

ILLINOIS POLLUTION CONTROL BOARD

January 19, 2017

IN THE MATTER OF: )  
WASTEWATER PRETREATMENT ) R16-9  
UPDATE, USEPA AMENDMENTS (July 1, ) (Identical-in-Substance  
2015 through December 31, 2015) ) Rulemaking - Water)

Adopted Rule. Final Order.

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

The United States Environmental Protection Agency (USEPA) adopted two sets of regulations related to wastewater pretreatment during the update period: a mandatory digital reporting rule and pretreatment standards for steam electric power generators. Sections 7.2 and 13.3 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13.3 (2014)) require the Board to adopt regulations identical in substance to wastewater pretreatment regulations that USEPA adopts. Therefore, the Board adopts amendments to Illinois regulations (35 Ill. Adm. Code 307 and 310) that are identical in substance to these new federal regulations. The Board also adopts corrections to the Illinois wastewater pretreatment regulations.

The deadline for final Board action to complete these amendments is March 31, 2017. The final Board action is filing the amendments with the Office of the Secretary of State.<sup>1</sup>

**SUMMARY OF ADOPTED AMENDMENTS**

**Federal Regulations Implemented**

USEPA amended federal regulations concerning wastewater pretreatment twice between July 1, 2015 and December 31, 2015. The USEPA actions that require corresponding amendments to the Illinois regulations are summarized below.

**October 22, 2015 (80 Fed. Reg. 64064)**

USEPA adopted mandatory digital reporting rules for facilities permitted under the National Pollutant Discharge Elimination System (NPDES) program and indirect dischargers. The Board will incorporate the wastewater pretreatment elements of these reporting requirements into the Illinois pretreatment regulations.

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<sup>1</sup> Today the Board also adopts amendments to 35 Ill. Adm. Code 307 in Wastewater Pretreatment Update, USEPA Amendments (January 1, 2016 through June 30, 2016 and December 7, 2016), R17-8 (Jan. 19, 2017). The Board will file the R17-8 amendments one week after filing the present amendments. No revision will be needed in the present amendments as a result of the R17-8 amendments also adopted today because filing the R17-8 amendments will be delayed.

**November 3, 2015 (80 Fed. Reg. 67838)**

USEPA amended wastewater effluent requirements applicable to sources in the Steam Electric Power Generating Point Source Category. Some of the amendments related to wastewater pretreatment. The Board will incorporate the wastewater pretreatment elements of these revised standards into the Illinois pretreatment regulations.

**PUBLIC COMMENTS**

The Board adopted a proposal for public comment in this matter on October 6, 2016. Notices of Proposed Amendments appeared in the October 28, 2016 issue of the *Illinois Register*, at 40 Fed. Reg. 14580 (Part 307) and 14602 (Part 310). The public comment period ended on December 12, 2016.

A Notice of Public Information on Proposed Rules also appeared in the October 28, 2016 issue *Illinois Register*, at 40 Ill. Reg. 14778. That Notice stated the reasons for delay and extended the deadline for Board completion of the present amendments until March 31, 2017.

The Board requested comment on specific issues relating to the proposed amendments.

The Board received no public comments in response.

However, the Board received a document entitled “JCAR’s First Notice Version for use in creating Second Notice Changes” for each of Parts 307 and 310. The Board further received inquiries and comments from JCAR staff. In response, the Board revised the proposed amendments. The Board added this correspondence to the record of this proceeding.

**DISCUSSION**

The Board first discusses its adopted method of incorporating the NPDES-ERR and the revised effluent requirements for the Steam Electric Power Generating Point Source Category. The Board then discusses the miscellaneous amendments that are not directly derived from the federal action, but which the Board determines are necessary.

The Board assembled an IIS Rulemaking Addendum to its Final Opinion and Order (IIS-RA (F)) that lists the Board’s revisions. The Board lists differences between the USEPA amendments and the Board’s language, amendments that did not derive from USEPA amendments, differences between the proposed and adopted amendments, and changes not made by the Board.

**NPDES Electronic Reporting Rule (NPDES-ERR)**

The NPDES-ERR requires data in all NPDES program areas to be reported digitally. The NPDES-ERR builds on the Cross-Media Electronic Reporting Rule (CROMERR), adopted in 2005. *See* 70 Fed. Reg. 59848 (Oct. 13, 2005); *see also* Wastewater Pretreatment Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-13 (Oct. 19, 2006) (incorporating the CROMERR elements to the Illinois pretreatment rules). CROMERR established requirements for digital reporting in all USEPA program areas.

The NPDES-ERR applies to reporting under all NPDES program areas, including wastewater pretreatment. The rule also applies to other NPDES program areas, such as permitting and regulation of point source direct discharges to waters of the United States (*see* 40 C.F.R. 122.21(b) & 401.12 (2016)), concentrated animal feeding operations (*see* 40 C.F.R. 122.23 (2016)), and cooling water intake structures (*see* 40 C.F.R. 122.21(r) & 401.14 (2016)). These other areas are beyond the scope of this rulemaking. The Board attempted to identify those provisions related specifically to pretreatment, and incorporated them in the adopted amendments.

### **NPDES Wastewater Pretreatment Data Reporting Overview**

Industrial users may indirectly discharge wastewater into a receiving water via an NPDES-permitted publicly owned treatment works (POTW). *See* 40 C.F.R. 401.11(d) & (h) (2016). Indirect dischargers must comply with USEPA’s wastewater pretreatment requirements in order to protect the POTW from interference with plant operations, restrict pass through of pollutants to receiving waters, and restrict contamination of the sewage sludge produced by the POTW. 40 C.F.R. 403.1(a) & 403.2 (2016); *see* 40 C.F.R. 403.3(k) & (p) (2016) (definitions of “interference” and “pass through”).

