

ILLINOIS POLLUTION CONTROL BOARD

November 4, 1999

IN THE MATTER OF:)
)
WASTEWATER PRETREATMENT UPDATE,) R00-7
USEPA REGULATIONS) (Identical-in-Substance
(January 1, 1999, through June 30, 1999)) Rulemaking - Water)

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

Pursuant to Sections 7.2 and 13.3 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13.3 (1998)), the Board proposes amendments to the Illinois wastewater pretreatment regulations. Section 13.3 of the Act provides for quick adoption of regulations that are identical-in-substance to federal wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA) pursuant to Sections 307(b), (c), and (d) and 402(b)(9) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. §§ 1317(b), (c), (d), 1342(b)(9) (1996)). Section 13.3 of the Act also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 and 5-40 (1998)), do not apply to this rulemaking. Accordingly, this rulemaking is not subject to first or second-notice review by the Joint Committee on Administrative Rules.

Section 7.2(b) of the Act (415 ILCS 5/7.2 (1998)) requires the Board to complete its identical-in-substance rulemaking actions within one year of the date of the earliest federal amendments involved in a docket. In this docket, the earliest federal action requiring Board action occurred on February 2, 1999. Thus, the Board must complete its rulemaking activity in this docket prior to February 2, 2000.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

This proposed rulemaking incorporates certain federal amendments that occurred during the period of January 1, 1999, through June 30, 1999. The federal wastewater pretreatment regulations are found at 40 C.F.R. §§ 400-499, interspersed throughout the federal wastewater effluent discharge rules. The USEPA amended its wastewater pretreatment regulations five times during that period: February 2, 1999; March 4, 1999; March 16, 1999; May 14, 1999; and June 8, 1999. This rulemaking incorporates all of these actions, with the exception of the March 4, 1999, and March 16, 1999 actions, which the Board has already incorporated into its most recent wastewater pretreatment update docket, Wastewater Pretreatment Update, USEPA Regulations (July 1, 1998, through December 31, 1998) (July 8, 1999), R99-17.

The federal amendments incorporated into this rulemaking are summarized as follows:

<u>Federal Action</u>	<u>Summary</u>
February 2, 1999 (64 Fed. Reg. 4975)	<u>Whole Effluent Toxicity: Guidelines Establishing Test Procedures for the Analysis of Pollutants.</u> The USEPA amended the 40 C.F.R. 136 methods for whole effluent toxicity testing for the purposes of compliance with the Clean Water Act.
May 14, 1999 (64 Fed. Reg. 26315)	<u>Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the Clean Water Act and Resource Conservation and Recovery Act.</u> The USEPA approved the use of a new method for analyzing oil and grease for the purposes of compliance with the Clean Water Act and RCRA regulations.
June 8, 1999 (64 Fed. Reg. 30417)	<u>Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water (EPA Method 1631, Revision B).</u> The USEPA amended its guidance on the analysis of mercury in water for the purposes of compliance with the water quality requirements of the Clean Water Act.

DISCUSSION

February 2, 1999: Amendments to Whole Effluent Toxicity: Guidelines Establishing Test Procedures for the Analysis of Pollutants

Federal Action

On February 2, 1999, the USEPA amended the 40 C.F.R. 136 methods for whole effluent toxicity testing for the purposes of compliance with the Clean Water Act (CWA). The USEPA also amended three technical documents incorporated by reference in the regulations. The amendments correct minor errors and omissions, provide technical clarifications, and establish consistency among the technical documents. Persons interested in a more detailed discussion of the February 2, 1999 federal action should refer to the cited *Federal Register* notice.

Amendment to Board Rules

The Board incorporates this amendment into its rules by updating a single incorporation by reference to 40 C.F.R. 136 in the “Incorporations by Reference” Section found at 35 Ill. Adm. Code 310.107(b).

May 14, 1999: Amendments to Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the Clean Water Act and Resource Conservation and Recovery Act

Federal Action

On May 14, 1999, the USEPA approved the use of a new method for analyzing oil and grease for the purposes of compliance with the CWA and Resource Conservation and Recovery Act (RCRA) regulations. The USEPA approved the use of EPA Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry for use in the USEPA’s CWA programs. The amendment also deletes Method 9070, adds revised Method 9071B, and incorporates Method 1664 by reference for use in the USEPA’s RCRA programs. Persons interested in a more detailed discussion of the May 14, 1999 federal action should refer to the cited *Federal Register* notice.

Amendment to Board Rules

The Board incorporates this amendment into its rules by updating a single incorporation by reference to 40 C.F.R. 136 in the “Incorporations by Reference” Section found at 35 Ill. Adm. Code 310.107(b).

June 8, 1999: Amendments to Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water (EPA Method 1631, Revision B)

Federal Action

On June 8, 1999, the USEPA amended its guidance on the analysis of mercury in water for the purposes of compliance with the water quality requirements of the CWA. The final regulation amends the “Guidelines Establishing Test Procedures for the Analysis of Pollutants” under Section 304(h) of the CWA by adding USEPA Method 1631, Revision B: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry. USEPA Method 1631 measures mercury at the low levels associated with ambient water quality criteria. Persons interested in a more detailed discussion of the June 8, 1999 federal action should refer to the cited *Federal Register* notice.

