

ILLINOIS POLLUTION CONTROL BOARD
October 20, 1994

J. M. SWEENEY CO.,)
)
 Petitioner,)
)
 v.) PCB 94-297
) (Variance)
)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
)
 Respondent.)

ORDER OF THE BOARD:

On October 19, 1994, J. M. Sweeney Co., ("Sweeney") filed a petition for variance regarding its 24545 W. Miller Road, Lake Zurich, Lake County, Illinois gasoline dispensing facility. This facility is located in the Chicago ozone nonattainment area.

In paragraph twenty-two (22) of its petition, Sweeney waives hearing. However, as this request could involve an amendment to the State Implementation Plan, a hearing must be held to satisfy federal requirements. Accordingly, this matter is accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Board will assign a hearing officer to conduct hearings consistent with this hearing, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now February 16, 1995 (120 days from October 19, 1994); the Board

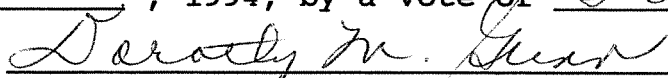
meeting immediately preceding the due date is scheduled for February 16, 1995.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its recommendation for disposition of the petition within 30 days of filing of the petition.

This order will not appear in the Board's opinion volumes.

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 20th day of October, 1994, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board