

ILLINOIS POLLUTION CONTROL BOARD
August 21, 1997

IN THE MATTER OF:)
)
MUNICIPAL SOLID WASTE LANDFILL) R98-9
(MSWLF) RULES; AMENDMENTS TO 35) (Rulemaking - Land)
ILL ADM. CODE 811, 813, and 848)

ORDER OF THE BOARD (by G.T. Girard, C.A. Manning, M. McFawn):

On August 11, 1997, the Board received a joint proposal for amendments (Prop.) to the Board's municipal solid waste landfill rules (35 Ill. Adm. Code 811 and 813) filed by the Illinois Environmental Protection Agency (Agency) and the National Solid Waste Management Association (NSWMA) (collectively, proponents). The proposal indicates that there are four reasons for the amendments: (1) to ease certain requirements that drive up costs without a commensurate environmental benefit; (2) to modify or eliminate requirements that the proponents believe are no longer technically defensible; (3) to ensure uniformity in the Board's rules; and (4) to remain consistent with the federal Resource Conservation and Recovery Act Subtitle D program. Prop. at 2-3. The petition meets the information requirements of 35 Ill. Adm. Code 102.121 and 102.141 and shall therefore proceed to hearing.

The proponents have also filed two motions with the proposal. The first asks that the Board waive the requirement that a proposal for rulemaking be accompanied by a petition with at least 200 signatures. See 415 ILCS 5/28(a) (1996). As the Agency is a joint proponent in this rulemaking and the Act does not require a proposal by the Agency to be accompanied by a petition with 200 signatures, the Board finds that the requirement that a petition with 200 signatures accompany the proposal is not applicable in this case. Therefore, the request is denied as unnecessary.

The second motion filed with the proposal is atypical. The proponents ask the Board to limit the scope of this proceeding. Specifically, the proponents state:

NSWMA and the Agency respectfully request that the Board, in the course of its deliberations in this proceeding, resist efforts to significantly expand the reach and scope of this proposal. This proposal is not intended as the vehicle for the sundry "wish lists" the proponents have encountered. In the course of several months of pre-filing discussions, it became apparent to the proponents that many changes to Parts 811 and 813 other than those proposed herein are desired by a number of interested entities. Many of these changes are also desired by NSWMA members and/or the Agency. NSWMA and the Agency nonetheless resisted the urge to propose more ambitious or controversial changes. Rather, they have limited this proposal to those amendments which they believe are generally more obvious and less controversial and thus more likely to advance quickly to final adoption. In light

of the considerable economic and administrative benefits conferred by this more modest proposal, as outlined previously, NSWMA and the Agency oppose any additional proposed modification that might slow the pace of rulemaking in this docket. Prop. at 29-30.

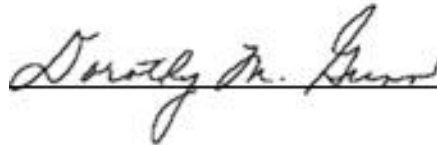
The Board notes the proponents' desire to proceed with this rulemaking in an expeditious manner and to their concerns that expansion of the scope of the proposal to include other regulatory "wish lists" could unduly delay the Board's deliberation. However, the Board will not limit the discussion of any regulatory alternatives proposed in public testimony or comment concerning subject matters addressed by this proposal. Therefore, at this time the Board agrees to limit the scope of this proceeding in that the Board will not entertain requests from other parties to expand the list of sections proposed for amendment. The Board will accept comments on the proposed language for the sections opened in the proposal including any potential suggestions regarding alternatives.

Finally, the Board is, on its own motion, opening 35 Ill. Adm. Code 848.104, Definitions. The only changes we will be proposing are to add three statutory definitions and amend four definitions with the language from P.A. 89-200, effective January 1, 1996. This change is merely ministerial and is not intended to expand the scope of the rulemaking. Adding this mandatory language will eliminate the need to hold separate hearings concerning these legislatively-required changes.

The Board will attach the proposal to this order today as well as placing the proposal on the Board's internet home page (<http://www.state.il.us/pcb/>) to ensure that those who wish to review the proposal prior to hearing will have access. The Board anticipates that the public interest in this proceeding will be better served and the final adoption of the rule more quickly achieved if the Board proceeds in this manner.

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 21st day of August 1997, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in dark ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board