USEPA, the State, POTWs, and industrial users all report information concerning wastewater pretreatment. In general, the industrial user reports to the POTW (the “Control Authority”), the POTW reports to the State (the “Approval Authority”), and the State reports to USEPA:

- The “Approval Authority” administers the wastewater pretreatment program in a specified jurisdiction. *See* 40 C.F.R. 403.11(a) (2016). If authorized by USEPA, a state is the Approval Authority. Otherwise, USEPA is the Approval Authority. *See* 40 C.F.R. 403.3(c) (2016).<sup>2</sup>
- The “Control Authority” administers an individual POTW’s pretreatment program. *See* 40 C.F.R. 403.3(f) (2016) (defining “Control Authority”); *see also* 40 C.F.R. 403.3(v) (2016) (defining “significant industrial user”); 40 C.F.R. 403.6(c) (2016) (Control Authority designating equivalent limits for a significant industrial user); 40 C.F.R. 403.12(b) (2016) (significant industrial users submitting reports to the Control Authority). Where approved by the Approval Authority, the POTW is the Control Authority. Otherwise, the Approval Authority is also the Control Authority. *See* 40 C.F.R. 403.3(f) (2016) (definition of “Control Authority”); *see also* 40 C.F.R. 403.3(d) (2016) (definition of “approved POTW pretreatment program”).

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<sup>2</sup> In the context of the broader NPDES program, outside the context of the national pretreatment program, the term “Director” is equivalent to “Approval Authority.” *Compare* 40 C.F.R. 122.2 (2016) (definition of “Director”) *with* 40 C.F.R. 403.3(c) (2016). USEPA uses the term “Director” in the NPDES-ERR, where the subject matter is not restricted to wastewater pretreatment. *E.g.*, table 1 to 40 C.F.R. 172.16 & 40 C.F.R. 127.26(h) (2016). The Board consistently uses the term “Approval Authority,” since the current context is limited to wastewater pretreatment.

- An “industrial user” introduces pollutants to a POTW from any non-domestic source—an “indirect discharge.” 40 C.F.R. 403.3(i) & (j) (2016). An industrial user is a “significant industrial user” if (1) it is subject to categorical pretreatment standards; (2) it discharges above threshold volumes<sup>3</sup> of process wastewater to the POTW; or (3) the Control Authority determined that the industrial user “has a reasonable potential for adversely affecting the POTW’s operation or for violating and Pretreatment Standard or requirement.” *See* 40 C.F.R. 403.3(v) (2016). A Control Authority can determine that a source subject to categorical pretreatment standards is a non-significant industrial user, rather than a significant industrial user. *See id.* The Control Authority must require a permit or other “control mechanism” for a significant industrial user. 40 C.F.R. 403.8(f)(1)(iii) (2016).
- The NPDES-ERR adds a new link in this chain: the “Initial Recipient” of reported data, explained below.

### **NPDES-ERR**

The NPDES-ERR lists deadlines and frequencies for reporting, items to be reported, and persons required to report. The NPDES-ERR also includes the minimum standards for reporting to USEPA by an initial recipient and a procedure to authorize states to act as initial recipients. The Board summarizes the NPDES-ERR to provide context for issues relating to incorporating the wastewater pretreatment elements into Illinois regulations.

**Initial Recipient.** The NPDES-ERR introduced a new administrative function: the “initial recipient.” An “initial recipient” is the entity authorized by USEPA to receive electronic NPDES reports in a given state. When authorized by USEPA, the initial recipient is the state. Otherwise, USEPA is the initial recipient. 40 C.F.R. 127.2(b) (2016). Within three months of receiving data, the initial recipient must transmit it to USEPA. 40 C.F.R. 127.23 (2016).

The authorizations are made on a program-by-program basis: USEPA can authorize a State as initial recipient for data under some NPDES program areas, but not for others. 40 C.F.R. 127.27(c) & (f) (2016). USEPA described the authorization procedure as an “opt-out” process.” 81 Fed. Reg. 62395, 62396 (Sep. 9, 2016); *see also* 80 Fed. Reg. 64064, 64088 (Oct. 22, 2015). USEPA did not receive an opt-out notice from Illinois. *Id.* at 62397.

USEPA authorized Illinois for several NPDES program areas, but not for wastewater pretreatment. *See NPDES Profile: Illinois*, USEPA, Permitting for Environmental Results (December 22, 2004) at pp. 2, 9-11 (available online at [https://www3.epa.gov/npdes/pubs/illinois\\_final\\_profile.pdf](https://www3.epa.gov/npdes/pubs/illinois_final_profile.pdf)). Although Illinois is not authorized to administer the wastewater pretreatment program, Illinois EPA aids USEPA in its administration. *Id.* 3. So, USEPA should be initial recipient for wastewater pretreatment information, but Illinois EPA may receive pretreatment data to assist USEPA in implementing Illinois’ pretreatment program.

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<sup>3</sup> These are an average of 25,000 gallons per day or five percent or more of the POTW’s dry weather hydraulic or biological capacity. 40 C.F.R. 403.3(v)(1)(ii) (2016).

**Start Dates for Digital NPDES Reporting.** The NPDES-ERR will be implemented in two phases, described in Table 1 to 40 C.F.R. 127.16.

In Phase 1, digital reporting for discharge monitoring reports (DMRs) will be required no later than December 21, 2016.<sup>4</sup> The NPDES permittee (the POTW, for wastewater pretreatment) submits the DMR. 40 C.F.R. 122.41(i)(4) (2016).

In Phase 2, all NPDES data must be submitted digitally by December 21, 2020. For pretreatment, this applies to reporting by industrial users to the Control Authority (*see* 40 C.F.R. 403.12(b), (d), (e) & (h) (2016)), reporting by the POTW to the Approval Authority (*see* 40 C.F.R. 403.12(i) (2016)), and reporting by the Approval Authority to USEPA (*see, e.g.,* 40 C.F.R. 123.45(a)(2) (2016)).

