

ILLINOIS POLLUTION CONTROL BOARD

October 30, 1980

AMENDMENTS TO THE WATER POLLUTION )  
REGULATIONS OF THE ILLINOIS ) R80-6  
POLLUTION CONTROL BOARD )

PROPOSED RULE, FIRST NOTICE (HEARINGS TO BE HELD)  
ORDER OF THE BOARD (by D. Satchell):

On May 1, 1980 the Board proposed certain amendments to Rules 104, 604, 605, 606, 607, 914, 951, 962, 967, 971 and 974 of Chapter 3: Water Pollution (Proposed Rule, First Notice). This was published in Environmental Register #217, May 13, 1980 and Illinois Register May 30, 1980. In response to comments received the Board will modify the proposal as appears below. Some of these comments requested revision of other rules in Chapter 3 and proposed revision of the rules involved in the May 1 Order. The Board will therefore withdraw that Order and publish a new Proposed Rule, First Notice in the Illinois Register. This proposal will be authorized for hearings.

In the following Order changes from the existing rules are indicated by lining out deleted language and underlining new language.

104 Definitions

"Pretreatment Works" means a treatment works designed and intended for the treatment of wastewater from ~~a major contributing industry~~, an indirect discharge or an industrial user as defined in 40 CFR ~~128~~ Part 403, before introduction into a sewer system tributary to a publicly owned or publicly regulated treatment works.

"Publicly Owned" means ownership by a municipality, sanitary district, county, or state or federal agency.

"Publicly Regulated" refers to those otherwise private companies which are regulated as public utilities by the Illinois Commerce Commission pursuant to an Act Concerning Public Utilities, Ill. Rev. Stat. 1979, ch. III 2/3, par. 1 et seq.

501 Reporting Requirements

- (a) Every person within this State operating a pretreatment works, treatment works or wastewater source shall submit

operating reports to the Agency at a frequency to be determined by the Agency. Such reports shall contain information regarding the quantity of influent and of effluent discharged, of wastes bypassed and of combined sewer overflows; the concentration of those physical, chemical, bacteriological and radiological parameters which shall be specified by the Agency; and any additional information the Agency may reasonably require. This reporting requirement for pretreatment works shall only apply to those pretreatment works ~~that-either~~ which:

- (1) ~~Discharge-toxic-pollutants, as defined in Section 502(13) of the FWPCA, or pollutants which may interfere with the treatment process, into the receiving treatment works; or~~  
Will be subject to regulations promulgated under Section 307 of the Clean Water Act (FWPCA); or
- (2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
- (3) Discharge 15% or more of the total biological loading received by the treatment works as measured by 5-day biochemical oxygen demand.

(b) Deleted.

(c) Every holder of an NPDES Permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

#### 604 New-Connections Critical Review and Restricted Status

- (a) Publication of Lists. The Agency shall publish and make available to the public at intervals of not more than three months a comprehensive and up-to-date list of ~~sani-tary-districts-and-other~~ wastewater ~~treatment-or-trans-portion~~ authorities then subject to restricted status on further sewer connections, as well as a list of those which are then under critical review by the Agency. Such lists shall include estimates of treatment plant and sewer capacity, and the amount of population equivalent added since publication of the previous list.
- (b) Restricted Status. Restricted status shall be defined as the Agency determination, ~~pursuant to Section 39 of the Act and Rule 962 of this Chapter,~~ 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.

- (c) Critical Reviw. Critical review shall be defined as the Agency determination pursuant to ~~Section 39 of the Act and Rule 962 of this Chapter,~~ 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.
- (d) Notification of Individuals Requesting Connections. ~~Sanitary districts, or other~~ Wastewater treatment or transportation authorities responsible for authorizing new sewer connections which have been placed on restricted status or critical review by the Agency shall notify all individuals requesting connections of such Agency determination.
- ~~(e) Appeal. Any sanitary district or other wastewater treatment or transportation authority responsible for authorizing new sewer connections, may petition, pursuant to Title 10 of the Act and Part 5 of the Board Procedural Rules, for a hearing before the Board to contest the decision of the Agency to place it on restricted status.~~
- (e) The Agency shall notify the wastewater authority of its determination of restricted status or critical review and shall give a specific, detailed written statement as to the reasons for imposition of the restricted status or critical review.
- ~~(f) Effective Date. This rule shall become effective on January 1, 1976.~~
- (f) The Agency may issue, pursuant to Rule 967, criteria further defining restricted status.
- (g) For purposes of Rules 604, 605, 606, 607 and 608 the term "sewer connection" shall mean a sewer for which a permit is required under Rule 951 of this Chapter.
- (h) For purposes of Rules 604, 605, 606, 607 and 608 the term "wastewater authority" shall mean sanitary district or other wastewater treatment or transportation authority.

