

From: McGill, Richard  
Sent: Monday, November 14, 2016 5:37 PM  
To: JonathanE@ilga.gov  
Subject: RE: Part 310

R16-9

Good evening. I'm responding here to your nine questions on Part 310. Below, you'll find our responses—your questions are repeated (in bold) for convenience:

1. **We're still having difficulty with 310.106(b)(1)(A)(vi) because it is grammatically out of step with the other items. This is probably something that we'll have to brainstorm, but as a preliminary (analyst-level) idea, what about the following?:**
  - a. **In line 429, after the semicolon add "and".** Accepted.
  - b. **In line 431, before "This" add "(Section omitted. ".** Agreed to putting entire text of the subsection in parentheses; changed "this subsection (b)(1)(A)(vi) corresponds with 40 CFR 127.1(a)(6), which pertains to subject matter exclusively outside the scope of wastewater pretreatment" to "The Board omitted a provision derived from 40 CFR 127.1(a)(6), as subject matter outside the scope of wastewater pretreatment."; replaced the ending semicolon with a period.
  - c. **In line 435, before the semicolon add a closing parenthesis and delete "and".** Accepted.
  - d. **Should the second sentence in 310.106(b)(1)(A)(vii) be placed elsewhere?** The text adapted by the Board follows the corresponding federal text in structure. Subsection (b)(1)(A) through the first sentence of subsection (b)(1)(A)(vii) states the first function of subsection (b). The second sentence of subsection (b)(1)(A)(vii) then states the second function of subsection (b). Logically, the second sentence of subsection (b)(1)(A)(vii) is parallel to subsection (b)(1)(A) and could be a separate paragraph indented at the level of subsection (b)(1)(A). The Board has not done this in prior rules, and is reluctant to do so now because citing the text could be confusing.
2. **310.106(b)(2), definition of "Initial recipient", "...after Illinois is authorized by USEPA to implement the NPDES program" → I thought Illinois received its authorization to implement the NPDES program on 10/23/77. Did we lose authorization at some point, or is this qualification necessary for some other reason?** USEPA has authorized Illinois for several NPDES program areas (including NPDES permitting back in 1977), but not for wastewater pretreatment.

3. **In line 732, why are the subsections referenced out of order ("subsections (b)(8) through (b)(7)(G)")?** Changed this to "in accordance with subsection (b)(7)(G)."
4. **In line 742, a subsection (b)(12) is mentioned. We don't see anything past (b)(9).** Changed this to "subsection (b)(7)(G)."
5. **In line 866 (310.106(b)(7)(G)(ii), right after the closing parentheses), the agency version had a couple of extraneous words. We fixed it at publication, but wanted to check to ensure that no text was dropped during drafting. Is it correct as it stands?** Changed "the authorized the Agency or USEPA, as the initial recipient" to "the initial recipient, as defined in subsection (b)(2)."
6. **In line 918 (end of the Board Note), "...or has failed to fulfill the requirements." → Which requirements?** Changed the text to more simply read "where the State is not approved by USEPA to be the initial recipient."
7. **In lines 1212 and 1220, the rule references but does not cite or cross-reference applicable State standards/requirements. Could you please be more specific?** Added "such as 415 ILCS 5/21 and 22.56a and 35 Ill. Adm. Code 309.155, 309.208, and 391" in parentheses after "State standards relating to sludge use or disposal"; added "such as 415 ILCS 5/21 and 35 Ill. Adm. Code 742, 807, and 810" in parentheses after "any Illinois requirements relating to toxic substances."
8. **In lines 1317-1318, is the Board Note missing any text? We find it very confusing as written.** Yes, the word "is" was missing. "Pretreatment permits" are issued by the Agency; "authorizations to discharge" are issued by certain POTWs. "Pretreatment permits" and "authorizations to discharge" are equivalent control mechanisms. The Board Note to the definition of "pretreatment unit" now reads: "The Board added this term to distinguish an 'authorization to discharge,' which is an equivalent control mechanism issued by a POTW that has an approved pretreatment program."

Your question also highlighted that the definition of "pretreatment permit" includes the phrasing "authorization to discharge," itself a defined term. To avoid potential confusion, we replaced the word "authorization" with "permit" in the definition of "pretreatment permit."

9. **In line 1321, "requirement related to pretreatment imposed on an industrial user" → How is such a requirement imposed? By rule? If in rule, where? If not in rule, why not?** It could be imposed by any of several legal authorities, including an "authorization to discharge," a "pretreatment permit," or a Board order.

Please let me know if you have any questions or concerns about these responses. Thank you.

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**From:** Eastvold, Jonathan C. [mailto:JonathanE@ilga.gov]  
**Sent:** Friday, November 04, 2016 3:55 PM  
**To:** McGill, Richard  
**Cc:** McCambridge, Michael  
**Subject:** [External] Part 310

JCAR staff had the following questions about Part 310 during the *Register* publication process. Line numbers correspond to the line numbers in the r01 document.

Thanks in advance for your consideration.

