ILLINOIS POLLUTION CONTROL BOARD December 19, 1974

IN THE MATTER OF) REVISION TO RULE 409 of WATER) POLLUTION REGULATIONS, CHAPTER 3

ORDER OF THE BOARD (by Mr. Dumelle):

The following revised Rule 409 of the Water Pollution Regulations is proposed. A Statement of Need follows. Public hearings shall be held after due notice is given.

PROPOSED REVISION OF RULE 409, WATER POLLUTION REGULATIONS, CHAPTER 3

Because of inadequacies in funding in Federal construction grant programs and the lack of any reasonable assurance that additional Federal funds will be made available on a timely basis, the application of deadline dates in this Chapter to any discharger who is or will be eligible for a construction grant under Section 201(g) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1951 et seq.) is modified as follows:

- (a) All effluent standards required to be met on December 31, 1973 are extended to July 1, 1977 for any discharger to the waters of the State who is or will be eligible for a construction grant as described above.
 - (i) The above provision shall not be construed as limiting the power of the Board to enter an order directing immediate construction of facilities necessary to abate pollution of the waters of the State, when the Board has found, as the result of an enforcement case initiated under Sections 30-34 of the Act, that the discharger is causing or tending to cause pollution.
 - (ii) Whenever a discharger subject to the provisions of this Rule files or has filed the Projection Completion Schedule required by Rule 1002 and receives a time extension through the application of this Rule, said Project Completion Schedule will be automatically adjusted to reflect the time extension.

STATEMENT OF NEED

The text of the proposed revision to Rule 409 above is exactly as it now exists except for the change in the due date. Rule 409 was originally proposed by the Illinois Environmental Protection Agency on March 7, 1973 and was enacted by the Board on July 19, 1973 (R73-4). At that time, delays in Federal funding of sewage treatment plants and in the publication of regulations and guidelines necessary to establish project eligibility caused at least a one year's delay in the expansion or construction of needed waste treatment plants operated by governmental bodies.

That year has now passed but the impoundment of \$9 billion in grant funds by the President continues and has not been finally resolved by the Federal courts. Also, the Federal guidelines, after issuance, have caused additional delays because of infiltration test studies and other new requirements.

The Board, on August 29 and September 5, 1974, enacted National Pollution Discharge Elimination System (NPDES) regulations which would have given the Agency power to vary the December 31, 1974 due date of Rule 409 to July 1, 1977, where needed. The NPDES regulation has not yet been accepted by the Federal government and consequently that power to vary the due date does not now repose in the Agency.

Thus, to protect municipalities and sanitary districts from liability for prosecution, the December 31, 1974 due date is proposed to be changed to July 1, 1977.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 11^{+1} day of December, 1974 by a vote of 3-0.

istan L. Moffett

Illinois Pollution Control Board

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