

ILLINOIS POLLUTION CONTROL BOARD
November 18, 1983

IN THE MATTER OF:)
)
AMENDMENTS TO TITLE 35:)
ENVIRONMENTAL PROTECTION;) R82-5
SUBTITLE C: WATER POLLUTION;) R82-10
CHAPTER 1: POLLUTION CONTROL) Consolidated
BOARD (Starceovich, Effluent)
Revisions and NPDES))

ADOPTED RULE. FINAL ORDER.

OPINION AND ORDER OF THE BOARD (by J. D. Dumelle):

This proceeding, while not complex from a substantive standpoint, has been complex in its procedural development. It combines elements of six different regulatory proceedings: R76-21, R77-12 (Docket A), R80-6, R81-3, R82-5 and R82-10, and has been commonly referred to as the "omnibus rulemaking." A fairly detailed procedural history is necessary to tie together the various components of this rulemaking.

PROCEDURAL HISTORY

On April 7, 1980 the Illinois Environmental Protection Agency (Agency) proposed the amendment of Section 309.202 of 35 Ill. Adm. Code Subtitle C: Water Pollution, and the addition of definitions of "Publicly Owned Treatment Works" and "Publicly Regulated Treatment Works" as Sections 301.365 and 301.370, respectively.* In addition, the Board proposed other technical amendments to clarify the differences between variances and permit appeals. The heart of the proceeding, however, was the amendment to Section 309.202(b)(2) dealing with construction permit exemptions for certain treatment works, sewers, or wastewater sources. On May 1, 1980 the Board adopted a Proposed Opinion and Order reflecting those amendments (38 PCB 231) and docketing the proposal as R80-6.

The Board received written comments on the proposal which principally addressed the Board-initiated amendments. The

* To further complicate matters, old Chapter 3: Water Pollution, has been codified during the course of these proceedings. All references, however, will be to codified rules as they currently exist in 35 Ill. Adm. Code Parts 301-312: Water Pollution. Also note that Part 306 was amended recently in R81-17 and amendments to that Part reflect changes from the R81-17 amendments.

Board modified its proposal based upon those comments and adopted a Proposed Rule/First Notice Order on October 30, 1980 (30 PCB 666). On April 29, 1982 the Department of Energy and Natural Resources (DENR) filed an economic impact study with the Board. However, no hearings were held. Instead, the Board dismissed the regulatory proceeding on April 29, 1982 (46 PCB 251). The reasons for dismissal were that the definitions proposed by the Agency were adopted under R77-12, Docket A (33 PCB 625, May 24, 1979), the Board-initiated amendments were determined to be unwise, and the amendments to Sections 306.105 and 309.202 were incorporated into R82-5. Thus arose one aspect of this proceeding.

On December 3, 1981, the Board adopted amendments to its effluent standards (R76-21, 44 PCB 203) and also adopted its Proposed Opinion of September 24, 1981 (43 PCB 367) as its Final Opinion. On January 6, 1982 the Agency filed a motion for reconsideration of Sections 304.142 and 307.103 which concern the interrelationship of effluent standards with New Source Performance Standards and sewer discharge criteria for mercury, respectively. The Board denied that motion on February 17, 1982 in that the rules had already been filed with the Secretary of State's Office and were law (45 PCB 437). However, the Board found the Agency's reasons for reconsideration otherwise meritorious and indicated that it would propose the amendment or deletion of those rules. It did so by Board Order of April 1, 1982 (46 PCB 81) which opened docket R82-5 proposing the deletion of Section 304.142 and the amendment of Section 307.103. A negative declaration concerning that proposal was filed by the DENR on February 18, 1983.

Next, on May 13, 1982, the Board adopted a Proposed Rule/First Notice Order (47 PCB 119) opening docket R82-10 which proposed the amendment of Section 309.102 to avoid the potential of duplicative permit requirements for underground injection under both the National Pollutant Discharge Elimination System (NPDES) and the Underground Injection Control (UIC) programs. A negative declaration concerning this matter was filed by the DENR on February 18, 1983.

