

ILLINOIS POLLUTION CONTROL BOARD

August 29, 1974, and
September 5, 1974

RE:)
LIVESTOCK WASTE REGULATIONS) R72-9

ORDER OF THE BOARD (by Dr. Odell)

On November 6, 1973, The Illinois Institute For Environmental Quality and its Agricultural Advisory Committee submitted to the Illinois Pollution Control Board (Board) proposed regulations in the above matter. After considering information from hearings and comments on a published draft, the Board adopted these Illinois Livestock Waste Regulations on August 29, 1974, with an amendment on September 5, 1974. These Regulations are a part of the National Pollutant Discharge Elimination System (NPDES) program in Illinois. They are being submitted to the United States Environmental Protection Agency for review for the purpose of the State obtaining approval of the NPDES program in Illinois.

The effective date of these Regulations shall be the date when the Board files with the Secretary of State a copy of a letter approving the Illinois Livestock Waste Regulations by the Administrator of the U.S. Environmental Protection Agency pursuant to Section 402(b) of the Federal Water Pollution Control Act (FWPCA) of 1972, as amended.

While the Board retains jurisdiction to consider proposed modifications in this matter, this proceeding is deemed by the Board to be a final action in all other respects such as right of appeal.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 29th day of August, 1974, and amended on the 5th day of September, 1974, both by a vote of 5 to 0.


Christan L. Moffett, Clerk

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

LIVESTOCK WASTE
REGULATIONS

August 29, 1974,
As Amended September 5, 1974

ILLINOIS POLLUTION CONTROL BOARD

RULES AND REGULATIONS

CHAPTER 5: AGRICULTURE-RELATED POLLUTION

SECTION 1: LIVESTOCK WASTES

PART I: GENERAL PROVISIONS

101 AUTHORITY

Pursuant to authority granted by Sections 9, 12, 13, 21, and 22 of the Environmental Protection Act, which empowers the Board to designate equipment or facilities capable of causing or contributing to air and water pollution and to set standards for the issuance of permits for the construction, installation, and operation and for the inspection of said equipment or facilities; and to adopt regulations to promote the purpose of the Act which prohibits the deposit of any contaminants upon the land in such a place and manner as to create a water pollution hazard; and to set standards limiting the amounts or concentrations of contaminants that may be discharged into the waters; and to set standards for the disposal of any refuse and to set procedures for monitoring and reporting contaminant discharges at their source; and which directs the Board to adopt requirements, standards, and procedures which will enable the State to implement and participate in the National Pollutant Discharge Elimination System (NPDES) established by the Federal Water Pollution Control Act Amendments (FWPCA) of 1972, the Board adopts the following Rules and Regulations.

102 POLICY

It is the purpose of the General Assembly in adopting the Environmental Protection Act to restore, maintain, and enhance the purity of the air and waters of Illinois in order to protect health, welfare, property, and the quality of life. An adequate supply of healthy livestock is essential to the well-being of Illinois citizens and the nation. They provide the daily source of meat, milk, and eggs. Their efficient, economic production must be the concern of both producers and consumers if we are to have a continued abundance of high-quality, wholesome food and of other livestock products at reasonable prices. The policy shall be to establish regulations that will provide a balance between a wholesome environment and the efficient production of adequate livestock products.

Livestock produce wastes which, when properly used, supply nutrients and organic matter to soils. The mere presence of livestock waste in a given location does not denote pollution, but may, when improperly stored, transported, or disposed of, undesirably affect the environment.

It is hereby determined that the construction, establishment, and operation of certain livestock management facilities and livestock waste-handling facilities without environmental planning and safeguards or the use of certain livestock wastes for agricultural purposes causes, threatens, or allows the discharge of contaminants into the air or waters of Illinois so as to cause or threaten to cause pollution, or to render such waters harmful to public health, safety, or welfare or to domestic, commercial, industrial, agricultural, and recreational uses or to man, livestock, wild animals, birds, or fish or other aquatic life.

