

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
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3
4 IN THE MATTER OF:
5 AMENDMENTS TO GENERAL
6 PERMITTING PROVISIONS FOR PCB No. R02-10
7 PORTABLE EMISSIONS UNITS,
8 AMENDMENTS TO 35 ILL. ADM.
9 CODE PART 201

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 Proceedings held on March 20, 2002 at 10:30 a.m., at the
Illinois Pollution Control Board, 600 South Second Street, Suite
403, Springfield, Illinois, before Hearing Officer Stacy Meyers.

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A P P E A R A N C E S

Board Member Samuel T. Lawton, Jr.
Alisa Liu, Environmental Scientist

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
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E X H I B I T S

NUMBER	MARKED FOR I.D.	ENTERED
Hearing Exhibit 1	15	15
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(Hearing Exhibits 1 and 2 were retained by Hearing Officer Stacy Meyers.)

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1 P R O C E E D I N G S

2 (March 20, 2002; 10:30 a.m.)

3 HEARING OFFICER MEYERS: Good morning. This hearing is
4 being conducted by the Illinois Pollution Control Board. My name
5 is Stacy Meyers and I am the Hearing Officer in this proceeding,
6 which is entitled: In the Matter of: Amendments to General
7 Permitting Provisions for Portable Emissions Units, Amendments to
8 35 Illinois Administrative Code 201, and that is Docket Number
9 R02-10.

10 I would like to introduce you to members of the Board that
11 are with us this morning. To my immediate left is Mr. Samuel T.
12 Lawton, Jr., and he is the Board Member assigned to this matter.

13 BOARD MEMBER LAWTON: Good morning.

14 HEARING OFFICER MEYERS: We also have present with us today
15 Ms. Alisa Liu. She is one of two environmental scientists with
16 the Board.

17 And sitting in the back of the room is Erin Conley, and she
18 is the Rulemaking Coordinator with the Board.

19 For the record, today's date is March 20th of 2002, and it
20 is approximately 10:30 in the morning. This is the first of two
21 presently scheduled hearings for the receipt of testimony and
22 questions concerning the Illinois Environmental Protection
23 Agency's November 30th of 2001 proposal to amend the regulations
24 concerning existing portable emissions units. The proposal seeks

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1 to exempt certain owners and operators of smaller units from
2 having to obtain new construction and operating permits required
3 by Section 39 of the Environmental Protection Act whenever they
4 change the site of their portable emissions units.

5 The proposal includes, in relevant part, Director Renee
6 Cipriano's Statement of Submittal, the Agency's analysis of
7 economic and budgetary effects, its statement of reasons for the
8 proposed regulations, prefiled testimony, notice of the proposed
9 rule, the text of the proposed changes, and several exhibits.
10 Copies of the Agency's proposal are located to the table to my
11 left on the side of the room.

12 The Board accepted this matter for hearing on December 6th
13 of 2001, and has not yet issued a first notice opinion and order.

14 The second hearing on this rulemaking will be held next
15 month on April 9th of 2002 at the J.R. Thompson Center in
16 Chicago. The hearing will be conducted in Room 11-512, which is
17 the Board conference room on the 11th floor of that building.

18 During the second hearing we will have the discussion
19 required by Section 27(b) of the Environmental Protection Act
20 about an economic impact study of the proposed rulemaking. On
21 March 7th of 2002, the Board mailed a request to the Department
22 of Commerce and Community Affairs, known as DCCA, to perform an
23 economic impact study on the proposed rulemaking. As of today's
24 date, we have not received a study from DCCA. We do not

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1 anticipate receiving one from DCCA in this matter. We welcome
2 any testimony and discussion both at hearing, either this one or
3 the one in Chicago, as well as in public comments submitted to
4 the Board.

5 Both of the hearings in this matter will be governed by the
6 Board's procedural rules for regulatory proceedings. This means
7 that I will admit all information that is relevant and not
8 repetitious or privileged, in accordance with 35 Illinois
9 Administrative Code 102.282. All witnesses will be sworn and
10 subject to cross-questioning.

11 For more information on the next hearing please feel free
12 to take a copy of the Hearing Officer Order dated February 7th of
13 2002, on the side of the room. You may also review information
14 regarding this proceeding on our web site. Our URL address is
15 www.ipcb.state.il.us.

16 We will accept prefirst notice public comments on this
17 proposed rulemaking until 30 days after the April 9th of 2002
18 hearing. Public comments are welcome past this May 9th of 2002
19 deadline until the record closes 45 days after the first notice
20 is published in the Illinois Register. However, the Board will
21 only consider comments filed by the May 9th of 2002 date in the
22 first notice opinion and order.

