

1 BEFORE THE POLLUTION CONTROL BOARD

2 STATE OF ILLINOIS

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5 IN THE MATTER OF:

6 LISTING OF FEDERAL HAZARDOUS AIR
7 POLLUTANTS, GREAT LAKES COMMISSION
8 TOXIC COMPOUNDS and GREAT WATERS
9 PROGRAM TOXIC COMPOUNDS, and NO. R96-004
10 SOURCE REPORTING for ILLINOIS
11 TOXIC AIR CONTAMINANTS:
12 AMENDMENTS TO 35 ILL. ADM. CODE 232

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13 Hearing held, pursuant to Notice, on the 23rd day
14 of February, 1996, at the hour of 9:55 a.m., at Third
15 Floor, 600 South Second Street, Springfield, Illinois,
16 before Mr. Charles Feinen, duly appointed Hearing
17 Officer.

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21 TRANSCRIPT OF PROCEEDINGS

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1 PRESENT:

2 MR. JOSEPH YI, Board Member
 MS. RACHEL DOCTORS, on behalf of IEPA
 3 MR. BROOKE PETERSON, on behalf of IEPA
 DR. MANI TEHSEEN, on behalf of IEPA
 4 MR. HENRY NAOUR, on behalf of IEPA
 MR. DAVID L. RIESER, on behalf of the Illinois Steel
 5 Group and SIRC
 MS. WHITNEY WAGNER ROSEN, on behalf of IERG
 6 MR. MARK HOMER, on behalf of CICI

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1 HEARING OFFICER: Good morning. My name is
2 Chuck Feinen. I am the assigned Hearing Officer to
3 this matter. The attending Board Member for this
4 matter is Joseph Yi, sitting to my right.

5 This matter has been docketed as R96-4, entitled
6 Listing of Federal Hazardous Air Pollutants, Great
7 Lakes Commission Toxic Compounds and Great Waters
8 Program Toxic Compounds, and Source Reporting for
9 Illinois Toxic Air Contaminants: Amendments to 35
10 Ill. Adm. Code 232.

11 This matter is before the Board pursuant to the
12 Agency's proposal being filed on October 13th, 1995.
13 The matter was filed pursuant to Sections 9.527 and
14 28. The rulemaking has not been filed pursuant to the
15 fast track rulemaking provisions under 28.5 of the
16 Act.

17 The Agency's proposal is to make certain
18 amendments to section or Part 232 of 35 Ill. Adm. Code
19 Toxic Air Contaminants, which would add to the list of
20 toxic air contaminants certain chemicals and create a
21 source identification requirement.

22 Today's hearing is for the purpose of starting the
23 Agency's presentation on the proposal.

24 If I can go off the record.

1 (Discussion off the record.)

2 HEARING OFFICER: Let's get any appearances
3 that need to be filed on the record today.

4 MR. RIESER: I've previously filed my
5 appearance. My name is David Rieser. I'm appearing
6 on behalf of both the Illinois Steel Group and also
7 the Styrene Information and Research Center, otherwise
8 known as SIRC, S-I-R-C.

9 MS. ROSEN: I'm Whitney Rosen. I've also
10 previously filed my appearance. I'm legal counsel for
11 Illinois Environmental Regulatory Group.

12 MR. HOMER: I'm Mark Homer -- I have not
13 filed an appearance but will do so -- with the
14 Chemical Industry Council of Illinois.

15 HEARING OFFICER: Is there anyone else who
16 would like to file an appearance or state they're
17 present here today?

18 MS. DOCTORS: Do you want me to state -- with
19 me today is Hank Naour, who's Manager of our Technical
20 Support Unit, Mani Tehseen, who works in the Technical
21 Support Unit, and Brooke Peterson, who's with Division
22 of Legal Counsel.

23 HEARING OFFICER: Thank you.

24 With that I guess then we'll start with the

1 presentation from the Agency. If there's any
2 witnesses that need to be sworn in, let's swear them
3 in now.

4 (Whereupon Henry Naour was duly sworn.)

