

ILLINOIS POLLUTION CONTROL BOARD

June 7, 2001

IN THE MATTER OF: )  
)  
PETITION OF PROGRESSIVE ) AS 01-7  
ENVIRONMENTAL SERVICES, INC. ) (Adjusted Standard - NPDES)  
(D/B/A ANTIFREEZE RECYCLING) FOR )  
AN ADJUSTED STANDARD FROM )  
35 ILL. ADM. CODE 721.131(c) )

ORDER OF THE BOARD (by S.T. Lawton, Jr.):

On March 15, 2001, Progressive Environmental Services, Inc. (PESI) filed with the Board a petition for an adjusted standard pursuant to Section 28.1 of the Environmental Protection Act (Act). 415 ILCS 5/28.1 (2000). PESI also requested in a cover letter to the petition that the Board either waives any hearing in this matter or provides PESI with an expedited hearing.

PESI requests that the Board make a solid waste determination pursuant to 35 Ill. Adm. Code 720.131(c), using the adjusted standard procedures of 35 Ill. Adm. Code 104, to determine that the reclaimed filtered antifreeze from the petitioner's preliminary bag filtration process at a customer's site is a commodity-like material. Pet. at 1.<sup>1</sup> PESI petitions the Board to find that its filtered antifreeze is not a solid waste under 35 Ill. Adm. Code 720.131(c), so that its operation will not be subject to Board regulations concerning the manifest requirements, transportation, and management of the initially filtered antifreeze. PESI alleged that Board regulations would otherwise require it to obtain special waste permits to transport and manage the antifreeze at its central processing facility, and to manifest and report all shipments of antifreeze from its customers' facilities to its central processing facility. Pet. at 3.

On April 19, 2001, the Board found that PESI properly published notice and properly filed a certificate of publication, pursuant to Section 28.1 of the Act (415 ILCS 5/28.1 (2000)) and 35 Ill. Adm. Code 104.408 and 104.410. However, the Board determined that PESI did not adequately address certain proof required by Section 28.1(c) of the Act (415 ILCS 5/28.1(c) (2000)), and information sufficiency requirements in Board regulations at 35 Ill. Adm. Code 104.406, 104.426, and 720.131(c). See In re Petition of Progressive Environmental Services, Inc. (April 19, 2001), AS 01-7. The Board directed PESI to file an amended petition and to provide more information concerning its request for an expedited hearing by May 21, 2001.

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<sup>1</sup> The Board will refer to the March 15, 2001 PESI petition for an adjusted standard in this matter as "Pet. at \_\_\_\_."

On May 17, 2001, PESI filed an amended petition, which addressed most of the proof and informational sufficiency requirements that the Board required in its April 19, 2001 order. PESI filed revisions to the amended petition on May 29, 2001, to correct the numbering of its attachments to the petition. Although PESI did not provide results from a Toxicity Characteristic Leachate Procedure on the initially filtered antifreeze that is transported from the customers' sites to the petitioner's central processing facility, or identify the significance of attachment 4 in the petition, the Board finds that the petition adequately satisfies the proof requirements under Section 28.1(c) of the Act (415 ILCS 5/28.1(c) (2000)), and information sufficiency requirements in Board regulations at 35 Ill. Adm. Code 104.406, 104.426 and 720.131(c). Accordingly, the Board accepts this matter for hearing.

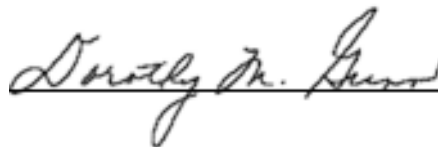
PESI requested in both its March 15, 2001 petition and its amended petition on May 17, 2001, that the Board either waive the hearing in this matter or grant an expedited hearing to meet an alleged March 27, 2001 deadline imposed by the Illinois Environmental Protection Agency (Agency). In response to the Board's request for more information on the matter, PESI attached a violation notice by the Agency. Amended Pet. at 2. The Agency requested that PESI file a petition for an adjusted standard with the Board by the March 27, 2001 date. PESI requested the waiver or expedited hearing in response to the violation notice. Amended Pet. at 1.

Section 104.420 of the Board's procedural rules states that "any person can request that a public hearing be held in an adjusted standard proceeding" within 21 days of the date of the publication of the petition notice. 35 Ill. Adm. Code 104.420. Since no one has requested that a hearing be held in this matter by April 5, 2001, which was 21 days after the March 15, 2001 publication notice, the hearing in this matter is waived.

Section 104.416 of the Board's procedural rules specifies that the Agency must file its recommendation with the Board within 45 days of the petition or amended petition for an adjusted standard. 35 Ill. Adm. Code 104.416. Accordingly, the Agency must file its recommendation by July 1, 2001, which is 45 days after the petitioner filed its May 17, 2001 amended petition. The Board will make its determination after receiving the Agency's recommendation on the requested adjusted standard.

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 7th day of June 2001 by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board