23 Anyone may file public comments with the clerk of the
24 Board. You must simultaneously deliver your comments to all

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1 persons on the service list and include an attached notice sheet,
2 proof of service, and a copy of the current service list. You
3 should also contact the clerk's office to make sure that you have
4 an updated service list.

5 I would like to take a moment to discuss the notice and
6 service lists for this rulemaking. Copies of the current notice
7 and service lists are available on the table at the side of the
8 room. If you find that your name does not appear on the lists,
9 there are sign up sheets for the notice and service lists on the
10 table, as well. Please sign up if you wish to be included on
11 either list.

12 Individuals on the notice list receive only Board and
13 Hearing Officer opinions and orders. Individuals on the service
14 list receive copies of all documents filed by all persons on the
15 service list including prefiled testimony and questions, motions
16 and appearances, as well as Board and Hearing Officer opinions
17 and orders. If your name is on the service list and you file a
18 document with the Board, you must also serve everyone on the
19 service list with these copies of the documents. If you have any
20 questions about the lists, please see me during a break or after
21 the hearing.

22 The usual order of regulatory hearings is that the
23 proponent of the proposed regulation presents testimony
24 concerning the proposal. Since the Illinois Environmental

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1 Protection Agency is the proponent of this proposed regulation,
2 it will present testimony on the proposed rulemaking. The Agency
3 prefiled its testimony with the Board on November 30th of 2001 as
4 a part of its proposal. As a reminder, the proposal, including
5 the prefiled testimony, is available on the table at the side of
6 the room.

7 After hearing from any witnesses presented by the Agency,
8 we will be accepting questions about its proposal. At that time
9 members of the public and attending Board Member Mr. Lawton as
10 well as Ms. Liu will also ask questions of the proponent.

11 Once the proponent answers any questions, the Board usually
12 hears testimony from persons who have prefiled with the Board.
13 As no one but the Agency has done so today, we will hear
14 testimony by people who have signed up on the list at the side of
15 the room. I will proceed by calling the people in the order that
16 they have signed up today. If you wish to present testimony
17 today, please sign up on the sheet located on the table at the
18 side of the room.

19 I would like to go over a few brief comments about decorum
20 for this hearing. Anyone who testifies will be sworn in by the
21 court reporter. Anyone may ask a question of anyone who
22 testifies. However, I ask that you raise your hand, wait for me
23 to acknowledge you, and after I have acknowledged you, please
24 state your name and who you represent before asking questions.

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1 Please speak one at a time. If you are speaking over each other
2 the court reporter will not be able to get your questions on the
3 record. When answering questions, please make sure to say yes or
4 no instead of shaking your head. At this time I would like to
5 give Mr. Samuel T. Lawton, Jr., an opportunity to make any
6 additional remarks.

7 BOARD MEMBER LAWTON: It is my pleasure to welcome you to
8 this hearing. I had hoped that today might be one where the
9 audience outnumbered the hearing staff, but that is not to be.
10 So we will move along accordingly. Thank you very much. Thank
11 you all for being here.

12 HEARING OFFICER MEYERS: Thank you, Mr. Lawton. I would
13 now like to introduce Ms. Rachel Doctors, with the Illinois
14 Environmental Protection Agency, to present a few opening remarks
15 for the proponent. And once she has presented an overview of the
16 proposed rulemaking, we will open up the questions for the
17 Agency's witness.

18 At this time could you please swear in Ms. Doctors.

19 (Whereupon Ms. Doctors and Mr. Desai were sworn by the
20 Notary Public.)

21 HEARING OFFICER MEYERS: Whenever you are ready.

22 MS. DOCTORS: Hello. My name is Rachel Doctors. I am
23 representing the Illinois EPA in today's rulemaking proposal.

24 I would like to start with a short summary of that

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1 proposal. Section 39 authorizes the Pollution Control Board to
2 adopt a program for issuing lifetime permits to certain types of
3 sources, ones that were not required to get Clean Air Act permits
4 and ones that were not required to get federally enforceable
5 state operating permits are eligible for that program. Section
6 35 Illinois Administrative Code 201.169 is where that program has
7 been adopted. These sources are only required to obtain new
8 permits if they change ownership, size, emissions, increase their
9 production, those kinds of major changes. Otherwise, they keep
10 their state operating permit.

