**Section 212.461 Grain-Handling and Drying in General**

a) Sections 212.302(a), 212.321, and 212.322 of this Part shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.

b) Housekeeping Practices. All grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:

1) Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.

2) Cleaning and Maintenance.

A) Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.

B) Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.

C) The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.

3) Dump Pit.

A) Aspiration equipment shall be maintained and operated.

B) Dust control devices shall be maintained and operated.

4) Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.

5) Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.

6) Housekeeping Check List. Housekeeping check lists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.

c) Exemptions. Any grain-handling operation for which construction or modification commenced prior to June 30, 1975, having a grain through-put of not more than 2 million bushels per year and located inside a major population area and any grain-handling operation or grain-drying operation for which construction or modification commenced prior to June 30, 1975, located outside of a major population area which is required to apply for a permit pursuant to Sections 212.462 and 212.463 of this Subpart, respectively, shall receive such permit notwithstanding the control requirements of those respective rules provided said operation can demonstrate that the following conditions exist upon application for, or renewal of, an operating permit:

1) The requirements of subsection (b) of this Section are being met; and

2) No certified investigation is on file with the Agency indicating that there is an alleged violation prior to issuance of the permit.

A) If a certified investigation is on file with the Agency indicating an alleged violation, any applicant may obtain an exemption for certain operations if said applicant can prove to the Agency that those parts of his operation for which he seeks exemption are not the probable cause of the alleged violation.

B) Applicants requesting an exemption in accordance with the provisions of subsection (c)(2)(A) of this Section may be granted an operating permit for a limited time, not to exceed twelve (12) months in duration, if an objection is on file with the Agency on which a certified investigation has not been made prior to issuance of the permit.

C) An applicant may consider denial of an exemption under this rule as a refusal by the Agency to issue a permit. This shall entitle the applicant to appeal the Agency's decision to the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

d) Loss of Exemption. Any grain-handling operation or grain-drying operation for which construction or modification commenced prior to June 30, 1975, that has received an operating permit pursuant to the provisions of subsection (c) of this Section shall apply for an operating and/or construction permit pursuant to 35 Ill. Adm. Code 201 within sixty (60) days after receipt of written notice from the Agency that a certified investigation is on file with the Agency indicating that there is an alleged violation against the operation. The construction permit application shall include a compliance plan and project completion schedule showing the grain-handling operation's program or grain-drying operation's program for complying with the standards and limitations of Section 212.462 or 212.463 of this Subpart as the case may be, within a reasonable time after the date on which notice of a certified investigation indicating alleged pollution was received by said operation; provided, however, any such operation shall not be required to reduce emissions from those parts of the operation that the applicant can prove to the Agency are not the probable cause of the pollution alleged in the certified investigation.

1) The written notice of loss of exemption is not a final action of the Agency appealable to the Board.

2) Denial of a permit requested pursuant to this subsection is a final action appealable to the Board under Section 40 of the Act [415 ILCS 5/40].

e) Circumvention. It shall be a violation of this regulation for any person or persons to attempt to circumvent the requirements of this regulation by establishing a pattern of ownership or source development which, except for such pattern of ownership or source development, would otherwise require application of Section 212.462 or 212.463 of this Subpart.

f) Standard on Appeal to Board. In ruling on any appeal of a permit denial under subsection (c) or (d) of this Section, the Board shall not order the permit to be issued by the Agency unless the applicant who has appealed the permit denial has proved to the Board that the grain-handling operation or grain-drying operation which is the subject of the denied application is not injurious to human, plant or animal life, to health, or to property, and does not unreasonably interfere with the enjoyment of life or property.

g) Alternate Control of Particulate Emissions.

1) Grain-handling or grain-drying operations, which were in numerical compliance with Section 212.322 of this Part, as of April 14, 1972, and continue to be in compliance with Section 212.322 of this Part need not comply with the provisions under this Subpart, except the housekeeping practices in this subsection and subsection (b) of this Section.

2) Grain-handling or grain-drying operations, which were not in numerical compliance with Section 212.322 of this Part, as of April 14, 1972, but which came into compliance with Section 212.321 of this Part prior to April 14, 1972, and continue to be in compliance with Section 212.321 of this Part need not comply with the provisions under this Subpart, except the housekeeping practices in this subsection and in subsection (b) of this Section.

3) Proof of compliance with said rule shall be made by stack sampling and/or material balance results obtained from actual testing of the subject emission unit or process and be submitted at the time of an application for, or renewal of, an operating permit.

h) Severability. If any provision of these rules and regulations is adjudged invalid, such invalidity shall not affect the validity of this 35 Ill. Adm. Code, Subtitle B, Chapter I as a whole or of any Part, Subpart, sentence or clause thereof not adjudged invalid.

(Source: Amended at 20 Ill. Reg. 7605, effective May 22, 1996)