

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PUBLIC WATER SUPPLIES:)
PROPOSED AMENDMENTS) R15-22
TO 35 ILL. ADM CODE PARTS 601,) (Rulemaking – Water)
602, AND 603)
)

NOTICE OF FILING

PLEASE TAKE NOTICE that I have electronically filed today with the Illinois Pollution Control Board ILLINOIS EPA's RESPONSE TO COMMENTS AND BOARD QUESTIONS for the above captioned rulemaking, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Stephanie Flowers
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DATED: 8-13-15

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| |) | |

**ILLINOIS EPA’S RESPONSE TO COMMENTS
AND BOARD QUESTIONS**

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through one of its attorneys, Stephanie Flowers, and respectfully submits the following in response to questions posed by the Illinois Pollution Control Board (“Board”) in its Hearing Officer Order dated August 10, 2015 and to comments filed with the Board in the above-entitled matter.

A. Illinois EPA Response to Comments filed on July 22, 2015 by Roger Mensing, P.E. of Curry & Associates Engineers, Inc.

Illinois EPA Response: The Illinois EPA appreciates the comments submitted by Mr. Mensing but believes the comments are more appropriate for the follow-up rulemaking that will become 35 Ill Adm. Code Part 604.

B. Illinois EPA Response to Comments filed on July 27, 2015 by Jeff Groncki of the Illinois/Indiana Section of the American Institute of Professional Geologists.

Illinois EPA Response: The Illinois EPA does not object to the language changes submitted by Mr. Groncki with the exception of the following:

- 1) As to the change to the definition of “Well hydraulics” at Section 601.105, the Illinois EPA would clarify that ‘wellbore skin effects’ has the same meaning as well loss and would therefore request, should the change be made, it read as follows:

“Well hydraulics” means equations that are applied to understand the effect that a pumping well structure has on inducing the movement of water through permeable rock formations, certain aquifer properties, to determine the rate of withdrawal of such well. This term is inclusive of equations that quantify wellbore skin effects/well loss.

- 2) As to the change at Section 602.105(a)(3), should the change be made, the Illinois EPA would prefer the following qualification language for sign-off by a P.G. (please note that in the Illinois EPA post-hearing comments field with the Board on August 6, 2015 this subsection has been renumbered to (a)(4)):

The Agency shall not issue any construction permit required by this Part unless the applicant submits proof that all plan and specification documents required by this Section and Subpart B of this Part have been prepared by a person licensed under the Illinois Architecture Practice Act [225 ILCS 305], the Illinois Professional Engineering Practice Act [225 ILCS 325], the Illinois Structural Engineering Licensing Act [225 ILCS 340], or, for site and groundwater conditions, under the Professional Geologist Licensing Act [225 ILCS 745], or any required combination thereof.

C. Illinois EPA Responses to the Comments filed on July 20, 2015 (corrected copy filed July 28, 2015) by Capt. Michael D. Curry, P. E.

- 1) Capt. Curry’s first comment is in response to the Illinois EPA’s stricken language at Section 601.105 regarding administrative responsibility.

Illinois EPA Response: The proposed revisions at Section 603.102 provide a definition of Administrative Contact who should have administrative responsibility.

- 2) The second comment asks whether to add definitions (and criteria?) of “critical review” and “restricted status” to Section 601.105.

Illinois EPA Response: The definitions and criteria of these terms are provided at Sections 602.106 and 602.107 and the Illinois EPA does not believe it necessary to repeat those in Section 601.105.

- 3) The third comment has two parts regarding the Section 605.115 incorporations by reference:

- a) First, Capt. Curry does not agree that later amendments or editions of the AWWA Standards should be excluded because each addition is subject to public review.

Illinois EPA Response: Illinois EPA has no comment.

- b) Second part is regarding the lack of public and/or outside peer review and comment to the Recommended Standards for Water Works published by the Great-Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers (“Recommended Standards for Water Works”) that is incorporated by reference in the Illinois EPA proposal at Section 601.115

Illinois EPA Response: The Illinois EPA does in fact intend to incorporate the relevant design standards found in Recommended Standards for Water Works in a future Board Proposal (what will become 35 Ill Adm. Code Part 604). In so doing, the regulation will be subject to public review and comment prior to becoming applicable in Illinois.

- 4) The fourth comment regards Emergency Permits at Section 602.104.

Illinois EPA Response: Illinois EPA has no comment.

- 5) The fifth comment is in regards to Section 602.106 and Capt. Curry asks about the specific capacity factors to be used to determine restricted status.

