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STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD

James R. Thompson Center 100 W. Randolph St., Ste 11-500
Dorothy Gunn
CHICAGO, IL 60601

Dear Dorothy Gunn

Your rules Listed below met our codification standards and have been published in Volume 31, Issue 31 of the Illinois Register, dated 08/03/2007.

PROPOSED RULES

Water Quality Standards

35 Ill. Adm. Code 302

Point Of Contact:Erin Conley

Page 11028

Standards for New Solid Waste Landfills

35 Ill. Adm. Code 811

Point Of Contact:John T Therriault

Page 11112

Solid Waste Disposal: General Provisions

35 Ill. Adm. Code 810

Point Of Contact:John T Therriault

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If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 302
- 3)

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|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 302.100 | Amend |
| 302.206 | Amend |
| 302.APPENDIX D | New Section |
- 4) Statutory Authority: Implementing Sections 11(b) and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/11(b), 13, and 27]
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's July 12, 2007 opinion and order in docket R04-25: In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206. This rulemaking proposes amendments to the Board's general use water quality standard for dissolved oxygen or "DO". The Board's first-notice amendments are based on aspects of both the proposal filed by the Illinois Association of Wastewater Agencies (IAWA), and the joint proposal later filed by the Illinois Department of Natural Resources (DNR) and the Illinois Environmental Protection Agency (Agency). Further, the amendments proposed for first notice are consistent with the National Criteria Document or "NCD" for DO of the United States Environmental Protection Agency (USEPA), Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Freshwater) (USEPA, Chapman 1986).

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This proposal for first notice includes a two-season numeric DO standard with values based on daily minima and 7- and 30-day averages. The "early life stages" season of the proposed two-season numeric DO standard would run from March 1st through July 31st. The egg, embryo, larval, and recently-hatched juvenile life stages of fish are more sensitive to low DO concentrations than later juvenile and adult stages. Additionally, the proposal designates stream segments, approximately 8% of general use stream miles in Illinois, to receive "enhanced" numeric dissolved oxygen standards to protect DO-sensitive fish and macroinvertebrate species present in meaningful amounts. The proposal also includes a narrative DO standard to protect quiescent and isolated sectors of general use waters.

The first-notice proposal is expected to significantly improve the current DO standard by taking into account the varied DO requirements of aquatic communities and the diverse range of natural aquatic conditions present across Illinois, allowing both public and private resources to be focused on those waters most impacted by low DO.

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6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:

Allan, J. D. and L. B. Johnson. 1997. Catchment-scale analysis of aquatic ecosystems. *Freshwater Biology* 37:107-111.

Aquatic Life Advisory Committee of the Ohio River Valley Water Sanitation Commission. 1955.

Aquatic life water quality criteria. First Progress Report. *Sewage and Industrial Wastes* 27:321-331.

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Bailey, R. M. and six others. 1970. A list of common and scientific names of fishes from the United States and Canada. Third edition. American Fisheries Society Special Publication Number 6, Washington, D.C.

Becker, G. C. 1983. *Fishes of Wisconsin*. The University of Wisconsin Press, Madison, Wisconsin.

Chen, Li-Yen, A. G. Heath, and R. J. Neves. 2001. Comparison of oxygen consumption in freshwater mussels (Unionidae) from different habitats during declining dissolved oxygen concentration. *Hydrobiologia* 450:209-214.

Connolly, N. M., M. R. Crossland, and R. G. Pearson. 2004. Effect of low dissolved oxygen on survival, emergence, and drift of tropical stream macroinvertebrates. *Journal of the North American Benthological Society* 23:251-270.

Davis, J. C. 1975. Minimal dissolved oxygen requirements of aquatic life with emphasis on Canadian species: a review. *Journal of the Fisheries Research Board of Canada* 32:2295-2332.

Davis, J. C. and eight others. 1979. Dissolved oxygen. Pages 169-174 in R.V. Thurston, R. C. Russo, C. M. Fetterolf, Jr., T. A. Edsall, and Y. M. Barber, Jr. (editors). *A review of the EPA Red Book: quality criteria for water*. Water Quality Section, American Fisheries Society, Bethesda, Maryland.

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Etnier, D. A. and W. C. Starves. 1993. The fishes of Tennessee. The University of Tennessee Press, Knoxville, Tennessee.

Hilsenhoff, W. L. 1977. Use of arthropods to evaluate water quality of streams. Technical Bulletin Number 100. Wisconsin Department of Natural Resources, Madison, Wisconsin.

Hunsaker, C. T. and D. A. Levine. 1995. Hierarchical approaches to the study of water quality in rivers. *BioScience* 45:193-203.

