

ILLINOIS POLLUTION CONTROL BOARD
February 10, 1983

IN THE MATTER OF:)
)
ALTERNATIVE CONTROL STRATEGIES,) R81-20
FINAL RULE,) FINAL RULE
CHAPTER 2: AIR POLLUTION) MOTION FOR RECONSIDERATION

ORDER OF THE BOARD (by I.G. Goodman):

On January 12, 1983, the Illinois Environmental Protection Agency (Agency) moved the Board to reconsider its Second Notice Order of December 2, 1982 in the above-captioned matter. The Agency further recommended that the Board re-propose for First Notice Rule 202.145 to allow for further comment on this particular rule. The Board declines to re-propose the rule for First Notice due to the constraints of the statutory deadline in Section 9.3(c) and the public interest in having these regulations receive federal State Implementation Plan approval as soon as possible. However, the Board will accept and consider public comment and testimony on the technical merits of Rule 202.145 at economic impact hearings to be held on March 7th and 11th, 1983 to review the economic study.

Briefly, the procedural status of this rulemaking is as follows. On December 2, 1982 the Board took final action adopting the substance of this rule as mandated by Section 9.3(c) of the Act. The Board transmitted the proposed rulemaking to the Joint Committee on Administrative Rules with a request for expedited consideration on December 8, 1982. However, the Joint Committee was unable to consider the proposed rulemaking until its January 25, 1983 meeting. On January 25, 1983 the Joint Committee members present objected to the filing of the rule because the Board had not taken comment on the economic impact study (which had not yet been made available for Board review). The Board's view on this subject was stated in the December 2, 1982 Opinion and Order of the Board, i.e., that the specific statutory deadline mandated in Section 9.3(c) must be interpreted as superseding the requirement of a prior economic study in a situation where the Department of Energy and Natural Resources fails to submit a study to the Board prior to the statutory deadline.

Although the Board is not bound to defer to the Joint Committee in this matter (in part due to the fact that the Second Notice period elapsed prior to the Committee's decision and the fact that the Committee did not have a quorum), in deference to the Joint Committee, and because the Board agrees that little,

if any harm will result from a short delay, the Board will delay filing this rulemaking with the Secretary of State until after the economic impact hearings have been completed and the testimony presented has been considered.

IT IS SO ORDERED.

Chairman Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 10th day of February, 1983 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board