

ILLINOIS POLLUTION CONTROL BOARD
February 3, 1977

PEOPLE OF THE STATE OF ILLINOIS)
and the ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainants,)
)
v.) PCB 75-189
)
PROCESSING AND BOOKS, INC., an)
Illinois Corporation, and)
NATIONAL MELODY FARM FRESH EGGS)
COMPANY, an Illinois Corporation,)
)
Respondents.)

CONCURRING OPINION (by Mr. Young):

I concur in the Order of the Board in this matter but believe that the Opinion does not go far enough in dismissing the contention that the chicken houses are emission sources as defined by Rule 101 of Chapter 2 and were therefore required to obtain a permit under Rule 103(b)(2) of Chapter 2.

Livestock wastes are regulated by Chapter 5 of the Pollution Control Board Rules and Regulations; the purpose of Chapter 5 as set forth in Rule 102 is to "prevent pollution of the air and waters of Illinois caused by failure to plan with regard to proper environmental safeguards the construction, location, and operation of certain livestock management facilities and livestock waste-handling facilities." Rule 103 defines livestock as farm animals kept or raised for food, profit, or pleasure to include the species fowl, ovine, caprine, bovine, porcine, equine and other commercial animals; and operations such as mink, rabbit, etc.; the definition of livestock wastes includes livestock excreta.


Since the chicken manure is specifically defined as livestock waste under Chapter 5, it must thereby be specifically excluded from the definition of organic material of Rule 201 of Chapter 2, irrespective of its chemical analysis. A substance, after having been specifically defined for purpose of regulation by a rule of a regulatory sub-division enacted exclusively for control of that substance, is thereby excluded from inclusion in a general definition in another regulatory sub-division unless that substance is explicitly included in the latter sub-division.

Permit requirements for livestock management and waste-handling facilities and operations are established by Chapter 5 and are exclusive unless a particular aspect or item of control equipment is specifically required by the rule of another Chapter to procure such permit. Incinerators, for example, were here required to obtain a Chapter 2 operating permit by April 1, 1973 by Rule 103(b)(2) of Chapter 2 and the incinerator operation is governed by the conditions of the air permit issued and the emission standards and limitations for stationary sources established by Part II of Chapter 2. After adoption of Chapter 5, such a permit is now required through the operation of Rule 104(a)(1) of the Chapter.

Since odors are defined as contaminants by the Act, there is no reason to define livestock management or waste-handling facilities as air-emission sources requiring a permit under Chapter 2 in addition to Chapter 5 requirements since the Act specifically provides a remedial action under Section 9(a) for the control of air pollution resulting from odors present in sufficient quantity and with such characteristics and duration to be injurious or to unreasonably interfere with life or property. To do otherwise would require such Chapter 2 permits for all livestock management facilities, a result certainly not intended by the Board on adoption of Chapter 2 or Chapter 5.


James L. Young

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Concurring Opinion was submitted on the 9th day of February, 1977.


Christan L. Moffett, Clerk
Illinois Pollution Control Board