ILLINOIS POLLUTION CONTROL BOARD August 14, 1986

	MILITARY PARTMENT,	AND)
	,	Petitioner,	į
		v.) PCB 86-123
ILLINOIS AGENCY,	ENVIRONM	ENTAL PROTECTION))
		Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On August 14,1986, the Illinois Military and Naval Department (IMNIL) filed a petition for variance, which waived hearing, from 35 Ill. Adm. Code 201.144 "Permits for Existing Sources" as it relates to the Chicago Avenue National Guard Armory at 234 E. Chicago Avenue, Chicago. The petition contained a motion for expedited consideration, stating that 31 additional National Guard Armory sites are similarly situated and that decision by September 15, 1986 is desirable, since IMNIL will have to "immediately renew several permits and pay permit fees... [and that IMNIL] does not have budgeted funding for these permits and will have to use some other limited funds that will not be available after 15 September 1986". The request for expedited consideration is granted.

Section 201.144 contains the operating permit requirement for existing emission sources. Section 201.146 "Exemptions from Permit Requirement" contains an exemption for

c) Fuel burning emission sources for indirect systems and for heating and reheating furnace systems used exclusively for residential or commercial establishments using gas and/or fuel oil exclusively with a total capacity of less than 14.6 MW (50 mmbtu/hr) input.

Neither "residential" nor "commercial" is defined in Sections 201.101 or 201.102. In the Board's Opinion adopting these rule's in R71-23, November 8, 1972, the only discussion of this exemption was that

"Certain classes of emission sources are exempted from the permit requirements, but not from the substantive limitations, because the burden of processing permits in these cases would not be justified by the benefits. The exempted classes are basically numerous small sources".

In considering this petition for variance, the threshold question is whether these armory sites fall within the Section 201.146(c) exemption to Section 201.144. If so, no variance is necessary.

The Chicago Avenue National Guard Armory has 304,474 square feet. This building space is used for assembly halls, rifle ranges, classrooms, libraries, learning centers, administrative offices, locker rooms, unit storage, kitchen areas, toilets, mechanical equipment rooms and vehicle storage. There are 64 full time employees and 802 authorized members of the IL Army National Guard (IL ARNG) assigned to the site. The primary purposes of the armory are to provide administrative space for the assigned units of the IL ARNG and to provide a training location for the assigned units on training weekends. The armory is also used at various times by local civilian groups as a meeting site.

The use of the armory, then, is not literally residential, nor is it literally commercial, in the sense of use for the conduct of trade or business, as is a shop. On the other hand, the use is not industrial, and is a heating use akin to that in a "residential or commercial" site.

Accordingly, the Board would interpret the armory use as a "residential or commercial" use within the meaning of the Section 201.146(c) exemption and would propose to dismiss the petition on the grounds that variance relief is unnecessary, provided that the armory's boilers would otherwise fall within the exemption due to capacity. However, due to IMNIL's inadvertent failure to include the permit materials referenced in paragraph 5 as "enclosed", the Board cannot make this necessary factual determination. ILMNG is directed to file information regarding the boilers' capacity on or before August 22, 1986.

Additionally, recognizing the possibility that other types of emission sources including perhaps churches, schools and other non-industrial, non-residential, non-commercial sources could potentially be impacted by such a ruling, the Board will not enter a dismissal order before receipt of input from the Agency. Given the tight timeframe involved, the Agency is requested to provide a response to this Order on or before August 25. Additionally, in order to allow for the possibility of timely decision in the event the Board determines that a variance proceeding must go forward, the Agency is directed to publish newspaper notice of the filing of the petition without delay. The Agency is also requested to be prepared to file a Recommendation, if necessary, on or before September 8, 1986, to

allow for the possibility of decision in this matter at the Board's September 11 meeting if no objections are filed.

The Clerk is directed to provide first-class, as well as certified, mail service of this Order.

IT IS SO ORDERED.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board