

ILLINOIS POLLUTION CONTROL BOARD
March 17, 2005

IN THE MATTER OF:)
) AS 05-5
PETITION OF FORD MOTOR COMPANY) Adjusted Standard - Air
FOR AN ADJUSTED STANDARD FROM)
35 ILL. ADM. CODE 218.586)

ORDER OF THE BOARD (by J.P. Novak):

On February 25, 2005, Ford Motor Company (Ford) filed a petition (Pet.) for an adjusted standard from the Board's organic material emission standards applicable to motor vehicle fueling operations in the Chicago area. Specifically, Ford "petitions the Board to grant it an adjusted standard from the provisions for Stage II vapor recovery (Stage II), codified at 35 Ill. Adm. Code § 218.586, and to require, in place of Stage II vapor recovery, that Ford comply with the standards of the federal onboard refueling vapor recovery regulations (ORVR)." Pet. at 1.

Ford owns a motor vehicle assembly plant, the Chicago Assembly Plant (Plant), located at 12600 South Torrence Avenue in Chicago. Pet at 3. Final assembly "includes providing the vehicle with sufficient fuel to be moved from the assembly area to a holding area prior to transport to the customer." *Id.* Under a Title V permit issued through the Clean Air Act Permit Program, Ford is allowed annually to dispense as much as 3.93 million gallons of gasoline at the Plant. *Id.*

The Board's regulations provide that specified operations dispensing gasoline must install, use, and maintain a vapor collection and control system certified by the California Air Resources Board (CARB). 35 Ill. Adm. Code 218.586(c); Pet. at 1. Ford reports that it installed a Stage II vapor recovery system at the Plant before the adoption of Section 218.586 and then upgraded it to meet CARB standards in 1994. Pet. at 4. Ford further reports that "[t]he existing system utilizes a specialized gasoline-dispensing nozzle that is designed to capture any displaced gasoline vapor from the motor vehicle tank during the initial filling operation and to route the captured vapors through a pipeline to an afterburner (flare) located on the roof of the plant. The afterburner ignites and combusts the vapors, using natural gas as a supplemental fuel as necessary." *Id.* Although Ford states that "[u]ncontrolled emissions from the initial fueling would be approximately 22 tons of volatile organic material (VOM) per year," the use of Stage II vapor control measures removes approximately 21 tons per year. *Id.* Ford states that "[t]he Stage II vapor recovery system at the Plant is nearing the end of its life (*id.*), and it estimates that a replacement system would require \$81,538 in annual costs. Pet. at 6.

Ford notes that, as required by the Clean Air Act (42 U.S.C. §7521(a)(6)), all motor vehicles manufactured by Ford at the Plant are now equipped with ORVR systems recovering at least 95% of vapors displaced during fueling. Pet. at 2, 4. "ORVR is designed to draw or retain displaced gasoline vapors in the car's carbon canister." Pet. at 4. "Over time, as the engine runs, the vapors are desorbed by engine heat and used as fuel for the engine." Pet. at 7. Ford argues that operating two separate vapor recovery systems causes them to compete with one another and

makes both less effective. *Id.* Ford concludes that “the control achieved by the ORVR-equipped vehicles assembled at the Plant is at worst equivalent to and at best better than the existing Stage II system used to satisfy the requirements of Section 218.586.” Pet. at 8.

The Illinois Environmental Protection Agency (Agency) has not yet filed its recommendation on the adjusted standard petition. *See* 35 Ill. Adm. Code 104.416. Ford requests that the Board hold a hearing on its petition in order to satisfy the public participation requirements of the State Implementation Plan (SIP). Pet. at 10.

In this order, the Board first determines whether Ford has satisfied the statutory notice requirement for adjusted standard petitions. *See* 35 Ill. Adm. Code 104.408; 35 Ill. Adm. Code 104.410. The Board then identifies informational deficiencies in Ford’s petition and directs Ford to address specific deficiencies at hearing.

NOTICE

Section 28.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2002)) and Section 104.408(a) of the Board’s procedural rules (35 Ill. Adm. Code 104.408(a) (quoting the Act)) require the adjusted standard petitioner to publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the proposed adjusted standard. Publication must take place within 14 days after the petition is filed. *See, e.g., In re* Petition of SCA Tissue North American, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005) (dismissing petition for adjusted standard for lack of jurisdiction when publication of notice occurred after the 14-day period).

The newspaper notice must indicate that any person may cause a public hearing to be held on the proposed adjusted standard by filing a hearing request with the Board within 21 days after publication. 415 ILCS 5/28.1 (2002); 35 Ill. Adm. Code 104.408(b). Within 30 days after filing the petition, the petitioner must file a certificate of publication with the Board. 35 Ill. Adm. Code 104.410. On March 9, 2005, Ford filed a certificate of publication documenting that the required notice of the petition was provided in the *Daily Southtown* on March 4, 2005. The Board finds that Ford has met the notice requirements of the Act and the Board’s procedural rules.

INFORMATIONAL DEFICIENCIES

The Board finds that Ford has not provided all of the information required by the Act for an adjusted standard petition. 415 ILCS 5/28.1(c) (2002). Ford notes that the regulation of general applicability does not specify a level of justification required of a petitioner for an adjusted standard. *Id.*; Pet. at 2. In the absence of that specified level of justification, the Board cannot grant an adjusted standard unless, “upon adequate proof by the petitioner,” it determines that Ford has satisfied the four factors contained in Section 28.1(c) of the Act. 415 ILCS 5/28.1(c) (2002); *see also* 35 Ill. Adm. Code 104.426 (a) (quoting the Act). Below, the Board identifies those informational deficiencies and directs Ford to cure them.

1. Under Section 28.1(c)(1) of the Act (415 ILCS 5/28.1(c)(1) (2002)), the petition does not specifically address whether factors relating to Ford “are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner.”
2. Under Section 28.1 (c)(2) of the Act (415 ILCS 5/28.1(c)(2) (2002)), the petition does not specifically address whether “the existence of those factors justifies an adjusted standard.”
3. Under Section 28.1 (c)(3) of the Act (415 ILCS 5/28.1(c)(3) (2002)), the petition does not specifically address whether “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.”

Unless Ford offers adequate proof at hearing, the Board cannot determine that these factors have been satisfied and cannot grant the petition for an adjusted standard. 415 ILCS 5/28.1(c) (2002). Accordingly, the board directs Ford to address these informational deficiencies at hearing. The Board recognizes that Ford may have provided some or all of the requested information to the Agency, but it must be developed in the record of this proceeding in order for the Board to satisfy its statutory obligations.

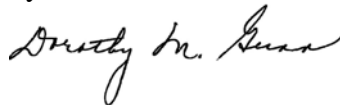
As noted above, the Agency has not yet filed its recommendation. Under the Board’s procedural rules, that recommendation is not generally due until 45 days after the filing of the petition or amended petition, unless ordered otherwise. 35 Ill. Adm. Code 104.416(a). Under the Board’s procedural rules, Ford may file a response to the recommendation within 14 days after the date of service of the recommendation. 35 Ill. Adm. Code 104.416(d).

CONCLUSION

The Board finds that Ford has satisfied the jurisdictional requirement of providing newspaper notice of its petition for an adjusted standard from the Board’s organic material emission standards applicable to motor vehicle fueling operations for the Chicago area. However, as described above, the Board finds that Ford has not provided all of the necessary information in its petition and directs Ford to cure those deficiencies at hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 17, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board