

ILLINOIS POLLUTION CONTROL BOARD
June 3, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 75-412
)
MODERN PLATING CORPORATION,)
)
Respondent.)

Mr. James K. Jenks and Mr. Harry B. Blackwood, Assistant Attorneys General, appeared for the Complainant;

Mr. Robert J. Schmelzle, Attorney, appeared for the Respondent.

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

This matter is before the Board on a Complaint filed by the Environmental Protection Agency (Agency) on October 20, 1975, alleging that Respondent Modern Plating Corporation (Modern) violated Section 24 of the Environmental Protection Act (Act) and Rules 102 and 202 of Chapter 8: Noise Pollution, of the Board's Rules and Regulations. Those violations were alleged to have taken place as a result of noise emitted from Modern's Freeport, Illinois manufacturing facility, during the period August 10, 1974 - October 20, 1975.

A hearing was held in the matter at the Freeport City Hall on December 4, 1975, at which the Agency presented the testimony of citizen witnesses on the issues of noise emission and the resulting interference with the citizens' enjoyment of life and property. At a continuation of that hearing on March 2, 1976, Modern and the Agency submitted a Stipulation and Proposal for Settlement (Stipulation) which forms the basis of this Opinion and Order.

Modern's Freeport plant at 701-751 South Hancock Avenue (Class C land) has been in operation since 1962, when Modern acquired the plant for use as an electroplating and rustproofing job shop. Employing 100 persons, Modern's plant is of substantial economic importance to the city of Freeport. To the south and east of the plant are single-family houses (Class A land), from which most of the noise complaints leading to this case have originated.

Noise sources at the Modern plant have included a dust collector located outside the plant building, with two large blowers powered by electric motors, and approximately 40 compressed air valves. Additional sources are the plant's public address system and other noises such as employee-owned radios which can be heard through open windows. Noises emitted include loud humming and roaring sounds and an occasional sudden, loud "booming" noise whose origin has not been positively identified.

In the Stipulation, Modern agreed that these sources, as measured in various noise surveys, have resulted in violations of both Rules 102 and 202. These stipulated violations are more than verified by the surveys (Stip. Ex. B through J) and by the testimony of witnesses at the December 4, 1975 hearing. Indeed, in light of the testimony at that hearing, our only difficulty with accepting the Stipulation is the proposed penalty of \$500.

There are two points which serve to mitigate the need for a higher penalty. First, the Stipulation indicates that Modern has already engaged consultants to alleviate the problems indicated there and in the preceding testimony. Modern has agreed to the use of those consultants to achieve compliance with the applicable Regulations by May 1, 1976, a date already past, (R. 106). In addition to achieving compliance with the Regulations whose violations were alleged in the Complaint, Rules 102 and 202, Modern has also agreed to remedy an apparent problem with the Rule 206 impulsive noise standard by the same date, (id.).

Second, as an indication of good faith, Modern has further agreed to achieve compliance with the limitations of Rule 203, limiting nighttime emissions from Class C to Class A land, by December 31, 1976. The Board finds this particularly persuasive in favor of acceptance of the Stipulation, with its \$500 penalty, because Modern is not required to meet the stricter limitations of that rule. Rule 208(e) specifically exempts existing property-line-noise-sources, such as Modern's plant, from those significantly lower limits during nighttime hours, and instead allows 24-hour compliance with the Rule 202 limitations.

When providing the exemption in Rule 208(e), the Board found that it would significantly lessen the economic impact of the Noise Regulations for existing sources by providing the additional 10 dB(A) allowance (at each level) between Rules 202 and 203. In the Matter of Noise Pollution Control Regulations, R72-2, 8 PCB 703, 733 (1973). By forgoing that exemption and the attendant economic benefit, Modern will be providing the additional protection which the Board found necessary for evening and nighttime hours. Id., 8 PCB at 718.

The Stipulation's terms, taken together, will provide more protection than is legally required for the residents near Modern's plant. In that it is those residents that the Regulations in question were designed to protect, we find that the Stipulation in this case will serve to assure compliance with the Act and our Regulations; we shall therefore accept it.

A final point requires note. The Stipulation's Proposed Settlement makes no mention of the alleged violation, in the Complaint, of §24 of the Act. We do not find this fatal to the Stipulation, and shall dismiss that portion of the Complaint alleging such violation.

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:

1. Respondent Modern Plating Corporation is found to have violated Rules 102 and 202 of Chapter 8: Noise Pollution, of the Pollution Control Board Rules and Regulations in the operation of its Freeport, Illinois electroplating and rustproofing facility during the period August 10, 1974 to October 20, 1975.

2. Respondent shall pay as a penalty for said violations the sum of Five Hundred Dollars (\$500), payment to be made within thirty (30) days of the date of this Order to:

Environmental Protection Agency
Control Program Coordinator
Div. of Noise Pollution Control
2200 Churchill Road
Springfield, Illinois 62706

3. Those portions of the Complaint in this matter alleging violation of Section 24 of the Environmental Protection Act are dismissed.


4. Respondent shall undertake a program of noise abatement and control at its Freeport, Illinois plant which shall accomplish the following objectives by the dates indicated:

(a) After May 1, 1976, no sounds shall be emitted from said plant which exceed the levels established by Rules 202 and 206 of Chapter 8: Noise Pollution, of the Pollution Control Board Rules and Regulations.

(b) After December 31, 1976, no sounds shall be emitted from said plant which exceed the levels established by Rule 203 of Chapter 8: Noise Pollution, of the Pollution Control Board Rules and Regulations.

(c) By the dates indicated, as modified at hearing, submit to the Environmental Protection Agency reports on such abatement and control program as are required by paragraphs 15(c)(iii) through 15(c)(viii) of the Stipulation and Proposal for Settlement in this matter.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3rd day of June, 1976, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board