

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
ORGANIC MATERIAL EMISSION )  
STANDARDS AND LIMITATIONS FOR )  
THE CHICAGO AND METRO-EAST AREAS: )  
PROPOSED AMENDMENTS TO )  
35 ILL: CODE 218 AND 219 )

HEARING BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Proceedings held on May 17, 2006, at  
9:00 a.m. at the offices of the Madison County  
Administration Building, Edwardsville, Illinois, before  
John C. Knittle, Chief Hearing Officer and reported by  
Holly A. Schmid, Notary Public and Certified Shorthand  
Reporter, CSR No. 084-98-254587 for the State of  
Illinois, pursuant to notice.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

A P P E A R A N C E S

MR. JOHN C. KNITTLE  
Chief Hearing Officer  
Illinois Pollution Control Board  
2125 South First Street  
Champaign, IL 61820

MR. ANAND RAO  
Senior Environmental Scientist  
Illinois Pollution Control Board  
100 West Randolph Street  
Chicago, IL 60601

MR. THOMAS E. JOHNSON  
Board Member  
Illinois Pollution Control Board  
2125 South First Street  
Champaign, IL 61820

MS. ANNET C. GODIKSEN  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, IL 62794

MS. KIMBERLY A. GEVING  
Assistant Counsel  
Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, IL 62794

ALSO PRESENT: MR. JOHN KIM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

I N D E X

WITNESSES	PG.
DIRECT EXAMINATION BY MR. RAO:	11

E X H I B I T S

IDENTIFICATION	PG.
EXHIBITS 8 THROUGH 10 ADMITTED:	9

1                   MR. HEARING OFFICER: My name is John  
2                   Knittle. I'm an attorney with the Illinois Pollution  
3                   Control Board, also the hearing officer for this  
4                   rule-making proceeding which is entitled R06-21, organic  
5                   material emissions standards and limitations for the  
6                   Chicago and Metro East areas: Proposed amendments to 35  
7                   Illinois Administrative Code 218 and 219.

8                   We accepted the proposal for hearing  
9                   on January 19, 2006, and the first hearing in this  
10                  matter was held on April 19 in Chicago. With me today  
11                  from the Pollution Control Board are Tom Johnson, board  
12                  member, and Anand Rao of the technical staff. Member  
13                  Johnson is the board member ably coordinating this  
14                  rule-making. Mr. Johnson, do you have anything you want  
15                  to say at this time?

16                  MR. JOHNSON: No. Thank you, though.

17                  MR. HEARING OFFICER: A little  
18                  background, even though there is, for the record, no  
19                  members of the public present today, the Agency is  
20                  proposing to revise its cold cleaning degreaser rules in  
21                  Chicago and the Metro East nonattainment areas by making  
22                  parallel changes, 35 Illinois Administrative Code,

23 218.182 (c) and (d), and 219.182 (c) and (d).

24 The Agency is proposing revisions to

Page4

1 allow the sale or purchase of solvents with vapor  
2 pressures bigger than one MM -- how do you say that?

3 MR. RAO: Millimeter.

4 MR. HEARING OFFICER: Millimeter  
5 mercury and units greater than five gallons to or by  
6 sources that have valid permits, or in compliance with  
7 the add-on control requirements or are exempt.

8 The Agency is also proposing control  
9 requirements to allow for the option of add-on controls.  
10 Subsections are being created that will require sources  
11 using solvents with vapor pressures greater than that  
12 amount to control their emissions to an overall capture  
13 and control efficiency of no less than 95 percent.

14 We have some additional provisions, as  
15 well. We have had a hearing in this matter, as I  
16 stated, on April 19. That hearing, along with this  
17 hearing, was conducted in accordance with Part 102 of  
18 the Board's procedural rules. All information that is  
19 relevant and not repetitious or privileged will be  
20 admitted. All witnesses will be sworn and subject to

21 cross-examination.

22 I also want to note that the Board  
23 does maintain service and notice lists of the  
24 rule-making proceeding. Those on the notice list

Page5

1 receive only board opinions and orders, and hearing  
2 officer orders, and those on the service list will  
3 receive these documents, plus other filings, such as  
4 public comments. If there was anyone here, I would tell  
5 them to contact me on a break to be put on the list, but  
6 there are no members of the public here, but we do want  
7 to make this part of the record, in case anybody is  
8 reading the transcript at a later point in time, and if  
9 anybody is, they can contact me, and I will make them  
10 part of either list at their request.

