

OCT 23 2006

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
PROPOSED AMENDMENTS TO:)
35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8))
302.102(b)(10), 302.208(g), 309.103(c)(3),)
405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d);)
REPEALED 35 Ill. Adm. Code 406.203, PART 407; and)
PROPOSED NEW 35 Ill. Adm. Code 302.208(h))

R07- 009
(Rulemaking - Water)

NOTICE OF FILING

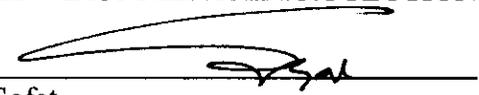
Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Virginia Yang
Deputy Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

Mathew Dunn, Chief
Division of Environmental Enforcement
Office of the Attorney General
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the **AGENCY REGULATORY PROPOSAL, MOTION FOR ACCEPTANCE, AND APPEARANCE** of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: 
Sanjay K. Sofat
Assistant Counsel
Division of Legal Counsel

Dated: October 18, 2006
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
(217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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R07- 009
(Rulemaking - Water)

APPEARANCE

The undersigned, as one of its attorneys, hereby enters his APPEARANCE on behalf of Respondent, Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By:  _____

Sanjay K. Sofat
Assistant Counsel
Division of Legal Counsel

DATED: October 18, 2006

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R07- 009
(Rulemaking - Water)

MOTION FOR ACCEPTANCE

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"),
 by and through its attorney, Sanjay K. Sofat, and pursuant to 35 Ill. Adm. Code 102.106, 102.200,
 and 102.202, moves that the Illinois Pollution Control Board ("Board") accept for hearing the
 Illinois EPA's proposal for amendments to 35 Ill. Adm. Code Part 302, 309, 405, 406, and 407.

This regulatory proposal includes:

1. Notice of Filing;
2. Appearance of Attorney for the Illinois Environmental Protection Agency;
3. Director Scott's Statement of Submittal;
4. Certification of Origination;
5. Statement of Reasons and Exhibits;
6. Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking;
7. Notice of Proposal and Proposed Amendments;
8. Computer disc containing Notice of Proposal and Proposed Amendments; and
9. Proof of Service.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: _____



Sanjay K Sofat
Assistant Counsel
Division of Legal Counsel

DATED: October 18, 2006

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 REPEALED 35 Ill. Adm. Code 406.203, PART 407; and)
 PROPOSED NEW 35 Ill. Adm. Code 302.208(h))

R07-009
(Rulemaking - Water)

AGENCY PROPOSAL OF REGULATIONS

Pursuant to Section 27 of the Illinois Environmental Protection Act (415 ILCS 5/27), the Illinois Environmental Protection Agency hereby moves the Illinois Pollution Control Board to adopt the attached proposed regulations.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: *Douglas P. Scott*

Douglas P. Scott
Director

DATED: October 18, 2006

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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PROPOSED NEW 35 Ill. Adm. Code 302.208(h))

STATE OF ILLINOIS
Pollution Control Board

R07-009
(Rulemaking - Water)

CERTIFICATION OF ORIGATION

NOW COMES the Illinois Environmental Protection Agency to certify in accordance with 35 Ill. Adm. Code 102.202(i) that this proposal amends the most recent version of the Parts 302, 309, 405, 406, and 407 of the Pollution Control Board's regulations, as published on the Board's web site, <http://www.ipcb.state.il.us/SLR/IPCBandIEPAEnvironmentalRegulations-Title35.asp>.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: 

Sanjay K. Sofat
Assistant Counsel
Division of Legal Counsel

DATED: October 18, 2006

Illinois Environmental Protection Agency
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PROPOSED NEW 35 Ill. Adm. Code 302.208(h))

R07- 009
(Rulemaking - Water)

STATEMENT OF REASONS

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its Statement of Reasons for the above captioned proceeding to the Illinois Pollution Control Board ("Board") pursuant to Section 27 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/27 (2006), and 35 Ill. Adm. Code 102.106, 102.200, and 102.202.

I. Statutory Basis

Pursuant to the Federal Water Pollution Control Act, 33 U.S.C. §§1251-1387 (1987), also known as the Clean Water Act ("CWA") §§101-607, states are required to revise and update their water quality standards to ensure that standards are protective of public health and welfare, enhance the quality of water and promote the purposes of the CWA. 33 U.S.C. §1313(c)(2)(A). In establishing new and revised standards, the State must consider the waters use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and navigational purposes. 33 U.S.C. §1313(c)(2)(A). The process of reviewing a state's standards is commonly known as a "triennial water quality standards" review. 33 U.S.C. §1313(c)(1).

The Illinois EPA's proposal refines the numeric water quality standard for sulfate found at

35 Ill. Adm. Code 302.208 based on the best available scientific knowledge. The Board has the authority under the Act to adopt such regulations. In promulgating the regulations under this section, the Board is required to consider, “the existing physical conditions . . . the nature of the existing air quality, or receiving body of water, as the case may be, and the technical feasibility and economic reasonableness of measuring or reducing the particular type of pollution.” 415 ILCS 5/27(a) (2006). The generality of this grant of the authority shall only be limited by the specifications of particular classes of regulations elsewhere in this Act. *Id.*

II. Introduction

The Board adopted water quality standards for sulfate and total dissolved solids (“TDS”) in 1972 to protect aquatic life and agricultural uses without scientific studies to determine appropriate values. *See In the Matter Water Quality Standards Revisions*, R 71-14. This presented difficult compliance issues for coal mines whose effluents are often high in sulfate. Thus, the Board adopted standards for sulfate and chloride for mine discharges. *See 35 Ill. Adm. Code Subtitle D*. In order to remedy the deficiency in the 1972 rulemaking and provide a scientific justification for sulfate water quality standards, the Illinois EPA engaged in a multi-year project researching the toxicity of sulfate to aquatic life and livestock.

This proposal sets forth the conclusion of those studies and proposes changes to the sulfate water quality standard. More specifically, the proposal contains: 1) a new sulfate General Use water quality standard that is based on scientific research and is protective of aquatic life and livestock watering uses; 2) deletion of the TDS water quality standard as the standard is unnecessary for the protection of aquatic life; 3) changes to the Board’s mixing regulations to permit allowed mixing in 7Q1.1 zero flow streams to dischargers that can demonstrate attainment of water quality standards whenever discharge occurs; 4) changes to the Board’s Subtitle D regulations to ensure that

sulfate limits in mine NPDES permits are based on the Subtitle C General Use water quality standards.

A. Purpose and Effect of Regulatory Proposal

As discussed above, the purpose of this proposal is to fulfill the requirements of Section 303(c) of the Clean Water Act, which requires that states must from time to time, at least once every three years, review water quality standards to ensure that these standards are based on the most current information and are protective of the designated uses of waters of the state. Also, this proposal recommends changes to the Board's mixing zone and Subtitle D regulations. Specifically, the proposal contains the following amendments:

- I. Sulfate Aquatic Life Water Quality Standard: As a result of extensive research to gather existing information on sulfate aquatic toxicity, the Agency found that the available data is not adequate to derive a standard. To supplement the available information, the Agency commissioned new studies with augmented sponsorship from the USEPA and Illinois Coal Association. This new research into sulfate toxicity found that high sulfate concentrations pose the problem of osmotic (salt) imbalance for aquatic organisms. Many organisms, including all fish tested and some invertebrates, are very tolerant of sulfate. Other species, including the invertebrate water fleas (*Daphnia* and *Ceriodaphnia*) and scud (*Hyalella*), are less tolerant of high sulfate conditions. Unlike many toxicants that exert toxic effects over both short and long term periods (acute and chronic toxicity), sulfate has been demonstrated to affect only short term survival of organisms. The new research also found that two common constituents of water, chloride and hardness, are important in the mitigation of osmotic imbalance leading to sulfate toxicity.

