

ILLINOIS POLLUTION CONTROL BOARD  
February 2, 2012

IN THE MATTER OF: )  
)  
WATER QUALITY STANDARDS AND ) R08-9 (Subdocket B)  
EFFLUENT LIMITATIONS FOR THE ) (Rulemaking - Water)  
CHICAGO AREA WATERWAY SYSTEM )  
AND LOWER DES PLAINES RIVER: )  
PROPOSED AMENDMENTS TO 35 ILL. )  
ADM. CODE 301, 302, 303, and 304 )

Adopted Rule. Final Notice.

OPINION AND ORDER OF THE BOARD (by D. Glosser):

**SUMMARY OF TODAY'S ACTION**

The Board adopts a rule establishing an effluent limit for fecal coliform colony forming units (CFU) during the months of March 1 through November 30 for effluent discharges to Primary Contact Recreation water segments of the Chicago Area Waterway System (CAWS) and Lower Des Plaines River (LDPR). Those segments are 1) Lower North Shore Channel from North Side Water Reclamation Plant to confluence with North Branch of the Chicago River; 2) North Branch of the Chicago River from its confluence with North Shore Channel to its confluence with South Branch of the Chicago River and Chicago River; 3) Chicago River; 4) South Branch of the Chicago River; 5) Little Calumet River from its confluence with Calumet River and Grand Calumet River to its confluence with Calumet-Sag Channel; and 6) Calumet-Sag Channel. The Board finds that the rule proposed is economically reasonable and technically feasible.

The Board declines at this time to establish an effluent limit for other segments of the CAWS and LDPR that are designated as Incidental Contact Recreation, Non-contact Recreation, and Non-Recreation waters.

The Board, in consideration of comments received, adopts bacterial water quality standards for the CAWS and LDPR but only as to those waters designated as Primary Contact Recreation waters. The Board will make the change to the bacterial water quality standards in R08-9 Subdocket C to reflect the Board's findings on the bacterial water quality standards in this opinion and order.

The Board's opinion will begin with a recitation of the procedural background. The Board will then summarize the first-notice proposal and second-notice proposal. The Board will then discuss proceeding to adoption with this rule.

## **PROCEDURAL BACKGROUND**

In the next several sections the Board will explain the procedural background of the rulemaking. The Board will begin with the pre-first notice background. The Board will then summarize the first notice procedural background, and conclude with the second notice procedural background.

### **Pre-First Notice**

On October 26, 2007, the Illinois Environmental Protection Agency (IEPA) filed a proposal under the general rulemaking provisions of Sections 27 and 28 of the Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2010)). Generally, the proposal amends the Board's rules for Secondary Contact and Indigenous Aquatic Life Uses to update the designated uses and criteria necessary to protect the existing uses of the CAWS and the LDPR. On November 1, 2007, the Board accepted the proposal for hearing. On November 15, 2007, the Board granted a motion that accompanied the proposal to hold hearings in Chicago and Joliet.

On June 12, 2008, the Metropolitan Water Reclamation District of Greater Chicago (District) filed a motion to stay the rulemaking proceeding, which was supported by: 1) Midwest Generation, 2) Chemical Industry Council of Illinois (CICI), and 3) Stepan. On June 25, 2008, the Environmental Law and Policy Center, Friends of the Chicago River, Sierra Club Illinois Chapter, Natural Resources Defense Council and Openlands (Environmental Groups) filed a response in opposition to the motion. Joining in opposition to the motion was Southeast Environmental Task Force (SETF), the People of the State of Illinois (People), and IEPA. On July 21, 2008, the Board denied the motion to stay and directed the parties to proceed with additional hearings already scheduled.

On March 18, 2010, the Board granted a motion filed by Citgo/PDV for an additional hearing on Asian Carp, but delayed that hearing until later in 2010. The Board also granted a motion filed by the Environmental Groups to sever the dockets. The Board severed the dockets as follows: 1) subdocket A deals with the issues related to recreational use designations, 2) subdocket B addresses issues relating to disinfection and whether or not disinfection may or may not be necessary to meet those use designations, 3) subdocket C addresses the issues involving proposed aquatic life uses, and 4) subdocket D addresses the issues dealing with water quality standards and criteria that are necessary to meet the aquatic life use designations.

