

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 75-34
)
PETTIBONE CORPORATION, a)
Delaware corporation,)
)
Respondent.)

Ms. Mary C. Schlott, Assistant Attorney General, Attorney for
Complainant
Mr. Robert H. Joyce, Seyfarth, Shaw, Fairweather & Geraldson,
Attorney for Respondent

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

This case comes before the Pollution Control Board on a Complaint filed by the Environmental Protection Agency on January 3, 1975, against Pettibone Corporation, owner and operator of a heavy machinery manufacturing plant located at 4700 W. Division Street in Chicago. The Complaint consisted of seven Counts and alleged various violations by Pettibone in the operation of its manufacturing plant of the Rules and Regulations Governing the Control of Air Pollution (Rules), Air Pollution Control Regulations (Regulations), and the Environmental Protection Act (Act).

On October 15, 1975, a hearing was held at which time a Stipulation and Proposal for Settlement (Stipulation) was filed with the Board. No additional evidence was adduced at the hearing; no members of the public participated.

Count I of the Complaint alleged that the electric arc furnaces emitted particulates from July 1, 1970 until December 31, 1973 in violation of Rule 3-3.2132 of the Rules, and from December 31, 1973 until the date of the filing of the Complaint in violation of Rule 203(a) of the Regulations and in further violation of Section 9(a) of the Act. The Stipulation provided that Pettibone's one-ton electric arc furnace emits not less than 9.2 pounds per hour of particulate matter, exceeding the permitted rate of 2.6 pounds per hour. The five-ton electric arc furnace emits 29.9 pounds of particulate per hour and that

based on a process weight of 3.25 tons per hour this emission exceeds the limit of 4.8 pounds per hour set by Rule 3-3.2132 and Rule 203(a). These stipulated facts support the finding of violations by both furnaces of the Rules and Regulations and based upon these violations a further violation of Section 9(a) of the Act.

Count II of the Complaint alleged that Pettibone operated its electric arc furnaces from July 1, 1970, until April 14, 1972, in violation of Rule 3-3.400 of the Rules and from April 14, 1972, until the date of the filing of the Complaint in violation of Rule 109 of the Regulations, and in further violation of Section 9(a) of the Act.

Rule 109 deals with circumvention and provides in part "no person shall cause or allow the construction or operation of any device which *** without resulting in a reduction in the total amount of any air contaminant emitted, conceals, dilutes, or permits air contaminant emissions which would otherwise violate the regulations." The Stipulation provides that both the one-ton and the five-ton electric arc furnaces are emitting particulate matter at a rate exceeding their respective limitations set by Rule 203(a). Since the Stipulation provides facts to support a finding that the electric arc furnaces are operating in violation of Rule 203(a), the last element of Rule 109 is not met which requires that the conduct "conceals, dilutes or permits air contaminant emissions which would otherwise violate these regulations." [Emphasis added]. The Stipulation provides facts to find a violation of Rule 203(a), and that finding in this instance, rules out the possibility of a violation of Rule 109.

Count III of the Complaint alleged that Pettibone operated its paint spray booths since July 1, 1970, in a manner allowing the emission of particulate matter exceeding the limits allowed by Rule 3-3.111 of the Rules and Rule 203(a) of the Regulations and in further violation of Section 9(a) of the Act. Count III also alleged that since December 31, 1973, Pettibone has operated these paint spray booths in a manner so as to cause or allow the discharge or emission of photochemically reactive hydrocarbons in violation of Rule 205(f) of the Regulations and therefore in violation of Section 9(a) of the Act. No facts are contained in the Stipulation which could support the finding of a violation of either Rule 203(a) or 205(f), and Count III therefore is dismissed.

Count IV of the Complaint alleged Pettibone conducted its arc welding operations in such a manner as to cause or allow the emission of excessive particulates in violation of Rule 3-3.111 of the Rules from July 1, 1970 until December 31, 1973, and from December 31, 1973 until the date of the filing of the Complaint in violation of Rule 203(a) of the Regulations and in further violation of Section 9(a) of the Act. Agency calculations show

that particulate emissions of not less than 0.70 pounds per hour result from the welding operation based on a process weight of 7.62 pounds per hour. Such an emission, being approximately seven times the permitted rate, supports the finding of a violation of the Rules and Regulations and based upon these violations, a further violation of Section 9(a) of the Act.

Count V of the Complaint alleged that Pettibone operated its facilities in such a manner as to emit particulate and odors as to constitute air pollution as that term is defined in Section 3(b) in that they "cause injury to the health of persons living in the vicinity or unreasonably interfere with the enjoyment of life or property of such persons."

The Stipulation specifically provided that the emission of particulate and odors were not of such character and duration as to unreasonably interfere with the enjoyment of life or property of persons living in the vicinity. The Stipulation was silent as to whether the emissions were injurious to the health of persons living in the vicinity. These stipulated facts rule out the possibility of a finding of a Section 9(a) air pollution violation as that term is defined in Section 3 (b); therefore, Count V is dismissed.

