

ILLINOIS POLLUTION CONTROL BOARD
March 22, 1990

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ADM. CODE 501,) R90-7
AGRICULTURE RELATED POLLUTION) (Rulemaking)
)

ORDER OF THE BOARD (by R. C. Flemal):

On January 29, 1990, the Illinois Environmental Protection Agency ("Agency") filed with the Board its Proposed Amendments to 35 Ill. Adm. Code 501, Agriculture Related Pollution. This proposal was accepted by the Board for hearing at its February 8, 1990 meeting. Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$ par. 1027) ("Act") requires the Board, within 60 days of accepting a proposal for hearing, to determine whether an economic impact study ("EcIS") should be conducted. That Section further allows a 21 day comment period for any person to request the Board to determine that an EcIS be prepared or not be prepared.

In this proceeding, the Board received a written comment filed March 1, 1990 from the Department of Energy and Natural Resources ("Department") requesting that the Board determine that an EcIS not be prepared. As that comment states in part:

The Department believes that a formal economic impact study is not necessary for the proceeding R90-7 based on the following reasoning:

1. The Department believes that the proposed amendments are intended to clarify ambiguities in the existing rules by providing concise language and guidelines. Clarification of the rights and responsibilities of both the facility operators and neighboring residents would head off many complaints over facility siting and odor problems.
2. The Department believes that negative impacts to livestock facilities, if any, would be offset by positive economic impacts to non-farm residences. Additionally, the Department believes that positive economic impacts will likely result from Sections 501.404(d) and 501.404(e).

3. The Department believes that available data would be insufficient to assess the impacts of the proposed regulations. Existing data are not sufficiently detailed to assess the impacts due to the slight differences between the existing and proposed language in Section 501.402 and Section 501.405. The Department feels that the cost of making a formal economic impact study would be economically unreasonable in relation to the likely value of the study to the [Board].

Department Comment at 1-2

No other comments regarding the preparation of an EcIS were received during the 21 day statutory comment period which expired March 1, 1990.

The Board further notes that the Agency, in its Proposal of Amendments and Statement of Reasons, recommends that preparation of an EcIS is not advisable, due to its belief that the proposed amendments will not have a significant adverse economic impact upon potential affected facilities (Agency Statement of Reasons at 14).

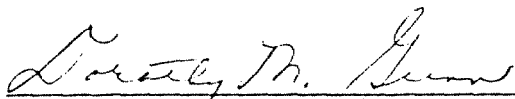
After consideration of the above comments and the proposal for rulemaking, the Board presently believes that the presentation of economic information at hearing in this proceeding should be sufficient for the Board's consideration of the economic impact of the proposed rule. The Board therefore finds that the preparation of an EcIS need not be conducted in this matter at this time. The Board notes that some of the issues raised in Department's and Agency's comments on the economics of the proposed amendments may be addressed by the Board in its determination of the merits of the proposal. The Board, in making this EcIS determination is in no way addressing those merits at this time.

The Board further notes that Section 27 of the Act further provides for the Board to change its determination that an EcIS need not be prepared under specific circumstances:

...any time prior to the close of the record during the rulemaking proceeding, the Board may determine that an economic impact study be prepared, if the proposal has been substantially modified or if information in the record indicates that an economic impact study would be advisable.

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 22nd day of March, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board