Given the apparent reasonableness and simplicity of the proposal, the Board determined that administrative convenience would best be served by consolidating R82-10 with R82-5 for purposes of hearing. Hearings were held to consider R82-5 and R82-10 on July 20, 1982, in Chicago and August 3, 1982 in Rockford. Toby Frevert, an Agency engineer, presented the only testimony on July 20, 1982, and no one testified at the August 3, 1982 hearing.

Finally, the Board discovered an error in Section 302.407. Originally, that section simply referred to the limitations set forth in table format in Section 304.124. During the course of amendments under R77-12 (Docket A), the Board adopted and

published the table in the Illinois Register under Section 302.407 but did not file it with the Secretary of State. That error was corrected during the codification of Chapter 3 in R81-3. Unfortunately, when that was done the limitation for silver was inadvertently changed from 0.1 mg/l to 1.0 mg/l, and the rules filed with the Secretary of State reflect that error.

The Board, therefore, proposed to correct that error in this proceeding (as part of R82-5). While the addition of that amendment to this proceeding came after the completion of hearings, there appeared to be no necessity for hearings. The Board fully considered the silver limitation in earlier proceedings at which evidence was presented supporting the 0.1 mg/l standard and the Board had no intent to alter that standard during the codification process. Further, the standard was inadvertently changed in an adoption of rules in which it was specifically required that no substantive changes be made and for which there is no evidence in the record to support such a change. By following that procedure, notice was given to the public of the intent to correct the mistake and comments upon the correction were allowed during the First Notice period.

First notice was published in the Illinois Register on June 3, 1983 (Vol.7, No. 23). The First Notice period closed on July 25, 1983. Two comments were filed during the first notice period. Illinois Power Company (IPC) disagreed with the Board that the proposed amendment to Section 309.262 was non-substantive and requested that it not be adopted (P.C. 3, May 25, 1983), and the Agency recommended changes to Sections 305.102(a)(1), 309.202(b) and (c), 309.204(c) and (d)(1) [P.C. 4, June 14, 1983].

Some changes were made in the proposal based upon the first notice comments and the Board adopted a Proposed Rule/Second Notice Order on August 18, 1983. The second notice period commenced September 7, 1983, and ended on October 26, 1983, when a certification of no objection to the proposed rulemaking was issued by the Joint Committee on Administrative rules. That certification was, however, contingent upon certain non-substantive modifications in the rulemaking which are reflected in the adopted rules.

A section by section analysis follows:

Sections 305.102(a)(1), 309.202(c) and 309.204(d)(1)

The language originally proposed to be deleted in Sections 305.102(a)(1), 309.202(c) and 309.204(d)(1) will be retained. The language of these subsections, as it appears in the first

notice order, was proposed by the Agency in its comments of July 11, 1980. At that time the Agency felt that the United States Environmental Protection Agency's (USEPA's) pretreatment regulatory structure would be more inclusive than it is turning out to be. The regulations in effect at that time identified 21 primary industries for which categorical pretreatment standards would be promulgated (43 Fed. Reg. 2771, June 26, 1978). Information from USEPA's Effluent Guidelines Division shows that 8 of the 21 basic categories (later expanded by subdivision to 35) have now been exempted.

In light of the narrowing of the categories to which standards would apply, the Board believes that it is preferable to continue the approach envisioned by the existing rule in addition to the modification of the rule. This will allow the Agency to require permits from pretreatment sources whenever the discharge may interfere with the treatment works process. Continuing this language will not impose any hardship on dischargers since it has been part of the State's approach to pretreatment program since these Sections became effective on October 24, 1977.

Section 306.405

Section 306.405 requires the Agency to notify any affected entity of its determination that restricted status or critical review be imposed or of its refusal to terminate such status. As proposed in the Board's April 29, 1983 Order, specific, detailed written statements supporting the imposition of restricted status or critical review were required. The rule adopted herein, however, had been modified slightly to require such statements when the Agency refuses to terminate restricted status or critical review as well. The Board can see no reason to treat such refusal differently than the imposition.

