

ILLINOIS POLLUTION CONTROL BOARD

August 29, 1974 and
September 5, 1974

RE:)
)
NPDES REGULATIONS) R73-11 and R73-12

ORDER OF THE BOARD (by Mr. Dumelle):

The Illinois Environmental Protection Agency (Agency) submitted the National Pollutant Discharge Elimination System (NPDES) Permit Regulations to the Board on October 1, 1973. The United States Environmental Protection Agency through the Agency, submitted an additional proposal to the Board. These two proposals were consolidated and designated R73-11 and R73-12. The proposals were published and, three days of hearings were held on the proposals. The Agency filed an amended proposal on February 1, 1974, and one day of hearing was held on the amended proposal. After considering the information presented at the four days of hearings and all written comments received on the published drafts, the Board adopted the NPDES Regulations on August 29, 1974 with the exception of Part IX Subpart B, which was adopted on September 5, 1974.

These Regulations, together with the Livestock Waste Regulations, R72-9, will form the regulatory basis of the Illinois request for approval of the Illinois NPDES Permit Program by the United States Environmental Protection Agency. The Regulations as adopted are contained on pages 2 through 46 of this Order.

The effective date of these NPDES Regulations with the exception of Part IX: Permits Subpart B, Other Permits, shall be the date when the Board files with the Secretary of State a copy of a letter approving the Illinois NPDES Program by the Administrator of the United States Environmental Protection Agency, pursuant to Section 402(b) of the Federal Water Pollution Control Act of 1972, as amended. The effective date of Part IX: Permits Subpart B, Other Permits, shall be the date the Board files the regulations with the Secretary of State on an emergency basis.

While the Board retains jurisdiction to consider proposed modifications in this matter, this proceeding is deemed by the Board to be a final order in all other respects such as right of appeal.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted on the 29th day of August, 1974, and on the 5th day of September, 1974, both by a vote of 5-0.


Christan L. Moffett

REGULATIONS FOR THE IMPLEMENTATION OF THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

CHAPTER 1

(Amendments to the Procedural Rules of the Board)

102 Definitions:

- (i) "NPDES" means the National Pollutant Discharge Elimination System for issuing, establishing conditions for, and denying permits under Section 402 of the FWPCA. All terms used in connection with NPDES which have been defined in the FWPCA or regulations adopted thereunder shall have the meanings specified therein, unless specifically noted otherwise.

502 Permit Appeals

(a) Permit Appeals Other Than NPDES Permit Appeals

(1) If the Agency denies the permit, it shall advise the permit applicant in writing in accordance with the requirements of Section 39(a) of the Act.

(2) Except in the case of an NPDES Permit, an applicant for a permit denied by the Agency who seeks to contest the denial shall file a petition for a hearing before the Board. The petition shall include:

- (i) Citation of the particular standards under which a permit is sought;
- (ii) A complete and precise description of the facility, equipment, vehicle, vessel, or aircraft for which a permit is sought, including its location;
- (iii) A complete description of contaminant emissions and of proposed methods for their control; and
- (iv) Such other matters as may be necessary to demonstrate that the activity for which the permit is sought will not cause a violation of the Act or of the Regulations.

(3) The proceedings shall be in accordance with the Rules set forth in Part III of these Rules.

(4) The Clerk shall give notice of the petition and hearing in accordance with Part III.

(5) The Agency shall appear as respondent in the hearing and shall immediately, upon notice of the petition, file with the Board the entire Agency record of the permit application, including:

(i) The application;

(ii) Correspondence with the applicant; and

(iii) The denial.

(b) NPDES Permit Appeals

(1) If the Agency denies an NPDES Permit, it shall advise the permit applicant in writing in accordance with the requirements of Section 39(a) of the Act.

(2) In the case of the denial of an NPDES Permit or the issuance by the Agency of an NPDES Permit with one or more conditions or limitations to which the applicant objects, the applicant may contest the decision of the Agency by filing with the Clerk of the Board a petition for review of the Agency's action in accordance with this Rule.

(3) Any person other than the applicant who has been a party to or participant at an Agency hearing with respect to the issuance or denial of an NPDES Permit by the Agency, and any person who requested such a hearing in accordance with applicable rules, may contest the final decision of the Agency by filing with the Clerk a petition for review of the Agency's action.

(4) The petition shall be filed and notice issued within 30 days from the date the Agency's final decision has been mailed to the applicant and all other persons who have right of appeal. The method of filing and service shall be in accordance with Rules 304 and 305 of these Procedural Rules.

(5) The Agency shall appear as Respondent and shall file an Answer consisting of the hearing file of any hearing which may have been held before the Agency, including any exhibits, and the following documents: NPDES Permit application, NPDES Permit denial or issuance letter, and all correspondence with the applicant concerning the application.

(6) All parties other than the petitioner who were parties to or participants at any Agency hearing shall be made respondents.

(7) The petition shall contain a statement of the decision or part thereof to be reviewed. The Board, upon motion of any respondent shall, or upon its own motion may, require of the petitioner a specification of the errors upon which the petitioner relies in his petition.

(8) The hearing before the Board shall extend to all questions of law and fact presented by the entire record. The Agency's findings and conclusions on questions of fact shall be prima facie true and correct. If the Agency's conclusions of fact are disputed by the party or if issues of fact are raised in the review proceeding, the Board may make its own determination of fact based on the record. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board shall conduct a de novo hearing and receive evidence with respect to such issue of fact.

(9) This proceeding shall be in accordance with the Rules set forth in Part III of these Procedural Rules.

(10) The order of the Board entered pursuant to hearing may affirm or reverse the decision of the Agency, in whole or in part, may remand the proceeding to the Agency for the taking of further evidence, or may direct the issuance of the permit in such form as it deems just, based upon the law and the evidence.

503 Permit Review

(a) Permit Review Other Than NPDES Permit Review

Any person may file a complaint seeking revocation of a permit on the ground that it was improperly issued by the Agency, or seeking a cease-and-desist order against the activity described in the permit on the ground that it would cause a violation of the Act, or the Regulations, or of a Board order. Such a complaint shall be commenced in accordance with Procedural Rule 502(a). Part III of these Rules shall govern the proceeding.

(b) NPDES Permit Review

Any person, whether or not a party to or participant at any earlier proceeding before the Agency or the Board, may file a complaint for modification, suspension, or revocation of an NPDES Permit in accordance with Rule 912 of Chapter III, Subpart A. Such a complaint shall be commenced in accordance with Procedural Rule 304. Part III of these Rules shall govern the proceeding.

504 Cost of Review

In any proceeding brought pursuant to this Part V, including an NPDES Permit review, the petitioner shall pay all costs of review except that he shall not be required to reimburse the Agency for expenses incurred in the preparation of the record or otherwise, and shall furnish the Board within fifteen (15) days following the completion of said hearing, at petitioner's cost, seven (7) copies of a complete stenographic transcript of the proceedings of the hearing. Upon petition and good cause shown, the Board may assume all or any part of the costs of said review or transcript or may allocate the costs among the parties as it deems equitable. Any delay in the filing of the transcript shall constitute a waiver of the right to decision within 90 days under Section 40 of the Act, where applicable, for the period of the delay.