5 MS. DOCTORS: We can just start with Hank
6 giving his short statement. That will be fine.

7 MR. NAOUR: Thank you, Rachel.

8 My name is Henry Naour. I received a Bachelors
9 degree in Chemical Engineering from the University of
10 Detroit in 1964. I have completed required courses
11 for a Masters degree in Chemical Engineering at the
12 University of Detroit.

13 I am currently employed as the Manager of the
14 Technical Support Unit in the Permit Section of the
15 Bureau of Air of the Illinois Environmental Protection
16 Agency. I joined the Agency in October 1991. My
17 responsibilities primarily relate to the
18 implementation of the Federal Air Standards as
19 promulgated by USEPA under the Clean Air Act amended
20 in 1990. The Agency plays a vital role in the USEPA
21 implementation strategy. Furthermore, my
22 responsibilities also relate to the development of a
23 State Air Toxics Program which include the issues
24 regarding selection criteria for Illinois Toxic Air

1 Contaminants, reporting requirements for affected
2 facilities, emission standards, modification
3 procedures, and compliance assurance. It is my
4 ultimate responsibility to assure that a State Toxics
5 Program is in place to facilitate the implementation
6 of both of these programs.

7 Prior to joining the Agency, I worked as a
8 chemical engineer in the industrial sector for 25
9 years. For the past 20 years, I worked at the plant
10 management level where my responsibilities included,
11 among other matters, complying with Federal and State
12 regulations.

13 The Part 232 Subpart D reporting rule is a
14 culmination of many hours of discussion regarding
15 Phase II of the Illinois Toxic Air Contaminant or ITAC
16 Program. Phase II will accumulate ITAC emissions data
17 to be used in determining geographic impact in the
18 State of Illinois. The stakeholders, Illinois EPA,
19 IERG, and the Illinois Petroleum Council, the
20 Chemicals Industry Council of Illinois, Sierra Club
21 and the Chicago Lung Association, were also involved
22 as partners in the development of the R90-1 Toxic Air
23 Contaminant, TAC, list and final adoption by the
24 Illinois Pollution Control Board. This adoption of

1 R90-1 completed Phase I of the ITAC Program which
2 provided the scoring mechanism for listing or
3 de-listing TAC chemicals.

4 Phase II of the program is designed to provide
5 information to the Agency regarding those affected
6 sources and the emissions of ITACs from these sources.
7 The current information that the Agency possesses is
8 limited, in that, the source information located in
9 the Bureau of Air Permit Section database was provided
10 vis-a-vis the permit application process. These
11 sources were only obliged to provide information
12 limited to the permit process. The emissions,
13 therefore, do not provide the total source emissions
14 data needed for the Bureau of Air's Phase III study.
15 The reporting rule will provide more complete data
16 regarding ITAC emissions in the State which can be
17 reviewed on the basis of geographical impact. This
18 study will support Phase III of the program which will
19 focus on the control options for those affected
20 sources if controls are in fact required as a result
21 of the study.

22 The proposal provides that the Bureau of Air
23 Permit Section will develop a series of turnaround
24 documents that will be mailed to the potential

1 affected sources. A reporting format similar to the
2 Federal SARA 313 Toxics Release Inventory form has
3 been developed and will be available to the sources
4 for reporting. The Agency has also stated that it
5 will allow ITAC emissions data that has been reported
6 on the SARA 313 form to be sent to the Agency instead
7 of using the Agency's suggested format.

8 And this completes my testimony.

9 MS. DOCTORS: Okay. I just have one thing
10 I'd like to mention is that in reading the rule I
11 found a couple typographical errors. Like we mention
12 Part 210 when we mean Part 201. So before the second
13 hearing I will put together an errata sheet and mail
14 that out so that people are aware of the corrections.
15 And these are just typographical corrections.

16 And that's what the Agency would like to put on
17 this morning.

18 HEARING OFFICER: I want to go off the record
19 for a second.

20 (Discussion off the record.)

