

ILLINOIS POLLUTION CONTROL BOARD
October 1, 1992

IN THE MATTER OF:)
)
PETITION OF CONVERSION)
SYSTEMS, INC. FOR ADJUSTED) AS 92-9
STANDARD FROM 35 ILL. ADM.) (Adjusted Standard)
CODE 810.103, 811.306,)
AND 811.507)

ORDER OF THE BOARD (by J. Anderson):

Currently before the Board are 1) an August 24, 1992 petition for adjusted standard from Conversion Systems, Inc. (CSI), 2) an August 24, 1992 motion for leave to file a limited copies and other matters from CSI, and 3) a September 10, 1992 motion for extension of time to file a recommendation from the Environmental Protection Agency (Agency). CSI filed its response to the Agency's motion on September 21, 1992. In its petition, CSI waived hearing.

CSI's Adjusted Standard Petition

CSI seeks an adjusted standard from 35 Ill. Adm. Code 810.103 so as to classify its stabilized product, Poz-O-Tec[®] (POT) materials, as an inert waste, and to obtain relief from the Board's requirements for liner installation and construction quality assurance at 35 Ill. Adm. Code 811.306, and 811.507. The requested relief will allow CSI to dispose of its POT materials as an inert waste and allow the materials to be used as a liner material for on-site landfills receiving only electric utility coal combustion wastes. POT materials are produced by CSI's patented process which involves mixing dewatered flue gas desulfurization (FGD) sludge and fly ash with a stabilizing agent (lime)

While the information provided by CSI in support of its petition generally meets the informational requirements of 35 Ill. Adm. Code 106.705, the petition contains certain deficiencies or requires further clarification. Accordingly, the Board directs CSI to file an amended petition addressing the following points:

1. CSI requests adjusted standards that apply to POT materials produced by using FGD sludge and fly ash generated by force oxidized limestone scrubber systems. Since fly ash is usually captured by baghouses or electrostatic precipitators which precede the FGD scrubber, the Board requests CSI to clarify whether or not the particulate control equipment is considered as a part of the force oxidized scrubber system.

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2. The leachate testing data included in the petition indicate that, except for sulfates and total dissolved solids (TDS), the leachate concentrations of all other constituents meet the standards that are set forth at 35 Ill. Adm. Code 302.301, 302.304, and 302.305 (i.e., the criteria used to classify a solid waste as inert). However, ~~instead of proposing alternate levels for~~ sulfates and TDS (based on the performance of the process) and retaining 35 Ill. Adm. Code 302 levels for other constituents, CSI has chosen not to include leachate testing as a condition of its proposed adjusted standard. Because the inert waste classification under existing 35 Ill. Adm. Code 811 is based on the quality of the leachate generated by the waste, the Board requests CSI to either:
 - a) explain why leachate testing has not been proposed as a part of the adjusted standard;
or
 - b) include leachate testing as a part of the proposed adjusted standard and propose alternate levels for sulfates and TDS.
3. The proposed adjusted standard does not include any verification and testing requirements to show that the permeability of the disposed POT materials is 10^{-7} cm/sec or less on an ongoing basis. Since the low permeability of the POT materials is one of the main factors relied upon by CSI to justify its request for an adjusted standard of the Board standards, a verification and testing protocol to show compliance with the proposed adjusted standard should be proposed as a condition of the proposed adjusted standard.
4. The proposed adjusted standard exempts POT constructed liners from meeting the construction quality assurance (CQA) requirements of 35 Ill. Adm. Code 811.507. However, CSI has not provided any justification for requesting such an exemption other than stating that certain requirements relating to particle size distribution and plasticity are not relevant to POT materials. In order to address this issue, the Board requests CSI to either:
 - a) identify the specific CQA requirements under 35 Ill. Adm. Code 811.507 which are not applicable to POT constructed liners; or

- b) provide additional justification for not requiring construction and testing of a test liner.
5. If the requested relief is granted and if a utility complies with the conditions of such adjusted standard, then any Illinois utility which generates FGD sludge and fly ash can take advantage of the adjusted standard by employing CSI's stabilization process to manage its waste and forego coming to the Board for site-specific relief. How will CSI provide reassurance that its clients will comply with any potential conditions that the Board may include in the requested relief?

CSI's is directed to file its amended petition on or before November 13, 1992, or this matter will be subject to dismissal.

CSI's Motion for Leave to File Limited Copies

In its motion, CSI requests that, due to the voluminous nature of the attachments to its petition, it be allowed to file an original and three copies of the attachments to its petition with the Board with one copy to the Agency. CSI also requests the Board to accept its method of publication as being in conformance with the requirements of 35 Ill. Adm. Code 106.711. 35 Ill. Adm. Code 106.711 requires publication in a newspaper of general circulation in the area likely to be affected by the petitioner's activity. Accordingly, CSI states that, because coal burning power generation facilities throughout Illinois could take advantage of the adjusted standard, it is causing notice of its petition to be published in the Chicago Sun Times and the Springfield Journal Register.

The Board hereby grants CSI's motion to file a limited number of copies of the attachments to its petition. The Board also accepts CSI's method of publication. However, in light of the extensive nature of the revisions to the petition and in order to assure that proper notification of the amended petition is given, CSI should republish notice of the amended petition. In addition, the Board notes that CSI is required to file a certificate of publication pursuant to 35 Ill. Adm. Code 106.712. The Board directs CSI to file its certificate within 30 days of filing its amended petition.

Agency's Motion for Extension

The Agency, in its motion, requests an additional 45 days in which to file a recommendation in this matter. In support of its motion for extension, the Agency states that the Board is under no statutory time frame to decide this matter. The Agency adds that the issues presented in the petition are technically complex and require a great deal of time to adequately review,

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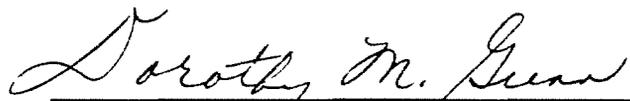
and that its technical expert does not have adequate time available to review the petition within the 30 day review period set forth in 35 Ill. Adm. Code 106.714.

In response, CSI states that although it does not oppose the Agency's motion, an expedited Board decision in this matter would allow CSI to market its Poz-O-Tec process effectively. More specifically, CSI states that much of the impetus for filing the petition is to make available environmentally superior coal-burning power generation facilities as well as cost-competition alternatives for the disposal of flue gas desulfurization by-products which CSI believes will be produced in response to the sulfur dioxide emission reductions required pursuant to the Clean Air Act Amendments of 1990 (CAAA). As a result, many facilities subject to the Phase I reductions in the CAAA are currently deciding the types of controls and waste disposal methods they will utilize to comply with the requirements and are reluctant to commit to alternatives which are not permitted under current law. CSI also notes that although it realizes that the petition is detailed and that there are competing demands upon the Agency, the Agency has had the petition for two and one half months (i.e., since June 26, 1992). Accordingly, CSI believes that an additional 45 days should be more than sufficient to review the petition.

The Board notes with concern the reasoning that the Agency cites in support of its motion for extension (i.e., that the Board is under no statutory time frame to decide this matter). The Board calls the Agency's attention to In the Matter of: Petition of Keystone Steel and Wire Company for Hazardous Waste Delisting (May 23, 1991), AS 91-1.) Because the Board has directed CSI to file an amended petition, however, the Board grants the Agency's motion for extension of time to file its recommendation. Accordingly, the Agency is directed to file its recommendation on or before December 14, 1992.

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 1st day of October, 1992, by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

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