

ILLINOIS POLLUTION CONTROL BOARD
March 28, 1991

IN THE MATTER OF:)
)
RACT DEFICIENCIES IN THE)
CHICAGO AREA: AMENDMENTS) R91-7
TO 35 ILL.ADM.CODE PART 215) (Rulemaking)
AND THE ADDITION OF PART 218)

ORDER OF THE BOARD (by J. Theodore Meyer):

On January 17, 1991, the Illinois Environmental Protection Agency (Agency) filed this proposal for rulemaking. The proposal seeks to correct deficiencies identified by the United States Environmental Protection Agency in Illinois' state implementation plan (SIP) for ozone for the Chicago area, and contains regulations requiring the implementation of reasonably available control technology (RACT) for certain sources of volatile organic material (VOM). The proposal was accepted for hearing on February 7, 1991. The Board, without taking a substantive position on the proposal, sent the proposal to first notice on February 28, 1991.

This proposal has been certified by the Agency to be a "required rule", as provided in Section 28.2 of the Environmental Protection Act (Act) (Ill.Rev.Stat. 1989, ch. 111 1/2, par. 1028.2, as amended by P.A. 86-1409, effective January 1, 1991), and the Board has accepted that certification. Section 28.2(c) requires that the Board determine whether an economic impact study (EcIS) should be prepared on the proposal. In making this determination, the Board is to consider the potential economic impact of the rule, the potential for consideration of the economic impact without an EcIS, the extent, if any, to which the Board may modify the substance of the rule based upon the conclusions of a study, and statutory deadlines for promulgation of the rule. (Section 28.2 and 35 Ill.Adm.Code 102.182.)

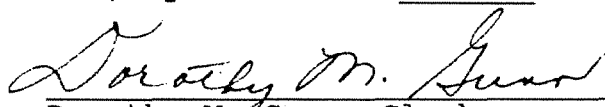
In its proposal, the Agency asked that an EcIS not be prepared. The Agency states that because the proposed rules are identical in effect to rules already in effect at the federal level, there is no economic impact from this rulemaking itself. The Department of Energy and Natural Resources (ENR) also believes that a formal EcIS is not appropriate for this proceeding. ENR notes that the proposed rules are identical in substance to applicable federal law so that no further economic impact will result. ENR also points out that Illinois must promulgate RACT rules by May 15, 1991, and states that there is no way to complete a credible EcIS in such a short time period. ENR suggests that the Board would be better served by addressing economic issues at the merit hearings for this proceeding. (P.C. #1.)

The Board agrees with the Agency and ENR that no EcIS should be prepared in this proceeding. The Board believes that the question of economic impact can be adequately explored in the hearing process and through written comments. Additionally, given the tight time frames in this rulemaking, the Board agrees that it is not appropriate to request an EcIS. The Board will, of course, consider the economic impact of this proposal to the extent possible, consistent with Section 28.2(b). (See Section 28.2(d).)

Finally, on March 18, 1991, the Agency filed a motion to correct the proposal and response to Board order regarding the incorporations by reference. The Agency seeks to delete the reference in the table of contents to sections 218.127 and 218.128. Those references were included inadvertently, and there is no text corresponding to those section numbers. The Agency also asks the Board to accept Attachment A as its response to the Board's February 7 order regarding incorporations by reference. The Agency's motions are granted.

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 28th day of March, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board