

Board Adopts Second-Notice Proposal for New Rules for Cleaning Agent Authorizations under the Regulation of Phosphorus in Detergents Act

On June 3, 2010, the Illinois Pollution Control Board proposed new rules for second notice review by the Joint Committee on Administrative Review (JCAR) as provided by the Illinois Administrative Procedure Act. The rulemaking proposal is docketed as In the Matter of: Procedural Rules for Authorizations Under P.A. 95-115 (Regulation of Phosphorus in Detergents Act): New 35 Ill. Adm. Code 106.Subpart H, (R10-19). The Board made only one substantive change in response to public comment, as described below.

These proposed rules apply to Board authorizations made under the Regulation of Phosphorus in Detergents Act which prohibits the manufacture, distribution, sale, and use of “any cleaning agent” that contains more than 0.5% phosphorus by weight, expressed as elemental phosphorus after July 1, 2010. Under this act, the “Board may authorize the use of additional cleaning agents that contain phosphorus of an amount exceeding 0.5% by weight upon finding that there is no adequate substitute for that cleaning agent or that compliance with this Section would otherwise be unreasonable or create a significant hardship on the user.”

The Board proposes codifying the procedures for cleaning agent authorizations as a new Subpart H to existing Part 106, entitled “Proceedings Pursuant to Specific Rules or Statutory Provisions.” The new 35 Ill. Adm. Code 106.Subpart H follows the general format of the other subparts within Part 106. Unlike other types of determinations in Part 106, the Board does not propose that a hearing be held on every petition filed; however a hearing will be held upon timely request. The burden of proof is on the petitioner.

Following JCAR approval and Board adoption of final rules, the new rules would become effective upon filing with the Illinois Secretary of State.

The Board adopted first notice of the proposed rules on March 18, 2010. The first notice was published at 34 Ill. Reg. 5545-5554 (April 16, 2010). The first notice public comment period closed on May 31, 2010 with the Illinois Environmental Protection Agency filing the only comment. No hearing requests were received. In response to that comment, the Board deleted the portion of the proposed rule that would have required the naming of the IEPA as a party respondent in every action under the rules.

Opinions and orders of the Board, hearing transcripts, and other documents in rulemaking records are posted on the Board’s Web site and may be downloaded from the Web without charge. Hard copies may be obtained for \$.75 per page from the Clerk’s office

Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601