

ILLINOIS POLLUTION CONTROL BOARD  
May 30, 2019

IN THE MATTER OF: )  
)  
PETITION OF EMERALD POLYMER ) AS 19-2  
ADDITIVES, LLC FOR AN ADJUSTED ) (Adjusted Standard - Water)  
STANDARD FROM 35 ILL. ADM. CODE )  
304.122(b) )

ORDER OF THE BOARD (B.K. Carter):

On April 3, 2019, Emerald Polymer Additives, LLC (Emerald) filed a petition (Pet.) requesting that the Board renew an adjusted standard previously granted in 2004 and renewed in 2015 subject to several conditions. Petition of Noveon, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 304.122, AS 02-5 (Nov. 4, 2004); Petition of Emerald Performance Materials, LLC for an Adjusted Standard from 35 Ill. Adm. Code 304.122(b), AS 13-2 (Apr. 16, 2015), *aff'd in part, rev'd in part sub nom. Emerald Performance Materials v. IPCB*, 2016 IL App (3d) 150526. Emerald requests relief from the total ammonia nitrogen effluent standard in Section 304.122(b) of the Board's water pollution rules (35 Ill. Adm. Code 304.122(b)). Pet. at 1. The requested relief would apply to wastewater discharged into the Illinois River from Emerald's chemical manufacturing facility located in Henry, Marshall County. *Id.* at 1-2. Unlike the adjusted standard granted by the Board in AS 13-2 (modified on remand, Emerald Performance, AS 13-2 (Dec. 1, 2016)), Emerald's proposed adjusted standard removes the five-year sunset provision and three other conditions. *Id.* at 28.

In this order, the Board first finds that Emerald satisfied the notice requirements of an adjusted standard proceeding and then accepts the matter for hearing. Next, the Board discusses IEPA's recommendation and the filing deadline. Finally, the Board grants Emerald's motion to incorporate the records of Noveon, AS 02-5 and Emerald Performance, AS 13-2 into the record of this proceeding.

**NOTICE**

The Environmental Protection Act (Act) and the Board's procedural rules require publishing notice of an adjusted standard proceeding in a newspaper of general circulation in the area affected by the petitioner's activity. 415 ILCS 5/28.1(d)(1) (2016); 35 Ill. Adm. Code 104.408(a). The petitioner must publish the notice within 14 days after filing the petition with the Board. *Id.* Emerald timely filed a certificate of publication on April 10, 2019, the date on which the *Henry News-Republican* published notice of filing the petition. *See* 35 Ill. Adm. Code 104.410. As required, the notice included the statement that any person may cause the Board to hold a public hearing on the petition by requesting a hearing within 21 days after the date on which notice was published. 415 ILCS 5/28.1(d)(1) (2016); 35 Ill. Adm. Code 104.408(b)(7). The Board finds that Emerald's notice meets the requirements of the Act and the Board's rules.

### **HEARING**

Emerald requests a hearing on its petition (Pet. at 33). *See* 35 Ill. Adm. Code 104.406(j). The Board accepts the petition for hearing without commenting on the informational sufficiency or merits of Emerald's petition. Through orders of its own or its hearing officer, the Board may direct Emerald to provide additional information concerning its request before or at hearing. *See* Petition of BFI Waste Systems of North America, Inc. for Waste Delisting, AS 08-5, slip op. at 1 (Jan. 10, 2008) (accepting petition for hearing while noting that orders may issue requiring more information from petitioner before or at hearing). The Board directs the hearing officer to expeditiously schedule a hearing in this case. The hearing officer will issue a notice setting the date, time, and place of the hearing.

### **RECOMMENDATION**

In an adjusted standard proceeding, the Board's rules require the Illinois Environmental Protection Agency (IEPA) to file a recommendation concerning the Board's proposed action on the petition. 35 Ill. Adm. Code 104.416(a). Unless otherwise ordered by the hearing officer, IEPA must file its recommendation within 45 days after the filing of the petition with the Board. *Id.* On May 16, 2019, IEPA filed a motion to extend the deadline to file the recommendation. On May 20, 2019, the Board's hearing officer issued an order granting IEPA's motion. IEPA's recommendation is now due on or before July 19, 2019. Once IEPA's recommendation is filed, Emerald may respond within 14 days after being served with it. 35 Ill. Adm. Code 104.416(d).

### **MOTION TO INCORPORATE**

On April 3, 2019, Emerald filed a motion to incorporate the records of Noveon, AS 02-5 and Emerald Performance, AS 13-2 into this proceeding. IEPA did not oppose this motion. The Board relied on the records of both proceedings in granting adjusted standard relief for the same plant and from the same regulation as are now at issue. Accordingly, the Board finds that the records are relevant to this proceeding. *See* 35 Ill. Adm. Code 101.306(a). The Board grants the motion and incorporates the records of Noveon, AS 02-5 and Emerald Performance, AS 13-2 into the record of this proceeding.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 30, 2019, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board