It is the purpose of these Regulations to prevent pollution of the air and waters of Illinois caused by failure to plan with regard to proper environmental safeguards the construction, location, and operation of certain livestock management facilities and livestock waste-handling facilities. A permit system is established to ensure that such activities take account of environmental considerations and to meet the requirements for federal approval, as established by the FWPCA. It is also the purpose of these Regulations to prevent pollution from the numerous point and non-point discharges, both continuous and fluctuating, which are present in certain livestock management facilities or livestock waste-handling facilities. To this end, procedural safeguards are required, in addition to compliance with the FWPCA, NPDES filing requirements, and the feedlot category of point source effluent guidelines.

103 DEFINITIONS

Except as hereinafter stated and unless a different meaning of the term is clear from its context, the definitions of terms used in this Chapter shall be the same as those used in the Environmental Protection Act and the Pollution Control Board Regulations, Chapter 3, Water Pollution:

Act: The Illinois Environmental Protection Act.

Administrator: The Administrator of the United States Environmental Protection Agency or his designee.

Air Pollution: The presence in the atmosphere of one or more

contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

Agency: The Illinois Environmental Protection Agency.

Board: The Illinois Pollution Control Board.

Construction: Commencement of on-site fabrication, erection, or installation.

Existing Livestock Management Facility and Livestock Waste-Handling Facility: Any livestock management facility and livestock waste-handling facility the construction or modification of which has commenced prior to the effective date of this Chapter.

Feedlot Runoff: Polluted liquid flowing from any livestock feedlot caused by precipitation or other water sources falling on or flowing onto a livestock feedlot.

FWPCA: Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., Public Law 92-500, enacted by the Congress October 18, 1972, as amended.

Holding Pond: Any excavated, diked, or walled structure or combination of structures, designed for the interception and temporary storage of feedlot runoff.

Impermeable: Not permitting significant passage of fluids under the usual pressure differences found in constructed livestock waste-handling facilities.

Lagoon: Any excavated, diked, or walled structure or combination of structures, designed for biological stabilization and storage of livestock wastes.

Leachate: Waters containing materials removed from livestock waste.

Liquid Manure-Holding Tank: Any fabricated structure, with or without a cover, either formed in place or transported to the site, used for containing liquid livestock wastes.

Livestock: Farm animals kept or raised for food, profit, use, or pleasure to include the species fowl, ovine, caprine, bovine, porcine, equine, and other commercially produced

animals and operations such as mink, rabbit, etc.

Livestock Feedlot: Any fenced pen, yard, or uncovered area in which an area less than or equal to 600 square feet is provided for each 1000 pounds live weight contained therein, in which livestock are enclosed at any one time and fed at or near the place of confinement, and crop or forage growth or production is not sustained in the area of confinement. This does not include land used for the growing of crops or vegetation for livestock feeding.

Livestock Management Facility: Any livestock feedlot, livestock shelter, or on-farm milking and accompanying milk-handling area.

Livestock Shelter: Any covered structure, including but not limited to livestock houses or barns, in which livestock are enclosed at any time.

Livestock Waste: Livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock feedlot, and other materials polluted by livestock.

Livestock Waste-Handling Facility: Individually or collectively those constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of byproducts from such livestock waste. Such a facility includes acceptable disposal areas, such as pasture or other suitable agricultural land, which can serve as an adequate filtering device to settle out and assimilate pollutants from livestock waste before the clarified water reaches a stream or other body of surface water or groundwater.

Manure Storage Structure: Any permanent area or structure which is impermeable and is used for stacking, storing, or containment of livestock waste.

Modification: Such physical change in, or alteration in the method of operation of, any livestock management facility or livestock waste-handling facility which increases the amount of livestock waste over the level authorized by the NPDES Permit.

New Livestock Management Facility and New Livestock Waste-Handling Facility: Any livestock management facility or livestock waste-handling facility the construction or modification of which is commenced on or after the effective date of this Chapter.

