

ILLINOIS POLLUTION CONTROL BOARD
March 17, 1977

IN THE MATTER OF)
REVISIONS TO PART VI OF THE) R 75-1
PROCEDURAL RULES)

OPINION OF THE BOARD (by Mr. Goodman):

Revisions to Part VI (as renumbered) of the Board's Procedural Rules, Ill.PCBRegs., Ch.1(1977), providing for new procedures pursuant to Rule 203(i)(5) of Chapter 3: Water Pollution Regulations were ordered set for publication by Board Order of December 16, 1976. The Board has received public comments from Union Electric Company, The Lake Michigan Federation, the Illinois Environmental Protection Agency, Central Illinois Public Service Company, Citizens for A Better Environment, Illinois Power Company, and U.S. EPA. All comments have been considered.

In response to public comment several changes have been made. The first is that a hearing will be mandatory in order to satisfy the Rule 203(i)(5) requirements. Having considered the public comments of Citizens for A Better Environment and The Lake Michigan Federation, we have determined that the hearing requirement incorporated in Rule 203(i)(5) is a substantive provision that cannot be modified without a regulatory amendment and that members of the public will benefit from the opportunity to express their views at hearing. Therefore, Rule 601 has been modified to incorporate the hearing requirement and Rule 605 has been similarly modified to provide for such requirement.

Two changes have been made in order to avoid excessive and duplicative hearings. First, Rule 605(c) provides that the record of any proceeding pursuant to Rule 203(i)(10) or Rule 410(c) of Chapter 3 shall be incorporated into the Rule 203(i)(5) proceeding. Although the burden of proof is still on Petitioner, this Rule is intended to

avoid extensive duplication of information already before the Board. In addition, under Rule 605(a), the Part III requirements as to the County in which the hearing is to be held are not applicable to Rule 203(i)(5) hearings. This provision is intended to enable the Board to consolidate Rule 203(i)(5) hearings, holding several on one day in one location in the interest of saving time and expense.

Having considered the comments of the Illinois Environmental Protection Agency (Agency), the Board has modified the requirement under Rule 604 that the Agency write a recommendation in each case to allow the Agency discretion in determining whether to write a recommendation. However, under Rule 603, the Agency has been joined as a party in all Rule 203(i)(5) hearings.

Several other changes have been made in response to public comment. In response to Union Electric's comment, Rule 602(c)(2) has been changed to allow a Petitioner to show the likelihood of worst-case discharge conditions in conjunction with the showing required by that Rule. In response to The Lake Michigan Federation, we have allowed additional response periods in Rules 605(a) and (b). Several changes have also been made in response to comments by U.S. EPA. Under the Rule 602 requirements for Petition we have added a provision requiring sources to indicate the estimated retirement date for each unit at the plant and any plans for additional units. We have also added a phrase to Rule 602(c)(1) requiring plume studies to be correlated with plant operation and meteorological conditions. We have changed Rule 602(d)(1) to clarify that biological studies shall include both the lethal and sublethal effects of the thermal discharge. And, as a final response to U.S. EPA's comments, we have added the words "and still accurate" to Rule 602(d)(4) which permits the use of an environmental impact study to satisfy the showing required under paragraph (d). This change is intended to prevent the use of an environmental impact statement when significant changes have occurred subsequent to its approval. Rule 602(d) has also been changed to allow a showing pursuant to Rule 203(i)(10) or Rule 410(c) to satisfy the requirements of that paragraph.

The Part VI revisions to the Procedural Rules as outlined herein were adopted by the Board on March 3, 1977. They are to become effective on April 1, 1977.

Mr. Zeitlin dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 17th day of March, 1977 by a vote of 3-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board