

ILLINOIS POLLUTION CONTROL BOARD
January 18, 2001

IN THE MATTER OF:)
)
PETITION OF AMEROCK) R01-15
CORPORATION, ROCKFORD FACILITY,) (Site-Specific Rulemaking - Water)
FOR SITE-SPECIFIC RULEMAKING)
PETITION FOR AMENDMENT TO 35 ILL.)
ADM. CODE 304.303)

ORDER OF THE BOARD (by N.J. Melas):

On September 14, 2000, Amerock Corporation (Amerock) filed a petition (Pet.) for site-specific rulemaking. Amerock's site-specific rule (35 Ill. Adm. Code 304.403) for its facility at 4000 Auburn Street in Rockford, Winnebago County, Illinois (facility) expired December 31, 2000. See Amerock Corp., Rockford Facility, Site-Specific Rulemaking Petition for Amendment to 35 Ill. Adm. Code 304. Subpart C (June 23, 1994), R87-33. Amerock's site-specific rule allowed it to discharge higher levels of chromium (total and hexavalent), copper, cyanide (total), zinc, and total suspended solids into the North Fork Kent Creek (Creek) than would otherwise be permissible pursuant to the rule of general applicability at 35 Ill. Adm. Code 304.124(a). Pet. at 2-3.

In its petition Amerock requested that the Board remove the December 31, 2000 sunset provision from its site-specific rule at 35 Ill. Adm. Code 304.303 and renumber the rule as 35 Ill. Adm. Code 304.233. Amerock also requested that the Board incorporate the record from docket R87-33 into the instant docket and waive the requirement that it file a petition signed by at least 200 persons as required at 35 Ill. Adm. Code 102.202.¹ Pet at 2, 6.

In this order, the Board finds that Amerock's amended petition (Am. Pet.) for relief, like its original petition, is deficient. The Board directs that Amerock file a second amended petition addressing the specific points listed below. If Amerock fails to file a second amended petition by June 29, 2001, or if Amerock fails to comply with the specifications of this order, the Board will dismiss this matter.

Description of Facility

Amerock's facility has a variety of manufacturing operations that convert raw materials such as steel, zinc, copper, and plastics into household products. The facility releases dust and metal-containing particulates into the air, which Amerock claims are in compliance with the Board's air pollution control requirements and applicable air emission limitations. Some of the

¹ The Board has adopted new procedural rules effective January 1, 2001. All citations in this order are to these new rules.

air emissions, primarily metal-containing particulates, settle on the roof of the facility and are washed into the roof drains. The roof drainage is discharged into the Creek. Pet. at 2-3.

Procedural History

In October 2000, the Board issued an order in which it found that Amerock's initial petition was deficient in several respects. Specifically, the Board found that the petition did not contain most of the information which the Board must consider in promulgating a rule as specified at Section 27(a) of the Environmental Protection Act (Act). 415 ILCS 5/27(a) (1998). The Board also found that the petition did not contain an adequate statement of reasons as required at Section 28 of the Act. 415 ILCS 5/28 (1998). Furthermore, the Board found that the petition did not satisfy all of the requirements at Sections 102.202 and 102.210 of the Board's procedural rules. 35 Ill. Adm. Code 102.202, 102.210. The Board ordered Amerock to submit an amended petition by November 6, 2000. If Amerock failed to submit an amended petition, the Board stated that it would dismiss the petition as inadequate. See 35 Ill. Adm. Code 102.212(a). The Board also reserved ruling on Amerock's request to incorporate the record from docket R87-33 and the request to waive the petition signature requirement. See Amerock Corp., Rockford Facility, for Site-Specific Rulemaking Petition for Amendment to 35 Ill. Adm. Code 304.303 (October 5, 2000), R01-15.

On November 2, 2000, Amerock filed a motion for extension of time to file the amended petition. Amerock stated that it was preparing additional documentation for the amended petition and needed additional time to collect the relevant information. On November 13, 2000, the hearing officer issued an order granting Amerock's motion. Pursuant to the hearing officer order, Amerock timely filed its amended petition on November 27, 2000.

DISCUSSION

Existing Physical Conditions, Character of the Area to be Affected, Nature of the Existing Receiving Body of Water - Section 27(a) of the Act, 35 Ill. Adm. Code 102.210(b), 102.210(c)

In its October order, the Board determined that Amerock did not provide current monitoring data on water quality, biological activity, or sediment analysis in the Creek to support its assertion that its discharges have minimal environmental impacts. Amerock Corp., R01-15, slip op. at 2. In its amended petition, Amerock indicated that it had hired Huff & Huff to conduct new biological and sediment studies in the Creek during the spring of 2001. However, Amerock did not mention studying the impact of the contaminants of concern on water quality or fish tissue. The Board directs Amerock to analyze water quality (at points upstream, between, and downstream of Amerock's outfalls) and to provide new data in its amended petition. As part of its analysis, Amerock must also provide information on past and current water quality data in the Creek and compare this data to the Board's water quality standards. Amerock must also provide data on the presence of contaminants of concern in fish tissue.

