

ILLINOIS POLLUTION CONTROL BOARD

April 18, 1996

IN MATTER OF: ) R 96-12  
)  
) (Rulemaking - Identical in  
PRETREATMENT UPDATE USEPA ) Substance Rules -Water)  
REGULATION (JULY 1, 1995 THROUGH )  
DECEMBER 31, 1995) )

PROPOSAL FOR PUBLIC COMMENT

PROPOSED OPINION AND ORDER OF THE BOARD (by E. Dunham):

The Board is amending the pretreatment regulations pursuant to Section 13.3 of the Environmental Protection Act (Act) (415 ILCS 5/13.3 (1994)).

Section 13.3 of the Act requires the Board to adopt regulations which are "identical in substance" with federal regulations promulgated by the United States Environmental Protection Agency (USEPA) to implement the pretreatment requirements of Sections 307 and 402 of the Clean Water Act, previously known as the Federal Water Pollution Control Act. Section 13.3 provides that Title VII of the Act and Sections 5 and 6.02 of the Administrative Procedure Act (APA) shall not apply to identical in substance regulations adopted to establish the pretreatment program. However, Section 13.3 of the Act does require the Board to provide for notice and public comment before rules are filed with the Secretary of State.

This rulemaking updates the pretreatment rules to cover USEPA rules adopted from July 1 through December 31, 1995. The following Federal Registers are included:

60 Fed. Reg. 39586	August 2, 1995
60 Fed. Reg. 44670	August 28, 1995
60 Fed. Reg. 53529	October 16, 1995

The pretreatment rules govern discharges by industrial users to publicly owned treatment works (POTWs). The rules are intended to prevent pollutants from industrial discharges from passing through POTWs, without adequate treatment, to waters of the State, and to prevent industrial discharges from interfering with the operation of the treatment plant. Effluent discharges are regulated pursuant to 35 Ill. Adm. Code 304 and 309.

The Illinois pretreatment rules are contained in 35 Ill. Adm. Code 307, 309 and 310. Part 307 includes the categorical pretreatment standards, which are incorporated by reference from the USEPA rules. Part 309 sets forth the NPDES requirements. Although Part 309 does not pertain directly to sewer users and industrial wastewater pretreatment, it includes requirements at Section 309.103 that pertain to NPDES permittees required to have an approved pretreatment program. Part 310 specifies how a POTW sets up a pretreatment program, and how industrial users get pretreatment permits or authorizations to discharge.

## PUBLIC COMMENTS

The Board proposes amendments to 35 Ill. Adm. Code 310, in this proposed opinion and order. The proposed amendments will soon be published in the Illinois Register for public comment.

The public comment period will end 45 days after the date of publication in the Illinois Register. The Board stresses the importance that commenters make their submissions promptly and directly to the Clerk of the Board referencing Docket R96-12, so the Board can obtain the benefit of the commenters input.

The discussion that follows indicates each topic on which the Board especially invites public comment. In any event, the Board construes silence as no objection to the Board's approach to each topic.

## DISCUSSION

The USEPA amended 40 CFR Part 136 to add additional testing procedures in three separate rulemakings. This rulemaking updates the incorporation of 40 CFR 136 in Section 310.107 to include the additional testing procedures. Use of approved analytical techniques is required whenever the waste constituent specified is required to be measured for an NPDES permit application; discharge monitoring reports; state certification; and other requests from the permitting authority for quantitative or qualitative effluent data. Use of approved test procedures is also required for the expression of pollutant amounts, characteristics, or properties in effluent limitations guidelines and standards of performance and pretreatment standards, unless otherwise specified.

The USEPA approved the use of an additional procedure for the determination of chlorinated pesticides and polychlorinated biphenyls (PCBS) in wastewater at 60 Fed. Reg. 39586 on August 2, 1995. This method differs from other approved methods in that it incorporates a disk of octadecyl-bonded silica enmeshed in a matrix of inert polytetrafluorethylene (PTFE) fibrils for extraction of the analytes.

The USEPA approved the use of three additional test procedures for the determination of Total Kjeldahl Nitrogen (TKN) at 60 Fed. Reg. 44670 on August 28, 1996. The USEPA approved the Perstrop titrimetric, colorimetric and FIA gas diffusion methods for TKN as acceptable alternative procedures for nationwide use.

The USEPA amended 40 CFR 136 at 60 Fed. Reg. 53529 on October 16, 1996 to add whole effluent toxicity (WET) testing methods to the list of Agency approved methods. This action amends 40 CFR 136.3 by adding methods for measuring the acute and short-term chronic toxicity of effluents and receiving waters. This rulemaking will reduce cost and eliminate the confusion caused by the multiple versions of any one test method in use.