NPDES: The National Pollutant Discharge Elimination System for issuing, establishing conditions for, and denying permits under Section 402 of the FWPCA. All terms used in connection with NPDES which have been defined in the FWPCA or regulations adopted thereunder shall have the meanings specified therein, unless specifically noted otherwise.

NPDES Permit: A permit issued pursuant to the NPDES.

Owner or Operator: Any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility.

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent, or assigns.

Pollutant: Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water, as defined in FWPCA.

Settling Basin: Any excavated, diked, or walled structure or combination of structures designed as part of a livestock waste-handling facility to detain feedlot runoff for a sufficient time to permit solids to settle for later removal.

Standard of Performance: A standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants, as defined in Section 306 of FWPCA.

Temporary Manure Stack: Any mound or stack resulting from the emergency or seasonal piling of livestock wastes.

Water Pollution: Such alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to man, livestock, wild animals, birds, or fish or other aquatic life.

104 LIVESTOCK MANAGEMENT FACILITY AND LIVESTOCK WASTE-HANDLING FACILITY OPERATIONS

(a) General Criteria

- (1) Besides the Regulations contained within this Chapter, every person shall also comply with provisions of the Act and applicable Board regulations concerning Water Pollution, Chapter 3, and Air Pollution, Chapter 2.
- (2) The owner or operator of any livestock management facility or livestock waste-handling facility shall comply with the FWPCA, NPDES filing requirements, and the feedlot category of point source effluent guidelines.
- (3) These Regulations shall apply to stockyards and similar operations where animals are held briefly, as well as to conventional livestock operations.
- (4) The transportation of livestock wastes shall be planned and conducted so as not to cause, threaten, or allow any violation of the Act and applicable regulations.

(b) Location of New Livestock Management Facilities and New Livestock Waste-Handling Facilities

- (1) No new livestock management facility or new livestock waste-handling facility shall contain within its boundaries any stream or other surface waters except small temporary accumulations of water occurring as a direct result of precipitation.
- (2) New livestock management facilities and new livestock waste-handling facilities located within a 10-year flood height as recorded by the United States Geological Survey or as officially estimated by the Illinois State Water Survey shall be protected against such flood.
- (3) New livestock management facilities and new livestock waste-handling facilities shall not be located in close proximity to populated areas so as to cause air pollution. Adequate odor control methods and technology shall be practiced by operators of new and existing livestock management facilities and livestock waste-handling facilities so as not to cause air pollution.

- (4) New livestock management facilities or new livestock waste-handling facilities located on soil types or geological formations where the deposition of livestock waste is likely to cause groundwater pollution shall be constructed in such a way that pollution will be prevented, or supplementary measures shall be adopted which will prevent pollution.

(c) Protection of Livestock Management Facilities and Livestock Waste-Handling Facilities

- (1) Existing livestock management facilities and livestock waste-handling facilities shall have adequate diversion dikes, walls, or curbs that will prevent excessive outside surface waters from flowing through the feedlot and will direct feedlot runoff to an appropriate disposal, holding, or storage area. The diversions are required on all aforementioned structures unless there is negligible outside surface water which can flow through the facility or the runoff is tributary to an acceptable disposal area or a livestock waste-handling facility. If inadequate diversions cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures.
- (2) New livestock management facilities and livestock waste-handling facilities shall have adequate diversions, dikes, walls, or curbs that will prevent excessive outside surface runoff waters from flowing through the feedlot and will direct feedlot runoff to an appropriate disposal, holding, or storage area. The diversions are required on all aforementioned structures unless there is negligible outside surface water which can flow through the facility or the runoff is tributary to an acceptable disposal area or a livestock waste-handling facility. A holding pond must be capable of storing a volume equal to or exceeding the area of the feedlot, plus any tributary non-feedlot area (including roof area if tributary to the facility), multiplied by 12 inches for runoff from earthen areas or 15 inches for runoff from concrete areas unless the operator has justifiable reasons substantiating that a lesser storage volume is adequate. If inadequate storage volumes cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures. In no case shall the storage volume of the containment facility be less than the 25-year 24-hour storm effluent guidelines as

required by the new source performance standards of the U.S. Environmental Protection Agency for the feedlot point source category.

