

ILLINOIS POLLUTION CONTROL BOARD
January 20, 2000

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

Adopted Rule. Final Order.

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

Pursuant to Sections 7.2 and 13.3 of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13.3 (1998)), the Board today adopts 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)(8) and (9) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. §§ 1317(b), (c), (d), 1342(b)(8) and (9) (1996)). Section 13.3 of the Act also provides that Title VII of the Act and Sections 5-35 and 5-75 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-75 (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.

The final rule adopted today includes minor revisions to methods available for use in testing for the purposes of compliance with the Clean Water Act (CWA) (33 U.S.C. § 1251 et seq. (1996)). and the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6901 et seq. (1996)).

Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (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 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, *In re 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:

Federal Action

Summary

February 2, 1999
(64 Fed. Reg. 4975)

Whole Effluent Toxicity: Guidelines Establishing Test Procedures for the Analysis of Pollutants. The USEPA amended the 40 C.F.R. 136 methods for whole effluent toxicity testing for the purposes of compliance with the CWA.

May 14, 1999
(64 Fed. Reg. 26315)

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. The USEPA approved the use of a new method for analyzing oil and grease for the purposes of compliance with the CWA and RCRA regulations.

June 8, 1999
(64 Fed. Reg. 30417)

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water (EPA Method 1631, Revision B). 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.

PUBLIC COMMENTS

The Board adopted a proposal for public comment in this matter by order dated November 4, 1999. The proposal appeared in the November 29, 1999 issue of the *Illinois Register*. The Board accepted public comments on the proposal for a 45-day period following publication in the *Illinois Register*. The comment period expired on January 13, 1999. The Board received no comments during the public comment period.

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 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 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).

REVISIONS TO THE TEXT OF THE PROPOSED AMENDMENTS IN FINAL ADOPTION

Section Revised	Source(s) of Revision(s)	Revision(s)
Part 310, Source Note	Board	Added space in “at 22 Ill. Reg. 11465”
310.107	JCAR	Added “SUBPART A: GENERAL PROVISIONS” to heading
310.107(b)	Board	Did not strike “as amended at 63 Fed. Reg. 50388, September 21, 1998”; added “, as amended at 64 Fed. Reg. 4975, February 2, 1999, as amended at 64 Fed. Reg. 26315, May 14, 1999,”

ORDER

The Board will cause the amendments to be published 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 _____.

SUBPART A: GENERAL PROVISIONS

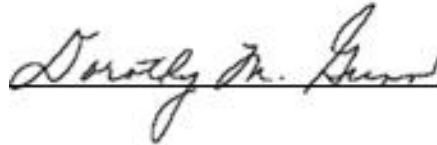
Section 310.107 Incorporations by Reference

- 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 (1998)
- 40 CFR 25 (1998)
- 40 CFR 122, Appendix D, Tables II and III (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. 4975, February 2, 1999, as amended at 64 Fed. Reg. 26315, May 14, 1999, as amended at 64 Fed. Reg. 30417, June 8, 1999
- 40 CFR 403 (1998)
- 40 CFR 403, Appendix D (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 20th day of January 2000 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board