

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
WATER POLLUTION: PROPOSED ) R15-024  
 ) (Rulemaking- Water)  
AMENDMENTS TO 35 Ill. Adm. Code )  
 )  
Part 309 )

**NOTICE OF FILING**

PLEASE TAKE NOTICE that I have electronically filed today with the Illinois Pollution Control Board Illinois EPA's TESTIMONY OF DARIN LECRONE for the above captioned rulemaking, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/Sara Terranova  
Sara G. Terranova  
Assistant Counsel  
Division of Legal Counsel

DATED: July 24, 2015

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**TESTIMONY OF DARIN LECRONE**

My name is Darin LeCrone. I became the manager of the Illinois EPA's industrial wastewater permitting unit in November 2010. In this position, I supervise a staff of engineers responsible for permitting the construction and operation of industrial wastewater treatment and pretreatment systems, as well as permitting the discharge of these wastewaters to public sewer systems, and to waters of the State in accordance with National Pollutant Discharge Elimination System (NPDES) permits. Prior to becoming Unit Manager, I was a staff engineer with the Industrial Unit, beginning my career with the Agency in May 1992. I have a Bachelor of Science Degree in Mechanical Engineering from Southern Illinois University – Carbondale. I am a Licensed Professional Engineer in Illinois.

The state construction /operating permit program is based in the state Environmental Protection Act and the regulations developed by the Illinois Pollution Control Board. The Industrial Unit is responsible for permitting the 1) construction of new sewers, 2) wastewater pumping stations, 3) service connections to the public sewers at industrial sites, 4) new sewage treatment plants at industrial facilities, 5) pretreatment equipment, and 6) industrial wastewater treatment plants. Permits are also required for the modification or expansion of industrial wastewater sources, pretreatment equipment, and industrial wastewater treatment equipment. In addition, the Industrial Unit is responsible for permitting the land application of treated industrial sludges on cropland or other areas. Finally, permits are required for the operation of non-

discharging wastewater treatment systems such as spray irrigation of treated wastewater, wastewater evaporation, or recycle systems.

NPDES has its origin in the Federal Clean Water Act. The NPDES program requires permits for discharges to waters of the U.S. of treated municipal effluent, treated industrial effluent, coal and non-coal mining discharges, Concentrated Animal Feeding Operations (CAFO's), public water supply treatment plant discharges, pesticide discharges, and stormwater. The Industrial Unit is responsible for issuing NPDES permits for industrial wastewaters, as well as wastewaters from public water supply treatment plants.

This filing with the Board is the Agency's proposal to 1) make changes and clarifications to the State construction and operating permit requirements as well as 2) update and clarify the requirements for filing a timely renewal of an NPDES permit. Many of the revisions are proposed in response to the Permit Streamlining Law enacted in July 2011. This law sought to reduce the administrative burden which often accompanies the permitting process of construction and operation of wastewater sources, pretreatment systems, and treatment systems. Additionally, the proposal makes minor revisions to the regulations governing the application process for renewal of a NPDES permit. This would not increase the regulatory burden, but would instead clarify what constitutes a timely application, and allow the Agency flexibility in determining when an application is considered filed in a timely manner.

**35 Ill. Adm. Code 309, Subpart A**

The proposal to revise 35 Ill. Adm. Code 309.104, is not only consistent with Federal regulations but also allows for flexibility when considering if an NPDES permit renewal application is filed in a timely manner. Current language requires that a permit renewal application be filed at least 180 days prior to expiration, in order for the permit to be

administratively continued and for all permit conditions to remain in effect. In the event the Agency is unable to reissue the permit prior to its expiration date for any reason, the permittee may be faced with the potential of discharging without a permit.

The Agency expects most permittees will continue to file renewal applications at least 180 days prior to expiration of their permit. However, occasionally a permittee may have difficulty meeting that deadline. Examples of issues which may affect an applicant's ability to file 180 days in advance of expiration would include, but not be limited to: 1) a change in personnel at the facility, 2) a change in corporate ownership, 3) the intermittent nature of a discharge which results in difficulty collecting samples necessary for including with the application, and 4) difficulty gathering other information either required in the application or requested by the Agency. Often these delays would only result in the permittee filing their application a week or two late. However, without the ability for the Agency to waive the 180 day deadline, the permit would not be administratively continued if it expires prior to reissuance. The lack of administrative continuance may put a permittee in the position of discharging without a permit for reasons mentioned above.