(d) Handling and Storage of Livestock Waste

(1) Manure Storage Structures

Any livestock waste stored in excess of six months shall be contained in a manure storage structure.

(2) Temporary Manure Stacks

(A) Temporary manure stacks shall be constructed or established and maintained in a manner to prevent runoff and leachate from entering surface or ground waters.

(B) No temporary manure stack shall be constructed within 100 feet of a water well.

(3) Livestock Waste-Handling Facilities

(A) Liquid manure-holding tanks shall be impermeable and capable of withstanding pressures and loadings to which such a tank may be subjected.

(B) Holding ponds and lagoons shall be impermeable or so sealed as to prevent groundwater or surface water pollution.

(C) The contents of livestock waste-handling facilities shall be kept at levels such that there is adequate storage capacity so that an overflow does not occur except in the case of precipitation in excess of a 25-year 24-hour storm.

(D) (i) Existing livestock management facilities which handle the waste in a liquid form shall have adequate storage capacity in a liquid manure-holding tank, lagoon, holding pond, or any combination thereof so as not to cause air or water pollution as defined in the Act or applicable regulations. If inadequate storage time causes or threatens to cause a violation of the Act or applicable regulations, the Agency may require that additional storage time be provided. In such cases, interim pollution prevention measures may be required by the Agency.

(ii) New livestock waste-handling facilities which handle the waste in a liquid form shall provide a minimum of 120-day storage with a liquid manure-holding tank, lagoon, holding pond, or any combination thereof unless the operator has justifiable reasons substantiating that a lesser storage volume is adequate. If inadequate storage volumes cause or threaten to cause a violation of the Act or applicable regulations, the Agency may require corrective measures.

(e) Field Application of Livestock Waste. The quantity of livestock waste applied on soils shall not exceed a practical limit as determined by soil type, especially its permeability, the condition (frozen or unfrozen) of the soil, the percent slope of the land, cover mulch, proximity to surface waters and likelihood of reaching groundwater, and other relevant considerations. These livestock waste application guidelines will be adopted pursuant to Rule 105, unless otherwise provided for by Board regulations.

105 ADOPTION OF DESIGN AND MAINTENANCE CRITERIA

- (a) Unless otherwise provided for by Board regulations, the Agency may adopt procedures which set forth criteria for the design and maintenance of facilities subject to this Chapter. These procedures shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.
- (b) Before adopting new criteria or making substantive changes in any criteria adopted by the Agency, the Agency shall:
- (1) Publish a summary of the proposed changes in the Board Newsletter and, at the Agency's expense, in a widely circulated agricultural periodical;
 - (2) Provide a copy of the full text of the proposed changes to any person who in writing so requests and to the current permit holders; and
 - (3) Defer adoption of the changes for 60 days from the date of publication to allow submission and consideration of written comments on the proposed changes.

106 INSPECTIONS AND DISEASE PREVENTION

The Agency shall have the authority to enter at all reasonable times upon any private or public property for the purpose of inspecting and investigating to ascertain possible violations

of the Act or regulations thereunder, in accordance with constitutional limitations, except that no representative of the Agency shall enter a livestock management facility or livestock waste-handling facility unless sanitized footwear and sanitized outer garments provided by the Agency are used (unless waived by the farm owner or operator) and any other reasonable disease prevention procedures or equipment, as provided by the owner or operator of the facility, are utilized.

The activities of inspecting and investigating include:

- (a) Having access to and the right to copy any records required to be kept under the terms of the permit; and
- (b) Having access to, sampling, and monitoring any discharge of pollutants to ground and surface waters.