Based on these findings, the researcher, Dr. David Soucek of the Illinois Natural History Survey, developed equations to determine non-toxic amounts of sulfate at various concentrations of hardness and chloride in a water body. Under the Agency's proposal, allowable sulfate concentrations will vary from 500 milligram per liter ("mg/L") for soft or low chloride waters to over 2,500 mg/L in hard waters of average chloride concentration. The aquatic life based sulfate standards are proposed as concentrations not be exceeded at any time.

II. Sulfate Livestock Watering Water Quality Standard: As a result of extensive literature review, the Agency also determined that an updated sulfate standard for protection of livestock watering was appropriate. The Agency, based on the review of literature, found that livestock are capable of withstanding sulfate concentrations that are on average higher than the proposed aquatic life standards. Hardness and chloride concentrations are irrelevant to sulfate impacts on livestock. Studies suggest that extended exposures to drinking waters high in sulfate may lead to weight loss, disease, and death of livestock, warranting a chronic standard. The Agency is, thus, proposing a chronic sulfate standard of 2,000 mg/L where livestock watering uses are present. The Agency considers this standard protective of livestock watering as surface waters supporting this concentration will not lead to adverse effects on livestock or economic effects to livestock operations. The Agency believes that, in many waters, aquatic life based standards will require that sulfate concentrations are maintained below the 2,000 mg/L livestock standard. However, for waters where the calculated aquatic life sulfate standard is above 2,000 mg/L, a 30 day or longer average sulfate standard of 2,000 mg/L will apply for protection of livestock in waters used for livestock watering purposes.

III. TDS Water Quality Standard: The Agency is proposing to delete the TDS water quality

standard from Section 302.208 of the Board regulations. TDS is the sum of dissolved substances in water and is dominated by the common ions of sulfate, chloride, sodium, calcium, carbonate, and magnesium in various proportions. The Agency's investigations into sulfate toxicity discovered that the existing TDS standard is unnecessary as the toxicity of each constituent, rather than the sum, is the essential factor ensuring protection of aquatic life. With toxicity based sulfate and chloride standards in force, a TDS standard is unnecessary as it is incapable of predicting the threshold of adverse effects to aquatic life.

- IV. Changes to the Board's Mixing Regulations at 35 Ill. Adm. Code 302.102: The Agency's proposal amends the mixing regulations to allow mixing in 7Q1.1 zero flow streams if adequate upstream dilution exists in the receiving stream at the time of discharge. The concept presented in the proposed changes is consistent with the Agency's current practices. For the past few years, the Agency has been granting wet weather discharges allowed mixing for sulfate and chloride depending upon the upstream flows. The Agency's experience has been that most high sulfate mine discharges occur during wet weather events. At mines, the best degree of treatment is provided by collecting site drainage, which is relatively high in suspended sediments, into treatment ponds where settling occurs. The treated water is then discharged into water bodies where a significant amount of water from the un-mined watershed also enters the stream during the discharge, thus providing the necessary dilution to ensure compliance with applicable standards.
- V. Changes to Subtitle D of the Board's Regulations: The Agency is proposing to delete those provisions of Subtitle D that address separate water quality standards for sulfates and chlorides. Under the Agency's proposal, limits in mine permits are based on the

Subtitle C water quality standards for sulfates and chlorides, in lieu of the Subtitle D standards. As a housekeeping measure, the Agency is proposing to delete an outdated portion, Part 407, of the Board's Subtitle D regulations.

The proposed changes to water quality standards in the Agency's proposal are based on sound science and assure the protection of designated uses of waters of the State. These science-based standards will benefit discharges of sulfate or other dissolved salts that are not amenable to treatment.

B. Facts in Support

A detailed discussion of the facts supporting the Agency's proposal is provided in Attachment I.

III. Public Participation

The first of two stakeholders meetings was held in Springfield on January 29, 2004. It was attended by representatives of mining companies, industrial and municipal dischargers, governmental agencies and environmental advocacy groups. The Agency endeavored to thoroughly explain its proposal regarding sulfate and total dissolved standards, and mixing zones at this meeting. The second stakeholder meeting was also held in Springfield on April 29, 2006. At the meeting, the Agency emphasized the work of the Sulfate Workgroup, the panel of State and federal scientists, mining companies, and environmental groups, instrumental in developing the proposed standards. After the meeting, all attendees were sent the draft regulatory language and justification documents for their comments. The Agency received several comments from the participants. The Agency sincerely thanks the participants for their efforts. On July 31, 2006, the Agency sent an updated draft of the regulatory language including an explanation of each change to the Board's

regulations to the stakeholders.

IV. Technical Feasibility and Economic Justification

The Agency recommends science-based standards for sulfate and total dissolved solids, and updates certain provisions of the mixing zone regulations. Also, the proposal eliminates the alternate water quality standards for sulfates and chlorides in the Subtitle D regulations that are applicable to mine discharges. For most dischargers, the new sulfate and total dissolved solids standards will allow attainment of water quality standards without the implementation of additional management practices or process alternatives. A significant majority of discharges would meet the applicable permit limits with the help of ongoing and routine control measures. Mines must continue to optimize the best management practices to discourage the formation of sulfates and the erosion of soils that contribute this substance to wastewaters. Industrial dischargers must continue to seek alternatives to reduce the discharge of sulfates in new or expanded discharges according to the antidegradation standard.

The Agency anticipates that the proposal would require a small number of existing mines to employ additional controls to meet water quality based permit limits. As described in this petition, the Illinois EPA has been proactive in getting information to these dischargers that will help achieve compliance. Dr. Chugh of Southern Illinois University at Carbondale has been leading seminars on the management of mine wastes that will decrease sulfate and other pollutants.

The Illinois EPA further anticipates that the new standards will eliminate virtually all petitions for site-specific water quality standard relief concerning sulfate and total dissolved solids from industrial and municipal dischargers. This is a significant cost savings for those entities as well as to the Agency and Board, which together as the representatives of state government must hear and respond to these petitions. New mines should not have to request for relief because sulfate

levels can be planned for in the mine design and controlled accordingly. The cost of this planning and design must be considered to be the normal and expected cost of providing best management practices.

V. Synopsis of Testimony

During the Board's proceedings in this matter, the Illinois EPA will present three witnesses in support of the proposed rulemaking: Toby Frevert is the Manager of the Division of Water Pollution within the Bureau of Water of the Illinois Environmental Protection Agency. Mr. Frevert has been with the Illinois EPA in excess of 30 years. He will testify on the policy related issues concerning the proposed rulemaking.

Bob Mosher is the Supervisor of the Water Quality Standards Unit within the Division of Water Pollution Control. His duties include: the development of water quality standards and the implementation of these standards in the Agency programs including the NPDES permit process. Mr. Mosher has been with the Agency for nearly 21 years. He is an aquatic biologist by training. Mr. Mosher will testify regarding the proposed modifications to the Board's mixing regulations and Subtitle D regulations. He will also testify regarding the development process in establishing the proposed sulfate standard.

Brian Koch is an Environmental Protection Specialist working in the Water Quality Standards section of the Agency. Mr. Koch's primary responsibility is to derive toxicity-based water quality criteria in support of the Permit and Surface Water sections of the Agency. He has a B.A. and M.S. in Zoology from Southern Illinois University of Carbondale and has been with the Agency for nearly one year. He is an aquatic biologist and toxicologist by training. He will testify on the issues related to development of the livestock use sulfate standard and equation for the aquatic life use sulfate standard.

numerical national water quality criteria for the protection of aquatic organisms and their uses. PB85-227049.

