

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 13 2005

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)	
)	
PROPOSED AMENDMENTS TO)	R 05-20
EXEMPTIONS FROM STATE)	(Rulemaking -- Air)
PERMITTING REQUIREMENTS)	
FOR PLASTIC INJECTION MOLDING)	
OPERATIONS (35 ILL. ADM. CODE 201.146))	

NOTICE

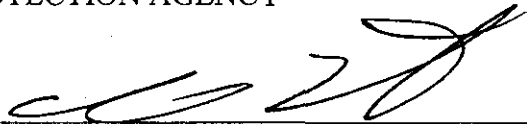
TO: Dorothy Gunn, Clerk	Amy Antonioli, Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	James R. Thompson Center
100 W. Randolph Street, Suite 11-500	100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed with the Office of the Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S FIRST CORRECTION TO THE TRANSCRIPT OF THE HEARING HELD JULY 1, 2005 CONCERNING THE AMENDMENTS TO 35 ILL. ADM. CODE 201.146 AND PRE-FILED TESTIMONY OF DONALD E. SUTTON on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you. ←

Date: July 11, 2005

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Charles E. Matoesian
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Division of Legal Counsel

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THIS FILING IS SUBMITTED ON
RECYCLED PAPER

IN THE MATTER OF:)
)
 PROPOSED AMENDMENTS TO)
 EXEMPTIONS FROM STATE)
 PERMITTING REQUIREMENTS)
 FOR PLASTIC INJECTION MOLDING)
 OPERATIONS)
 (35 Ill. Admin. Code 201.146))

JUL 13 2005

STATE OF ILLINOIS
Pollution Control Board

R 05 -20

**PRE-FILED TESTIMONY OF DONALD E. SUTTON ON BEHALF OF THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

I am Donald E. Sutton, P.E. I have been manager of the manager of the Division of Air Pollution Control Permit Section since July 1991. The following is my testimony that provides the Agency's view of this proposed rulemaking.

PROPOSAL DEVELOPMENT

In 1996, the Board adopted revised rules providing to expand, clarify and modify the list of emission units and activities that are exempt from state air permitting requirements specified at 35 Ill. Adm. Code 201.142, 201.143, and 201.144. Amendments to Exemptions From State Permit Requirements: 35 Ill. Adm. Code 201 and 211, R96-17 (effective July 31, 1998). These amendments updated terminology and certain amendments are intended to clarify the types of activities or emission units that are covered by a particular exemption such as the exemption for fuel combustion equipment.

In 1997, Section 39 of the Act (415 ILCS 5/et. seq.) was amended to establish a *lifetime* permit program. Pursuant to P.A. 90-367, effective June 17, 1998, the Board adopted revised rules providing that emission sources not subject to Section 39.5 of the Act or required to have a federally enforceable state operating permit ("FESOP") shall have operating permits that are required to be renewed only upon request by the Agency or if circumstances warrant a revised permit. Amendments to General Permitting Provisions to Require Perpetual Permits for Certain Sources: Amendment to 35 Ill. Adm. Code 201, R98-13 (June 17, 1998). Circumstances requiring a revised operating permit or construction permit include change in ownership, construction or modification of an emission unit at a source pursuant to Section 201.169(c). "Construction" is defined as "commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment." 35 Ill. Adm. Code 201.102.

In 2003, the Board adopted rules to amend its permitting rules for the control of air pollution section 201.142 and add section 201.170 (35 Ill. Adm. Code 201.142). The

adopted rules exempted certain smaller emissions sources from the requirement for owners and operators to obtain new construction permits that were required by Section 39 of the Act (415 ILCS 5/39 (2000)) each time the site of small emission units are changed. Amendments to General Permitting Provisions for Portable Emission Units: Amendments to 35 Ill. Adm. Code 201, R02-10 (February 6, 2003).

Earlier this year, the Agency and the Illinois Environmental Regulatory Group (IERG) jointly proposed to the Board additional categories to the permit exemptions in Section 201.146. This prior rulemaking, which the Board has docketed R05-19, includes four additional categories of permit exemptions will allow more efficient allocation of Illinois EPA resources during a time of budget concerns. The proposed additions to Section 201.146 are below:

- a. Replacement or Addition of Air Pollution Control Equipment for Existing Emission Units – Proposed Section 201.146(hhh).
- b. New Emission Units and Modifications to Existing Emission Units at Facilities with Federally Enforceable State Operating Permits - Proposed Section 201.146(iii).
- c. New Emission Units or Modifications to Existing Emission Units at Permitted Sources That Are Not Major Sources or FESOPs - Proposed Section 201.146(jjj).
- d. Insignificant Activities at Clean Air Act Permit Program Sources - Proposed Section 201.146(kkk).

PROPOSAL

This proposed rulemaking (R05-20) would seek to add one more category to the permit exemptions in Section 201.146 for plastic injection molding operations using 5,000 tons of plastic resin per year or less. This exemption does not threaten the public health or welfare.

The Agency understands that the primary effect of the proposed amendment is to expand the list of activities and emission units that would qualify for exemption from state air permitting requirements by adding a new category of activities or emission units for the exemptions. The activities and emission units, which are proposed for exemption, are based on the historical experience of the Agency that such emissions units should not merit permitting going forward as the emissions from the units or activities are minimal. Further, individual information on these activities will not be needed for purposes of air quality planning.

