

ILLINOIS POLLUTION CONTROL BOARD
November 18, 1983

In the matter of:)
)
PROPOSED AMENDMENTS TO TITLE 35,) R83-6
SUBTITLE D: MINE RELATED POLLUTION,) Docket B
CHAPTER I, PARTS 405 AND 406)

FINAL ORDER. ADOPTED RULE

FINAL OPINION OF THE BOARD (by D. Anderson):

On April 20, 1983 the Illinois Coal Association (ICA) filed a motion to reconsider the July 24, 1980 Order of the Board adopting the new Chapter 4: Mine Related Water Pollution (39 PCB 176, 196 and 260). In particular, ICA sought to extend by one year the expiration date of 35 Ill. Adm. Code 406.201, from July 1, 1983 to July 1, 1984. That Section is a temporary rule allowing the Illinois Environmental Protection Agency (Agency) to exempt mine discharges from the water quality standards for total dissolved solids (TDS), chloride, sulfate, iron and manganese, provided the operator utilizes "good mining practices" designed to control those parameters. The extension would allow continuation of exemptions pending the outcome of R83-6A, a proposed permanent rule on water quality impacts of mine waste discharges. A Proposed Rule, First Notice in R83-6A is pending before the Board.

On May 5, 1983 the Board denied the motion for reconsideration, but opened this Docket R83-6B for the purpose of proposing a one-year extension of Section 406.201. The proposal appeared at 7 Ill. Reg. 6693, May 27, 1983.

The Board held public hearings on May 12, 1983 at Springfield and May 27, 1983 at Ina. Because the transcripts are not numbered sequentially, it will be necessary to indicate volume numbers. The Board received testimony from ICA and the Agency in support of extension of Section 406.201 as proposed (I-6, 13; II-7). ICA requested a negative declaration in lieu of an economic impact study, and asked the Board to proceed on an emergency basis pursuant to the Administrative Procedure Act (APA) (II-7).

On May 31, 1983 the Department of Energy and Natural Resources (DENR) informed the Board that it had made a negative declaration on the economic impact study. Thus additional hearings on economic impact under Section 27(b) of the Environmental Protection Act (Act) were not necessary.

On June 30, 1983 the Board adopted the extension of Section 406.201 on an emergency basis pursuant to the APA, finding that expiration of the exemption prior to consideration of a permanent rule constituted a threat to the public interest and welfare. The emergency amendment was filed and effective on July 5, 1983, and appeared at 7 Ill. Reg. 8386, July 15, 1983. The Joint Committee on Administrative Rules (JCAR) considered the emergency amendment at its August 18, 1983 meeting, and made no objection.

Meanwhile, the comment period on the regular one-year extension continued. The Board received only comments on codification from the State Library.


On July 26, 1983 the Board entered a second notice order identical to the first notice proposal except for codification changes. JCAR considered the rule at its September 22, 1983 meeting and made no objection.

On October 6, 1983 the Board adopted the one-year extension of Section 406.201 as a regular rule. The extension was filed and effective on October 19, 1983, and appeared at 7 Ill. Reg. 14510, October 28, 1983.

This Opinion supports the Board's Order of October 6, 1983.

Board Members B. Forcade and J. Marlin abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 18th day of November, 1983 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board