ILLINOIS POLLUTION CONTROL BOARD May 22, 1975

NATIONAL METALWARES, IN	NC. Petitioner,)))
v.)) PCB 75-92)
ENVIRONMENTAL PROTECTIO	ON AGENCY, Respondent.)))

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

Petitioner, National Metalwares, Inc., filed its petition for variance on February 25, 1975. On February 27, 1975 we ordered the petition to be amended to provide the exact rule from which variance was sought. The amended petition was filed March 24, 1975. Variance is sought from Rule 205(f) of Chapter 2: Air Pollution Regulations, until May 31, 1976.

National Metalwares operates a facility in Aurora which manufactures tubular steel frames for the furniture and appliance industries. With the formulations of paints and solvents presently used by National Metalwares, the Agency calculates emissions of photochemically reactive hydrocarbons are 65 pounds per hour -- substantially above the 8 pounds per hour standard in Rule 205(f). On September 12, 1974 the Board granted petitioner a previous variance from this rule until December 31, 1974 (PCB 74-239, 13 PCB 603). Petitioner now seeks an extension of this variance and proposes a compliance plan that calls for switching to the use of water soluble paints.

On April 16, 1975, after this matter had been submitted to us for decision, the U.S. Supreme Court handed down its opinion in Train v. N.R.D.C. (73-1742). The court ruled that the Clean Air Act authorizes states to grant variances from implementation plan requirements if such variances do not interfere with attainment of maintenance of national ambient air quality standards. Illinois is required to attain the national ambient air standards by July 31, 1975. We interpret the court decision as limiting our authority to grant individual variances beyond that date to those cases in which a variance would not interfere with the attainment and maintenance of national ambient air quality standards.

The record in the instant case is not adequate to grant the requested variance. There are no data bearing on the quality of the ambient air which is affected by the petitioner's emissions. Nor is there any statement in the record indicating whether the grant of the variance would interfere with attainment or maintenance of ambient air quality standards. Therefore, the Board must dismiss the petition without prejudice.

If National Metalwares chooses to submit a new petition for variance, such petition must address the air quality issue since the Board will be interested in determining whether the variance is allowable under the recent U.S. Supreme Court decision.

ORDER

Petition for variance by National Metalwares, Inc. is dismissed without prejudice.

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 day of May, 1975 by a vote of

Christan L. Moffett, Clark Illinois Pollution Coltrol Board