

ILLINOIS POLLUTION CONTROL BOARD
February 7, 2014

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STATE OF ILLINOIS
Pollution Control Board

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

 ORIGINAL

HEARING OFFICER ORDER

On November 7, 2013, the Board adopted a first-notice opinion and order proposing to amend Parts 501, 502, and 504 of the Board’s agriculture related water pollution regulations. The proposed amendments appeared in the *Illinois Register* on December 2, 2013. See 37 Ill. Reg. 18974, 19005, 19074 (Dec. 2, 2013). In an order dated January 15, 2014, the hearing officer set a deadline of January 30, 2014, to file first-notice comments. By that deadline, the Board received nearly 1,900 comments.

The Board will accept responses to any of the first-notice comments. The Board specifically requests a response from the Agency on the following issues but will accept a response addressing these issues from any other participant:

1. Sections 501.405, 502.500, and 502.600

In its first-notice comment (PC 3030), the Agricultural Coalition proposed changes to these three sections as they apply to Unpermitted Large CAFOs claiming an agricultural stormwater exemption. Such CAFOs claiming the exemption for field application would be required to keep records consistent with - rather than comply with - Sections 502.102 and 502.510(b). PC 3030 at 16. The Agricultural Coalition also proposed language providing that CAFOs claiming an agricultural stormwater exemption for areas that are not production areas or land application areas may do so without keeping records meeting the intent of Sections 502.102 and 502.510(b). *Id.* at 17.

2. Section 502.620(f)

In its first-notice comment, the Agricultural Coalition recommended revising subsection (f) to require that the soil type considered for the limiting erosion factor should be the “dominant critical soil type.” The Agricultural Coalition indicated that this soil type is determined through Agronomy Technical Note IL-3, available in Section 1 of the Illinois Natural Resources Conservation Service (NRCS) Field Office Technical Guide. PC 3030 at 29-30.

3. Section 502.620(g)

In its first-notice comment, the Agricultural Coalition requested that the Board delete subsection (g), which prohibits land application of livestock waste on slopes greater than 15%. PC 3030 at 31.

The period to respond to first-notice comments ends on Friday, February 21, 2014. All responses must be received by that date in order to be considered by the Board before it proceeds to second notice. The "mailbox rule" (*see* 35 Ill. Adm. Code 101.300(b)(2)) does not apply to the filing of these comments, and the Board's Clerk must receive comments before the close of business on February 21, 2014. However, these documents may be filed electronically through the Clerk's Office On-Line (COOL). *See* 35 Ill. Adm. Code 101.302(d) (prior approval of electronic filing). Questions about electronic filing should be directed to the Clerk's Office at (312) 814-3629.

IT IS SO ORDERED.



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