Amendment to Board Rules

The Board incorporates this amendment into its rules by updating a single incorporation by reference to 40 C.F.R. 136 in the “Incorporations by Reference” Section found at 35 Ill. Adm. Code 310.107(b).

Public Comments

The Board will accept public comments in this matter for a period of 45 days after publication of the proposed amendments in the *Illinois Register*. After the expiration of the 45-day public comment period, the Board will proceed to adoption of the regulations based on this proposal on or before the February 2, 2000 completion date specified by Section 7.2(b) of the Act.

ORDER

The Board adopts the following proposal for public comment. The Board directs the clerk of the Board to cause publication of the following proposal for public comment in the *Illinois Register*:

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

PART 310
 PRETREATMENT PROGRAMS
 SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source

SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Specific Limits Developed by POTW
310.211	Local Limits
310.220	Categorical Standards

310.221	Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution
310.233	Combined Wastestream Formula

SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions
310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits
310.311	Demonstration of Consistent Removal
310.312	Provisional Credits
310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification

- 310.443 Revocation
- 310.444 Appeal

SUBPART E: POTW PRETREATMENT PROGRAMS

- Section
- 310.501 Pretreatment Programs Required
- 310.502 Deadline for Program Approval
- 310.503 Incorporation of Approved Programs in Permits
- 310.504 Incorporation of Compliance Schedules in Permits
- 310.505 Reissuance or Modification of Permits
- 310.510 Pretreatment Program Requirements
- 310.521 Program Approval
- 310.522 Contents of Program Submission
- 310.524 Content of Removal Allowance Submission
- 310.531 Agency Action
- 310.532 Defective Submission
- 310.533 Water Quality Management
- 310.541 Deadline for Review
- 310.542 Public Notice and Hearing
- 310.543 Agency Decision
- 310.544 USEPA Objection
- 310.545 Notice of Decision
- 310.546 Public Access to Submission
- 310.547 Appeal

SUBPART F: REPORTING REQUIREMENTS

- Section
- 310.601 Definition of Control Authority
- 310.602 Baseline Report
- 310.603 Compliance Schedule
- 310.604 Report on Compliance with Deadline
- 310.605 Periodic Reports on Compliance
- 310.606 Notice of Potential Problems
- 310.610 Monitoring and Analysis
- 310.611 Requirements for Non-Categorical Standard Users
- 310.612 Annual POTW Reports
- 310.613 Notification of Changed Discharge
- 310.621 Compliance Schedule for POTW's
- 310.631 Signatory Requirements for Industrial User Reports
- 310.632 Signatory Requirements for POTW Reports
- 310.633 Fraud and False Statements

- 310.634 Recordkeeping Requirements
- 310.635 Notification of Discharge of Hazardous Waste

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section

- 310.701 Definition of Requester
- 310.702 Purpose and Scope
- 310.703 Criteria
- 310.704 Fundamentally Different Factors
- 310.705 Factors which are Not Fundamentally Different
- 310.706 More Stringent State Law
- 310.711 Application Deadline
- 310.712 Contents of FDF Request
- 310.713 Deficient Requests
- 310.714 Public Notice
- 310.721 Agency Review of FDF Requests
- 310.722 USEPA Review of FDF Requests

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section

- 310.801 Net/Gross Calculation by USEPA

SUBPART I: UPSETS

Section

- 310.901 Definition
- 310.902 Effect of an Upset
- 310.903 Conditions Necessary for an Upset
- 310.904 Burden of Proof
- 310.905 Reviewability of Claims of Upset
- 310.906 User Responsibility in Case of Upset

SUBPART J: BYPASS

Section

- 310.910 Definition
- 310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements
- 310.912 Notice
- 310.913 Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

Section	
310.920	General
310.921	Substantial Modifications Defined
310.922	Approval Procedures for Substantial Modifications
310.923	Approval Procedures for Non-Substantial Modifications
310.924	Incorporation of Modifications into the Permit

AUTHORITY: Implementing and authorized by Sections 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. _____, effective _____.

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~~1998)
- 40 CFR 25 (~~1994~~1998)
- 40 CFR 122, Appendix D, Tables II and III (~~1994~~1998)
- 40 CFR 128.140(b) (1977)

40 CFR 136 (1998), ~~as amended at 63 Fed. Reg. 50388, September 21, 1998~~ as amended at 64 Fed. Reg. 30417, June 8, 1999

40 CFR 403 (~~1996~~1998)

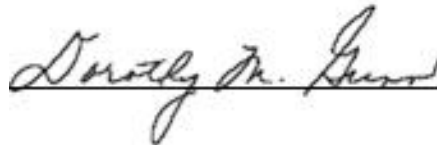
40 CFR 403, Appendix D (~~1994~~1998)

- c) The following federal statutes are incorporated by reference:
- 1) Section 1001 of the Criminal Code (18 USC 1001) as of July 1, 1988
 - 2) Clean Water Act (33 USC 1251 *et seq.*) as of July 1, 1988
 - 3) Subtitles C and D of the Resource Conservation and Recovery Act (42 USC 6901 *et seq.*) as of July 1, 1988
- d) This Part incorporates no future editions or amendments.

(Source: Amended at __ 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 4th day of November 1999 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board