**Data Groups, Information Items, and Information Categories.** USEPA grouped data required to be reported into ten different “data groups.” 80 Fed. Reg. at 64072. Each group includes a type of data, the program area affected, the entity required to report the data, and the reporting frequency. Five data groups—one, two, three, seven, and eight—relate to wastewater pretreatment. The other groups do not concern wastewater pretreatment.

Data Group 1 concerns core NPDES permitting, compliance, and enforcement data. The Approval Authority must report this data. Data Group 2 concerns general permit reports, such as notices of intent to discharge, notices of termination, and no exposure certifications. The NPDES permittee must report this data. Data Group 3 concerns DMRs. The NPDES permittee must report this data. Data Group 7 concerns pretreatment program reports. The POTW pretreatment Control Authority must provide this data, except for a significant industrial user in a municipality without an approved pretreatment program, in which case the Approval Authority must provide this data. Data Group 8 concerns significant industrial user compliance reports in a municipality without an approved pretreatment program. The significant industrial user must provide this data.

USEPA sorted 368 individual information items into 35 categories, spread across the ten data groups. 80 Fed. Reg. at 64108. USEPA stated that all NPDES program sectors must report the information in data groups 1 and 2, and that most program sectors report information in data group 3.

### **NPDES-ERR Requirements Incorporated into Illinois Regulations**

The Board included the NPDES-ERR requirements relevant to wastewater pretreatment in 35 Ill. Adm. Code 310.106 and 310.107, as described below

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<sup>4</sup> NPDES data group 3, as explained below. The submission of biosolids annual program reports (NPDES data group 4) is required no later than December 21, 2016 in states where USEPA has not authorized the state to administer the program. The biosolids program is not within the scope of the pretreatment program.

### **35 Ill. Adm. Code 310.106(b) Incorporates Relevant NPDES-ERR Requirements**

The Board codified the NPDES-ERR requirements as subsection (b) to Section 310.106. The following table shows how the federal provisions of the NPDES-ERR correspond with 35 Ill. Adm. Code 310.106(b):

<u>40 C.F.R. Provision</u>	<u>Corresponding Ill. Adm. Code Provision</u>
127.1	310.106(b)(1)
127.2(a)	310.106(b)(2) preamble
127.2(b)	310.106(b)(2), “initial recipient”
127.2(c)	310.106(b)(2), “NPDES data group”
127.2(d)	310.106(b)(2), “NPDES program”
127.2(e)	310.106(b)(2), “minimum set of NPDES data”
127.2(f)	310.106(b)(2), “program reports”
127.2(h)	310.106(b)(2), “NPDES-regulated entity”
127.11	310.106(b)(3)
127.12	310.106(b)(4)
127.13	310.106(b)(5)
127.14	310.106(b)(6)
127.15	310.106(b)(7)(A)-(b)(7)(F)
127.24	310.106(b)(7)(G)
127.16	310.106(b)(8)
127.26(f)	310.106(b)(9)

### **Selected NPDES-ERR Provisions Not Directly Concerning Pretreatment Included**

The Board retained references to CAFO reports and combined sewer overflow/bypass event reports. The federal categorical standards for CAFOs require compliance with the general pretreatment standards; indirect discharges could be part of this reporting. *See* 40 C.F.R. 412.3 (2016).

The Board also retained references to sewer overflow and bypass event reporting because pretreatment standards require reporting overflow and bypass events. *E.g.*, 40 C.F.R. 403.7(h)(1)(iii) & 403.17(c) (2016). The general pretreatment standards include requirements relating to reporting overflow and bypass events to the POTW, the Control Authority, the Approval Authority, and/or USEPA. *See, e.g.*, 40 C.F.R. 403.7(h)(1)(iii) & 403.17(c) (2016).

### **Other NPDES-ERR Provisions Not Relating to Pretreatment Omitted**

The Board omitted requirements unrelated to wastewater pretreatment. This included provisions concerning sewage sludge/biosolids, MS4, and cooling water intake structure reports. *Compare* 35 Ill. Adm. Code 310.106(b)(3)(A) *with* 40 C.F.R. 127.11(a) (2016). The Board also omitted the no exposure certification, low erosivity waiver notice, and the “hybrid approach,” which pertain to stormwater runoff. *Compare* 35 Ill. Adm. Code 310.106(b)(3)(B) *with* 40 C.F.R. 127.11(b) (2016); *see* 40 C.F.R. 127.2(g) and 127.26(g) (2016) (defining and providing for the hybrid approach).

The Board omitted the changes to the general NPDES permit and reporting rules made in the NPDES-ERR because they concern USEPA-administered NPDES permit programs (40 C.F.R. 122) and state NPDES program requirements (40 C.F.R. 123). The Board chose not to revise any general NPDES rules not directly related to wastewater pretreatment.

The Board omitted directly incorporating NPDES-ERR provisions that apply exclusively to the State, instead incorporating their substance into the Illinois pretreatment rules. The Board incorporated: (1) 40 C.F.R. 127.25(f)’s requirement that the State must require digital reporting in all NPDES permits; (2) the procedural requirements in 40 C.F.R. 127.24(a), (b), and (d) for granting waivers from the digital reporting requirements; and (3) the requirement in 40 C.F.R. 127.24(c) that the State must digitally transfer all data from an entity who received a waiver from digital reporting.

### **Waiver Provisions Incorporated**

The NPDES-ERR allows dischargers to receive waivers from digital reporting requirements. There are three types of waivers: temporary waivers, permanent waivers, and episodic waivers. The Board incorporated the waiver provisions with minimal deviation from the text of the federal regulation.

**Temporary Waiver.** The temporary waiver lasts five years, but is renewable. 40 C.F.R. 127.15(b) (2016). Under a temporary waiver, the facility must still submit data to the initial recipient. The initial recipient then must timely digitally submit that data to USEPA. 40 C.F.R. 127.15(b)(4) (2016). USEPA is allowing authorized NPDES programs to describe the circumstances under which they will grant a temporary waiver. 80 Fed. Reg. at 64076-77.

