

**From:** [McGill, Richard](#)  
**To:** [Brown, Don](#)  
**Cc:** [Fox, Tim](#)  
**Subject:** FW: R18-23 (Register issue 20)  
**Date:** Tuesday, January 17, 2023 10:31:15 AM  
**Attachments:** [35-312 JCAR Sugg Chgs.pdf](#)  
[image001.png](#)  
[35-312RG-P r01.pdf](#)

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



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**From:** McGill, Richard  
**Sent:** Tuesday, January 17, 2023 10:21 AM  
**To:** Eastvold, Jonathan C. <[JonathanE@ilga.gov](mailto: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 312 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

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**From:** Eastvold, Jonathan C. <[JonathanE@ilga.gov](mailto:JonathanE@ilga.gov)>  
**Sent:** Thursday, May 26, 2022 1:36 PM  
**To:** McGill, Richard <[Richard.McGill@illinois.gov](mailto: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

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

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Joint Committee on Administrative Rules  
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217-524-9010

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**Sent:** Thursday, May 26, 2022 1:36 PM  
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**Board staff responses and related changes (1/17/23) appear in bold, red font below.**

## PROPOSED FIRST NOTICE CHANGES

**Agency:** Pollution Control Board

**Rulemaking:** Treatment Plant Operator Certification (35 Ill. Adm. Code 312; 46 Ill. Reg. 7677)

### Changes:

However, in line 18, we may want to suggest striking the citation to the former codification at chapter 111 1/2, which we proposed in our first-notice order.

1. In line 34, strike "such" and add "that".  
**a. Disagree. Strike "such" and add "the".**  
**b. In line 18, strike "(Ill. Rev. Stat. 1979, ch. 111 1/2, pars. 1027 and 1013)".**
2. In line 42, strike "The Agency", "adopt", and "procedures which" and change "must" to "Agency rules in 35 Ill. Adm. Code 380".  
**Disagree. Strike "The Agency", "adopt", and "procedures which" and change "must" to "Agency rules in 35 Ill. Adm. Code 380 (Procedure for the Certification of Operators of Wastewater Treatment Works)".**
3. In line 43, strike the period, "classes", and "be" and delete "The" and "must".  
**Agree.**
4. In line 44, strike the comma and "on".  
**Agree.**
5. In line 44, strike "The procedures" and change "must" to "Those rules also".  
**Agree.**
6. In line 53, strike "he or she" and add "the person".  
**Agree.**
7. In line 54, delete "he or she seeks" and reinstate "is sought".  
**Agree.**
8. In line 61, delete "35 Ill. Adm. Code" and reinstate "this Part".  
**Agree.**
9. In line 63, delete "35 Ill. Adm. Code 312" and reinstate "this Part".

**Agree.**

10. In line 69, strike "in a manner similar" and add "pursuant to Section 40 of the Act and 35 Ill. Adm. Code 105 (Appeals of Final Decisions of State Agencies)."

**Disagree. Section 40 of the Act addresses appeals of Agency *permit* decisions. Appealing these Agency *certification* decisions would not be “pursuant to” Section 40.**

**In line 69, strike “in a manner similar” and add “in the manner provided for reviewing permit decisions under Section 40 of the Act and 35 Ill. Adm. Code 105 (Appeals of Final Decisions of State Agencies)”.**

11. In line 70, strike all existing text and delete all added text.

**Agree.**

*jce*  
5/26/22

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

PART 312  
TREATMENT PLANT OPERATOR CERTIFICATION

Section

- 312.100 References to Other Sections (Repealed)
- 312.101 Prohibition
- 312.102 Classifications
- 312.103 Standards for Certification
- 312.104 Procedures
- 312.105 Appeals
- 312.APPENDIX References to Previous Rules (Repealed)

AUTHORITY: Authorized by Section 27 and implementing Section 13 of the Environmental Protection Act [415 ILCS 5/27 and 13] (Ill. Rev. Stat. 1979, ch. 111 1/2, pars. 1027 and 1013).

SOURCE: Filed with the Secretary of State January 1, 1978; codified 6 Ill. Reg. 7818; amended in 18-23 at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 312.100 References to Other Sections (Repealed)**

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

**Section 312.101 Prohibition**

A person must not cause or allow the use or operation of any treatment works for which a permit is required by 35 Ill. Adm. Code 309 unless the operation of such treatment works is under the direct and active field supervision of a person who has been certified by the Agency as competent to operate the particular type or size of treatment works being used or operated.

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

**Section 312.102 Classifications**

The Agency must adopt procedures which classify treatment works by type and size. The classes must be based on the volume and nature of wastewater influent to the treatment works, and on the complexity of the treatment works. The procedures must contain corresponding standards defining the class or classes of operators competent to operate a particular type or size of treatment works.

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

## **1<sup>st</sup> Notice**

JCAR350312-2207677r01

45

### **Section 312.103 Standards for Certification**

47

48 The Agency must not certify a person as a competent operator unless the person submits  
49 adequate proof that he or she is competent to operate the particular class of treatment works for  
50 which he or she seeks certification in a manner that will not cause a violation of the Act or this  
51 Chapter.

52

53 (Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

54

### **Section 312.104 Procedures**

56

57 In addition to the procedures required by 35 Ill. Adm. Code 312, the Agency may adopt all  
58 procedures reasonably necessary to perform its duties and responsibilities under 35 Ill. Adm.  
59 Code 312.

60

61 (Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

62

### **Section 312.105 Appeals**

64

65 An applicant for certification may appeal the Agency's decision to the Board in a manner similar  
66 to that in 35 Ill. Adm. Code 309.244.

67

68 (Source: Amended at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

69

### **Section 312.APPENDIX References to Previous Rules (Repealed)**

72

73 (Source: Repealed at 46 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)