

ILLINOIS POLLUTION CONTROL BOARD  
December 2, 1982

IN THE MATTER OF: )  
 )  
REVIEW OF EXISTING REGULATIONS, ) R81-17  
35 ILL. ADM. CODE 306.103 )  
[RULE 602 OF CHAPTER 3: WATER POLLUTION )  
(COMBINED SEWER OVERFLOW)] )

Proposed Rule.      Second Notice.

ORDER OF THE BOARD (by J. Anderson):

These proposed rules have been drafted in response to the DENR submittal pursuant to R81-17, P.A. 80-1218 (formerly P.A. 79-790), recommending that the Board change Rule 602, Combined Sewer Overflow, of Chapter 3: Water Pollution.

As explained in detail in the accompanying Proposed Opinion, certain changes have been made in the rules as adopted for First Notice April 1, 1982 as published in 6 Illinois Register 5742, May 7, 1982. Sections 306.351, 306.352, 306.361, 306.362, 306.373 and 306.374 have been amended as a result of the public comments submitted and testimony received at 5 hearings held May-August, 1982.

In addition, Part 306 of 35 Ill. Adm. Code has been broken into subparts and Sections 306.104 and 306.105 have been renumbered without any other change, in the interest of clarity and readability.

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

PART 306  
PERFORMANCE CRITERIA

SUBPART A: SYSTEMS RELIABILITY

Section 306.101      Preamble (no change)

Section 306.102      Systems Reliability (no change)

~~Section 306.103~~      ~~Combined-Sewers-and-Treatment-Plant-Bypasses~~  
(renumbered as Subpart C, Sections 306.302-  
306.306)

~~Section-306-104~~      ~~Intake-Structures~~  
 (renumbered as Subpart B, Section 306.201)

~~Section-306-105~~      ~~New-Connections~~  
 (renumbered as Subpart E, Sections 306.401-306.406)

SUBPART B: INTAKE STRUCTURES

Section 306.201      Intake Structures  
 (no change from text of 306.104)

SUBPART C: COMBINED SEWERS AND TREATMENT PLANT BYPASSES

~~Section-306-103~~  
Section 306.302      Expansion of Combined Sewers

a) The expansion of existing or establishment of new combined sewer service areas is prohibited, except where the Agency has determined from the permit application the following:

- 1a) The combined sewer service area has adequate treatment or retention capacity to ensure that the effluent limitations of ~~Part~~ 35 Ill. Adm. Code 304 and the provisions of the Act are not violated;
- 2b) Any anticipated increased flow will not overload connecting segments of the combined sewer system;
- 3c) Increased flow shall not aggravate combined sewer overflow problems; including, but not limited to, combined sewer surcharges, basement back-ups and street flow;
- 4d) The new combined sewer service area will be tributary to an existing combined sewer system.

Section 306.303      Excess Infiltration  
 b) Excess infiltration into sewers shall be eliminated, and the maximum practicable flow shall be conveyed to treatment facilities.

Section 306.304      Overflows  
 Overflows from sanitary sewers are expressly prohibited.

Section 306.305      Treatment of Overflows and Bypasses  
 e) All combined sewer overflows and treatment plant bypasses shall be given sufficient treatment to prevent pollution, or the violation of applicable water quality standards, unless an exception has been granted by the Board pursuant to Subpart D. Sufficient treatment shall consist of the following:

- ~~1a)~~ All dry weather flows, and the first flush of storm flows as determined by the Agency, shall meet the applicable effluent standards; and
- ~~2b)~~ Additional flows, as determined by the Agency but not less than ten times the average dry weather flow for the design year, shall receive a minimum of primary treatment and disinfection with adequate retention time; and
- ~~3. --- To the extent necessary to prevent accumulations of sludge deposits or depression of oxygen levels, flows in excess of those described under paragraph (e)(2) above shall be treated by retention and return to the treatment works or otherwise. When the Agency finds it necessary, part of all such excess flow shall be treated to substantially remove floating debris and solids. ---~~
- c) Flows in excess of those described in subsection (b) shall be treated, in whole or in part, to the extent necessary to prevent accumulations of sludge deposits, floating debris and solids, and to prevent depression of oxygen levels; or
- d) Compliance with a treatment program authorized by the Board in an exception granted pursuant to Subpart D.

