

ILLINOIS POLLUTION CONTROL BOARD
August 18, 1983

IN THE MATTER OF:)
)
AMENDMENTS TO TITLE 35) R82-5
(STARCEVICH, EFFLUENT REVISIONS) R82-10
AND NPDES) Consolidated

Proposed Rule. Second Notice.

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

On April 21, 1983 the Board adopted a Proposed Rule/First Notice Proposed Opinion and Order in this matter. First notice was published in the Illinois Register on June 3, 1983 (Vol.7, No. 23). The First Notice period closed on July 25, 1983. Two comments were filed since the adoption of the first notice order. Illinois Power Company (IPC) disagreed with the Board that the proposed amendment to Section 309.262 was non-substantive and requested that it not be adopted (P.C. 3, May 25, 1983). The Illinois Environmental Protection Agency (Agency) addressed recommended changes to Sections 305.102(a)(1), 309.202(b) and (c), 309.204(c) and (d)(1) [P.C. 4, June 14, 1983].

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

The Agency first requests that the language proposed to be deleted in Sections 305.102(a)(1), 309.202(c) and 309.204(d)(1) be retained. The language of these subsections as it appears in the first notice order was proposed by the Agency in its comments of July 11, 1980. At that time the Agency felt that the United States Environmental Protection Agency (USEPA) pretreatment regulatory structure would be more inclusive than it is turning out to be. The regulations in effect at that time identified 21 primary industries for which categorical pretreatment standards would be promulgated (43 Fed. Reg. 2771, June 26, 1978). Information from USEPA's Effluent Guidelines Division shows that 8 of the 21 basic categories (later expanded by subdivision to 35) have now been exempted.

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

The Board agrees and will amend the proposal to include the language of these sections which was previously proposed to be deleted.

Second, the Agency expresses its concern that the language pertaining to Section 309.202(b)(2) in the Board's April 21, 1983 Proposal Opinion "could lead persons to conclude that by this amendment the Board intended to exempt from permit requirements all non-discharging facilities" (P.C. 4, p.3). This, the Agency contends, could include the land application of wastewater effluent. Such was not the Board's intent. The Board will word its final opinion to make it clear that non-discharging facilities will be exempt under 309.202(b)(2) only where each of the conditions therein are met. The same applies to operating permits under Section 309.204(c) which contains parallel language.

Third, the Agency points out that the Section 309.202(b)(2) and 309.204(c) exemptions are proposed to be limited to discharges to publicly regulated sanitary or combined sewers, while the Agency's original proposal in R80-6 (from which proceeding this amendment originated) as well as the Board's proposed orders of May 2 and October 30, 1980 allowed the exemption for discharges to publicly owned treatment works as well. The modification of the exemption was inadvertent and will be corrected in this order.

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

Section 302.407 Chemical Constituents

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

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

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

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

Section 304.142 New Source Performance Standards (Repealed)

~~The numerical effluent standards of this Part do not apply under the following circumstances:~~

- a) ~~The discharge is authorized by an NPDES permit, and~~

- b) ~~The facility from which the discharge results is subject to new source performance standards promulgated by USEPA pursuant to the CWA, and~~
- e) ~~The NPDES permit contains a numerical effluent limitation based upon USEPA effluent guidelines and standards representing best available demonstrated control technology for the constituent in question.~~

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

Section 305.102 Reporting Requirements

- a) Every person within this State operating a pretreatment works, treatment works, or wastewater source shall submit operating reports to the Agency at a frequency to be determined by the Agency. Such reports shall contain information regarding the quantity of influent and of effluent discharged, of wastes bypassed and of combined sewer overflows; the concentrations of those physical, chemical, bacteriological and radiological parameters which shall be specified by the Agency; and any additional information the Agency may reasonably require. This reporting requirement for pretreatment works shall only apply to those pretreatment works ~~that either~~ which:
 - 1) Discharge toxic pollutants, as defined in Section 502(13) of the CWA, or pollutants which may interfere with the treatment process, into the receiving treatment works, or are subject to regulations promulgated under Section 307 of the Clean Water Act (CWA); or
 - 2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
 - 3) Discharge 15% or more of the total biological loading received by the treatment works as measured by 5-day biochemical oxygen demand.
- b) Every holder of an NPDES permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this chapter.

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

Section 306.405 Notification by Agency

The Agency shall notify the sanitary district or other wastewater treatment or transportation authority of its determination of restricted status or critical review, or refusal to terminate the same, and shall give a specific, detailed written statement as to the reasons for such action.

