

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1975

ARVEY CORPORATION,)
)
) Petitioner,)
)
 vs.) PCB 75-226
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by Mr. Henss):

Petitioner requests variance from Rule 205(f) Air Pollution Control Regulations from May 29, 1975 until May 29, 1976. The purpose of the variance is to allow Petitioner the use of toluol in its production of plastic laminates until such time as Petitioner can substitute exempt solvents in its process and thereby come into compliance with Rule 205. A variance was previously granted to Arvey Corporation but the compliance plan originally proposed has not yet been implemented.

The variance petition is inadequate in that it fails to comply with the recent United States Supreme Court decision in Train, Administrator, etc. vs. Natural Resources Defense Council (No. 73-1742). In brief, the United States Supreme Court ruled that the Clean Air Act authorizes states to grant variances from implementation plan requirements if such variances do not interfere with attainment or maintenance of national ambient air quality standards. Illinois is required to attain the ambient air standards by July 31, 1975. This Board can grant individual variances beyond that date if the variances do not interfere with the attainment and subsequent maintenance of the national ambient air quality standards.

The petition fails to inform the Board whether the grant of a variance would interfere with the attainment or maintenance of the national ambient air quality standard. There are no data bearing on the quality of the ambient air which is affected by Petitioner's emissions; there is no statement, testimony or allegation regarding the issue.

Petitioner is ordered to supply the missing allegations and information within 45 days. If the additional information has

not been filed with the Board within that period of time the petition will be subject to dismissal for inadequacy.

The Board notes that the Petition for Variance was filed on June 2, 1975. Since the petition was inadequate as filed it will be impossible to comply with the statutory requirement that variance petitions be decided within 90 days of the date of their filing. Therefore, Petitioner should file along with the additional information required by the Train decision, a written waiver of its right to a decision within 90 days or a statement that the 90 day period shall commence with the filing of the additional information.

It is so ordered.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted the 6th day of June, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board