

ILLINOIS POLLUTION CONTROL BOARD
September 26, 1991

IN THE MATTER OF:)
)
TOXIC AIR CONTAMINANTS LIST) R90-)
(35 ILL. ADM. CODE 232)) (Rulemaking)

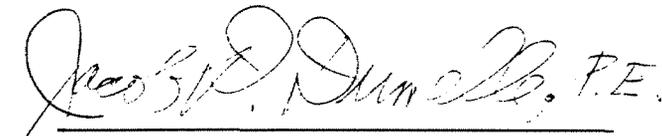
CONCURRING OPINION (by J.D. Dumelle and B. Forcade):

Our reasons for concurring lie in concerns about two topics. One is the use of the scoring mechanism and the other is the failure to provide for data collection for existing sources for as long as five years into the future.

Any scoring system is by its nature arbitrary. The scoring system uses animal studies. Yet some materials are carcinogenic in humans but not in other animals and the reverse may also be true. Furthermore the Severity of Effects Score seems strained. The loss of the stomach or intestines is in Category II but the loss of the eyes or ears (presumably blindness or deafness) is in Category III which receives fewer points for the same degree of impairment.

In addition, we would have supported earlier submission of toxic emissions data. Once these regulations are final, those materials which are toxic air contaminants will be identified. Then, Sections 201.152 and 201.157 will require that all permit applications contain, "...the nature, specific sources, and quantities of uncontrolled and controlled air contaminant emissions at the facility..." for these toxic air contaminants, for new and existing sources. As the majority concludes, the question under federal and state law is not "if" existing sources will be required to report, but "when". We supported an amendment to the regulatory proposal that would have required such reporting by existing sources within one year from final regulatory adoption.

Section 9.5 of the Act was originally adopted in 1987 and became effective in January 1988. Four years after that legislative adoption the Board is first considering a program to accumulate data, but only over a five year period. We believe a more timely response to the legislative command was appropriate.

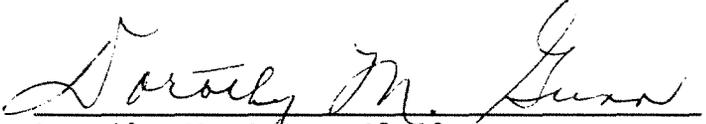


Jacob D. Dumelle, P.E.
Board Member



Bill Forcade
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Concurring Opinion was submitted on the 8th day of October, 1991.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board