Hynes, H. B. N. 1970. The ecology of running waters. University of Toronto Press, Toronto, Ontario.

Illinois Pollution Control Board. 1972. In the Matter of: Water Quality Standards Revisions, #R 71-14, Opinion of the Board, March 7, 1972.

Jenkins, R. E. and N. M. Burkhead. 1994. Freshwater fishes of Virginia. American Fisheries Society, Bethesda, Maryland.

Johnson, P. M., A. E. Liner, S. W. Golladay, and W. K. Michener. 2001. Effects of drought on freshwater mussels and instream habitat in Coastal Plain tributaries of the Flint River, southwest Georgia (July-October, 2000). Final Report, presented to The Nature Conservancy, Apalachicola River and Bay Project, [http://Wwwjonesctr.org/research/aquatics-research/final report2.pdf](http://Wwwjonesctr.org/research/aquatics-research/final%20report2.pdf)

Michigan Department of Natural Resources (Michigan DNR). 2004. Black bass fishing seasons in Michigan: background, research review, and recommendations. Michigan Department of Natural Resources, Fisheries Division.

Moore, W. G. 1942. Field studies on the oxygen requirements of certain fresh-water fishes. *Ecology* 23:319-329.

Omernik, J. M., Abernathy, A. R., and L. M. Male. 1981. Stream nutrient levels and proximity of agricultural and forest land to streams: some relationships. *Journal of Soil and Water Conservation* 36:227-231.

Pflieger, W. L. 1997. The fishes of Missouri. Conservation Commission of the State of Missouri, Jefferson City, Missouri.

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Rankin, E. T. 2004 (draft). Notes on associations between dissolved oxygen and fish and macroinvertebrate assemblages in wadeable Ohio streams. November 12, Center for Applied Bioassessment and Biocriteria, Columbus, Ohio.

Robison, H. W. and T. M. Buchanan. 1988. Fishes of Arkansas. The University of Arkansas Press, Fayetteville, Arkansas.

Sallee, R. D., J. Langein, H. Brown, and J. Ferencak. 1991. Effects of discharge fluctuations on survival of smallmouth bass in the Kankakee River, Illinois. First International Smallmouth Bass Symposium 90-95.

Simon, T. P. and R. Wallus. 2003. Ictaluridae-catfish and madtoms. Vol. 3, in Wallus, Yeager, and Simon. Reproductive biology and early life history of fishes in the Ohio River drainage. Tennessee Valley Authority, Chattanooga, Tennessee.

Simonson, T. 2001. Wisconsin's black bass management plan-Administrative Report No. 54. Wisconsin Department of Natural Resources, Bureau of Fisheries Management and Habitat Protection, Madison, Wisconsin.

Smale, M. A. and C. F. Rabeni. 1995. Hypoxia and hypothermia tolerances of headwater stream fishes. Transactions of the American Fisheries Society 124 :698-710.

Smart, M. M., T. W. Barney, and J. R. Jones. 1981. Watershed impact on stream water quality: a technique for regional assessment. Journal of Soil and Water Conservation 36:297-300.

Smith, P.W. 1979. The fishes of Illinois. University of Illinois Press, Urbana, Illinois.

Truelson, R. L. 1997. Ambient water quality criteria for dissolved oxygen. Prepared pursuant to section 2(e) of the Environmental Management Act, 1981. Water Management Branch, Ministry of Environment, Lands, and Parks, Vancouver, British Columbia.

U.S. Environmental Protection Agency (USEPA). 1986. Ambient aquatic life water quality criteria for dissolved oxygen (freshwater). EPA 440/5-86-003, April 1986, Office of Research and Development, Environmental Research Laboratories, Duluth, Minnesota.

Weber, C. I. 1973. Biological field and laboratory methods for measuring the quality of surface waters and effluents. EPA-670/4-73-001, USEPA, Cincinnati, Ohio.

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- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2002)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R04-25 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information contact hearing officer Richard McGill at 312/814-6983 or email at mcgillr@ipcb.state.il.us.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments could impact any small business, small municipality, or not-for-profit corporation that may discharge into the waters of Illinois. This proposal was originally filed with the Board by IAWA to update the Board's general use water quality standard for dissolved oxygen in response to concerns of its member wastewater treatment facilities. In nearly every instance, the first-notice proposal is expected to be less restrictive than the current dissolved oxygen standard for general use waters.

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- B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments do not add any new reporting or recordkeeping requirement beyond those in existing regulations.
- C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing water pollution regulations will be required.

14) Regulatory Agenda on which this rulemaking was summarized: July 2007

The full text of the Proposed Amendments begins on the next page: