

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2011

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R12-8
PART 223: STANDARDS AND) (Rulemaking -Air)
LIMITATIONS FOR ORGANIC MATERIAL)
EMISSIONS FOR AREA SOURCES)

ORDER OF THE BOARD (by A.S. Moore):

On July 13, 2011, the Illinois Environmental Protection Agency (Agency or Illinois EPA) filed a proposal to amend Part 223 of the Board's air pollution regulations. *See* 35 Ill. Adm. Code 223. The Agency states that it has proposed amendments to reduce volatile organic material (VOM) emissions from various consumer products and aerosol coatings. Accompanying the proposal were documents including a Statement of Reasons (SR), a Technical Support Document and a motion for waiver of specified copy requirements (Mot.).

The Board today accepts the Agency's proposal and directs the hearing officer to schedule and proceed to hearing. The Board also grants the Agency's motion for waiver of specified copy requirements.

SUMMARY OF PROPOSAL

The Agency states that "[o]zone is not emitted directly by most sources." SR at 1. The Agency further states that precursors such as VOM, nitrogen oxides, and carbon monoxide react in the presence of sunlight and high temperatures to form ozone. *Id.*, citing TSD at 7. The Agency indicates that Part 223 "reduces VOM emissions by putting limits on the VOM contents of numerous consumer products." SR at 2.

The Agency seeks to amend Part 223 to "include limits in percent VOM by weight for adhesive removers, contact adhesives, non-aerosol antistatic products, electrical cleaners, engine degreasers, fabric refreshers, footwear or leather care products, graffiti removers, hair styling products, shaving gels, and wood cleaners." *Id.* at 3, citing TSD at 9. The Agency expects that control of these additional categories will reduce VOM emissions in Illinois by one ton per day. SR at 4, citing TSD at 18. The Agency argues that "some of these reductions have already taken place due to nationwide compliance by many of the larger manufacturers of these products with the California or OTC¹ rules." SR at 4, citing TSD at 18. The Agency also proposes an amendment to the existing Architectural and Industrial Maintenance rule in order to clarify and simplify compliance. SR at 1, 4; *see* 35 Ill. Adm. Code 223.305. The Agency states that its proposed amendments would apply to the entire state. *Id.* at 4.

¹ "OTC" refers to the Ozone Transport Commission comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and the District of Columbia. TSD at 8.

MOTION FOR WAIVER

The Agency notes that the Board's procedural rules require that the original and nine copies of each rulemaking proposal be filed with the Clerk. Mot. at 1, citing 35 Ill. Adm. Code 102.200. The Agency also notes that Section 27(a) of the Environmental Protection Act requires the Agency to provide information supporting its proposal. Mot. at 1, citing 415 ILCS 5/27(a) (2010). The Agency lists three documents on which it relied in drafting its proposal. Mot. at 1-2. The Agency states that, including these documents, its proposal comprises "several hundred pages. Given the length of the proposal and the resources required to provide nine copies, the Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file the original and four complete copies of the documents." Mot. at 2. The Agency also asks that the Board waive the requirement to provide copies of the documents it relied upon to the Attorney General's Office and to the Illinois Department of Natural Resources (DNR). *See* 35 Ill. Adm. Code 101.200.

Section 101.500(d) of the Board's procedural rules provide in pertinent part that, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d). Having reviewed the substance of the motion, and in the absence of any response, the Board grants the Agency's motion for waiver. The Board first allows the Agency to file an original and four complete copies of the documents comprising its rulemaking proposal. The Board also waives the requirement that the Agency serve copies of the documents on which it relied in drafting its proposal on the Attorney General and the DNR. In this regard, the Board notes that the Clerk has provided access to the documents through the Clerk's Office On-Line under this docket number R12-8.

CONCLUSION

The Board accepts this proposal for hearing and directs the assigned hearing officer to schedule and proceed to hearing under the rulemaking provisions of the Act and the Board's procedural rules. 415 ILCS 5/27, 28 (2010); 35 Ill. Adm. Code 102. After conducting hearings on this proposal, the Board will determine whether to proceed to first notice. In addition, the Board grants the Agency's unopposed motion for waiver of specified copy requirements.

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 August 4, 2011, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board