

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 309
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
309.101	Amendment
309.102	Amendment
309.103	Amendment
309.104	Amendment
309.105	Amendment
309.106	Amendment
309.107	Amendment
309.108	Amendment
309.109	Amendment
309.110	Amendment
309.111	Amendment
309.112	Amendment
309.113	Amendment
309.114	Amendment
309.115	Amendment
309.116	Amendment
309.117	Amendment
309.118	Amendment
309.119	Amendment
309.120	Amendment
309.141	Amendment
309.142	Amendment
309.143	Amendment
309.144	Amendment
309.145	Amendment
309.146	Amendment
309.147	Amendment
309.148	Amendment
309.149	Amendment
309.150	Amendment
309.151	Amendment
309.152	Amendment
309.154	Amendment
309.155	Amendment
309.156	Amendment

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309.157	Amendment
309.181	Amendment
309.182	Amendment
309.183	Amendment
309.184	Amendment
309.185	Repealed
309.191	Repealed
309.201	Amendment
309.202	Amendment
309.203	Amendment
309.204	Amendment
309.205	Amendment
309.206	Amendment
309.208	Amendment
309.221	Amendment
309.222	Amendment
309.223	Amendment
309.224	Amendment
309.225	Amendment
309.241	Amendment
309.242	Amendment
309.244	Amendment
309.261	Amendment
309.262	Amendment
309.263	Amendment
309.264	Amendment
309.265	Amendment
309.266	Repealed
309.281	Repealed
309.282	Repealed
309.Appendix A	Repealed

- 4) Statutory Authority: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 309. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive,

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confusing, or unnecessary rules and then amend or repeal them. These proposed amendments to Part 309 include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to Docket R18-23 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may download copies of the Board's opinions and orders in R18-23 from the Board's Web site at pcb.illinois.gov and may also request copies by calling the Clerk's office at 312-814-3620.
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None

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- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Board expects that this rulemaking will not have an adverse impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2022

The full text of the Proposed Amendments begins on the next page:

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

PART 309
PERMITS

SUBPART A: NPDES PERMITS

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32	309.142	Water Quality Standards and Waste Load Allocation
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34	309.144	Federal New Source Standards of Performance
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36	309.146	Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements
37		
38	309.147	Authority to Apply Entry and Inspection Requirements
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41		
42	309.150	Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307 and 308 of the Clean Water Act
43		
44	309.151	Maintenance and Equipment

45 309.152 Toxic Pollutants
46 309.153 Deep Well Disposal of Pollutants (Repealed)
47 309.154 Authorization to Construct
48 309.155 Sewage Sludge Disposal
49 309.156 Total Dissolved Solids Reporting and Monitoring
50 309.157 Permit Limits for Total Metals
51 309.181 Appeal of Final Agency Action on a Permit Application
52 309.182 Authority to Modify, Suspend or Revoke Permits
53 309.183 Revision of Schedule of Compliance
54 309.184 Regulatory Relief
55 309.185 Public Access to Information (Repealed)
56 309.191 Effective Date (Repealed)

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58 SUBPART B: OTHER PERMITS
59

60 Section
61 309.201 Preamble
62 309.202 Construction Permits
63 309.203 Operating Permits; New or Modified Sources
64 309.204 Operating Permits; Existing Sources
65 309.205 Joint Construction and Operating Permits
66 309.206 Experimental Permits
67 309.207 Former Permits (Repealed)
68 309.208 Permits for Sites Receiving Sludge for Land Application
69 309.221 Applications – Contents
70 309.222 Applications – Signatures and Authorizations
71 309.223 Applications – Delivery
72 309.224 Applications – Time to Apply
73 309.225 Applications – Filing and Final Action By Agency
74 309.241 Standards for Issuance
75 309.242 Duration and Termination of Permits Issued Under Subpart B
76 309.243 Conditions
77 309.244 Appeals from Conditions in Permits
78 309.261 Permit No Defense
79 309.262 Design, Operation and Maintenance Criteria
80 309.263 Modification or Renewal of Permits
81 309.264 Permit Revocation
82 309.265 Approval of Federal Permits
83 309.266 Procedures (Repealed)
84 309.281 Effective Date (Repealed)
85 309.282 Severability (Repealed)
86
87 309.APPENDIX A References to Previous Rules (Repealed)
88

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

91
92 SOURCE: Adopted in R71-14, at 4 PCB 3, March 7, 1972; amended in R73-11, 12, at 14 PCB
93 661, December 5, 1974, at 16 PCB 511, April 24, 1975, and at 28 PCB 509, December 20, 1977;
94 amended in R73-11, 12, at 29 PCB 477, at 2 Ill. Reg. 16, p. 20, effective April 20, 1978;
95 amended in R79-13, at 39 PCB 263, at 4 Ill. Reg. 34, p. 159, effective August 7, 1980; amended
96 in R77-12B, at 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R76-21, at
97 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818;
98 amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1612, effective January 18, 1984; amended
99 in R86-44 at 12 Ill. Reg. 2495, effective January 13, 1988; amended in R88-1 at 13 Ill. Reg.
100 5993, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2892, effective February
101 13, 1990; amended in R91-5 at 16 Ill. Reg. 7339, effective April 27, 1992; amended in R95-22 at
102 20 Ill. Reg. 5526, effective April 1, 1996; amended in R99-8 at 23 Ill. Reg. 11287, effective
103 August 26, 1999; amended in R02-11 at 27 Ill. Reg. 202, effective December 20, 2002; amended
104 in R03-19 at 28 Ill. Reg. 7310, effective May 7, 2004; amended in R07-9 at 32 Ill. Reg. 14995,
105 effective September 8, 2008; amended in R08-09(D) at 39 Ill. Reg. 9433, effective June 26,
106 2015; amended in R15-24 at 40 Ill. Reg. 8597, effective June 13, 2016; amended in R18-23 at 46
107 Ill. Reg. _____, effective _____.

SUBPART A: NPDES PERMITS

Section 309.101 Preamble

112
113 Permits may be required under either of two subparts – NPDES Permits, Subpart
114 A, which regulates discharges into navigable waters as defined in the CWA, as
115 defined at 35 Ill. Adm. Code 301.240, or Other Permits, Subpart B, which
116 regulates certain structures and discharges from them that are not required to have
117 an NPDES Permit.

118
119 (Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.102 NPDES Permit Required

- 120
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122
- 123 a) Unless it complies with the Act, Board regulations, and the CWA, and the
124 provisions and conditions of the NPDES permit issued to the discharger, the
125 discharge of any contaminant or pollutant by any person into the waters of the
126 State from a point source or into a well is unlawful.
 - 127
128 b) Neither an NPDES permit nor a state permit is required for any discharge into a
129 well which is authorized by a UIC (Underground Injection Control) permit issued
130 by the Agency under 35 Ill. Adm. Code 702 and 704. For such wells, compliance
131 with the UIC permit requirements of Section 12(g) is deemed compliance with the
132 NPDES permit requirement of Section 12 (f) of the Act.

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.103 Application – General

a) Application Forms

- 1) An applicant for a NPDES Permit must file an application under 35 Ill. Adm. Code 309.223, on forms provided by the Illinois Environmental Protection Agency (Agency). The forms must comprise the NPDES application forms promulgated by the U.S. Environmental Protection Agency for the type of discharge for which an NPDES Permit is sought and any additional information as the Agency may reasonably require in order to determine that the discharge or proposed discharge will comply with applicable state and federal requirements.
- 2) In addition to application forms, the Agency may require the submission of plans and specifications for treatment works and summaries of design criteria.
- 3) Effluent toxicity monitoring
 - A) In addition to the above application forms, the Agency may require, under Section 39 of the Act, installing, using, maintaining and reporting of results from monitoring equipment and methods, including biological monitoring. The Agency may require, under Section 39 of the Act, effluent toxicity testing to show compliance with 35 Ill. Adm. Code 302.621 and 302.630. If this toxicity testing shows the effluent to be toxic, the Agency may require under Section 39 of the Act, further testing and identification of the toxicants under 35 Ill. Adm. Code 302.210(a).
 - B) The following POTWs must provide the results of valid whole effluent biological toxicity testing to the Agency:
 - i) All POTWs with design influent flows equal to or greater than one million gallons per day;
 - ii) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program under 35 Ill. Adm. Code 310.Subpart E;
 - C) In addition to the POTWs listed in subsection (a)(3)(B), the Agency may require other POTWs to submit the result of toxicity

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- 177 tests with their permit applications, based on consideration of the
178 following factors.
179
- 180 i) The variability of the pollutants or pollutant parameters in
181 the POTW effluent (based on chemical-specific
182 information, the type of treatment facility, and types of
183 industrial contributors);
184
 - 185 ii) The dilution of the effluent in the receiving water (ratio of
186 effluent flow to receiving stream flow);
187
 - 188 iii) Existing controls on point or nonpoint sources, including
189 total maximum daily load calculations for the waterbody
190 segment and the relative contribution of the POTW;
191
 - 192 iv) Receiving stream characteristics, including possible or
193 known water quality impairment, and whether the POTW
194 discharges to a coastal water, one of the Great Lakes, or a
195 water designated as an outstanding natural resource; or
196
 - 197 v) Other considerations (including the history of toxic impact
198 and compliance problems at the POTW), which the Agency
199 determines could cause or contribute to adverse water
200 quality impacts.
201
- 202 D) The POTWs required under subsection (a)(3)(B) or (a)(3)(C) to
203 conduct toxicity testing must use the methods prescribed at 35 Ill.
204 Adm. Code 302.Subpart F. Such testing must have been
205 conducted since the later of the last NPDES permit reissuance or
206 permit modification under 35 Ill. Adm. Code 309.182, 309.183 or
207 309.184 for any of the reasons listed at 40 CFR 122.62(a) (1994),
208 as amended at 60 Fed. Reg. 33926 effective June 29, 1995,
209 incorporated by reference in 35 Ill. Adm. Code 301.106 (including
210 no later amendments or editions).
211
- 212 4) All POTWs with approved pretreatment programs must provide the
213 following information to the Agency: a written technical evaluation of the
214 need to revise local limits under to 35 Ill. Adm. Code 310.210.
215
- 216 BOARD NOTE: Subsections (a)(3)(B) through (a)(4) are derived from 40
217 CFR 122.21(j) (1994).
218
- 219 b) Animal Waste Facilities
220 An applicant for an NPDES Permit in connection with the operation of an animal

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- 221 waste facility must complete, sign, and submit an NPDES application under 35
222 Ill. Adm. Code: Subtitle E, Chapter I.
223
- 224 c) Mining Activities
225
- 226 1) If, as defined by 35 Ill. Adm. Code 402.101, mining activities are to be
227 carried out on a facility for which an NPDES Permit is held or required,
228 the applicant must submit a permit application as required by 35 Ill. Adm.
229 Code 403.103, 403.104 and 405.104. If the facility will have a discharge
230 other than a mine discharge or non-point source mine discharge as defined
231 by 35 Ill. Adm. Code 402.101, the applicant must also submit an NPDES
232 Permit application under 35 Ill. Adm. Code 309.223 on forms supplied by
233 the Agency.
234
- 235 2) As provided by 35 Ill. Adm. Code 403.101, except to the extent
236 contradicted in 35 Ill. Adm. Code: Subtitle D, Chapter I, the rules in this
237 Subpart apply only to 35 Ill. Adm. Code: Subtitle D, Chapter I NPDES
238 Permits.
239
- 240 3) As provided by 35 Ill. Adm. Code 406.100, except to the extent provided
241 in 35 Ill. Adm. Code: Subtitle D, Chapter I, the effluent standards of 35
242 Ill. Adm. Code 304 are inapplicable to mine discharges and non-point
243 source mine discharges.
244
- 245 d) New Discharges
246 Any person whose discharge will begin after the effective date of this Subpart A
247 or any person having an NPDES Permit issued by the U.S. Environmental
248 Protection Agency for an existing discharge which will substantially change in
249 nature, or increase in volume or frequency, must apply for an NPDES Permit
250 either:
251
- 252 1) No later than 180 days before of the date on which the NPDES Permit will
253 be required; or
254
- 255 2) In sufficient time before the anticipated commencement of the discharge
256 to insure compliance with Section 306 of the Clean Water Act (CWA) (33
257 U.S.C. 1251 *et seq.*), or with any other applicable water quality standards
258 and applicable effluent standards and limitations.
259
- 260 e) Signatures
261 An application submitted by a corporation must be signed by a principal executive
262 officer of at least the level of vice president, or his or her duly authorized
263 representative, if the representative is responsible for the overall operation of the
264 facility from which the discharge described in the application form originates. In

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265 the case of a partnership or a sole proprietorship, the application shall be signed
266 by a general partner or the proprietor, respectively. In the case of a publicly
267 owned facility, the application must be signed by either the principal executive
268 officer, ranking elected official, or other duly authorized employee.
269

270 (Source: Amended at 46 Ill. Reg. _____, effective _____)
271

272 **Section 309.104 Renewal**

273
274 a) Any permittee who wishes to continue to discharge after the expiration date of the
275 NPDES Permit must timely apply for reissuance of the permit.
276

277 1) A permittee has submitted a timely application for a new permit when:
278

279 A) The permittee submits:
280

281 i) an application 180 days before to the expiration date of the
282 existing permit; or
283

284 ii) a request for a waiver in writing to the Agency, the Agency
285 grants a written waiver to submit the application less than
286 180 days before the expiration date of the existing permit,
287 and the applicant submits an application within the
288 timeframe listed in the waiver request. A waiver request
289 must include the permittee's reasonably justifiable causes
290 for not meeting the 180 day timeframe. A waiver of the
291 180 day submittal requirement must be filed a minimum of
292 60 days before the permit expires, and must include the
293 date by which the permittee will submit the application.
294

295 B) The Agency must not grant a waiver for applications to be
296 submitted later than the expiration date of the existing permit.
297

298 C) Any Agency decision to deny a waiver request must be made
299 within 21 days after the Agency receive the waiver request.
300

301 2) The terms and conditions of an expiring permit remain effective and
302 enforceable against the discharger until the Agency takes final action on
303 the pending permit application, only if:
304

305 A) the permittee has submitted a timely application under subsection
306 (a)(1); and
307

308 B) the Agency, through no fault of the permittee, does not issue a new

309 permit on or before the expiration date of the previous permit.

310

311 b) All permittees that timely apply for an NPDES permit renewal must pay an
312 annual NPDES discharge fee under Section 12.5 of the Act.

313

314 c) The Agency must circulate public notice and provide opportunity for public
315 hearing, as provided for in this Subpart A, in the same manner as for a new permit
316 application.

317

318 (Source: Amended at 46 Ill. Reg. _____, effective _____)

319

320 **Section 309.105 Authority to Deny NPDES Permits**

321

322 An NPDES Permit must be issued in any case in which:

323

324 a) The permit would authorize the discharge of a radiological, chemical or biological
325 warfare agent or high-level radioactive waste;

326

327 b) The discharge would, in the judgment of the Secretary of the Army acting through
328 the Chief of Engineers, result in the substantial impairment of anchorage and
329 navigation;

330

331 c) The Administrator of the U.S. Environmental Protection Agency objects in
332 writing to the proposed permit under any right to object given to the
333 Administrator under Section 402(d) of the CWA;

334

335 d) The permit would authorize a discharge from a point source which conflicts with
336 a plan approved under Section 208(b) of the CWA; or

337

338 e) The applicant has not provided proof to the Agency that the applicant will meet
339 any schedule of compliance which may be established, in compliance with the
340 Act and regulations, as a condition of the permit.

341

342 (Source: Amended at 46 Ill. Reg. _____, effective _____)

343

344 **Section 309.106 Access to Facilities and Further Information**

345

346 If the Agency determines that additional information or a site visit is necessary for the Agency to
347 evaluate an NPDES Permit application, it must notify the applicant and arrange to secure the
348 additional information or make the site visit. If the Agency does not receive adequate
349 information within the time specified by the Agency, the permit must either be issued on the
350 basis of the information currently before the Agency or be denied, and the applicant so notified.

351

352 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 309.107 Distribution of Applications

When the Agency determines that an application for an NPDES Permit is complete, it must:

- a) Unless otherwise agreed, send a copy of the application to the District Engineer of the appropriate district of the U.S. Corps of Engineers with a letter requesting that the District Engineer provide, within 30 days or as otherwise stated in the Agency's letter, his or her evaluation of the impact of the discharge on anchorage and navigation. If the District Engineer responds that anchorage and navigation of any of the navigable waters would be substantially impaired by the granting of a permit, the permit will be denied and the Agency must notify the applicant. If the District Engineer informs the Agency that imposing specified conditions upon the NPDES Permit is necessary to avoid any substantial impairment of any of the navigable waters, the Agency must include in the permit those conditions specified by the District Engineer.
- b) Send one copy of the application to the Regional Administrator of the U.S. Environmental Protection Agency with a letter stating that the application is complete.
- c) Notify the Illinois Department of Natural Resources (DNR), subject to any memorandum of agreement between the Agency and the DNR.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.108 Tentative Determination and Draft Permit

After receiving a complete application for an NPDES Permit, the Agency must prepare a tentative determination. The determination must include at least the following:

- a) A Statement whether an NPDES Permit is to be issued or denied; and
- b) If the determination is to issue the permit, a draft permit containing:
 - 1) Proposed effluent limitations, consistent with federal and state requirements;
 - 2) A proposed schedule of compliance, if the applicant is not in compliance with applicable requirements, including interim dates and requirements consistent with the CWA and applicable regulations, for meeting the proposed effluent limitations;
 - 3) A brief description of any other proposed special conditions which will

- 397 have a significant impact upon the discharge.
398
399 c) A brief description of the basis for each of the permit conditions listed in 35 Ill.
400 Adm. Code 309.108(b), including a brief description of any mixing zones, how
401 the conditions of the draft permit were derived, and the statutory or regulatory
402 provisions and appropriate supporting references.
403
404 d) Upon tentative determination to issue or deny an NPDES Permit:
405
406 1) If the determination is to issue the permit the Agency must notify the
407 applicant in writing of the content of the tentative determination and draft
408 permit and of its intent to circulate public notice of issuance in compliance
409 with 35 Ill. Adm. Code 309.108 through 309.112;
410
411 2) If the determination is to deny the permit, the Agency must notify the
412 applicant in writing of the tentative determination and of its intent to
413 circulate public notice of denial, in compliance with 35 Ill. Adm. Code
414 309.108 through 309.112. In the case of denial, notice to the applicant
415 must include a statement of the reasons for denial, as required by Section
416 39(a) of the Act.
417
418 e) For of Title X of the Act [415 ILCS 5/Title X], the documents supporting the
419 Agency's tentative decision to issue or deny an NPDES permit under this Section
420 must be either identified in or made part of the Agency record.
421
422 (Source: Amended at 46 Ill. Reg. _____, effective _____)
423

424 **Section 309.109 Public Notice**
425

- 426 a) Upon tentative determination to issue or deny an NPDES Permit, completion of
427 the draft permit, if any, and not earlier than 10 days after notice to the applicant
428 under 35 Ill. Adm. Code 309.108(d), the Agency must circulate public notice of
429 the completed application for an NPDES Permit in a manner designed to inform
430 interested and potentially interested persons of the discharge or proposed
431 discharge and of the proposed determination to issue or deny an NPDES Permit
432 for the discharge or proposed discharge. Procedures for the circulation of public
433 notice must include at least the following concurrent actions:
434
435 1) Notice must be mailed to the applicant
436
437 2) Notice must be circulated within the geographical area of the proposed
438 discharge; such circulation may include any or all of the following:
439
440 A) Posting in the post office and public places of the municipality

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- 441 nearest the premises of the applicant in which the effluent source is
442 located;
- 443
- 444 B) Posting near the entrance to the applicant's premises and in nearby
445 places;
- 446
- 447 C) Publishing in local newspapers and periodicals, or, if appropriate,
448 in a daily newspaper of general circulation; and
- 449
- 450 D) Any other notice requirements necessary to meet the requirements
451 of the Act and the CWA;
- 452
- 453 3) Notice must be mailed to any person or group upon request;
- 454
- 455 4) The Agency must add the name of any person or group upon request to a
456 mailing list to receive copies of notices for all NPDES applications within
457 the State of Illinois or within a certain geographical area.
- 458
- 459 b) The Agency must provide of not less than 30 days following the date of first
460 publication of the public notice during which interested persons may submit their
461 written views on the tentative determinations with respect to the NPDES
462 application. All comments must be submitted to the Agency and to the applicant.
463 All written comments submitted during the 30-day comment period must be
464 retained by the Agency and considered in forming its final determinations with
465 respect to the NPDES application. The period for comment may be extended at
466 the discretion of the Agency by publication as provided in 35 Ill. Adm. Code
467 309.109.

468 (Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.110 Contents of Public Notice of Application

471

472

473 The contents of public notice of applications for NPDES Permits must include at least the
474 following:

- 475
- 476 a) Name, address, and telephone number of the Agency;
- 477
- 478 b) Name and address of the applicant;
- 479
- 480 c) Brief description of the applicant's activities or operations which result in the
481 discharge described in the NPDES application (e.g., municipal waste treatment
482 plant, steel manufacturing drainage from mine activities);
- 483
- 484 d) Name, if any, of the waterway to which the discharge is made and a short

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- 485 description of the location of the discharge indicating whether it is a new or an
486 existing discharge;
487
488 e) A statement of the tentative determination to issue or deny an NPDES Permit for
489 the discharge described in the application;
490
491 f) A brief description of the procedures for the forming final determinations,
492 including the procedures for submitting comments and expiration date of the
493 comment period; and
494
495 g) Address and telephone number of Agency premises at which interested persons
496 may obtain further information, request a copy of the fact sheet, and inspect and
497 copy NPDES forms and related documents.
498

499 (Source: Amended at 46 Ill. Reg. _____, effective _____)
500

501 **Section 309.111 Combined Notices**

- 502
503 a) The Agency may circulate public notice of application for more than one NPDES
504 Permit at a time. If a public notice deals with more than one NPDES Permit
505 application, the information required by 35 Ill. Adm. Code 309.109 must be
506 included in the notice for each application.
507
508 b) To expedite the administrative disposition of NPDES Permit applications, the
509 Agency may publish, for one or more NPDES Permit applications at a time,
510 combined public notices and notices of public hearing as required by 35 Ill. Adm.
511 Code 309.115 through 309.119. Any combined public notice and notice of
512 hearing shall contain all the information which would be required and must be
513 circulated to all the persons to whom each notice would be required to be sent if
514 the notices were published separately.
515

516 (Source: Amended at 46 Ill. Reg. _____, effective _____)
517

518 **Section 309.112 Agency Action After Comment Period**

519
520 Subject to 35 Ill. Adm. Code 309.120, if, after the comment period provided, no public hearing is
521 held with respect to the permit, the Agency must, after evaluating any comments which may
522 have been received, either issue or deny the permit.
523

524 (Source: Amended at 46 Ill. Reg. _____, effective _____)
525

526 **Section 309.113 Fact Sheets**

- 527
528 a) For every discharge which has a total volume of more than 500,000 gallons (1.9

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- 529 megaliters) on any day of the year, the Agency must prepare and, following
530 public notice, must send upon request to any person a fact sheet with respect to
531 the application described in the public notice. The contents of such fact sheets
532 must include at least the following information:
533
- 534 1) A sketch or detailed description of the location of the discharge described
535 in the application;
536
 - 537 2) A quantitative description of the proposed discharge described in the
538 application which includes at least the following:
539
 - 540 A) The rate or frequency of the proposed discharge; if the discharge is
541 continuous, the average daily flow;
542
 - 543 B) For thermal discharges subject to limitation under the Act, the
544 average monthly temperatures for the discharge;
545
 - 546 C) The average daily mass discharged and average concentration in
547 milligrams per liter, or other applicable units of measurement, of
548 any contaminants which are present in significant quantities or
549 which are subject to limitations or prohibitions under applicable
550 provisions of the CWA or the Act or regulations adopted under
551 them;
552
 - 553 3) The tentative determinations required under 35 Ill. Adm. Code 309.108;
554
 - 555 4) A brief citation, including an identification of the uses for which the
556 receiving waters have been classified, of the water quality standards and
557 effluent standards and limitations applicable to the proposed discharge;
558
 - 559 5) In the case of modified and reissued permits, a summary of changes
560 between the public noticed permit and the previous permit;
561
 - 562 6) Summary of the antidegradation analysis, including characterization of the
563 receiving waters and the existing uses of the receiving waters;
564
 - 565 7) A more detailed description of the procedures for formulating final
566 determinations than that given in the public notice, including:
567
 - 568 A) The beginning and ending dates of the comment period and
569 address where comments will be received;
570
 - 571 B) Procedures for requesting a public hearing and the nature of it and
572

- 573 C) Any other procedures by which the public may participate in
- 574 formulating of the final determination; and
- 575
- 576 8) Information on how to obtain the Agency record.
- 577
- 578 b) The Agency must add the name of any person or group, upon request, to a mailing
- 579 list to receive copies of fact sheets.
- 580
- 581 (Source: Amended at 46 Ill. Reg. _____, effective _____)
- 582

Section 309.114 Notice to Other Governmental Agencies

583 When it issues public notice under 35 Ill. Adm. Code 309.109 through 309.112, the Agency

584 must:

- 585
- 586
- 587
- 588 a) Send a fact sheet, if one has been prepared, to any other states whose waters may
- 589 be affected by issuing the proposed permit and, upon request, provide the states
- 590 with a copy of the application and a copy of the draft permit. Each affected State
- 591 must be afforded an opportunity to submit written recommendations within a
- 592 stated number of days to the Agency and to the Regional Administrator of the
- 593 U.S. Environmental Protection Agency, which the Agency may incorporate into
- 594 the permit if issued. Should the Agency decline to incorporate any written
- 595 recommendations thus received, it must provide to the affected state or states (and
- 596 to the Regional Administrator) a written explanation of its reasons for declining to
- 597 accept any of the written recommendations.
- 598
- 599 b) Following the procedure in subsection (a), notify and receive recommendations
- 600 from any interstate agency having water quality control authority over waters
- 601 which may be affected by the permit.
- 602
- 603 c) Unless otherwise waived, send a copy of the public notice and a copy of
- 604 the fact sheet for NPDES Permit applications to any other Federal and State
- 605 agencies with jurisdiction over fish, shellfish and wildlife resources, the Advisory
- 606 Council on Historic Preservation, state Historic Preservation Officers, and other
- 607 appropriate government authorities, including affected States, and provide the
- 608 agencies an opportunity to respond, comment, or request a public hearing under
- 609 35 Ill. Adm. Code 309.115-309.119. The agencies must include at least the
- 610 following:
- 611
- 612 1) The agency responsible for preparing an approved plan pursuant to
- 613 Section 208(b) of the CWA; and
- 614
- 615 2) The State or interstate agency responsible for the preparation of a plan
- 616 under an approved continuous planning process under Section 303(e) of

617 the CWA.

