

ILLINOIS POLLUTION CONTROL BOARD
March 17, 2005

IN THE MATTER OF:)
)
PETITION OF WASTE MANAGEMENT OF) AS 05-3
ILLINOIS, INC. FOR RCRA WASTE) (Adjusted Standard - Land)
DELISTING UNDER 35 ILL. ADM. CODE)
720.122 FOR SOLID TREATMENT)
RESIDUAL FOR CID RECYCLING AND)
DISPOSAL FACILITY BIOLOGICAL)
LIQUID TREATMENT CENTER)

ORDER OF THE BOARD (by N.J. Melas):

Today the Board dismisses this petition for an adjusted standard due to several deficiencies in the petition.

Waste Management of Illinois, Inc. (Waste Management) seeks a Resource Conservation and Recovery Act (RCRA) hazardous waste delisting for lime conditioned filter cake from the treatment of hazardous and non-hazardous leachates and wastewaters at Waste Management's facility in Calumet City. On January 28, 2005, Waste Management filed this request for relief.

First, the Board's procedural rules require that "[i]f filed singly, the petitioner shall also serve the petition upon the Agency . . ." 35 Ill. Adm. Code 104.402. Here, Waste Management did not serve the Environmental Protection Agency. Second, a petition for an adjusted standard must contain "[a] statement requesting or waiving a hearing on the petition . . ." 35 Ill. Adm. Code 104.406(j). Each petition for an adjusted standard requesting RCRA delisting filed with the Board must fulfill the specific petition content requirements listed at Section 720.122 and 104.406, or explain why one or more of the listed requirements do not apply. 35 Ill. Adm. Code 104.406, 720.122. There is no statement in the petition indicating whether the petitioner requests or waives hearing.

Third, the Board rules provide that "[w]ithin 30 days after the filing of the petition, the petitioner must file a certificate of publication, issued by the publisher of the petition notice certifying the publication of that notice." 35 Ill. Adm. Code 104.410. Further, publication of notice of filing within 14 days after filing is jurisdictional. *See In re Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard From: 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005); In re Horsehead Resource and Development Company, Inc., for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c), AS 00-1 (Aug. 5, 1999); In re Heritage Environmental Services, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 702.126(d)(1), AS 00-14 (June 8, 2000).* Waste Management did not file proof of publication with the Board. As a result, the Board has no basis to conclude that it has statutory authority to hear the petition.

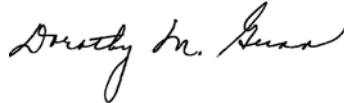
Finally, there is no proof of service accompanying the petition (35 Ill. Adm. Code 101.304(d)) or indication that the attorney who signed the cover letter is licensed to practice law in Illinois (35 Ill. Adm. Code 101.400(a)).

For these reasons, the Board dismisses Waste Management's petition for an adjusted standard and closes the docket. Waste Management may refile at a later date curing the deficiencies listed in this order and requesting the Board to waive filing of the petition itself due to its large volume.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 17, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board