## HISTORICAL OUTLINE OF BOARD PRETREATMENT REGULATION

The Illinois pretreatment rules were adopted in R86-44, 84 PCB 89, December 3, 1987. The rules appeared at 12 Ill. Reg. 2502 (January 29, 1988), effective January 13, 1988.

The Board has updated the pretreatment rules in the following update rulemakings:

- R88-11        90 PCB 411, June 14, 1988; 12 Ill. Reg. 13094, effective July 29, 1988 (USEPA amendments through December 31, 1987).
- R88-18        94 PCB 237, December 17, 1988; 13 Ill. Reg. 1794, effective January 31, 1989 (USEPA amendments January 1, 1988 through June 30, 1988).
- R89-3         103 PCB 609, September 28, 1989; 13 Ill. Reg. 19243, effective November 17, 1989 (Part 307) and November 27, 1989 (Part 310) (USEPA amendments July 1, 1988 through December 31, 1988).
- R89-12        110 PCB 119, April 12, 1990; 14 Ill. Reg. 7608, effective May 8, 1990 (USEPA amendments January 1, 1989 through June 30, 1989).
- R90-6         Dismissed, 109 PCB 629, March 22, 1990 (No USEPA amendments July 1, 1989 through December 31, 1989).
- R90-15        Dismissed, June 20, 1991 (No USEPA amendments January 1 1990 through June 28, 1990).
- R91-5         129 PCB 395, January 23, 1992; 16 Ill. Reg. 7377 (Part 307); 7337 (Part 309); 7346 (Part 310); effective April 27, 1992. (USEPA amendments June 29, 1990 through December 31, 1990).
- R91-17        Dismissed, December 6, 1991 (No USEPA amendments January 1, 1991 through June 30, 1991).
- R92-5         Dismissed, April 9, 1992 (No USEPA amendments July 1, 1991 through December 31, 1991).
- R92-14        Dismissed, August 13, 1992 (No USEPA amendments January 1, 1992 through June 30, 1992).
- R93-2         September 9, 1993, 17 Ill. Reg. 19483 effective October 29, 1993 (USEPA amendments July 1, 1992 through December 31, 1992).
- R93-20        Dismissed April 9, 1992 (No USEPA amendments January 1, 1993 through June 30, 1993).

- R94-10 May 18, 1995, 19 Ill. Reg. 9142 effective June 23, 1995 (USEPA amendments July 1, 1993 through December 31, 1993).
- R94-28 Dismissed October 6, 1994 (No USEPA amendments January 1, 1994 through June 30, 1994).
- R95-8 Dismissed February 16, 1994 (USEPA amendments July 1, 1994 through December 31, 1994).
- R95-22 March 21, 1995, 20 Ill. Reg. 5533, effective April 1, 1995 (USEPA amendments January 1, 1995 through June 30, 1995).
- R96-12 This docket.

### ORDER

The Board hereby proposes the following amendments to the Illinois wastewater treatment regulations at Section 310.107:

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

PART 310  
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

- a) The following publications are incorporated by reference:
- 1) The consent decree in NRDC v. Costle, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).
  - 2) Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.
- b) The following provisions of the Code of Federal Regulations are incorporated by reference:
- 40 CFR 2.302 (1994)
- 40 CFR 25 (1994)

40 CFR 122, Appendix D, Tables II and III (1994)

40 CFR 128.140(b) (1977)

40 CFR 136 (1994~~5~~), as amended at 60 Fed. Reg. 17160, ~~April 4, 1995~~39586, August 2, 1995, 60 Fed. Reg. 44670, August 28, 1995 and 60 Fed. Reg. 53529, October 16, 1995

40 CFR 403 (1994~~5~~), as amended at 60 Fed. Reg. 33926 effective June 29, 1995

40 CFR 403, Appendix D (1994)

c) The following federal statutes are incorporated by reference:

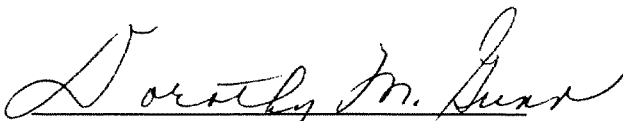
- 1) Section 1001 of the Criminal Code (18 U.S.C. 1001) as of July 1, 1988
- 2) Clean Water Act (33 U.S.C. 1251 et seq) as of July 1, 1988
- 3) Subtitles C and D of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) as of July 1, 1988

d) This Part incorporates no future editions or amendments.

(Source: Amended at 20 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 18<sup>th</sup> day of April, 1996, by a vote of 5-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board