

ILLINOIS POLLUTION CONTROL BOARD
October 20, 1988

JEFFERSON SMURFIT CORPORATION)
(SCHAUMBURG PLANT),)
)
 Petitioner,)
)
 v.) PCB 87-184
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

MR. DANIEL F. O'CONNELL, OF GARDNER, CARTON & DOUGLAS, APPEARED ON BEHALF OF PETITIONER;

MR. JOSEPH R. PODLEWSKI, JR., APPEARED ON BEHALF OF RESPONDENT.

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

This matter comes before the Board upon a request for variance filed on November 30, 1987 by Jefferson Smurfit Corporation ("Smurfit"). Smurfit requests variance from Subpart P of Part 215 as those rules apply to Smurfit's plant in Schaumburg, Illinois ("Schaumburg Plant"), to allow time to install emission controls on its printing equipment. The variance is requested to extend to March 31, 1989 as it pertains to the operation of Smurfit's extruder and laminator, and to July 1, 1989 as it pertains to operation of Smurfit's flexographic line¹.

Subpart P of Part 215 was amended pursuant to the Board's final order in R85-21, Docket B (In the Matter of: Proposed Amendments to 35 Ill. Adm. Code 215: Flexographic and Rotogravure Printing, October 29, 1987). The amendment in pertinent part provides at 35 Ill. Adm. Code 215.245 that flexographic and rotogravure printing operations which are located in non-attainment counties and which have aggregate uncontrolled emissions of volatile organic material ("VOM") greater than 100 tons per year comply with rules regarding Flexographic and Rotogravure Printing, as specified at 35 Ill. Adm. Code 215 Subpart P, by December 31, 1987. Prior to this amendment Smurfit

¹ Smurfit originally requested that variance extend to December 1, 1989 (Pet. at 1). At hearing this date was modified to those noted (R. at 118-9).

was exempt from the requirements of Subpart P because its VOM emissions were less than the then existing 1000 tons per year exemption limit. Because Smurfit filed the instant variance petition within twenty days of the effective date of the amendment, application of the rule is stayed as to Smurfit pending a decision on the variance petition pursuant to Ill. Rev. Stat. ch. 111-1/2 par. 1038(b).

On April 4, 1988 the Illinois Environmental Protection Agency ("Agency") filed its recommendation ("Agency Rec.") that the requested relief be granted subject to certain conditions, among which was that the variance terminate on March 31, 1989. Hearing was originally noticed for June 8, 1988, and subsequently renoticed and held on September 1, 1988 at the State of Illinois Center in Chicago. No members of the public were in attendance.

At hearing Smurfit introduced several substantive amendments to its proposed compliance plan, including changes in the configuration of intended emission control equipment and the dates of compliance (see footnote 1). Also at hearing, the parties agreed, among other matters, to make additional filings to update their respective pleadings (R. at 127). Pursuant thereto the Agency filed an amended recommendation ("Agency Amended Rec.") on October 3, 1988 in which it noted that it held no substantive disagreement with Smurfit's revised proposal, including the revised compliance dates, and reiterated its recommendation that the request be granted. Smurfit has not filed a response.

BACKGROUND

Smurfit manufactures flexible packaging material for the food and pharmaceutical industries at a plant located at 1228 East Tower Road in Schaumburg, Cook County, Illinois. Located at the plant are various flexographic presses, rotogravure stations, and accompanying printing equipment. The equipment is organized into three lines: laminator and extruder lines which serve the rotogravure printing operations, and a flexographic line.

The solvent fraction of the inks used by Smurfit in its printing operations includes, inter alia, ethyl alcohol, isopropyl alcohol, isopropyl acetate, ethyl acetate, isopropyl acetate, and heptane. These compounds are classified as volatile organic material ("VOM") under the Board's Air Pollution Control Regulations (35 Ill. Adm. Code 211.122).

VOM emissions from Smurfit's flexographic presses and from the rotogravure stations on its extruder are presently uncontrolled and vent directly through stacks to the atmosphere (Pet. at 3). VOM emissions from the rotogravure station on the laminator line are partially controlled by a thermal incinerator.

Smurfit's 1987 uncontrolled VOM emissions were 357.84 tons (R. at 37). Historically, annual plant-wide VOM emissions have been between 300 and 350 tons (Pet. at 4; R. at 41). Approximately half of Smurfit's plant-wide VOM emissions are attributable to printing operations, with the flexographic presses accounting for 7% and the rotogravure operations accounting for the remainder (93%) of this amount.

COMPLIANCE PLAN

Smurfit offers a two-part compliance program, one part addressed to the extruder and laminator lines and one part to the flexographic presses. Smurfit proposes to install a new thermal incinerator on the extruder and laminator lines (R. at 36). Pursuant thereto, Smurfit was issued construction permit No. 87110095 by the Agency on June 13, 1988. For control of the flexographic operations, Smurfit proposes to reconfigure its presses and to convert the existing thermal incinerator to a catalytic incinerator by adding a catalytic module (R. at 59); a new rotogravure station will also be added to this line (Id.) A construction permit for the second part, No. 88060055, was issued by the Agency on August 15, 1988.

Both construction permits require that stack tests be undertaken to demonstrate compliance. Smurfit intends to have the new incinerator installed by the end of 1988 and to be able to demonstrate compliance within 90 days thereafter, or by the end of March, 1989 (R. at 58). However, the incinerator on the flexographic line cannot be installed until April 1, 1989 due to plant modifications which are to be undertaken first (R. at 30-3). Accordingly, Smurfit proposes to demonstrate compliance on the flexographic line within 90 days thereafter, or by July 1, 1989 (R. at 60, 66). The Agency agrees that both demonstration deadlines are reasonable (R. at 108), and recommends that the variance be conditioned accordingly (Amended Agency Rec. at 2).

