

ILLINOIS POLLUTION CONTROL BOARD
October 5, 2023

IN THE MATTER OF:)
)
PETITION OF EAST DUBUQUE) AS 24-2
NITROGEN FERTILIZERS, LLC FOR) (Adjusted Standard - Air)
ADJUSTED STANDARD)

ORDER OF THE BOARD (by M. Gibson):

On August 14, 2023, East Dubuque Nitrogen Fertilizers, LLC (EDNF) filed a petition (Pet.) pursuant to Section 28.1 of the Environmental Protection Act (Act) and Section 104.402 of the Board’s procedural rules. See 415 ILCS 5/28.1 (2022); 35 Ill. Adm. Code 104.402. EDNF petitions the Board for an adjusted standard from Section 217.381 of the Board’s rules. 35 Ill. Adm. Code 217.381. Specifically, EDNF seeks adjusted standards from the nitrogen oxide standards applicable to EDNF’s two nitric acid manufacturing processes at its facility during periods of startup and shutdown.

Section 28.1 of the Act and Section 104.408 of the Board’s procedural rules require publication of 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)(2022); 35 Ill. Adm. Code 104.408(a). 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). As required by Section 104.410, EDNF timely filed a certificate of publication of notice of the petition on September 8, 2023. Notice of filing was published on August 27, 2023, in the *Freeport Journal-Standard*.

The Board finds that the notice and amended petition meet the requirements of Section 28.1 of the Act and Section 104.408 of the Board’s procedural rules and accepts the amended petition for adjusted standard. See 415 ILCS 5/28.1 (2022); 35 Ill. Adm. Code 104.408.

Section 104.416(a) of the Board’s rules require that IEPA file a response including its recommendation concerning the Board’s proposed action on this petition within 45 days after the service of the petition. See 35 Ill. Adm. Code 104.416(a). In this case, IEPA has timely filed a motion for stay of the proceedings, or in the alternative, a motion for extension of time to file the recommendation (Mot.). Mot. at 1. On September 18, 2023, EDNF filed a response to IEPA’s motion for stay and does not object to the request for a stay of this proceeding (EDNF Resp. Mot.). EDNF Resp. Mot. at 1. The Board’s procedural rules require that motions to stay proceedings be accompanied by sufficient information detailing why a stay is needed and a status report detailing the process of the proceeding. See 35 Ill. Adm. Code 101.514. In its motion, IEPA says a stay is appropriate because, “issuing a stay here will conserve resources and allow participants to focus on EDNF’s rulemaking proposal first, and this proceeding second (and only if still necessary).” Mot. at 5. The Board grants IEPA’s motion to stay the proceedings for 90 days, until December 27, 2023.

The Board's procedural rules require that at the close of a stay, the parties must file a status report in compliance with Subpart C. 35 Ill. Adm. Code 101.514. Any additional requests for stay of the proceedings must be directed at the hearing officer. *Id.*

This order makes no determination on the informational sufficiency or the merits of EDNF's petition. The Board through its own orders or its hearing officer's orders may direct EDNF to provide additional information.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 5, 2023, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk
Illinois Pollution Control Board