11 We discovered, as we have been going along through this
12 program, that there was a subset of emission units that although
13 we would be issuing them one of these lifetime permits pursuant
14 to Section 169, they were coming in at least once a year to get a
15 new permit. Like, for example, the asphalt people, because they
16 would be changing the location of the unit, although the
17 emissions from the unit and the operation of the unit remained
18 unchanged.

19 So we did a survey to see what other states were doing, and
20 believed that it would be appropriate to propose an exemption for
21 this limit for a very -- for a subset of these units that were
22 moving that were less than 25 tons per year, so that they didn't
23 have to continuously come to us and request this -- request a new
24 permit. We believe that there are approximately 500 emission

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1 units that may qualify for this program per year.

2 There are five criteria that these units need to meet. One
3 is that they really do have a genuine expectation that they will
4 remain at any site for less than one year. That the unit itself
5 is designed to be movable, so that they are not constructing the
6 source. They don't have to dismantle anything or put anything
7 together. They are just going to drive it up, use it, and then
8 they will move it to someplace new. That it, indeed, emits less
9 than 25 tons per year. So it would not trigger new source review
10 programs in ozone attainment areas or PSD requirements in
11 nonattainment areas, or other types of requirements that we have
12 for larger sources. That they, in fact, satisfy all of the
13 requirements for the lifetime permit program, and there is a
14 number of them. I don't have them before me.

15 Also, there is another subset, that while they may be
16 small, we have determined that they do, indeed, deserve a higher
17 level of scrutiny, and that is the thermal desorption units and
18 incinerator systems that are sometimes used in RCRA cleanups and
19 other kinds of things that may involve hazardous wastes, and
20 those need to be more strictly scrutinized before a permit is
21 issued in case special conditions are warranted or some other
22 circumstance may apply. Even though somebody may qualify for a
23 portable -- get a portable emission permit, unit permit under
24 this program, there may be times when they may, in fact, need to

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1 come in and get a construction permit if they move to certain
2 types of sites. So it is not a carte blanche, you just move
3 anywhere you want.

4 There are several criteria for that. One is, obviously,
5 they are going to have to come in and revise at least once their
6 current permit to allow -- to put in these new conditions for
7 portability. And, two, they cannot move to a restricted site,
8 such as a CAAPP. They can't go into a CAAPP source or some other
9 larger source or a source that is not CAAPP, but if you have them
10 include their emissions, would become a CAAPP source, something
11 like that. Cannot trigger new source review. Those kinds of
12 things. They must notify us that they are going to move, and
13 they must state that their operations will remain the same. They
14 must also keep a copy of the permit on site where they are going
15 to be.

16 That is a basic summary. I mean, there are more details.
17 I would be happy to answer any more questions that people have.
18 We noticed a couple of errors. I am sorry. I have to apologize.
19 One was brought to our attention by the American Lung Association
20 pursuant to a phone call by Brian Urbaszewski, and I promised --
21 I indicated to him that I would make a statement on the record
22 that there was, in fact, an error on page four of the Illinois
23 EPA's Statement of Reasons, where we said that the units could
24 emit 25 tons per day. It should be 25 tons per year. I

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1 indicated that I would state that for the record.

2 In addition, I have given the Hearing Officer, Ms. Meyers,
3 an errata sheet that notes that there were four typographical
4 errors. I can go through them, or you could -- they had to do
5 with the fact that the word emission was left out, when it should
6 have been placed before the word unit. It wasn't -- we didn't
7 consistently apply that throughout the rule. I am happy to
8 answer any questions on that.

9 In addition, Harish Desai indicated that in his prefiled
10 testimony there was a typographical error on page five in
11 reference to the definition of construction. It should be
12 201.102, not 201.146.

13 I would now like to introduce Harish Desai as the Manager
14 of -- he is the Manager of the State Operating Permit Unit for
15 the Bureau of Air, and request that his testimony be admitted as
16 if read.

17 HEARING OFFICER MEYERS: Okay. Thank you. Just one
18 moment. Would you like to introduce the errata sheet, the
19 document marked as the errata sheet as an exhibit as well?

20 MS. DOCTORS: Yes. I would like to ask that the errata
21 sheet be admitted as read.

22 HEARING OFFICER MEYERS: Okay. In response to moving that
23 the errata sheet be admitted as Exhibit 1, does anyone have any
24 objections?

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1 In light of no objections being heard, we are accepting the
2 document titled the errata sheet by the proponent, the
3 Environmental Protection Agency, as Exhibit Number 1, and I have
4 so marked that and have a copy of it here with me.

