

ORIGINAL
ILLINOIS POLLUTION CONTROL BOARD
November 3, 2004

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO) R04-25
DISSOLVED OXYGEN STANDARD 35 ILL.) (Rulemaking - Water)
ADM. CODE 302.206)

NOTICE OF
STATUS CONFERENCE CALL

DATE, TIME, DIAL-IN INFORMATION:

STATUS CONFERENCE CALL: WEDNESDAY, NOVEMBER 17, 2004, 10:00 a.m.

Dial-In Number: 1-800-467-2166

Passcode (after dialing in): 453627, followed by the # sign

PURPOSE OF CALL: Procedural Status
Readiness for Third Hearing

HEARING OFFICER: Richard R. McGill, Jr.

HEARING OFFICER ORDER

The proponent of this rulemaking is the Illinois Association of Wastewater Agencies (IAWA). IAWA seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). The Board held the second hearing in this rulemaking on August 12, 2004, in Springfield. The hearing officer conducted status conference calls on September 13 and October 13, 2004. Below is a summary of the latter call and information on the next call, which is scheduled for November 17, 2004.

October 13, 2004 Status Conference Call

The hearing officer was joined on the October 13, 2004 conference call by the following participants: Roy Harsch, IAWA; Stefanie Diers, Illinois Environmental Protection Agency (IEPA); Scott Stuewe, Illinois Department of Natural Resources (DNR); Albert Ettinger, Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club; Dennis Streicher, City of Elmhurst and IAWA; Alec Messina, Illinois Environmental Regulatory Group; and Irwin Polls, Ecological Monitoring & Assessment.

Mr. Harsch of IAWA and Ms. Diers of IEPA stated that the United States Environmental Protection Agency (USEPA) had not yet provided data from Ohio waters regarding dissolved oxygen. It was unclear when the USEPA data would be provided. Several participants on the call indicated that they would inquire with USEPA on the status of the data. In addition, Ms. Diers explained that USEPA had given IEPA general comments on the rulemaking in a September 2004 letter.

Mr. Stuewe of DNR stated that DNR was in the process of finishing a "white paper" on extending the season during which a more stringent dissolved oxygen standard may apply. Mr. Stuewe indicated that DNR would be providing the "white paper" during the week of October 18, 2004.

On the record at the August 12, 2004 hearing, Mr. Ettinger asked that the Board withhold ruling on the July 21, 2004 motion to suspend consideration of this rulemaking (motion to suspend) that he filed on behalf of Environmental Law & Policy Center, Prairie Rivers Network, and Sierra Club. Mr. Ettinger asked during the September 13 and October 13, 2004 status conferences that the Board continue to withhold ruling on the motion to suspend. During the latter call, Mr. Ettinger also stated that, after seeing the DNR "white paper" and any USEPA data that may arrive, he would indicate on the November 17, 2004 status conference call (discussed below) whether he is withdrawing the motion to suspend or asking the Board to rule on it.

At the conclusion of the October 13, 2004 call, the consensus among the participants was to have the hearing officer conduct a third status conference call in approximately one month, before proceeding to any third hearing. Mr. Harsh stated that it did not make sense to proceed with a third hearing before IAWA's expert and others had the opportunity to review, at least, the DNR "white paper." The time before such a third status call would allow for that review. With the participants' agreement, the hearing officer scheduled a status conference call for November 17, 2004, which is discussed below.

November 17, 2004 Status Conference Call

A third status conference call is scheduled for Wednesday, November 17, 2004, at 10:00 a.m. The hearing officer will conduct the status conference, the purpose of which is limited to having the proponent and other participants provide a status report on their readiness to proceed with a third public hearing in this rulemaking. Only questions and comments related to the procedural purpose of this status conference will be allowed during the call. The status conference therefore will not be used to discuss the merits of the proposal or to receive evidence on the proposal.

The hearing officer does not presently anticipate holding a fourth status conference before either a third hearing is held or the Board rules on the motion to suspend. Accordingly, during the third status conference call, participants should be prepared to discuss potential dates for a third hearing. Likewise, Mr. Ettinger should be prepared to advise the hearing officer on whether he would either have the Board rule on the motion to suspend or withdraw the motion.

Mr. Harsch has arranged the teleconferencing service for the November 17, 2004 status conference call. Anyone may participate in the status conference, whether by speaking or merely listening. The dial-in number for the status conference call is 1-800-467-2166. After dialing in, you will be prompted to enter the passcode for the conference, which is 453627, followed by the # sign. Those wishing to join the status conference early may do so beginning 15 minutes before the scheduled 10:00 a.m. start. If you are having any difficulty joining the call, please dial 1-800-788-1085.

Fifteen phone lines are presently reserved for the October 13, 2004 status conference call. To ensure that enough lines are available for all those wishing to participate, **please contact the hearing officer at (312) 814-6983 or mcgillr@ipcb.state.il.us by November 15, 2004, if you would like to participate in the status conference call.** Additional phone lines may be added as needed. After the status conference, the hearing officer will prepare a short report documenting the participants in, and matters discussed during, the call.

IT IS SO ORDERED.



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