

ILLINOIS POLLUTION CONTROL BOARD

May 7, 2015

IN THE MATTER OF: )  
)  
CONCENTRATED ANIMAL FEEDING ) R12-23(A)  
OPERATIONS (CAFOs): PROPOSED ) (Rulemaking - Water)  
AMENDMENTS TO 35 ILL. ADM. CODE )  
PARTS 501, 502, AND 504 )

ORDER OF THE BOARD (by J.A. Burke):

On August 7, 2014, in docket R12-23, the Board adopted amendments to Parts 501, 502, and 504 of its agriculture related pollution regulations. In the same order, the Board also directed the Clerk to open this subdocket for further consideration of a proposed requirement that certain CAFOs submit specified information to the Illinois Environmental Protection Agency (Agency or Illinois EPA). In R12-23, the Board had proposed such a requirement but struck it from the adopted rules pursuant to comment by the Joint Committee on Administrative Rules.

The Board established this subdocket and directed the Agency to submit written comments on 15 issues. On December 3, 2014, the Agency timely filed responses to the Board's questions (Agency Resp.). The Agency's response included 23 attachments (Att. A-W).

In its response, the Agency reports that, on September 5, 2014, it entered into a work plan with the United States Environmental Protection Agency (U.S. EPA) for calendar years 2014-16. Agency Resp. at 2; Att. H at 1, 3. Under the work plan,

Illinois EPA will update and submit to U.S. EPA its Large CAFO inventory by August 31 and February 28 each year. . . . The inventory will include all confirmed Large and permitted CAFO sites identified by Illinois EPA based on information in permit applications, citizen tips and complaints, U.S. EPA, the Illinois Department of Agriculture, and the Illinois Department of Public Health. Att. H at 4 (¶10); *see* Att. J. at 1 (updates under inspection strategy).

The Agency states that, on November 24, 2014, it submitted an updated CAFO inventory to U.S. EPA. Agency Resp. at 2, citing Att. I. The Board notes that, since the Agency filed its response, the deadline to file another update has passed.

The work plan also provides that,

[b]y October 31, 2014, Illinois EPA will submit a plan to maintain the inventory. The plan will specify how Illinois EPA will maintain the inventory including a process of confirming sizes and whether discharges are occurring at unpermitted large and medium livestock facilities and documenting the determinations. The plan will also include the process to get updates from the Illinois Department of Agriculture and Illinois Department of Public Health. Att. H at 4 (¶11).

The Agency states that it submitted to U.S. EPA documents including an Agricultural Program Inspection Strategy dated August 2014 (Att. J), an operating procedure for updating the inventory dated October 20, 2014 (Att. K), a summary of information received from the Departments of Agriculture and Public Health dated October 2014 (Att. L), and an operating procedure for review of information provided by those departments approved November 20, 2014 (Att. M). Agency Resp. at 2.

The work plan provides that, “[w]ithin 60 days of receipt of U.S. EPA’s review of Illinois EPA’s plan, Illinois EPA will submit a final plan.” Att. H at 4 (¶11). The Board notes that the record does not now indicate whether U.S. EPA has completed a review of the plan required to be submitted by October 31, 2014. In order to develop the record in this proceeding, the Board directs the Agency to respond within 21 days by Thursday, May 28, 2015, to the following two requests for information.

First, the Board directs the Agency to submit a copy of the updated Large CAFO inventory due to be submitted to the U.S. EPA by February 28, 2015. *See* Att. H at 4 (¶10).

Second, the Board directs the Agency to indicate whether it has received from U.S. EPA a review of the plan for maintaining the inventory required to be submitted by October 31, 2014. *See* Att. H at 4 (¶11). If it has received that review, the Board directs the Agency to submit a copy of that review. Even if the Agency has received that review, the Board recognizes that the 60-day response deadline may not have passed. If the Agency has yet to submit a final plan to the U.S. EPA, the Board directs the Agency to submit a copy of the plan to the Board when it is filed with the U.S. EPA. However, if the Agency has received that review and submitted a final plan to the U.S. EPA, the Board directs the Agency to submit a copy of the review and final plan.

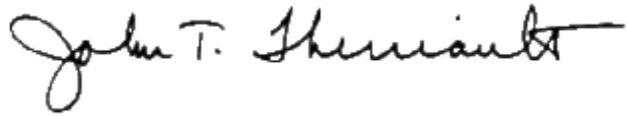
In addition, after reviewing the record in this subdocket, the Board directs the Agency to respond by Thursday, May 28, 2015, to the following three requests for comment:

1. The Agency states that its CAFO inventory as of December 2014 had 266 facilities including 254 Large CAFOs. Agency Resp. at 5-6. In comments submitted to the Board, the Environmental Groups assert that data from the Illinois Department of Agriculture identify 516 facilities which should be identified as Large CAFOs. PC 3060 at 6. The Environmental Groups also identify additional facilities in several counties which they claim should be added to the Agency’s list of Large CAFOs. PC 3060 at 10-17. Comment on whether the Agency concurs with the methodology used by the Environmental Groups both in analyzing data from the Department of Agriculture and in identifying specific facilities using satellite images and other information.
2. The Agency states that, if the Board proceeds with proposed Section 501.505, “the proposed language in Section 501.505(c)(2) is unnecessary.” Agency Resp. at 8. Comment on whether the Agency suggests deleting proposed Section 501.505(c)(2) or (c)(3).

3. The Environmental Groups assert that the Agency failed to identify the periods of time covered by the information collected from the Illinois Departments of Agriculture and Public Health. PC 3060 at 20. The Groups further assert that the Department of Agriculture information dates back only to 1996. *Id.* Comment on how the Agency will identify Large CAFOs existing before 1996 that have not submitted any of the four construction documents used for the database. *See* Agency Resp. at 2-3.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 7, 2015, by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board