

ILLINOIS POLLUTION CONTROL BOARD  
August 1, 1985

IN THE MATTER OF: )  
 )  
AMENDMENTS TO CHAPTER 3 ) R77-12  
WATER POLLUTION (Effluent ) Docket D  
Disinfection) )

FINAL RULE. PEREMPTORY RULEMAKING.

ORDER OF THE BOARD (by J. D. Dumelle):

On October 14, 1982, the Board adopted rules repealing two water quality standards governing maximum levels of bacteria (35 Ill. Adm. Code 302.209 and 302.406) and amending the bacterial effluent standard (35 Ill. Adm. Code 304.121). The rules became effective on October 26, 1982. However, the Illinois Supreme Court ultimately reversed the Board's repeal of the fecal coliform water quality standard for general use waters (35 Ill. Adm. Code 302.209) and the amendment of the effluent standard. See The People of the State of Illinois v. The Pollution Control Board, et al., 103 Ill. 2d 441, 469 N.E.2d 1102 (October 3, 1984). Thus, the Board's currently filed rules fail to state the present law with respect to 35 Ill. Adm. Code 302.209 and 304.121.

On May 2, 1985, the Board entered an order in this matter which proposed the adoption of peremptory rules to bring the present disinfection rules at 35 Ill. Adm. Code 302.209 and 302.406 into conformity with the Supreme Court's opinion and order. That order also opened a comment period until June 21, 1985 to consider whether such action is appropriate and whether additional rulemaking action should be proposed.

The Board received comments from the Illinois Environmental Protection Agency (Agency), Dr. Charles Haas, the City of Lockport, and seven sanitary districts. None of those commenting disagreed with the proposed peremptory action, while all but the Agency recommended that further action be taken.

The Board, therefore, proposes to readopt the fecal coliform water quality standard for general use waters and the effluent standard as they existed prior to the Board's October 26, 1982 action in this proceeding to accurately reflect current law by peremptory rulemaking pursuant to Section 5.03 of the Administrative Procedure Act (Ill. Rev. Stat., ch. 127, par. 1005.03). The Board's scientific and technical staff is currently working on the development of a new disinfection proposal. However, anyone may propose such a rulemaking.

The Board hereby adopts the following amendments to 35 Ill. Adm. Code 302.209 and 304.121:

Section 302.209 Fecal Coliform

Based on a minimum of five samples taken over not more than a 30 day period, fecal coliforms (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.

Section 304.121 Bacteria

No effluent governed by this Part shall exceed 400 fecal coliform per 100 ml.

No person shall cause or allow fecal coliform (STORET number 31616) to exceed 400 per 100 ml in any effluent which discharges to the following locations:

- a) During the months of May through September, within 20 stream miles (statute miles) upstream of a public bathing beach licensed under the "Illinois Swimming Pool and Bathing Beach Act" (Ill. Rev. Stat. 1979, ch 111 <sup>1/2</sup> pars. 1201-1227.
- b) Within 20 stream miles (statute miles) upstream of a water intake used for public or food processing water supply.
- c) Any location where it may cause or contribute to violation of another state's water quality standards in interstate waters.

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 1<sup>st</sup> day of August, 1985, by a vote of 7-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board