The Board’s adopted regulation provides that a temporary waiver may be granted as a variance or adjusted standard. In the Board’s existing procedural rules, variances may last no longer than five years, and the Board may restrict the term of an adjusted standard to five years. So the timing of these regulatory relief mechanisms aligns with those in the NPDES-ERR.

**Permanent Waiver.** An entity may receive a permanent waiver when the facility is owned or operated by a religious community that chooses not to use modern technology. 40 C.F.R. 127.15(c)(1) (2016). A facility with a permanent waiver must continue to submit data to the initial recipient, and the initial recipient must digitally submit that data to USEPA. 40 C.F.R. 127.15(c)(4) (2016).

The Board's adopted regulation provides that a permanent waiver may be granted as an adjusted standard. The Board may grant an adjusted standard without a time limit.

**Episodic Waiver.** An episodic waiver may be granted for a limited time under circumstances that preclude entities from submitting electronic reports, such as natural disasters or internet outages. 40 C.F.R. 127.15(d) (2016). The initial recipient can allow delay in electronic submission or provide for paper submissions. For a prolonged electronic data system outage, the initial recipient must accept hard-copy reports of the data. 40 C.F.R. 127.15(d)(4)(i) (2016) (corresponding with 35 Ill. Adm. Code 310.106(b)(7)(F)(i)).

The Board's adopted regulation provides that an episodic waiver may be granted by Illinois EPA as a provisional variance. *See* 415 ILCS 5/35(b) (2014). The adopted rule limits the episodic waiver term to 60 days. *See* 35 Ill. Adm. Code 310.106(b)(7)(D)(iii) (derived from 40 C.F.R. 127.15(d)(3) (2016)). The two justifications for an episodic waiver—*i.e.*, “large-scale emergency involving catastrophic circumstances” or “prolonged electronic reporting system outage” (*see* 35 Ill. Adm. Code 310.106(b)(7)(F)(i) & (b)(7)(F)(ii) (derived from 40 C.F.R. 127.15(d)(4)(i) & (d)(4)(ii) (2016))—would amply support the finding of arbitrary or unreasonable hardship required by statute.

**Including the Federal Procedures for Waivers.** The Board included the essential elements of 40 C.F.R. 127.24 in the provisions for waivers in 35 Ill. Adm. Code 310.106(b)(7)(G). The first is the requirement in 40 C.F.R. 127.24(a) and (b) for written notice of decision within 120 days of any request for a temporary or permanent waiver, added as 35 Ill. Adm. Code 310.106(b)(7)(G)(i). The second requirement is the notice requirement in 40 C.F.R. 127.24(d) for notice of an episodic waiver, added as 35 Ill. Adm. Code 310.106(b)(7)(G)(ii). The third requirement is the requirement in 40 C.F.R. 127.24(c) that the initial recipient must timely electronically transfer minimum sets of NPDES data to USEPA for the holder of a temporary or permanent waiver, added as 35 Ill. Adm. Code 310.106(b)(7)(G)(iii).

### **Steam Electric Power Generating Point Source Category Incorporated in Section 307.3301**

In a separate regulation, USEPA amended the categorical effluent guidelines and standards for sources in the steam electric power generating point source category. The amendments affected the wastewater pretreatment standards applicable to fossil fuel-fired steam electric power generating units. The Board incorporated those amendments relating to wastewater pretreatment into the Illinois regulations.

USEPA revised pretreatment guidelines for existing sources: new effluent limits apply to flue gas desulfurization (FGD) wastewater, fly ash transport water, bottom ash transport water, flue gas mercury control water, and gasification wastewater. 40 C.F.R. 423.16(e)-(i) (2016).

USEPA also revised the pretreatment standards for new sources (PSNS). The PSNS for fly ash transport water are applicable to fly ash transport water must after use in any other plant process or being sent to a treatment system at the plant. 40 C.F.R. 423.17(b)(5) (2016). Pretreatment standards for new sources were added for FGD wastewater, flue gas mercury

control wastewater, bottom ash transport water, gasification wastewater, and combustion residual leachate. 40 C.F.R. 423.17(b)(6)-(b)(10) (2016).

USEPA revised the applicability statement for the point source category. This category now includes units whose “principal reason for operation” is power generation,<sup>5</sup> which burn any fuel derived from fossil fuel,<sup>6</sup> and discharges from the combustion turbine and steam turbine portions of combined cycle plants. 40 C.F.R. 423.10 (2016). USEPA added definitions of the terms “flue gas desulfurization,” “flue gas mercury control wastewater,” “transport water,” “gasification wastewater,” “combustion residual leachate,” “oil-fired unit,” and “as soon as possible.” 40 C.F.R. 423.11(n)-(t) (2016). USEPA revised the definition of “low volume waste sources” to include wet scrubber air pollution control systems and expressly exclude wastewater from carbon capture or sequestration systems. 40 C.F.R. 423.11(b) (2016). USEPA revised the definition of “fly ash” to embrace all types of capture devices, using the devices formerly listed as examples, and expressly exclude ash from wet scrubber air pollution control systems whose primary purpose is particulate control. 40 C.F.R. 423.11(e) (2016). USEPA revised the definition of “bottom ash” to include ash that settles in the furnace or which is dislodged from furnace walls and expressly include boiler slag. 40 C.F.R. 423.11(f) (2016).

The Board disregarded the USEPA amendments that only apply to direct dischargers in this source category (best practicable control technology-based effluent limitations guidelines in 40 C.F.R. 423.12, best available technology economically achievable-based effluent limitations guidelines in 40 C.F.R. 423.13, and the new source performance standards in 40 C.F.R. 423.15).

The Board incorporated the USEPA revisions to the applicability statement in 40 C.F.R. 423.10 into corresponding 35 Ill. Adm. Code 307.3301(a) without substantive deviation from the federal text. The federal definitions applicable to the steam electric power generation point source category in 40 C.F.R. 423.11 and the categorical pretreatment standards of 40 C.F.R. 423.16 and 423.17 are incorporated by reference in 35 Ill. Adm. Code 307.3301(b), (c)(1), and (d)(1), respectively. Updating the existing incorporations by reference to the 2016 edition of the *Code of Federal Regulations* incorporated the USEPA revisions to those provisions into the Illinois rules.

