

ILLINOIS POLLUTION CONTROL BOARD  
August 28, 1986

IN THE MATTER OF: )  
 )  
PROPOSED AMENDMENTS TO ) R85-21  
35 ILLINOIS ADMINISTRATIVE ) Docket A  
CODE 211 AND 215 )

CONCURRING OPINION (by J. D. Dumelle):

My reasons for concurring are the adoption here of rules for non-existent industry and the tenuous basis of the USEPA "5% rule".

The exemptions for airplane exterior coating and for marine propulsion equipment coating are here revoked. No industry exists in Illinois which coats exterior surfaces of airplanes. Why then have a rule? Is Illinois to have an entire lexicon of rules for phantom industries? How can this Board determine "reasonably available control technology" when no industry in that category exists in Illinois to present facts?

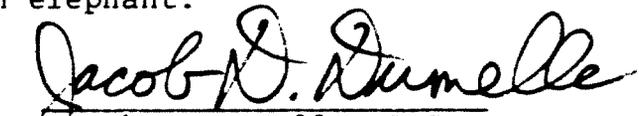
The marine propulsion equipment coating rule is a related matter but different. The rule is here adopted but the lone industry in Illinois in that category is here exempted because of high retrofit costs. Why then have a rule at all? The volume of rules should be kept at a minimum in order that what is important can be found and what is extraneous is not in the way.

The answer, of course, to these questions is that "the USEPA requires these rules". But if their passage does not make sense should we not say so?

The majority several times refers to the "USEPA's 5% 'equivalency' rule". The March 5, 1986 hearing showed conclusively that it is not a rule. In answer to direct questions from counsel for the Illinois Environmental Regulatory Group, the USEPA witness was not aware of any publication in the Federal Register of either the June 30, 1978 or the September 27, 1979 memos (R. 105). A "policy" is not a "rule". The USEPA through its issuance here of memos appears to be doing rulemaking without following the proper legal procedures for the promulgation of rules.

Finally, I would point out that the marine propulsion coating rule deals with potential emissions of only 6 to 9 tons per year. This is a minuscule amount compared to the Chicago area total VOC emissions of perhaps 300,000 tons per year. With ambient ozone levels now-peaking about 25% over the Illinois and

Federal Standards, reductions of volatile organic compounds on the order of 60,000 tons per year seem indicated. It is that issue, namely, achieving substantial VOC reductions, that all concerned should address. Instead of straining at a gnat we should strive to bring forth an elephant.

  
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Jacob D. Dumelle, P.E.  
Chairman

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Opinion was filed on the 10th day of September 1986.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board