

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

In The Matter of:)
)
 Listing of Federal Hazardous Air) R 96-4
 Pollutants, Great Lakes Commissions Toxic)
 Compounds, and Great Waters Program Toxic)(Rulemaking)
 Compounds, and Source Reporting for)
 Illinois Toxic Air Contaminants, Amendments)
 to 35 Illinois Administrative Code Part 252.)

The following is a transcript of a
 hearing held in the above-entitled matter, at 100 West
 Randolph Street, Room 9-031, Chicago, Illinois, on the 9th
 of April, 1996, A.D., commencing at the hour of 10:00
 o'clock a.m.

BEFORE: Mr. Charles M. Feinen, Hearing Officer.

PRESENT:

Mr. Joseph Yi, Board Member
 Mr. Anand M. Rao, Environmental Engineer
 Scientific/Technical Section

APPEARANCES:

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ALSO PRESENT:

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HEARING OFFICER FEINEN: Good morning. My name is Chuck Feinen, the assigned Hearing Officer for this matter.

The attending Board Member for this hearing is Joe Yi, who is seated to my right.

And to my left is Anand Rao, one of our Technical Unit Members.

This matter has been docketed as R 96-4 entitled: Listing of Federal Hazardous Air Pollutants, Great Lakes Commissions Toxic Compounds, and Great Waters Program Toxic Compounds, and Source Reporting for Illinois Toxic Air Contaminants, Amendments to 35 Illinois Administrative Code Part 252.

This was the second hearing in this proceeding. The first hearing was in Springfield held on February 23rd, 1996. And at that hearing, the Agency presented a case, and there was some cross-examination done by David Reiser and Mark Homer and Whitney Wagner Rosen.

Today, hopefully, we'll start out with any further questions of the Agency's technical expert, Henry Naour. And then we'll start off by asking further

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questions of him or having other parties presenting evidence or testimony.

With that, let's just get any new appearances to be made on the record.

I see some new faces here today.

MS. KROACK: My name is Laurel Kroack and I believe my appearance is already on the record.

Also, the Agency would like to make a brief presentation before we get started, if that would be okay. I have some corrections. Typographical.

HEARING OFFICER FEINEN: Is that concerning the errata sheet?

MS. KROACK: Correct.

No? In addition to the errata sheet?

In addition to the errata sheet, we found some additional typographical errors.

HEARING OFFICER FEINEN: Are there any other appearances?

MS. CRAIN: Jennifer Crain. I'm here on behalf of the Illinois Environmental Regulatory Group.

MR. SNYDER: Jack Snyder, Society Plastics Industry.

HEARING OFFICER FEINEN: Mary, you want to?

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MS. ROSS: I'm not a lawyer, so, not appearing.

But, I'm Mary Ross on behalf of the
Sierra Club.

HEARING OFFICER FEINEN: Okay. Let's go off the
record for a second. I need a couple of minutes here.

(Whereupon, a discussion was held off
the record.)

HEARING OFFICER FEINEN: I guess we'll start out
with the Agency's technical statement they want to make.

MS. KROACK: Good morning. My name is Laurel
Kroack. I'm the Acting Associate Counsel for the
Regulatory Development Unit of the Bureau of Air, Division
of Legal Counsel.

The Agency's presentation today will be
brief.

We're going to propose some amendments to
the Agency's petition to correct a typographical error,
one chemical name in Appendix A, to clarify the identity
of several chemicals in Appendix A, and to remove one
appearance of a chemical that appears twice on this list.

With me today is Mr. Henry Naour of the
Agency's Toxic Screening Unit in the Bureau of Air. He

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has previously offered brief testimony. He will be available for questioning.

At this point I would like to introduce the Agency's exhibit into the record listing the specific corrections.

Just briefly, the specific corrections and changes to be made are "ethylidene dichloride," which is also referred to as 1,1-Dichloroethane with a chemical abstract service number of 75-34-3 is misspelled in the original proposal.

The correct spelling is e-t-h-y-l-i-d-e-n-e for ethylidene dichloride. The proposal also lists the synonym for this chemical name incorrectly. The synonym is currently listed as "1,1-Dichloroethane." It should read 1,1-Dichloroethane.