### **Corrective and Clarifying Revisions and Deviations from the Federal Text**

In an identical-in-substance proceeding, the Board must adopt the verbatim text of federal regulations except for (1) changes needed for compliance with the Illinois Administrative Code; (2) technical changes that do not change the scope or meaning of the regulations; and (3) typographical and grammatical errors. In addition, the Board must not adopt USEPA rules that are not applicable to Illinois or “things which are outside the Board’s normal functions.” *See* 415 ILCS 5/7.2(a), (a)(1), (a)(2), and (a)(7) (2014). Thus, the Board made only minor, non-substantive deviations from the federal text described below.

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<sup>5</sup> The former language was “primarily engaged in the generation of electricity for distribution and sale.” *See* 40 C.F.R. 423.10 (2015).

<sup>6</sup> Giving the examples of petroleum coke and synthesis gas. 40 C.F.R. 423.10 (2016).

## **Deviations from the Text of the Federal Rules**

In incorporating the federal rules, some deviation is unavoidable due to differences between the federal and state regulatory structure or errors in the federal text. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors found in the text.

The Board updated citations to the 2016 edition of the Code of Federal Regulations, the most recent edition available. References to later amendments using their appropriate Federal Register citation were added where necessary.

The IIS-RA(F) for this docket lists all of the deviations from the text of the USEPA amendments in this proceeding. This includes USEPA amendments not included in this rulemaking in Table 1 and deviations from the literal text of the federal amendments in Table 2.

## **Corrective and Clarifying Revisions**

In addition to the amendments derived from federal amendments, the Board alters existing rules to correct deficiencies, clarify provisions, and make other changes to establish rules that correspond to federal requirements within the scheme of the Illinois Administrative Code. The Board made several such changes in this docket. Table 3 in the IIS-RA(F) lists all of the corrections that the Board has made that are not based on USEPA amendments. Certain of the changes that require explanation are described below.

**Amendments to Definitions.** The Board corrected certain general pretreatment definitions provisions in Section 310.110. The corrections that require explanation are listed below.

The Board clarified the applicability of certain regulatory definitions in the preamble of Section 310.110. This statement parallels 40 C.F.R. 403.3(a).

The Board added a statement on USEPA program authorization to parallel the definition at 40 C.F.R. 403.3(c) under the definition of “Approval Authority.”

The Board corrected a cross-reference, which currently references a nonexistent Section 310.540 in the definition of “Control Authority.”

The Board added a definition of “existing source” to Section 310.110, based on the definition of “new source” because the federal regulations do not define “existing source.”

The definition of “user” was revised to correspond to the definition in federal regulations at 40 C.F.R. 403.3(j).

The Board revised the definition of “interference” to correspond to the definition in federal regulations at 40 C.F.R. 403.3(k).

The Board corrected the definition of “new source”; the existing citation to 40 C.F.R. 401.11(c) is erroneous.

The Board removed the definition of “O and M”; the term is defined in Section 310—the only location it is used.

The Board revised the definition of “person” to provide that a commission may be an authorized entity.

The Board removed the definition of the now-terminated “Project XL.”

The Board revised the definition of “sludge requirements” to reference 40 C.F.R. 501 and 503, which were enacted since the Board last revised these pretreatment requirements.

After proposing amendments to the definitions of “municipal sewage” and “municipal sludge,” the Board removes the definitions on final adoption. The term “municipal sewage” is used only in the definitions of “POTW treatment plant,” and the term “publicly owned treatment works” in 35 Ill. Adm. Code 310.110, as derived from 40 C.F.R. § 403.3(q) and (r). The definitions of “municipal sewage” and “municipal sludge” added in Pretreatment Regulations, R86-44 (Dec. 3, 1987), slip op. at 26-27, are not necessary.

### **IIS Rulemaking Addendum**

The IIS-RA (F) fully lists the differences between the text of the USEPA amendments and the Board’s language in this rulemaking. Entries in the tables briefly explain the differences. The first table lists federal amendments that the Board has not included. The second table lists deviations from the text of federal rules. The third table lists corrections and clarifications to rules not prompted by USEPA amendments, but which the Board finds are needed. The fourth table lists revisions to the proposed amendments made on final adoption. The fifth table lists suggested revisions that the Board has declined to make on final adoption.

The Board included the IIS-RA (F) in the docket for this rulemaking, available on the Board’s website. The Board directs interested persons to the IIS-RA (F) for information about deviations from the federal text and amendments not directly derived from current federal amendments.

### **ORDER**

The Board directs the Clerk to file the appended adopted amendments to the Illinois wastewater pretreatment regulations at 35 Ill. Adm. Code 307 and 310 with the Office of the Secretary of State and cause them to be published in the *Illinois Register*.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 19, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Assistant 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

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307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
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307.1001	Preamble
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307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants
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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

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#### 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 at 41 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 ~~engaged primarily in the~~

generation of electricity is the predominant source of revenue or principal reason for operation, distribution and whose generation of electricity sale that 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. The Board incorporates by reference 40 CFR 423.11 (2016)-(2012). This incorporation includes no later amendments or editions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 423.16 (2016) (2012). This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) ~~of this Section~~ may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of those such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 423.17 (2016) (2012). This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) ~~of this Section~~ may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of those such standards.
  - 3) “New source” means any building, structure, facility, or installation the construction of which commenced after October 14, 1980.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 310  
 PRETREATMENT PROGRAMS

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310.533	Water Quality Management
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**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. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 310.106 Electronic Reporting**

The submission of any document pursuant to any provision of this Part ~~as an electronic document in lieu of a paper document~~ is subject to this Section.