Jonathan

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Questions:

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  - b. In line 431, before "This" add "(Section omitted. )".
  - c. In line 435, before the semicolon add a closing parenthesis and delete "and".
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- 2) 310.106(b)(2), definition of "Initial recipient", "...after Illinois is authorized by USEPA to implement the NPDES program" → I thought Illinois received its authorization to implement the NPDES program on 10/23/77. Did we lose authorization at some point, or is this qualification necessary for some other reason?
- 3) In line 732, why are the subsections referenced out of order ("subsections (b)(8) through (b)(7)(G)")?
- 4) In line 742, a subsection (b)(12) is mentioned. We don't see anything past (b)(9).
- 5) In line 866 (310.106(b)(7)(G)(ii), right after the closing parentheses), the agency version had a couple of extraneous words. We fixed it at publication, but wanted to check to ensure that no text was dropped during drafting. Is it correct as it stands?
- 6) In line 918 (end of the Board Note), "...or has failed to fulfill the requirements." → Which requirements?
- 7) In lines 1212 and 1220, the rule references but does not cite or cross-reference applicable State standards/requirements. Could you please be more specific?
- 8) In lines 1317-1318, is the Board Note missing any text? We find it very confusing as written.

- 9) In line 1321, “requirement related to pretreatment imposed on an industrial user” → How is such a requirement imposed? By rule? If in rule, where? If not in rule, why not?

Proposed Amendments:

- 1) In line 383, before “Administrative” add “Illinois”.
- 2) In line 385, after “Act” add “(FOIA)”.
- 3) In line 458, after “public” add “(see also Section 7(1)(K) of FOIA)”.
- 4) In line 488, change “Table” and “Appendix” to lower case. (They refer to federal law; in the IAC, words like “section”, “part”, “appendix”, or “table” are capitalized only with reference to Illinois law.)
- 5) In line 492, change “Data” to lower case. (This matches other uses of “data group”.)
- 6) In line 503, move the quotation marks before the comma. (For the purposes of the IAC, punctuation that is not part of what is being quoted (even commas and periods) should come outside the quotation marks. According to our executive director, this has nothing to do with British-American differences in punctuation and everything to do with the fact that the comma after “NPDES program” is not part of the defined term.)
- 7) In line 505, delete “[415 ILCS 5/13.3]” and change “sections” to “section”.
- 8) In line 526, change “Table” and “Appendix” to lower case.
- 9) In line 530, change “(b)” to “(b)(2)” and change “are” to “is”.
- 10) In line 531, change “those” to “that”.
- 11) In lines 577 and 590, change “such” to “those”.
- 12) In line 664, after “owner” change the comma to “or”.
- 13) In line 675, delete “and be”.
- 14) In line 688, after “variance” add “issued” and capitalize “section”.
- 15) In lines 689-690, delete “[415 ILCS 5/28.1 or 35-37]”.
- 16) In line 770, capitalize “sections”.
- 17) In line 771, delete “[415 ILCS 5/35-37]”.
- 18) In line 790, after “provisional” add “variance”.
- 19) In line 805, after “waiver” add “issued”.
- 20) In line 820, delete “[415 ILCS 5]”.
- 21) In line 821, delete “Chapter I of Title” and delete “of the”. (Yes, this was our change. I was mistaken when I suggested it.)
- 22) Delete line 822.
- 23) In line 835, change “if” to “of whether”.

- 24) In line 845, change “(b)(7)(E)(ii)” to “(b)(7)(F)(ii)”.
- 25) In line 852, change “of” to “after”.
- 26) In line 891, capitalize “electronic reporting requirements”.
- 27) In line 892, capitalize “permittees”, “facilities”, “entities subject” and “subsection”.
- 28) In line 894, capitalize “schedule”.
- 29) After line 899, in the first row of the table, capitalize “information”, “dates” and “electronic submissions”.
- 30) After line 899, in the second row of the table, left column, capitalize “other”.
- 31) After line 899, in the bottom four rows of the table, right column, delete the periods after each date.
- 32) In line 901, capitalize “reporting standards”.
- 33) In line 906, capitalize “recipient”.
- 34) In line 1133, after “Director”, move the comma outside the quotation marks.
- 35) In line 1158, after “source”, move the comma outside the quotation marks.
- 36) In line 1194, after “used water” add “, containing dissolved or suspended matter,”.
- 37) In lines 1195-1196, delete “that contains dissolved or suspended matter”.
- 38) In line 1198, after “Environment”, move the comma outside the quotation marks.
- 39) In line 1211, change “these” to “those”.
- 40) In line 1214, after “Act” delete the closing parenthesis.
- 41) In line 1215, after “requirements” add a second closing parenthesis.
- 42) In line 1219, after “standards,” delete “and”.
- 43) In line 1226, after “liquid” add a comma.
- 44) In lines 1230 and 1236, after “Environment”, move the comma outside the quotation marks.
- 45) In line 1239, after “Municipality” and “government” strike both periods and add them outside the adjacent quotation marks.
- 46) In line 1241, after “government”, move the comma outside the quotation marks.
- 47) In line 1257, delete “[415 ILCS 5/12(f)]”.
- 48) In lines 1272-1273, strike the quotes around “unit of local government.”.
- 49) In line 1379, after “Permits)” strike the comma and add a semicolon.
- 50) In line 1381, after “Permits)” strike “[415 ILCS 5/39(b)],” and add a semicolon.
- 51) In line 1383, after “requirements)” change the comma to a semicolon.

- 52) In line 1404, after “municipalities” strike the comma.
- 53) In line 1419, after “standard, or” add “, in the case of a new source,”.
- 54) In line 1420, strike “in the case of a new source”.
- 55) In line 1423, after “~~POTW~~” strike the comma.
- 56) In line 1502, after “(a)” add a comma and strike “of this Section”.
- 57) In line 1503, strike the semicolon and add a comma.
- 58) In line 1510, strike “Where” and add “When”.
- 59) In lines 1517 and 1521, strike “of this Section”.

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