

## BEFORE THE POLLUTION CONTROL BOARD

## OF THE STATE OF ILLINOIS

IN THE MATTER OF )  
 )  
 EXEMPTIONS FROM STATE PERMIT ) R96-17  
 REQUIREMENTS, AMENDMENTS TO 35 ILL. )  
 ADM. CODE 201 AND 211. )(Rulemaking)  
 )

The following is a transcript of a hearing held in the above-entitled matter, at James Thompson Center, 100 West Randolph Street, Room 11-500, Chicago, Illinois, on the 16th of August, 1996 A.D., commencing at the hour of 10:00 o'clock a.m.

## BEFORE:

MS. MARIE TIPSORD, Hearing Officer.

## PRESENT:

Dr. G. Tanner Girard, Board Member

## APPEARANCES:

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1 HEARING OFFICER TIPSORD: Good morning. My name  
2 is Marie Tipsord and I've been appointed by the Board  
3 to serve as Hearing Officer in this proceeding entitled  
4 In The Matter Of: Exemptions From State Permit  
5 Requirements, Amendments To 35 Illinois Adm. Code 201  
6 and 211. Docket number R 96-17.

7 To my right side is Dr. Tanner  
8 Girard, the presiding Board Member in this proceeding.

9 This is the second hearing in this  
10 proceeding which was filed initially on May 10, 1996 by  
11 the Illinois Environmental Protection Agency.

12 First hearing was held in  
13 Collinsville on July 23, 1996. At that hearing the  
14 Agency presented testimony and will be presenting  
15 additional testimony today.

16 Is there anyone else here who wishes  
17 to testify and make a statement on the record?

18 MS. ROSEN: I do.

19 Whitney Rosen, Legal Counsel for the  
20 Illinois Environmental Regulatory Group.

21 HEARING OFFICER TIPSORD: Anyone else?

22 MR. HOMER: And Mark Homer with the Chemical  
23 Industry Council of Illinois.

24 HEARING OFFICER TIPSORD: Thank you.

1                   And, I believe, Miss Kolbe, you  
2 indicated that you wanted to have both of your  
3 witnesses sworn again, today?

4           MS. KOLBE: That's correct.

5           HEARING OFFICER TIPSORD: Go ahead. Proceed.

6                   (The witnesses were sworn.)

7           MS. KOLBE: Actually, before I called them, I was  
8 going to go through an opening statement, if that's all  
9 right.

10           HEARING OFFICER TIPSORD: That's fine. Go ahead.

11           MS. KOLBE: I am Sheila Kolbe, Assistant Counsel  
12 with the Illinois Environmental Protection Agency, and  
13 I've been assigned to represent the Agency In The  
14 Matter Of: Exemptions From State Permit Requirements,  
15 Amendments to 35 Illinois Adm. Code 201 and 211.

16                   With me today are Bill Marr, a  
17 technical expert from the Permit Section, and Chris  
18 Romaine a P.E. and Manager from the Permit Section.  
19 They will testify on behalf of the Agency and will also  
20 assist in answering technical questions.

21                   This rulemaking has been proposed  
22 under Sections 27 and 28 of the Illinois Environmental  
23 Protection Act. The proposed rule amends the current  
24 list of emission units and activities under 35 Illinois

1 Adm. Code 201.146 that are exempt from the State  
2 permitting requirements under 35 Illinois Adm. Code,  
3 Sections 201.142 Construction Permit Requirements,  
4 201.143 Operating Permit Requirements For New Sources,  
5 and 201.144 Operating Permit Requirements For Existing  
6 Sources, in order to expand the list to include  
7 categories of activities or emission units from  
8 non-major sources from which emissions are very minimal  
9 and no informational need has been furthered by  
10 requiring such a permit.

11                               These proposed amendments to expand  
12 the list of exemptions under Section 201.146 also  
13 include emission units or activities that have been  
14 deemed insignificant under the Clean Air Act permitting  
15 Program (CAAPP) as specified in 35 Illinois Adm. Code  
16 201.210 for which the Agency, pursuant to its  
17 discretion under CAAPP, has determined merits such an  
18 exemption. That is, under the CAAP program, the Agency  
19 is allowed to evaluate insignificant emission units and  
20 activities. For those insignificant activities that  
21 are listed as exempt under Section 201.146, no permit  
22 application will be required by the Agency.

23                               Some of the proposed amendments to  
24 Section 201.146 are intended to merely clarify the

1 types of activities or emission units that are covered  
2 by an exemption category.

3                   Additionally, in several instances an  
4 existing exemption category is being modified so that  
5 emission units subject to certain requirements will  
6 require permits.

7                   Permitting these activities is  
8 appropriate in order to assure compliance with the  
9 underlying applicable requirements. Specifically, some  
10 previously exempted emission units are subject to new  
11 requirements under 35 Illinois Adm. Code, Parts 215,  
12 218, and 219.

13                   Also, an amendment for clarification  
14 purposes has been included in this proposal to state  
15 that exemptions from permitting requirements do not  
16 apply to emission units that are subject to federal  
17 requirements for New Source Performance Standards  
18 (NSPS) pursuant to 40 CFR 60.

19                   In addition to proposed changes in  
20 Part 201 for this rulemaking, the Agency proposes to  
21 add a definition for "feed mill" in Part 211 at Section  
22 211.2285. This is necessary because the term "feed  
23 mill" is used in one of the accompanying proposed  
24 amendments to Section 201.146.

1                   In a nutshell, the purpose of this  
2 rulemaking is to update the list of exemption units or  
3 activities under Section 201.146 and clean up Section  
4 201.146 in order to eliminate conflicts or confusion  
5 between exemptions from permitting requirements for  
6 non-major sources, the CAAP program, other parts of 35  
7 Illinois Adm. Code and federal permit requirements.

