

the Agency to issue or modify a RCRA permit. 35 Ill. Adm. Code 728 is not among the specified Parts, because it had not yet been adopted at the time Section 104.104 was adopted. However, Part 728 is as much a part of the RCRA program as the Parts which are listed.

The petition is also not clear as to whether it is asking that the Board order the Agency to issue a RCRA permit for the "HTMR" furnace. This appears to be a hazardous waste treatment unit, although it could be exempted under provisions, such as 35 Ill. Adm. Code 720.131. It is also not clear whether this modification can be effected under the current interim status rules (35 Ill Adm. Code 703.155), or whether it could be effected under the amendments proposed in R89-9 (December 6, 1989). If the modification cannot be effected under interim status, a Part B permit application is required, and the variance could be tantamount to directing the Agency to issue the per it.

Assuming that the petition is not a "petition for RCRA variance," it is still deficient under 35 Ill. Adm. Code 104.122(f), which requires

A detailed description of the existing and proposed equipment or method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation of all phases of the control program from initiation of design to program completion and the estimated costs involved for each phase and the total cost to achieve compliance.

Although the petition includes the total cost of the treatment unit, and offers to provide copies of the contractual agreements to construct the unit, it does not specify details of the unit, or include a construction schedule. The petition is deficient because, based on the information provided: the Agency and Board could not form an independent judgment as to whether the treatment unit will successfully treat the wastes; and, the Board could not condition the variance on interim compliance dates.

The petition is also vague as to whether Laclede is in compliance with Section 728.150 (which must be alleged under 35 Ill. Adm. Code 104.122(e)). Section 728.150 includes a mechanism by which the Agency can approve storage of wastes "in tanks or containers," without resort to a variance. Laclede alludes to these provisions, but does not clearly state whether the wastes are in "tanks or containers." If Laclede is asking for a declaration that the waste is being properly stored under that Section, the request should be directed to the Agency.

The Board, therefore, finds the petition is deficient. Unless an amended petition is filed within 45 days of the date of this Order, curing the above-noted defects, this matter will be subject to dismissal. The Board directs Laclede to comply with the RCRA variance procedures in any amended petition seeking a variance from any provision of 35 Ill. Adm. Code 728.

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 20th day of December, 1989, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board