

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2007

IN THE MATTER OF:)
)
PETITION OF CABOT CORPORATION) AS 07-6
FOR AN ADJUSTED STANDARD FROM 35) (Adjusted Standard - Land)
ILL. ADM. CODE PART 738, SUBPART B)

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

On May 29, 2007, Cabot Corporation (Cabot) filed a Petition for Reissuance of Adjusted Standard, a Motion for Incorporation of Documents, and a Motion for Relief From Filing Requirements, and a Motion to Stay Proceedings pending decision by the United States Environmental Protection Agency (USEPA) of Cabot's request for similar relief. This order addresses only the motions for incorporation and request for relief from filing requirements.

This petition is a replacement for the petition recently dismissed due to Cabot's failure to timely file a certificate of publication. Petition of Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code Part 738, Subpart B, AS 07-5 (May 17, 2007). Here, on June 6, 2007, Cabot timely filed the certificate of publication required by Section 28.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(1) (2006)) and Section 104.408(a) of the Board's procedural rules (35 Ill. Adm. Code 104.408(a)).

Cabot seeks a reissuance of a previous adjusted standard applicable to Cabot's inorganic chemical manufacturing facility, where Cabot manufactures fumed silica dioxide (SiO₂), 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); *see also* Petition of the Cabot Corporation for an Adjusted Standard from 35 Ill. Adm. Code 738, Subpart B, AS 92-8 (Sept. 7, 1995). 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.

Cabot seeks a reissuance of the previous adjusted standard 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.

Cabot's petition relies "solely" (Pet. at 4) on Cabot's March 8, 2006 application made to USEPA for an extension until December 21, 2027 of the "no-migration exemption" USEPA issued. USEPA has yet to rule on this application.

Cabot asserts that the information contained in the USEPA application satisfies all requirements of the Board's rules, cross-referencing information in the USEPA application with requirements of Board rules. Cabot seeks to incorporate the March 2006 application and related Quality Assurance Quality Control plan submitted as Exhibits C and D, respectively, to the April 12, 2007 petition Cabot submitted in Petition of Cabot Corporation for an Adjusted Standard

from 35 Ill. Adm. Code Part 738, Subpart B, AS 07-5. The Board grants Cabot's motion to incorporate.

Cabot also requests relief from the requirement to file an original and 9 copies of the USEPA application and plan. The Board also grants this motion. Cabot additionally requests relief from the requirement at 35 Ill. Adm. Code 104.402 to serve the Illinois Environmental Protection Agency (Agency) with a copy of this petition. The Board denies this motion. While Section 28.1 of the Act does not by its terms require Agency participation in adjusted standards proceedings, the Board's procedural rules clearly provide for the filing of an Agency recommendation concerning the petition. 415 ILCS 5/28.1 (2006); 35 Ill. Adm. Code 104.402, 104.416. Cabot is directed to serve a copy of the petition and all exhibits on the Agency within 21 days of the date of this order, *i.e.* on or before July 12, 2007, or this petition may be subject to dismissal.

Finally, Cabot seeks a stay of this proceeding. The Board reserves ruling on this motion, and on petition sufficiency, pending completion of service on the Agency and the Agency's filing of any response to the motion for stay. Any Agency response to the motion for stay is due on or before August 2, 2007.

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 June 21, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board