8                   Before I introduce my witnesses, I  
9 would like to move to admit into evidence an errata  
10 sheet of two minor changes regarding the revisions of  
11 the proposal requested by the Board at the first  
12 hearing.

13                   I have copies available for those  
14 here today and I will ensure that those on the service  
15 list who are not here today will receive a copy also.

16                   The errors -- scrivener errors -- are  
17 the omission of two commas in Section 201.146, Section  
18 fff (2). There should be a comma after the word  
19 "dryer" at the end of the second line. There should  
20 also be a comma after the phrase "volatile organic  
21 material" and before the phrase "are not" in the sixth  
22 line

23                   these seem like minor changes, but  
24 these are important for clarity.

1 HEARING OFFICER TIPSORD: Is there any objection  
2 to the motion?

3 (No response.)

4 HEARING OFFICER TIPSORD: Seeing none, the motion  
5 is granted and this will be admitted as Exhibit 2 in  
6 the rulemaking.

7 (Said document, heretofore marked  
8 Agency's Exhibit No. 2 for  
9 identification, was admitted into  
10 evidence, to wit, as follows:)

11 MS. KOLBE: At this time, I would like to  
12 introduce the Agency's witnesses, William D. Marr and  
13 Chris P. Romaine, who are the Agency's technical  
14 experts on the proposed exemption.

15 Mr. Marr's testimony in this matter  
16 has been pre-filed and has been entered into evidence  
17 at the first hearing. However, for the benefit of  
18 those who were not present at the first hearing and  
19 because of a slight error regarding a technical support  
20 document -- that is, there isn't one -- I requested  
21 the Hearing Officer to allow him to read a statement  
22 into the record with the appropriate correction.

23 Mr. Romaine's testimony has also been  
24 pre-filed before this second hearing. He will testify

1 today on the revisions to the proposal that the Agency  
2 filed pursuant to the Board and Hearing Officer's  
3 request at the first hearing.

4 For the benefit of those who may not  
5 have had the chance to read his pre-filed testimony  
6 before the hearing, I requested that the Hearing  
7 Officer allow him to also read his statement into the  
8 record.

9 HEARING OFFICER TIPSORD: That's granted.

10 MS. KOLBE: Madam Hearing Officer, I would also  
11 like to request that the questions be held until both  
12 witnesses have testified?

13 HEARING OFFICER TIPSORD: Fine.

14 MS. KOLBE: Bill, would you like to start?

15 WILLIAM D. MARR

16 called as a witness, having been previously sworn, was  
17 examined and testified in the narrative as follows:

18 STATEMENT

19 BY

20 MR. MARR: Good morning. My name is William D.  
21 Marr. I'm employed by the Illinois Environmental  
22 Protection Agency in the Permit Section of the Division  
23 of Air Pollution Control in the Bureau of Air. I have  
24 been employed by the Agency as an Air Pollution Permit

1 analyst since May 1992. My educational background  
2 includes a Bachelor of Science Degree in Mechanical  
3 Engineering from Southern Illinois at Carbondale.

4 The proposal before you today would  
5 affect exemptions from state air permit requirements  
6 and I was involved in the development of the Agency's  
7 proposal. I personally prepared the technical support  
8 information for the Statement of Reasons filed by the  
9 Agency.

10 This proposal would amend 35 Illinois  
11 Administrative Code 201.146 to expand, clarify and  
12 modify the list of emission units and activities that  
13 are exempt from state air pollution control  
14 construction and operating permits as specified in 35  
15 Ill. Adm. Code 201.142, 201.143, and 201.144.

16 The proposal would also amend Section  
17 201.146 to establish greater consistency between the  
18 exemptions from state air permit requirements and the  
19 insignificant activity provisions of the Clean Air Act  
20 Permit Program for major sources of air pollution, as  
21 specified at 35 Illinois Administrative Code 201.210.

22 The primary effect of this proposal  
23 is to expand the list of activities and emission units  
24 that would qualify from exemption from state air

1     permitting requirements by either adding categories of  
2     activities or emission units or by loosening the  
3     threshold for the exemption.

4                     The activities and emission units  
5     that are proposed for exemption are based on the  
6     Agency's historical experience that such emission units  
7     do not merit permitting. Associated emissions are very  
8     minimal and there are no applicable rules or a unit  
9     readily complies with applicable rules.

10                    Individual information on these  
11     activities have not been needed for purposes of air  
12     quality planning.

13                    In this respect, the Agency believes  
14     that many of the emission units for activities that  
15     have been deemed insignificant under the CAAPP, as  
16     specified in 35 Illinois Administrative Code 210.210,  
17     can also be exempt from state air permitting  
18     requirements.

19                    The Agency does not believe, however,  
20     that all of the activities and emission units listed as  
21     insignificant under the CAAPP merit exemption from the  
22     state air permit requirements. This is because the  
23     Agency retains discretion under the CAAPP to determine  
24     if a specific emission unit should be treated as

1 significant.

2                   This discretion is appropriate for  
3 insignificant activities under the CAAPP as it applies  
4 to sources that are otherwise required to submit permit  
5 applications, thereby allowing the Agency the  
6 opportunity to evaluate proposed insignificant emission  
7 units. If an emission unit or activity qualifies for  
8 exemption from state air permitting requirements  
9 pursuant to Section 201.146, however, no permit  
10 application is required to be submitted to the Agency,  
11 thereby allowing the Agency no opportunity to evaluate  
12 the nature and significance of such emission units.

13                   Certain of the proposed amendments to  
14 Section 210.146 are intended to clarify the types of  
15 activities or emission units that are covered by a  
16 particular exemption. For example, the exemptions for  
17 fuel combustion equipment would be reworded to make  
18 clear that they apply, on an individual basis, to each  
19 fuel burning emission unit. The proposal also explains  
20 that if an emission unit is exempt, associated air  
21 pollution control equipment is also exempt.