Illinois EPA Response: The Illinois EPA believes that the concern regarding the factors for determining when a community water supply would be placed on restricted status was addressed at the first hearing. See transcript of July 2, 2015 hearing at pages 19-22. In addition, Illinois EPA is receptive to removing a community water supply from restricted status if the factors that placed it on restricted status are resolved by any available means and the resolution is viable for the foreseeable future. In the example provided by Capt. Curry, the restriction could be removed from the community water supply when the capacity circumstance was no longer a matter of concern.

- 6) In response to the Illinois EPA's language at Section 602.107(a), Capt. Curry asks two questions

a) What time interval/duration is to be used for determination of the 80 percent rate exceedance?

Illinois EPA Response: The Illinois EPA added language on the 80 percent exceedance in its Post-Hearing Comments filed with the Board on August 6, 2015. The Illinois EPA expects further details will be added in the follow up rulemaking that will become 35 Ill Adm. Code Part 604.

b) Do “quantity regulations” include, for example, raw water or high serviced pump capacity with the largest unit out of service?

Illinois EPA Response:

Yes, this is currently in the Recommended Standards for Water Works that the Agency is incorporating by reference in Section 601.115.

7) Comment seven is in regards to fees at Section 602.109 and Capt. Curry asks for clarification that fees apply only to mains carrying treated water within the distribution system.

Illinois EPA Response: The Illinois EPA agrees that fees do not apply to raw water transmission piping. Most of the proposed language in Section 602.109 is derived directly from the Illinois Environmental Protection Act (“Act”). Furthermore, the definition of “Water main” at Section 601.105 clearly identifies that water mains are for carrying potable water and not raw water within the distribution system. The Illinois EPA does not believe further clarification is needed in the regulations.

8) Comment eight is in regards to an algicide permit duration at Section 602.113(c) and Capt. Curry suggests deletion of “not to exceed” in the language so that all algicide permit durations are five years in length.

Illinois EPA Response: The Illinois EPA does not object to the requested language change.

9) Comment nine is in regards to permit no defense at Section 602.117 and Capt. Curry asks how this Section applies if the construction permit has approved components that are not in compliance with Recommended Standards for Water Works.

Illinois EPA Response: The Illinois EPA's issuance of a construction permit constitutes a review of best design elements. In certain circumstances, design criteria may deviate from the Recommended Standards for Water Works and would not constitute a violation of the regulations. In the case of something was missed in the design/permit review/construction process, please see answer to Comment #10 below.

10) Comment ten is in regards to revocation of permits at Section 602.119 and Capt. Curry asks whether, once issued, a construction permit that has a project component that does not comply with the Recommended Standards for Water Works, or is missing a required component, would be revoked.

Illinois EPA Response: Per Section 602.119, lack of compliance shall be grounds for enforcement action which may include petitioning the Board to revoke the permit. However, mitigating factors may be present with respect to compliance with the Recommended Standards for Water Works that would call for enforcement discretion by the Illinois EPA. In the example given by Capt. Curry, the equipment was in service and the operating permit had probably been issued so it would be unlikely that Illinois EPA would seek to revoke an entire permit for an issue with one or two components. Illinois EPA could determine that the problem is better addressed through working with the community water supply to resolve the issue with a supplemental permit or possibly a new permit. Prior to a request for revocation, the

Illinois EPA may also try and obtain a compliance commitment agreement pursuant to Sec. 31 of the Act.

- 11) Comment eleven is in regards to permits required for adding new chemicals at Section 602.200(b)(3) and Capt. Curry questions the Illinois EPA practice of issuing a “no permit required” letter for chemical changes that are deemed similar to a previously permitted chemical.

Illinois EPA Response: The Illinois EPA believes that re-issuing a permit for the use of a “similar” chemical is an unnecessary cost to a community water system. The practice of issuing a letter indicating that the Illinois EPA will not require a new permit came about as water systems changed chemical distributors which then changed the “brand name” of a particular chemical in question. For its determination, the Illinois EPA requests that the water system provide adequate information to illustrate that the “new” chemical is similar to the one it replaced (including NSF approval). Further, the Illinois EPA believes that the “similar” chemical does not require a permit under 602.101 because use of a “similar” chemical with a different “brand name” would not be considered construction, installation, changes or additions to the community water system. The “No Permit Required” correspondence provides the Responsible Operator in Charge affirmation that the Illinois EPA agrees that the community water system has not significantly altered their treatment process.

- 12) Comment twelve is in regards to construction permits not needed for routine maintenance specifically replacement parts under Section 602.200(c)(5). Capt. Curry requests the language of Section 602.500(c)(5) be replaced with:

- 5) replacement of chemical feeders, pumps, controls, filter media, softener resins, pipes, and appurtenances that have the same rated capacity as existing facilities previously permitted by the Agency; or,

Illinois EPA Response: The Illinois EPA does not object to the requested language change.

