

ILLINOIS POLLUTION CONTROL BOARD  
May 12, 2022

IN THE MATTER OF: )  
WASTEWATER PRETREATMENT ) R22-7  
UPDATE, USEPA AMENDMENTS (January ) (Identical-in-Substance  
1, 2021 through June 30, 2021) ) Rulemaking - Water)

Adopted Rule. Final Order.

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

The Board today adopts amendments to Illinois regulations that are “identical in substance” (IIS) to wastewater pretreatment regulations adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2021.

Sections 7.2 and 13.3 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13.3 (2020)) provide for quick adoption by the Board of regulations that are “identical in substance” to regulations that USEPA adopts to implement sections 307(b), (c), and (d) and 402(b)(8) and (b)(9) of the federal Clean Water Act (CWA) (33 U.S.C. §§ 1317(b), (c), and (d) and 1412(b)(8) and (b)(9) (2020)). Section 13.3 of the Act also provides that Title VII of the Act and Section 5 of the Illinois Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2020)) do not apply to the Board’s adoption of identical-in-substance regulations.

The federal wastewater pretreatment standards implement these sections of the CWA and are found in segments of 40 C.F.R. 401, 403, 405 through 415, 417 through 430, 432 through 455, 457 through 461, 463 through 469, and 471.

USEPA took one action affecting the wastewater pretreatment rules during the first half of 2021 that requires Board attention. The USEPA action requires the Board to update one incorporation by reference in 35 Ill. Adm. Code 310.107.

The Board normally proposes updating *Code of Federal Regulations* citations incorporated by reference to the latest version available. The July 1, 2021 version would normally be available from the Government Printing Office (GPO). Possibly because of the CoViD-19 pandemic, segments are still not available as of today. The Board updates those incorporations by reference that are now available.

This opinion has two segments. First, the Board identifies USEPA’s actions that resulted in this rulemaking and discusses the adopted amendments. Second, the Board addresses corrections and other amendments.

**FEDERAL ACTION IMPLEMENTED**

The USEPA action that requires an amendment to the Illinois regulations is summarized below.

**May 19, 2021 (86 Fed. Reg. 27226)**: USEPA updated the analytical methods in 40 C.F.R. 136 used for effluent analyses under the Clean Water Act. The Illinois wastewater pretreatment rules incorporate those methods by reference. The Board must update that incorporation by reference to include this update.

The Board updates the incorporation by reference in the Illinois wastewater pretreatment standards.

### **AMENDMENTS AND CORRECTIONS TO BACKGROUND TEXT**

The Board finds that a limited number of amendments not derived from USEPA actions are needed. These are non-substantive amendments—usually of a stylistic and corrective nature. The Board lists those corrections in the Identical-in-Substance Rulemaking Addendum for Adopted Rulemaking (IIS-RA(F)) for the proceeding.

Ordinarily, updated *Code of Federal Regulations* citations are available before the date the Board proposes the present amendments. Possibly due to the Coronavirus-19 pandemic, the GPO has not yet made available the 2021 version of Title 40. The 2020 version remains the latest available. The Board will update the references at adoption when the 2021 version becomes available.

### **IIS Rulemaking Addendum**

The IIS-RA(P) fully lists the differences between the text of the USEPA amendments and the Board's language in this rulemaking. Table 1 lists the Board's deviation from the literal text of USEPA's amendment. Table 2 in the IIS-RA(F) lists the few Board housekeeping amendments added since the proposal. Table 3 in the IIS-RA(F) lists the single revision the Board declines to make. The entries in Tables 2 and 3 indicate the source of the revisions.

The Board included the IIS-RA (F) in the docket for this rulemaking, available on the Board's website ([www.pcb.illinois.gov](http://www.pcb.illinois.gov)). The Board directs interested persons to the IIS-RA(F) for information about deviations from the federal text and amendments not directly derived from current federal amendments.

