

ILLINOIS POLLUTION CONTROL BOARD
May 1, 2014

IN THE MATTER OF:)
)
PETITION OF KRAMER TREE) AS 14-2
SPECIALISTS, INC. FOR AN ADJUSTED) (Adjusted Standard – Land)
STANDARD FROM 35 ILL. ADM. CODE)
830)

ORDER OF THE BOARD (by C.K. Zalewski):

On February 26, 2014, Kramer Tree Specialists, Inc. (Kramer) filed a petition (Pet.) for an adjusted standard pursuant to Section 28.1 of the Environmental Protection Act (Act) and Part 104 of the Board's procedural rules. See 415 ILCS 5/28.1 (2012); 35 Ill. Adm. Code 104.Subpart D. Kramer requests an adjusted standard from the general use compost standards found in Part 830 of the Board's regulations. 35 Ill. Adm. Code 830. Specifically, Kramer requests an adjusted standard from Section 830.202(d), (e)(3), (f), (g), (k), and (l)(1); Section 830.205(a)(1)(A) and (a)(1)(C); Section 830.206(f), (j)(1), (k), (l), and (n); and Sections 830.503, 830.504, and 830.507. 35 Ill. Adm. Code 830.202(d), (e)(3), (f), (g), (k), (l)(1); 830.205(a)(1)(A), (a)(1)(C); 830.206(f), (j)(1), (k), (l), (n); 830.503; 830.504; 830.507. These provisions generally establish standards applicable to landscape waste composting facilities and address the quality of end-product compost. Kramer seeks the adjusted standard for its leaf mulch production facility located at 300 Charles Court, West Chicago, DuPage County.

In this order, the Board finds that Kramer has satisfied the requirement of the newspaper notice for adjusted standard petitions under the Act. The Board directs the parties to brief the Board on the applicability of Part 830 of the Board's regulations, from which Kramer seeks an adjusted standard.

NOTICE PUBLICATION

Section 28.1 of the Act and Section 104.408 of the Board's procedural rules require publication of notice of an adjusted standard proceeding in a newspaper of general circulation in the area affected by the petitioner's activity. 415 ILCS 5/28.1 (2012); 35 Ill. Adm. Cod 104.408. The notice must be published within 14 days of filing a petition for an adjusted standard with the Board. See 35 Ill. Adm. Code 104.408(a). As required by Section 104.410, Kramer timely filed a certificate of publication with the Board on March 17, 2014. Notice of the petition was published in the *West Chicago Suburban Life* on March 6, 2014.

The Board finds that the notice is proper, and that the Board therefore has jurisdiction to hear the petition. See, e.g., Petition of SCA Tissue North America, LLC for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005).

IEPA RECOMMENDATION

The Board received the Illinois Environmental Protection Agency's (IEPA) recommendation (Rec.) on Kramer's petition on April 16, 2014. The recommendation states that Kramer first approached IEPA with a draft petition for adjusted standard in November 2011. Rec. at 2. The recommendation also states that in the time since November 2011, the IEPA and Kramer have had discussions on the petition and Kramer has "satisfactorily addressed the IEPA's questions and comments about the leaf mulch operation and the Petition." *Id.* The IEPA recommends that the Board grant Kramer's petition. *Id.* at 1.

APPLICABILITY

The Board finds that Kramer's petition has generally addressed the requirements of the Board's rules at 35 Ill. Adm. Code 104.406. However, the Board notes that in order for the Board to grant an adjusted standard from "a regulation of general applicability," the regulation must be applicable to the petitioner. Section 28.1(c)(1) provides that

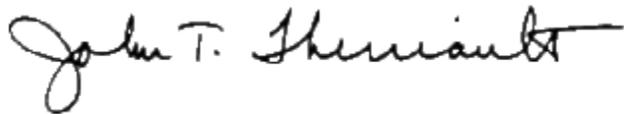
the Board may grant individual adjusted standards whenever the Board determines, upon adequate proof by petitioner, that . . . factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation *applicable to that petitioner*. 415 ILCS 5/28.1(c)(1) (2012) (emphasis added).

The Board finds that neither Kramer nor the IEPA has demonstrated that Part 830 of the Board's Solid Waste and Special Waste Hauling regulations is applicable to Kramer. Therefore, the Board directs the parties to brief the issue of how the Board's Standards for Compost Facilities (35 Ill. Adm. Code 830) apply to Kramer's leaf mulching operation. The Board directs Kramer to submit its brief, as petitioner, by June 2, 2014, which is the first business day following the 30th day after this order. The Board directs the IEPA to submit its response to Kramer's brief on or before June 16, 2014 and Kramer to file any reply to the IEPA's response on or before June 30, 2014.

The Board acknowledges that Kramer has requested a public hearing in this matter. The Board may direct the hearing officer to set this case for hearing upon the completion of the briefing schedule above.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 1, 2014 by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board