


ILLINOIS POLLUTION CONTROL BOARD
February 2, 1978

LIBBY, McNEIL & LIBBY, INC.,)
)
) Petitioner,)
)
)
) v.) PCB 78-20
)
)
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by Mr. Goodman):

On January 31, 1978, Libby, McNeil and Libby, Inc., (Libby) filed a Petition for Variance from Rule 205 of Chapter 2 seeking permission to shut down two afterburners during the winter months for five years. Section 35 of the Environmental Protection Act authorizes the Board to grant variances where compliance with a regulation would result in an arbitrary and unreasonable hardship to the Petitioner. Libby has alleged no arbitrary and unreasonable hardship. The basis for Libby's petition is an allegation that the operation of afterburners during the winter months is unnecessary in order to prevent violations of the oxidant ambient standard. Such an allegation is essentially a challenge to Rule 205 itself rather than a claim of arbitrary and unreasonable hardship to Libby in complying with the regulation. A challenge to the appropriateness of a regulation is proper in a regulatory proceeding but is not the proper subject of a variance petition. The petition is dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 2ND day of February, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board