

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

April 14, 2005

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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	)	

**HEARING OFFICER ORDER**

The Illinois Association of Wastewater Agencies (IAWA), the proponent of this rulemaking, seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). After two public hearings, a series of status conference calls, and two status reports filed by IAWA, the hearing officer issued an order on March 3, 2005, requiring IAWA to file a third status report by March 31, 2005. IAWA timely filed its third status report on March 31, 2005. Below, the third status report is discussed and a fourth status report is ordered.

Initially, however, it must be noted that it has now been twelve months since this rulemaking proposal was filed. Since the last hearing, which was held eight months ago, there have been, at the request of the participants, numerous status conferences and status reports. Still, the Board has received no indication on when the participants would be prepared to proceed with a third hearing. Under these circumstances, the participants are strongly encouraged to timely make material progress toward readiness for a third hearing.

In the third status report, IAWA states that it has been in contact with the Illinois Environmental Protection Agency (IEPA), the Illinois Department of Natural Resources (DNR), and other stakeholders and there have been on-going discussions of technical issues. The status report further provides that an additional stakeholder meeting was held on February 23, 2005, in IEPA's Springfield offices. IAWA notes that representatives of various stakeholders attended that meeting, including DNR, IEPA, IAWA, and citizen groups.

IAWA states that at the February 23, 2005 stakeholder meeting, DNR and IEPA discussed their efforts "at trying to arrive at an agreed upon joint state position to put forth at the third hearing in this matter." 3d Status Report at 1. It was agreed that DNR and IEPA would continue to meet and work on this position and would report back to the other stakeholders on their progress and the need for another stakeholder meeting.

IAWA reports that a stakeholder meeting was scheduled for April 13, 2005. IAWA states that it had understood it would receive, before that meeting, written materials from IEPA and DNR concerning their position. According to the status report, however, it had become "unclear whether any written materials will be shared prior to this scheduled meeting." 3d Status Report at 1. IAWA expressed concern therefore that it may not be in a position to meaningfully respond to IEPA and DNR at the meeting, and accordingly may seek to delay the meeting.

IAWA concludes the third status report by asking that the hearing officer enter an order requiring that IAWA file an additional status report by April 30, 2005, which would include, if appropriate, suggested dates for a third public hearing in this rulemaking.

IAWA must file a fourth status report with the Clerk of the Board by April 30, 2005. The fourth status report must provide a procedural update on IAWA's readiness for a third hearing, which would be held in Chicago. If practicable, the status report must propose specific dates for a third hearing, ideally with the agreement of those participants most actively involved in this rulemaking. Prefiled testimony will likely be required for any third hearing and is generally due 21 days before hearing.

Please note that as part of the Board's voluntary electronic filing pilot project, certain documents in this rulemaking, including status reports and public comments, may be filed through the Board's Web-based Clerk's Office On-Line (COOL) at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Any questions about electronic filing through COOL should be directed to the Clerk's Office at (312) 814-3629.

Lastly, all filings with the Clerk of the Board must be served on the hearing officer and on those persons on the Service List. Before filing any document with the Clerk, please check with Sandy Wiley at (312) 814-3623 or [wileys@ipcb.state.il.us](mailto:wileys@ipcb.state.il.us) or the hearing officer to ensure that you have the most recent version of the R04-25 Service List.

IT IS SO ORDERED.



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