

ILLINOIS POLLUTION CONTROL BOARD  
July 23, 1981

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

Proposed Rule.    First Notice.

ORDER OF THE BOARD (by I. Goodman):

On September 4, 1980 the Illinois Environmental Protection Act (Act) was amended to add §9.1(d) which mandates Board promulgation of a permit program meeting the requirements of §173 of the Clean Air Act by October 1, 1981. (Section 173 lists the requirements of the permit program for the construction and operation of new or modified major stationary sources in nonattainment areas which must be included in the State Implementation Plan.) The Board received a regulatory proposal for this mandated rulemaking and the related Prevention of Significant Deterioration preconstruction requirements (See Section 165 of the Clean Air Act) from the Illinois Environmental Protection Agency (Agency) on May 1, 1981. The Agency proposal was accepted for hearing and given the docket number R81-16 at the May 14, 1981 Board meeting.

Since even under optimal conditions complete compliance with Title VII (including an economic impact study) and the Administrative Procedure Act rulemaking requirements consumes a minimum of 12 months, the Board finds that it is impossible to promulgate a new permit program pursuant to these procedures before the October 1, 1981 date. Given these constraints, the Board believes it is in the best interest of the people of the State and the affected industries to promulgate a permit program at this time which will retain the "status quo" until a thorough review of the R81-16 permit program proposal is completed. This rulemaking (R81-16: Interim Rule) is designed to meet the statutory October 1, 1981 deadline and enable the existing permit program to continue under the Agency's "Rules for Issuance of Permits to New or Modified Air Pollution Sources Affecting Nonattainment Areas" while the rulemaking proceeding in R81-16 is taking place, but in no event longer than October 1, 1982. The Board notes that the substance of the existing rules would be in effect until October 1, 1982 under §9.1(e) of the Act, even if this interim rule were not promulgated. Therefore, the Board finds this action will have no economic or environmental impacts beyond those created by §9.1(e), and that, given the alternatives, this course of action will result in the least disruption of the existing program and the most thorough review of the new regulations.

The Board notes that should federal regulations relating to §173 change during this interim period so as to create a conflict with the effective rules in Illinois, the federal rules will supersede the Illinois rule to the extent necessary to avoid a conflict with the federal requirements. This result is mandated by Section 9.1(f) of the Act which prohibits a violation of a federal regulation promulgated under Section 111, 112 or 173 of the Clean Air Act.

This Order does not in any way affect the ongoing proceeding in R81-16.

The Clerk is directed to initiate First Notice proceedings pursuant to the Illinois Administrative Procedure Act.

ORDER

Part XI of Chapter 2: Air Pollution Control Rules and Regulations is hereby adopted, 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 promulgated as follows:

Rule 1101 Permit Issuance


The Illinois Environmental Protection Agency shall issue permits pursuant to the Agency's "Rules For Issuance of Permits to New or Modified Air Pollution Sources Affecting Nonattainment Areas" as in effect on the date of this rule, provided that no permit condition or requirement is more stringent than required by the Clean Air Act, the Act or this Chapter.

In the event that any permit condition or requirement conflicts with Sections 111, 112 or 173 of the Clean Air Act or federal regulations adopted pursuant thereto, the federal provision shall control for purposes of Section 9.1(f) of the Illinois Environmental Protection Act.

This rule shall remain in effect until superseded by the adoption of rules in R81-16 or until October 1, 1982, whichever is earlier.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 23<sup>rd</sup> day of July, 1981 by a vote of 5-0.

  
 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board