

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2010

IN THE MATTER OF:)
)
PETITION OF CROWNLINER BOATS,) AS 04-01
INC. FOR AN ADJUSTED STANDARD) (Adjusted Standard – Air)
FROM 35 ILL. ADM. CODE 215.301)

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

On August 18, 2010, Leisure Properties LLC d/b/a Crownline Boats (Leisure Properties) filed a motion to reopen this docket (Mot.) in order to substitute Leisure Properties for Crownline Boats, Inc. (Crownline). The Illinois Environmental Protection Agency (IEPA) did not respond to the motion, although Leisure Properties indicated in the motion that the motion was discussed with the IEPA. Mot. at 3. A party has 14 days to respond to a motion. *See* 35 Ill. Adm. Code 101.500(d). Therefore, as the IEPA did not respond to the motion any objection to granting the motion may be deemed waived. *Id.*

Leisure Properties states that Crownline experienced financial strain and on June 16, 2009 the assets of Crownline, including the facility in West Frankfort, Franklin County for which an adjusted standard had been granted by the Board, were transferred to a trustee. Mot. at 1. On August 20, 2009, certain lenders of Crownline purchased title to certain assets including the West Frankfort facility, which were in turn sold to Leisure Properties on that same date. Mot. at 2. Crownline was involuntarily dissolved on December 4, 2009, and Leisure Properties is filing this motion as a successor-in-interest to the assets of Crownline, including the adjusted standard. *Id.*

Leisure Properties maintains that the West Frankfort facility is operated in “substantially the same manner as did” Crownline and a significant number of employees of Leisure Properties were also employed by Crownline. Mot. at 2. Leisure Properties states that although the ownership of the facility has changed “none of the factors justifying the Board’s issuance of the adjusted standard have changed.” *Id.* Leisure Properties has operated the facility in conformance with the adjusted standard and will continue to do so. *Id.* For these reasons, Leisure Properties requests that the Board substitute Leisure Properties for Crownline in the adjusted standard. *Id.* Leisure Properties notes that the Board has granted similar requests to reopen adjusted standards and substitute a new party. Mot. at 3, citing Petition of Cromwell-Phoenix, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 218.204(C), AS 03-05 (Nov. 20, 2003); Petition of Ensign-Bickford Company for an Adjusted Standard from 35 Ill. Adm. Code 237.102, AS 00-5 (June 5, 2003); Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211, AS 96-10 (Mar. 16, 2000).

DISCUSSION

Section 28.1 of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2008)) allows the Board to grant an adjusted standard to parties who can justify that relief from a rule of general applicability is warranted. In this instance Crownline was required to demonstrate that:

1. Factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;
2. The existence of those factors justifies an adjusted standard;
3. The requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and
4. The adjusted standard is consistent with any applicable federal law. 415 ILCS 5/28.1(c) (2008); 35 Ill. Adm. Code 104.426(a).

Crownline was a fiberglass boat manufacturer located in West Frankfort, Franklin County. Crownline sought relief from the Board's volatile organic material (VOM) control requirements at 35 Ill. Adm. Code 215.301. Specifically, Crownline sought relief from the State's 8 lb/hr Rule in the form of an adjusted standard. Under separate federal regulation applicable to Crownline under Section 9.1(a) of the Act, (415 ILCS 5/9.1(a) (2008)) Crownline is already required to comply with the National Emission Standard for Hazardous Air Pollutants for New and Existing Boat Manufacturing Facilities, which limits hazardous air pollutant emissions from facilities such as the Crownline West Frankfort plant. Crownline must comply with the MACT emissions limits under this standard by August 23, 2004. Accordingly, Crownline requests that Section 215.301 not apply to their operations. The Agency recommended that the Board grant Crownline the requested relief subject to certain conditions. The adjusted standard would apply only to the materials and methods Crownline uses to manufacture fiberglass boats at the West Frankfort facility.

