

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL ADM. CODE) R18-24
) (Rulemaking- Water)
SUBTITLE D: MINE RELATED)
WATER POLLUTION)

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S POST HEARING COMMENTS, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Stefanie N. Diers
Stefanie N. Diers
Assistant Counsel
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Date: January 11, 2019

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ILLINOIS EPA'S POST HEARING COMMENTS

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, and pursuant to an Illinois Pollution Control Board ("Board") Order dated January 2, 2019, submits the following post hearing comments in the above captioned rulemaking.

I. Introduction

On January 10, 2018, the Agency proposed revision to Subtitle D. The revisions proposed were clean-up amendments to remove obsolete, repetitive, confusing or otherwise unnecessary language only. The Board also stated in its Order of July 26, 2018, they too were reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. In its July 26, 2018 Order, the Board proposed additional amendments to Subtitle D and asked several questions concerning the Agency's proposal. Two hearings were held in this matter. Pursuant to the Board's Order of January 2, 2019, post hearing comments are due January 11, 2019. The only comment received by the Agency concerned Section 405.101. The Agency had previously proposed to strike this entire Section. (See Agency's January 10, 2018 filing). After further review, the Agency will propose a correction.

II. Propose changes to Section 405.101

The Agency proposes the following changes to Section 405.101:

Section 405.101 Special Conditions: ~~Agency Guidance Document~~

- a) In addition to the standards and conditions required by this Subtitle D, Chapter I, the Agency may in granting permits impose such conditions as may be necessary to accomplish the purposes of the Act and which are not inconsistent with Subtitle D, Chapter I. All NPDES permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of the Act.
- ~~b) The Agency shall adopt such procedures as are necessary for permit issuance under this Subtitle D, Chapter I. Such procedures shall be included in an Agency guidance document. 35 Ill. Admin. Code Part 450 et seq.~~
- ~~c) The Agency may adopt criteria for the design, operation, maintenance and abandonment of mine related facilities and other wastewater sources. Such criteria as are adopted shall be set forth in an Agency guidance document and shall be revised from time to time to reflect current engineering judgment and advances in the state of the art. 35 Ill. Admin. Code Part 450 et seq.~~
- ~~d) In adopting new or revised criteria or procedures, the Agency shall comply with the requirements of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1979, ch. 127, pars. 1001 et seq.~~
- ~~e) To the extent the Agency adopts such criteria, they will represent a formal Agency interpretation of what is consistent with the Act and Subtitle D, Chapter I and necessary to accomplish the purposes of the Act.~~
- ~~f) In adopting new or revised criteria the Agency shall consider other applicable state and federal statutes and regulations and shall avoid issuing criteria which conflict with such.~~

The Agency would like to retain the language addressing special conditions in Subtitle D. The Agency places special conditions in all our permits and permittees and others would expect to see that to remain in our permits and regulations. All other language is unnecessary and should be stricken as originally proposed by the Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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CERTIFICATE OF SERVICE

Stefanie N. Diers, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING and ILLINOIS EPA'S POST HEARING COMMENTS upon persons listed on the Service List, by electronic service on sent to the email addresses designated below on January 11, 2019.

/s/Stefanie N. Diers
Stefanie N. Diers

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