The Board held 39 days of hearing as of March 18, 2010, when the docket was divided, and additional hearings proceeded in this docket and continue to proceed in the remaining subdockets. Hearings were held in Chicago: January 28, 2008 through February 1, 2008, June 16, 2008, September 8, 2008 through September 10, 2008, September 23, 2008 through September 25, 2008, February 17 and 18, 2009, March 3 and 4, 2009, April 15, 2009, May 5, 6, and 20, 2009, July 28 and 29, 2009, August 13 and 14, 2009, October 5, 2009, November 9 and 10, 2009, and January 13 and 14, 2010. Hearings were held in Joliet: March 10, 2008 through March 12, 2008, October 27 and 28, 2008 and November 17, 2008. Hearings were held in Des Plaines: April 23 and 24, 2008, and December 2 and 3, 2008.

In the March 18, 2010 order, the Board instructed the Hearing Officer to schedule a hearing in June on the Chicago Health Environmental Exposure and Recreation Study (CHEERS) being prepared by the District. The Board held additional hearings on the CHEERS report in Chicago on June 29 and 30, 2010.

On August 5, 2010, the Board ruled on a motion filed by the District to hold additional hearings in this subdocket concerning the final report on the CHEERS. IEPA, the People and Environmental Groups opposed the request for additional hearings. The Board granted the motion and directed the hearing officer to schedule hearings on the CHEERS final report and to schedule final comments in this matter expeditiously, but in no event to conclude later than December 31, 2010. The Board held additional hearings in Chicago on October 19 and 20, 2010.

On November 4, 2010, the Board denied the People's motion to bar the District from submitting a supplement to CHEERS. The Board noted that the Board would accept all relevant information in Subdocket B submitted by December 31, 2010, including any filings by the District.

On January 3, 2011, in response to a motion by the Environmental Groups and the resulting reply by the District, the Board allowed responses to final comments to be filed by January 31, 2011, and replies to be filed by February 15, 2011.

Not all the testimony received during the 43 days of hearing is relevant to this subdocket. Those whose testimony is relevant are the following:

Rob Sulski of IEPA (Exhibit 1)  
Scott Twait of IEPA (Exhibit 2)  
Richard Lanyon of the District (Exhibit 60)  
Chris Petropoulou of the District (Exhibit 68)  
Charles P. Gerba of the District (Exhibit 69)  
Keith Tolson of the District (Exhibit 70)  
Earnest R. Blatchley III on behalf of the District (Exhibit 93)  
Susan O'Connell of the District (Exhibit 112)  
Geeta Rijal of the District (Exhibit 113)  
Adrienne D. Nemura on behalf of the District (Exhibit 116)  
Stephen F. McGowan on behalf of the District (Exhibit 133)  
Charles Haas on behalf of the District (Exhibit 144)  
David R. Zenz on behalf of the District (Exhibit 146)  
Thomas E. Kunetz of the District (Exhibit 153)  
John Mastracchio on behalf of the District (Exhibit 159)  
Peter Orris, M.D., M.P.H on behalf of the Environmental Groups (Exhibit 234)  
Dr. William Van Bonn on behalf of the Environmental Groups (Exhibit 240)  
Dr. Marylynn V. Yates on behalf of the Environmental Groups (Exhibit 249)  
Margaret Frisbee of the Friends of the Chicago River (Exhibit 259)  
Dr. Kevin J. Boyle on behalf of the People (Exhibit 286)  
Carl E. Adams Jr. and Robin Garibay on behalf of Stepan Company (Exhibit 318)  
Thomas Granato of the District

Sharon Bloyd-Peshkin on behalf of the Environmental Groups (Exhibit 419)  
 Samuel Dorevitch on behalf of the District (Exhibit 100, 382, 398)  
 Marc H. Gorelick on behalf of the Environmental Groups (Exhibit 233, 390, 415)