- Exhibit M: Toxicity values and references for data deemed acceptable for water quality criteria derivation.
- Exhibit N: Goodfellow, W.L., L.W. Ausley, D.T. Burton, D.L. Denton, P.B. Dorn, D.R. Grothe, M.A. Heber, T.J. Norberg-King, and J.H. Rodgers, Jr. 2000. Major ion toxicity in effluents: a review with permitting recommendations. *Environmental Toxicology and Chemistry*, 19:175-182.
- Exhibit O: Mount, D.R., D.D. Gulley, J.R. Hockett, T.D. Garrison, and J.M. Evans. 1997. Statistical models to predict the toxicity of major ions to *Ceriodaphnia dubia*, *Daphnia magna* and *Pimephales promelas* (Fathead Minnows). *Environmental Toxicology and Chemistry*, 16(10):2009-2019.
- Exhibit P: Sulfate toxicity data from research conducted by Dr. Soucek.
- Exhibit Q: Soucek, D.J. 2004a. Effects of hardness, chloride, and acclimation on the acute toxicity of sulfate to freshwater invertebrates. Illinois Natural History Survey. Final Report submitted to Illinois Environmental Protection Agency and Illinois Coal Association.
- Exhibit R: Soucek, D.J. 2004b. Effects of water quality on acute and chronic toxicity of sulfate to freshwater bivalves, *Ceriodaphnia dubia*, and *Hyaella azteca*. Illinois Natural History Survey. First Quarterly Report submitted to U.S. Environmental Protection Agency, Region 5.
- Exhibit S: Soucek, D.J. 2005a. Effects of water quality on acute and chronic toxicity of sulfate to freshwater bivalves, *Ceriodaphnia dubia*, and *Hyaella azteca*. Illinois Natural History Survey. Second Quarterly Report submitted to U.S. Environmental Protection Agency, Region 5.
- Exhibit T: Soucek, D.J. 2005b. Effects of water quality on acute and chronic toxicity of sulfate to freshwater bivalves, *Ceriodaphnia dubia*, and *Hyaella azteca*. Illinois Natural History Survey. Third Quarterly Report submitted to U.S. Environmental Protection Agency, Region 5.
- Exhibit U: Soucek, D.J. 2006. Effects of water quality on acute and chronic toxicity of sulfate to freshwater bivalves, *Ceriodaphnia dubia*, and *Hyaella azteca*. Illinois Natural History Survey. Final Report submitted to U.S. Environmental Protection Agency, Region 5. CP96543701-0.
- Exhibit V: Maximum allowable concentrations of sulfate at various concentrations of hardness and chloride calculated from equations proposed as water quality standards.

THIS FILING PRINTED ON RECYCLED PAPER

VI. Supporting Documents

33 USC § 1313

- Attachment I: Facts in Support of Changing Water Quality Standards for Sulfate, Total Dissolved Solids, and Mixing Zones.
- Exhibit A: American Public Health Association. 1989. Standard Methods for the Examination of Water and Wastewater, 17th ed., Washington, D.C., variously paged.
- Exhibit B: Critical hardness values calculated from Ambient Water Quality Monitoring Network sites.
- Exhibit C: McKee, J.E. and H.W. Wolf. 1963. Water Quality Criteria, 2nd ed., The Resources Agency of California, California State Water Quality Control Board, Sacramento, CA. Publication No. 3-A, 548 p.
- Exhibit D: Summary of sulfate and TDS standards from neighboring states.
- Exhibit E: Literature review of the adverse effects of sulfates on livestock.
- Exhibit F: Weeth, H.J. and D.L. Capps. 1972. Tolerance of growing cattle for sulfate-water. *Journal of Animal Science*. 34(2):256-260.
- Exhibit G: Loneragan, G.H., J.J. Wagner, D.H. Gould, F.B. Garry, and M.A. Thoren, 2001, Effects of water sulfate concentration on performance, water intake, and carcass characteristics of feedlot steers. *Journal of Animal Science*, 79:2941-2948.
- Exhibit H: Braul, L. and B. Kirychuk. 2001. Water Quality and Cattle. Prairie Farm Rehabilitation Office, Agriculture and Agri-Food Canada. Publication ENH-111-2001-10.
- Exhibit I: Patterson, H.H., P.S. Johnson, E.H. Ward, and R.N. Gates. 2004. Effects of sulfates in water on performance of cow-calf pairs. *Proceedings, Western Section, American Society of Animal Science*. 55:265-268.
- Exhibit J: Patterson, H.H., P.S. Johnson, T.R. Patterson, D.B. Young, and R. Haigh. 2002. Effects of water quality on performance and health of growing steers. *Proceedings, Western Section, American Society of Animal Science*. 53:217-220.
- Exhibit K: List of all sulfate studies on aquatic life, along with a brief comment regarding the acceptability of each study.
- Exhibit L: U.S. Environmental Protection Agency. 1985. Guidelines for deriving

OCT 23 2006

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 302
- 3)

| | |
|------------------------|-------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> |
| 302.102(b)(6) | Amended |
| 302.102(b)(8) | Amended |
| 302.102(b)(10) | Amended |
| 302.208(g) | Amended |
| 302.208(h) | New |
- 4) Statutory Authority 415 ILCS 5/13 and 27
- 5) A Complete Description of the Subjects and Issues Involved:

The proposed amendments are part of a proceeding entitled, In the Matter of: Proposed Amendments To: 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d); Repealed 35 Ill. Adm. Code 406.203, PART 407; and Proposed New 35 Ill. Adm. Code 302.208(h). Other related amendments are proposed in Parts 309, 405, 406 and 407, and are contained in separate notices pertaining to those Parts. Section 302.102 is amended to allow mixing in 7Q1.1 zero flow streams where adequate upstream dilution exists in the receiving stream at the time of discharge. Section 302.208(g) is amended to delete numeric water quality standards for sulfate and total dissolved solids ("TDS"). A new Section 302.208(h) is proposed to provide for a sulfate water quality standard that is protective of aquatic life and livestock watering uses.

- 6) Will this proposed amendment replace an emergency amendment currently in effect?
 Yes No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes No
- 8) Does this proposed amendment contain incorporations by reference?
 Yes No
- 9) Are there any other proposed amendments pending on this part?

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Yes No

10) Statement of State wide Policy Objectives:

This proposed amendment is consistent with the policy objectives set out in the Environmental Protection Act, 415 ILCS 5/1 *et seq.*

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R07-___ and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected:

Anyone proposing to discharge particular contaminants into waters of the state.

B) Reporting, book keeping or other procedures required for compliance:

No additional reporting and record keeping requirements are imposed beyond those necessary for compliance with the existing regulations.

C) Types of professional skills necessary for compliance:

No additional professional skills are required beyond those necessary for compliance with the existing regulations.

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

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
PART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section

| | |
|----------------|---------------------------------------|
| 302.100 | Definitions |
| 302.101 | Scope and Applicability |
| <u>302.102</u> | Allowed Mixing, Mixing Zones and ZIDs |
| 302.103 | Stream Flows |
| 302.104 | Main River Temperatures |
| 302.105 | Antidegradation |

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section

| | |
|----------------|--|
| 302.201 | Scope and Applicability |
| 302.202 | Purpose |
| 302.203 | Offensive Conditions |
| 302.204 | pH |
| 302.205 | Phosphorus |
| 302.206 | Dissolved Oxygen |
| 302.207 | Radioactivity |
| <u>302.208</u> | Numeric Standards for Chemical Constituents |
| 302.209 | Fecal Coliform |
| 302.210 | Other Toxic Substances |
| 302.211 | Temperature |
| 302.212 | Total Ammonia Nitrogen |
| 302.213 | Effluent Modified Waters (Ammonia)(Repealed) |

**SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY
STANDARDS**

Section

| | |
|---------|--------------------------|
| 302.301 | Scope and Applicability |
| 302.302 | Algicide Permits |
| 302.303 | Finished Water Standards |
| 302.304 | Chemical Constituents |
| 302.305 | Other Contaminants |
| 302.306 | Fecal Coliform |

