



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

April 20, 2015

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

RECEIVED
APR 22 2015
STATE OF ILLINOIS
Pollution Control Board

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 39, Issue 17 of the Illinois Register, dated 4/24/2015.

PROPOSED RULES

Pretreatment Programs

35 Ill. Adm. Code 310

5762

Point of Contact: Mike McCambridge

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

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The amendments update the incorporation by reference to 40 C.F.R. 136 so that it includes the USEPA amendments of August 19, 2014. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments. Principally, the Board added an incorporation by reference to tables II and III in appendix D to 40 C.F.R. 122 for definition of “toxic pollutant.” The incorporation by reference to these federal provisions appears in 35 Ill. Adm. Code 307.1005. The Board wishes to locate all general incorporations by reference to appear in the centralized listing in Section 310.107. At a future time, the Board will remove the incorporation by reference from Section 307.1005.

A table appears in the Board’s opinion and order of April 2, 2015 in docket R15-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 2, 2015 opinion and order in docket R15-13.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.
- 7) Will this proposed amendment replace emergency amendment currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does this proposed amendment contain incorporations by reference? Yes.
- 10) Statement of statewide policy objectives: This proposed amendment do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 11) Are there any other amendments pending on this Part? No.
- 12) 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

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of 45 days after the date of this publication. Comments should reference docket R15-13 and be addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Please direct inquiries to the following person and reference docket R15-13:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

Phone: 312-814-6924
E-mail: michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These

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proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- 14) Regulatory agenda on which this rulemaking was summarized: December 12, 2014, 38 Ill. Reg. 23477, 23489-91

The full text of the proposed amendment begins on the next page:

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

PART 310

PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.106	Electronic Reporting
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source
310.112	Significant Industrial User

SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Local Limits Developed by POTW
310.211	Status of Local Limits
310.220	Categorical Standards
310.221	Source Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution Prohibited as a Substitute for Treatment
310.233	Combined Waste Stream Formula

SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions
310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits
310.311	Demonstration of Consistent Removal
310.312	Provisional Credits

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310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification
310.443	Revocation
310.444	Appeal

SUBPART E: POTW PRETREATMENT PROGRAMS

Section	
310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval
310.503	Incorporation of Approved Programs in Permits
310.504	Incorporation of Compliance Schedules in Permits
310.505	Reissuance or Modification of Permits
310.510	Pretreatment Program Requirements
310.511	Receiving Electronic Documents
310.521	Program Approval
310.522	Contents of Program Submission

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310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
310.543	Agency Decision
310.544	USEPA Objection
310.545	Notice of Decision
310.546	Public Access to Submission
310.547	Appeal

SUBPART F: REPORTING REQUIREMENTS

Section	
310.601	Definition of Control Authority (Repealed)
310.602	Baseline Report
310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
310.605	Periodic Reports on Compliance
310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
310.611	Requirements for Non-Categorical Standard Users
310.612	Annual POTW Reports
310.613	Notification of Changed Discharge
310.621	Compliance Schedule for POTWs
310.631	Signatory Requirements for Industrial User Reports
310.632	Signatory Requirements for POTW Reports
310.633	Fraud and False Statements
310.634	Recordkeeping Requirements
310.635	Notification of Discharge of Hazardous Waste
310.636	Annual Certification by Non-Significant Categorical Users
310.637	Receiving Electronic Documents

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section	
310.701	Definition of Requester
310.702	Purpose and Scope
310.703	Criteria
310.704	Fundamentally Different Factors
310.705	Factors that are Not Fundamentally Different
310.706	More Stringent State Law

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- 310.711 Application Deadline
- 310.712 Contents of FDF Request
- 310.713 Deficient Requests
- 310.714 Public Notice
- 310.721 Agency Review of FDF Requests
- 310.722 USEPA Review of FDF Requests

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

- Section
- 310.801 Net/Gross Calculation

SUBPART I: UPSETS

- Section
- 310.901 Definition
- 310.902 Effect of an Upset
- 310.903 Conditions Necessary for an Upset
- 310.904 Burden of Proof
- 310.905 Reviewability of Claims of Upset
- 310.906 User Responsibility in Case of Upset

SUBPART J: BYPASS

- Section
- 310.910 Definitions
- 310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements
- 310.912 Notice
- 310.913 Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

- Section
- 310.920 General
- 310.921 Substantial Modifications Defined
- 310.922 Approval Procedures for Substantial Modifications
- 310.923 Approval Procedures for Non-Substantial Modifications
- 310.924 Incorporation of Modifications into the Permit

SUBPART L: FEDERAL PROJECT XL AGREEMENTS

- Section
- 310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL

AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

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SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

- a) The following publications are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA document number EPA-830-B-94-001), available from National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>, referenced in Section 310.320.

BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994).

Standard Industrial Classification Manual (1987) (document no. PB87-100012) (referred to as "1987 SIC Manual"), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search through the U.S. Department of Labor, at <http://www.osha.gov/pls/imis/>

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sic_manual.html. In 1997, the federal Office of Management and Budget (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at <http://www.naics.com>. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

40 CFR 2.302 ~~(2012)~~(2014) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 ~~(2012)~~(2014) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 ~~(2012)~~(2014) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 ~~(2012)~~(2014) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 ~~(2012)~~(2014) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 ~~(2012)~~(2014) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 ~~(2012)~~(2014) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) ~~(2012)~~(2014) (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

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40 CFR 136 (2012)-(2014), as amended at 79 Fed. Reg. 49001 (Aug. 19, 2014) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 (2014) (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 (2012)-(2014) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) (2012)-(2014) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 (2012)-(2014) (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 (2012)-(2014) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 (2012)-(2014) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 (2012)-(2014) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

- c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2010) (2013)), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. (2010) (2013)), referenced in Section 310.110.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) (2010) (2013)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2)) (2010) (2013)), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) (2010) (2013)), referenced in Section 310.110.

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Section 308 of the federal Clean Water Act (33 USC 1318-~~(2010)~~ (2013)),
referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4)
~~(2010)~~ (2013)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6)
~~(2010)~~ (2013)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345-~~(2010)~~ (2013)),
referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act
(42 USC 6921-6939e and 6941-6949a)-~~(2010)~~ (2013)), referenced in
Section 310.510.

- d) This Part incorporates no future editions or amendments.

BOARD NOTE: The Board has located all of the incorporations by reference for the purposes of this Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307 in this Section to aid future review and updates. The Board has located the incorporations by reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the segments appropriate to each individual categorical standard. This aids future review and updates of the categorical standards.

(Source: Amended at 39 Ill. Reg. _____, effective _____)