AMENDMENTS TO
CHAPTER 3
WATER POLLUTION REGULATIONS

101 Authority

Pursuant to the authority contained in Section 13 of the Environmental Protection Act, which authorizes the Board to issue regulations "to restore, maintain, and enhance the purity of the waters of this State in order to protect health, welfare, property, and the quality of life, and to assure that no contaminants are discharged into the waters without being given the degree of treatment or control necessary to prevent pollution"; to adopt water quality standards, effluent standards, standards for the issuance of permits, standards for the certification of sewage works operators, standards relating to water pollution episodes or emergencies, and requirements for the inspection of pollution sources and for monitoring the aquatic environment, and which directs the Board to adopt requirements, standards, and procedures which will enable the State to implement and participate in the National Pollutant Discharge Elimination System (NPDES) established by the Federal Water Pollution Control Act Amendments of 1972, the Board adopts the following rules and regulations.

102 Policy

The General Assembly has found that water pollution "constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish, and aquatic life, impairs domestic, agricultural, industrial, recreational, and other legitimate beneficial uses of water, depresses property values, and offends the senses." It is the purpose of these rules and regulations to designate the uses for which the various waters of the State shall be maintained and protected; to prescribe the water quality standards required to sustain the designated uses; to establish effluent standards to limit the contaminants discharged to the waters; and to prescribe additional regulations necessary for implementing, achieving and maintaining the prescribed water quality. It is also the purpose of these Regulations to meet the requirements of Section 402 of the Federal Water Pollution Control Act Amendments of 1972.

104 Definitions

As used in this Chapter, the following terms shall have the meanings specified.

"Administrator" means the Administrator of the United States Environmental Protection Agency or his designee.

"Effluent" means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater or sludges, but does not otherwise include nonpoint source discharges such as runoff from land or any livestock management facility or livestock wastehandling facility subject to regulation under Chapter 5 of the regulations of the Pollution Control Board.

"FWPCA" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., Public Law 92500, enacted by the Congress October 18, 1972, as amended.

"Hearing Board" shall mean an Agency hearing board of one or more employees, appointed by the Director in accordance with the requirements of Rule 909(b) hereof, which shall conduct public hearings and make recommendations to the Agency with respect to the issuance or denial of NPDES permits.

"NPDES" means the National Pollutant Discharge Elimination System for issuing, establishing conditions for, and denying permits under Section 402 of the FWPCA. All terms used in connection with NPDES which have been defined in the FWPCA or regulations adopted thereunder shall have the meanings specified therein, unless specifically noted otherwise.

"Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) 'sewage from vessels' within the meaning of the FWPCA: or (B) water, gas, or other material which is injected into a well to facilitate production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by the Department of Mines and Minerals, and if the Department of Mines and Minerals determines that such injection or disposal will not result in the degradation of ground or surface water resources.

"Publicly owned treatment works" means a treatment works owned by a municipality, sanitary district, county, or state or federal agency, and which treats domestic and industrial wastes collected by a publicly owned or regulated sewer system. Industrial treatment works which are publicly owned because they are financed by bond issued of public agencies are not included in this definition.

"Publicly regulated treatment works" means those otherwise private companies which are regulated as public utilities engaged in the disposal of domestic and industrial wastes and regulated as such by the Illinois Commerce Commission, pursuant to an Act concerning Public Utilities, (1921, Illinois Revised Statutes (1973), Ch. 111273, Section 1ff as amended).

"Pretreatment Works" means a treatment works designed and intended for the treatment of wastewater from a major contributing industry, as defined in 40 CFR 128, before introduction into a sewer system tributary to a public owned or public regulated treatment works.

"Standard of Performance" means a standard for the control of the discharge of pollutants, promulgated by the Administrator pursuant to Section 306 of the FWPCA, for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"Treatment Works" means individually or collectively those constructions or devices (except sewers, and except constructions or devices used for the pretreatment of wastewater prior to its introduction into publicly owned or regulated treatment works) used for collecting, pumping, treating or disposing of wastewaters or for the recovery of by-products from such wastewater.

410 NPDES Effluent Standards

- (a) No person to whom an NPDES Permit has been issued may discharge any contaminant in his effluent in excess of the standards and limitations for that contaminant which are set forth in his permit.
- (b) No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the FWPCA or the Act, unless limitation for such a pollutant has been set forth in an applicable NPDES Permit. However, the Agency may, by permit condition, provide that the permittee may discharge pollutants present in its water supply intake sources in concentrations not greater than the concentrations in the intake sources, or which are added in trace amounts by normal domestic water usage.

- (c) The standards of Chapter 3 shall apply to thermal discharges unless, after public notice and opportunity for public hearing, in accordance with Section 316 of the FWPCA and applicable federal regulations, the Administrator and the Board have determined that different standards shall apply to a particular thermal discharge.

501 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 that either:
- (1) discharge toxic pollutants, as defined in Section 502 (13) of the FWPCA, or pollutants which may interfere with the treatment process, into the receiving treatment works; 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 person within this State who utilizes mercury or any of its compounds in excess of 15 pounds per year as Hg shall file with the Agency, on or before June 1, 1971 and annually thereafter, a report setting forth the nature of the enterprise; a list, by type and by quantity of mercury products and mercury derivatives produced, used in, and incidental to its processes, including by-products and waste products; the estimated concentrations and annual total number of pounds of mercury that will be discharged into the waters of the State or that will be discharged into any sewer system; and what measures are taken or proposed to be taken to reduce or to eliminate such discharges.

- (c) 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.

704 Pretreatment Requirements

In addition to the requirements of Rules 701, 702, and 703, no industrial discharger to any publicly owned treatment works may discharge any effluent to such publicly owned treatment works in violation of regulations promulgated by the Administrator pursuant to Section 307(b) of the FWPCA when such regulations become effective.

PART IX: PERMITS

Permits may be required under either one of two procedures-- NPDES Permits, Subpart A, which regulate discharges into navigable waters as defined in the FWPCA, or Other Permits, Subpart B, which regulate certain structures and discharges therefrom that are not required to have an NPDES Permit.

SUBPART A NPDES PERMITS

901 NPDES Permit Required

Except as in compliance with the provisions of the Act, Board regulations, and the FWPCA, 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.

902 Application - General

(a) Application Forms

(1) An applicant for an NPDES Permit shall file an application, in accordance with Rule 959 hereof, on forms provided by the Agency. Such forms shall comprise the NPDES application forms promulgated by the U.S. Environmental Protection Agency for the type of discharge for which an NPDES Permit is being sought and such additional information as the Agency may reasonably require in order to determine that the discharge or proposed discharge will be in compliance with applicable state and federal requirements.

