

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD

May 3, 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 three status reports filed by IAWA, the hearing officer issued an order on April 14, 2005, requiring IAWA to file a fourth status report. IAWA timely filed its fourth status report on April 28, 2005. Below, the fourth status report is discussed and a fifth status report is ordered.

In the fourth 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 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." 4th 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 states that it had understood it would receive, before another stakeholder meeting, written materials from IEPA and DNR concerning their position. With that understanding, a stakeholder meeting was scheduled for April 13, 2005. 4th Status Report at 2. According to the status report, however, IAWA decided to cancel the April 13, 2005 stakeholder meeting because of "the absence of progress and the inability of key DNR people to attend the meeting." *Id.*

Since then, IAWA reports, there has been further progress toward "reaching a DNR and IEPA position." 4th Status Report at 2. Another stakeholder meeting has therefore been scheduled for May 5, 2005, in IEPA's Springfield offices. *Id.* IAWA cautions that if progress is not made at resolving outstanding differences in this rulemaking, IAWA will "consider seeking to schedule a third hearing in lieu of additional stakeholder meetings in order to allow interested parties to present their comments and testimony on the record." *Id.*

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

IAWA must file a fifth status report with the Clerk of the Board by May 31, 2005. The fifth 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. 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 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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