

ILLINOIS POLLUTION CONTROL BOARD  
June 3, 2004

IN THE MATTER OF: )  
)  
PROPOSED 35 ILL. ADM. CODE ) R04-26  
304.123(g), 304.123(h), 304.123(i), 304.123(j), ) (Rulemaking - Water)  
and 304.123(k) )

ORDER OF THE BOARD (by T.E. Johnson):

On May 14, 2004, the Board received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency). The Agency seeks to set an interim phosphorus effluent standard by adding five new subsections (g-k) to existing 35 Ill. Adm. Code 304.123. A motion for acceptance accompanied the proposal.

In its statement of reasons, the Agency asserts that it is in the process of developing the State numeric nutrient standards pursuant to its triennial water quality standards review. Pet. at 7. The Agency expects to file a nutrient standards petition with the Board in early 2007. Pet. at 8. In the interim, the Agency is proposing this effluent standard for phosphorus to limit higher concentrations of phosphorus that may result in detrimental levels of plant and algae growth. *Id.* The Agency requests that the interim effluent standard apply until the Board adopts a numeric water quality standard for phosphorus.

The proposed phosphorus effluent limit of 1.0 mg/l as a monthly average would apply to new or expanded discharges from treatment works with a designed average flow over >1.0 mgd receiving municipal or domestic wastewater, or a total phosphorus effluent load of 25 lbs/day or more. However, if the source can demonstrate that phosphorus is not limiting nutrient in the receiving water or that alternative phosphorus effluent limits are warranted by the aquatic environment in the receiving water, the 1.0 mg/l limit would not apply. Pet. at 25-26.

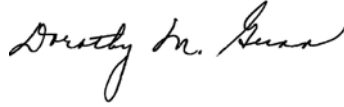
The Agency states that there are currently 10 to 12 NPDES permits for new or expanded wastewater treatment facilities that are affected by phosphorus limit uncertainty. Pet. at 13. The Agency projects that approximately 20 permits will be impacted on an annual basis. *Id.* The proposal “grandfathers in” existing sources, to whom the standard would not apply.

The Agency’s proposal, including its statement of reasons and the full text of the proposed rule language, is available through the Clerk’ Office in Chicago (312-814-3620) and on the Board’s Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)) using the Clerk’s Office On-Line or “COOL.”

The Board finds that the Agency’s proposal satisfies the content requirements of the Act and the Board’s procedural rules for rulemaking proposals. The Board grants the Agency’s motion for acceptance, accepts the proposal for hearing, and directs the hearing officer assigned to proceed expeditiously under the rulemaking provisions of the Act (415 ILCS 5/27, 28 (2002)) and the Board’s procedural rules. 35 Ill. Adm. Code 102.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 3, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board