BEFORE THE POLLUTION CONTROL
BOARD OF THE STATE OF ILLINOIS

IN THE MATTER OF:	)	
	)	
RACT DEFICIENCIES -	)	R89-16
AMENDMENTS TO 35 ILL. ADM.	)	
CODE PARTS 211 AND 215	)	

NOTICE OF FILING

To: Dorothy Gunn, Clerk
Pollution Control Board, State of Illinois
Center, 100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on the 18th day of January, 1990, we filed with the Office of the Clerk of the Pollution Control Board the attached ILLINOIS STEEL GROUP'S MEMORANDUM OF LAW REGARDING ADOPTION OF RACT RULES.

ILLINOIS STEEL GROUP

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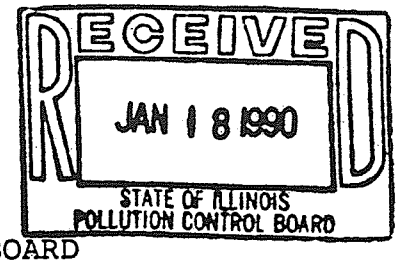

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MEMORANDUM OF LAW ON
BEHALF OF THE ILLINOIS STEEL GROUP

The Illinois Steel Group ("ISG"), by its attorneys ROSS & HARDIES and James T. Harrington, submits the following memorandum of law regarding the legal responsibility of the Illinois Pollution Control Board (the "Board") to take into account the technical feasibility and economic reasonableness, and assess the economic impact, of the Illinois Environmental Protection Agency's (IEPA) RACT proposals.

INTRODUCTION

Four days of hearings have been held by this Board regarding the Illinois Environmental Protection Agency's proposed amendments to 35 Ill. Adm. Code 201, 211 and 215, governing promulgation of a State Implementation Plan (SIP) for RACT rules. To date the hearings have been marked by unprecedented controversy, concerning not the substance of IEPA's RACT proposal, but rather the procedure IEPA seeks to have this Board follow en route to adoption.

IEPA has contended that its proposed amendments meet the "required rule" definition contained in section 28.2 of the Illinois Environmental Protection Act; remarkably, IEPA's view

has been that as a required rule, its RACT proposal is not subject to the procedural requirements of Title VII of the Act. Specifically, IEPA has stated that this Board not only may, but must waive Section 27's requirement that it "take into account" the technical feasibility and economic reasonableness of this proposed rule, prior to promulgation. IEPA has informed the Board that it must adopt the proposed rule, derived largely from the SIP Call Letter, the Control Technique Guidelines (CTG) and the "Blue Book" prepared by U.S.E.P.A., without substantive modification. To this end, IEPA gave no testimony to this Board regarding economic reasonableness and only shallow, token testimony regarding the technical feasibility of its proposed rule.

The Illinois Steel Group (ISG) considers IEPA's position regarding "technical feasibility" and "economic reasonableness" to be a clear misconstruction of the Act and a repudiation of the legislative compromise which resulted in the passage of Section 28.2. It is debatable whether the proposed RACT rules are indeed "required rules", as that term is meant in Section 28.2. Regardless of the IEPA RACT proposal's status as a required rule, however, absolutely nothing in either federal or state law -- and nothing in the Settlement Agreement signed by the State of Illinois in Wisconsin v. Reilly -- condones the abandonment of statutorily required administrative procedure.

The ISG submits the following comments to the Board, including a memorandum of law, to demonstrate the invalidity and

the risks inherent in the view put forth by IEPA. It is not the ISG's intention to raise issues for the sake of controversy; indeed, the ISG is only marginally affected by the RACT amendments proposed in R89-16. It is in the interests of the ISG to see that Illinois' SIP plan is ultimately approved, and to preserve the role of this Board in the rulemaking for an ozone SIP under the Clean Air Act. However, passage of RACT rules without adhering to required administrative procedure threatens, rather than aids, promulgation of a final Illinois SIP plan for ozone. Both for the sake of the current RACT proposal and as a precedent for future rulemakings, it is essential that this Board observe the full procedural requirements of Title VII of the Act.

ARGUMENT

I. THE POLLUTION CONTROL BOARD HAS FULL AUTHORITY UNDER FEDERAL LAW TO CONSIDER THE ECONOMIC AND TECHNOLOGICAL FEASIBILITY OF THE AGENCY'S RACT PROPOSAL.

1. The Language of the Clean Air Act Authorizes This Board To Take Technical Feasibility and Economic Reasonableness Into Account In Promulgating Illinois' RACT Rules.

The Clean Air Act, by its terms, requires a state during its SIP approval process to assess the technical and economic feasibility of proposed control technology. Section 172(b) of the Act requires state SIP plans to include "such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology[.]" 42 U.S.C. §7502(b)(3). The U.S.E.P.A. has long interpreted "reasonably available control technology" to be

> the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. (emphasis added)

45 Fed. Reg. 50827 (1980). See also State of Michigan v. Thomas, 805 F.2d 176, 180 (6th Cir. 1986) (reviews history of definition).

This Board's hearings on RACT have underscored the linkage between the adoption of RACT rules and the consideration of technical feasibility and economic reasonableness. At the hearings, U.S.E.P.A. officials again acknowledged that "RACT", by definition, encompasses both technical feasibility and economic reasonableness. IPCB Hearings, December 14, 1989 Tr. at 285. As one U.S.E.P.A. official noted, under the Clean Air Act, Illinois (through this Board) "can consider both the RACT requirement [of technical feasibility and economic reasonableness] and what is necessary to achieve attainment and reasonable further progress to attainment [beyond RACT]. . . ." Id. at 287. The Control Technique Guidelines (CTG) prepared by U.S.E.P.A. provide "presumptive norms" for what RACT currently is; these guidelines do not bar this Board from fully considering the technical feasibility and economic reasonableness of the RACT rules on its own, however.

2. The Legislative Intent of The Clean Air Act Also Permits a Thorough Review of Technological and Economic Feasibility By The Board.

The legislative intent of the Clean Air Act supports the argument that this Board has a duty to exercise its responsibility to conduct an independent assessment of the technical feasibility and economic reasonableness of the IEPA's RACT proposal. The United States Supreme Court held in Union Electric Co. v. E.P.A., 427 U.S. 246 (1975), that

> Perhaps the most important forum for consideration of claims of economic and technological infeasibility is before the state agency formulating the implementation plan. So long as the national standards are met, the State may elect whatever mix of control devices it desires. . . . [T]he State has virtually absolute power in allocating emission limitations so long as the national standards are met.

Union Electric, 427 U.S. at 266-67 (emphasis added). The U.S. Supreme Court has also noted that the Clean Air Act gives the U.S.E.P.A. "no authority to question the wisdom of a State's choices of emission limitations if they are part of a plan which satisfies" the SIP requirements in section 110(a)(2) of the Act, 42 U.S.C. §7410(a)(2). Train v. National Resources Defense Council, 421 U.S. 60, 79 (1975).

As this Board knows, the IEPA's RACT proposal is based primarily on the identification of deficiencies in the Wisconsin Settlement Agreement, on the SIP Call Letter provided by U.S.E.P.A., and on CTG guidelines prepared by U.S.E.P.A.,

contained in that agency's "Blue Book" ("Issue Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations"). Testimony before this Board in December, 1989 established clearly that the CTG guidelines and the U.S.E.P.A. Blue Book were not adopted through formal administrative rulemaking, and neither can be deemed in any sense "federal regulations." IPCB Hearings, December 14, 1989 Tr. at 279, 318.

Moreover, Dr. John Reed, the supervisor of IEPA's Chemical and Petroleum Manufacturing Unit in the Air Quality Planning Section, testified that IEPA used "no technical justification" in devising its RACT proposal. Rather, IEPA "examined the information that was given. . . in the SIP Call Letter and the Blue Book and felt that. . . these changes would be correct as they were proposed by the Agency." IPCB Hearings, December 7, 1989 Tr. at 45.

In short, to date there has been no proper administrative review of the technical feasibility and economic reasonableness of the IEPA RACT proposal. If the Board adopts the IEPA's proposal without conducting such review, it will have abdicated a responsibility specifically entrusted to it under the Clean Air Act. Neither the need to adopt a final SIP rule, nor the terms of the Wisconsin settlement, nor Illinois law permit a forfeiture of duty of this magnitude.

II. THE WISCONSIN SETTLEMENT DOES NOT ALTER THE BOARD'S RESPONSIBILITY TO CONDUCT ECONOMIC AND TECHNICAL ASSESSMENTS OF PROPOSED RACT RULES.

At this Board's December 7, 1989 hearing in Springfield, Board member Jacob Dumelle inquired into the effect on this proceeding of the Settlement Agreement in State of Wisconsin v. Reilly, et al. (Case No. 87-C-0395, E.D. Wis.); Mr. Dumelle specifically requested legal memoranda concerning whether the settlement sets aside the procedural requirements of §27(a) of the IEPA Act, requiring consideration of technical feasibility and economic reasonableness. See IPCB Hearings, December 7, 1989 Tr. at 144.

The Wisconsin settlement neither waives nor alters the responsibilities entrusted to the Board under §27. No settlement can be valid if it has the effect of cancelling a procedural requirement created by law; settlement agreements are not permissible if they authorize or initiate illegal conduct. Armstrong v. Board of School Directors of City of Milwaukee, 616 F.2d 305, 319 (7th Cir. 1980); Alliance to End Repression v. City of Chicago, 561 F. Supp. 537, 559 (N.D. Ill. 1982). Any reading of the Wisconsin settlement which eliminates the need for this Board to consider technological feasibility or economic reasonableness constitutes a violation of the IEPA Act. As the Illinois Supreme Court recently held, the state and its agencies may not unilaterally violate its own rules. See Business and Professional People for the Public Interest v. Illinois Commerce Commission, Nos. 68100; 68246; 68247; 60306; 68355

(consolidated), slip. op. at 23 (Ill., filed December 21, 1989).

The Wisconsin settlement does not contain any language suggesting that the procedural requirements of §27 should be set aside. The agreement does nothing to bar consideration of technical feasibility or economic reasonableness and expressly reserves this Board's responsibility for determining the need for an economic impact study (EcIS). Settlement Agreement, Exhibit C. In interpreting settlement agreements, ordinary rules of contract construction apply. In re Marriage of Marquardt, 110 Ill. App.3d 271, 442 N.E.2d 267 (2d Dist. 1982). Where possible, the language chosen by the parties should be used to interpret the agreement's meaning, and no other. People ex rel. Fahner v. Colorado City Lot Owners and Taxpayers Ass'n, 108 Ill. App.3d 266, 438 N.E.2d 1273 (1st Dist. 1982). The plain language of the Wisconsin Settlement Agreement preserves this Board's responsibility to conduct technical feasibility and economic reasonableness assessments.

Finally, the U.S.E.P.A.'s own interpretation of the Wisconsin settlement reinforces this reading of the agreement. In the Board's December, 1989 hearing, U.S.E.P.A. officials expressly noted that "the Wisconsin lawsuit does not change the fundamental Clean Air Act or state law [the parties] are operating under. . . . The settlement merely gives . . . . timeframes to do some things. . . ." IPCB Hearings, December 14, 1989 Tr. at 370-71. U.S.E.P.A. officials stated that the Wisconsin settlement, including its identification of state

deficiencies and the federal Blue Book, exist to "give some sense of certainty to the process" under an expedited schedule. Id. at 373. The settlement does not alter this Board's duty to "follow all of the state requirements. . . . under the [IEPA Act, to provide] good, valid, strong state rules. . . ." Id. at 375.

III. UNDER THE LITERAL LANGUAGE OF SECTION 28.2, THE I.E.P.A. RACT PROPOSAL IS NOT A REQUIRED RULE.

The precise meaning and scope of the "required rule" provision of §28.2 has never been determined by a court; thus, this is a matter of first impression. "In construing a statute provision not yet judicially interpreted, a court is guided by both the plain meaning of the language in the statute as well as legislative intent." Tisoncik v. Szczepankiewicz, 113 Ill.App.3d 240, 245, 446 N.E.2d 1271, 1275 (1st Dist. 1983). The statutory language is the best indication of the intent of the drafters, however, id., and when the statutory language is clear and unambiguous, the law as enacted by the legislature must be observed. Mitee Racers v. Carnival-Amusement Safety Bd., 152 Ill.App.3d 812, 817, 504 N.E.2d 1298, 1301 (2d Dist. 1987).

1. The U.S.E.P.A. And The Illinois Legislature Have Specified That The RACT Proposal Is Not A "Needed" Regulation Under The Act.

The language of §28.2 is clear and unambiguous: a required rule is one which is "needed to meet the requirements" of enumerated federal laws, including the Clean Air Act. IEPA Act §28.2(a), Ill. Rev. Stat. ch. 111-1/2, ¶1028.2(a). Required rules must "fully meet [ ] the applicable federal law", with the

Board considering all relevant evidence in determining whether this has occurred. Id.

