

ILLINOIS POLLUTION CONTROL BOARD

April 12, 2017

VILLAGE OF HOMEWOOD,)	
HOMEWOOD ILLINOIS, VILLAGE OF)	
ORLAND PARK, ORLAND PARK)	
ILLINOIS, VILLAGE OF MIDLOTHIAN,)	
MIDLOTIAN ILLINOIS, VILLAGE OF)	
TINLEY PARK, TINLEY PARK ILLINOIS,	)	PCB 16-14 (Homewood)
EXXONMOBIL OIL CORPORATION,	)	PCB 16-15 (Orland Park)
VILLAGE OF WILMETTE, CITY OF	)	PCB 16-16 (Midlothian)
COUNTRY CLUB HILLS, COUNTRY	)	PCB 16-17 (Tinley Park)
CLUB HILLS ILLINOIS, NORAMCO-	)	PCB 16-18 (ExxonMobil)
CHICAGO, INC., FLINT HILLS	)	PCB 16-20 (Wilmette)
RESOURCES JOLIET, LLC, CITY OF	)	PCB 16-21 (Country Club Hills)
EVANSTON, VILLAGE OF SKOKIE,	)	PCB 16-22 (Noramco-Chicago)
ILLINOIS DEPARTMENT OF	)	PCB 16-23 (Flint Hills Resources)
TRANSPORTATION, METROPOLITAN	)	PCB 16-25 (Evanston)
WATER RECLAMATION DISTRICT OF	)	PCB 16-26 (Skokie)
GREATER CHICAGO, VILLAGE OF	)	PCB 16-27 (IDOT)
RICHTON PARK, VILLAGE OF	)	PCB 16-29 (MWRDGC)
LINCOLNWOOD, and CITY OF OAK	)	PCB 16-30 (Richton Park)
FOREST, OAK FOREST ILLINOIS,	)	PCB 16-31 (Lincolnwood)
	)	PCB 16-33 (Oak Forest)
Petitioner,	)	(Time-Limited Water Quality
	)	Standard)
v.	)	(Consolidated)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

Public Act 99-937 took effect on February 24, 2017, creating new Section 38.5 of the Environmental Protection Act (Act). 415 ILCS 5/38.5. On that date, the petitions for variances from the chloride water quality standard in these consolidated dockets became petitions for a time-limited water quality standard. 415 ILCS 5/38.5(a), (c). Accordingly, the variance provisions in Section 38 of the Act, including the Board's 120-day deadline for taking final action, no longer apply. 415 ILCS 5/35-38 (2014).

In this order, the Board reviews the Illinois Environmental Protection Agency's (Agency) initial filing under new Section 38.5; establishes the class of dischargers that may be covered by the requested time-limited water quality standard; and sets a petition-filing deadline.

Section 38.5(e) of the Act requires the Agency to file a response to the petitions within 21 days after the effective date, which the Agency did on March 16, 2017. 415 ILCS 5/38.5(e). The Agency identified the Chicago Area Waterway System (CAWS) watershed in portions of Cook, DuPage, Grundy, and Will Counties as affected by the water quality standard from which relief is sought by petitioners. The Agency determined that a time-limited water quality standard is the appropriate relief for six types of dischargers within that watershed: publicly owned treatment works or POTWs; communities with combined sewer overflow (CSO) outfalls; industrial sources; municipal separate storm sewer systems or MS4s; Illinois Department of Transportation (IDOT) and Illinois Tollway discharges; and salt storage facilities. Agency Res. at 3.

Section 38.5(h) stays the effectiveness of water quality standards for some petitioners. 415 ILCS 5/38.5(h). The Agency suggested a deadline of “90 days after the adoption of the rules the Agency will be proposing pursuant to 415 ILCS 5/38.5(k)” for any amended petitions to be filed for purposes of preserving the stay of the chloride water quality standard. Agency Res. at 3; 415 ILCS 5/38.5(h). The Agency recommends that the stay apply only to waters included in the R2008-009 proceeding. Agency Res. at 3; see Water Quality Standards and Effluent Limitations for the CAWS and Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303 and 304, R08-09 (June 18, 2015).

Section 38.5(f) requires the Board, within 30 days after receiving the Agency’s response, to enter an order establishing the discharger or class of dischargers that may be covered by the requested time-limited water quality standard along with a deadline for amended and initial petitions. 415 ILCS 5/38.5(f). With this final order, the Board establishes:

- a) POTWs, communities with CSO outfalls, industrial sources, MS4s, IDOT, Illinois Tollway, and salt storage facilities within the CAWS watershed as the class of dischargers potentially covered by a watershed time-limited water quality standard for chloride under Section 38.5(f) of the Act; and
- b) a deadline of 90 days after the Board adopts rules under Section 38.5(k) of the Act for petitioners to file any amended or initial petitions under Section 38.5(h). 415 ILCS 5/38.5(f), (h), (k).¹

Section 38.5(g) requires the Board, as soon as practicable after today’s order, to evaluate each petition to determine whether it is in substantial compliance with 40 C.F.R. § 131.14, Section 38.5 of the Act, and rules adopted under Section 38.5 (not yet in place). If the Board finds that a currently-pending petition does not substantially comply, it will enter an interim order identifying the petition’s deficiencies. 415 ILCS 5/38.5(h)(3). Petitioners must file an amended petition curing any deficiencies identified by the Board before the deadline above. *Id.* Any member of the class established by this order seeking a stay of the chloride water quality standard who does not have a petition pending with the Board must file an initial petition by the

¹ The Act requires the Agency to propose the rules pursuant to 415 ILCS 5/38.5(k) not later than August 24, 2017. 415 ILCS 5/38.5(f). The Board must adopt the rules not later than nine months thereafter. *Id.*

same deadline. 415 ILCS 5/38.5(h)(1)(C). Under Section 38.5(f), this is a final order. 415 ILCS 5/38.5(f).

IT IS SO ORDERED.

Board Member C. Santos abstains.

Section 38.5(j) of the Environmental Protection Act states that any person who is adversely affected or threatened by this final order may appeal directly to the Illinois Appellate Court within 35 days after the Board serves the order. P.A. 99-937, eff. Feb. 24, 2017 (added 415 ILCS 5/38.5). For purposes of this judicial review, a person is considered to have been served with the Board's final order on the date on which the Board first publishes the order on its website. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. In addition, the Board's procedural rules state that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 12, 2017, by a vote of 4-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board