5 (Whereupon said document was duly marked for purposes of
6 identification as Hearing Exhibit 1 and admitted into
7 evidence as of this date.)

8 MS. DOCTORS: Then I would request that the testimony of
9 Harish Desai be admitted as Agency Exhibit Number 2.

10 HEARING OFFICER MEYERS: In response to moving that the
11 Exhibit 2 be entered at hearing, does anyone have any objections?

12 Hearing no objections, I accept Exhibit Number 2, titled,
13 the testimony of Harish Desai, into evidence in this proceeding.
14 Thank you.

15 (Whereupon said document was duly marked for purposes of
16 identification as Hearing Exhibit 2 and admitted into
17 evidence as of this date.)

18 MS. DOCTORS: Thank you. So that concludes the Agency's
19 presentation.

20 HEARING OFFICER MEYERS: At the conclusion we would like to
21 now offer the public a chance to ask questions of the proponent,
22 the Illinois Environmental Protection Agency.

23 Does anyone have any questions regarding R02-10?

24 Hearing no questions from the public, I do believe that we

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1 do have a few questions from the Board today.

2 I would like to start with Mr. Lawton. Mr. Lawton, do you
3 have any questions?

4 BOARD MEMBER LAWTON: Thank you very much. My questions
5 will be directed to both of you jointly, so you decide how it
6 will be answered. Each of you can answer the same question if
7 you care to if you want to amplify it.

8 The first question, in Exhibit 9 of the Agency proposal,
9 the letters that were sent to different organizations -- can you
10 hear me all right?

11 MS. DOCTORS: (Nodded head up and down.)

12 BOARD MEMBER LAWTON: Notifying them of this regulatory
13 proposal. How did the Agency come up with that list of names and
14 organizations to contact?

15 MS. DOCTORS: Mr. Desai, would you like to answer that
16 question? Mr. Lawton is asking us how we came up with the list
17 of affected people.

18 MR. DESAI: We have an emission inventory system which we
19 can track based on the SEC number, which is a court number based
20 on what type of business they are in, and determine how often
21 they move, if it is once a year or more than one a year, and
22 developed the list on that basis.

23 BOARD MEMBER LAWTON: What was submitted is still currently
24 the list that you are --

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1 MR. DESAI: I am sorry?

2 BOARD MEMBER LAWTON: Have there been any changes since it
3 was originally submitted, that you are aware of?

4 MR. DESAI: Normally there is no change in emissions or
5 what they do. They move from one place to another.

6 BOARD MEMBER LAWTON: I see. Could you describe the
7 general response the Agency has received to your announcement of
8 this proposal?

9 MS. DOCTORS: The responses in general, I believe, came to
10 me. It has been very favorable, that the people thought that it
11 would help.

12 MR. DESAI: We received a call from a couple of
13 associations and they were both in favor of this proposal.

14 BOARD MEMBER LAWTON: Thank you. There was some mention in
15 your submission of solvent recovery that might be a possible
16 entity that is affected by the activity. Does the Agency know of
17 anyone that represents this particular industry that should be
18 notified as well?

19 MR. DESAI: Yes, the associations that would normally be
20 represented are the Aggregate Association. The other one is the
21 Asphalt Association. The third one is the Concrete Pavement
22 Association.

23 BOARD MEMBER LAWTON: Are the entities that you have
24 mentioned on the list that you have submitted already? In other

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1 words, have they been notified?

2 MR. DESAI: Yes, sir, they have been notified.

3 BOARD MEMBER LAWTON: Okay. Thank you. That's all I have
4 at this time.

5 MS. LIU: Good morning, Ms. Doctors and Mr. Desai. In
6 several places in the proposed language it states that an owner
7 or operator may change the site of the unit without obtaining a
8 new permit, pursuant to Section 201.142, .143, or .169. For
9 instance, the proposed language under 201.170(b) uses those
10 references. I was just wondering if there should also be a
11 reference to Section 201.144 in that list, which is the section
12 on operating permits for existing sources. Maybe they were
13 excluded for a special reason.

14 MS. DOCTORS: I can give you kind of a general thing, but I
15 would also -- perhaps I will think about this some more. I need
16 to do a little bit of thinking. It just depends on -- this is
17 what I think the issue turns on, is whether -- and I don't know
18 the answer, so that is why I am going to have to look at it. I
19 will have to go back and do a little thinking and looking. It
20 depends on whether you believe that Section 201.169 for that
21 subset of permits or that group of units supersedes the state
22 operating requirement in 144. If you believe that they are
23 layered on top of each other, then 144 would need to be included.
24 If you believe 169 supersedes 144, then it would not. But I

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1 don't know the answer today. I will go take a look.

