

ILLINOIS POLLUTION CONTROL BOARD  
March 18, 2021

IN THE MATTER OF: )  
WASTEWATER PRETREATMENT ) R21-15  
UPDATE, USEPA AMENDMENTS (July 1, ) (Identical-in-Substance  
2020 through December 31, 2020) ) Rulemaking - Water)

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

The Board today proposes amendments to Illinois regulations that are “identical in substance” (IIS) to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA) during the second half of 2020.

Sections 7.2 and 13.3 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13.3 (2018)) provide for quick adoption by the Board of regulations that are “identical in substance” to regulations that USEPA adopts to implement sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the federal Clean Water Act (CWA) (33 U.S.C. §§ 1317(b), (c), and (d) and 1412(b)(8) and (b)(9) (2018)). Section 13.3 of the Act also provides that Title VII of the Act and Section 5 of the Illinois Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2018)) do not apply to the Board’s adoption of identical-in-substance regulations.

The federal wastewater pretreatment standards implement these sections of the CWA and are found in segments of 40 C.F.R. 401, 403, 405 through 415, 417 through 430, 432 through 455, 457 through 461, 463 through 469, and 471.

USEPA took two actions related to wastewater pretreatment during the second half of 2020 that require Board attention. The USEPA action requires the Board to update one incorporation by reference in 35 Ill. Adm. Code 310.107. As a routine matter, the Board further proposes minor corrections and stylistic revisions to rules.

The Board would normally propose updating *Code of Federal Regulations* citations incorporated by reference to the latest version available. The July 1, 2020 version would normally be available from the Government Printing Office (GPO). Likely as a result of the CoViD-19 pandemic, it is not as of today. If the GPO makes the 2020 version available before final adoption, the Board will update the incorporations by reference.

The Board will publish the proposed amendments in the *Illinois Register* and will receive public comments for at least 45 days after publication. The Board expects to adopt final rules long before the statutory due date of October 13, 2021. In fact, the Board has expedited consideration of the amendments in response to PC 1 filed by the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC). (See below.) The Board specifically requests comment on aspects of the rules.

This opinion has four main segments. First, the Board provides its timetable for completing this rulemaking. Second, the Board identifies USEPA’s actions that resulted in this

rulemaking and discusses the proposed amendments. Third, the Board finds that limited corrections and amendments are needed. Finally, the Board invites public comment on the proposed amendments, which are found in the order following this opinion.

### **TIMETABLE TO COMPLETE RULEMAKING**

Under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2018)), the Board must complete this rulemaking within one year after the corresponding federal action by October 13, 2021.

Adopting this proposal for public comment today may allow the Board to complete rulemaking action as early as June 25, 2021.

Assuming no delay occurs, the Board hopes to follow the schedule below:

<b>Board order proposing amendments:</b>	<b>March 18, 2021</b>
Submission for <i>Illinois Register</i> publication:	March 29, 2021
Estimated <i>Illinois Register</i> publication:	April 9, 2021
Estimated end of 45-day public comment period:	May 24, 2021
<b>Board order adopting amendments:</b>	<b>June 3, 2021</b>
<b>Estimate of when the rules take effect:</b>	<b>June 14, 2021</b>
Estimated <i>Illinois Register</i> publication:	June 25, 2021

### **DISCUSSION**

Below, the Board first identifies USEPA's actions that resulted in this rulemaking. The discussion follows and includes two segments. In the first, the Board considers incorporating into the Illinois wastewater pretreatment regulations amendments adopted by USEPA. In the second, the Board considers various corrections and amendments that do not derive from the USEPA amendments.

#### **Federal Actions Implemented**

The USEPA actions that require an amendment to the Illinois regulations is summarized below.

**October 13, 2020 (85 Fed. Reg. 64650)**: USEPA adopted the Steam Electric Reconsideration Rule, reconsidering November 3, 2015 (80 Fed. Reg. 67838) revisions to wastewater discharge requirements applicable to sources in the Steam Electric Power Generating Point Source Category.

**November 2, 2020 (85 Fed. Reg. 69189)**: USEPA extended the compliance date for Phase 2 of its October 22, 2015 (80 Fed. Reg. 64064) NPDES digital reporting rule.

The USEPA actions affect implementation of wastewater pretreatment standards: USEPA amended wastewater pretreatment standards and general reporting provisions that relate to wastewater pretreatment programs.

## **The Steam Electric Reconsideration Rule**

USEPA revised discharge standards for the Steam Electric Power Generating Point Source Category in 2015. 80 Fed. Reg. 67838 (Nov. 3, 2015). The Board incorporated the wastewater pretreatment-related portions into the Illinois pretreatment rules in 2017. Wastewater Pretreatment Update, USEPA Amendments (July 1, 2015 through December 31, 2015), R16-9 (Jan. 19, 2017).

On October 13, 2020 (85 Fed. Reg. 64650), USEPA revised some of the 2015 standards when it adopted the Steam Electric Reconsideration Rule. The Reconsideration Rule revised the standards applicable to discharges of flue gas desulfurization (FGD) wastewater and bottom ash (BA) transport water. The Reconsideration Rule relaxes the former zero-discharge rule for BA transport water, extends compliance dates by two years, and created subcategories of dischargers for both waste streams.

The following discussion focuses primarily on wastewater pretreatment standards and incorporating USEPA's Steam Electric Reconsideration Rule into the Illinois pretreatment standards.

**New Subcategories of Dischargers.** USEPA created subcategories of dischargers to which less rigorous standards apply. The first subcategory is low utilization electric generating units (LUEGUs). A LUEGU is defined as one for which the owner certifies and annually recertifies that the two-year average utilization rating is less than ten percent. 40 C.F.R. § 423.11(z) (2019), as amended at 85 Fed. Reg. 64650. The second subcategory is an electric generating unit (EGU) that will permanently cease coal combustion. An EGU undergoing permanent cessation of coal combustion must certify that it will cease coal combustion no later than December 31, 2028. 40 C.F.R. § 423.11(w), as added at 85 Fed. Reg. 64650.

**Revised Standards for Discharges of FGD Wastewater.** USEPA established less rigorous pretreatment standards applicable to discharge of FGD wastewater by EGUs having a nameplate capacity greater than 50 megawatts that are certified for cessation of coal combustion. Other less rigorous pretreatment standards apply to LUEGUs. Compliance with the alternative standards is required before October 13, 2023. 40 C.F.R. § 423.16(e) (2019), as amended at 85 Fed. Reg. 64650.

**Revised Standards for Discharges of BA Transport Water.** An EGU having a nameplate capacity greater than 50 megawatts must not discharge pollutants in BA transport water effective October 13, 2023, with exceptions. An EGU with a nameplate capacity up to 50 megawatts, a LUEGU, or an EGU certifying cessation of coal combustion may discharge pollutants in BA transport water, subject to conditions. This applies to discharge of BA transport water combined with other wastestreams (except when used in a FGD scrubber). The prohibition against discharge of pollutants in BA transport water does not apply to BA transport water used in FGD scrubbers. 40 C.F.R. § 423.16(g)(1) (2019), as amended at 85 Fed. Reg. 64650.

Discharges of BA transport water by an EGU with a nameplate capacity up to 50 megawatts, a LUEGU, or an EGU certifying cessation of coal combustion must be from a

“properly installed, operated, and maintained” BA system if it meets specified conditions. The conditions relate to system maintenance and operation and include a maximum volume limit relative to system capacity. The quality of pollutants discharged in BA transport water are subject to a required best management practices (BMP) plan. 40 C.F.R. § 423.16(g)(2) (2019), as amended at 85 Fed. Reg. 64650; *see* 40 C.F.R. § 423.13(k)(3) (2019), as amended at 85 Fed. Reg. 64650.

**Reporting and Recordkeeping Requirements.** The Steam Electric Reconsideration Rule includes a new rule including several reporting and recordkeeping requirements. Principal among them are certification requirements. The rule has ten subsections, the first of which requires compliance by facilities subject to the standards of the Steam Electric Power Generating Point Source Category. 40 C.F.R. § 423.19(a), as added at 85 Fed. Reg. 64650 (Oct. 13, 2020). The second prescribes signature and certification requirements. 40 C.F.R. § 423.19(b), as added at 85 Fed. Reg. 64650.

Four of the reporting and recordkeeping provisions apply to specific activities under the subcategories created by the rules. Two relate to discharges of BA transport water. The first provides the requirements for certification before discharging BA transport water from a properly installed, operated, and maintained BA system. 40 C.F.R. § 423.19(c), as added at 85 Fed. Reg. 64650; *see* 40 C.F.R. § 423.16(g)(2)(i) (2019), as amended at 85 Fed. Reg. 64650. The second provides the BMP requirements for facilities that need one for BA transport water discharges. 40 C.F.R. § 423.19(d), as added at 85 Fed. Reg. 64650; *see* 40 C.F.R. § 423.16(g)(2)(i) (2019), as amended at 85 Fed. Reg. 64650. The other two relate to obtaining and maintaining status as a LUEGU or an EGU that will achieve permanent cessation of coal combustion.

To obtain status under the subcategory of LUEGU or EGU that will achieve permanent cessation of coal combustion, the facility must first submit a Notice of Planned Participation (NOPP) containing specified information before October 13, 2021. 40 C.F.R. § 423.19(e) and (f), as added at 85 Fed. Reg. 64650; *see* 40 C.F.R. § 423.11(w) and (z), as added at 85 Fed. Reg. 64650. Annual recertification is required for a LUEGU, and an EGU initiating cessation of coal combustion must submit annual progress reports. 40 C.F.R. § 423.19(e)(3) and (f)(3), as added at 85 Fed. Reg. 64650. An EGU initiating cessation of coal combustion that encounters material delay in meeting milestones in its NOPP must submit notice of material delay to the Control Authority. 40 C.F.R. § 423.19(j), as added at 85 Fed. Reg. 64650.

