

ILLINOIS POLLUTION CONTROL BOARD
January 3, 2022

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R18-25
SUBTITLE E: AGRICULTURE RELATED) (Rulemaking – Water)
POLLUTION)

HEARING OFFICER ORDER

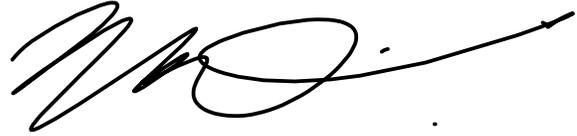
On November 16, 2021, the Illinois Environmental Protection Agency (IEPA) submitted public comment in this docket. The Board requests the IEPA come to the January 6, 2022 hearing prepared to address the following questions:

1. The Board proposes to strike the terms “but is not limited to” or “at a minimum” in several places throughout Subtitle E. The IEPA comments state “[l]imiting a definition or the contents of a management plan to only what is specifically stated does not allow for the consideration of site-specific conditions or circumstances that may require the inclusion of additional items or information.” IEPA Comments, *citing* proposed Sections 501.223 and 502.505. Is it the IEPA’s position that the terms “including” or “contain” exclude any items other than those explicitly listed after the term?

2. The IEPA comments that in the Board’s proposed Section 502.101(a), the change from “shall” to “must” leaves the sentence to read: “No person must cause or allow a discharge from a CAFO ...” (emphasis added). The IEPA comments that [t]his is just one example of where “shall” and “must” are not interchangeable.” Would the IEPA would be satisfied changing the term “shall” in this instance to “is permitted to” or “may”?

The IEPA comments also state that it found “direct quotes from federal regulation or statutory language altered (*See* proposed Sections 501.248, 501.333, and 501.380), the changing of phrases commonly used by the regulated community (*See* proposed Section 502.315), and grammatical and spelling errors (*See* proposed Sections 502.510(b)(13) and 502.303.)” The IEPA further states that it “is in the process of conducting a more thorough review and may seek input from the United States Environmental Protection Agency. The [IEPA] intends to provide a Section by Section detailed review of the Board’s proposed amendments in the [IEPA’s] proposed amendments in the [IEPA’s] Post Hearing Comments.” IEPA Comments at 4.

Please provide at the hearing, or in post-hearing comments, any and all proposed changes in legislative form, including a chart of proposed changes. Also, please provide an update at the hearing regarding any input sought from the United State Environmental Protection Agency.

A handwritten signature in black ink, appearing to read 'M. Kaminski', with a long horizontal stroke extending to the right.

Mark G. Kaminski
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