

ILLINOIS POLLUTION CONTROL BOARD  
August 13, 1992

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE ) R92-8  
SUBTITLE C (Water Toxics and ) (Rulemaking)  
Bioaccumulation) )

ORDER OF THE BOARD (by R. C. Flemal):

On July 21, 1992, Illinois Chapter of the Sierra Club, Citizens for a Better Environment, Lake Michigan Federation, and McHenry County Defenders (collectively "joint proponents"), filed a proposal to amend 35 Ill. Adm. Code Subtitle C (Water Pollution).

Accompanying the proposal is a motion that 35 Ill. Adm. Code 102.120 be waived for Exhibit C. The joint proponents request that they be allowed to file only one original of Exhibit C, rather than an original and nine copies, due to Exhibit C's "extremely voluminous" nature. (proposal at 2.) In addition to the filing requirements for the Board, Section 102.120 requires that the Illinois Environmental Protection Agency (Agency), Attorney General, and Department of Energy and Natural Resources (ENR) be served one copy of the proposal.

Also accompanying the proposal is a request to waive 35 Ill. Adm. Code 102.121(h), which requires that the regulatory proposal be accompanied by a petition signed by 200 persons. The joint proponents are environmental organizations active in Illinois and represent a collective membership of "many tens of thousands of Illinois citizens". (proposal at 2.) It is on this basis that the joint proponents request relief from Section 121(h).

On July 29, 1992, the Agency filed a "Motion Requesting the Board to Require Proper Filing of the Regulatory Proposal". The Board construes this as a response to the joint proponent's request to file only an original of Exhibit C. The Agency states that it did not receive a full copy of the proposal, noting that the attachments were omitted. The Agency requests that the Board require that the joint proponents properly file the proposal as set forth at 35 Ill. Adm. Code 102.120.

The Board grants in part the motion for waiver of 35 Ill. Adm. Code 102.120. The joint proponents must file one additional copy of Exhibit C with the Board. That copy is necessary for use in the Board's downstate offices. The Board also requires the proponents to supply the Agency with a complete copy of the regulatory proposal. The joint proponents shall also file a copy of the proposal with the Attorney General and ENR. However,

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because of the voluminous nature of Exhibit C, and in the case of ENR, because economic impact studies are not relevant to this type of rulemaking, the Board will not require that the Attorney General and ENR be supplied with a copy of Exhibit C, unless requested. The Board waives the requirement to supply a petition signed by 200 persons.

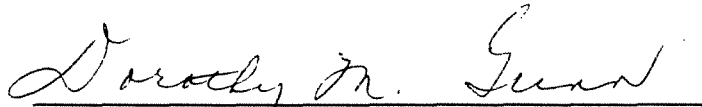
The Board also notes that the proposal is deficient in that it is not accompanied by a synopsis of all testimony to be presented at hearing, as required by 35 Ill. Adm. Code 102.121(d), or a justification that the synopsis is unavailable (See 35 Ill. Adm. Code 102.121(i)).

After the joint proponents have satisfied the remainder of the requirements as outlined in this order, the Board may accept the proposal. Failure to correct the above noted deficiencies may subject the proposal to dismissal pursuant to 35 Ill. Adm. Code 102.122(a).

As a final matter, the Board notes that the proposal was accompanied by a recommendation of whether an economic impact study is advisable. PA 87-860, effective July 1, 1992, deletes the portions of the Environmental Protection Act that pertain to economic impact studies for this type of rulemaking. Therefore, any actions previously required regarding economic impact studies are no longer required.

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 13<sup>th</sup> day of August, 1992, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board