

ILLINOIS POLLUTION CONTROL BOARD

July 11, 1974

SPONGE CUSHION, INC.,)
Petitioner,)
)
v.) PCB 74-69
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

Sponge Cushion, Inc. petitioned for a Variance from Section 9(a) of the Environmental Protection Act (Act) on February 21, 1974. Petitioner's request was premised on the inadequate supplies of "good grade synthetic rubber" for its carpet underlay manufacturing plant in Morris, Illinois. Petitioner was forced to use less acceptable rubber; it sought a Variance from Section 9(a) of the Act because the emissions from its manufacturing process created a situation "which may result in the intermittent emission of a slight odor." Petitioner did not indicate the length of time for which the Variance was sought, the lack of alternative means to minimize the odor, or a program of control that would be implemented by the end of the Variance term.

We ruled in our interim Order of February 28, 1974, that the information supplied in the Variance request was inadequate, and we sought additional information to enable us to make a decision. Additional information was filed on April 17 which substantiated Petitioner's claim of unavailability of good grade rubber stock, i.e. Plioflex 1905.

On June 19, 1974, the Environmental Protection Agency (EPA) recommended that the Variance be denied. The EPA argued that no program for odor reduction had been submitted, that alternative means did exist but had not been explored by the Petitioner, and that no time limit for the Variance was indicated. Also, the EPA stated that some citizens in the area found the odor offensive.

We dismiss the Variance request of the Petitioner. It is inadequate because no time limit for the Variance has been indicated. Had a date been supplied, we would still be forced to deny the Variance under Rule 401 of our Procedural Rules. Among other factors, the feasibility of alternative means to abate the pollution source is an important consideration in

weighing the grant of a Variance. Failure to have investigated alternative methods of control means that Petitioner has not shown arbitrary or unreasonable hardship. Finally, citizen input is particularly important when making determinations under Section 9(a) of the Act. The EPA alleges that several residents found the odors offensive. While these allegations in no way influence our decision in this case, it should remind Petitioner that should he file a new Variance petition, he may have to go through the hearing procedure while such a petition for Variance is being considered.

Sponge Cushion's petition for Variance is hereby dismissed without prejudice because of inadequacy.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 11th day of July, 1974, by a vote of 5 to 0.


Christan L. Moffett