

ILLINOIS POLLUTION CONTROL BOARD

November 1, 2007

IN THE MATTER OF:)
)
 WATER QUALITY STANDARDS AND) R08-9
 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)

ORDER OF THE BOARD (by G.T. Girard):

On October 26, 2007, the Illinois Environmental Protection Agency (Agency) filed a proposal under the general rulemaking provisions of Sections 27 and 28 of the Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2006)). The proposal was accompanied by a motion to file limited copies and a motion to hold the hearings in Chicago and Joliet. Generally, the proposal will amend 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. The Board accepts the proposal for hearing today, but reserves ruling on the motion on the location of hearings to allow the response time to run (see 35 Ill. Adm. Code 101.500(d)).

THE PROPOSAL

The proposal includes among other things a 115-page statement of reasons (Reasons) and supporting documents and exhibits lettered through WW. The Agency states that the proposal fulfills the requirements of Section 303 of the Federal Water Pollution Control Act, 33 U. S. C. §§ 1251-1387, also known as the Clean Water Act (CWA). Reasons at 4. Section 303(c) of the CWA requires the states to conduct a “triennial water quality standards” review. 33 USC § 1313(c)(1); Reasons at 3.

The Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. Reasons at 7. Secondary Contact and Indigenous Aquatic Life Uses designations were for those waters not suited for General Use activities. Reasons at 19. All waters that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the “Chicago Area Water Way System” (CAWS) and the Lower Des Plaines River. Reasons at 18-21. In 2000 and 2002, the Agency began pilot programs for the Lower Des Plaines River and CAWS to develop use attainability analysis (UAA) for these waters. Reasons at 21-22. These proposed rule changes incorporate the findings of the pilot programs. Reasons at 22.

Specifically, the proposal adds definitions in Part 301. In Part 302 Subpart A, the proposal makes minor changes to ensure consistency with Subpart D and Part 303. Reasons at 52. In Part 302 Subpart D, the title is changed and several substantive changes are proposed

throughout the Subpart to reflect the policy changes by the Agency. Reasons at 52-92. In Part 303, the Agency proposes three distinct recreational uses and three distinct aquatic life uses applicable to CAWS or the Lower Des Plaines River. Reasons at 26. The proposal adds new Section 304.224 establishing a standard for effluent bacteria for discharges impacted by the fecal coliforms standard in this proposal. Reasons at 92.

DISCUSSION

The Board will grant the motion to file a limited number of copies. The Agency provided an original and four copies as well as five additional partial copies. Therefore, the Board accepts the limited number of copies. The Board reserves ruling on the motion to hold hearings in Chicago and Joliet until the response time has run.

The Board finds that the petition meets the content requirements of 35 Ill. Adm. Code 102. The Board accepts this proposal for hearing and directs the assigned hearing officer to proceed under the rulemaking provisions of the Act and the Board's procedural rules. 415 ILCS 5/27, 28 (2006); 35 Ill. Adm. Code 102. After conducting one or more hearings on this proposal, the Board will consider whether to proceed to first notice.

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 November 1, 2007, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board