

ILLINOIS POLLUTION CONTROL BOARD
March 16, 1990

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R88-21
TITLE 35, SUBTITLE C) DOCKET B
(TOXICS CONTROL) ((Rulemaking)

ORDER OF THE BOARD (by R. C. Flegal):

On March 8, 1990, the Illinois Environmental Regulatory Group (IERG) filed a Motion to Expedite Review of the rules proposed for first notice by the Board's Opinion and Order of December 6, 1989. These rules were published at 13 Ill. Reg. 20273 (December 29, 1989) and the 45 day comment period expired February 13, 1989. Between February 16 and 20, the Board received late-filed comments from the Illinois Steel Group (P.C. 36), IERG (P.C. 37) and Pekin Energy Co. (P.C. 38); all of these were accompanied by motions for leave to file. Although these motions are within the province of the Hearing Officer, to avoid generation of a separate Hearing Officer Order, the Board hereby grants these motions as the delayed filings have not prejudiced the Board's timetable in this matter given its concentration on other time-sensitive rulemakings.

No comments were received from the Agency or USEPA concerning this docket. However, in apparent response to IERG's motion, on March 15, 1990 the Agency, by letter to the Hearing Officer, indicated its intent to a) file its own comments on or before March 23, 1990, and b) attempt to identify and convey and comments or concerns of USEPA.

As IERG correctly notes in its motion, this Docket B addresses issues which were deferred from consideration in Docket A. The dockets were split by the Board to allow for timely promulgation of water toxics rules whose adoption was required by the Clean Water Act on or before February 4, 1990. The Board's Opinion and Order in R88-21A was adopted January 25, 1990 and the rules were filed and effective February 13, 1990.

The Board notes that three appeals of these rules are pending:

Outboard Marine Corp. v. IPCB and IEPA, No. 90-490 (1st Dist., filed February 20, 1990);

USS Division of USX Corp. v. IPCB, No. 1-90-0580 (1st Dist., filed March 1, 1990); and

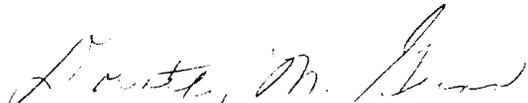
Granite City Division of National Steel,
LaClede Steel, and the Illinois Steel Group,
No. 5-90-0101 (5th Dist., filed February 20,
1990).

The Board further notes that, by Order of March 2, 1990, the Outboard Marine appeal of R88-21A has been stayed at petitioner's request pending developments in R88-21B, and that a status report is due to be filed on or before May 1, 1990.

In response to IERG's motion, as well as to assist the courts in the processing of these appeals, the Board will expedite its consideration of this docket. The Board believes that the comments of the Agency and USEPA (to the extent timely available) are important factors in this consideration. In fairness, the Board will grant leave to the Agency as well as any other participants, to file any additional material it wishes considered in this docket on or before March 26, 1990.

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 16th day of March, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board