The remaining three subsections of the reporting and recordkeeping requirements directly relate to NPDES permits. The associated reporting and recordkeeping provisions refer to submission to the control authority and would only apply within the wastewater pretreatment program.

**The Voluntary Incentives Program (VIP).** The Steam Electric Reconsideration Rule allows a facility to opt into the VIP before October 13, 2021 to comply with alternative limitations for FGD wastewater discharges before December 31, 2028. 40 C.F.R. § 423.16(g)(3), as amended, and 423.19(j), as added, at 85 Fed. Reg. 64650. USEPA clearly said that the VIP is only for direct dischargers. 85 Fed. Reg. at 64660. USEPA further said that it did not finalize the VIP for indirect dischargers. *Id.* at 64675. The reporting and recordkeeping

provision requiring annual progress reports from VIP participants, however, specifically requires reports to a control authority. 40 C.F.R. § 423.19(h)(3), as added, at 85 Fed. Reg. 64650.

**Transferring Between Applicable Limitations.** The Steam Electric Reconsideration Rule allows a facility to transfer between applicable limitations in a permit. 40 C.F.R. § 423.13(o) and 423.19(i) as added at 85 Fed. Reg. 64650. USEPA asserted that the transfer provisions do not apply to pretreatment standards. 85 Fed. Reg. at 64708 n. 166. Yet, as with the annual reporting requirement for VIP, the Notice of Planned Participation requirement for transfer between permit conditions provides for filing with a control authority.

**Protective Permit Conditions.** The subsection pertaining directly to NPDES permits. A new provision added by the Steam Electric Reconsideration Rule requires that NPDES permits include specified “protective” conditions. These conditions protect a LUEGU or EGU against losing its subcategory status due to certain unexpected changes in generation. These conditions provide that a LUEGU or EGU initiating cessation of coal combustion will continue to qualify for its subcategory status when they would have continued to qualify but for specified events. The specified events are (1) a Department of Energy (DoE) emergency order<sup>1</sup>; (2) a reliability must run agreement issued by a public utility commission<sup>2</sup>; (3) any other electric reliability agreement<sup>3</sup>; and (4) a Presidential emergency declaration.<sup>4</sup> 40 C.F.R. § 423.18, as added, at 85 Fed. Reg. 64650.

While expressly applicable to NPDES permits, the reporting and recordkeeping requirements clearly provide for use of the protections by a control authority for an indirect discharger. The discharger certification provision for obtaining protection of 40 C.F.R. § 423.18 provides for an indirect discharger submitting certification to the control authority.<sup>5</sup> 40 C.F.R. § 423.19(g), as added, at 85 Fed. Reg. 64650.

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<sup>1</sup> DoE has authority under the Federal Power Act to require an EGU to operate at increased capacity in an emergency. 16 U.S.C. § 824a(c) (2018).

<sup>2</sup> The Board did not find any such mechanism in Illinois.

<sup>3</sup> The Federal Energy Regulatory Commission (FERC) authorizes an independent Electric Reliability Organization (ERO) to supervise and regulate nine Regional Transmission Organizations (RTOs) to oversee generation and transmission of power from generating facilities. The EROs develop reliability standards governing the RTOs, which are submitted to FERC for review and approval. (16 USC 824o; 18 CFR 39.) NERC oversees transmission of electric power to and from Illinois by three RTOs: Midwest Reliability Organization (extreme northwestern Illinois along the Iowa border), ReliabilityFirst (northern Illinois) and SERC Reliability Corporation (central and southern Illinois).

<sup>4</sup> Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. 42 U.S.C. §§ 5121 *et seq.* (2018).

<sup>5</sup> USEPA’s discussion of seeking the protections does not indicate availability to indirect dischargers. 85 Fed. Reg. at 64710.

**Incorporating the Steam Electric Reconsideration Rule into Illinois Rules** Several aspects of the Reconsideration Rule do not follow the ordinary pattern for wastewater pretreatment rules. The Steam Electric Reconsideration Rule requires a different approach from most wastewater pretreatment rules.

Incorporating the Steam Electric Reconsideration Rule into the Illinois regulations poses two challenges. First, several provisions directly applicable to direct discharges apply to indirect discharges within the scope of wastewater pretreatment. There is ambiguity in whether other provisions applicable to direct discharges also apply within the pretreatment standards. Second, incorporations by reference could prove problematic if pursued in the usual pattern for the Illinois pretreatment rules.

**Direct Discharge Requirements Applicable to Indirect Discharges.** Several requirements for direct discharges expressly apply to indirect discharges. The pretreatment standards for existing sources (PSES) for discharge of BA transport water incorporate the BMP plan requirements from the effluent guidelines rule. *See* 40 C.F.R. § 423.16(g)(2)(iii), as amended at 85 Fed. Reg. 64650. The reporting and recordkeeping provisions also expressly incorporate the BMP plan requirements, *See* 40 C.F.R. § 423.19(d)(1), as added at 85 Fed. Reg. 64650.

But also, several of the new reporting and recordkeeping requirements in 40 C.F.R. § 423.19 applicable to direct discharge requirements refer to use by indirect dischargers. These refer to indirect dischargers submitting the notices and reports to the control authority: (1) the certification rule for facilities discharging BA transport water (subsection (c)), (2) the certification requirement for a BMP plan (subsection (d)), (3) the certification requirement for seeking protective permit requirements (subsection (g)); (4) the annual progress report requirement for VIP (subsection (h)); (5) the requirement for Notice of Planned Participation for EGUs seeking transfer between discharge limitations (subsection (i)); and (6) the provision for notice of material delay (subsection (j)). Nothing in the PSES in 40 C.F.R. § 423.16 would direct attention to these provisions.

Although the inference that USEPA intends their applicability is stronger for some requirements than it is for others. The Board has incorporated each of the direct discharger requirements for which the inference is possible without weighing the strength of the inference. If the notice or reporting requirement for a substantive direct discharge requirement refers to indirect discharge or the control authority, the Board incorporated the substantive requirement.

While the references creating the weaker inference may be artifacts of drafting that USEPA erroneously left in the rules, the Board cannot conclude this to be true. The error may be that USEPA did not more clearly draft that they apply.

USEPA expressed in its *Federal Register* discussion of the Reconsideration Rule that pretreatment rules are intended to have the same effect as those for direct discharges. USEPA observed the following:

For indirect discharges (*i.e.*, discharges to publicly owned treatment works (POTWs)), the final rule establishes pretreatment standards for existing sources

that are the same as the BAT limitations, except for TSS, there is no pass through of pollutants at POTWs.<sup>6</sup> 85 Fed. Reg. at 64652.

Categorical pretreatment standards are technology-based and are analogous to BPT and BAT effluent limitations guidelines, and thus the Agency typically considers the same factors in promulgating PSES as it considers in promulgating BPT and BAT. Legislative history indicates that Congress intended for the combination of pretreatment and treatment by the POTW to achieve the level of treatment that would be required if the industrial source were discharging to a water of the U.S. 85 Fed. Reg. at 64654 (citation omitted). Conf. Rep. No. 95–830, at 87 (1977), reprinted in U.S. Congress. Senate Committee on Public Works (1978), A Legislative History of the CWA of 1977, Serial No. 95–14 at 271 (1978).

Were the Board to omit access to VIP, transfer between applicable limitations, and protective conditions, the rules would apply unevenly between EGUs that are indirect dischargers and those that are direct dischargers. The impact would be greater on direct dischargers. Since the text of the rules creates ambiguity, the Board opts to include these features—at least in the rules as proposed. Including the features would enable the control authority to incorporate into the control mechanism for the indirect discharger.

**Avoiding Ambiguity in Incorporations by Reference.** The ordinary course for incorporating USEPA’s categorical wastewater pretreatment standards into the Illinois rules is by incorporation by reference. The existing standards for the Steam Electric Power Generating Point Source Category in 35 Ill. Adm. Code 307.3301 are (1) an applicability statement (subsection (a), adapted from 40 C.F.R. § 423.10), (2) the category-specific definitions (subsection (b), incorporating 40 C.F.R. § 423.11 by reference); (3) the PSES (subsection (c)(1), incorporating 40 C.F.R. § 423.16 by reference); and (4) the pretreatment standards for new sources (subsection (d)(1) incorporating 40 C.F.R. § 423.17 by reference).

USEPA amended the category-specific definitions and pretreatment standards for existing sources in the Steam Electric Reconsideration Rule. The Board follows the ordinary course in updating those incorporations by reference, but that does not include all elements added by the Rule.

Were the Board to do no more than update the incorporations by reference to 40 C.F.R. §§ 423.11 and 423.16, it would add uncertainty to the rules. The new definitions of “permanent cessation of coal combustion” and “low utilization electric generating unit” in new 40 C.F.R. § 423.11(w) and (z) direct attention to the recordkeeping and reporting requirements of 40 C.F.R. § 423.19(e) and (f). Such reliance on secondary references is not uncommon in documents incorporated by reference, and it may not be a problem in this instance. Neither of 40 C.F.R. § 423.19(e) or (f) redirects attention to other references.

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<sup>6</sup> USEPA may have intended that the clause explaining that there is no pass-through apply to TSS. 85 Fed. Reg. at 64661 and n. 16 and 64684 n. 128.

The new reporting and recordkeeping requirements in 40 C.F.R. § 423.19 would create more problems if not also incorporated into the Illinois rules. As stated, two provisions, 40 C.F.R. § 423.19(e) and (f), are referenced in the PSES.

Incorporating the PSES in 40 C.F.R. § 423.16 by reference is problematic in that reliance on too many secondary references would be necessary. Confusion would result.

