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IDENTICAL FIRST NOTICE STATE OF ILLINOIS
LINE NUMBERED VERSION Pollution Control Board

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1ST NOTICE VERSION

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2 SUBTITLE C: WATER POLLUTION
3 CHAPTER I: POLLUTION CONTROL BOARD
4

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6 PERMITS
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309 APPENDIX A References to Previous Rules

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].

SOURCE: Adopted in R71-14, at 4 PCB 3, March 7, 1972; amended in R73-11, 12, at 14 PCB 661, December 5, 1974, at 16 PCB 511, April 24, 1975, and at 28 PCB 509, December 20, 1977; amended in R73-11, 12, at 29 PCB 477, at 2 Ill. Reg. 16, p. 20, effective April 20, 1978; amended in R79-13, at 39 PCB 263, at 4 Ill. Reg. 34, p. 159, effective August 7, 1980; amended in R77-12B, at 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1612, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2495, effective January 13, 1988; amended in R88-1 at 13 Ill. Reg. 5993, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2892, effective February 13, 1990; amended in R91-5 at 16 Ill. Reg. 7339, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5526, effective April 1, 1996; amended in R99-8 at 23 Ill. Reg. 11287, effective August 26, 1999; amended in R02-11 at 27 Ill. Reg. 202, effective December 20, 2002; amended in R03-19 at 27 Ill. Reg. _____, effective _____.

SUBPART A: NPDES PERMITS

Section 309.107 Distribution of Applications

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

- 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 evaluation of the impact of the discharge on anchorage and navigation. If the District Engineer responds that anchorage and navigation of any of the navigation waters would be substantially impaired by the granting of a permit, the permit will be denied and the Agency shall notify the applicant. If the District Engineer informs the Agency that the imposition of specified conditions upon the NPDES Permit is necessary to avoid any substantial impairment of any of the navigable waters, the Agency shall include in the permit those conditions specified by the District Engineer.
- b) Send two copies 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 (IDNR), subject to any memorandum of agreement between the Agency and the IDNR.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

130 **Section 309.108 Tentative Determination and Draft Permit**
131

132 Following the receipt of a complete application for an NPDES Permit, the Agency shall prepare
133 a tentative determination. Such determination shall include at least the following:

- 134 a) A Statement regarding whether an NPDES Permit is to be issued or denied; and
- 135 b) If the determination is to issue the permit, a draft permit containing:
 - 136 1) Proposed effluent limitations, consistent with federal and state
 - 137 requirements;
 - 138 2) A proposed schedule of compliance, if the applicant is not in compliance
 - 139 with applicable requirements, including interim dates and requirements
 - 140 consistent with the CWA and applicable regulations, for meeting the
 - 141 proposed effluent limitations;
 - 142 3) A brief description of any other proposed special conditions which will
 - 143 have a significant impact upon the discharge.
- 144 c) A brief description statement of the basis for each of the permit conditions listed in
145 Section 309.108(b), including a brief description of any mixing zones, how the
146 conditions of the draft permit were derived, and the statutory or regulatory
147 provisions and appropriate supporting references.
- 148 d) Upon tentative determination to issue or deny an NPDES Permit:
 - 149 1) If the determination is to issue the permit the Agency shall notify the
 - 150 applicant in writing of the content of the tentative determination and draft
 - 151 permit and of its intent to circulate public notice of issuance in accordance
 - 152 with Sections 309.108 through 309.112;
 - 153 2) If the determination is to deny the permit, the Agency shall notify the
 - 154 applicant in writing of the tentative determination and of its intent to
 - 155 circulate public notice of denial, in accordance with Sections 309.108
 - 156 through 309.112. In the case of denial, notice to the applicant shall
 - 157 include a statement of the reasons for denial, as required by Section 39(a)
 - 158 of the Act.
- 159 e) For the purposes of Title X of the Act [415 ILCS 5/Title X], the documents
160 supporting the Agency's tentative decision to issue or deny an NPDES permit
161 under this Section shall be either identified in or made part of the Agency record.
162

163 (Source: Amended at 27 Ill. Reg. _____, effective _____)
164

165 **Section 309.112 Agency Action After Comment Period**
166

167 Subject to Section 309.120, if after the comment period provided, no public hearing is held
168 with respect to the permit, the Agency shall, after evaluation of any comments which may have
169 been received, either issue or deny the permit.
170

171 (Source: Amended at 27 Ill. Reg. _____, effective _____)
172

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 309.114 Notice to Other Governmental Agencies

At the time of issuance of public notice pursuant to Sections 309.109 through 309.112, the Agency shall:

- a) Send a fact sheet, if one has been prepared, to any other States whose waters may be affected by the issuance of the proposed permit and, upon request, provide such States with a copy of the application and a copy of the draft permit. Each affected State 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 shall provide to the affected ~~state~~ State or ~~states~~ States (and to the Regional Administrator) a written explanation of its reasons for declining to accept any of the written recommendations.
- b) Following the procedure set forth in subsection (a) above, notify and receive recommendations from any interstate agency having water quality control authority over waters which may be affected by the permit.
- c) 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~~ navigable waters.
- d) Upon request, send a copy of the public notice and a copy of the fact sheet for NPDES Permit applications to any other Federal, ~~state~~ State; or local agency, or any affected country, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to Sections 309.115-309.119. Such agencies shall include at least the following:
 - 1) The agency responsible for the preparation of an approved plan pursuant to Section 208(b) of the CWA; and
 - 2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under Section 303(e) of the CWA.
- e) Send notice to, and coordinate with, appropriate public health agencies for the purpose of assisting the applicant in integrating the relevant provisions of the CWA with any applicable requirements of such public health agencies.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 309.119 Agency Action After Hearing

