

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1991

IN THE MATTER OF:)
)
RACT DEFICIENCIES IN THE)
METRO-EAST AREA: AMENDMENTS) R91-8
TO 35 ILL.ADM.CODE PART 215) (Rulemaking)
AND THE ADDITION OF PART 219)

ORDER OF THE BOARD (by J. Theodore Meyer):

On January 17, 1991, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking. The proposal seeks to correct deficiencies identified by the United States Environmental Protection Agency in Illinois' state implementation plan (SIP) for ozone for the Metro-East area, and contains regulations requiring the implementation of reasonably available control technology (RACT) for certain sources of volatile organic material (VOM). After review of the proposal, the Board finds that the proposal substantially meets the requirements of the Environmental Protection Act (Act) (Ill.Rev.Stat. 1989, ch. 1 1/2, par. 1001 et. seq) and the Board's procedural rules. The hearing officer is authorized and directed to require the Agency to provide any additional information which may be necessary. The proposal is accepted for hearing. This order starts the timeclock for the Board's economic impact study (ECIS) determination deadline and for first notice publication pursuant to Sections 27 and 28 of the Act. See 35 Ill.Adm.Code 102.160(b).

In its January 24, 1991 order in this proceeding, the Board reserved ruling on the Agency's request that the Board waive the requirement that the Agency provide copies of material to be incorporated by reference. 35 Ill.Adm.Code 102.121(f). After a review of the materials proposed to be incorporated by reference, the Board grants the motion in part only. The Agency need only provide copies of sections from the Code of Federal Regulations and need not provide copies of materials which are already incorporated by reference in Part 215 of the Board's rules. However, all other materials proposed to be incorporated by reference must be furnished to the Board. The Agency shall provide one copy of each item to the Board. If an item proposed to be incorporated by reference is already incorporated in Part 215 of the Board's rules, the Agency shall indicate where that item is incorporated. The hearing officer shall establish the deadline for submission of these materials. Additionally, the Agency has asked that the Board waive the requirement that it provide a copy of the federal implementation plan (FIP) docket with this proposal. The Agency will provide a copy of the FIP docket in R91-7, the companion proceeding to this ruling. Because the FIP docket is over one thousand pages long, and k

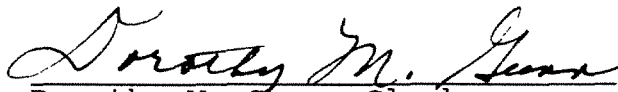
the actual document will be in the Board's possession as part of R91-7, the Agency's motion is granted.

The Agency has certified that this proposal meets the definition of "required rule" in Section 28.2(a) of the Act, and that therefore this rulemaking is federally required. The Board notes that Section 28.2 was amended by P.A. 86-1409, effective January 1, 1991. These amendments require the Board to accept or reject an Agency certification within 45 days. If the Board does not act within 45 days, the certification shall be deemed granted. Section 28.2(b) of the Act. The Board notes that this new statute conflicts somewhat with the Board's procedural rules governing Agency certifications (see 35 Ill.Adm.Code 102.Subpart F), but finds that the new statutory provisions govern this proceeding. The Board accepts the Agency's certification that this proposal is federally required, pursuant to Section 28.2 of the Act, as amended by P.A. 86-1409.

Finally, the Board reiterates that it places a high priority on the quick resolution of this proposal. The Board will proceed as quickly as possible. The Board is considering the possibility of proceeding pursuant to the emergency rulemaking provisions of Section 27(c) of the Act and Section 5.02 of the Administrative Procedure Act (Ill.Rev.Stat. 1989, ch. 127, par. 1005.02), in addition to following "regular rulemaking" procedures.

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 7th day of February, 1991, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board