

ILLINOIS POLLUTION CONTROL BOARD  
February 21, 1974

FS SERVICES, INC. )  
KINGSTON MINES TERMINAL )  
PETITIONER )  
 )  
 )  
v. ) PCB 73-518  
 )  
 )  
ENVIRONMENTAL PROTECTION AGENCY )  
RESPONDENT )  
 )

EVEN A. STRAWN, ATTORNEY, in behalf of FS SERVICES, INC.  
MICHAEL GINSBERG, ATTORNEY, in behalf of the ENVIRONMENTAL PROTECTION  
AGENCY

OPINION AND ORDER OF THE BOARD (By Mr. Marder)

This case comes to the Board on the petition of FS Services, Inc., for a variance from Chapter 2, Rule 205 (a) of the Board's Regulations, filed December 10, 1973, for its Kingston Mines Terminal. No hearing was held. The Environmental Protection Agency recommends the variance be granted.

FS Services, Inc., is a regional cooperative providing 140 member companies throughout Illinois, Iowa, and Wisconsin with wholesale manufacturing, purchasing, supplies, and services. FS is owned by the 140 companies it sells to, which are local farm cooperatives.

FS Services, Inc., owns and operates three petroleum terminals in Illinois. They are located in Albany, Norris City, and Kingston Mines. These facilities supply gasoline and middle distillates to its member companies, who in turn resell the products at retail to local farmers.

The facility has seven stationary storage tanks, all with a capacity in excess of 40,000 gallons. Only one of these tanks complies with Rule 205 (a), which tank has a floating roof.

As of December 31, 1973, Rule 205 (a) made it a violation to store more than 40,000 gallons of volatile organic materials in a stationary storage tank, unless:

- 1) The tank has a pressure capable of withstanding the vapor pressure of such materials, so as to prevent vapor or gas loss to the atmosphere at all times;
- 2) Is equipped with a floating roof which rests on the volatile organic material and is equipped with proper seals to prevent escape of vapor or gas to the atmosphere;
- 3) The tank must have a vapor recovery system consisting of:

A vapor gathering system capable of collecting 85% or more of the uncontrolled volatile organic material that would be otherwise emitted to the atmosphere, and a vapor disposal system capable of processing such volatile organic material so as to prevent their emission to the atmosphere.

- 4) The tank is an existing cone roof tank used exclusively for the storage of Illinois crude oil, subject to certain conditions.

At the facility in question, six of their storage tanks do not conform with this rule.

Petitioner alleges that the hydrocarbon emissions for the six tanks will be approximately 66 lbs/hr (Pet. P. 2). The Agency in its recommendation calculates that the emission will be 77.71 lbs/hr (Agency Rec. P. 3). The Agency further states that due to assumptions that can be used in the calculation, the difference is not unreasonable. During the corporate year 1972-73, the gasoline throughput at the facility was 76,200,000 gallons.

The Petitioner alleges that it did not become aware that compliance with Rule 205 (a) would be required on December 31, 1973, until March 27, 1973, at which time Petitioner retained Procon, Inc., as consultants for the proposed emission control.

On June 1, 1973, the Petitioner's board of directors authorized \$177,000 for a vapor recovery system. Preliminary design and engineering are complete.

Petitioner's proposed schedule for completion of the recovery system is as follows:

Application for construction permit	Dec. 30, 1973
Order of vapor recovery unit	Jan. 15, 1974
Advertise for bids	Feb. 1, 1974
Award contract and begin construction	March 1, 1974
Complete schedule for modification of six tanks	June 15, 1974
Installation and assembly of vapor recovery unit	August 2, 1974
Final completion and shakedown	September 15, 1974

Petitioner alleges a 150 day lead time from the time of ordering the vapor recovery unit and delivery. During the delivery time, Petitioner will be doing work preliminary to the installation of the vapor recovery unit including:

- 1) Modification of the six tanks
- 2) Construction of the vapor gathering manifold
- 3) The necessary connections between the manifold and the tanks.

The tank modification work will take two weeks per tank, with one tank out of service at a time. When the vapor recovery system is delivered, all work preliminary to its installation will be complete. The Agency feels the above compliance plan is reasonable and will bring the facility into compliance with the rule.

Petitioner alleges, and the Agency does not rebut, that the emissions from the tanks during the running of the variance would not have any significant adverse effect on the public for the following reasons:

- 1) The hydrocarbon emissions have a low photochemical reactivity, and accordingly do not contribute significantly to photochemical smog.
- 2) There will be no objectionable odor nuisance.
- 3) There is not a large concentration of storage tanks in the area that are hydrocarbon emitters, leading to the conclusion that ambient air quality will have low hydrocarbons.

Should Petitioner be denied this variance, it could not cover its commitment to supply fuel to its customers from its other facilities. This would cause a loss not only to Petitioner, but also to those supplied by him, who would not be able to get a sure supply of gasoline. The Board takes notice that a stable supply of fuel is necessary to keep our agricultural output sufficient to meet our needs.

Although the Board feels that the delay and resultant hardship are clearly self-imposed, Petitioner's activities since March 27, 1973, mitigate the circumstances considerably. It is clearly the responsibility of Petitioner to keep abreast of regulations in its field, and a lack of knowledge thereof is not grounds for protection. However, in the instant case, the Board finds that the hardship inflicted on Petitioner and the ultimate consumer would be such that a variance is warranted.

The Board further finds that the environmental impact of Petitioner's continued operation for the period of its compliance plan is not significant enough to move the Board to deny the Petition.

Petitioner has shown good faith in taking on this compliance program which we find is a reasonable one.

The Agency recommended a grant of a variance only until September 15,

1974. Petitioner requested a variance for one year, or the time to complete the work on the facility. The Board finds nothing on the record to indicate that the construction should go past the proposed completion date, but the Board takes notice that some delay is possible, and so grants Petitioner a variance until October 15, 1974, or when the project is completed, whichever is the shorter period of time.

This Opinion constitutes the findings of fact and conclusion of law of the Board.

ORDER

IT IS THE ORDER of the Pollution Control Board that Petitioner, FS Services, Inc., be granted a variance until October 15, 1974, or the completion of their compliance plan, whichever comes first, from Rule 205 (a) of Chapter 2, Part II, of the Board's regulation, for six storage tanks at its Kingston Mines facility, subject to the following conditions:

- 1) Petitioner shall submit bi-monthly reports to the Environmental Protection Agency, beginning one month from the entry of this Order, indicating progress made toward completion of its proposed compliance plan.
- 2) Respondent shall, within 35 days from the date of this Order, post a performance bond in a form satisfactory to the Agency in the amount of \$50,000, guaranteeing installation of equipment to comply with Rule 205 (a).

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 21<sup>st</sup> day of February, 1974, by a vote of 5 to 0.

