ILLINOIS POLLUTION CONTROL BOARD
May 5, 1983

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO CHAPTER 4   )   R77-10
OF THE REGULATIONS OF THE ILLINOIS   )   (Closed Docket)
POLLUTION CONTROL BOARD   )

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO TITLE 35,   )   R83-6
SUBTITLE D: MINE RELATED POLLUTION,   )   Docket B
CHAPTER 1, PARTS 405 AND 406   )

PROPOSED RULE.   FIRST NOTICE.

ORDER OF THE BOARD (by D. Anderson):

On April 20, 1983 the Illinois Coal Association (ICA) filed a motion to reconsider the July 24, 1980 Final Order of the Board adopting the new Chapter 4: Mine Related Water Pollution (39 PCB 176, 196 and 260). In particular, the ICA seeks to extend by one year the expiration date of 35 Ill. Adm. Code 406.201, from July 1, 1983 to July 1, 1984. The Section allows the Illinois Environmental Protection Agency (Agency) to exempt mine discharges from the water quality standards for total dissolved solids, chloride, sulfate, iron and manganese, provided the operator demonstrates "good mining practices" designed to control these parameters. The section was intended as a temporary rule to allow the ICA and the Agency to develop a proposal for a permanent rule on mining practices which impact water quality. The ICA and Agency have filed such a proposal in R83-6, but final action is unlikely prior to July 1, 1983.

The ICA's motion to reconsider the order in R77-10 is denied, as the rulemaking strictures of the Administrative Procedures Act will not allow the Board to simply grant the relief suggested. The Board will however construe the motion as a request to add an additional proposal to the February 7, 1983 petition by the Agency and the ICA which has been docketed as R83-6. That petition will be designated as Docket A, and the request to extend the deadline of Section 406.201(f) until July 1, 1984 will be designated as Docket B. The Clerk is directed to cause publication of, the first notce of the Docket B proposal in the Illinois Register.

The R83-6 Docket B proposal shall be discussed at the hearings currently scheduled for Docket A on May 12 and 27, 1983. Based on the record generated at those hearings, the Board will determine whether to issue an emergency rule effective July 1, 1983, while the permanent rule continues to proceed through the APA process.

The text of R83-6 Docket B is as follows:

Section 406.201   Temporary Exemption from Section 406.105

a)   The Agency may by permit provide that a mine discharge shall be exempt from the requirement of Section 406.105 as it applies to the discharge of total dissolved solids, chloride, sulfate, iron and manganese.

b)   A permittee may apply for such exemption as part of a new or renewed or supplemental state or NPDES permit.

c)   The Agency shall permit such exemption if all of the following conditions are met:

1)   The Agency does not demonstrate significant adverse effect on the environment in and around the receiving water;

2)   The permittee submits to the Agency adequate proof that the discharge will not adversely affect any public water supply; and

3)   The permittee submits to the Agency proof that it is utilizing good mining practices designed to minimize discharge of the parameters to be exempted.

d)   The Agency may promulgate under Section 405.101(c) a code of good mining practices. Compliance with the code of good mining practices shall be prima facie evidence that the permittee is utilizing good mining practices within the meaning of subparagraph (c)(3).

e)   Whenever the Agency issues a permit exempting a permittee from Section 406.105, it shall include in the permit such conditions as may be necessary to ensure that the permittee utilizes good mining practices designed to minimize discharge of the parameters exempted.

f)   After ~~July 1, 1983,~~ July 1, 1984, the exemption provided in this Section 406.201 shall terminate.

(Source: Amended at 7 Ill. Reg. _____, effective _____.)

       IT IS SO ORDERED.

       I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 5th day of ____May____, 1983 by a vote of _4-0_ .
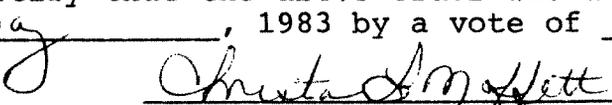
_____
Christan L. Moffett, Clerk
Illinois Pollution Control Board