**Secondary Incorporations by Reference.** The PSES reference the Notice of Planned Participation requirements for LUEGUs and EGU's initiating cessation of coal combustion in 40 C.F.R. § 423.19(e) and (f). The definitions of "permanent cessation of coal combustion" and "low utilization electric generating unit" also refer to 40 C.F.R. § 423.19(e) and (f).

The PSES also reference the BMP plan requirements in the effluent guidelines (in 40 C.F.R. § 423.13(k)(3)). The BMP plan requirements are not simple.

Relying on a secondary reference in an incorporation by reference to 40 C.F.R. § 423.16 is not enough. Incorporating the Notice of Planned Participation requirements (in 40 C.F.R. § 423.19(e) and (f)) and the BMP plan requirements into the Illinois rules is desirable.

Further, the reporting and recordkeeping requirements in 40 C.F.R. § 423.19 apply to all facilities regulated under 40 C.F.R. 423. 40 C.F.R. § 423.19(a). In turn, these reporting and recordkeeping requirements state their applicability to indirect dischargers and draw from other rules. The rules for protective permit conditions, VIP, and transfer between applicable limitations in a permit, by their own terms, apply exclusively to NPDES permits. 40 C.F.R. §§ 423.13(g)(3)(i) and (o) and 423.18. Absent incorporating the reporting and recordkeeping requirements in 40 C.F.R. § 423.19 and rules for VIP in 40 C.F.R. § 423.13(g)(3)(i), transfer between applicable limitations in a permit in 40 C.F.R. § 423.13(o), and the protective conditions in 40 C.F.R. § 423.18 into the Illinois rules, there is no assuring their application in this State. The initial and annual certification statement requirements for a BMP plan (in 40 C.F.R. § 423.19(d)), certification statement requirement for protective permit conditions (in 40 C.F.R. § 423.19(g)), the annual report requirement for VIP (in 40 C.F.R. § 423.19(h)(3)), and the Notice of Planned Participation requirements for seeking transfer between applicable limitations (in 40 C.F.R. § 423.19(i)) each expressly refers to submitting the reports to the control authority in addition to the permitting authority.

It is possible to add provisions to 35 Ill. Adm. Code 307.3301 stating the substance of the VIP (40 C.F.R. § 423.13(g)(3)(i)), the BMP plan requirements (40 C.F.R. § 423.13(k)(3)), the protective permit conditions (40 C.F.R. § 423.18), and reporting and recordkeeping requirements (40 C.F.R. § 423.19). This would add substantial language to 35 Ill. Adm. Code 307.3301 and would require significant adaptation of USEPA's language.

An alternative is simple incorporation of 40 C.F.R. §§ 423.13(i)(g)(3) and (k)(3), 423.18, and 423.19 by reference. This minimalist approach could leave ambiguity as to how all the USEPA requirements apply, since some (*viz.*, 40 C.F.R. §§ 423.18 and 423.19 (g)) apply only to NPDES permits).

The Board's hybrid alternative relies on incorporation of USEPA's rules by reference in five separate subsections in the incorporation by reference to the PSES (40 C.F.R. § 423.16) stating applicability and limitations of each:

- (c)(1)(A): FGD wastewater discharges by units seeking participation in VIP, referencing the definition in § 423.11(n), the substantive requirements of 40 C.F.R. § 423.13(g)(3)(i), and certification requirements in 40 C.F.R. § 423.19(a), (b); and (h);
- (c)(1)(B): FGD wastewater discharges by units initiating cessation of coal burning, referencing the definitions in § 423.11(n) and (w), the substantive requirements of 40 C.F.R. § 423.16(e)(1), and certification requirements in 40 C.F.R. § 423.19(a), (b); and (f);
- (c)(1)(C): Notice of Material delay, referencing the notice requirements in 40 C.F.R. § 423.19(j);
- (c)(1)(D): FGD wastewater discharges by LUEGUs, referencing the definitions in § 423.11(n) and (z), the substantive requirements of 40 C.F.R. § 423.16(e)(2), and certification requirements in 40 C.F.R. § 423.19(a), (b); and (e);
- (c)(1)(E): BA transport water discharges, referencing the definition in § 423.11(p), the substantive requirements of 40 C.F.R. §§ 423.13(k)(3) and 423.16(g), and certification requirements in 40 C.F.R. § 423.19(a) through (d);
- (c)(1)(F): EGUs seeking to transfer between applicable discharge limitations (with seven subsections), referencing the substantive limitations and conditions of 40 C.F.R. § 423.13(o) and (o)(1), and notice of planned participation requirements in 40 C.F.R. § 423.19(a) through (d);
- (c)(1)(G): Conditions for transfer between applicable discharge limitations (with two subsections), referencing the conditions of 40 C.F.R. § 423.13(o)(2) and (o)(3); and
- (c)(1)(H): The protective permit conditions for LUEGUs and EGUs initiating cessation of coal combustion, referencing the substantive requirements of 40 C.F.R. § 423.18, and certification requirements in 40 C.F.R. § 423.19(a), (b); and (g).

The Board added incorporations by reference to 40 C.F.R. §§ 423.13(k)(3) and (o), 423.18 and 423.19 together with the updated existing incorporation by reference to 40 C.F.R. § 423.16 in 35 Ill. Adm. Code 307.3301(c)(1).

### **Extended Effective Date for Phase 2 NPDES e-Reporting Rule**

USEPA adopted the NPDES Electronic Reporting Rule (NPDES-ERR) in 2015. Implementing the NPDES-ERR was to occur in two phases. The deadline for Phase 1 (basic

facility and permit information) was December 21, 2016. For Phase 2 (all other reporting), it was December 21, 2020. 80 Fed. Reg. 64064, 64066 (Oct. 22, 2015). The Board incorporated the NPDES-ERR into the Illinois pretreatment rules in 2017. Wastewater Pretreatment Update, USEPA Amendments (July 1, 2015 through December 31, 2015), R16-9 (Jan. 19, 2017).

On November 2, 2020 (85 Fed. Reg. 64650), USEPA extended the Phase 2 implementation date to December 21, 2025. The Board incorporates that change by today's amendments.

USEPA's NPDES-ERR embraces all programs areas under the Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (2018)). Wastewater pretreatment is the only area of interest in this rulemaking.

The Phase 2 implementation date for NPDES-ERR was December 21, 2020. By an order dated November 10, 2020, PC 1, the hearing officer requested comments whether the Board should expedite consideration of USEPA's extended implementation date. By PC 1, MWRDGC responded in the affirmative.

The Board includes only the wastewater pretreatment-related elements of USEPA's amendments. Completing Board action on USEPA's amendments requires amending the dates in 35 Ill. Adm. Code 310.106(b)(8)(A) and the incorporation by reference for appendix A to 40 C.F.R. 127 in 35 Ill. Adm. Code 310.107(b).

### **Amendments and Corrections to Background Text**

The Board finds that a limited number of non-substantive stylistic and corrective amendments are needed. Those corrections are listed in the Identical-in-Substance Rulemaking Addendum for Proposed Rulemaking (IIS-RA(P)) for this proceeding. The ending segment of this opinion describe the IIS-RA(P). No elaboration is needed in this opinion, except as in the following paragraph.

Updated *Code of Federal Regulations* citations are ordinarily available before the date the Board proposes the present amendments. Possibly due to the Coronavirus-19 pandemic, the Government Printing Office has not yet made available the 2020 version of Title 40. The 2019 version remains the latest available. The Board will update the references at adoption if the 2020 version becomes available.

### **PUBLIC COMMENTS**

The Board invites public comments on this proposal. The Board will receive public comments for at least 45 days following the proposal's publication in the *Illinois Register*. The Board specifically requests comments on the following:

1. Does the Board appropriately include VIP in the proposed amendments?
2. Does the way the Board incorporated the VIP authorize use of this element as intended by USEPA?

3. Does the Board appropriately include transfer between applicable limitations in the proposed amendments?
4. Does the way the Board incorporated transfer between applicable limitations authorize use of this element as intended by USEPA?
5. Does the Board appropriately include protective conditions in the proposed amendments?
6. Does the way the Board incorporated protective conditions authorize use of this element as intended by USEPA?
7. Does the Board's hybrid approach to adding the revised USEPA rules by incorporations by reference to the various USEPA rules with brief narrative description of the requirements and their effects fully incorporate the Steam Electric Reconsideration Rule into the Illinois wastewater pretreatment rules?
8. Has the Board included incorporations by reference for all USEPA rules necessary to implement USEPA's Steam Electric Reconsideration Rule?
9. Has the Board fully incorporated the extended Phase 2 implementation date for NPDES-ERR?
10. Release of the July 1, 2020 version of Title 40 of the *Code of Federal Regulations* is long overdue. If the Government Printing Office fails to release the 2020 version before adoption of the present amendments, should the Board nevertheless update to the 2020 version on the likelihood that release is imminent?

### **IIS Rulemaking Addendum**

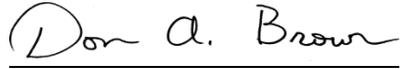
The IIS-RA(P) fully lists the differences between the text of the USEPA amendments and the Board's language in this rulemaking. Table 1 lists USEPA amendments that the Board did not include in the proposal. Table 2 lists differences between USEPA's amendments and those in the Board's proposal. Entries in Table 2 briefly explain the differences. Table 3 lists corrections and clarifications to rules not prompted by USEPA amendments, but which the Board finds are needed.

The Board included the IIS-RA (P) in the docket for this rulemaking, available on the Board's website ([www.pcb.illinois.gov](http://www.pcb.illinois.gov)). The Board directs interested persons to the IIS-RA (P) for information about deviations from the federal text and amendments not directly derived from current federal amendments.

