

ILLINOIS POLLUTION CONTROL BOARD
September 6, 2018

RELIABLE STORES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 19-2
)	(UST Appeal)
OFFICE OF THE STATE FIRE)	
MARSHAL,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On July 3, 2018, the Board received a letter on behalf of Reliable Stores, Inc. (Reliable Stores) requesting a hearing to review a June 12, 2018 determination of the Office of the State Fire Marshal (OSFM). *See* 415 ILCS 5/57.9(c)(2) (2016); 35 Ill. Adm. Code 101.300(b), 105.504(b). The OSFM's determination concerns Reliable Stores' leaking underground storage tank (UST) site located at 905 W. Roosevelt in Maywood, Cook County. The Board accepted the letter as a timely-filed petition but directed Reliable Stores to file an amended petition by August 27, 2018, to correct deficiencies in the petition. Reliable Stores timely filed an amended petition. For the reasons below, the Board accepts Reliable Stores' petition for hearing.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), the OSFM decides whether persons are eligible to have their cleanup costs reimbursed from the UST Fund, which consists of UST fees and motor fuel taxes. If the person is eligible for reimbursement, the OSFM also decides which deductible applies. The UST owner or operator may appeal these OSFM decisions to the Board. *See* 415 ILCS 5/57.9(c)(2) (2016); 35 Ill. Adm. Code 105.Subpart E. In this case, the OSFM denied Reliable Stores' application for eligibility and deductibility, finding that the application indicates a release from above-ground equipment, and not a UST. Reliable Stores' amended petition argues that the leaking equipment is a component of the UST system and is therefore eligible for reimbursement. Reliable Stores' petition meets the content requirements of 35 Ill. Adm. Code 105.506.

The Board accepts the petition for hearing. Reliable Stores has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner. 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, 105.510.

Unless the Board or the hearing officer orders otherwise, the OSFM must file the entire record of its determination by September 26, 2018, which is the 30th day after the date on which the Board received Reliable Stores' amended petition. *See* 35 Ill. Adm. Code 105.116(a), 105.508(b). If the OSFM 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), 105.508(b). In addition, the OSFM 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)(B), 105.116(a).¹

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 6, 2018, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink on a white background.

Don A. Brown, Clerk
Illinois Pollution Control Board

¹ Any questions about filing the record in an electronic format should be directed to the Clerk's Office at (312) 814-3620 or (312) 814-3461.