

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1975

CORPS OF ENGINEERS, ROCK ISLAND DISTRICT,)	
)	
)	
Petitioner,)	
)	
vs.)	PCB 75-265
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

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

The Rock Island District of Corps of Engineers filed Petition for Variance seeking relief from Rules 102 and 205 of the Illinois Air Pollution Control Regulations until about July 3, 1976. Petitioner requires variance in order to continue the use of vinyl paints containing branched ketones and aromatic solvents. These paints are used in Petitioner's maintenance painting program for protection of submerged steel on locks and dams.

Petitioner is a governmental agency responsible for maintenance on Lock and Dam 13, located approximately 2 miles north of Fulton, Illinois and Lock and Dam 15, Rock Island, Illinois. An important part of such maintenance is the painting of steel hydraulic structures for corrosion protection. Petitioner states that the vinyl resin based paints now used are the only known paints developed which provide effective protection for submerged steel on the locks and dams. They are also the only known paints which can be spray applied at temperatures below 50° F.

The various vinyl resin paints used by Petitioner are spray applied in ambient air at the rate of approximately 40 gallons per day. Petitioner estimates that 75% of the branched ketones and aromatic solvents enter the ambient air within 30 minutes after application and the remaining 25% within 24 hours.

In order to meet air pollution regulations Petitioner began using methyl normal butyl ketone in its vinyl paints in 1972 in place of methyl isobutyl ketone and methyl isoamyl ketone.

However, when evidence indicated that the replacement solvent produced peripheral neuropathy in humans after prolonged exposure, Petitioner suspended use of the solvent. Investigations are now being conducted to determine if the solvent is indeed the offending compound.

The Department of Army Construction Engineering Research Laboratory at Champaign, Illinois is developing and testing substitute paint formulations designed to comply with existing air pollution regulations. Petitioner expects such paints to be available in about 12 months.

On April 16, 1975 the U. S. Supreme Court handed down its Opinion in Train, Administrator, Environmental Protection Agency, et al vs. Natural Resources Defense Council Inc., et al, 43 USLW 4467 (U. S. No. 73-1742). In brief, the U. S. Supreme Court ruled that the Clean Air Act authorizes the various states to grant variances from implementation plan requirements if such variances do not interfere with the attainment or maintenance of national ambient air quality standards.

The Petition in the instant case is not adequate under the Train decision. There are no data bearing on the quality of the ambient air which is affected by 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. We grant Petitioner to and including September 19, 1975 to supplement the Petition by supplying the missing information. The Corps of Engineers should fully address those issues involving air quality in such manner that the Board can determine whether the variance is allowable under the recent U. S. Supreme Court decision. If the additional information is not filed, the Petition will be subject to dismissal.

ORDER

It is the Order of the Pollution Control Board that Petitioner be allowed to and including September 19, 1975 to file additional information in conformance with this Opinion.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 10th day of July, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board