

coal storage area. This second discharge receives primary settling in the collection ponds around the storage area before being pumped to the run-off treatment plant. There a coagulant aid is added before final settling and discharge. Petitioner does not anticipate any acid formation because of the low sulfur content of the coal; however, the system design contains provisions to add caustic if the need to neutralize an acid water should ever arise.

Petitioner does have both an Agency operating permit and an NPDES permit for the operation of the terminal. The Agency has determined that Petitioner's present facility constitutes a "wastewater source" as defined in Chapter 3 and has to meet the effluent standards of Rule 408(a) of Chapter 3. If Petitioner's coal storage piles were located at a mining site they would be subject to the effluent limitations of Chapter 4: Mine Pollution Regulations (Chapter 4) rather than Chapter 3. Consequently Petitioner is asking a variance from the total iron and total suspended solids limitations of Rule 408(a) of Chapter 3 for the discharge resulting from surface run-off from the coal storage piles.

Presently before this Board are two regulatory proposals that would require discharges from coal transfer facilities such as Petitioner's to meet the effluent standards of Chapter 4, rather than the more stringent requirements of Chapter 3. These proposals are R76-20 proposed by Petitioner and R77-10 proposed by the Agency. Petitioner submits that a denial of the variance would impose an arbitrary and unreasonable hardship by placing on Petitioner the risk of violating the applicable discharge limitations while it appears reasonable to assume those limitations will be amended so as to eliminate the risk.

Petitioner states that although the operating experience to date at the Terminal has been limited and no violations are known to have occurred, Ohio Power does not believe that the treatment facility will at all times and under all circumstances meet the Chapter 3 limitations, particularly with respect to total iron and total suspended solids.

The Agency recommends the granting of the variance subject to Petitioner's complying with the standards of the proposed regulations, i.e. Petitioner's discharge from its coal transfer facility will not exceed 35 mg/l total suspended solids and 3.5 mg/l total iron.

The Board agrees with the Petitioner and the Agency that an arbitrary and unreasonable hardship would be imposed if Petitioner were required to meet limitations that may very well change and establish less stringent standards. Petitioner's facility is new and the treatment system is the first of its kind for run-off of low sulfur coal (Pet. 6, 7). Under these conditions the Board grants Petitioner the requested variance for a period one year from this order or until the proceedings in R77-10 are concluded, whichever occurs earlier, subject to the Agency's conditions.

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

ORDER

The Pollution Control Board hereby grants the Ohio Power Company a variance from the total iron and total suspended solids limitations of Rule 408 of Chapter 3: Water Pollution Regulations for a period of one year from this order or until the proceedings in R77-10 are concluded whichever occurs earlier, subject to the following conditions:

- (1) Petitioner's discharge from its coal transfer facility (Cook Coal Terminal) shall not exceed 35 mg/l total suspended solids and 3.5 mg/l total iron.
- (2) Petitioner shall within 35 days of the adoption of this order execute and forward to both the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 and the Pollution Control Board a Certification of acceptance and agreement to be bound to all terms and conditions of this order. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 77-93 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

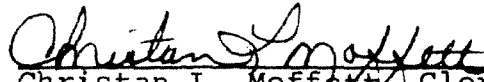
SIGNED _____

TITLE _____

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 28th day of June, 1977 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board