In addition to hearing testimony, the Board received over 419 exhibits and over 1000 public comments, prior to proceeding to first notice. Not all comments and exhibits are relevant to a determination of effluent disinfection, and therefore will not be listed. Further, many public comments consist of one page or less from numerous individuals and those comments are: PC 307-483, 485-490, 492-494, 501-504, 506-551, 557-558 573-578, 585 -972, 974-993, 995-1002, 1004-1007, 1012-1056. The single page comments all support disinfection of the effluent. Public comments from participants are:

IEPA PC 568, 1003  
 The People PC 566  
 The Environmental Groups PC 564, 579, 582, 973  
 United States Environmental Protection Agency (USEPA) PC 561, 580, 584, 994  
 The District PC 300, 300A, 484, 478, 556, 562, 565, 567, 581, 583, 1010

### **First Notice**

On July 7, 2011, the Board proposed the rule for first notice. The proposed rule was published in the *Illinois Register* on July 29, 2011. See 31 Ill. Reg. 12634 (July 29, 2011). The Board held an additional hearing on October 27, 2011. The purpose of the hearing was solely to satisfy the requirements of Section 27(b) of the Act. Section 27(b) of the Act requires the Board to request the Department of Commerce and Economic Opportunity (DCEO) to conduct an economic impact study on certain proposed rules prior to adoption of those rules. The Board requested, by letter dated July 7, 2011, that DCEO conduct an economic impact study of the rule proposed in this subdocket. The Board did not receive a response to that letter. No comments were made at the hearing regarding DCEO's decision.

In addition to the hearing, the Board received numerous additional public comments. Comments PC 1057 - 1151 and PC 1156-1213 supported disinfection with two exceptions. PC 1060 and PC 1120 offered suggestions on cleaning up the waterways. Participants filed the following comments:

IEPA PC 1152  
 The Environmental Groups PC 1155  
 The District PC 1153  
 Joint Statement from IEPA, the Environmental Groups and the District PC 1154  
 USPEA PC 1214

### **Second Notice**

On December 15, 2011, the Board adopted a second notice opinion and order in this rulemaking. On January 10, 2012, the Joint Committee on Administrative Rules (JCAR) issued a certificate of no objection. JCAR suggested, and the Board agreed, to one change in the

rulemaking language. That change was to replace “the effective date of this Section” with “February 3, 2012”.

### **SUMMARY OF FIRST-NOTICE PROPOSAL**

The Board will summarize the first-notice proposal by first describing the Board’s first-notice action on Primary Contact Recreation waters. The Board will next summarize the Board’s decision at first notice on Incidental Contact waters and Non-Contact and Non Recreation waters. The Board will conclude with a summary of the first-notice proposal by restating the Board’s findings on the economic reasonableness and technical feasibility of the proposed rule.

#### **Primary Contact Recreation Waters**

The major issue decided by the Board at first notice was whether or not either water quality standards or effluent limits for waterborne human pathogens are necessary to protect the recreational use designations made in Subdocket A. When drafting rules to protect the Primary Contact Recreation use designation, the Board looked to existing regulations for General Use waters of the State for guidance. *See e.g.* 35 Ill. Adm. Code 302.209, 304.121. The Board has established both water quality standards and effluent standards for General Use waters of the State, and these waters are protected for primary human contact. Section 304.121 establishes an effluent standard of 400 fecal coliform (CFU) per 100 mL for discharges to General Use waters. 35 Ill. Adm. Code 304.121. Section 302.209 sets a water quality standard for fecal coliform that prohibits any exceedance of a geometric mean of 200 CFU per 100 mL. Not more than 10 percent of the samples during any 30 day period may exceed 400 CFU per 100 mL in protected waters. 35 Ill. Adm. Code 302.209. Protected waters include waters that presently support or have the physical characteristics to support primary contact. *Id.*

Given the uncertainty associated with the water quality criteria for primary contact recreation at the federal level, the Board declined to develop a water quality standard for human pathogens for the Primary Contact Recreation segments of the CAWS at first notice. The only statements in the record supporting a specific water quality standard are the comments of IEPA and USEPA urging the Board to adopt the water quality standard at Section 302.209 that applies to General Use waters. At first notice, IEPA and USEPA had not presented supporting evidence beyond their statements. The Board invited the participants to provide comments on whether the Board should adopt the existing water quality standard for CAWS and the LDPR before proceeding to second notice.