### **PUBLIC COMMENTS**

The Board proposed these amendments on February 17, 2022. A Notice of Proposed Amendments appeared in the *Illinois Register* on March 4, 2022, at 46 Ill. Reg. 3497. The 45-day public comment period ended on April 18, 2022. The Board received suggestions for changes in the text only from the Joint Committee on Administrative Rules (JCAR):

- PC 1 March 16, 2022 e-mail from Jonathan Eastvold, JCAR staff, to Richard McGill, Board staff, suggesting non-substantive stylistic revisions to the text of the proposed amendments.

### **ORDER**

The Board directs the Clerk to file the adopted amendments with the Office of the

Secretary of State and provide notice in the *Illinois Register* of the appended adopted amendments to the Illinois wastewater pretreatment regulations at 35 Ill. Adm. Code 310.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 12, 2022, by a vote of 5-0.

Don A. Brown

Don A. Brown, Clerk  
Illinois Pollution Control Board

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

PART 310  
PRETREATMENT PROGRAMS

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##### Section

310.920 General  
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#### SUBPART L: FEDERAL PROJECT XL AGREEMENTS

##### Section

310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL (Repealed)

**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].

**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. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective January 23, 2017; amended in R21-8 at 44 Ill. Reg. 19486, effective December 3, 2020; amended in R21-15 at 45 Ill. Reg. 8061, effective June 21, 2021; amended in R22-7 at 46 Ill. Reg. \_\_\_\_\_, effective

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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, 5301 Shawnee Road, Alexandria, VA 22312-5285 ~~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/sic\\_manual.html](http://www.osha.gov/pls/imis/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 (2021) ~~(2020)~~ (Special Rules Governing Certain

Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 ~~(2021)~~ ~~(2020)~~-(How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 ~~(2021)~~ ~~(2020)~~-(What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 ~~(2021)~~ ~~(2020)~~-(What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 ~~(2021)~~ ~~(2020)~~-(What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 ~~(2021)~~ ~~(2020)~~-(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 ~~(2021)~~ ~~(2020)~~-(NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) ~~(2021)~~ ~~(2020)~~-(Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

Appendix A to 40 CFR 127 ~~(2021)~~ ~~(2020)~~, ~~as amended at 85 Fed. Reg. 69189 (Nov. 2, 2020)~~ (Minimum Set of NPDES Data), referenced in Sections 310.106 and 310.612.

BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program (NPDES data groups 1, 2, 3, 7, and 8) are intended.

40 CFR 136 (2020) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), as amended at 86 Fed. Reg. 27226 (May 19, 2021), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 ~~(2021)~~ ~~(2020)~~-(Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 ~~(2021)~~ ~~(2020)~~-(General Pretreatment Regulations for

Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) ~~(2021)~~ ~~(2020)~~-(Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 ~~(2021)~~ ~~(2020)~~-(Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 ~~(2021)~~ ~~(2020)~~ (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 ~~(2021)~~ ~~(2020)~~-(Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 ~~(2021)~~ ~~(2020)~~-(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 U.S.C. ~~USC-1001~~ ~~(2020)~~ ~~(2019)~~), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 U.S.C. ~~USC-1251~~ et seq. ~~(2020)~~ ~~(2019)~~), referenced in Sections 310.110 and 310.705.

Section 204(b) of the federal Clean Water Act (33 U.S.C. ~~USC~~ 1284(b) ~~(2020)~~ ~~(2019)~~), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 U.S.C. ~~USC~~ 1292(2) ~~(2020)~~ ~~(2019)~~), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 U.S.C. ~~USC-1317~~ (b), (c), and (d) ~~(2020)~~ ~~(2019)~~), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 U.S.C. ~~USC-1318~~ ~~(2020)~~ ~~(2019)~~), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 U.S.C. ~~USC~~ 1319(c)(4) ~~(2020)~~ ~~(2019)~~), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 U.S.C. ~~USC~~ 1319(c)(6) ~~(2020)~~ ~~(2019)~~), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 U.S.C. ~~USC-1345~~ ~~(2020)~~ ~~(2019)~~), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 U.S.C. ~~USC~~ 6921-6939g and 6941-6949a) ~~(2020)-(2019)~~), referenced in Section 310.510.

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

BOARD NOTE: The Board has located 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 46 Ill. Reg. \_\_\_\_\_, effective  
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