

ILLINOIS POLLUTION CONTROL BOARD  
February 19, 1987

IN THE MATTER OF: )  
 )  
PERMIT REQUIREMENT FOR OWNERS ) R84-17  
AND OPERATORS OF CLASS I AND ) Docket A  
CLASS II LANDFILLS AND FOR ) Docket B  
GENERATORS AND HAULERS OF ) Docket C  
SPECIAL WASTE )

INTERIM ORDER OF THE BOARD (by J. Anderson):

Twenty-two hearings have been held since initiation of this docket, the purpose of which is development of comprehensive regulations for the management and disposal of non-hazardous waste. The Board has received testimony concerning proposals submitted by the IEPA, and the State Chamber of Commerce, and is in the process of receiving testimony concerning the proposal filed by Waste Management of Illinois. The Board has, as have the other participants, expended substantial resources in development of the record to date. The Board as yet has made no decisions concerning any of these proposals, and can reasonably foresee requests for an additional four to six days of hearing to complete presentation of testimony and submittal of comments in all three dockets.

While it is arguably preferable to adhere to the Board's usual practice of holding as many more hearings as the participants request, it is not feasible to do so given the Board's need to prioritize the allocation of its resources. The deficiencies of the Board's regulations concerning the management and disposal of non-hazardous waste, which have remained virtually unchanged since 1973, grow daily more glaringly apparent. Various subject matters involved in these consolidated dockets are closely intertwined with those in companion dockets which have been legislatively prioritized; some of these dockets are difficult to rationally deliberate outside of the context of a comprehensive non-hazardous waste management program. See, e.g. In The Matter of: IDENR Special Waste Categorization Study, R 85-27, and Section 22.9 of the Environmental Protection Act.

The record to date in R84-17 is sufficient to enable the Board to determine that, while each proposal has meritorious components, no single proposal pending before it is sufficiently refined or comprehensive to be adopted by the Board as the Board's own proposal for the purposes of first notice publication pursuant to the Illinois Administrative Procedures Act, and resulting additional hearings. It is clear to the Board that the Board itself, with the assistance of its scientific/technical and

legal staff, must craft a proposal to address the sum of the various concerns which have been brought to the Board's attention.

The Board will hold one, and only one, more hearing in R84-17, Dockets A,B,C. The morning session of the hearing will be devoted to completion of questioning of Waste Management's witnesses in Docket C, and the afternoon to comments by participants on the merits of all proposals and issues raised in this docket. The Hearing Officer is directed to take all appropriate steps to insure completion of both goals, including but not limited to the ordering of submission of questions and statements to the Board and participants in advance of hearing, and if necessary, entry of written statements into the record as if orally read. Written comments will then be received by the Board for 30 days after the date of hearing.


Pursuant to its Resolution of December 6, 1984, the Board has utilized the resources of its Scientific/Technical Section (STS) in development of this record. Upon completion of the hearing and close of the comment period, the STS will proceed with analysis of the record which has been amassed for the purpose of making a report and regulatory recommendations to the Board. Such recommendations shall contain appropriate regulatory language if practicable. The basis for the recommendations shall be articulated; where such recommendations are based on scientific literature or other materials not currently of record, such material shall be designated and provided for inclusion in the record. Upon completion of the report and regulatory recommendations, they shall be filed with the Clerk of the Board. To the extent such recommendations may be incorporated by the Board into a Board proposal for first notice publication, the Board would anticipate calling STS staff as witness(es) at hearing to provide substantive testimony concerning the Board's proposed regulations.

During the process of compilation of the report and recommendations, it is anticipated that STS staff will be consulting, particularly with staff attorneys, concerning matters of form and procedure. However, consistent with the Board's "Protocols Of Operation For the Scientific/Technical Section", RES 86-1, January 23, 1986, given the Board's intention of utilizing STS staff to provide substantive testimony, such "person(s) shall be considered to be exterior to the Board and communications between the Board and the STS person(s) on all matters related to the proceeding in question shall be subject to ex parte restrictions, as prescribed in 35 Ill. Adm. Code 101.121."

Finally, the Board wishes to note that, in expediting the hearing process in this phase of this proceeding, it is not the Board's intent to foreclose public debate concerning the issues involved in this proceeding. Rather, it is the Board's intent to refine the issues and to more closely focus this debate. The participants remain free, in the context of the next round of hearings concerning the Board's proposal, to raise any issues which they believe have not been adequately addressed in the records developed during the course of the twenty-three prior hearings.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 19<sup>th</sup> day of February, 1987 by a vote of 6-0.



Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board