For the purposes of clarity, we've added the synonyms for the four Lindane isomers in Appendix A.

In the original proposal each of these synonyms contained the word "hexachlorohexane." This is incorrect. The correct appearance of the word should be hexachlorocyclohexane.

At the time of the original proposal the

Agency could not find CAS numbers for three of the chemicals. We have since found the appropriate CAS numbers for these chemicals.

They are for 4-Bromophenyl phenyl ether, octachlorostyrene, and photomirex.

And we've proposed to add those CAS numbers.

The chemical 2,4-Diaminotoluene with the CAS number 95-80-7 is also listed as "2,4-Toluene diamine" CAS 95-80-7 with a designation as an HAP under Section 112(b) of the Clean Air Act.

Since it appears twice, we suggest that we remove the reference to "2,4-Toluene diamine" and add an asterisk to the 2,4-Diaminotoluene.

The chemical hexachlorocyclohexane is listed without reference to a CAS number. We've identified that CAS number and propose to add that at this time.

It's also a Lindane isomer listed elsewhere in Appendix A.

I'd like to stress that these changes are not substantive. They're merely for clarity. And they

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address some typographical errors.

Do you have any questions at this time?

Mr. Naour is available.

HEARING OFFICER FEINEN: Any questions about these?
Do you want to move this as an exhibit?

MS. KROACK: Yes. I would like to move it into the
record as an Exhibit.

HEARING OFFICER FEINEN: Does anyone have an
problem moving this as an exhibit?

(No response.)

HEARING OFFICER FEINEN: Let's make this -- I
believe we're up to Proponent's Exhibit Number -- this
will be Number 13, and it will be entitled: Proposed
Corrections and Changes to 35 Illinois Adm. Code Part 232
for Appendix A. And enter that into the record.

(Said document, heretofore marked
Proponent's Exhibit No. 13 for
identification, was admitted into
evidence, to wit, as follows:)

HEARING OFFICER FEINEN: I would like to note that
the Agency also sent an errata sheet with certain changes.
These changes appear to be in addition to what was

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previously sent around and served on us.

Okay. Is there anything further from the Agency?

MS. KROACK: No.

HEARING OFFICER FEINEN: At the close of the first hearing, I continued the record so we could have further discussions or have any more questions of the Agency's technical expert. I would open the floor up for that.

Is there anyone? Mary?

MS. ROSS: We have submitted, sort of, questions to the Agency as part of the testimony Ron Berg has submitted on May 12, 1995, and then we resubmitted that. Sort of the same questions.

Have those questions ever been answered? Were they entered in the last hearing?

MR. NAOUR: Mary, as Ron indicated in his letter, actually on the second paragraph, last sentence.

"These concerns can and should be assessed once the initial data is collected."

Ron and I had a significant conversation regarding our current database and why we're requiring the

reporting rule.

And the result of the information that we would receive, we would be able to, basically, investigate that data that we're receiving and perhaps even look at increasing the efficiency of our approach.

Right now, we're dealing with, primarily, trying to develop the structure.

And, so, at that time he agreed. And as he didn't say here that I said or he said, but, "they can and should be addressed once the initial data was collected." And that was our intent.

MR. BERG: I came in a little late, so I'm not sure -- Ron Berg with the American Lung Association.

I'm not sure where we are in the agenda right now. You just started? The Agency is taking questions?

MS. KROACK: We're taking questions.

MR. BERG: Let's see.

We had made a suggestion that the de minimis emissions levels for fugitive ITAC emissions be somewhere at or below 0.5 tons per year.

I'm suffering from a cold.

It's in the comments we submitted. We note that IEPA's proposal does not lower the de minimis emissions level for fugitive ITAC emissions below 0.5 tons per year.

As we recommended last year when we submitted comments -- I'll just read from what I wrote here.

"We think this is important because of potential risk to workers, because of exposure to people of ITAC emissions."

And, moreover, the additional data that might be derived from tracking these emissions better could be of assistance to some other state agencies, such as the Department of Public Health has related interests in these types of occupational exposures.

