

Electronic Filing: Received, Clerk's Office 01/17/2023

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Fox, Tim](#)
Subject: FW: R18-23 (Register issue 20)
Date: Tuesday, January 17, 2023 10:29:44 AM
Attachments: [35-308 JCAR Sugg Chgs.pdf](#)
[image001.png](#)
[35-308RG-P r01.pdf](#)

Good morning, Mr. Clerk:

Please docket this email exchange with JCAR, including the two attachments, as a public comment in R18-23.

Thank you.

Richard R. McGill, Jr.
Senior Attorney for Research & Writing
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, Illinois 60605
richard.mcgill@illinois.gov (312) 814-6983



From: McGill, Richard
Sent: Tuesday, January 17, 2023 10:18 AM
To: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: RE: R18-23 (Register issue 20)

Good morning, Jonathan:

I've attached two documents. The first document contains Board staff responses to your proposed Part 308 changes emailed to me on May 26, 2022. The second document is the JCAR line-numbered r01 referenced in your changes and our responses. Our responses include related changes prompted by your suggestions.

Thank you for your careful review. Please let me know if you have any questions.

Best regards,

Richard

Richard R. McGill, Jr.
Senior Attorney for Research & Writing
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, Illinois 60605

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richard.mcgill@illinois.gov (312) 814-6983



From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Thursday, May 26, 2022 1:36 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] R18-23 (Register issue 20)

Richard –

Attached are suggested first notice changes for the PCB rules published in Issue 20 of the *Illinois Register*. A few notes:

1. USC vs. U.S.C. – Kim changed these to U.S.C. at publication to comply with the style guide. I understand that we've been changing U.S.C. to USC for years now and that the Board can't turn on a dime and easily reverse all of those earlier changes. JCAR's position is that we should make sure that the references in current and future rulemakings say U.S.C. but that having several residual USCs hanging about in the Code until their Sections are reopened shouldn't cause too much confusion.
2. IAC citations: We appreciated the initiative to make IAC citations more precise. Citations to other Parts should be preceded by "35 Ill. Adm. Code". However, across the Code the convention is for internal cross-references to refer to Section ###.### rather than to use the longer format. In the changes proposed, we did our best to standardize this.
3. Subsection headings: Although the convention in the CFR is for a subsection heading to capitalize only the first word and end with a period, the convention in the IAC is to use title case and no punctuation (unless the text of the subsection starts on the same line of the heading, in which case a period is added).
4. We've made a number of suggested changes to further clarify and simplify the language in these Parts in the spirit of the Board's initiative. Many of these would have been unilaterally made by Vicki at publication, but JCAR's current approach is much more collaborative. If we have been too aggressive in our proposals, please don't feel obliged to accept them.
5. Moving forward, especially on the really big rulemakings, would it be possible for the Board to submit revisions in predraft form first? That would enable changes to phrases that occur quite frequently without the need for individually written amendments (the number of proposals we've made for Part 307 is somewhat exceptional, and I imagine neither agency really relishes the prospect of similar lists...).

Thanks in advance for your consideration. Please let me know if you have any questions or concerns.

All the best,

Jonathan

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Jonathan C. Eastvold, Ph.D.
Rules Analyst III

Illinois General Assembly
Joint Committee on Administrative Rules
700 Stratton Building
Springfield IL 62706
217-524-9010

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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Thursday, May 26, 2022 1:36 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] R18-23 (Register issue 20)

Richard –

Attached are suggested first notice changes for the PCB rules published in Issue 20 of the *Illinois Register*. A few notes:

- 1) USC vs. U.S.C. – Kim changed these to U.S.C. at publication to comply with the style guide. I understand that we've been changing U.S.C. to USC for years now and that the Board can't turn on a dime and easily reverse all of those earlier changes. JCAR's position is that we should make sure that the references in current and future rulemakings say U.S.C. but that having several residual USCs hanging about in the Code until their Sections are reopened shouldn't cause too much confusion.
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Thanks in advance for your consideration. Please let me know if you have any questions or concerns.

All the best,

Jonathan

Jonathan C. Eastvold, Ph.D.
Rules Analyst III

Illinois General Assembly
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700 Stratton Building
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217-524-9010

Board staff responses and related changes (1/17/23) appear in bold, red font below.

SUGGESTED FIRST NOTICE CHANGES

Agency: Pollution Control Board

Rulemaking: Disposal of Wastes from Watercraft (35 Ill. Adm. Code 308; 46 Ill. Reg. 7608)

Changes:

1. In line 36, after "incinerate" add a comma.
Agree.
2. In line 41, after "watercraft" strike the comma.
Agree.
3. In lines 48, 51, and 55, strike "which" and add "that".
a. Agree.
b. In line 52, strike "such" and add "these".
4. In line 63, strike "to" and add "into".
Agree.

jce
5/23/22

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

PART 308
DISPOSAL OF WASTES FROM WATERCRAFT

Section

- 308.101 Preamble
- 308.102 Marine Toilets
- 308.103 Contaminated Bilge or Ballast Waters
- 308.104 Statewide Application

308.APPENDIX References to Previous Rules (Repealed)

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

SOURCE: Filed with the Secretary of State January 1, 1978; amended 3 Ill. Reg. no. 25, p. 190, effective June 21, 1979; codified 6 Ill. Reg. 7818; amended in 18-23 at 46 Ill. Reg. _____, effective _____.

Section 308.101 Preamble

This Part addresses water pollution controls for the disposal of wastes from watercraft.

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

Section 308.102 Marine Toilets

- a) A person owning or operating a watercraft with a marine toilet must not use, or permit the use of, the toilet on the waters of this State, unless the toilet is equipped with facilities that will treat, hold, incinerate or otherwise handle the waste in a manner capable of preventing water pollution as described in subsection (c).
- b) A person must not dispose of any sewage or wastewater accumulated in a holding tank or any other container on a watercraft, in such a manner that the sewage or wastewater reaches or may reach the waters of the State, except by pumpout to an operating sewage works approved by the Agency or operated under a permit issued by the Agency.
- c) Acceptable pollution control devices are:
 - 1) Holding tanks which retain wastes from marine toilets for proper disposal

1st Notice

JCAR350308-2207608r01

45 under subsection (b).

46

47 2) Incinerating devices which will reduce to ash all sewage and toilet wastes
48 produced on the watercraft. The ash from such devices must not be
49 disposed of in the waters of Illinois.

50

51 3) Any other device determined by the Agency to provide an effluent which
52 meets the effluent criteria of this Chapter.

53

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

55

Section 308.103 Contaminated Bilge or Ballast Waters

56

57 Bilge or ballast water that fails to meet the effluent standards of 35 Ill. Adm. Code 304 must not
58 be discharged to the waters of the State.

59

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

61

Section 308.104 Statewide Application

62

63 This Part applies to all waters of the State unless preempted under Section 312 of the CWA.

64

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

66

Section 308.APPENDIX References To Previous Rules (Repealed)

67

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

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