(2) In addition to the above application forms, the Agency may require the submission of plans and specifications for treatment works and summaries of design criteria.

(b) Animal Waste Facilities

An applicant for an NPDES Permit in connection with the operation of an animal waste facility shall complete, sign, and submit an NPDES application in accordance with the provisions of Chapter V of the Board's regulations.

(c) Mine Waste

An applicant for an NPDES Permit which is required by the FWPCA or federal regulations for a mine or mine waste facility, shall complete, sign, and submit an NPDES Permit application in accordance with Rule 959 hereof, on forms provided by the Agency. To the extent consistent with applicable federal regulations, the water quality standards found in Chapter III and such additional limitations found in Chapter IV, Mine Related Pollution, as are applicable, shall be the appropriate water quality and effluent limitations incorporated in the NPDES Permit. The submittal of an NPDES Permit application or the possession of a valid NPDES Permit shall not release the permittee from the necessity of obtaining a permit pursuant to Part II, Chapter IV: Mine Related Pollution.

(d) Pending Refuse Act Application

Any person who filed a complete permit application under the Refuse Act Permit program operating under rules promulgated in the Federal Register on April 7, 1971, 33 CFR 209.131, and whose application has not been denied, shall be considered to have applied for an NPDES Permit unless the discharge described in the application has substantially changed in nature, volume, or frequency. If, however, the discharge described in the Refuse Act Permit application has substantially changed in nature, volume, or frequency, the applicant shall complete, sign and submit the appropriate NPDES application form.

(e) Current Dischargers -- No Prior Application

Any person now discharging whose discharge was not covered by the Refuse Act Permit program but which is subject to NPDES requirements shall apply for an NPDES Permit when these regulations become effective. However, for purposes of this Subpart A, any person who has applied for an NPDES Permit with the U.S. Environmental Protection Agency, and whose application has not been denied shall be considered to have applied for an NPDES Permit unless the discharge described in the application for an NPDES Permit has substantially changed in nature, volume, or frequency; in which case an amended or revised NPDES Permit application shall be submitted. Nothing in this subsection (e) shall be construed to excuse conformity with Section 301 of the FWPCA.

(f) Additional Information

In any case where a permit application was not originally filed as an NPDES Permit application but by operation of the Act or these regulations is considered to be such, the Agency may require additional information necessary for the issuance and conditioning of the permit.

(g) New Discharges

Any person whose discharge will begin after the effective date of this Subpart A or any person having an NPDES Permit issued by the U.S. Environmental Protection Agency for an existing discharge which will substantially change in nature, or increase in volume or frequency must apply for an NPDES Permit either:

(1) No later than 180 days in advance of the date on which such NPDES Permit will be required; or

(2) In sufficient time prior to the anticipated commencement of the discharge to insure compliance with the requirements of Section 306 of the FWPCA, or with any applicable zoning or siting requirements established pursuant to Section 208(b)(2)(C) of the FWPCA, and any other applicable water quality standards and applicable effluent standards and limitations. Any person filing an NPDES Permit application with the U.S. Environmental Protection Agency prior to the effective date of this Chapter shall be deemed to have applied for an NPDES Permit.

(h) Signatures

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. In the case of a publicly owned facility, the application shall be signed by either principal executive officer, ranking elected official, or other duly authorized employee.

(i) Renewal

(1) Any permittee who wishes to continue to discharge after the expiration date of his NPDES Permit shall apply for reissuance of the permit not less than 180 days prior to the expiration date of the permit. Prior to renewal, the Agency shall determine:

- (i) That the permittee is in compliance with or has substantially complied with all the terms, conditions, requirements, and schedules of compliance of the expiring NPDES Permit;
- (ii) That the Agency has up-to-date information on the permittee's production levels, permittee's waste treatment practices, the nature, contents, and frequency of the permittee's discharge, either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports submitted to the Agency by the permittee; and
- (iii) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, or other legally applicable requirements during the terms of the permit.

(2) The Agency shall circulate public notice and provide opportunity for public hearing, as provided for in this Subpart A, in the same manner as for a new permit application.

(j) Authority to Deny Permits

No NPDES Permit may be issued in any case in which:

(1) The permit would authorize the discharge of a radiological, chemical or biological warfare agent or high-level radioactive waste;

(2) The discharge would, in the judgment of the Secretary of the Army acting through the Chief of Engineers, result in the substantial impairment of anchorage and navigation;

(3) The proposed permit is objected to in writing by the Administrator of the U.S. Environmental Protection Agency pursuant to any right to object given to the Administrator under Section 402(d) of the FWPCA;

(4) The permit would authorize a discharge from a point source which is in conflict with a plan approved under Section 208(b) of the FWPCA; or

(5) The applicant has not provided proof to the Agency that he will meet any schedule of compliance which may be established, in accordance with the Act and regulations, as a condition of his permit.

903 Access to Facilities and Further Information

If the Agency determines that either further information or a site visit is necessary for the Agency to evaluate an NPDES Permit application, it shall notify the applicant and make arrangements to secure the additional information or make the site visit. If adequate information is not received within the period of time specified by the Agency, the permit shall either be issued on the basis of the information currently before the Agency or be denied, and the applicant so notified.

904 Distribution of Applications

When the Agency determines that an application for an NPDES Permit is complete, it shall:

- (a) Unless otherwise agreed, send a copy of the application to the District Engineer of the appropriate district of the U.S. Corps of Engineers with a letter requesting that the District Engineer provide, within 30 days or as otherwise stated in the Agency's letter, his evaluation of the impact of the discharge on anchorage and navigation. If the District Engineer responds that anchorage and navigation of any of the navigable waters would be substantially impaired by the granting of a permit, the permit will be denied and the Agency shall notify the applicant.

If the District Engineer informs the Agency that the imposition of specified conditions upon the NPDES Permit is necessary to avoid any substantial impairment of any of the navigable waters, the Agency shall include in the permit those conditions specified by the District Engineer.

- (b) Send two copies of the application to the Regional Administrator of the U.S. Environmental Protection Agency with a letter stating that the application is complete.

905 Tentative Determination and Draft Permit

Following the receipt of a complete application for an NPDES Permit, the Agency shall prepare a tentative determination. Such determination shall include at least the following:

- (a) A statement regarding whether an NPDES Permit is to be issued or denied; and
- (b) If the determination is to issue the permit, a draft permit containing:
 - (1) Proposed effluent limitations, consistent with federal and state requirements;
 - (2) A proposed schedule of compliance, if the applicant is not in compliance with applicable requirements, including interim dates and requirements consistent with the FWPCA and applicable regulations, for meeting the proposed effluent limitations;
 - (3) A brief description of any other proposed special conditions which will have a significant impact upon the discharge.
- (c) A statement of the basis for each of the permit conditions listed in Rule 905(b).
- (d) Upon tentative determination to issue or deny an NPDES Permit:

(1) If the determination is to issue the permit the Agency shall prepare a draft permit and shall notify the applicant in writing of the content of the tentative determination and draft permit and of its intent to circulate public notice of issuance in accordance with Rule 906 below;

(2) If the determination is to deny the permit, the Agency shall notify the applicant in writing of the tentative determination and of its intent to circulate public notice of denial, in accordance with Rule 906 below. In the case of denial, notice to the applicant shall include a statement of the reasons for denial, as required by Section 39(a) of the Act.

