

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1976

SANITARY DISTRICT OF ROCKFORD,)
Petitioner,)
)
)
v.) PCB 75-32
)
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

Richard Kissel and James Russell, of the firm Martin, Craig, Chester and Sonnenschein, appeared on behalf of Petitioner.
Roger Zehntner and Ernie Nielsen appeared on behalf of Respondent.

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

This matter comes before the Pollution Control Board (Board) upon the Amended Petition for Variance filed by the Sanitary District of Rockford (District) on July 29, 1975. On October 14, 1975, the Environmental Protection Agency (Agency) submitted its Amended Recommendation, recommending denial of the Variance. A hearing was held on February 12, 1976, in Rockford, Illinois. Petitioner has filed a waiver of the 90-day rule until April 23, 1976.

The District provides sewage disposal service for a population of approximately 200,000 in Winnebago County. The Petition for Variance concerns particulate emissions from three wastewater solids incinerators at the District's sewage disposal plant. The District requests the Board either to determine that no variance is necessary because the District need only comply with Rule 203(e)(3) of the Air Pollution Regulations (Chapter 2) or, alternatively, to grant the District a Variance from Rules 103(b), 202(b), 203(e)(2), and 502 of Chapter 2. The Variance is sought to allow operation of the incinerators until certain incinerator exhaust system modifications are completed.

On January 2, 1973, the District submitted its original application for an operating permit for its incinerators and an application for a construction permit to make modifications on the incinerators so as to achieve compliance. On April 2, 1973, both applications

were denied. The District subsequently reapplied, and both applications were again denied on June 20, 1973. On April 11, 1973, the Agency received from the District an application for an experimental permit to conduct emissions tests on the incinerators. On May 25, 1973, this experimental incinerator permit was granted, subject to certain conditions. This permit expired on May 25, 1974. On July 18, 1974, the District applied for a renewal of this permit, but its application was denied by the Agency on August 18, 1974, due to a failure by the District to conform to the conditions of the prior experimental permit. The District is currently operating its incinerators without a permit.

Rule 203(e)(3) requires any incinerator burning more than 2,000 pounds of refuse per hour to meet a particulate emission standard of 0.08 grains per standard cubic feet of effluent gases corrected to 12% CO₂. Rule 203(e)(3) provides a 0.2 grains/scf particulate standard for incinerators burning 2,000 pounds or less of refuse per hour.

The District incinerates sludge filter cake, grit and screenings, produced in its sewage treatment process, in the incinerators in question. Approximately 9500 pounds of sludge cake are incinerated per hour (R.29). In addition, 9,000 to 10,000 pounds of grit and screenings are incinerated per day (R.103).

The District's incinerator exhaust systems have been equipped with wet impingement scrubbers since their inception. Stack tests were conducted in August, 1973 (Petitioner's Exhibit B) and March, 1974 (Petitioner's Exhibit A). Of the 14 tests conducted in 1973, six indicated particulate levels greater than 0.2 grains/scf corrected to 12% CO₂. The March, 1974 test indicated an actual measured value of 0.13 grains/scf, corrected to 12% CO₂.

The District regularly conducts moisture tests on the sludge cake incinerated (R.27). Determinations on the moisture content of the grit and screenings are also performed, but on a more irregular basis (R.62). Testimony presented at the hearing indicated that the moisture content of the sludge cake averages on an annual basis to 80%, ranging from 75% as the minimum to 85% as the maximum (R.46). The moisture content of the grit and screenings, tested over a several day rather than annual basis, averages to 51% (R.51). The average combined moisture of all materials incinerated in a one-year period is 79% (R.52).

The District argues that, although it incinerates 9,500 pounds of sludge cake per hour, it incinerates under 2,000 pounds of dry material per hour and should, therefore, be held to the lower standard of Rule 203(e)(3). We reject this argument. Section 3(K) of the Act, prior to September, 1975, defined "refuse" as "any garbage or other discarded solid materials." In September, 1975, a legislative amendment deleting the word "solid" became effective (H.R. 2101, signed into law September 4, 1975). The total sludge cake incinerated by the District, rather than merely its dry portion, is clearly within the Act's definition of "refuse", both prior and subsequent to the legislative amendment. The testimony indicates that the sludge cake, in its physical characteristics, is a solid, thereby meeting even the prior definition of refuse. It is coherent and is transported by a conveyor belt (R.101). Photographs of the sludge cake submitted by the Agency further support the conclusion that the sludge cake is indeed solid in nature. Furthermore, the sludge cake clearly fits the amended definition of refuse as "other discarded material," regardless of its solid or nonsolid nature. Therefore, the District's incinerators are subject to Rule 203(e)(2) in that they burn over 2,000 pounds of refuse per hour.

It should be noted that the Board rejects the District's argument that Subpart O of the Federal New Source Standards (40C.F.R.60.150) should be the guideline in this case. Although the Board in R71-23, adopting Rule 203(e)(2), stated that Rule 203(e)(2) "tracks the Federal New Source Standards", Subpart O was not in effect until March 8, 1974, and could not, therefore, have been within the Board's contemplation at the time of adoption of Rule 203(e)(2). Furthermore, although the Subpart O standard applies to dry sludge, it is a stricter standard than Rule 203(e)(2) and makes no distinction between incinerators burning more and burning less than 2,000 pounds of sludge.

In the alternative, the District seeks variance from Rules 103(b), 202(b), 203(e)(2) and 502 of Chapter 2. As to Rules 202(b) and 502, no showing is made by the District as to why variance from these rules is necessary or the degree to which noncompliance exists. As to the request for variance from Rules 103(b) and 203(e)(2), the District has proposed a compliance plan for meeting these rules. That plan consists of modification of the existing wet impingement scrubbers to provide venturi-type scrubbers with a calculated overall particulate collection efficiency of 96.61 percent, which will provide an overall system calculated collection efficiency of 98.15 percent. The modifications will result in an exhaust containing not more than 0.020 grains/scf at average load conditions and 0.073 grains/scf of particulate matter at maximum load conditions, corrected to 12% CO₂ (Amended Variance Petition, p.7). The District on May 28, 1975, obtained a permit to construct these modifications, and it intends to obtain an operating permit upon completion. The Board notes, however, that although the District has outlined a method of compliance, it has not committed itself to a timely

schedule for achieving compliance with Rule 203(e)(2). The District has been on notice since its stack tests in August, 1973, and again in March, 1974, that its incinerators were not in compliance with Rule 203(e)(2). The District has had two applications for an operating permit denied, and, although it was granted an experimental permit until May 25, 1974, it operated its incinerators without any permit since that date. The Board agrees with the Agency's position stated in its Amended Recommendation that the District has been dilatory in bringing its incinerators into compliance and that, therefore, the District's hardship is self-imposed. The request for variance from Rules 103(b) and 203(e)(2), as well as from 202(b) and 502, is hereby denied. The Board notes that denial of the variance does not amount to a shut down order. ABC Great States, Inc. v. EPA, 4 PCB 471.

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 Petition for Variance from Rules 103(b), 202(b), 203(e)(2), and 502 of Chapter 2, submitted by The Sanitary District of Rockford, be and is hereby denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 6th day of May, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board