

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1990

IN THE MATTER OF:)
)
PETITION OF GRANITE CITY DIVISION)
OF NATIONAL STEEL CORPORATION)
FOR ADJUSTED STANDARDS FROM) AS 90-4
35 ILL. ADM. CODE 302.102, 302.208,) (Adjusted Standard)
302.210, AND SUBPART F, PROCEDURES)
FOR DETERMINING WATER QUALITY CRITERIA)

ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon a motion to dismiss Petitioner's adjusted standard petition filed March 26, 1990 by the Illinois Environmental Protection Agency ("Agency"). On April 3, 1990, Petitioner filed its reply requesting that the Agency's motion be denied.

On March 5, 1990 Petitioner filed a petition for adjusted standard with the Board for relief from Board regulations governing mixing zones; numeric standards for cyanide, copper and fluoride; and narrative standards and whole effluent toxicity standards, as those rules were amended by the Board in the Toxics Control Regulatory Proceeding, R88-21(A) (January 25, 1990, effective February 13, 1990).

In its motion, the Agency requests the Board dismiss this petition "until the Petitioner provides all the informational requirements contained in 35 Ill. Adm. Code 106.705." In support of its motion, the Agency discusses several areas in which it believes the petition contains insufficient information.

Petitioner challenges the Agency's contentions, stating that its petition meets all regulatory requirements. Petitioner submits that even should the Board believe that more information is required, Petitioner requests that the Board issue an order seeking more information rather than dismissal, consistent with Section 106.705. Petitioner further submits that the Agency's challenge to this petition is in contrast with the Agency's position in R88-21(B), where the Agency encouraged the Board to resolve Petitioner's requested relief through the Adjusted Standard process. Moreover, Petitioner states its willingness to discuss with the Agency technical disagreements regarding the type and amount of information submitted (Response at par. 4).

Upon review of the alleged deficiencies and response by Petitioner, the Board finds that the Agency's concerns mainly involve matters which are best resolved during the course of this proceeding. The Board notes that several petitions for variance,

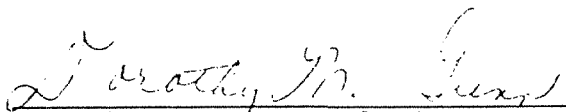
as well as petitions for adjusted standards, have been filed seeking relief from the R88-21A water toxics rules. (PCB 90-27, PCB 90-28, PCB 90-29, PCB 90-30, AS 90-2, AS 90-3, AS 90-5.) The Agency has requested dismissal due to asserted informational deficiencies in each case, save for AS 90-5. Given the nature of the water toxics amendments and the fact that there is no previously established benchmark for judging the sufficiency of a petition in this arena, the Board is not prepared at this time to dismiss this petition as deficient. However, since Petitioner bears the burden of proof, it is obvious that to the extent additional information is necessary for such proof, such information should be submitted during the course of the proceeding, and in advance of hearing.

The Agency's motion to dismiss is accordingly denied.

Lastly, the Board notes that pursuant to procedural rule 106.711, petitioners are required to cause the publication of notice of a petition for adjusted standard within 14 days after filing, and pursuant to 106.712, petitioners must file proof of notice publication within 30 days after filing. No publication proof has been filed for this petition. Given the Agency's motion to dismiss, it may be that Petitioner was awaiting a Board ruling prior to publishing notice. Therefore, on its own motion, the Board extends the time for filing proof of notice publication for 30 days of the date of this Order.

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 12th day of April, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board