22                   In a few instances in the proposal,  
23 an existing exemption is being modified so that  
24 emission units subject to certain state requirements

1 will require permits. An example is coating operations  
2 located at a source that are subject to the limitations  
3 or control requirements of 35 Illinois Administrative  
4 Codes 215, 218, or 219, Subpart F.

5                   The current exemption level for  
6 coating operations is the use of less than 5,000  
7 gallons of coating at a source per year. The  
8 applicability level for the coating rules in the ozone  
9 non-attainment areas is now such that coating lines  
10 that are exempt from permit requirements are subject to  
11 control requirements.

12                   The Agency believes permitting for  
13 these emission units is appropriate to facilitate  
14 compliance with the applicable rules.

15                   Additionally, in a few instances, an  
16 existing exemption is being revised to clarify that an  
17 emission unit that is subject to a federal New Source  
18 Performance Standard (NSPS) under 40 CFR Part 60  
19 requires a permit. These revisions are merely intended  
20 to clarify that permitting exemptions do not apply to  
21 emission units subject to an NSPS, as such emission  
22 units are required to obtain permits pursuant to  
23 Section 9.1(d)(2) of the Environmental Protection Act.

24                   Finally, the proposal also includes

1 revisions to update terminology, such as using the term  
2 "emission unit" to describe an individual item of  
3 equipment or activity, rather than "emission source."  
4 The proposed amendments also provide a definition for  
5 one term, "feed mill," used in the proposed amendments.

6                   As the proposed amendments deal with  
7 and generally expand the list of exemptions from state  
8 air permit requirements, these revisions do not impose  
9 new emission limitations or control requirements on  
10 affected sources. Therefore, this proposal does not  
11 pose any issues with respect to technical feasibility.

12                   As previously stated, the additional  
13 exemptions will not significantly affect the  
14 effectiveness of the permit program. If anything, they  
15 will help focus attention on the more important  
16 emission units.

17                   As an economic matter, the proposal  
18 will reduce costs. The amendments significantly expand  
19 the list of exemptions and many affected sources will  
20 be relieved of the requirement to obtain state air  
21 permits. Also, the affected sources will be relieved  
22 of other requirements resulting from a permit, such as  
23 the obligation to annually report emissions data for  
24 permitted emission units.

1                   As a consequence, the affected  
2 sources will realize a cost savings because they will  
3 be relieved of the need to collect data, prepare permit  
4 applications, submit reports, and pay permit fees. The  
5 savings in permit fees would likely be the minimum fee  
6 associated with state air operating permits, which is  
7 \$100 per year for sources with total permitted  
8 emissions of less than 25 tons per year.

9                   The loss of revenue to the Agency  
10 would be matched by the savings from eliminating  
11 permitting of these sources. Many other sources will  
12 still be required to have permits, because they still  
13 have emission units that are not exempt. However,  
14 these permits are related activity -- and related  
15 activity will be simplified as additional emission  
16 units, are considered exempt and can be dropped from  
17 existing permits. New and revised permits will not be  
18 needed as these newly exempt units are added or  
19 replaced at a source.

20                   The only sources that may be required  
21 to obtain a state permit for the first time based on  
22 this proposal are sources with coating operations that  
23 are subject to compliance requirements under 35 Ill.  
24 Adm. Codes 215, 218, or 219, Subpart F, and that used

1 less than 5,000 gallons of coatings (including thinner)  
2 at the source annually. Most, if not all of these  
3 sources will also be small sources that would only be  
4 required to pay the \$100 fee. These sources are  
5 already subject to data collection and to reporting  
6 requirements.

7 In conclusion, this proposal amends  
8 Section 201.146 to expand, clarify and modify the list  
9 of emission units and activities that are exempt from  
10 state air permit requirements. The overall effect  
11 would be to reduce the effort expended by smaller  
12 sources of air permitting without any significant  
13 deterioration in the effectiveness of the air pollution  
14 control program.

15 Accordingly, the Agency requests that  
16 the Pollution Control Board adopt these amendments to  
17 Parts 201 and 211 for the State of Illinois.

18 MS. KOLBE: At this time, Chris Romaine, will you  
19 testify?

20 CHRISTOPHER ROMAINE  
21 called as a witness, having been previously sworn, was  
22 examined and testified in the narrative as follows:

23 STATEMENT

24 BY

1 MR. ROMAINÉ: Good morning.

2 My name is Chris Romaine. I am  
3 employed by the Illinois Environmental Protection  
4 Agency as Manager of the New Source Review Unit in the  
5 Permit Section of the Division of Air Pollution  
6 Control.

7 I have been employed by the Agency  
8 since 1976. My educational background includes a  
9 Bachelor of Science degree from Brown University. I'm  
10 a licensed professional engineer.

11 I have assisted in the development of  
12 the Agency's proposal in this rulemaking concerning 35  
13 Illinois Administrative Code 201.146, the exemptions  
14 from the State's construction and operating permit  
15 programs for stationery sources of emissions.

16 At the last hearing, the Board asked  
17 the Agency to consider various changes to the proposal.  
18 The Agency has considered these changes and has  
19 prepared revisions to the proposal, which I explain in  
20 this testimony.

21 First: Section 201.146. The  
22 preamble or introductory paragraph for Section 201.146  
23 was restructured in order to have the exemption itself  
24 stated before the explanatory language warning that air

1 sources may still be subject to other requirements for  
2 Air Pollution Control permits.

3                   That is, Section 201.146 provides the  
4 exemptions for the State air permits required by  
5 Sections 201.142, 201.143, and 201.144. This is the  
6 exemption. However, there are other independent  
7 requirements for air permits as found in the  
8 Environmental Protection Act and Clean Air Act that are  
9 not subject to the exemptions in Section 201.146, but  
10 have their own applicability provisions.

11                   Thus, air equipment and sources  
12 exempted by Section 201.146 may in certain  
13 circumstances still require permit due to these other  
14 permit requirements.

