

ILLINOIS POLLUTION CONTROL BOARD
January 18, 1991

JEFFERSON SMURFIT CORP.,)
)
 Petitioner,)
)
 v.) PCB 91-8
) (Provisional Variance)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (J.C. Marlin):

This matter comes before the Board on receipt of an Agency Recommendation dated January 16, 1991. The recommendation refers to a request from Petitioner, Jefferson Smurfit Corp. for a 17-day provisional variance from the sulfur dioxide emissions limitations, as set forth in 35 Ill. Adm. Code 214.141, for the period from December 15, 1990 to December 31, 1990.

Upon receipt of the request, the Agency issued its recommendation, finding that a failure to grant the requested 17-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

The Environmental Protection Act provides in pertinent part that:

The Board shall grant provisional variances, only upon notification from the Agency that compliance on a short term basis with any rule or regulation, requirement or order of the Board, or with any permit requirement would impose an arbitrary or unreasonable hardship.

Ill. Rev. Stat. 1989, ch. 111½, par. 1035(b).

The few times that the Board has denied such provisional variances have been solely on a question of law, e.g. the variances were for longer than the time limits allowed in the statute, or a Board regulation did not allow for such grant of variance. See Ill. Rev. Stat. 1989, ch. 111½, par. 1036(c).

The Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 214.141 from December 15, 1990 to December 31, 1990 on the following condition: Jefferson Smurfit's sulfur dioxide emissions from coal-fired sources shall not exceed 2.0 pounds of sulfur dioxide per MMBtu of actual heat input.

IT IS SO ORDERED.

J. Dumelle dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 18th day of January, 1990, by a vote of 6-1.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board