

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

10-Year Federally Enforceable
State Operating Permits (FESOP)
Amendments to 35 Illinois
Administrative Code Part 201.162

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DOCKET R10-21

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JUL 26 2010

STATE OF ILLINOIS
Pollution Control Board

Hearing held, pursuant to notice, on Wednesday,
July 21, 2010 at the hour of 1:00 p.m. at 1021 North
Grand Avenue, Springfield, Illinois, before CAROL
WEBB, duly appointed Hearing Officer.

L.A. REPORTING SERVICE
(312) 419-9292

REPORTER: LAUREL A. PATKES, CSR #084-001340

1 BOARD MEMBERS:

2 CARRIE ZALEWSKI

3 APPEARANCES:

4 RACHEL DOCTORS
5 Assistant Counsel
6 IEPA
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1 HEARING OFFICER WEBB: Good
2 afternoon. My name is Carol Webb. This is the
3 second hearing for Docket R10-21 entitled: In the
4 matter of 10-Year Federally Enforceable State
5 Operating Permits (FESOP) Amendments to 35 Illinois
6 Administrative Code Part 201.162.

7 At this hearing, all references to
8 the Agency refer to the Illinois Environmental
9 Protection Agency, and all dates refer to calendar
10 year 2010.

11 At today's hearing, the Board will
12 take any testimony on the merits and economic effect
13 of the Agency's April 20 regulatory proposal. The
14 proposal would extend from five to ten years the
15 maximum term for which the Agency could issue a
16 Federally Enforceable State Operating Permit known
17 as a FESOP. The sole provision of the air rules to
18 be amended is Section 201.162.

19 With me today is Board Member Carrie
20 Zalewski who is coordinating this rulemaking. The
21 assigned hearing officer in this proceeding is
22 Kathleen Crowley.

23 As announced at the first hearing
24 held on July 8th, I'm conducting this hearing in

1 place of Ms. Crowley to conserve travel costs for
2 the board.

3 Member Zalewski, do you have any
4 opening remarks you would like to make?

5 MEMBER ZALEWSKI: Just again to thank
6 everyone for their participation.

7 HEARING OFFICER WEBB: Thank you.

8 At this point, I would like to ask
9 the Agency to please make your appearance on the
10 record.

11 MS. DOCTORS: My name is Rachel
12 Doctors, and I am representing the Illinois EPA in
13 this matter.

14 HEARING OFFICER WEBB: Thank you.

15 Before we begin, there is some
16 information that must be entered into the record.

17 At the July 8th hearing, Ms. Crowley
18 stated that the first notice proposal was published
19 in the Illinois Register on July 2nd at 35 Illinois
20 Register 8508. The 45-day first notice comment
21 period required by the Administrative Procedure Act
22 expires on August 16th. This is the first business
23 day after the 45th day.

24 The first notice of publication

1 included the dates of both scheduled hearings and
2 referenced the hearing officer's June 9th order
3 setting deadlines for the prefiling of testimony and
4 addressing other procedural points.

5 On June 24th, the Board submitted a
6 written request to the Department of Commerce and
7 Economic Opportunity, known as DCEO, that it perform
8 an economic impact study, also known as EcIS, as
9 provided for in Section 27 of the Environmental
10 Protection Act. The Board asked DCEO to provide any
11 response by June 30th.

12 No response has been received, and no
13 study has been filed.

14 Section 27(b) requires the Board to
15 hold a hearing on the economic impact of the rules,
16 any EcIS submitted, and on any explanation DCEO
17 provides for not conducting an EcIS. Section 27(b)
18 allows the Board to dovetail the economic impact
19 hearing with any other hearing. Any DCEO hearing
20 issues can be addressed at today's hearing.

21 We'll first allow the Agency to make
22 any comments or testimony followed by testimony of
23 anyone concerning economic effects of the proposed
24 rulemaking and any other matter.

1 I will note for the record that no
2 members of the public are present. No testimony or
3 questions have been prefiled by the Agency or any
4 other person.

5 Does the Agency have any additional
6 testimony or information to present in support of
7 its proposal today?

8 MS. DOCTORS: No, it does not.

9 HEARING OFFICER WEBB: Thank you very
10 much.

11 As I said before, DCEO has not
12 submitted an EcIS or any explanation for its
13 decision not to perform one.

14 Does anyone have any testimony on
15 this or the economics of the proposal?

16 I again note that there are no
17 members of the public present who may have any
18 comments, and there's no one other than the Agency
19 present to make any testimony or statements.

20 Okay. Our last task today then is to
21 set a date for the closing of post-hearing comments.
22 As stated previously, the 45-day first notice
23 comment period required by the EPA began on July 2nd
24 and ends August 16th. Section 102.108(b) of the

1 Board's procedural rules also provides that the
2 Board will accept comments for 14 days after the
3 receipt of the hearing transcript or at any other
4 date set by the hearing officer.

5 The transcript for this hearing is
6 due by August 2nd and the 14-day due date under
7 Section 102.108 would be August 16th.

8 As the Board will not have sufficient
9 time to issue an order for the August 19th Board
10 meeting, we will set the date for the end of the
11 comment period to August 20th. Comments must be in
12 the Board's office by that date, and the mailbox
13 rule of 35 Illinois Administrative Code 101.300(b)
14 will not apply.

15 The Board will consider any requests
16 for extension of the comment period in light of the
17 Agency's preference that the rules be adopted as
18 soon as possible to save renewal processing costs
19 for both the Agency and the regulated community.

20 Are there any other questions or
21 comments?

22 Seeing none, I will thank you all for
23 your participation. Thank you very much.

24 (Conclusion of proceedings.)

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF SANGAMON)
3

4 CERTIFICATE

5 I, Laurel A. Patkes, Certified Shorthand
6 Reporter in and for said County and State, do hereby
7 certify that I reported in shorthand the foregoing
8 proceedings and that the foregoing is a true and
9 correct transcript of my shorthand notes so taken as
10 aforesaid.

11 I further certify that I am in no way
12 associated with or related to any of the parties or
13 attorneys involved herein, nor am I financially
14 interested in this action.

15 Dated this 23rd day of July 2010.
16

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Laurel Patkes
Certified Shorthand Reporter

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