618

619 d) Send notice to, and coordinate with, appropriate public health agencies to assist
620 the applicant in integrating the relevant provisions of the CWA with any
621 applicable requirements of the public health agencies.

622

623 (Source: Amended at 46 Ill. Reg. _____, effective _____)

624

625 **Section 309.115 Public Hearings on NPDES Permit Applications**

626

627 a)

628

629 1) The Agency must hold a public hearing on issuing or denying an NPDES
630 Permit or group of permits whenever the Agency determines that there
631 exists a significant degree of public interest in the proposed permit or
632 group of permits (instances of doubt must be resolved in favor of holding
633 the hearing), to warrant holding such a hearing.

634

635 2) Any person, including the applicant, may submit to the Agency a request
636 for a public hearing or a request to be a party at such a hearing to consider
637 the proposed permit or group of permits. Any such request for public
638 hearing must be filed with the 30-day public comment period and must
639 indicate the interest of the party filing the request and the reasons why a
640 hearing is warranted.

641

642 b) When the Agency has determined under subsections (a) and (b) that a public
643 hearing is required, the Director must appoint one or more employees of the
644 Agency to serve as a Hearing Board and must designate one to serve as Chair.

645

646 c) The Chair of the hearing board must promptly schedule the matter for hearing to
647 be held within 60 days after the filing of the first request for public hearing, or as
648 may be otherwise agreed among the parties.

649

650 d) Hearings held under this Section must be held in the geographical area in which
651 the discharges or proposed discharges are located, or other appropriate location,
652 as determined by the Chair. Consideration must be given to facilitating
653 attendance of interested or affected persons and organizations and to accessibility
654 of hearing sites to public transportation. The Chair has the duty to conduct a fair
655 hearing, take all necessary action to avoid delay, to maintain order, and to ensure
656 development of a clear and complete hearing file.

657

658 (Source: Amended at 46 Ill. Reg. _____, effective _____)

659

660 **Section 309.116 Notice of Agency Hearing**

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661
662 The Agency must issue public notice of the hearing not less than 30 days before the date of the
663 hearing, in the manner described by 35 Ill. Adm. Code 309.109 through 309.112 for public
664 notice. The Agency must send notices of the hearing to all persons and governmental agencies
665 who had received notice of the application under 35 Ill. Adm. Code 309.109 through 309.112
666 and 309.114. The notice must include at least the following:

- 667
- 668 a) Name, address, and telephone number of the Agency;
 - 669
 - 670 b) Name and address of each applicant whose application will be considered at the
671 hearing;
 - 672
 - 673 c) Name of waterway to which each applicant's discharge is to be made and a short
674 description of the location of each such discharge on the waterway;
 - 675
 - 676 d) A brief reference to the public notice issued for the NPDES application, including
677 identification number (if any) and date of issuance;
 - 678
 - 679 e) Information regarding the time and location of the hearing;
 - 680
 - 681 f) The purpose of the hearing;
 - 682
 - 683 g) A concise statement of the issues to be considered at the hearing;
 - 684
 - 685 h) Address and telephone number of premises at which interested persons may
686 obtain further information, request a copy of the draft permit, request a copy of
687 the fact sheet, request a copy of the regulations governing the conduct of the
688 hearing, and inspect and copy NPDES forms and related documents; and
 - 689
 - 690 i) A statement that the hearing will be conducted under 35 Ill. Adm. Code 309.115
691 through 309.119.

692
693 (Source: Amended at 46 Ill. Reg. _____, effective _____)

694 695 **Section 309.117 Agency Hearing**

696
697 The applicant or any person must be permitted to submit oral or written statements and data
698 concerning the proposed permit or group of permits. The Chair has authority to fix reasonable
699 limits upon the time allowed for oral statements, and may require statements in writing.

700
701 (Source: Amended at 46 Ill. Reg. _____, effective _____)

702 703 **Section 309.118 Agency Hearing File**

704

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- 705 a) Following the public hearing, the Chair must prepare a hearing file, which must
706 include:
707
708 1) Copies of statements submitted in writing;
709
710 2) A summary of the statements submitted orally;
711
712 3) A report of the major issues raised at the hearing;
713
714 4) An estimate of the number of persons present; and
715
716 5) The Chair's recommendations concerning actions to be taken on the
717 proposed permit or permits as a result of the hearing.
718
719 b) The hearing file must be available upon request to any member of the public and
720 to representatives of the U.S. Environmental Protection Agency.

721
722 (Source: Amended at 46 Ill. Reg. _____, effective _____)
723

Section 309.119 Agency Action After Hearing

724
725
726 Subject to 35 Ill. Adm. Code 309.120, following the public hearing, the Agency may make
727 appropriate modifications in the terms and conditions of proposed permits and must transmit to
728 the Regional Administrator for his or her approval a copy of the permit proposed to be issued
729 unless the Regional Administrator has waived the right to receive and review permits of its class.
730 The Agency must provide a notice of this transmission to the applicant, to any person who
731 participates in the public hearing, to any person who requested a public hearing, and to
732 appropriate persons on the mailing list established under 35 Ill. Adm. Code 309.109 through
733 309.112. The notice must briefly indicate any significant changes which were made from terms
734 and conditions set forth in the draft permit. All permits become effective when issued unless a
735 different date is specified in the permit.

736
737 (Source: Amended at 46 Ill. Reg. _____, effective _____)
738

Section 309.120 Reopening the Record to Receive Additional Written Comment

- 739
740
741 a) The Agency must order the public comment period reopened to receive additional
742 written comments when the Agency significantly modifies the draft permit and
743 the final permit is not a logical outgrowth of the proposed draft permit. In
744 determining if the final permit is a logical outgrowth of the draft permit, the
745 Agency must consider the following:

- 746
747 1) Whether the interested parties could not have reasonably anticipated the
748 final permit from the draft permit;

- 749
- 750
- 751 2) Whether a new round of notice and comment would provide interested
- 752 parties the first opportunity to offer comments on the issue; or
- 753
- 754 3) Whether the provisions in the final permit deviate sharply from the
- 755 concepts included in the draft permit or suggested by the commenters.
- 756 b) The public notice of any comment period extended under this Section must
- 757 identify the issues as to which the public comment period is being reopened.
- 758 Comments filed during the reopened period must be limited to the substantial new
- 759 issues that caused its reopening.
- 760
- 761 c) For purposes of the notification required by subsection (b), the Agency must
- 762 follow the public notice requirements of 35 Ill. Adm. Code 309.109.
- 763

764 (Source: Amended at 46 Ill. Reg. _____, effective _____)

765

766 **Section 309.141 Terms and Conditions of NPDES Permits**

767

768 In establishing the terms and conditions of each issued NPDES Permit, the Agency must apply

769 and ensure compliance with all of the following, whenever applicable:

- 770
- 771 a) Effluent limitations under sections 301 and 302 of the CWA;
- 772
- 773 b) Standards of performance for new sources under section 306 of the CWA;
- 774
- 775 c) Effluent standards, effluent prohibitions, and pretreatment standards under section
- 776 307 of the CWA;
- 777
- 778 d) Any more stringent limitation, including those:
- 779
- 780 1) necessary to meet water quality standards, treatment standards, or
- 781 schedules of compliance, established under any Illinois statute or
- 782 regulation (under authority preserved by section 510 of the CWA),
- 783
- 784 2) necessary to meet any other federal law or regulation, or
- 785
- 786 3) required to implement any applicable water quality standards, including
- 787 any legally applicable requirements necessary to implement total
- 788 maximum daily loads established under section 303(d) of the CWA and
- 789 incorporated in the continuing planning process approved under section
- 790 303(e) of the CWA and any regulations or guidelines issued under that
- 791 statute;
- 792

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- 793 e) Any more stringent legally applicable requirements necessary to comply with a
794 plan approved under section 208(b) of the CWA;
795
- 796 f) Before the Administrator of the U.S. Environmental Protection Agency
797 promulgates applicable effluent standards and limitations under sections 301, 302,
798 306 and 307 of the CWA, conditions as the Agency determines are necessary to
799 carry out the provisions of the CWA;
800
- 801 g) If the NPDES Permit is for the discharge of pollutants into navigable waters from
802 a vessel or other floating craft (except that no NPDES Permit must be issued for
803 the discharge of pollutants from a vessel or other floating craft into Lake
804 Michigan), any applicable regulations promulgated by the Secretary of the
805 Department in which the Coast Guard is operating, establishing specifications for
806 safe transportation, handling, carriage, storage and stowage of pollutants; and
807
- 808 h) If the NPDES Permit is for the discharge of pollutants from other than wet
809 weather point sources into the Lake Michigan Basin as defined at 35 Ill. Adm.
810 Code 303.443:
811
- 812 1) Total Maximum Daily Loads (TMDLs) and Waste Load Allocation
813 (WLA) will be established through either the LaMP or a RAP for an Area
814 of Concern. If a LaMP or RAP has not been completed and adopted,
815 effluent limits must be established consistent with the other provisions of
816 this Section, including, Additivity, Intake Pollutants, Loading Limits,
817 Level of Detection/Level of Quantification and Compliance Schedules.
818 When calculation of TMDLs or a WLA is incomplete and it is expected
819 that limits established through other provisions will be superseded upon
820 completion of the TMDL or WLA process, those limits must be identified
821 as interim and the permit must include a reopener clause triggered by
822 completion of a TMDL or WLA determination. Any new limits brought
823 about through exercise of the reopener clause must be eligible for delayed
824 compliance dates and compliance schedules consistent with Section 39(b)
825 of the Act [415 ILCS 5/39(b)], Section 309.148, and 35 Ill. Adm. Code
826 352.Subpart H.
827
- 828 2) 35 Ill. Adm. Code 302.590 establishes an acceptable additive risk level of
829 one in 100,000 (10^5) for establishing Tier I criteria and Tier II values for
830 combinations of substances exhibiting a carcinogenic or other
831 nonthreshold toxic mechanism. For those discharges containing multiple
832 nonthreshold substances application of this additive standard must be
833 consistent with this subsection (h).
834
- 835 A) For discharges in the Lake Michigan Basin containing one or more
836 2,3,7,8-substituted chlorinated dibenzo-p-dioxins or 2,3,7,8-

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837 substituted dibenzofurans, the tetrachloro dibenzo-p-dioxin
838 2,3,7,8-TCDD toxicity equivalence concentration (TEC_{TCDD}) must
839 be determined as outlined in subsection (h)(2)(B).
840

841 B) The values listed in the following Table must be used to determine
842 the 2,3,7,8-TCDD toxicity equivalence concentrations using the
843 following equation:
844

$$(TEC)_{TCDD} = \Sigma (C)_x (TEF)_x (BEF)_x$$

845

WHERE:

- (TEC)_{TCDD} = 2,3,7,8-TCDD toxicity equivalence concentration in effluent
- (C)_x = Concentration of total chemical x in effluent
- (TEF)_x = TCDD toxicity equivalency factor for x
- (BEF)_x = TCDD bioaccumulation equivalency factor for x

846

TABLE

Congener	TEF	BEF
2,3,7,8-TCDD	1.0	1.0
1,2,3,7,8-PeCDD	0.5	0.9
1,2,3,4,7,8-HxCDD	0.1	0.3
1,2,3,6,7,8-HxCDD	0.1	0.1
1,2,3,7,8,9-HxCDD	0.1	0.1
1,2,3,4,6,7,8-HpCDD	0.01	0.0
OCDD	0.001	0.0
2,3,7,8-TCDF	0.1	0.8
1,2,3,7,8-PeCDF	0.05	0.2
2,3,4,7,8-PeCDF	0.5	1.6
1,2,3,4,7,8-HxCDF	0.1	0.0
1,2,3,6,7,8-HxCDF	0.1	0.2
2,3,4,6,7,8-HxCDF	0.1	0.7
1,2,3,7,8,9-HxCDF	0.1	0.6
1,2,3,4,6,7,8-HpCDF	0.01	0.0
1,2,3,4,7,8,9-HpCDF	0.01	0.4
OCDF	0.001	0.0

847

848 C) Any combination of carcinogenic or otherwise nonthreshold toxic
849 substances must be assessed on a case-by-case basis. The Agency
850 must only consider such additivity for chemicals that exhibit the
851 same type of effect and the same mechanism of toxicity, based on

852 available scientific information that supports a reasonable
 853 assumption of additive effects.

854
 855 3) Reasonable potential to exceed.

856
 857 A) The first step in determining if a reasonable potential to exceed the
 858 water quality standard exists for any particular pollutant parameter
 859 is estimating the maximum expected effluent concentration for that
 860 substance. That estimation will be completed for both acute and
 861 chronic exposure periods and is termed the PEQ. The PEQ must
 862 be derived from representative facility-specific data to reflect a 95
 863 percent confidence level for the 95th percentile value. These data
 864 will be presumed to adhere to a lognormal distribution pattern
 865 unless the actual effluent data demonstrates a different distribution
 866 pattern. If facility-specific data in excess of 10 data values are
 867 available, the Agency must calculate a coefficient of variation that
 868 is the ratio of the standard deviation to the arithmetic average. The
 869 PEQ is derived as the upper bound of a 95 percent confidence
 870 bracket around the 95th percentile value through a multiplier from
 871 the following table applied to the maximum value in the data set
 872 that has its quality assured consistent with 35 Ill. Adm. Code
 873 352.410 as appropriate for acute and chronic data sets.

874
 875 PEQ = (maximum data point)(statistical multiplier)

876 Coefficient of Variation

No. Samples	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2	1.3
1	1.4	1.9	2.6	3.6	4.7	6.2	8.0	10.1	12.6	15.5	18.7	22.3	26.4
2	1.3	1.6	2.0	2.5	3.1	3.8	4.6	5.4	6.4	7.4	8.5	9.7	10.9
3	1.2	1.5	1.8	2.1	2.5	3.0	3.5	4.0	4.6	5.2	5.8	6.5	7.2
4	1.2	1.4	1.7	1.9	2.2	2.6	2.9	3.3	3.7	4.2	4.6	5.0	5.5
5	1.2	1.4	1.6	1.8	2.1	2.3	2.6	2.9	3.2	3.6	3.9	4.2	4.5
6	1.1	1.3	1.5	1.7	1.9	2.1	2.4	2.6	2.9	3.1	3.4	3.7	3.9
7	1.1	1.3	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.1	3.3	3.5
8	1.1	1.3	1.4	1.6	1.7	1.9	2.1	2.3	2.4	2.6	2.8	3.0	3.2
9	1.1	1.2	1.4	1.5	1.7	1.8	2.0	2.1	2.3	2.4	2.6	2.8	2.9
10	1.1	1.2	1.3	1.5	1.6	1.7	1.9	2.0	2.2	2.3	2.4	2.6	2.7
11	1.1	1.2	1.3	1.4	1.6	1.7	1.8	1.9	2.1	2.2	2.3	2.4	2.5
12	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.9	2.0	2.1	2.2	2.3	2.4
13	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3
14	1.1	1.2	1.3	1.4	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2
15	1.1	1.2	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.8	1.9	2.0	2.1

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16	1.1	1.1	1.2	1.3	1.4	1.5	1.6	1.6	1.7	1.8	1.9	1.9	2.0
17	1.1	1.1	1.2	1.3	1.4	1.4	1.5	1.6	1.7	1.7	1.8	1.9	1.9
18	1.1	1.1	1.2	1.3	1.3	1.4	1.5	1.6	1.6	1.7	1.7	1.8	1.9
19	1.1	1.1	1.2	1.3	1.3	1.4	1.5	1.5	1.6	1.6	1.7	1.8	1.8
20	1.1	1.1	1.2	1.2	1.3	1.4	1.4	1.5	1.5	1.6	1.6	1.7	1.7
30	1.0	1.1	1.1	1.1	1.2	1.2	1.2	1.3	1.3	1.3	1.3	1.4	1.4
40	1.0	1.0	1.1	1.1	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.2	1.2
50	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.1	1.1	1.1	1.1	1.1	1.1
60 or greater	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

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i) If the PEQ is less than or equal to the water quality standard, there is no reasonable potential and no limit will be established in the permit.

ii) If the PEQ is more than the water quality standard, the Agency will proceed to consideration of dilution and mixing under to subsection (h)(4).

B) If facility-specific data of 10 or less data values are available, an alternative PEQ must be derived using the table in subsection (h)(3)(A) assuming a coefficient of variation of 0.6, applied to the maximum value in the data set that has its quality assured consistent with 35 Ill. Adm. Code 352.410.

i) If the PEQ is less than or equal to the water quality standard, there is no reasonable potential and no limit will be established in the permit.

ii) If the PEQ exceeds the water quality standard, an alternative PEQ will be calculated using the maximum value in the data set and a multiplier of 1.4. If the alternative PEQ also exceeds the water quality standard, the Agency will proceed to consider dilution and mixing under subsection (h)(4).

iii) If the PEQ exceeds the water quality standard but the alternative PEQ is less than or equal to the standard, the Agency will either proceed to consider dilution and mixing pursuant to subsection (h)(4), or will incorporate a monitoring requirement and reopener clause to reassess the potential to exceed within a specified time schedule, not to exceed one year. In determining which of these options to use in any individual application, the Agency must consider

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911 the operational and economic impacts on the permittee and
912 the effect, if any, deferral of a final decision would have on
913 an ultimate compliance schedule if a permit limit were
914 subsequently determined to be necessary.

915
916 C) The Agency must compare monthly average effluent data values,
917 when available, with chronic aquatic life, human health and
918 wildlife standards to evaluate the need for monthly average water
919 quality based effluent limitations (WQBELs). The Agency must
920 use daily effluent data values to determine whether a potential
921 exists to exceed acute aquatic life water quality standards.

922
923 D) The Agency may apply other scientifically defensible statistical
924 methods for calculating PEQ for use in the reasonable potential
925 analysis as provided for in Procedure 5.b.2 of appendix F to 40
926 CFR 132, incorporated by reference at 35 Ill. Adm. Code 301.106.

927
928 E) Regardless of the statistical procedure used, if the PEQ for the
929 parameter is less than or equal to the water quality standard for that
930 parameter, the Agency must deem the discharge not to have a
931 reasonable potential to exceed, and a WQBEL must not be
932 required unless otherwise required under 35 Ill. Adm. Code
933 352.430.

934
935 4) If the PEQ for a parameter is greater than the particular water quality
936 standard, criteria or value for that parameter, the Agency will assess the
937 level of treatment being provided by the discharger. If the discharger is
938 providing (or will be providing) a level of treatment consistent with the
939 best degree of treatment required by 35 Ill. Adm. Code 304.102(a), the
940 PEQ derived under subsection (h)(3) must be compared to a preliminary
941 effluent limitation (PEL) determined by applying an appropriate mixing
942 zone or a default mixing zone to the discharge. Mixing opportunity and
943 dilution credit will be considered as follows:

944
945 A) Discharges to tributaries of the Lake Michigan Basin must be
946 considered to have no available dilution for either acute or chronic
947 exposures, and the PEL will be set equivalent to the water quality
948 standard unless dilution is documented through a mixing zone
949 study.

950
951 B) Bioaccumulative chemicals of concern (BCCs):

952
953 i) Mixing must not be allowed for new discharges of BCCs
954 commencing on or after December 24, 1997. The PEL will

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be set equivalent to the water quality standard.

ii) Mixing must not be allowed for discharges of BCCs that existed as of December 24, 1997 under 35 Ill. Adm. Code 302.530.

C) Direct discharges to the Open Waters of Lake Michigan must have a default mixing allowance of 2:1 for acute standards, criteria or values and 10:1 for chronic standards, criteria or values if the discharge configuration indicates that the effluent readily and rapidly mixes with the receiving waters. If ready and rapid mixing is in doubt the Agency must deny any default dilution or mixing allowance and require a mixing or dispersion study to determine the proper dilution allowance. If the discharger applies for more than the default dilution or mixing allowance, it must submit a mixing or dispersion study to justify its request. Whenever a mixing or dispersion study is available, it must be used to determine dilution or mixing allowance in lieu of the default allowance.

5) Preliminary effluent limitations calculations.

A) The preliminary effluent limitation (PEL) is calculated in a simple mass balance approach reflecting the dilution allowance established in subsection (h)(4):

$$WQS = [(Q_e)(PEL) + (Q_d)(C_d)] / [Q_e + Q_d]$$

or

$$PEL = [WQS(Q_e + Q_d) - (Q_d)(C_d)] / Q_e$$

WHERE:

- WQS = applicable water quality standard, criteria or value
- Q_e = effluent flowrate
- Q_d = allowable dilution flowrate
- C_d = background pollutant concentration in dilution water

B) The representative background concentration of pollutants to develop TMDLs and WLAs calculated in the absence of a TMDL must be established as follows:

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- i) "Background" represents all pollutant loadings, specifically loadings that flow from upstream waters into the specified watershed, water body, or water body segment for which a TMDL or WLA in the absence of a TMDL is being developed and enter the specified watershed, water body, or water body segment through atmospheric deposition, chemical reaction, or sediment release or resuspension.
 - ii) When determining what available data are acceptable for use in calculating background, the Agency must use its best professional judgment, including consideration of the sampling location and the reliability of the data through comparison, in part, to detection and quantification levels. When data in more than 1 of the data sets or categories described in subsection (h)(5)(B)(iii) exists, best professional judgment must be used to select the data that most accurately reflects or estimates background concentrations. Pollutant degradation and transport information may be considered when using pollutant loading data to estimate a water column concentration.
 - iii) The representative background concentration for a pollutant in the specified watershed, water body, or water body segment must be established on a case-by-case basis as the geometric mean of: acceptable water column data; water column concentrations estimated through use of acceptable caged or resident fish tissue data; or water column concentrations estimated through the use of acceptable or projected pollutant loading data. When determining the geometric mean of the data for a pollutant that includes values both above and below the detection level, commonly accepted statistical techniques must be used to evaluate the data. If all of the acceptable data in a data set are below the detection level for a pollutant, then all the data for the pollutant in that data set must be assumed to be zero.
- 6) Water quality based effluent limitations.
- A) If the PEQ is less than or equal to the PEL, it will be concluded that there is no reasonable potential to exceed. Under these circumstances a permit limit for that contaminant will not be set unless otherwise justified under one or more provisions of 35 Ill. Adm. Code 352.430.

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- B) If the PEQ is equal to or greater than the PEL, and the PEQ was calculated using a data set of more than 10 values, a WQBEL will be included in the permit. If the PEQ was calculated using a data set of less than or equal to 10 values, and the alternative PEQ calculated under subsection (h)(3)(B) also exceeds the PEL, a WQBEL will be included in the permit.
 - C) If the PEQ was calculated using a data set of less than or equal to 10 values, and the PEQ is greater than the PEL but the alternative PEQ is less than the PEL, the Agency will either establish a WQBEL in the permit or incorporate a monitoring requirement and reopener clause to reassess potential to exceed within a specified time schedule, not to exceed one year. In determining which of these options to use in any individual application, the Agency must consider the operational and economic impacts on the permittee and the effect, if any, deferral of a final decision would have on an ultimate compliance schedule if a permit limit were subsequently determined to be necessary.
 - D) The WQBEL will be set at the PEL, unless the PEL is appropriately modified to reflect credit for intake pollutants when the discharged water originates in the same water body to which it is being discharged. Consideration of intake credit will be limited to the provisions of 35 Ill. Adm. Code 352.425.
 - E) The reasonable potential analysis must be completed separately for acute and chronic aquatic life effects. When WQBELs are based on acute impacts, the limit will be expressed as a daily maximum. When the WQBEL is based on chronic effects, the limit will be expressed as a monthly average. Human health and wildlife based WQBELs will be expressed as monthly averages. If circumstances warrant, the Agency must consider alternatives to daily and monthly limits.
- i) Best management practices (BMPs) to control or abate the discharge of chloride when:
- 1) Authorized under section 402(p) of the CWA for the control of storm water discharges;
 - 2) Numeric effluent limitations are infeasible; or
 - 3) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.142 Water Quality Standards and Waste Load Allocation

In any case in which an NPDES Permit includes as conditions the effluent standards and limitations described in 35 Ill. Adm. Code 309.141, 309.142, and 309.143, the Agency must determine and verify that the discharge authorized by the permit will not violate applicable water quality standards or a schedule of compliance to achieve applicable water quality standards contained in the NPDES Permit. In any case in which an NPDES Permit applies any more stringent effluent limitation based on applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.143 Effluent Limitations

- a) Effluent limitations must control all pollutant or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Agency determines are, or may be, discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality. When determining whether a discharge causes, has the reasonable potential to cause or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the Agency must use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and, where appropriate, the dilution of the effluent in the receiving water.