- 13) Comment thirteen is in regards to submittal of preliminary plans at Section 602.205(b) and Capt. Curry suggests that requiring alternate solutions to be submitted and reviewed by the Illinois EPA should only apply if the State of Illinois is providing financial assistance.

Illinois EPA Response: The Illinois EPA does not object to the requested language change and suggests the following language change:

- b) If preliminary plans are submitted, as directed under the Illinois Drinking Water Revolving Loan Funding Process, the documents shall include a description of alternate solutions, a discussion of the alternatives and reasons for selecting the alternative recommended.

- 14) Comment fourteen is in regards to documents submitted as part of the construction permit application and Capt. Curry suggests that Section 602.210(h) clarify that this subsection only applies to new facilities.

Illinois EPA Response: The Illinois EPA does not object to the requested language change and suggests the following language change:

- h) Evaluation of technical, managerial, and financial capacity as specified in Section 602.103 of this Part for new community water supplies;

15) Comment fifteen is in regards to the submittal of an Engineer's Report pursuant to Section 602.225 and Capt. Curry suggests adding additional language and clarification about when the report may be requested.

Illinois EPA Response: The Illinois EPA does not believe any additions are needed. This Section takes precedent over anything contained in Recommended Standards for Water Works. The types of projects where an Engineer's Report may be requested are described in the opening paragraph of Section 602.225. The opening paragraph also states that the Engineer's Report may be submitted as a preliminary plan pursuant to Section 602.205.

16) Comment sixteen is the same concern as in Comment #13 with regard to Section 602.225(d).

Illinois EPA Response: The Illinois EPA does not object to the requested language change and suggests the following language change:

b) A justification for the project where two or more solutions exist for providing community water supply facilities, as directed under the Illinois Drinking Water Revolving Loan Funding Process, each of which is feasible and practicable. The Engineer's Report shall discuss the alternatives and provide reasons for selecting the one recommended, including financial considerations, operational requirements, operator qualifications, reliability, and water quality considerations.

17) The next three comments are in regards to adding a requirement to Sections 602.225(e)(1), (e)(2), and (f) to provide the 100-year flood stage elevation and/or high water elevation of record in the Engineer's Report.

Illinois EPA Response: The Illinois EPA intends to incorporate the relevant design requirements found in Agency rules at 35 Il Adm. Code 653 ("Part 653") into a future

Board Rulemaking (that will become 35 Ill Adm. Code Part 604) which would state that all sites must be located outside the flood plain of a 100-year flood or flood of record where appropriate records exist. The Illinois EPA believes this addition is not necessary for Section 602.225 (e)(1) because the regulation remains in place at Part 653 until the future Board Rulemaking.

18) Comment eighteen is in regards to clarifying that that water plant waste treatment facilities be addressed in the report only for addition of a new process or an increase in treatment plant capacity.

Illinois EPA Response: The Illinois EPA does not object to the requested language change and suggests the following language change:

1) Water Plant Wastes. When waste treatment facilities are necessary for the addition of a new process or an increase in water treatment plant capacity, those facilities shall be included as part of the engineering plans and specifications, and the engineer report shall include the following:

19) In response to the Illinois EPA's language at Section 602.235, Capt. Curry asks whether the "Standard Specifications for Water and Sewer Main Construction in Illinois" are acceptable for water main extensions?

Illinois EPA Response:

Yes, the Illinois EPA would recommend that the language in 602.235(a) be edited to read "Complete detailed specifications shall be supplied or referenced from Standard Specifications for Water and Sewer Main Construction in Illinois for all community water supply construction." However, due to budget constraints the Agency is unable to provide copies of this reference manual.

20) Comment twenty is in regards to language at Section 602.245(a)(3) regarding flooding.

Illinois EPA Response: The Illinois EPA proposes the following language change in response to the comment:

3) ~~the maximum flood level of flood as determined by the flood of record and well casing heights~~ for sites subject to flooding, the well casing heights and maximum flood level based upon best available information including, but not limited to, the flood of record, 100 or 500 year flood projections;

21) Comment twenty-one is in regards to language at Section 602.245(a)(12) regarding pump manufacturer information.

Illinois EPA Response: The Illinois EPA proposes the following language change in response to the comment:

12) ~~the well pump manufacturer,~~ type, design capacity, head rating, and depth of pump setting;

22) The next two comments are related to flood level information required for treatment facility applications and storage facility applications at Sections 602.250(f) and 602.255(f).