The Board granted Crownline the adjusted standard finding:

Crownline's request for relief from the 8 lb/hr Rule meets the statutory "fundamentally different" factors of section 28.1(c) of the Act. Crownline has demonstrated that: (1) factors relating to it are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation; (2) the existence of these factors justifies an adjusted standard; (3) the requested standard will not cause substantially or significantly more adverse environmental or health effects than the effects considered by the Board in adopting the rule of general applicability; and (4) the adjusted standard is consistent with applicable federal laws. 415 ILCS 5/28.1(c) (2002).

Crownline bases its justification for the requested relief on the lack of an economically reasonable or technically feasible alternative. The Board finds that the efforts beyond those Crownline has already implemented in the three categories of alternatives that Crownline investigated (reducing VOM content in production materials, employing alternative operating procedures and production methods, and applying end-of-pipe controls) are not currently technically feasible or economically reasonable. Additionally, the Ozone Impact Analysis shows that Crownline's emissions will not cause negative health or environmental effects.

The Board finds no inconsistency between granting Crownline's requested relief and federal law. Finally, the Board finds that the Board did not anticipate the batch-type processes of coating and laminating fiberglass boat parts that Crownline employs at the West Frankfort facility when it promulgated the 8 lb/hr Rule at Section 215.301. As a matter of law, Crownline must comply with the MACT emissions limits by August 23, 2004, which Crownline states it has achieved over a year early.

Leisure Properties states that Leisure Properties will continue to operate the West Frankfort facility in compliance with the adjusted standard. Mot. at 2-3. The Board finds that the relevant factors required by Section 28.1 of the Act (415 ILCS 5/28.1 (2008)), met by Crownline, have not changed. In fact the Board recently granted an adjusted standard to the 8lb/hr rule for a facility in Jefferson County that uses the same techniques as the West Frankfort facility. See Petition Of Royal Fiberglass Pools, Inc. for an Adjusted Standard From 35 Ill. Adm. Code 215.301, AS 9-4 (Feb. 18, 2010).

The Board has in the past granted motions to substitute the name of a holder of a previously granted adjusted standard. See Cromwell-Phoenix, AS 03-05; Ensign-Bickford, AS 00-5; Commonwealth Edison, AS 96-10. The IEPA has not objected to the granting of the motion. The Board grants the motion.

CONCLUSION

The Board reopens the docket and substitutes Leisure Properties LLC d/b/a Crownline Boats for Crownline Boats, Inc. as recipient of the adjusted standard in the Board's July 22, 2002 order. The adjusted standard order, as amended today, is set forth below in its entirety and is effective as of today's order.

ORDER

1. The Board amends the July 22, 2002 order in this matter, and grants Leisure Properties LLC d/b/a Crownline Boats (Leisure Properties) an adjusted standard from 35 Ill. Adm. Code 215.301 (8 lb/hr Rule), effective October 7, 2010. The adjusted standard applies to the emissions of volatile organic material (VOM) into the atmosphere from Leisure Properties' boat manufacturing facility located at 11884 Country Club Road, West Frankfort, Franklin County.

2. 35 Ill. Adm. Code 215.301 does not apply. Leisure Properties remains subject to the following:
- a) Leisure Properties must continue to investigate boat production methods that generate fewer VOM emissions and materials that have a reduced VOM content. Where practicable, Leisure Properties must substitute current materials with lower VOM content materials as long as such substitution does not result in a net increase in VOM emissions;
 - b) Leisure Properties must perform any reasonable test of new technologically or economically reasonable production methods or materials applicable to the open-mold fiberglass boat manufacturing industry, which may reduce VOM emissions at Leisure Properties facility which the Illinois Environmental Protection Agency (IEPA) specifically requests in writing that they do;
 - c) Leisure Properties must prepare and submit each year an annual report summarizing the activities and results of these investigatory efforts. The annual report must be submitted to the IEPA, Bureau of Air, Compliance and Enforcement Section; and,
 - d) Leisure Properties must operate in full compliance with the Clean Air Act, its Clean Air Act Permit Program permit, the National Emissions Standard for Hazardous Air Pollutants for New and Existing Boat Manufacturing Facilities, set forth at 40 C.F.R. 63, Subpart VVVV, as required by Section 9.1(a) of the Act, and any other applicable regulation.

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 October 7, 2010, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board