And I'm just curious if there was any decisions, you know, not to do that or what?

MR. NAOUR: Ron, the point that would be certainly beneficial from the standpoint of, say, workplace related exposures. What we're dealing with, of course, the Illinois EPA Bureau of Air, is primarily fence line and beyond concentrations because we are concerned with the

ecosystem and the effect of chemical emissions on a ecosystem, per se.

Historically, developing emission data on fugitive emissions is extremely difficult. There is no real good engineering estimates or emission factors. Over the years, U.S. EPA has spent a lot of time and along with states, working on these emission factors. They're extremely difficult to develop.

Again, historically, the emissions that we receive on fugitive emissions from state permits or, apparently, the federal permits that are now coming in-house under the Title V, is very difficult working with the sources in clearly defining what their fugitive emissions are. Again, a very difficult thing to do.

So, historically, the fugitive emissions are always extremely conservative. Very very high. Sometimes to the point of ridiculousness. And the .5, we felt that the .5, which is extremely stringent, even more so than some other states that I have been -- have current state rules, toxic programs, and the federal program as well -- we felt was more than adequate to handle this problem.

And, again, as we, you and I, discussed, once we get the data in-house, it's going to provide a significant amount of information by which we'll be able to provide a picture of the facility and make some additional determinations. Again, fence line is our current consideration.

HEARING OFFICER FEINEN: Are there any other questions for the Agency at this time?

Okay. Let's go off the record for a second.

(Whereupon, a discussion was held off the record.)

HEARING OFFICER FEINEN: Let's go back on the record.

MR. RAO: I have a few questions for the Agency.

The process deals with the definition for ITAC, and in the definition you say that coke oven gas is specifically excluded from the definition of ITAC. And, as I was going through the list in Appendix A, you list coke oven emissions.

Are they the same? Coke oven gas and coke oven emissions? That are listed in the --

MR. NAOUR: Yes. They're considered the same.

They're part of the same family that has been designated by U.S. EPA under the Hazardous Air Pollutants listing, as well.

MR. RAO: So, if a coke oven gas is particularly excluded from ITAC, how come it's not deleted in the list on Appendix A?

MR. NAOUR: Appendix A is an extension of the ITAC list. Appendix A, I believe -- Pardon me?

MS. KROACK: This is Appendix A.

(Whereupon, a discussion was had.)

MR. NAOUR: As Laurel has just counselled me, it was previously listed, and we did not make any additions or deletions to the existing listing. But it was clearly defined. The intent was defined in the definition itself.

MR. RAO: So, what's the basis for excluding coke oven gas, because it was previously listed and now you're excluding it from the definition of ITAC. What's the specifications for it?

MR. NAOUR: Well, basically, first of all, there is a NESHAP. Number one. The federal NESHAP which was

promulgated two years ago, as well as, we also had defined or in the definition of ITAC, "any hazardous air pollutants."

So, we made specific deletion of those compounds which were already being considered under federal standards would, in fact, be affected by those standards.

MR. RAO: So are you saying that coke oven gas is specifically excluded in the federal listings?

MR. NAOUR: It's included in the Federal Register.

In other words, the coke oven gas and emissions from coke ovens is part of the coke oven NESHAP, the National Emissions Standard, that was promulgated two years ago.

MR. RAO: I still don't know what you mean.

MR. NAOUR: So, it's a federal concern.

In other words, the ITAC, the basic point of ITAC is that any compound that does not have a federal concern --

MR. RAO: Yes.

MR. NAOUR: -- is an ITAC.

MR. RAO: Yes.

MR. NAOUR: And then, that particular compound will be, then, focused by the reporting rule and subsequent rulemaking.

The issue here is the coke oven gas, and all emissions from coke ovens is an integral part of the current promulgated standard.

MR. RAO: At the federal level?

MR. NAOUR: At the federal level.

MR. RAO: That's why you're saying it's not part of the ITAC?

MR. NAOUR: And, therefore, not part of the ITAC.

MR. RAO: If that's the case, then, all the chemicals that are listed as part of ITAC have no federal concerns and, you know, they don't have any requirements under the Clean Air Act?