### **ORDER**

The Board directs the Clerk to provide notice in the *Illinois Register* of the appended proposed amendments to the Illinois wastewater pretreatment regulations at 35 Ill. Adm. Code 310.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 18, 2021, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk  
Illinois Pollution Control Board

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

PART 307  
 SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

Section	
307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants
307.1006	Electronic Reporting

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties, and Other Dairy Desserts
307.1509	Condensed Milk
307.1510	Dry Milk
307.1511	Condensed Whey
307.1512	Dry Whey

SUBPART G: GRAIN MILLS

Section	
307.1601	Corn Wet Milling
307.1602	Corn Dry Milling
307.1603	Normal Wheat Flour Milling
307.1604	Bulgur Wheat Flour Milling

307.1605	Normal Rice Milling
307.1606	Parboiled Rice Milling
307.1607	Animal Feed
307.1608	Hot Cereal
307.1609	Ready-to-Eat Cereal
307.1610	Wheat Starch and Gluten

#### SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section	
307.1700	General Provisions
307.1701	Apple Juice
307.1702	Apple Products
307.1703	Citrus Products
307.1704	Frozen Potato Products
307.1705	Dehydrated Potato Products
307.1706	Canned and Preserved Fruits
307.1707	Canned and Preserved Vegetables
307.1708	Canned and Miscellaneous Specialties

#### SUBPART I: CANNED AND PRESERVED SEAFOOD

Section	
307.1801	Farm-Raised Catfish
307.1815	Fish Meal Processing Subcategory

#### SUBPART J: SUGAR PROCESSING

Section	
307.1901	Beet Sugar Processing
307.1902	Crystalline Cane Sugar Refining
307.1903	Liquid Cane Sugar Refining

#### SUBPART K: TEXTILE MILLS

Section	
307.2000	General Provisions
307.2001	Wool Scouring
307.2002	Wool Finishing
307.2003	Low Water Use Processing
307.2004	Woven Fabric Finishing
307.2005	Knit Fabric Finishing
307.2006	Carpet Finishing
307.2007	Stock and Yarn Finishing
307.2008	Nonwoven Manufacturing
307.2009	Felted Fabric Processing

#### SUBPART L: CEMENT MANUFACTURING

Section	
307.2101	Nonleaching
307.2102	Leaching

307.2103 Materials Storage Piles Runoff

SUBPART M: CONCENTRATED ANIMAL FEEDING OPERATIONS

Section

307.2201 General

307.2202 Ducks

SUBPART N: ELECTROPLATING

Section

307.2300 General Provisions

307.2301 Electroplating of Common Metals

307.2302 Electroplating of Precious Metals

307.2304 Anodizing

307.2305 Coatings

307.2306 Chemical Etching and Milling

307.2307 Electroless Plating

307.2308 Printed Circuit Boards

SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Section

307.2400 General Provisions

307.2401 Rayon Fibers

307.2402 Other Fibers

307.2403 Thermoplastic Resins

307.2404 Thermosetting Resins

307.2405 Commodity Organic Chemicals

307.2406 Bulk Organic Chemicals

307.2407 Specialty Organic Chemicals

307.2410 Indirect Discharge Point Sources

307.2490 Non-Complexed Metal-Bearing and Cyanide-Bearing Waste Streams

307.2491 Complexed Metal-Bearing Waste Streams

SUBPART P: INORGANIC CHEMICALS MANUFACTURING

Section

307.2500 General Provisions

307.2501 Aluminum Chloride Production

307.2502 Aluminum Sulfate Production

307.2503 Calcium Carbide Production

307.2504 Calcium Chloride Production

307.2505 Calcium Oxide Production

307.2506 Chlor-Alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)

307.2508 Hydrofluoric Acid Production

307.2509 Hydrogen Peroxide Production

307.2511 Potassium Metal Production

307.2512 Potassium Dichromate Production

307.2513 Potassium Sulfate Production

307.2514 Sodium Bicarbonate Production

307.2516	Sodium Chloride Production
307.2517	Sodium Dichromate and Sodium Sulfate Production
307.2520	Sodium Sulfite Production
307.2522	Titanium Dioxide Production
307.2523	Aluminum Fluoride Production
307.2524	Ammonium Chloride Production
307.2527	Borax Production
307.2528	Boric Acid Production
307.2529	Bromine Production
307.2530	Calcium Carbonate Production
307.2531	Calcium Hydroxide Production
307.2533	Carbon Monoxide and Byproduct Hydrogen Production
307.2534	Chrome Pigments Production
307.2535	Chromic Acid Production
307.2536	Copper Salts Production
307.2538	Ferric Chloride Production
307.2540	Fluorine Production
307.2541	Hydrogen Production
307.2542	Hydrogen Cyanide Production
307.2543	Iodine Production
307.2544	Lead Monoxide Production
307.2545	Lithium Carbonate Production
307.2547	Nickel Salts Production
307.2549	Oxygen and Nitrogen Production
307.2550	Potassium Chloride Production
307.2551	Potassium Iodide Production
307.2553	Silver Nitrate Production
307.2554	Sodium Bisulfite Production
307.2555	Sodium Fluoride Production
307.2560	Stannic Oxide Production
307.2563	Zinc Sulfate Production
307.2564	Cadmium Pigments and Salts Production
307.2565	Cobalt Salts Production
307.2566	Sodium Chlorate Production
307.2567	Zinc Chloride Production

#### SUBPART R: SOAP AND DETERGENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting
307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps
307.2708	Manufacture of Liquid Soaps
307.2709	Oleum Sulfonation and Sulfation

307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

#### SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

#### SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

#### SUBPART U: IRON AND STEEL MANUFACTURING

Section	
307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking
307.3004	Steelmaking
307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating
307.3013	Other Operations

## SUBPART V: NONFERROUS METALS MANUFACTURING

Section	
307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury
307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals
307.3126	Secondary Tantalum
307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

## SUBPART X: STEAM ELECTRIC POWER GENERATING

Section	
307.3301	Steam Electric Power Generating

## SUBPART Y: FERROALLOY MANUFACTURING

Section	
307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces

307.3406 Electrolytic Manganese Products  
 307.3407 Electrolytic Chromium

#### SUBPART Z: LEATHER TANNING AND FINISHING

##### Section

307.3500 General Provisions  
 307.3501 Hair Pulp, Chrome Tan, Retan-Wet Finish  
 307.3502 Hair Save, Chrome Tan, Retan-Wet Finish  
 307.3503 Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish  
 307.3504 Retan-Wet Finish-Sides  
 307.3505 No Beamhouse  
 307.3506 Through-the-Blue  
 307.3507 Shearling  
 307.3508 Pigskin  
 307.3509 Retan-Wet Finish-Splits  
 307.3590 Potassium Ferricyanide Titration Method

#### SUBPART BA: GLASS MANUFACTURING

##### Section

307.3601 Insulation Fiberglass  
 307.3602 Sheet Glass Manufacturing  
 307.3603 Rolled Glass Manufacturing  
 307.3604 Plate Glass Manufacturing  
 307.3605 Float Glass Manufacturing  
 307.3606 Automotive Glass Tempering  
 307.3607 Automotive Glass Laminating  
 307.3608 Glass Container Manufacturing  
 307.3610 Glass Tubing (Danner) Manufacturing  
 307.3611 Television Picture Tube Envelope Manufacturing  
 307.3612 Incandescent Lamp Envelope Manufacturing  
 307.3613 Hand Pressed and Blown Glass Manufacturing

#### SUBPART BB: ASBESTOS MANUFACTURING

##### Section

307.3701 Asbestos-Cement Pipe  
 307.3702 Asbestos-Cement Sheet  
 307.3703 Asbestos Paper (Starch Binder)  
 307.3704 Asbestos Paper (Elastomeric Binder)  
 307.3705 Asbestos Millboard  
 307.3706 Asbestos Roofing  
 307.3707 Asbestos Floor Tile  
 307.3708 Coating or Finishing of Asbestos Textiles  
 307.3709 Solvent Recovery  
 307.3710 Vapor Absorption  
 307.3711 Wet Dust Collection

## SUBPART BC: RUBBER MANUFACTURING

Section	
307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3808	Wet Digestion Reclaimed Rubber
307.3809	Pan, Dry Digestion, and Mechanical Reclaimed Rubber
307.3810	Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber
307.3811	Latex Foam

## SUBPART BD: TIMBER PRODUCTS PROCESSING

Section	
307.3900	General Provisions
307.3901	Barking
307.3902	Veneer
307.3903	Plywood
307.3904	Dry Process Hardboard
307.3905	Wet Process Hardboard
307.3906	Wood Preserving—Water Borne or Nonpressure
307.3907	Wood Preserving—Steam
307.3908	Wood Preserving—Boulton
307.3909	Wet Storage
307.3910	Log Washing
307.3911	Sawmills and Planing Mills
307.3912	Finishing
307.3913	Particleboard Manufacturing
307.3914	Insulation Board
307.3915	Wood Furniture and Fixture Production without Water Wash Spray Booths or without Laundry Facilities
307.3916	Wood Furniture and Fixture Production with Water Wash Spray Booths or with Laundry Facilities

## SUBPART BE: PULP, PAPER, AND PAPERBOARD

Section	
307.4000	General Provisions
307.4001	Dissolving Kraft
307.4002	Bleached Papergrade Kraft and Soda
307.4003	Unbleached Kraft
307.4004	Dissolving Sulfite
307.4005	Papergrade Sulfite
307.4006	Semi-Chemical
307.4007	Mechanical Pulp
307.4008	Non-Wood Chemical Pulp