The ISG does not dispute that rules necessary to meet the requirements of the Clean Air Act for an approved SIP are intended to be "required rules" within the meaning of §28.2. This does not mean, however, that ipso facto any rule proposed by IEPA to fulfill the Clean Air Act is a needed rule. Nor does it mean that the procedural safeguards established generally for all rulemakings under §27 are automatically waived for any rules proposed by IEPA, regardless of how much they exceed the minimum standards of the Act.

a. CTG Guidelines and SIP Call Letters Are Not Part of "Federal Law".

The IEPA has confused federal "law" with federal "guidelines", when the two are not the same. Federal "law" clearly encompasses statutory provisions, as well as administrative provisions enacted through legal procedure. Federal agency findings lack the force of law when they are arrived at through procedures other than those required by law. See U.S.C. §706(2)(D).

The SIP Call Letter and CTG guidelines were not enacted through procedures required by law, i.e. through the formal notice and comment rulemaking procedure prescribed by the Administrative Procedure Act. U.S.E.P.A. witnesses at this Board's RACT hearings have described these documents as "guidelines" which did not go through notice and comment rulemaking and which thus are not reviewable in the Court of

Appeals. IPCB Hearings, December 14, 1989 Tr. at 283. It is literally incredible to imagine that the IEPA would deem these guidelines to have the same legal standing before this Board that the U.S.E.P.A.'s formal, final regulations enjoy.

b. Legislative History With Section 28.2 Clarifies That Federal Law Does Not Include Mere Guidelines.

The meaning of "federal law" in §28.2 is clear and unambiguous, and excludes the guidelines used in crafting the IEPA's proposed RACT rules. Yet even if this Board concludes that there is ambiguity regarding the meaning of "federal law", the legislative history of the provision "and the course it has taken" towards its final form also demonstrate that the federal "guidelines" at issue are not part of federal "law". People v. Easley, 119 Ill. 2d 535, 540, 519 N.E.2d 914, 916 (1988).

Counsel for the ISG, James T. Harrington, an observer and participant in negotiations leading to enactment of §28.2, testified under oath on December 14 that participants in the drafting made a deliberate decision to use the term "federal law" rather than "federal guidelines", as part of the legislative compromise essential in the enactment of the 1989 revisions to the IEPA Act.

[BY MR. HARRINGTON]

> In the drafting of the legislation, one particular point was discussed on a couple of occasions, and, that is, whether the legislation would have the Board meet "federal requirements" or meet the requirements of the federal law.
>
> Considerable discussion was had with the

> agency concerning this. On behalf of industry, we [i.e., the steel industry] insisted that the language in 28.2 (b) be inserted. "The Board shall adopt a rule which fully meets the applicable federal law." Starting with the quote, "The Board shall adopt a rule which fully meets the applicable federal law."
>
> The basis for this distinction was that federal guidance, SIP calls, and all other forms of informal federal communications, do not constitute federal law, and should not be the basis of a federal rulemaking; that only statutes and regulations duly adopted should be considered under this statute, as part of the 28.2 (b) requirements.

IPCB Hearings, December 15, 1989, Tr. at 497-98.

2. The Proposed IEPA RACT Rules Are Not Federally "Required".

The ISG strongly disputes the suggestion put forth by IEPA that this Board must enact IEPA's RACT proposal intact and in toto, in order to meet the requirements of federal law. As noted, the U.S.E.P.A. treats SIP Call Letters and CTG guidelines as "presumptive norms" as to what RACT is. "[I]f the state gives [U.S.E.P.A.] what is in the CTG that that would be acceptable as RACT." IPCB Hearings, December 14, 1989 Tr. at 288. This does not mean that Illinois' RACT proposal must conform to the SIP Call Letter and CTG guidelines to "fully meet [] the applicable federal law", however.

Indeed, at the Board's December, 1989 hearing, U.S.E.P.A. officials made it clear that this Board may modify the text and substance of the RACT proposal without violating the Clean Air Act; the IEPA RACT proposal was but one of many proposals which may be potentially sufficient under the Act.

IPCB Hearings, December 14, 1989 Tr. at 310-12. The U.S.E.P.A., moreover, is required to consider any suggested revisions to the current RACT proposal which arise as a result of these hearings:

> MR. HARRINGTON [on behalf of the Illinois Steel Group]:
>
> [I]f citizen groups come in and say, wait a minute, you are far too lenient in the [CTG], we think RACT is now 99 percent control, you would be required to consider that in your federal rulemaking, would you not.
>
> MR. PAISIE [U.S.E.P.A.]:
>
> We'd be required to consider all public comments in the federal rulemaking.
>
> MR. HARRINGTON:
>
> And you would look at your guidance [i.e. the CTG], what the citizens submitted and what the state submitted and have to make a decision then on the record whether indeed it was RACT or not?
>
> MR. PAISIE:
>
> Okay, Yes, that's a process we would go through.

