

ILLINOIS POLLUTION CONTROL BOARD
April 29, 1982

IN THE MATTER OF:)
)
AMENDMENTS TO THE WATER POLLUTION) R80-6
REGULATIONS OF THE ILLINOIS)
POLLUTION CONTROL BOARD)

OPINION AND ORDER OF THE BOARD (by I. Goodman):


The Illinois Environmental Protection Agency (Agency) on April 7, 1980 proposed amending Chapter 3: Water Pollution in response to the Third District Appellate Court's interpretation of Board Rule 951(b)(2) in Starcevich et al. v. IEPA, 78 Ill. App. 3d 700, 397 N.E. 2d 870. On May 30, 1980, the Board issued a proposed Opinion and Order which included the language proposed by the Agency and its own additional amendments to Chapter 3. Written public comments subsequently received by the Board principally addressed the Board's proposed amendments. After modifying its proposed Order in response to these comments, the Board published the rules for First Notice and indicated public hearings would be scheduled. The Department of Energy and Natural Resources developed an economic impact study, which was received by the Board on December 11, 1981.

This rulemaking had three distinct objectives. As stated above, the Agency sought to amend Chapter 3 definitions and Rule 951(b)(2) to limit the Starcevich court's interpretation of this Rule to that single case. Secondly, the Board proposed amending those rules pertaining to Restricted Status for water treatment authorities. Lastly, the Board sought to use this regulatory proceeding to update language found in Rule 501 and Part IX of Chapter 3. Since this rulemaking was initiated, the definitions proposed by the Agency have been added to Chapter 3 in R77-12, Docket A. After reviewing the public comments and the Agency's practice and authority to impose Restricted Status, the Board has determined that major revision of the pertinent rule is unwise. Combining procedural rules with the current Rule 604 could only create confusion for those persons seeking review of or variance from Restricted Status. However, amending Rule 604 to include provisions further delineating the Agency's procedures for imposing Restricted Status may be beneficial.

Thus, all that remains to be considered by this rulemaking are non-substantive changes updating Chapter 3 and the substantive amendments to Rule 604 and Rule 951(b)(2), removing any precedential value created by the Starcevich decision. Rather than hold merit and economic hearings on these minor amendments, these issues and the non-substantive changes will be incorporated into R82-5, Effluent Standards Revisions. This matter is dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 29th day of April, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board