

ILLINOIS POLLUTION CONTROL BOARD
September 7, 1995

IN THE MATTER OF:)
)
PETITION OF TOMMY HOUSE TIRE) AS 95-1
FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard - Land)
35 ILL. ADM. CODE 848.202)

ORDER OF THE BOARD (by M. McFawn):

This matter is before the Board on an amended petition for adjusted standard filed by Tommy House Tire (Tommy House) on May 8, 1995. Tommy House seeks an adjusted standard from the Board's regulations at 35 Ill. Adm. Code 848.202, as they apply to its tire retreading facility located at 304 E. Main Street, Decatur, Illinois. Specifically, Tommy House is requesting an adjusted standard from the tire and building separation requirements of 35 Ill. Adm. Code 842.202(b)(2), and the 14-day storage limitation for used and waste tires at 35 Ill. Adm. Code 842.202(b)(5).

Tommy House filed its original petition for adjusted standard on January 9, 1995. The Agency filed its response to the petition on February 10, 1995. In its response, the Agency noted several deficiencies in the petition, but recommended that the adjusted standard be granted, subject to certain conditions. Tommy House filed a reply to the Agency response on February 23, 1995, in which Tommy House responded to several of the concerns raised by the Agency.

On March 9, 1995, the Board issued an order finding the petition deficient, and directing Tommy House to file an amended petition on or before April 10, 1995. On April 12, 1995, Tommy House filed a motion for clarification of the Board's order, and requested an extension of time to file an amended petition. By order dated April 20, 1995, the Board granted the motion for clarification, and granted Tommy House an extension until May 10, 1995 to file its amended petition. Tommy House filed an amended petition on May 8, 1995, which the Board accepted at its May 10, 1995 meeting. The Agency has not filed an additional response to the amended petition.

In our order of March 9, 1995 which found Tommy House's initial petition deficient the Board directed Tommy House to file an amended petition, including a copy of the proposed alternative management plan it intended to submit to the Agency. In response, Tommy House submitted the contingency plan for its site, required pursuant to Section 848.202 of the regulations, not the Alternative Management Plan requested by the Board. (Exh. D.) The contingency plan only addresses the storage arrangements for tires stored within buildings; it does not address storage arrangements for tires stored outside, which are precisely the tires for which Tommy House seeks the adjusted standard.

Additionally, the contingency plan does not address the additional measures that will be taken in order to address the increased risks posed by Tommy House's failure to comply with the regulations of general applicability. Thus, substantial questions remain regarding the propriety of the proposed adjusted standard. Therefore, while Tommy House has waived hearing in this matter, we find that a hearing is necessary to address these issues, and direct that this matter be set for hearing.

At hearing, petitioner should be prepared to answer questions concerning topics including, but not limited to: the maximum number of tires that will be stored at the site; the maximum number of tires that will be stored outside; the number of tires processed at the site; the number of employees at the site; the location of each tire pile; the distance that will be maintained between each tire pile and the nearest building; the dimensions of the uncovered areas currently used to store tires; the fire control measures implemented in buildings near outside tire storage areas; the length of time that rejected tires are stored outside before being shipped off-site; and the frequency of emptying or replacement of the rejected tire storage trailer. Additionally, petitioner should be able to answer questions concerning other aspects of its petition.

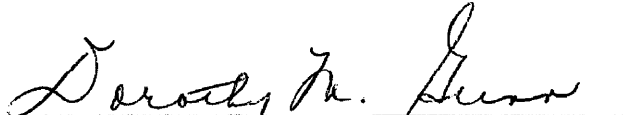
The hearing must be scheduled and completed in a timely manner, consistent with Board practices and 35 Ill. Adm. Code Part 101 and Part 106, Subpart G. A hearing officer will be assigned to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

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 7th day of September, 1995, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board