

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

PART 306  
PERFORMANCE CRITERIA

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#### SUBPART A: SYSTEMS RELIABILITY

**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 at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 7 Ill. Reg. 5682, effective April 19, 1983; amended at 8 Ill. Reg. 1607, effective January 18, 1984; amended at 8 Ill. Reg. 3691, effective March 14, 1984; amended in R82-7 at 12 Ill. Reg. 11229, effective June 15, 1988; amended in R88-25 at 14 Ill. Reg. 9449, effective June 4, 1990, amended in R88-25 at \_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART C: COMBINED SEWERS AND TREATMENT PLANT BYPASSES

##### **Section 306.305 Treatment of Overflows and Bypasses**

All combined sewer overflows and treatment plant bypasses shall be given sufficient treatment to prevent pollution, or the violation of applicable water quality standards unless an exception has been granted by the Board pursuant to Subpart D. Sufficient treatment shall consist of the following:

- a) All dry weather flows, and the first flush of storm flows as determined by the Agency, shall meet the applicable effluent standards; and

- b) Additional flows, as determined by the Agency but not less than ten times the average dry weather flow for the design year, shall receive a minimum of primary treatment and disinfection with adequate retention time; and
- c) Flows in excess of those described in subsection (b) shall be treated, in whole or in part, to the extent necessary to prevent accumulations of sludge deposits, floating debris and solids in accordance with 35 Ill. Adm. Code 302.203, and to prevent depression of oxygen levels; or
- d) Compliance with a treatment program authorized by the Board in an exception ~~proceeding granted pursuant to Subpart D.~~

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

### **Section 306.306 Compliance Dates**

Compliance with Section 306.305 shall be achieved on or before the following dates:

- a) All treatment plant bypasses, by the applicable date for improvement of treatment works under 35 Ill. Adm. Code 304.
- b) All combined sewer overflows within the Metropolitan Sanitary District of Greater Chicago, by December, 31, 1977;
- c) All other combined sewer overflows, by December 31, 1975.
- d) The compliance dates set by subsections (b) and (c) shall be met unless:
  - 1) The discharger's combined sewer overflow is eligible for a construction grant under Section 201(g) of the CWA; and,
  - 2) The discharger has filed an application for a construction grant on or before March 1, 1977; and,
  - 3) The discharger has timely taken all appropriate pre-grant and post-grant actions necessary to the specific grant step for which the discharger is then eligible, or
  - 4) The discharger has been granted an exception by the Board pursuant to Subpart D, ~~an exception procedure is pending, or the Agency has not notified the discharger pursuant to Section 306.352.)~~
- e) Nothing in subsection (d) shall limit the power of the Board to enter an abatement order pursuant to Section 46 of the Act necessary to abate pollution of waters of

the State, when the Board has found, as the result of an enforcement or variance case initiated under Titles VIII or IX of the Act, that the discharger is causing a violation of the Act or regulations.

- f) The exemption provided by subsection (d) shall terminate upon completion of construction under the grant provided.

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

#### SUBPART D: EXCEPTION PROCEDURE

##### **Section 306.350 Preamble (Repealed)**

~~Exceptions to Section 306.305 or 306.306 shall be granted by the Board based upon water quality effects, actual and potential stream uses, and economic considerations including those of the discharger and those affected by the discharge. The following procedures shall be used for petitions for exceptions to the otherwise applicable water quality standards of this Chapter, and the sufficient treatment provisions contained in Section 305.306, 306.305(a), 306.305(b), and 306.305(c).~~

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

##### **Section 306.351 Notification and Submittals by Discharger (Repealed)**

~~No later than July 1, 1983, any discharger which has an interest in requesting Agency assistance in initiating an exception proceeding shall so advise the Agency. No later than October 1, 1983 the discharger shall assemble and submit to the Agency any background information in the discharger's possession relevant to its combined sewer overflows, including any analyses of treatment options. The Agency after a review of its files and the discharger's submittal, shall request such further information as listed in Section 306.361 and 306.363 as it deems necessary for its determination pursuant to Section 306.352.~~