2 MS. LIU: Thank you.

3 BOARD MEMBER LAWTON: You have submitted examples of
4 similar regulations in other states in your Exhibit 9(d). There
5 are 13 states included. Are these the only states you know that
6 have similar regulations?

7 MS. DOCTORS: There could be some others.

8 BOARD MEMBER LAWTON: Okay. Is there any commonality
9 between the 13 states that have regulations on the books for
10 portable emission units? For instance, do they all belong to the
11 same special air emissions inventory group, or do they all have
12 emission caps with the NOx budget?

13 MS. DOCTORS: Could you repeat that question, please?

14 BOARD MEMBER LAWTON: I will read the whole thing because
15 it is kind of lengthy and complicated. The question is, is there
16 any commonality between the 13 states that have regulations on
17 the books for portable emissions units? And then to amplify what
18 that question is seeking, for instance, do they all belong to
19 some special air emissions inventory group, or do they all have
20 emission caps with a NOx budget?

21 MS. DOCTORS: No, I don't believe so. I believe how the
22 search was done -- this rulemaking issue was started by another
23 attorney who is not with our unit anymore. But I believe what
24 was done is they did a search on West's Law and they just started

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1 first with Alabama and they went through and looked at each state
2 until they came up, you know, with some from the south and some
3 from the --

4 BOARD MEMBER LAWTON: Yes.

5 MS. DOCTORS: You know, they tried to come up with a
6 representative sample of states that had these rules.

7 BOARD MEMBER LAWTON: Thank you.

8 MS. LIU: In looking through those examples that other
9 states use on portable emissions units, I noticed that to be
10 considered temporary the Agency's criteria under 201.170(a)
11 requires that the unit be operated for less than one year at any
12 particular site.

13 In these examples of other states, other states seem to
14 define temporary in a little bit different way. One popular
15 definition was that it be operated -- or relocated once during
16 the life of the permit.

17 I don't know if that would work parallel to Illinois
18 because you are discussing the lifetime permits and perhaps they
19 have permits that have shorter terms on them. I was just
20 wondering if you happened to know what the typical life of a
21 permit was in these other states?

22 MS. DOCTORS: I do not. But you hit on exactly the issue
23 we faced, was the units we were seeking to do this with had
24 lifetime permits, so we had to make a shorter time.

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1 MS. LIU: Okay.

2 MR. DESAI: Our intention is to start with one year because
3 we are definitely new in this type of requirements. So once we
4 have experience of three or four years then maybe in the future
5 we may decide to extend that time period.

6 MS. LIU: Okay.

7 BOARD MEMBER LAWTON: If someone wanted to move a portable
8 emissions unit to a site with a source subject to the Clean Air
9 Act permit or the NSR or the PSD permits, what would they need to
10 do since they would not be able to use the provisions proposed in
11 this rulemaking?

12 MS. DOCTORS: They would do what they currently do now,
13 which is apply for a construction permit.

14 BOARD MEMBER LAWTON: So they would not have the benefit of
15 this?

16 MS. DOCTORS: Correct.

17 BOARD MEMBER LAWTON: Okay. In the examples in Exhibit
18 9(d) most states have a time period for the owner or operator to
19 notify the permitting authority before relocating the portable
20 unit. For example, Colorado requires the owner or operator to
21 notify the division at least ten days in advance of each change
22 in location.

23 Proposed Section 201.170(b)(5) simply requires the owner or
24 operator to notify the Agency before locating the units, but

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1 there is no time limit. Should a minimum notification period be
2 required?

3 MR. DESAI: We thought about it quite a bit. We came out
4 with the 15 days, 10 days, one week. And the problem that comes
5 with that is suppose if they miss that date, instead of -- if we
6 have a regulation that says they should notify ten days in
7 advance, instead of ten days it happens to be nine days or eight
8 days, then what happens, would that require a full-fledged
9 permitting requirement. To avoid that kind of requirement, we
10 decided we would remove the date completely. If they do not
11 notify us, they will definitely be in violation of the regulation
12 and be subject to enforcement.

13 BOARD MEMBER LAWTON: Thank you.

14 HEARING OFFICER MEYERS: At this time I am going to pause
15 for a moment and see if there are any questions from the public
16 at this point. Okay. On that note, Ms. Liu.

17 MS. LIU: Following up on your last answer, is 24 hours
18 sufficient notice?

19 MR. DESAI: Correct.

20 MS. LIU: Since the notification comes in by certified
21 mail, does it need to be mailed by the date that they are
22 relocating?