906 Public Notice

(a) Upon tentative determination to issue or deny an NPDES Permit, completion of the draft permit, if any, and not earlier than 10 days following notice to the applicant pursuant to Rule 905(d) above, the Agency shall circulate public notice of the completed application for an NPDES Permit in a manner designed to inform interested and potentially interested persons of the discharge or proposed discharge and of the proposed determination to issue or deny an NPDES Permit for the discharge or proposed discharge. Procedures for the circulation of public notice shall include at least the following concurrent actions:

(1) Notice shall be mailed to the applicant;

(2) Notice shall be circulated within the geographical area of the discharge or proposed discharge by publishing in local newspapers or, if appropriate, in a daily newspaper of general circulation; such publication shall appear at least on three successive days;

(3) Notice shall be mailed to any person or group upon request;

(4) The Agency shall add the name of any person or group upon request to a mailing list to receive copies of notices for all NPDES applicants within the State of Illinois or within a certain geographical area.

- (b) The Agency shall provide a period of not less than 30 days following the date of first publication of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the NPDES application. All comments shall be submitted to the Agency and to the applicant. All written comments submitted during the 30-day comment period shall be retained by the Agency and considered in the formulation of its final determinations with respect to the NPDES application. The period for comment may be extended at the discretion of the Agency by publication as provided in Rule 906(a).
- (c) The contents of public notice of applications for NPDES Permits shall include at least the following:
- (1) Name, address, and telephone number of the Agency;
 - (2) Name and address of the applicant;
 - (3) Brief description of the applicant's activities or operations which result in the discharge described in the NPDES application (e.g., municipal waste treatment plant, steel manufacturing, drainage from mine activities);
 - (4) Name, if any, of the waterway to which the discharge is made and a short description of the location of the discharge indicating whether it is a new or an existing discharge;
 - (5) A statement of the tentative determination to issue or deny an NPDES Permit for the discharge described in the application;
 - (6) A brief description of the procedures for the formulation of final determinations, including the procedures for submitting comments and expiration date of the comment period; and
 - (7) Address and telephone number of Agency premises at which interested persons may obtain further information, request a copy of the draft permit, request a copy of the fact sheet, and inspect and copy NPDES forms and related documents.

- (d) The Agency may circulate public notice of applications for more than one NPDES Permit at a time. If a public notice deals with more than one NPDES Permit application, the information required by Rule 906(b) above shall be included in the notice for each application.
- (e) To expedite the administrative disposition of NPDES Permit applications, the Agency may publish, for one or more NPDES Permit applications at a time, combined public notices and notices of public hearing as required by Rule 909 hereof. Any such combined public notice and notice of hearing shall contain all the information which would be required and shall be circulated to all the persons to whom each notice would be required to be sent if the notices were published separately.
- (f) If, after the comment period provided, no public hearing is held with respect to the permit, the Agency shall, after evaluation of any comments which may have been received, either issue or deny the permit.

907 Fact Sheets

- (a) For every discharge which has a total volume of more than 500,000 gallons on any day of the year, the Agency shall prepare and, following public notice, shall send upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information:
 - (1) A sketch or detailed description of the location of the discharge described in the application;
 - (2) A quantitative description of the discharge described in the application which includes at least the following:
 - (i) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day;
 - (ii) For thermal discharges subject to limitation under the Act, the average

monthly temperatures for the discharge in degrees Fahrenheit.

(iii) The average daily discharge in pounds per day and average concentration in milligrams per liter, or other applicable units of measurement, of any contaminants which are present in significant quantities or which are subject to limitations or prohibitions under applicable provisions of the FWPCA or the Act or regulations adopted thereunder;

(3) The tentative determinations required under Rule 905 of this regulation;

(4) A brief citation, including an identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applicable to the proposed discharge; and

(5) A more detailed description of the procedures for the formulation of final determinations than that given in the public notice, including:

(i) The 30-day comment period;

(ii) Procedures for requesting a public hearing and the nature thereof; and

(iii) Any other procedures by which the public may participate in the formulation of the final determination.

(b) The Agency shall add the name of any person or group, upon request, to a mailing list to receive copies of fact sheets.

908 Notice to Other Governmental Agencies

At the time of issuance of public notice pursuant to Rule 906 above, the Agency shall:

(a) Send a fact sheet, if one has been prepared, to any other States whose waters may be affected by the issuance of the proposed permit and, upon request,

provide such States with a copy of the application and a copy of the draft permit. Each affected State shall be afforded an opportunity to submit written recommendations within a stated number of days to the Agency and to the Regional Administrator of the U.S. Environmental Protection Agency, which the Agency may incorporate into the permit if issued. Should the Agency decline to incorporate any written recommendations thus received, it shall provide to the affected State or States (and to the Regional Administrator) a written explanation of its reasons for declining to accept any of the written recommendations.

- (b) Following the procedure set forth in (a) above, notify and receive recommendations from any interstate agency having water quality control authority over waters which may be affected by the permit.
- (c) Unless otherwise agreed, in accordance with 40 CFR 124.34(c), send a copy of the fact sheet, if one has been prepared, to the appropriate District Engineer of the Army Corps of Engineers for discharges (other than minor discharges) into navigable waters.
- (d) Upon request, send a copy of the public notice and a copy of the fact sheet for NPDES Permit applications to any other Federal, State, or local agency, or any affected country, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to Rule 909 hereof. Such agencies shall include at least the following:
 - (1) The agency responsible for the preparation of an approved plan pursuant to Section 208(b) of the FWPCA; and
 - (2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under Section 303(e) of the FWPCA.
- (e) Send notice to, and coordinate with appropriate public health agencies for the purpose of assisting the applicant in integrating the relevant provisions of the FWPCA with any applicable requirements of such public health agencies.