605     New Connections

The Agency shall not issue operating permits under Rule 952 or joint construction/operating permits under Rule 954 of this Chapter for the construction or operation of facilities which will connect to a sewer or sewage treatment plant which is on restricted status. The Agency may issue "construct only" permits under Rule 951 to such facilities but no operating permits until the sewer or sewage treatment plant has been removed from restricted status.

606     Appeal

- (a) Any authority responsible for authorizing new sewer connections may petition, pursuant to Title X of the Act and Part V of the Board Procedural Rules, for a hearing before the Board to contest the decision of the Agency to place it on critical review or restricted status or the refusal to terminate such.
- (b) The Agency shall provide procedures whereby a wastewater authority may request termination of critical review or restricted status.
- (c) If the Agency refuses to terminate critical review or restricted status, the Agency shall give a specific, detailed written statement as to the reasons for its decision to the wastewater authority requesting such termination.
- (d) Any person who has been denied an Agency permit because of restricted status may appeal the denial pursuant to Section 40 of the Act and Part V of the Board's Procedural Rules. The wastewater authority which is responsible for authorizing new sewer connections shall be joined as a respondent, in which case the petitioner shall provide notice and service as provided by Part III of the Procedural Rules. The Agency's decision to place the sewer or sewage treatment plant on restricted status is an appealable issue in such proceedings.

607     Variances from Restricted Status

Any person who has applied for an Agency permit which may be denied because of restricted status may petition the Board for a variance from Rule 605 to allow the sewer connection in spite of the restricted status upon a showing of

arbitrary or unreasonable hardship. Such proceeding shall be governed by Part IV of the Board's Procedural Rules. The wastewater authority which is responsible for authorizing new sewer connections may join in the petition, but if it does not it shall be joined as a respondent, in which case petitioner must provide notice and service as provided by Part III of the Procedural Rules.

608 Response by Wastewater Authority

- (a) Where a wastewater authority has been joined as a respondent pursuant to Rule 606 or 607, it shall file a response within twenty-one days of receipt of the petition.
- (b) The response shall indicate:
- (1) What permits the petitioner must obtain from it in order to make the sewer connections contemplated;
  - (2) Whether these permits have been issued or are likely to be issued;
  - (3) Whether it supports or opposes the petitioner's sewer connections;
  - (4) Any facts alleged by petitioner with which it disagrees;
  - (5) Any other relevant information.
- (c) Participation by a wastewater authority as a respondent is for the purpose of allowing it to protect any interest it may have in the subject matter of the variance or permit appeal. No penalty or compliance order may be imposed upon it in this action. However, it may undertake a compliance plan in order to secure the relief petitioner requests. In the event a Board Order is conditioned upon a compliance plan to be executed by a wastewater authority, it shall be construed as a condition limiting the grant of the variance or permit to the petitioner and not as an order enforceable against the respondent wastewater authority. It will be necessary for the petitioner to obtain the respondent's performance to perfect the variance or permit.

914 ~~Variances from NPDES Limitations, Standards and Requirements~~

~~To the extent authorized by the FWPCA and the Act, the Board may grant variances from standards, limitations, and requirements imposed by these NPDES Regulations upon a showing that compliance would impose an arbitrary and unreasonable hardship on the applicant or permittee. Any request for such relief shall be commenced in accordance with Rule 401 of the Procedural Rules and Part IV of the Procedural Rules shall govern the proceeding. If such a variance is granted the Board shall order the Agency to issue or modify an NPDES Permit consistent with the Board Order, the FWPCA, Federal NPDES Regulations and the Act.~~

914 Permit Modification Pursuant to Board Order

The Agency may issue, modify, revoke and reissue or terminate any NPDES permit consistent with the Act, the Clean Water Act (FWPCA), applicable regulations and any applicable Board Order, whether the result of a variance, enforcement or permit appeal case.