#### Section 306.306 Compliance Dates

~~d)~~ Compliance with ~~paragraph (e)~~ Section 306.305 shall be achieved on or before the following dates:

- 1a) All treatment plant bypasses, by the applicable date for improvement of treatment works under Part 35 Ill. Adm. Code 304.
- 2b) All combined sewer overflows within the Metropolitan Sanitary District of Greater Chicago, by December 31, 1977;
- 3c) All other combined sewer overflows, by December 31, 1975.
- 4d) The compliance dates set by ~~(d)(2) and (d)(3)~~ paragraph subsections (b) and (c) shall be met unless:
- A1) The discharger's combined sewer overflow is eligible for a construction grant under Section 201(g) of the CWA; and,
- B2) The discharger has filed an application for a construction grant on or before March 1, 1977; and,
- e3) The discharger has timely taken all appropriate pre-grant and post-grant actions necessary to the specific grant step for which the discharger is then eligible, or
- 4) The discharger has been granted an exception by the Board pursuant to Subpart D; an exception procedure is pending, or the Agency has not notified the discharger pursuant to Section 306.352.
- 5e) Nothing in ~~paragraph subsection (d)(4)~~ shall limit the power of the Board to enter an abatement order pursuant to Section 46 of the Act necessary to abate pollution of waters of the State, when the Board has found, as the

- result of an enforcement or variance case initiated under Titles VIII or IX of the Act, that the discharger is causing a violation of the Act or regulations.
- 6f) The exemption provided by subsection (d)(4)-above shall terminate upon completion of construction under the grant provided. ~~and-compliance-with-the-provisions-of-this Section-shall-thereafter-be-required.~~

#### SUBPART D: EXCEPTION PROCEDURE

##### Section 306.350 Preamble

Exceptions to Section 306.305 or 306.306 shall be granted by the Board based upon water quality effects, actual and potential stream uses, and economic considerations including those of the discharger and those affected by the discharge. The following procedures shall be used for [evaluation and justification of and] petitions for exceptions to the otherwise applicable water quality standards of this Chapter, and the sufficient treatment provisions contained in Section 305.306, 306.305(a), 306.305(b), and 306.305(c).

##### Section 306.351 Notification and Submittals by Discharger

No later than July 1, 1983, any discharger which has an interest in requesting Agency assistance in initiating an exception proceeding shall so advise the Agency. No later than October 1, 1983 the discharger shall assemble and submit to the Agency any background information in the discharger's possession relevant to its combined sewer overflows, including any analyses of treatment options. The Agency after a review of its files and the dischargers submittal, may request such further information as it deems necessary for its determination pursuant to Section 306.352.

##### Section 306.352 Notification by Agency

The Agency shall notify the discharger of any Agency proposal for exception, including any necessary treatment conditions and the provisions of Section 306.305 and 306.306 that would be modified or eliminated. The Agency shall promptly notify the discharger of any discretionary determination that it will not propose an exception. All Agency determinations, to the extent practicable, shall reflect a consistency of review among dischargers or their individual discharges.

##### Section 306.360 Joint or Single Petition for Exception

If the discharger accepts the Agency proposal for exception, an exception proceeding before the Board shall be commenced by the discharger by filing jointly with the Agency a petition for exception. If the Agency has declined to propose an exception or if the discharger declines to accept an Agency proposal, the discharger may commence singly an exception proceeding before the Board.

