

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
 )  
AMENDMENTS TO GENERAL PERMITTING ) PCB R98-13  
PROVISIONS TO REQUIRE PERPETUAL ) (Rulemaking)  
PERMITS FOR CERTAIN SOURCES: )  
AMENDMENTS TO 35 ILL. ADM. CODE 201 )

The following is the transcript of a hearing held in the above-entitled matter, taken stenographically by Lisa Knight Cosimini, CSR, RPR-RMR, a notary public within and for the State of Illinois, before CHARLES A. KING, Hearing Officer, at James R. Thompson Center, 100 West Randolph, Room 9-040, Chicago, Illinois, on the 8th day of December, 1997, commencing at the hour of 11:05 a.m.

A P P E A R A N C E S :

HEARING OFFICER:

MR. CHARLES A. KING  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(312) 814-4925

ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

MS. KATHLEEN M. HENNESSEY  
MS. MARILI McFAWN

COUNSEL FOR ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

MS. RACHEL L. DOCTORS  
P. O. Box 19276  
Springfield, Illinois 62794-9276

ALSO PRESENT:

MR. HARISH B. DESAI  
Illinois Environmental Protection Agency

MR. MARK W. HOMER  
Chemical Industry Council of Illinois

MR. RICHARD M. SAINES  
Gardner, Carton & Douglas

L. A. REPORTING (312) 419-9292

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E X H I B I T S

( N O N E )

1 HEARING OFFICER KING: Good morning. My name is Charles  
2 King, and I'm the hearing officer appointed in this proceeding  
3 entitled "In the Matter of the Amendments to General Permitting  
4 Provisions To Require Perpetual Permits For Certain Sources:  
5 Amendments to 35 Illinois Administrative Code 201," Docket  
6 Number R98-13.

7 To my left is Marilyn McFawn, the lead board member  
8 assigned to this rulemaking; and to my right is board member  
9 Kathleen Hennessey also with us this morning.

10 This is the first hearing in this rulemaking proceeding  
11 which is based on a proposal filed on October 10th by the  
12 Illinois Environmental Protection Agency.

13 On October 16th, the Board accepted the proposal for  
14 hearing. And on November 20th, the Board sent the proposal of  
15 first notice, and we believe it was either published in the most  
16 recent Illinois Register or will be published in the next  
17 Illinois Register and that there's going to be one more hearing  
18 on this matter which will be on January 12th in Springfield.

19 The Board maintains a service list and notice list with  
20 regard to these rulemakings. If you are signed up to be on the  
21 service list, you receive copies of all the pleadings and  
22 pre-filed testimony in addition to Board orders and hearing  
23 officer orders.

24 If you're on the notice list, you receive the hearing

1 officer orders and Board orders but not all the other documents.  
2 And if you wish to participate in the rulemaking proceeding and  
3 file documents, those have to be served on the parties on the  
4 service list.

5 If anyone here is not on one of those lists and would like  
6 to be, please see me after the hearing; and I'll make sure that  
7 you get added.

8 The Board received pre-filed testimony from the Agency for  
9 this hearing, and so we're going to begin with the Agency's  
10 witness. Then we'll allow for questioning. And after that,  
11 anyone else who wishes to testify can within the, whatever time  
12 we have left.

13 Does anyone else intend to testify this morning?

14 (No response.)

15 HEARING OFFICER KING: Would you gentlemen in the audience  
16 like to make appearances for the record? You don't have to.  
17 You can if you want.

18 MR. SAINES: Sure. Richard Saines from Gardner, Carton &  
19 Douglas.

20 MR. HOMER: Mark Homer with the Chemical Industry Council  
21 of Illinois.

22 HEARING OFFICER KING: All right.

23 MS. McFAWN: Glad you're both here.

24 MR. HOMER: Thank you.

1 HEARING OFFICER KING: Before we begin, do you have  
2 anything you want to say, Member McFawn?

3 MS. McFAWN: Just to welcome the two gentlemen in the  
4 audience and the Agency representatives. Thank you. And I  
5 assume this will be a fairly precise and concise record that we  
6 develop here. So -- nothing more.

7 HEARING OFFICER KING: Ms. Hennessey?

8 MS. HENNESSEY: No further comments.

9 HEARING OFFICER KING: All right. Ms. Doctors, would you  
10 like to begin?

11 MS. DOCTORS: Yes. My name is Rachel Doctors. I'm  
12 representing the Illinois Environmental Protection Agency in  
13 this matter.

