

ILLINOIS POLLUTION CONTROL BOARD
June 16, 1983

IN THE MATTER OF:)
) R82-21
PERMITS FOR WASTE MANAGEMENT AND)
FOR HAULING OF SPECIAL WASTES)

IN THE MATTER OF:)
) R82-22
LANDFILL OPERATING CRITERIA)

ORDER OF THE BOARD (by D. Anderson):

R82-21 was opened by the Board October 5, 1982, with the intent of formulating permit programs to replace those in existing Chapter 7: Solid Waste and Chapter 9: Special Waste Hauling Regulations, while R82-22 was to replace the Chapter 7 operating standards.*

No proposal has been filed in R82-22, and no hearings held. In R82-21, the Agency filed a proposal on December 30, 1982. Subsequent to a merit hearing held April 15, 1983 at which the Agency discussed amending the proposal, the Agency announced its intent to withdraw the proposal to allow it time for extensive revision. This intent was announced in a May 5, 1983 motion to postpone a merit hearing scheduled for May 13, 1982, which was denied by the Board because of difficulties attendant upon providing the public with notice of cancellation.

At the May 13, 1983 hearing, the Agency presented a "Statement To Withdraw Proposal of Regulations",** which was the subject of questions and discussions of hearing participants.

*On the same day, two predecessor dockets were closed: R80-20, initiated by an Agency proposal of October 31, 1982 to amend Chapter 7, and R81-31, initiated by a Board proposal of December 23, 1981 to amend Chapter 9. These two dockets were closed in part because hearings in each revealed the necessity of coordination between Chapter 7 and 9 modernizing amendments, and the difficulty of evolving a revised Agency proposal in R80-20 alone, let alone a combined Chapter 7 and 9 proposal.

**This was resubmitted to the Board May 20, 1983 to insure that entry of the document into the record as "PC 4" would not prevent the Board from fully considering the facts presented in it. The Board has fully considered the facts as well as the assertions presented therein.

The Agency has identified certain problems with immediate movement on this proposal. The first involves the problems of inter-relationship between permitting standards and operational standards. Since the filing of the R82-21 proposal, the Agency has been developing the anticipated R82-22 operating criteria proposal. In so doing, the Agency has determined that in focusing on certain concepts such as "closure" within the permitting context, rules were developed which may have overlooked and failed to include in their purview operational exigencies such as "partial closure" for economic or other business reasons (R. 224-225). Expansion of focus from permitting to operations has also convinced the Agency that permitting regulations cannot be comprehensively and comprehensibly discussed prior to development of additional definitions of "special waste" (R. 226) as well as certain design and operating criteria such as that for groundwater monitoring programs (R. 229, 230). The solution, it believes, is withdrawal of this proposal and submission of an amended and expanded proposal including special waste and other definitions and criteria for applicability, requirements and procedures for permits, and standards for operations of landfills of the various classes identified in the R82-21 proposal (R. 226, 239).

The Agency notes that it has developed a Land Pollution Control Task Force including personnel from the professional staff of its various regional offices to concentrate on the development of technical criteria for the management of non-hazardous special wastes, as well as a Groundwater Advisory Committee to formulate a state groundwater monitoring program. The Agency estimates that some 7,700 hours have been devoted to these tasks since January, 1982 (Notice, Ex. A). Even so, progress has been delayed by the death of the attorney who formulated the R80-20 proposal, by the loss of 25-30 technical people and 3 attorneys due to budget cutbacks and by the need for continued focus by the remaining staff on development of RCRA and UIC programs in order to gain federal delegation of these programs (R. 243-244).

In response to questions, the Agency indicated that, even given these constraints, it would anticipate filing the definition, permitting and landfill operating standards packages "before the end of this year" (R. 240, 242), and a separate package or packages dealing with standards for surface impoundments, tanks, containers, and waste piles, etc. "certainly in 1984" (R. 257-258).

As the Agency has acknowledged (R. 237), the Board feels an urgent need to promulgate regulations to revise existing Chapters 7 and 9, which continue to prove themselves to be sadly out-of-date, under-comprehensive, and under-specific. The Board certainly appreciates the problems of assignment of the same personnel to numerous, simultaneous, "priority one" tasks. However, the Board has been anxious that the state's continuing non-hazardous waste program not suffer due to the recent special emphasis on its hazardous one.


While the Board could consider proceeding with the R82-21 proposal even after the Agency's withdrawal as its proponent, to do so risks duplication of effort, and reinvention of various wheels which could frustrate the very progress the Board seeks to encourage. The R82-21 and R82-22 proceedings are therefore dismissed. (Of course, the scheduled July 8, 1983 hearing is thereby cancelled.)

The Board anticipates and expects that the Agency's expanded, comprehensive proposal of which the Agency has spoken will be filed on or before January 1, 1984; the Board will in any event open a docket for revision of Chapters 7 and 9 at that time. The Board notes that the Agency has, in the course of the development of these regulations, solicited public comment on various drafts (e.g. R. 251-252) and discussed them with various state agencies, industry representatives, and associations (R. 235) prior to the filing of proposals with the Board for their presentation at public hearing. While arguably there may be merit in such input at the early stage of regulatory development, the Board suggests that if the Agency should feel time pressures come this fall, that its own pre-filing comment procedures be truncated. Filing of a less-than-perfect proposal is preferable to no proposal, particularly given that public hearings will doubtless necessitate changes even in the "perfect" proposal.

Finally, in order to ensure that Chapters 7 and 9 do not cease to exist as of the October 1, 1983 codification deadline, the Board will proceed with codification of these Chapters without change in existing dockets R81-7 and R81-9.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16th day of June, 1983 by a vote of 40.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board