Count VI of the Complaint alleged that Pettibone operated its two electric arc furnaces from December 1, 1972 until the date of the filing of the Complaint and its paint spraying booths from June 1, 1973 until the date of the filing of the Complaint without operating permits in violation of Rule 103 (b)(2) of the Regulations and in further violation of Section 9(b) of the Act. The Stipulation provided that prior to the filing of the Complaint, Pettibone had not applied for nor received Agency operating permits for its two electric arc furnaces and its two paint spray booths. It is further stipulated that Pettibone has never applied for a variance from the Act or Regulations for the operation of this equipment. These stipulated facts support the finding of violation of Rule 103 (b)(2) of the Regulations and based upon these violations a further violation of Section 9(b) of the Act.

Count VII of the Complaint alleged that Pettibone, since June 1, 1973, operated its electric arc furnaces, two paint spray booths, and arc welding shops in a manner not in compliance with the limitations of Rules 203(a) and 205(f) of the Regulations, and by engaging in this conduct without a compliance program and a project completion schedule approved by the Agency. Pettibone has violated Rule 104(a) of the Regulations and Section 9(a) of the Act. The Stipulation provides that Pettibone has operated its electric arc furnaces and welding booths since December 31, 1973 in violation of Rule 203(a), and also provides

that Pettibone has never applied for Agency approval for a compliance program and project completion schedule for this equipment. These stipulated facts support the finding of a violation of Rule 104(a) of the Air Rules and Section 9(a) of the Act. As no facts are contained in the Stipulation which support the finding that Pettibone has operated its paint spray booths in violation of either Rule 203(a) or 205(f), that portion of this Count alleging violation of Rule 104(a) in regards to this specific equipment is dismissed.

The Stipulation provided that all emission sources and all existing air pollution equipment at the plant had been operating in the same manner for more than nineteen (19) years. Letters warning that Pettibone may be violating the Act and related Regulations were sent to Joseph Wrann, Pettibone's Master Mechanic, on October 25, 1972, March 22, 1974, and April 25, 1974. Responses to those letters were received from Mr. Wrann on November 24, 1974, and April 30, 1974. Agency field personnel visited the plant on October 24, and 25, 1972, February 25, 1974, July 31, 1974, and September 20, 1974.

The parties stipulated that the most economical and technically feasible method of reducing emissions from Pettibone's electric arc furnaces is through construction of baghouses and that such construction will not impose a financial hardship upon Pettibone at the present time. The construction of the baghouse is estimated to take eighteen (18) months at a cost of approximately \$400,000.00.

The settlement agreement calls for the construction of a baghouse and connecting ductwork. Pettibone agrees to obtain the proper permits from the Agency, submit bi-monthly reports to the Agency, conduct stack tests at the completion of the baghouse installation, and execute a performance bond in the amount of \$400,000.00. In addition, Pettibone agrees to cease operation of its welding booth and pay a civil penalty in the sum of \$8,000.00 for the violations found to exist by the Board.

On the basis of the above and the Stipulation, which constitutes the entire record in this case, we find that Pettibone did violate the Act, and Rules, and the Regulations: by operating its two electric arc furnaces in violation of Rule 3-3.2132 of the Rules, Rule 203(a) and Rule 104(a) of the Regulations, and in further violation of Section 9(a) of the Act; by conducting its arc welding operations in violation of Rule 3-3.111 of the Rules, Rule 203(a) and Rule 104(a) of the Regulations and in further violation of Section 9(a) of the Act; by operating its two electric arc furnaces and paint spraying booths in violation of Rule 103(b)(2) of the Regulations and in further violation of Section 9(b) of the Act. A penalty of \$8,000.00 is assessed for these violations.

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, Pettibone Corporation, is found to have violated Rule 3-3.2132 and Rule 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution, Rule 203(a), Rule 104(a) and Rule 103(b)(2) of the Air Pollution Control Regulations, and Section 9(a) and Section 9(b) of the Environmental Protection Act, and shall pay to the State of Illinois within 35 days of the date of this Order \$8,000.00 as a penalty for these violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.
2. Respondent, Pettibone Corporation, shall apply for construction permits for a baghouse and connecting ductwork for its electric arc furnaces from the Environmental Protection Agency within six months of contracting for engineering of the baghouse.
3. Respondent, Pettibone Corporation, shall complete construction of its baghouse and connecting ductwork within eighteen (18) months from the date of this Order, unless, for good cause shown, an extension of time is sought by Pettibone and granted by the Board.
4. Respondent, Pettibone Corporation, shall make bi-monthly reports to the Environmental Protection Agency on progress of construction of its baghouse.
5. Respondent, Pettibone Corporation, shall conduct stack tests to be performed by a consulting engineer of its choice and pursuant to procedures agreed upon by the Environmental Protection Agency and Pettibone. Stack tests will be conducted within 14 days of the completion of all modifications and installation or within such other time as mutually agreed upon. The Agency shall be notified of the test date in advance, given an opportunity to observe the testing, and given a copy of the test results.
6. Respondent, Pettibone Corporation, shall execute within 35 days of the date of this Order a performance bond in the amount of \$400,000.00 to guarantee the performance of the aforesaid construction.

7. Respondent, Pettibone Corporation, shall cease operation of its welding booths by January 9, 1976.

IT IS THE FURTHER ORDER OF THE POLLUTION CONTROL BOARD that Counts II, III and V are dismissed. That portion of Count VII dealing with the paint spray booths is also dismissed.

Mr. Goodman concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11th day of March, 1976 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board