

ILLINOIS POLLUTION CONTROL BOARD
May 2, 1985

IN THE MATTER OF:)
)
AMENDMENTS TO CHAPTER 3) R77-12
WATER POLLUTION (Effluent) Docket D
Disinfection))

PROPOSED RULE. PEREMPTORY RULEMAKING.

ORDER OF THE BOARD (by J. D. Dumelle):

On October 14, 1982, the Board adopted rules repealing two water quality standards governing maximum levels of bacteria (35 Ill. Adm. Code 302.209 and 302.406) and amending the bacterial effluent standard (35 Ill. Adm. Code 304.121). The rules were filed with the Secretary of State on October 26, 1982, and became effective on that date. However, the rules were appealed, and the Illinois Supreme Court ultimately reversed the Board's repeal of the fecal coliform water quality standard for general use waters (35 Ill. Adm. Code 302.209) and the amendment of the effluent standard. See The People of the State of Illinois v. The Pollution Control Board, et al., 103 Ill. 2d 441, 469 N.E.2d 1102 (October 3, 1984).

Thus, the Board's currently filed rules fail to state the present law with respect to 35 Ill. Adm. Code 302.209 and 304.121. The Board, therefore, proposes to readopt those rules as they existed prior to the Board's action in this proceeding to correct that discrepancy by peremptory rulemaking pursuant to Section 5.03 of the Administrative Procedure Act (Ill.Rev.Stat., ch. 127, par. 1005.03).

The Board will accept comments until June 21, 1985, regarding this proposed action and the utility of either reopening this docket for further consideration of the reinstated rules or the opening of a new docket. Also, if any person is interested in becoming the proponent of any new regulation covering this subject matter, such desire should be indicated by that date.

The proposed amendments to Subtitle C of 35 Ill. Adm. Code are as follows:

Section 302.209 Fecal Coliform

Based on a minimum of five samples taken over not more than a 30 day period, fecal coliforms (STORET number 31616) shall not exceed a geometric mean of 200 per 100 ml, nor shall more than 10% of the samples during any 30 day period exceed 400 per 100 ml.

Section 304.121 Bacteria

No effluent governed by this Part shall exceed 400 fecal coliform per 100 ml.

No person shall cause or allow fecal coliform (STORET number 31616) to exceed 400 per 100 ml in any effluent which discharges to the following locations:

- a) During the months of May through September, within 20 stream miles (statute miles) upstream of a public bathing beach licensed under the "Illinois Swimming Pool and Bathing Beach Act" (Ill. Rev. Stat. 1979, ch 111 1/2 pars. 1201-1227.
- b) Within 20 stream miles (statute miles) upstream of a water intake used for public or food processing water supply.
- c) Any location where it may cause or contribute to violation of another state's water quality standards in interstate waters.

IT IS SO ORDERED

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2nd day of May, 1985, by a vote of 5-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board