

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1992

IN THE MATTER OF:)
)
APPLICATION OF CALIFORNIA) R89-17(C)
MOTOR VEHICLE CONTROL PROGRAM) (Rulemaking)
IN ILLINOIS)

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on its own motion. On November 21, 1991, the Board proposed, for second first notice, rules which would adopt the California Low Emission Vehicle (LEV) program in Illinois. The proposed rules were published in the Illinois Register on December 13, 1991, at 15 Ill.Reg. 17863. In its November 21 opinion, the Board recognized that there are unanswered questions in this rulemaking, and indicated its willingness to hold further hearings. The Board established a comment period, until December 31, 1991, to allow interested participants to comment on the need for additional hearings, what subjects might be discussed, and suggested timeframes for these hearings.¹ This order is in response to those comments.

The Board received comments from the Illinois Department of Energy and Natural Resources (ENR) (P.C.#36), Uno-Ven Company (P.C.#38), the Illinois Petroleum Council (P.C.#39 and #40), the Chicago Lung Association and the Illinois chapter of the Sierra Club (P.C.#41 and #46), the Illinois Environmental Protection Agency (Agency) (P.C.#42), General Motors Corporation (P.C.#43), the Illinois New Car and Truck Dealers Association (P.C.#44), the Illinois Manufacturers' Association (IMA) (P.C.#45), and Mobil Oil Corporation (P.C.#47). All commenters except the Chicago Lung Association and the Illinois chapter of the Sierra Club believe that further hearings are necessary. The Board agrees that further merit and economic impact hearings should be held. The hearing officer is directed to schedule hearings, taking the comments on subjects and locations of hearings into consideration.

Several commenters asked the Board to formally request that ENR prepare an economic impact study (EcIS) on the proposal. On May 24, 1990, the Board asked ENR to prepare an EcIS on the first proposals in this docket. (R89-17(A) & (B).) On June 18, 1990, ENR filed a two page "economic impact statement". Subdockets (A)

¹ The Board notes that this comment period, which is now closed, is distinct from the statutory 45-day first notice comment period. That first notice comment period, which began after publication in the Illinois Register on December 13, 1991, expires on January 27, 1992.

and (B) were dismissed on February 7, 1991.

Section 27(a) of the Environmental Protection Act (Act) (Ill.Rev.Stat. 1989, ch. 111 1/2, par. 1027(a)) and Part 102, Subpart E of the Board's procedural rules (35 Ill.Adm.Code 102.Subpart E) require the Board to determine, within 60 days after the Board accepts a proposal for hearing, whether an EcIS should be conducted. The Board finds nothing in the Act or regulations which require it to make more than one EcIS determination in a regulatory proceeding. The Board finds that it satisfied its statutory obligation to make an EcIS determination on May 24, 1990. However, Section 27(a) of the Act and 35 Ill.Adm.Code 102.180(b) allow the Board, at any time prior to the close of the record, to determine that an EcIS should be prepared, "if the proposal has been substantially modified or if information in the record indicates that an [EcIS] would be advisable." (Ill.Rev.Stat. 1989, ch. 111 1/2, par. 1027(a).) Therefore, the Board will consider the recent requests that an EcIS be prepared.

In sum, the commenters who ask that an EcIS be prepared voice concern about the cost-effectiveness of the California LEV program in reducing ozone, the direct and indirect impacts of the program on Illinois auto dealers, consumers, and industry in general, the cost per vehicle, possible lost revenue to the state, and other economic questions. These commenters believe that an EcIS is necessary to adequately answer these questions. The Board agrees that some economic questions remain unanswered. However, after a review of the record, the Board declines to request the preparation of an EcIS. The record already contains some information on economic questions, and both the Agency and ENR have committed to provide additional economic analysis. The Board believes that the economic questions can be readily explored through the hearing process and through written comments, so that all interested participants can submit their views and information. In order to facilitate this process, the hearing officer is directed to schedule at least one hearing solely on the subject of economic impact. All participants are encouraged to participate in these hearings to the fullest extent possible, so that the Board may base its future decisions in this proceeding on a complete record.

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 9th day of January, 1992, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board