11 Anyone may ask a question of any  
12 witness. You guys all know that, so we'll move on, and  
13 I do want to note for the record that any questions  
14 asked by the Board are intended to help build a complete  
15 record for the Board's decision, and not to express any  
16 preconceived notions or bias for this rule-making. This  
17 rule-making and this hearing is also being held to  
18 fulfill the requirements of Section 27-B of the Act and  
19 Section 27-B of -- when I say "the Act" I mean the

20 Environmental Protection Act -- requires the Board to  
21 request the Illinois Department of Commerce and Economic  
22 Opportunity -- DCEO, is what we will call it. It used  
23 to be the Department of Commerce and Community Affairs  
24 -- to conduct an economic impact study on certain

Page6

1 proposed rules prior to the adoption of those rules. If  
2 the DCEO chooses to conduct the economic impact study,  
3 it has 30 to 45 days after the request is made to  
4 produce a study of the rules or a study of the economic  
5 impact of the rules. The Board must then make that  
6 study or the explanation for not conducting the study  
7 available to the public, at least, 20 days prior to the  
8 public hearing on the economic impact of the proposed  
9 rules.

10 In this case, in accordance with  
11 Section 27-B of the Act, we sent, on February 27, 2006,  
12 a letter to the DCEO requesting an economic impact study  
13 on this rule-making. To date, DCEO has not responded.  
14 It's been well over the 45 days noted in the Act. It's,  
15 approximately, 80 days, I think, since the request has  
16 been made. Relying on the fact that they have not  
17 responded to the letter, and past representations made

18 by DCEO, including explanation for not conducting this  
19 study, the Board is going to proceed, and right now ask  
20 if anybody has any questions on the economic impact  
21 study or DCEO's apparent decision not to conduct an  
22 economic impact study right now. I see nobody who has  
23 any questions on that. That requirement being  
24 fulfilled, we'll move on.

Page7

1 We also have an Agency response to the  
2 Board's questions that were raised at the last hearing.  
3 The response was filed on May 12, and as I have talked  
4 to Ms. Godiksen, who is representing the Agency, she is  
5 going to be offering that later on as an exhibit, so  
6 that being said, Ms. Godiksen, you're representing the  
7 Illinois Environment Protection Agency in this matter.  
8 Would you like to identify yourself and those.

9 MS. GODIKSEN: Thank you. My name is  
10 Annet Godiksen. I'm assistant counsel with the Illinois  
11 Environmental Protection Agency Bureau of Air, and we  
12 also have Kim Geving seated behind me. She is also  
13 assistant counsel with the Bureau of Land and we have as  
14 our witness, Gary Beckstead, regulatory unit manager for  
15 the air quality planning section of the Bureau of Air  
16 for the Agency, and in case, for the record, we have

17 extra copies of all the documents.

18 MR. HEARING OFFICER: Thank you, and I  
19 was remiss in noting that Anand Rao of the Board's  
20 technical staff, is present, as well.

21 MR. RAO: I think you mentioned that.

22 MR. HEARING OFFICER: Let's reiterate  
23 he is here with us today. Ms. Godiksen, you can  
24 proceed.

Page8

1 MS. GODIKSEN: We would like to submit  
2 together the filings of May 12, the prefiled  
3 supplemental testimony of Gary Beckstead, the  
4 supplemental statement No. 2, and errata sheet No. 2 as  
5 an exhibit.

6 MR. HEARING OFFICER: That would be  
7 Exhibit No. 8. Any objections? Of course, since  
8 there's nobody here, other than the Agency and us, there  
9 are no objections. That will be admitted.

10 MS. GODIKSEN: As our next exhibit, I  
11 believe we have the outreach letter.

12 MR. HEARING OFFICER: Correct.

13 MS. GODIKSEN: We would like to have  
14 that admitted as Exhibit No. 9.

15 MR. HEARING OFFICER: That will be so  
16 admitted.

17 MS. GODIKSEN: And Exhibit No. 10  
18 would be the revised Sections 218 and 219, just for  
19 clarification's sake. It includes all the changes from  
20 errata sheet one and two.

21 MR. HEARING OFFICER: Are you offering  
22 that as Exhibit 10?

23 MS. GODIKSEN: Correct.

24 MR. HEARING OFFICER: That's admitted.

Page9

1 MS. GODIKSEN: And we would like to  
2 make a motion to correct the transcript.

3 MR. HEARING OFFICER: You are going to  
4 give this to me today. I will take -- this looks like  
5 typographical corrections and clarifications.

6 MS. GODIKSEN: Correct.

7 MR. HEARING OFFICER: We will take  
8 that up to Chicago. I will have it filed with Clerk  
9 Gunn, and we'll adjust it at the next board order or  
10 hearing.

