

ILLINOIS POLLUTION CONTROL BOARD
April 27, 1982

IN THE MATTER OF:)
) R81-22
PROPOSED REGULATIONS FOR RCRA)

ORDER OF THE BOARD (by D. Anderson):

On April 14, 1982 five steel companies (Granite City Steel Division of National Steel Corporation, Interlake, Inc., Northwestern Steel and Wire Company, Republic Steel Corporation and United States Steel Corporation) filed an emergency motion for stay of the rules adopted February 4, 1982. The Board considered this motion on April 15, at which time it granted an Illinois Environmental Protection Agency (Agency) motion to withhold ruling and scheduled a special meeting.

On April 15, 1982, the steel companies moved to amend their motion instanter, which motion is hereby granted. On April 26, 1982 the Agency filed its Objection to the motion, and on April 27 the steel companies filed a response to the objection.

SB 875, P.A. 82-380, codified as Section 22.4(a) of the Act states that:

"The Board shall adopt within 180 days regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 3001, 3002, 3003, 3004, and 3005, of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended. The provisions and requirements of Title VII of this Act shall not apply to rules adopted under this subsection. Section 5 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to rules adopted under this section."

This legislative enactment reflects a legislative determination that speedy adoption of the proposed RCRA regulations is in the public interest, and specified that their adoption should not be subject to the usual, lengthy rulemaking procedures of the Act or the APA. (It is to be noted that existing Chapters 7 and 9 were not repealed by SB 875.)

The Board on its own initiative opened this proceeding to public comment, and has timely enacted regulations which in its opinion are "identical in substance" to the federal regulations.

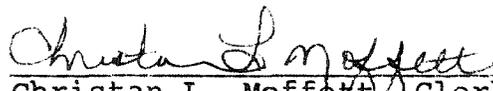
The Board accordingly believes that since it has done no more or less than to fulfill its legislative mandate, that petitioner is unlikely to succeed in its appeal. The legislature has determined that enactment of the RCRA regulations is in the public interest, and the Board finds that issuance of a stay would improperly override this determination, as well as perpetuating undesirable regulatory uncertainty for persons subject to the rule.

The steel companies have not persuasively argued that they would suffer irreparable injury, having presented vague and unsupported allegations. More importantly, procedural avenues for relief from real problems exist short of imposition of a stay. Procedural Rule 411 provides for an automatic stay of a rule if a variance petition is filed with the Board within 20 days after the effective date. This is the proper route for handling transitional problems which arise with adoption of new regulations.

Accordingly, the motion for stay is denied.

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 27th day of April, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board