HARDSHIP AND ENVIRONMENTAL IMPACT

The Agency summarizes the matter of hardship as follows:

Immediate compliance with the VOM requirements of Section 215, Subpart P is not feasible. Indeed, the IEPA has stated as a matter of record in the rulemaking proceeding which led to the adoption of Section 215.245 that "expeditious installation" of control equipment at affected facilities would take one year from the date that regulation was enacted. The Agency does not expect Smurfit to be able to do in two months (November and December of 1987) what it reasonably expects will take one year at the earliest.

The Agency agrees with Smurfit that compliance with the VOM emission limitations of Section 215.401 will create an unreasonable hardship for its Schaumburg operations. Because Smurfit cannot realistically install and operate control equipment immediately, its only compliance alternatives are to either reduce operations so that VOM emissions do not exceed 100 tons annually or shut down its printing operations. In light of the fact that more than 80% of all products manufactured at Smurfit are printed using the flexographic and rotogravure presses, a shut down of the presses would very likely result in a shut down of the entire plant and a temporary loss of 87 jobs with a \$3.2 million annual payroll. A decrease in production significant enough to reduce VOM emissions from its printing operations of 100 T/yr or less would, in all likelihood, have a similar adverse impact upon plant operations.

Agency Rec. at 22-23.

Contrasting with hardship is the issue of environmental impact. The ozone monitor nearest to Smurfit's facility is located at 2nd and Thacker in Des Plaines, approximately eight miles east of the Schaumburg Plant. No ozone excursions were recorded at this monitor during 1986, but two were recorded during 1987 (Agency Rec. at 15). Nevertheless, given the large number of VOM sources in the Chicago area and the multiple number and magnitude of excursions beyond the ozone standard throughout the Chicago area during both 1987 and 1988, it is difficult to quantify Smurfit's contribution to this environmental problem. However, Smurfit's compliance program, if successful, will significantly reduce the amount of VOM emitted by its facility.

CONCLUSION

In view of the hardship here demonstrated, as well as the projected environmental effects during the term of this proposed variance, the Board finds that adequate proof has been presented that immediate compliance with 35 Ill. Adm. Code 215, Subpart P, would impose an arbitrary or unreasonable hardship upon Petitioner. Accordingly, the relief will be granted with conditions consistent with the Illinois Environmental Protection Act.

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

ORDER

Petitioner, Jefferson Smurfit Corporation, is hereby granted variance from 35 Ill. Adm. Code 215, Subpart P (35 Ill. Adm. Code 215.401-215.417) for its facility located at 1228 Tower Road in Schaumburg, Illinois, subject to the following conditions:

- 1) With respect to the operation of the line(s) to be controlled by the thermal afterburner, as identified in construction permit No. 87110095 issued June 13, 1988, variance begins on January 1, 1988 and expires on March 31, 1989.
- 2) With respect to the operation of the line(s) to be control by the catalytic afterburner, as identified in construction permit No. 8806055 issued August 15, 1988, variance begins on January 1, 1988 and expires on July 1, 1989.
- 3) During the term of this variance, Petitioner shall submit quarterly written reports to the Agency detailing all progress made in achieving compliance with 35 Ill. Adm. Code 215 Subpart P at its Schaumburg Plant. The first quarterly report shall be due thirty (30) days from the date of this Order. The quarterly reports shall include monthly VOM emission data from the press department. The first quarterly report shall also include copies of material data sheets showing the composition (in terms of percentage of solid, solvent, and water) of all inks used during the rotogravure printing process. All of the above information shall be submitted to the Agency at the following addresses:
 - (a) Manager, Permit Section
Division of Air Pollution Control
Illinois Environmental Protection Agency
1340 N. Ninth Street
Springfield, Illinois 62702
 - (b) Manager, Field Operations Section
Division of Air Pollution Control
Illinois Environmental Protection Agency
1701 S. First Avenue, Suite 600
Maywood, Illinois 60153
- 4) Petitioner shall abide by all conditions of construction permits No. 87110095, issued June 13, 1988 and No. 8860055, issued August 15, 1988.
- 5) Operation of the thermal afterburner constructed pursuant to construction permit No. 87110095, issued June 13, 1988, is not allowed until an operating permit

is issued by the Agency, pursuant to 35 Ill. Adm. Code Section 201.143.

- 6) Operation of the two new rotogravure presses constructed pursuant to construction permit No. 8806055, issued August 15, 1988, is not allowed until an operating permit is issued by the Agency, pursuant to 35 Ill. Adm. Code Section 201.143.
- 7) Within 45 days of the date of this Order, Petitioner shall execute and forward to Joseph R. Podlewski, Jr., Enforcement Attorney, Illinois Environmental Protection Agency, 1701 S. First Avenue, Suite 600, Maywood, Illinois 60153, a Certification of Acceptance and Agreement to be bound to all terms and conditions of this variance. The 45-day period shall be held in abeyance during any period that this matter is being appealed. Failure to execute and forward the Certificate within 45 days renders this variance void and of no force and effect as a shield against enforcement of rules from which variance was granted. The form of said Certification shall be as follows:

CERTIFICATION

I (We), _____, hereby accept and agree to be bound by all terms and conditions of the Order of the Pollution Control Board in PCB 87-184, October 20, 1988.

Petitioner

Authorized Agent

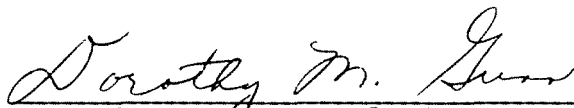
Title

Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111 $\frac{1}{2}$ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of October, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board