11 MS. GODIKSEN: Great.

12 MR. HEARING OFFICER: I do want to  
13 note there is another individual here today. Could you

14 identify him, so we know he is not a member of the  
15 public.

16 MS. GODIKSEN: John Kim, manager for  
17 the regulatory unit for the Bureau of Air.

18 MR. JOHNSON: It's an honor to have  
19 him here. I want to say for the record.

20 MR. KIM: It's an honor to be here.

21 MR. HEARING OFFICER: That  
22 give-and-take, being completed, you can proceed,  
23 Ms. Godiksen.

24 MS. GODIKSEN: Since Gary's prefiled

Page10

1 testimony was in the form of question/answers, we were  
2 just going to turn it over, and see whether or not the  
3 Board had any further questions.

4 MR. HEARING OFFICER: Let's swear  
5 Mr. Beckstead in.

6 (At which point, Gary Beck was sworn  
7 in by the court reporter.)

8 MR. HEARING OFFICER: Mr. Rao, do you  
9 have some questions for Mr. Bed?

10 DIRECT EXAMINATION

11 BY MR. RAO:

12 Q. A few. First, I would like to thank  
13 Mr. Beckstead for his responses. It addressed a lot of  
14 our concerns. I have a few clarification-type questions  
15 based on your responses. In response to question one,  
16 you stated that, while approving this alternate control  
17 plan of issuing permits to operate the chosen control  
18 plan, the Agency will not request or require sources to  
19 demonstrate cost effectiveness via studies. Also, you  
20 mentioned at the last hearing, when it comes to new  
21 sources, the Agency's policy is to steer these sources  
22 toward the use of aqueous-based systems.

23 A. Well, go ahead with your question.

24 Q. So my question is so the Agency requests

Page11

1 applicants to demonstrate technical feasibility or  
2 infeasibility, as well as economic reasonableness of an  
3 aqueous system before approving a permit for high vapor  
4 pressure solvent degreasing operations for new sources?

5 A. Let me make sure I understand your  
6 question, Mr. Rue.

7 Q. Basically, I'm asking how you decide  
8 whether a new source would be permitted to operate with  
9 solvent-based system, rather than an aqueous-based  
10 system?

11                   A.     As far as the permit analysis, it would be  
12                   only based on the emissions that the various systems  
13                   that have been chosen have strictly on that decision.  
14                   Cost effectiveness is really up to the businesses,  
15                   themselves. We measure only emissions that the  
16                   environment will experience from the chosen control  
17                   plan.

18                   Q.     Okay. That leads me to the question I had.  
19                   I think it's under Section 218.182 C4-B. That's the  
20                   three-numbered section of the errata sheet.

21                                 MS. GODIKSEN: Give us the cite again.

22                                 MR. RAO: C4-B.

23                                 MS. GODIKSEN: The original C4?

24                                 MR. RAO: No. It used to be C-3. Now

Page12

1                   it's C-4. In this section, it states that "An  
2                   equivalent alternate control plan may be used to meet  
3                   the control requirements of this section pursuant to  
4                   218.108," and it goes on to state that, "Pursuant to the  
5                   material requirements of subsection C3-B of this  
6                   section, a solvent with a vapor pressure of one  
7                   millimeter mercury measured at 23 degrees centigrade  
8                   shall be the basis for assessment of equivalent

9 emissions from any equivalent alternative control plan."  
10 And then it states, "If used as an equivalent  
11 alternative control plan, an add-on control must  
12 demonstrate 95 percent overall capture and control  
13 efficiency," so there are these two factors that you  
14 consider in any equivalent alternative control plan, one  
15 relating to the emissions based on one millimeter per  
16 mercury, and the other one is the 95 percent capture and  
17 control, so any source that comes with an equivalent  
18 alternative control plan will have to demonstrate that  
19 they meet both the factors?

20 A. Well, we start with the assessment of  
21 emissions. A person may not even have an add-on  
22 control, for example, could use anaerobic bacteria to  
23 destroy the VOC's, so they wouldn't be held to the 95 --  
24 well, you would be right because they would have to

Page13

1 still destroy, at least, 95 percent. You're right.  
2 It's both criteria, but we'll start with are the  
3 emissions equivalent to what would happen if we were  
4 just using a one-millimeter mercury, and then any  
5 control would have to meet the 95 percent. That's  
6 correct.

7 Q. In response to Question No. 6 regarding

8 the solvent, on page eight, Mr. Beckstead, you state  
9 that, "The sources impacted by this rule-making do not  
10 buy off the shelves solvent cleaners, but rather, the  
11 various ingredients to formulate their own solution."

