

ILLINOIS POLLUTION CONTROL BOARD
April 16, 1981

ROWE FOUNDRY & MACHINE CO.,)
)
 Petitioner,)
)
 v.) PCB 81-49
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by D. Satchell):

On April 13, 1981 the Illinois Environmental Protection Agency (Agency) filed a motion to dismiss the variance petition filed April 2, 1981 by Rowe Foundry & Machine Co. (Rowe). A hearing request was filed April 7, 1981. The petition is deficient with respect to Procedural Rules 401(a)(4), 401(a)(5), 401(a)(6), 401(a)(7), 401(a)(10) and 401(d). Since a hearing is requested, Rowe need not provide evidence with the petition to support its allegations concerning ambient air quality. However, the petition falls short of providing an assessment, with supporting factual information, of the environmental impact, including data describing existing air quality [Procedural Rule 407(a)(7)]. It is necessary that the Agency have enough information to prepare to meet petitioner's evidence at the hearing.

The Agency's motion requests an analysis of federal law from Rowe. The parties should be advised that Procedural Rule 401(d) has been amended to require only that the petition indicate whether the requested relief is consistent with federal law (R80-12, Adopted Rule, Final Order, February 5, 1981; 5 Ill. Reg. no. 11, p. 2763, March 13, 1981). The Agency will be required to file an analysis with the recommendation [Procedural Rule 405(a)(5)]. The petition is deficient even under the amended Procedural Rule 401(d) since it includes no federal law statement whatsoever.

The motion to dismiss is denied pending receipt of an amended petition. This matter will be subject to dismissal unless an amended petition noting the above deficiencies is filed within forty-five days of the date of this Order. The decision period will commence with the filing of a sufficient amendment.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the _____ day of April, 1981 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board