

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

IN THE MATTER OF PROPOSED)
AMENDMENTS TO PROCEDURAL) R80-12
RULES 401 and 405.)

PROPOSED RULE, FIRST NOTICE
ORDER OF THE BOARD (by D. Satchell):

The Board proposes to amend parts of Rules 401 and 405 of the Procedural Rules. Deletions from the existing rules have been stricken and new language is underlined.

- 401(d) All petitions for variances from Title II of the Act or from Chapter 2, Air Pollution of the Board's Regulations shall ~~include-an-analysis-showing-that~~ indicate whether the Board may grant the requested relief consistent with the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal regulations adopted pursuant thereto. If granting a variance would constitute issuance of a delayed compliance order as that term is defined in 40 C.F.R. §65.01 (e), the petition shall ~~show-that~~ indicate whether the requested relief is consistent with Section 113(d) of the Clean Air Act [42 U.S.C. §7413(d)] and 40 C.F.R. §§65.01-65-10 and 65.181. If granting a variance would require revision of the State Implementation Plan, the petition shall ~~show-how~~ indicate whether the requirements of Section 110(a) of the Clean Air Act [42 U.S.C. §7410(a)] and 40 C.F.R. Part 51 will be satisfied.
- 401(e) All petitions for variance from Title III of the Act; from Chapter 3, Water Pollution of the Board's Regulations; or from water pollution related requirements of any other title of the Act or chapter of the Board's regulations shall ~~include-a-showing-that~~ indicate whether the Board may grant the relief consistent with the Clean Water Act (33 U.S.C. §1251 et seq.), U.S.E.P.A. effluent guidelines and standards, any other Federal regulations or any areawise waste treatment management plan approved by the Administrator of U.S.E.P.A. pursuant to Section 208 of the Clean Water Act (33 U.S.C. §1288).
- 401(f) All petitions for variances from Title IV of the Act or from Chapter 6, Public Water Supplies of the Board's Regulations shall ~~include-an-analysis-showing-that~~ indicate whether the Board may grant the relief con-

sistent with the Safe Drinking Water Act (42 U.S.C. §300 f et seq.) and the U.S.E.P.A. Drinking Water Regulations (40 C.F.R. Part 141).

401(g) The petition may include an analysis of applicable federal law and legal arguments and facts which may be necessary to show compliance with federal law. If it does not and petitioner subsequently files a pleading containing such, it will be deemed an amended petition.

~~401(g)~~
401(h) The failure to satisfy the requirements of this Rule, to the extent that the Board is not reasonably informed of petitioner's circumstances, will render the Petition for Variance subject to dismissal for inadequacy, unless the Board shall rule otherwise.

405 Agency Investigation and Recommendation

405(a) After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of a variance, the Agency shall within thirty days of the filing of the petition or any amendment thereto make a recommendation to the Board on the disposition of the petition. The recommendation shall include:

1. A description of the efforts made by the Agency to investigate the facts as alleged and to ascertain the views of persons who might be affected and a summary of the views so ascertained;
2. A statement of the degree to which, if at all, the Agency disagrees with the facts as alleged in the petition, including facts refuting any allegations in the Petition for Variance;
3. Allegations of any other facts the Agency believes relevant to the disposition of the petition;
4. The Agency's estimate of the costs that compliance would impose on the petitioner and on others and of the injury that the grant of the variance would impose on the public including the effect that continued discharge of contaminants will have upon the environment; and

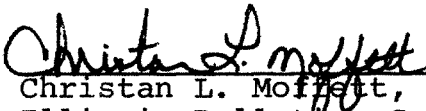
5. The Agency's ~~views-with-respect-to-the-Petitioner's assertions-concerning-the-applicability-and-interpretation-of-Federal-law-and/or-regulations-as-required-by-Rule-401(d),-(e),-or-(f)~~ analysis of applicable federal laws and regulations and an opinion concerning the consistency of the petition with such federal laws and regulations.
6. The Agency's conclusion of what disposition should be made of the petition.

405(b) The Agency shall serve a copy of its recommendation on the petitioner in accordance with Rule 305(b). Failure of the Agency to timely file its recommendation shall be grounds for the Hearing Officer to adjourn the hearing to a date which will allow reasonable time to prepare.

The record will be held open for comment for forty-five days after the date of publication in the Illinois Register.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16th day of July, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board