- b) In the application of effluent standards and limitations, water quality standards and other applicable requirements, the Agency must, for each permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight, and except for discharges whose constituents cannot be appropriately expressed by weight). The Agency may, in its discretion, in addition to specification of daily quantitative limitations by weight, specify other limitations, such as average or maximum concentration limits, for the level of pollutants in the authorized discharge. Effluent limitations for multiproduct operations must provide for appropriate waste variations from such plants. Where a schedule of compliance is included as a condition in a permit, effluent limitations must be included for the interim period as well as for the period following the final compliance date.

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1123 (Source: Amended at 46 Ill. Reg. _____, effective _____)
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1125 **Section 309.144 Federal New Source Standards of Performance**
1126

1127 Notwithstanding any other provisions of these regulations, any point source, the construction of
1128 which is commenced after the date of enactment of the CWA and which is so constructed as to
1129 meet all applicable federal standards of performance as defined in Section 306 of the CWA and
1130 35 Ill. Adm. Code 301.400, must not be subject to any more stringent federal standard of
1131 performance during:

- 1132
- 1133 a) A 10-year period beginning on the date of completion of such construction, or
- 1134
- 1135 b) The period of depreciation or amortization of such facility for the purposes of
- 1136 Section 167 or 169 (or both) of the Internal Revenue Code of 1954 (26 U.S.C. 167
- 1137 and 169), whichever period ends first.
- 1138

1139 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1140

1141 **Section 309.145 Duration of Permits**
1142

1143 All NPDES Permits must be issued for fixed terms not to exceed five years.
1144

1145 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1146

1147 **Section 309.146 Authority to Establish Recording, Reporting, Monitoring and Sampling**
1148 **Requirements**
1149

- 1150 a) The Agency must require every holder of an NPDES Permit, as a condition of the
1151 NPDES Permit issued to the holder, to:
1152
 - 1153 1) Establish, maintain and retain records;
 - 1154
 - 1155 2) Make reports adequate to determine the compliance or lack of compliance
1156 with all effluent limits and special conditions in the permit;
 - 1157
 - 1158 3) Install, calibrate, use and maintain monitoring equipment or methods
1159 (including where appropriate biological monitoring methods);
 - 1160
 - 1161 4) Take samples of effluents (according to such methods, at such locations, at
1162 such intervals, and in such a manner as may be prescribed); and
 - 1163
 - 1164 5) Provide other information as may reasonably be required.
 - 1165

- 1166 b) The Agency may require every holder of an NPDES Permit for a publicly owned
1167 and publicly regulated treatment works, as a condition of the NPDES Permit, to
1168 require industrial users of such a treatment works to:
1169
 - 1170 1) Establish, maintain and retain records;
 - 1171 2) Make reports;
 - 1172 3) Install, calibrate, use and maintain monitoring equipment or methods
1173 (including where appropriate biological monitoring methods);
 - 1174 4) Take samples of effluents (according to such methods, at such locations, at
1175 such intervals, and in such a manner as may be prescribed); and
 - 1176 5) Provide other information as may reasonably be required.
- 1177 c) All these requirements shall be included as conditions of the NPDES Permit
1178 issued to the discharger, and shall be at least as stringent as those required by
1179 applicable federal regulations when these become effective.
- 1180 d) All permits shall specify requirements for properly using, maintaining, and
1181 installing, when appropriate, of monitoring equipment or methods (including
1182 biological monitoring methods, when appropriate); required monitoring including
1183 type, interval, and frequency sufficient to yield data which are representative of
1184 the monitored activity including, when appropriate, continuous monitoring.

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1192 (Source: Amended at 46 Ill. Reg. _____, effective _____)
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1194 **Section 309.147 Authority to Apply Entry and Inspection Requirements**
1195

- 1196 a) Any holder of an NPDES Permit and any industrial user of a publicly owned or
1197 publicly regulated sewage treatment plant, must be required as a condition of the
1198 NPDES Permit issued to the holder, and in compliance with constitutional
1199 limitations, to allow any authorized representative of the Agency, upon
1200 presentation of his or her credentials, to:
1201
 - 1202 1) Enter any premises of a permittee or an industrial user of a publicly owned
1203 or publicly regulated treatment works in which premises an effluent source
1204 is located or in which any applicable records are located that are required
1205 to be maintained;
 - 1206 2) At reasonable times have access to and copy any records required to be
1207 maintained;

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- 1210 3) Inspect any monitoring equipment or method which is required;
1211
1212 4) Have access to and sample any discharge of contaminants to State waters
1213 or to publicly owned or publicly regulated treatment works resulting from
1214 the activities or operations of the permittee or industrial user; and
1215
1216 5) Inspect, sample, photograph or otherwise investigate any part of the
1217 facilities or equipment of the permit holder or industrial user which the
1218 Agency may deem necessary in order to determine the possibility of a
1219 present or future violation of the Act, applicable regulations or any
1220 NPDES Permit conditions.
1221
1222 b) The requirements in subsections (a)(1)through (a)(5) must be in all NPDES
1223 Permits as terms and conditions thereof.
1224

1225 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1226

Section 309.148 Schedules of Compliance

1227 The Agency must establish schedules of compliance in NPDES Permits in the following manner:
1228

- 1229
1230
1231 a) With respect to any discharge which is not in compliance with applicable effluent
1232 standards and limitations, applicable water quality standards and limitations,
1233 applicable water quality standards or other legally applicable requirements, the
1234 permittee must take specific steps to achieve compliance in the shortest
1235 reasonable period of time consistent with the guidelines and requirements of
1236 CWA and the Act.
1237
1238 b) In any case where the period of time for compliance specified in subsection (a)
1239 exceeds 9 months, the permit must specify a compliance schedule setting forth
1240 interim requirements and the dates for their achievement; in no event must more
1241 than 9 months elapse between interim dates. If the time necessary for
1242 completions of the interim requirements in more than 9 months and is not readily
1243 divided into stages for completion, the permit must specify interim dates to
1244 submit progress reports on completing the interim requirement. For each NPDES
1245 Permit schedule of compliance, interim dates and the final date for compliance
1246 must, to the extent practicable, fall on the last day of the months of March, June,
1247 September, and December.
1248
1249 c) Not later than 14 days after each interim date and the final date of compliance, the
1250 permittee must provide the Agency with written notice of the permittee's
1251 compliance or noncompliance with the interim or final requirement.
1252
1253 d) Interim and final compliance dates in NPDES permits must be enforceable

1254 without otherwise showing a violation of an effluent limitation or injury to water
1255 quality.
1256

1257 e) The Agency may establish schedules of compliance in NPDES permits
1258 under applicable federal requirements which may be earlier or later than deadlines
1259 established by otherwise applicable regulations of the Board, provided that all
1260 schedules of compliance must require compliance at the earliest reasonable date.
1261 However, the Agency must not issue an NPDES Permit containing a schedule of
1262 compliance beyond July 1, 1977, or any other compliance date established by
1263 federal law, to any applicant who is not in compliance with, or who has not
1264 obtained a variance, adjusted standards, or time-limited water quality standard
1265 from applicable Illinois Water Pollution Regulations, or who has not been ordered
1266 to apply for and obtain all necessary permits in an appropriate Board enforcement
1267 action, for which the deadline for compliance occurred before the effective date of
1268 these NPDES Regulations.
1269

1270 f) In any case in which an NPDES permit includes a schedule of compliance, the
1271 Agency must include in its final determination a statement of the factual basis for
1272 such schedule.
1273

1274 g) Schedules of compliance established by the Agency in NPDES Permits must be
1275 subject to review by the Pollution Control Board under 35 Ill. Adm. Code 309.181
1276 and 309.182.
1277

1278 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1279

1280 **Section 309.149 Authority to Require Notice of Introduction of Pollutants into Publicly**
1281 **Owned Treatment Works**
1282

1283 The Agency must include in all NPDES Permits issued to publicly owned or publicly regulated
1284 treatment works conditions requiring the permittee to give notice to the Agency of the following:
1285

1286 a) Any new introduction of pollutants into the treatment works from a source which
1287 would be a new source as defined in Section 306 of the CWA if the source were
1288 discharging pollutants directly to the waters of the State;
1289

1290 b) Except as to categories and classes of point sources or discharges which may be
1291 specified by the agency, any new introduction of pollutants into the treatment
1292 works from a source which would be a point source subject to Section 301 of the
1293 CWA if it were discharging such pollutants directly to the waters of the State;
1294

1295 c) Any substantial change in volume or character of pollutants being introduced into
1296 the treatment works by a source introducing pollutants into the works at the time
1297 the permit is issued; and

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- d) All notices required of publicly owned or publicly regulated treatment works under this section must be in the form and content required by the Agency, and must include information on:
 - 1) The quality and quantity of wastewater to be introduced into such treatment works, and
 - 2) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from the publicly owned or publicly regulated treatment works.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.150 Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307 and 308 of the Clean Water Act

- a) Any NPDES Permit issued to a publicly owned or publicly regulated treatment works must include as a condition that the permittee must require that any industrial user of the treatment works will comply with federal requirements concerning:
 - 1) User charges and recovery of construction costs under section 204(b) of the CWA and applicable regulations in 40 CFR 35;
 - 2) Toxic pollutant effluent standards and pretreatment standards and pretreatment standards under Section 307 of the CWA; and
 - 3) Inspection, monitoring and entry under Section 308 of the CWA.
- b) As a means of ensuring such compliance, the permittee must require each industrial user subject to the requirements of Section 307 of the CWA to comply with this Section. The permittee must send to the Agency periodic notice (over intervals not to exceed 9 months) of progress toward full compliance with the requirements of Section 307 of the CWA.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.151 Maintenance and Equipment

Any NPDES Permit issued must include as a condition that the permittee must maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

1342 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1343

1344 **Section 309.152 Toxic Pollutants**
1345

1346 Any NPDES Permit issued must include as a condition that if a toxic effluent standard or
1347 prohibition (including any schedule of compliance specified in such effluent standard or
1348 prohibition) is established under Section 307(a) of the CWA for a toxic pollutant which is
1349 present in the permittee's discharge and such standard or prohibition is more stringent than any
1350 limitation upon such pollutant in the NPDES Permit, the Agency must revise or modify the
1351 permit according to the more stringent standard or prohibition and must notify the permittee.
1352

1353 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1354

1355 **Section 309.154 Authorization to Construct**
1356

- 1357 a) A person must not cause or allow the construction of any new treatment works,
1358 disposal well or wastewater source for which an NPDES Permit is required or
1359 cause or allow the modification of any existing treatment works, disposal well or
1360 wastewater source for which an NPDES Permit is required unless the NPDES
1361 Permit contains an authorization to construct as a condition of the permit.
1362
- 1363 b) Any holder of a valid NPDES Permit who proposes or is required as a condition
1364 of the NPDES Permit or of any order of the Pollution Control Board to construct
1365 or modify any treatment works, disposal well, wastewater source, or process
1366 modification which results in new or increased discharges of pollutants, must
1367 complete, sign and submit an NPDES application for the construction or
1368 modification, according to the instructions provided with the form, no later than
1369 180 days before the date on which construction or modification is to begin. A
1370 person must not commence construction until the holder of the NPDES Permit
1371 receives a modification to the NPDES Permit, or a new NPDES Permit if
1372 required, which contains an authorization to construct as a condition of the permit.
1373
- 1374 c) The Agency must not issue any authorization to construct unless the applicant
1375 submits adequate proof, including any of the information or documents listed in
1376 35 Ill. Adm. Code 309.221 as the Agency may require, which ensures that the
1377 proposed construction, modification or operation
1378
 - 1379 1) Either conforms to the criteria promulgated by the Agency under Section
1380 309.221 or is based on other criteria which the applicant proves will
1381 produce consistently satisfactory results; and
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 - 1383 2) Will not cause a violation of the conditions of the NPDES Permit.
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1385 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 309.155 Sewage Sludge Disposal

In establishing the terms and conditions of each issued NPDES Permit, the Agency must apply and ensure compliance with applicable regulations promulgated under Section 405 of the CWA governing the disposal of sewage sludge from treatment works.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.156 Total Dissolved Solids Reporting and Monitoring

The Agency must by permit condition require monitoring and reporting levels of total dissolved solids in effluents unless it finds that the reporting and monitoring is not required to accomplish the purposes of the Act. Monitoring of total dissolved solids levels must be by any reasonably reliable method.

(Source: Amended at 46 Ill. Reg. _____, effective _____)81)

Section 309.157 Permit Limits for Total Metals

- a) The NPDES permit limits for metals must be expressed in total metals form even though the water quality standards for metals specified in 35 Ill. Adm. Code 302.208(e), 302.504(a), and 304.105 are in their dissolved form. The total metals permit limit is determined by multiplying the dissolved metals concentration and the appropriate metals translator.
- b) Site specific metals translators must be determined according to "The Metals Translator: Guidance for Calculating a Total Recoverable Permit Limit from a Dissolved Criterion," incorporated by reference at 35 Ill. Adm. Code 301.106.
- c) Except as otherwise specified in subsection (d), the reciprocal of the conversion factor multiplier used for obtaining the dissolved metals standards at 35 Ill. Adm. Code 302.208(e) and 302.504(a) becomes the metals translator and the resulting total metals value becomes the NPDES permit limit.
- d) A permittee may request the Agency to calculate a total metals permit limit based on a site-specific metals translator. Upon review and approval of the information submitted by the permittee, the Agency will calculate a total metals permit limit that is protective of the dissolved metals water quality standard.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.181 Appeal of Final Agency Action on a Permit Application

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1430 a) If any NPDES Permit has been issued or denied by the Agency, any appeal of the
1431 issuance or denial of the permit, or of any of its terms or conditions, must be to
1432 the Pollution Control Board according to its Procedural Rules.

1433
1434 b) The appeal must be filed within 35 days after final Agency action.

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1436 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1437

1438 **Section 309.182 Authority to Modify, Suspend or Revoke Permits**

1439

1440 a) Any person, whether or not a party to or participant at any earlier proceeding
1441 before the Agency or the Board, may file a complaint for modification,
1442 suspension, or revocation of an NPDES Permit in accordance with this Section
1443 and Part 103. (Note: Prior to codification, Part III of Procedural Rules.)

1444

1445 b) The Pollution Control Board, after complaint and hearing according to the Act
1446 and its Procedural Rules, may modify, suspend or revoke any NPDES permit in
1447 whole or in part in any manner consistent with the Act, applicable Board
1448 regulations and federal requirements, upon proof of cause including the
1449 following:

1450

1451 1) Violation of any terms or conditions of the permit (including schedules of
1452 compliance and conditions concerning monitoring, entry and inspection);

1453

1454 2) Obtaining a permit by misrepresentation or failure to disclose fully all
1455 relevant facts; or

1456

1457 3) A change in any circumstance that mandates either a temporary or
1458 permanent reduction or elimination of the permitted discharge.

1459

1460 c) The provisions of this Section must be included as terms and conditions of each
1461 issued NPDES Permit.

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1463 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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1465 **Section 309.183 Revision of Schedule of Compliance**

1466

1467 a) The Agency may, upon request of the applicant, revise or modify a schedule of
1468 compliance in an issued NPDES Permit if it determines good and valid cause
1469 (such as an Act of God, strike, flood, materials shortage or other event over which
1470 the permittee has little or no control) exists for the revision and if within 30 days
1471 following receipt of notice from the Agency, the Regional Administrator of the
1472 U.S. Environmental Protection Agency does not object in writing.

1473

1474 b) Under subsection (a), the Agency must not extend a final compliance date more
1475 than.
1476

1477 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1478

1479 **Section 309.184 Regulatory Relief**
1480

1481 To the extent authorized by the CWA and the Act, the Board may grant variances, adjusted
1482 standards, or time limited water quality standards from standards, limitations, and requirements
1483 imposed by these NPDES Regulations. If the Board grants a variance, adjusted standard or time-
1484 limited water quality standard the Board must order the Agency to issue or modify an NPDES
1485 Permit consistent with the Board Order, the CWA, Federal NPDES Regulations and the Act.
1486

1487 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1488

1489 **Section 309.185 Public Access to Information (Repealed)**
1490

1491 (Source: Repealed at 46 Ill. Reg. _____, effective _____)
1492

1493 **Section 309.191 Effective Date (Repealed)**
1494

1495 (Source: Repealed at 46 Ill. Reg. _____, effective _____)
1496

1497 **SUBPART B: OTHER PERMITS**
1498

1499 **Section 309.201 Preamble**
1500

1501 a) This Subpart B establishes basic rules for issuing permits to construct, modify,
1502 and operate treatment works, pretreatment works, sewers, wastewater sources and
1503 other discharges that are not required to have NPDES Permits.
1504

1505 b) The following discharges are exempt from the operating permit requirement of
1506 this Subpart. However, they may be subject to the construction permit
1507 requirement:
1508

1509 1) discharges for which a pretreatment permit has been issued by the Agency
1510 under 35 Ill. Adm. Code 310;
1511

1512 2) discharges for which a pretreatment permit has been issued by USEPA
1513 under the federal Clean Water Act; or
1514

1515 3) discharges for which an authorization has been issued by a publicly owned
1516 treatment works (POTW) with a pretreatment program approved by the
1517 Agency, under 35 Ill. Adm. Code 310, or approved by USEPA pursuant to

1518 federal law.

1519

1520 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1521

1522 **Section 309.202 Construction Permits**

1523

1524 Except for treatment works or wastewater sources which have or will have discharges for which
1525 NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

1526

1527 a) A person must not cause or allow the construction of any new treatment works,
1528 sewer or wastewater source or cause or allow the modification of any existing
1529 treatment works, sewer or wastewater source without a construction permit issued
1530 by the Agency, except as provided in subsections (c) and (d).

1531

1532 b) For groundwater remediation systems, with or without pretreatment, a permit is
1533 required for construction of:

1534

1535 1) a new sewer to a publicly owned or publicly regulated sanitary or
1536 combined sewer; or

1537

1538 2) a wastewater source that discharges to a publicly owned or publicly
1539 regulated sanitary or combined sewer.

1540

1541 c) Construction permits are not be required for the following:

1542

1543 1) storm sewers that transport only land runoff;

1544

1545 2) any treatment works, sewer or wastewater source designed and intended to
1546 serve a single building and eventually treat or discharge less than an
1547 average of 1500 gallons per day (5700 l/day) of domestic sewage and
1548 which will discharge, if at all, directly to a publicly owned or publicly
1549 regulated sanitary or combined sewer;

1550

1551 3) any sewer required by statute to secure a permit pursuant to Section 3 of
1552 the Mobile Home Park Act [210 ILCS 115];

1553

1554 4) any treatment works, pretreatment works, sewer or wastewater source that,
1555 on the effective date of this Subpart B, is being constructed or will be
1556 constructed under the authorization of a permit already issued by the
1557 Agency or its predecessors; provided however, that all construction must
1558 be completed within four years from the effective date of this Subpart B;

1559

1560 5) privately owned sewers tributary to industrial treatment works owned by
1561 the same person if the additional waste load does not exceed the permitted

- 1562 design capacity of the industrial treatment works; or
- 1563
- 1564 6) cooling towers, oil/water separators, pH adjustment facilities without
- 1565 additional pretreatment, groundwater remediation system pretreatment,
- 1566 reverse osmosis treatment for industrial source water, multi-media
- 1567 filtration for industrial source water, disposable cartridge type (or similar)
- 1568 filtration systems, ion-exchange systems for industrial source waters, and
- 1569 all associated pipes, pumps, and appurtenances necessary for the
- 1570 installation and operation of these permit exempt treatment systems.
- 1571
- 1572 d) A person must not cause or allow the construction of any pretreatment works or
- 1573 cause or allow the modification of any existing pretreatment works without a
- 1574 construction permit issued by the Agency, unless exempt under 35 Ill. Adm. Code
- 1575 Section 309.202(c) if those pretreatment works, after construction or
- 1576 modification, will:
- 1577
- 1578 1) discharge toxic pollutants, as defined in Section 502(13) of the CWA, or
- 1579 pollutants which may interfere with the treatment process into the
- 1580 receiving treatment works or be subject to regulations promulgated under
- 1581 section 307 of the Clean Water Act (CWA); or
- 1582
- 1583 2) discharge 15% or more of the total hydraulic flow received by the
- 1584 treatment works; or
- 1585
- 1586 3) discharge 15% or more of the total biological loading received by the
- 1587 treatment works as measured by the 5-day biochemical oxygen demand.
- 1588

1589 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1590

1591 **Section 309.203 Operating Permits; New or Modified Sources**

1592

- 1593 a) A person must not cause or allow the use or operation of any treatment works,
- 1594 sewer, pretreatment works or wastewater source for which a construction permit
- 1595 is required under 35 Ill. Adm. Code 309.202 without an operating permit issued
- 1596 by the Agency, except as may be authorized by the construction permit.
- 1597
- 1598 b) No operating permit is required under this Section for any discharge:
- 1599
- 1600 1) for which an NPDES permit is required;
- 1601
- 1602 2) for which a pretreatment permit has been issued by the Agency, under 35
- 1603 Ill. Adm. Code 310;
- 1604
- 1605 3) for which a pretreatment permit has been issued by USEPA under federal

1606 law; or

1607

1608 4) for which an authorization to discharge has been issued by a POTW with a
1609 pretreatment program approved by the Agency, under 35 Ill. Adm. Code
1610 310, or approved by USEPA under federal law.

1611

1612 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1613

1614 **Section 309.204 Operating Permits; Existing Sources**

1615

1616 a) A person must not cause or allow the use or operation of any treatment works,
1617 pretreatment works or wastewater source without an operating permit issued by
1618 the Agency, except as provided in subsections (b), (c) and (d).

1619

1620 b) No operating permit is required under this Section for any discharge:

1621

1622 1) for which an NPDES permit is required;

1623

1624 2) for which a pretreatment permit has been issued by the Agency under 35
1625 Ill. Adm. Code 310;

1626

1627 3) for which a pretreatment permit has been issued by USEPA under federal
1628 law; or

1629

1630 4) for which an authorization to discharge has been issued by a POTW with a
1631 pretreatment program approved by the Agency, under 35 Ill. Adm. Code
1632 310, or approved by USEPA under federal law.

1633

1634 c) Operating permits are not required for treatment works and wastewater sources
1635 that are designed and intended to serve a single building and eventually treat or
1636 discharge less than an average of 1500 gallons per day 5 (5700 l/day) of domestic
1637 sewage and that will discharge, if at all, directly to a publicly owned or publicly
1638 regulated sanitary or combined sewer.

1639

1640 d) Operating permits are not required for those pretreatment works or wastewater
1641 sources discharging to a sewer tributary to a treatment works, or directly to a
1642 treatment works, that will not:

1643

1644 1) discharge toxic pollutants, as defined in section 502(13) of the CWA, or
1645 pollutants that may interfere with the treatment process into the receiving
1646 treatment works or be subject to regulations promulgated under section
1647 307 of the CWA;

1648

1649 2) discharge 15% or more of the total hydraulic flow received by the

1650 treatment works; or

1651
1652 3) discharge 15% or more of the total biological loading received by the
1653 treatment works as measured by the 5-day biochemical oxygen demand.

1654
1655 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1656
1657 **Section 309.205 Joint Construction and Operating Permits**

1658
1659 When the Agency determines that a proposed treatment works, pretreatment works, sewer or
1660 wastewater source is sufficiently standard so as to obviate the need for separate construction and
1661 operating permits, the Agency may issue a joint construction and operating permit.

1662
1663 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1664
1665 **Section 309.206 Experimental Permits**

1666
1667 a) To promote developing water pollution control technology, the Agency may issue
1668 experimental permits for treatment processes or techniques that do not satisfy the
1669 standards for issuance in 35 Ill. Adm. Code 309.241, provided that the applicant
1670 submits clear, cogent and convincing proof that the process or technique has a
1671 reasonable and substantial chance for success.

1672
1673 b) The existence of a valid experimental permit constitutes a prima facie defense to
1674 any action brought against the permittee for a violation of this Chapter, but only
1675 to the extent that such action is based on the failure of the process or techniques,
1676 during the period of validity of the permit, to meet the effluent limitations of
1677 water quality standards of this Chapter.

1678
1679 c) An experimental permit may not be issued in lieu of an NPDES Permit when an
1680 NPDES Permit is required.

1681
1682 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1683
1684 **Section 309.208 Permits for Sites Receiving Sludge or Land Application**

1685
1686 a) A construction and an operating permit are required under this Chapter for any
1687 site receiving sludge for land application unless:

1688
1689 1) The site receives only livestock wastes; or

1690
1691 2) The site receives only septic tank sludges generated from domestic
1692 sources; or

1693

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- 1694 3) The site is regulated under the Board's regulations; or
1695
1696 4) The site is specifically identified in an approved sludge management
1697 scheme of an operating or NPDES permit issued by the Agency and
1698 receives sludge exclusively from the permittee; or
1699
1700 5) All of the following conditions are satisfied:
1701
1702 A) The site is not specifically identified in an NPDES or operating
1703 permit of any treatment works or pretreatment works but receives
1704 sludge from a treatment works or pretreatment works which has a
1705 valid operating permit issued by the Agency, or an NPDES Permit
1706 with a sludge management scheme approved by the Agency. The
1707 sludge generator must inform the user that this requirement has
1708 been met; and
1709
1710 B) The sludge user applies the sludge to less than 121 hectares ha
1711 (300 acres) under common ownership or control in any year; and
1712
1713 C) The sludge is transported, stored and applied by the user in
1714 compliance with the approved sludge management scheme of the
1715 generator from which the user receives the sludge. Any person
1716 who intends to transport, store or apply sludge in any manner other
1717 than that described in the approved sludge management scheme
1718 must apply for a permit.
1719
1720 b) Notwithstanding subsections (1) through (5) of paragraph (a), the Agency may
1721 require a user receiving sludge for land application to obtain a permit under this
1722 Section when the Agency determines that special circumstances require a permit
1723 to protect the environment or the public health. In making its determination, the
1724 Agency must consider the following factors:
1725
1726 1) Where the sludge will be stored;
1727
1728 2) The proposed rate and method of application of the sludge to the receiving
1729 site;
1730
1731 3) The quality (constituents and concentrations) of the sludge to be applied to
1732 the receiving site; and,
1733
1734 4) The geological and hydrological characteristics of the receiving site,
1735 including proximity to waters of the State.
1736
1737 c) No permit may be required under subsection (b) for a user receiving sludge for

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1738 land application unless the owner or operator is notified in writing of the
1739 requirement to apply for a permit. That notification must include a statement of
1740 the special circumstances requiring the site to be permitted. The requirement of a
1741 permit is reviewable only in a permit appeal proceeding.

