

ILLINOIS POLLUTION CONTROL BOARD
May 23, 1991

IN THE MATTER OF:)
)
PETITION OF KEYSTONE STEEL AND) AS 91-1
WIRE COMPANY FOR HAZARDOUS) (Adjusted Standard)
WASTE DELISTING)
)

ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the May 2, 1991 "motion for 150-day extension to file a recommendation" filed by the Illinois Environmental Protection Agency (Agency). In support of its motion the Agency states that until the new delisting regulations of R90-17 were finalized and effective, "a comprehensive review of the [adjusted standard] petition could not be initiated due to the lack of detailed standards for review and limited resources" at the Agency. Also, the Agency states that the USEPA's Delisting Section's initial technical review of a delisting petition takes "2-5 weeks to perform at approximately 200 man hours on the average." In addition, USEPA contracts with private consultants to perform that initial technical review. Finally, the Agency notes that there is no statutory time frame for decision in adjusted standard petitions and that no environmental harm will result in granting the extension because Keystone Steel and Wire Company (Keystone) is in compliance with all applicable laws.

Keystone filed its "response to motion for extension" on May 9, 1991. Keystone's response notes that the Agency has had the delisting petition since January 22, 1991 and that the Board has already granted the Agency one continuance of these proceedings. Since this matter was originally filed with USEPA in August of 1990, and because significant daily costs are accruing while the matter is pending, Keystone has requested, in this and prior pleadings, that this matter proceed expeditiously. In light of these facts, Keystone is concerned with the Agency's lack of progress and the length of the requested extension. Keystone has asked the Board to establish a reasonable schedule for submission of the Agency's recommendation.

This matter has been closely tied with the proceeding in R90-17 which adopted adjusted standard procedural rules specifically tailored to handle delisting petitions for hazardous wastes. R90-17 was initiated after USEPA delegated the authority to delist hazardous waste to Illinois on March 1, 1990. When Keystone filed its adjusted standard delisting petition with the Board, R90-17 was still pending. As a result, the Agency and Keystone requested, respectively, that the time for filing a recommendation and for filing proof of publication be extended


until after the adoption of R90-17. The Board granted the motions after calculating that the rules would be effective about April 15, 1991. R90-17 was filed and effective as of May 9, 1991.

As mentioned, R90-17 adopted the general adjusted standard procedures for the delisting of hazardous waste. Pursuant to Section 106.714, within 30 days after an adjusted standard petition has been filed with the Board, the Agency must file a response recommending either grant or denial of the petition. During the public comment period for R90-17, the Agency filed comments which did not mention any problems with this time frame. Neither did any of the other public comments received by the Board. As a result, the regulations, as adopted, require an Agency response within 30 days of the filing of an adjusted standard delisting petition.

The Board understands that the Agency has more limited resources than USEPA and that the detailed administration of the delisting authority may not yet be known. Even so, technically, when Keystone filed its adjusted standard petition, the Agency knew of the proposed "detailed standards for review" in R90-17 and applicable to delisting petitions. As such, the Agency has already had 120 days for preliminary review and assessment of the administrative and resource requirements of adjusted standard delisting petitions. In light of these facts and Keystone's continued request for an expeditious proceeding, the Board denies the Agency's request for 150-day extension to file its recommendation. But, in recognition of the problems being confronted by the Agency for the first time, the Board hereby grants the Agency 60 days from the date of this Order to file its recommendation pursuant to Section 106.714.

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 23rd day of May, 1991, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board