



OFFICE OF THE SECRETARY OF STATE

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June 20, 2016

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JUN 22 2016

STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 40, Issue 26 of the Illinois Register, dated 6/24/2016.

ADOPTED RULES

Permits

35 Ill. Adm. Code 309

8597

Point of Contact: Jason James

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

COPY

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NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
309.104	Amendment
309.201	Amendment
309.202	Amendment
309.203	Amendment
309.204	Amendment
309.242	Amendment
309.263	Amendment
- 4) Statutory Authority: Implementing Section 25 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/25 and 27].
- 5) Effective Date of Amendments: JUN 13 2016
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do these amendments contain incorporations by reference? No.
- 8) The text of the adopted amendments is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 39 Ill. Reg. 15103; November 20, 2015
- 10) Has JCAR issued a Statement of Objections to these amendments? Yes
- 11) Differences between proposal and final version: In Section 309.201(b), "these discharges" was changed to "they" and the period at the end of that sentence in the same section was changed to a colon.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any amendments pending on this Part? No.

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15) Summary and Purpose of Amendments: The amendments to Part 309 streamline the process for various processes relating to water pollution permitting. Specifically, the amendments allow IEPA to accept a renewal application for an NPDES permit at any time up to the expiration date of the existing permit and administratively continue the existing permit. The amendments also make explicit certain permitting exemptions that already exist in practice, create new exemptions for facilities that do not warrant technical review, and allow IEPA to grant lifetime operating permits for certain facilities that pose no likelihood of violating applicable water quality standards.

16) Information and questions regarding these adopted amendments shall be directed to:

Jason James
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

312-814-66929
jason.james@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R15-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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NOTICE OF ADOPTED AMENDMENTS

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

PART 309
PERMITS

SUBPART A: NPDES PERMITS

Section	
309.101	Preamble
309.102	NPDES Permit Required
309.103	Application – General
309.104	Renewal
309.105	Authority to Deny NPDES Permits
309.106	Access to Facilities and Further Information
309.107	Distribution of Applications
309.108	Tentative Determination and Draft Permit
309.109	Public Notice
309.110	Contents of Public Notice of Application
309.111	Combined Notices
309.112	Agency Action After Comment Period
309.113	Fact Sheets
309.114	Notice to Other Governmental Agencies
309.115	Public Hearings on NPDES Permit Applications
309.116	Notice of Agency Hearing
309.117	Agency Hearing
309.118	Agency Hearing File
309.119	Agency Action After Hearing
309.120	Reopening the Record to Receive Additional Written Comment
309.141	Terms and Conditions of NPDES Permits
309.142	Water Quality Standards and Waste Load Allocation
309.143	Effluent Limitations
309.144	Federal New Source Standards of Performance
309.145	Duration of Permits
309.146	Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements
309.147	Authority to Apply Entry and Inspection Requirements
309.148	Schedules of Compliance
309.149	Authority to Require Notice of Introduction of Pollutants into Publicly Owned

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	Treatment Works
309.150	Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307 and 308 of the Clean Water Act
309.151	Maintenance and Equipment
309.152	Toxic Pollutants
309.153	Deep Well Disposal of Pollutants (Repealed)
309.154	Authorization to Construct
309.155	Sewage Sludge Disposal
309.156	Total Dissolved Solids Reporting and Monitoring
309.157	Permit Limits for Total Metals
309.181	Appeal of Final Agency Action on a Permit Application
309.182	Authority to Modify, Suspend or Revoke Permits
309.183	Revision of Schedule of Compliance
309.184	Permit Modification Pursuant to Variance
309.185	Public Access to Information
309.191	Effective Date

SUBPART B: OTHER PERMITS

Section	
309.201	Preamble
309.202	Construction Permits
309.203	Operating Permits; New or Modified Sources
309.204	Operating Permits; Existing Sources
309.205	Joint Construction and Operating Permits
309.206	Experimental Permits
309.207	Former Permits (Repealed)
309.208	Permits for Sites Receiving Sludge for Land Application
309.221	Applications – Contents
309.222	Applications – Signatures and Authorizations
309.223	Applications – Registered or Certified Mail
309.224	Applications – Time to Apply
309.225	Applications – Filing and Final Action By Agency
309.241	Standards for Issuance
309.242	Duration <u>and Termination</u> of Permits Issued Under Subpart B
309.243	Conditions
309.244	Appeals from Conditions in Permits
309.261	Permit No Defense
309.262	Design, Operation and Maintenance Criteria
309.263	Modification <u>or Renewal</u> of Permits

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309.264	Permit Revocation
309.265	Approval of Federal Permits
309.266	Procedures
309.281	Effective Date
309.282	Severability

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 28 Ill. Reg. 7310, effective May 7, 2004; amended in R07-9 at 32 Ill. Reg. 14995, effective September 8, 2008; amended in R08-09(D) at 39 Ill. Reg. 9433, effective June 26, 2015; amended in R15-24 at 40 Ill. Reg. _____, effective _____.