Sections 309.202(b) and 309.204(c)

The amendments of Sections 309.202 and 309.204(c) will serve to avoid further effects of the Appellate Court decision in Starcevich v. EPA, 78 Ill. App. 3d 700, 397 N.E. 2d 870 (1979), which construed the present rule to allow multiple connections to the same private sewer connection so long as each connection was to a single building and discharged less than 1500 gallons per day. Such was not the Board's intent in adopting Sections 309.202 and 309.204. Under the reasoning of that case it appears possible that entire subdivisions could be designed such that each private sewer connection serving a single building and discharging under 1500 gallons per day could be connected to the adjacent private sewer connection and thereby be exempted from the permit requirement. As the Starcevich dissent points out,

"the net result of the majority's opinion is to effectively read out of the exemption the single building requirement." Further, the dissent accurately stated that the Board intended the single building requirement "as a limitation upon the number of permit applications which the Agency is required to process" where such discharges are highly unlikely to cause any significant environmental impact. The majority's opinion, however, defeats that purpose.

To remedy that problem the Agency proposed a modification of Section 309.202(b)(2) by adding the exemption requirement that the discharge be directly to a publicly owned or publicly regulated sanitary or combined sewer. Thus, an interconnecting series of private sewer connections would not be exempted.

Further, while neither proposed nor discussed at hearing, the Board has also amended Section 309.204(c) to reflect the amendment of Section 309.202(b)(2). The latter section concerns construction permits, while the former concerns operating permits. It makes little sense to require an operating permit when no construction permit is required, and it appears that the failure to propose amendments to Section 309.204(c) was inadvertent. The Board notes that to qualify for these exemptions the discharger must meet all of the requirements of Section 309.202(b)(2) and 309.204(c), i.e. it must serve a single building, must be designed to discharge less than 1500 gallons per day and must discharge to a publicly owned or regulated sewer.

Section 304.142

The Board adopted Section 304.142 in an attempt to reconcile federal New Source Performance Standards (NSPS) with the Board's effluent standards. In writing an NPDES permit the Agency must incorporate the more stringent of the state or federal standards. However, while as a class the NSPS are expected to be more stringent than State effluent standards, comparison is difficult in that federal standards are based on mass limitations while State standards are based on concentration. As the Board pointed out in its R76-21 Opinion: "Because Illinois standards give no credit for process changes which result in a low mass discharge, the Illinois standards could still be viewed as the more stringent and be incorporated into the permit instead of the New Source Performance Standards" (43 PCB 379). If that were so, a new discharger would have to meet both the NSPS (since it is federally required) and the State standard (as the more stringent), thus, in effect, requiring double control.

Present Section 304.142 exempts dischargers from State effluent standards if the discharge is authorized by an NPDES permit which includes federal effluent limitations based on the best available demonstrated control technology for the constituent in question and is subject to NSPS. This remedies the difficulties perceived by the Board. However, the Agency believes that it gives rise to a new set of difficulties.

The Agency argued that the rule allows new industrial facilities locating in Illinois and subject to NSPS to avoid State effluent standards which may be more stringent than the NSPS. That is true. The problem is that existing dischargers would not qualify for such an exemption. The Agency further argued that such an approach runs counter to the basic tenet of environmental control that new sources "should be required to meet the most restrictive environmental standards because control facilities can be planned with the planning of the facility and thus installed at a lower cost" (Agency Supplemental Comments, R76-21, p.2). The Agency stated that there are presently at least two instances where far stricter State standards have been imposed upon dischargers who qualify for the Section 304.142 exemption.

The Board agrees that it had replaced one problem with another. It, therefore, will delete Section 304.142. In so doing the above-noted inequity will be avoided as will any question of improper delegation to the United States Environmental Protection Agency in deferring to the NSPS. Of course, this action reintroduces the problem that the rule remedied, i.e. double control. However, there is an existing mechanism (e.g. site-specific rulemaking) which the discharger can make use of if it feels that overcontrol is being required.

Section 307.103

Present Section 307.103(a) sets a mercury limitation of 0.0005 mg/l (subject to the averaging rule) on discharges to a publicly owned or regulated sewer system unless a demonstration is made that all reasonable steps are being taken to minimize mercury discharges, in which case a 0.003 mg/l standard is applicable.

Under that rule it is possible that an indirect discharger (a discharger to a sewer) could have a more stringent limitation on its mercury discharge than the sewage treatment plant (STP) to which it discharges (which must meet the limitations of Section 304.126 which parallels Section 307.103). This situation would arise if the STP made its required demonstration for the relaxed standard while the indirect discharger did not.