917 Permit Modification Pursuant to Application

Upon receipt of an application from a permittee the Agency may issue, modify, revoke and reissue or terminate any NPDES permit just as though an original application had been received.

951 Construction Permits

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

- (a) No person shall cause or allow the construction of any new treatment works, sewer, or wastewater source or cause or allow the modification of any existing treatment works, sewer, or wastewater source without a Construction Permit issued by the Agency, except as provided in Paragraph (b).
- (b) Construction Permits shall not be required for the following:
  - (1) Storm sewers that transport only land runoff; or

- (2) Any treatment works, sewer, or wastewater source designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day of domestic sewage and which will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer; or
  - (3) Any sewer required by statute to secure a permit pursuant to Ch. 111 1/2 Ill. Rev. Stat., Sec. 713, et seq.; or
  - (4) Any treatment works, pretreatment works, sewer, or wastewater source that, on the effective date of this Subpart B, is being constructed or will be constructed under the authorization of a Permit already issued by the Agency or its predecessors; provided however, that all construction must be completed within four years from the effective date of this Subpart B; or
  - (5) Privately owned sewers tributary to industrial treatment works owned by the same person if the additional waste load does not exceed the permitted design capacity of the industrial treatment works.
- (c) No person without a construction permit issued by the Agency shall cause or allow the construction of any pretreatment works or cause or allow the modification of any existing pretreatment works if such pretreatment works, after construction or modification, will:
- (1) ~~Discharge toxic pollutants, as defined in Section 502(13) of the FWPCA, or pollutants which may interfere with the treatment process into the receiving treatment works; or~~  
Be subject to regulations promulgated under Section 307 of the Clean Water Act (FWPCA) (40 CFR Part 403); or
  - (2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
  - (3) Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand.
- ~~without a Construction Permit issued by the Agency.~~

952 ~~Operation~~ Operating Permits: New or Modified Treatment Works, Sewers and Wastewater Sources

(a) No person shall cause or allow the use or operation of any treatment works, sewer or wastewater source for which a construction permit is required under Rule 951 without an operating permit issued by the Agency, except ~~for such testing operations~~ as may be authorized by the construction permit. No operating permit is required under this rule for any discharge for which an NPDES permit is required.

~~(b) However, the requirement for an Operating Permit for only that portion of any treatment works or wastewater source for which an NPDES Permit is required shall be suspended from the effective date of this Subpart B until the earlier of either:~~

~~(1) June 30, 1975, or~~

~~(2) The date of a final determination by the Administrator, pursuant to Section 402(e) of the FWPCA, that the State's NPDES Permit program does not meet the requirements of Section 402(b) or does not conform to the guidelines issued under Section 304(h)(2) of the FWPCA.~~

~~(c) On the effective date of Subpart A hereof, all requirements for Operating Permits for discharges for which NPDES Permits are required shall be abolished, pursuant to the provisions of Section 13(b)(i) of the Act.~~

953 Operating Permits: Existing Treatment Works, Pretreatment Works and Wastewater Sources

(a) No person shall cause or allow the use or operation of any treatment works, pretreatment works, or wastewater source ~~after December 31, 1972~~ without an operating permit issued by the Agency, except as provided in paragraphs (b), (c) and (d).

~~(b) For the period of time referred to in Rule 952 above, the requirement of Operating Permits for treatment works and wastewater sources for which NPDES Permits are required shall be suspended. On the effective date of Subpart A hereof, all requirements for Operating Permits for dischargers for which NPDES Permits~~



~~are required shall be abolished, pursuant to provisions of Section 13(b)(1) of the Act.~~

No operating permit is required under this rule for any discharge for which an NPDES permit is required.

- (c) Operating Permits are not required for treatment works and wastewater sources that are designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day of domestic sewage.
- (d) Operating Permits are not required for those pretreatment works or wastewater sources discharging to a sewer tributary to a treatment works that which will not:
  - (1) ~~Discharge toxic pollutants, as defined in Section 502(13) of the FWPCA, or pollutants which may interfere with the treatment process into the receiving treatment works; or~~  
Be subject to regulations promulgated under Section 307 of the Clean Water Act; or
  - (2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
  - (3) Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand.

