

ILLINOIS POLLUTION CONTROL BOARD
January 6, 1994

IN THE MATTER OF:)
)
AMENDMENTS TO THE NEW) R93-26
SOURCE REVIEW RULES) (Rulemaking)
35 ILL. ADM. CODE 203)

ORDER OF THE BOARD (by G. T. Girard):

On December 14, 1993, the Board received a motion filed by the Illinois Environmental Protection Agency (Agency) asking the Board to rule on the Agency's oral motion to dismiss this docket presented by the Agency at the December 8, 1993 hearing. The Board has received no response to the Agency's motions.

When instituting this docket, the Board stated in the Board's first notice opinion and order that the Board does not wish to appear to be making substantive regulatory changes through the expedited correction process. (See, In the Matter of: Amendments to the New Source Review Rules, R93-26, October 7, 1993) In both motions, the Agency urged the Board to proceed instead with the correction as an expedited correction under the Illinois Administrative Procedure Act rather than proceed with this rulemaking. The Agency argued that the typographical error being corrected in this rulemaking was sufficiently noticed in the previous proceeding and an expedited correction is the proper avenue for correction. The amendment proposed is to correct an emission rate of 25 tons per year to 15 tons per year.

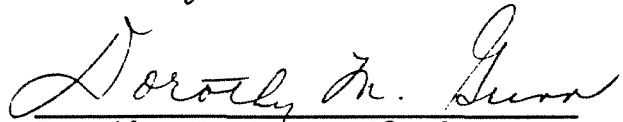
Generally, the Board agrees with the Agency's arguments that the record shows that the typographical error which the proposed amendment is correcting was sufficiently noticed during the original rulemaking in docket R92-21. However, the Steel Group on October 1, 1993, filed an objection to the Agency's motion of September 23, 1993 for expedited correction. The Steel Group argued that the change requested by the Agency was substantive in nature.

To avoid any future contest, the Board has decided to deny the Agency's motion to dismiss and to continue with the correction under Section 28.2 of the Illinois Environmental Protection Act. The Board agrees with the Steel Group that changing an emission rate of 25 tons per year to 15 tons per year could appear to be a substantive change. The Board notes that a second hearing has been scheduled in this proceeding for January 27, 1994. The Board anticipates proceeding to second notice with this docket in February of 1994. This rulemaking should be completed by late March or early April. Therefore, proceeding with this docket will correct the problem as efficiently as the expedited correction process, and remove the Steel Group's argument that the change was not sufficiently noticed.

The Agency's oral motion at hearing to dismiss is denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 6th day of January, 1994, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board