21 MS. DOCTORS: The Agency would like to have
22 admitted into the record a copy of the Technical
23 Support Document and its attachments as well as
24 exhibits that have previously been labeled 1 through

1 9, and two documents that have been given to the Board
2 previously, specifically Deposition of Air Pollutants
3 to the Great Waters First Report to Congress, USEPA
4 Office of Air Quality Planning and Standards, Number
5 453-R-93-055 May 1994, and the Report on Toxic
6 Chemical Release Inventory Form R and Instructions
7 published by USEPA Office of Pollution Prevention and
8 Toxics, Number 745-K-93-001, January 1993. I don't
9 have copies of the last two but I will give you --

10 HEARING OFFICER: Go off the record again.

11 (Discussion off the record.)

12 HEARING OFFICER: The Agency has submitted
13 exhibits. If there's no objection, I'll enter them
14 into the record.

15 MR. RIESER: I want to hear what's being
16 submitted.

17 HEARING OFFICER: All right. The first
18 exhibit for proponent Agency will be the Technical
19 Support Document and that will be marked as Exhibit
20 Number 1 for proponent.

21 The next document the Agency enters into is March
22 9th, 1993 Outreach Meeting Attendance Sheet. That
23 will be marked as Exhibit Number 2.

24 The next document is the March 30th, 1993 Outreach

1 Meeting Attendance Sheet. That will be marked as
2 document number 3 or Exhibit Number 3, excuse me.

3 The May 6th, 1993 Outreach Meeting Attendance
4 Sheet will be marked as Exhibit Number 4.

5 The May 25th, 1993 Outreach Meeting Attendance
6 Sheet will be marked as Exhibit Number 5.

7 The March 18th, 1994 Outreach Meeting Attendance
8 Sheet will be marked as Number 6 -- Exhibit Number 6.
9 Excuse me again.

10 The August 23rd, 1994 Outreach Meeting Attendance
11 Sheet will be marked as Exhibit Number 7.

12 The March 1st, 1995 Outreach Meeting Attendance
13 Sheet will be marked as Exhibit Number 8.

14 The list of sources expected to be affected by the
15 proposal will be marked as Exhibit Number 9.

16 The description of the processes affected by the
17 proposal will be listed as Exhibit Number 10.

18 The Deposition of Air Pollutants to the Great
19 Waters First Report to Congress, United States
20 Environmental Protection Agency Office of Air Quality
21 Planning and Standards Research, Triangle Park, North
22 Carolina, EPA Document 453-R-93-055, May 1994, will be
23 listed as Exhibit Number 11.

24 And the Toxic Chemical Release Inventory Reporting

1 Form R and Instructions Revised 1992 Version, USEPA
2 Number 745-K-93-001, January 1993, will be marked as
3 Exhibit Number 12.

4 If there's no objections to that --

5 MR. RIESER: Can I ask a question just on the
6 technical support -- I've got a couple of questions on
7 some of the exhibits that I don't think were covered
8 in the testimony. With regard to the Technical
9 Support Document who prepared that?

10 MR. NAOUR: I did.

11 MR. RIESER: Hank, you prepared this. And at
12 what time did you prepare this?

13 MR. NAOUR: David, I can't recall exactly.
14 Let me think. Well, let's see. There is a date on
15 it.

16 MR. RIESER: Even better. May 26th, 1995?

17 MR. NAOUR: Uh-huh.

18 MR. RIESER: So this document was prepared
19 after the last outreach meeting and in light of the
20 final discussions that were had at that meeting?

21 MR. NAOUR: That's correct.

22 MR. RIESER: Were there any changes to the
23 proposal after you prepared the Technical Support
24 Document?

1 MR. NAOUR: No, there were not. This
2 document was then given to -- as part of the final
3 total package.

4 MR. RIESER: It was filed with the Board as
5 part of the total package?

6 MR. NAOUR: Yeah.

7 MR. RIESER: All right. On the list of
8 sources expected to be affected, how was this
9 prepared?

10 MR. NAOUR: As I indicated, the current
11 Bureau of Air database that we maintain is a permitted
12 oriented database, so the list -- and the word
13 expected could also -- and I would want to say
14 potential because I think they're similar. And that
15 with our information we, as we indicated in my
16 testimony, are going to send turnaround documents and
17 we're going to send them to those that are the
18 potential based on our information. And so it was
19 prepared from our existing limited database.