15                   There are also certain activities  
16 that are subject to specific registration requirements,  
17 such as motor vehicle refinishing and gasoline  
18 dispensing operations in the Chicago and Metro-East  
19 ozone non-attainment areas, that are independent of the  
20 permit exemptions in Section 201.146.

21                   The warning language that addresses  
22 these other requirements now follows the exemption  
23 language. In addition, the warning language has also  
24 been expanded to mention the existence of these

1 independent registration requirements.

2 Now, getting to the body of the  
3 proposal, which is the exemption that we addressed as  
4 Section 201.146(n). In this section, subsection (n),  
5 the connecting "and" between subsections 201.146(n)(2)  
6 and (n)(3) was replaced with an "or".

7 This change was made because, as the  
8 Board correctly observed, the subsections identify  
9 separate classes of storage tanks that are eligible for  
10 the exemptions. That's generally provided by Section  
11 201.146(n).

12 Next, subsection (t) was revised to  
13 better reflect the applicability provisions of the U.S.  
14 EPA's New Source Performance Standards (NSPS) for grain  
15 elevators at 40 CFR 60 Subpart DD.

16 In particular, the terms "grain  
17 terminal elevator" and "grain storage elevator" were  
18 substituted for "source," along with the representative  
19 storage capacities. Those are 88,100 cubic meters or  
20 about 2.5 million bushels and 35,200 meters or about 1  
21 million bushels. And those are the storage capacities  
22 at which applicability of this New Source Performance  
23 Standard can be triggered.

24 In subsection (z), we amended it to

1 substitute the term "facilities" for "equipment," as  
2 this exemption broadly applies to certain  
3 establishments and areas involved in food preparation,  
4 rather than to individual equipment.

5 This subsection has also been revised  
6 to make clear that this exemption also applies to food  
7 preparation operations associated with off-site  
8 catering or direct retail sales, as well as to  
9 restaurants and institutional kitchens.

10 The purpose of this exemption is to  
11 broadly exclude from permitting most activities  
12 involved with the preparation of food except  
13 manufacturing activities at plants engaged in the  
14 production of food or beverage products.

15 To accomplish this goal in the  
16 simplest way, the exemption was reworked to specify  
17 activities that may be subject to permitting rather  
18 than identify the vast variety or all the different  
19 types of operations that are intended to be exempt from  
20 permitting.

21 Examples of the types of food  
22 manufacturing operations where emission units should  
23 continue to be subject to permitting include meat  
24 packing plants, commercial dairies canneries, grain

1 processing plants, cereal mills, commercial bakeries  
2 coffee roasting plants, confectionary plants,  
3 malthouses and distilleries.

4 Subsection (bb) was amended to  
5 clarify that a permit is only needed for a feed mill  
6 that is otherwise entitled to this exemption if the  
7 feed mill, for other reasons, is required to have state  
8 air permits. That is, as distinguished from having to  
9 have state land or water permits.

10 Section 201.146(cc), which deals with  
11 extruders, was restructured to separately identify in  
12 subsections (1) (2), and (3), the three classes of  
13 extruders that are not eligible for the exemption  
14 generally established for extruders by this provision.

15 Section 201.146(nn), which deals with  
16 motor vehicle maintenance and repair, was revised to  
17 expand the description of exempt vehicle maintenance  
18 and service activities to broadly include vehicle  
19 repair and body shops.

20 The purpose of this exemption is to  
21 exclude motor vehicle service facilities from  
22 permitting, but not facilities engaged in manufacturing  
23 or remanufacturing automobile parts or engines. This  
24 exemption does not extend to gasoline fuel handling or

1 motor vehicle refinishing, that is, coating, which are  
2 both addressed by separate exemptions in subsections  
3 (g), (n), and (kk).

4 Subsection (qq) was revised to expand  
5 the description of exempt laundry equipment to include  
6 coin operated and commercial laundry drying equipment.  
7 The purpose of this exemption is to exclude laundry  
8 equipment from permitting unless solvent-based cleaning  
9 is performed or industrial items containing solvent are  
10 being laundered on-site.

11 Subsection (rr), which deals with  
12 housekeeping activities, was amended to remove the  
13 phrase "at the source." Although, this phrase is  
14 present in the parallel provision for insignificant  
15 activities, it is not needed for purposes of Section  
16 201.146.

17 The final thing we proposed to change  
18 was subsection (fff), which deals with direct --  
19 certain direct fired process dryers. And it was  
20 amended to remove the phrase "at the source," as it was  
21 unnecessary. It was also restructured to separately  
22 identify the two classes of dryers that are not  
23 eligible for the exemption as subsections (1) and (2).

24 I'd like to turn to the provisions

1 that we have not revised.

2 First, subsection (yy), which deals  
3 with the use of consumer products, was not amended to  
4 remove the phrase "at the source." This phrase is  
5 present in the parallel provision for insignificant  
6 activities. It is needed for purposes of Section  
7 201.146 to make clear that this exemption applies  
8 narrowly to the use of materials on a source-by-source  
9 basis.

10 For example, the use of a "household"  
11 furniture polish could be exempt at one source where it  
12 is used as part of the care of office furniture. But  
13 it could be subject to permitting at another source  
14 where the same polish is used in the manufacture of  
15 furniture.

16 Household furniture polish would not  
17 be exempted from permitting as a general category  
18 independent of where and how it was used

19 it's very specific as to usage at the  
20 source. At the particular source.

21 And the other one that we didn't  
22 propose to change is subsection (ccc). Again, with  
23 maintenance, repair or dismantlement of emission units,  
24 we did not amend that subsection to remove the phrase

1 "at the source." This phrase is present in the  
2 parallel provision for insignificant activities. It is  
3 needed in Section 201.146, as well, to make it clear  
4 that these activities are only exempt when they occur  
5 at a site where an emission unit is located.

6 Emission units located at a source  
7 whose business is dismantlement, disassembly,  
8 maintenance and repair of equipment brought to the  
9 business, would not be covered by this exemption.