IPCB Hearings, December 14, 1989 Tr. at 288-89.

This Board's hearings make it clear that the IEPA RACT plan is one, but not the only, proposal which may meet the applicable federal law, the Clean Air Act. It was never the intent of the Illinois General Assembly, or the drafters of the Clean Air Act, to have this Board rubber stamp the IEPA RACT plan based on informal, unofficial federal suggestions. The procedural safeguards provided under §27 to all rulemakings must be applied here.

IV. EVEN REQUIRED RULES MUST BE SUBJECTED TO TECHNICAL FEASIBILITY, ECONOMIC REASONABLENESS AND ECONOMIC IMPACT ASSESSMENT BY THE BOARD.

The view taken by the IEPA that required rules need not be reviewed for technical feasibility, economic reasonableness, or economic impact disregards the literal language of the Act. Even if it determines that the RACT proposal is a required rule under §28.2, this Board is still required to consider the proposal's technical feasibility and economic reasonableness, and assess its economic impact, before adoption.

1. The Language of Section 27 Requires Consideration of Technical Feasibility and Economic Reasonableness For All Regulations Enacted By The Board.

The provisions of §27 of the Act detail this Board's procedural responsibilities for the promulgation of new regulations. Like §28.2, the literal terms of §27 should be considered first and foremost in this Board's determination of statutory intent.

The plain language of §27 makes it clear that the Board must consider the economic reasonableness and technical feasibility of all new regulations, including the agency's RACT proposals, prior to promulgation. Section 27 of the Illinois Environmental Protection Act requires that

> [i]n promulgating regulations under this Act, the Board shall take into account . . . the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.

Ill. Rev. Stat. ch. 111 1/2, §1027 (emphasis added). The requirement that "technical feasibility" and "economic reasonableness" shall be "take[n] into account" means that the Board must consider these factors. See Shell Oil Co. v. Illinois Pollution Control Board, 37 Ill. App.3d 264, 346 N.E.2d 212 (5th Dist. 1976). See also People v. Younbey, 82 Ill. 2d. 556, 562, 413 N.E.2d 416 (1980) (use of the word "shall" connotes mandatory legislative intent).

The IEPA's only basis for claiming that §27's technical feasibility and economic reasonableness requirements do not apply to required rules is the provision in §27 that "[t]he generality of this grant of authority shall only be limited by the specifications of particular classes of regulations elsewhere in this Act." Ill. Rev. Stat. ch. 111 1/2, ¶1027(a). The ISG submits that this qualifier is itself general language which is overridden by §27's specific requirement that the Board take technical feasibility and economic reasonableness into account "in promulgating regulations." "[M]ore specific provisions [of a statute] prevail over the more general ones in cases of conflict." Winnebago County v. Davis, 156 Ill. App.3d 535, 539, 509 N.E.2d 143, 146 (2d Dist. 1987).

The ISG also submits that the "specification of particular classes of regulations" language in §27 only refers to the several sections of the IEPA Act which specifically waive the need to consider technological feasibility and economic reasonableness -- i.e. §13.3 of the Act, relating to the Clean

Water Act; §22.4 relating to RCRA; and §22.7, relating to Superfund (the "identical in substance" rules). Section 28.2, which only creates the authority to establish required rules, does not constitute a "specification of [a] particular class[ ] of regulation[ ]" in and of itself.

2. "Required Rules" Under Section 28.2 Are Distinct From ""Identical In Substance Rules".

Section 28.2 contains no specific language, or any language for that matter, waiving the procedural requirements of §27 for required rules, including the need to consider technical feasibility and economic reasonableness. By contrast, other provisions of the IEPA Act, including §§13.3, 22.4 and 22.7, require the adoption of "identical in substance" rules and contain specific, express and unmistakable waiver provisions.

Section 13.3 of the act, for example, requires the Board to "adopt regulations which are identical in substance to federal regulations or amendments thereto", promulgated by U.S.E.P.A. under certain section of the Clean Water Act. IEPA Act §13.3, Ill. Rev. Stat. ch. 111-1/2, ¶1013.3. Section 13.3, passed as part of Public Act 85-1048, took effect on January 1, 1989 -- the same day as the "required rules" provision of §28.2. The section specifically exempts those regulations from the procedural requirements of Title VII of the Act, including Section 27's requirements of technical feasibility and economic reasonableness studies. Id.