PART II: PERMITS

201 NPDES PERMIT

No person specified in Rule 202, or required to have a permit under the conditions of Rule 203, of these Regulations shall cause or allow the operation of any new livestock management facility or livestock waste-handling facility, or cause or allow the modification of any livestock management facility or livestock waste-handling facility, or cause or allow the operation of any existing livestock management facility or livestock waste-handling facility without an NPDES Permit. Facility expansions, production increases, and process modifications which significantly increase the amount of livestock waste over the level authorized by the NPDES Permit must be reported by submission of a new NPDES application.

202 PERMITS REQUIRED FOR LARGE OPERATORS

An NPDES Permit shall be required for livestock management facilities or livestock waste-handling facilities which meet or exceed either of the criteria set forth in (a) and (b) below:

- (a) The facility contains or has contained at any one time within the past 12 months, for a total of 30 days or more, any of the following or greater numbers of livestock:

Number of Animals	Kind of Animals
1,000	Slaughter and feeder cattle
700	Mature dairy cattle (whether milkers or dry cows) including pregnant heifers
500	Horses
2,500	Swine weighing over 55 pounds
10,000	Sheep
55,000	Turkeys
5,000	Ducks
100,000	Laying hens and broilers (if the facility has continuous overflow watering)
30,000	Laying hens and broilers (if the facility has liquid manure-handling systems)

- (b) The facility has a one-time design capacity such that the sum of the following numbers is 1,000 or greater and that such number is contained for a total of 30 days or more:

Slaughter and feeder cattle multiplied by 1.0
Mature dairy cattle multiplied by 1.4
Swine weighing over 55 pounds multiplied by 0.4
Sheep multiplied by 0.1

- (c) Two or more livestock management facilities or livestock waste-handling facilities under common ownership are deemed to be a single facility if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.
- (d) None of the requirements listed in Rule 201, 202, or 203 preclude the voluntary filing of an NPDES application by the owner or operator of a livestock management facility or livestock waste-handling facility.

203 PERMIT PROCEDURES FOR OTHER OPERATORS

For livestock operations in which there are 100 to 1,000 animal units, as determined by the animal-unit multipliers in Rule 202 (b), an NPDES Permit is not required unless the Agency determines that the livestock management facility or livestock waste-handling facility is causing or threatening to cause a violation of the Act or applicable regulations; in which case, the operator shall make application for an NPDES Permit within 60 days of the time he receives the Agency's notification of alleged violation. An NPDES Permit is not required for livestock operations in which there is a total of less than 100 animal units, as determined by the animal-unit multipliers in Rule 202 (b), unless the Board determines that the facility is a significant contributor of pollution, pursuant to an enforcement action.

Where necessary, permittee shall construct and operate a livestock waste-handling facility which shall be in accordance with designs approved by the Agency. The following factors will be considered when applicable:

- (1) Kinds and numbers of livestock;
- (2) Presence or absence of livestock waste-handling equipment or facilities, or both;
- (3) Distance to structures occupied by humans;
- (4) Soil type, with special emphasis on characteristics such as permeability;
- (5) Slope of land or the time for waste to seep into the soil;
- (6) Use of land between facility and stream or other surface waters;
- (7) Distance to stream or other surface waters or presence of surface waters in the facility;
- (8) Location of facility with respect to flood plain; and
- (9) Thickness, texture, and permeability of earth material between the land surface and shallow water-bearing formations underlying or adjacent to the facility.

204 APPLICATION - CONTENTS

- (a) All applications for any permit required under this Chapter shall contain, where appropriate, the following information and documents:
 - (1) Kinds and numbers of livestock;
 - (2) A statement as to any projected changes in the size of the livestock operation;
 - (3) Description of land areas used for the livestock management facilities and livestock waste-handling facilities and land areas used for livestock waste disposal;

- (4) A sketch of the existing and/or proposed facility indicating the following:
 - (A) Approximate overall dimensions of the facility;
 - (B) Direction and location of surface drainage and other discharges from the facility;
 - (C) General location of waterways in the area;
 - (D) Location of area for manure disposal; and
 - (E) A marked-up aerial photograph or U.S. Geological Survey map of the area involved is desirable in lieu of a sketch.
 - (5) A statement identifying and justifying any departure from current design criteria promulgated by the Agency.
- (b) The Agency may adopt procedures requiring such additional information as is necessary to determine whether the live-stock management facility or livestock waste-handling facility will meet the requirements of the Act and applicable Board regulations.
 - (c) Applicable requirements of Subpart A of Part IX of Chapter 3, Water Pollution, shall apply to applications for NPDES Permits required by Chapter 5. The Agency may prescribe the form in which information required under this Rule shall be submitted.

