

ILLINOIS POLLUTION CONTROL BOARD
January 8, 1981

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO AIR) R80-5
POLLUTION CONTROL RULES 103, 104,)
201 AND 205 (VOLATILE ORGANIC)
MATERIALS).)

ORDER OF THE BOARD (by I. Goodman):

Motion to Clarify Record filed December 11, 1980 is granted.

On April 3, 1980 the Board docketed the proposal of the Illinois Environmental Protection Agency, filed March 26, 1980, for hearing as a substantive regulatory proposal. The hearing officer on April 30, 1980 set hearings for June 4, 1980 and June 9, 1980.

On May 30, 1980, DeSoto, Inc., Midland Division, The Dexter Corp., and International Harvester Co. (Petitioners) filed "Proposal to Amend Air Pollution Control [Rule 201, definition of volatile organic material]." This document was the subject matter of testimony on June 4, 1980 and June 5, 1980. On June 12, 1980 the Board denied Petitioners' motion to consolidate their "proposal" with that of the Agency's and, in noting the record, stated that its subject matter is properly a part of the record of this proceeding. Moreover, at further hearing on November 5, 1980, Petitioners' document, exactly as worded, was made an exhibit (26, sic 31) to this proceeding (R.710-1).

Thus, the record in several places consists of testimony from various industries (as well as government agencies) as to defining "volatile organic material" to exclude (and/or to include) 1,1,1-trichloroethane and methylene chloride, which were the only items of Petitioners' "proposal" which differed from the Agency's.

As to conferring upon Petitioners status as "original participants" or "original proponents," presence or absence of same affects no substantive or procedural rights or remedies under either §41 of the Illinois Environmental Protection Act or the Board's Procedural Rules. As to conferring upon Petitioners document the status of "a regulatory proposal as to what the wording or content of the proposed [definition] should consist," the document has that status at present. However, whenever the Board refers to the regulatory "proposal" herein, it refers not to testimony or comments as to what regulations should look like in final form, but to the proposal which initiated the regulatory proceeding and any amendments thereto later filed by that original proponent. The Board is fully cognizant that participants at

hearing other than the proponent of a regulation can and do "propose" Board action, yet for administrative convenience and for purposes of §28 of the Illinois Environmental Protection Act, the word "proposal" refers to that which the original proponent desires that the Board adopt through that regulatory proceeding.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of January, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board