

US EPA ARCHIVE DOCUMENT

Mr. Brian Frazer  
Environmental Protection Agency  
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Dear Mr. Frazer:

Please find below the Rhode Island Department of Environmental Management's (RIDEM's) comment on the proposed rule (40 CFR 403.20) that was published in the Federal Register dated October 6, 2000.

**Comment to EPA on Proposed Federal Rule 40 CFR 403.20**

The 40 CFR 403.20 proposed rule for Project XL requires POTWs to submit a Request for Substantial Modification in accordance with 40 CFR 403.18. 40 CFR 403.18(e) further requires that the POTW's NPDES Permit be modified in accordance with 40 CFR 122.63(g), which categorizes this type of permit modification as "minor".

It is our understanding that both major and minor modifications to expired NPDES permits are prohibited. RIDEM requests that 40 CFR 403.20 be clarified to allow approved Pretreatment Program Modifications that may be processed as minor NPDES Permit modifications in accordance with 40 CFR 122.63(g), to be also processed in cases when the associated NPDES Permits are expired. Given the national significance of Project XL and the NPDES Permit backlog situation facing most states, such a clarification to 40 CFR 403.20 would also be consistent with the recent Permit Streamlining initiatives undertaken by EPA, and would offer Pretreatment Program Approval Authorities a viable option to expeditiously implement individual Project XLs.

This issue is of particular concern to RIDEM since the NBC XL Project was recently approved and both RIPDES Permits for the Narragansett Bay Commission (NBC) are expired. NBC's RIPDES Permits are scheduled to be issued by December 31, 2001 as part of the "Backlog Reduction Plan" negotiated with EPA-Region I in conjunction with the Performance Partnership Agreement (PPA) and associated two-year Workplan. EPA has recognized that NPDES Permit backlogs are a national issue, and it has developed a series of goals for backlog reduction. RIDEM is also in the process of performing TMDL studies on the NBC WWTF receiving waters in accordance with a schedule that has also been negotiated with EPA as part of the PPA Workplan. The TMDL studies are scheduled to be completed in 2001 and will be incorporated into both NBC RIPDES Permits when they are re-issued.

While RIDEM will expeditiously process the necessary State Pretreatment Regulation amendments and the Substantial IPP Modification approval to allow NBC to implement its various pro-active Project XL initiatives, due to existing commitments to the RIPDES Permit backlog reduction plan and the TMDL schedule, RIDEM will not be able to re-issue NBC's RIPDES Permits until December, 2001 at the earliest. By modifying 40 CFR 403.20 to allow minor modifications of expired NPDES Permits, unnecessary delays will be avoided.

Thank you for the opportunity to comment.

Sincerely,

Eric A. Beck

Supervising Engineer  
RIPDES Program/Office of Water Resources