

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1996

IN MATTER OF:)
)
PETITION OF THE LOUIS BERKMAN) AS 97-5
COMPANY, d/b/a THE SWENSON) (Adjusted Standard - Air)
SPREADER COMPANY FOR AN)
ADJUSTED STANDARD FROM 35 ILL.)
ADM. CODE 215, SUBPART F)

ORDER OF THE BOARD (by K.M. Hennessey):

On October 10, 1996 the Louis Berkman Company, d/b/a the Swenson Spreader Company (petitioner) filed a petition for an adjusted standard from 35 Ill. Adm. Code 215, Subpart F for its plant in Lindenwood, Ogle County, Illinois. Petitioner seeks an adjusted standard from 35 Ill. Adm. Code 215.204(j)(2) or in the alternative a site-specific rule. Along with the petition, petitioner filed a motion for relief from the requirement of 35 Ill. Adm. Code 102.121(h) that a site-specific rulemaking be accompanied by 200 signatures. On November 6, 1996, petitioner filed a certificate of publication of the petition.

Initially, the Board observes that petitioner may not seek a site-specific rule as an alternative in a petition for an adjusted standard. These two avenues of relief employ very different procedures and if petitioner wishes to pursue a site-specific rule from the Board, it must do so through a separate petition. The Board will consider the petition only as a petition for an adjusted standard. Petitioner's motion for relief from the filing requirements for a site-specific rule is therefore moot.

Section 28.1(c) of the Environmental Protection Act (Act)(415 ILCS 5/28.1(c) (1994)) requires a petitioner for an adjusted standard to prove that:

1. factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;
2. the existence of those factors justifies an adjusted standard;
3. 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; and
4. the adjusted standard is consistent with any applicable federal law.

In addition, 35 Ill. Adm. Code 106.705 specifies the information on these and other factors that must be included in the petition to the Board, under headings that correspond to that section.

The petition does not contain headings that correspond to 35 Ill. Adm. Code 106.705. The petition also does not provide the information required by 35 Ill. Adm. Code 106.705 and Section 28.1(c). Particularly, the petition does not provide all of the information required by 35 Ill. Adm. Code 106.705(c), (d) and (h) - (l). For example, while the petition does state the number of employees at the facility as required by Section 106.705(d), it fails to provide a complete description of petitioner's activities. Petitioner must provide such information for further consideration or explain precisely why such information cannot be provided, as required by 35 Ill. Adm. Code 106.705(c).

If petitioner does not file an amended petition, addressing the above issues, on or before December 27, 1996, this matter may be subject 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 _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board