MS. KROACK: Right.

MR. NAOUR: That's correct.

If I may just add, one other item is, that the structure of the federal standard, of course, also is a very stringent reporting performance standard and emission control requirements under the Clean Air Act for each of the standard, for each of the hazardous air

pollutants. So, it has its own structure for reporting as well.

MR. RAO: Are they compatible to what they had proposed for ITAC? I'm just curious.

MR. NAOUR: In some cases, they're more stringent. But, generally, since we are talking 10 tons as the threshold, they're less stringent in that sense.

MR. RAO: Okay. Now, moving along to Section 232.430 where you proposed the de minimis levels for ITAC.

I had a question. This is kind of a follow-up on what Ron Berg had in his comments.

You know, in his comments, Mr. Berg says that: "Some of the concerns relating to a number of emission units that may not be covered because of the de minimis levels could be assessed as the data comes in."

Is that possible under this rule or will that have to be done under the rulemaking?

Like, if, some of the emission units would not be covered because of their emitting less than the de minimis levels, so you'll never get any emission data from those sources.

So, is there any possibility of the

Agency assessing the data that comes in and making any decisions as to whether they should change the de minimis levels or not?

MR. NAOUR: A significant amount of information is starting to come into the Agency from a number of sources, which we have not been privy to in the past.

The previous permitting process, the information was primarily in light of criteria pollutants. So, there was very little speciation that we, in fact, were able to, since we did not have rulemaking, to actually require from the emitting sources. The affected sources.

This rule will allow us to have information. And the information that Ron and I discussed was primarily on a "what if" determination, based on the threshold and the approach that we had proposed in the rulemaking, indicated what the potential sources would be and what the potential affect on those sources would be.

In order for us to determine that, we really need to have the sound data sent to our system to review.

In addition to that, Title V, which is

the current U.S. EPA federal permitting process, which Illinois currently has an approved program, we in Illinois EPA are receiving information on individual sources on specific speciated compounds which we had never had before, as well.

We feel that all of this, in general, will give us a better picture of the facility and be able to review these de minimis values as to whether or not their impact is less or greater than what we had estimated.

MR. RAO: So based on this assessment, if because the impact may be greater, will there be, like, any changes?

MR. NAOUR: I think we would have to reserve that.

I would think that certainly we would review it, in light of, certainly, some risk assessment point of view as to whether or not any changes would, in fact, and from a risk stand point would be warranted, we would review it.

MR. RAO: Talking about risk assessment. At the last hearing, I think you said you were using some U.S. EPA guidelines, and I think maybe Dave Reiser requested

you for a copy of the guidelines.

MR. NAOUR: I believe Mark did.

MR. RAO: I'm sorry.

MR. HOMER: Yes, I did.

They supplied me with the number of the document.

MR. RAO: Would it be possible for the Agency to submit one for the record for the Board? Or is it like a proof document, you may have a problem?

MR. NAOUR: I have no problem with that.

MR. RAO: I have one more question.

Moving on to Section 232.440, the use of available data.

At the last hearing in response to a question, you said that no additional monitoring or measurement would be required to comply with the data requirements of this rule.

Under both Section 232.440 and Section 232.450 there is no information requirement.

I just, you know, wanted to know whether the Agency thinks that all the affected sources, you know, sources affected by this rule, would have adequate

information to meet the reporting requirements of the rule without doing any additional monitoring or measurement?

Do you think they'd have anything -- you know, all the data in their files, that they could estimate the emission reports?

MR. NAOUR: Generally speaking and, actually, I think, if you remember my testimony, I was in industry for 25 years and plant manager for 20 of that, so I'm very familiar with what engineers were constantly coming to my office and crying and not crying about what they could and could not do.

From an engineering point of view, generally speaking, good material balance information, good engineering, optimization, for most of these facilities, the majority of the facilities, would be available, including the fact that CEMs are more prevalent today than they were even 20 years ago.

In some cases, in particular in those cases where we hope to gain some positive benefit from the federal rules where CEMs are required for HAPs. And when you talk about HAPs VOCs and ITAC VOCs of which there are a significant number of ITACs that are volatile organic

compounds, we expect to see some information from this as well, as part of an offshoot.

