

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1978

UNITED STATES STEEL CORP.,)	
)	
Petitioner,)	
)	
v.)	PCB 77-327
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by Mr. Goodman):

On October 3, 1978, the Environmental Protection Agency (Agency) filed a Motion for Rehearing or Reconsideration of the Board's September 7, 1978 Opinion and Order in this matter. Petitioner United States Steel Corp. (U.S. Steel) filed its Response on October 16, 1978.

In support of its Motion, the Agency argues that in a permit appeal the burden is on the Petitioner to prove, based upon its application, that its emissions will not cause a violation of the Act or Regulations and that the Board failed to find that U.S. Steel met its burden of proof. Furthermore, the Agency argues that the Board failed to find that, even if U.S. Steel's cast house emissions are fugitive in nature, Rules 203(a) and (b) do not apply.

The intent of our Opinion was to interpret Rules 203(a) and (b) and 203(f), as well as the Rule 201 definition of "Fugitive Particulate Matter," to mean, when read together, that Rules 203(a) and (b) do not apply to fugitive emissions. Such emissions are regulated by Rule 203(f). Our interpretation of the definition of fugitive emissions is that emissions which cannot be readily collected and treated are fugitive in nature.

We agree with the Agency's interpretation of the burden of proof in a permit appeal. Oscar Mayer & Co. v. EPA, PCB 78-14 (June 14, 1978). U.S. Steel had the burden of proving, based upon its application, that its emissions are fugitive in nature and that they do not violate the Act or Regulations. The Board found that, although casting emissions can vary widely as to collectibility, the only information before the Board indicated that emissions from the casting operation at U.S. Steel's blast furnace facility are not readily collectible and are thus fugitive in nature. That conclusion was based upon information in U.S. Steel's application and the explanation of that information in the Stipulation of Facts and

Petitioner's Brief. That same information indicates that U.S. Steel's casting operation does not violate Rule 203(f). The Agency presented no evidence to rebut the information in the record indicating that the emissions are fugitive emissions and that they do not violate Rule 203(f). The Board, therefore, found in effect that U.S. Steel had met its burden of proof. The Board notes that its finding that the casting emissions in question are fugitive in nature applies only to U.S. Steel's casting operation as portrayed in the record of this case and not to all cast house emissions.

Having found that U.S. Steel met its burden of proving that its emissions fall under and comply with Rule 203(f) and that Rules 203(a) and (b) do not apply to emissions governed by Rule 203(f), the Board hereby denies the Agency's Motion.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 16th day of November, 1978 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board