23 MR. DESAI: It will be the date when we receive it.

24 MS. LIU: Okay. So it needs to be in your office before

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1 they make the move?

2 MR. DESAI: Correct.

3 MS. LIU: Okay. After the permitting authority is notified
4 of the relocation, in some of the other state examples, some
5 states like Indiana and Louisiana and Missouri require the owner
6 or operator to receive approval before they can relocate. Under
7 this proposed regulation will the Agency require approval before
8 they will allow people to relocate or are they simply looking for
9 notification?

10 MR. DESAI: No, there is no such approval required. Just
11 the notification will be good enough. Because they already
12 received the approval by getting a permit that says that they can
13 move from one location to another without getting any approval.

14 MS. LIU: Some other states like Nebraska and New Mexico
15 require that the owner or operator specify how long they intend
16 to be at this new location. Would there be any benefit for
17 Illinois to include that type of informational requirement in a
18 notification process?

19 MR. DESAI: That is already built in in the regulation
20 because they are required to estimate time and how many -- the
21 amount of emission they will have at the new location. So based
22 on that throughput we can estimate how long they will be there.

23 MS. LIU: So in the original operating permit there is --
24 there is some kind of information on how long they might operate

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1 at a particular site?

2 MR. DESAI: It may not specify how many hours they will be
3 there or how many months they will be there, but they will be
4 estimating how much amount of emissions they will have at the new
5 location.

6 MS. DOCTORS: When they send us the notification they have
7 to specify the emissions expected at that particular location.

8 MS. LIU: Okay. From that you can extrapolate about how
9 long they might be there?

10 MS. DOCTORS: Yes.

11 MS. LIU: Is that because the emissions information is
12 given to you in an amount per time, kind of, unit or total
13 amount?

14 MR. DESAI: It is very likely possible that they may go to
15 a new location. It does not mean that the very next day they
16 will start operating at that location. They may sit idle for
17 maybe a month before they start actually operating. So we may
18 not exactly know whether they will be there from January 1st to
19 March 1st, but we will know how many -- how much emissions they
20 will have once they go to that location and operate.

21 MS. LIU: Okay.

22 MR. DESAI: And we will be interested more in emissions
23 rather than how long physically they will be located at it.

24 MS. LIU: So you are more concerned with total cumulative

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1 emissions while they are at that site?

2 MR. DESAI: I am sorry. Can you repeat it, please?

3 MS. LIU: So are you more concerned with the total
4 cumulative emissions while they are at that site rather than how
5 long they are there?

6 MR. DESAI: That's correct, total cumulative emissions.

7 MS. LIU: Thank you. I am understanding better.

8 BOARD MEMBER LAWTON: The State of Nebraska requires the
9 notification to include a description of adjacent surroundings
10 and the proximity to occupied buildings. If this type of
11 information was submitted to the Agency by an owner or operator
12 in their notification for relocation, could the Agency disapprove
13 of the relocation if there was a cause for concern?

14 MR. DESAI: In our process of reviewing the application,
15 what we have right now, which does not require any kind of
16 modeling for an emissions unit that are emitting less than 25
17 ton. We will be using the same criteria for this also. But
18 there won't likely be any provision for disapproving the
19 location. However, if they do cause any kind of violation, then
20 they will be subject to enforcement action.

21 BOARD MEMBER LAWTON: Under what circumstances could the
22 Agency disapprove of the notification to relocate the portable
23 units?

24 MR. DESAI: We do not have any disapproval of the location,

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1 as such. But if the applicant who has received this kind of
2 permit, if they modify the equipment, they increase the
3 emissions, or do something different than what the previous
4 permit was granted. To give you an example, a concrete crusher,
5 they are very frequently moved from one place to another.
6 Instead of crushing concrete, they start crushing something else
7 like house garbage and things like that, then definitely they
8 would be in violation and that permit will be voided.

9 BOARD MEMBER LAWTON: Thank you.

10 HEARING OFFICER MEYERS: I know you had expressed earlier
11 that there may be a limit on where they can locate, within the
12 regulation itself; is that correct?