SUBPART D: SECONDARY CONTACT AND INDIGENOUS AQUATIC LIFE STANDARDS

| Section | |
|----------------|----------------------------------|
| 302.401 | Scope and Applicability |
| 302.402 | Purpose |
| 302.403 | Unnatural Sludge |
| 302.404 | pH |
| 302.405 | Dissolved Oxygen |
| 302.406 | Fecal Coliform (Repealed) |
| 302.407 | Chemical Constituents |
| 302.408 | Temperature |
| 302.409 | Cyanide |
| 302.410 | Substances Toxic to Aquatic Life |

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

| Section | |
|----------------|--|
| 302.501 | Scope, Applicability, and Definitions |
| 302.502 | Dissolved Oxygen |
| 302.503 | pH |
| 302.504 | Chemical Constituents |
| 302.505 | Fecal Coliform |
| 302.506 | Temperature |
| 302.507 | Thermal Standards for Existing Sources on January 1, 1971 |
| 302.508 | Thermal Standards for Sources Under Construction But Not In Operation on January 1, 1971 |
| 302.509 | Other Sources |
| 302.510 | Incorporations by Reference |
| 302.515 | Offensive Conditions |
| 302.520 | Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs) |
| 302.521 | Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs) |
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SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

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AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27]

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1356, effective December 24, 1997; amended in R99-8 at 23 Ill. Reg. 11249, effective August 26, 1999; amended in R01-13 at 26 Ill. Reg. 3505, effective February 22, 2002; amended in R02-19 at 26 Ill. Reg. 16931, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 166, effective December 20, 2002, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007.

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section 302.102 Allowed Mixing, Mixing Zones and ZIDs

- a) Whenever a water quality standard is more restrictive than its corresponding effluent standard, or where there is no corresponding effluent standard specified at 35 Ill. Adm. Code 304, an opportunity shall be allowed for compliance with 35 Ill. Adm. Code 304.105 by mixture of an effluent with its receiving waters, provided the discharger has made every effort to comply with the requirements of 35 Ill. Adm. Code 304.102.
- b) The portion, volume and area of any receiving waters within which mixing is allowed pursuant to subsection (a) shall be limited by the following:
 - 1) Mixing must be confined in an area or volume of the receiving water no larger than the area or volume which would result after incorporation of outfall design measures to attain optimal mixing efficiency of effluent and receiving waters. Such measures may include, but are not limited to, use of diffusers and engineered location and configuration of discharge points.
 - 2) Mixing is not allowed in waters which include a tributary stream entrance if such mixing occludes the tributary mouth or otherwise restricts the movement of aquatic life into or out of the tributary.
 - 3) Mixing is not allowed in water adjacent to bathing beaches, bank fishing areas, boat ramps or dockages or any other public access area.
 - 4) Mixing is not allowed in waters containing mussel beds, endangered species habitat, fish spawning areas, areas of important aquatic life habitat, or any other natural features vital to the well being of aquatic life in such a manner that the maintenance of aquatic life in the body of water as a whole would be adversely affected.
 - 5) Mixing is not allowed in waters which contain intake structures of public or food processing water supplies, points of withdrawal of water for irrigation, or watering areas accessed by wild or domestic animals.
 - 6) Mixing must allow for a zone of passage for aquatic life in which water quality standards are met. However, a zone of passage is not required in receiving streams that have zero flow for at least

seven consecutive days recurring on average in nine years out of ten.

- 7) The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing, must not intersect any area of any body of water in such a manner that the maintenance of aquatic life in the body of water as a whole would be adversely affected.
 - 8) The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing must not contain more than 25% of the cross-sectional area or volume of flow of a stream except for those streams where the dilution ratio is less than 3:1. ~~Mixing is not allowed in receiving waters which have a zero minimum seven day low flow which occurs once in ten years.~~
 - 9) No mixing is allowed where the water quality standard for the constituent in question is already violated in the receiving water.
 - 10) No body of water may be used totally for mixing of single outfall or combination of outfalls, except as provided in Section 302.102(b)(6).
 - 11) Single sources of effluents which have more than one outfall shall be limited to a total area and volume of mixing no larger than that allowable if a single outfall were used.
 - 12) The area and volume in which mixing occurs must be as small as is practicable under the limitations prescribed in this subsection, and in no circumstances may the mixing encompass a surface area larger than 26 acres.
- c) All water quality standards of this Part must be met at every point outside of the area and volume of the receiving water within which mixing is allowed. The acute toxicity standards of Sections 302.208 and 302.210 must be met within the area and volume within which mixing is allowed, except as provided in subsection (e).
 - d) Pursuant to the procedures of Section 39 of the Act and 35 Ill. Adm. Code 309, a person may apply to the Agency to include as a condition in an NPDES permit formal definition of the area and volume of the waters of the State within which mixing is allowed for the NPDES discharge in question. Such formally defined area and volume of allowed mixing shall constitute a "mixing zone" for the purposes of 35 Ill. Adm. Code: Subtitle

C. Upon proof by the applicant that a proposed mixing zone conforms with the requirements of Section 39 of the Act, this Section and any additional limitations as may be imposed by the Clean Water Act (CWA) (33 U.S.C 1251 et seq.), the Act or Board regulations, the Agency shall, pursuant to Section 39(b) of the Act, include within the NPDES permit a condition defining the mixing zone.

- e) Pursuant to the procedures of Section 39 of the Act and 35 Ill. Adm. Code 309, a person may apply to the Agency to include as a condition in an NPDES permit a ZID as a component portion of a mixing zone. Such ZID shall, at a minimum, be limited to waters within which effluent dispersion is immediate and rapid. For the purposes of this subsection, "immediate" dispersion means an effluent's merging with receiving waters without delay in time after its discharge and within close proximity of the end of the discharge pipe, so as to minimize the length of exposure time of aquatic life to undiluted effluent, and "rapid" dispersion means an effluent's merging with receiving waters so as to minimize the length of exposure time of aquatic life to undiluted effluent. Upon proof by the applicant that a proposed ZID conforms with the requirements of Section 39 of the Act and this Section, the Agency shall, pursuant to Section 39(b) of the Act, include within the NPDES permit a condition defining the ZID.
- f) Pursuant to Section 39 of the Act and 35 Ill. Adm. Code 309.103, an applicant for an NPDES permit shall submit data to allow the Agency to determine that the nature of any mixing zone or mixing zone in combination with a ZID conforms with the requirements of Section 39 of the Act and of this Section. A permittee may appeal Agency determinations concerning a mixing zone or ZID pursuant to the procedures of Section 40 of the Act and 35 Ill. Adm. Code 309.181.
- g) Where a mixing zone is defined in an NPDES permit, the waters within that mixing zone, for the duration of that NPDES permit, shall constitute the sole waters within which mixing is allowed for the permitted discharge. It shall not be a defense in any action brought pursuant to 35 Ill. Adm. Code 304.105 that the area and volume of waters within which mixing may be allowed pursuant to subsection (b) is less restrictive than the area or volume or waters encompassed in the mixing zone.
- h) Where a mixing zone is explicitly denied in a NPDES permit, no waters may be used for mixing by the discharge to which the NPDES permit applies, all other provisions of this Section notwithstanding.
- i) Where an NPDES permit is silent on the matter of a mixing zone, or where no NPDES permit is in effect, the burden of proof shall be on the

discharger to demonstrate compliance with this Section in any action brought pursuant to 35 Ill. Adm. Code 304.105.

(Source: Amended at 14 Ill. Reg. 2899, effective February 13, 1990, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007).

