

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1985

IN THE MATTER OF: )  
 )  
AMENDMENTS OF 35 ILL. ADM. CODE ) R85-21  
211 and 215 )

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

On November 22, 1985, the Illinois State Chamber of Commerce (ISCC) filed a three part motion to supplement the record, asking:

- 1) That the Board request, or compel by subpoena if necessary, an appearance at hearing of the United States Environmental Protection Agency (USEPA) to address requirements imposed on the state by the USEPA.
- 2) That there be evaluation of any regulatory action as if such regulation were only to apply in non-attainment areas.
- 3) That testimony be sought from the USEPA, Illinois Environmental Protection Agency (Agency), industry and any other other parties as to how the USEPA's equivalency policy (5% rule) is to be interpreted.

It is to be noted that several of the aspects of the ISCC motion have been dealt with in the Agency proposal or at the first hearing in this matter conducted on December 12 and 13, 1985, and that the remaining are scheduled to be addressed at the second hearing or are addressable during the hearing process.

At the first hearing it was noted by Counsel for the Agency that a USEPA representative is scheduled to give testimony and be available for cross-examination at the second hearing, tentatively scheduled for early March, 1986.

The proposal as presented by the Agency specifically recommends that portions of the proposed amendments apply only to non-attainment areas. At the first hearing Agency personnel presented testimony in support of this position, and were subject to cross-examination on this issue. The Board notes that additional testimony and accompanying cross-examination in this direction may be made by any participant at the second scheduled hearing, or subsequent hearings if any, consistent with Board rules applicable to the conduct of regulatory hearings.

Also at the first hearing, the Agency presented testimony, and was subject to cross-examination, on its understanding of application of the equivalency rule. Additional testimony from

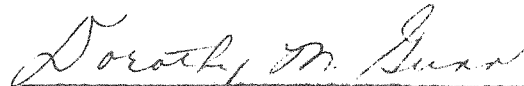
the ISCC and "industry and any other parties" is welcome at the second hearing, or subsequent hearings if any, consistent with Board rules applicable to the conduct of regulatory hearings.

As a generality, that the Board seeks testimony in all aspects of any proceeding before it is explicit in the manner in which hearings are noticed and conducted.

In as much as the concerns of the ISCC appear to have been addressed, or are addressable through the normal hearing process, no Board action regarding the ISCC motion is appropriate at this time. The motion is accordingly denied. The Board notes that this action does not preclude the ISCC from filing a subsequent motion to supplement the record should they believe that future developments leave the record deficient.

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 20th day of December, 1985, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board