

ILLINOIS POLLUTION CONTROL BOARD
April 1, 1982

REYNOLDS METALS COMPANY,)
)
) Petitioner,)
)
) v.) PCB 79-235
)
) ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by I. Goodman):

On February 25, 1982, the Illinois Environmental Protection Agency (Agency) motioned the Board to reconsider its January 21, 1982 decision in this matter. Reynolds Metals Company filed objections on March 12, 1982. The motion is granted.

The Agency interprets both Rules 408(a) and 602(c) of the Board's Chapter 3 to be applicable to combined sewer systems. The Board, on the other hand, has found that Rule 408(a)'s effluent limitations are not applicable per se to these systems, but rather the performance criteria set out in Rule 602(c) is. The Agency requests that its interpretation of the mutual applicability of Rules 408(a) and 602(c) be adopted by the Board. In the alternative, the Agency requests that this decision be modified to circumvent the issue of whether combined sewer systems are subject to Rule 408(a).


The Board decision in this matter that Rule 408(a) does not apply to combined sewer systems is premised on the interpretation originally given for adopting Rule 602(c) in 1972. 3 PCB 755. At page 773 of the adopting Opinion the Board considered requiring "all such [combined sewer overflows] to be treated to meet the effluent standards." However, due to the unbalanced costs and benefits which would be induced by such a requirement, this interpretation was rejected. A case-by-case determination by the Agency of the degree of treatment required and the amount of flow to be captured was instead adopted. 3 PCB 774. Therefore, the Board's holding in this case remains unchanged.

Next, the Agency argues that its discretionary authority to condition NPDES permits with necessary effluent limitations lies in Rules 910(a)(4) and 910(b). The latter rule is inappropriate for two reasons. It is dependent on subparts (1), (2), and (3) and not subpart (4) of Rule 910(a) and any effluent limitations imposed pursuant to it should be in terms of mass discharge.

However, the Board accepts the argument that language in Rule 910(a)(4) provides the Agency with authority to condition an NPDES permit with an effluent limitation set out in Rule 408(a). Rule 910(a)(4) specifically allows for the imposition of such a condition when necessary to meet established water quality standards, and thus in this instance is more appropriate than the general authority granted by Rule 910(a)(6). Therefore, the January 21, 1982 Opinion is amended to reference Rule 910(a)(4). The appellate decisions cited in that Opinion now serve as collateral support, since the reasoning contained therein also applies to the more specific authorization contained in Rule 910(a)(4).

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 15 day of April, 1982 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board