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

##### **Section 306.352 Notification by Agency (Repealed)**

- a) ~~The Agency shall notify the discharger of any Agency proposal for exception, including any necessary treatment conditions and the provisions of Section 306.305 and 306.306 that would be modified or eliminated.~~
- b) ~~The Agency shall promptly notify the discharger in writing of any discretionary determination that it will not propose an exception and shall indicate the basis for such determination. Such basis may include but not be limited to a judgment that the information submitted is insufficient, that due to the nature of the discharge and the receiving stream relief from Section 306.305 or 306.306 would be~~

~~environmentally unsound, or that a specific alternative control strategy suggested by the discharger is infeasible from either an engineering or pollutant removal standpoint.~~

- ~~e) All Agency determinations, shall reflect a consistency of review among dischargers or their individual discharges. To insure such consistency, the Agency shall adopt criteria for evaluation and review of dischargers' submittals pursuant to Section 306.351.~~

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

### **Section 306.360 Joint or Single Petition for Exception (Repealed)**

~~If the discharger accepts the Agency proposal for exception, an exception proceeding before the Board shall be commenced by the discharger by filing jointly with the Agency a petition for exception. If the Agency has declined to propose an exception or if the discharger declines to accept an Agency proposal, the discharger may commence singly an exception proceeding before the Board.~~

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

### **Section 306.361 Justification of Joint Petition (Repealed)**

~~Except as provided otherwise in subsection (d) if the discharger and the Agency jointly file a petition for exception, exception justifications shall be established in the petition for exception as follows:~~

- ~~a) An exception justification based upon minimal discharge impact shall include, as a minimum, an evaluation of receiving stream ratios, known stream uses, accessibility to stream and side land use activities (residential, commercial, agricultural, industrial, recreational), frequency and extent of overflow events, inspections of unnatural bottom deposits, odors, unnatural floating material or color, stream morphology and results of limited stream chemical analyses.~~
- ~~b) Where a minimal impact exception justification cannot be established pursuant to subsection (a), or where an exception will include a modification of otherwise applicable water quality standards, an exception justification shall include, as a minimum, evaluations pursuant to subsection (a) and evaluations of stream sediment analyses, biological surveys (including habitat assessment), and thorough stream chemical analyses that may include but are not limited to analysis of parameters regulated in 35 Ill. Adm. Code 302, analysis of toxics or metals if the collection system tributary to the overflow receives wastes which might contain them, sediment oxygen demand, volatile solids, and diurnal monitoring under both dry and wet weather conditions.~~



- ~~e) — Exception justifications which include projections of the improvement from alternative control programs may include reasonably reliable mathematical models based upon information gathered pursuant to subsection (b). The reasonable reliability of a mathematical model shall be assessed by reference to factors including but not limited to the model's scientific validity and the consistency with which the model reflects conditions in the stream as determined by monitored data.~~
- ~~d) — Where special circumstances may render any evaluation inapplicable, for reasons of irrelevancy or expense of data collection in relation to the relevancy of the data, the petition shall include a justification for such inapplicability.~~

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

### **Section 306.362 Justification of Single Petition (Repealed)**

~~If the discharger files singly a Petition for Exception, exception justifications shall be established by the discharger, pursuant to Section 306.361 (b), (c), and (d).~~

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

### **Section 306.363 Contents of Joint Petition (Repealed)**

~~Requirements for jointly filed Petition. Ten copies of such petition shall be filed with the Clerk of the Board. The petition shall include the following information:~~

- ~~a) — A written statement, signed by the Petitioners or their authorized representatives outlining the scope of the evaluation, the nature of, the reasons for, and the basis for the justification for the exception; and~~
- ~~b) — The nature of the discharger's operations and control equipment; and~~
- ~~c) — Any Agency proposal for exception; and~~
- ~~d) — Citations to any final enforcement actions against the discharger, and any variances granted to the discharger where compliance has not been achieved.~~

