



Bee's initial operating permit for this facility, granted on April 5, 1973 (since expired and not reapplied for) contained a Compliance Program which anticipated compliance with Rule 205(f) prior to August 1, 1973, and in no case later than October 1, 1973. Bee alleges that exempt solvents were unavailable until Spring, 1975 and that since that time substitution has proved technically more difficult than expected. The Agency contends that a variance should be denied since Bee has taken too long to either request a variance or come into compliance.

The Board recognizes that supplies of exempt solvents were difficult to obtain until this year, and that substitution of such solvents can prove technically difficult. On the basis of the evidence before us we cannot say that it is unreasonable that Bee was unable to achieve compliance until July 26, 1975. The Agency has not countered Bee's argument that supplies were initially unavailable and that, once available, technical problems ensued. Had the Agency contested these issues as a factual matter the Board would have required more evidence in support of them. As it is, however, the explanations for the delay constitute adequate evidence supporting a finding of hardship and warranting a grant of the requested variance. In granting this variance we note that it is retrospective. Compliance should have been achieved over one month ago. No additional excessive emissions will occur as a result of this variance. Bee simply gains immunity from prosecution for the violation involved for the period of the variance.

On September 2, 1975, after this Opinion was prepared for decision, Bee filed an amended variance petition seeking until November 13, 1975 to use up its inventory of non-exempt materials. The Agency has not had an opportunity to respond to this new request. Nor has any information on ambient air quality been provided which would allow the Board to consider a variance beyond the July 31, 1975 attainment date for national ambient air quality standards, pursuant to the decision of the United States Supreme Court in NRDC v. Train. For this latest requested relief Bee will have to provide such information in a new and separate variance petition.

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

ORDER

1. Bee Chemical Company is granted a variance from Rule 205(f) of Pollution Control Board Regulations, Chapter 2, for the period July 27, 1974 through July 26, 1975.
2. Bee Chemical Company shall submit to the Agency within twenty-one (21) days a report stating the date the conversion to exempt solvents was completed and detailing the composition and quantity of the exempt solvents. Such report shall be submitted to: Environmental Protection Agency, Division of Air Pollution Control, Control Program Coordinator, 2200 Churchill Road, Springfield, Illinois 62706.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4<sup>th</sup> day of September, 1975 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board