

ILLINOIS POLLUTION CONTROL BOARD
December 16, 2010

IN THE MATTER OF:)
)
TRIENNIAL REVIEW OF WATER) R11-18
QUALITY STANDARDS FOR BORON,) (Rulemaking -Air)
FLUORIDE AND MANGANESE:)
AMENDMENTS TO 35 ILL. ADM. CODE)
302.SUBPARTS B, C, E, F AND 303.312

ORDER OF THE BOARD (by C.K. Zalewski):

On December 2, 2010, the Illinois Environmental Protection Agency (Agency or IEPA) filed a rulemaking proposal¹ for amendments to the Board's water quality standard (WQS) rules pursuant to the general rulemakings provisions of Section 27 of the Illinois Environmental Protection Act (Act), 415 ILCS 5/27 (2008) and the Boards procedural rules at 35 Ill. Adm. Code 102.

In the Statement of Reasons (SR) accompanying the proposal, the Agency stated that this is the culmination of the "triennial review" of standards required by the Federal Water Pollution Control Act (FWPCA or Clean Water Act), 33 USC 1313. SR at 1. The proposal "includes updated [WQS] for boron, fluoride and manganese and a handful of clean-up amendments and updates to [35 Ill. Adm. Code] Part 302 ...and a repeal of Section 303.312." SR at 1-2. The proposal is accompanied by, among other things, a motion for acceptance.

For the reasons stated below, the Board accepts the proposal for hearing.

THE PROPOSAL

The Existing Standards

By way of background, the Agency explains that the Board's existing General Use and Lake Michigan Basin standards for boron, fluoride, and manganese were adopted by the Board in 1972. In the Matters of: Effluent Criteria; Water Quality Standards Revisions; Water Quality Standards Revisions for Intrastate Waters (SB-14), R70-8/R71-14/R71/20 (cons.) (Mar. 7, 1972). The Board stated in its adopting opinion that, in addition to some new regulations, these standards were

a codification of existing water quality standards and associated standards that

¹ In the interest of clarity, the Board has slightly revised the Agency's caption for this rulemaking to better reflect the nature of the proposal. The Board requests that the participants use the caption above in future filings.

[were then] scattered throughout a number of separate regulations that we [the Board] inherited from the Sanitary Water Board. R70-8/R71-14/R71/20 (cons.), slip op. at 1.

The existing General Use and Non-open Lake Michigan Basin standards for the parameters boron, fluoride, and manganese in 35 Ill. Adm. Code 302.208(f) were set for the protection of human health. As to the Open Waters of Lake Michigan, standards are set based on background conditions. The basis for setting the Secondary Contact and Public and Food Process Water Supply standards are protection of these uses.

At the risk of over-simplification, the table below summarizes the existing standards set forth in narrative fashion in the Statement of Reasons on pages 3-4. SR. 3-4. Standards are expressed in milligrams per liter (mg/l).

Parameter	General Use	Non-open Lake Michigan Basin	Open Lake Michigan Basin (set at background concentration)	Secondary Contact and Indigenous Aquatic Life Standards	Public and Food Process Water Supply
Boron	1.0 mg/l	1.0 mg/l	1.0 mg/l	None set	None set
Fluoride	1.4 mg/l	1.4 mg/l	1.4 mg/l	15 mg/l	None set
Manganese	1.0 mg/l	1.0 mg/l	15.0 mg/l	1.0 mg/l	0.15 (set on aesthetics)

Proposed Updated Standards

The Agency proposes updates to the boron, fluoride, and manganese WQS, both as to the General Use standard in 35 Ill. Adm. Code 302.208 itself as well as to the Public and Food Processing Water Supply standards in 35 Ill. Adm. 302.Subpart C and 302.Subpart F. The Agency proposes to make changes in boron, fluoride, and manganese standards as set forth below.

Again, at the risk of over-simplification, the table below summarizes the existing standards set forth in narrative fashion in the Statement of Reasons on pages 4-6. SR. 4-6.

Parameter	General Use	Non-open Lake Michigan Basin	Open Lake Michigan Basin (set at background concentration)	Secondary Contact and Indigenous Aquatic Life Standards	Public and Food Process Water Supply
Boron	None	None	1.0	None set*	1.0 mg/l
Fluoride	None	None	1.4	15.0 mg/l*	1.4 mg/l
Manganese	None	None	0.15mg/l	1.0 mg/l*	1.0 mg/l (set on aesthetics)

*No changes proposed in this docket: “At this time, the Agency intends to address all standards for Secondary Contact and Indigenous Aquatic Life Use water in the Use Attainability Analysis of the Des Plaines and Chicago Waterways” rulemaking. *See*, R08-09 (Sub-Docket D).” SR. at 4.

The Agency states that the proposed updates above to these standards were developed using United States Environmental Protection Agency (USEPA) 1985 Guidelines for deriving numeric water quality criteria. SR at 6, Attach. 1, Exh. F. The Agency further states that these standards were the result of collaborative work between the Agency, USEPA, and Dr. David Soucek of the Illinois Natural History Survey (INHS). Acute and chronic standards were also developed and are proposed. SR at 6-8.

The Agency has also proposed other miscellaneous changes. First is a change in the publication requirement for numeric criteria derived under 35 Ill. Adm. Code 302.Subpart F: the Agency proposes that the derived criteria not be published in the Illinois Register under Section 302.595, but instead be maintained on its website under specified update conditions. SR at 9. Corrections are proposed to the General Use zinc standard, elimination of STORET codes, as that database is no longer being supported by USEPA, cross-references, clarification of language in Section 302.208, and changes of references to cyanide mercury, chloride, and toluene in tables. SR. at 9-12.

The Statement of Reasons contains a synopsis of the testimony of two witnesses, both Agency employees in the Water Quality Standards Unit, Division of Water Pollution Control, Bureau of Water: Mr. Bob Mosher, Manager, and Mr. Brian Koch, Environmental Protection Specialist. SR at 32-33. Documents on which they and the Agency have relied are specified at SR 36-43. These include documents attached (SR at 36-37, Attach.1-8), as well as those referenced (SR at 37-43).

ACCEPTANCE FOR HEARING

The Board finds that the petition meets the content requirements of 35 Ill. Adm. Code 102.202. The Board accepts the petition for hearing.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 16, 2010 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

