

ILLINOIS POLLUTION CONTROL BOARD
February 4, 1988

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO)
SUBTITLE C: WATER POLLUTION.) R85-29
FECAL COLIFORM AND)
SEASONAL DISINFECTION)

PROPOSED RULE

SECOND FIRST NOTICE

ORDER OF THE BOARD (by R. C. Flenal):

On January 27 and February 2¹, 1988 the Illinois Environmental Protection Agency ("Agency") filed a proposal in this matter. Consistent with the Board's recently identified procedures for conducting regulatory proceedings (In The Matter Of: Regulatory And Other Non-Adjudicative Hearings and Proceedings, Res 88-1, January 21, 1988), the Board today sends the Agency's proposal to first notice without review of the merits of the proposal.

HISTORY

This matter originally came before the Board upon a motion filed on November 8, 1985 by the Bloomington and Normal Sanitary District ("BNSD") and the Illinois Association of Sanitary Districts ("IASD") which requested that the Board adopt an Emergency Rule providing for seasonal disinfection. The Board denied the BNSD/IASD motion in a December 5, 1985 Order, based on failure to find that an emergency existed. However, on the belief that the BNSD/IASD proposed emergency rule might have merit as a permanent rule, the Board opened the present docket in the same Order.

Public hearings on the BNSD/IASD proposal were held May 5, 1986 in Bloomington and June 2, 1986 in DeKalb, at which time various testimony and exhibits were received. On the basis of this record, plus the twelve public comments received as of that date, the Board on November 6, 1986 adopted an Opinion and Order sending the proposal (with some modifications) to first notice. First notice publication occurred at 10 Ill. Reg. 19547, November 21, 1986.

¹ The January 27 filing inadvertently omitted "strike-throughs" within the proposed amendments. The February 2 filing is apparently identical to the January 27 filing in all particulars except for the inclusion of the "strike-throughs".

On February 17, 1987, in response to additional public comments filed in opposition to the proposed rule change, BNSD filed a motion requesting another hearing. That motion was granted by Board Order of March 5, 1987, and the hearing was held June 4, 1987 in Chicago. Concurrently with these activities, the Illinois Department of Energy and Natural Resources ("DENR") engaged in a study expressly targeted to this docket and titled Assessment of Wastewater Disinfection Technologies, which was filed with the Board on September 1, 1987 as Public Comment #22.

Based on the overall flux in the state of knowledge on the issues present in this matter, the Board declined to move the original first notice proposal to second notice within the one-year timeframe specified by the Illinois Administrative Procedure Act. Accordingly, the first first notice has now expired and a new first notice action is required for further progress in this docket.

FUTURE ACTIVITY

It is the Board's intent to accommodate future activity in this docket as closely as is possible to the procedures outlined in Res 88-1. Among other possible activities, these include the following:

- 1) Simultaneously with submission of this matter for first notice publication, the Board will send the proposal to the Joint Committee on Administrative Rules ("JCAR") for a preliminary review and to DENR for its review.
- 2) Upon publication of the proposed amendments within the Illinois Register, there will commence a statutory 45-day comment period. During this time the Board will receive comments on the form and merits of the proposed rule change.
- 3) Following the first notice comment period, the Board may require the proponent, here the Agency, to file responses to comments received during the first notice period, including comments from the Board, JCAR, or DENR.
- 4) Subsequent to the first notice comment period and subsequent to any required post-first notice filings, the Board will make a finding as to whether an additional hearing should be held². Should the Board

² The Board specifically requests comment on this issue, given the already extensive record in this matter, during the first notice period.

find that an additional hearing is necessary, all testimony expected to be presented at the hearing will be required to be filed in advance, consistent with Res 88-1. Notice of any such hearing will be published in the Illinois Register.

- 5) Should the Board find that no additional hearing is necessary, the Board will review the merits of the proposal based on the full record then available. The Board will determine to either adopt the proposal, with possible modifications, for second notice, or dismiss the docket.

PROPOSED AMENDMENTS

PART 302

Water Quality Standards

Subpart A: General Water Quality Provisions

Section 302.202 Purpose

The general use standards will protect the State's water for aquatic life, wildlife, agricultural use, ~~primary~~ and secondary contact use and most industrial uses and ensure the aesthetic quality of the State's aquatic environment. Primary contact uses are protected for all general use waters whose physical configuration permits such use.

Section 302.209 Fecal Coliform

a) During the months May through October, Bbased on a minimum of five samples taken over not more than a 30 day period, fecal coliform (STORET number 31616) shall not exceed a geometric mean of 200 per 100 ml, nor shall more than 10% of the samples during any 30 day period exceed 400 per 100 ml. in protected waters. Protected waters are defined as waters which, due to natural characteristics, aesthetic value or environmental significance are deserving of protection from pathogenic organisms. Protected waters will meet one or both of the following conditions:

1) presently support or have the physical characteristics to support primary contact recreation.

2) flow through or adjacent to parks or residential areas.

b) Waters unsuited to support primary contact uses because of physical, hydrologic or geographic configuration and are located in areas unlikely to be frequented by the public on a routine basis are exempt from this standard.

SUBPART C: PUBLIC AND FOOD PROCESSING WATER
SUPPLY STANDARDS

Section 302.306 Fecal Coliform

Notwithstanding the provisions of Section 302.209, at no time shall the geometric mean, based on a minimum of five samples taken over not more than a 30 day period, of fecal coliform (STORET number 31616) exceed 2000 per 100 ml.

PART 304
EFFLUENT STANDARDS
SUBPART A: GENERAL EFFLUENT STANDARDS

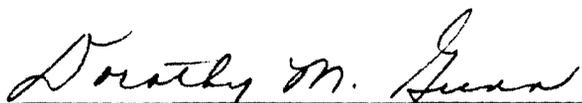
Section 304.121 Bacteria

No effluent governed by this Part which discharges to general use waters shall exceed 400 fecal coliform per 100 ml.

- a) Unless specifically exempted pursuant to paragraph (b), effluents discharged to all general use waters shall not exceed 400 fecal coliforms per 100 ml.
- b) The Agency shall exempt a discharger from this standard only in accordance with the protection status of waters pursuant to Section 302.209.
 - 1) The discharger must provide documentation to show that:
 - A) The receiving stream does not meet the definition of a protected water (Section 302.209).
 - B) The discharge will not cause downstream protected waters to exceed water quality standards.
 - 2) Exemptions to the standards may be issued on a year-round or seasonal basis.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 4th day of February, 1988, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board