1742
1743 d) Generators and haulers of municipal water or wastewater treatment plant sludge,
1744 which is to be applied to land and which is regulated under this Chapter, need not
1745 obtain a special waste hauling permit or prepare, carry and complete a manifest
1746 under 35 Ill. Adm. Code 706.

1747
1748 e) The Agency may establish and revise criteria according to 35 Ill. Adm. Code
1749 309.262 for designing, operating, and maintaining facilities regulated under this
1750 Section.

1751
1752 f) For purposes of permit issuance and approval of a sludge management scheme,
1753 proof of conformity with Agency criteria it be prima facie evidence of no
1754 violation of the Act or this Chapter. However, nonconformity with Agency
1755 criteria is not be grounds for permit denial, or for failure to approve a sludge
1756 management scheme, if the applicant submits adequate information showing that
1757 the sludge will be stored, transported and applied so as not to cause a violation of
1758 the Act or this Chapter.

1759
1760 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1761 1762 **Section 309.221 Applications -- Contents**

1763
1764 a) All applications for any permit required under Subpart B must contain, where
1765 appropriate, the following information and documents:

1766
1767 1) A complete description of the volume and nature of the wastewater
1768 influent and effluent to be transported, treated or discharged, including a
1769 statement as to presence or absence of all contaminants for which effluent
1770 or water quality standards are set by this chapter; and

1771
1772 2) A description of the present condition of the receiving body of water and
1773 the effect of the wastewater on such receiving body of water; and

1774
1775 3) A statement as to any projected changes in the volume or nature of the
1776 wastewater which the applicant desires to have included within the terms
1777 of the permit; and

1778
1779 4) A description of the geographic location of the facility or source, and its
1780 interrelation with any existing or proposed treatment works, sewer or
1781 wastewater source which will transport, treat or discharge the same

- 1782 wastewater; and
1783
1784 5) Plans and specifications, prepared by an Illinois Registered Professional
1785 Engineer when required by the Professional Engineering Practice Act of
1786 1989 [225 ILCS 325], fully describing the design, nature, function and
1787 interrelationship of each individual component of the facility or source,
1788 except that the Agency may waive this requirement for plans and
1789 specifications when the application is for a routine renewal; and
1790
1791 6) A statement identifying and justifying any departure from current design
1792 criteria promulgated by the Agency.
1793
1794 b) The Agency may adopt procedures requiring such additional information as is
1795 necessary to determine whether the treatment works, pretreatment works, sewer or
1796 wastewater source will meet the requirements of the Act and this Part.
1797
1798 c) The Agency may prescribe the form in which all information required under this
1799 Section must be submitted.

1800
1801 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1802

1803 **Section 309.222 Applications – Signatures and Authorizations**
1804

- 1805 a) An application submitted by a corporation must be signed by a principal executive
1806 officer of at least the level of vice president, or his or her duly authorized
1807 representative, if the representative is responsible for the overall operation of the
1808 facility from which the discharge described in the application form originates. In
1809 the case of a partnership or a sole proprietorship, the application must be signed
1810 by a general partner or the proprietor respectively. In the case of a publicly owned
1811 facility, the application must be signed by either a principal executive officer,
1812 ranking elected official or other duly authorized employee.
1813
1814 b) Permit applications for sewer construction or modification must be accompanied
1815 by signed statements from the owners of all intermediate receiving sewers and the
1816 receiving treatment works certifying that their facilities have adequate capacity to
1817 transport, treat, or transport and treat, as applicable, the wastewater that will be
1818 added through the proposed sewer without violating any provisions of the Act and
1819 this Chapter.

1820
1821 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1822

1823 **Section 309.223 Applications – Delivery**
1824

1825 All permit applications must be mailed or delivered to the appropriate address designated by the

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1826 Agency.

1827

1828 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1829

Section 309.224 Applications – Time to Apply

1831

1832 Any person required under Subpart B to have a permit must file an application with the Agency
1833 at least 90 days before the date on which the permit is required.

1834

1835 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1836

Section 309.225 Applications – Filing and Final Action By Agency

1837

1838

1839 a) An application for permit under Subpart B must not be deemed to be filed until
1840 the Agency has received, at the designated address, all information, documents
1841 and authorizations in the form and with the content required by 35 Ill. Adm. Code
1842 309.221, 309.222 and 309.223 and related Agency procedures; provided,
1843 however, that if the Agency fails to notify the applicant within 30 days after the
1844 filing of a purported application that the application is incomplete and of the
1845 reason the Agency deems it incomplete, the application will be deemed to have
1846 been filed on the date of the purported filing. The applicant may treat the
1847 Agency's notification that an application is incomplete as a denial of the
1848 application for purposes of review.

1849

1850 b) If the Agency fails to take final action, by granting or denying the permit as
1851 requested or with conditions, within 90 days after the filing of the application, the
1852 applicant may deem the permit granted for a one year period commencing on the
1853 91st day after the application under Subpart B was filed.

1854

1855 c) Any applicant for a permit under Subpart B may waive the requirement that the
1856 Agency must take final action within 90 days after the filing of the application.

1857

1858 d) The Agency must send written notice of final action taken.

1859

1860 e) The Agency will deemed to have taken final action on the date that the notice is
1861 mailed.

1862

1863 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1864

Section 309.241 Standards for Issuance

1865

1866

1867 a) The Agency must not grant any permit required by this Subpart B, except an
1868 experimental permit under 35 Ill. Adm. Code 309.206, unless the applicant
1869 submits adequate proof that the treatment works, pretreatment works, sewer, or

1870 wastewater source will be constructed, modified, or operated so as not to cause a
1871 violation of the Act or of this Subtitle.
1872

1873 b) If the Agency has promulgated criteria under 35 Ill. Adm. Code 309.262 with
1874 regard to any part or condition of a permit, then for purposes of permit issuance
1875 proof of conformity with the criteria is prima facie evidence of no violation.
1876 However, non-conformity with the criteria is not grounds to deny the permit
1877 application if the applicant meets the condition of subsection (a).
1878

1879 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1880

1881 **Section 309.242 Duration and Termination of Permits Issued Under Subpart B**
1882

1883 a) Construction permits for sewers and wastewater sources must require that
1884 construction be completed within two years. Construction permits for treatment
1885 works and pretreatment works must require that construction be completed within
1886 three years. In situations in which the magnitude and complexity of the project
1887 require it, the Agency may issue a construction permit, requiring completion
1888 within a period not to exceed five years.
1889

1890 b) Except under subsection (c), an operating permit must not have a duration in
1891 excess of five years. The Agency may issue operating permits for as short a
1892 period of time as may be necessary to facilitate basin planning, to coordinate
1893 operating permits with future compliance deadlines, to maintain intensive control
1894 over new or experimental processes and to provide for emergency situations.
1895

1896 c) The Agency may issue operating permits under 35 Ill. Adm. Code 309.203 for
1897 sewers, wastewater sources, and pretreatment works for the lifetime of the sewer
1898 or the pretreatment works.
1899

1900 d) Notwithstanding subsections (b) and (c), any operating permit subject to this
1901 Subpart must expire when the Agency issues a modified or renewed permit.
1902

1903 e) A permittee may request termination of a permit by submitting the request in
1904 writing to the Agency in a format prescribed by the Agency. The Agency must
1905 send written confirmation of the termination to the permittee by certified or
1906 registered mail. Termination is effective on the date of written confirmation from
1907 the Agency.
1908

1909 f) A permit may be terminated by the Agency upon determination that a facility no
1910 longer operates or exists. The Agency must send written notice by certified or
1911 registered mail to the last known address on the permit stating that the permitted
1912 system appears no longer in operation or existence. The permit must terminate 60

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1913 days after the date of notification unless the permittee requests that the permit to
1914 stay in effect.

1915
1916 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1917

Section 309.244 Appeals from Conditions in Permits

1918
1919
1920 An applicant may consider any condition imposed by the Agency in a permit issued under
1921 Subpart B as a refusal by the Agency to grant the permit, which entitles the applicant to appeal
1922 the Agency's decision to the Board under Section 40 of the Act.

1923
1924 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1925

Section 309.261 Permit No Defense

1926
1927
1928 Except as provided in 35 Ill. Adm. Code 309.206, the issuance and possession of a permit under
1929 this Subpart B does not constitute a defense to a violation of the Act or this Chapter, except for
1930 construction or operation without a permit.

1931
1932 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1933

Section 309.262 Design, Operation and Maintenance Criteria

1934
1935
1936 a) The Agency may adopt criteria for the design, operation, and maintenance of
1937 treatment works, pretreatment works, sewers, and wastewater sources. These
1938 criteria shall be revised from time to time to reflect current engineering judgment
1939 and advances in the state of the art.

1940
1941 (BOARD NOTE: The Agency has adopted "Design Criteria for Pressure Sewage
1942 Systems" (35 Ill. Adm. Code 374), "Illinois Recommended Standards for Sewage
1943 Works" (35 Ill. Adm. Code 370), and "Requirements for Plans of Operation and
1944 Operation and Maintenance Manuals" 35 Ill. Adm. Code 371.)

1945
1946 b) The Agency must adopt such procedures as are necessary to issue permits under
1947 this Subpart.

1948
1949 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1950

Section 309.263 Modification or Renewal of Permits

1951
1952
1953 a) Any permit issued by the Agency under Subpart B may be modified or renewed to
1954 make its provisions compatible with any new regulation adopted by the Board.

1955
1956 b) Persons with operating permits for pretreatment works subject to this Subpart

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1957 must obtain a modified permit before any of the following changes at the facility:

- 1958
- 1959 1) a modification of permitted wastewater characteristics, quantity, or
- 1960 quality;
- 1961
- 1962 2) a change in facility ownership, name, or address, so that the application or
- 1963 existing permit is no longer accurate; or
- 1964
- 1965 3) a change in operations that will result in the permittee's noncompliance
- 1966 with the Act, a Board Regulation, or an existing permit condition.
- 1967

1968 c) The Agency may require modifying or renewing any operating permit subject to

1969 this Subpart for reasons including:

1970

- 1971 1) a change in the requirements applicable to the permittee;
- 1972
- 1973 2) the information on the permittee's application is inaccurate; or
- 1974
- 1975 3) information that the permittee may not be in compliance with the Act, a
- 1976 Board regulation, or an existing permit condition.
- 1977

1978 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1979

1980 **Section 309.264 Permit Revocation**

1981

1982 a) A permit issued under Subpart B may be revoked for cause which include the

1983 following:

1984

- 1985 1) Cause as set forth in 35 Ill. Adm. Code 309.182(b); or
- 1986
- 1987 2) Delinquency in payment of any charges which may be required to be paid
- 1988 under Section 204(b) of the Clean Water Act.
- 1989

1990 b) Revocation may be sought by filing a complaint with the Board under Part 103 of

1991 the Procedural Rules.

1992

1993 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1994

1995 **Section 309.265 Approval of Federal Permits**

1996

1997 The Agency must not approve any effluent discharge for the purpose of any federal permit (other

1998 than an NPDES Permit issued by the Administrator), unless the discharge complies with all

1999 provisions of the Act and this Chapter, has been granted a variance, adjusted standard or time-

2000 limited water quality standard under of the Act, or complies with all terms and conditions of an

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2001 NPDES Permit.

2002

2003 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2004

2005 **Section 309.266 Procedures (Repealed)**

2006

2007 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

2008

2009 **Section 309.281 Effective Date (Repealed)**

2010

2011 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

2012

2013 **Section 309.282 Severability (Repealed)**

2014

2015 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

2016

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2017 **Section 309.APPENDIX A REFERENCES TO PREVIOUS RULES (Repealed)**

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2019
2020

(Source: Repealed at 46 Ill. Reg. _____, effective _____)



~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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

3
 4 PART 309
 5 PERMITS

6
 7 SUBPART A: NPDES PERMITS
 8

9Section

- 10309.101 Preamble
- 11309.102 NPDES Permit Required
- 12309.103 Application ~~=~~ General
- 13309.104 Renewal
- 14309.105 Authority to Deny NPDES Permits
- 15309.106 Access to Facilities and Further Information
- 16309.107 Distribution of Applications
- 17309.108 Tentative Determination and Draft Permit
- 18309.109 Public Notice
- 19309.110 Contents of Public Notice of Application
- 20309.111 Combined Notices
- 21309.112 Agency Action After Comment Period
- 22309.113 Fact Sheets
- 23309.114 Notice to Other Governmental Agencies
- 24309.115 Public Hearings on NPDES Permit Applications
- 25309.116 Notice of Agency Hearing
- 26309.117 Agency Hearing
- 27309.118 Agency Hearing File
- 28309.119 Agency Action After Hearing
- 29309.120 Reopening the Record to Receive Additional Written Comment
- 30309.141 Terms and Conditions of NPDES Permits
- 31309.142 Water Quality Standards and Waste Load Allocation
- 32309.143 Effluent Limitations
- 33309.144 Federal New Source Standards of Performance
- 34309.145 Duration of Permits
- 35309.146 Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements
- 36
- 37309.147 Authority to Apply Entry and Inspection Requirements

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

38309.148	Schedules of Compliance
39309.149	Authority to Require Notice of Introduction of Pollutants into Publicly Owned
40	Treatment Works
41309.150	Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307
42	and 308 of the Clean Water Act
43309.151	Maintenance and Equipment
44309.152	Toxic Pollutants
45309.153	Deep Well Disposal of Pollutants (Repealed)
46309.154	Authorization to Construct
47309.155	Sewage Sludge Disposal
48309.156	Total Dissolved Solids Reporting and Monitoring
49309.157	Permit Limits for Total Metals
50309.181	Appeal of Final Agency Action on a Permit Application
51309.182	Authority to Modify, Suspend or Revoke Permits
52309.183	Revision of Schedule of Compliance
53309.184	Regulatory Relief Permit Modification Pursuant to Variance
54309.185	Public Access to Information (Repealed)
55309.191	Effective Date (Repealed)

56

SUBPART B: OTHER PERMITS

57

58

59Section

60309.201	Preamble
61309.202	Construction Permits
62309.203	Operating Permits; New or Modified Sources
63309.204	Operating Permits; Existing Sources
64309.205	Joint Construction and Operating Permits
65309.206	Experimental Permits
66309.207	Former Permits (Repealed)
67309.208	Permits for Sites Receiving Sludge for Land Application
68309.221	Applications = Contents
69309.222	Applications = Signatures and Authorizations
70309.223	Applications = Delivery Registered or Certified Mail <u>Delivery</u>
71309.224	Applications = Time to Apply
72309.225	Applications = Filing and Final Action By Agency
73309.241	Standards for Issuance
74309.242	Duration <u>and Termination</u> of Permits Issued Under Subpart B
75309.243	Conditions

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

- 76309.244 Appeals from Conditions in Permits
- 77309.261 Permit No Defense
- 78309.262 Design, Operation and Maintenance Criteria
- 79309.263 Modification or Renewal of Permits
- 80309.264 Permit Revocation
- 81309.265 Approval of Federal Permits
- 82309.266 Procedures (Repealed)
- 83309.281 Effective Date (Repealed)
- 84309.282 Severability (Repealed)

85

86309. ~~Appendix~~ APPENDIX A References to Previous Rules (Repealed)

87

88AUTHORITY: Implementing Sections 13 and 13.3 and authorized by Section 27 of the
89Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

90

91SOURCE: Adopted in R71-14, at 4 PCB 3, March 7, 1972; amended in R73-11, 12, at 14 PCB
92661, December 5, 1974, at 16 PCB 511, April 24, 1975, and at 28 PCB 509, December 20, 1977;
93amended in R73-11, 12, at 29 PCB 477, at 2 Ill. Reg. 16, p. 20, effective April 20, 1978;
94amended in R79-13, at 39 PCB 263, at 4 Ill. Reg. 34, p. 159, effective August 7, 1980; amended
95in R77-12B, at 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R76-21, at
9644 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818;
97amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1612, effective January 18, 1984; amended
98in R86-44 at 12 Ill. Reg. 2495, effective January 13, 1988; amended in R88-1 at 13 Ill. Reg.
995993, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2892, effective February
10013, 1990; amended in R91-5 at 16 Ill. Reg. 7339, effective April 27, 1992; amended in R95-22 at
10120 Ill. Reg. 5526, effective April 1, 1996; amended in R99-8 at 23 Ill. Reg. 11287, effective
102August 26, 1999; amended in R02-11 at 27 Ill. Reg. 202, effective December 20, 2002; amended
103in R03-19 at 28 Ill. Reg. 7310, effective May 7, 2004; amended in R07-9 at 32 Ill. Reg.
104~~14978~~ 14995, effective September 8, 2008; amended ~~at~~ in R08-09(D) at 39 Ill. Reg. 9433,
105effective ~~July 1~~ June 26, 2015; amended in R15-24 at 40 Ill. Reg. 8597, effective June 13, 2016;
106amended in R18-23 at 46 Ill. Reg. _____, effective _____.

107

108

SUBPART A: NPDES PERMITS

109

110Section 309.101 Preamble

111

- 112 a) Permits may be required under either of two subparts ~~—~~ NPDES Permits,
- 113 Subpart A, which ~~regulate~~ regulates discharges into navigable waters as defined in

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114 the CWA, as defined at 35 Ill. Adm. Code 301.240, or Other Permits, Subpart B,
115 which ~~regulates~~regulateregulates certain structures and discharges from
116 ~~them~~therefromthem that are not required to have an NPDES Permit.

117

118 ~~b) — Unless the contrary is clearly indicated, all references to "Parts" or "Sections" are~~
119 ~~to Ill. Adm. Code, Title 35: Environmental Protection. For example, "Part 309" is~~
120 ~~35 Ill. Adm. Code 309, and "Section 309.101" is 35 Ill. Adm. Code 309.101.~~

121

122 ~~(Editor's Note: Paragraph (b) was added during the codification process to clarify~~
123 ~~references to other Parts or Sections of the Illinois Administrative Code.)~~

124

125 (Source: Amended at 46 Ill. Reg. _____, effective _____)

126

127 **Section 309.102 NPDES Permit Required**

128

129 a) Unless it ~~complies~~Except as in compliancecomplies with ~~the provisions of~~ the
130 Act, Board regulations, and the CWA, and the provisions and conditions of the
131 NPDES permit issued to the discharger, the discharge of any contaminant or
132 pollutant by any person into the waters of the State from a point source or into a
133 well ~~is~~shall beis unlawful.

134

135 b) Neither an NPDES permit nor a state permit is required for any discharge into a
136 well which is authorized by a UIC (Underground Injection Control) permit issued
137 by the Agency ~~under~~pursuant tounder 35 Ill. Adm. Code 702 and 704 ~~of Subtitle~~
138 ~~G.~~ For such wells, compliance with the UIC permit requirements of Section 12(g)
139 is deemed compliance with the NPDES permit requirement of Section 12 (f) of
140 the Act.

141

142 (Source: Amended at 46 Ill. Reg. _____, effective _____)

143

144 **Section 309.103 Application — General**

145

146 a) Application Forms

147

148 1) An applicant for a ~~National Pollution Discharge Elimination System~~
149 ~~(NPDES) Permit must~~shall file an application under 35 Ill. Adm. Code, ~~in~~
150 ~~accordance with Section~~ 309.223, on forms provided by the Illinois
151 Environmental Protection Agency (Agency). The ~~Such~~ forms must shall

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152 comprise the NPDES application forms promulgated by the U.S.
153 Environmental Protection Agency for the type of discharge for which an
154 NPDES Permit is ~~being~~ sought and any ~~such~~ additional information as the
155 Agency may reasonably require in order to determine that the discharge or
156 proposed discharge will ~~comply~~~~be in compliance~~comply with applicable
157 state and federal requirements.
158

159 2) In addition to ~~the above~~ application forms, the Agency may require the
160 submission of plans and specifications for treatment works and summaries
161 of design criteria.
162

163 3) Effluent toxicity monitoring
164

165 A) In addition to the above application forms, the Agency may
166 require, ~~underpursuant to~~under Section 39 of the Act, installing,
167 using, ~~maintaining the installation, use, maintenance~~maintaining
168 and reporting of results from monitoring equipment and methods,
169 including biological monitoring. The Agency may require,
170 ~~underpursuant to~~under Section 39 of the Act, effluent toxicity
171 testing to show compliance with 35 Ill. Adm. Code 302.621 and
172 302.630. If this toxicity testing shows the effluent to be toxic, the
173 Agency may require ~~underpursuant to~~under Section 39 of the Act,
174 further testing and identification of the toxicants ~~underpursuant~~
175 ~~to~~under 35 Ill. Adm. Code 302.210(a).
176

177 B) The following POTWs ~~must~~~~shall~~must provide the results of valid
178 whole effluent biological toxicity testing to the Agency:
179

180 i) All POTWs with design influent flows equal to or greater
181 than one million gallons per day;
182

183 ii) All POTWs with approved pretreatment programs or
184 POTWs required to develop a pretreatment program
185 ~~underpursuant to~~under 35 Ill. Adm. Code 310.Subpart E;
186

187 C) In addition to the POTWs listed in subsection (a)(3)(B), the
188 Agency may require other POTWs to submit the result of toxicity
189 tests with their permit applications, based on consideration of the

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following factors.

- i) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment facility, and types of industrial contributors);
 - ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow);
 - iii) Existing controls on point or nonpoint sources, including total maximum daily load calculations for the waterbody segment and the relative contribution of the POTW;
 - iv) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource; or
 - v) Other considerations (including ~~but not limited to~~ the history of toxic impact and compliance problems at the POTW), which the Agency determines could cause or contribute to adverse water quality impacts.
- D) The POTWs required under subsection (a)(3)(B) or (a)(3)(C) to conduct toxicity testing ~~must shall~~ must use the methods prescribed at 35 Ill. Adm. Code 302.Subpart F. Such testing must have been conducted since the later of the last NPDES permit reissuance or permit modification under 35 Ill. Adm. ~~Code~~ pursuant to Section Code 309.182, 309.183 or 309.184 for any of the reasons listed at 40 CFR 122.62(a) (1994), as amended at 60 Fed. Reg. 33926 effective June 29, 1995, ~~herein~~ incorporated by reference in 35 Ill. Adm. Code 301.106 (including no later amendments or editions).
- 4) All POTWs with approved pretreatment programs ~~must shall~~ must provide the following information to the Agency: a written technical evaluation of the need to revise local limits ~~under pursuant~~ under to 35 Ill. Adm. Code

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310.210.

BOARD NOTE: Subsections (a)(3)(B) through (a)(4) are derived from 40 CFR 122.21(j) (1994).

- b) Animal Waste Facilities
An applicant for an NPDES Permit in connection with the operation of an animal waste facility must ~~shall~~ complete, sign, and submit an NPDES application ~~under in accordance with the provisions of~~ under 35 Ill. Adm. Code: Subtitle E, Chapter I.
- c) Mining Activities
 - 1) If, as defined by 35 Ill. Adm. Code 402.101, mining activities are to be carried out on a facility for which an NPDES Permit is held or required, the applicant must submit a permit application as required by 35 Ill. Adm. Code 403.103, 403.104 and 405.104. If the facility will have a discharge other than a mine discharge or non-point source mine discharge as defined by 35 Ill. Adm. Code 402.101, the applicant must ~~shall~~ also submit an NPDES Permit application under 35 Ill. Adm. ~~Code in accordance with~~ Section Code 309.223 on forms supplied by the Agency.
 - 2) As provided by 35 Ill. Adm. Code 403.101, except to the extent contradicted in 35 Ill. Adm. Code: Subtitle D, Chapter I, the rules ~~contained~~ in this Subpart apply only to 35 Ill. Adm. Code: Subtitle D, Chapter I NPDES Permits.
 - 3) As provided by 35 Ill. Adm. Code 406.100, except to the extent provided in 35 Ill. Adm. Code: Subtitle D, Chapter I, the effluent standards of 35 Ill. Adm. Code 304 are inapplicable to mine discharges and non-point source mine discharges.
- d) New Discharges
Any person whose discharge will begin after the effective date of this Subpart A or any person having an NPDES Permit issued by the U.S. Environmental Protection Agency for an existing discharge which will substantially change in nature, or increase in volume or frequency, must apply for an NPDES Permit either:

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- 1) No later than 180 days ~~before in advance~~ before of the date on which the ~~such~~ NPDES Permit will be required; or
- 2) In sufficient time ~~before prior to~~ before the anticipated commencement of the discharge to insure compliance with ~~the requirements of~~ Section 306 of the Clean Water Act (CWA) (33 USC U.S.C. 1251 *et seq.*), or with any other applicable water quality standards and applicable effluent standards and limitations.