307.4009	Secondary Fiber Deink
307.4010	Secondary Fiber Non-Deink
307.4011	Fine and Lightweight Papers from Purchased Pulp
307.4012	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp
307.4013	Groundwood-Thermo-Mechanical (Repealed)
307.4014	Groundwood-CMN Papers (Repealed)
307.4015	Groundwood-Fine Papers (Repealed)
307.4016	Soda (Repealed)
307.4017	Deink (Repealed)
307.4018	Nonintegrated-Fine Papers (Repealed)
307.4019	Nonintegrated-Tissue Papers (Repealed)
307.4020	Tissue From Wastepaper (Repealed)
307.4021	Papergrade Sulfite (Drum Wash) (Repealed)
307.4022	Unbleached Kraft and Semi-Chemical (Repealed)
307.4023	Wastepaper-Molded Products (Repealed)
307.4024	Nonintegrated-Lightweight Papers (Repealed)
307.4025	Nonintegrated-Filter and Nonwoven Papers (Repealed)
307.4026	Nonintegrated-Paperboard (Repealed)

#### SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

Section	
307.4101	Builder's Paper and Roofing Felt (Repealed)

#### SUBPART BG: MEAT PRODUCTS

Section	
307.4201	Simple Slaughterhouse
307.4202	Complex Slaughterhouse
307.4203	Low-Processing Packinghouse
307.4204	High-Processing Packinghouse
307.4205	Small Processor
307.4206	Meat Cutter
307.4207	Sausage and Luncheon Meats Processor
307.4208	Ham Processor
307.4209	Canned Meats Processor
307.4210	Renderer

#### SUBPART BH: METAL FINISHING

Section	
307.4300	General Provisions
307.4301	Metal Finishing

#### SUBPART BJ: OIL AND GAS EXTRACTION

Section	
307.4503	Onshore Facility Standards
307.4508	Coalbed Methane Subcategory

## SUBPART BL: CENTRALIZED WASTE TREATMENT

Section	
307.4700	General Provisions
307.4701	Metals Treatment and Recovery
307.4702	Oils Treatment and Recovery
307.4703	Organics Treatment and Recovery
307.4704	Multiple Waste Streams

## SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section	
307.4900	General Provisions
307.4901	Fermentation Products
307.4902	Extraction Products
307.4903	Chemical Synthesis Products
307.4904	Mixing/Compounding and Formulation
307.4905	Research (Repealed)

## SUBPART BP: DENTAL OFFICES

Section	
307.5100	Dental Offices

## SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

Section	
307.5200	General Provisions
307.5201	Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos
307.5202	Rail Tank Cars Transporting Chemical and Petroleum Cargos
307.5203	Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos
307.5204	Tanks Transporting Food Grade Cargos

## SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

Section	
307.5301	Asphalt Emulsion
307.5302	Asphalt Concrete
307.5303	Asphalt Roofing
307.5304	Linoleum and Printed Asphalt Felt

## SUBPART BS: WASTE COMBUSTORS

Section	
307.5401	Commercial Hazardous Waste Combustor

## SUBPART BT: LANDFILLS

Section	
307.5500	General Provisions
307.5501	RCRA Subtitle C Hazardous Waste Landfill
307.5502	RCRA Subtitle D Non-Hazardous Waste Landfill

## SUBPART BU: PAINT FORMULATING

Section  
307.5601 Oil-Base Solvent Wash Paint

## SUBPART BV: INK FORMULATING

Section  
307.5701 Oil-Base Solvent Wash Ink

## SUBPART CD: PESTICIDE CHEMICALS

Section  
307.6500 General Provisions  
307.6501 Organic Pesticide Chemicals Manufacturing  
307.6502 Metallo-Organic Pesticides Chemicals Manufacturing  
307.6503 Pesticide Chemicals Formulating and Packaging  
307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

## SUBPART CG: CARBON BLACK MANUFACTURING

Section  
307.6801 Carbon Black Furnace Process  
307.6802 Carbon Black Thermal Process  
307.6803 Carbon Black Channel Process  
307.6804 Carbon Black Lamp Process

## SUBPART CJ: BATTERY MANUFACTURING

Section  
307.7100 General Provisions  
307.7101 Cadmium  
307.7102 Calcium  
307.7103 Lead  
307.7104 Leclanche  
307.7105 Lithium  
307.7106 Magnesium  
307.7107 Zinc

## SUBPART CL: PLASTICS MOLDING AND FORMING

Section  
307.7300 General Provisions  
307.7301 Contact Cooling and Heating Water  
307.7302 Cleaning Water  
307.7303 Finishing Water

## SUBPART CM: METAL MOLDING AND CASTING

Section  
307.7400 General Provisions  
307.7401 Aluminum Casting  
307.7402 Copper Casting  
307.7403 Ferrous Casting

307.7404 Zinc Casting

SUBPART CN: COIL COATING

Section

307.7500 General Provisions  
 307.7501 Steel Basis Material  
 307.7502 Galvanized Basis Material  
 307.7503 Aluminum Basis Material  
 307.7504 Canmaking

SUBPART CO: PORCELAIN ENAMELING

Section

307.7600 General Provisions  
 307.7601 Steel Basis Material  
 307.7602 Cast Iron Basis Material  
 307.7603 Aluminum Basis Material  
 307.7604 Copper Basis Material

SUBPART CP: ALUMINUM FORMING

Section

307.7700 General Provisions  
 307.7701 Rolling With Neat Oils  
 307.7702 Rolling With Emulsions  
 307.7703 Extrusion  
 307.7704 Forging  
 307.7705 Drawing With Neat Oils  
 307.7706 Drawing With Emulsions or Soaps

SUBPART CQ: COPPER FORMING

Section

307.7800 General Provisions  
 307.7801 Copper Forming  
 307.7802 Beryllium Copper Forming

SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

Section

307.7901 Semiconductor  
 307.7902 Electronic Crystals  
 307.7903 Cathode Ray Tube  
 307.7904 Luminescent Materials

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section

307.8100 General Provisions  
 307.8101 Lead-Tin-Bismuth Forming  
 307.8102 Magnesium Forming  
 307.8103 Nickel-Cobalt Forming

307.8104	Precious Metals Forming
307.8105	Refractory Metals Forming
307.8106	Titanium Forming
307.8107	Uranium Forming
307.8108	Zinc Forming
307.8109	Zirconium-Hafnium Forming
307.8110	Metal Powders

#### 307.APPENDIX A References to Previous Rules (Repealed)

**AUTHORITY:** Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

**SOURCE:** Adopted in R70-5, March 31, 1971; amended in R70-8/R71-14/R71-20, March 7, 1972; amended in R74-3, October 30, 1975; amended in R74-15/R74-16 at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17 at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21 at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5/R82-10 at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004; amended in R05-4/R05-15 at 29 Ill. Reg. 6921, effective April 26, 2005; amended in R06-13 at 30 Ill. Reg. 17811, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 18986, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1936, effective February 4, 2013; amended in R16-9 and R17-8 at 41 Ill. Reg. 1129, effective January 23, 2017; amended in R18-6/R18-14 at 42 Ill. Reg. 10676, effective May 29, 2018; amended in R21-15 at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART X: STEAM ELECTRIC POWER GENERATING

##### **Section 307.3301 Steam Electric Power Generating**

- a) **Applicability.** This Section applies to discharges resulting from operation of a generating unit by an establishment whose generation of electricity is the predominant source of revenue or principal reason for operation, and whose generation of electricity results primarily from a process utilizing fossil-type fuel (coal, oil, or gas), fuel derived from fossil fuel (e.g., petroleum coke, synthesis

gas), or nuclear fuel in conjunction with a thermal cycle employing the steam water system as the thermodynamic medium. This Section applies to discharges associated with both the combustion turbine and steam turbine portions of a combined cycle generating unit.

b) Specialized Definitions-definitions. The Board incorporates by reference 40 CFR 423.11 ~~(2019)-(2017)~~, as amended at 85 82-Fed. Reg. 64650 (Oct. 13, 2020) 43494 ~~(Sep. 18, 2017)~~. This incorporation includes no later amendments or editions.

c) Existing Sources-sources.

1) The Board incorporates by reference 40 CFR 423.13(g)(3)(i) and 423.16 (2019)-(2017), as amended, and 40 CFR 40 CFR 423.13(k)(3) and (o), 423.18, and 423.19, as added, at 85 82-Fed. Reg. 64650 (Oct. 13, 2020); 43494 (Sep. 18, 2017), and appendix A to 40 CFR 423 (2019)-(2017). These incorporations include ~~This incorporation includes~~ no later amendments or editions.

A) Flue Gas Desulfurization (FGD) Wastewater Discharges by Electric Generating Units (EGUs) Seeking Voluntary Incentives Participation (VIP). The owner or operator of an EGU opting into VIP, may seek to operate under alternative standards for FGD wastewater, as defined in 40 CFR 423.11(n), incorporated by reference in subsection (b), discharges as provided in 40 CFR 423.13(g)(3)(i) after fulfilling the certification requirements in 40 CFR 423.19(a), (b), and (h).

BOARD NOTE: This subsection (c)(1)(A) derives from 40 CFR 423.13(g)(3)(i) and 423.19(h). USEPA calls VIP “Voluntary Incentives Program,” and the Board evokes enough of that name as is evocative but stops short of using the same name. USEPA stated that its Voluntary Incentives Program applies only to direct discharges and is not finalized as to indirect discharges. 85 Fed. Reg. 64650, 64660, 64675 (Oct. 13, 2020). USEPA’s rules, however, expressly contemplate applying its elements to indirect discharges. See 40 CFR 423.19(h)(3).

B) Flue Gas Desulfurization (FGD) Wastewater Discharges by EGUs Initiating Cessation of Coal Burning. The owner or operator of an EGU that will undergo permanent cessation of coal combustion, as defined in 40 CFR 423.11(w), incorporated by reference in subsection (b), may seek to operate under alternative standards for FGD wastewater, as defined in 40 CFR 423.11(n), incorporated by reference in subsection (b), discharges as provided in 40 CFR 423.16(e)(1) after fulfilling the certification requirements in 40 CFR 423.19(a), (b), and (f).