The Agency may deny a waiver request in instances where a permittee has not made a good faith effort to file a renewal application on time, or has not provided justification for such a request. As previously mentioned, there may be valid reasons why a permittee is be unable to file a minimum of 180 days prior to expiration. The proposed revisions to this Subpart would be beneficial to the Agency as well as to the permittee by adopting a flexibility contained in the Federal regulations, but not currently recognized in the Board's regulations.

**35 Ill. Adm. Code 309, Subpart B**

The second part of the proposal would revise 35 Ill. Adm. Code 309 Subpart B to clean up some of the current language and clarify construction and operating permit requirements. The proposal would also extend existing exemptions to these requirements to treatment and pretreatment systems which typically utilize “off the shelf” technologies for the treatment of common wastestreams. Exempting these common “off the shelf” type systems from certain permitting requirements would lessen the regulatory burden on the affected facilities, with minimal risk to the environment. Many of these technologies do not require a technical review by the Agency. Further, exempting them from certain permitting requirements would not be counter to Federal law or regulations. The proposal would also allow the Agency the flexibility to issue lifetime operating permits for certain sewers and/or pretreatment systems. These systems would also be subject to local sewer use ordinance which could include local limits, restrictions or other operational conditions. Lifetime operating permits would lessen the burden on the regulated entity as well as the Agency, without any additional risk to downstream facilities or the environment.

Additional revisions are proposed to clarify the process for terminating a state operating permit. Such a process is currently not specified, so these revisions would outline when and how an operating permit could be terminated.

**Section 309.201 Preamble**

The proposal would revise 309.201(b) to clarify the language concerning existing operating permit exemptions. The existing language in this subsection is somewhat confusing in that the exemptions reference pretreatment program language contained in Section 310 –

Pretreatment Programs, although the Agency to date has not sought or obtained Pretreatment Program approval from USEPA.

The proposal would create Section 309.201(b)(1), exempting discharges for which a separate pretreatment permit has been issued by the Agency. This new subsection would only be applicable if/when the Agency would receive Pretreatment Program approval from USEPA. The Agency to date has not sought or obtained Pretreatment Program approval from USEPA.

Section 309.201(b)(2) would be added to clarify that pretreatment systems which have been permitted by USEPA under the Pretreatment Program would be exempt from a State operating permit.

Section 309(b)(3) is being added to restate the existing exemption which is provided to discharges that have received authorization to discharge from a Publicly Owned Treatment Works (POTW), which has a pretreatment program authorized by either the Agency or USEPA.

#### **Section 309.202 Construction Permits**

The Agency is proposing to revise Section 309.202(a) to change the reference to (c) and (d) due to the addition of new language in (b).

The proposed new language for Section 309.202(b) concerns the construction permit requirements for groundwater remediation systems. This new language would clarify that a construction permit is required for new sewers serving a remediation system or a new wastewater source.

Section 309.202(c)(6) is being added to exempt from the construction permit requirement, cooling towers, oil/water separators, pH adjustment facilities (without additional pretreatment) and groundwater remediation pretreatment. These exemptions are proposed to lessen the regulatory burden for these common treatment technologies, which typically utilize

“off the shelf” components and do not require a technical review by the Agency. The Agency does not believe a technical review by the Agency for these types of facility results in a significant environmental benefit.

**Section 309.203 Operating Permits; New or Modified Sources**

The Agency is proposing to modify Section 309.203(a) to clarify that the requirements of this subsection apply to “pretreatment works” as well as to “treatment works, sewer or wastewater source”. The Agency believes this requirement for pretreatment works, was erroneously omitted, and that there is a distinction between a “pretreatment works” which discharge to a POTW, and a “treatment works” which does not.

The proposed revisions to Section 309.203(b) are clarifications to the operating permit requirements. These revisions are consistent with Pretreatment Program requirements and exemptions as outlined in the proposed revisions to Section 309.201, as well as the existing exemption for discharges for which a NPDES permit is required.