- e) Signatures
An application submitted by a corporation must ~~shall~~ be signed by a principal executive officer of at least the level of vice president, or his or her duly authorized representative, if the ~~such~~ representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship, the application ~~must~~ shall be signed by a general partner or the proprietor, respectively. In the case of a publicly owned facility, the application must ~~shall~~ be signed by either the principal executive officer, ranking elected official, or other duly authorized employee.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.104 Renewal

- a) Any permittee who wishes to continue to discharge after the expiration date of the NPDES Permit must timely apply for reissuance of the permit.
 - 1) A permittee has submitted a timely application for a new permit when:
 - A) The permittee submits:
 - i) an application 180 days before ~~prior~~ to the expiration date of the existing permit; or
 - ii) a request for a waiver in writing to the Agency, the Agency grants a written waiver to submit the application less than 180 days before ~~prior to~~ the expiration date of the existing

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304 permit, and the applicant submits an application within the
305 timeframe listed in the waiver request. A ~~Such a~~ waiver
306 request must include the permittee's reasonably justifiable
307 causes for not meeting the 180 day timeframe. A waiver of
308 the 180 day submittal requirement must be filed a
309 minimum of 60 days before ~~prior to expiration of~~ the
310 permit expires, and must ~~shall~~ include the date by which
311 the permittee will submit the application.

312
313 B) The Agency must ~~shall~~ not grant a waiver for applications to be
314 submitted later than the expiration date of the existing permit.

315
316 C) Any Agency decision to deny a waiver request must be made
317 within 21 days after the Agency ~~receives receipt of~~ receive the
318 waiver request.

319
320 2) The terms and conditions of an expiring permit remain effective and
321 enforceable against the discharger until the Agency takes final action on
322 the pending permit application, only if:

323
324 A) the permittee has submitted a timely application ~~underpursuant~~
325 ~~to~~ under subsection (a)(1); and

326
327 B) the Agency, through no fault of the permittee, does not issue a new
328 permit on or before the expiration date of the previous permit.

329
330 b) All permittees that timely apply for an NPDES permit renewal must pay an annual
331 NPDES discharge fee ~~underpursuant to~~ under Section 12.5 of the Act.

332
333 c) The Agency must circulate public notice and provide opportunity for public
334 hearing, as provided for in this Subpart A, in the same manner as for a new permit
335 application.

336
337 (Source: Amended at 46 Ill. Reg. _____, effective _____)

338
339 **Section 309.105 Authority to Deny NPDES Permits**

340

341 An ~~No~~ NPDES Permit must ~~notmay~~ be issued in any case in which:

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343

a) The permit would authorize the discharge of a radiological, chemical or biological warfare agent or high-level radioactive waste;

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345

346

b) The discharge would, in the judgment of the Secretary of the Army acting through the Chief of Engineers, result in the substantial impairment of anchorage and navigation;

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349

350

c) The ~~proposed permit is objected to in writing by the~~ Administrator of the U.S. Environmental Protection Agency objects in writing to the proposed permit ~~underpursuant to~~under any right to object given to the Administrator under Section 402(d) of the CWA;

351

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355

d) The permit would authorize a discharge from a point source which ~~conflictsis in~~ ~~conflict~~conflicts with a plan approved under Section 208(b) of the CWA; or

356

357

358

e) The applicant has not provided proof to the Agency that the ~~applicantthe~~applicant will meet any schedule of compliance which may be established, in ~~complianceaccordance~~compliance with the Act and regulations, as a condition of ~~thehis~~the permit.

359

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

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364

365Section 309.106 Access to Facilities and Further Information

366

367If the Agency determines that ~~either additionalfurther~~additional information or a site visit is
368necessary for the Agency to evaluate an NPDES Permit application, it must ~~shall~~ notify the
369applicant and ~~arrangemake arrangements~~arrange to secure the additional information or make the
370site visit. If the Agency does not receive adequate information ~~is not received~~ within the ~~period~~
371of time specified by the Agency, the permit must ~~shall~~ either be issued on the basis of the
372information currently before the Agency or be denied, and the applicant so notified.

373

(Source: Amended at 46 Ill. Reg. _____, effective _____)

374

375

376Section 309.107 Distribution of Applications

377

378When the Agency determines that an application for an NPDES Permit is complete, it must ~~shall~~:

379

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- 380 a) Unless otherwise agreed, send a copy of the application to the District Engineer of
381 the appropriate district of the U.S. Corps of Engineers with a letter requesting that
382 the District Engineer provide, within 30 days or as otherwise stated in the
383 Agency's letter, his or her evaluation of the impact of the discharge on anchorage
384 and navigation. If the District Engineer responds that anchorage and navigation
385 of any of the ~~navigable~~~~navigation~~navigable waters would be substantially
386 impaired by the granting of a permit, the permit will be denied and the Agency
387 ~~must~~~~shall~~must notify the applicant. If the District Engineer informs the Agency
388 that ~~imposing~~~~the imposition of~~imposing specified conditions upon the NPDES
389 Permit is necessary to avoid any substantial impairment of any of the navigable
390 waters, the Agency must ~~shall~~ include in the permit those conditions specified by
391 the District Engineer.
- 392
- 393 b) Send one copy ~~two copies~~ of the application to the Regional Administrator of the
394 U.S. Environmental Protection Agency with a letter stating that the application is
395 complete.
- 396
- 397 c) Notify the Illinois Department of Natural Resources (DNR), subject to any
398 memorandum of agreement between the Agency and the DNR.
- 399

400 (Source: Amended at 46 Ill. Reg. _____, effective _____)

401

402 Section 309.108 Tentative Determination and Draft Permit

403

404 After ~~receiving~~Following the receipt ofreceiving a complete application for an NPDES Permit,
405 the Agency must ~~shall~~ prepare a tentative determination. The ~~Such~~ determination must ~~shall~~
406 include at least the following:

407

- 408 a) A Statement ~~regarding~~ whether an NPDES Permit is to be issued or denied; and
- 409
- 410 b) If the determination is to issue the permit, a draft permit containing:
- 411
- 412 1) Proposed effluent limitations, consistent with federal and state
413 requirements;
- 414
- 415 2) A proposed schedule of compliance, if the applicant is not in compliance
416 with applicable requirements, including interim dates and requirements
417 consistent with the CWA and applicable regulations, for meeting the

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- 418 proposed effluent limitations;
419
420 3) A brief description of any other proposed special conditions which will
421 have a significant impact upon the discharge.
422
423 c) A brief description of the basis for each of the permit conditions listed in 35 Ill.
424 Adm. ~~CodeSectionCode~~ 309.108(b), including a brief description of any mixing
425 zones, how the conditions of the draft permit were derived, and the statutory or
426 regulatory provisions and appropriate supporting references.
427
428 d) Upon tentative determination to issue or deny an NPDES Permit:
429
430 1) If the determination is to issue the permit the Agency must ~~shall~~ notify the
431 applicant in writing of the content of the tentative determination and draft
432 permit and of its intent to circulate public notice of issuance in
433 ~~complianceaccordancecompliance~~ with 35 Ill. Adm. ~~CodeSectionsCode~~
434 309.108 through 309.112;
435
436 2) If the determination is to deny the permit, the Agency must ~~shall~~ notify the
437 applicant in writing of the tentative determination and of its intent to
438 circulate public notice of denial, in ~~complianceaccordancecompliance~~ with
439 35 Ill. Adm. ~~CodeSectionsCode~~ 309.108 through 309.112. In the case of
440 denial, notice to the applicant must ~~shall~~ include a statement of the reasons
441 for denial, as required by Section 39(a) of the Act.
442
443 e) For ~~the purposes~~ of Title X of the Act [415 ILCS 5/Title X], the documents
444 supporting the Agency's tentative decision to issue or deny an NPDES permit
445 under this Section must ~~shall~~ be either identified in or made part of the Agency
446 record.
447

448 (Source: Amended at 46 Ill. Reg. _____, effective _____)
449

450 **Section 309.109 Public Notice**

- 451
452 a) Upon tentative determination to issue or deny an NPDES Permit, completion of
453 the draft permit, if any, and not earlier than 10 days ~~afterfollowingafter~~ notice to
454 the applicant under 35 Ill. Adm. ~~Codepursuant to SectionCode~~ 309.108(d), the
455 Agency must ~~shall~~ circulate public notice of the completed application for an

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456 NPDES Permit in a manner designed to inform interested and potentially
457 interested persons of the discharge or proposed discharge and of the proposed
458 determination to issue or deny an NPDES Permit for the discharge or proposed
459 discharge. Procedures for the circulation of public notice must ~~shall~~ include at
460 least the following concurrent actions:

- 461
- 462 1) Notice must ~~shall~~ be mailed to the applicant;
- 463
- 464 2) Notice must ~~shall~~ be circulated within the geographical area of the
465 proposed discharge; such circulation may include any or all of the
466 following:
 - 467
 - 468 A) Posting in the post office and public places of the municipality
469 nearest the premises of the applicant in which the effluent source is
470 located;
 - 471
 - 472 B) Posting near the entrance to the applicant's premises and in nearby
473 places;
 - 474
 - 475 C) Publishing in local newspapers and periodicals, or, if appropriate,
476 in a daily newspaper of general circulation; and
 - 477
 - 478 D) Any other notice requirements necessary to meet the requirements
479 of the Act and the CWA;
 - 480
- 481 3) Notice must ~~shall~~ be mailed to any person or group upon request;
- 482
- 483 4) The Agency must ~~shall~~ add the name of any person or group upon request
484 to a mailing list to receive copies of notices for all NPDES applications
485 within the State of Illinois or within a certain geographical area.
- 486
- 487 b) The Agency must ~~shall~~ provide ~~a period~~ of not less than 30 days following the
488 date of first publication of the public notice during which ~~time~~ interested persons
489 may submit their written views on the tentative determinations with respect to the
490 NPDES application. All comments must ~~shall~~ be submitted to the Agency and to
491 the applicant. All written comments submitted during the 30-day comment period
492 must ~~shall~~ be retained by the Agency and considered in ~~forming the formulation~~
493 forming its final determinations with respect to the NPDES application. The

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494 period for comment may be extended at the discretion of the Agency by
495 publication as provided in 35 Ill. Adm. ~~Code~~Section~~Code~~ 309.109.

496

497 (Source: Amended at 46 Ill. Reg. _____, effective _____)

498

499 **Section 309.110 Contents of Public Notice of Application**

500

501 The contents of public notice of applications for NPDES Permits must ~~shall~~ include at least the
502 following:

503

504 a) Name, address, and telephone number of the Agency;

505

506 b) Name and address of the applicant;

507

508 c) Brief description of the applicant's activities or operations which result in the
509 discharge described in the NPDES application (e.g., municipal waste treatment
510 plant, steel manufacturing, drainage from mine activities);

511

512 d) Name, if any, of the waterway to which the discharge is made and a short
513 description of the location of the discharge indicating whether it is a new or an
514 existing discharge;

515

516 e) A statement of the tentative determination to issue or deny an NPDES Permit for
517 the discharge described in the application;

518

519 f) A brief description of the procedures for ~~forming the formulation of the forming~~
520 final determinations, including the procedures for submitting comments and
521 expiration date of the comment period; and

522

523 g) Address and telephone number of Agency premises at which interested persons
524 may obtain further information, request a copy of the fact sheet, and inspect and
525 copy NPDES forms and related documents.

526

527 (Source: Amended at 46 Ill. Reg. _____, effective _____)

528

529 **Section 309.111 Combined Notices**

530

531 a) The Agency may circulate public notice of ~~applications~~application for more than

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532 one NPDES Permit at a time. If a public notice deals with more than one NPDES
533 Permit application, the information required by 35 Ill. Adm. ~~CodeSection~~Code
534 309.109 must ~~above shall~~ be included in the notice for each application.
535

536 b) To expedite the administrative disposition of NPDES Permit applications, the
537 Agency may publish, for one or more NPDES Permit applications at a time,
538 combined public notices and notices of public hearing as required by 35 Ill. Adm.
539 ~~CodeSections~~Code 309.115 through 309.119 ~~hereof~~. Any ~~such~~ combined public
540 notice and notice of hearing ~~must~~ shall contain all the information which would
541 be required and must ~~shall~~ be circulated to all the persons to whom each notice
542 would be required to be sent if the notices were published separately.
543

544 (Source: Amended at 46 Ill. Reg. _____, effective _____)
545

546 **Section 309.112 Agency Action After Comment Period**

547
548 Subject to 35 Ill. Adm. ~~CodeSection~~Code 309.120, if, after the comment period provided, no
549 public hearing is held with respect to the permit, the Agency must ~~shall~~, after
550 ~~evaluating evaluation of~~evaluating any comments which may have been received, either issue or
551 deny the permit.
552

553 (Source: Amended at 46 Ill. Reg. _____, effective _____)
554

555 **Section 309.113 Fact Sheets**

556
557 a) For every discharge which has a total volume of more than 500,000 gallons (1.9
558 megaliters) on any day of the year, the Agency must ~~shall~~ prepare and, following
559 public notice, must ~~shall~~ send upon request to any person a fact sheet with respect
560 to the application described in the public notice. The contents of such fact sheets
561 must ~~shall~~ include at least the following information:
562

563 1) A sketch or detailed description of the location of the discharge described
564 in the application;
565

566 2) A quantitative description of the proposed discharge described in the
567 application which includes at least the following:
568

569 A) The rate or frequency of the proposed discharge; if the discharge is

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- continuous, the average daily flow;
- B) For thermal discharges subject to limitation under the Act, the average monthly temperatures for the discharge;
 - C) The average daily mass discharged and average concentration in milligrams per liter, or other applicable units of measurement, of any contaminants which are present in significant quantities or which are subject to limitations or prohibitions under applicable provisions of the CWA or the Act or regulations adopted under ~~them~~thereunder~~them~~;
- 3) The tentative determinations required under 35 Ill. Adm. ~~Code~~Section~~Code~~ 309.108;
 - 4) A brief citation, including an identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applicable to the proposed discharge;
 - 5) In the case of modified and reissued permits, a summary of changes between the public noticed permit and the previous permit;
 - 6) Summary of the antidegradation analysis, including characterization of the receiving waters and the existing uses of the receiving waters;
 - 7) A more detailed description of the procedures for ~~formulating the formulation of~~formulating final determinations than that given in the public notice, including:
 - A) The beginning and ending dates of the comment period and address where comments will be received;
 - B) Procedures for requesting a public hearing and the nature of it ~~thereof~~; and
 - C) Any other procedures by which the public may participate in ~~formulating the formulation~~formulating of the final determination; and

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609

8) Information on how to obtain the Agency record.

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611

b) The Agency must ~~shall~~ add the name of any person or group, upon request, to a mailing list to receive copies of fact sheets.

612

613

614

(Source: Amended at 46 Ill. Reg. _____, effective _____)

615

616 **Section 309.114 Notice to Other Governmental Agencies**

617

618 When it ~~issues~~ At the time of issuance of ~~issues~~ public notice under 35 Ill. Adm. Code pursuant to ~~Sections~~ Code 309.109 through 309.112, the Agency must ~~shall~~:

620

621

a) Send a fact sheet, if one has been prepared, to any other states whose waters may be affected by ~~issuing~~ the issuance of ~~issuing~~ the proposed permit and, upon request, provide the ~~such~~ states with a copy of the application and a copy of the draft permit. Each affected State must ~~shall~~ be afforded an opportunity to submit written recommendations within a stated number of days to the Agency and to the Regional Administrator of the U.S. Environmental Protection Agency, which the Agency may incorporate into the permit if issued. Should the Agency decline to incorporate any written recommendations thus received, it must ~~shall~~ provide to the affected state or states (and to the Regional Administrator) a written explanation of its reasons for declining to accept any of the written recommendations.

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b) Following the procedure ~~set forth~~ in subsection (a), notify and receive recommendations from any interstate agency having water quality control authority over waters which may be affected by the permit.

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~~e) Unless otherwise agreed, in accordance with 40 CFR 124.34(c), send a copy of the fact sheet, if one has been prepared, to the appropriate District Engineer of the Army Corps of Engineers for discharges (other than minor discharges) into navigable waters.~~

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~~d)~~

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c) Unless otherwise waived, ~~Upon request~~, send a copy of the public notice and a copy of the fact sheet for NPDES Permit applications to any other Federal

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646 and State agencies with jurisdiction over fish, shellfish and wildlife resources, the
647 Advisory Council on Historic Preservation, state Historic Preservation Officers,
648 and other appropriate government authorities, including affected States, ~~states, or~~
649 ~~local agency, or any affected country,~~ and provide ~~thesuch~~the agencies an
650 opportunity to respond, comment, or request a public hearing under 35 Ill. Adm.
651 ~~Code pursuant to Sections~~Code 309.115-309.119. The ~~Such~~ agencies must ~~shall~~
652 include at least the following:

- 653
- 654 1) The agency responsible for ~~preparing the preparation of~~preparing an
655 approved plan ~~under~~ pursuant to Section 208(b) of the CWA; and
656
 - 657 2) The State or interstate agency responsible for ~~preparing the~~the preparation
658 of a plan ~~under pursuant to~~under an approved continuous planning process
659 under Section 303(e) of the CWA.
660
- 661 d)e) Send notice to, and coordinate with, appropriate public health agencies to ~~assist for~~
662 ~~the purpose of assisting~~assist the applicant in integrating the relevant provisions
663 of the CWA with any applicable requirements of ~~thesuch~~the public health
664 agencies.
665

666 (Source: Amended at 46 Ill. Reg. _____, effective _____)
667

668 Section 309.115 Public Hearings on NPDES Permit Applications

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- 1) The Agency must ~~shall~~ hold a public hearing on issuing or ~~denying the~~
~~issuance or denial of the~~denying an NPDES Permit or group of permits
whenever the Agency determines that there exists a significant degree of
public interest in the proposed permit or group of permits (instances of
doubt ~~must shall~~must be resolved in favor of holding the hearing), to
warrant ~~the~~ holding ~~of~~ such a hearing.
- 2) Any person, including the applicant, may submit to the Agency a request
for a public hearing or a request to be a party at such a hearing to consider
the proposed permit or group of permits. Any such request for public
hearing must ~~shall~~ be filed ~~within~~with the 30-day public comment period
and must ~~shall~~ indicate the interest of the ~~party part~~party filing ~~thesuch at the~~

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684 request and the reasons why a hearing is warranted.

685

686 b) When the Agency has determined under ~~subsections~~~~paragraphs~~subsections (a) and
687 (b) that a public hearing is required, the Director must ~~shall~~ appoint one or more
688 employees of the Agency to serve as a Hearing Board and must ~~shall~~ designate
689 one to serve as ~~Chair~~~~Chairman~~Chair.

690

691 c) The ~~Chair~~~~Chairman~~Chair of the hearing board must ~~shall~~ promptly schedule the
692 matter for hearing to be held within 60 days ~~after~~~~from~~after the filing of the first
693 request for public hearing, or as may be otherwise agreed among the parties.

694

695 d) Hearings held under ~~pursuant to~~ this Section must ~~shall~~ be held in the
696 geographical area in which the discharges or proposed discharges are located, or
697 other appropriate location, as determined by the ~~Chair~~~~Chairman~~Chair.
698 Consideration must ~~shall~~ be ~~giveness~~given to facilitating attendance of interested
699 or affected persons and organizations and to accessibility of hearing sites to
700 public transportation. The Chair ~~has~~~~Chairman~~ ~~shall have~~has the duty to conduct a
701 fair hearing, ~~to~~ take all necessary action to avoid delay, to maintain order, and to
702 ensure development of a clear and complete hearing file.

703

704 (Source: Amended at 46 Ill. Reg. _____, effective _____)

705

706 **Section 309.116 Notice of Agency Hearing**

707

708 The Agency must ~~shall~~ issue public notice of the ~~such~~ hearing not less than 30 days ~~before~~~~prior~~
709 ~~to~~before the date of the ~~such~~ hearing, in the manner described by 35 Ill. Adm. ~~Code~~~~Sections~~Code
710 309.109 through 309.112 for public notice. The Agency must ~~shall~~ send notices of the hearing to
711 all persons and governmental agencies who had received notice of the application under 35 Ill.
712 Adm. ~~Code~~~~Sections~~Code 309.109 through 309.112 and 309.114. The ~~Such~~ notice must ~~shall~~
713 include at least the following:

714

715 a) Name, address, and telephone number of the Agency;

716

717 b) Name and address of each applicant whose application will be considered at the
718 hearing;

719

720 c) Name of waterway to which each applicant's discharge is to be made and a short
721 description of the location of each such discharge on the waterway;

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- d) A brief reference to the public notice issued for the NPDES application, including identification number (if any) and date of issuance;

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726

- e) Information regarding the time and location of the hearing;

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728

- f) The purpose of the hearing;

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- g) A concise statement of the issues to be considered at the hearing;

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- h) Address and telephone number of premises at which interested persons may obtain further information, request a copy of the draft permit, request a copy of the fact sheet, request a copy of the regulations governing the conduct of the hearing, and inspect and copy NPDES forms and related documents; and

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- i) A statement that the hearing will be conducted under 35 Ill. Adm. ~~Code~~ in accordance with the provisions of Sections Code 309.115 through 309.119.

737

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739

(Source: Amended at 46 Ill. Reg. _____, effective _____)

740

741

742 Section 309.117 Agency Hearing

743

744 The applicant or any person must ~~shall~~ be permitted to submit oral or written statements and data
745 concerning the proposed permit or group of permits. The Chair ~~has~~ Chairman shall have has
746 authority to fix reasonable limits upon the time allowed for oral statements, and may require
747 statements in writing.

748

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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750

751 Section 309.118 Agency Hearing File

752

- a) Following the public hearing, the Chair ~~must~~ Chairman shall must prepare a hearing file, which ~~must~~ shall must include:

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- 1) Copies of statements submitted in writing;

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- 2) A summary of the statements submitted orally;

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- 760 3) A report of the major issues raised at the hearing;
- 761
- 762 4) An estimate of the number of persons present; and
- 763
- 764 5) The Chair's ~~sHis~~ recommendations concerning actions to be taken ~~one~~ on
- 765 the proposed permit or permits as a result of the hearing.
- 766
- 767 b) The hearing file must ~~shall~~ be available upon request to any member of the public
- 768 and to representatives of the U.S. Environmental Protection Agency.
- 769

770 (Source: Amended at 46 Ill. Reg. _____, effective _____)

771

772 **Section 309.119 Agency Action After Hearing**

773

774 Subject to 35 Ill. Adm. ~~CodeSectionCode~~ 309.120, following the public hearing, the Agency may

775 make ~~appropriate~~ such appropriate modifications in the terms and conditions of proposed permits

776 ~~as may be appropriate~~ and must ~~shall~~ transmit to the Regional Administrator for his or her

777 approval a copy of the permit proposed to be issued unless the Regional Administrator has

778 waived ~~the his~~ the right to receive and review permits of its class. The Agency must ~~shall~~ provide

779 a notice of ~~this~~ such this transmission to the applicant, to any person who participates in the public

780 hearing, to any person who requested a public hearing, and to appropriate persons on the mailing

781 list established under 35 Ill. Adm. ~~CodeSectionsCode~~ 309.109 through 309.112. The ~~Such~~

782 notice must ~~shall~~ briefly indicate any significant changes which were made from terms and

783 conditions set forth in the draft permit. All permits become effective when issued unless a

784 different date is specified in the permit.

785

786 (Source: Amended at 46 Ill. Reg. _____, effective _____)

787

788 **Section 309.120 Reopening the Record to Receive Additional Written Comment**

789

- 790 a) The Agency must ~~shall~~ order the public comment period reopened to receive
- 791 additional written comments ~~when where~~ when the Agency significantly modifies
- 792 the draft permit and the final permit is not a logical outgrowth of the proposed
- 793 draft permit. In determining if the final permit is a logical outgrowth of the draft
- 794 permit, the Agency must ~~shall~~ consider the following:
- 795
- 796 1) Whether the interested parties could not have reasonably anticipated the
- 797 final permit from the draft permit;

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- 2) Whether a new round of notice and comment would provide interested parties the first opportunity to offer comments on the issue; or

800

801

802

- 3) Whether the provisions in the final permit deviate sharply from the concepts included in the draft permit or suggested by the commenters.

803

804

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- b) The public notice of any comment period extended under this Section must ~~shall~~ identify the issues as to which the public comment period is being reopened. Comments filed during the reopened period must ~~shall~~ be limited to the substantial new issues that caused its reopening.

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- c) For ~~the~~ purposes of the notification required by subsection (b), the Agency must ~~shall~~ follow the public notice requirements of 35 Ill. Adm. CodeSectionCode 309.109.

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

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815

816Section 309.141 Terms and Conditions of NPDES Permits

817

818In establishing the terms and conditions of each issued NPDES Permit, the Agency must ~~shall~~
819apply and ensure compliance with all of the following, whenever applicable:

820

821

- a) Effluent limitations under sections 301 and 302 of the CWA;

822

823

- b) Standards of performance for new sources under section 306 of the CWA;

824

825

- c) Effluent standards, effluent prohibitions, and pretreatment standards under section 307 of the CWA;

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- d) Any more stringent limitation, including those:

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830

- 1) necessary to meet water quality standards, treatment standards, or schedules of compliance, established ~~underpursuant to~~under any Illinois statute or regulation (under authority preserved by section 510 of the CWA),

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- 2) necessary to meet any other federal law or regulation, or

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- 3) required to implement any applicable water quality standards, ~~including such limitations to include~~ including any legally applicable requirements necessary to implement total maximum daily loads established ~~underpursuant to~~ under section 303(d) of the CWA and incorporated in the continuing planning process approved under section 303(e) of the CWA and any regulations or guidelines issued ~~underpursuant to~~ under that statute;
- e) Any more stringent legally applicable requirements necessary to comply with a plan approved ~~underpursuant to~~ under section 208(b) of the CWA;
- f) ~~Before~~ Prior to promulgation by ~~Before~~ the Administrator of the U.S. Environmental Protection Agency ~~promulgates of~~ promulgates applicable effluent standards and limitations ~~underpursuant to~~ under sections 301, 302, 306 and 307 of the CWA, ~~such~~ conditions as the Agency determines are necessary to carry out the provisions of the CWA;
- g) If the NPDES Permit is for the discharge of pollutants into navigable waters from a vessel or other floating craft (except that no NPDES Permit ~~must~~ shall ~~must~~ be issued for the discharge of pollutants from a vessel or other floating craft into Lake Michigan), any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage and stowage of pollutants; and
- h) If the NPDES Permit is for the discharge of pollutants from other than wet weather point sources into the Lake Michigan Basin as defined at 35 Ill. Adm. Code 303.443:
 - 1) Total Maximum Daily Loads (TMDLs) and Waste Load Allocation (WLA) will be established through either the LaMP or a RAP for an Area of Concern. If a LaMP or RAP has not been completed and adopted, effluent limits ~~must~~ shall ~~musts~~ be established consistent with the other provisions of this Section, including, ~~but not limited to,~~ Additivity, Intake Pollutants, Loading Limits, Level of Detection/Level of Quantification and Compliance Schedules. When calculation of TMDLs or a WLA is incomplete and it is expected that limits established through other provisions will be superseded upon completion of the TMDL or WLA

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874 process, those limits must ~~shall~~ be identified as interim and the permit
875 ~~must~~shallmust include a reopener clause triggered by completion of a
876 TMDL or WLA determination. Any new limits brought about through
877 exercise of the reopener clause must ~~shall~~ be eligible for delayed
878 compliance dates and compliance schedules consistent with Section 39(b)
879 of the Act [415 ILCS 5/39(b)], Section 309.148 ~~of this Part~~, and 35 Ill.
880 Adm. Code 352.Subpart H.