909 Public Hearings on NPDES Permit Applications

- (a) (1) The Agency shall hold a public hearing on the issuance or denial of an NPDES Permit or group of permits whenever the Agency determines that there exists a significant degree of public interest in the proposed permit or group of permits (instances of doubt shall be resolved in favor of holding the hearing), to warrant the holding of such a hearing.
- (2) Any person, including the applicant, may submit to the Agency a request for a public hearing or a request to be a party at such a hearing, to consider the proposed permit or group of permits. Any such request for public hearing shall be filed within the 30-day public comment period and shall indicate the interest of the party filing such a request and the reasons why a hearing is warranted.
- (b) When the Agency has determined under Rule 909(a) that a public hearing is required, the Director shall appoint one or more employees of the Agency to serve as a Hearing Board and shall designate one to serve as Chairman.
- (c) The Chairman of the hearing board shall promptly schedule the matter for hearing to be held within 60 days from the filing of the first request for public hearing, or as may be otherwise agreed among the parties.
- (d) Hearings held pursuant to this Rule shall be held in the geographical area in which the discharges or proposed discharges are located, or other appropriate location, as determined by the Chairman. Consideration shall be given to facilitating attendance of interested or affected persons and organizations and to accessibility of hearing sites to public transportation. The Chairman shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete hearing file.
- (e) The Agency shall issue public notice of such hearing not less than 30 days prior to the date of such hearing, in the manner described by Rule 906 of these regulations for public notice. The Agency shall send notices of the hearing to all persons and governmental agencies who had received notice of the application under Rules 906 and 908 of these

regulations. Such notice shall include at least the following:

- (1) Name, address, and telephone number of the Agency;
 - (2) Name and address of each applicant whose application will be considered at the hearing;
 - (3) Name of waterway to which each of applicant's discharges is to be made and a short description of the location of each such discharge on the waterway;
 - (4) A brief reference to the public notice issued for the NPDES application, including identification number (if any) and date of issuance;
 - (5) Information regarding the time and location of the hearing;
 - (6) The purpose of the hearing;
 - (7) A concise statement of the issues to be considered at the hearing;
 - (8) Address and telephone number of premises at which interested persons may obtain further information, request a copy of the draft permit, request a copy of the fact sheet, request a copy of the regulations governing the conduct of the hearing, and inspect and copy NPDES forms and related documents; and
 - (9) A statement that the hearing will be conducted in accordance with the provisions of Rule 909 of these Regulations.
- (f) The applicant or any person shall be permitted to submit oral or written statements and data concerning the proposed permit or group of permits. The Chairman shall have authority to fix reasonable limits upon the time allowed for oral statements, and may require statements in writing.
- (g) Following the public hearing, the Chairman shall prepare a hearing file, which shall include:
- (1) Copies of statements submitted in writing;

- (2) A summary of the statements submitted orally;
- (3) A report of the major issues raised at the hearing;
- (4) An estimate of the number of persons present; and
- (5) His recommendations concerning actions to be taken of the proposed permit or permits as a result of the hearing.

The hearing file shall be available upon request to any member of the public and to representatives of the U.S. Environmental Protection Agency.

- (h) Following the public hearing, the Agency may make such modifications in the terms and conditions of proposed permits as may be appropriate and shall transmit to the Regional Administrator for his approval a copy of the permit proposed to be issued unless the Regional Administrator has waived his right to receive and review permits of its class. The Agency shall provide a notice of such transmission to the applicant, to any person who participates in the public hearing, to any person who requested a public hearing, and to appropriate persons on the mailing list established under Rule 906. Such notice shall briefly indicate any significant changes which were made from terms and conditions set forth in the draft permit. All permits become effective when issued.

910 Terms and Conditions of NPDES Permits

(a) General Conditions

In establishing the terms and conditions of each issued NPDES Permit, the Agency shall apply and ensure compliance with all of the following, whenever applicable:

- (1) Effluent limitations under Section 301 and 302 of the FWPCA;
- (2) Standards of performance for new sources under Section 306 of the FWPCA;

(3) Effluent standards, effluent prohibitions, and pretreatment standards under Section 307 of the FWPCA;

(4) Any more stringent limitation, including those (i) necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any Illinois Statute or regulation (under authority preserved by Section 510 of the FWPCA), (ii) necessary to meet any other federal law or regulation, or (iii) required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to Section 303(d) of the FWPCA and incorporated in the continuing planning process approved under Section 303(e) of the FWPCA and any regulations or guidelines issued pursuant thereto;

(5) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to Section 208(b) of the FWPCA;

(6) Prior to promulgation by the Administrator of the U.S. Environmental Protection Agency of applicable effluent standards and limitations pursuant to Sections 301, 302, 306 and 307 of the FWPCA, such conditions as the Agency determines are necessary to carry out the provisions of the FWPCA; and

(7) If the NPDES Permit is for the discharge of pollutants into navigable waters from a vessel or other floating craft (except that no NPDES Permit shall be issued for the discharge of pollutants from a vessel or other floating craft into Lake Michigan) any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage and stowage of pollutants.

(b) Water Quality Standards and Waste Load Allocation

In any case in which an NPDES Permit includes as conditions the effluent standards and limitations described in subsections (1), (2) and (3) of Section (a) of this Rule 910, the Agency shall have determined and verified that the discharge authorized by the permit will not

violate applicable water quality standards or a schedule of compliance to achieve applicable water quality standards contained in the NPDES Permit. In any case in which an NPDES Permit applies any more stringent effluent limitation based on applicable water quality standards, a waste load allocation shall be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

(c) Effluent Limitations

In the application of effluent standards and limitations, water quality standards, and other applicable requirements, the Agency shall, for each permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight, and except for discharges whose constituents cannot be appropriately expressed by weight). The Agency may, in its discretion, in addition to specification of daily quantitative limitations by weight, specify other limitations, such as average or maximum concentration limits, for the level of pollutants in the authorized discharge. Effluent limitations for multiproduct operations shall provide for appropriate waste variations from such plants. Where a schedule of compliance is included as a condition in a permit, effluent limitations shall be included for the interim period as well as for the period following the final compliance date.

(d) Federal New Source Standards of Performance

Notwithstanding any other provisions of these regulations, any point source, the construction of which is commenced after the date of enactment of the FWPCA and which is so constructed as to meet all applicable federal standards of performance as defined in Section 306 of the FWPCA and Rule 104 of this Chapter, shall not be subject to any more stringent federal standard of performance during:

- (1) A 10-year period beginning on the date of completion of such construction, or

(2) The period of depreciation or amortization of such facility for the purposes of Section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

(e) Duration of Permits

All NPDES Permits shall be issued for fixed terms not to exceed five years.

(f) Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements

(1) The Agency shall require every holder of an NPDES Permit, as a condition of the NPDES Permit issued to the holder, to

- (i) Establish, maintain and retain records;
- (ii) Make reports;
- (iii) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate, biological monitoring methods);
- (iv) Take samples of effluents (in accordance with such methods, at such locations, at such intervals, and in such a manner as may be prescribed); and
- (v) Provide such other information as may reasonably be required.

(2) The Agency may require every holder of an NPDES Permit for a publicly owned and publicly regulated treatment works, as a condition of the NPDES Permit, to require industrial users of such a treatment works to:

- (i) Establish, maintain and retain records;
- (ii) Make reports;
- (iii) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate, biological monitoring methods);

- (iv) Take samples of effluents (in accordance with such methods, at such locations, at such intervals, and in such a manner as may be prescribed); and
- (v) Provide such other information as may reasonably be required.

(3) All such requirements shall be included as conditions of the NPDES Permit issued to the discharger, and shall be at least as stringent as those required by applicable federal regulations when these become effective.