20 MR. RIESER: So this is the database made up
21 of all your permittees, is that right?

22 MR. NAOUR: That's right.

23 MR. RIESER: And then you selected for the
24 release of ITAC the permittees that released ITACs

1 more than a certain amount, is that correct?

2 MR. NAOUR: Based on our proposed de minimis
3 threshold values.

4 MR. RIESER: Okay. And so it's a computer
5 run of your existing database?

6 MR. NAOUR: Precisely.

7 MR. RIESER: Given those search parameters?

8 MR. NAOUR: Exactly.

9 MR. RIESER: Now, you've got -- don't you
10 have two -- you've got potential annual emissions.
11 There are two reports in here.

12 MR. NAOUR: Well, one indicates sources that
13 would be excluded as a possibility and then also we
14 have one that indicates those that would be affected.
15 So what we did is as part of the discussion which was
16 in the previous two meetings that we had was trying to
17 determine for the steering committee what would be a
18 potential impact on those that would be excluded by de
19 minimis values and what would be the potential impact
20 by those that would be in fact included or affected
21 sources. Again, keep in mind limited in value since
22 we're talking estimations from our current database.

23 MR. RIESER: Yeah, I understand. What I'm
24 focusing on now is how the two things were prepared.

1 Just looking at the two attachments, they seem to have
2 the same -- in the package I've got they seem to have
3 the same title.

4 MS. ROSEN: Yeah, that's what I'm --

5 MR. RIESER: I haven't looked at the
6 information to see if it's the same.

7 MR. NAOUR: You're talking Attachment 5.2 at
8 the top?

9 MR. RIESER: There's Attachment 5.1 at the
10 top.

11 Oh, 5.2, I'm sorry. So 5.2 is just this one page
12 with three entries on it?

13 MR. NAOUR: Yes. And then 5.1 are those
14 affected.

15 MR. RIESER: So those should be two separate
16 exhibits?

17 MS. DOCTORS: The whole TSD was admitted with
18 all its attachments. Or that's what I requested.

19 MR. RIESER: It sounds like Mr. Feinen broke
20 them out and described each one as a separate exhibit.

21 HEARING OFFICER: When I read the exhibits
22 and am marking them, I just took the Technical Support
23 Document as one exhibit and I did not separate these
24 two attachments out or the third attachment, 5.3, out

1 as separate exhibits. Exhibit Number 1 is the whole
2 technical document with the attachments. Exhibit
3 Number 2 starts off with the sign-in sheets.

4 MR. RIESER: Okay. But then you had Exhibit
5 9 which was the list of sources.

6 MS. ROSEN: It's this list. It's this one,
7 David.

8 MR. RIESER: Right.

9 MS. ROSEN: It's the same list.

10 HEARING OFFICER: Is it the same list?

11 MS. ROSEN: Yeah.

12 MR. RIESER: But there's apparently two other
13 -- oh, I see.

14 MS. ROSEN: This information is in the packet
15 twice is what --

16 MR. RIESER: I've got it. I understand.

17 And the description of the processes is simply
18 your breakout, kind of a subjective breakout from this
19 other -- this larger database search that you talked
20 about?

21 MR. NAOUR: That's right.

22 MR. RIESER: And all these are things that
23 you prepared?

24 MR. NAOUR: That's right.

1 MR. RIESER: I don't have any objection to
2 them.

3 HEARING OFFICER: With hearing no objection,
4 I'll enter those --

5 MS. ROSEN: Wait, I'm sorry.

6 HEARING OFFICER: Hold on a second.

7 MS. ROSEN: Is this the same document, Hank?
8 I think Chuck has listed it as Exhibit Number 9. It
9 is way in the back of the information that was
10 submitted. It seems to be a number of pages shorter.
11 That's why I'm -- what's the --

12 HEARING OFFICER: Let's go off the record for
13 a second. Let me interrupt for a second. Go off the
14 record.

15 (Discussion off the record.)