10 Finally, in conclusion, we appreciate  
11 the comments made by the Board. They have lead the  
12 Agency to clarify the organization and language of the  
13 proposal to better carry out the intended broadening of  
14 the permit exemptions in Section 201.146.

15 HEARING OFFICER TIPSORD: Ms. Kolbe, did you wish  
16 to enter the pre-filed testimony of Mr. Romaine as an  
17 exhibit?

18 MS. KOLBE: Yes, I do.

19 HEARING OFFICER TIPSORD: Is there any objection?  
20 (No response.)

21 HEARING OFFICER TIPSORD: Seeing none, we will  
22 enter it as Exhibit 3.

23 (Said document, heretofore marked  
24 Agency's Exhibit No. 3 for

1 identification, was admitted into  
2 evidence, to wit, as follows:)

3 HEARING OFFICER TIPSORD: Are you ready to  
4 proceed with questions?

5 MS. KOLBE: Yes.

6 HEARING OFFICER TIPSORD: Are there any  
7 questions?

8 MS. ROSEN: I'm Whitney Rosen with the Illinois  
9 Environmental Regulatory Group.

10 We, first, would like to just commend  
11 the Agency on their effort to work with the regulated  
12 community on this rulemaking and we are generally in  
13 support of it.

14 I just have a few clarification  
15 questions, if I could ask. And I will direct them to  
16 Mr. Romaine.

17 The first question is, there has been  
18 a lot of testimony regarding the fact that the Agency's  
19 proposal is intended to make the Section 201.146  
20 provision consistent with the insignificant activity  
21 exemptions under the CAAPP. I would just like to  
22 clarify that the Agency's use of the word "consistent"  
23 is not intended to mean "identical"; is that correct?

24 MR. ROMAINE: That is correct.

1                   The CAAP program and State permit  
2 programs are really very different programs.

3                   The CAAP program deals with sources  
4 that a major source of emission will have to get  
5 permitted.

6                   And what we've tried to do in the  
7 insignificant activities was identify particular units  
8 or activities at those sources that didn't have to be  
9 described in writing or in any detail in the  
10 application, but those sources will still have  
11 permitting and they will be visited by our field  
12 inspectors. Those sources have a fair degree of  
13 expertise. They better have a fair degree of expertise  
14 with air pollution control requirements.

15                   So we are refining what has been  
16 described in writing.

17                   For the State permit programs,  
18 though, we are really defining whether or not somebody  
19 has to get a permit. We are dealing with a much larger  
20 category, a much larger population of sources, people  
21 who may have minimal expertise, so we can't have exact  
22 consistency.

23                   But, as part of the CAAP program, we  
24 did come up with some new types of equipment and

1 operations that we thought was appropriate to be  
2 insignificant to Title V and we also thought that, in  
3 terms of the State permitting programs, they were not  
4 appropriate to be covered by the permit program. So to  
5 the extent that there was an overlap, we wanted to make  
6 sure that those specific units that we didn't want to  
7 be dealt with in Title V permits could also be  
8 completely dropped out of the State permitting program,  
9 were dropped out of the State permitting program.

10 MS. ROSEN: Okay. Then it's correct to say that  
11 it's not your intent right now to go back and revise  
12 the CAAPP and the activity list to make it identical to  
13 what we are doing in 201.146? The same limitations,  
14 et cetera.

15 MR. ROMAINE: No, it is not.

16 MS. ROSEN: My next question -- And I guess I'll  
17 kind of stay on the subject of the differences between  
18 the CAAPP, the insignificant activities, and the  
19 201.146 exemptions.

20 Could you just clarify what a CAAPP  
21 source that has to move forward and get a construction  
22 permit would have to do for an activity that could be  
23 deemed insignificant under the CAAPP or that might be  
24 listed on 201.146, since those exemptions do pertain to

1 the CAAPP -- construction permits for CAAPP?

2 MR. ROMAINE: We have discussed this ahead of  
3 time, so I'm prepared.

4 One of the other features of the  
5 CAAPP program deals with what happens for changes  
6 involving insignificant activities. And Section  
7 201.212, dealing with insignificant activities for the  
8 CAAPP sources, specifically addresses what a CAAPP  
9 source has to do with regard to new insignificant  
10 activities and very specifically says that the  
11 owner/operator of a CAAPP source is not required to  
12 notify the Agency of an additional insignificant  
13 activity if it's of a type that they've already  
14 mentioned in their CAAPP application.

15 It also indicates that for certain  
16 types of insignificant activities no notification is  
17 required. And, then, for new types of insignificant  
18 activities, at most what is required is notification.

19 So, basically, for the CAAPP program,  
20 we do not want to have construction permits for  
21 insignificant activities.

22 If it's not worth describing in the  
23 Title V application in the first place, it's certainly  
24 not worth coming in with a separate construction permit

1 for new insignificant activity.

2 Beyond that, if there are certain  
3 activities that we've identified as not needing  
4 construction permits, we would not expect there to be a  
5 requirement for a construction permit for Title V  
6 source, as well.

7 It would be appropriate, though, to  
8 notify us, since they aren't covered by the Title V  
9 provisions, and notify us that pursuant to such and  
10 such construction permit, we have added a new piece of  
11 equipment to our operation.

12 I've got that backwards.

13 That we have added a piece of  
14 equipment that didn't require construction permit, it  
15 is not an insignificant activity, but to keep our Title  
16 V permitting process up to date, we are sending you  
17 notification that we have added a piece of equipment  
18 that a construction permit was not required for.

19 MS. ROSEN: Okay. I have one last question and  
20 it just deals with sort of a clarification.

21 There are a number of provisions or  
22 an exemption within that 201.146 exemption that pertain  
23 to specific activities or units at the source.