Illinois EPA Response: The Illinois EPA proposes the following language change to both sections in response to the comment:

f) ~~the maximum flood level~~ for sites subject to flooding, the maximum flood level based upon best available information including, but not limited to, the flood of record, 100 or 500 year flood projections; and

23) Comment twenty-three is in regards to language at Section 602.260(b)(3) regarding elevation of water mains and other water system structures.

Illinois EPA Response: The Illinois EPA proposes the following language change in response to the comment:

b)(3) the elevation of water mains where necessary to show proper separation from sewers and the elevation of other water system structures;

24) In response to the Illinois EPA's language at Section 602.305(a)(1), Capt. Curry asks two questions

- 1) Whether the Responsible Operator in Charge is held responsible for assuring that adequate disinfection has been completed as demonstrated by satisfactory bacteriological samples?

Illinois EPA Response: Section 603.103 of the regulatory proposal establishes that the Responsible Operator in Charge is held responsible for all portions of a community water supply system.

- 2) Whether if the Responsible Operator in Charge holds all responsibility should his signature be required on the operating permit application pursuant to Section 602.110?

Illinois EPA Response:

Yes, the Illinois EPA proposes the following language change to Section 602.305(a)(1) in response to the comment:

a)(1) the name, signature, and identification of the Responsible Operator in Charge pursuant to 35 Ill. Adm. Code 603;

25) Comment twenty-five is in regards to the vagueness of the language at Section 602.310(c)(2) regarding “other treatment component”.

Illinois EPA Response: The Illinois EPA proposes the following language change in response to the comment:

2) For water treatment plants, representative water samples must be collected from each aerator, detention tank, filter, ion exchange unit, clearwell, and all other treatment components other than those not requiring disinfection under Section 602.315, and from the entry point to the distribution system.

26) Comment twenty-six is in regards to the language at Section 602.310(d)(1) regarding “no bacterial growths”.

Illinois EPA Response: The Illinois EPA believes the analytical method submitted under the Agency proposal is more protective and more informative when utilized for “new” construction. Furthermore, the existing proposal reflects current regulatory requirements at 35 Ill. Adm. Code 652.203(d). Therefore, the Illinois EPA does not propose changing Section 602.310(d)(1).

27) In response to the Illinois EPA’s language at Section 602.405, Capt. Curry asks whether the signature and seal of an Illinois Registered Professional Engineer is required with the algicide permit application?

Illinois EPA Response: The Illinois EPA does not intend to require an Algicide Permit to have the signature nor the seal of an Illinois Registered Professional Engineer under the current proposal.

28) In response to the Illinois EPA’s language at Section 602.410, Capt. Curry has two comments:

1) Capt. Curry asks what is to be done with the laboratory results and how long should the PWS retain the records?

Illinois EPA Response: With respect to record retention, unless otherwise specified, the Act requires records to be retained for 10 years by the community water supply. With this type of monitoring, historical data would be important to retain for 10 years and could be easily stored electronically.

2) Capt. Curry finds copper tests by a certified lab to be unnecessary and recommends that the requirement be deleted and recommends adding a requirement that testing for copper concentration be performed in accord with Standard Methods for Examination of Water and Wastewater.

Illinois EPA Response: The Illinois EPA agrees that on-the-spot testing would provide much more timely results and surface water plant laboratories should have the equipment to perform this test after purchasing the proper reagent. In the time it takes to receive analysis results on samples submitted to a certified laboratory whatever copper was present may be gone. The advantage of certified lab results would be in adjusting the dosage for the next copper application. Therefore, the Illinois EPA proposes the following language change to Section 602.410(b) in response to the comment:

b) ~~The samples must be submitted to a certified laboratory for analysis of copper concentrations in the water.~~ The sample results must demonstrate that concentrations of copper do not pose a high health risk to water consumers.

29) In response to the Illinois EPA's language at Section 602.505, Capt. Curry asks whether the signature and seal of an Illinois Registered Professional Engineer is required with the aquatic pesticide permit application?

Illinois EPA Response: The Illinois EPA does not intend to require an aquatic Pesticide Permit to have the signature nor the seal of an Illinois Registered Professional Engineer under the current proposal.

Respectfully submitted,

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PROTECTION AGENCY

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CERTIFICATE OF SERVICE

Stephanie Flowers, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing ILLINOIS EPA's RESPONSE TO COMMENTS AND BOARD QUESTIONS upon persons listed on the Service List by placing a true copy in an envelope duly addressed bearing proper first class postage in the United States mail at Springfield, Illinois on August 13 2015, or by sending an e-mail transmission on same date on or before 5:00 pm from the email account (stephanie.flowers@illinois.gov) to the email addresses designated on the Service List with the foregoing documents attached.

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