be added to these sections. (Tr. at 52.)

The Agency has no objection to these amendments (PC 9 at 3) and the Board will add the proposed language.

Section 219.980

IERG contends that the Agency inadvertently included sources following combustion fuel in section 219.980(e). (Tr. at 50.) IERG maintains that the term should be "units" to remain consistent with the Agency's use of those terms. (Tr. at 50.)

The Agency does not oppose this change (PC 9 at 3) and the Board will make this change to the proposal.

CONCLUSION

This proposal is necessary to insure USEPA approval of a state implementation plan under the Clean Air Act Amendments of 1990. The Agency's proposal includes economic information, technical review and indicates that the proposal is approvable. The participants in this proceeding indicated that there was general agreement and support of the proposal. The Board finds that the record supports proceeding to final notice on the proposal with the amendments as noted in this opinion. The Board hereby adopts this proposal as amended for final notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion was adopted on the 9th day of September, 1993, by a vote of 7-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board