The Agency argued that "any limits on the sewer discharge beyond the effluent requirement applicable to the STP would be unnecessary given the reductions already to be achieved by the STP" under the Section 304.126 program (Supp. Comments, R76-21), that no environmental benefit would result, and that an informal permitting system for indirect discharges would have to be put in place for the impacted sewer users, which it estimated to be in the hundreds (R.10 and Ex. 2, R82-5).

In adopting Section 307.103 the Board included this separate demonstration for indirect dischargers on the basis that mercury discharges should be limited as much as is reasonable, and certainly the requirement of such a demonstration adds another layer of assurance that they will be. However, the Board did not appreciate the extent of the administrative burden it was imposing upon the Agency. Further, the necessity for the indirect discharger to make the requisite demonstration for the relaxed standards is duplicative in that the indirect discharger would be required to make such a showing to the STP it discharges to in order for the STP to obtain the relaxed standards under Section 304.125. While the Board's rule would specifically allow enforcement against the indirect discharger, the Agency accurately pointed out that such enforcement could be accomplished through Section 304.126 and Section 12(a) of the Act in any case (R. 23-25).

Given the administrative burden and the fact that alternative enforcement mechanisms exist, the Board adopts the Agency's recommended amendment to Section 307.103 which establishes a mercury limitation on an indirect discharge equal to the direct discharger's limitation if the direct discharger's limitation is less strict.

Also, at the Agency's request, the Board adopts a slight amendment to Section 307.103(e) to replace the phrase "sewer treatment plant" with "wastewater treatment plant" which is, of course, the proper terminology.

Section 309.103

On May 13, 1982 the Board proposed the modification of the NPDES rules to properly interface with the UIC rules. The Board's present NPDES rules require NPDES permits for well injection. Federal rules do not since "waters of the United States" do not include groundwater (40 CFR 122.3). The federal rules, however, do require a UIC permit for well injection, and the Board has adopted UIC rules in substance identical to the federal rules pursuant to Section 11 of the Act. Thus, it may be necessary for a person utilizing well injection to obtain both an NPDES and a UIC permit. To avoid useless paperwork the Board will add Section 309.102(b) which deems compliance with the UIC permit requirement to be compliance with the NPDES permit requirement.

By so doing, Section 309.153, which requires NPDES permits to contain such conditions as are necessary to avoid pollution from well injection, becomes unnecessary and the Board will delete it. Further, the NPDES permit requirement should be retained until the State has received primacy for the UIC permit program, and, therefore, Section 309.101, which establishes the effective date of this regulation is proposed to be amended to accommodate that need.

Section 302.407 and others

As noted above, the Board has determined that this rulemaking is an appropriate vehicle for the correction of the error in the Section 302.407 silver secondary contact and indigenous aquatic life standard from 1.0 mg/l to 0.1 mg/l.

Other sections are amended in this rulemaking simply for purposed of clarity and consistency. These changes are non-substantive.

In its first notice public comment IPC states that the deletion of Section 309.262(b)(1), (2) and (3) "represents a relaxation of an important Agency procedure" (P.C. 3, p.1). The Board does not agree. The deleted subsections established a procedural mechanism for the adoption or amendment of Agency design, operation and maintenance criteria. A mechanism which is substantially equivalent to that mechanism has now been mandated by the Administrative Procedure Act. The Board rule has, therefore, become redundant and unnecessary, and will be deleted.

The Clerk is directed to file these adopted rules with the Secretary of State.

ORDER

The Board hereby adopts the following amendments to 35 Ill. Adm. Code Parts 302, 304, 305, 306, 307 and 309: Water Pollution.

