

ILLINOIS POLLUTION CONTROL BOARD
January 26, 1995

ILLINOIS PETROLEUM)
MARKETERS ASSOCIATION,)
)
Petitioner,)
)
v.) PCB 95-3
) (Variance-Air)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD:

On January 6, 1995, the Illinois Petroleum Marketers Association (IPMA) filed a petition for a five month variance from certain provisions of 35 Ill. Adm. Code 218.586, the Board's Stage II Gasoline Vapor Recovery requirements. The IPMA petition seeks variance not for itself, but for 267¹ of its members and affiliates that are located in the Chicago ozone nonattainment area. The breakdown of the location of these facilities by county is as follows:

Cook	168
DuPage	19
Grundy	1
Kane	10
Lake	17
McHenry	32
Will	20

The IPMA correctly notes that, while the Board does not often accept "group" variance petitions, that it has done so under certain unusual circumstances. (See e.g. PCB 80-218, Illinois Hospital Association v. IEPA and PCB 93-190, Municipal Solid Waste Landfills v. IEPA.) However, the petition as submitted lacks the minimal information necessary to constitute a sufficient variance petition. The Board requires IPMA to submit additional information concerning the "several similar categories" (see Pet., par. 11) into which the listed sites would fall concerning their reasons for non-compliance, hardship, and prior efforts to achieve compliance. (See 35 Ill. Adm. Code

¹On January 23, 1995, IPMA filed a statement that one facility had been inadvertently omitted from the listing contained in Petitioners Exhibit 1.

104.121(e), (h), and (k).) IPMA is directed to file this information on or before February 23, 1995, or the petition will be subject to dismissal. The Agency is hereby given an extension to file its recommendation until 14 days after IPMA's filing of this supplemental information.

In the meantime, however, this matter is accepted and set for hearing, as required by the Clean Air Act for variances which may require revisions to the State Implementation Plan, and will be assigned to a staff hearing officer. Rather than holding hearings in each affected county, the Board directs its hearing officer to hold one hearing in Chicago, but directs the Clerk's Office to provide notice of hearing in each of the affected counties.

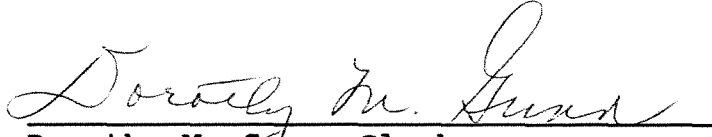
The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now May 6, 1995 (120 days from January 6, 1995); the Board meeting immediately preceding the decision deadline is scheduled for April 20, 1995.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

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 26th day of January, 1995, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board