

ILLINOIS POLLUTION CONTROL BOARD
February 1, 2001

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO 35 ILL.) R01-16
ADM. CODE 217.SUBPART V, ELECTRIC) (Rulemaking – Air)
POWER GENERATION)

Proposed Rule. Request for Agency Comments.

ORDER OF THE BOARD (by M. McFawn):

On October 19, 2000, the Board adopted for first notice rules proposed by the Illinois Environmental Protection Agency (Agency) to implement a program to control the emission of nitrogen oxides (NO_x) emissions from fossil fuel-fired electrical generating units (EGUs) in Illinois. See Proposed Amendments to 35 Ill. Adm. Code 217.Subpart V, Electric Power Generation (October 19, 2000), R01-16. The Agency filed the proposal under the Clean Air Act fast-track procedures of Section 28.5 of the Environmental Protection Act. 415 ILCS 5/28.5. The Board is required to adopt this rulemaking for second notice no later than February 23, 2001. See 415 ILCS 5/28.5(o).

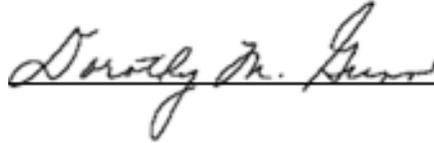
On January 29, 2001, the United States District Court for the District of Columbia entered an order in Civil Action No. 98-2733 (Sierra Club v. Carol M. Browner, No. 98-2733 (D.D.C. January 29, 2001) (order)) which, among other things, ruled on cross motions for summary judgment filed by the Sierra Club and the United States Environmental Protection Agency (USEPA). The District Court stated:

in keeping with the entry of summary judgment in favor of Sierra Club . . . [USEPA] shall, no later than March 12, 2001, DETERMINE whether the St. Louis Nonattainment Area attained the applicable ozone standard; it is further ORDERED that . . . [USEPA] shall, no later than March 12, 2001, PUBLISH NOTICE, if any, required as a result of its determination Sierra Club v. Carol M. Browner, No. 98-2733 (D.D.C. January 29, 2001) (order).

Prior to adopting a second-notice order in this proceeding, the Board seeks input from the Agency concerning the District Court's order. The Board requests the Agency provide any additional comments or information it may have about the District Court's order and the USEPA's reaction to it, as well as the Agency's opinion about the impact the District Court's order has on this proposal, and the State of Illinois. The Agency's response is due no later than February 7, 2001. The mailbox rule found in 35 Ill. Adm. Code 101.300(b)(2) does not apply. The Board intends to consider moving to second notice at our regularly scheduled meeting on February 15, 2001.

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 1st day of February 2001 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board