

ILLINOIS POLLUTION CONTROL BOARD

October 10, 1974

WESTERN ACADIA, INC.)
)
 Petitioner,)
)
 vs.) PCB 74-268
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

Western Acadia, Inc. filed its Petition for Variance seeking relief from Rule 203(b) of the Air Pollution Control Regulations until March 1, 1975. The Company wishes to continue use of curing oven #2 pending completion of a building program which includes installation of a baghouse.

Petitioner operates a manufacturing facility at 4115 W. Ogden Avenue in Chicago, Illinois for the production of metal inserts, organic rubber valves, silicone rubber tubes, polyacrylic rubber seals and felt products. Petitioner's Elastomer Division molds polyacrylic rubber into seals and then cures the seals in three walk-in type natural gas fired ovens. Particulate and organic emissions are presently vented from these ovens to the atmosphere through three separate stacks. Stack tests conducted in February 1973 show Petitioner's emissions to be as follows:

<u>Stack</u>	<u>Particulates lb/hr.</u>	<u>Total Organics lb./hr.</u>	<u>Process Weight Tons/hr.</u>
1	0.193	0.497	0.0248
2	1.634	1.792	0.0169
3	0.127	0.138	0.0193

Petitioner admits that it is not in compliance with Rule 203(b) and fails to show that it was in compliance with that Rule on April 14, 1972, the date of adoption of the Air Pollution Control Regulations. Therefore, as the Agency notes, Petitioner is required to comply with the provisions of Rule 203(a). In general, this would mean that Petitioner would have to meet more stringent emission limitations but, as the table below shows, in this case Petitioner is actually allowed slightly more particulate emissions than that allowed under Rule 203(b):

<u>Stack</u>	Present	Allowable Emissions	
	<u>Particulate Emissions</u> lb./hr.	<u>Under</u> 203(a) lbs/hr.	<u>Under</u> 203(b) lbs./hr.
1	0.193	0.352	0.344
2	1.634	0.288	0.266
3	0.127	0.310	0.292

Although Petitioner admits to excessive total organic emissions in violation of Rule 203(b), we find such admission to be erroneous since that Rule pertains solely to particulate emissions, and the organic emission rates provided do not indicate a violation of Rule 205. This matter shall then be dealt with solely as a request for variance from the provisions of Rule 203(a).

Petitioner sought permits for its curing ovens, but the permits were denied because of a delay in installing the baghouse. The three curing ovens will be moved to a new addition presently under construction at the plant. This construction and moving is expected to be completed by February 1975 after which the baghouse will be installed. Baghouse installation is expected to take about one month after the new addition is completed and production equipment moved. The baghouse, which is already on site, is expected to reduce particulate emissions from the curing ovens by 95%.

Neither Petitioner nor the Agency informed the Board of the date the Company filed for operating permits or the date on which the Agency denied the permits. The record does show that Petitioner's plant was on strike from June 15, 1973 to September 1973 and that the bid on the baghouse was received in July 1973. Nothing in the record explains Petitioner's long delay in filing for this variance.

Petitioner claims that an excessive and necessary expense of about \$8200 would be imposed if they were required to install the baghouse immediately and then dismantle and reinstall when the new addition is completed. Petitioner believes that the granting of this variance would not impose any injury on the public because of the minimal amount of emissions and the distance from the stacks to the nearest residence, some 170 feet. The plant is located in an industrial/residential area. No complaints about the operation or the granting of variance have been received by the Agency.

Were it not for other matters in this case, the Board would be inclined to deny this variance because:

- 1) Petitioner did, without any explanation, wait some 27 months after the effective date of the Regulation to seek a variance. For 17 of those months Petitioner knew of its violation.

- 2) The statement that some cost would be involved in bringing the plant into compliance immediately, is simply insufficient when Petitioner's economic condition is not revealed.

The Agency recommends denial of this variance or, in the alternative, granting of the variance subject to certain conditions relating to bond, progress reports and acquisition of necessary permits. The only purpose to be served by the granting of this variance, according to the Agency, would be to give the Agency a mechanism by which it could monitor Petitioner's compliance program.

The Board does not agree with the Agency's reading of the effects of a variance. This or any other variance, as the Agency well knows, grants the recipient immunity from prosecution under the Rule or Statute for which the variance is granted. In deciding whether a person should have such immunity from prosecution the Board is bound under Section 33 of the Environmental Protection Act to consider such factors as type and degree of injury caused by the uncontrolled operation, social and economic value of the source, suitability of the source to the area in which it is located including priority of location and technical and economic reasonableness of reducing emissions. The burden is clearly on Petitioner to prove that compliance with the Regulation or Statute would cause an arbitrary or unreasonable hardship.

Having considered the above factors, the Board grants this variance for a limited time for several reasons. The cost of compliance for Petitioner appears to be wholly disproportionate to the benefits to be derived. No complaints have been made about emissions from the plant. This is understandable in view of the fact that particulate emissions from the three stacks are less than 2 lbs./hr. Control equipment is already on site and Petitioner needs only 5 months to have it operating. To order the baghouse installed immediately would not, in our opinion, be reasonable at this late date. The impact on the environment arising from the granting of this variance will be relatively insignificant.

Petitioner's delay in seeking this variance without satisfactory explanation does not merit protection from prosecution for the period prior to the filing for variance. Therefore, this variance will be allowed only for the period from July 15, 1974 to March 1, 1975. We shall also require Petitioner to expedite the construction program to the fullest extent possible.

ORDER

It is the Order of the Pollution Control Board that Western Acadia, Inc. be granted a variance from Rule 203(a) of the Air Pollution Control Regulations from July 15, 1974 until March 1, 1975 in order to continue operating curing oven #2 at its Chicago plant pending installation and operation of a baghouse designed to achieve compliance with Rule 203(a). This variance is subject to the following conditions:

1. Petitioner shall apply for and obtain all necessary permits for the installation of the baghouse.
2. Petitioner shall make all reasonable efforts to expedite construction of the new plant addition and installation of the baghouse.
3. Petitioner shall submit monthly progress reports to the Environmental Protection Agency. Said progress reports shall commence on November 1, 1974 and shall provide details of Petitioner's progress towards completion of the new plant addition and baghouse installation. Said progress report shall also detail results of Petitioner's efforts to expedite completion of construction.
4. Petitioner shall, by November 22, 1974 post a bond in the amount of \$8200 in a form acceptable to the Environmental Protection Agency, such bond to be forfeited in the event Petitioner fails to install and operate the baghouse. Bond shall be mailed to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 16th day of October 1974 by a vote of 5 to 0.

Christan L. Moffett