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.208 Numeric Standards for Chemical Constituents

- a) The acute standard (AS) for the chemical constituents listed in subsection (e) shall not be exceeded at any time except as provided in subsection (d).
- b) The chronic standard (CS) for the chemical constituents listed in subsection (e) shall not be exceeded by the arithmetic average of at least four consecutive samples collected over any period of at least four days, except as provided in subsection (d). The samples used to demonstrate attainment or lack of attainment with a CS must be collected in a manner that assures an average representative of the sampling period. For the metals that have water quality based standards dependent upon hardness, the chronic water quality standard will be calculated according to subsection (e) using the hardness of the water body at the time the metals sample was collected. To calculate attainment status of chronic metals standards, the concentration of the metal in each sample is divided by the calculated water quality standard for the sample to determine a quotient. The water quality standard is attained if the mean of the sample quotients is less than or equal to one for the duration of the averaging period.
- c) The human health standard (HHS) for the chemical constituents listed in subsection (f) shall not be exceeded when the stream flow is at or above the harmonic mean flow pursuant to Section 302.658 nor shall an annual average, based on at least eight samples, collected in a manner representative of the sampling period, exceed the HHS except as provided in subsection (d).
- d) In waters where mixing is allowed pursuant to Section 302.102, the following apply:

- 1) The AS shall not be exceeded in any waters except for those waters for which the Agency has approved a zone of initial dilutions (ZID) pursuant to Section 302.102.
 - 2) The CS shall not be exceeded outside of waters in which mixing is allowed pursuant to Section 302.102.
 - 3) The HHS shall not be exceeded outside of waters in which mixing is allowed pursuant to Section 302.102.
- e) Numeric Water Quality Standards for the Protection of Aquatic Organisms

| Constituent | STORET Number | AS ($\mu\text{g/L}$) | CS ($\mu\text{g/L}$) |
|------------------------------------|------------------|---|--|
| Arsenic (trivalent, dissolved) | 22680 | $360 \times 1.0^* = 360$ | $190 \times 1.0^* = 190$ |
| Cadmium (dissolved) | 01025 | $\exp[A+B\ln(H)] \times$ $\{1.138672-$ $[(\ln H)(0.041838)]\}^*$, where $A=-2.918$ and $B=1.128$ | $\exp[A+B\ln(H)] \times$ $\{1.101672-$ $[(\ln H)(0.041838)]\}^*$, where $A=-3.490$ and $B=0.7852$ |
| Chromium (hexavalent, total) | 01032 | 16 | 11 |
| Chromium (trivalent, dissolved) | 80357 | $\exp[A+B\ln(H)] \times$ 0.316^* , where $A=3.688$ and $B=0.8190$ | $\exp[A+B\ln(H)] \times$ 0.860^* , where $A=1.561$ and $B=0.8190$ |
| Copper (dissolved) | 01040 | $\exp[A+B\ln(H)] \times$ 0.960^* , where $A=-1.464$ and $B=0.9422$ | $\exp[A+B\ln(H)] \times$ 0.960^* , where $A=-1.465$ and $B=0.8545$ |
| Cyanide | 00718 | 22 | 5.2 |
| Lead (dissolved) | 01049 | $\exp[A+B\ln(H)] \times$ $\{1.46203-$ $[(\ln H)(0.145712)]\}^*$, where $A=-1.301$ and $B=1.273$ | $\exp[A+B\ln(H)] \times$ $\{1.46203-$ $[(\ln H)(0.145712)]\}^*$, where $A=-2.863$ and $B=1.273$ |
| Mercury (dissolved) | 71890 | $2.6 \times 0.85^* = 2.2$ | $1.3 \times 0.85^* = 1.1$ |
| Nickel (dissolved) | 01065 | $\exp[A+B\ln(H)] \times$ 0.998^* , where $A=0.5173$ and $B=0.8460$ | $\exp[A+B\ln(H)] \times$ 0.997^* , where $A=-2.286$ and $B=0.8460$ |
| TRC | 500600 | 19 | 11 |
| Zinc (dissolved) | 01090 | $\exp[A+B\ln(H)] \times$ 0.978^* , where $A=0.9035$ and | $\exp[A+B\ln(H)] \times$ 0.986^* , where $A=-0.8165$ and |

| | | | |
|--------------|-------|----------|----------|
| | | B=0.8473 | B=0.8473 |
| Benzene | 78124 | 4200 | 860 |
| Ethylbenzene | 78113 | 150 | 14 |
| Toluene | 78131 | 2000 | 600 |
| Xylene(s) | 81551 | 920 | 360 |

where: $\mu\text{g/L}$ = microgram per liter,

$\exp[x]$ = base natural logarithms raised to the x- power,

$\ln(H)$ = natural logarithm of Hardness (STORET 00900), and

* = conversion factor multiplier for dissolved metals

f) Numeric Water Quality Standard for the Protection of Human Health

| Constituent | STORET Number | ($\mu\text{g/L}$) |
|-------------|---------------|---------------------|
| Mercury | 71900 | 0.012 |
| Benzene | 78124 | 310 |

where: $\mu\text{g/L}$ = micrograms per liter

g) Concentrations of the following chemical constituents shall not be exceeded except in waters for which mixing is allowed pursuant to Section 302.102.

| Constituent | Unit | STORET Number | Standard |
|------------------|------|---------------|----------|
| Barium (total) | mg/L | 01007 | 5.0 |
| Boron (total) | mg/L | 01022 | 1.0 |
| Chloride (total) | mg/L | 00940 | 500 |
| Fluoride | mg/L | 00951 | 1.4 |
| Iron (dissolved) | mg/L | 01046 | 1.0 |

| | | | |
|------------------------|------|-------|------|
| Manganese (total) | mg/L | 01055 | 1.0 |
| Phenols | mg/L | 32730 | 0.1 |
| Selenium (total) | mg/L | 01147 | 1.0 |
| Silver (total) | µg/L | 01077 | 5.0 |
| Sulfate | mg/L | 00945 | 500 |
| Total Dissolved Solids | mg/L | 70300 | 1000 |

where: mg/L = milligram per liter and
µg/L = microgram per liter

h) The following concentrations for sulfate must not be exceeded except in receiving waters for which mixing is allowed pursuant to Section 302.102:

1) At any point where water is withdrawn or accessed for purposes of livestock watering, the average of sulfate concentrations must not exceed 2,000 mg/L when measured at a representative frequency over a 30 day period.

2) The results of the following equations provide sulfate water quality standards in mg/L for the specified ranges of hardness (in mg/L as CaCO₃) and chloride (in mg/L) and must be met at all times:

A. If the hardness concentration of receiving waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 25 mg/L but less than or equal to 500 mg/L, then:

$$C = [1276.7 + 5.508 (\text{hardness}) - 1.457 (\text{chloride})] * 0.65$$

Where, C = sulfate concentration

B) If the hardness concentration of waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 5 mg/L but less than 25 mg/L, then:

$$C = [-57.478 + 5.79 (\text{hardness}) + 54.163 (\text{chloride})] * 0.65$$

Where C = sulfate concentration

- 3) The following sulfate standards must be met at all times when hardness (in mg/L as CaCO₃) and chloride (in mg/L) concentrations other than specified in (h)(2) are present:
- A) If the hardness concentration of waters is less than 100 mg/L or chloride concentration of waters is less than 5 mg/L, the sulfate standard is 500 mg/L.
 - B) If the hardness concentration of waters is greater than 500 mg/L and the chloride concentration of waters is 5 mg/L or greater, the sulfate standard is 2,000 mg/L.

(Source: Amended at 27 Ill. Reg. 166, effective December 20, 2002, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007).

OCT 23 2006

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 309
- 3) Section Number: 309.103(c)(3) Proposed Action: Amended
- 4) Statutory Authority 415 ILCS 5/13 and 27
- 5) A Complete Description of the Subjects and Issues Involved:

This proposed amendment is part of a proceeding entitled, In the Matter of: Proposed Amendments To: 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d); Repealed 35 Ill. Adm. Code 406.203, PART 407; and Proposed New 35 Ill. Adm. Code 302.208(h). Other related amendments are proposed in Parts 302, 405, 406 and 407, and are contained in separate notices pertaining to those Parts. Section 309.103(c)(3) is amended to ensure that standards contained in 35 Ill. Adm. Code 302 and 303 apply to mine discharges and non-point source mine discharges.