Most of the testimony and comment in the R08-9 rulemaking addressed the proposed effluent standard for discharges of fecal coliform into the CAWS and LDPR. The Agency proposed the fecal coliform effluent standard for Incidental Contact and Non-Contact Recreation waters. At first notice, the Board found that IEPA’s proposed effluent limit may appropriately be considered for Primary Contact Recreation waters since that limit is based on the effluent fecal coliform standard for General Use waters. The record addressing effluent standards, the present uncertainty in the scientific community regarding bacteria water quality standards, and USEPA’s plan to issue guidance in 2012, led the Board to find that an effluent limit is the best method to protect the six segments of the CAWS designated for Primary Contact Recreation at

first notice. The Board proposed the same effluent discharge limits of 400 colony forming units (fecal coliform) per 100 mL of water that is the current effluent discharge limit for General Use waters for those six segments designated as Primary Contact Recreation.

The Board next addressed the effective date of the proposed effluent limit for fecal coliform. In proceeding to first notice, the Board did not choose a compliance date. The Board expected the participants to update the record and clarify what compliance schedule is appropriate. The Board anticipated that a date between March 1, 2015 and March 1, 2020 would be appropriate.

After consideration of the record, the Board proposed for dischargers to Primary Contact Recreation waters, the following rule language:

Section 304.224 Effluent Bacteria Standards for Discharges to the Chicago Area Waterway System and Lower Des Plaines River

Effluent discharges to the Primary Contact Recreation waters listed in 35 Ill. Adm. Code 303.220 must not exceed 400 CFU fecal coliform per 100 ml from March 1 through November 30. All effluents in existence on or before the effective date of this Section must meet these standards. All new discharges must meet these standards upon initiation of discharge.

**Incidental Contact Recreation**

The Board determined that the record for establishing an effluent standard for Incidental Contact Recreation is not as convincing as for Primary Contact Recreation. Therefore, the Board did not require discharges into Incidental Contact waters to meet an effluent discharge limit for bacteria at first notice. The Board did indicate that when USEPA has provided guidance for drafting water quality standards in 2012, the Board invites IEPA to propose bacteria water quality standards for the CAWS and LDPR that will be protective of Incidental Contact Recreation.

**Non-Contact Recreation and Non-Recreation**

The segments of the CAWS and LDPR designated for Non-Contact Recreation and Non-Recreation will have less human contact with the water than segments designated as Incidental Contact Recreation. Therefore, since the Board is not establishing an effluent limit for Incidental Contact waters, the Board declined to establish an effluent limit for Non-contact Recreation and Non-Recreation water segments in this rulemaking

**Economic Reasonableness and Technical Feasibility**

The Board found that compliance with the proposed bacterial effluent standard for the District's plants is technically feasible based on the record. Further, after a careful review of the economic information in this proceeding, the Board found that disinfection is economically reasonable for the District's effluent, particularly for the North Side and Calumet plants.

## **SUMMARY OF SECOND NOTICE PROPOSAL**

IEPA, the District, and the Environmental Groups filed a joint statement that indicated four areas of agreement among participants in this rulemaking. Those areas were: 1) water quality criteria for Primary Contact Recreation waters, 2) technology-based effluent limitation for disinfection, 3) schedule for commencement of disinfection, and 4) disinfection at the Stickney wastewater reclamation plant (WRP). The participants provided further comment supporting the joint statement and their reasons for supporting the position enunciated in the joint statement. The Board accepted the resolution offered by the participants.

### **Water Quality Standards for Primary Contact Recreation Waters**

The Board was convinced that adopting a water quality standard for waterborne human pathogens to protect Primary Contact Recreation waters is necessary to meet the requirements of the Clean Water Act (CWA). The Board's proposed designation of portions of the CAWS and LDPR as Primary Contact Recreation waters means that the waters must be safe for recreating. To insure the safety of recreators, a water quality standard for waterborne human pathogens must be adopted. As the record in this proceeding addressed primarily protection of Incidental Contact Recreation and Non-contact Recreation, little is included in this record that supports establishing a standard different from the General Use water quality standard. Therefore, because the General Use water quality standard has been adopted by the Board and approved by the USEPA for statewide implementation, the Board will adopt the fecal coliform water quality standard for protected waters found in Section 302.209, for the protection of Primary Contact Recreation waters. The Board will propose the water quality standard when proceeding to first notice in Subdocket C.

