

ILLINOIS POLLUTION CONTROL BOARD
November 14, 1972

EMULSIFIED ASPHALTS, INC.)
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 v.) PCB 72-438
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 ENVIRONMENTAL PROTECTION AGENCY)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

The petitioner, Emulsified Asphalts, Inc. of Chicago, filed a letter dated October 30, 1972 with the Agency requesting a six month variance from Sec. 202 of the Asbestos Regulation (R71-16) until April 1, 1973.

We dismiss the variance request as being inadequate and incomplete and moot. The Board Procedural Rules enacted October 16, 1970 require

a concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship, including a description of the costs that compliance would impose on the petitioner and others and of the injury that the grant of the variance would impose on the public
[401(a)(2)]

There is no such statement in the variance request. Furthermore, the request seems to indicate that manufacture of asbestos-containing materials has now ceased and will not commence until mid-March 1973. Thus the period of variance needed seems only to be from mid-March 1973 to April 1, 1973. This two week period so so short and far enough into the future that it may not be needed. In any event, ample time remains to file a new variance request meeting the Board's Procedural Rules.

Section 202 of the Asbestos Regulation is now Rule 622 of Chapter 2 of the Board Regulations. It states that "manufacturing or processing of asbestos containing products is prohibited" after June 30, 1972 unless a

permit is obtained from the Agency. Since manufacturing has ceased it would appear also that ample time still remains in which to obtain a permit from the Agency and the variance need may therefore be mooted.

The variance is dismissed without prejudice.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of November, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board