881
882 2) 35 Ill. Adm. Code 302.590 establishes an acceptable additive risk level of
883 one in 100,000 (10⁵) for establishing Tier I criteria and Tier II values for
884 combinations of substances exhibiting a carcinogenic or other
885 nonthreshold toxic mechanism. For those discharges containing multiple
886 nonthreshold substances application of this additive standard must ~~shall~~ be
887 consistent with this subsection (h).

888
889 A) For discharges in the Lake Michigan Basin containing one or more
890 2,3,7,8-substituted chlorinated dibenzo-p-dioxins or
891 2,3,7,8-substituted dibenzofurans, the tetrachloro dibenzo-p-dioxin
892 2,3,7,8-TCDD toxicity equivalence concentration (TEC_{TCDD})
893 ~~must~~shallmust be determined as outlined in subsection (h)(2)(B).

894
895
896 B) The values listed in the following Table must ~~shall~~ be used to
897 determine the 2,3,7,8-TCDD toxicity equivalence concentrations
898 using the following equation:

899
900
$$(TEC)_{TCDD} = \sum (C)_x (TEF)_x (BEF)_x$$

901
902 ~~WHERE:~~

903
904
$$(TEC)_{TCDD} = \frac{2,3,7,8\text{-TCDD toxicity equivalence}}{\text{concentration in effluent}}$$

905
906
907
$$(C)_x = \frac{\text{Concentration of total chemical x in effluent}}$$

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909
$$(TEF)_x = \frac{\text{TCDD toxicity equivalency factor for x}}$$

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~~(BEF)_x = TCDD bioaccumulation equivalency factor for x~~

~~TABLE~~

Congener	TEF	BEF
2,3,7,8-TCDD	1.0	1.0
1,2,3,7,8-PeCDD	0.5	0.9
1,2,3,4,7,8-HxCDD	0.1	0.3
1,2,3,6,7,8-HxCDD	0.1	0.1
1,2,3,7,8,9-HxCDD	0.1	0.1
1,2,3,4,6,7,8-HpCDD	0.01	0.0
OCDD	0.001	0.0
2,3,7,8-TCDF	0.1	0.8
1,2,3,7,8-PeCDF	0.05	0.2
2,3,4,7,8-PeCDF	0.5	1.6
1,2,3,4,7,8-HxCDF	0.1	0.0
1,2,3,6,7,8-HxCDF	0.1	0.2
2,3,4,6,7,8-HxCDF	0.1	0.7
1,2,3,7,8,9-HxCDF	0.1	0.6
1,2,3,4,6,7,8-HpCDF	0.01	0.0
1,2,3,4,7,8,9-HpCDF	0.01	0.4
OCDF	0.001	0.0

$$\underline{(TEC)_{TCDD}} = \underline{\sum (C)_x (TEF)_x (BEF)_x}$$

936

WHERE:

- (TEC)_{TCDD} = 2,3,7,8-TCDD toxicity equivalence concentration in effluent
- (C)_x = Concentration of total chemical x in effluent
- (TEF)_x = TCDD toxicity equivalency factor for x
- (BEF)_x = TCDD bioaccumulation equivalency factor for x

937

TABLE

<u>Congener</u>	<u>TEF</u>	<u>BEF</u>
-----------------	------------	------------

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<u>2,3,7,8-TCDD</u>	<u>1.0</u>	<u>1.0</u>
<u>1,2,3,7,8-PeCDD</u>	<u>0.5</u>	<u>0.9</u>
<u>1,2,3,4,7,8-HxCDD</u>	<u>0.1</u>	<u>0.3</u>
<u>1,2,3,6,7,8-HxCDD</u>	<u>0.1</u>	<u>0.1</u>
<u>1,2,3,7,8,9-HxCDD</u>	<u>0.1</u>	<u>0.1</u>
<u>1,2,3,4,6,7,8-HpCDD</u>	<u>0.01</u>	<u>0.0</u>
<u>OCDD</u>	<u>0.001</u>	<u>0.0</u>
<u>2,3,7,8-TCDF</u>	<u>0.1</u>	<u>0.8</u>
<u>1,2,3,7,8-PeCDF</u>	<u>0.05</u>	<u>0.2</u>
<u>2,3,4,7,8-PeCDF</u>	<u>0.5</u>	<u>1.6</u>
<u>1,2,3,4,7,8-HxCDF</u>	<u>0.1</u>	<u>0.0</u>
<u>1,2,3,6,7,8-HxCDF</u>	<u>0.1</u>	<u>0.2</u>
<u>2,3,4,6,7,8-HxCDF</u>	<u>0.1</u>	<u>0.7</u>
<u>1,2,3,7,8,9-HxCDF</u>	<u>0.1</u>	<u>0.6</u>
<u>1,2,3,4,6,7,8-HpCDF</u>	<u>0.01</u>	<u>0.0</u>
<u>1,2,3,4,7,8,9-HpCDF</u>	<u>0.01</u>	<u>0.4</u>
<u>OCDF</u>	<u>0.001</u>	<u>0.0</u>

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- C) Any combination of carcinogenic or otherwise nonthreshold toxic substances must ~~shall~~ be assessed on a case-by-case basis. The Agency must ~~shall~~ only consider such additivity for chemicals that exhibit the same type of effect and the same mechanism of toxicity, based on available scientific information that supports a reasonable assumption of additive effects.
- 3) Reasonable potential to exceed.
- A) The first step in determining if a reasonable potential to exceed the water quality standard exists for any particular pollutant parameter is ~~estimating the estimation of~~ estimating the maximum expected effluent concentration for that substance. That estimation will be completed for both acute and chronic exposure periods and is termed the PEQ. The PEQ must ~~shall~~ be derived from representative facility-specific data to reflect a 95 percent confidence level for the 95th percentile value. These data will be presumed to adhere to a lognormal distribution pattern unless the actual effluent data demonstrates a different distribution pattern. If

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958 facility-specific data in excess of 10 data values ~~are~~is available,
 959 the Agency must calculate a coefficient of variation that is the ratio
 960 of the standard deviation to the arithmetic average ~~shall be~~
 961 ~~calculated by the Agency~~. The PEQ is derived as the upper bound
 962 of a 95 percent confidence bracket around the 95th percentile value
 963 through a multiplier from the following table applied to the
 964 maximum value in the data set that has its quality assured
 965 consistent with 35 Ill. Adm. Code 352.410 as appropriate for acute
 966 and chronic data sets.

967
 968
$$PEQ = (\text{maximum data point})(\text{statistical multiplier})$$

969

Coefficient of Variation														
970														
971	No.	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2	1.3
972	Samples													
973	1	1.4	1.9	2.6	3.6	4.7	6.2	8.0	10.1	12.6	15.5	18.7	22.3	26.4
974	2	1.3	1.6	2.0	2.5	3.1	3.8	4.6	5.4	6.4	7.4	8.5	9.7	10.9
975	3	1.2	1.5	1.8	2.1	2.5	3.0	3.5	4.0	4.6	5.2	5.8	6.5	7.2
976	4	1.2	1.4	1.7	1.9	2.2	2.6	2.9	3.3	3.7	4.2	4.6	5.0	5.5
977	5	1.2	1.4	1.6	1.8	2.1	2.3	2.6	2.9	3.2	3.6	3.9	4.2	4.5
978	6	1.1	1.3	1.5	1.7	1.9	2.1	2.4	2.6	2.9	3.1	3.4	3.7	3.9
979	7	1.1	1.3	1.4	1.6	1.8	2.0	2.2	2.4	2.6	2.8	3.1	3.3	3.5
980	8	1.1	1.3	1.4	1.6	1.7	1.9	2.1	2.3	2.4	2.6	2.8	3.0	3.2
981	9	1.1	1.2	1.4	1.5	1.7	1.8	2.0	2.1	2.3	2.4	2.6	2.8	2.9
982	10	1.1	1.2	1.3	1.5	1.6	1.7	1.9	2.0	2.2	2.3	2.4	2.6	2.7
983	11	1.1	1.2	1.3	1.4	1.6	1.7	1.8	1.9	2.1	2.2	2.3	2.4	2.5
984	12	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.9	2.0	2.1	2.2	2.3	2.4
985	13	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2	2.3
986	14	1.1	1.2	1.3	1.4	1.4	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.2
987	15	1.1	1.2	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.8	1.9	2.0	2.1
988	16	1.1	1.1	1.2	1.3	1.4	1.5	1.6	1.6	1.7	1.8	1.9	1.9	2.0
989	17	1.1	1.1	1.2	1.3	1.4	1.4	1.5	1.6	1.7	1.7	1.8	1.9	1.9
990	18	1.1	1.1	1.2	1.3	1.3	1.4	1.5	1.6	1.6	1.7	1.7	1.8	1.9
991	19	1.1	1.1	1.2	1.3	1.3	1.4	1.5	1.5	1.6	1.6	1.7	1.8	1.8
992	20	1.1	1.1	1.2	1.2	1.3	1.4	1.4	1.5	1.5	1.6	1.6	1.7	1.7
993	30	1.0	1.1	1.1	1.1	1.2	1.2	1.2	1.3	1.3	1.3	1.3	1.4	1.4
994	40	1.0	1.0	1.1	1.1	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.2	1.2

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995 ~~50~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.1~~ ~~1.1~~ ~~1.1~~ ~~1.1~~ ~~1.1~~ ~~1.1~~
 996 ~~60 or~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~ ~~1.0~~
 997 ~~greater~~
 998

<u>No.</u>	<u>Coefficient of Variation</u>												
	<u>0.1</u>	<u>0.2</u>	<u>0.3</u>	<u>0.4</u>	<u>0.5</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>	<u>1.0</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>
<u>1</u>	<u>1.4</u>	<u>1.9</u>	<u>2.6</u>	<u>3.6</u>	<u>4.7</u>	<u>6.2</u>	<u>8.0</u>	<u>10.1</u>	<u>12.6</u>	<u>15.5</u>	<u>18.7</u>	<u>22.3</u>	<u>26.4</u>
<u>2</u>	<u>1.3</u>	<u>1.6</u>	<u>2.0</u>	<u>2.5</u>	<u>3.1</u>	<u>3.8</u>	<u>4.6</u>	<u>5.4</u>	<u>6.4</u>	<u>7.4</u>	<u>8.5</u>	<u>9.7</u>	<u>10.9</u>
<u>3</u>	<u>1.2</u>	<u>1.5</u>	<u>1.8</u>	<u>2.1</u>	<u>2.5</u>	<u>3.0</u>	<u>3.5</u>	<u>4.0</u>	<u>4.6</u>	<u>5.2</u>	<u>5.8</u>	<u>6.5</u>	<u>7.2</u>
<u>4</u>	<u>1.2</u>	<u>1.4</u>	<u>1.7</u>	<u>1.9</u>	<u>2.2</u>	<u>2.6</u>	<u>2.9</u>	<u>3.3</u>	<u>3.7</u>	<u>4.2</u>	<u>4.6</u>	<u>5.0</u>	<u>5.5</u>
<u>5</u>	<u>1.2</u>	<u>1.4</u>	<u>1.6</u>	<u>1.8</u>	<u>2.1</u>	<u>2.3</u>	<u>2.6</u>	<u>2.9</u>	<u>3.2</u>	<u>3.6</u>	<u>3.9</u>	<u>4.2</u>	<u>4.5</u>
<u>6</u>	<u>1.1</u>	<u>1.3</u>	<u>1.5</u>	<u>1.7</u>	<u>1.9</u>	<u>2.1</u>	<u>2.4</u>	<u>2.6</u>	<u>2.9</u>	<u>3.1</u>	<u>3.4</u>	<u>3.7</u>	<u>3.9</u>
<u>7</u>	<u>1.1</u>	<u>1.3</u>	<u>1.4</u>	<u>1.6</u>	<u>1.8</u>	<u>2.0</u>	<u>2.2</u>	<u>2.4</u>	<u>2.6</u>	<u>2.8</u>	<u>3.1</u>	<u>3.3</u>	<u>3.5</u>
<u>8</u>	<u>1.1</u>	<u>1.3</u>	<u>1.4</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>	<u>2.1</u>	<u>2.3</u>	<u>2.4</u>	<u>2.6</u>	<u>2.8</u>	<u>3.0</u>	<u>3.2</u>
<u>9</u>	<u>1.1</u>	<u>1.2</u>	<u>1.4</u>	<u>1.5</u>	<u>1.7</u>	<u>1.8</u>	<u>2.0</u>	<u>2.1</u>	<u>2.3</u>	<u>2.4</u>	<u>2.6</u>	<u>2.8</u>	<u>2.9</u>
<u>10</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>	<u>2.0</u>	<u>2.2</u>	<u>2.3</u>	<u>2.4</u>	<u>2.6</u>	<u>2.7</u>
<u>11</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>	<u>2.1</u>	<u>2.2</u>	<u>2.3</u>	<u>2.4</u>	<u>2.5</u>
<u>12</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.9</u>	<u>2.0</u>	<u>2.1</u>	<u>2.2</u>	<u>2.3</u>	<u>2.4</u>
<u>13</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>	<u>2.0</u>	<u>2.1</u>	<u>2.2</u>	<u>2.3</u>
<u>14</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>	<u>2.0</u>	<u>2.1</u>	<u>2.2</u>
<u>15</u>	<u>1.1</u>	<u>1.2</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.8</u>	<u>1.9</u>	<u>2.0</u>	<u>2.1</u>
<u>16</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>	<u>1.9</u>	<u>2.0</u>
<u>17</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.7</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>	<u>1.9</u>
<u>18</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.6</u>	<u>1.6</u>	<u>1.7</u>	<u>1.7</u>	<u>1.8</u>	<u>1.9</u>
<u>19</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.3</u>	<u>1.3</u>	<u>1.4</u>	<u>1.5</u>	<u>1.5</u>	<u>1.6</u>	<u>1.6</u>	<u>1.7</u>	<u>1.8</u>	<u>1.8</u>
<u>20</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.2</u>	<u>1.3</u>	<u>1.4</u>	<u>1.4</u>	<u>1.5</u>	<u>1.5</u>	<u>1.6</u>	<u>1.6</u>	<u>1.7</u>	<u>1.7</u>
<u>30</u>	<u>1.0</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.2</u>	<u>1.2</u>	<u>1.3</u>	<u>1.3</u>	<u>1.3</u>	<u>1.3</u>	<u>1.4</u>	<u>1.4</u>
<u>40</u>	<u>1.0</u>	<u>1.0</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.2</u>	<u>1.2</u>	<u>1.2</u>	<u>1.2</u>	<u>1.2</u>
<u>50</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>	<u>1.1</u>
<u>60 or greater</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

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- i) If the PEQ is less than or equal to the water quality standard, there is no reasonable potential and no limit will be established in the permit.

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- ii) If the PEQ is more than the water quality standard, the Agency will proceed to consideration of dilution and mixing ~~underpursuant~~under to subsection (h)(4).

- B) If facility-specific data of 10 or less data values ~~are~~is~~are~~ available, an alternative PEQ ~~must~~~~shall~~must be derived using the table in subsection (h)(3)(A) assuming a coefficient of variation of 0.6, applied to the maximum value in the data set that has its quality assured consistent with 35 Ill. Adm. Code 352.410.
 - i) If the PEQ is less than or equal to the water quality standard, there is no reasonable potential and no limit will be established in the permit.

 - ii) If the PEQ exceeds the water quality standard, an alternative PEQ will be calculated using the maximum value in the data set and a multiplier of 1.4. If the alternative PEQ also exceeds the water quality standard, the Agency will proceed to consider dilution and mixing ~~underpursuant to~~under subsection (h)(4).

 - iii) If the PEQ exceeds the water quality standard but the alternative PEQ is less than or equal to the standard, the Agency will either proceed to consider dilution and mixing ~~underpursuant~~pursuant to subsection (h)(4), or will incorporate a monitoring requirement and reopener clause to reassess the potential to exceed within a specified time schedule, not to exceed one year. In determining which of these options to use in any individual application, the Agency ~~must~~~~shall~~ consider the operational and economic impacts on the permittee and the effect, if any, deferral of a final decision would have on an ultimate compliance schedule if a permit limit were subsequently determined to be necessary.

- C) The Agency ~~must~~~~shall~~ compare monthly average effluent data values, when available, with chronic aquatic life, human health and wildlife standards to evaluate the need for monthly average water

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- 1042 quality based effluent limitations (WQBELs). The Agency must
1043 ~~shall~~ use daily effluent data values to determine whether a potential
1044 exists to exceed acute aquatic life water quality standards.
1045
1046 D) The Agency may apply other scientifically defensible statistical
1047 methods for calculating PEQ for use in the reasonable potential
1048 analysis as provided for in Procedure 5.b.2 of appendix F to 40
1049 CFR 132, incorporated by reference at 35 Ill. Adm. Code 301.106.
1050
1051 E) Regardless of the statistical procedure used, if the PEQ for the
1052 parameter is less than or equal to the water quality standard for that
1053 parameter, the Agency ~~mustshall~~must deem the discharge not to
1054 have a reasonable potential to exceed, and a WQBEL
1055 ~~mustshall~~must not be required unless otherwise required under 35
1056 Ill. Adm. Code 352.430.
1057
1058 4) If the PEQ for a parameter is greater than the particular water quality
1059 standard, criteria or value for that parameter, the Agency will assess the
1060 level of treatment being provided by the discharger. If the discharger is
1061 providing (or will be providing) a level of treatment consistent with the
1062 best degree of treatment required by 35 Ill. Adm. Code 304.102(a), the
1063 PEQ derived under subsection (h)(3) ~~mustshall~~ be compared to a
1064 preliminary effluent limitation (PEL) determined by applying an
1065 appropriate mixing zone or a default mixing zone to the discharge.
1066 Mixing opportunity and dilution credit will be considered as follows:
1067
1068 A) Discharges to tributaries of the Lake Michigan Basin ~~mustshall~~ be
1069 considered to have no available dilution for either acute or chronic
1070 exposures, and the PEL will be set equivalent to the water quality
1071 standard unless dilution is documented through a mixing zone
1072 study.
1073
1074 B) Bioaccumulative chemicals of concern (BCCs):
1075
1076 i) Mixing ~~No mixing~~ must not ~~shall~~ be allowed for new
1077 discharges of BCCs commencing on or after December 24,
1078 1997. The PEL will be set equivalent to the water quality
1079 standard.

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- ii) Mixing must ~~not~~shall~~not~~ be allowed for discharges of BCCs that existed as of December 24, 1997 ~~under in accordance with the requirements of~~under 35 Ill. Adm. Code 302.530.

- C) Direct discharges to the Open Waters of Lake Michigan ~~must~~shallmust have a default mixing allowance of 2:1 for acute standards, criteria or values and 10:1 for chronic standards, criteria or values if the discharge configuration indicates that the effluent readily and rapidly mixes with the receiving waters. If ready and rapid mixing is in doubt the Agency ~~must~~shall deny any default dilution or mixing allowance and require a mixing or dispersion study to determine the proper dilution allowance. If the discharger applies for more than the default dilution or mixing allowance, it must submit a mixing or dispersion study to justify its request. Whenever a mixing or dispersion study is available, it must ~~shall~~ be used to determine dilution or mixing allowance in lieu of the default allowance.

- 5) Preliminary effluent limitations calculations.
 - A) The preliminary effluent limitation (PEL) is calculated in a simple mass balance approach reflecting the dilution allowance established in subsection (h)(4):

$$\del{WQS = [(Q_e)(PEL) + (Q_d)(C_d)] / [Q_e + Q_d] \text{ or}} \\ \del{PEL = [WQS(Q_e + Q_d) - (Q_d)(C_d)] / Q_e}$$

~~WHERE:~~

~~WQS = applicable water quality standard, criteria or value~~

~~Q_e = effluent flowrate~~

~~Q_d = allowable dilution flowrate~~

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~~Cd = background pollutant concentration in dilution water~~

$$\underline{WQS} = \frac{[(Q_e)(PEL) + (Q_d)(C_d)]}{[Q_e + Q_d]}$$

or

$$\underline{PEL} = \frac{[WQS(Q_e + Q_d) - (Q_d)(C_d)]}{Q_e}$$

WHERE:

WQS = applicable water quality standard, criteria or value
Q_e = effluent flowrate
Q_d = allowable dilution flowrate
C_d = background pollutant concentration in dilution water

B) The representative background concentration of pollutants to develop TMDLs and WLAs calculated in the absence of a TMDL must ~~shall~~ be established as follows:

i) "Background" represents all pollutant loadings, specifically loadings that flow from upstream waters into the specified watershed, water body, or water body segment for which a TMDL or WLA in the absence of a TMDL is being developed and enter the specified watershed, water body, or water body segment through atmospheric deposition, chemical reaction, or sediment release or resuspension.

ii) When determining what available data are acceptable for use in calculating background, the Agency ~~must shall must~~ use its best professional judgment, including consideration of the sampling location and the reliability of the data through comparison, in part, to detection and quantification levels. When data in more than 1 of the data sets or categories described in subsection (h)(5)(B)(iii) exists, best professional judgment ~~must shall must~~ be used to select the

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1147 data that most accurately reflects or estimates background
1148 concentrations. Pollutant degradation and transport
1149 information may be considered when using pollutant
1150 loading data to estimate a water column concentration.

1151
1152 iii) The representative background concentration for a pollutant
1153 in the specified watershed, water body, or water body
1154 segment ~~must~~shall be established on a case-by-case basis
1155 as the geometric mean of: acceptable water column data;
1156 water column concentrations estimated through use of
1157 acceptable caged or resident fish tissue data; or water
1158 column concentrations estimated through the use of
1159 acceptable or projected pollutant loading data. When
1160 determining the geometric mean of the data for a pollutant
1161 that includes values both above and below the detection
1162 level, commonly accepted statistical techniques
1163 ~~must~~shallmust be used to evaluate the data. If all of the
1164 acceptable data in a data set are below the detection level
1165 for a pollutant, then all the data for the pollutant in that data
1166 set ~~must~~shall be assumed to be zero.

1167
1168 6) Water quality based effluent limitations.

1169
1170 A) If the PEQ is less than or equal to the PEL, it will be concluded
1171 that there is no reasonable potential to exceed. Under these ~~such~~
1172 circumstances a permit limit for that contaminant will not be set
1173 unless otherwise justified under one or more provisions of 35 Ill.
1174 Adm. Code 352.430.

1175
1176 B) If the PEQ is equal to or greater than the PEL, and the PEQ was
1177 calculated using a data set of more than 10 values, a WQBEL will
1178 be included in the permit. If the PEQ was calculated using a data
1179 set of less than or equal to 10 values, and the alternative PEQ
1180 calculated under subsection (h)(3) (B) also exceeds the PEL, a
1181 WQBEL will be included in the permit.

1182
1183 C) If the PEQ was calculated using a data set of less than or equal to
1184 10 values, and the PEQ is greater than the PEL but the alternative

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1185 PEQ is less than the PEL, the Agency will either establish a
1186 WQBEL in the permit or incorporate a monitoring requirement and
1187 reopener clause to reassess potential to exceed within a specified
1188 time schedule, not to exceed one year. In determining which of
1189 these options to use in any individual application, the Agency must
1190 ~~shall~~ consider the operational and economic impacts on the
1191 permittee and the effect, if any, deferral of a final decision would
1192 have on an ultimate compliance schedule if a permit limit were
1193 subsequently determined to be necessary.

1194
1195 D) The WQBEL will be set at the PEL, unless the PEL is
1196 appropriately modified to reflect credit for intake pollutants when
1197 the discharged water originates in the same water body to which it
1198 is being discharged. Consideration of intake credit will be limited
1199 to the provisions of 35 Ill. Adm. Code 352.425.

1200
1201 E) The reasonable potential analysis ~~must~~~~shall~~must be completed
1202 separately for acute and chronic aquatic life effects. When
1203 WQBELs are based on acute impacts, the limit will be expressed
1204 as a daily maximum. When the WQBEL is based on chronic
1205 effects, the limit will be expressed as a monthly average. Human
1206 health and wildlife based WQBELs will be expressed as monthly
1207 averages. If circumstances warrant, the Agency must ~~shall~~
1208 consider alternatives to daily and monthly limits.

- 1209
1210 i) Best management practices (BMPs) to control or abate the discharge of chloride
1211 when:
1212
1213 1) Authorized under section 402(p) of the CWA for the control of storm
1214 water discharges;
1215
1216 2) Numeric effluent limitations are infeasible; or
1217
1218 3) The practices are reasonably necessary to achieve effluent limitations and
1219 standards or to carry out the purposes and intent of the CWA.

