

ILLINOIS POLLUTION CONTROL BOARD

July 26, 2004

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**JUL 26 2004**

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:	)	
	)	
INTERIM PHOSPHORUS EFFLEUNT	)	R04-26
STANDARD, PROPOSED 35 ILL. ADM.	)	(Rulemaking - Water)
CODE 304.123(G-K)	)	

**NOTICE OF HEARING**

DATE, TIME, AND PLACE:

AUGUST 30-31, 2004  
 9:30 a.m.  
 MICHAEL A. BILANDIC BUILDING  
 160 NORTH LASALLE STREET  
 5<sup>TH</sup> FLOOR, ROOM N502  
 CHICAGO, ILLINOIS 60601

PURPOSE OF HEARING:	Merit and Economic
ATTENDING BOARD MEMBERS:	Thomas E. Johnson
HEARING OFFICER:	John Knittle

**HEARING OFFICER ORDER**

**Background**

On May 14, 2004, the Illinois Environmental Protection Agency (Agency) filed a proposal under Section 28 of the Environmental Protection Act (Act) (415 ILCS 5/28 (2002)), to set an interim phosphorus effluent standard by adding five new subsections (g-k) to existing 35 Ill. Adm. Code 304.123.

The Agency asserts that it is in the process of developing State numeric nutrient standards and expects to file a petition with the Board in early 2007. Pet. at 7-8. The Agency is proposing this interim effluent standard apply until the Board adopts a numeric water quality standard for phosphorus. The proposed phosphorus effluent limit of 1.0 mg/l as a monthly average would apply to new or expanded discharges from treatment works with a designed average flow over >1.0 mgd receiving municipal or domestic wastewater, or a total phosphorus effluent load of 25

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact Dorothy Gunn, Clerk of the Board, at 100 West Randolph St., Suite 11-500, Chicago, Illinois 60601. at telephone number 312/814-6931, fax number 312/814-3669, or TDD number 312/814-6032, five days prior to the hearing.

lbs/day or more. However, if the source can demonstrate that phosphorus is not limiting nutrient in the receiving water or that alternative phosphorus effluent limits are warranted by the aquatic environment in the receiving water, the 1.0 mg/l limit would not apply. Pet. at 25-26.

On June 3, 2004, the Board opened a new regulatory docket for this matter, and directed that a hearing be scheduled on the proposal.

### **Hearing**

Persons wishing to testify at the hearing shall prefile the testimony with the Board and serve the testimony on the hearing officer and all persons on the service list no later than August 16, 2004. Persons may receive a copy of the service list by contacting the hearing officer or Nancy Miller at (217) 278-3109.

The parties are directed to participate in a final pre-hearing telephone status conference on Monday, August 23, 2004 at 9:30 a.m. The petitioner shall initiate the call. At that time, the parties must be prepared to disclose witnesses for the hearing, and address any final pre-hearing issues.

This hearing will also be held to fulfill the requirements of Section 27(b) of the Environmental Protection Act (Act). 415 ILCS 5/27(b) (2000). Section 27(b) of the Act requires the Board to request DCEO (formerly Department of Commerce and Community Affairs) to conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCEO chooses to conduct the EcIS, they have 30 to 45 days after such request to produce a study of the economic impact of the proposed rules. The Board must then make the EcIS, or DCEO's explanation for not conducting the study, available to the public at least 20 days before a public hearing on the economic impact of the proposed rules.

On June 18, 2004, the Board requested that DCEO conduct an economic impact study for the above-referenced rulemakings. In a letter dated April 17, 2003, DCEO stated that it does not have the financial resources to perform such analyses or contract a private vendor for their completion. DCEO offered the April 17, 2003 letter as its formal response to all current and future proposed Board rulemakings and DCEO's statutory obligation to perform an ECIS. Both letters are available for review at the Board's Chicago Office, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, Illinois.

IT IS SO ORDERED.

A handwritten signature in cursive script, appearing to read "John Knittle", written over a horizontal line.

John Knittle  
Hearing Officer  
Illinois Pollution Control Board  
2125 South First Street  
Champaign, Illinois 61820  
(217) 278-3111