IEPA provided the Board with language amending Sections 303.204 and 303.220 (35 Ill. Adm. Code 303.204 and 303.220) to apply the General Use fecal coliform water quality standard to Primary Contact Recreation waters in the CAWS and LDPR. However, the Board did not propose changes to Sections 303.204 or 303.220 (water quality standards) at first notice in this docket, and therefore could not make those changes at second notice. The Board will make the changes suggested by IEPA before implementation of disinfection, and intends to propose the changes when proceeding with Subdocket C.

### **Technology Based Effluent Limitation for Disinfection**

The participants supported the Board's proposed first-notice fecal coliform effluent standard of 400 CFU/100 mL if less than 10 samples are taken. PC 1154 at 2. However, if 10 or more samples are taken, the participants recommended that the standard require compliance with a 30-day geometric mean not to exceed 200 CFU/100 mL fecal coliform with no more than 10% of the samples exceeding 400 CFU/100 mL. *Id.* The Board noted that the suggested clarification of the standard is consistent with the General Use fecal coliform water quality standard at Section 302.209. As the participants have agreed to this clarification of the standard and no comments have been received in opposition, the Board accepted this change to the rule language.

The Board will clarify the language at Section 304.224 to reflect the changes proposed in the joint statement at second notice.

### **Schedule for Commencement of Disinfection**

The joint statement suggested that a compliance date beginning in 2016 is achievable and should be adopted. The Board agreed that a compliance deadline of 2016 is achievable based on the record before the Board and amended the rule to reflect that compliance date. Although the Board understands that unforeseen circumstances can impact the ability to construct the disinfection units; the Board is not convinced that placing words in the rule language as nebulous as “unforeseen circumstances” or “beyond the dischargers’ reasonable control” is appropriate. Rather, the Board stated that if such a circumstance occurs, a request for an adjusted standard or variance pursuant to Sections 28.1 or 35 of the Act (415 ILCS 5/28.1 and 35 (2010)) is the more appropriate relief. Such a request will insure that IEPA and interested parties are notified and that the agreed extension of time equal to time lost due to delay is the time extended. Therefore, the Board did not include language concerning unforeseeable circumstances and the Board will include a date certain for compliance with the effluent standard.

### **Disinfection of Stickney WRP**

The joint statement indicates that the participants agree with the Board’s decision not to require disinfection for effluent discharged to Incidental Contact Recreation, Non-contact Recreation and Non-Recreation waters. The Board’s decision means that the Stickney WRP effluent need not be disinfected at this time.

### **Months that Disinfection Should Take Place**

The participants offered comments on the time period during which the discharger must disinfect the effluent. The District argued that the water quality standard set forth in Section 302.209, which will be proposed for adoption in Subdocket C for Primary Contact Recreation waters, applies only during the months of May through October. *See e.g.* PC 1153 at 2. The District argued that requiring disinfection from May through October is reasonable and consistent with Illinois law. *Id.*

IEPA and Environmental Groups argued that the first-notice proposal to require disinfection from March 1 until November 30 was correct, and the Board should maintain those dates. *See e.g.* PC 1152 at 8; PC 1155 at 2. IEPA offered that dischargers to General Use waters are required to disinfect year round pursuant to Section 304.121, and an exception for not disinfecting may be granted by IEPA under that section. PC 1152 at 9. Further, Section 302.209 sets forth the bacterial water quality standard applicable only to “protected waters”. *Id.* The Environmental Groups argued that recreation occurs in CAWS during March, April and November and therefore a longer recreation season is warranted. PC 1155 at 2.