12 A. Mm-hmm.

13 Q. Do the ingredients, themselves, exceed  
14 one-millimeter mercury vapor pressure, or when they are  
15 combined together they exceed that?

16 A. As I recall, they all did exceed the one  
17 millimeter, and the composite for the diverse impact  
18 (phonetic) and print pack (phonetic) came to 55. All  
19 the various components were greater than one.

20 Q. In response to Question No. 8 regarding  
21 the recordkeeping, on page nine, it states, "Daily  
22 recordkeeping is being proposed where appropriate in  
23 section 218.182 D-3, D-4 and D-6, and when we took a  
24 look at the errata sheet 2, we saw that changes were

Page14

1 made only in sections 218.182 D-4 and 219.182 D-4. Did  
2 you also mean to add something to D-3 and D-6? Was that  
3 an oversight?

4 A. No. When we reviewed in assessing, as I  
5 recall, there was only one area that we could actually

6 apply the daily that made -- let me see. The other  
7 three components of that section --

8 Q. D-3 and D-6 were the ones -- is there a  
9 D-6?

10 MS. GODIKSEN: There were no changes  
11 made to D-6.

12 THE WITNESS: Counsel reminded me that  
13 the requirements of 218.105, C, D and E covered the  
14 other elements in the recordkeeping section. They had  
15 to comply with those requirements, which we specified in  
16 218.182 C-4-C, so the only place that we felt was needed  
17 the requirement of daily was in --

18 MR. RAO CONTINUES:

19 Q. D-4?

20 A. D-4, yeah.

21 MR. HEARING OFFICER: So it was not an  
22 omission. It was an intentional act.

23 THE WITNESS: Right.

24 MR. RAO CONTINUES:

Page15

1 Q. In the previous hearing, Board Member  
2 Moore had asked you a question regarding the compliant  
3 status of these four impact facilities, and you had  
4 addressed that question in the supplemental statement,

5           which talks about the Agency's use of discretion for  
6           enforcement.

7                                 MR. HEARING OFFICER:  Let's make that  
8           clear on the record because this was a question we had  
9           in the last hearing a couple times about the  
10          retroactivity of the language -- and you guys made clear  
11          -- of course, by "you guys" I mean the Agency -- made  
12          clear, in Supplemental Statement No. 2, that you do not  
13          intend the proposed rule-making to be retroactive,  
14          Ms. Godiksen?

15                                MS. GODIKSEN:  Correct, and we made  
16          language changes in Errata Sheet No. 2 to effect that.

17                                MR. HEARING OFFICER:  Further, we also  
18          -- that then leaves these four facilities potentially  
19          open to enforcement, and you are going to use your  
20          enforcement discretion it says in the Supplemental  
21          Statement No. 2, correct?

22                                MS. GODIKSEN:  That's correct.

23                                MR. HEARING OFFICER:  The Board -- and  
24          I'm sure you're aware, as well, the citizens have a

Page16

1           right, under the Environmental Protection Act, to bring  
2           citizen's enforcement cases.  Would it be your

3 understanding that these four facilities would also be  
4 open to those proceedings, as well?

5 MS. GODIKSEN: To the extent that  
6 would be allowed, the Agency would acknowledge that, but  
7 we can only speak to what the Agency can and cannot do.

8 MR. HEARING OFFICER: I think Mr. Rao  
9 and I had the discussion where you brought something  
10 else up.

11 MR. RAO CONTINUES:

12 Q. Actually, the reason I raised the question  
13 was, when we discussed this issue of retroactivity at  
14 the last hearing, Chairman Girard had asked if US EPA  
15 was in agreement with disposable retroactive impact of  
16 the originally proposed rule, and Mr. Beckstead had  
17 noted that you could contact the US EPA, and discuss it  
18 with them, so if you did contact them, could you tell us  
19 what the response is it.

20 A. Yes. I did talk to them, and they -- and  
21 I conveyed that information to my legal counsel, and do  
22 you want me to speak to that matter?

23 MS. GODIKSEN: It's not retroactive  
24 anymore, so their stance is moot.

Page17

1 MR. RAO: That's good enough.

2 MR. HEARING OFFICER: Did you change  
3 your position, in light of what the US EPA said?

4 MS. GODIKSEN: No. Actually the  
5 Agency --

6 MR. HEARING OFFICER: I'm not sure  
7 that you guys have proposed it as a non-retroactive rule  
8 now, but it's still an issue we're concerned with, so if  
9 you have a US EPA stance on it, it would be helpful.