205 APPLICATIONS - REGISTERED OR CERTIFIED

All permit applications shall be mailed or delivered to the appropriate address designated by the Agency. Any application or revised application sent by mail shall be sent by registered or certified mail, return receipt requested. Applications which are hand-delivered shall be delivered to and receipted for by any authorized person employed in the Permit Section of the Agency's Division of Water Pollution Control.

206 APPLICATIONS - TIME TO APPLY

- (a) New Applications. Any person now discharging whose discharge was not covered by the Refuse Act permit program, but which is subject to the NPDES program, must apply for an NPDES Permit on the effective date of these Regulations. However, for purposes of these Regulations, any person who has applied for an NPDES Permit from the U.S. Environmental Protection Agency and whose application has not been denied, shall be considered to have applied for an NPDES Permit unless the discharge described in the application for an NPDES Permit has substantially changed in nature, volume, or frequency; in which case, another NPDES Permit application shall be submitted.

- (b) Renewal. Permittees who wish to continue to discharge subsequent to the expiration date of their permit must apply for reissuance of the permit, using proper forms, not less than 180 days prior to the permit expiration date. The Agency will notify such persons of the need for renewal at least 60 days prior to the date on which the renewal application must be submitted; however, failure to do so does not excuse non-compliance with these Regulations.

207 APPLICATIONS - FILING AND FINAL ACTION BY AGENCY

- (a) New Operations. Any person whose livestock waste-handling facility or livestock management facility is required by Rules 201 and 202 to obtain a permit and will begin operation on or after the effective date of these Regulations must apply for an NPDES Permit no later than 180 days in advance of the date on which the facility is to commence operation minus the number of days available storage time for installed manure storage structures.
- (b) Signatures. An application submitted by a corporation shall be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility. In the case of a partnership or a sole proprietorship, the application must be signed by a general partner or the proprietor, respectively. In the case of a publicly-owned facility, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

208 STANDARDS FOR ISSUANCE

The Agency shall not grant any NPDES Permit unless the applicant submits proof that the subject facility:

- (a) Will be constructed, modified, or operated so as not to cause a violation of the Act or of applicable Board regulations or of FWPCA, or has been granted a variance under Title IX of the Act; and
- (b) Either conforms to the design criteria promulgated by the Agency under Rule 105, or is based on such other criteria which the applicant proves will produce consistently satisfactory results.

209 DURATION OF PERMITS

- (a) NPDES Permits will be issued for fixed terms not to exceed five years.

- (b) New Source Standards. Notwithstanding any other provision of this Regulation, any point source, the construction of which is commenced after the date of enactment of the FWPCA and which is so constructed as to meet the applicable federal "standard of performance", as defined in Section 306 of FWPCA, shall not be subject to any more stringent federal "standard of performance" during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

210 ISSUANCE AND CONDITIONS OF PERMITS

- (a) The provisions of Subpart A of Part IX, Permits, of Chapter 3 (Water Pollution) shall apply to the issuance, conditions, and modification of NPDES Permits under Chapter 5 in the same manner as such provisions apply to NPDES Permits issued pursuant to Chapter 3.
- (b) In addition to specific conditions authorized under this Part, the Agency may impose such conditions in any permit issued pursuant to this Part as may be necessary to accomplish the purposes of the Act or Board regulations.