- 6) Will this proposed amendment replace an emergency amendment currently in effect?

Yes No

- 7) Does this rulemaking contain an automatic repeal date?

Yes No

- 8) Does this proposed amendment contain incorporations by reference?

Yes No

- 9) Are there any other proposed amendments pending on this part?

Yes No

- 10) Statement of State wide Policy Objectives:

This proposed amendment is consistent with the policy objectives set out in the Environmental Protection Act, 415 ILCS 5/1 *et seq.*

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R07-___ and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small business affected:

Mine related facilities and mining activities proposing to discharge particular contaminants into waters of the state.

- B) Reporting, book keeping or other procedures required for compliance:

No additional reporting and record keeping requirements are imposed beyond those necessary for compliance with the existing regulations.

- C) Types of professional skills necessary for compliance:

No additional professional skills are required beyond those necessary for compliance with the existing regulations.

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

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

**PART 309
PERMITS**

SUBPART A: NPDES PERMITS

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| 309.102 | NPDES Permit Required |
| <u>309.103</u> | 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 |
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| 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 |
| 309.141 | 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 |
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| 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 |
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| 309.154 | Authorization to Construct |
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| 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 |
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| 309.191 | Effective Date |

SUBPART B: OTHER PERMITS

| | |
|---------|---|
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| 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 |
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| 309.263 | Modification of Permits |
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| 309.265 | Approval of Federal Permits |
| 309.266 | Procedures |
| 309.281 | Effective Date |
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Appendix 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 _____ at _____ Ill. Reg. _____, effective _____, 2007.

SUBPART A: NPDES PERMITS

Section 309.103 Application - General

- a) Application Forms
 - 1) An applicant for a National Pollution Discharge Elimination System (NPDES) Permit shall file an application, in accordance with Section 309.223 hereof, on forms provided by the Illinois Environmental Protection Agency (Agency). Such forms shall comprise the NPDES application forms promulgated by the U.S. Environmental Protection Agency for the type of discharge for which an NPDES Permit is being sought and such additional information as the Agency may reasonably require in order to determine that the discharge or proposed discharge will be in compliance with applicable state and federal requirements.
 - 2) In addition to the above application forms, the Agency may require the submission of plans and specifications for treatment works and summaries of design criteria.
 - 3) Effluent toxicity monitoring
 - A) In addition to the above application forms, the Agency may require, pursuant to Section 39 of the Act, the installation, use, maintenance and reporting of results from monitoring equipment and methods, including biological monitoring.

The Agency may require, pursuant to Section 39 of the Act, effluent toxicity testing to show compliance with 35 Ill. Adm. Code 302.621 and 302.630. If this toxicity testing shows the effluent to be toxic, the Agency may require pursuant to Section 39 of the Act further testing and identification of the toxicant(s) pursuant to 35 Ill. Adm. Code 302.210(a).

- B) The following POTWs shall provide the results of valid whole effluent biological toxicity testing to the Agency:
- i) All POTWs with design influent flows equal to or greater than one million gallons per day;
 - ii) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program pursuant to 35 Ill. Adm. Code 310.Subpart E;
- C) In addition to the POTWs listed in (a)(3)(B), the Agency may require other POTWs to submit the result of toxicity tests with their permit applications, based on consideration of the following factors.
- i) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment facility, and types of industrial contributors);
 - ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow);
 - iii) Existing controls on point or nonpoint sources, including total maximum daily load calculations for the waterbody segment and the relative contribution of the POTW;
 - iv) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource; or
 - v) Other considerations (including but not limited to the history of toxic impact and compliance

problems at the POTW), which the Agency determines could cause or contribute to adverse water quality impacts.

D) The POTWs required under subsections (a)(3)(B) or (a)(3)(C) to conduct toxicity testing shall use the methods prescribed at 35 Ill. Adm. Code 302.Subpart F. Such testing must have been conducted since the later of the last NPDES permit reissuance or permit modification pursuant to Section 309.182, 309.183 or 309.184 for any of the reasons listed at 40 CFR 122.62(a) (1994), as amended at 60 Fed. Reg. 33926 effective June 29, 1995, herein incorporated by reference (including no later amendments or editions).

4) All POTWs with approved pretreatment programs shall provide the following information to the Agency: a written technical evaluation of the need to revise local limits pursuant to 35 Ill. Adm. Code 310.210.

BOARD NOTE: Subsections (a)(3)(B) through (a)(4) are derived from 40 CFR 122.21(j) (1994).

b) Animal Waste Facilities

An applicant for an NPDES Permit in connection with the operation of an animal waste facility shall complete, sign, and submit an NPDES application in accordance with the provisions of 35 Ill. Adm. Code: Subtitle E, Chapter I.

c) Mining Activities

1) If, as defined by 35 Ill. Adm. Code 402.101, mining activities are to be carried out on a facility for which an NPDES Permit is held or required, the applicant must submit a permit application as required by 35 Ill. Adm. Code 403.103, 403.104 and 405.104. If the facility will have a discharge other than a mine discharge or non-point source mine discharge as defined by 35 Ill. Adm. Code 402.101, the applicant shall also submit an NPDES Permit application in accordance with Section 309.223 on forms supplied by the Agency.

2) As provided by 35 Ill. Adm. Code 403.101, except to the extent contradicted in 35 Ill. Adm. Code: Subtitle D, Chapter I, the rules

contained in this Subpart apply only to 35 Ill. Adm. Code: Subtitle D, Chapter I NPDES Permits.

- 3) As provided by 35 Ill. Adm. Code 406.100, except to the extent provided in 35 Ill. Adm. Code: Subtitle D, Chapter I, the effluent ~~and water quality~~ standards of 35 Ill. Adm. Code ~~302, 303 and 304~~ are inapplicable to mine discharges and non-point source mine discharges.

d) New Discharges

Any person whose discharge will begin after the effective date of this Subpart A or any person having an NPDES Permit issued by the U.S. Environmental Protection Agency for an existing discharge which will substantially change in nature, or increase in volume or frequency, must apply for an NPDES Permit either:

- 1) No later than 180 days in advance of the date on which such NPDES Permit will be required; or
- 2) In sufficient time prior to the anticipated commencement of the discharge to insure compliance with the requirements of Section 306 of the Clean Water Act (CWA) (33 U.S.C. 1251 et seq), or with any other applicable water quality standards and applicable effluent standards and limitations.

e) Signatures

An application submitted by a corporation shall be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively. In the case of a publicly owned facility, the application shall be signed by either the principal executive officer, ranking elected official, or other duly authorized employee.

(Source: Amended at 20 Ill. Reg. 5526, effective April 1, 1996, amended in _____ at _____ Ill. Reg: _____, effective _____, 2007).

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ILLINOIS REGISTER

POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: State And NPDES Permits
- 2) Code Citation: 35 Ill. Adm. Code 405
- 3)

| | |
|------------------------|-------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> |
| 405.109(b)(2)(A) | Amended |
| 405.109(b)(2)(B) | Amended |
- 4) Statutory Authority 415 ILCS 5/13 and 27
- 5) A Complete Description of the Subjects and Issues Involved:

The proposed amendments are part of a proceeding entitled, In the Matter of: Proposed Amendments To: 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d); Repealed 35 Ill. Adm. Code 406.203, PART 407; and Proposed New 35 Ill. Adm. Code 302.208(h). Other related amendments are proposed in Parts 302, 309, 406 and 407, and are contained in separate notices pertaining to those Parts. Sections 405.109(b)(2)(A) and (b)(2)(B) are amended to ensure that discharges from abandoned mine related facilities and mining activities are subject to the applicable Subtitle C water quality standards.