14 Today we are proposing to expand the existing perpetual  
15 permit program at 35 Illinois Administrative Code 201, subpart  
16 (g).

17 That applied to sources of less than 25 tons per year, and  
18 we're expanding it to all sources that are nonmajor; i.e., not  
19 required to obtain Title 5 permits pursuant to Section 39.5 of  
20 the Illinois Environmental Protection Act or required to obtain  
21 a federally enforceable state operating permit.

22 This proposal, we believe, is consistent with Public Act  
23 90-367 that required adoption of these amendments by June 30th  
24 of 1998.



1 I'm employed as a unit manager of Unit 1 of the permit section,  
2 the Division of Air Pollution Control, Bureau of Air. I have  
3 been working in the permit section since 1971.

4 I have a bachelor of science degree in chemistry and  
5 physics from the University of Bombay, Bombay, India, and a  
6 master of science degree in chemical engineering from University  
7 of Detroit, Detroit, Michigan.

8 On August 10, 1997, Governor Edgar signed Senate Bill 819,  
9 which requires the Illinois EPA to issue operating permits that  
10 do not have expiration date for sources that did not require  
11 permits under the Clean Air Act Permit Program (CAAPP) or  
12 Federally Enforceable State Operating Permit (FESOP).

13 Even though these permits do not have fixed predetermined  
14 expiration dates, they must be promptly renewed upon written  
15 request from the Illinois EPA. Illinois EPA may request new  
16 permits if new standards are developed for the sources or if a  
17 particular source is experiencing noncompliance.

18 Senate Bill 819 merely expands the existing authority of  
19 Illinois EPA to issue so-called "lifetime" operating permits,  
20 permits without expiration date, to all sources other than CAAPP  
21 and FESOP sources. There are about 650 sources who can qualify  
22 for this type of operating permit.

23 In 1993, the Environmental Protection Act was amended to  
24 require the Illinois EPA to issue lifetime operating permits to

1 sources whose total permitted emissions are less than 25 tons  
2 per year of any combination of regulated air pollution. 35  
3 Illinois Adm. Code Part 201, subpart (e) was adopted to carry  
4 out the provision for lifetime permits. Because the program  
5 only applied to sources whose permitted emissions were less than  
6 25 tons per year, the permits were also referred to as a smaller  
7 source operating permits.

8 In the last four years, the Illinois EPA has issued smaller  
9 source permits to approximately 4,000 sources. Out of these  
10 4,000 sources, about 300 to 400 sources have obtained revised  
11 lifetime operating permits because of new construction or  
12 modification occurring at the source.

13 These operating permits do not have expiration dates.  
14 Although the Illinois EPA can request renewal of lifetime  
15 operating permits by, with written notice, this has not occurred  
16 in practice. The smaller source permits has not interfered with  
17 enforcement or allowed deterioration of air quality.

18 Senate Bill 819 expands the smaller source permit program  
19 to all nonmajor sources that do not have to have a federally  
20 enforceable permit; that is, a FESOP or CAAPP permit. This will  
21 allow about 650 more sources to receive lifetime permits. As  
22 with the smaller source program, all permits for these larger  
23 sources will be combined into one. As with the current program,  
24 the Illinois EPA does not believe this reduces the effectiveness

1 of environmental regulations.

2 If any of these additional sources modify their emission  
3 units or add additional units, they are required to obtain a  
4 construction permit and update their existing operating permit,  
5 just as smaller sources have historically done. If their  
6 emissions increase to a major level or national emission  
7 standard for hazardous air pollutants, NESHAP, standards may  
8 apply to them; then they are required to obtain either a FESOP  
9 or CAAPP permit.

10 In addition, they still have to obtain a revised operating  
11 permit. The lifetime permit program has been beneficial as it  
12 has allowed the Illinois EPA to concentrate on the larger FESOP  
13 and CAAPP sources and will save approximately \$180,000 per year.  
14 It costs the Agency \$1500 per source to renew. 120 sources per  
15 year were expected to renew. Hence, the Agency expects to save  
16 three and a half million dollars over 20 years.

17 There are about 1,660 sources who have either received or  
18 applied for FESOP permits, and about 800 sources have applied  
19 for CAAPP permits. These sources do not qualify for lifetime  
20 operating permits as expiration and renewal is appropriate.

21 This terminates my testimony for this regulation.

22 MS. DOCTORS: I'd like to make one quick correction. When  
23 I had said I was amending subpart (g), I meant we were -- that  
24 the rules originally appeared in subpart (e) of Part 201.

