

ILLINOIS POLLUTION CONTROL BOARD  
June 22, 1979

IN THE MATTER OF: )  
 ) R79-9  
AMENDMENTS TO THE PROCEDURAL RULES. )

PROPOSED ORDER OF THE BOARD (by Mr. Dumelle):

Section 35 of the Environmental Protection Act states that variances from the limitations prescribed by the Act must be consistent with the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act and the Federal regulations under these laws. In order to insure a complete record in these matters, the Board proposes the following amendments to Procedural Rule 405. New language is indicated by underlining. Public comment on this proposal will be accepted for a period of 60 days from the date of this Proposed Order.

405 Agency Investigation and Recommendation.

(a) After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Agency shall within 30 days of the filing of the petition or any amendment thereto make a recommendation to the Board on the disposition of the petition. The recommendation shall include:

1. A description of the efforts made by the Agency to investigate the facts as alleged and to ascertain the views of persons who might be affected and a summary of the views so ascertained;
2. A statement of the degree to which, if at all, the Agency disagrees with the facts as alleged in the petition, including facts refuting any allegations in the Petition for Variance;
3. Allegations of any other facts the Agency believes relevant to the disposition of the petition;
4. The Agency's estimate of the costs that compliance would impose on the petitioner and on others and of the injury that the grant of the variance would impose on the public

including the effect that continued discharge of contaminants will have upon the environment; and,

5. The Agency's conclusion of what disposition should be made of the petition.

- (b) All petitions for variances from the Air Pollution Control Regulations shall be analyzed in light of the Clean Air Act. If granting a variance would properly be construed as a delayed compliance order as that term is defined in 40 C.F.R. §65.01(e), the recommendation shall indicate whether the requested relief is consistent with Section 113(d) of the Clean Air Act [42 U.S.C. §7413(d)] and 40 C.F.R. §§65.01-65.10 and 65.181. If granting a variance would require a revision of the State Implementation Plan, the recommendation shall indicate whether the requirements of Section 110(a) of the Clean Air Act [42 U.S.C. §7410(a)] and 40 C.F.R. Part 51 have been satisfied.
- (c) All petitions for variance from the Water Pollution Control Regulations shall be analyzed in light of the Clean Water Act (33 U.S.C. §§1251 et seq.). Recommendations in these matters should indicate whether granting the requested relief is consistent with U.S. EPA effluent guidelines and standards, any other Federal regulations or any areawide waste treatment management plan approved by the Administrator of U.S. EPA pursuant to Section 208 of the Clean Water Act (33 U.S.C. §1288).
- (d) All petitions for variances from the Public Water Supply Regulations shall be analyzed in light of the Safe Drinking Water Act (42 U.S.C. 300 f et seq.). Recommendations in these matters should indicate whether granting the requested relief is consistent with the U.S. EPA Drinking Water Regulations (40 C.F.R. Part 141).
- ~~(e)~~ (b) The Agency shall serve a copy of its recommendation on the petitioner in accordance with Rule 305(b). Failure of the Agency to timely file its recommendation shall be grounds for the Hearing Officer to adjourn the hearing to a date which will allow reasonable time to prepare.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Proposed Order was adopted on the 22<sup>nd</sup> day of June, 1979 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board