What we're saying by the rule statement is, is that we expect good material balance, good sound basis of information that currently is now being utilized, and we're not going through extraneous means.

And, I think that for the majority of the facilities and what that majority is, I would say that there would be enough information to handle that.

MR. RAO: And, in cases a facility does not have that kind of information, can they say, you know, the rule does not require us to do any monitoring or measurement, so we cannot give you that information?

MR. NAOUR: Well, what they don't have would be typically of material balance or good engineering calculation, we would require them to do that.

They have to have that information. That's basically the information that they've got to have. At least the very basic information on their facility.

A simple material balance, well-designed, can go a long way to providing information that we need.

MR. RAO: Thank you.

HEARING OFFICER FEINEN: Are there any follow-ups?

MR. RIESER: Yes. If I could just follow-up briefly on the first point raised relating to coke oven emissions and the ITACs.

Mr. Naour, it's correct, isn't it, that the ITACs, Illinois Toxic Air Contaminant is a subset of the Toxic Air Contaminant List that appears in Appendix A; is that correct?

MR. NAOUR: That's right. Exactly.

MR. RIESER: Okay. And that the reporting requirements that are being proposed here today only applies to that subset that's been identified as the Illinois Toxic Air Contaminants?

MR. NAOUR: That's correct.

MR. RIESER: And the basis for doing that is, I think you initially testified very clearly, that the other toxic air contaminants which were not ITACs, were primarily covered under the Hazardous Air Pollutants list and, therefore, had reporting and control requirements associated with the regulation by the U.S. EPA?

MR. NAOUR: That's correct.

MR. RIESER: And that's the basis for excluding

specifically coke oven gases you indicated at this point, is because of the extent of its regulation under the NESHAP and other U.S. EPA proposed regulations?

MR. NAOUR: Correct.

MR. RIESER: And, I think, your testimony with regard to the last question basically summarizes that the type of information that the Agency is seeking through this rule can be provided by information that would be available to any company to which this rule would apply.

They'd have the information to hand regarding their throughput materials that they're using in their process, and that testing would not be required in order to answer the questions that the -- to provide the information that the Agency needs; is that correct?

MR. NAOUR: That's the expectation. That's correct.

MR. RIESER: I have nothing further.

HEARING OFFICER FEINEN: I guess at this point then, if there are no further questions for the Agency, we will allow other people to present testimony and/or comments.

Is there anyone here who would like to present testimony or comments?

MS. ROSS: Is the testimony of the Illinois Lung

Association and Sierra Club entered as exhibits?

Is the testimony submitted earlier by the Lung Association and the Sierra Club entered as an exhibit already?

HEARING OFFICER FEINEN: I think it will be entered as, like, a public comment.

Is it entered as an exhibit? No, I don't think so.

MS. ROSS: Well, if it's in the record, that's fine.

HEARING OFFICER FEINEN: And at the close of this hearing, you'll have additional time to enter more public comments, and you can reiterate all those points again, if you care to.

Very well. Seeing that there is no more questions of the Agency, no one wants to make any statements, I guess I will close the record and set up some time for the closing of public comments.

The rules say within 14 days, but I usually like to give more than 14 days. I think it's impractical for people to give more comments before 14 days. So, I'm going to give until, let's say, May 17th will be the close of the public comment period.

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And we will go off the record, now,
Sally.

(Whereupon, a discussion was held off
the record.)

HEARING OFFICER FEINEN: So public comments will end
on May 17th and, with that, I think we have thirteen
exhibits and the last being what was entered in today.

And if the Agency could supply us with
their public comments, a copy of the U.S. EPA guidelines,
we'll include it in the record.

MS. KROACK: We'd be happy to do that.

HEARING OFFICER FEINEN: Thank you very much.

(HEARING CLOSED.)

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

Sally A. Guardado hereby certifies that she is the Certified Shorthand Reporter who reported in shorthand the proceedings had in the above-entitled matter, and that the foregoing is a true and correct transcript of said proceedings.

Certified Shorthand Reporter
Notary Public, County of Cook, State of Illinois

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