Section 306.361 Justification of Joint Petition

Except as provided otherwise in subsection (d) if the discharger and the Agency jointly file a petition for exception, exception justifications shall be established in the petition for exception as follows:

- a) An exception justification based upon minimal discharge impact shall include, as a minimum, an evaluation of receiving stream ratios, known stream uses, accessibility to stream and side land use activities (residential, commercial, agricultural, industrial, recreational), frequency and extent of overflow events, inspections of unnatural bottom deposits, odors, unnatural floating material or color, stream morphology and results of limited stream chemical analyses.
- b) Where a minimal impact exception justification cannot be established pursuant to subsection (a), or where an exception will include a modification of otherwise applicable water quality standards, an exception justification shall include, as a minimum, evaluations pursuant to subsection (a) and evaluations of stream sediment analyses, biological surveys (including habitat assessment), and thorough stream chemical analyses that include diurnal monitoring under both dry and wet weather conditions.
- c) Exception justifications which include projections of the improvement from alternative control programs may include reasonably reliable mathematical models based upon information gathered pursuant to subsection (b).
- d) Where special circumstances may render any evaluation inapplicable, the petition shall include a justification for such inapplicability.

Section 306.362 Justification of Single Petition

If the discharger files singly a Petition for Exception, exception justifications shall be established by the discharger, pursuant to Section 306.361 (b), c, and d.

Section 306.363 Contents of Joint Petition

Requirements for jointly filed Petition. Ten copies of such petition shall be filed with the Clerk of the Board. The petition shall include the following information:

- a) A written statement, signed by the Petitioners or their authorized representatives outlining the scope of the evaluation, the nature of, the reasons for, and the basis for the justification for the exception; and
- b) The nature of the discharger's operations and control equipment; and
- c) Any Agency proposal for exception; and
- d) Citations to any final enforcement actions against the discharger, and any variances granted to the discharger where compliance has not been achieved.

Section 306.364 Contents of Single Petition

In addition to the information specified in Section 5 above, the petition shall include any necessary treatment conditions and the provisions of Section 306.305 and 306.306 that would be modified or eliminated.

Section 306.370 Notice and Hearing

The clerk shall give notice of the petition and shall schedule a hearing in accordance with 35 Ill. Adm. Code 103. The proceedings shall be in accordance with 35 Ill. Adm. Code 103.

Section 306.371 Opinion and Order

The Board shall consider the proposed petition for exception and the hearing record. The Board may accept, remand to the petitioners with suggested revisions in or reject the proposal, or direct further hearings or take other actions as it deems appropriate. Another hearing shall be held on any revised petition for exception.

Section 306.372 Transcripts

In any proceeding brought pursuant to Subpart D, the discharger at its own cost shall furnish the Board within 15 days following completion of the hearing seven legible copies of a complete transcript of the proceedings of the hearing. Upon petition and good cause shown the Board may assume such cost.

Section 306.373 Final Date for Petitions

No petition for exception shall be accepted by the Board after January 1, 1986.

Section 306.374 Other Proceedings

Nothing in Subpart D shall impair any rights authorized in the Act or Board Regulations that the discharger or any other person may have to initiate or participate in regulatory proceedings, variance petitions, enforcement actions, or permit appeals. However, Agency determinations made pursuant to Section 306.352 may not be appealed to the Board.

SUBPART E: NEW CONNECTIONSSection 306.401 Publication of Lists

(no change from text of 306.105(a))

Section 306.402 Restricted Status

[no change from text of 306.105(b)]

<u>Section 306.403</u>	<u>Critical Review</u>
	[no change from text of 306.105(c)]
<u>Section 306.404</u>	<u>Notification of Individuals</u>
	[no change from text of 306.105(d)]
<u>Section 306.405</u>	<u>Appeal</u>
	[no change from text of 306.105(e)]
<u>Section 306.406</u>	<u>Effective Dates</u>
	[no change from text of 306.406(f)]

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 2<sup>ND</sup> day of December, 1982 by a vote of 4-0.

  
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 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board