1220
1221 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1222

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1223 **Section 309.142 Water Quality Standards and Waste Load Allocation**

1224

1225 In any case in which an NPDES Permit includes as conditions the effluent standards and
1226 limitations described in 35 Ill. Adm. ~~Code Sections~~ Code 309.141, 309.142, and 309.143, the
1227 Agency must ~~shall have~~ determine determined and verify ~~verified~~ that the discharge authorized
1228 by the permit will not violate applicable water quality standards or a schedule of compliance to
1229 achieve applicable water quality standards contained in the NPDES Permit. In any case in which
1230 an NPDES Permit applies any more stringent effluent limitation based on applicable water
1231 quality standards, a waste load allocation ~~must shall~~ must be prepared to ensure that the discharge
1232 authorized by the permit is consistent with applicable water quality standards.

1233

1234 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1235

1236 **Section 309.143 Effluent Limitations**

1237

1238 a) Effluent limitations must control all pollutant or pollutant parameters (either
1239 conventional, nonconventional, or toxic pollutants) which the Agency determines
1240 are, or may be, discharged at a level which will cause, have the reasonable
1241 potential to cause, or contribute to an excursion above any State water quality
1242 standard, including State narrative criteria for water quality. When determining
1243 whether a discharge causes, has the reasonable potential to cause or contributes to
1244 an in-stream excursion above a narrative or numeric criteria within a State water
1245 quality standard, the Agency must ~~shall~~ use procedures which account for existing
1246 controls on point and nonpoint sources of pollution, the variability of the pollutant
1247 or pollutant parameter in the effluent, the sensitivity of the species to toxicity
1248 testing (when evaluating whole effluent toxicity), and, where appropriate, the
1249 dilution of the effluent in the receiving water.

1250

1251 b) In the application of effluent standards and limitations, water quality standards
1252 and other applicable requirements, the Agency must ~~shall~~, for each permit, specify
1253 average and maximum daily quantitative limitations for the level of pollutants in
1254 the authorized discharge in terms of weight (except pH, temperature, radiation,
1255 and any other pollutants not appropriately expressed by weight, and except for
1256 discharges whose constituents cannot be appropriately expressed by weight). The
1257 Agency may, in its discretion, in addition to specification of daily quantitative
1258 limitations by weight, specify other limitations, such as average or maximum
1259 concentration limits, for the level of pollutants in the authorized discharge.
1260 Effluent limitations for multiproduct operations ~~must shall~~ must provide for

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1261 appropriate waste variations from such plants. Where a schedule of compliance is
1262 included as a condition in a permit, effluent limitations must ~~shall~~ be included for
1263 the interim period as well as for the period following the final compliance date.
1264

1265 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1266

1267 **Section 309.144 Federal New Source Standards of Performance**

1268
1269 Notwithstanding any other provisions of these regulations, any point source, the construction of
1270 which is commenced after the date of enactment of the CWA and which is so constructed as to
1271 meet all applicable federal standards of performance as defined in Section 306 of the CWA and
1272 35 Ill. Adm. ~~Code Section Code~~ 301.400 ~~of this Chapter~~, must ~~shall~~ not be subject to any more
1273 stringent federal standard of performance during:
1274

- 1275 a) A 10-year period beginning on the date of completion of such construction, or
1276
1277 b) The period of depreciation or amortization of such facility for the purposes of
1278 Section 167 or 169 (or both) of the Internal Revenue Code of 1954 (26 U.S.C.
1279 167 and 169), whichever period ends first.
1280

1281 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1282

1283 **Section 309.145 Duration of Permits**

1284
1285 All NPDES Permits must ~~shall~~ be issued for fixed terms not to exceed five years.
1286

1287 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1288

1289 **Section 309.146 Authority to Establish Recording, Reporting, Monitoring and Sampling**
1290 **Requirements**

- 1291
1292 a) The Agency must ~~shall~~ require every holder of an NPDES Permit, as a condition
1293 of the NPDES Permit issued to the holder, to:
1294
1295 1) Establish, maintain and retain records;
1296
1297 2) Make reports adequate to determine the compliance or lack of compliance
1298 with all effluent limits and special conditions in the permit;

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- 3) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods);
 - 4) Take samples of effluents (according ~~to in accordance with~~ to such methods, at such locations, at such intervals, and in such a manner as may be prescribed); and
 - 5) Provide ~~such~~ other information as may reasonably be required.
- b) The Agency may require every holder of an NPDES Permit for a publicly owned and publicly regulated treatment works, as a condition of the NPDES Permit, to require industrial users of such a treatment works to:
- 1) Establish, maintain and retain records;
 - 2) Make reports;
 - 3) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods);
 - 4) Take samples of effluents (according ~~to in accordance with~~ to such methods, at such locations, at such intervals, and in such a manner as may be prescribed); and
 - 5) Provide ~~such~~ other information as may reasonably be required.
- c) All these ~~such~~ requirements ~~must~~ shall be included as conditions of the NPDES Permit issued to the discharger, and ~~must shall~~ shall be at least as stringent as those required by applicable federal regulations when these become effective.
- d) All permits ~~must~~ shall specify requirements for properly using, maintaining, and ~~installing concerning the proper use, maintenance, and installation~~ installing, when appropriate, of monitoring equipment or methods (including biological monitoring methods, when appropriate); required monitoring including type, interval, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

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1337 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1338

1339 **Section 309.147 Authority to Apply Entry and Inspection Requirements**
1340

1341 a) Any holder of an NPDES Permit and any industrial user of a publicly owned or
1342 publicly regulated sewage treatment plant, ~~must~~~~shall~~must be required as a
1343 condition of the NPDES Permit issued to the holder, and in
1344 ~~compliance~~~~accordance~~compliance with constitutional limitations, to allow any
1345 authorized representative of the Agency, upon presentation of his or her
1346 credentials, to:

- 1347
- 1348 1) Enter any premises of a permittee or ~~of~~ an industrial user of a publicly
1349 owned or publicly regulated treatment works in which premises an
1350 effluent source is located or in which any applicable records are located
1351 that are required to be maintained;
 - 1352
 - 1353 2) At reasonable times have access to and copy any records required to be
1354 maintained;
 - 1355
 - 1356 3) Inspect any monitoring equipment or method which is required;
 - 1357
 - 1358 4) Have access to and sample any discharge of contaminants to State waters
1359 or to publicly owned or publicly regulated treatment works resulting from
1360 the activities or operations of the permittee or industrial user; and
1361
 - 1362 5) Inspect, sample, photograph or otherwise investigate any part of the
1363 facilities or equipment of the permit holder or industrial user which the
1364 Agency may deem necessary in order to determine the possibility of a
1365 present or future violation of the Act, applicable regulations or any
1366 NPDES Permit conditions.

1367

1368 b) The requirements ~~set forth~~ in subsections (a)(1) through (a)(5) must ~~above shall~~
1369 be ~~set forth~~ in all NPDES Permits as terms and conditions thereof.

1370

1371 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1372

1373 **Section 309.148 Schedules of Compliance**
1374

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1375 The Agency must ~~shall~~ establish schedules of compliance in NPDES Permits in the following
1376 manner:

1377

1378 a) With respect to any discharge which is not in compliance with applicable effluent
1379 standards and limitations, applicable water quality standards and limitations,
1380 applicable water quality standards or other legally applicable requirements, the
1381 permittee ~~must shall be required to~~ must take specific steps to achieve compliance
1382 ~~therewith~~ in the shortest reasonable period of time consistent with the guidelines
1383 and requirements of CWA and the Act.

1384

1385 b) In any case where the period of time for compliance specified in
1386 ~~subsection~~ Subsections subsection (a) ~~above~~ exceeds 9 months, the permit must
1387 specify a ~~schedule of~~ compliance schedule setting ~~shall be specified in the permit~~
1388 ~~which will set~~ forth interim requirements and the dates for their achievement; in
1389 no event ~~must shall~~ must more than 9 months elapse between interim dates. If the
1390 time necessary for ~~completion~~ completions of the interim requirements ~~is in~~ more
1391 than 9 months and is not readily divided into stages for completion, the permit
1392 must specify interim dates to submit ~~progress shall be specified for the submission~~
1393 ~~of progress~~ reports on ~~completing of progress toward completion of~~ completing the
1394 interim requirement. For each NPDES Permit schedule of compliance, interim
1395 dates and the final date for compliance ~~must shall~~ must, to the extent practicable,
1396 fall on the last day of the months of March, June, September, and December.

1397

1398 c) Not later than 14 days ~~after following~~ after each interim date and the final date of
1399 compliance, the permittee must ~~shall~~ provide the Agency with written notice of
1400 the permittee's compliance or noncompliance with the interim or final
1401 requirement.

1402

1403 d) Interim and final compliance dates in NPDES permits ~~are shall~~ must be
1404 enforceable without otherwise showing a violation of an effluent limitation or
1405 injury to water quality.

1406

1407 ~~e) — The Agency shall make available for public inspection and copying at its~~
1408 ~~Springfield and Chicago offices a copy of the quarterly list as filed with the~~
1409 ~~Regional Administrator in accordance with 40 CFR 124.44(d).~~

1410

1411 ~~f)~~

1412

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1413 e) The Agency may establish schedules of compliance in NPDES permits
1414 ~~underpursuant to~~under applicable federal requirements which may be earlier or
1415 later than deadlines established by otherwise applicable regulations of the Board,
1416 provided that all schedules of compliance must ~~shall~~ require compliance at the
1417 earliest reasonable date. However, the Agency must ~~shall~~ not issue an NPDES
1418 Permit containing a schedule of compliance beyond July 1, 1977, or any other
1419 compliance date established by federal law, to any applicant who is not in
1420 compliance with, or who has not obtained a variance, adjusted standards, or
1421 time-limited water quality standard from applicable Illinois Water Pollution
1422 Regulations, or who has not been ordered to apply for and obtain all necessary
1423 permits in an appropriate Board enforcement action, for which the deadline for
1424 compliance occurred before the effective date of these NPDES Regulations.

1425
1426 ~~f)g)~~ In any case in which an NPDES permit includes a schedule of compliance, the
1427 Agency ~~mustshall~~must include in its final determination a statement of the factual
1428 basis for such schedule.

1429
1430 ~~g)h)~~ Schedules of compliance established by the Agency in NPDES Permits
1431 ~~mustshall~~must be subject to review by the Pollution Control Board under 35 Ill.
1432 Adm. ~~Codein accordance with Sections~~Code 309.181 and 309.182 ~~herein~~.

1433
1434 (Source: Amended at 46 Ill. Reg. , effective)

1435
1436 **Section 309.149 Authority to Require Notice of Introduction of Pollutants into Publicly**
1437 **Owned Treatment Works**

1438
1439 The Agency must ~~shall~~ include in all NPDES Permits issued to publicly owned or publicly
1440 regulated treatment works conditions requiring the permittee to give notice to the Agency of the
1441 following:

- 1442
1443 a) Any new introduction of pollutants into the ~~such~~ treatment works from a source
1444 which would be a new source as defined in Section 306 of the CWA if the ~~such~~
1445 source were discharging pollutants directly to the waters of the State;
1446
1447 b) Except as to ~~such~~ categories and classes of point sources or discharges which may
1448 be specified by the ~~Agency~~agency, any new introduction of pollutants into the
1449 ~~such~~ treatment works from a source which would be a point source subject to
1450 Section 301 of the CWA if it were discharging such pollutants directly to the

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1451 waters of the State;

1452

1453 c) Any substantial change in volume or character of pollutants being introduced into
1454 the ~~such~~ treatment works by a source introducing pollutants into the ~~such~~ works at
1455 the time ~~of issuance of~~ the permit is issued; and

1456

1457 d) All notices required of publicly owned or publicly regulated treatment works
1458 under ~~pursuant to~~ this section must ~~shall~~ be in the ~~such~~ form and content required
1459 ~~by~~ by the Agency ~~may require~~, and must ~~shall~~ include information on:

1460

1461 1) The quality and quantity of wastewater to be introduced into such
1462 treatment works, and

1463

1464 2) Any anticipated impact of such change in the quantity or quality of
1465 effluent to be discharged from ~~the such the~~ publicly owned or publicly
1466 regulated treatment works.

1467

1468 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1469

1470 **Section 309.150 Authority to Ensure Compliance by Industrial Users with Sections 204(b),**
1471 **307 and 308 of the Clean Water Act**

1472

1473 a) Any NPDES Permit issued to a publicly owned or publicly regulated treatment
1474 works must ~~shall~~ include as a condition that the permittee ~~must shall must~~ require
1475 that any industrial user of ~~the such the~~ treatment works will comply with federal
1476 requirements concerning:

1477

1478 1) User charges and recovery of construction costs under ~~pursuant to~~
1479 ~~Section section~~ 204(b) of the CWA and applicable regulations ~~appearing in~~
1480 40 CFR 35;

1481

1482 2) Toxic pollutant effluent standards and pretreatment standards ~~and~~
1483 ~~pretreatment standards~~ under ~~pursuant to~~ Section 307 of the CWA; and

1484

1485 3) Inspection, monitoring and entry under ~~pursuant to~~ Section 308 of the
1486 CWA.

1487

1488 b) ~~To ensure As As~~ a means of ensuring such compliance, the permittee must ~~shall~~

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1489 require each industrial user subject to the requirements of Section 307 of the
1490 CWA to comply with this Section. The permittee must ~~shall~~ send to the Agency
1491 periodic notice (over intervals not to exceed 9 months) of progress toward full
1492 compliance with the requirements of Section 307 of the CWA.
1493

1494 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1495

1496 **Section 309.151 Maintenance and Equipment**
1497

1498 Any NPDES Permit issued must ~~shall~~ include as a condition that the permittee ~~must~~ shall at all
1499 times must maintain in good working order and operate as efficiently as possible any facilities or
1500 systems of control installed by the permittee to achieve compliance with the terms and
1501 conditions of the permit.
1502

1503 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1504

1505 **Section 309.152 Toxic Pollutants**
1506

1507 Any NPDES Permit issued must ~~shall~~ include as a condition that if a toxic effluent standard or
1508 prohibition (including any schedule of compliance specified in such effluent standard or
1509 prohibition) is established under Section 307(a) of the CWA for a toxic pollutant which is
1510 present in the permittee's discharge and such standard or prohibition is more stringent than any
1511 limitation upon such pollutant in the NPDES Permit, the Agency must ~~shall~~ revise or modify the
1512 permit according ~~to in accordance with~~ to the more stringent standard or prohibition and must
1513 ~~shall so~~ notify the permittee.
1514

1515 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1516

1517 **Section 309.154 Authorization to Construct**
1518

1519 a) A ~~No~~ person must not ~~shall~~ cause or allow the construction of any new treatment
1520 works, disposal well or wastewater source for which an NPDES Permit is
1521 required or cause or allow the modification of any existing treatment works,
1522 disposal well or wastewater source for which an NPDES Permit is required unless
1523 the ~~such~~ NPDES Permit contains an authorization to construct as a condition of
1524 ~~the such~~ the permit.
1525

1526 b) Any holder of a valid NPDES Permit who proposes or is required as a condition

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1527 of the ~~such~~ NPDES Permit or of any order of the Pollution Control Board to
1528 construct or modify any treatment works, disposal well, wastewater source, or
1529 process modification which results in new or increased discharges of pollutants,
1530 must ~~shall~~ complete, sign and submit an NPDES application for the ~~such~~
1531 construction or modification, according ~~to in accordance with~~ to the instructions
1532 provided with the form, no later than 180 days ~~before in advance of~~ before the date
1533 on which construction or modification is to begin. A ~~No~~ person must not ~~shall~~
1534 commence construction until the holder of the NPDES Permit ~~receivesshall have~~
1535 ~~received~~ ~~receivesshall have~~ a modification to the NPDES Permit, or a new NPDES Permit
1536 if required, which contains an authorization to construct as a condition of
1537 ~~thesuchthe~~ permit.

- 1538
- 1539 c) The Agency must ~~shall~~ not issue any authorization to construct unless the
1540 applicant submits adequate proof, including any of the information or documents
1541 listed in 35 Ill. Adm. ~~Codeset forth in Section~~ Code 309.221 as the Agency may
1542 require, which ensures that the proposed construction, modification or operation
1543
- 1544 1) Either conforms to the criteria promulgated by the Agency under Section
1545 309.221 or is based on other criteria which the applicant proves will
1546 produce consistently satisfactory results; and
 - 1547
 - 1548 2) Will not cause a violation of the conditions of the NPDES Permit.
 - 1549

1550 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1551

1552 **Section 309.155 Sewage Sludge Disposal**

1553

1554 In establishing the terms and conditions of each issued NPDES Permit, the Agency
1555 ~~mustshallmust~~ apply and ensure compliance with applicable regulations promulgated under
1556 Section 405 of the CWA governing the disposal of sewage sludge from treatment works.

1557

1558 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1559

1560 **Section 309.156 Total Dissolved Solids Reporting and Monitoring**

1561

1562 The Agency must ~~shall~~ by permit condition require monitoring and reporting levels of total
1563 dissolved solids in effluents unless it finds that the ~~such~~ reporting and monitoring is not required
1564 to accomplish the purposes of the Act. Monitoring of total dissolved solids levels must ~~shall~~ be

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1565 by any reasonably reliable method.

1566

1567 (Source: Amended at 46 Ill. Reg. _____, effective _____) 81)

1568

1569 **Section 309.157 Permit Limits for Total Metals**

1570

1571 a) The NPDES permit limits for metals must be expressed in total metals form even
1572 though the water quality standards for metals specified in 35 Ill. Adm.
1573 ~~Code Sections Code~~ 302.208(e), 302.504(a), and 304.105 are in their dissolved
1574 form. The total metals permit limit is ~~shall be~~ determined by multiplying the
1575 dissolved metals concentration and the appropriate metals translator.

1576

1577 b) Site specific metals translators must be determined according ~~to~~ ~~The Agency shall~~
1578 ~~adopt procedures for determining site-specific metals translator in accordance~~
1579 ~~with "to "~~ The Metals Translator: Guidance for Calculating a Total Recoverable
1580 Permit Limit from a Dissolved Criterion, ²² incorporated by reference at 35 Ill.
1581 Adm. Code 301.106.

1582

1583 c) Except as otherwise specified in subsection (d) ~~of this Section~~, the reciprocal of
1584 the conversion factor multiplier used for obtaining the dissolved metals standards
1585 at 35 Ill. Adm. ~~Code Sections Code~~ 302.208(e) and 302.504(a) becomes the metals
1586 translator and the resulting total metals value becomes the NPDES permit limit.

1587

1588 d) A permittee may request the Agency, ~~in accordance with the procedures adopted~~
1589 ~~pursuant to subsection (b) of this Section~~, to calculate a total metals permit limit
1590 based on a site-specific metals translator. Upon review and approval of the
1591 information submitted by the permittee, the Agency will calculate a total metals
1592 permit limit that is protective of the dissolved metals water quality standard.

1593

1594 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1595

1596 **Section 309.181 Appeal of Final Agency Action on a Permit Application**

1597

1598 a) If any NPDES Permit has been issued or denied by the Agency, any appeal of the
1599 issuance or denial of the permit, or of any of its ~~the~~ terms or conditions ~~thereof~~,
1600 must ~~shall be~~ to the Pollution Control Board according ~~to~~ ~~in accordance with~~ to its
1601 Procedural Rules.

1602

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1603 b) The ~~Such~~ appeal must ~~shall~~ be filed within 35 ~~30~~ days after final Agency action.

1604

1605 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1606

1607 **Section 309.182 Authority to Modify, Suspend or Revoke Permits**

1608

1609 a) Any person, whether or not a party to or participant at any earlier proceeding
1610 before the Agency or the Board, may file a complaint for modification,
1611 suspension, or revocation of an NPDES Permit ~~according to~~in accordance with
1612 this Section and Part 103.

1613 (Note: Prior to codification, Part III of Procedural Rules.)

1614

1615 b) The Pollution Control Board, after complaint and hearing according ~~to~~in
1616 ~~accordance with~~to the Act and its Procedural Rules, may modify, suspend or
1617 revoke any NPDES permit in whole or in part in any manner consistent with the
1618 Act, applicable Board regulations and federal requirements, upon proof of cause
1619 including, ~~but not limited to~~, the following:

1620

1621 1) Violation of any terms or conditions of the permit (including, ~~but not~~
1622 ~~limited to~~, schedules of compliance and conditions concerning monitoring,
1623 entry and inspection);

1624

1625 2) Obtaining a permit by misrepresentation or failure to disclose fully all
1626 relevant facts; or

1627

1628 3) A change in any circumstance that mandates either a temporary or
1629 permanent reduction or elimination of the permitted discharge.

1630

1631 c) The provisions of this Section must ~~shall~~ be included as terms and conditions of
1632 each issued NPDES Permit.

1633

1634 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1635

1636 **Section 309.183 Revision of Schedule of Compliance**

1637

1638 a) The Agency may, upon request of the applicant, revise or modify a schedule of
1639 compliance in an issued NPDES Permit if it determines good and valid cause
1640 (such as an Act of God, strike, flood, materials shortage or other event over which

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1641 the permittee has little or no control) exists for ~~the~~such~~the~~ revision and if within
1642 30 days following receipt of notice from the Agency, the Regional Administrator
1643 of the U.S. Environmental Protection Agency does not object in writing.
1644

1645 b) Under subsection (a), ~~the~~Such~~the~~ Agency must not extend a final compliance date
1646 more ~~than~~revision shall only be made when the Agency has determined that the
1647 ~~final compliance date shall not be extended beyond a total of 90 days as originally~~
1648 ~~contained in the permit~~than.
1649

1650 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1651

1652 **Section 309.184 Regulatory Relief ~~Permit Modification Pursuant to Variance~~**
1653

1654 To the extent authorized by the CWA and the Act, the Board may grant variances, adjusted
1655 standards, or time limited water quality standards from standards, limitations, and requirements
1656 imposed by these NPDES Regulations ~~upon a showing that compliance would impose an~~
1657 ~~arbitrary and unreasonable hardship on the applicant or permittee. Any request for such relief~~
1658 ~~shall be commenced in accordance with Section 104.101 and Part 104 shall govern the~~
1659 ~~proceeding~~. If the Board ~~grants~~such~~grants~~ a variance, adjusted standard or time-limited water
1660 quality standard ~~is granted~~ the Board must ~~shall~~ order the Agency to issue or modify an NPDES
1661 Permit consistent with the Board Order, the CWA, Federal NPDES Regulations and the Act.
1662

1663 ~~(Note: Prior to codification, Rule 401 and Part IV of Procedural Rules)~~
1664

1665 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1666

1667 **Section 309.185 Public Access to Information (Repealed)**
1668

1669 ~~The Agency and Board shall assure public access to information pursuant to Section 7(b) of the~~
1670 ~~Act.~~
1671

1672

1673

1674

1675 (Source: Repealed at 46 Ill. Reg. _____, effective _____)
1676

1677

1678 **Section 309.191 Effective Date (Repealed)**
1679

1680

1681 ~~a) — Except as otherwise provided, Subpart A became effective on October 24, 1977.~~

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1679

1680

~~b) — The UIC permit exception of Section 309.102(b) will become effective upon filing with the Secretary of State of a letter from USEPA approving the UIC program for the State of Illinois.~~

1681

1682

1683

1684

(Source: Repealed at 46 Ill. Reg. _____, effective _____)

1685

1686

SUBPART B: OTHER PERMITS

1687

1688 **Section 309.201 Preamble**

1689

1690

a) This Subpart B establishes basic rules for ~~issuing the issuance of~~ issuing permits to construct, modify, and ~~operate for the construction, modification and operation of~~ operate treatment works, pretreatment works, sewers, wastewater sources and other discharges that are not required to have NPDES Permits.

1691

1692

1693

1694

1695

b) The following discharges are exempt from the operating permit requirement of this Subpart. However, they may be subject to the construction permit requirement:

1696

1697

1698

1699

1) discharges for which a pretreatment permit has been issued by the Agency ~~underpursuant to~~ under 35 Ill. Adm. Code 310;

1700

1701

1702

2) discharges for which a pretreatment permit has been issued by USEPA ~~underpursuant to~~ under the federal Clean Water Act; or

1703

1704

1705

3) discharges for which an authorization has been issued by a publicly owned treatment works (POTW) with a pretreatment program approved by the Agency, ~~underpursuant to~~ under 35 Ill. Adm. Code 310, or approved by USEPA ~~underpursuant~~ pursuant to federal law.

