

ILLINOIS POLLUTION CONTROL BOARD
March 1, 2007

NORTH AMERICAN LIGHTING, INC., a)	
Michigan corporation,)	
)	
Petitioner,)	
)	
v.)	PCB 07-79
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On February 23, 2007, North American Lighting, Inc. (North American) timely filed a petition asking the Board to review a January 23, 2007 permit determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 101.300(b), 105.208(a). The determination concerns an air construction permit for North American's facility at 2275 South Main Street in Paris, Edgar County. For the reasons below, the Board accepts the petition for review.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), the Agency is the permitting authority, responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2004); 35 Ill. Adm. Code 105.Subpart B. In this case, the Agency granted an air construction permit for five paint spray booths and four bulk molding compound units to be located at North American's Edgar County facility. North American appeals on the grounds that the issued permit includes erroneous existing emissions limits, erroneous prospective emissions associated with the construction project, and erroneous post-construction total plantwide volatile organic material (VOM) emissions limits. North American's petition meets the content requirements of 35 Ill. Adm. Code 105.210.

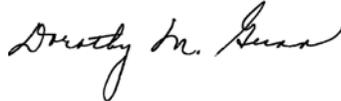
The Board accepts the petition for hearing. North American has the burden of proof. *See* 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its permit decision. *See* 35 Ill. Adm. Code 105.214(a). Accordingly, though the Board hearing affords a permit applicant the opportunity to challenge the Agency's reasons for denying or conditionally granting the permit, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom.* 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only North American may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, North American “may deem the permit issued” as requested. 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is June 25, 2007, which is the first business day following the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 101.300(a), 105.114. The Board meeting immediately before the decision deadline is scheduled for June 21, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 26, 2007, which is the first business day following the 30th day after the Board received North American’s petition. *See* 35 Ill. Adm. Code 101.300(a), 105.212(a). If the Agency 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. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 1, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board