(g) Authority to Apply Entry and Inspection Requirements

Any holder of an NPDES Permit and any industrial user of a publicly owned or publicly regulated sewage treatment plant, shall be required as a condition of the NPDES Permit issued to the holder, and in accordance with constitutional limitations, to allow any authorized representative of the Agency, upon presentation of his credentials, to:

- (1) Enter any premises of a permittee or of an industrial user of a publicly owned or publicly regulated treatment works in which premises an effluent source is located or in which any applicable records that are required to be maintained;
- (2) At reasonable times have access to and copy any records required to be maintained;
- (3) Inspect any monitoring equipment or method which is required;
- (4) Have access to and sample any discharge of contaminants to State waters or to publicly owned or publicly regulated treatment works resulting from the activities or operations of the permittee or industrial user; and
- (5) Inspect, sample, photograph, or otherwise investigate any part of the facilities or equipment of the permit holder or industrial user which the Agency may deem necessary in order to determine the possibility of a present or future violation of the Act, applicable regulations, or any NPDES Permit condition.

The requirements set forth in subsections (1) through (5) above shall be set forth in all NPDES Permits as terms and conditions thereof.

(h) Schedules of Compliance

The Agency shall establish schedules of compliance in NPDES Permits in the following manner:

(1) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements, the permittee shall be required to take specific steps to achieve compliance therewith in the shortest reasonable period of time consistent with the guidelines and requirements of the FWPCA and the Act.

(2) In any case where the period of time for compliance specified in Subsection (1) above exceeds 9 months, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; in no event shall more than 9 months elapse between interim dates. If the time necessary for completion of the interim requirement is more than 9 months and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement. For each NPDES Permit schedule of compliance, interim dates and the final date for compliance shall, to the extent practicable, fall on the last day of the months of March, June, September, and December.

(3) Not later than 14 days following each interim date and the final date of compliance, the permittee shall provide the Agency with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

(4) Interim and final compliance dates in NPDES Permits shall be enforceable without otherwise showing a violation of an effluent limitation or injury to water quality.

(5) The Agency shall make available for public inspection and copying at its Springfield and Chicago offices a copy of the quarterly list as filed with the Regional Administrator in accordance with 40 CFR 124.44(d).

(6) The Agency may establish schedules of compliance in NPDES Permits pursuant to applicable federal requirements, which may be earlier or later than deadlines established by otherwise applicable regulations of the Board, provided that all schedules of compliance shall require compliance at the earliest reasonable date. However, the Agency shall not issue an NPDES Permit containing a schedule of compliance beyond July 1, 1977, to any applicant who is not in compliance with, or who has not obtained a variance from applicable Illinois Water Pollution Regulations, or who has not been ordered to apply for and obtain all necessary permits in an appropriate Board enforcement action, for which the deadline for compliance occurred before the effective date of these NPDES Regulations.

(7) In any case in which an NPDES Permit includes a schedule of compliance, the Agency shall include in its final determination a statement of the factual basis for such schedule.

(8) Schedules of compliance established by the Agency in NPDES Permits shall be subject to review by the Pollution Control Board in accordance with Rules 911 and 912 herein.

(i) Authority to Require Notice of Introductions of Pollutants into Publicly Owned Treatment Works

The Agency shall include in all NPDES Permits issued to publicly owned or publicly regulated treatment works conditions requiring the permittee to give notice to the Agency of the following:

(1) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in Section 306 of the FWPCA if such source were discharging pollutants directly to the waters of the State;

(2) Except as to such categories and classes of point sources or discharges which may be specified by the Agency, any new introduction of pollutants into such treatment works from a source which would be a point source subject to Section 301 of the FWPCA if it were discharging such pollutants directly to the waters of the State;

(3) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit; and

(4) New connections to the treatment works in accordance with the following schedule (which shall be determined by the Agency):

(i) Annually for those treatment works whose hydraulic or biological loading does not exceed 80 percent of the design average capacity;

(ii) Quarterly for those treatment works whose hydraulic or biological loading exceeds 80 percent but does not exceed 90 percent of the design average capacity; and

(iii) Monthly for those treatment works whose hydraulic or biological loading exceeds 90 percent of the design average capacity.

(5) All notices required of publicly owned or publicly regulated treatment works pursuant to this section 910(i) shall be in such form and content as the Agency may require, and shall include information on:

(i) The quality and quantity of wastewater to be introduced into such treatment works, and

(ii) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned or publicly regulated treatment works.

(j) Authority to Insure Compliance by Industrial Users With Sections 204(b), 307, and 308 of the FWPCA

Any NPDES Permit issued to a publicly owned or publicly regulated treatment works shall include as a condition that the permittee shall require that any industrial user of such treatment works will comply with federal

requirements concerning:

(1) User charges and recovery of construction costs pursuant to Section 204(b) of the FWPCA, and applicable regulations appearing in 40 CFR 35;

(2) Toxic pollutant effluent standards and pre-treatment standards pursuant to Section 307 of the FWPCA; and

(3) Inspection, monitoring and entry pursuant to Section 308 of the FWPCA.

As a means of insuring such compliance, the permittee shall require each industrial user subject to the requirements of Section 307 of the FWPCA to comply with this Rule. The permittee shall send to the Agency periodic notice (over intervals not to exceed 9 months) of progress toward full compliance with the requirements of Section 307 of the FWPCA.

(k) Maintenance and Equipment

Any NPDES Permit issued shall include as a condition that the permittee shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

(l) Toxic Pollutants

Any NPDES Permit issued shall include as a condition that if a toxic effluent standard of prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the FWPCA for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES Permit, the Agency shall revise or modify the permit in accordance with the more stringent standard or prohibition and shall so notify the permittee.

(m) Deep Well Disposal of Pollutants

All NPDES Permits shall include such additional terms and conditions as may be required to prohibit or control the disposal of pollutants into wells in order to prevent

pollution of ground and surface water resources and to protect the public health and welfare.

(n) Authorization to Construct

(1) No person shall cause or allow the construction of any new treatment works, disposal well or wastewater source for which an NPDES Permit is required or cause or allow the modification of any existing treatment works, disposal well or wastewater source for which an NPDES Permit is required unless such NPDES Permit contains an authorization to construct as a condition of such permit.

(2) Any holder of a valid NPDES Permit who proposes or is required as a condition of such NPDES Permit or of any order of the Pollution Control Board to construct or modify any treatment works, disposal well, wastewater source, or process modification which results in new or increased discharges of pollutants, shall complete, sign and submit an NPDES application for such construction or modification, in accordance with the instructions provided with the form, no later than 180 days in advance of the date on which construction or modification is to begin. No person shall commence construction until the holder of the NPDES Permit shall have received a modification to the NPDES Permit, or a new NPDES Permit if required, which contains an authorization to construct as a condition of such permit.

(3) The Agency shall not issue any authorization to construct unless the applicant submits adequate proof, including any of the information or documents set forth in Rule 957 as the Agency may require, which ensures that the proposed construction, modification or operation

- (i) Either conforms to the criteria promulgated by the Agency under Rule 957 or is based on other criteria which the applicant proves will produce consistently satisfactory results; and
- (ii) Will not cause a violation of the conditions of the NPDES Permit.