Section 302.407 Chemical Constituents

Concentrations of other chemical constituents shall not exceed the following standards:

CONSTITUENT	STORET NUMBER	CONCEN- TRATION (mg/l)
Ammonia Nitrogen (as N)		
(April-October)	00610	2.5
(November-March)	00610	4.0
Arsenic (total)	01002	1.0
Barium (total)	01007	5.0
Cadmium (total)	01027	0.15
Chromium (total hexavalent)	01032	0.3
Chromium (total trivalent)	01033	1.0
Copper (total)	01042	1.0
Cyanide (total)	00720	0.10
Fluoride (total)	00951	15.0
Iron (total)	01045	2.0
Iron (dissolved)	01046	0.5
Lead (total)	01051	0.1
Manganese (total)	01055	1.0
Mercury (total)	71900	0.0005
Nickel (total)	01067	1.0
Oil, fats and grease	00550, 00556 or 00560	15.0*
Phenols	32730	0.3
Selenium (total)	01147	1.0
Silver	01077	0.1
Zinc (total)	01092	1.0
Total Dissolved Solids	70300	1500

* Oil shall be analytically separated into polar and non-polar components if the total concentration exceeds 15 mg/l. In no case shall either of the components exceed 15 mg/l (i.e., 15 mg/l polar materials and 15 mg/l non-polar materials).

(Source: Amended at 7 Ill. Reg. , effective .)

Section 304.142 New Source Performance Standards (Repealed)

(Source: Amended at 7 Ill. Reg. , effective .)

Section 305.102 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 concentrations 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 which:

- 1) Discharge toxic pollutants, as defined in Section 502(13) of the CWA, or pollutants which may interfere with the treatment process, into the receiving treatment works or are subject to regulations promulgated under Section 307 of the Clean Water Act (CWA):33 U.S.C. 1251 et seq.); 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) 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.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 306.405 Notification of Restricted Status or Critical Review.

The Agency shall notify the sanitary district or other wastewater treatment or transportation authority of its determination of restricted status or critical review, or refusal to terminate the same, and shall give a specific, detailed written statement as to the reasons for such action in conformity with the Agency's "Guidelines for Notification of Restricted Status," 35 Ill. Adm. Code 390.

(Source: Former Section 306.405 renumbered to Section 306.406, new Section 306.405 added at 7 Ill. Reg. , effective .)

Section 306.406 Appeal

Any sanitary district or other wastewater treatment or transportation authority responsible for authorizing new sewer connections, may petition, pursuant to Title X of the Act and 35 Ill. Adm. Code 105, for a hearing before the Board to contest the decision of the Agency to place it on restricted status.

(Source: Former Section 306.406 renumbered to Section 306.407, new Section 306.406 renumbered from Section 306.405 and amended at 7 Ill. Reg. , effective .)

Section 306.407 Effective Date

This Subpart shall become effective on January 1, 1976, except for Section 306.405 which shall become effective upon filing.

(Source: Section 306.407 renumbered from Section 306.406 at 7 Ill. Reg. , effective .)

Section 307.103 Mercury

- a) Except as provided below, no person shall cause or allow the concentration of mercury in any discharge to a publicly owned or publicly regulated sewer system to exceed the following level, subject to the averaging rule contained in 35 Ill. Adm. Code 304.104(a):

CONSTITUENT	STORET NUMBER	CONCENTRATION (mg/l)
Mercury	71900	0.0005

- b) It shall be an exception to paragraph (a) if the discharge is to a publicly owned or publicly regulated sewer system which is required to meet a limitation less stringent than the 0.0005 mg/l mercury concentration in which case the discharge limitation shall be the same as that applicable to the publicly owned or regulated sewer system to which it discharges.
- c) It shall be an exception to paragraph (a) if all the following conditions are met:
 - 1) The discharger does not use mercury; or, the discharger uses mercury and this use cannot be eliminated; or, the discharger uses mercury only in chemical analysis or in laboratory or other equipment and takes reasonable care to avoid contamination of wastewater; and,

