

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1979

BUREAU OF ALCOHOL, TOBACCO, AND)
 FIREARMS, UNITED STATES TREASURY)
 DEPARTMENT,)
)
)
 Petitioner,)
)
 v.) PCB 78-257
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a petition for variance filed on September 21, 1978. An amended petition was filed on October 6, 1978. The recommendation of the Environmental Protection Agency (Agency) was filed on December 1, 1978. On December 13, 1978 Petitioner waived its right to a hearing. Petitioner is requesting a five year variance from Rule 505 of Chapter 2: Air Pollution Control Rules (Chapter 2) in order to destroy existing stores of explosive material and such explosive material as may come into Petitioner's possession within the duration of the requested variance.

Petitioner, the Bureau of Alcohol, Tobacco and Firearms, is an Agency of the U. S. Government and has been delegated the responsibility to enforce the provisions of the Explosives Control Act of 1970, 18 U.S.C. Ch. 40 (1970). As part of its duties, Petitioner seizes explosive materials and destroys them pursuant to court orders.

Petitioner's variance request is to be allowed to destroy approximately 4000 pounds of Class B fireworks consisting in part of black powder and flash powder in combinations normally used in display type fireworks; Class C common fireworks consisting in part of various types of pyrotechnic flash type powder mixtures, and approximately 600 pounds of nitroglycerin based dynamite. Petitioner states that because of age, deterioration and highly unstable conditions these materials should be immediately destroyed so as to protect the public interest and safety.

Petitioner's variance request is to destroy existing stores of explosive material and to destroy similar explosive materials seized in the future. These materials would be destroyed on a bi-monthly basis or four to six times per year as needed for five years.

The alternate method of destruction involves the physical relocation of the explosive materials to Fort McCoy, Wisconsin, a distance of some 400 miles, which would necessitate use of Illinois and Wisconsin highways to transport highly unstable explosive materials and partially crystallized nitroglycerin dynamite in properly marked trucks at not only a high monetary cost, but at great risk to public safety. This alternative constitutes much more of a hazard than the proposed variance procedure.

The fireworks and nitroglycerin would be burned in a "popper", a device constructed of railroad tracks through which forced feeding is accomplished on a heavily constructed steel track. Diesel fuel and forced air are used as catalytic burning aids. Large stacks containing fly ash screens prohibit the dissemination of coarse particulate matter from the burning site. The material burns at extremely high temperatures resulting in complete combustion and burning of all but the metal parts used in the construction of fireworks. Some smoke containing particulates, carbon dioxide, water and carbon monoxide would be emitted.

Both Petitioner and the Agency agree that if this manner of destruction is permitted it is anticipated that there will be no noise pollution. Further, it is alleged that based on past experience and through observations of destruction of explosives materials by burning, and subsequent inspections of the burning sites, there should be minimal, if any, impact on human, plant or animal life in the rural area where destruction is contemplated. Petitioner does not have any facilities for destruction of explosives materials, and has in the past relied primarily on local Army installations to assist in this endeavor. Destruction at the Joliet Army Arsenal, which is located approximately eight miles from the nearest inhabited residence, in the proposed manner would minimize the impact of the discharge of contaminants on human, plant and animal life in the vicinity. The relatively short burning time and nature of explosives materials to be destroyed further substantiates this minimal impact.

The burning would be conducted in the center of the Joliet Army Ammunition Plant property which lies to the east of Route 53 in Florence Township, Will County. The burning will be accomplished in two or three hours on a weekday afternoon. The area is an isolated rural area with the nearest air sampling station at Wilmington, Illinois. The 1977 particulate air quality data measured at Wilmington revealed a geometric mean of 54 micrograms per cubic meter which is within the primary and secondary limits for particulate matter.

Although the Agency recommends the variance be granted, it points out that Section 35 of the Environmental Protection Act, (Act) and the Clean Air Act prevent the Board from granting variance from the state implementation plan beyond July 1, 1979. The Agency recommends Petitioner consider proposing a regulation change or participation in currently proposed R78-9, a regulatory proposal concerning the destruction of explosive wastes.

The Board finds that Petitioner is currently unable to comply with the regulations, that the environmental impact of the variance will be minimal, and that denial of the variance would be arbitrary and unreasonable. The Board will grant Petitioner a variance until July 1, 1979 subject to the Agency's requested conditions. In order to meet the requirements of Section 113(d) of the Clean Air Act, the Board notes that notice and an opportunity for public hearing have been provided. No other schedule of compliance is necessary to comply with Rule 505; however, Petitioner shall be required to investigate other modes of destroying explosive wastes. The Agency's requested conditions should meet the remainder of the Section 113(d) requirements.

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

ORDER

It is the Order of the Pollution Control Board that the Bureau of Alcohol, Tobacco and Firearms is granted a variance from Rule 505 of Chapter 2: Air Pollution Regulations until July 1, 1979 subject to the following conditions:

1. Petitioner shall destroy the explosive wastes in the "popper" at the Joliet Army Ammunition plant only when the meteorological conditions are favorable for prompt dispersion. The burning shall take place in the afternoon and be completed at least one hour prior to sundown.
2. Petitioner shall notify the Agency seven (7) days prior to burning and allow the Agency to have an observer present. Notification should be sent to:

Field Operations Section
Division of Air Pollution Control
Environmental Protection Agency
1701 South First Avenue, Suite 1205
Maywood, Illinois 60153


3. Petitioner shall investigate alternative methods of disposal, such as incineration, and submit a compliance program to the Agency by July 1, 1979. This can include pursuing a rule change to amend the state implementation plan.
4. Petitioner shall, within forty-five (45) days of the date of the Order, execute and send to Kathryn S. Nesburg, Technical Advisor, Illinois Environmental Protection Agency, 1701 South First Avenue, Maywood, Illinois 60153, a certification of acceptance by which it agrees to be bound by its terms and conditions. This forty-five (45) day period shall be held in abeyance for any period in which this matter is appealed. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 78-257 hereby accept said Order and agree to be bound by all terms and conditions thereof.

SIGNED _____
TITLE _____
DATE _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of February, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board