1706

1707

1708

1709

(Source: Amended at 46 Ill. Reg. _____, effective _____)

1711

1712 **Section 309.202 Construction Permits**

1713

1714 Except for treatment works or wastewater sources which have or will have discharges for which
1715 NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

1716

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- 1717 a) A ~~No~~ person must not ~~shall~~ cause or allow the construction of any new treatment
1718 works, sewer or wastewater source or cause or allow the modification of any
1719 existing treatment works, sewer or wastewater source without a construction
1720 permit issued by the Agency, except as provided in subsections (c) and (d).
1721
- 1722 b) For groundwater remediation systems, with or without pretreatment, a permit is
1723 required for construction of:
1724
- 1725 1) a new sewer to a publicly owned or publicly regulated sanitary or
1726 combined sewer; or
1727
- 1728 2) a wastewater source that discharges to a publicly owned or publicly
1729 regulated sanitary or combined sewer.
1730
- 1731 c) Construction permits ~~are shall~~ are not be required for the following:
1732
- 1733 1) storm sewers that transport only land runoff;
1734
- 1735 2) any treatment works, sewer or wastewater source designed and intended to
1736 serve a single building and eventually treat or discharge less than an
1737 average of 1500 gallons per day (5700 l/day) of domestic sewage and
1738 which will discharge, if at all, directly to a publicly owned or publicly
1739 regulated sanitary or combined sewer;
1740
- 1741 3) any sewer required by statute to secure a permit ~~underpursuant~~ pursuant to
1742 Section 3 of the Mobile Home Park Act [210 ILCS 115];
1743
- 1744 4) any treatment works, pretreatment works, sewer or wastewater source that,
1745 on the effective date of this Subpart B, is being constructed or will be
1746 constructed under the authorization of a permit already issued by the
1747 Agency or its predecessors; provided however, that all construction must
1748 be completed within four years from the effective date of this Subpart B;
1749
- 1750 5) privately owned sewers tributary to industrial treatment works owned by
1751 the same person if the additional waste load does not exceed the permitted
1752 design capacity of the industrial treatment works; or
1753
- 1754 6) cooling towers, oil/water separators, pH adjustment facilities without

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1755 additional pretreatment, groundwater remediation system pretreatment,
1756 reverse osmosis treatment for industrial source water, multi-media
1757 filtration for industrial source water, disposable cartridge type (or similar)
1758 filtration systems, ion-exchange systems for industrial source waters, and
1759 all associated pipes, pumps, and appurtenances necessary for the
1760 installation and operation of these permit exempt treatment systems.
1761

1762 d) A ~~No~~ person must not ~~shall~~ cause or allow the construction of any pretreatment
1763 works or cause or allow the modification of any existing pretreatment works
1764 without a construction permit issued by the Agency, unless exempt under 35 Ill.
1765 Adm. ~~Code~~pursuant to Code Section 309.202(c) if those pretreatment works, after
1766 construction or modification, will:

- 1767
- 1768 1) discharge toxic pollutants, as defined in Section 502(13) of the CWA, or
1769 pollutants which may interfere with the treatment process into the
1770 receiving treatment works or be subject to regulations promulgated under
1771 section 307 of the Clean Water Act (CWA); or
 - 1772
 - 1773 2) discharge 15% or more of the total hydraulic flow received by the
1774 treatment works; or
 - 1775
 - 1776 3) discharge 15% or more of the total biological loading received by the
1777 treatment works as measured by the 5-day biochemical oxygen demand.
1778

1779 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1780

1781 **Section 309.203 Operating Permits; New or Modified Sources**
1782

1783 a) A ~~No~~ person must not ~~shall~~ cause or allow the use or operation of any treatment
1784 works, sewer, pretreatment works or wastewater source for which a construction
1785 permit is required under 35 Ill. Adm. ~~Code~~Section Code 309.202 without an
1786 operating permit issued by the Agency, except as may be authorized by the
1787 construction permit.
1788

1789 b) No operating permit is required under this Section for any discharge:
1790

- 1791 1) for which an NPDES permit is required;
1792

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- 1793 2) for which a pretreatment permit has been issued by the Agency,
1794 ~~underpursuant to~~under 35 Ill. Adm. Code 310;
- 1795
- 1796 3) for which a pretreatment permit has been issued by USEPA ~~underpursuant~~
1797 ~~to~~under federal law; or
- 1798
- 1799 4) for which an authorization to discharge has been issued by a POTW with a
1800 pretreatment program approved by the Agency, ~~underpursuant to~~under 35
1801 Ill. Adm. Code 310, or approved by USEPA under federal law.
- 1802

1803 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1804
1805 **Section 309.204 Operating Permits; Existing Sources**

- 1806
- 1807 a) A ~~No~~ person must not ~~shall~~ cause or allow the use or operation of any treatment
1808 works, pretreatment works or wastewater source without an operating permit
1809 issued by the Agency, except as provided in subsections (b), (c) and (d).
- 1810
- 1811 b) No operating permit is required under this Section for any discharge:
- 1812
- 1813 1) for which an NPDES permit is required;
- 1814
- 1815 2) for which a pretreatment permit has been issued by the Agency
1816 ~~underpursuant to~~under 35 Ill. Adm. Code 310;
- 1817
- 1818 3) for which a pretreatment permit has been issued by USEPA ~~underpursuant~~
1819 ~~to~~under federal law; or
- 1820
- 1821 4) for which an authorization to discharge has been issued by a POTW with a
1822 pretreatment program approved by the Agency, ~~underpursuant to~~under 35
1823 Ill. Adm. Code 310, or approved by USEPA under federal law.
- 1824
- 1825 c) Operating permits are not required for treatment works and wastewater sources
1826 that are designed and intended to serve a single building and eventually treat or
1827 discharge less than an average of 1500 gallons per day 5 (5700 1/day) of domestic
1828 sewage and that will discharge, if at all, directly to a publicly owned or publicly
1829 regulated sanitary or combined sewer.
- 1830

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- 1831 d) Operating permits are not required for those pretreatment works or wastewater
1832 sources discharging to a sewer tributary to a treatment works, or directly to a
1833 treatment works, that will not:
1834
1835 1) discharge toxic pollutants, as defined in section 502(13) of the CWA, or
1836 pollutants that may interfere with the treatment process into the receiving
1837 treatment works or be subject to regulations promulgated under section
1838 307 of the CWA;
1839
1840 2) discharge 15% or more of the total hydraulic flow received by the
1841 treatment works; or
1842
1843 3) discharge 15% or more of the total biological loading received by the
1844 treatment works as measured by the 5-day biochemical oxygen demand.
1845

1846 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1847

1848 **Section 309.205 Joint Construction and Operating Permits**
1849

1850 ~~When~~~~In cases where~~ When the Agency determines that a proposed treatment works, pretreatment
1851 works, sewer or wastewater source is sufficiently standard so as to obviate the need for separate
1852 construction and operating permits, the Agency may issue a joint construction and operating
1853 permit.
1854

1855 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1856

1857 **Section 309.206 Experimental Permits**
1858

- 1859 a) To promote ~~developing~~~~In order to promote the development of~~ developing water
1860 pollution control technology, the Agency may issue experimental permits for
1861 treatment processes or techniques that do not satisfy the standards for issuance ~~set~~
1862 ~~forth~~ in 35 Ill. Adm. ~~Code~~~~Section~~ Code 309.241, provided that the applicant
1863 submits clear, cogent and convincing proof that the process or technique has a
1864 reasonable and substantial chance for success.
1865
1866 b) The existence of a valid experimental permit ~~constitutes~~~~shall constitute~~ constitutes
1867 a prima facie defense to any action brought against the permittee for a violation of
1868 this Chapter, but only to the extent that such action is based on the failure of the

~~POLLUTION CONTROL BOARD~~

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1869 process or ~~technique~~techniques, during the period of validity of the permit, to
1870 meet the effluent limitations of water quality standards of this Chapter.

1871
1872 c) An experimental permit may not be issued in lieu of an NPDES Permit when an
1873 NPDES Permit is required.

1874
1875 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1876

1877 **Section 309.208 Permits for Sites Receiving Sludge ~~for~~or Land Application**

1878
1879 a) A construction and an operating permit are required under this Chapter for any
1880 site receiving sludge for land application unless:

- 1881
- 1882 1) The site receives only livestock wastes; or
 - 1883
 - 1884 2) The site receives only septic tank sludges generated from domestic
 - 1885 sources; or
 - 1886
 - 1887 3) The site is regulated under ~~Parts 700 et seq. of~~ the Board's regulations; or
 - 1888

1889 ~~(Note: Prior to codification, Chapter 7: Solid Waste.)~~

- 1890
- 1891 4) The site is specifically identified in an approved sludge management
 - 1892 scheme of an operating or NPDES permit issued by the Agency and
 - 1893 receives sludge exclusively from the permittee; or
 - 1894

- 1895 5) All of the following conditions are satisfied:

1896

- 1897 A) The site is not specifically identified in an NPDES or operating
- 1898 permit of any treatment works or pretreatment works but receives
- 1899 sludge from a treatment works or pretreatment works which has a
- 1900 valid operating permit issued by the Agency, or an NPDES Permit
- 1901 with a sludge management scheme approved by the Agency. The
- 1902 sludge generator must ~~shall~~ inform the user that this requirement
- 1903 has been met; and
- 1904

1905 B) The sludge user applies the sludge to less than 121

1906 ~~hectares~~ha ~~hectares~~ ha (300 acres) under common ownership or

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control in any year; and

C) The sludge is transported, stored and applied by the user in compliance with the approved sludge management scheme of the generator from which the user receives the sludge. Any person who intends to transport, store or apply sludge in any manner other than that described in the approved sludge management scheme must apply for a permit.

b) Notwithstanding ~~subsection~~~~subparagraph~~~~subsections~~ (1) through (5) of ~~subsection~~~~paragraph~~~~paragraph~~ (a), the Agency may require a user receiving sludge for land application to obtain a permit under this Section when the Agency determines that special circumstances ~~require exist such that~~require a permit ~~is required~~ to protect the environment or the public health. In making its determination, the Agency must ~~shall~~ consider the following factors:

- 1) Where the sludge will be stored;
- 2) The proposed rate and method of application of the sludge to the receiving site;
- 3) The quality (constituents and concentrations) of the sludge to be applied to the receiving site; and,
- 4) The geological and hydrological characteristics of the receiving site, including proximity to waters of the State.

c) No permit may be required under ~~subsection~~~~Subsection~~subsection (b) for a user receiving sludge for land application unless the owner or operator is notified in writing of the requirement to apply for a permit. That notification must ~~shall~~ include a statement of the special circumstances requiring the site to be permitted. The requirement of a permit is reviewable only in a permit appeal proceeding.

d) Generators and haulers of municipal water or wastewater treatment plant sludge, which is to be applied to land and which is regulated under this Chapter, need not obtain a special waste hauling permit or prepare, carry and complete a manifest under 35 Ill. Adm. ~~Code~~Part~~Code~~ 706 ~~of the Board's Special Waste Hauling regulations.~~

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1946

(Note: Prior to codification, Chapter 9: Special Waste.)

1947

1948

e) The Agency may establish and revise criteria according to 35 Ill. Adm. ~~Code~~in accordance with Section Code 309.262 for designing, operating, and ~~maintaining the design, operation, and maintenance of~~maintaining facilities regulated under this Section.

1949

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1953

f) For purposes ~~of~~of permit issuance and approval of a sludge management scheme, proof of conformity with Agency criteria ~~is shall~~it be prima facie evidence of no violation of the Act or this Chapter. However, nonconformity with Agency criteria ~~is shall~~ not be grounds for permit denial, or for failure to approve a sludge management scheme, if the applicant submits adequate information showing that the sludge will be stored, transported and applied so as not to cause a violation of the Act or this Chapter.

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1960

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 309.221 Applications -- Contents

1964

1965

a) All applications for any permit required under ~~this~~ Subpart B must ~~shall~~ contain, where appropriate, the following information and documents:

1966

1967

1968

1) A complete description of the volume and nature of the wastewater influent and effluent to be transported, treated or discharged, including a statement as to presence or absence of all contaminants for which effluent or water quality standards are set by this chapter; and

1969

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1972

2) A description of the present condition of the receiving body of water and the effect of the wastewater on such receiving body of water; and

1973

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3) A statement as to any projected changes in the volume or nature of the wastewater which the applicant desires to have included within the terms of the permit; and

1976

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4) A description of the geographic location of the facility or source, and its interrelation with any existing or proposed treatment works, sewer or wastewater source which will transport, treat or discharge the same

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1983 wastewater; and

1984

1985

- 5) Plans and specifications, prepared by an Illinois Registered Professional Engineer when required by the Professional Engineering Practice Act of 1989 (~~[225 ILCS 325] provisions of the Illinois Professional Engineering Act (Ill. Rev. Stat. 1979 ch. 111, pars. 5101 et. seq.)~~), fully describing the design, nature, function and interrelationship of each individual component of the facility or source, except that the Agency may waive this requirement for plans and specifications when the application is for a routine renewal; and

1986

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1990

- 6) A statement identifying and justifying any departure from current design criteria promulgated by the Agency.

1991

1992

1993

- b) The Agency may adopt procedures requiring such additional information as is necessary to determine whether the treatment works, pretreatment works, sewer or wastewater source will meet the requirements of the Act and this Part ~~Chapter~~.

1994

1995

1996

- c) The Agency may prescribe the form in which all information required under this Section ~~must~~shall be submitted.

1997

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1999

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 309.222 Applications ~~—~~ Signatures and Authorizations

2007

2008

- a) An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or his or her duly authorized representative, if ~~the~~such~~the~~ representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship, the application must be signed by a general partner or the proprietor respectively. In the case of a publicly owned facility, the application must be signed by either a principal executive officer, ranking elected official or other duly authorized employee.

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- b) Permit applications for sewer construction or modification must ~~shall~~ be accompanied by signed statements from the owners of all intermediate receiving sewers and the receiving treatment works certifying that their facilities have adequate capacity to transport, ~~and/or~~ treat, or transport and treat, as applicable,

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2021 the wastewater that will be added through the proposed sewer without violating
2022 any provisions of the Act and this Chapter.

2023

2024 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2025

2026 **Section 309.223 Applications** ~~— Delivery Registered or Certified Mail—~~ Delivery

2027

2028 All permit applications must ~~shall~~ be mailed or delivered to the appropriate address designated
2029 by the Agency. ~~Any application or revised application sent by mail shall be sent by registered or~~
2030 ~~certified mail, return receipt requested. Applications which are hand-delivered shall be delivered~~
2031 ~~to and receipted for by any authorized person employed in the Permit Section of the Agency's~~
2032 ~~Division of Water Pollution Control.~~

2033

2034 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2035

2036 **Section 309.224 Applications** ~~—~~ Time to Apply

2037

2038 Any person required under ~~this~~ Subpart B to have a permit must file an application with the
2039 Agency at least 90 days before the date on which the permit is required.

2040

2041 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2042

2043 **Section 309.225 Applications** ~~—~~ Filing and Final Action By Agency

2044

2045 a) An application for permit under ~~this~~ Subpart B must ~~shall~~ not be deemed to be
2046 filed until the Agency has received, at the designated address, all information,
2047 documents and authorizations in the form and with the content required by 35 Ill.
2048 Adm. ~~Code Sections~~ Code 309.221, 309.222 and 309.223 and related Agency
2049 procedures; provided, however, that if the Agency fails to notify the applicant
2050 within 30 days after the filing of a purported application that the application is
2051 incomplete and of the reason the Agency deems it incomplete, the application will
2052 ~~shall~~ be deemed to have been filed ~~on~~ on the date of ~~the~~ such the purported
2053 filing. The applicant may treat the Agency's notification that an application is
2054 incomplete as a denial of the application for purposes of review.

2055

2056 b) If the Agency fails to take final action, by granting or denying the permit as
2057 requested or with conditions, within 90 days ~~after~~ from ~~after~~ the filing of the
2058 application, the applicant may deem the permit granted for a one year period

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2059 commencing on the 91st day after the application under ~~this~~ Subpart B was filed.
2060

2061 c) Any applicant for a permit under ~~this~~ Subpart B may waive the requirement that
2062 the Agency must take final action within 90 days ~~after from~~ after the filing of the
2063 application.

2064
2065 d) The Agency must ~~shall~~ send written notice of final action taken.
2066

2067 e) The Agency ~~will shall be~~ will deemed to have taken final action on the date that the
2068 notice is mailed.

2069
2070 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2071

2072 **Section 309.241 Standards for Issuance**

2073
2074 a) The Agency must ~~shall~~ not grant any permit required by this Subpart B, except an
2075 experimental permit under 35 Ill. Adm. ~~Code~~ Section Code 309.206, unless the
2076 applicant submits adequate proof that the treatment works, pretreatment works,
2077 sewer, or wastewater source will be constructed, modified, or operated so as not
2078 to cause a violation of the Act or of this Subtitle. ~~and~~

2079
2080 b) If the Agency has promulgated, ~~pursuant to Section 309.262,~~ criteria under 35 Ill.
2081 Adm. Code 309.262 with regard to any part or condition of a permit, then for
2082 purposes of permit issuance proof of conformity with the criteria ~~is shall be~~ is
2083 prima facie evidence of no violation. However, non-conformity with the criteria
2084 ~~is shall is~~ is not ~~be~~ grounds to deny the permit ~~application for permit denial~~ application
2085 if the applicant meets the condition of subsection (a) ~~of this section is met~~.

2086
2087 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2088

2089 **Section 309.242 Duration and Termination of Permits Issued Under Subpart B**

2090
2091 a) Construction permits for sewers and wastewater sources must require that
2092 construction be completed within two years. Construction permits for treatment
2093 works and pretreatment works must require that construction be completed within
2094 three years. In situations in which the magnitude and complexity of the project
2095 require it, the Agency may issue a construction permit, requiring completion
2096 within a period not to exceed five years.

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- b) Except ~~under as indicated in~~under subsection (c), an ~~no~~-operating permit must not ~~shall~~ have a duration in excess of five years. The Agency may issue operating permits for as short a period of time as may be necessary ~~in order~~ to facilitate basin planning, to coordinate operating permits with future compliance deadlines, to maintain intensive control over new or experimental processes and to provide for emergency situations.
- c) The Agency may issue operating permits under 35 Ill. Adm. ~~Code Section Code~~ 309.203 for sewers, wastewater sources, and pretreatment works for the lifetime of the sewer or the pretreatment works.
- d) Notwithstanding subsections (b) and (c), any operating permit subject to this Subpart must expire when the Agency ~~issues upon the issuance of~~issues a modified or renewed permit ~~issued by the Agency~~.
- e) A permittee may request termination of a permit by submitting the request in writing to the Agency in a format prescribed by the Agency. The Agency must send written confirmation of the termination to the permittee by certified or registered mail. Termination is effective on the date of written confirmation from the Agency.
- f) A permit may be terminated by the Agency upon determination that a facility no longer operates or ~~exists is no longer in operation or existence~~exists. The Agency must send written notice ~~by via~~by certified or registered mail to the last known address on the permit stating that the permitted system appears no longer in operation or existence. The permit must terminate 60 days after the date of notification unless the permittee requests ~~that~~communicates the desire for ~~that~~ the permit to stay in effect.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.244 Appeals from Conditions in Permits

An applicant may consider any condition imposed by the Agency in a permit issued under ~~pursuant to this~~ Subpart B as a refusal by the Agency to grant the permit, which ~~entitles shall~~ entitle the applicant to appeal the Agency's decision to the Board ~~under pursuant to~~ under Section 40 of the Act.

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2135

2136 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2137

2138 **Section 309.261 Permit No Defense**

2139

2140 Except as provided in 35 Ill. Adm. ~~Code~~SectionCode 309.206, the issuance and possession of a
2141 permit under this Subpart B ~~does~~shalldoes not constitute a defense to a violation of the Act or
2142 this Chapter, except for construction or operation without a permit.

2143

2144 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2145

2146 **Section 309.262 Design, Operation and Maintenance Criteria**

2147

2148 a) The Agency may adopt criteria for the design, operation, and maintenance of
2149 treatment works, pretreatment works, sewers, and wastewater sources. These
2150 criteria shall be revised from time to time to reflect current engineering judgment
2151 and advances in the state of the art. ~~The Board notes that the~~

2152

2153 (BOARD NOTE: The Agency has adopted ~~or is in the process of adopting~~
2154 "Design Criteria for Pressure Sewage Systems" (35 Ill. Adm. Code 374), "Illinois
2155 Recommended Standards for Sewage Works" (35 Ill. Adm. Code 370), and
2156 "Requirements for Plans ~~of Design and of~~ Operation and Operation and
2157 Maintenance Manuals" ~~(35 Ill. Adm. Code 371.)~~;

2158

2159 b) The Agency ~~must~~shallmust adopt such procedures as are necessary to issue
2160 ~~permits for permit issuance~~permits under this Subpart ~~B of Part 309~~.

2161

2162 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2163

2164 **Section 309.263 Modification or Renewal of Permits**

2165

2166 a) Any permit issued by the Agency under ~~this~~ Subpart B may be modified or
2167 renewed to make its provisions compatible with any new regulation adopted by
2168 the Board.

2169

2170 b) Persons with operating permits for pretreatment works subject to this Subpart
2171 must obtain a modified permit before ~~prior to~~ any of the following changes at the
2172 facility:

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- 1) a modification of permitted wastewater characteristics, quantity, or quality;
 - 2) a change in facility ownership, name, or address, so that the application or existing permit is no longer accurate; or
 - 3) a change in operations that will result in the permittee's noncompliance with the Act, a Board Regulation, or an existing permit condition.
- c) The Agency may require modifying or ~~renewing the modification or renewal of~~ renewing any operating permit subject to this Subpart for reasons including, ~~but not limited to:~~
- 1) a change in the requirements applicable to the permittee;
 - 2) the information on the permittee's application is inaccurate; or
 - 3) information that the permittee may not be in compliance with the Act, a Board regulation, or an existing permit condition.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 309.264 Permit Revocation

- a) A permit issued under ~~this~~ Subpart B may be revoked for cause which ~~includes, but is not limited to;~~ include the following:
 - 1) Cause as set forth in 35 Ill. Adm. ~~Code~~ Section ~~Code~~ 309.182(b); or
 - 2) Delinquency in payment of any charges which may be required to be paid under Section 204(b) of the Clean Water Act.
- b) Revocation may be sought by filing a complaint with the Board ~~under~~ pursuant to Part 103 of the Procedural Rules.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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2211 **Section 309.265 Approval of Federal Permits**

2212

2213 The Agency must ~~shall~~ not approve any effluent discharge for the purpose of any federal permit
2214 (other than an NPDES Permit issued by the Administrator), unless ~~that~~ the discharge ~~complies~~ is
2215 ~~in compliance~~ complies with all provisions of the Act and this Chapter, has been granted a
2216 variance, adjusted standard or time-limited water quality standard under ~~Title IX~~ of the Act, or
2217 ~~complies in compliance~~ complies with all terms and conditions of an NPDES Permit.

2218

2219 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2220

2221 **Section 309.266 Procedures (Repealed)**

2222

2223 ~~In addition to procedures specifically authorized under this Part, the Agency may adopt and~~
2224 ~~promulgate all procedures reasonably necessary to perform its duties and responsibilities under~~
2225 ~~this Chapter.~~

2226

2227

2228

2229 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

2230

2231 **Section 309.281 Effective Date (Repealed)**

2232

2233 ~~a) — The effective date of Subpart B is March 7, 1972.~~

2234

2235 ~~b) — Notwithstanding (a) above, Section 309.208 became effective with adoption by~~
2236 ~~the Agency of 35 Ill. Adm. Code 391 on December 14, 1983.~~

2237

2238 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

2239

2240 **Section 309.282 Severability (Repealed)**

2241

2242 ~~If any provision of this Part 309 is adjudged invalid, or if the application thereof to any person or~~
2243 ~~in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Part~~
2244 ~~309 as a whole or of any part, subpart, sentence or clause thereof not adjudged invalid.~~

2245

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2247

2248 (Source: Repealed at 46 Ill. Reg. _____, effective _____)

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2250 **Section 309. ~~Appendix~~ APPENDIX A ~~References to Previous Rules~~ REFERENCES TO**
2251 **PREVIOUS RULES (Repealed)**

2252

2253 ~~The following table is provided to aid in referencing old Board Rule numbers to section numbers~~
2254 ~~pursuant to codification.~~

2255

~~Chapter 3: Water Pollution Part IX, Permits 35 Ill. Admin. Code Part 309~~

Unnumbered Preamble	Section 309.101
Rule 901	Section 309.102
Rule 902	Section 309.103
Rule 902(i)	Section 309.104
Rule 902(j)	Section 309.105
Rule 903	Section 309.106
Rule 904	Section 309.107
Rule 905	Section 309.108
Rule 906(a)	Section 309.109(a)
Rule 906(b)	Section 309.109(b)
Rule 906(c)	Section 309.110
Rule 906(d)	Section 309.111(a)
Rule 906(e)	Section 309.111(b)
Rule 906(f)	Section 309.112
Rule 907	Section 309.113
Rule 908	Section 309.114
Rule 909(a)	Section 309.115(a) and (b)
Rule 909(b)	Section 309.115(c)
Rule 909(c)	Section 309.115(d)
Rule 909(d)	Section 309.115(e)
Rule 909(e)	Section 309.116
Rule 909(f)	Section 309.117
Rule 909(g)	Section 309.118
Rule 909(h)	Section 309.119
Rule 910(a)	Section 309.141
Rule 910(b)	Section 309.142
Rule 910(c)	Section 309.143
Rule 910(d)	Section 309.144
Rule 910(e)	Section 309.145
Rule 910(f)	Section 309.146

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Rule 910(g)	Section 309.147
Rule 910(h)	Section 309.148
Rule 910(i)	Section 309.149
Rule 910(j)	Section 309.150
Rule 910(k)	Section 309.151
Rule 910(l)	Section 309.152
Rule 910(m)	Section 309.153
Rule 910(n)	Section 309.154
Rule 911	Section 309.181
Rule 912	Section 309.182
Rule 913	Section 309.183
Rule 914	Section 309.184
Rule 915	Section 309.185
Rule 916	Section 309.191
Rule 918	Section 309.156
Rule 949	Section 309.155
Unnumbered Preamble	Section 309.201
Rule 950	Section 309.208
Rule 951	Section 309.202
Rule 952	Section 309.203
Rule 953	Section 309.204
Rule 954	Section 309.205
Rule 955	Section 309.206
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Rule 957	Section 309.221
Rule 958	Section 309.222
Rule 959	Section 309.223
Rule 960	Section 309.224
Rule 961	Section 309.225
Rule 962	Section 309.241
Rule 963	Section 309.242
Rule 964	Section 309.243
Rule 965	Section 309.244
Rule 966	Section 309.261
Rule 967	Section 309.262
Rule 968	Section 309.263
Rule 969	Section 309.264
Rule 970	Section 309.265

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Rule 971	Section 309.266
Rule 972	Section 309.281
Rule 973	Section 309.282

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(Source: Repealed at 46 Ill. Reg. _____, effective _____)

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Moved to	1
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Format changes	0

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