

Petitioner has attached descriptions of equipment it proposes to install to come into compliance (Pet. 3, Ex. E, F). Compliance is expected by January 15, 1981 (Pet. 4). The Agency has offered no comment as to whether it believes Petitioner will achieve compliance.

Petitioner states that 10 to 20 pounds (5 to 10 kg) of grain dust are emitted daily. Petitioner states that the grain dust has no adverse effect (Pet. 3). The Agency calculates particulate emissions of 125.9 tons per year or 690 pounds per day (310 kg/day) (Rec. 2). The Agency does not indicate whether this is a significant source or whether it contributes to air quality violations.

Pekin is in a non-attainment area for particulates. The nearest air quality monitoring station is at 531 Court Street in Pekin. It is not clear from data presented by the Agency whether the primary ambient air quality standards for total suspended particulates are met (Rec. 3).

On February 5, 1980 the Agency conducted an informal survey of residents in the vicinity of Petitioner's facility. Although four residents had no objection to this variance, two reported breathing difficulty and eye irritation when exposed to dust which they believed came from Petitioner's facility (Rec. 5).

The Agency complains that Petitioner has offered no air quality data or modeling in its petition (Rec. 3). However, the Agency cites no regulations which require numerical air quality data or modeling. The recently adopted Procedural Rule 401(d) was not intended to increase the burden of proof on variance petitioners (R79-9, 35 PCB 433, September 20, 1979; 36 PCB 209, November 29, 1979). Petitioner states that the emissions have no adverse effect and that there is no need to submit the variance to the United States Environmental Protection Agency as a revision to the Illinois State Implementation Plan (Pet. 3; Amended Pet.). Even though, as the Agency points out, these are unsubstantiated conclusions, they are entitled to some weight in a decision on the pleadings. Against Petitioner's assertion the Agency has offered an equally unsubstantiated conclusion that the Administrator could not approve the variance as an amendment to the state Implementation plan and has not stated unequivocally whether or not the variance will prevent attainment. The Board finds that Petitioner has met its burden of proof.

Petitioner states that due to the unique, custom design of its barge loadout system it has contacted the engineering firm of G.E.M. in Rotterdam. It is formulating a spout design which may be better than those which have been installed in other facilities in

Pekin (Pet. 1). Petitioner expects to be able to submit a permit application by July 15, 1980 (Rec. 3). Petitioner has a compliance plan to which the Agency has expressed no objection. The Board finds that requiring immediate compliance would impose an arbitrary and unreasonable hardship on Petitioner.

Petitioner has requested a variance from Rule 103(b) of Chapter 2. The Board does not favor grant of variances from the permit requirement itself. Petitioner will be required as a condition of this variance to make a new application for an operating permit for the facility following grant of this variance.

As a condition of this variance the Board will require that Petitioner with its existing equipment take all reasonable steps to minimize its particulate emissions during the term of this variance, including not remixing dust with grain.

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

ORDER

Petitioner Mississippi River Grain Elevator, Inc. is granted a variance for its watercraft grain loading facility in Pekin from Rules 203(d)(8)(B)(ii) and 203(d)(8)(B)(iv) of Chapter 2: Air Pollution Control Regulations, subject to the following conditions:

1. This variance will expire on January 15, 1981.
2. Petitioner shall take all reasonable measures with its existing equipment to minimize its particulate emissions. Petitioner shall not remix grain dust with grain.
3. Within thirty-five days of the date of this Order Petitioner shall apply to the Environmental Protection Agency for an operating permit for the facility.
4. On or before July 15, 1980 Petitioner shall apply to the Environmental Protection Agency for a construction permit for emission control equipment for its truck dump area and watercraft loading spout.
5. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATION

I, (We), _____, having read and fully understanding the Order in PCB 80-19, hereby accept that Order and agree to be bound by all of its terms and conditions.

SIGNED _____
TITLE _____
DATE _____

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of May, 1980 by a vote of 5-0.

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