

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1975

ENVIRONMENTAL PROTECTION AGENCY, and)
THE PEOPLE OF THE STATE OF ILLINOIS,)
Complainants,)
vs.) PCB 74-204
TRANSFORMER MANUFACTURERS, INC.,)
Respondent.)

Jeffrey Herden and Marvin Benn, Assistant Attorneys General for
Complainants
Kenneth Prince, Attorney for Respondent

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

In this enforcement action Respondents are charged with operating an emission source without an Agency permit in violation of Rule 103(b)(2)(D) of the Air Pollution Control Regulations from June 1, 1973 to June 19, 1974, the date an Amended Complaint was filed. Count II of the Complaint charges Respondent with causing or allowing the discharge of foul odors, noxious vapors and compounds into the atmosphere in such concentrations as to cause air pollution in violation of Section 9(a) of the Environmental Protection Act.

A stipulation of facts reveals that Respondent has operated a transformer manufacturing facility in Village of Norridge, Illinois since 1962. In the manufacturing process Respondent uses 22 dip pot soldering stations, two tanks containing styrene monomer, two tanks containing varnish, two tanks containing wax and four curing ovens. Respondent admits that the equipment was a source of odorous emissions and that such odors emanated from its plant at various times so as to unreasonably interfere with the enjoyment of life of citizens in the immediate vicinity of the plant.

Odors from Respondent's plant were substantially reduced by the installation of a \$13,000 afterburner which controls the exhaust emissions from the four ovens. This afterburner was installed in September 1973. Permits for the installation and operation were obtained, some prior and some subsequent to installation.

It is further stipulated that Respondent has shown cooperation and diligence in solving the remaining odor problem by the following actions: a) installed an interlock system in August 1973 which prevents the ovens from operating until the afterburner has reached an efficient operating temperature, b) agreed to construct equipment to exhaust emissions from the varnish and styrene monomer tanks to the afterburner, c) agreed to install a temperature recording device capable of continually recording the afterburner temperature, d) has obtained an operating permit for the entire facility, e) agreed to keep doors and windows of the impregnation and baking room closed in order to reduce the amount of odorous emissions escaping through these outlets, f) agreed to obtain required permits for the installation of any additional pollution control equipment, and g) agreed to undertake, within 90 days of any Board Order, any of the above measures which have not yet been implemented.

Although two public hearings were conducted, no members of the public were in attendance. Respondent was granted 20 days to file its final brief and the Agency was allowed ten days to reply. The record shows that Respondent was the only party to file a post-hearing brief.

According to Respondent's brief, it was during an inspection by Agency employees that Respondent first learned that the plant was an "emission source" and was causing air pollution. After the inspection Respondent promptly hired a qualified, independent environmental control equipment firm to conduct a study and make recommendations "as to the alleged violations". Six months later the firm proposed to install an afterburner to abate the odor problem.

The following month Respondent ordered the afterburner from this firm. The contract called for the firm to deliver the afterburner and auxiliary equipment as soon as possible and to prepare and submit all drawings and applications necessary to obtain all "city, county and State permits for the operation of same". Due to an equipment order backlog the firm did not deliver the equipment until May 1973. In the interim, Respondent installed gas lines and electrical equipment and obtained construction permits from the Village of Norridge in which Respondent's plant is located.

After receiving the equipment Respondent found it necessary to hire an experienced installer to connect the afterburner equipment. An order backlog delayed installation until September 1973.

Prior to receiving the original complaint, Respondent believed the equipment firm had applied for all permits as specified in the contract. When this prosecution was commenced Respondent discovered that no Agency permits had been applied for and at that time

contacted the equipment firm. A permit application was filed immediately and the Agency granted a permit for the afterburner 42 days after the original complaint had been filed in this suit.

Believing it was now in total compliance, Respondent showed the permit to counsel for Complainants but was informed that Complainants recommended additional steps to insure that the plant would no longer be a source of odor and would be in compliance with all Statutes, Rules and Regulations. Respondent then engaged the services of another consulting firm. This firm reported that its investigation showed the plant to be in compliance. It was recommended that Respondent apply for an operating permit. An operating permit application was filed on November 12, 1974 and approved on December 2, 1974.

Respondent submits that the operating permit indicates Respondent's total compliance and that further evidence of its diligence and good faith efforts is shown by the agreement to undertake additional precautionary and remedial measures as suggested by Complainants.

During the hearing Respondent contended that the plant met all criteria necessary for issuance of a permit by September 1, 1973 and that "the ultimate ministerial act of issuing those permits was perfunctory" (R. 4).

The Board has previously said that the permit system is necessary "both to aid in obtaining emission information necessary for an evaluation of the control program and as an effective enforcement mechanism" (Opinion of the Board in the matter of Emission Standards, R71-23, April 13, 1972). Respondent's misunderstanding of the importance of permits is evident. A permit under the Environmental Protection Act and Board Regulations is more than a mere "ministerial act". Each permit application is scrutinized to insure that the operation will not cause the citizens of Illinois to be unreasonably exposed to pollutants which are injurious or which unreasonably interfere with their enjoyment of life or property. This careful scrutiny also serves to protect the economic interest of the permit applicant in that the Agency can advise the applicant of any shortcomings in proposed control equipment. This scrutiny and the benefits thereby derived are not to be considered "perfunctory".

We have reviewed the record in light of the requirements of Section 33(c) of the Environmental Protection Act. We find that Respondent caused air pollution in violation of Section 9(a) of the Act. However, the Board finds that the delay in installing the afterburner was not the fault of Respondent.

The parties agree that Respondent's corrective action and the agreement to take additional steps make the imposition of monetary penalty unwarranted. The fact that no members of the public appeared to testify against Respondent would indicate that the aggrieved have been satisfied. With that understanding and in view of Respondent's good faith efforts no penalty will be imposed. A cease and desist order is required, however, and it shall be so ordered.

This Opinion constitutes the findings of fact and conclusions of law of the Pollution Control Board.

ORDER

It is the Order of the Pollution Control Board that:

1. Transformer Manufacturers, Inc. cease and desist from further violations of Section 9(a) of the Environmental Protection Act and Rule 103(b)(2) (D) of the Air Pollution Control Regulations.
2. Respondent shall, within 90 days of the date of this Order, implement and perform all actions as outlined in the Stipulation of Facts.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 14th day of February, 1975 by a vote of 4 to 0.


