

ILLINOIS POLLUTION CONTROL BOARD
September 29, 1975

INTERNATIONAL HARVESTER COMPANY,)
Petitioner,)
)
v.) PCB 74-277
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

Mr. Alan I. Becker and Mr. Jeffrey L. Brown, on behalf of
Petitioner;
Mr. Peter E. Orlinsky and Mr. Thomas R. Casper, on behalf of
Respondent.

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

On July 31, 1975, upon the Board's own motion for
reconsideration in this cause, the parties were ordered to
present briefs on the following issues:

1. Whether the attainment date for National Primary
Ambient Air Standards for the State of Illinois is
May 31, 1975, and, if the answer to the foregoing is
no:
2. What is the attainment date for the national primary
ambient air standards for the State of Illinois under
Section 110 of the Clean Air Act, 42 USC 1857 et seq.

In addition, any person desiring to be heard on this
issue was invited to present a brief thereon.

The Board has received the briefs of the parties and
the presentations of two other interested organizations,
Citizens for a Better Environment, and United States Environ-
mental Protection Agency. In the aforesaid presentations,
the following dates were proposed as the attainment date for
National Primary Ambient Air Standards for the State of
Illinois and in particular the date for the Chicago Metropoli-
tan Area for particulate emissions:

May 31, 1975
July, 1975
July 31, 1975
August 5, 1977

If anything became clear from the presentations in
response to our July 31, 1975 Order, it is that the final

attainment date for particulate emissions in the Chicago Metropolitan Area for National Primary Ambient Air Standards is not clear. The argument for the May 31, 1975, date revolves around the fact that approval for the major part of the Illinois Implementation Plan occurred on May 31, 1972, (37 Federal Register 10,863). However, that portion of the plan which provided for the attainment of the primary particulate standard for the Chicago Metropolitan Area was specifically disapproved due to an injunction which prevented the Board from enforcing particulate regulation against commercial and residential users of coal in Metropolitan Chicago. Roth Adam Fuel Company et al v. Pollution Control Board, Circuit Court of Cook County 72 CH 1484. This original plan, which was disapproved, provided for an attainment date of July 31, 1975. On July 27, 1972, the Administrator revised the plan by deleting the July, 1975 date and substituting "footnote A" which provided "three years from plan approval or promulgation." The substitution was made because the July, 1975, date "was not acceptable" (presumably due to Roth Adam) 37 FR 15,083 (July 27, 1972).

On March 14, 1973, Roth Adam was reversed by the Appellate Court of the First District, 10 Illinois Appellate 3d 756. On October 22, 1973, the Illinois Environmental Protection Agency communicated the fact of the Roth Adam reversal to the USEPA in the form of supplemental information to the plan. Consequently, on August 5, 1974, the Administrator revoked his prior disapproval of the portion of the plan pertaining to particulate standards in Metropolitan Chicago. 39 FR 28,155 (August 5, 1975).

Clearly, May 31, 1975, is not the attainment date for particulates in Metropolitan Chicago since it must be assumed that "footnote A" refers to the approval date of the revised plan, that is August 5, 1974. It is illogical to assume that "footnote A" refers to the approval date of the unrevised plan, May 31, 1972, because, if that had been the Administrator's intention, instead of substituting "footnote A" for the July, 1975, date, he merely had to substitute the May 31, 1975, date. In addition, it must be noted that the Administrator uses the May 31, 1975 date as the attainment date for carbon monoxide in the Chicago Metropolitan Area. The Board finds, therefore, that May 31, 1975, is not the attainment date of the national standards for particulate matter in the Metropolitan Chicago Area of Illinois.

It is not clear from the information before the Board what date is the attainment date for the National Primary Ambient Air Standards for particulate matter in the Chicago Metropolitan Area. However, it is sufficient for the purpose of this action that the attainment date is at least July, 1975. The Board has been informed by a letter dated September 8, 1975, from Robert B. Schaefer, Regional Counsel, United States Environmental Protection Agency, that the

attainment date is July 31, 1975, stating in addition that a July, 1975, date has consistently been interpreted by the Agency to be July 31, 1975. The Board finds that the final attainment date for National Primary Ambient Air Standards for particulate matter in the Metropolitan Chicago Area is at least July 31, 1975 and, therefore, there was no error in granting variance from the particulate standards to Petitioner until July 26, 1975. The Order of June 6, 1975, is affirmed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 29th day of September, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board