The Board notes that the then-existing Department of Energy and Natural Resources (DENR) conducted an economic impact study during the proceedings in docket R87-33.² The DENR expressed some concern that chromium emissions which did not land on Amerock's roof might be dissolving in the soil. Samples from two nearby water wells had high levels of chromium, and the DENR considered Amerock as a possible source. Amerock must submit a groundwater impact demonstration as part of its second amended petition.

Although Amerock provided information on zoning and surrounding land use in the amended petition, the information that it provided is dated November 1990. Am. Pet. at Exh. 4. The Board directs Amerock to provide more recent data on zoning and surrounding land and Creek uses, including (but not limited to) information on nearby parks and recreation areas, residential areas, and downstream fisheries.

Technical Feasibility and Economic Reasonableness of Compliance Options - Section 27 (a) of the Act, 35 Ill. Adm. Code 102.202(b), 102.210(b) and 102.210(c)

In its October order, the Board determined that Amerock had relied on evaluation of compliance options from 15 years ago and had not provided an updated cost analysis or an updated evaluation of compliance alternatives. Amerock Corp., R01-15, slip op. at 2. In its amended petition, Amerock identified the same compliance options from its original petition and updated the costs of those compliance options to reflect the rate of inflation since 1990. Am. Pet. at 5,6. The Board does not find this analysis to be complete.

Furthermore, of the three non-dilution compliance options presented in docket R87-33, Amerock identified only two (source abatement and collection/treatment) in the amended petition. Amerock Corp., R87-33, slip op. at 5-6. Amerock did not consider the third compliance option (discharge to a sanitary sewer) in the amended petition. Furthermore, it is unclear if the costs presented in the amended petition are capital costs or annual operating costs. The Board directs Amerock to analyze all three compliance options presented in docket R87-33 including a feasible means to address any safety or hazardous waste disposal concerns associated with the sanitary sewer discharge option. Amerock must also analyze the capital and annual operating costs of each option.

The Board also directs Amerock to analyze pollution prevention options such as new inputs or manufacturing processes that lower airborne emissions from the facility. Amerock also must analyze air emissions controls other than bag houses, including new advances and equipment suitable for air emission controls.

The Board notes that the Amerock facility has grown in size from 750,000 square feet (according to the R87-33 docket) to 850,000 square feet as described in the initial petition. Amerock must address the changes in plant operations that would increase or decrease the

² The Department of Energy and Natural Resources is now known as the Department of Natural Resources.

pollutant load in the roof runoff, including changes in manufacturing processes, raw materials, and venting practices.

Amerock must analyze all compliance options for technical feasibility and economic reasonableness (including a breakdown of capital costs and annual operating costs). The Board directs Amerock to determine if advances in technology or new equipment have caused the real cost of compliance options to decrease. The Board also directs Amerock to compare cost figures for compliance options to its overall operating budget.

The Board also directs Amerock to present information on other facilities that must comply with the rule of general applicability.

Statement of Reasons/Statement of Facts/Statement of Purpose - Section 28 of the Act, 35 Ill. Adm. Code 102.202(b)

Amerock states that the lack of environmental impact and substantial compliance costs are reasons for the site-specific rulemaking. The statement of reasons will not be adequate and it will not be fruitful to schedule a hearing until Amerock provides a more complete analysis of compliance options and submits further biological, water, sediment, and groundwater sampling as directed above.

As part of its analysis, the Board directs Amerock to provide information (such as discharge monitoring reports) on compliance with its recently-expired site-specific rulemaking at 35 Ill. Adm. Code 304.303. Amerock must prove to the Board that it was able to comply with its recently-expired site-specific rule before the Board will consider adopting a new nearly-identical site-specific rule.

Petition Signature Requirement - Section 28 of the Act, 35 Ill. Adm. Code 102.202(f)

In both the petition and amended petition, Amerock requested that the Board waive the petition signature requirement. The Board will wait until after Amerock files the second amended petition to rule on this request.

Proposed Language – 35 Ill. Adm. Code 102.202(a), 102.210(a)

The Board notes that the next available statutory reference at 35 Ill. Adm. Code 304 Subpart B is Section 304.223, not Section 304.233. Amerock's proposed site-specific rulemaking, if adopted, would be at 35 Ill. Adm. Code 304.223.

The Board also notes that Amerock should amend its proposed language to request that the site-specific rule apply to the North Fork Kent Creek as opposed to North Kent Creek. North Fork Kent Creek is the name that the United States Geological Survey uses for this waterbody.

Synopsis of Testimony – 35 Ill. Adm. Code 102.202(c)

In the second amended petition, Amerock must submit a complete synopsis of its testimony for hearing.

