

ILLINOIS POLLUTION CONTROL BOARD

June 21, 2018

IN THE MATTER OF)	
)	
AMENDMENTS TO GENERAL USE)	R18-32
WATER QUALITY STANDARDS)	(Rulemaking – Water)
FOR CHLORIDE)	

ORDER OF THE BOARD (by C.K. Zalewski):

On May 21, 2018, Huff & Huff Inc. (Huff & Huff) filed a proposal to amend Section 302.208(g) of the Board’s water pollution regulations (35 Ill. Adm. Code 302.208(g)), as well as add a new Section 302.214. The proposed amendments concern the Board’s General Use water quality standard for chloride. On May 29, 2018, Huff & Huff filed a motion to add an attachment to its proposal. This order grants the motion and accepts the petition for hearing.

MOTION TO ADD ATTACHMENT

Huff & Huff’s motion (Mot.) includes the additional document it seeks to attach to its rulemaking proposal. Huff & Huff states that it inadvertently omitted the attachment from the proposal filed May 21, 2018 (Prop.). No one filed a response to the motion within the 14-day period; objections to granting are therefore waived. 35 Ill. Adm. Code 101.500(d); see 35 Ill. Adm. Code 102.402 (Part 101’s motions practice rules apply in rulemakings).

Huff & Huff’s motion seeks to include a bioassay report described in its proposal (see Prop. at 6). Mot. at 1. A proposal to amend rules of general applicability, like Huff & Huff’s, must include specified contents before the Board may accept it for hearing. See 35 Ill. Adm. Code 102.202. Among the required contents are descriptions of supportive studies, including where the studies may be accessed. 35 Ill. Adm. Code 102.202(e). The bioassay report, dated November 13, 2017, is the result of toxicity tests performed on the *C. dubia* species. Mot. at 1, Attachment. Huff & Huff’s motion states that including the bioassay report will provide the Board with the full extent of the completed research supporting the proposal. Mot. at 1. The Board finds that including the report will facilitate the Board’s review of the proposal’s contents, and grants the motion.

HUFF & HUFF’S PROPOSAL & PROPOSED AMENDMENTS

The proposal asserts that toxicity test findings demonstrate that “chlorides are less toxic at colder temperatures thereby justifying a relaxed chloride standard during the colder months.” Prop. at 2. With the demonstration, the proposal asserts that the Board’s water quality standard for chloride “is not required to meet the applicable requirements for protection of aquatic species in Illinois streams during the winter months.” *Id.* at 3.

Huff & Huff proposes two rule amendments. First, the proposal deletes the numeric water quality standard for chloride found in subsection (g) of Section 302.208 (35 Ill. Adm. Code 302.208(g)). Prop. at 4. Second, Huff & Huff proposes adding a new Section 302.214

(Chlorides), which sets new seasonal numeric standards for winter (December 1st to April 30th) and non-winter (May 1st to November 30th) months. *Id.* In addition to the proposed rule language, Huff & Huff's petition also suggests that a third spring standard be considered along with the winter and non-winter standards. According to the proposal, this spring standard would account for a "tail" of elevated chloride levels accumulated after the winter in retention basins commonly used in newer development. Prop. at 5 (*italics in original*). Huff & Huff's proposal does not, however, propose a numeric spring water quality standard for chloride, but rather, suggests that the subject "will need to be explored during the regulatory proceedings." *Id.*

In support, Huff & Huff provides a statement of reasons (Prop. at 1-3), statement of facts (*id.* at 6-7), statement of purpose and effect (*id.* at 3-4), and an environmental, technical, and economic justification (*id.* at 4-5). *See* 35 Ill. Adm. Code 102.202(b). Testimony, a technical support document, supporting studies, and supporting research are included as attachments and summarized in the proposal (Prop. at 6-7, and 10-11; Attachments 1-5). *See* 35 Ill. Adm. Code 102.202(b), (c), and (e). And, Huff & Huff's proposal includes a petition signed by two-hundred and twenty-five (225) persons. *See* 35 Ill. Adm. Code 102.202(g).

The Board finds that Huff & Huff has satisfied the content requirements of Section 102.202 (35 Ill. Adm. Code 102.202) for a rulemaking proposal.

CONCLUSION

Any person may file a proposal to amend the Board's regulations. *See* 415 ILCS 28(a) (2016). The Board accepts for hearing Huff & Huff's rulemaking proposal, supplemented by this Order. *See* 35 Ill. Adm. Code 102.410(b). The Board is not, however, submitting the proposed amendments to the *Illinois Register* for first-notice publication. Rather, the Board will determine whether to proceed to first notice after holding hearings on the proposal.

The Board directs the hearing officer to schedule and proceed to hearing under the rulemaking provisions of the Environmental Protection Act (415 ILCS 5/27, 28 (2016)) and the Board's procedural rules (35 Ill. Adm. Code 102).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 21, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, slightly slanted style.

Don A. Brown, Clerk
Illinois Pollution Control Board