

ILLINOIS POLLUTION CONTROL BOARD
December 19, 2024

WASTE MANAGEMENT OF ILLINOIS,	)	
INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 25-9
	)	(Permit Appeal - RCRA)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by B.F. Currie):

On December 4, 2024, Waste Management of Illinois, Inc. (WMI) timely filed a petition asking the Board to review a July 29, 2024 permit determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2022); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns WMI's closed hazardous waste management units at the Laraway Recycling and Disposal Facility located at 21233 West Laraway Road in Joliet, Will County. Additionally, WMI requested that the Board find that the automatic stay provision of the Illinois Administrative Procedure Act (5 ILCS 100/10-65 (2022)) applies to the Agency's determination and also moves to consolidate this appeal with PCB 25-10, Waste Management of Illinois, Inc. v. IEPA. For the reasons below, the Board accepts the petition for review, but reserves ruling for a finding on a stay and the motion to consolidate.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2022); 35 Ill. Adm. Code 105.Subpart B. In this case, the Agency modified WMI's Resource Conservation and Recovery Act (RCRA) permit for the facility with conditions. WMI appeals on the grounds that the conditions exceed the Agency's authority and was contrary to Board rules. WMI's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

The Board accepts the petition for hearing. WMI has the burden of proof. 415 ILCS 5/40(a)(1) (2022); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency's reasons for denying or conditionally granting the permit, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA, PCB 01-

170 (Dec. 6, 2001), *aff'd sub nom. Community Landfill Co. & City of Morris v. PCB & IEPA*, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 105.110.

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2022)), which only WMI may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, WMI "shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2022)]." 415 ILCS 5/40(a)(3) (2022). Currently, the decision deadline is Thursday, April 3, 2025, the 120th day after the Board received the petition and the scheduled date of a regular Board meeting. *See* 35 Ill. Adm. Code 105.114.

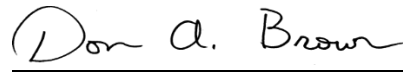
Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by Friday, January 3, 2024, which is 30 days after the Board received WMI's petition. *See* 35 Ill. Adm. Code 105.116(a), 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116(a). The record must comply with the Board's requirements for content, organization, and certification. *See* 35 Ill. Adm. Code 101.1030(g), 105.116(b), 105.212(b). In addition, the Agency must file the record electronically instead of in paper. Specifically, the record must be filed through the Clerk's Office On-Line (COOL) or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. *See* 35 Ill. Adm. Code 101.302(h)(2)(A), 105.116(a).

Accompanying WMI's petition for review was a request that the Board find that the automatic stay provision of the Illinois Administrative Procedure Act (5 ILCS 100/10-65 (2022)) applies to the Agency's determination and a motion to consolidate this appeal with PCB 25-10, Waste Management of Illinois, Inc. v. IEPA. The Board reserves ruling on both to allow the Agency's response time to run. *See* 35 Ill. Adm. Code 101.500(d).

IT IS SO ORDERED.

Member Tin Abstained.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 19, 2024, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board