

ammonia nitrogen requirements had not the Board provided relief for small dischargers of ammonia nitrogen in R77-6, our most recent revision of Chapter 3. According to Rule 402.1(a), the Petitioner and other dischargers with daily ammonia nitrogen loads of less than 60 pounds are exempt from the ammonia nitrogen requirements in Chapter 3 until after July 1, 1982.

Returning to the phosphorus requirements in Chapter 3, Rules 203(c) and 402 prohibit any discharge from causing or contributing to a violation of the 0.05 mg/l phosphorus water quality standard in any lake or in any stream at the point of entry into the lake. In this case, Petitioner claims that compliance with the numerical standards for phosphorus would impose an unbearable and unnecessary financial hardship. To support this position, the Hen House Restaurant has evaluated land application and chemical treatment as alternative methods of disposal. The Petitioner claims and the Agency does not dispute that use of either alternative is cost prohibitive (P. 1).

The Board is familiar with the problems facing municipal dischargers in meeting phosphorus standards. City of Hoopeston, PCB 76-234, 24 PCB 441; Southern Illinois University at Edwardsville, PCB 77-111, 25 PCB 775; Valley Water Company, Inc., PCB 77-146, 25 PCB 289.

In those and other cases, the Agency and the Board have recognized that it is economically impractical for the petitioners to comply with the current phosphorus limitation of Chapter 3. In addition, the Agency has petitioned the Board in regulatory proposal R76-1 for appropriate amendments to the phosphorus effluent and water quality standards of the Water Pollution Regulations.

The Board finds that Petitioner would suffer an arbitrary and unreasonable hardship if required to meet the existing 0.05 mg/l standard. Petitioner will be granted a variance from Rules 203(c) and 402 for five years or until the Board adopts a regulation change under R76-1 whichever occurs first.

The Board will direct the Agency to issue a new NPDES permit consistent with this Order pursuant to Rule 914 of Chapter 3 and to include interim effluent limitations as may be reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Hen House Restaurant is granted a variance for the operation of its wastewater treatment plant from Rules 203(c) and 402 of Chapter 3: Water Pollution Rules and Regulations regarding phosphorus until November 30, 1983, subject to the following condition:

- a) This variance will earlier terminate upon adoption by the Board of any modification of the existing phosphorus water quality standards and effluent limitations and the Petitioner shall comply with such revised regulations when adopted by the Board.

2. Petitioner, within 30 days of the date of this Order, shall request from the Agency an NPDES permit which incorporates all conditions of the variance set forth herein.

3. The Agency, pursuant to Rule 914 of Chapter 3, shall issue a new NPDES permit consistent with the conditions set forth in this Order including such interim effluent limitations as may reasonably be achieved through the application of best practicable operation and maintenance practices in the existing facilities.

4. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be suspended during judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 78-185, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

32-161 _____
DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 30th day of November, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board