

Rule 910(h)(6) of Chapter 3 restricts the Agency's authority to establish schedules of compliance in NPDES permits. It states in part:

"...However, the Agency shall not issue an NPDES Permit containing a schedule of compliance beyond July 1, 1977, or any other compliance date established by Federal law, to any applicant who is not in compliance with, or who has not obtained a variance from applicable Illinois Water Pollution Regulation,..."

Since Petitioner has not been able to comply with the July 1, 1977 deadline and no other compliance date has been established by any competent authority (in this case, USEPA), Petitioner needs a Board variance in order to have its schedule of compliance extended.

Section 35 of the Act was recently amended to provide that the Board may grant variances "...to the extent consistent with...the Clean Water Act of 1977 (P.L. 95-217)...". The Board's authority has therefore been extended to include the grant of a variance under the direction of Section 301(i) of the Clean Water Act (CWA). The reference in Section 301(i) to "the State" and to "the Director" in 40 CFR Part 124, Subpart L shall be interpreted in this instance to refer to the Board since the Board is the only entity with the requisite authority to grant variances.

On July 26, 1978 Petitioner moved the Board to reconsider its decision based on contemplated amendments to its construction grant schedule. The Board acknowledges that flexibility is needed to conform with construction time tables. However, the July 1, 1983 deadline cannot be extended since this represents the extent of the Board's authority. The same limitation holds true for compliance with pretreatment regulations because of the language in 40C.F.R. §124.104(b).

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

ORDER

1. The Agency's motion for rehearing or modification is hereby denied.
2. The Board's Order dated June 22, 1978 is hereby amended to read as follows:

ORDER

1. The Village of Sauget be granted a variance from Rule 408(a) of Chapter 3 of the Board's Regulations, pertaining to mercury, until July 1, 1979, subject to the following conditions:
 - (a) Sauget's mercury effluent discharge shall not exceed a monthly average of 0.0005 mg/l.

- (b) Sauget shall conduct an inventory on discharge of mercury into its sewage system, provide data on daily discharges from each source and describe all current efforts to control such discharges.
 - (c) The variance for mercury shall sooner terminate upon modification of mercury effluent standards resulting from final action by the Board in R76-17 and R76-21.
2. The Village of Sauget be granted a variance from Rules 408 and 409(a) of Chapter 3 of the Board's Regulations pertaining to oil and phenols, until July 1, 1983, under the following conditions:
- (a) Sauget's oil effluent discharge shall not exceed a monthly average of 58 mg/l.
 - (b) Sauget's phenol effluent discharge shall not exceed a monthly average of 19 mg/l.
 - (c) The variance for phenols shall sooner terminate upon promulgation of appropriate Federal BAT standards for phenols under the Clean Water Act of 1977.
 - (d) Sauget shall proceed expeditiously with construction of a regional biological waste treatment plant.
 - (e) the variance for oil and phenols shall sooner terminate upon diversion of Sauget's wastewater flow to a regional biological treatment plant.
3. The Village of Sauget be granted a variance from Rule 404(b)(i) of Chapter 3 of the Board's Regulations pertaining to BOD and Suspended Solids until July 1, 1983 subject to the following conditions:
- (a) Sauget's BOD effluent discharge shall not exceed a monthly average of 332 mg/l.
 - (b) Sauget's Total Suspended Solids effluent discharge shall not exceed a monthly average of 120 mg/l.
 - (c) Sauget shall proceed expeditiously with construction of a regional biological waste treatment plant, following the timetable in its construction grant application which is incorporated by reference as if fully set out herein.
 - (d) Petitioner shall request the Agency, before June 26, 1978, to issue or modify its NPDES permit to incorporate all conditions of the variance set forth herein, including but not limited to:
 - (1) Compliance with the timetable referred to in Condition (c).

- (2) Compliance with sections 201(b) through (g) of the C.W.A. consistent with the terms of Sauget's construction grant.
 - (3) Issuance of quarterly progress reports indicating the measures undertaken to insure maximum operation and maintenance of existing treatment facilities for the duration of the variance.
 - (4) Compliance with all applicable pretreatment regulations promulgated pursuant to C.W.A. Section 307(b) in 40 C.F.R. Pt. 403, or if no such regulations have been promulgated, compliance with the pretreatment regulations in 40 C.F.R. Pt. 128.
4. The Agency, pursuant to Rule 914 of Chapter 3, shall issue or modify Sauget's NPDES permit consistent with the conditions set forth in this Order including appropriate monitoring requirements and such interim effluent limitations as may reasonably be achieved.
5. Within 45 days after the date 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 in the event of judicial review of this variance pursuant to Section 41 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 77-136, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 21st day of September, 1978 by a vote of 4-0.

Christan L. Moffett

Christan L. Moffett, Clerk
Illinois Pollution Control Board