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

### **Section 306.364 Contents of Single Petition (Repealed)**

~~In addition to the information specified in Section 306.363, the petition shall include any necessary treatment conditions and the provisions of Section 306.305 and 306.306 that would be modified or eliminated.~~

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

**Section 306.370 Notice and Hearing (Repealed)**

~~The clerk shall give notice of the petition and shall schedule a hearing in accordance with 35 Ill. Adm. Code 103. The proceedings shall be in accordance with 35 Ill. Adm. Code 103.~~

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

**Section 306.371 Opinion and Order (Repealed)**

- ~~a) In considering the proposed petition for exception and the hearing record, the Board shall take into account the factors contained in Section 27(a) of the Act. The Board shall issue and enter a written opinion stating the facts and reasons leading to its decision on a petition for exception.~~
- ~~b) The Board shall issue and enter such orders concerning a petition for exception as are appropriate for the reasons stated in its written opinion. Such appropriate orders may include but are not limited to orders accepting or rejecting the petition, directing that further hearings be held to develop further information or to cure any procedural defects, or remanding the petition to the petitioners with suggested revisions. Another hearing shall be held on any revised petition for exception.~~

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

**Section 306.372 Transcripts (Repealed)**

~~In any proceeding brought pursuant to Subpart D, the discharger at its own cost shall furnish the Board within 15 days following completion of the hearing seven legible copies of a complete transcript of the proceedings of the hearing. Upon petition, the Board may assume such cost. In determining whether to assume such cost, the Board shall take into consideration transcript costs, the discharger's allegations of special circumstances of economic hardship, and any constraints upon the Board's budgetary ability to assume such costs.~~

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

**Section 306.373 Final Date for Petitions (Repealed)**

~~No petition for exception shall be accepted by the Board after January 1, 1986.~~

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

**Section 306.374 Other Proceedings (Repealed)**

~~Nothing in Subpart D shall impair any rights authorized in the Act or Board Regulations that the discharger or any other person may have to initiate or participate in regulatory proceedings, variance petitions, enforcement actions, or permit appeals. However, Agency determinations made pursuant to Section 306.352 may not be appealed to the Board.~~

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

## SUBPART E: NEW CONNECTIONS

### Section 306.401 Publication of Lists

- a) The Agency ~~will~~ shall publish and make available to the public at intervals of not more than three months a comprehensive and up-to-date list of sanitary districts and other wastewater treatment or transportation authorities then subject to restricted status on further sewer connections, ~~and as well as~~ a list of those which are then under critical review by the Agency.
- b) Such lists will include the name of the affected facility, the responsible authority, and an estimate of the affected facility's capacity. The Critical Review List will also ~~Such lists shall~~ include estimates of treatment plant and sewer capacity, and the amount of population equivalent added according to the Agency permit records since publication of the previous list.
- c) All such lists shall be made available without charge to any person upon request and shall be published in the Pollution Control Board's Environmental Register.

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

### Section 306.402 Restricted Status

- a) Restricted status ~~means shall be defined as~~ the Agency determination, ~~pursuant to Section 39 of the Act and Section 309.241,~~ that a sewer has reached hydraulic capacity or that a sewage treatment plant has reached design capacity, such that additional sewer connection permits may no longer be issued without causing a violation of the Act or regulations.
- b) The Agency may place a sewage treatment plant on Restricted Status when any of the following conditions exists, as shown by Agency field inspections, operational reports, records of permits issued, or other information:
  - 1) Hydraulic overloading of the treatment plant as determined by a comparison of the permitted design capacity of the plant with the actual average monthly flows measured at the plant during the three low-flow months in the preceding 12-month period, adjusted to include all outstanding (permitted but not connected) permits issued by the Agency,