Amendment of Existing Board Rule – 35 Ill. Adm. Code 102.202(h)

Amerock must certify that its proposal amends the most recent version of its recently-expired site-specific rulemaking. This is a new requirement pursuant to the new procedural rules.

Justification for Missing Information – 35 Ill. Adm. Code 102.202(j), 35 Ill. Adm. Code 102.210(f)

In its petition and amended petition, Amerock failed to justify its failure to provide recent information on zoning and land use. It also failed to justify its failure to provide a complete set of compliance alternatives and information on current water and sediment quality. If Amerock cannot provide the information specified above in the second amended petition, Amerock must provide a complete justification for the omission of the specified information.

Consistency with Federal Law – 35 Ill. Adm. Code 102.210(d)

In the amended petition, Amerock states that it “is not requesting relief from water quality standards, and the Board can grant the requested relief consistent with federal law.” Am. Pet. at 8. The Board is not satisfied with this statement. Amerock must provide information on the current status of its National Pollutant Discharge Elimination System (NPDES) permit and how its petition will affect its NPDES permit.

Incorporation of the Record from Docket R87-33

In both its initial petition and its amended petition, Amerock requested that the Board incorporate the record from docket R87-33 into this docket. The Board will incorporate the June 23, 1994 final opinion and order from docket R87-33 and the exhibits attached to Amerock’s amended petition (most of which were part of the record in R87-33). However, the Board will not simply incorporate the entire record from R87-33. In its second amended petition, Amerock must provide specific reasons for incorporating individual documents from the record in R87-33.

CONCLUSION

The Board directs Amerock to submit a second amended petition that satisfies the informational deficiencies outlined in this order. In the second amended petition, Amerock must:

1. Submit the results of the Huff & Huff biological and sediment studies.

2. Conduct new studies on water quality (at points upstream, between and downstream of Amerock's outfalls) in the Creek and analyze the data.
3. Analyze fish tissue samples from the Creek for the presence of the contaminants of concern.
4. Provide information on past and current water quality data in the Creek and compare this data to the Board's water quality standards.
5. Submit a groundwater impact demonstration.
6. Provide more recent data on zoning and surrounding land and Creek uses, including (but not limited to) information on nearby parks and recreation areas, residential areas, and downstream fisheries.
7. Analyze the three non-dilution compliance options presented in docket R87-33.
8. Analyze pollution prevention options such as new inputs or manufacturing processes that lower airborne emissions from the facility.
9. Analyze air emissions controls other than bag houses, including new advances and equipment suitable for air emission controls.
10. Address the changes in plant operations that have increased or decreased the pollutant load in the roof runoff, including changes in manufacturing processes, raw materials, and venting practices.
11. Analyze all compliance options (see points 5, 6, 7, and 8) for technical feasibility and economic reasonableness, including a breakdown of capital costs and annual operating costs.
12. Determine if advances in technology or new equipment have caused the real cost of compliance options (see points 5, 6, 7, and 8) to decrease since 1990.
13. Compare cost figures for compliance options (see points 5, 6, 7, and 8) to its overall operating budget.
14. Present information on other facilities that must comply with the rule of general applicability.
15. Provide information (such as discharge monitoring reports) on compliance with its recently-expired site-specific rulemaking at 35 Ill. Adm. Code 304.303.
16. Change the citation for its proposed site-specific rulemaking to 35 Ill. Adm. Code 304.223.

17. Amend its proposed language to request that the site-specific rule apply to the North Fork Kent Creek as opposed to North Kent Creek.
18. Submit a complete synopsis of its testimony for hearing.
19. Certify that its proposal amends the most recent version of its recently-expired site-specific rulemaking.
20. Provide information on the current status of its NPDES permit and how its petition will affect its NPDES permit.
21. Provide a complete justification for the omission of the specified information above if it cannot provide the information.

Amerock has indicated that it is conducting biological studies, and the Board has required water quality, sediment, and groundwater studies. In order to provide Amerock with sufficient time to complete and analyze the studies, the Board will give Amerock until June 29, 2001, to submit a second amended petition.

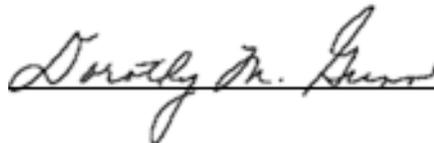
The Board reminds Amerock that the pendency of this docket does not excuse non-compliance with the general effluent standards at 35 Ill. Adm. Code 304.

If Amerock fails to submit the second amended petition by June 29, 2001, or if Amerock fails to comply with the specifications of the instant order in the amended petition, the Board will dismiss Amerock's petition as inadequate. See 35 Ill. Adm. Code 102.212(a).

IT IS SO ORDERED.

Board Member M. McFawn abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 18th day of January 2001 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board