ILLINOIS POLLUTION CONTROL BOARD
April 10, 1975

FRANK FOUNDRIES CORPORATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 74-460
	)	
ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin)

The Petition for Variance filed by Frank Foundries Corporation (FFC) on December 10, 1974, sought relief from the carbon monoxide standards of Rule 206(e) of the Air Pollution Regulations of the Pollution Control Board (Board) until March 31, 1975. On January 22, 1975, Petitioner filed an Amended Petition, also seeking relief from Rule 206(e), but until December 31, 1975.

Petitioner owns and operates a grey iron foundry in Moline, Illinois, and produces approximately 600 tons per week of grey iron castings. Petitioner's facility is bounded on the north by the Mississippi River, and the east, south and west by industry and the downtown Moline business district. The nearest residential area is approximately ½ mile south; however, many people work within 250 feet of the facility. In addition, the LeClare Hotel is located approximately 1/8 mile southwest of the facility, and has many permanent residents.

Petitioner has stated in both the original and amended petitions that it is unable to comply with the 200 ppm limits for CO under Rule 206(e). The initial Variance Petition sought relief only for sufficient time to conduct further stack tests, and to allow FFC sufficient time to conduct an experiment regarding complete gas ignition in the grey iron cupolas, employing a small torch mounted at the level of the charge doors. The Amended Petition herein notes that this experiment was a failure, and that further stack tests indicate continued violation of the 200 ppm limit for CO. Emissions now apparently vary from 80 to 800 ppm of CO.

In its amended petition, Petitioner rules out the installation of a gas-fired afterburner to control the emission source, due to the unavailability of natural gas. The Environmental Protection Agency (Agency) in its Recommendation filed March 7, 1975, believes that, regarding the unavailability of natural gas, there is an element of self-imposed hardship that could have been avoided if Petitioner had acted in good faith, and in a timely manner. Pursuant to Rule 103(b)(2)(A), Petitioner was to obtain an operating permit for its emission sources by December 1, 1972. Rule 103(b)(2)(B) mandates that Petitioner submit its permit application with sufficient lead time for thorough Agency consideration.

Had Petitioner not been dilatory the emission problems from the cupolas may have been recognized, and an acceptable compliance program worked out with the Agency, during a period when natural gas was still available.

Further, the Agency notes that Petitioner did not consider any other alternative control methods to achieve compliance in either its original petition or the amendment thereto. Such alternatives could include a vibrating feeder with reduced charge door area, an oil-fired afterburner, installation of an induction furnace, or chemical removal of CO in the scrubber system.

Petitioner has not articulated a control program which will achieve compliance but rather asks for a variance until December 31, 1975, in order to "investigate other cupola operations to determine if they reached a solution which may be applicable to Frank Foundries Corporation operation." Therefore Petitioner, by failing to comply with the requirements of Board Procedural Rule 401, has failed to qualify for a variance. Rule 401 requires any Petition for Variance to include

> (vi) a description of existing and proposed equipment for the control of discharges;
>
> (vii) a time schedule for bringing the activity into compliance;
>
> (viii) a detailed description of the program to be undertaken to achieve compliance, including a time schedule of all phases involved from initiation to completion and the estimated costs involved;
>
> (ix) an explanation of why Petitioner believes the program proposed will achieve compliance.

In Mt. Carmel Public Utilities v. Environmental Protection Agency, the Board held:

> "As a matter of policy, this Board does not favor the granting of any variances without some definite assurance that the emissions will be controlled by available pollution control devices as soon as possible. Except for cases of 'no technology available' this Board must require that those who seek 'a shield against enforcement cases' (which is what a variance is) must have a definite program to control the emissions with existing control technology." PCB 71-15, 1 PCB 463, 469 (1971): See also, Union Oil Co. v. EPA, PCB 72-447, 10 PCB 217, 222 (1973).

The Board is of the opinion that in the absence of a firm compliance program or a demonstrated unavailability of control methods, Petitioner has not alleged any arbitrary or unreasonable hardship as required for the findings necessary in the matter of variances.

No hearing was held in this matter.

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

IT IS THE ORDER OF THE Pollution Control Board that a Petition for Variance in this matter be dismissed without prejudice, for lack of adequate information and for failure to comply with the Board's Procedural Rules as regards variances.

Mr. Henss abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Opinion and Order were adopted on the 10th day of April, 1975 by a vote of 3 to 0.

Christan L. Moffett, Clerk
Illinois Pollution Control Board