

ILLINOIS POLLUTION CONTROL BOARD
December 30, 1982

AMENDMENTS TO THE)
WATER POLLUTION REGULATIONS) R79-6

Opinion and Order of the Board (by J.D. Dumelle):

On March 1, 1979 the Illinois Environmental Protection Agency (Agency) filed a petition for amendments to the Board's Water Pollution Regulations. Unlike most proposals for regulatory change the petition did not request any present changes in the standards, but rather requested that hearings be held at which the Agency would "present the conceptual approach to its proposed method of establishing water quality standards based on the actual and anticipated uses of all the stream segments in Illinois" (Pet., p.1). On December 6, 1982, Eugene Seebald, Manager of the Agency's Division of Water Pollution Control sent a letter to the Board indicating that the Agency has no objection to the dismissal of this proceeding and subsequent docketing of individual basin standards revisions.

The Board authorized the petition for hearing and publication on March 29, 1979, and hearings in the nature of inquiry hearings were held on June 13, 1979 (Chicago), June 15, 1979 (Springfield), February 11, 1980 (Chicago) and February 15, 1980 (Springfield).

On May 10, 1979 the Board consolidated proceedings in R79-8 (a site-specific proposal filed by Modine Manufacturing Company requesting water quality standard amendments) with this docket. However, on April 29, 1982 the Board dismissed the R79-8 portion of this docket upon Modine's motion. Therefore, all that remains is the "conceptual approach" upon which the hearings have been held. To date no specific standards have been proposed based upon that approach, although the Agency has indicated that proposals will be filed in the near future. (See Seebald letter.)

In 1972 the Board adopted a comprehensive set of water quality standards. These standards have been amended from time to time, but the essential structure of the rules has remained unchanged. General Use Water Quality Standards, established to protect aquatic life, agricultural use, primary and secondary contact uses and most industrial uses and to ensure the aesthetic quality, are presently set out in 35 Ill. Adm. Code 302.201 through 302.212. Public and Food Processing Water Supply Standards, which are generally more stringent than, and cumulative with, the general use standards, and which were established to ensure the safety of the water for these uses, are set out in 35 Ill. Adm. Code 302.301 through 302.305. Secondary Contact and Indigenous Aquatic Life Standards, which are less stringent than the other standards since the waters are not used for all general use purposes, are set out in 35 Ill. Adm. Code 302.401 through 302.410. Finally, Lake Michi-

gan Water Quality Standards, which are the most stringent and are intended to protect that lake's present high quality and unique aquatic biota, are set out in 35 Ill. Adm. Code 302.501 through 302.509 (R.13).

As can be seen, this structure makes some attempt to base standards upon the use of the waters, but it imposes strict general use standards upon the large majority of the waters to ensure that the most sensitive aquatic species native to Illinois waters as well as a full range of recreational uses are protected (R.14).

James Park, Supervisor of the Agency's Technical Standards Unit, testified that due to the great variety of waters included under the definition of "waters of the State" and the concomitant variety of uses and aquatic life, water quality "standards become most effective when they are tailored to the specific uses desired by the people affected by that water" (R. 14-15).

When the Board adopted its standards, however, insufficient data had been collected to enable the Board to do anything more than the broadest "tailoring" described above. However, prior to filing its petition in this matter the Agency had embarked on an "extensive study effort to develop the necessary tools" for the development of more soundly based standards (R. 15). This was done in response to Section 208 of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and Train v. Natural Resources Defense Council, Inc., et al., 43 L.W. 4467 (4/75).

As a result of an interdisciplinary project including the Agency, the Institute of Natural Resources, (now the Department of Energy and Natural Resources), and a study group of respected experts from various fields, a procedure was developed for establishing "water use oriented" standards which consists of a water model for prediction of water quality under various control strategies, a matrix equating uses with necessary water quality and an adequate data base (R. 15-23). This procedure is purported to result in predictions of the most cost-effective combination of control strategies, as applied to particular stream segments to be studied (R. 25).

For example, whereas general stream standards currently in effect establish pollutant limitation for protection of sensitive fish species, limitations within certain stream segments other than pollutant levels may preclude survival of those species (R. 33). As a result a cost is imposed with no intended benefit. The Agency's procedures should culminate in the proposal of regulations which avoid such non-beneficial consequences.

The Agency proposes to study approximately 600 stream segments which comprise most of the waters of the State. These will be completed on a basin by basin basis. The Agency has indicated that the first basin proposal (the Sangamon River

Basin) should be ready for submission to the Board by February of 1983. Completion of all proposals may take as long as five years thereafter.

To include all of these proposals in a single docket would be cumbersome and confusing at best. The Board, therefore, finds that separate dockets should be established for each basin proposal as it is submitted. This will serve to keep the records better organized and should also serve to minimize confusion as the Board considers, and ultimately adopts, basin by basin rules. Thus, docket R79-6, which simply concerns procedures for development of future proposals, no longer serves any useful purpose, and should be dismissed. Of course, any portions of that record which may be relevant to future dockets may be incorporated, as may future records developed on a basin by basin basis.

The dismissal of this action in no way indicates a change in the Agency's commitment to basin-specific standards review and revision, nor does it indicate any rejection by the Board of this process. On the contrary, the Board finds that the Agency's approach to such review and revision appears sound and should result in considerably improved water quality standards.


The Department of Energy and Natural Resources has funded an economic impact study (EcIS) for this proceeding. It is the Board's understanding that that study addresses methodologies for assessing the economic benefits of improvements in water quality standards. As such it may well contain information useful to the Agency and the Board. However, inasmuch as that study does not concern the economic impact of any rule proposed for adoption there is no necessity to hold economic impact hearings to consider it. If any participant desires to have the EcIS introduced as part of the record for any future dockets considering basin-specific standards, it may, of course, be offered at hearings scheduled to consider future proposals.

Finally, the Board expects that basin-specific proposals will be expeditiously filed. If they are proposed as they are completed, beginning in early 1983, the Board can schedule hearings for prompt and orderly consideration of them.

ORDER

Proceedings in R79-6 are hereby dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30th day of December, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board