- 6) Will this proposed amendment replace an emergency amendment currently in effect?
 Yes No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes No
- 8) Does this proposed amendment contain incorporations by reference?
 Yes No
- 9) Are there any other proposed amendments pending on this part?
 Yes No
- 10) Statement of State wide Policy Objectives:

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

This proposed amendment is consistent with the policy objectives set out in the Environmental Protection Act, 415 ILCS 5/1 *et seq.*

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R07-___ and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small business affected:

Abandoned mine related facilities and mining activities proposing to discharge particular contaminants into waters of the state.

- B) Reporting, book keeping or other procedures required for compliance:

No additional reporting and record keeping requirements are imposed beyond those necessary for compliance with the existing regulations.

- C) Types of professional skills necessary for compliance:

No additional professional skills are required beyond those necessary for compliance with the existing regulations.

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

**TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD**

**PART 405
STATE AND NPDES PERMITS**

Section

| | |
|----------------|--|
| 405.100 | Preamble |
| 405.101 | Special Conditions: Agency Guidance Document |
| 405.102 | Standard for Permit Issuance or Certification |
| 405.103 | Permit Modification When New Regulations are Adopted |
| 405.104 | Permit Applications |
| 405.105 | Surface Drainage Control |
| 405.106 | Refuse Disposal |
| 405.107 | Experimental Permits for Refuse Disposal |
| 405.108 | Permit for Use of Acid-producing Mine Refuse |
| <u>405.109</u> | Abandonment Plan |
| 405.110 | Cessation, Suspension or Abandonment |
| 405.111 | Emergency Procedures To Control Pollution |
| 405.112 | Mine Entrances |
| 405.113 | Permit Area |
| Appendix A | References to Previous Rules |

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 1012, 1013 and 1027.

SOURCE: Adopted in R76-20, R77-10, 39 PCB 196, at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 8527; amended in R83-6A at 8 Ill. Reg. 13267, effective July 16, 1984, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007.

Section 405.109 Abandonment Plan

- a) A state or NPDES permit shall include an abandonment plan as a condition.
- b) An abandonment plan shall be incorporated into the permit by reference if it:

- 1) Includes a time schedule establishing that the abandonment plan will be executed and completed within a reasonable time after abandonment considering any potential adverse impact on the environment pending completion of the plan and the amount of time required to carry out the steps in the plan; one year is assumed to be a reasonable time unless the operator demonstrates that a longer time is reasonable; and
- 2) Shows that the mine related facilities and mining activities will be abandoned so as not to cause a violation of the Act or this Chapter;
 - A) ~~If the plan includes a discharge which will remain after abandonment which will not meet the requirements of 35 Ill. Adm. Code 406.202, and if the permit included water quality based conditions under 35 Ill. Adm. Code 406.203 during active mining, the discharge shall be deemed to meet 35 Ill. Adm. Code 406.202 with respect to total dissolved solids, chloride, sulfate, iron and manganese if it will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2); or~~
 - B) ~~If the plan includes impoundments which will remain after abandonment and which will not meet the water quality standards of 35 Ill. Adm. Code 302.204 or 302.208, with respect to total dissolved solids, chloride, sulfate, iron, manganese and pH, such fact shall not prevent approval of the plan if the impoundment will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2).~~
- c) If the abandonment plan does not meet the standard of paragraph (b) the Agency may either deny the permit or issue it with an abandonment plan modified by conditions subject to Section 405.101.
- d) The time limit provided by paragraph (b)(1) is inapplicable to abandonment plans for surface coal mines which are approved as reclamation plans under the Surface Coal Mining Land Conservation and Reclamation Act, (Ill. Rev. Stat. 1983, ch. 96 1/2, par. 7902.03).
- e) Any abandonment plan constituting a substantial change from the permitted abandonment plan is a revised abandonment plan.

- f) A permittee shall apply for a new or revised or supplemental NPDES or state permit prior to implementation of a revised abandonment plan within the time limits provided by 35 Ill. Adm. Code 403.104(c).
- g) An abandonment plan incorporated into a permit pursuant to showing under 35 Ill. Adm. Code 406.203 shall include conditions pursuant to 35 Ill. Adm. Code 406.203(e)(1) and (e)(2).

(Source: Amended at 8 Ill. Reg. 13267, effective July 16, 1984, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007.)

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POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Mine Waste Effluent And Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 406
- 3)

| | |
|------------------------|-------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> |
| 406.100(d) | Amended |
| 406.203 | Repealed |
- 4) Statutory Authority 415 ILCS 5/13 and 27
- 5) A Complete Description of the Subjects and Issues Involved:

The proposed amendments are part of a proceeding entitled, In the Matter of: Proposed Amendments To: 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d); Repealed 35 Ill. Adm. Code 406.203, PART 407; and Proposed New 35 Ill. Adm. Code 302.208(h). Other related amendments are proposed in Parts 302, 309, 405 and 407, and are contained in separate notices pertaining to those Parts. The Agency is proposing to amend Section 406.100(d) and repeal Section 406.203. The proposed changes would ensure that discharges from mine related facilities and mining activities are subject to the applicable Subtitle C water quality standards.

- 6) Will this proposed amendment replace an emergency amendment currently in effect?
 Yes No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes No
- 8) Does this proposed amendment contain incorporations by reference?
 Yes No
- 9) Are there any other proposed amendments pending on this part?
 Yes No
- 10) Statement of State wide Policy Objectives:

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

This proposed amendment is consistent with the policy objectives set out in the Environmental Protection Act, 415 ILCS 5/1 *et seq.*

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R07-___ and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected:

Mine related facilities and mining activities proposing to discharge particular contaminants into waters of the state.

B) Reporting, book keeping or other procedures required for compliance:

No additional reporting and record keeping requirements are imposed beyond those necessary for compliance with the existing regulations.

C) Types of professional skills necessary for compliance:

No additional professional skills are required beyond those necessary for compliance with the existing regulations.

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

**TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD**

**PART 406
MINE WASTE EFFLUENT AND WATER QUALITY STANDARDS**

SUBPART A: EFFLUENT STANDARDS

Section

| | |
|----------------|--|
| <u>406.100</u> | Preamble |
| 406.101 | Averaging |
| 406.102 | Sampling, Reporting and Monitoring |
| 406.103 | Background Concentrations |
| 406.104 | Dilution |
| 406.105 | Commingling of Waste Streams |
| 406.106 | Effluent Standards for Mine Discharges |
| 406.107 | Offensive Discharges |
| 406.108 | Non-Point Source Mine Discharges |
| 406.109 | Effluent Standards for Coal Mine Discharge from Reclamation Areas |
| 406.110 | Alternate Effluent Standards for Coal Mine Discharges During Precipitation Events |

SUBPART B: WATER QUALITY STANDARDS

Section

| | |
|----------------|---|
| 406.201 | Temporary Exemption from Section 406.105 (Repealed) |
| 406.202 | Violation of Water Quality Standards |
| <u>406.203</u> | TDS Related Permit Conditions |
| 406.204 | Good Mining Practices |
| 406.205 | Contact with Disturbed Areas |
| 406.206 | Retention and Control of Exposed Waters |
| 406.207 | Control of Discharge Waters |
| 406.208 | Unconventional Practices |
| 406.209 | Expiration of Former Exemptions |

Appendix A References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1012, 1013 and 1027).

SOURCE: Adopted in R76-20, R77-10, 39 PCB 196, at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 8527; emergency amendment in R83-

6B at 7 Ill. Reg. 8386, effective July 5, 1983, for a maximum of 150 days; amended in R83-6B at 7 Ill. Reg. 14510, effective October 19, 1983; amended in R83-6A at 8 Ill. Reg. 13239, effective July 16, 1984; amended in R84-29 at 11 12899, effective July 27, 1987, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007.