BOARD NOTE: This subsection (c)(1)(B) derives from 40 CFR 423.16(e)(1) and 423.19(f).

- C) Notice of Material Delay. An EGU that will undergo permanent cessation of coal combustion or one that opted into VIP under alternative standards under subsection (c)(1)(A) operating under alternative standards under subsection (c)(1)(B) must submit a notice of significant delay as required by 40 CFR 423.19(j).

BOARD NOTE: This subsection (c)(1)(C) derives from 40 CFR 423.19(j).

- D) FGD Wastewater Discharges by Low Utilization EGUs (LUEGUs). The owner or operator of an EGU that qualifies as a LUEGU, as defined in 40 CFR 423.11(z), incorporated by reference in subsection (b), may seek to operate under the alternative standards for FGD wastewater, as defined in 40 CFR 423.11(n), incorporated by reference in subsection (b), discharges provided in 40 CFR 423.16(e)(2) after fulfilling the certification requirements in 40 CFR 423.19(a), (b), and (e).

BOARD NOTE: This subsection (c)(1)(D) derives from 40 CFR 423.16(e)(2) and 423.19(e).

- E) Bottom Ash (BA) Transport Water Discharges. Discharge of BA transport water, as defined in 40 CFR 423.11(p), incorporated by reference in subsection (b), is prohibited and only allowed as provided in 40 CFR 423.16(g) after complying with the best management practices requirements of 40 CFR 423.13(k)(3) and fulfilling the certification requirements in 40 CFR 423.19(a) through (d).

BOARD NOTE: This subsection (c)(1)(E) derives from 40 CFR 423.13(k)(3), 423.16(g), and 423.19(c) and (d).

- F) EGUs Seeking to Transfer Between Applicable Discharge Limitations. Subject to the limitations in subsection (c)(1)(G), the owner or operator of an EGU may seek to transfer applicable discharge standards, as provided in 40 CFR 423.13(o), after fulfilling the certification requirements in 40 CFR 423.19(a), (b), and (i). The permissible transfers are the following:

- i) Before December 31, 2023, from limitations applicable to an EGU initiating cessation of coal combustion under subsection (c)(1)(B) to those applicable to a LUEGU under subsection (c)(1)(D);
- ii) Before December 31, 2023, from VIP limitations under

subsection (c)(1)(A) to those applicable to a LUEGU under subsection (c)(1)(D);

- iii) Before December 31, 2025, from VIP limitations under subsection (c)(1)(A) to those applicable to an EGU initiating cessation of coal combustion under subsection (c)(1)(D);
- iv) Before December 31, 2025, from limitations applicable to an EGU initiating cessation of coal combustion under subsection (c)(1)(B) to VIP limitations under subsection (c)(1)(A);
- v) Before December 31, 2025, from limitations applicable to a LUEGU under subsection (c)(1)(D) to generally applicable limitations for discharges of FGD wastewater and BA transport water under 40 CFR 423.16;
- vi) Before December 31, 2025, from limitations applicable to a LUEGU under subsection (c)(1)(D) to VIP limitations under subsection (c)(1)(A)
- vii) Before December 31, 2025, from limitations applicable to a LUEGU under subsection (c)(1)(D) to those applicable to an EGU initiating cessation of coal combustion under subsection (c)(1)(B).

BOARD NOTE: This subsection (c)(1)(F) derives from 40 CFR 423.13(o) and 423.19(i). USEPA calls VIP “Voluntary Incentives Program,” and the Board evokes enough of that name as is evocative but stops short of using the same name. USEPA stated that its Voluntary Incentives Program applies only to direct discharges and is not finalized as to indirect discharges. 85 Fed. Reg. 64650, 64708 n. 166 (Oct. 13, 2020). USEPA’s rules, however, expressly contemplate applying its elements to indirect discharges. See 40 CFR 423.19(i)(1).

- G) Conditions for Transfer Between Applicable Discharge Limitations. Conditions apply to transfer between applicable discharge limitations:
  - i) An EGU must comply with all currently applicable requirements before filing notice under 40 CFR 423.19(i) seeking transfer to other applicable discharge limitations, as provided in 40 CFR 423.13(o)(2); and
  - ii) An EGU seeking a transfer described in subsections (c)(1)(F)(iii) through (c)(1)(F)(vii) must comply with more

stringent limitations that already, instead of the less stringent limitations sought.

BOARD NOTE: This subsection (c)(1)(G) derives from 40 CFR 423.13(o)(2) and (o)(3).

H) An EGU that would otherwise qualify as an LUEGU or as ceasing combustion of coal before December 31, 2028 will continue to qualify if the conditions in 40 CFR 423.18 are true and after the owner or operator fulfills the certification requirements in 40 CFR 423.19(a), (b), and (g).

BOARD NOTE: This subsection (c)(1)(H) derives from 40 CFR 423.16(e)(1) and (e)(2), 423.18, and 423.19(g). The requirements of 40 CFR 423.18 directly apply to conditions in NPDES permits. The certification requirement of 40 CFR 423.19(g) allows the discharge standards for the LUEGU or EGU ceasing coal combustion subcategory continue to continue to apply to indirect dischargers under the same circumstances and conditions.

2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of those standards.

d) New Sources-sources-

- 1) The Board incorporates by reference 40 CFR 423.17 and appendix A to 40 CFR 423 (2019)-(2017). This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of those standards.
- 3) “New source” means any building, structure, facility, or installation the construction of which commenced after October 14, 1980.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 310  
 PRETREATMENT PROGRAMS

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310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 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. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective January 23, 2017; amended in R21-15 at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 310.106 Electronic Reporting**

The submission of any document under pursuant to any provision of this Part is subject to this Section.

- a) General Federal Requirements for Electronic Reporting.
  - 1) Scope and Applicability-
    - A) USEPA has established standards for the submission of electronic

documents under federally authorized programs. USEPA requires adherence to these standards for all electronic submissions to USEPA and the authorized State, ~~if where~~ electronic submissions are authorized by USEPA. USEPA, the Board, the Agency, or the Control Authority may allow for the submission of electronic documents in lieu of paper documents. This subsection (a) does not require submission of electronic documents in lieu of paper documents. This subsection (a) sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

- i) To USEPA directly, under 40 CFR 127; or
  - ii) To the Board, the Agency, or the Control Authority, under ~~pursuant to~~ any provision of this Part or 35 Ill. Adm. Code 307.
- B) Electronic document submission under this subsection (a) can occur only as follows:
- i) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
  - ii) For submissions of documents to the State or the Control Authority, submissions may occur only into an electronic document receiving system for which USEPA has granted approval under ~~pursuant to~~ 40 CFR 3.1000, so long as the system complies with 40 ~~CFR 3.2000, CFR3.2000,~~ incorporated by reference in Section 310.107, and USEPA has not withdrawn its approval of the system in writing.
- C) This subsection (a) does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1)(A):
- i) Any document submitted via facsimile;
  - ii) Any document submitted via magnetic or optical media, like ~~such as~~ diskette, compact disc, digital video disc, or tape; or
  - iii) Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements

between the parties to the transfer to share data.

- D) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(1)(B)(ii), the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a)(1) is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000-(2016).

- 2) Definitions. For the purposes of this subsection (a), terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in Section 310.107.
- 3) Procedures for Submission ~~submission~~ of Electronic Documents ~~electronic documents~~ in Lieu ~~lieu~~ of Paper Documents ~~paper documents~~ to USEPA. Except as provided in subsection (a)(1)(C), any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- A) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 310.107; and
- B) USEPA has first published a notice in the Federal Register as described in subsection (a)(1)(B)(i).

BOARD NOTE: Subsection (a)(3) is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3-(2016).

- 4) Procedures for Submission ~~submission~~ of Electronic Documents ~~electronic documents~~ in Lieu ~~lieu~~ of Paper Documents ~~paper documents~~ to the Board, the Agency, or the Control Authority:-
- A) The Board, the Agency, or the Control Authority may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such

procedural rules under the Administrative Procedure Act [5 ILCS 100/5]. The Control Authority must establish such procedures under ~~pursuant to~~ applicable State and local laws.

- B) The Board, the Agency, or the Control Authority may accept electronic documents under this subsection (a) only as provided in subsection (a)(1)(B)(ii).

BOARD NOTE: Subsection (a)(4) is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3-(2016).

- 5) Effects of Submission ~~submission~~ of an Electronic Document ~~electronic document~~ in Lieu lieu of a Paper Documents ~~paper documents~~.

- A) If a person who submits a document as an electronic document fails to comply with the requirements of this subsection (a), that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- B) ~~If Where~~ a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- C) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- D) Nothing in this subsection (a) limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (a)(5) is derived from 40 CFR 3.4 and 3.2000(c)-(2016).

- 6) Public Document Subject ~~document subject~~ to State Laws ~~laws~~. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, ~~but not limited to~~, the following:

- A) The Illinois Administrative Procedure Act [5 ILCS 100];
- B) The Freedom of Information Act (FOIA) [5 ILCS 140];

- C) The State Records Act [5 ILCS 160];
  - D) The Electronic Commerce Security Act [5 ILCS 175];
  - E) The Environmental Protection Act [415 ILCS 5];
  - F) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
  - G) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- 7) Nothing in this subsection (a) or in any provisions adopted under pursuant ~~to~~ subsection (a)(4)(A) will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (a)(7) is derived from 40 CFR 3.2(c)-(2016).