- a) General Federal Requirements for Electronic Reporting.

1a) Scope and Applicability.

A1) 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, where electronic submissions are authorized by USEPA. The-USEPA, the Board, or the Agency, or the Control Authority may allow for the submission of electronic documents in lieu of paper documents. This subsection (a) Section does not require submission of electronic documents in lieu of paper documents. This subsection (a) Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

iA) To USEPA directly, under 40 CFR 127-Title 40 of the Code of Federal Regulations; or

iiB) To the Board, the Agency, or the Control Authority, pursuant to any provision of this Part or 35 Ill. Adm. Code 307-702 through 705, 720 through 728, 730, 733, 738, or 739.

B2) Electronic document submission under this subsection (a) Section can occur only as follows:

iA) 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

iiB) 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 pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 310.107-611.102(e), and USEPA has not withdrawn its approval of the system in writing. under the following circumstances:

i) ~~As to any existing electronic document receiving system (i.e., one in use or substantially developed~~

~~on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board, the Agency, or the Control Authority to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;~~

- ~~ii) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board, the Agency, or the Control Authority may use that system until USEPA disapproves its use in writing; or~~
- ~~iii) The Board, the Agency, or the Control Authority may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 C.F.R. 3.1000, so long as the system complies with 40 C.F.R. 3.2000, incorporated by reference in Section 611.102(e), and USEPA has not withdrawn its approval of the system in writing.~~

C3) This subsection (a) ~~Section~~ 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)-(a)(1) ~~of this Section~~:

- iA) Any document submitted via facsimile;
- iiB) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
- iiiC) 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.

D4) 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)-(a)(2)(B)(iii) of this Section~~, 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) (a) of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 ~~(2016)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- 2b) Definitions. For the purposes of this ~~subsection (a) Section~~, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in ~~Section 310.107-35 Ill. Adm. Code 611.102(e)~~.
- 3e) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection ~~(a)(1)(C) (a)(3) of this Section~~, 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:
- A1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section ~~310.107-611.102(e)~~; and
- B2) USEPA has first published a notice in the Federal Register as described in subsection ~~(a)(1)(B)(i)-(a)(2)(A) of this Section~~.

BOARD NOTE: Subsection ~~(a)(3) (e) of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ~~(2016)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- 4d) Procedures for submission of electronic documents in lieu of paper documents to the Board, the Agency, or the Control Authority.

- A1) 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/~~Art.~~5]. The Control Authority must establish such procedures pursuant to applicable State and local laws.
- B2) The Board, the Agency, or the Control Authority may accept electronic documents under this subsection (a) ~~Section~~ only as provided in subsection (a)(1)(B)(ii) ~~(a)(2)(B) of this Section~~.

BOARD NOTE: Subsection (a)(4) ~~(d) of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 (2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- 5e) Effects of submission of an electronic document in lieu of paper documents.
- A1) If a person who submits a document as an electronic document fails to comply with the requirements of this subsection (a) ~~Section~~, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- B2) 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.
- C3) 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.
- D4) Nothing in this subsection (a) ~~Section~~ limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (a)(5) ~~(e) of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) (2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

6f) Public document subject to State 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:

- A4) The Illinois Administrative Procedure Act [5 ILCS 100];
- B2) The Freedom of Information Act (FOIA) [5 ILCS 140];
- C3) The State Records Act [5 ILCS 160];
- D4) The Electronic Commerce Security Act [5 ILCS 175];
- E5) The Environmental Protection Act [415 ILCS 5];
- F6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
- G7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

7g) Nothing in this subsection (a) ~~Section~~ or in any provisions adopted pursuant to subsection (a)(4)(A) ~~(d)(1) of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (a)(7) ~~(g) of this Section~~ is derived from 40 CFR 3.2(c) (2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

BOARD NOTE: Subsection (a) is derived ~~Derived~~ from 40 CFR 3, as added, and 40 CFR 403.8(g) (2016) ~~(2005)~~, as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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 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 pursuant to Section 13.3 of the Act to implement section 307(b) of the Clean Water Act (42 USC 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 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 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 pursuant to 40 CFR 122.41(l)(6) and (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 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 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 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 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 D).

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, 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 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 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 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 start dates listed in the following table.

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

- 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 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

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 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART A: GENERAL PROVISIONS

##### **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](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 (2016) ~~(2014)~~-(Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 (2016) ~~(2014)~~-(How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 (2016) ~~(2014)~~-(What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 (2016) ~~(2014)~~-(What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 (2016) ~~(2014)~~-(What Are the Requirements Authorized State, Tribe, and Local Programs’ Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 (2016) ~~(2014)~~-(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 ~~(2016)~~ ~~(2014)~~ (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) ~~(2016)~~ ~~(2014)~~ (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

Appendix A to 40 CFR 127 (2016) (Minimum Set of NPDES Data), referenced in 35 Ill. Adm. Code 310.106.

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 ~~(2016)~~ ~~(2014)~~, as amended at 79 Fed. Reg. 49001 ~~(Aug. 19, 2014)~~ (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 ~~(2016)~~ ~~(2014)~~ (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 ~~(2016)~~ ~~(2014)~~ (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) ~~(2016)~~ ~~(2014)~~ (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 ~~(2016)~~ ~~(2014)~~ (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 ~~(2016)~~ ~~(2014)~~ (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 ~~(2016)~~ ~~(2014)~~ (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 ~~(2016)~~ ~~(2014)~~ (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 ~~(2015)~~ ~~(2013)~~), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. ~~(2014)~~ ~~(2013)~~), referenced in Section 310.110.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) (2014)-(2013)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) (2014)-(2013)), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) (2014)-(2013)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 (2014) (2013)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4) (2014)-(2013)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) (2014)-(2013)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 (2014) (2013)), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a) (2014) (2013)), referenced in Section 310.510.