24 I wanted to clarify that the

1 exemptions under (ccc), which have to do with  
2 maintenance activities at a source, that the existence  
3 of a particular provision such as section (cc) which  
4 governs extruders and excludes specific extruders from  
5 having to get a permit, that they could still take  
6 advantage of an exclusion for the maintenance  
7 activities at that unit under (ccc).

8 MR. ROMAINE: That is correct.

9 We have put a lot of different  
10 exemptions into Section 201.146.

11 All you have to do is qualify under  
12 one of those exemptions and you're entitled to it. You  
13 may not quite fit the one that seems to directly apply  
14 to you, but there may be another one that catches you.

15 Some other examples. The maintenance  
16 is a very broad one that even if your particular  
17 emission unit is not exempt or if it is exempt,  
18 maintenance of that emission unit is exempt.

19 You may have a piece of equipment  
20 that isn't otherwise exempt, but because you use it for  
21 domestic purposes, it's broadly exempt.

22 We don't expect that people that for  
23 some reason have extruders that aren't otherwise exempt  
24 that's used in the back yard for some reason, will have

1 to come in and permit because they get the domestic  
2 exemption.

3                   Likewise, given an exemption that  
4 doesn't exempt vapor degreasers, for example. But, if  
5 you used a vapor degreaser as part of your vehicle  
6 maintenance, it would be exempt.

7                   So, you just have to find an  
8 exemption that you can qualify for, and then you are  
9 out of the permit program with regard to that  
10 particular activity or operation.

11           MS. ROSEN: Thank you. I have nothing further.

12           HEARING OFFICER TIPSORD: Anyone else?

13           MR. HOMER: Yes. I'm Mark Homer with the  
14 Chemical Industry Council of Illinois.

15                   I would also like to thank you on  
16 behalf of CICI for the Board's willingness to discuss  
17 issues we had regarding this proposal with us.

18                   All of the questions I have are going  
19 to relate to Section 146(g) dealing with coating  
20 operations and the proposed changes to that section.

21                   First, in Bill's testimony, he  
22 indicated that the reason for the proposed changes of  
23 that section is to ensure compliance for coating  
24 operations under current regulations. Is that correct?

1 MR. MARR: Yes.

2 MR. HOMER: Isn't it also true that the Agency,  
3 under current regulations, are supposed to obtain  
4 information from these sources which would show their  
5 compliance or non-compliance?

6 MR. MARR: Yes. They are to submit an initial  
7 certification if they are in compliance.

8 MR. HOMER: How does the Agency foresee that the  
9 proposed changes then will enhance the compliance of  
10 these sources?

11 MR. MARR: Well, by them submitting the -- If  
12 they are required to have a permit, they are required  
13 to submit a permit application. That would help us  
14 determine that they are in compliance with the  
15 requirements of the rule in Subpart (f).

16 MR. HOMER: Doesn't it seem superfluous to ask  
17 them to file information saying they're in compliance  
18 so they're already required to file information with  
19 the Agency stating whether they're in compliance or  
20 not?

21 MR. ROMAINE: The permit program has been our  
22 main focus for assuring compliance with regulations in  
23 a broad sense. And most sources look to their permit  
24 as the means by which they demonstrate that they are,

1 in fact, authorized to operate; that they've, in fact,  
2 communicated to the Agency what their different  
3 emission units are; that they've provided sufficient  
4 information to demonstrate that they are in compliance.  
5 The permit is also a tool to communicate additional  
6 conditions appropriate for the operation of the source  
7 to clarify what rules the source is complying with.

8                   Accordingly, I guess, it may be  
9 theoretically possible to say that yes, sources can  
10 demonstrate compliance simply with a certification.

11                   In fact, sources look to permits as  
12 the means by which to demonstrate they're in  
13 compliance.

14                   In talking to my manager --  
15 Unfortunately, I have been avoiding those calls. But,  
16 occasionally, we'll get calls from people when we visit  
17 them even under the current rules and they are subject  
18 to these coating rules.

19                   We visit them because there may be an  
20 odor complaint. Some other inspection, because they  
21 have other types of operation at the source and they  
22 come back and say, "What? I'm out of compliance? But  
23 I don't need a permit."

24                   So their first response is we expect

1 that if we don't have a permit, there isn't anything  
2 significant we have to worry about.

3 If there is a permit, then we begin  
4 to get concerned about, "What are the specific  
5 regulations I have to comply with?"

6 The need for a permit -- As a general  
7 matter, the Agency thinks, for certain sources,  
8 permitting or registration programs do facilitate  
9 compliance much more effectively than any unilateral  
10 certification coming from the source.

11 MR. HOMER: Okay. So, does the Agency contend  
12 that -- First of all, we're talking about relatively  
13 small sources here, and, first of all, I guess, the  
14 Agency contends that because they're such small sources  
15 that they do not -- they're unaware of the current  
16 regulations and that's the reason why they're not in  
17 compliance in both cases.

18 MR. ROMAINE: I guess that's two pieces.

19 We are certainly dealing with smaller  
20 sources. Our current exemption is at 5,000 gallons.  
21 5,000 gallons, depending on the VOM content of the  
22 source, can conceivably be somebody that emits 15, 20  
23 tons per year of volatile organic materials.

24 What the U.S. EPA did in the Federal

1 Implementation Plan was lower the applicability level  
2 down to 15 pounds per day. With that, we could be  
3 conceivably talking about somebody in the 1 to 2 ton  
4 range. So, we are certainly dealing with much smaller  
5 sources. We have not dealt with them routinely because  
6 they are not part of the permitting program. We have  
7 only visited them when there have been other things  
8 that trigger our attention.

9                   So, I guess we have a concern that  
10 they may be not aware of regulations that they are  
11 subject to. Because they are not aware of those  
12 regulations, we are also concerned that they may be out  
13 of compliance with those regulations without any  
14 efforts underway to come into compliance.

15                   So, it is, I guess, a sector that we  
16 now have to gradually bring into the permit program.  
17 To bring into compliance and bring into the permit  
18 program.