SUBPART A: NPDES PERMITS

Section 309.104 Renewal

- a) Any permittee who wishes to continue to discharge after the expiration date of ~~the~~^{this} NPDES Permit ~~must timely~~^{shall} apply for reissuance of the permit ~~not less than 180 days prior to the expiration date 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 prior to the expiration date of the

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

- B) The Agency shall not grant a waiver for applications to be submitted later than the expiration date of the existing permit.

- C) Any Agency decision to deny a waiver request must be made within 21 days after receipt of the waiver request.

- 2) The terms and conditions of an expiring permit remain effective and enforceable against the discharger until the Agency takes final action on the pending permit application, only if:
 - A) the permittee has submitted a timely application pursuant to subsection (a)(1); and

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

- b) All permittees that timely apply for an NPDES permit renewal must pay an annual NPDES discharge fee pursuant to Section 12.5 of the Act.

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

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART B: OTHER PERMITS

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Section 309.201 Preamble

- a) This Subpart B establishes basic rules for the issuance of permits for the construction, modification and operation of treatment works, pretreatment works, sewers, wastewater sources and other discharges ~~that~~ which are not required to have NPDES Permits.
- b) The following discharges are exempt from the operating permit requirement of this Subpart. However, they may be subject to the construction permit requirement:
 - 1) ~~discharges~~Discharges for which a pretreatment permit has been issued by the Agency pursuant to 35 Ill. Adm. Code 310;;
 - 2) discharges for which a pretreatment permit has been issued by USEPA pursuant to the federal Clean Water Act; or
 - 3) ~~discharges~~Discharges for which an authorization to discharge has been issued by a publicly owned treatment works (POTW) with a an approved pretreatment program approved by the Agency, pursuant to 35 Ill. Adm. Code 310, or approved by USEPA pursuant to federal law. ~~are exempt from the operating permit requirement of this Subpart. However, such discharges may be subject to the construction permit requirements.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 309.202 Construction Permits

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

- a) No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a construction permit issued by the Agency, except as provided in subsections (c) and (d)~~paragraph (b)~~.
- b) For groundwater remediation systems, with or without pretreatment, a permit is required for construction of:

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- 1) a new sewer to a publicly owned or publicly regulated sanitary or combined sewer; or
 - 2) a wastewater source that discharges to a publicly owned or publicly regulated sanitary or combined sewer.
- c) Construction permits shall not be required for the following:
- 1) ~~storm~~Storm sewers that transport only land runoff; ~~or~~
 - 2) ~~any~~Any treatment works, sewer or wastewater source designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day (5700 l/day) of domestic sewage and which will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer; ~~or~~
 - 3) ~~any~~Any sewer required by statute to secure a permit pursuant to Section 3 of the Mobile Home Park Act [210 ILCS 115]"~~An Act to provide for, license and regulate mobile homes and mobile home parks~~", P.A. 77-1472, (Ill. Rev. Stat. 1981, ch. 111½, par. 713); ~~or~~
 - 4) ~~any~~Any treatment works, pretreatment works, sewer or wastewater source that, on the effective date of this Subpart B, is being constructed or will be constructed under the authorization of a permit already issued by the Agency or its predecessors; provided however, that all construction must be completed within four years from the effective date of this Subpart B; ~~or~~
 - 5) ~~privately~~Privately owned sewers tributary to industrial treatment works owned by the same person if the additional waste load does not exceed the permitted design capacity of the industrial treatment works; or-
 - 6) cooling towers, oil/water separators, pH adjustment facilities without additional pretreatment, groundwater remediation system pretreatment, reverse osmosis treatment for industrial source water, multi-media filtration for industrial source water, disposable cartridge type (or similar) filtration systems, ion-exchange systems for industrial source waters, and all associated pipes, pumps, and appurtenances necessary for the installation and operation of these permit exempt treatment systems.

