

ILLINOIS POLLUTION CONTROL BOARD
February 1, 2001

IN THE MATTER OF:)
)
SITE REMEDIATION PROGRAM:) R01-27
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking – Land)
740)

IN THE MATTER OF:)
)
SITE REMEDIATION PROGRAM:) R01-29
PROPOSED 35 ILL. ADM. CODE) (Rulemaking – Land)
740.SUBPART H (SCHOOLS, PUBLIC) (Consolidated)
PARKS, AND PLAYGROUNDS))

ORDER OF THE BOARD (by M. McFawn, E.Z. Kezelis, and N.J. Melas):

On January 26, 2001, Citizens for a Better Environment (CBE) filed a rulemaking proposal pursuant to Section 27(a) of the Environmental Protection Act (Act) (415 ILCS 5/27(a) (1998), and 35 Ill. Adm. Code 102.200 and 102.202 of the Board's procedural rules, effective January 1, 2001. The proposed rulemaking would amend the Site Remediation Program (SRP) rules, adopted by the Board on June 5, 1997. See Site Remediation Program (Brownfields) and Groundwater Quality (35 Ill. Adm. Code 740 and 35 Ill. Adm. Code 620) (June 5, 1997), R97-011. The SRP is a voluntary program under which participants may clean up sites where contaminants are present. The proposed amendments would add a new Subpart H: Requirements Related to Schools, Public Parks and Playgrounds.

CBE's proposal is the second recent proposal filed with the Board to amend the SRP rules. The Illinois Environmental Protection Agency (Agency) also filed a rulemaking proposal to amend the SRP rules on January 12, 2001. The Board accepted the Agency's proposal for hearing on January 18, 2001. See Site Remediation Program: Amendments To 35 Ill. Adm. Code 740 (January 18, 2001), R01-27. The Agency's proposal seeks to amend the SRP rules based on the experience gained by the Agency in administering the rules for over three years. The Board is in the process of scheduling hearings for the Agency's proposal.

CBE's proposal includes a motion to waive the 200-signature requirement of 35 Ill. Adm. Code 102.202(f). In support of this motion, CBE states that it has over 10,000 members, and suggests that the time and expense needed to gather the required number of signatures is outweighed by the benefits to public health and environment that will result with the adoption of its proposal. The Board finds that CBE has demonstrated that it could easily obtain the required number of signatures, and that the granting of this motion will materially prejudice no party. The Board waives the 200-signature requirement found in 35 Ill. Adm. Code 102.202(f).

The Board appreciates CBE's early submission of the complete text of its proposal, rather than waiting until commencement of the hearing process in R01-27. However, CBE's petition does not contain two items required by the Board's procedural rules. The petition does not discuss the applicable factors listed in Section 27(a) of the Act, and does not contain a written statement or certification that the proposal amends the most recent version of the SRP rules as published on the Board's web site or as obtained from the Clerk. See 35 Ill. Adm. Code 102.202(b) and (h). Pursuant to Section 27(a) of the Act, the Board

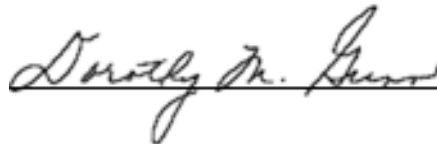
shall take into account the existing physical conditions, the character of the area involved, including the character of the surrounding land uses, zoning classifications, the nature of the existing air quality, or receiving body of water, as the case may be and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution. 415 ILCS 5/27(a) (1998).

While the Board would ordinarily require the filing of an amended petition to cure deficiencies prior to accepting a proposal for hearing, the Board will accept this proposal for hearing today. The Board finds that the issues raised in both R01-27 and R01-29 can be expeditiously addressed at the same time, and thus will consolidate these rulemakings for the purpose of hearing.

Although the Board's acceptance of the proposal today will facilitate the scheduling of hearings, CBE must still file a complete petition. The Board orders Citizens for a Better Environment to file, no later than February 16, 2001, a supplement to their petition that: (1) discusses the applicable factors listed in Section 27(a) of the Act; and (2) contains a written statement or certification that the proposal amends the most recent version of the SRP as published on the Board's web site or as obtained from the Clerk.

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 February 2001 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