

ILLINOIS POLLUTION CONTROL BOARD  
November 29, 1988

FEDERAL PAPER BOARD COMPANY, INC., )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 87-208  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

JAMES W. GLADDEN, JR., PERCY L. ANGELO, AND SCOTT J. FRANKEL, OF  
MAYER, BROWN & PLATT, APPEARED ON BEHALF OF THE PETITIONER.

BOBELLA GLATZ AND LISA E. MORENO APPEARED ON BEHALF OF THE  
RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J. Marlin)

This matter comes before the Board on a Petition for  
Variance filed by Federal Paper Board Company, Inc. (Federal) on  
December 30, 1987. In its Petition Federal seeks variance from  
requirements of Sections 9(a) and 9(b) of the Illinois  
Environmental Protection Act (Act) as well as 35 Ill. Adm. Code  
215.401, 215.405(b) and 215.407(b). The Illinois Environmental  
Protection Agency (Agency) filed its Recommendation on October  
20, 1988. The Agency recommends that the Board grant a variance  
as requested by Federal. A public hearing was held in this  
matter on October 19, 1988 in Ottawa which is located in LaSalle  
County; no members of the public were present.

Federal operates a folding carton printing plant in  
Marseilles. The plant employs 114 people and utilizes three  
rotogravure printing presses. Federal's number one printing  
press is the subject of this variance. Presses number two and  
number three are equipped with afterburners and are operating in  
compliance with Board regulations. (Pet., p. 1-2; R. 13).  
Federal's number one press emits an average of 339 tons per year  
of volatile organic material (VOM). According to the Agency, its  
allowable emission rate is 118.6 tons per year. (Ag. Rec., p. 2-  
3). However, Federal claims that its excess emissions only  
amount to 168 tons per year. (Pet., p. 4; R. 13).

At one time, Federal had considered shutting down its  
Marseilles plant, however, in August of 1987 Federal decided to  
keep the plant open and operate it on a limited basis.  
Specifically, Federal decided not to operate its number one press  
after December 31, 1987. Nevertheless, after subsequent study  
Federal determined that it was necessary to operate all three  
presses in order to keep the Marseilles plant open; Federal had

concluded that it would lose efficiency and business volume if it only operated two of the three presses. This decision was made in October of 1987. (Pet., p. 2-3; R. 13).

Federal's plan to achieve compliance for its number one press is to install and utilize an afterburner on that press. At hearing, a Federal engineer testified that the afterburner has already been installed on press number one. (R. 8). According to Federal, approximately \$300,000 were spent on the afterburner system for press number one. (R. 9). Due to the testing and startup time needed for this afterburner, Federal has requested that it be granted variance through October 31, 1988. The Agency has no objections to this request and it similarly wishes to amend its Recommendation to reflect that change. (R. 14).

Federal claims that if it had shut down press number one to comply with the December 31, 1987 deadline, ten jobs would have been lost at the Marseilles plant. In addition, Federal asserts that the plant's production would have been seriously affected, thereby placing its economic viability in jeopardy. (Pet., p. 5-6; R. 13).

In its Recommendation, the Agency points out that Federal is located in LaSalle County which is an attainment area for ozone. The Agency states that the air quality in northeastern Illinois' nonattainment area would not be affected by a variance due to the fact that press number one was to be shut down for some time so that the press could be upgraded and the afterburner installed. (Ag. Rec., p. 5). The Agency also asserts that if the Board were to grant a variance, the variance would not have to be submitted to the U.S. Environmental Protection Agency as a State Implementation Plan (SIP) revision. However, if such submittal is required, the Agency concludes that "this variance would be approved as a SIP revision by USEPA, particularly since Marseilles is located in an area which is classified as attainment for ozone". (Ag. Rec., p. 6). Federal claims that the environmental impact due to the emissions of press number one is de minimus. (Pet., p. 5; R. 13).

Given the circumstances of this case, the Board finds that a denial of a variance would impose an arbitrary or unreasonable hardship on Federal. Therefore, the Board will grant Federal variance from 35 Ill. Adm. Code 215.401, 215.405(b), and 215.407(b) for the period from December 31, 1987 until October 31, 1988. Although Federal has requested variance from Sections 9(a) and 9(b) of the Act, the Agency only recommends variance from the Board's regulations. The Board believes that variance from its regulations alone is sufficient to remedy Federal's hardship concerns.

ORDER

Federal Paper Board Company, Inc. is hereby granted variance from 35 Ill. Adm. Code 215.401, 215.405(b), and 215.407(b) for the time period beginning December 31, 1987 and ending October 31, 1988, subject to the following condition:

Within 45 days of the date of the Board's Order, Federal shall execute a Certificate of Acceptance and send that Certificate to:

Illinois Environmental Protection Agency  
Enforcement Programs  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276

This Variance shall be void if Federal fails to execute and forward the Certificate within the 45-day period. The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of the Certificate of Acceptance shall be as follows:

Certificate of Acceptance

The Federal Paper Board Company, Inc., having received the November 29, 1988 Order of the Illinois Pollution Control Board in PCB 87-208 hereby accepts that Order and agrees to be bound by all the terms and conditions thereof.

The Federal Paper Board Company,  
Inc.

By: \_\_\_\_\_  
Authorized Agent

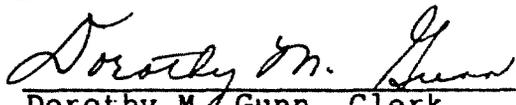
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985 ch. 111 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 29<sup>th</sup> day of November, 1988, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board