

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
) R18-24
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking- Water)
SUBTITLE D: MINE RELATED)
WATER POLLUTION)

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board
ILLINOIS EPA'S COMMENTS TO THE BOARD'S FIRST NOTICE OPINION AND ORDER
a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Stefanie N. Diers
Stefanie N. Diers
Assistant Counsel
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Date: April 18, 2019

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ILLINOIS EPA'S COMMENTS

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, ("Illinois EPA" or "Agency") by and through its counsel, and pursuant to an Illinois Pollution Control Board ("Board") Order dated March 28, 2019, submits the following comments in the above captioned rulemaking.

I. Introduction

On January 10, 2018, the Agency proposed revisions to Subtitle D. The revisions proposed were clean-up amendments to remove obsolete, repetitive, confusing or otherwise unnecessary language only. The Board also stated in its Order of July 26, 2018, they too were reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. In its July 26, 2018 Order, the Board proposed additional amendments to Subtitle D and asked several questions concerning the Agency's proposal. The Agency filed comments with respect the July 28, 2018, Order on November 29, 2018. The Agency's comments addressed specific questions posed by the Board as well as the proposed amendments generally. The Agency based its review of the Board's proposal by reviewing the language proposed and focusing only on obsolete, repetitive, confusing or otherwise unnecessary and non-substantive changes.

On March 28, 2019, the Board issued its First Notice Opinion and Order and asked specific questions of the Agency. The Agency responds as follows:

II. Response to Board Questions

1) In Section 403.103, the Board follows IEPA's recommendation and replaces the term "supplemental NPDES permit" with "modified NPDES permit" as the correct term. However, the Board notes the above Sections 404.107, 405.103, 405.106(g) and 405.109(f) continue to refer to supplemental permits. The Board requests the Agency to comment on whether it should propose the same replacement in these additional sections.

Agency Response: Section 403.103 uses the term "modified" since this term only applies to an NPDES permit. The term "supplemental" should remain in Section 404.107 since this term only applies to state permits. For Section 405.103, the Agency proposes the Board add "modified" between "new" and "supplemental". For Sections 405.106(g) and 405.09(f), the Agency proposes the Board strike "revise" and change to "modified". These changes reflect the correct terms used in accordance with permits.

2) In Section 405.104(b)(14), the Board requests that IEPA explain and support striking "total dissolved solids" as a non-substantive clarification of the permit application requirements.

Agency Response: The Agency proposed striking "total dissolved solids" because the standard was changed in R07-09.

3) Section 406.106(b) establishes mine discharge effluent standard for eight constituents. 35 Ill. Adm. Code 406.106(b). Subsection (b)(1) applies the ammonia nitrogen standard to an "an operator" but subsection (b)(2) applies manganese standard to "discharges". The Board requests that IEPA comments on whether one or both of these subsections should be amended to be consistent with one another.

Agency Response: The Agency agrees the language in Section 406.106(b)(2) is the correct language. Therefore, the Agency proposes the following for Section 406.106(b)(1) to be consistent with Section 406.106(b)(2): strike “operator” and replace with: “only to discharges from facilities utilizing ammonia in wastewater treatment”.

Finally, the Agency agrees with all the other changes proposed in the Board’s First Notice Opinion and Order, except the Agency still contends that “but is not limited to” should remain in the Sections outlined in the Agency comments filed on November 29, 2018. This is a substantive change to the regulatory language and the language is needed in case the Agency needs more information.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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CERTIFICATE OF SERVICE

Stefanie N. Diers, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING and ILLINOIS EPA'S COMMENTS ON THE BOARD'S FIRST NOTICE OPINION AND ORDER upon persons listed on the Service List, by electronic service and sent to the email addresses designated below on April 18, 2019.

/s/Stefanie N. Diers

Stefanie N. Diers

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