

ILLINOIS POLLUTION CONTROL BOARD
May 25, 1989

MIDWEST RUBBER RECLAIMING)
DIVISION,)
)
Petitioner,)
)
v.) PCB 89-85
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J. Marlin):

On May 15, 1989, the Board received a letter from Midwest Rubber Reclaiming Division (Midwest Rubber) requesting relief from the requirements of 35 Ill. Adm. Code 849 which was adopted by the Board on April 27, 1989. The Board construes this letter as a petition for variance.

Pursuant to Section 35 of the Illinois Environmental Protection Act (Act), variances may be granted by the Board to provide temporary relief from Board regulations. Ultimate compliance with the regulation is the goal of any granted variance. Also, a variance petition which is filed within 20 days of the effective date of a regulation stays the applicability of that regulation as to the petitioner pending the Board's resolution of the petition. Section 38(b) of the Act.

Permanent relief from Board regulations may be sought via an adjusted standard proceeding pursuant to Section 28.1 of the Act or a site-specific rule change pursuant to Section 27 of the Act. These other avenues of relief are distinct from a variance and must be pursued in separate proceedings.

The Board finds that the variance petition filed by Midwest Rubber is deficient with regard to the requirements of 35 Ill. Adm. Code 104. The Board also notes that a copy of a variance petition must be served on the Illinois Environmental Protection Agency when the petition is filed with the Board. Midwest Rubber shall file amended petition to correct these informational deficiencies within 45 days of the date of this Order. Copies of the Illinois Environmental Protection Act and the Board's procedural rules (which detail the filing requirements for a variance petition) will be sent to Midwest Rubber with this Order.

Additionally, Midwest Rubber did not submit the appropriate filing fee when the petition was filed. Recent amendments to the Environmental Protection Act prescribe such filing fees. P.A.

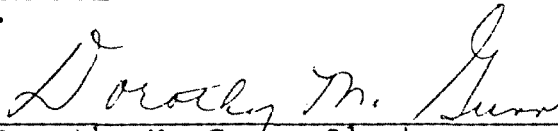
85-1331 (effective January 1, 1989). Pursuant to Resolution 88-3 (a copy of which is attached), the Board finds that the petition is also deficient for failure to submit a filing fee of 75 dollars.

The Board finds that the 120-day statutory decision period does not begin running until the appropriate filing fee is received by the Board.

Unless Midwest Rubber files the correct filing fee within 21 days of the date of this Order, the petition will be subject to dismissal.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25th day of May, 1989, by a vote of 7-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board