

ILLINOIS POLLUTION CONTROL BOARD
March 9, 1995

IN THE MATTER OF:)
)
PETITION OF TOMMY HOUSE TIRE) AS 95-1
FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard - Land)
35 ILL. ADM. CODE 848.202)

ORDER OF THE BOARD (by M. McFawn):

On January 9, 1995, Tommy House Tire Company, Inc. (Tommy House) filed a petition for adjusted standard regarding its tire retreading facility, located at 304 E. Main Street, Decatur, Illinois. Tommy House is requesting an adjusted standard from the tire and building separation requirements of 35 Ill. Adm. Code 842.202(b)(2) and the 14-day storage limitation for used and waste tires at 35 Ill. Adm. Code 842.202(b)(5). The Board received the required notice of publication on February 1, 1995. The Agency response to the petition for adjusted standard was filed on February 10, 1995. Additionally, Tommy House filed a reply to the Agency Response on February 23, 1995.¹

The Board finds that Tommy House's petition, as presently before us, does not yet meet the requirements of 35 Ill. Adm. Code 106 and Section 28.1 of the Act (415 ILCS 5/28.1 (1992).) In particular, the petition does not meet the requirements of 35 Ill. Adm. Code 106.705(e), which requires that a petition for adjusted standard include:

A description of the efforts which would be necessary if the petitioner were to comply with the regulation of general applicability. All compliance alternatives, with the corresponding costs for each alternative, shall be discussed. The discussion of costs shall include the overall capital costs as well as the annualized capital and operating costs.

Tommy House fails to provide this information for either the tire and building separation requirements or the 14-day storage requirements. While Tommy House asserts in its reply that the information required by Section 106.705(e) is addressed in Section F of the petition, the Board finds this discussion

¹ Pursuant to Section 102.241(c) of the Board's procedural rules, parties do not have the right to file a reply without leave of the Board. (35 Ill. Adm. Code 102.241(c).) Petitioner did not file a request for leave to file a reply; in the interests of judicial economy, however, the Board will accept petitioner's reply.

insufficient. The petition for adjusted standard does not describe the efforts which would be necessary to achieve compliance, and does not describe all available compliance alternatives or provide corresponding cost information. The petition is therefore deficient.

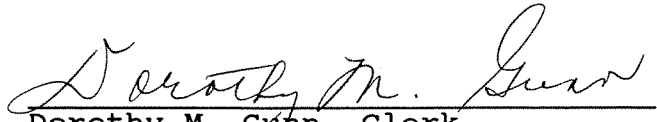
Furthermore, the petition does not satisfy the requirements of 35 Ill. Adm. Code 106.705(f), which requires the petitioner to provide a narrative description of the proposed adjusted standard, as well as proposed language for a Board order. Petitioner has not explained what standard it seeks in lieu of Section 848.202(b)(2). Therefore, petitioner is directed to do so and also to submit for the Board's review the program plan it anticipates developing to satisfy the Alternative Management Standards set forth at Section 848.206(a)(3) and (c)(3). This program plan should include proposed requirements for petitioner's site, including, but not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment, and mosquito inspection and control.

Finally, as the Agency observed in its recommendation, a single reference to 35 Ill Adm. Code 848.201(b)(1) on page one of the petition created an ambiguity as to whether petitioner is seeking an adjusted standard from that section or Section 848.202(b)(1). In its reply, Tommy House cures that ambiguity by clarifying that the relief sought is from Section 848.202(b)(1), not Section 848.201(b)(1).

The Board directs petitioner to file an amended petition on or before April 10, 1995, curing the identified deficiencies in the petition. Failure to file an amended petition by this date will subject this matter to dismissal.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9th day of March, 1995, by a vote of 4-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board