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- de) No person ~~without a construction permit issued by the Agency~~ shall cause or allow the construction of any pretreatment works or cause or allow the modification of any existing pretreatment works without a construction permit issued by the Agency, unless exempt pursuant to Section 309.202(c) if those such pretreatment works, after construction or modification, will:
- 1) ~~discharge~~Discharge toxic pollutants, as defined in Section 502(13) of the CWA, or pollutants which may interfere with the treatment process into the receiving treatment works or be subject to regulations promulgated under ~~section~~Section 307 of the Clean Water Act (CWA); or
 - 2) ~~discharge~~Discharge 15% or more of the total hydraulic flow received by the treatment works; or
 - 3) ~~discharge~~Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand₅;

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 309.203 Operating Permits; New or Modified Sources

- a) No person shall cause or allow the use or operation of any treatment works, sewer, pretreatment works or wastewater source for which a construction permit is required under Section 309.202 without an operating permit issued by the Agency, except as may be authorized by the construction permit.
- b) No operating permit is required under this Section for any discharge:
 - 1) ~~for~~For which an NPDES permit is required; ~~or~~
 - 2) ~~for~~For which a pretreatment permit has been issued by the Agency, pursuant to 35 Ill. Adm. Code 310;
 - 3) for which a pretreatment permit has been issued by USEPA pursuant to federal law; or
 - 4) ~~for~~For which an authorization to discharge has been issued by a POTW with ~~an approved~~an approved pretreatment program approved by the Agency, pursuant to 35 Ill. Adm. Code 310, or approved by USEPA under federal

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law.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 309.204 Operating Permits; Existing Sources

- a) No person shall cause or allow the use or operation of any treatment works, pretreatment works or wastewater source without an operating permit issued by the Agency, except as provided in subsections (b), (c) and (d).
- b) No operating permit is required under this Section for any discharge:
 - 1) ~~for~~For which an NPDES permit is required;~~or~~
 - 2) ~~for~~For which a pretreatment permit has been issued by the Agency pursuant to 35 Ill. Adm. Code 310;~~;~~
 - 3) for which a pretreatment permit has been issued by USEPA pursuant to federal law; or
 - 4) ~~for~~For which an authorization to discharge has been issued by a POTW with ~~an approved~~pretreatment program approved by the Agency, pursuant to 35 Ill. Adm. Code 310, or approved by USEPA under federal law.
- c) Operating permits are not required for treatment works and wastewater sources that are designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day 5 (5700 1/day) of domestic sewage and ~~that which~~ will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer.
- d) Operating permits are not required for those pretreatment works or wastewater sources discharging to a sewer tributary to a treatment works, or directly to a treatment works, that which will not:
 - 1) ~~discharge~~Discharge toxic pollutants, as defined in ~~section~~Section 502(13) of the CWA, or pollutants ~~that which~~ may interfere with the treatment process into the receiving treatment works or be subject to regulations promulgated under ~~section~~Section 307 of the ~~Clean Water Act (CWA); or~~

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- 2) ~~discharge~~Discharge 15% or more of the total hydraulic flow received by the treatment works; or
- 3) ~~discharge~~Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 309.242 Duration and Termination of Permits Issued Under Subpart B

- a) Construction permits for sewers and wastewater sources ~~must~~shall require that construction be completed within two years. Construction permits for treatment works and pretreatment works ~~must~~shall require that construction be completed within three years. In situations ~~in which~~where the magnitude and complexity of the project require it, the Agency may issue a construction permit, requiring completion within a period not to exceed five years.
- b) ~~Except as indicated in subsection (c), no~~No operating permit shall have duration in excess of five years. ~~All operating permits other than those issued under Section 309.203 for newly constructed sewers shall have a duration not to exceed 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 Section 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 upon the issuance of 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.

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- f) A permit may be terminated by the Agency upon determination that a facility is no longer in operation or existence. The Agency must send written notice via 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 communicates the desire for the permit to stay in effect.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 309.263 Modification or Renewal of Permits

- a) Any permit issued by the Agency under this Subpart B may be modified or renewed to make its provisions compatible with any new regulation adopted by the Board.
- b) Persons with operating permits for pretreatment works subject to this Subpart must obtain a modified permit prior to any of the following changes at the facility:
- 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 the modification or renewal of 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 40 Ill. Reg. _____, effective _____)