13 MS. DOCTORS: Yes. They have to meet two conditions, but
14 it is not -- we wouldn't -- the process is -- how do I explain
15 this. We are not going to deny a notification. Notification is
16 simply telling us that they have moved. But if they have moved
17 to a spot -- so we get a notification that they are moving to a
18 spot that violates, for example, Subsection (b)(3) or (b)(4), so
19 either they move to a CAAPP site or they changed their operation,
20 as in his example, and it says that in their notice, that would
21 be referred to our enforcement unit, and they would start an
22 inquiry and so forth on that. Just like we would for a person
23 who had a lifetime permit, they change what they do, the same
24 process would be --

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1 BOARD MEMBER LAWTON: And you might not issue one then?
2 You would have some latitude to decide?

3 MS. DOCTORS: What do you mean? No, there is not any
4 latitude. Notification is just notification. It is just that
5 when somebody who has a lifetime permit changes their operation
6 we go and send a compliance inquiry letter and we start the
7 enforcement process.

8 BOARD MEMBER LAWTON: Okay.

9 MS. DOCTORS: So it is the same process except these guys
10 can move, these units are going to be allowed to move. But the
11 same principles apply.

12 BOARD MEMBER LAWTON: It would suspend the activity until
13 they responded to that, though?

14 MS. DOCTORS: Not necessarily. I mean, it would depend if
15 there was an injunction.

16 MR. DESAI: Let me clarify it a little bit more. Once we
17 issue the permit, we do not have any right to revoke the permit.
18 We only start the enforcement action. The Pollution Control
19 Board has the right to revoke the permit. A very similar case,
20 if they do go to -- by the law they are permitted to go to the
21 CAAPP source, the federally enforceable operating permit source.
22 But if they do go over that, they will be subject to enforcement
23 action, and they will be like operating without a permit, because
24 the permit issued to them to move from one place to another very

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1 specifically states that they are not -- that they do not go to
2 those places.

3 BOARD MEMBER LAWTON: Okay.

4 MS. LIU: The proposed regulations at 201.170(d), near the
5 end speak to, quote, a site covered by such a permit, unquote.
6 It is right at the very, very end. Did you find it?

7 MR. DESAI: Yes.

8 MS. DOCTORS: I will start, but I will let Harish finish.
9 We have a group of sources that share equipment. So there may be
10 a group of quarries that are located and they are all sharing
11 some rock crushers. So instead of them having to notify there is
12 only three sites where the equipment is going to be moved and
13 each one of these sites currently has a permit that covers the
14 equipment. So even though there is one piece of equipment at
15 three different sites, each one of these sites currently has a
16 permit that covers the same piece of equipment. And we didn't
17 think that there was anything to be gained by having them notify
18 us every time they moved their rock crusher.

19 MS. LIU: So could you have a permit for a site and that
20 unit as well, or just the permit that encompasses that unit
21 moving?

22 MR. DESAI: Well, this particular unit, like, giving you a
23 specific example, having three quarries at different locations
24 that could be in different counties, you would have one crusher

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1 and that crusher will be moving from one quarry to another and
2 the company, the owner of that particular quarry will maintain
3 all this operating permit at all three locations, will have paid
4 the appropriate fees, and things like that.

5 We won't permit the quarry, but we do permit the crusher at
6 the particular quarry. These people are moving the same crusher
7 at three different quarries and maintaining the appropriate
8 operating permit for all those three locations. Those people do
9 not require -- under this rule they are not required to provide
10 any notification of any such nature. They can still go ahead and
11 move without giving notification. So that particular rule
12 clarifies that.

13 MS. LIU: Okay.

14 HEARING OFFICER MEYERS: At this time, once again, we are
15 going to ask if anyone has any other questions to ask the
16 proponent?

17 Hearing that we don't have any further questions, I think
18 we are going to at this time open the floor to public testimony.
19 We will proceed in the order that people have signed up to
20 testify.

21 I do not believe that anyone has signed up to present any
22 testimony today. Does anyone who has not signed up have a desire
23 to testify?

24 Hearing that we don't have anyone that would like to

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1 present further testimony, I am going to request, if there are no
2 objections, that we recess for about 20 minutes but stay convened
3 in case someone from the public arrives late who has a question
4 to ask. Are there any objections to that?

5 MS. DOCTORS: No.

6 HEARING OFFICER MEYERS: All right. It is now 11:12 a.m.
7 We will recess for exactly 20 minutes. I do remind everyone,
8 please, to return promptly in 20 minutes, because we will start
9 on the mark. Thank you.

10 (Whereupon a short recess was taken.)

11 HEARING OFFICER MEYERS: All right. We will now go back on
12 the record.

13 Welcome back. It is, for the record, 11:32, after our 20
14 minute break. We are back on the record for R02-10, regarding
15 portable emissions units and the amendments proposed to
16 regulations regarding those.

