

ILLINOIS POLLUTION CONTROL BOARD  
August 23, 1979

FEDERAL PAPER BOARD COMPANY, INC.,            )  
  )  
  )            Petitioner,                                    )  
  )            v.    )            PCB 79-69  
  )            )  
ENVIRONMENTAL PROTECTION AGENCY,            )  
  )            )  
  )            Respondent.                                    )

MS. PERCY L. ANGELO, MAYER, BROWN & PLATT, APPEARED ON BEHALF OF PETITIONER;  
MS. LORETTA A. WEBER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF RESPONDENT.

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

On March 29, 1979 Federal Paper Board Company, Inc. (Federal) filed a Petition for Review of Permit Denial, alleging that the Illinois Environmental Protection Agency (Agency) wrongfully denied Federal's operating permit application regarding a coal-fired boiler at its Morris, Grundy County, Illinois plant. A hearing was held on June 21, 1979 and a Stipulation of Fact was filed with the Board on June 25, 1979. No members of the public were present at the hearing, and the Board has received no public comment in this matter.

Federal owns and operates a plant for the recycling of wastepaper into paper packaging products in Morris, Illinois. The boiler in question is a traveling grate, stoker-type coal-fired boiler. The boiler has a maximum firing rate of 179 million Btu per hour and is used to produce process and heating steam. Pursuant to an operating permit issued by the Agency on August 16, 1973, Federal equipped the boiler with a multiple cyclone mechanical dust collector which cost approximately \$300,000, and also switched to low sulfur coal. The permit was to expire in August, 1978.

On May 9, 1978, Federal applied for renewal of its boiler operating permit. The application was denied by the Agency on June 15, 1978 for the reason that a stack test taken in 1973 demonstrated boiler particulate emissions of 0.8 lbs. per million Btu and a sulfur emission rate of 4.4 lbs. per million Btu. Federal then arranged for a new stack test to be conduc-

ted. Results of the new stack test demonstrated an average particulate emission rate of 0.144 lbs. per million Btu by F factor calculation and 0.17 lbs. per million Btu by "conventional" calculation. On January 9, 1979, Federal reapplied for an operating permit, stating that its plant was not contributing to any failure to attain or to maintain ambient air quality standards.

The Agency's February 22, 1979 denial of the second application resulted in the present petition. The Agency claims that Federal failed to demonstrate that its emission sources would not prevent the attainment or maintenance of the air quality standards for particulates set forth in Rule 307 of Chapter 2. The Agency also claims that Federal's particulate emission rate exceeded 0.1 lb. per million Btu, the standard in Rule 203(g)(1)(A) of Chapter 2, and the standard the Agency views as the emission level necessary to maintain air quality (Respondent's Brief, p.5). The Agency alleges that Federal has failed to meet its burden of proof that it will not violate Rule 102.

Federal counters that it has not prevented the attainment or maintenance of air quality standards in Grundy County, and is not in violation of the standards in Rule 203(g)(1)(A). Federal submits that its permit application incorporated the Agency's December 5, 1977 submission to the U.S. Environmental Protection Agency (U.S. EPA) which designated Grundy County as an attainment area for particulates. As further proof of compliance with Rule 102, Federal submits that it has never been deemed necessary to perform air quality modeling of Grundy County, Illinois.

Federal contends that the results of the F factor analysis, an accepted engineering technique which is prescribed by the U.S. EPA, should be applicable in its case. Federal alleges that 0.144 lbs. per million Btu as calculated by the F factor approach is equivalent to 0.1 lb. per million Btu when rounded to the first significant decimal. Thus, Federal pleads compliance with the standards in Rule 203(g)(1)(A), and a prima facie case with regard to Rule 102.

The first question before the Board is whether 0.144 lbs. per million Btu calculated by F factor or 0.17 lbs. per million Btu calculated by "conventional" calculation is the applicable emission rate. The Board finds that because the F factor approach was approved by the Agency and was adopted by the parties in the Stipulation of Fact, the rate of 0.144 lbs. per million Btu by F factor is the applicable emission rate.

Two additional questions before the Board concern whether Federal violated the standard of 203(g)(1)(A) and whether Federal failed to prevent attainment or maintenance of air quality standards in Grundy County.

The Board will not engage in a game of semantics with respect to the standards of Rule 203(g)(1)(A) defining whether emission rates should be rounded to the first significant decimal when gauging compliance with the 0.1 lb. per million Btu standard. As with all Regulations of this type, there will be some situations which, so to speak, fall through the cracks. It is the Board's duty to resolve these situations based on the facts of the particular situation (U.S. Steel Corp. v. EPA, PCB 77-317, p.4).

The Agency is correct to consider Rule 103's ambient air standards in such a case as this. Wherever there is vagueness between compliance and non-compliance, the true public concern is the effect of the emissions on the environment.

Federal must prove that it has not prevented the attainment or maintenance of ambient air quality in Grundy County, Illinois. Federal submits that Grundy County had been designated as attainment for particulates but that Grundy County's emissions have never been modeled. The Agency presents no evidence in rebuttal. The Board therefore finds that Federal's emissions are not in violation of Rule 103 and that the Agency erred in its denial of the operating permit application for Federal's coal-fired boiler. Therefore, the matter is remanded to the Agency for further action consistent with this Opinion.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that the Agency's denial of an operating permit for Federal Paperboard Company, Inc. be reversed and that this cause be remanded for further action consistent with this Opinion.

Messrs. Young and Dumelle concur.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 23<sup>RD</sup> day of August, 1979 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board