10 MS. GODIKSEN: No. The US EPA stance  
11 didn't sway us. The Agency did not intend for it to be  
12 retroactive, and we changed the language to clarify the  
13 Agency's stance.

14 MR. HEARING OFFICER: Right, but did  
15 US EPA have a stance on that? What was the response?

16 THE WITNESS: Can we go off the record  
17 for a minute.

18 (Discussion was held off the record.)

19 MR. HEARING OFFICER: Let's go back on  
20 the record, and we were talking about the US EPA's  
21 stance on the possible retroactivity of this  
22 rule-making, which we all acknowledge is no longer being  
23 intended as a retroactive ruling.

24 MS. GODIKSEN: I want to clarify that

1 it was never intended to be retroactive.

2 MR. HEARING OFFICER: My apologies.  
3 It was never intended to be a retroactive rule-making.

4 THE WITNESS: I discussed the matter  
5 with Region 5, both, to the regulatory technical support  
6 people and their enforcement group, and they also agreed  
7 that this rule could not be a retroactive type rule.

8 MR. HEARING OFFICER: That it should  
9 not be?

10 THE WITNESS: Should not be.

11 MR. RAO CONTINUES:

12 Q. In response to Question No. 6 in your  
13 responses regarding the outreach for these proposed  
14 provisions, you know that EPA is planning to contact  
15 retailers and is compiling a contact list for outreach,  
16 and we also know that this outreach will take place  
17 before the close of the final comments, and I know you  
18 filed a letter that was sent out on May 15.

19 A. Right.

20 Q. Which has been marked --

21 MR. HEARING OFFICER: Exhibit 9.

22 MR. RAO CONTINUES:

23 Q. -- Exhibit 9. Would it be possible for  
24 the Agency to address what you, if you hear from these

1           guys, what comes out of this outreach and put it in your  
2           final comments?

3                   A.     Sure will.  Definitely.

4                   Q.     That's about it.

5                                 (Discussion was held off the record.)

6                                 MR. HEARING OFFICER:  We are back on  
7           the record after an off-the-record discussion.  The  
8           court reporter informs us that the transcript in this  
9           matter will be ready on May 24, 2006.  We are going to  
10          set a public comment cutoff period of June 14, 2006,  
11          which is 21 days after that transcript will become  
12          available.

13                                Ms. Godiksen, do you have any closing  
14          statements or anything you would like to make?

15                                MS. GODIKSEN:  No.  I would just like  
16          to thank the Board for their time.

17                                MR. HEARING OFFICER:  If anyone has  
18          any questions about this rule-making, and they are  
19          reading the transcript, and wondering what to do, I can  
20          be reached by telephone at 217-278-3111, or my E-mail  
21          address is Knittle -- K-N-I-T-T-L-E -- J at IPCP dot  
22          state dot IL dot US.  We will make the transcript  
23          available shortly after May 24 on the board's website,  
24          and that is www dot IPCB dot state dot IL dot US, and

1 previous Board and hearing officer orders should also be  
2 available on that website. I would like to thank  
3 everybody for participating today, and I almost forgot,  
4 but we are going to take the outreach list you gave us  
5 as Exhibit No. 9, and we accepted it as Exhibit No. 9,  
6 and we are going to put those people on the notice list,  
7 so that they have notice of the hearing today and the  
8 transcript and are going to be more in the loop than  
9 they have been up to this time.

10 (At which point in the proceedings,  
11 the hearing was concluded at 9:39 a.m. )

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 STATE OF ILLINOIS)  
2 COUNTY OF ST. CLAIR)SS  
3

4 I, Holly A. Schmid, a Notary Public in  
5 and for the County of Williamson, DO HEREBY CERTIFY that  
6 pursuant to agreement between counsel there appeared  
7 before me on May 17, 2006, at the office of the  
8 Administration Building, Madison County, Illinois,  
9 Gary Beckstead, who was first duly sworn by me to  
10 testify the whole truth of his knowledge touching upon  
11 the matter in controversy aforesaid so far as he should  
12 be examined and his examination was taken by me in  
13 shorthand and afterwards transcribed upon the typewriter  
14 (but not signed by the deponent) and said hearing is  
15 herewith returned.

16 IN WITNESS WHEREOF I have hereunto set  
17 my hand and affixed my Notarial Seal this 24 day of May,  
18 2006.

19 \_\_\_\_\_  
20 HOLLY A. SCHMID  
21 Notary Public -- CSR  
22 084-98-254587

23 MY COMMISSION EXPIRES 5-31-06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

23

24

Page23