- or other information on hydraulic loading of the plant available to the Agency (i.e., water pumpage, recent development, demographic and meteorological data, etc.);
- 2) Organic overloading of the treatment plant as determined by a comparison of the permitted design capacity of the plant with the actual average monthly loadings in the preceding 12-month period, adjusted to include any and all outstanding (permitted but not connected) permits issued by the Agency, or other information on organic loading of the treatment plant available to the Agency (i.e., water pumpage, recent development, demographic and meteorological data, etc.);
  - 3) Continuing violation of effluent limitations established by the treatment plant's National Pollutant Discharge Elimination System (NPDES) permit. Determination of violation of effluent limitations shall be made in accordance with the sampling, testing, and averaging procedures specified in the NPDES permit;
  - 4) Operational neglect resulting in frequent bypassing of treatment unit(s); or
  - 5) An Illinois Pollution Control Board decision finding a violation of Section 12(a) of the Environmental Protection Act [ 415 ILCS 5/12(a)].
- c) The Agency may place sanitary sewers and lift stations on Restricted Status to prevent overflows as expressly prohibited Subpart C of this Part. Restricted Status may be imposed upon the confirmation of overflows in the form of basement backups, overflows of sanitary sewer manholes, or sanitary sewer overflow devices.
- d) All combined and sanitary sewers and lift stations are subject to Restricted Status when they become hydraulically overloaded, meaning unable to accommodate the following flows:
- 1) Combined sewers and lift stations serving combined sewers must be able to handle 350 percent of the average daily flow (based on best available information) before overflowing.
  - 2) Interceptors serving both combined sewers and sanitary sewers must be able to accommodate 250 percent of the average daily dry weather flow (based on best available information) from the sanitary sewers tributary thereto and 350 percent of the average daily dry weather flow from the combined sewers tributary thereto before overflowing.

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

### Section 306.403 Critical Review

- a) Critical review ~~means shall be defined as~~ the Agency determination, pursuant to ~~Section 39 of the Act and Section 309.241,~~ that a sewer is approaching hydraulic capacity or that a sewage treatment plant is approaching design capacity, such that additional sewer connection permit applications will require close scrutiny to determine whether issuance would result in a violation of the Act or regulations.
- b) Notification of Critical Review is a warning that a Restricted Status situation is imminent, unless corrective action is taken. A facility may be placed on Critical Review whenever, based upon information available to it, the Agency determines that the organic or hydraulic loading of any facility is greater than 80% of the permitted or designed capacity of that facility, as defined in Sections 306.402.

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

### Section 306.405 Notification of Restricted Status or Critical Review

The Agency shall notify the sanitary district or other wastewater treatment or transportation authority of its determination of restricted status or critical review, or refusal to terminate the same, and shall give a specific, detailed written statement as to the reasons for such action ~~in conformity with the Agency's "Guidelines for Notification of Restricted Status," 35 Ill. Adm. Code 390.~~

- a) When the Agency decides that conditions warrant that a facility be placed on Restricted Status or Critical Review, the Agency will send a letter stating the type of action proposed, the reasons for such action, and a summary of supporting documentation to the sanitary district or other wastewater treatment or transportation authority responsible for the facility.
- b) The sanitary district or other wastewater treatment or transportation authority will be given the opportunity to submit additional relevant information and to meet with the responsible permit engineers or to respond in writing.
- c) If, after review of information or response offered by the sanitary district or other wastewater treatment or transportation authority, the Agency's determination remains unchanged, the Agency will send final notification of Restricted Status or Critical Review, stating the meaning and reasons for the action, to the sanitary district or other wastewater treatment or transportation authority.
- d) The facility thus classified will remain under such status until such time as the Agency receives information of a change in condition sufficient to warrant a revision of such status, or until a revision in status is ordered by the Pollution Control Board. The Agency will send notice of any revision in status to the sanitary district or other wastewater treatment or transportation authority.

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

### **Section 306.406 Appeal**

Any sanitary district or other wastewater treatment or transportation authority responsible for authorizing new sewer connections, may petition, pursuant to Section 5(d)~~Title X~~ of the Act and 35 Ill. Adm. Code 105, for a hearing before the Board to contest the decision of the Agency to place it on restricted status.

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

### **Section 306.407 Effective Date (Repealed)**

~~This Subpart shall become effective on January 1, 1976, except for Section 306.405 which shall become effective upon filing.~~

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