

ILLINOIS POLLUTION CONTROL BOARD
May 28, 1981

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO SULFUR) R77-15
DIOXIDE EMISSION LIMITATIONS.) R80-22

ORDER OF THE BOARD (by I. Goodman):

The May 6, 1981 motion of Sherex Chemical Company (Sherex) and CPC International Inc. for expedited decision indicates the need for immediate action in the proceeding R77-15, the record of which closed on May 15, 1981. Sherex petitioned for a limitation of up to 6.0 in R77-15; the Agency proposed, in R80-22, generally a limitation of 5.5 (up to 6.8 on showings specific to sources), yet of only 3.3 for that area of Peoria within which one of Sherex' facilities is located (Proposed Rule 204(c)(1)(A)(iii)(c)). Although the SIP contains a limitation of 1.8, Sherex cannot obtain a permit to operate (or to construct GEP stack extensions) from the Agency when emissions would exceed 1.8 but not 5.5. The Board's deliberation of both R78-14 and R77-15 has been delayed upon request of the Agency after the addition of §9.2 of the Act (which led to the Agency's proposal in R80-22 on December 1, 1980).

The situation is the more vexacious for the fact that the USEPA conditioned its approval of the SIP upon the adoption, and submission by September 30, 1981, of these Peoria source regulations in R77-15 (see 45 Fed.Reg. 11481, February 21, 1980). Sherex alleges in its motion that the USEPA is attempting to enforce the SIP against it (issuance of a notice of violation; possible issuance of a notice of noncompliance), which would subject Sherex to substantial and immediate penalties. The Agency has not issued Sherex either a construction or an operating permit (see IEPA v. Sherex, et al., 3d Dist.App.Court, No. 81-32), although nothing prevents the permit from constituting a revision to the applicable SIP limitation. The Board finds that there may be other Peoria sources which either have been, are, or will be in Sherex' position until regulations in R77-15 and/or R80-22 are adopted as SIP revisions unless Agency permits act to revise the SIP in the interim period.

The Board finds that there is no evidence in the record of R77-15 regarding the technological feasibility or economic reasonableness of a limitation of 3.3 with or without stack extensions by Sherex and/or others. The Board finds that there is sufficient evidence in the record of R77-15 to make a determination as to Peoria area SO₂ emission limitations. The Board finds that prompt decision in R77-15, under the emergency rulemaking provisions of the Illinois Administrative Procedures Act, may prevent Peoria

area sources affected by R77-15 from exposure to SIP sanctions and other enforcement actions under the Clean Air Act. The Board will, therefore, render a decision in R77-15 utilizing those emergency provisions even though later promulgation of regulations in R80-22 could supersede the decision.

IT IS SO ORDERED.

Mr. Werner abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 28th day of May, 1981 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board