- 2) The discharge mercury concentration is less than 0.003 mg/l, as determined by application of the averaging rules of 35 Ill. Adm. Code 304.104(a); and,
 - 3) The discharger is providing the best degree of treatment consistent with technological feasibility, economic reasonableness and sound engineering judgment. This may include no treatment for mercury; and,
 - 4) The discharger has an inspection and maintenance program likely to reduce or to prevent an increase in the level of mercury discharges.
- d) The discharge of wastes from medicinal or therapeutic use of mercury, exclusive of laboratory use, shall be exempt from the limitations of paragraph (a) of this section if all the following conditions are met:
- 1) The total plant discharge is less than 227g (one half pound) as Hg in any year;
 - 2) The discharge is to a public sewer system; and
 - 3) The discharge does not, alone or in conjunction with other sources, cause the effluent from the sewer system or treatment plant to exceed 0.0005 mg/l of mercury.
- e) No person shall cause or allow any discharge of mercury to a publicly owned or publicly regulated sewer system which, alone or in combination with other sources, causes a violation by the wastewater treatment plant discharge of the water quality standard of Part 302 for mercury applicable in the receiving stream.
- f) For purposes of permit issuance the Agency may consider application of the exception of paragraph (b) or (c) to determine compliance with this Section. The Agency may impose permit conditions necessary or required to assure continued application of the exception. When paragraph (b) or (c) applies, the Agency may impose an effluent limitation in the permit which allows the discharge of a concentration of mercury greater than 0.0005 mg/l but not more than 0.003 mg/l.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.102 NPDES Permit Requirement

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.
- b) Neither an NPDES permit nor a state permit is required for any discharge into a well which is authorized by a UIC (Underground Injection Control) permit issued by the Agency pursuant to 35 Ill. Adm. Code 702 and 704 of Subtitle G. For such wells, compliance with the UIC permit requirements of Section 12(g) is deemed compliance with the NPDES permit requirement of Section 12(f) of the Act.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.153 Deep Well Disposal of Pollutants (Repealed)

Section 309.191 Effective Dates

- a) Except as otherwise provided, Subpart A became effective on October 24, 1977.
- b) The UIC permit exception of Section 309.102(b) will become effective upon filing with the Secretary of State of a letter from USEPA approving the UIC program for the State of Illinois.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.202 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 (5700 l/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 Section 3 of "An Act to provide for, license and regulate mobile homes and mobile home parks", P.A. 77-1472, (Ill. Rev. Stat. 1981, ch. 111½, par. 713); 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 02(13) of the CWA, 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 (CWA); 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;

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.203 Operating Permits; New or Modified Treatment Works, Sewers and Wastewater Sources

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 Section 309.202 without an operating permit issued by the Agency, except as may be authorized by the construction permit. No operating permit is required under this Section for any discharge for which an NPDES permit is required.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.204 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 without an operating permit issued by the Agency, except as provided in paragraphs (b), (c), and (d).
- b) No operating permit is required under this Section 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 (5700 l/day) of domestic sewage and which will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer.
- d) Operating permits are not required for those pretreatment works or wastewater sources discharging to a sewer tributary to a treatment works which will not:
 - 1) Discharge toxic pollutants, as defined in Section 502(13) of the CWA, 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 (CWA); 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.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.207 Former Permits (Repealed)

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.241 Standards for Issuance

- a) The Agency shall not grant any permit required by this Subpart B, except an experimental permit under Section 309.206, unless the applicant submits adequate proof that the treatment works, pretreatment works, sewer, or wastewater source will be constructed, modified, or operated so as not to cause a violation of the Act or of this Chapter and.
- b) If the Agency has promulgated, pursuant to Section 309.262, 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 sub-section (a) of this section is met.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.262 Design, Operation and Maintenance Criteria

- a) The Agency may adopt criteria for the design, operation, and maintenance of treatment works, pretreatment works, sewers, and wastewater sources. These criteria shall be revised from time to time to reflect current engineering judgement and advances in the state of the art. The Board notes that the Agency has adopted or is in the process of adopting "Design Criteria for Pressure Sewage Systems" 35 Ill. Adm. Code 374, "Recommended Standards for Sewage Works" 35 Ill. Adm. Code 370, and "Requirements for Design and Operation Manuals" 35 Ill. Adm. Code 371."

- b) The Agency shall adopt such procedures as are necessary for permit issuance under this Subpart B of Part 309.

(Source: Amended at 7 Ill. Reg. , effective .)

Section 309.264 Permit Revocation

- a) 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 Section 309.182(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) Revocation may be sought by filing a complaint with the Board pursuant to Part 103 of the Procedural Rules.

(Source: Amended at 7 Ill. Reg. , effective .)

IT IS SO ORDERED.

Board Members Bill Forcade and John Marlin abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Opinion and Order was adopted on the 18th day of November, 1983, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board