BOARD NOTE: Subsection (a) is derived from 40 CFR 3 and 403.8(g)-(2016).

b) NPDES Electronic Reporting-

1) Purpose and Scope-

- A) This subsection (b), in conjunction with the NPDES reporting requirements specified elsewhere in this Part, specifies the requirements for:
  - i) Electronic reporting of information by NPDES permittees;
  - ii) Facilities or entities seeking coverage under NPDES general permits;
  - iii) Facilities or entities submitting waivers from NPDES permit requirements;
  - iv) Industrial users located in municipalities without approved local pretreatment programs;
  - v) Approved pretreatment programs; and
  - vi) (The Board omitted a provision derived from 40 CFR 127.1(a)(6), as subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the corresponding federal provisions.)
  - vii) USEPA and the Agency, to the extent the Agency has received authorization from USEPA to implement the

NPDES program. This subsection (b), in conjunction with other segments of this Part, also specifies the requirements for electronic reporting of NPDES information to USEPA by the states, tribes, or territories that have received authorization from USEPA to implement the NPDES program.

- B) To the extent the Agency is authorized to implement a segment of the NPDES program, the Agency must ensure that the required minimum set of NPDES data (appendix A to 40 CFR 127, incorporated by reference in Section 310.107) is electronically transferred to USEPA in a timely, accurate, complete, and nationally-consistent manner fully compatible with USEPA's national NPDES data system.
- C) To the extent that the Secretary of Defense has exempted Department of Defense "critical infrastructure security information" from disclosure under the federal Freedom of Information Act ~~under pursuant to~~ 10 USC 130e, the exempted NPDES program data will be withheld from the public (see also section 7(1)(k) of the FOIA). In the instance that an NPDES program data element for a particular facility is designated as critical infrastructure security information in response to a FOIA request, a separate filtered set of data without the redacted information will be shared with the public; however, all NPDES program data will continue to be provided to USEPA and the Agency under the authorized State NPDES program.
- D) Proper collection, management, and sharing of the data and information listed in appendix A to 40 CFR 127, incorporated by reference in Section 310.107, ensures that there is a timely, complete, accurate, and nationally consistent set of data about the NPDES program.

BOARD NOTE: Subsection (b)(1) is derived from 40 CFR 127.1-(2016).

- 2) Definitions. For the purposes of this subsection (b), the following terms have the following meanings.

"Initial recipient of electronic NPDES information from NPDES-regulated facilities" or "initial recipient" means the entity (USEPA or, after Illinois is authorized by USEPA to implement the NPDES program, the Agency) that is the designated entity for receiving electronic NPDES data.

BOARD NOTE: Derived from 40 CFR 127.2(b)-(2016). USEPA is the initial recipient for a specific NPDES data group and NPDES

program area until USEPA authorizes the State to act as initial recipient for that NPDES data group and NPDES program area.

“Minimum set of NPDES data” means the data and information listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 127.2(e)-(2016). For the purposes of this Part, the only data and information intended are those associated with NPDES data groups 1 (core NPDES data), 2 (general permit reports), 7 (pretreatment program reports), and 8 (significant industrial user reports).

“NPDES data group” means the group of related data elements identified in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. These NPDES data groups have similar regulatory reporting requirements and have similar data sources.

BOARD NOTE: Derived from 40 CFR 127.2(c)-(2016).

“NPDES program”, for the purposes of this subsection (b), means the federal pretreatment program adopted by the Board under ~~pursuant to~~ Section 13.3 of the Act to implement section 307(b) of the Clean Water Act (~~33~~ 42-~~USC~~ 1317(b)-~~1307(b)~~). USEPA can implement the NPDES program or authorize the State to implement the NPDES program (“authorized NPDES program”). Identifying the relevant authority must be done for each NPDES subprogram (e.g., NPDES core program, federal facilities, general permits, and pretreatment).

BOARD NOTE: Derived from 40 CFR 127.2(d)-(2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

“NPDES-regulated entity” means any entity regulated by the NPDES program that has a role in the NPDES program, as defined in this subsection (b)(2).

BOARD NOTE: Derived from 40 CFR 127.2(h)-(2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

“Program reports” means the information reported by NPDES-regulated entities and listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107 (except NPDES

data groups 1 and 2).

BOARD NOTE: Derived from 40 CFR 127.2(f)-(2016). For the purposes of this subsection (b), the only information intended is that associated with NPDES data groups 7 (pretreatment program reports) and 8 (significant industrial user reports).

BOARD NOTE: Subsection (b)(2) is derived from 40 CFR 127.2-(2016).

- 3) Data to ~~Be~~ Reported Electronically-
- A) An NPDES-regulated entity must electronically submit the minimum set of NPDES data for these NPDES reports, as applicable. The following NPDES reports are the source of the minimum set of NPDES data from NPDES-regulated entities:
- i) Discharge monitoring reports (as required by USEPA under ~~pursuant to~~ 40 CFR 122.41(1)(4)).
  - ii) This subsection (b)(3)(A)(ii) corresponds with 40 CFR 127.11(a)(2), which pertains to sewage sludge/biosolids annual reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
  - iii) Concentrated animal feeding operation annual program reports (as required by USEPA under ~~pursuant to~~ 40 CFR 122.42(e)(4)).
  - iv) This subsection (b)(3)(A)(iv) corresponds with 40 CFR 127.11(a)(4), which pertains to municipal separate storm sewer system program reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
  - v) Pretreatment program annual reports (see Section 310.612).
  - vi) Sewer overflow and bypass incident event reports (as required by USEPA under ~~pursuant to~~ 40 CFR 122.41(1)(6) and (1)(7)).
  - vii) This subsection (b)(3)(A)(vii) corresponds with 40 CFR 127.11(a)(7), which pertains to cooling water intake structure reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
- B) A facility or entity seeking coverage under or termination from an

NPDES general permit must electronically submit the minimum set of NPDES data for the following notices, certifications, and waivers (if those reporting requirements are applicable):

- i) Notice of intent (NOI) to discharge by facilities seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in 40 CFR 122.28(b)(2); and
  - ii) Notice of termination (NOT), as described in 40 CFR 122.64.
- C) An industrial user located in a municipality without an approved local pretreatment program must electronically submit the minimum set of NPDES data for the following self-monitoring reports (if those reporting requirements are applicable):
- i) Periodic reports on continued compliance, as described in Section 310.605; and
  - ii) Reporting requirements for industrial users not subject to categorical pretreatment standards, as described in Section 310.611.
- D) The minimum set of NPDES data for NPDES-regulated facilities is identified in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 127.11 (~~2016~~).

- 4) Signature and Certification Standards for Electronic Reporting. The signatory and certification requirements identified in subsection (a) and Section 310.631 also apply to electronic submissions of NPDES information (see subsection (b)(2)) by NPDES permittees, facilities, and entities subject to this subsection (b).

BOARD NOTE: Subsection (b)(4) is derived from 40 CFR 127.12 (~~2016~~).

- 5) Requirements Regarding Quality Assurance and Quality Control-
- A) Responsibility for the quality of the information provided electronically in compliance with this subsection (b) by the NPDES permittees, facilities, and entities subject to this subsection (b) rests with the owners and operators of those facilities or entities. NPDES permittees, facilities, and entities subject to this subsection (b) must use quality assurance and quality control

procedures to ensure the quality of the NPDES information submitted in compliance with this subsection (b).

- B) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information in compliance with the data quality requirements specified in subsection (b)(6). NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information unless a waiver is granted in compliance with this subsection (b) (see subsections (b)(7) and (b)(7)(G)).

BOARD NOTE: Subsection (b)(5) is derived from 40 CFR 127.13 (~~2016~~).

- 6) Requirements Regarding Timeliness, Accuracy, Completeness, and National Consistency. NPDES permittees, facilities, and entities subject to this subsection (b) must comply with all requirements in this subsection (b) and electronically submit the minimum set of NPDES data in the following nationally-consistent manner:
- A) Timely. Electronic submissions of the minimum set of NPDES data to the appropriate initial recipient, as defined in subsection (b)(2), must be timely.
- i) Measurement Data (including information from discharge monitoring reports, self-monitoring data from industrial users located outside of approved local pretreatment programs, and similar self-monitoring data). The electronic submission of these data is due when that monitoring information is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.
- ii) Program Report Data. The electronic submission of this data is due when that program report data is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.
- B) Accurate. Electronic submissions of the minimum set of NPDES data must be identical to the actual measurements taken by the owner or operator, or their duly authorized representative;
- C) Complete. Electronic submission of the minimum set of NPDES data must include all required data (see appendix A to 40 CFR 127, incorporated by reference in Section 310.107) and these electronic submissions must be sent to the NPDES data system of the initial recipient, as defined in subsection (b)(2); and

- D) Consistent. Electronic submissions of the minimum set of NPDES data must be compliant with USEPA data standards as set forth in this subsection (b) and in a form (including measurement units) fully compatible with USEPA's national NPDES data system.

BOARD NOTE: Subsection (b)(6) is derived from 40 CFR 127.14 (2016).

- 7) Waivers from Electronic Reporting-
- A) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit the minimum set of NPDES data in compliance with this Section and Section 310.631 unless a waiver is granted in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
- B) USEPA or the Board, by an adjusted standard or variance issued ~~under pursuant to~~ Section 28.1 or Sections 35 through 37 of the Act and Subpart D or B of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a temporary waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
- i) Each temporary waiver must not extend beyond five years. However, NPDES-regulated entities may re-apply for a temporary waiver. It is the duty of the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) to re-apply for a new temporary waiver. The Board cannot grant a temporary waiver to an NPDES-regulated entity without first receiving a temporary waiver request from the NPDES-regulated entity.
- ii) To apply for a temporary waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for temporary waiver.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- iii) The Board will determine whether to grant a temporary waiver to the extent Illinois is authorized to administer the

pertinent NPDES program area. The Board will provide notice to the owner, operator, or duly authorized facility representative submitting a temporary waiver request, in compliance with the requirements of subsection (b)(7)(G).

- iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a temporary waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).
  - v) An approved temporary waiver is not transferrable.
- C) USEPA or the Board, by an adjusted standard under ~~pursuant to~~ section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a permanent waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
- i) A permanent waiver is only available to a facility or entity that is owned or operated by members of a religious community that chooses not to use certain modern technologies (e.g., computers, electricity). The Board cannot grant a permanent waiver to an NPDES-regulated entity without first receiving a permanent waiver request from the NPDES-regulated entity.
  - ii) To apply for a permanent waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for permanent waiver.
  - iii) An approved permanent waiver is not transferrable.
  - iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a permanent waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format

to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).

D) The Agency, by a provisional variance ~~under pursuant to~~ Sections 35 through 37 of the Act and Subpart C of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) an episodic waiver from electronic reporting in compliance with subsections (b)(7)(G) and (b)(9). The following conditions apply to an episodic waiver:

- i) No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting.
- ii) An episodic waiver is not transferrable.
- iii) An episodic waiver cannot last more than 60 days.

BOARD NOTE: Section 36(c) of the Act provides a maximum duration of 45 days for a provisional variance, allowing a single extension possible up to 45 days. No combination of a provisional variance and an extension can exceed 60 days in total duration under this subsection (b)(7)(D)(iii).

- iv) The Agency will decide if the episodic waiver provision allows facilities and entities to delay their electronic submissions or to send hardcopy (paper) submissions. An episodic waiver is only available to a facility or entity in the circumstances listed in subsection (b)(7)(F).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with codification requirements.

E) The following information items must be included in any petition for a temporary or permanent waiver issued ~~under pursuant to~~ subsection (b)(7)(B) or (b)(7)(C):

- i) The facility name;
- ii) The NPDES permit number (if applicable);
- iii) The facility address;

- iv) The name, address and contact information for the owner, operator, or duly authorized facility representative;
- v) A brief written statement regarding the basis for claiming such a temporary waiver; and
- vi) Any other information required by the Act or Board regulations (35 Ill. Adm. Code: Subtitle C, Chapter I).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- F) A temporary waiver is limited to the following circumstances:
  - i) A large-scale emergency involving catastrophic circumstances beyond the control of the facility, ~~like such as~~ a force of nature (e.g., a hurricane, flood, fire, or earthquake) or other national disaster. The Agency must make the determination of whether an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.
  - ii) A prolonged electronic reporting system outage (i.e., an outage longer than 96 hours). The Agency must make the determination if an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(F)(ii) to comport with codification requirements.

- G) Procedural Requirements for Waivers-
  - i) USEPA requires that the Board grant or deny a request for temporary or permanent waiver from electronic reporting in writing within 120 days after receiving the request.

BOARD NOTE: Subsection (b)(7)(G)(i) is derived from 40 CFR 127.24(a) and (b)-(2016).

- ii) The Agency must provide notice of an episodic waiver individually or through means of mass communication if ~~when~~ an episodic waiver is available. The notice must state the facilities and entities that may use the episodic waiver, the likely duration of the episodic waiver, and any other

directions regarding how facilities and entities should provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the initial recipient, as defined in subsection (b)(2). No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting. The Agency, when granting the episodic waiver, must determine whether to allow facilities and entities to delay their electronic submissions for a short time (i.e., no more than 40 days) or to have the facilities and entities send hardcopy (paper) submissions.

BOARD NOTE: Subsection (b)(7)(G)(ii) is derived from 40 CFR 127.24(d)~~(2016)~~.

- iii) The Agency must electronically transfer to USEPA the minimum set of NPDES data (as defined in Section 310.106(b)(2)) that it receives from a permittee, facility, or entity that has received a waiver under ~~pursuant to~~ this subsection (b)(7).

BOARD NOTE: Subsection (b)(7)(G)(iii) is derived from 40 CFR 127.24(c)~~(2016)~~.

BOARD NOTE: Subsections (b)(7)(A) through (b)(7)(F) are derived from 40 CFR 127.15~~(2016)~~.

- 8) Implementation of Electronic Reporting Requirements for NPDES Permittees, Facilities, and Entities Subject to This ~~this~~ Subsection (b):
  - A) Scope and Schedule. An NPDES permittee, facility, or entity subject to this subsection (b), with the exception of those covered by waivers under subsection (b)(7), must electronically submit the following NPDES information (reports, notices, waivers, and certifications) after the compliance deadlines ~~start dates~~ listed in the following table.

NPDES Information	<u>Compliance Deadlines Start Dates for Electronic Submissions</u>
General Permit Reports Notices of Intent to Discharge, Notices of Termination, and Other Waivers	December 21, <del>2020</del> <u>2025</u>
Discharge Monitoring Reports	December 21, 2016
POTW Pretreatment Program Annual Reports (see Section 310.612.)	December 21, <del>2020</del> <u>2025</u>
Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs (see Sections 310.605 and 310.611)	December 21, <del>2020</del> <u>2025</u>

BOARD NOTE: EPA may approve an alternative compliance deadline for general permit reports and program reports in accordance with 40 CFR 127.24(e) and (f).

- B) Electronic Reporting Standards. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) in compliance with this Section and Section 310.631.
- C) Initial Recipient. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) to USEPA Region 5, the Control Authority, the Approval Authority, or the initial recipient (as identified under ~~pursuant to~~ 40 CFR 127.27 and defined in subsection (b)(2)). USEPA was to identify and publish the initial recipient on a USEPA website and in the Federal Register, by state and by NPDES data group (see subsection (b)(7)).

BOARD NOTE: The procedure by which USEPA determines the initial recipient is 40 CFR 127.27. That procedure provides that USEPA is the initial recipient if ~~where~~ the State is not approved by USEPA to act as initial recipient.

- D) Standards for NPDES-Regulated Entities with Electronic Reporting Waivers. An NPDES permittee, facility, or entity subject to this subsection (b) that has received a waiver from electronic reporting must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the Agency or initial recipient (see subsection (b)(7)).

BOARD NOTE: Subsection (b)(8) is derived from 40 CFR 127.16 (~~2016~~).

- 9) Inclusion of Electronic Reporting Requirements in NPDES Permits. All permits issued by the Agency must contain permit conditions requiring compliance with the electronic reporting requirements in this Section. An NPDES-regulated facility already having an electronic reporting requirement in its permit that meets the requirements in this Section must continue its electronic reporting to the initial recipient.

BOARD NOTE: Subsection (b)(9) is derived from 40 CFR 127.26(f) (~~2016~~).

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 310.107 Incorporations by Reference**

- a) The following publications are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA document number EPA-830-B-94-001), available from National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>, referenced in Section 310.320.

BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994).

Standard Industrial Classification Manual (1987) (document no. PB87-100012) (referred to as “1987 SIC Manual”), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search through the U.S. Department of Labor, at <http://www.osha.gov/pls/imis/>

sic\_manual.html. In 1997, the federal Office of Management and Budget (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at <http://www.naics.com>. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

40 CFR 2.302 (2019) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 (2019) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 (2019) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 (2019) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 (2019) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 (2019) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 (2019) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) (2019) (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

Appendix A to 40 CFR 127 (2019), as amended at 85 Fed. Reg. 69189 (Nov. 2, 2020) (Minimum Set of NPDES Data), referenced in Sections 310.106 and 310.612.

BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program (NPDES data groups 1, 2, 3,

7, and 8) are intended.

40 CFR 136 (2019) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 (2019) (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 (2019) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) (2019) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 (2019) (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 (2019) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 (2019) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 (2019) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2018)), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. (2018)), referenced in Sections 310.110 and 310.705.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) (2018)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) (2018)), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) (2018)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 (2018)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4))

(2018)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) (2018)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 (2018)), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939g and 6941-6949a) (2018)), referenced in Section 310.510.

- d) This Part incorporates no future editions or amendments.

BOARD NOTE: The Board has located the incorporations by reference for the purposes of this Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307 in this Section to aid future review and updates. The Board has located the incorporations by reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the segments appropriate to each individual categorical standard. This aids future review and updates of the categorical standards.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: REPORTING REQUIREMENTS

### Section 310.605 Periodic Reports on Compliance

- a) After the compliance date of a pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user, as defined in Section 310.110) must submit to the Control Authority a report indicating the nature and concentration of pollutants in the effluent that are limited by the categorical pretreatment standards. The industrial user must submit the report during the months of June and December, unless the Control Authority or the pretreatment standard requires more frequent reporting. In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. If the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user must ~~shall~~ submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of those ~~such~~ factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may alter the months during which the reports required by this subsection (a) are to be submitted. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), ~~2020~~, all reports submitted in compliance with this Subpart F must be submitted

electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if it determines that the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
- 1) The Control Authority may authorize a waiver only ~~if where~~ it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;
  - 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;
  - 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in Section 310.107, with the lowest minimum detection level for that pollutant was used in the analysis;
  - 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after expiration of the waiver;
  - 5) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);

- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user must immediately comply with the monitoring requirements of subsection (a) or other more frequent monitoring requirements imposed by the Control Authority, and the industrial user must notify the Control Authority; and
- 7) This subsection (b) does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- c) ~~If Where~~ the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) of this Section must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.
- d) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Section 310.230, the report required by subsection (a) must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e)-(2016).

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 310.611 Requirements for Non-Categorical Users**

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. ~~If In cases where~~ a local limit requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis

performed in the period covered by the report and in accordance with the techniques described in 40 CFR 136, incorporated by reference at Section 310.107. For the purposes of this Section, “significant non-categorical industrial user” means a significant industrial user that is not subject to categorical pretreatment standards. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), 2020, all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(h)-(2016).

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 310.612 Annual POTW Reports**

POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW’s program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW’s pretreatment program and at least annually thereafter. The report must include, at a minimum, the applicable required data in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. The report required by this Subpart F must also include a summary of changes to the POTW’s pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), 2020, all annual reports submitted in compliance with this Subpart F must be submitted electronically by the POTW pretreatment program to the Approval Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(i)-(2016).

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)