

ILLINOIS POLLUTION CONTROL BOARD
December 15, 2005

IN THE MATTER OF:)
) AS 06-1
PETITION OF LAFARGE MIDWEST, INC.) (Adjusted Standard – Land)
FOR AN ADJUSTED STANDARD FROM)
35 ILL. ADM. CODE 739.161.)

ORDER OF THE BOARD (by G. T. Girard):

On September 12, 2005, petitioner Lafarge Midwest, Inc. (Lafarge) filed a petition (Pet.) seeking an adjusted standard from 35 Ill. Adm. Code 739.161, the Board's waste disposal regulations restricting the burning of off-specification used oil for energy recovery. Lafarge has waived its right to a hearing on the petition. Pet. at 31; *see* 35 Ill. Adm. Code 104.422(a)(1) (requiring hearing when petitioner requests that one be held).

The Environmental Protection Act and the Board's procedural rules require publication of notice of a petition for an adjusted standard in a newspaper of general circulation in the area likely to be affected by the petitioner's activity. 415 ILCS 5/28.1 (2004); 35 Ill. Adm. Code 104.408(a). The notice must be published within 14 days of filing a petition for an adjusted standard with the Board. 35 Ill. Adm. Code 104.408(a). Lafarge on September 30, 2005, timely filed with the Board a certificate stating that the *Daily Southtown* published notice of the petition on September 15, 2005. *See* 35 Ill. Adm. Code 104.410 (requiring filing of certificate within 30 days after filing of petition). No party requested a hearing in this matter within 21 days after publication of notice of the petition. *See* 35 Ill. Adm. Code 104.420(a).

In an order dated October 20, 2005, the Board found that Lafarge's petition did not fully satisfy the information requirements contained in the Board's rules. *See* 35 Ill. Adm. Code 104.406. The Board thus directed Lafarge to address those informational deficiencies by filing an amended petition within 45 days of that October 20, 2005 Board order.

On October 24, 2005, the Illinois Environmental Protection Agency (Agency) filed its recommendation (Rec.) with regard to the original petition. *See* 35 Ill. Adm. Code 104.416. In the recommendation, the Agency notes that Lafarge in January 2004 sought confirmation that its slag dryer could be considered a boiler under 35 Ill. Adm. Code 720.110. Rec. at 1. The Agency further notes that it did not then agree with Lafarge's position. *Id.* The Agency and Lafarge have since exchanged information regarding the requirements for a boiler determination. *Id.* "Petitioner satisfactorily addressed questions and comments presented by the Illinois EPA during this period and the information used to do this has been incorporated in the Petition for Adjusted Standard." Rec. at 2. Accordingly, the Agency did not take issue with Lafarge's statements on the Section 104.406 factors. Rec. at 2-3. The Agency "recommends that the adjusted standard be granted." Rec. at 3.

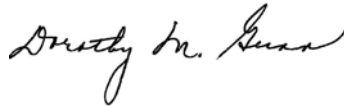
On December 5, 2005, Lafarge filed an amended petition for boiler determination through adjusted standard proceedings. Based on an initial review of that amended petition, the

Board finds that it complies with the petition content requirements contained in the Board's procedural rules. *See* 35 Ill. Adm. Code 104.406. Consequently, the Board accepts the amended petition for boiler determination.

The Board's procedural rules allow the Agency to file an amended recommendation if the amendment does not cause material prejudice. 35 Ill. Adm. Code 104.418(b). If the Agency wishes to file an amended recommendation, the Board directs it to do so on or before January 17, 2006, the first business day following the 30th day after the December 15, 2005 date of this order. Should the Agency file an amended recommendation, the Board's procedural rules provide that "[t]he petitioner may file a reply to a written amended recommendation within 14 days after the date of receipt of the amended recommendation." 35 Ill. Adm. Code 104.418(c).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board