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

Section 306.405 6 Appeal

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

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

Section 306.406 7 Effective Date

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

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

Section 307.103 Mercury

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

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

- b) It shall be an exception to paragraph (a) if the discharge is to a publicly owned or publicly regulated sewer system which is required to meet a limitation less stringent than the 0.0005 mg/l mercury concentration in which case the discharge limitation shall be the same as that applicable to the publicly owned or regulated sewer system to which it discharges.

- bc) It shall be an exception to paragraph (a) if all the following conditions are met:
- 1) The discharger does not use mercury; or, the discharger uses mercury and this use cannot be eliminated; or, the discharger uses mercury only in chemical analysis or in laboratory or other equipment and takes reasonable care to avoid contamination of wastewater; and,
 - 2) The discharge mercury concentration is less than 0.003 mg/l, as determined by application of the averaging rules of 35 Ill. Adm. Code 304.104(a); and,
 - 3) The discharger is providing the best degree of treatment consistent with technological feasibility, economic reasonableness and sound engineering judgment. This may include no treatment for mercury; and,
 - 4) The discharger has an inspection and maintenance program likely to reduce or to prevent an increase in the level of mercury discharges.
- ed) The discharge of wastes from medicinal or therapeutic use of mercury, exclusive of laboratory use, shall be exempt from the limitations of paragraph (a) of this section if all the following conditions are met:
- 1) The total plant discharge is less than 227g (one half pound) as Hg in any year;
 - 2) The discharge is to a public sewer system; and
 - 3) The discharge does not, alone or in conjunction with other sources, cause the effluent from the sewer system or treatment plant to exceed 0.0005 mg/l of mercury.
- de) No person shall cause or allow any discharge of mercury to a publicly owned or publicly regulated sewer system which, alone or in combination with other sources, causes a violation by the ~~sewer~~ wastewater treatment plant discharge of the water quality standard of Part 302 for mercury applicable in the receiving stream.

- ef) For purposes of permit issuance the Agency may consider application of the exception of paragraph (b) or (c) to determine compliance with this Section. The Agency may impose permit conditions necessary or required to assure continued application of the exception. When paragraph (b) or (c) applies, the Agency may impose an effluent limitation in the permit which allows the discharge of a concentration of mercury greater than 0.0005 mg/l but not more than 0.003 mg/l.

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

Section 309.102 NPDES Permit Requirement

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

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

Section 309.153 Deep Well Disposal of Pollutants (Repealed)
~~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.~~

Section 309.191 Effective Dates

~~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-Administration-of-the-United-States-Environmental-Protection-Agency-pursuant-to-Section-402(b)-of-the-CWA.~~

- a) Except as otherwise provided, Subpart A became effective on October 24, 1977.
- b) The UIC permit exception of Section 309.102(b) will become effective upon filing with the Secretary of State of a letter from USEPA approving the UIC program for the State of Illinois pursuant to Section 1422 of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and 40 CFR 123.

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

Section 309.202 Construction Permits

Except for treatment works or wastewater sources which have or will have discharges for which NPDES Permits are required, and for which NPDES Permits have been issued by the Agency:

- a) No person shall cause or allow the construction of any new treatment works, sewer or wastewater source or cause or allow the modification of any existing treatment works, sewer or wastewater source without a construction permit issued by the Agency, except as provided in paragraph (b).
- b) Construction permits shall not be required for the following:
 - 1) Storm sewers that transport only land runoff; or
 - 2) Any treatment works, sewer or wastewater source designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day (5700 l/day) of domestic sewage and which will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer; or
 - 3) Any sewer required by statute to secure a permit pursuant to Section 3 of "An Act to provide for, license and regulate mobile homes and mobile home parks", P.A. 77-1472, (Ill. Rev. Stat. 1981, ch. 111½, par. 713); or
 - 4) Any treatment works, pretreatment works, sewer or wastewater source that, on the effective date of this Subpart B, is being constructed or will be constructed under the authorization of a permit already issued by the Agency or its predecessors; provided however, that all construction must be completed within four years from the effective date of this Subpart B; or

- 5) Privately owned sewers tributary to industrial treatment works owned by the same person if the additional waste load does not exceed the permitted design capacity of the industrial treatment works.
- c) No person without a construction permit issued by the Agency shall cause or allow the construction of any pretreatment works or cause or allow the modification of any existing pretreatment works if such pretreatment works, after construction or modification, will:
- 1) Discharge toxic pollutants, as defined in Section 02(13) of the CWA, or pollutants which may interfere with the treatment process into the receiving treatment works, or be subject to regulations promulgated under Section 307 of the Clean Water Act (CWA); or
 - 2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
 - 3) Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand;

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

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

No person shall cause or allow the use or operation of any treatment works, sewer, or wastewater source for which a construction permit is required under Section 309.202 without an operating permit issued by the Agency, except ~~for such testing operations~~ as may be authorized by the construction permit. No operating permit is required under this Section for any discharge for which an NPDES permit is required.