911 Appeal of Final Agency Action on a Permit Application

- (a) If any NPDES Permit has been issued or denied by the Agency, any appeal of the issuance or denial of the permit, or of any of the terms or conditions thereof, shall be to the Pollution Control Board in accordance with its Procedural Rules.
- (b) Such appeal shall be filed within 30 days after final Agency action.

912 Authority to Modify, Suspend or Revoke Permits

- (a) Any person, whether or not a party to or participant at any earlier proceeding before the Agency or the Board, may file a complaint for modification, suspension, or revocation of an NPDES Permit in accordance with this Rule 912 and Part III of Chapter 1.
- (b) The Pollution Control Board, after complaint and hearing in accordance with the Act and its Procedural Rules, may modify, suspend or revoke any NPDES Permit in whole or in part in any manner consistent with the Act, applicable Board regulations and federal requirements, upon proof of cause including, but not limited to, the following:
 - (1) Violation of any terms or conditions of the permit (including, but not limited to, schedules of compliance and conditions concerning monitoring, entry, and inspection);
 - (2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
 - (3) A change in any circumstance that mandates either a temporary or permanent reduction or elimination of the permitted discharge.
- (c) The provisions of this Rule shall be included as terms and conditions of each issued NPDES Permit.

913 Revision of Schedule of Compliance

- (a) The Agency may, upon request of the applicant, revise or modify a schedule of compliance in an issued NPDES

Permit if it determines good and valid cause (such as an Act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control) exists for such revision and if within 30 days following receipt of notice from the Agency, the Regional Administrator of the U.S. Environmental Protection Agency does not object in writing.

- (b) Such agency revision shall only be made when the Agency has determined that the final compliance date shall not be extended beyond a total of 90 days as originally contained in the permit.

914 Variations from NPDES Limitations, Standards and Requirements

To the extent authorized by the FWPCA and the Act, the Board may grant variations from standards, limitations, and requirements imposed by these NPDES Regulations upon a showing that compliance would impose an arbitrary and unreasonable hardship on the applicant or permittee. Any request for such relief shall be commenced in accordance with Rule 401 of the Procedural Rules and Part IV of the Procedural Rules shall govern the proceeding. If such a variance is granted the Board shall order the Agency to issue or modify an NPDES Permit consistent with the Board Order, the FWPCA, Federal NPDES Regulations and the Act.

915 Public Access to Information

The Agency and Board shall assure public access to information pursuant to Section 7(b) of the Act.

916 Effective Date

The effective date of this Subpart A shall be the date when the Board files with the Secretary of State a copy of the letter approving the Illinois NPDES program by the Administrator of the United States Environmental Protection Agency pursuant to Section 402(b) of the FWPCA.

SUBPART B
OTHER PERMITS

This Subpart B establishes basic rules for the issuance of permits for the construction, modification and operation of treatment works, pretreatment works, sewers, wastewater sources and other discharges which are not required to have NPDES Permits.

951 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 of domestic sewage; or
 - (3) Any sewer required by statute to secure a permit pursuant to Ch. 111 1/2 Ill. Rev. Stat., Sec. 713, et seq; 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 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 502(14) of the FWPCA, or pollutants which may interfere with the treatment process into the receiving treatment works; 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;
- without a Construction Permit issued by the Agency.

952 Operation Permits; New or Modified Treatment Works, Sewers, and Wastewater Sources

- (a) 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 Rule 951 without an Operating Permit issued by the Agency, except for such testing operations as may be authorized by the Construction Permit.
- (b) However, the requirement for an Operating Permit for any treatment works or wastewater source for which an NPDES Permit is required shall be suspended from the effective date of this Subpart B until the earlier of either:
- (1) January 31, 1975, or
 - (2) The date of a final determination by the Administrator, pursuant to Section 402(c) of the FWPCA, that the State's NPDES Permit program does not meet the requirements of Section 402(b) or does not conform to the guidelines issued under Section 304(h)(2) of the FWPCA.

- (c) On the effective date of Subpart A hereof, all requirements for Operating Permits for discharges for which NPDES Permits are required shall be abolished, pursuant to the provisions of Section 13(b)(i) of the Act.

953 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 after December 31, 1972 without an Operating Permit issued by the Agency, except as provided in paragraphs (b), (c), and (d).
- (b) For the period of time referred to in Rule 952 above, the requirement of Operating Permits for treatment works and wastewater sources for which NPDES Permits are required shall be suspended. On the effective date of Subpart A hereof, all requirements for Operating Permits for dischargers for which NPDES Permits are required shall be abolished, pursuant to the provisions of Section 13(b)(i) of the Act.
- (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 of domestic sewage.
- (d) Operating Permits are not required for those pretreatment works that will not:
- (1) Discharge toxic pollutants, as defined in Section 502(13) of the FWPCA, or pollutants which may interfere with the treatment process into the receiving treatment works; 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.

954 Joint Construction, and Operating Permits

In cases where the Agency determines that a proposed treatment works, pretreatment works, sewer or wastewater source is sufficiently standard so as to obviate the need for separate Construction and Operating Permits, the Agency may issue a joint Construction and Operating Permit.

955 Experimental Permits

- (a) In order to promote the development of water pollution control technology, the Agency may issue Experimental Permits for treatment processes or techniques that do not satisfy the Standards for Issuance set forth in Rule 962, provided that the applicant submits clear, cogent and convincing proof that the process or technique has a reasonable and substantial chance for success.
- (b) The existence of a valid Experimental Permit shall constitute a prima facie defense to any action brought against the Permittee for a violation of this Chapter, but only to the extent that such action is based on the failure of the process or technique, during the period of validity of the Permit, to meet the effluent limitations or water quality standards of this Chapter.
- (c) An Experimental Permit may not be issued in lieu of an NPDES Permit when an NPDES Permit is required.

956 Former Permits

- (a) The issuance of any permit by the Agency or any predecessor prior to the effective date of this Subpart B will not excuse compliance with the requirements for obtaining Operating Permits as set forth in Rule 953.
- (b) No Construction or Operating Permit issued by the Agency or its predecessor under authority of any State legislation or regulation other than Section 39(b) of the Act and Board regulations promulgated pursuant thereto, shall be considered valid for the purpose of authorizing any discharge to the waters of the State or to any well.

