

ILLINOIS POLLUTION CONTROL BOARD
March 3, 1994

IN THE MATTER OF:)
)
PETITION OF HYDROSOL, INC) AS 94-6
FOR AN ADJUSTED STANDARD FROM) (Adjusted Standard)
35 ILL. ADM. CODE 218 SUBPART DD)
)

ORDER OF THE BOARD (by J. Theodore Meyer):

On February 14, 1994, Hydrosol, Inc. (Hydrosol) filed a petition for adjusted standard for its facility, located in Bridgeview, Cook County, Illinois. Hydrosol asks the Board to interpret 35 Ill. Adm. Code 218.686(a)(2)(B). That section regulates the emission of volatile organic materials (VOM) from Hydrosol's aerosol can filling process. Depending on the interpretation by the Board, Hydrosol alternatively requests an adjusted standard from that section. The Board received the required notice of publication on February 25, 1994.¹

The Board finds that the petition does not meet the requirements of Section 28.1 of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (1992)), and 35 Ill. Adm. Code 106.

Specifically, the petition does not adequately address Section 28.1(c)(3) of the Act, which requires a petitioner for an adjusted standard to prove that 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. The petition also does not meet the requirements of 35 Ill. Adm. Code 106.705(g), which requires a petitioner to state the quantitative and qualitative impact of the petitioner's activity on the environment if the petitioner were to comply with the regulation of general applicability, as compared to the quantitative and qualitative impact on the environment if the petitioner were to comply only with the proposed adjusted standard. Hydrosol simply states that all of its emissions are controlled, so that the proposed adjusted standard is as protective of the environment and human health as the underlying rule. The petition contains no qualitative or quantitative information, including such information as the type of controls currently used and the amount of VOM emissions. Hydrosol is also directed to describe the impacts of complying with Section 218.686(a)(2)(B), as opposed to

¹ Section 28.1 of the Environmental Protection Act requires petitioners to file, within 14 days of the filing of a petition for adjusted standard, proof that public notice of the filing of the petition was published. (415 ILCS 5/28.1(1) (1992).)

the impacts of the requested adjusted standard.

Additionally, the petition does not adequately address Section 106.705(e) of the Board's procedural rules. (35 Ill. Adm. Code 106.705(e).) That subsection requires a description of compliance alternatives and costs of those alternatives. The petition does not contain any explanation of Hydrosol's statement that there are no compliance options available except being forced out of the market, including information on rejected compliance alternatives. The petition should also contain information on the costs of compliance, which would apparently be the costs of Hydrosol's closure.

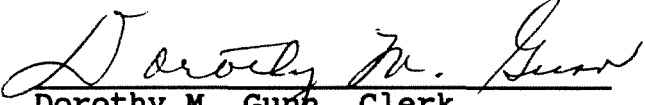
The Board further notes that the proposed language submitted by Hydrosol includes the provision that the adjusted standard would become effective upon filing with the Secretary of State. The Board points out that adjusted standard proceedings are not rulemaking proceedings, and that adjusted standards are not filed with the Secretary of State.

The Board accepts Hydrosol's petition for adjusted standard relief, but directs Hydrosol to file an amended petition addressing the identified deficiencies no later than April 15, 1994. Failure to file an amended petition by that date will subject this matter to dismissal. Hydrosol has requested a hearing in this matter. Upon the filing of a sufficient amended petition, this matter will be set for hearing.

There are also two motions before the Board. On February 16, 1994, Hydrosol filed a motion to substitute exhibits. Hydrosol seeks to substitute an original of Exhibit 5 for a facsimile copy of Exhibit 5. That motion is granted. On February 28, 1994, the Illinois Environmental Protection Agency (Agency) filed a motion for extension of time, seeking until April 29, 1994 to file its response to Hydrosol's petition. The Board denies the Agency's motion as unnecessary at this time, since the Agency need not respond until thirty days after the filing of the amended petition. The Board asks the Agency, as part of its response, to specifically address Hydrosol's contentions on the proper interpretation of Section 218.686(a)(2)(B), including citation to any information in the record of R93-14 which addresses the issue.

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 3rd day of March, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board