

PROPOSED - NOT ADOPTED

PART VI: RULE 203(i)(5) OF THE
WATER POLLUTION CONTROL REGULATIONS

601 Petition

- (a) A hearing pursuant to Rule 203(i)(5) of the Water Pollution Control Regulations, Chapter 3 of the Board's Rules and Regulations, may be commenced by filing a petition for a finding pursuant to Rule 203(i)(5) with the Agency and by filing ten copies with the Clerk of the Board.
- (b) At the time of filing its petition, petitioner shall submit to the Agency and by affidavit to the Board any reports or other evidence petitioner intends to produce at a hearing and shall submit proof to the Board that it has submitted such evidence to the Agency.

602 Requirements for Petition

The following information, where applicable, shall be filed:

- (a) General Plant Description
 - 1. Generating capacity;
 - 2. Type of fuel used;
 - 3. Operating characteristics of the condensor cooling system;
 - 4. History of the load factor of the plant for the last five years;
 - 5. Projected load factors for the life of the plant;
 - 6. History of plant shutdowns; and,
 - 7. Planned, emergency, and projected shutdowns with frequency and duration.
- (b) Description of Method for Heat Dissipation
 - 1. Type of system used (once-through, mechanical draft cooling towers, etc.), in narrative form; and,
 - 2. Summary information on temperature of discharge to receiving waters in narrative form.

(c) Plume Studies

1. Actual plume studies in the last five years;
2. Theoretical plume studies for all four seasons for typical and worst case conditions. Worst case conditions shall be identified as worst conditions of plant load factor, precipitation, ambient water temperature, and air temperature; and,
3. Theoretical plume studies which identify isotherms at 1° Fahrenheit intervals down to ambient temperature indicating three dimensional effects.

(d) The discharger shall satisfactorily demonstrate that discharges from that source have not caused and cannot be reasonably expected to cause significant ecological damage to the receiving waters, including but not limited to:

1. Biological studies in the last five years on receiving waters, including species studied, location of studies, and conclusions reached;
2. The impact on other animal life (wildfowl, amphibians, etc.) in the area as a result of the thermal discharge; and,
3. Secondary Considerations
 - (a) Possible and known impact on recreation from thermal discharges; and,
 - (b) Management practices employed or planned in order to limit the effect of any environmental harm established under paragraph (d) above.
4. The required showing in this paragraph (d) may take the form of an acceptable final environmental impact statement or pertinent provisions of environmental assessments used in the preparation of the final environmental impact statement, or may take the form of a showing pursuant to §316(a) of the FWPCA which addresses the requirements of this paragraph.

603 Investigation and Recommendation

- (a) The Agency shall investigate the source which is the subject of the petition for Rule 203(i)(5) hearing to determine the ecological impact of the thermal discharges from such source upon the receiving waters. Within sixty days of the filing of the petition, the Agency shall make a recommendation to the Board, which shall include:
1. A description of the efforts made by the Agency in conducting its investigation;
 2. The Agency's conclusion as to whether discharges from the source have caused or can reasonably be expected to cause significant ecological damage to the receiving waters;
 3. The factual basis for the Agency's conclusion;
 4. Any corrective measures which the Agency recommends be taken and the recommended time period for implementation of such measures; and
 5. The Agency's conclusion of what disposition should be made of the petition.
- (b) The Agency shall serve a copy of its recommendation upon petitioner personally or by First Class United States mail, and ten copies shall be filed with the Clerk with proof of service. Failure of the Agency to timely file its recommendation shall be grounds for the Board to postpone consideration of the petition to a date which will allow reasonable time to prepare.
- (c) The petitioner may file a response to the Agency recommendation.

604 Notice and Hearing

- (a) If no objection is made by the Agency or by any other person to the proof contained in the petition within 21 days after filing of the petition, the Chairman shall place the matter on the Agenda for Board determination whether or not to hold a hearing.
- (b) The Board may vote to authorize a hearing without waiting for the expiration of the 21-day period for filing of objections, but shall not rule upon the petition without hearing until a minimum of 60 days have elapsed.
- (c) The Clerk shall give notice of the petition and hearing in accordance with Part IV of these Rules. The proceedings shall be in accordance with the Rules set forth in Part III.
- (d) In a hearing the burden of proof shall be on the petitioner and it shall be the duty of the petitioner, at hearing, to prove each material fact alleged in the petition.

605 Transcripts

- (a) In any proceeding brought pursuant to this Part, the petitioner at its own cost shall furnish to the Board within 15 days following the completion of a hearing, seven legible copies of a complete stenographic transcript of the proceedings of the hearing.
- (b) Upon petition and good cause shown, the Board may assume such cost.

606 Opinion and Order

- (a) The Board shall prepare a written Opinion and Order, which shall include:
 - 1. Findings of fact, with specific page references to principal supporting items of evidence in the record;
 - 2. The Board's final determination as to whether discharges from the source have caused or can reasonably be expected to cause significant ecological damage to the receiving waters; and
 - 3. Any corrective measures the Board finds appropriate.
- (b) If the Board requires corrective measures to be taken, it may require the posting of sufficient performance bond or other security to insure the implementation of such corrective measures within the time prescribed.
- (c) The Clerk shall publish the Opinion and Order with the vote of each Board Member recorded and shall notify petitioner of such Opinion and Order.