19                   And one of the things that's the  
20 obstacle to that point is this permit exemption simply  
21 says, well, if you are less than 5,000 gallons, you  
22 don't have to talk to the Agency about a permit for  
23 your coating operations.

24                   MR. HOMER: And, so, basically, it's the Agency's

1 contention that by requiring these sources to obtain a  
2 permit -- Let me rephrase that.

3 By putting a regulation on the books  
4 that says that they have to obtain a permit, suddenly  
5 these sources that obviously haven't read regulations  
6 that they're already required to be in compliance with,  
7 will suddenly see the light and think, "well, jeez, I  
8 should just check the regulations to see if I need a  
9 permit," versus "whether I need to be in compliance."

10 My question is, do you think they're  
11 going to look at the regulations any more strenuously,  
12 because we put this on the books than they have in the  
13 past?

14 MR. ROMAINE: No, I don't. I think it's simply a  
15 tool, as part of the Agency's overall program, to deal  
16 with these sources, that, rather than visiting them  
17 once and saying -- or sending them mailings saying "You  
18 need to certify. Tell us you are out of compliance or  
19 that you are in compliance."

20 But they need to realize that they  
21 are sources of VOC emissions and start working with the  
22 Agency. Our field people and other entities will be  
23 more effective with dealing with these sources if they  
24 say "You are now subject to a permit requirement. Call

1 the small businesses office."

2                   You may start talking to us because  
3 of a clean break; because of concerns with hazardous  
4 waste; your wastewater operations, and we can now  
5 incorporate them into the overall environmental  
6 program, rather than saying you are sort of in this  
7 halfway position.

8                   Yes. They're complying.  
9 Requirements that you have to comply with that are  
10 potentially significant requirements that you may very  
11 well not know it and be violating as a result, but you  
12 don't need a permit.

13                   If you say you are a source that we  
14 are concerned about, there are regulations that could  
15 be significant, you should be concerned about coming  
16 into compliance, and because you are that type of  
17 source, you need to have a permit.

18                   MR. HOMER: So, I think it's reasonable to say  
19 that the important thing is to get information to these  
20 affected sources that are out of compliance, though,  
21 because they don't have any understanding or any  
22 knowledge whatsoever of the regulations.

23                   The important thing is to get the  
24 information to them that they need to abide by these

1 regulations and comply with them.

2 MR. ROMAINE: I'd agree with that.

3 Our goal is to get a source in  
4 compliance. And if there is a more effective way to do  
5 that, then we are certainly open to other ways to  
6 achieve that goal.

7 MR. HOMER: Okay. I don't have any further  
8 questions.

9 I would just like to let the Board  
10 know that we are going to, in our comments, submit or  
11 request that the proposed changes to Section 146(g) be  
12 removed.

13 We've already had some discussions  
14 with the Agency regarding different methods by which to  
15 get information to smaller coating users, in order to  
16 try and help get them to understand what the compliance  
17 issues are that the Agency and I have discussed here.

18 And we, frankly, feel that asking  
19 these folks to obtain a permit and go through the  
20 hassle of filling out an application and paying a  
21 permit fee really is unnecessary for the goals that the  
22 Agency wants obtained.

23 HEARING OFFICER TIPSORD: Thank you, Mr. Homer.

24 Is there anyone else with questions

1 for Mr. Romaine?

2 BOARD MEMBER GIRARD: Yes. I have a question  
3 dealing with Chris Romaine's testimony.

4 I'd like to refer you to Section  
5 201.146(t) which deals with grain storage facilities.

6 In the amendments, in the latest  
7 testimony, you've introduced the terms "grain terminal  
8 elevator" and "grain storage elevator" which have  
9 different applicability thresholds, depending on  
10 storage capacity.

11 When I look over at the definitions  
12 in Section 211, I don't find these two terms defined or  
13 distinguished. And my question is should the  
14 definitions of these two terms "grain terminal  
15 elevator" and "grain storage elevator" be written out  
16 in Section 211 definitions?

17 MR. ROMAINE: Those definitions or those terms  
18 are adapted -- taken from the provisions of the New  
19 Source Performance Standards. They do have specific  
20 definitions in 40 CFR 60 Subpart DD.

21 We did not choose to introduce a  
22 separate listing of that definition in Section 211. It  
23 was a matter of judgment whether it would be  
24 appropriate or not.

1                   Our goal here is to point out to  
2 people that if there are units subject to the New  
3 Source Performance Standard, then those units are in  
4 the Department, and, certainly, for that reason we  
5 thought it was sufficient to rely on the regulations  
6 and the definitions found in the provisions of the New  
7 Source Performance Standard.

8                   HEARING OFFICER TIPSORD: But the --

9                   BOARD MEMBER GIRARD: I guess my comment is, up  
10 to this point in time, the State has pretty much lumped  
11 all grain storage facilities under one category. And  
12 now we're splitting that out into two different  
13 categories which have different applicability  
14 thresholds. So an individual who has a grain storage  
15 facility is going to be very interested in knowing  
16 whether they have a grain terminal elevator or grain  
17 storage elevator because there are different  
18 applicability thresholds in terms of the number of  
19 bushels stored.

20                   So, would it be better for them to be  
21 able to determine that by reading the Illinois  
22 Regulations, rather than also having in hand a copy of  
23 the Federal Regulations? And all it would take is  
24 introducing two definitions in Section 211.

1                   We already have about four grain  
2 definitions at that point. A place it could be put is,  
3 for instance, right after the definition of "Grain  
4 Handling Operation" at 211.2710.

5           MR. ROMAINÉ: I guess it's a matter of judgment.

6                   In terms of the majority of grain  
7 handling operations in Illinois, they are grain  
8 terminal elevators.

9                   The definition for grain storage  
10 elevator, in fact, refers to grain storage facilities  
11 that are associated with manufacturing plants.