16 HEARING OFFICER: Let's go back on the
17 record. The discussion off the record was to
18 determine whether or not what I have marked or intend
19 to mark as Exhibit Number 9 is the same as attachment
20 5.1 to the Technical Support Document. At the end of
21 the discussion we determined that, yes, it is.

22 And with that, I hear no objections to entering
23 these as exhibits and I do move to enter those as
24 exhibits and they're entered as exhibits.

1 (Agency Exhibit Numbers 1 - 12
2 admitted.)

3 HEARING OFFICER: With that I think the
4 Agency is done with their presentation for today. So
5 let's go off the record again real quick.

6 (Discussion off the record.)

7 HEARING OFFICER: Let's go back on the
8 record.

9 CROSS-EXAMINATION BY

10 MR. RIESER:

11 Q. Morning, Mr. Naour. As you heard, my name is
12 David Rieser and I'm appearing both on behalf of the
13 Illinois Steel Group and the Styrene Information and
14 Research Center.

15 The questions I want to ask I think are going to
16 be pretty straightforward and will focus on certain
17 issues in the regulations themselves.

18 With respect to the definition of the Illinois
19 toxic air contaminants, there's an exclusion from coke
20 oven gas and this was a result of our discussions
21 during various outreach meetings. And I just want to
22 confirm it's coke oven gas was excluded from the
23 definition of ITAC and, therefore, from reporting
24 requirements under this regulation because of the

1 other regulations of coke oven emissions under the
2 federal laws and regulations. Is it correct that what
3 we're doing is excluding from reporting the
4 constituents of all the coke oven emissions that would
5 be emitted by a coke oven battery?

6 A. That's correct.

7 Q. Is it also correct that we're excluding
8 emissions from the byproducts plant as well?

9 A. As I recall, David, that was not part of the
10 discussions. We focused primarily on coke oven
11 emission as a given definition that is typically being
12 focused on by, as you indicated, by other regulations
13 that are focusing on those emissions.

14 Q. Okay. But this would exclude the emissions
15 from the coke oven batteries themselves?

16 A. That's right.

17 Q. There's also no question based on Section
18 232.440 that no emissions or other type of physical
19 testing will be required by this reporting regulation?

20 MS. DOCTORS: I'm sorry, where are you?

21 MR. RIESER: 230.440.

22 MS. DOCTORS: That's not part of this
23 proposal. That's part of the rule.

24 HEARING OFFICER: 232.440?

1 MR. RIESER: 232.440.

2 A. Yeah, 232.440 using available data. So your
3 question, David?

4 Q. The question is just to confirm that people
5 in complying with this rule will not have to perform
6 any physical emissions testing of any kind by the
7 reporting requirements?

8 A. David, as we negotiated and worked on the
9 rule, that was the agreed approach. As you know, as
10 we wanted the ability if we needed to have additional
11 information, that would in fact be worked out with the
12 particular source as to what would be required. We
13 would be looking at available data only and we didn't
14 want any excessive resources expended unless we felt
15 that it was necessary. And that necessity would be
16 worked out again with the source itself.

17 Q. Okay. Now, isn't the issue of additional
18 information covered by 232.450?

19 A. That's right.

20 Q. 450(a). And 450(a) describes the type of
21 additional information which the Agency would require,
22 (a) (1), (2) and (3), is that correct?

23 A. That's right.

24 Q. Okay. Isn't it correct that the source would

1 not have to do any addition -- would not be required
2 to perform any additional physical testing to provide
3 the Agency that data pursuant to 232.450(a)?

4 A. That's correct.

5 Q. So getting back to my original question, the
6 Agency can request more information than is described
7 in 232.430(a)(1) and (2) but only under the conditions
8 described in 232.450 and only the limited information
9 that's described in 232.450(a)(1), (2) and (3)?

