

ILLINOIS POLLUTION CONTROL BOARD
June 19, 2003

IN THE MATTER OF:)
)
PETITION OF ARGONNE NATIONAL) AS 03-4
LABORATORY FOR AN ADJUSTED) (Adjusted Standard - Air)
STANDARD FROM 35 ILL. ADM. CODE)
218.182)

ORDER OF THE BOARD (by T.E. Johnson):

On April 22, 2003, Argonne National Laboratory (Argonne) filed a petition for an adjusted standard from Board regulations that limit air emissions of volatile organic material (VOM) from stationary sources. Specifically, Argonne asks for an adjusted standard from 35 Ill. Adm. Code 218.182, which restricts the use of cold cleaning degreasers in the Chicago ozone nonattainment area.¹ The Board assigned docket number AS 03-3 to the case.

Argonne states that some of its research requires the surfaces of samples and related equipment to be completely free of residual contaminants, necessitating the use of common laboratory solvents with vapor pressures that exceed the regulation's limit. Petition at 4. Argonne, which occupies a 1,500-acre site in DuPage County, is owned by the United States Department of Energy and operated by the University of Chicago. *Id.* at 1.

On May 15, 2003, the Board dismissed the case and closed docket AS 03-3 because Argonne failed to timely publish newspaper notice of its adjusted standard petition. *See In re Petition of Argonne National Laboratory for an Adjusted Standard from 35 Ill. Adm. Code 218.182*, AS 03-3, slip op. at 2 (May 15, 2003). Under the Environmental Protection Act (415 ILCS 5/28.1(d) (2002)), the adjusted standard petitioner must publish the notice within 14 days after filing the petition. *See* 35 Ill. Adm. Code 104.408(a). The notice must appear in a newspaper of general circulation in the area likely to be affected by the activities that would be allowed if the Board granted the requested relief. *Id.* Within 30 days after filing the petition, the petitioner must file with the Board a certificate of publication issued by the newspaper. *See* 35 Ill. Adm. Code 104.410. Satisfying the newspaper notice requirement is a prerequisite to the Board's jurisdiction over an adjusted standard petition. *See In re Petition of Rhone-Poulenc Basin Chemical Co.*, AS 93-9, slip op. at 1 (Jan. 20, 1994).

In the May 15, 2003 order, the Board instructed Argonne that it could re-file the adjusted standard petition and, within 14 days after re-filing, publish newspaper notice. *See In re Petition*

¹ The Chicago ozone nonattainment area is comprised of Cook, DuPage, Kane, Lake, McHenry, and Will Counties, Aux Sable Township and Goose Lake Township in Grundy County, and Oswego Township in Kendall County. The area does not meet the National Ambient Air Quality Standard (NAAQS) for ozone adopted by the United States Environmental Protection Agency under the federal Clean Air Act (42 U.S.C. § 7409).

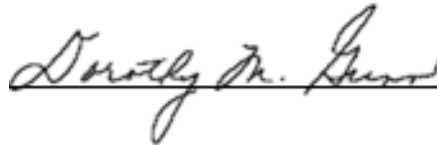
of Argonne, AS 03-3, slip op. at 2 (citing *In re* Petition of the Ensign-Bickford Co., AS 00-3, slip op. at 1 (Sept. 23, 1999)). Argonne has done so. On May 19, 2003, Argonne re-filed the petition, also moving the Board to incorporate the AS 03-3 record into the record of the new proceeding, which the Board has docketed AS 03-4. On June 10, 2003, Argonne filed a certificate issued by the *Chicago Sun Times* documenting that notice of Argonne's petition was published on May 24, 2003.

The newspaper notice therefore appeared within 14 days, and the certificate of publication was filed within 30 days, after re-filing, as required. *See* 415 ILCS 5/28.1(d) (2002); 35 Ill. Adm. Code 104.408, 104.410. The Board grants Argonne's motion to incorporate the record of AS 03-3 into the record of this new case, AS 03-4 (*see* 35 Ill. Adm. Code 101.306) and accepts the re-filed petition for hearing.

Argonne has the burden of proof. *See* 415 ILCS 5/28.1(c); 35 Ill. Adm. Code 104.426(a). The Illinois Environmental Protection Agency (Agency) must file a recommendation on Argonne's petition within 30 days after being served with this order. *See* 35 Ill. Adm. Code 104.416(a)-(c). Argonne may file a response to the Agency's recommendation within 14 days after being served with the recommendation. *See* 35 Ill. Adm. Code 104.416(d).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board