~~b) However, the requirement for an operating permit for only that portion of 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) June 30, 1975, or-~~

~~2) The date of a final determination by the Administrator, pursuant to Section 402(c) of the CWA, 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)(3) of the CWA.~~

~~e) On the effective date of Subpart A all requirement for operating permits for discharges for which NPDES Permits are required shall be abolished, pursuant to the provisions of Section 13(b)(1) of the Act.~~

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

Section 309.204 Operating Permits; Existing Treatment Works, Pretreatment Works and Wastewater Sources

- a) No person shall cause or allow the use or operation of any treatment works, pretreatment works or wastewater source without an operating permit issued by the Agency, except as provided in paragraphs (b), (c), and (d).
- b) ~~For the period of time referred to in Section 309.203 above, the requirement of operating permits for treatment works and wastewater sources for which NPDES Permit are required shall be suspended. On the effective date of Subpart A all requirements for operating permits for discharges for which NPDES Permits are required shall be abolished, pursuant to the provisions of Section 13(b)(1) of the Act.~~ No operating permit is required under this Section for any discharge for which an NPDES permit is required.
- c) Operating permits are not required for treatment works and wastewater sources that are designed and intended to serve a single building and eventually treat or discharge less than an average of 1500 gallons per day (5700 l/day) of domestic sewage and which will discharge, if at all, directly to a publicly owned or publicly regulated sanitary or combined sewer.
- d) Operating permits are not required for those pretreatment works ~~that~~ or wastewater sources discharging to a sewer tributary to a treatment works which will not:
- 1) Discharge toxic pollutants, as defined in Section 502(13) of the CWA, or pollutants which may interfere with the treatment process into the receiving treatment works, or be subject to regulations promulgated under Section 307 of the Clean Water Act (CWA); or
 - 2) Discharge 15% or more of the total hydraulic flow received by the treatment works; or
 - 3) Discharge 15% or more of the total biological loading received by the treatment works as measured by the 5-day biochemical oxygen demand.

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

Section 309.207 Former Permits (Repealed)

- 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 Section 309.204.~~
- 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.~~

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

Section 309.241 Standards for Issuance

- a) The Agency shall not grant any permit required by this Subpart B, except an experimental permit under Section 309.206, unless the applicant submits adequate proof that the treatment works, pretreatment works, sewer, or wastewater source ~~will~~ will
- a) ~~Will~~ be constructed, modified, or operated so as not to cause a violation of the Act or of this Chapter, and and.
- b) ~~Either conforms to the design criteria promulgated by the Agency under Section 309.262, or is based on such other criteria which the applicant proves will produce consistently satisfactory results, and~~ If the Agency has promulgated, pursuant to Section 309.262, criteria with regard to any part or condition of a permit, then for purposes of permit issuance proof of conformity with the criteria shall be prima facie evidence of no violation. However, non-conformity with the criteria shall not be grounds for permit denial if the condition of sub-section (a) of this section is met.
- e) ~~Conforms to all conditions contained in the construction permit, where applicable.~~

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

Section 309.262 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~~ criteria shall be revised from time to time to reflect current engineering judgement 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:-~~ The Agency shall adopt such procedures as are necessary for permit issuance under this Subpart B of Part 309.
- 1) ~~Publish-a-summary-of-the-proposed-changes-in-the-Environmental-Register-or-a-comparable-publication,-at-the-Agency's-own-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-~~

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

Section 309.264 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.~~ A permit issued under this Subpart B may be revoked for cause which includes, but is not limited to, the following:
- 1) Cause as set forth in Rule Section 309.182(b); or
 - 2) Delinquency in payment of any charges which may be required to be paid under Section 204(b) of the Clean Water Act.

- b) ~~Delinquency-in-payment-of-any-charges-which-may-be required-to-be-paid-under-Section-204(b)-of-the-CWA and-regulations-thereunder-shall-be-grounds-for-revo-cation-of-any-permit-issued-pursuant-to-this-Subpart-B as-provided-by-paragraph-(a):~~
Revocation may be sought by filing a complaint with the Board pursuant to Part 103 of the Procedural Rules.

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

IT IS SO ORDERED.

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



Christan L. Moffett, Clerk
Illinois Pollution Control Board