

ILLINOIS POLLUTION CONTROL BOARD
March 6, 2008

VESUVIUS USA CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 08-48
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On March 3, 2008, Vesuvius USA Corporation (Vesuvius) timely filed a petition asking the Board to review a January 28, 2008 determination of the Illinois Environmental Protection Agency (Agency). In the determination, the Agency issued, with conditions, a renewed Federally Enforceable State Operating Permit (FESOP) concerning Vesuvius' ceramic manufacturing facility in Charleston, Coles County. *See* 415 ILCS 5/40.2(a) (2006); 35 Ill. Adm. Code 105.302(e). For the reasons below, the Board accepts Vesuvius' petition for hearing.

The petition states that under Section 39.5 of the Environmental Protection Act (Act) (415 ILCS 5/39.5 (2006)), Vesuvius applied to the Agency for renewal of the company's FESOP. Petition at 1. Vesuvius thereafter received and requested changes to a preliminary draft FESOP. *Id.* at 1-2. According to the petition, the final FESOP issued by the Agency does not contain the changes requested by Vesuvius, but instead includes conditions "that are not required by the Act or regulations," and "are not necessary to correct, detect, or prevent noncompliance with, or to accomplish the purpose of, the Act or regulations." *Id.* at 2-3.

The Board accepts the petition for hearing. Vesuvius has the burden of proof. *See* 415 ILCS 5/40.2(a) (2006); 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2006)), which only Vesuvius may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, "the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2006)]." 415 ILCS 5/40.2(c) (2006). Currently, the decision deadline is July 1, 2008, which is the 120th day after the Board received the petition. The Board meeting immediately before the decision deadline is scheduled for June 19, 2008.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of its determination within 30 days after it is served with the petition. *See* 35 Ill. Adm. Code 105.302(f). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed.

See 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.302(f).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 6, 2008, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board