10 A. That's correct.

11 Q. And that no testing would be required to
12 provide that information?

13 A. That's correct.

14 Q. With regard to 232.450(a), under what types
15 of circumstances would this additional information be
16 required?

17 A. We view the information on the basis of being
18 able to establish geographical impact. And in this
19 case it would be source by source. And therefore, on
20 that basis, if we -- in the analysis of the
21 information that we received from the reporting
22 mechanism that our screening process which we have
23 described indicates that a source may have a
24 significant impact according to current technical

1 approach, then we would be working with the source on
2 additional information to define what that impact may
3 be. And we may -- in that case we may request
4 additional information to clarify a risk assessment
5 analysis of that source's impact.

6 Q. So when you say significant impact, what
7 specifically -- what specific types of impacts are you
8 going to be looking at and how would those be
9 measured?

10 A. Typically the impacts would be the ecological
11 effect of emissions from the source would be tied to
12 the public health aspect, would be fence line
13 characteristics of how the emissions would be
14 impacting at the fence line of that facility, beyond
15 the fence line potentially would be those focus
16 groups, schools, hospitals, et cetera, and we would
17 look at that data on the basis of impact on current
18 federal guideline and using that as a guideline
19 establish whether or not we would need additional
20 information to clarify that impact.

21 Q. How would the Agency have all of the data
22 that you describe with regard to a particular source?

23 A. Well, the reporting rule is going to define
24 for all ITACs emitted at the source source-wide

1 emissions.

2 Q. Right.

3 A. We will be able to do a conservative rather
4 simplified analysis of the facility's impact at the
5 fence line. With that information we intend through
6 our development of the structure of analysis to
7 determine whether or not further information would be
8 needed to clarify beyond the fence line any public
9 health impact.

10 Q. Okay. So for certain types of sources based
11 on the source emitting -- source emissions information
12 that you're going to get pursuant to this rule, if
13 that emissions information reflects more than a
14 certain level of certain types of -- more than a
15 certain level of certain types of ITACs, then you're
16 going to be following up for more information, is that
17 correct?

18 A. That's right.

19 Q. Now, is it -- are there certain types of
20 ITACs to which that's going to apply or to all ITACs?

21 A. It is to all ITACs that is in the rule.

22 Q. Are there certain types of sources to which
23 that would apply or certain types of geographic
24 locations?

1 A. It is going to be for all sources. We're
2 looking at the overall picture.

3 Q. Is there a threshold value for individual
4 ITACs that you've decided upon as a trigger for
5 requiring the additional information?

6 A. We don't intend to operate on that basis.
7 We're going to operate on current USEPA guidelines and
8 risk assessment as to determine whether or not we
9 would -- again, working with the facility whether or
10 not that would be a potential impact to define further
11 and to clarify further.

12 Q. But the guidelines would require the
13 collection of other information to make a risk
14 assessment determination, wouldn't they?

15 A. May.

16 Q. I mean for the Agency to make a decision
17 whether this is an issue at an individual source,
18 you'd have to have more than just the emissions data
19 that you're collecting here.

20 A. We may. It's very clear that we could
21 determine initially that the impact from the source is
22 minimal at the fence line and therefore we're not
23 going to expend additional resources to go beyond that
24 point. However, again, using current risk assessment

1 guidelines, if again if we feel that there is
2 potential there, then we will work with the facility
3 on some additional information, perhaps on an emission
4 unit basis, which of course is defined in the rule as
5 well.

6 Q. Is there any -- you know, the conditional
7 language of 232.450(a) talks about for purposes of
8 modeling, conducting assessments of information the
9 Agency may request supporting documentation. Is there
10 any -- based on what you've just talked about is there
11 any way to refine that further to include the types of
12 issues that you're -- that you've just discussed?

13 A. In the negotiation we determined not to do
14 that. In all of the steering committee's
15 determination they felt that it would be difficult to
16 refine it to become prescriptive because what we're
17 talking about as an example would be, for instance,
18 stack height where emissions may be occurring.
19 Originally we were discussing the need for that
20 information on the initial pass of reporting
21 requirements. We felt that in discussion that we
22 didn't need that type of prescription.