12                   So there are only a handful of grain  
13 storage facilities in Illinois associated with plants  
14 like ADM, CPC, AD Stanley. Everybody else is, in fact,  
15 a grain terminal elevator.

16                   But, I guess I would leave it to the  
17 Board's judgment.

18                   Do you have any comments, Sheila?

19           MS. KOLBE: Yes.

20                   Basically, we want the same  
21 definition as in 40 CFR 60 Subpart DD. If that  
22 requires just pulling it out from there and copying it  
23 into 211, that would be fine or, otherwise, it would be  
24 better to reference 40 CFR -- Well, it is referenced in

1       how we wrote it. 40 CFR 60 Subpart DD.

2                       But we would have no objection if the  
3       same definition was just taken from 40 CFR 60 and put  
4       into 211.

5               BOARD MEMBER GIRARD: Well, I'm still willing to  
6       consider not having the definitions in there, if, maybe  
7       in an additional comment you can explain all this and  
8       we can, at least, incorporate it into the opinion, so  
9       that in some future date when the Board is deciding  
10      some case we can, at least, go back into the opinion to  
11      see how we discriminated between these two terms.

12              MS. KOLBE: Okay. The Agency could probably  
13      address that in its final response to comments.

14              BOARD MEMBER GIRARD: That would be fine.

15              MS. KOLBE: Unless you would prefer that we --

16              BOARD MEMBER GIRARD: I don't know how the entire  
17      Board would feel about this. I think we would probably  
18      need to digest the comments and then decide whether or  
19      not we want to add two more definitions.

20                      So the best thing to do would be for  
21      you to explain the entire situation, distinguish the  
22      terms, so we can at least include it in an opinion.

23              HEARING OFFICER TIPSORD: I have a couple of  
24      follow-up questions to that.

1                   And I apologize. I didn't bring a  
2 copy of the Act with me, especially the most recent  
3 amendments.

4                   But there are some recent amendments  
5 to Section 9 of the Act which exempt, to my  
6 understanding, grain elevators from a lot of the air  
7 regulations.

8                   What effect does this provision, read  
9 in Section 9, have on grain elevators? Or even if -- I  
10 mean, do the grain elevators -- Is this broader than  
11 Section 9, the Section 9 exemption, or how do the two  
12 relate?

13                   You may want to check on comments,  
14 because there has been a very recent amendment to that,  
15 like public acts the governor recently signed -- I'm  
16 sorry. That have recently been amended. The governor  
17 recently signed an amendment to that. There may, in  
18 fact, be no affect, but, as I say, I know there are  
19 some exemptions for grain elevators built into the Act.

20                   MR. ROMAINE: We will have to go back. This was  
21 prepared before that legislation was adopted, so we  
22 have not considered the interaction. That's a good  
23 point.

24                   HEARING OFFICER TIPSORD: And, also, just as a

1 further clarification, the copy of the amendments that  
2 you provided us so graciously talks about 88,100 m-3.  
3 That "3" should be superscript, should it not?

4 MS. KOLBE: Yes. It should be.

5 HEARING OFFICER TIPSORD: And that's in both  
6 cases. The other one is 35,200 and it should also be  
7 superscript?

8 MS. KOLBE: Right.

9 MR. ROMAINE: And as long as we are on this  
10 topic, the other strange thing about the New Source  
11 Performance Standard was that I believe it was the 1  
12 million bushels is simply "greater than" 1 million  
13 bushels. And the 2-1/2 million bushels is "equal to or  
14 greater than."

15 I'm not sure why the U.S. EPA did it  
16 that way, but that is the way it's found in the New  
17 Source Performance Standard.

18 HEARING OFFICER TIPSORD: Were there any other  
19 questions?

20 (No response.)

21 HEARING OFFICER TIPSORD: Seeing none, Miss  
22 Rosen, did you have a statement you would like to make?

23 MS. ROSEN: Actually, the statement that I made  
24 at the beginning of my question, just that we were

1 supportive of the proposal, was my statement.

2 HEARING OFFICER TIPSORD: Thank you.

3 Mr. Homer, anything further?

4 MR. HOMER: Nothing further. Thank you.

5 HEARING OFFICER TIPSORD: Anything else?

6 MS. KOLBE: No.

7 HEARING OFFICER TIPSORD: Just as way of  
8 explanation. Since the Board has not currently went to  
9 First Notice on this, we would anticipate we would go  
10 to First Notice within, I hope, depending on the  
11 workload, about a month after receipt of transcript.

12 Given that we've raised some  
13 additional issues for the Agency, would you like to  
14 submit another comment prior to Board's proceeding to  
15 First Notice with this? Especially if we decide that  
16 there would need to be some additional changes to the  
17 rule.

18 MS. KOLBE: Yes.

19 HEARING OFFICER TIPSORD: Would you say  
20 twenty-one days of the receipt of the transcript?

21 MS. KOLBE: That would be -- When is the  
22 transcript due?

23 HEARING OFFICER TIPSORD: 23rd?

24 MS. KOLBE: 23rd? That would be fine.

1 HEARING OFFICER TIPSORD: And after that, the  
2 Board will then proceed to First Notice and publish in  
3 the Illinois Register.

4 I'm assuming they will proceed to  
5 First Notice, of course, if they find no problems going  
6 forward.

7 I don't anticipate at this time that  
8 we'll hold additional public hearings after going to  
9 First Notice, unless there seems to be a need after its  
10 published in the Illinois Register.

11 We'll remain open to that, but I  
12 would anticipate that that would not be the case.

13 Then the Rule will be open for at  
14 least forty-five days for public comment after  
15 publication in the Illinois Register before we proceed  
16 to second notice and on to adoption.

17 So, we'll look forward to your  
18 comments in September.

19 And thank you all for coming. And in  
20 the meantime the record remains open to receive  
21 comments at any time.

22 Thank you very much.

23 (HEARING CLOSED.)

24

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

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

8

9

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

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