

ILLINOIS POLLUTION CONTROL BOARD  
October 5, 1982

IN THE MATTER OF: )  
 )  
PROPOSED AMENDMENTS TO CHAPTER 2: )  
AIR POLLUTION CONTROL RULES AND ) R81-16: INTERIM RULE  
REGULATIONS, NONATTAINMENT AREA )  
PERMIT REGULATIONS PURSUANT TO )  
§9.1 OF THE ILLINOIS ENVIRONMENTAL )  
PROTECTION ACT. )

Emergency Rule.

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

By its own language, the interim rule adopted in this proceeding expired on October 1, 1982, anticipating that a final rule would have been adopted by that date. However, the Economic Impact Study was only received on August 6, 1982. Furthermore, the recent decision in Natural Resources Defense Council v. Gorsuch, No. 81-2208 (D.C. District, August 17, 1982) limits the definition of "source" to an individual piece of process equipment as opposed to a definition including that and an industrial plant; commonly known as the "dual definition." This is contrary to the definition much of the proposal in R81-16 is based on. Thus, the Board must scrutinize further the applicability of the rules proposed by the Illinois Environmental Protection Agency to avoid adopting rules contrary to federal law.

Pursuant to the NRDC decision, the USEPA has informed the states that action on SIP revisions not approved prior to August 17, 1982 is halted to the extent that such action does not comply with the court's ruling. The interim rules incorporated as Board rules on December 17, 1981 contain the dual definition. Nevertheless, permits requested under the New Source Review program for nonattainment areas could be premised on the individual piece of process equipment, and therefore could still be granted and be eligible for SIP approval despite the NRDC decision.

To insure that permits of this type are processed uniformly after October 1, 1982, the Board will adopt the following as an emergency rule, acknowledging that "source" is limited presently to defining individual pieces of process equipment.

ORDER

Part XI of Chapter 2: Air Pollution Control Rules and Regulations is hereby adopted as an emergency rule. It is


entitled "Permit Program for the Construction and Operation of New or Modified Major Stationary Sources in Nonattainment Areas." Rule 1101 of Part XI is hereby adopted as follows:

Rule 1101            Permit Issuance

The Environmental Protection Agency (Agency) shall issue permits pursuant to the former Agency "Rule for Issuance of Permits to New or Modified Air Pollution Sources Affecting Non-attainment Areas," provided that no permit condition or requirement is more stringent than required by the Clean Air Act, the Act, or this Chapter.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 5<sup>th</sup> day of October, 1982 by a vote of 5-0.

  
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 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board