17 I do believe we have one last question by Ms. Alisa Liu for
18 the Agency, or a concern.

19 MS. LIU: Questions. I always have questions. Just one
20 last thing. Going back to the discussion we had earlier on the
21 notification procedure, you are comfortable with the time line
22 simply being that the owner or operator notify you having a
23 certified letter in your hands before they move.

24 I have a concern that JCAR might have some reservations

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1 about that open-endedness, that perhaps it might actually end up
2 hurting the owner or operator if they don't have a set time line
3 that they need to meet. Maybe you could think about -- I know
4 you want to accommodate them, especially with their hectic
5 schedules and the short notice that they receive. But perhaps if
6 you could just define it a little more clearer, maybe JCAR won't
7 have anything to be concerned about.

8 MR. DESAI: We are pretty comfortable because there are two
9 different points of view. Number one, if they come for a regular
10 permit they will be qualified for a lifetime permit, so it would
11 have been there forever. This way at least we know they will be
12 there less than a year. So it is like giving them a permit for a
13 year or less period of time. Emissions have already been shown
14 us. Those are the emissions that impact the air quality and
15 other things. So we have enough information that we need,
16 because it is very difficult sometimes for the operator of the
17 emissions unit to specify exactly how long they will operate.

18 MS. DOCTORS: I guess your concern goes to -- is there
19 something in JCAR's rules that say something about this
20 open-endedness? Is that the concern?

21 MS. LIU: During the recess I had a conversation with one
22 of our other staff members who works on a regular basis with JCAR
23 and has a feeling for perhaps what may raise a red flag with
24 them. She mentioned that this might be a small trigger point. I

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1 just didn't want anything to get thrown into the spokes of what
2 you are doing.

3 MS. DOCTORS: Okay. Is there any way we can just keep in
4 contact, and if it is we will discuss this issue between now and
5 our April hearing, but also maybe you could let the Agency know
6 if, in fact, it is a red flag?

7 MS. LIU: Sure.

8 MS. DOCTORS: We will do some more thinking because we
9 certainly don't want the rule held up. People really would like
10 to be able to use it this summer. It really is for those -- you
11 know, there is a lot of construction and things that happen
12 during the summertime where it is a very helpful rule, and it
13 looks like we are kind of almost on schedule to get it adopted.
14 So I don't want something like that to hold it up.

15 MS. LIU: Okay.

16 HEARING OFFICER MEYERS: Okay. Thank you. Any other
17 comments that you all would like to make?

18 Okay. I do have one quick housekeeping matter. When we
19 entered Exhibit Number 1 and 2 by the proponent into evidence, I
20 did want to ensure that it was clear that they were entered into
21 evidence as read.

22 On that note, if anyone would like a copy of the transcript
23 from today's hearing, you can speak to the court reporter
24 directly, you may also contact the Board's clerk's office in

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1 Chicago for a hard copy at 75 cents a page, or download the
2 hearing transcript off of the Board's web site. Again, our URL
3 address is www.ipcb.state.il.us.

4 As a reminder, the second hearing on this matter will occur
5 at 10:30 a.m. in the morning on Tuesday, April 9th of 2002, in
6 Room 11-512 of the J. R. Thompson Center in Chicago. Prefiled
7 testimony for that hearing must be filed with the Board by March
8 26th of 2002, that is two weeks prior to that hearing date, at
9 4:30 p.m., with the clerk's office in Chicago. Please file any
10 prefiling notice comments by May 9th of 2002, and the mailbox rule
11 will apply.

12 Thank you very much for attending, and have a wonderful
13 morning.

14 MR. DESAI: Thank you very much.

15 MS. DOCTORS: Thank you.

16 BOARD MEMBER LAWTON: Thank you.

17 (Hearing exhibits were retained by
18 Hearing Officer Stacy Meyers.)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E
4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 33 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 20th of March A.D.,
9 2002, at 600 South Second Street, Suite 403, Springfield,
10 Illinois, in the matter of: Amendments to General Permitting
11 Provisions for Portable Emissions Units, Amendments to 35 Ill.
12 Administrative Code 201, in proceedings held before Hearing
13 Officer Stacy Meyers, and recorded in machine shorthand by me.

14 IN WITNESS WHEREOF I have hereunto set my hand and affixed
15 my Notarial Seal this 22nd day of March A.D., 2002.
16
17
18
19
20

21 Notary Public and
22 Certified Shorthand Reporter and
23 Registered Professional Reporter

24 CSR License No. 084-003677
My Commission Expires: 03-02-2003

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