

ILLINOIS POLLUTION CONTROL BOARD  
May 22, 1986

IN THE MATTER OF: )  
 )  
VOLATILE ORGANIC MATERIAL ) R82-14  
EMISSIONS FROM STATIONARY )  
SOURCES: RACT III )

INTERIM ORDER OF THE BOARD (by B. Forcade):

On April 10, 1986, the Board, through an Interim Order, requested that participants in this proceeding comment on certain procedural issues. In response to the April 10, 1986, Interim Order and an earlier request made at hearing on March 21, 1986, the Board received the following:

- 1) Objection to Agency Motion to Amendment 35 Ill. Adm. Code 215.204 by Duo Fast and CACI (4-3-86);
- 2) Agency Comments to Board Regarding Proposed Amendments for Consideration in this proceeding (4-4-86);
- 3) Comments of Allied Tube & Conduit and 3M (5-5-86);
- 4) Agency Comments on Interim Order of the Board (5-5-86); and
- 5) ISCC Comments to the Board Regarding Proposed Amendments by the Agency and Two Industrial Sources (5-7-86).

The Board will, for the reasons outlined in this Order, retain all pending proposed amendments within the R82-14 docket, as well as any filed by July 1, 1986.

The Illinois Environmental Protection Agency ("Agency") filed a motion to amend 35 Ill. Adm. Code 215.204 on March 13, 1986. CACI and Duo Fast objected to this amendment at the March 20, 1986, hearing and in their April 3, 1986, Objection. The Objection, in brief, argues that the proposed amendment to Section 215.204 modifies the key provision setting RACT for a large number of stationary VOM sources; that the proposed amendment may have wide-reaching and highly significant impact on many manufacturers in Illinois; that because the amendment has been proposed at this late stage in an ongoing rulemaking many potentially impacted manufacturers have no notice and no

opportunity to participate; and therefore, the Agency's proposed amendment should be docketed as a new and separate rulemaking proceeding. The Agency responds in its April 7, 1986, comments, that the proposed amendments to Section 215.204 grew out of the R82-14 proceeding and are interrelated with proposed Section 215.207 and therefore, should be retained within this proceeding.

The Board will retain the proposed amendment to Section 215.204 within the R82-14 docket. By so doing, the Board will be able to utilize the existing pertinent record regarding exempt solvents and the record regarding proposed Section 215.207. Duo Fast, itself has recognized the interrelationship of proposed Section 215.204 and 215.207 at hearing on March 20, 1986 (R. 3379). Regarding the notice issue raised by Duo Fast and CACI, the Board will fulfill all statutory notice requirements through newspaper publication, distribution of hearing notices to participants on the R82-14 notice list and publication in the Environmental Register. The Board notes that placing the proposed amendments to 215.204 in a new docket could result in less actual notice to potentially impacted industries as a new and less complete notice list would have to be created. By retaining the proposed amendment to 215.204 within R82-14, all participants will have been given notice and an opportunity to comment on these issues.

Currently, there are two "site-specific" proposals to Section 215.204 as related to proposed Section 215.207 filed with the Board in R82-14. A third "site-specific" proposal is expected. As these proposals are related to proposed amendments to Section 215.207, the Board will entertain them in the context of R82-14. The Board is persuaded to follow this course in this proceeding for a number of reasons. First, the December 31, 1987, Clean Air Act ("CAA") deadline for an implemented, approved State Implementation Plan ("SIP") for attainment of the national ambient ozone standard necessitates Board decision in this proceeding, no later than January 1, 1987. There is a great need to complete this proceeding and separate docketing of certain proposed amendments could result in duplication of effort, and notice and scheduling delays. Second, the Board will be able to more freely utilize the existing R82-14 record and better explore the interrelationship of various proposed amendments. Third, while the full impact of CIPS v. IPCB, No. 4-85-0602, slip op. 3/31/86, 4th District, may not be fully comprehended at this time, the best course of action is to at least develop records for "site-specific" proposals.

The Board is concerned with the status of the economic record in this proceeding. In the absence of legislative relief exempting CAA rulemakings from the requirement of a Department of Energy and Natural Resources ("DENR") economic impact statement ("EcIS") or determination of negative declaration of economic impact, the Board may be unable to meet the CAA deadlines for any

regulation arising from this docket. It is necessary to close the record in R82-14 by December 1, 1986, in order to have sufficient time for Board decisionmaking. Therefore, the Board requests that DENR file a status report stating its evaluation of the various proposed amendments by July 14, 1986.

Because of the fast approaching CAA deadline, it is necessary to schedule, at this time and in this Order, deadlines for completion of this record. Therefore, the Board establishes the following schedule:

1. The Board requests that the Department of Energy and Natural Resources ("DENR") file a status report to the Board by July 14, 1986, on whether all economic studies, hearings, reports or determinations of negative declaration of economic impact can be completed by December 1, 1986;
2. The Board will entertain filing of proposed amendments until July 1, 1986. The Board will not consider proposed regulatory language in this proceeding that is not timely submitted;
3. Pre-prepared testimony supporting or responding to proposed regulatory language must be filed with the Board no later than July 14, 1986. Exchange of this testimony among participants is mandatory.
4. Hearings will commence on August 4, 1986, and will be continued from day to day, as necessary, through August 8, 1986. The subject matter of the hearings will be limited to:
  - a. Amendments to Section 215.204 and 215.207 as proposed by the Agency;
  - b. "Site-specific" amendments to Section 215.204 as proposed by 3M and Allied Tube & Conduit;
  - c. Completion of cross-examination of Dr. John Reed by 3M regarding proposed Section 215.205; and
  - d. Any other proposed amendments timely filed with the Board by July 1, 1986.

Only testimony that has been pre-prepared and submitted by July 14, 1986, will be admitted at hearing during the week of August 4, 1986.

5. Additional hearings will be held commencing September 3, 1986, and will be continued from day to day, as necessary, through September 9, 1986 (excluding Saturday

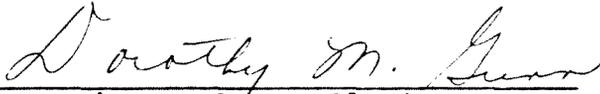
and Sunday). The subject matter of these hearings will be limited to issues raised at the hearings held the week of August 4, 1986. Pre-prepared testimony for the hearings beginning September 3, 1986, must be filed with the Board no later than August 22, 1986. Exchange of prepared testimony among participants is mandatory. No testimony will be received that has not been pre-submitted in a timely manner.

6. Final hearings, if necessary, will be held in early October. The sole focus of these hearings will be rebuttal and response. Separate notice and a schedule for pre-submission of testimony will be issued, if necessary.
7. The record will close December 1, 1986. All comments and briefs must be filed by this date.

As deviation from this already too-tight schedule could result in failure to timely adopt a final rule, resulting in possible imposition of federal sanctions on the state, the Board does not intend to deviate from this schedule.

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 22<sup>nd</sup> day of May, 1986, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board