The General Assembly set out other examples of "identical in substance" rules in the Act: special provisions enacted the same day as §28.2 also apply to regulations enacted pursuant to the Resource Conservation and Recovery Act (RCRA), and to the "Superfund" Act. See IEPA Act §§22.4, 22.7; Ill. Rev. Stat. ch. 111-1/2, ¶¶1022.4, 1022.7. Both of these sections also specifically waive the requirements of Title VII; for these sections, too, it is unnecessary for this Board to consider technical feasibility and economic reasonableness, or economic impact, in order to "fully meet the applicable federal law."

If §28.2 is deemed to waive the requirement that this Board consider technical feasibility and economic reasonableness, the specific language in the IEPA's pass-through provisions, which expressly waive such requirements, would be rendered redundant and superfluous. Statutes should always be construed so that language is not rendered meaningless or superfluous. Mulligan v. Joliet Regional Port District, 123 Ill.2d 303, 527 N.E.2d 1264 (1988); Harris v. Manor Healthcare Corp., 111 Ill.2d 350, 489 N.E.2d 1374 (1986). Courts and agencies must always choose a statutory construction which gives the law a clear and logical meaning, rather than one which is absurd. Stewart v. Industrial Commission, 115 Ill.2d 337, 504 N.E.2d 84 (1987); People v. Gindorf, 159 Ill. App. 3d 647, 512 N.E.2d 770 (2d Dist. 1987). Moreover, acts which relate to the same subject matter, which are passed at the same time, and which take effect at the same time, are presumed to be governed by one spirit and

policy. People ex rel. Funk v. Hagist, 401 Ill. 536, 82 N.E.2d 621 (1948); Pedigo v. Johnson, 130 Ill. App.3d 392, 474 N.E.2d 430 (4th Dist. 1985). This Board should presume that because §28.2 does not expressly exempt "required rules" from §27 analysis, unlike other sections which the General Assembly created on the same day, the procedural protection of §27 applies to "required rules", as long as they are not "identical in substance" rules. Only this reading gives clarity to the statute as a whole.

3. The Language Of Section 28.2 Requires This Board To Assess The Economic Impact Of Any Proposed Rule.

Finally, the IEPA's contention that this Board need not assess the economic impact of a proposed rule reflects yet another attempt to render language in §28.2 meaningless and superfluous. The plain language in the IEPA Act requires this Board to assess the economic impact of newly promulgated regulations, regardless of whether an economic statement (EcIS) is ultimately prepared by the Department of Energy and Natural Resources, and regardless of whether the regulations in question are "required rules" or not.

Sections 27 and 28.2 of the Act give this Board the duty to determine whether an EcIS should be conducted. Under both sections

> [t]he Board shall reach its decision based on its assessment of the potential economic impact of the rule, the potential for consideration of the economic impact absent such a study, the extent, if any, to which the Board is free under the statute authorizing

> the rule to modify the substance of the rule based upon the conclusions of such activity, and any other considerations the Board deems appropriate.

Ill. Rev. Stat. ch. 111 1/2, ¶¶1027(a), 1028.2(c). The literal terms of the statute mean what they say, and require an assessment of the economic impact of the IEPA's RACT proposal regardless of whether an EcIS is deemed necessary. Village of Woodridge v. DuPage County, 144 Ill. App.3d 953, 494 N.E.2d 1262 (2d Dist. 1986) (court may not declare that the legislature did not mean what the plain language of the statute says). The reading of the statute offered by IEPA, designed to disregard this literal language, should be rejected.

CONCLUSION

For the foregoing reasons, the Illinois Steel Group respectfully requests that this Board observe the procedural requirements of Section 27 of the Illinois Environmental Protection Act, and take into account technical feasibility and economic reasonableness during its consideration of the proposed RACT rules.

Respectfully submitted,

ROSS & HARDIES

By: _____
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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on the 18th day of January, 1990, an original and nine copies of the **ILLINOIS STEEL GROUP'S MEMORANDUM OF LAW REGARDING ADOPTION OF RACT RULES** were served on:

Dorothy M. Gunn, Clerk
Pollution Control Board
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by depositing the same in the United States Mail from 150 North Michigan Avenue, Suite 2500, Chicago, Illinois, before 5:00 p.m., the 18th day of January, 1990.

Joshua M. Levin

Joshua M. Levin

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