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

BOARD NOTE: The Board has located all of 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 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 310.110 Definitions**

The following definitions, derived from the general definitions of 40 CFR 401.11 and the pretreatment-specific definitions of 40 CFR 403.3, apply for the purposes of this Part and 35 Ill. Adm. Code 307:

“Act” means the Environmental Protection Act [415 ILCS 5].

“Agency” means the Illinois Environmental Protection Agency.

BOARD NOTE: The Board has consistently rendered “Director”, as defined in corresponding 40 CFR 403.3(g), as “Agency” for all functions within the Agency’s statutory authority and USEPA has not clearly reserved the function to itself.

“Approval Authority” means the Agency after USEPA has approved the Illinois wastewater pretreatment program. “Approval Authority” means USEPA prior to USEPA approval of the Illinois wastewater pretreatment program.

BOARD NOTE: Derived from 40 CFR 403.3(c) (2016)-(2005).

“Approved POTW pretreatment program” or “program” or “POTW pretreatment program” means a program administered by a POTW that has been approved by USEPA, pursuant to 40 CFR 403.11, or the Agency, in accordance with Sections 310.541 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.3(d) (2016)-(2005).

“Authorization to discharge” means an authorization issued to an industrial user by a POTW that has an approved pretreatment program. The authorization may consist of a permit, license, ordinance, or other mechanism as specified in the approved pretreatment program.

BOARD NOTE: The Board added this term to distinguish a “pretreatment permit,” which is a control mechanism issued by the Agency.

“Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 310.201(a) and (c) and 310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD NOTE: Derived from 40 CFR 403.3(e) (2016), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005)

“Blowdown” means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

BOARD NOTE: Derived from 40 CFR 401.11(p) (2016)-(2005).

“Board” means the Illinois Pollution Control Board.

BOARD NOTE: The Board has consistently rendered “Director,” as defined in corresponding 40 CFR 403.3(g), as “Board” for all functions within the Board’s statutory authority and USEPA has not clearly reserved the function to itself.

“CWA” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 USC 1251 et seq), ~~incorporated by reference in Section 310.107.~~

BOARD NOTE: Derived from 40 CFR 403.3(b) ~~(2016)-(2005).~~

“Control Authority” refers to the appropriate of the following:

The POTW, if the POTW’s pretreatment program submission has been approved by the Agency, in accordance with the requirements of Section ~~310.541~~ 310.540 through 310.546 or by USEPA in accordance with 40 CFR 403.11; or

The Approval Authority Agency, if no pretreatment program the submission has yet not been approved.

BOARD NOTE: Derived from 40 CFR 403.3(f) ~~(2016)-(2005)~~, as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Existing source” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants the construction of which occurred prior to the date that would qualify the building, structure, facility, or installation for definition as a “new source”, as defined in Section 310.111.

BOARD NOTE: The Board added this definition of a fundamental term that is used throughout the categorical standards to determine the applicability of those standards.

“Indirect discharge” or “discharge” “Discharge” means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA (33 USC 1317(b), (c), or (d)), incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(i) ~~(2016)-(2005)~~, as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Industrial user” or “user” “User” means a source of indirect discharge. As used in this Part, an industrial user includes any person who meets any of the following criteria:

~~The person discharges toxic pollutants, as defined by 35 Ill. Adm. Code 307.1005;~~

~~The person is subject to a categorical standard adopted or incorporated by reference in 35 Ill. Adm. Code 307;~~

~~The person discharges more than fifteen percent of the total hydraulic flow received by the POTW treatment plant;~~

~~The person discharges more than fifteen percent of the total biological loading of the POTW treatment plant as measured by the five-day biochemical oxygen demand;~~

~~The person has caused pass through or interference; or~~

~~The person has presented an imminent endangerment to the health or welfare of persons.~~

BOARD NOTE: Derived from 40 CFR 403.3(j) ~~(2016)-(2005)~~, as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Industrial wastewater” means waste of a liquid nature discharged by an industrial user to a sewer tributary to a POTW the spent or used water from an industry that contains dissolved or suspended matter.

“Interference” means a discharge, alone or in conjunction with a discharge or discharges from other sources, for which both of the following is true:

The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

As a result of the inhibition or disruption, the discharge is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with applicable laws and permits issued under those laws, including 33 USC 405 and 40 CFR 503 (federal standards for sewage sludge use and disposal) and State standards relating to sludge use and disposal (such as 415 ILCS 5/21 and 22.56a and 35 Ill. Adm. Code 309.155, 309.208, and 391), 42 USC 6901 et seq. (the federal Resource Conservation and Recovery Act (hazardous waste and municipal solid waste disposal requirements)) and 35 Ill. Adm. Code: Subtitle G derived from the federal solid waste and hazardous waste management standards, 42 USC 7401 et seq. (the federal Clean Air Act) and 35 Ill. Adm. Code: Subtitle B derived from the federal Clean Air Act standards, 53 USC 2601 et seq. (the federal Toxic Substances Control Act) or any Illinois requirements relating to toxic substances (such as 415 ILCS 5/21 and 35 Ill. Adm. Code 742, 807, and 810), and 33 USC 1401 et seq. (the federal Marine Protection, Research, and Sanctuaries Act)~~any sludge requirements.~~

BOARD NOTE: Derived from 40 CFR 403.3(k) ~~(2016)-(2005)~~, as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

~~“Municipal sewage” is sewage treated by a POTW exclusive of its industrial component.~~

~~“Municipal sludge” is sludge produced by a POTW treatment works.~~

~~“Municipality.” See “unit of local government.”~~

“New source” means a new source as defined in Section 310.111.  
BOARD NOTE: Derived from 40 CFR 401.11(e) ~~401.11(e)~~ and 403.3(m) ~~(2016)-(2005)~~, as ~~renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Noncontact cooling water” means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

BOARD NOTE: Derived from 40 CFR 401.11(n) ~~(2016)-(2005)~~.

“Noncontact cooling water pollutants” means pollutants present in noncontact cooling waters.

BOARD NOTE: Derived from 40 CFR 401.11(o) ~~(2016)-(2005)~~.

