

ILLINOIS POLLUTION CONTROL BOARD
October 2, 1997

IN THE MATTER OF:)
)
PETITION OF AMOCO OIL COMPANY) AS 96-6
FOR ADJUSTED STANDARD FROM) (Adjusted Standard - RCRA)
35 ILL. ADM. CODE 721.132)

ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon the petition filed by Amoco Oil Company (Amoco) on December 28, 1995, as amended on August 11, 1997. By its amended petition, Amoco seeks an adjusted standard to exclude certain waste in its "Pond 1 Landfill" in Wood River, Illinois, from "hazardous" classification under 35 Ill. Adm. Code 721 Subpart D, pursuant to 35 Ill. Adm. Code 720.122.

Amoco filed its initial "Petition for Adjustment of Standard Pursuant to 415 ILCS 5/28.1" (Petition) on December 28, 1995. On March 20, 1996, the Illinois Environmental Protection Agency (Agency) filed its "Response to Petition for Adjusted Standard" (Response). In its Response, the Agency recommended denial of the Petition due to an asserted insufficiency of information presented in the Petition. Among the issues raised by the Agency was that at least four samples must be tested to adequately represent the waste, and Amoco took only three samples. Response at 3-4. On August 11, 1997, after discussions with the Agency, Amoco filed an "Amendment to Petition for Adjusted Standard Pursuant to 415 ILCS 5/28.1" (Amended Petition) providing additional information. Although Amoco submitted additional analysis explaining why the samples tested were representative of the waste, the Amended Petition does not reflect testing of any additional waste samples. The Agency filed its "Amended Response to Amended Petition for Adjusted Standard" on September 12, 1997, in which it recommended that the Board grant the adjusted standard with the conditions indicated in the Amended Petition. The Agency does not address whether the samples are adequate to satisfy RCRA delisting requirements.

Certain requirements are imposed in connection with RCRA hazardous waste delisting petitions under 35 Ill. Adm. Code 720.122. Of particular significance in this case is Subsection (h), which provides:

- h) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.

Also of import in this case is Subsection (q), which provides:

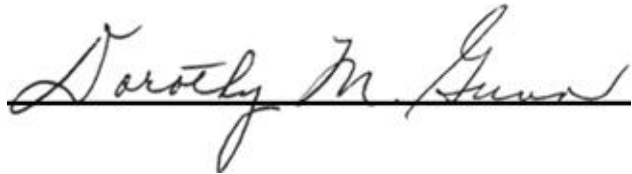
- q) The Board will not grant any petition that would render the Illinois RCRA program less stringent than if the decision were made by U.S. EPA.

Subsection (q) is of significance because 35 Ill. Adm. Code 720.122(h) derives from 40 CFR 260.22(h).

Notwithstanding Amoco's analysis of adequacy of the number of samples, it appears undisputed that less than the required four samples have been submitted. In light of the directive of 35 Ill. Adm. Code 720.122(q) and the provisions of 40 CFR 260.22(h), the parties are directed to file with the Board, on or before November 1, 1997, briefs explaining whether and why the Board can grant the requested adjusted standard without jeopardizing Illinois' RCRA delisting authorization.

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 2nd day of October 1997, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board