1 HEARING OFFICER KING: All right. Thank you.

2 MS. McFAWN: Those are going to be the rules that are going  
3 to be deleted because they are --

4 MS. DOCTORS: Right. We're subsuming them all into that  
5 one 201.169, --

6 MS. McFAWN: Okay.

7 MS. DOCTORS: -- which I think -- I like that. I was going  
8 to say I agreed because I originally just crossed out the  
9 subpart. It's much cleaner to move it and create a new section  
10 in subpart (d).

11 MS. McFAWN: Okay.

12 MS. DOCTORS: So, I think that's a good change.

13 MS. McFAWN: Good. I was going to ask you that: Do you  
14 like it or not?

15 MS. DOCTORS: Yeah.

16 MS. McFAWN: Okay.

17 MS. DOCTORS: You know, I wish I'd thought of it. I don't  
18 know why I didn't at the time. But when I looked, I thought,  
19 "Oh, this makes sense. Great."

20 HEARING OFFICER KING: Ms. McFawn, do you have any  
21 questions for Mr. Desai?

22 MS. McFAWN: Yeah. I had one.

23 You stated that of the 14 -- of the 4,000 sources that got  
24 the smaller source permits --

1 WITNESS DESAI: That's correct.

2 MS. McFAWN: -- under the existing program, 3 to 400 of  
3 those sources have obtained revised lifetime.

4 WITNESS DESAI: That's correct.

5 MS. McFAWN: So, they were given a lifetime; but, yet,  
6 they've come back to you and said, "Well, we're going to do some  
7 new construction"?

8 WITNESS DESAI: That's correct.

9 MS. McFAWN: But they still were under 25 tons; so, you  
10 just revised them?

11 WITNESS DESAI: They were under the 25 ton, and they're  
12 still under 25 tons after. If you -- I don't have the data, but  
13 very few of them go over 25 ton. Most of them stayed within 25  
14 ton after having a new construction.

15 MS. McFAWN: Okay. So, it was just -- you're just telling  
16 us, then, for the record --

17 WITNESS DESAI: That's --

18 MS. McFAWN: -- that people do come back to you after  
19 they've gotten a lifetime, and they do modify or revise it?

20 WITNESS DESAI: Absolutely.

21 MS. McFAWN: Could you tell us a little bit more about the  
22 Agency's estimate of 1500 per source to issue a permit?

23 WITNESS DESAI: That's based on -- we do not have figures  
24 for individual -- how much time it takes for a smaller source

1 permit or lifetime permit or CAAPP permit, but it's been  
2 averaged out based on number of permit being processed including  
3 construction and operating.

4 MS. McFAWN: Okay. So, this would be the cost of your  
5 personnel?

6 WITNESS DESAI: And does include the clerical work, also.

7 MS. McFAWN: Pardon me?

8 WITNESS DESAI: This -- that amount does include the  
9 clerical help.

10 MS. McFAWN: Okay. Thank you.

11 If you'd be so kind, too, could you explain the other  
12 attachments that were, to the Agency's regulatory submittal?

13 For instance, you have a list of sources on attachment 11.  
14 Could you tell us a little bit more about that attachment? This  
15 would be the ones that I believe you've represented to be the  
16 sources that will come under the new rule?

17 WITNESS DESAI: Correct.

18 These are the sources, we think, will come under the new  
19 rule.

20 MS. McFAWN: And there's how many?

21 MS. DOCTORS: Roughly 650 is what we estimated. Some may  
22 have -- there may be some that we didn't find, but we will find  
23 in some that -- it looks like they're less than 25 ton, but  
24 maybe there's a HAP or a NESHAP that may apply. So then they

1 wouldn't come under this.

2 WITNESS DESAI: At the same time, that list is constantly  
3 changing, depending upon the company deleting the emission units  
4 or adding new emission unit.

5 MS. McFAWN: Okay. Will you notify these companies of the  
6 change in the regulations? Or will it be up to them just to be,  
7 remain current with our regs?

8 WITNESS DESAI: Historically, we have notified.

9 MS. McFAWN: You have?

10 WITNESS DESAI: But there is no such regulations that, by  
11 which we require them to notify. It is still a company's  
12 responsibility to note any change in regulations.

13 MS. McFAWN: Do you, do you think you might give that  
14 complimentary notification again this time?

15 WITNESS DESAI: Yes, ma'am.

16 MS. McFAWN: Also, attached are several letters to  
17 different representatives of associations. Can you explain  
18 those to us? I think there's one to the Illinois Association of  
19 Aggregate Producers, the Sierra Club, and several others.