The Board agreed with IEPA and the Environmental Groups that disinfection is required for all dischargers to General Use waters pursuant to Section 304.121(a) which provides:

Effluents discharged to all general use waters shall not exceed 400 fecal coliform per 100 ml unless the Illinois Environmental Protection Agency determines that an alternative effluent standard is applicable pursuant to subsection (b). 35 Ill. Adm. Code 304.121(a).

Illinois law requires year round disinfection for dischargers other than in the CAWS and LDPR unless an alternative effluent standard is set by IEPA pursuant to Section 304.121(b). The rule will require disinfection only for dischargers in the CAWS and LDPR who discharge to waters designated for Primary Contact Recreation during the months of March through November. Thus, CAWS and LDPR dischargers will have an exemption from year round effluent disinfection. Regarding the disinfection time period, the Board believes that the rules should require disinfection over the recreation season. The record indicates that during the Use Attainability Analysis (UAA) process, the District agreed with other stakeholders to a recreation season extending from March through November. *See Attach B at 5-10. See Attach B at 5-10.*

Additionally, the record includes information that recreation occurs during the months of March, April and November, albeit Incidental Contact Recreation uses. *See Attach B at 4-24 (educational institutions use), 5-10 (stakeholders agreement as to recreation dates) and PC 1155.* Thus, evidence indicates recreating does occur during March, April and November. Furthermore, the District itself notes that the reason for disinfection is to protect Primary Contact Recreation, and the Board agrees. The designation of the segments for Primary Contact Recreation is a goal consistent with the CWA goal of attaining swimmable. The Board found that to protect for full body contact and to insure protection during the recreating season, effluent disinfection from March through November is appropriate.

### **Economic Reasonableness and Technical Feasibility**

At first notice, the Board found the proposed rule economically reasonable and technically feasible, based on the record. *See Water Quality Standards And Effluent Limitations For The Chicago Area Waterway System And Lower Des Plaines River Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304, R08-9(B), slip op. at 116-19 (Jul. 7, 2011).* During the first-notice period no additional information regarding economic reasonableness or technical feasibility was provided. Also, at the Board's hearing on DCEO's not performing an Economic Impact Analysis, no one testified. Therefore, the Board found that based on the record the proposed rule is economically reasonable and technically feasible.

### **DISCUSSION**

Through the efforts of IEPA, regulated community, environmental groups, and members of the public, this rulemaking has a voluminous record to substantiate the Board's decisions. The Board held multiple days of hearings and received over 1000 public comments. The Board appreciates these efforts and all of the comments, testimony and exhibits which make up this record. The Board finds that the record supports proceeding to adoption with this rule. The Board adopts an effluent disinfection standard for discharges into waters designated for Primary Contact Recreation Uses. Disinfection must begin by March 1, 2016, and must occur during the months of March through November.

In addition, the Board will, in Subdocket C, propose language in Sections 303.204 and 303.220 (35 Ill. Adm. Code 303.204 and 303.220) to apply the General Use fecal coliform water quality standard to Primary Contact Recreation waters in the CAWS and LDPR. The Board could not make that change in this subdocket as those sections were not proposed for first notice under the Illinois Administrative Procedure Act. *See* 5 ILCS 100/5-40 (2010).

Pursuant to Section 27 of the Act (415 ILCS 5/27 (2010)) when promulgating a rule, the Board must take into account several matters including existing water quality and the technical feasibility and economic reasonableness of reducing pollution. 415 ILCS 5/27(a) (2010). Further, the Board must make a determination as to whether the proposed rule has any adverse economic impact on the people of Illinois. 415 ILCS 5/27(b) (2010). At first notice, the Board found that compliance with the proposed bacterial effluent standard for the District's plants is technically feasible based on the record. Further, after a careful review of the economic information in this proceeding, the Board found that disinfection is economically reasonable for the District's effluent, particularly for the North Side and Calumet plants. During the first-notice period, no additional information regarding economic reasonableness or technical feasibility was provided. Also, at the Board's hearing on DCEO's decision not to perform an Economic Impact Analysis, no one testified. Therefore, the Board finds that the rules are economically reasonable and technically feasible.

