

ILLINOIS POLLUTION CONTROL BOARD
September 18, 2014

IN THE MATTER OF:)
)
PETITION OF APEX MATERIAL) AS 15-2
TECHNOLOGIES, LLC FOR AN) (Adjusted Standard - Land)
ADJUSTED STANDARD FROM PORTIONS)
OF 35 ILL. ADM. CODE 807.104 AND)
810.103, OR, IN THE ALTERNATIVE, A)
FINDING OF INAPPLICABILITY)

ORDER OF THE BOARD (by J.D. O’Leary):

On August 8, 2014, Apex Material Technologies, LLC (Apex) filed a petition (Pet.) pursuant to Section 28.1 of the Environmental Protection Act (Act) and Part 104 of the Board’s procedural rules. *See* 415 ILCS 5/28.1 (2012); 35 Ill. Adm. Code 104.Subpart D. Apex seeks the Board’s determination that material contemplated for use in a production process, Copper Ammonium Chloride Etchant, is not a “waste” and therefore is not subject to waste permits under Parts 807 and 810 of the Board’s regulations. Pet. at 1; *see* 35 Ill. Adm. Code 807, 810. In the alternative, Apex requests an adjusted standard from portions of 35 Ill. Adm. Code 807.104 (Solid Waste Definitions) and 810.103 (Solid Waste Disposal Definitions). Pet. at 1, 27. Apex seeks this relief regarding its operating production facility located at 10 Industry Avenue, Joliet, Will County. Pet. at 1-2.

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 ICLS 5/28.1(d)(1) (2012); 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, Apex timely filed a certificate of publication of notice on August 22, 2014. Notice of filing the petition was published in *The Bugle* on August 20, 2014.

The Board finds that the notice and petition meet the requirements of Section 28.1 of the Act and Section 104.408 of the Board’s procedural rules and accepts the petition for adjusted standard. *See* 415 ILCS 5/28.1 (2012); 35 Ill. Adm. Code 104.408. Unless otherwise ordered by the hearing officer, the Illinois Environmental Protection Agency must file a response including its recommendation concerning the Board’s proposed action on this petition with 45 days after service of the petition. *See* 35 Ill. Adm. Code 104.416(a).

Apex requests that the Board hold a hearing on its petition. Pet. at 27; *see* 35 Ill. Adm. Code 104.406(j), 104.422(a)(1).

The Board notes that Apex’s petition included 16 exhibits designated A through P. Accompanying Apex’s petition was a letter claiming trade secret protection under the Board’s procedural rules for Exhibits C, E, and F. Pet. at 1, citing 415 ILCS 5/3.490 (2012); 35 Ill. Adm.

Code 101.202, 130.200(b). Apex states that Exhibit C includes two documents related to the Apex's process; Exhibit E is a spreadsheet containing "a complete inventory listing of all proposed equipment and other infrastructure improvements" Apex will undertake to perform its process; and Exhibit F includes six documents pertaining to Apex's quality assurance/quality control. Apex claims that these three exhibits meet the definition of "trade secret," claims trade secret protection for them, and requests that the Board protect them from disclosure. *See* 415 ILCS 5/3.490 (2012); 35 Ill. Adm. Code 101.202. Under its procedural rules, the Board considers the three exhibits trade secrets and protects them from disclosure unless until the Board makes a final determination on the issue of trade secret protection and expiration of the deadline to appeal that final determination. 35 Ill. Adm. Code 130.200(d).

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

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 18, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board