The amendment to Section 201.146 exempts from state construction and operating permitting the plastic injection molding equipment with an annual through-put not exceeding 10,000,000 pounds of plastic resin and associated plastic resin loading,

unloading, conveying, mixing, storage, grinding, and drying equipment and associated mold release and mold cleaning agents. The Agency has reviewed the proposed language and has determined that these emission units are not subject to any federal New Source Performance Standards (NSPS) under 40 CFR 60 or to subject to any federal National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR 61 or 63.

The Agency also believes that the proposed amendments do not alter or affect the liability of an owner or operator of such plastic injection molding machines for compliance with emission standards and other requirements that apply to such emission units or activities, either individually or in conjunction with other emission units or activities constructed, modified or located at the source.

ECONOMIC REASONABLENESS AND TECHNICAL FEASIBILITY

It is the Agency's opinion that the proposed amendments expand the list of exemptions from state air permit requirements. Thus, this proposal does not pose any issues with respect to technical feasibility. The additional exemptions will not significantly impact the effectiveness of the permit program and may help focus attention on the more "important emission units".

I have been asked in previous hearings before the Board, specifically during Rulemaking R05-19, about the cumulative effect of exempting a large number of sources of air pollution based on low or "de minus" emission levels. This question was also brought during the previous hearing for this Rulemaking (R05-20). To address this question, there are a number of regulatory schemes that would remain applicable in which this new exemption from permitting will have no effect. For example, a determination whether a source is considered to be major under USEPA regulations is dependent on the potential emissions of a source from all emission units regardless of the state permitting requirements upon that source or those units. The state of Illinois does not have a right to override a federal requirement, such as New Source Review or Title V permitting. There could be a point in time that if you have enough emission units that are exempt from the requirements to obtain a state permit, that you could actually trigger a higher level requirement. The Chemical Industry Council of Illinois (CICI) will provide testimony that the emissions from these sources are approximately between a half a ton per year to two tons per year and most regulatory triggers, besides hazardous air pollutants (HAP), will be in the 100 ton per year level. Most of the sources in Illinois with Lifetime State Operating permits have permitted emissions less than 25 tons per year of all pollutants and actual emissions range from two to five tons per year. We currently have 6,800 permitted sources in Illinois. Of that total, we have roughly 4,900 sources that have permits that keeps their emissions to less than 25 tons per year.

As an economic matter the proposal will reduce costs as the amendments expand the list of exemptions and many affected sources will be relieved of the requirement to obtain a state permit. A cost savings will result as those sources which no longer require permits will be relieved of the need to collect data, prepare permit applications and submit permit fees. The loss of permit fees should not affect the Agency, as the loss of revenue from

eliminating permitting of these sources will be matched by the savings by eliminating the cost of reviewing such permit applications. The sources most affected by this proposed rulemaking currently pay the minimum amount of air pollution operating permit fees or the minimum construction permit application fees yet the processing of applications for such proposed activities or emission units covered by this proposed amendment may take almost as long to process as the projects for activities or emission units that will remain subject to the construction and operating permit requirements.

Another question raised in the previous hearing before the Board for this rulemaking was whether this proposal would cause more plastic injection molding businesses to come to Illinois and whether this would have an impact on increasing emissions from this industry. The regulatory burden on this industry to obtain air pollution control permits is currently not that great and should not have been a deterrent to the plastics industry. These types of sources generally would have a Lifetime State operating permit and would pay the minimum construction permit application and operating site fees. Other states within USEPA's Region 5 already have similar permitting exemptions for this industry as the one proposed in this amendment. We agree with Ms. Sharkey's response to this same question during the previous hearing.

At the July 1, 2005 hearing for this rulemaking, Anand Rao from the Board's technical unit asked the Agency whether we view plastic injection molding as an extrusion operation. It is the Agency's view that injection molding is a different type of operation from extrusion, and thus the Agency does not view injection molding machines as being exempt from permitting under the extruder exemption found in 201.146(cc).

The Agency is willing to answer any questions about these proposed amendments or address any comments you may have.

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

PROOF OF SERVICE

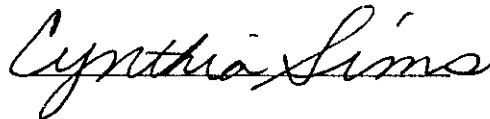
I, the undersigned, on oath state that I have served the attached Illinois Environmental Protection Agency's First Correction to the Transcript of the Hearing held July 1, 2005 concerning the Amendments to 35 Ill. Adm. Code 201.146 and Pre-filed Testimony of Donald E. Sutton on behalf of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing it in an envelope addressed to:

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

Amy Antonioli, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
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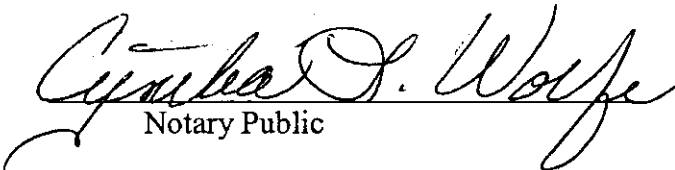
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and mailing it by First Class Mail from Springfield, Illinois on July 11, 2005, with sufficient postage affixed.

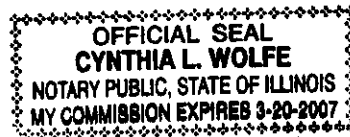


SUBSCRIBED AND SWORN TO BEFORE ME

this 11th day of July, 2005



Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST R 05-20

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