

ILLINOIS POLLUTION CONTROL BOARD  
February 26, 1976

APECO CORPORATION, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 75-329  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

Mr. Harley Hutchins, Mayer, Brown & Platt, appeared for the  
Petitioner;  
Mr. Peter E. Orlinsky, Assistant Attorney General, appeared  
for the Respondent.

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

This matter is before the Board on a Petition for Variance filed by the Apeco Corporation (Apeco) on August 25, 1975, seeking relief from the hydrocarbon emission limitations in Rule 205(f) of the Air Pollution Regulations. After the Environmental Protection Agency (Agency) filed its Recommendation on October 23, 1975, an Amended Petition was filed by Apeco on December 1, 1975. An Amended Recommendation was filed on January 6, 1976. A hearing was held in this matter on December 30, 1975, at Apeco's plant in Evanston, Illinois.

Apeco seeks permission to exceed the 8 pounds per hour limitation on hydrocarbon emissions contained in Rule 205(f) until May 31, 1976. Its present emissions from the Evanston plant, which produces coated papers for electrophotographic purposes, are between 400 and 500 pounds per hour, those emissions lasting for approximately 44 consecutive hours each month during specific production runs.

Apeco's Petition, and the evidence presented at hearing, address the standard issues in air Variances: Hardship, effect on the environment, and the relationship of the subject emission source to the attainment or maintenance of national ambient air quality standards. Apeco also raised the issue of whether the exemption in Rule 205(f)(2)(D) would apply to its site, inasmuch as Apeco plans to totally eliminate the emission of photochemically reactive hydrocarbons during the requested Variance period. Insofar as we find that the exemption in Rule 205(f)(2)(D) does apply, we need not address ourselves to the majority of the issues raised by the parties.

The salient facts are as follows:

1. There is no odor problem resulting from Apeco's emissions. As a result, the only portions of Apeco's emissions which are subject to the emission limitations in Rule 205(f) are those portions which are "photochemically reactive," a term defined in the regulations.

2. By May 31, 1976, Apeco will have eliminated all "photochemically reactive" hydrocarbons from its emissions.

3. Rule 205(f)(2)(D) states that the limitations of Rule 205(f) will not apply to any source within specific categories (which Apeco's plant falls within) if that source is on a compliance schedule calling for the reduction of organic materials to 20% or less of total volume by May 30, 1977. Since, as noted above, Rule 205(f) applies only to photochemically reactive organics in the absence of an odor problem, and since Apeco will have no photochemically reactive organic emissions after May 31, 1976, no variance is necessary.

In addition, a reading of the Board's Opinion accompanying the adoption of Rule 205(f) indicates that the Board was then concerned primarily with photochemically reactants. The Board specifically stated that "[w]here no active odor nuisance is shown, compliance with these provisions can be achieved by switching to a less reactive substitute . . . ." In the Matter of Emission Standards, R 71-23 (April 13, 1972), Opinion at 40. Such a switch is the essence of Apeco's compliance plan, although there will still be significant use of organics, with considerable organic emissions, there will be no emissions of photochemically reactive materials after May 31, 1976.

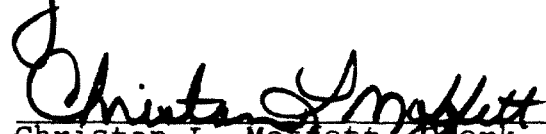
To be eligible for a Variance, Petitioner must show ineligibility for an operating permit from the Agency. Barcol v. EPA, PCB 75-367 (December 8, 1975; January 8, 1976). As a result of the foregoing, we determine that Apeco has not shown that it presently needs a Variance. The Petition must be dismissed.

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

#### ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that the Petition for Variance in this matter be dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 26<sup>th</sup> day of February, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board