

ILLINOIS POLLUTION CONTROL BOARD

June 4, 2009

IN THE MATTER OF:)
)
PETITION OF ROYAL FIBERGLASS)
POOLS, INC. FOR AN ADJUSTED) AS 09-4
STANDARD FROM 35 ILL. ADM. CODE) (Adjusted Standard - Air)
215.301

ORDER OF THE BOARD (by G.T. Girard):

On April 3, Royal Fiberglass Pools, Inc., (Royal) filed this petition for an adjusted standard pursuant to Section 28.1 of the Environmental Protection Act (415 ILCS 5/28.1 (2006)). Royal requests that the Board grant an adjusted standard from 35 Ill. Adm. Code 215.301 as that rule applies to the emissions of volatile organic material (“VOM”) at Royal’s swimming pool manufacturing facility. The facility is located at 312 Duncan Road, Dix, Jefferson County. In the petition, Royal requests that a hearing be held and asks that the Board expedite review of this petition. No response has been filed to the motion to for expedited review. *See* 35 Ill. Adm. Code 101.500(d)

Section 28.1 of the Act requires publication of a notice of an adjusted standard proceeding in a newspaper of general circulation in the area affected by Royal’s activity. The notice must be published within 14 days of the filing of the petition. On April 24, 2009, Royal filed a “Notice of Publication of Petition for an Adjusted Standard” indicating that notice of the petition was published in the *Mt. Vernon Register News* on April 13, 2009.

The Board finds that the notice meets the requirements of Section 28.1 of the Act and that the petition meets the content requirements of Section 104.406 of the Board’s rules (35 Ill Adm. Code 104.406). The Board accepts this matter for hearing. However, the Board denies the request to expedite the decision. Requests for expedited review are governed by Section 101.512 of the Board's rules, and must contain, *inter alia*, a complete statement of the facts and reasons for the request. *See* 35 Ill. Adm. Code 101.512. In acting on a motion for expedited review, the Board considers, at a minimum, all statutory requirements and whether or not material prejudice will result from the motion being granted or denied. 35 Ill. Adm. Code 101.512(b). In addition, the Board will only grant a motion for expedited review consistent with available resources. *See* 35 Ill. Adm. Code 101.512(c). The Board finds that material prejudice will not result if the Board denies the motion. Also, as the Board noted in several recent decisions denying requests for expedited review:

expedited review is granted consistent with decision deadlines and available resources. The Board currently has numerous open rulemaking dockets that demand immediate attention, as well as pressing cases that will keep the Board busy for several months. Due to attrition, Board staffing is at its lowest levels in some years. Even if the Board were to accept that Galva’s claims amount to

“material prejudice”, the Board’s limited resources in light of its current and future decision deadlines render the granting of a motion for expedited review unlikely in all but the most dire circumstances. See Proposed Site Specific Rule For City Of Galva Site Specific Water Quality Standard For Boron Discharges To Edwards River And Mud Creek: 35 Ill. Adm. Code 303.347 (Feb. 5, 2009).

Hearings shall be scheduled and completed in a timely manner. The Board through its hearing officer, may direct Royal to provide additional information concerning its request prior to or at hearing. See Petition of BFI Waste Systems of North America, Inc. for Waste Delisting, AS 08-5, slip op. at 1 (Jan. 10, 2008) (accepting petition for hearing while noting that orders may issue requiring more information from petitioner before or at hearing). The assigned hearing officer shall inform the Clerk of the Board of the time and location of hearing at least 40 days in advance of hearing so that a 30-day public notice of hearing may be published.

The Board notes that on May 15, 2009, the Illinois Environmental Protection Agency sought an extension of time to file the recommendation in this proceeding. No response has been filed to the motion for extension of time and thus any objection to the motion is waived. See 35 Ill. Adm. Code 101.500(d). The Board grants the motion.

On April 3, 2009, Royal filed motions to allow Dale A. Guariglia and Brandon W. Neuschafer to appear *pro hac vice* on behalf of Royal. According to the motions, Mr. Guariglia and Mr. Neuschafer are licensed and registered attorneys in Missouri. No response has been filed to the motion to appear *pro hac vice*. See 35 Ill. Adm. Code 101.500(d). The Board grants the motion. See 35 Ill. Adm. Code 101.400(a)(3).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 4, 2009, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board