SUBPART A: EFFLUENT STANDARDS

Section 406.100 Preamble

- a) Part 406 applies to mine discharges and non-point source mine discharges as defined by Section 402.101.
- b) Other discharges, including sanitary sewers, are regulated under Subtitle C, Chapter I: Water Pollution.
- c) A facility which has another discharge will be subject to both Subtitle C and Subtitle D. Subtitle D governs mining activities, including mine discharges and non-point source mine discharges. Subtitle C governs other discharges.
- d) Except to the extent provided in this Part 406, Parts 302, 303 and 304 of subtitle C is are inapplicable to mine discharges and non-point source mine discharges.

SUBPART B: WATER QUALITY STANDARDS

~~Section 406.203 TDS-Related Permit Conditions~~

- ~~a) This Section sets forth procedures by which water quality-based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese may be established by the Agency for coal mine discharges. These procedures apply instead of Section 406.202 whenever a permit applicant elects to proceed under this Section. A permittee must comply with water quality-based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese established pursuant to this Section instead of Section 406.202. Public hearings may be required pursuant to 35 Ill. Adm. Code 309.115.~~

- b) ~~An applicant may elect to proceed under this Section by providing the required information as part of a new or renewed or supplemental state or NPDES permit application.~~
- e) ~~The Agency shall establish permit conditions under this Section if all of the following conditions are met:~~
 - 1) ~~The applicant proves to the Agency that the discharge will not cause an adverse effect on the environment in and around the receiving stream, by either:~~
 - A) ~~Demonstrating that the discharge will contain a concentration less than or equal to 3500 mg/l sulfate and 1000 mg/l chloride; or,~~
 - B) ~~Through actual stream studies.~~
 - 2) ~~The applicant proves to the Agency that the discharge will not adversely affect any public water supply; and~~
 - 3) ~~The applicant proves to the Agency that it is utilizing good mining practices designed to minimize discharge of total dissolved solids, chloride, sulfate iron and manganese.~~
- d) ~~The Agency may promulgate under 35 Ill. Adm. Code 405.101(e) a code of good mining practices consistent with the definition in Section 406.204. Compliance with the code of good mining practices shall be prima facie evidence that the applicant is utilizing good mining practices within the meaning of paragraph (e)(3).~~
- e) ~~Whenever the Agency issues a permit based on this Section, it shall include such conditions as may be necessary to ensure that:~~
 - 1) ~~There is no adverse effect on the environment in and around the receiving stream;~~
 - 2) ~~The discharge does not adversely affect any public water supply; and~~
 - 3) ~~The permittee utilizes good mining practices designed to minimize discharge of total dissolved solids, chloride, sulfate, iron and manganese.~~
- f) ~~Whenever the Agency issues a permit pursuant to this Section, it may include as a condition a requirement that the permittee submit to the~~

~~Agency effluent data for total dissolved solids, chloride, sulfate, iron and manganese.~~

(Source: Added at 8 Ill. Reg. 13239, effective July 16, 1984, amended in _____ at _____ Ill. Reg. _____, effective _____, 2007.)

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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Compliance And Effective Dates
- 2) Code Citation: 35 Ill. Adm. Code 407
- 3)

| | |
|------------------------|-------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> |
| 407.101 | Repealed |
| 407.102 | Repealed |
| 407.103 | Repealed |
| 407.104 | Repealed |
| Appendix A | Repealed |
- 4) Statutory Authority 415 ILCS 5/13 and 27
- 5) A Complete Description of the Subjects and Issues Involved:

The proposed amendments are part of a proceeding entitled, In the Matter of: Proposed Amendments To: 35 Ill. Adm. Code 302.102(b)(6), 302.102(b)(8), 302.102(b)(10), 302.208(g), 309.103(c)(3), 405.109(b)(2)(A), 405.109(b)(2)(B), 406.100(d); Repealed 35 Ill. Adm. Code 406.203, PART 407; and Proposed New 35 Ill. Adm. Code 302.208(h). Other related amendments are proposed in Parts 302, 309, 405 and 406, and are contained in separate notices pertaining to those Parts. The entire Part 407 is repealed as it serves no purpose in the issuance of NPDES permits for mine related facilities and mining activities.

- 6) Will this proposed amendment replace an emergency amendment currently in effect?
 Yes No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes No
- 8) Does this proposed amendment contain incorporations by reference?
 Yes No
- 9) Are there any other proposed amendments pending on this part?
 Yes No

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

10) Statement of State wide Policy Objectives:

This proposed amendment is consistent with the policy objectives set out in the Environmental Protection Act, 415 ILCS 5/1 *et seq.*

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R07-____ and be addressed to:

Ms. Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected:

Mine related facilities and mining activities proposing to discharge particular contaminants into waters of the state.

B) Reporting, book keeping or other procedures required for compliance:

No additional reporting and record keeping requirements are imposed beyond those necessary for compliance with the existing regulations.

C) Types of professional skills necessary for compliance:

No additional professional skills are required beyond those necessary for compliance with the existing regulations.

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

~~TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE-RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD~~

~~PART 407
COMPLIANCE AND EFFECTIVE DATES~~

Section

| | |
|------------|--|
| 407.101 | Effective Date |
| 407.102 | Applications from Holders of Outstanding Permits |
| 407.103 | Expiration of Outstanding Permits |
| 407.104 | Abandonment Plan for Existing Permits |
| Appendix A | References to Previous Rules |

~~AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Illinois Environmental Protection Act (Ill. Rev. Stat., ch. 111 1/2, pars. 1012, 1013 and 1027) unless otherwise noted.~~

~~SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527, effective August 10, 1981.~~

Section 407.101 — Effective Date

~~This Chapter is effective upon filing with the Secretary of State.~~

Section 407.102 Applications from Holders of Outstanding Permits

- ~~a) — A holder of an outstanding operating permit under the old Chapter 4 may apply for a state or NPDES permit at any time.~~
- ~~b) — The Agency may by notification require a holder of an outstanding operating permit to apply for a state or NPDES permit.~~
- ~~e) — Notification shall contain a date, not less than 180 days after notification, by which date an application must be received by the Agency.~~

Section 407.103 — Expiration of Outstanding Permits

~~Compliance with the provisions of this Chapter is required on the effective date except that immediate compliance with the permit requirement of Section 404.101 is not required of holders of outstanding permits for mines opened prior to the effective date of this Subtitle D, Chapter I. For such facilities, compliance with Section 404.101 is required upon expiration of the outstanding operating permit. Such permits shall expire upon the occurrence of any of the following conditions, whichever occurs first:~~

- a) ~~The lapse of three years after the effective date of this Chapter; or~~
- b) ~~The expiration of any NPDES permit held by the permittee for the facility; or~~
- e) ~~Issuance of a permit for the facility pursuant to Section 403.102 or Section 404.101; or~~
- d) ~~The lapse of an application period fixed pursuant to Section 407.102(e) if an application is not received by the date given in the notification.~~

Section 407.104 — Abandonment Plan for Existing Permits

~~The requirement of a permit to abandon contained in Rule 502 of old Chapter 4, effective May 23, 1972 shall continue to apply to operators of mines opened prior to the effective date of this Subtitle D, Chapter I, until such time as such operator shall have been issued under this Subtitle D, Chapter I a valid permit containing an abandonment plan.~~

Section 407. APPENDIX A — REFERENCES TO PREVIOUS RULES

~~The following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification.~~

| | |
|---|---|
| Chapter 4, Mine Related Pollution Part VII, Compliance and Effective Dates | 35 Ill. Admin. Code Part 407 |
| Rule 701 | Section 407.101 |
| Rule 702 | Section 407.102 |
| Rule 703 | Section 407.103 |
| Rule 704 | Section 407.104 |