

ILLINOIS POLLUTION CONTROL BOARD  
May 17, 2007

IN THE MATTER OF: )  
)  
PETITION OF CABOT CORPORATION ) AS 07-05  
FOR AN ADJUSTED STANDARD FROM 35 ) (Adjusted Standard - Land)  
ILL. ADM. CODE PART 738, SUBPART B )

ORDER OF THE BOARD (by N.J. Melas):

Cabot Corporation (Cabot) seeks a reissuance of a previous adjusted standard applicable to Cabot's inorganic chemical manufacturing facility, where Cabot manufactures fumed silica dioxide (SiO<sub>2</sub>), in Tuscola, Douglas County (Tuscola facility). Petition of the Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code 738, Subpart B, AS 96-3 (Mar. 7, 1996). Cabot's previous adjusted standard allowed Cabot to dispose of leachate, purge water, and other restricted wastes into three wells (Wells #1, #2, and #3) at the Tuscola facility. *Id.*

Cabot seeks a reissuance of the adjusted standard under Petition of Cabot Corp., AS 96-3 (Mar. 7, 1996) so that it may continue to inject hazardous waste into Wells #2 and #3 at the Tuscola facility through December 31, 2027. Cabot has waived hearing on the petition.

Section 28.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2004)) and Section 104.408(a) of the Board's procedural rules (35 Ill. Adm. Code 104.408(a)) require the petitioner to publish notice of the petition for an adjusted standard by advertisement in a newspaper of general circulation in the area likely to be affected by the proposed adjusted standard. Under those provisions, publication must take place within 14 days after the petition is filed, or the Board is without jurisdiction to hear the petition. *See, e.g., Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005)*. Within 30 days after filing the petition, petitioner must file a certificate of publication with the Board. *See 35 Ill. Adm. Code 104.410*.

On April 27, 2007, Cabot filed an "unopposed motion to file certificate of publication," accompanied by a certificate of publication in the *Tuscola Review*. In the motion, Cabot states that it filed this petition with the Board on April 12, 2007. Cabot then purchased space to publish notice of filing in the *Tuscola Review* on April 20, 2007. Cabot states that "[b]y its own mistake," the *Tuscola Review* failed to publish notice on April 20, 2007, and instead published the notice on April 27, 2007, the 15th day after Cabot filed the petition. Cabot moves for leave to file the certificate of publication and relief from the requirement that notice be published within 14 days of the petition's filing. Cabot states the Illinois Environmental Protection Agency does not oppose this motion.

As noted above, the requirement that publication take place within 14 days from the filing date of the petition is a jurisdictional requirement. The Board finds that Cabot has failed to meet the notice requirements of the Act and the Board's procedural rules and the Board is without jurisdiction to review the petition. Cabot's motion is denied. Cabot may choose to refile

the petition, publish notice of filing, and provide documentation certifying that notice of filing was published within 14 days from the petition's filing date. *See* 35 Ill. Adm. Code 104.408, 410.

**CONCLUSION**

The Board denies Cabot's motion, finding that Cabot has failed to meet the jurisdictional requirement of publishing notice of filing within 14 days after the filing of the petition for an adjusted standard. The Board dismisses this petition and closes the docket.

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 May 17, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board