Subject to Section 309.120, following Following the public hearing, the Agency may make such modifications in the terms and conditions of proposed permits as may be appropriate and shall

259 transmit to the Regional Administrator for his approval a copy of the permit proposed to be
 260 issued unless the Regional Administrator has waived his right to receive and review permits of
 261 its class. The Agency shall provide a notice of such transmission to the applicant, to any person
 262 who participates in the public hearing, to any person who requested a public hearing, and to
 263 appropriate persons on the mailing list established under Sections 309.109 through 309.112.
 264 Such notice shall briefly indicate any significant changes which were made from terms and
 265 conditions set forth in the draft permit. All permits become effective when issued unless a
 266 different date is specified in the permit.

267
 268 (Source: Amended at 27 Ill. Reg. _____, effective _____)
 269

270 **Section 309.120 Reopening the Record to Receive Additional Written Comment**
 271

- 272 a) The Agency shall order the public comment period reopened to receive additional
 273 written comments where the Agency significantly modifies the draft permit and
 274 the final permit is not a logical outgrowth of the proposed draft permit. In
 275 determining if the final permit is a logical outgrowth of the draft permit, the
 276 Agency shall consider the following:
- 277 1) Whether the interested parties could not have reasonably anticipated the
 278 final permit from the draft permit;
 - 279 2) Whether a new round of notice and comment would provide interested
 280 parties the first opportunity to offer comments on the issue;
 - 281 3) Whether the provisions in the final permit deviate sharply from the
 282 concepts included in the draft permit or suggested by the commenters; or
 - 283 4) Whether the changes made in the final permit represent an attempt by the
 284 Agency to respond to suggestions made by commenters.
- 285 b) The public notice of any comment period extended under this Section shall
 286 identify the issues as to which the public comment period is being reopened.
 287 Comments filed during the reopened period shall be limited to the substantial new
 288 issues that caused its reopening.
- 289 c) For notification purposes, the Agency shall follow the public notice requirements
 290 of Section 309.109.

291
 292 (Source: Added at 27 Ill. Reg. _____, effective _____)
 293

294 **Section 309.143 Effluent Limitations**
 295

- 296 a) Effluent limitations must control all pollutant or pollutant parameters (either
 297 conventional, nonconventional, or toxic pollutants) the Agency determines are, or
 298 may be, discharged at a level that will cause, have the reasonable potential to
 299 cause, or contribute to an excursion above any State water quality standard,
 300 including State narrative criteria for water quality.
- 301 b) In the application of effluent standards and limitations, water quality standards

302 and other applicable requirements, the Agency shall, for each permit, specify
 303 average and maximum daily quantitative limitations for the level of pollutants in
 304 the authorized discharge in terms of weight (except pH, temperature, radiation,
 305 and any other pollutants not appropriately expressed by weight, and except for
 306 discharges whose constituents cannot be appropriately expressed by weight). The
 307 Agency may, in its discretion, in addition to specification of daily quantitative
 308 limitations by weight, specify other limitations, such as average or maximum
 309 concentration limits, for the level of pollutants in the authorized discharge.
 310 Effluent limitations for multiproduct operations shall provide for appropriate
 311 waste variations from such plants. Where a schedule of compliance is included as
 312 a condition in a permit, effluent limitations shall be included for the interim
 313 period as well as for the period following the final compliance date.
 314

315 (Source: Amended at 27 Ill. Reg. _____, effective _____)
 316

317 **Section 309.146 Authority to Establish Recording, Reporting, Monitoring and Sampling**
 318 **Requirements**
 319

- 320 a) The Agency shall require every holder of an NPDES Permit, as a condition of the
 321 NPDES Permit issued to the holder, to
 322 1) Establish, maintain and retain records;
 323 2) Make reports adequate to determine the compliance or lack of compliance
 324 with all effluent limits and special conditions in the permit;
 325 3) Install, calibrate, use and maintain monitoring equipment or methods
 326 (including where appropriate biological monitoring methods);
 327 4) Take samples of effluents (in accordance with such methods, at such
 328 locations, at such intervals, and in such a manner as may be prescribed;
 329 and
 330 5) Provide such other information as may reasonably be required.
 331 b) The Agency may require every holder of an NPDES Permit for a publicly owned
 332 and publicly regulated treatment works, as a condition of the NPDES Permit, to
 333 require industrial users of such a treatment works to:
 334 1) Establish, maintain and retain records;
 335 2) Make reports;
 336 3) Install, calibrate, use and maintain monitoring equipment or methods
 337 (including where appropriate biological monitoring methods);
 338 4) Take samples of effluents (in accordance with such methods, at such
 339 locations, at such intervals, and in such a manner as may be prescribed);
 340 and
 341 5) Provide such other information as may reasonably be required.
 342 c) All such requirements shall be included as conditions of the NPDES Permit issued
 343 to the discharger, and shall be at least as stringent as those required by applicable
 344 federal regulations when these become effective.

345 d) All permits shall specify requirements concerning the proper use, maintenance,
346 and installation, when appropriate, of monitoring equipment or methods
347 (including biological monitoring methods, when appropriate); required
348 monitoring, including type, interval, and frequency sufficient to yield data
349 representative of the monitored activity, including, when appropriate, continuous
350 monitoring.

351
352 (Source: Amended at 27 Ill. Reg. _____, effective _____)