

ILLINOIS POLLUTION CONTROL BOARD

September 12, 1974

AMERICAN CYANAMID COMPANY,)
)
 Petitioner,)
)
 vs.) PCB 74-227
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

American Cyanamid Company requests variance from Rule 204(f)(2) of the Air Pollution Control Regulations until May 1, 1975. Variance is sought in order to allow sufficient time to install and operate an acid mist eliminator on Petitioner's contact sulfuric acid plant in Joliet. The Agency requested consolidation of this case with EPA vs. American Cyanamid, PCB 74-209, an enforcement case. However, consolidation was not possible because of the short time available for deciding this variance case.

Petitioner's sulfuric acid plant, which is located adjacent to a residential area, produces 150 tons of sulfuric acid per day (12,500 lbs./hr.). Rule 204(f)(2) limits American Cyanamid to emissions of 0.15 lbs. acid mist/ton of acid produced. The Company conducted stack tests in 1973 which showed a sulfuric acid mist emission rate of 1.5 lbs./ton of acid produced. American Cyanamid is going to install a Brink Fibre Bed High Efficiency Mist Eliminator in its process at a point before the discharge stack. The \$133,500 mist eliminator was ordered on May 17, 1974 and delivery was promised by September 20, 1974.

Cyanamid originally estimated that the control device would not be operative until May 1, 1975. In its Recommendation, the Agency objected to the long installation and shake down period. Petitioner answered that the long period was selected to allow for possible delays in delivery, installation problems or initial operating problems. Petitioner now states that it hopes to have the control device installed by December 1, 1974 but requests that it be given at least until December 31, 1974 to allow for any unforeseen problems.

The Agency believes the device will allow Petitioner to achieve compliance with the Regulation but, because of past delays created by Petitioner, recommends denial of this variance. The Agency claims to have received complaints of sulfur odors from persons in the adjacent residential area and at least three area residents have voiced strong objections to the granting of this variance. Cyanamid answers that the odors experienced by its neighbors were a result of abnormal or accidental operating conditions.

In the alternative, the Agency recommends granting the variance only until December 1, 1974 subject to the posting of a bond, stack tests, monthly progress reports and the securing of all required permits.

We are empowered to grant a variance if compliance with the Rule would cause an unreasonable or arbitrary hardship. Rule 204(f) went into effect on December 31, 1973. Petitioner has not offered any explanation whatsoever for its failure to meet that deadline. The burden is on Petitioner to show that compliance would cause an unreasonable and arbitrary hardship and we cannot grant a variance unless there is some evidence on that issue. Since the record is totally silent as to the reason for Petitioner's failure to meet the deadline we must find that Petitioner has failed to sustain its burden. The variance will be denied.

This Opinion constitutes the findings of fact and the conclusions of law of the Illinois Pollution Control Board.

ORDER

It is the Order of the Pollution Control Board that Petitioner's request for variance from Rule 204(f)(2) be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 12th day of September 1974 by a vote of 5 to 0.

Christan L. Moffett