956 ~~Former Permits~~

- ~~(a) The issuance of any permit by the Agency or any predecessor prior to the effective date of this Subpart B will not excuse compliance with the requirements for obtaining Operating Permits as set forth in Rule 953.~~
- ~~(b) No Construction or Operating Permit issued by the Agency or its predecessor under authority of any State legislation or regulation other than Section 39(b) of the Act and Board regulations promulgated pursuant thereto, shall be considered valid for the purpose of authorizing any discharge to the waters of the State or to any well.~~

956 Deleted

962 Standards for Issuance

- (a) The Agency shall not grant any permit required by this Subpart B, except an Experimental Permit under Rule 955, unless the applicant submits adequate proof that the treatment works, pretreatment works, sewer, or wastewater source: ~~(a) Will~~ will be constructed, modified,

or operated so as not to cause a violation of the Act or of this Chapter, ~~or has been granted a variance under Title IX of the Act, and~~

- (b) ~~Either conforms to the design criteria promulgated by the Agency under Rule 967, or is based on such other criteria which the applicant proves will produce consistently satisfactory results, and~~  
If the Agency has promulgated, pursuant to Rule 967, criteria with regard to any part or condition of a permit, then for purposes of permit issuance proof of conformity with the criteria shall be prima facie evidence of no violation. However, non-conformity with the criteria shall not be grounds for permit denial if the condition of subsection (a) of this rule is met.
- (c) ~~Conforms to all conditions contained in the Construction Permit, where applicable.~~

967 Design, Operation and Maintenance Criteria

- (a) The Agency may adopt ~~procedures which set forth~~ criteria for the design, operation, and maintenance of treatment works, pretreatment works, sewers, and wastewater sources. These ~~procedures~~ criteria shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.
- (b) ~~Before adopting new criteria or making substantive changes to any criteria adopted by the Agency, the Agency shall:~~
- (1) ~~Publish a summary of the proposed changes in the Board Newsletter or a comparable publication, at the Agency's expense, and~~
  - (2) ~~Provide a copy of the full text of the proposed changes to any person who in writing so requests, and~~
  - (3) ~~Defer adoption of the changes for 45 days from the date of publication to allow submission and consideration of written comments on the proposed changes.~~  
The Agency shall adopt such procedures as are necessary for permit issuance under this Subpart B of Part IX.
- (c) In adopting new or revised criteria or procedures, the Agency shall comply with the requirements of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1979, ch. 127, §1001 et seq.
- (d) To the extent the Agency adopts such criteria, they will represent a formal Agency interpretation of what

is consistent with the Act and Chapter 3 and necessary to accomplish the purposes of the Act.

969 Permit Revocation

- (a) ~~Violation of the conditions of a permit issued under the provisions of this Subpart B shall be grounds for revocation of the permit, in addition to other sanctions provided by the Act. Such sanctions shall be sought by filing a complaint with the Board.~~

A permit issued under this Subpart B may be revoked for cause which includes, but is not limited to, the following:

(1) Cause as set forth in Rule 912(b); or

(2) Delinquency in payment of any charges which may be required to be paid under Section 204(b) of the Clean Water Act.

- (b) ~~Delinquency in payment of any charges which may be required to be paid under Section 204(b) of the FWPCA and regulations thereunder shall be grounds for revocation of any permit issued pursuant to this Subpart B as provided by Rule 969(a) above.~~

Revocation may be sought by filing a complaint with the Board pursuant to Part III of the Procedural Rules.

971 Procedures

~~In addition to procedures specifically authorized under this Part, the Agency may adopt and promulgate all procedures reasonably necessary to perform its duties and responsibilities under this Chapter. Such procedures, and revisions thereto, shall not become effective until filed with the Index Division of the Office of the Secretary of State as required by "An Act Concerning Administrative Rules," approved June 14, 1951, as amended.~~

971 Deleted

974 Permit Modification Pursuant to Variance


If a permit is denied or granted with objectionable conditions required by Board Regulations the permittee may petition the Board for a variance from the regulations. The proceeding will be governed by Part IV of the Procedural Rules. If requested the Board may order permit modification or issuance pursuant to variance.

975    Permit Modification Pursuant to Application

Upon receipt of an application from a permittee the Agency may issue, modify, revoke and reissue, or terminate any permit just as though an original application had been received.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30<sup>th</sup> day of October, 1980 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board