### **CONCLUSION**

The Board adopts a rule establishing an effluent limit for fecal coliform colony forming units (CFU) during the months of March 1 through November 30 for effluent discharges to Primary Contact Recreation water segments of the Chicago Area Waterway System (CAWS) and Lower Des Plaines River (LDPR). Those segments are 1) Lower North Shore Channel from North Side Water Reclamation Plant to confluence with North Branch of the Chicago River; 2) North Branch of the Chicago River from its confluence with North Shore Channel to its confluence with South Branch of the Chicago River and Chicago River; 3) Chicago River; 4) South Branch of the Chicago River; 5) Little Calumet River from its confluence with Calumet River and Grand Calumet River to its confluence with Calumet-Sag Channel; and 6) Calumet-Sag Channel. The Board finds that the rule proposed is economically reasonable and technically feasible.

The Board declines at this time to establish an effluent limit for other segments of the CAWS and LDPR that are designated as Incidental Contact Recreation, Non-contact Recreation, and Non-Recreation waters.

The Board, in consideration of comments received, adopts bacterial water quality standards for the CAWS and LDPR but only as to those waters designated as Primary Contact Recreation waters. The Board will propose bacterial standards in R08-9 Subdocket C to reflect the Board's findings on the bacterial water quality standards in this opinion and order.

**ORDER**

The Board directs the Clerk to submit the following rule to Secretary of State for adoption and publication in the *Illinois Register*:

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE C: WATER POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD

PART 304  
 EFFLUENT STANDARDS

SUBPART A: GENERAL EFFLUENT STANDARDS

Section	
304.101	Preamble
304.102	Dilution
304.103	Background Concentrations
304.104	Averaging
304.105	Violation of Water Quality Standards
304.106	Offensive Discharges
304.120	Deoxygenating Wastes
304.121	Bacteria
304.122	Total Ammonia Nitrogen (as N: STORET number 00610)
304.123	Phosphorus (STORET number 00665)
304.124	Additional Contaminants
304.125	pH
304.126	Mercury
304.140	Delays in Upgrading (Repealed)
304.141	NPDES Effluent Standards
304.142	New Source Performance Standards (Repealed)

SUBPART B: SITE SPECIFIC RULES AND EXCEPTIONS NOT OF GENERAL  
 APPLICABILITY

Section	
304.201	Wastewater Treatment Plant Discharges of the Metropolitan Water Reclamation District of Greater Chicago
304.202	Chlor-alkali Mercury Discharges in St. Clair County
304.203	Copper Discharges by Olin Corporation
304.204	Schoenberger Creek: Groundwater Discharges
304.205	John Deere Foundry Discharges
304.206	Alton Water Company Treatment Plant Discharges
304.207	Galesburg Sanitary District Deoxygenating Wastes Discharges
304.208	City of Lockport Treatment Plant Discharges
304.209	Wood River Station Total Suspended Solids Discharges
304.210	Alton Wastewater Treatment Plant Discharges

304.211	Discharges From Borden Chemicals and Plastics Operating Limited Partnership Into an Unnamed Tributary of Long Point Slough
304.212	Sanitary District of Decatur Discharges
304.213	PDV Midwest Refining, L.L.C. Refinery Ammonia Discharge
304.214	Mobil Oil Refinery Ammonia Discharge
304.215	City of Tuscola Wastewater Treatment Facility Discharges
304.216	Newton Station Suspended Solids Discharges
304.218	City of Pana Phosphorus Discharge
304.219	North Shore Sanitary District Phosphorus Discharges
304.220	East St. Louis Treatment Facility, Illinois-American Water Company
304.221	Ringwood Drive Manufacturing Facility in McHenry County
304.222	Intermittent Discharge of TRC
<u>304.224</u>	<u>Effluent Disinfection</u>

### SUBPART C: TEMPORARY EFFLUENT STANDARDS

#### Section

304.301	Exception for Ammonia Nitrogen Water Quality Violations (Repealed)
304.302	City of Joliet East Side Wastewater Treatment Plant
304.303	Amerock Corporation, Rockford Facility