20 MS. DOCTORS: Right. We've, we have -- we kind of have a  
21 group of people that we deal with when we do outreach, and these  
22 are the people that we felt would be in contact with the largest  
23 number of affected sources.

24 MS. McFAWN: And did you get feedback from these persons?

1 MS. DOCTORS: The IERG, the Illinois -- Sid Marder's group,  
2 the Illinois Environmental Regulatory Group, we did get some  
3 feedback from them and some questions.

4 MS. McFAWN: And those were resolved --

5 MS. DOCTORS: Yes.

6 MS. McFAWN: -- through your outreach programs?

7 MS. DOCTORS: Yes.

8 MS. McFAWN: Okay. And this was all done prior to the  
9 submittal being made to the Board?

10 MS. DOCTORS: Yes. We felt because of the stringent  
11 timing of it that it needed to be done so fast that we needed to  
12 talk early.

13 MS. McFAWN: Good. I also had one other question about  
14 when we took your proposal and made it a board order, we did do  
15 some changes which you've addressed. But I -- in rereading  
16 this, the board's order, I was, also had a question of -- I was  
17 thinking, perhaps, that at Section 201.169(b) we might take and  
18 reverse the order of paragraphs two and one.

19 I wonder if you could take a moment to consider that and  
20 the wisdom of doing that. This would be at page 10,  
21 subparagraph (b)(1) and (2).

22 MS. DOCTORS: Okay. The first section -- can I give you a  
23 final answer at the second hearing on that?

24 MS. McFAWN: Sure.

1 MS. DOCTORS: Let me check.

2 MS. McFAWN: It's just -- yes.

3 MS. DOCTORS: I understand what the question is. I just  
4 want to check with -- I probably will check with IERG because  
5 they're not here today. If anybody here -- you know, I just  
6 want to check.

7 MS. McFAWN: That would be fine. I just -- when I reread  
8 them a couple days ago I thought: Is the order backwards here?  
9 And maybe it is; maybe it's not. And also check inside with  
10 your people at the EPA and see what they think.

11 MS. DOCTORS: I think the order's consistent with old  
12 201.181, but that doesn't mean that it couldn't be improved,  
13 that the order wouldn't be an improvement or lead to more  
14 ease --

15 MS. McFAWN: Okay.

16 MS. DOCTORS: -- in understanding the section.

17 MS. McFAWN: All right.

18 MS. DOCTORS: So, let me just check.

19 MS. McFAWN: Very good.

20 HEARING OFFICER KING: Member Hennessey, do you have any  
21 questions?

22 MS. HENNESSEY: No.

23 HEARING OFFICER KING: Are there any other questions for  
24 Mr. Desai?

1 Yes.

2 MR. HOMER: Hi. I'm Mark Homer with the Chemical Industry  
3 Council, and I just want to say that we fully support the  
4 Agency's proposal in this matter; and Board Member McFawn  
5 already covered the only question I had.

6 I believe at this time that I don't think our association  
7 would have any problem with changing over the list of sections.  
8 Thank you.

9 MS. McFAWN: Thank you, Mr. Homer.

10 HEARING OFFICER KING: All right. Well, I suppose that  
11 pretty much takes care of what we need to do this morning then.

12 Ms. Pittman brought down while we were going here current  
13 updated versions of the service -- notice and service lists.  
14 So, if anyone needs a current version of either of those, I can  
15 pass them out after we're done.

16 And if no one has anything else that they'd like to add,  
17 then I think we can conclude this first hearing on this matter  
18 this morning.

19 MS. McFAWN: See you on January 12th down in Springfield.

20 HEARING OFFICER KING: Thank you everyone.

21 MS. McFAWN: Thank you.

22 MS. DOCTORS: Thank you.

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24 HEARING CONCLUDED AT 11:20 A.M.

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CERTIFICATE OF REPORTER

I, LISA KNIGHT COSIMINI, CSR, RPR-RMR, Notary Public  
in and for the State of Illinois, do hereby certify that the  
foregoing transcript, consisting of pages 1 through 17, both  
inclusive, constitutes a true and accurate transcript of the  
original stenographic notes recorded by me of the foregoing  
proceedings had before Charles King, Hearing Officer for the  
Illinois Pollution Control Board, on the 8th day of December,  
1997.

Dated this 17th day of December, 1997.

\_\_\_\_\_  
LISA KNIGHT COSIMINI, CSR, RPR-RMR  
Illinois License No. 084-002998