23 Q. Right.

24 A. However, we may need it in the interest of

1 modeling and looking at beyond the fence line, we may
2 need additional information, for instance stack
3 height. And again, we decided not to put it in the
4 rule to describe it as a requirement up front. That
5 means that we would require that all in the initial
6 reporting requirements. It was additional unnecessary
7 information we felt at that time. We all agreed to
8 that.

9 Q. Do you have a sense now based on this initial
10 run of the potential reporters, this 307 facilities,
11 of how many of those you'd be requesting additional
12 information from?

13 A. I do not.

14 Q. With respect to the additional -- the listing
15 of additional toxic air contaminants, the Great Lakes
16 and Great Waters -- a couple of the Great Lakes and
17 Great Waters air contaminants were added. What's the
18 reasoning behind that?

19 A. The Great Lakes and Great Waters pollutants
20 are primarily all hazardous air pollutants under Title
21 III of the Clean Air Act amendments, but we are
22 located in the Great Lakes basin and there is a
23 significant initiative in the basin for the eight
24 Great Lake states to focus on those chemicals that

1 would in fact impact the area. They are not ITACs so
2 they don't come into this particular purview but we
3 wanted them as part of an administrative cleanup to
4 have on our list as those toxics of concern in
5 Illinois.

6 Q. Do you know if they're emitted by any
7 facilities in Illinois?

8 A. We do have facilities that emit these
9 compounds. I can't describe any or give you --

10 Q. Compounds that are Great Lakes and Great
11 Waters compounds but not otherwise air pollutants or
12 toxic air contaminants?

13 A. Repeat that, David.

14 Q. Are there facilities in Illinois that emit
15 the Great Lakes or Great Waters compounds that are not
16 otherwise hazardous air pollutants or toxic air
17 contaminants? In other words, the few Great Lakes,
18 Great Waters compounds that you've added -- that you
19 seek to add to the list?

20 A. Which I've indicated they're also hazardous
21 air pollutants and, therefore, they do -- they do --
22 therefore, are emitted by facilities that emit the 189
23 hazardous air pollutants under the Clean Air Act
24 amendments. So they're parallel.

1 Q. It's my understanding that there were a
2 couple of them that were not hazardous air pollutants.
3 Am I correct about that?

4 A. I believe so. I believe there is one or two
5 that are what the Great Waters through their report to
6 Congress considered what they called high impact or
7 high focus chemicals.

8 Q. Do you know if those one or two are emitted
9 by any facilities in Illinois?

10 A. That I do not know.

11 Q. With regard to the reporting requirements, a
12 facility is required to report if it emits the -- if
13 it manufactures, stores or uses the initial threshold
14 of 25,000 pounds of an individual ITAC, correct?

15 A. Correct.

16 Q. Once it meets that threshold it must report
17 for all ITACs except for those that are below the
18 de minimis emissions level, is that correct?

19 A. That's correct.

20 MR. RIESER: I have no further questions at
21 this time.

22 MS. ROSEN: I just have one question -- well,
23 one or two questions for Mr. Naour.

24

1 CROSS-EXAMINATION BY

2 MS. ROSEN:

3 Q. It has to do with the situation that might
4 arise if HAPs were de-listed from the Clean Air
5 Section 112(b) list. You indicated on page 3 of the
6 statement of reasons that those chemicals once
7 de-listed could become ITACs. Under what situations
8 could they become ITACs and is it your intention to
9 automatically list them as ITACs or would they have to
10 go through the State toxicological scoring process, et
11 cetera, if they had not already done so?

12 A. They would have to go through the State
13 scoring mechanism. I'll give you a case in point
14 would be caprolactam. It's currently in the proposal
15 phase of de-listing by USEPA. It is also a TAC. If
16 in fact final rule exists on that de-listing,
17 caprolactam has been scored initially by our system
18 and therefore would become an ITAC.

19 Q. Right.

20 A. And the reverse is true, of course.

21 Q. The reverse is true meaning that if a
22 chemical had not been scored, it would have to go
23 through the scoring process prior to becoming an ITAC?