#### Appendix A References to Previous Rules

**AUTHORITY:** Implementing Section 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13 and 27].

**SOURCE:** Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 30, p. 343, effective July 27, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; amended at 4 Ill. Reg. 20, p. 53, effective May 7, 1980; amended at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 7 Ill. Reg. 3020, effective March 4, 1983; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended at 7 Ill. Reg. 14515, effective October 14, 1983; amended at 7 Ill. Reg. 14910, effective November 14, 1983; amended at 8 Ill. Reg. 1600, effective January 18, 1984; amended at 8 Ill. Reg. 3687, effective March 14, 1984; amended at 8 Ill. Reg. 8237, effective June 8, 1984; amended at 9 Ill. Reg. 1379, effective January 21, 1985; amended at 9 Ill. Reg. 4510, effective March 22, 1985; peremptory amendment at 10 Ill. Reg. 456, effective December 23, 1985; amended at 11 Ill. Reg. 3117, effective January 28, 1987; amended in R84-13 at 11 Ill. Reg. 7291, effective April 3, 1987; amended in R86-17(A) at 11 Ill. Reg. 14748, effective August 24, 1987; amended in R84-16 at 12 Ill. Reg. 2445, effective January 15, 1988; amended in R83-23 at 12 Ill. Reg. 8658, effective May 10, 1988; amended in R87-27 at 12 Ill. Reg. 9905, effective May 27, 1988; amended in R82-7 at 12 Ill. Reg. 10712, effective June 9, 1988; amended in R85-29 at 12 Ill. Reg. 12064, effective July 12, 1988; amended in R87-22 at 12 Ill. Reg. 13966, effective August 23, 1988; amended in R86-3 at 12 Ill. Reg. 20126, effective November 16,

1988; amended in R84-20 at 13 Ill. Reg. 851, effective January 9, 1989; amended in R85-11 at 13 Ill. Reg. 2060, effective February 6, 1989; amended in R88-1 at 13 Ill. Reg. 5976, effective April 18, 1989; amended in R86-17(B) at 13 Ill. Reg. 7754, effective May 4, 1989; amended in R88-22 at 13 Ill. Reg. 8880, effective May 26, 1989; amended in R87-6 at 14 Ill. Reg. 6777, effective April 24, 1990; amended in R87-36 at 14 Ill. Reg. 9437, effective May 31, 1990; amended in R88-21(B) at 14 Ill. Reg. 12538, effective July 18, 1990; amended in R84-44 at 14 Ill. Reg. 20719, effective December 11, 1990; amended in R86-14 at 15 Ill. Reg. 241, effective December 18, 1990; amended in R93-8 at 18 Ill. Reg. 267, effective December 23, 1993; amended in R87-33 at 18 Ill. Reg. 11574, effective July 7, 1994; amended in R95-14 at 20 Ill. Reg. 3528, effective February 8, 1996; amended in R94-1(B) at 21 Ill. Reg. 364, effective December 23, 1996; expedited correction in R94-1(B) at 21 Ill. Reg. 6269, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1351, effective December 24, 1997; amended in R97-28 at 22 Ill. Reg. 3512, effective February 3, 1998; amended in R98-14 at 23 Ill. Reg. 687, effective December 31, 1998; amended in R02-19 at 26 Ill. Reg. 16948, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 194, effective December 20, 2002; amended in R04-26 at 30 Ill. Reg. 2365, effective February 2, 2006; amended in R08-9B at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: SITE SPECIFIC RULES AND EXCEPTIONS NOT OF GENERAL  
APPLICABILITY

Section 304.224      Effluent Disinfection

From March 1 through November 30, effluents discharged to the Primary Contact Recreation waters listed in 35 Ill. Adm. Code 303.220 must not exceed 400 fecal coliform colony forming units (CFU) per 100 mL if less than 10 samples are taken in a month. If 10 or more samples are taken in a month, fecal coliform shall not exceed a 30-day geometric mean of 200 CFU per 100 mL, nor shall more than 10% of the samples during any 30 day period exceed 400 CFU per 100 mL. All effluents in existence on or before February 3, 2012 must meet these standards by March 1, 2016. All new discharges must meet these standards upon the initiation of discharge.

Source Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2008); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 2, 2012, by a vote 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board