

**TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD**

**PART 404
STATE PERMITS**

Section

404.100	Preamble
404.101	Construction and Operating Permits: State Permits
404.102	Exemption from State Permit: NPDES Holder
404.103	Exemption from State Permit: Coal Piles and Small Mines
404.104	Applications: Deadline to Apply
404.105	Permit Application: Signatures and Authorizations Required
404.106	Permit Applications: Registered or Certified Mail or Hand Delivery Required
404.107	Supplemental State Permits
404.108	Violation of Conditions and Standards in a Permit
404.109	State Permit Term
404.110	Permit No Defense to Certain Violations
404.111	Permit Review
Appendix A	References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Illinois Environmental Protection Act (Ill. Rev. Stat., Ch. 111 1/2, pars. 1012, 1013 and 1027) unless otherwise noted.

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527, effective August 10, 1981.

Section 404.100 Preamble

Part 404 governs mining activities, including construction of mine related facilities, and establishes rules for the issuance of state permits.

Section 404.101 Construction and Operating Permits: State Permits

- a) Except as provided in Sections 404.102 and 404.103 no person shall:
 - 1) Prepare land for mining activities or construct a mine related facility which could generate refuse, result in a discharge or have the potential to cause water pollution without a construction permit; or

- 2) Carry out mining activities without an operating permit.
- b) For administrative convenience the Agency may issue joint construction and operating permits. Whether a state permit is construction, operating or joint shall be determined from the language of the entire document. The title given it by the Agency shall not be determinative.

Section 404.102 Exemption from State Permit: NPDES Holder

- a) A permittee who holds an NPDES permit for a facility need not have a state permit for that facility.
- b) This exemption shall be inapplicable in the event the Agency ceases to administer the NPDES permit program. In this event the Agency shall notify permittees that state permits are required and set dates, not less than forty-five days after notification, on which state permit applications are to be received.

Section 404.103 Exemption from State Permit: Coal Piles and Small Mines

- a) Unless the Agency determines that the facility will cause or threaten to cause water pollution or violation of applicable regulations, the following facilities need not obtain state permits:
 - 1) Domestic retail sales yards;
 - 2) Consumer stockpiles located at the consuming facility, including but not limited to power plants and steel mills; or
 - 3) Any facility where mining takes place which affects less than ten acres of land per year and which does not include a coal, fluorspar, lead or zinc mine related facility.
- b) An operator of a facility claiming exemption under subsection (a)(3) of this Section shall notify the Agency in writing of the location of the facility and the basis for exemption. The exemption shall be of no effect prior to the time such notice is mailed.
- c) In the event the Agency determines that a facility will cause or threaten to cause water pollution or violation of applicable regulations or that a facility claiming exemption is not exempt, the Agency shall notify the operator that a permit is required. An exemption which is valid except that the Agency has determined that the facility will cause or threaten to cause water pollution or violation of

applicable regulations shall continue for forty-five days after notification and during the pendency of a permit application before the Agency.

Section 404.104 Applications: Deadline to Apply

A person required to have a state permit shall file an application with the Agency at least ninety days before the date on which the permit is required.

Section 404.105 Permit Application: Signatures and Authorizations Required

An application submitted by a corporation shall be signed by a principal executive officer of at least the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship, the application shall be signed by a general partner or the proprietor respectively. For all other persons, the application shall be signed by either a principal executive officer, ranking elected official or other duly authorized employee.

Section 404.106 Permit Applications: Registered or Certified Mail or Hand Delivery Required

- a) All state permit applications shall be mailed or delivered to the appropriate address designated by the Agency. Any application or revised application sent by mail shall be sent by registered or certified mail, return receipt requested.
- b) Applications which are hand delivered shall be delivered to and receipted for by any authorized person employed in the permit section of the Agency's Mine Pollution Control Program.

Section 404.107 Supplemental State Permits

- a) A permittee may apply for a new or supplemental state permit whenever circumstances arise such that there could be a violation of its previous permit or in other appropriate circumstances.
- b) Applications for new or supplemental state permits shall be subject to the rules on applications in general.

Section 404.108 Violation of Conditions and Standards in a Permit

- a) No permittee shall violate the conditions and standards contained in its state permit.

- b) In addition to the other sanctions provided by the act and this Subtitle D, Chapter I, the Board may revoke a state permit in appropriate circumstances, including but not limited to the following:
- 1) Because of existing geological conditions an operator cannot carry out mining activities so as not to cause a violation of the Act or this Subtitle D, Chapter I; or
 - 2) A history of chronic disregard by the permittee for the Act or Board regulations; or
 - 3) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
 - 4) Other circumstances where it is affirmatively shown that the general standard for permit issuance contained in Section 405.102 would not be met if a new application for permit were made.

Section 404.109 State Permit Term

State permits shall have a duration not to exceed five years as specified in the permit.

Section 404.110 Permit No Defense to Certain Violations

The possession of a state permit is not a defense to violation of the Act or Subtitle D, Chapter I except for a complaint alleging mining activity without a permit.

Section 404.111 Permit Review

Any condition or term in a state permit or Agency notification that a permit application is incomplete or inadequate or Agency notification of modification or revocation of an existing permit is a permit denial entitling a person to appeal the Agency's decision to the Board under Section 40 of the Act.

Section 404.APPENDIX A REFERENCES TO PREVIOUS RULES

The following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification.

Chapter 4, Mine Related Pollution Part IV, State Permits	35 Ill. Admin. Code Part 404
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Rule 400	Section 404.100
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Rule 401
Rule 402
Rule 403
Rule 404
Rule 405
Rule 406
Rule 407
Rule 408
Rule 409
Rule 410
Rule 411

Section 404.101
Section 404.102
Section 404.103
Section 404.104
Section 404.105
Section 404.106
Section 404.107
Section 404.108
Section 404.109
Section 404.110
Section 404.111