24 A. Correct.

1 MS. ROSEN: I have nothing further.

2 HEARING OFFICER: I just want to add for the
3 record that was Whitney Wagner Rosen for IERG asking
4 those questions.

5 MR. RIESER: If I could do a brief follow-up
6 on that.

7 RECROSS-EXAMINATION BY

8 MR. RIESER:

9 Q. For something to become an ITAC would there
10 have to be a proposal before the Board to shift it to
11 another list?

12 A. That's part of the procedure, yes.

13 Q. So if something is de-listed from the federal
14 list, there would have to be a Board proceeding to
15 list it as a toxic air contaminant?

16 A. Except in the case of caprolactam which is
17 already a listed chemical and, therefore, just by
18 default, having been scored, it automatically becomes
19 an ITAC.

20 Q. It's already listed as a toxic air
21 contaminant?

22 A. Correct. On the issue as Whitney indicated
23 we would then have to make proposal as an addendum to
24 the list.

1 MS. ROSEN: Just to clarify, I believe that
2 the initial determination and listing before the Board
3 would be pursuant to Section -- 35 Illinois
4 Administrative Code Section 232.200?

5 A. That's right.

6 MS. ROSEN: Okay.

7 MR. HOMER: My name's Mark Homer with the
8 Chemical Industry Council and I just have one
9 clarification question.

10 CROSS-EXAMINATION BY

11 MR. HOMER:

12 Q. Is it the Agency's contention that they're
13 going to base whether or not they're going to ask for
14 further information pursuant to Section 232.450 upon
15 risk assessment factors that are in guidelines that
16 the USEPA has issued?

17 A. That's correct, Mark.

18 Q. And that would be the only basis for asking
19 for that information?

20 A. That's correct.

21 Q. Do you happen to either have a copy of those
22 guidelines or know the USEPA's numerical numbers for
23 the guidelines?

24 A. I do not at this time.

1 Q. Is there any way you could provide us with
2 that information at a future point?

3 A. I believe we can. We can provide that
4 current USEPA guidelines.

5 MR. HOMER: Thank you.

6 HEARING OFFICER: Go off the record for a
7 second.

8 (Discussion off the record.)

9 HEARING OFFICER: I just have a few
10 questions. I'm Chuck Feinen, the Hearing Officer in
11 this matter.

12 The first question I have is just for
13 clarification. You talk about how 364 of the
14 substances -- of 607 substances are already being
15 reported by SARA. Could you just report about how
16 much overlapping there is between this proposal and
17 the SARA requirements?

18 A. There is very limited -- I can't recall the
19 exact numbers. We had investigated that. There is a
20 very limited number of SARA 313 compounds and that's
21 being exacerbated to the point where USEPA is
22 currently in a position to either increase or decrease
23 the number of compounds for SARA 313. But our
24 original assessment indicated, as I recall, there were

1 a few in number compounds that would have paralleled,
2 and hence, the reason we felt the requirement to go
3 into a separate rule.

4 HEARING OFFICER: I guess that will be all
5 the questions I have.

6 Let's go off the record again.

7 (Discussion off the record.)

8 HEARING OFFICER: Off the record we discussed
9 possible hearing dates. I'm going to continue this
10 hearing and issue a Hearing Officer Order for possible
11 hearing dates in April, either April 2nd, Tuesday, at
12 10 a.m. or April 9th, a Tuesday at 10 a.m.. If those
13 dates aren't available, we will do so by Hearing
14 Officer Order announce the second date, but there will
15 be a second hearing at that time.

16 With that, I guess we'll continue the record until
17 that time.

18 (Which were all of the proceedings had
19 on the hearing of this cause on this
20 date.)

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1 STATE OF ILLINOIS)
)SS
 2 COUNTY OF SANGAMON)

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CERTIFICATE

5 I, Dorothy J. Hart, affiliated with Capitol
 6 Reporting Service, Inc., do hereby certify that I
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 9 foregoing is a true and correct transcript of the
 10 shorthand notes so taken as aforesaid.

11 I further certify that I am in no way associated
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