211 APPEALS FROM CONDITIONS IN PERMITS

An applicant may consider any condition imposed by the Agency in a permit as a refusal by the Agency to grant a permit. An applicant or others who have been a party or participant at an Agency hearing shall be entitled to appeal the Agency's decision to the Board pursuant to Section 40 of the Act, Rule 502(b) of Chapter 1 (Procedural Rules), and Chapter 3 (Water Pollution) of the Board's regulations.

212 DEFENSES

- (a) The issuance or possession of a permit does not allow the permittee to violate the Act or Board regulations and does not constitute a defense to such a violation other than an alleged violation for construction or operation without a permit.
- (b) Compliance with an NPDES Permit shall be deemed compliance for purposes of Sections 42, 43, and 44 of the Act (Penalties), with the Act and applicable regulations, to the extent that such compliance would be a defense to enforcement action under the FWPCA.
- (c) Except for federally imposed requirements with respect to NPDES Permits, compliance with the rules and regulations promulgated by the Board under the Act shall constitute a prima facie defense to any action, legal, equitable, or criminal, or an administrative proceeding for a violation of the Act, brought by any person.

213 AUTHORITY TO MODIFY OR TERMINATE PERMITS

The Board, upon proof of cause, including, but not limited to, the following:

- (a) Violation of any condition of the permit (including, but not limited to, conditions concerning monitoring, entry, and inspection);
- (b) Obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts; or
- (c) Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

may, after petition and hearing in accordance with the Act and its Procedural Rules, terminate any permit or modify it in any manner which is consistent with the Act and applicable Board regulations or federal requirements.

PART III: OTHER AGRICULTURAL AND SILVICULTURAL ACTIVITIES

301 FISH AND AQUATIC ANIMAL PRODUCTION FACILITIES

NPDES Permits are required for the construction, modification, or operation of facilities such as hatcheries, fish farms, or other facilities which contain, grow, or hold aquatic animals in ponds, raceways, or other similar structures for purposes of production and from which there is or may be a discharge for any 30 or more days per year, except that NPDES Permits are not required for:

- (a) Closed ponds which discharge only during periods of excess runoff; or
- (b) Facilities which produce less than 20,000 pounds of aquatic animals per year.

NPDES Permits are required for any fish or aquatic animal facility which contains, grows, or holds any species of fish or other aquatic animal life non-native to the United States, from which there is a discharge to a navigable water at any time. The non-native species of fish are as defined in Special Publication No. 6 of the American Fisheries Society, entitled "A List of the Common and Scientific Names of Fishes from the United States and Canada"; except that carp (Cyprinum carpio), goldfish (Carassius auratus), and brown trout (Salmo trutta) are considered to be native species for purposes of this Regulation.

302 IRRIGATION ACTIVITIES

NPDES Permits are required for discharges of irrigation return flow (such as tailwater, tile drainage, surfaced groundwater flow, or bypass water) operated by public or private organizations or individuals if:

- (a) There is a point source of discharge (e.g., a pipe, ditch, or other defined or discrete conveyance, whether natural or artificial), and
- (b) The return flow is from land areas of more than 3,000 contiguous acres, or 3,000 noncontiguous acres which use the same drainage system.

PART IV: IMPLEMENTATION PROGRAM

401 COMPLIANCE DATES

Compliance with the limitations of Part I of this Chapter shall be achieved by the following dates:

- (a) With respect to existing facilities not required to obtain NPDES Permits under Rule 202 or 203, December 31, 1976;
- (b) With respect to new facilities not required to obtain NPDES Permits, as of the effective date of this Regulation; and
- (c) With respect to facilities required to obtain NPDES Permits under Rule 202 or 203, by the earliest reasonable date, as specified in the issued NPDES Permit. However, the Agency shall not issue an NPDES Permit containing a schedule of compliance beyond July 1, 1977, to any applicant who is not in compliance with or has not obtained a variance from applicable Board regulations.

402 SEVERABILITY

If any provision of these rules or regulations is adjudged invalid, or if the application thereof to any person or in any circumstance is adjudged invalid, such invalidity shall not affect the validity of this Chapter as a whole, or of any part, subpart, sentence, or clause thereof not adjudged invalid.