

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

MARSCO MFG. CO.,)
)
Petitioner,)
)
v.) PCB 91-235
) (Variance)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On November 27, 1991, Marsco Mfg. Co. ("Marsco"), filed a petition for variance for its facility located at 2857 S. Halsted Street, Chicago, Illinois. That petition is deficient in that it fails to provide:

1. Data describing the nature and extent of the present failure to meet the numerical standards or particular provisions from which the variance is sought and a factual statement why compliance with the Act and regulations was not or cannot be achieved by the required compliance date, as required by 35 Ill. Adm. Code 104.121(e);
2. A detailed description of the existing and proposed equipment or proposed method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation of all phases of the control program from initiation of design to program completion and the estimated costs involved for each phase and the total cost to achieve compliance, as required by 35 Ill. Adm. Code 104.121(f);
3. An assessment, with supporting factual information, of the environmental impact that the variance will impose on human, plant and animal life in the affected area, including, where applicable, data describing the existing air and water quality which the discharge may affect, as required by 35 Ill. Adm. Code 104.121(g);

In particular, Marsco has failed to specify what numerical regulatory limitations would apply, what level of current emissions violate those levels, when non-compliance started, and why compliance could not be achieved when required. Marsco cites several technical reviews and stack tests in paragraphs 2 through 5, but has provided no supporting technical material to this Board. In addition, Marsco has not stated in what manner it is

in violation of Section 9(a) of the Act.

Second, Marsco has not submitted a compliance plan. At best, Marsco has submitted a process to develop a compliance plan. Marsco states, in paragraph 7, that it intends to present its compliance plan in more detail at hearing. This is inadequate. The Agency, the Board, and the public have a right to review Marsco's compliance plan at the time the variance petition is filed so that the Agency recommendation and the public hearing can be conducted in a meaningful manner.

Third, Marsco has failed to provide any supporting factual information on environmental impact, especially as it pertains to odor.

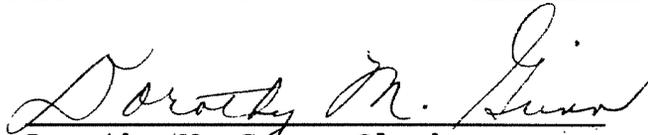
Marsco has failed to provide a statement of consistency with Federal law as required by Section 104.122 or a hearing request or waiver as required by Section 104.124. However, as this is an air variance request, hearing must be held.

The Board notes that this is a variance request on the eve of enforcement and after pre-enforcement conferences with the Attorney General. Consequently, the Board will serve a copy of today's Order on the Attorney General and add them to the notice list.

Unless an amended petition is filed within 45 days of the date of this Order, curing the above-noted defect(s), this matter will be subject to dismissal. The Board notes that for purposes of calculation of the decision deadline pursuant to Section 38 of the Act, the filing of an amended petition will restart the Board's 120 day deadline.

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 6th day of December, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board