- (a) All applications for any permit required under this Subpart B shall contain, where appropriate, the following information and documents:
- (1) A complete description of the volume and nature of the wastewater influent and effluent to be transported, treated, or discharged, including a statement as to presence or absence of all contaminants for which effluent or water quality standards are set by this Chapter; and
 - (2) A description of the present condition of the receiving body of water and the effect of the wastewater on such receiving body of water; and
 - (3) A statement as to any projected changes in the volume or nature of the wastewater which the applicant desires to have included within the terms of the permit; and
 - (4) A description of the geographic location of the facility or source, and its interrelation with any existing or proposed treatment works, sewer, or wastewater source which will transport, treat, or discharge the same wastewater; and
 - (5) Plans and specifications, prepared by an Illinois Registered Professional Engineer when required by the provisions of the Illinois Professional Engineering Act (Ill. Rev. Stat. 1971 Ch. 48 1/2), fully describing the design, nature, function and interrelationship of each individual component of the facility or source, except that the Agency may waive this requirement for plans and specifications when the application is for a routine renewal; and
 - (6) A statement identifying and justifying any departure from current design criteria promulgated by the Agency.
- (b) The Agency may adopt procedures requiring such additional information as is necessary to determine whether the treatment works, pretreatment works, sewer, or wastewater source will meet the requirements of the Act and this Chapter.

- (c) The Agency may prescribe the form in which all information required under this Rule shall be submitted.

958 Applications - Signatures and Authorizations

- (a) An application submitted by a corporation must 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 must be signed by a general partner or the proprietor respectively. In the case of a publicly owned facility, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.
- (b) Permit applications for sewer construction or modification shall be accompanied by signed statements from the owners of all intermediate receiving sewers and the receiving treatment works certifying that their facilities have adequate capacity to transport and/or treat the wastewater that will be added through the proposed sewer without violating any provisions of the Act and this Chapter.

959 Applications - Registered or Certified Mail

All 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.

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 Division of Water Pollution Control.

960 Applications - Time to Apply

Any person required under this Subpart B to have a permit must file an application with the Agency at least 90 days before the date on which the permit is required.

961 Applications - Filing and Final Action By Agency

- (a) An application for permit under this Subpart B shall not be deemed to be filed until the Agency has received, at the designated address, all information, documents, and authorizations in the form and with the content required by Rules 957, 958, and 959 and related Agency procedures. Provided, however, that if the Agency fails to notify the applicant within 30 days after the filing of a purported application that the application is incomplete and of the reason the Agency deems it incomplete, the application shall be deemed to have been filed as of the date of such purported filing. The applicant may treat the Agency's notification that an application is incomplete as a denial of the application for purposes of review.
- (b) If the Agency fails to take final action, by granting or denying the permit as requested or with conditions, within 90 days from the filing of the application, the applicant may deem the permit granted for a one year period commencing on the 91st day after the application under this Subpart B was filed.
- (c) Any applicant for a permit under this Subpart B may waive the requirement that the Agency must take final action within 90 days from the filing of the application.
- (d) The Agency shall send written notice of final action taken.
- (e) The Agency shall be deemed to have taken final action on the date that the notice is mailed.

962 Standards for Issuance

The Agency shall not grant any permit required by this Subpart B, except an Experimental Permit under Rule 955, unless the applicant submits adequate proof that the treatment works, pre-treatment works, sewer, or wastewater source:

- (a) Will be constructed, modified, or operated so as not to cause a violation of the Act or of this Chapter, or has been granted a variance under Title IX of the Act; and

- (b) Either conforms to the design criteria promulgated by the Agency under Rule 967, or is based on such other criteria which the applicant proves will produce consistently satisfactory results; and
- (c) Conforms to all conditions contained in the Construction Permit, where applicable.

963 Duration of Permits Issued Under Subpart B

- (a) **Construction Permits:** Construction Permits for sewers and wastewater sources shall require that construction be completed within two years. Construction Permits for treatment works and pretreatment works shall require that construction be completed within three years. In situations where the magnitude and complexity of the project require it, the Agency may issue a Construction Permit, requiring completion within a period not to exceed five years.
- (b) **Operating Permits:** No Operating Permit shall have duration in excess of five years. All Operating Permits other than those issued under Rule 952 for newly constructed sewers shall have a duration not to exceed five years. The Agency may issue Operating Permits for as short a period of time as may be necessary in order to facilitate basin planning, to coordinate Operating Permits with future compliance deadlines, to maintain intensive control over new or experimental processes, and to provide for emergency situations.

964 Conditions

In addition to specific conditions authorized under this Subpart B, the Agency may impose such conditions in any permit issued pursuant to this Subpart B as may be necessary to accomplish the purposes of the Act, or this Chapter, or the FWPCA, provided such conditions are not inconsistent with this Chapter.

965 Appeals from Conditions in Permits

An applicant may consider any condition imposed by the Agency in a permit issued pursuant to this Subpart B as a refusal by the Agency to grant the permit, which shall entitle the appli-

cant to appeal the Agency's decision to the Board pursuant to Section 40 of the Act.

966 Permit No Defense

Except as provided in Rule 955, the issuance and possession of a permit under this Subpart B shall not constitute a defense to a violation of the Act or this Chapter, except for construction or operation without a permit.

967 Design, Operation and Maintenance Criteria

- (a) The Agency may adopt procedures which set forth criteria for the design, operation, and maintenance of treatment works, pretreatment works, sewers, and wastewater sources. These procedures shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.
- (b) Before adopting new criteria or making substantive changes to any criteria adopted by the Agency, the Agency shall:
 - (1) Publish a summary of the proposed changes in the Board Newsletter or a comparable publication, at the Agency's expense; and
 - (2) Provide a copy of the full text of the proposed changes to any person who in writing so requests; and
 - (3) Defer adoption of the changes for 45 days from the date of publication to allow submission and consideration of written comments on the proposed changes.

968 Modification of Permits

Any permit issued by the Agency under this Subpart B may be modified to make its provisions compatible with any new regulation adopted by the Board.

969 Permit Revocation

- (a) Violation of the conditions of a permit issued under the provisions of this Subpart B shall be grounds for revocation of the permit, in addition to other sanctions provided by the Act. Such sanctions shall be sought by

filing a complaint with the Board.

- (b) Delinquency in payment of any charges which may be required to be paid under Section 204(b) of the FWPCA and regulations thereunder shall be grounds for revocation of any permit issued pursuant to this Subpart B as provided by Rule 969(a) above.

970 Approval of Federal Permits

The Agency shall not approve any effluent discharge for the purpose of any federal permit (other than an NPDES Permit issued by the Administrator), unless that discharge is in compliance with all provisions of the Act and this Chapter, has been granted a variance under Title IX of the Act, or is in compliance with all terms and conditions of an NPDES permit.

971 Procedures

In addition to procedures specifically authorized under this Part, the Agency may adopt and promulgate all procedures reasonably necessary to perform its duties and responsibilities under this Chapter. Such procedures, and revisions thereto, shall not become effective until filed with the Index Division of the Office of the Secretary of State as required by "An Act Concerning Administrative Rules," approved June 14, 1951, as amended.

972 Effective Date

The effective date of this Subpart B shall be the date of filing with the Secretary of State on an emergency basis.

973 Severability

If any provision of this Part IX is adjudged invalid, or if the application thereof to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Part IX as a whole or of any part, subpart, sentence or cause thereof not adjudged invalid.