ILLINOIS POLLUTION CONTROL BOARD May 11, 1978

ENVIRONMENTAL PROTECTION AGENCY, Complainant-Respondent, v. PCB 77-178 PCB 77-281 CONSOLIDATED KOPPERS COMPANY, INC., a Delaware corporation, Respondent-Petitioner.

JEFFREY S. HERDEN, ASSISTANT ATTORNEY GENERAL, APPEARED FOR COMPLAINANT-RESPONDENT; JOSEPH P. DELIA MARIA, JR., ROTHSCHILD, BARRY & MYERS, APPEARED FOR THE RESPONDENT-PETITIONER.

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

This matter is a consolidation of an enforcement action filed by the Illinois Environmental Protection Agency (Agency) against Koppers Company, Incorporated (Koppers), designated PCB 77-178, and a Variance Petition filed by Koppers, designated PCB 77-281. Two hearings were held in this matter; no members of the public were present at the hearings, and no public comment has been received by the Board. On February 6, 1978, the parties hereto filed a Stipulation and Proposal for Settlement before the Board.

Koppers owns and operates a manufacturing facility located in an industrial area in Stickney, Illinois, where it produces phthalic anhydride and tar products. The facility employs approximately 190 persons with an annual payroll of over \$2,000,000. Koppers utilizes six reactors which produce phthalic anhydride, a basic industrial chemical used in the manufacture of paints and coatings, pharmaceuticals, resins and plastics. Production from the facility is the sole or principal source of supply for eleven companies located in Illinois who utilize 13,000,000 of the total 216,000,000 pounds of phthalic anhydride produced annually. Other companies in neighboring states also utilize the product of this installation. Existing environmental control acciptent at the facility consists of four wet scrubbers overating in parallel. Stack analysis has shown that each of the scrubbers exceeds the design efficiency of 97% for the removal of organics. However, on several occasions since installation of the scrubbers, Koppers has experienced incidents of "entrainmen." due to upsets in the basic process or the scrubbers during while Shoralned material has been deposited on trucks, tractors, whilers and automobiles parked near the phthalic anhydride factlity. Damage to the vehicle finish ensues unless the material deposited as removed within a short period of time.

On June 30, 1977, the Agence colled a complaint against Koppers alleging violations of Section 9(3) with the Environmental Protection Act (Act) and Rule 102 of the Air Fortation Regulations. Koppers alleges it had to know whether it viold be required to control carbon monoxide before engineering the equipment necessary to stop the entrainment problem and was, physicite, waiting until the resolution of the Carbon Monoxide Regulation duriently before the Board. Subsequent to two entrainment engodes in June, 1977, Koppers agreed to install what is known as a Knockopt Box System at a cost of approximately \$1.3 million. On KovAnder 3, 1977, Koppers filed a Petition for Variance requesting rediet from Section 9(a) of the Act and Rules 102 and 205(f), of Chapter 2 until November 30, 1978, to allow time to install the Knockour Scripter is committed to the following construction schedule:

April 1, 11978 4 Bégin of 112 Enstruction --NE (Voiseonstruct Enndarishs and Proper site; T E.S. Astruct (Min. (assacod) botstood. T Bestenber 1, 1978 (assacod) botstood. T Bestenber 1, 1978 (assacod) botstood. November 1, 1978 (astruct of the second complete November 1, 1978 (bestin descend of the second complete November 1, 1978 (bestin descend of the second complete add the sting and debagging for complete

In addition, Koppers Will will derive a black test for emissions subsequent to the instart the office of the control system and to file an operating permit apolication within 35 days after completion of testing. Koppers will also install some additional equipment and will execute a previously determined Thepection and maintenance procedure approved by the Agency. In the event of an episode of entrainment, Koppers agrees to cease operation of the affected train and notify the Egency Heddistely. Koppers will offer to wash, polish, and/or paint any trucks, etc. which are sprayed by the entrained material and will offer to furnish truck drivers at the affected truck terminals with covers for their trucks, tractors, and automobiles. In addition, Koppers agrees to post a performance bond in a form satisfactory to the Agency in the amount of \$200,000 and to provide quarterly progress reports to the Agency.

The Agency believes that Koppers is acting properly to solve what is a very difficult problem. The solution to this problem will cost in excess of \$1.3 million. Therefore, the Agency recommends that no penalty be imposed by the Board in this case. The only point of disagreement between the parties herein is whether Koppers should be granted variance from Section 9(a) of the Act and Rule 102 of the Air Pollution Regulations.

The Board finds that the Proposed Settlement Stipulation is a reasonable resolution of the issues presented in the enforcement case and protects the State's environment. The Board agrees that Koppers has reacted to the problem in good faith and will therefore not assess a penalty in this matter. With regard to the granting of a variance from Rule 102 of the Air Regulations and Section 9(a) of the Act, the Board finds that Koppers' request is generally in the nature of a petition for an emergency variance, and as the Board has said many times in the past, we will not grant variances There is no way the Board for speculative emergency situations. can weigh the potential environmental harm against the hardship to the Company since there is no way of determining with any certainty the environmental harm caused by a potential emergency situation. The Board will therefore deny variance from Section 9(a) of the Act and Rule 102 of the Regulations.

This Opinion constitutes the finding of facts and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that:

- Koppers Company, Incorporated, is found to have violated Rule 102 of the Air Pollution Control Regulations and Section 9(a) of the Environmental Protection Act.
- 2. Koppers Company, Incorporated, shall execute the compliance schedule as indicated in the Stipulation and Proposal for Settlement filed before the Board on February 6, 1978, which instrument is hereby incorporated by reference as if fully set forth herein.

- 3. Koppers Company, Incorporated, is hereby granted variance from Rule 205(f) of the Air Pollution Regulations until December 1, 1978.
- 4. Petition for Variance from Section 9(a) of the Environmental Protection Act and Rule 102 of the Air Pollution Regulations is hereby denied.
- 5. Within 45 days of the adoption of this Order, Koppers Company, Incorporated shall execute and forward to both the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 and the Pollution Control Board a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said Certification shall be as follows:

CERTIFICATION

I (We), having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 77-178 and PCB 77-281 (Consolidated) hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

SIGNED

TITLE

DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11^{4} day of M_{4} , 1978 by a vote of 5-0

Christan L. Moffett, lerk

Illinois Pollution Control Board