**Section 309.204 Operating Permit; Existing Sources**

Section 309.204(b) is being revised to be consistent with the new language proposed for Section 309.203(b).

Section 309.204(d) is being revised to clarify that the operating permit exemption also applies to wastewater which may be hauled directly to a POTW, and not just to those wastewaters discharged into the sewer system itself. In previous language, this exemption for dischargers that are hauled directly to the POTW was implied, but never clear. By adding this exemption language, the Agency is ensuring that the intent is clear, and can be applied uniformly.

**Section 309.242 Duration and Termination of Permits Issued Under Subpart B**

This subsection would include new language to not only clarify and change the duration of operating permits, but would also address the lack of a clear process for the termination of a permit. This Section would now be titled “Duration and Termination of Permits Issued Under Subpart B”.

Section 309.242(c) has been added to grant that the Agency may issue operating permits under Section 309.203 for sewers, wastewater sources, and pretreatment works for the lifetime of the sewer or the pretreatment works. This will allow the Agency to issue a lifetime operating permit for those systems that it has determined do not need further review five years down the road. Many of these system have not changed over the years or are of such a type, that reapplication and renewal every five years places an undue burden on not only the Agency, but also on the permittee. Currently, permittees spend considerable time and resources on reapplying for a permit, with little to no environmental benefit.

Section 309.242(d) was added to clarify that, notwithstanding subsections (b) and (c), an operating permit shall expire upon the issuance of a modified or renewed permit. This is to state specifically, what has long been implied. The issuance of new permit takes the place of the previously issued operating permit.

Sections 309.242(e) and (f) have been included to explicitly state how a permittee (subsection e) or the Agency (subsection f) may initiate termination of an existing operating permit. The regulations have long been specific on how a NPDES permit might be terminated, but there has not been equivalent language for termination of a State operating permit. This will correct what the Agency feels has been an unintended omission in the regulations.

**Section 309.263 Modification or Renewal of Permits**

This section is being revised to change its applicability to both modified and the renewal of state permits. Sections 309.263 (b) and (c) have been added to clarify the obligations of a permittee to seek a renewal of an operating permit in (b), or when the Agency may require the modification or renewal of a permit in (c). The renewal language would allow the option of either modifying the existing permit, or renewing a permit in lieu of modifying the existing permit. The permittee would be obligated to seek a modification of their operating permit for reasons such as: (1) a modification of permitted wastewater characteristics, quantity, or quality, (2) a change in facility ownership, name, or address, so that the existing permit is no longer accurate, or (3) a change in operations that will result in the permittee's noncompliance with the Act, a Board Regulation, or an existing permit condition. These requirements always applied, but there was no specific mention in the regulations. Adding this language will help avoid a situation where a change in a facility or its discharge has occurred, which results in the existing permit no longer being applicable to current conditions.

The proposals made by the Agency would potentially affect any entity subject to permitting actions with the Agency Division of Water Pollution Control, but would not result in a negative economic impact to the regulated facilities. This is true because many of the proposed revisions are meant to lessen the administrative and regulatory burden on certain types of discharges or facilities, which would lessen the cost of complying with these regulations. Therefore, the proposed revisions would not be expected to add any additional costs to the regulated community, but would instead reduce administrative and regulatory burdens on certain dischargers by exempting certain activities from permitting requirements, and allowing the option of lifetime operating permits for others.

**Conclusion**

I thank the Board for allowing me to file testimony in this matter, I will be happy to supplement the testimony as needed during the hearing, and address any questions.

Respectfully Submitted

By: /s/ Darin LeCrone  
Darin LeCrone, P.E.  
Manager Industrial Unit  
Permit Section  
Division of Water Pollution Control

DATED: July 24, 2015

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**CERTIFICATE OF SERVICE**

Sara Terranova, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING; and TESTIMONY OF DARIN LECRONE upon persons listed on the Service List by mailing a true copy thereof in an envelope duly addressed bearing proper first class postage and deposited in the United States mail at Springfield, Illinois on July 24, 2015.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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