

ILLINOIS POLLUTION CONTROL BOARD
February 5, 1998

IN THE MATTER OF:)
)
PROPORTIONATE SHARE LIABILITY) R97-16
(35 ILL. ADM. CODE 741)) (Rulemaking - Land)

ORDER OF THE BOARD (by C.A. Manning, K.M. Hennessey, and M. McFawn):

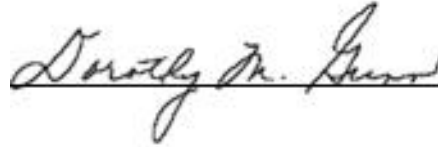
On February 2, 1998, the Illinois Environmental Protection Agency (Agency) filed a proposal to add a new Part 741 to the Board's waste disposal regulations (35 Ill. Adm. Code Subtitle G). These proposed rules would establish procedures for the implementation of the proportionate share liability scheme established by Public Act 89-443, effective July 1, 1996. This amendatory legislation added a new liability section to Title XVII of the Environmental Protection Act (Act). Specifically, Section 58.9 of this legislation repealed joint and several liability in environmental actions and replaced it with proportionate share liability. In addition to establishing proportionate share liability, Section 58.9 also directed that the Board adopt rules implementing Section 58.9 by December 31, 1997. This statutory deadline was later extended until January 1, 1999. See Pub. Act 90-484, eff. August 17, 1997 (amended 415 ILCS 5/58.9 (1996)).

The Board finds that the proposal for rulemaking contains the information required by 35 Ill. Adm. Code 102.121. Accordingly, the Board accepts this matter for hearing. See 35 Ill. Adm. Code 102.160(b). As noted, the Board is statutorily required to adopt final rules and procedures for determining proportionate share liability by January 1, 1999. The last regularly scheduled Board meeting before this statutory deadline is December 17, 1998. The hearing officer assigned to this matter is directed to schedule hearings consistent with this statutory deadline and as required by Title VII of the Environmental Protection Act (415 ILCS 5/26 through 29 (1996)).

Finally, the Illinois Environmental Regulatory Group (IERG) filed a public comment (PC 3) on the same day the Agency filed its rulemaking proposal. In the public comment, IERG expresses concern that the Board will proceed to first notice on the Agency's proposal before holding public hearings on the proposal. The Board is fully aware that there is substantial public interest concerning this rulemaking, and in order to ensure full public participation, the Board needs to hold hearings before proceeding to first notice. The Board therefore intends to hold public hearings prior to proceeding to first notice.

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 5th day of February 1998, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board