“NPDES permit” means a permit issued to a POTW pursuant to Section 402 of the CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

BOARD NOTE: Derived from 40 CFR 403.3(n) ~~(2016)-(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

~~“O and M” means operation and maintenance.~~

“Pass through” means a discharge of pollutants that exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

BOARD NOTE: Derived from 40 CFR 403.3(p) ~~(2016)-(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Person” means an individual, corporation, partnership, association, State, ~~“unit of local government,”~~ commission, or any interstate body. This term includes the United States government, the State of Illinois, and their political subdivisions.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2016)-(2005)~~ and 33 USC 1362(5) ~~(2014)~~.

“Point source” means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding

operation, or vessel or other floating craft, from which pollutants are or may be discharged.

BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).

“Pollutant” means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into a sewer.

BOARD NOTE: Derived from 40 CFR 401.11(f) (2016)~~(2005)~~.

“Pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

BOARD NOTE: Derived from 40 CFR 401.11(g) (2015)~~(2005)~~.

“POTW treatment plant” means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater.

BOARD NOTE: Derived from 40 CFR 403.3(r) (2016)~~(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by Section 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Section 310.233.

BOARD NOTE: Derived from 40 CFR 403.3(s) (2016)~~(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Pretreatment permit” means a permit ~~an authorization~~ to discharge to a sewer that is issued by the Agency as the Control Authority.

BOARD NOTE: The Board added this term to distinguish an “authorization to discharge,” which is a control mechanism issued by a POTW.

“Pretreatment requirement~~requirements~~” means any substantive or procedural requirement related to pretreatment imposed on an industrial

user by a pretreatment permit or lawful order, other than a pretreatment standard, imposed on an industrial user.

BOARD NOTE: Derived from 40 CFR 403.3(t) (2016)-(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Pretreatment standard” or “standard” means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to Sections Section 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits pursuant to Section 310.211 that are a part of an approved pretreatment program, as provided in Section 310.211.

BOARD NOTE: Derived from 40 CFR 403.3(l) (2016)-(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Process wastewater” means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

BOARD NOTE: Derived from 40 CFR 401.11(q) (2016)-(2005).

“Process wastewater pollutants” means pollutants present in process wastewater.

BOARD NOTE: Derived from 40 CFR 401.11(r) (2016)-(2005).

~~“Project XL” means the federal Project for eXcellence and Leadership or a federally approved facility or community-based regulatory reinvention (XL) pilot project, as such are described in the Federal Register notices of May 23, 1995 (60 Fed. Reg. 27282) and November 1, 1995 (60 Fed. Reg. 55569).~~

“Publicly owned treatment works” or “POTW” means a “treatment works” that is owned by the State of Illinois or a “unit of local government.” This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the “unit of local government” that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

BOARD NOTE: Derived from 40 CFR 403.3(q) (2016)-(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

“Schedule of compliance” means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.

BOARD NOTE: Derived from 40 CFR 401.11(m) (2016)~~(2005)~~ and 33 USC 1362(17).

“Significant industrial user” means significant industrial user as defined in Section 310.112.

BOARD NOTE: Derived from 40 CFR 403.3(v) (2016)~~(2005)~~, as ~~renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Sludge requirements” means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits); ~~the federal Toxic Substances Control Act (15 USC 2601), or the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401), Section 39(b) of the Act (NPDES Permits); [415 ILCS 5/39(b)], and Section 405(b) of the federal Clean Water Act (federally-imposed sludge use and management requirements); and 40 CFR 501 and 503.~~

BOARD NOTE: Derived from 40 CFR 403.3(k)(2)~~(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~, and 403.7(a) (2016)~~(2005)~~.

“Submission” means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.

BOARD NOTE: Derived from 40 CFR 403.3(w) (2016)~~(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

“Treatment works” is as defined in 33 USC 1292(2), incorporated by reference in Section ~~310.107~~ 310.107(e). It includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal or industrial wastewater to implement 33 USC 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment.

BOARD NOTE: Derived from 40 CFR 403.3(q) (2016)~~(2005)~~, as ~~renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~ and 33 USC 1292(2).

“Unit of local government” means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, ~~having jurisdiction over disposal of sewage~~. Unit of local government includes, but is not limited to, municipalities; and sanitary districts.

BOARD NOTE: Derived from 40 CFR 401.11(m) (2016)-(2005) and 33 USC 1362(4).

“USEPA” means the United States Environmental Protection Agency.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: REPORTING REQUIREMENTS

### Section 310.605 Periodic Reports on Compliance

- a) ~~After Any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user as defined in Section 310.110), after the compliance date of a such 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 required more frequent reporting frequently in the pretreatment standard or by the Control Authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. 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 In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user 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 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, 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 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 ~~310.107-310.107(b)~~, 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) ~~of this Section~~ or other more frequent monitoring requirements imposed by the Control Authority; and the industrial user ~~it~~ 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) 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) ~~of this Section~~ 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) ~~of this Section~~ must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e) ~~(2016)-(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 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. 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, 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) ~~(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 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, 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. ~~following:~~

- a) ~~— An updated list of the POTW’s industrial users, including their names and addresses or a list of deletions and additions keyed to a previously submitted list. The POTW must provide a brief explanation of each deletion. This list must identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list must indicate which industrial users are subject to more stringent than the categorical pretreatment standards. The POTW must also list the industrial users that are subject only to local requirements. The list must also identify industrial users that are subject to categorical pretreatment standards and which are subject to reduced reporting requirements under Section 310.605(e), and the list~~

~~must identify which industrial users are non-significant categorical industrial users.~~

- ~~b) — A summary of the status of industrial user compliance over the reporting period.~~
- ~~e) — A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period.~~
- ~~d) — A summary of changes to the POTW's pretreatment program that have not been previously reported to the Agency.~~

BOARD NOTE: Derived from 40 CFR 403.12(i) (2016)~~(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)