

ILLINOIS POLLUTION CONTROL BOARD
March 13, 1975

ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant)
)
 v.) PCB 73-490
)
 KENTILE FLOORS, INC., a New York)
 corporation)
)
 Respondent)

OPINION & ORDER of the Board (by Mr. Zeitlin)

The Complaint in this matter was filed by the Attorney General for the Environmental Protection Agency (Agency) on November 16, 1973. The Complaint alleged that Kentile Floors, Inc. (Kentile) operated its Chicago flooring materials plant in violation of Section 9(b) of the Environmental Protection Act (Act), and Rules 621(b), 622, 651(a), and 652 of the Air Pollution Rules and Regulations of the Pollution Control Board (Board).

Section 9(b) of the Act, as applicable herein, forbids the operation of any equipment or facility capable of causing or contributing to air pollution without a permit granted by the Agency; Rule 622 contains a permit-for-manufacturing requirement for asbestos processing operations, and became effective after June 30, 1972; Rule 621(d) sets out various housekeeping requirements for operations involving the use of asbestos, or which generate asbestos-containing waste; Rule 651(a), as applicable herein, requires that any factory or plant engaging in the processing or manufacturing of any asbestos-containing product discharge no visible emissions of particulate matter, and emit no concentrations of asbestos fiber into the ambient air in excess of two fibers per cc of air; and Rule 652 requires that all exhaust air from asbestos processing or manufacturing operations be ducted for proper pollution control and sampling measures.

An Order was entered by the Board on June 20, 1974 directing that the Hearing Officer in this matter set a hearing within 60 days after that Order was adopted. A hearing was subsequently held on November 8, 1974, at which time a joint motion for continuance was entered orally by the Agency. The motion was granted on the understanding that parties were nearing the end of negotiation, and would soon enter a stipulated settlement.

At a further hearing on February 13, 1975 a Stipulation and Settlement was submitted. The only testimony taken at that hearing was a statement by the Agency to the effect that should the Board accept the stipulated settlement, no further relief would be necessary in this matter. The Agency stated that all violations alleged in the complaint had been remedied in arriving at the stipulated settlement, and that Respondent had cooperated completely in achieving compliance with all applicable asbestos regulations.

BACKGROUND

Kentile operates a manufacturing facility at 4501 W. 46th Street, Chicago, at which it manufactures asbestos-containing floor tile for residential, commercial and industrial use. The plant employes between 300 and 700 people at different times, depending on production requirements. The plant is located in the Crawford Industrial District, and does not abut any residential areas.

Asbestos constitutes 17% of the final product manufactured at Kentile's Chicago plant. Asbestos enters the plant by freight car, in palletized bags, and is stored in the plant while awaiting use in the manufacturing process. (Since January, 1974, all asbestos has entered Kentile plant in plastic bags; prior to that time asbestos was received in both plastic and paper bags.) When ready for use the asbestos is transported to weigh scales, and is then placed in a hopper for movement to a Banbury mixer, of which there are five in the plant. At the mixers, asbestos is mixed with other raw materials, including a liquid plasticizer. The asbestos is at this point bound in with other materials, and cannot thereafter be found in a free state during the remainder of the manufacturing process.

After mixing, the product has a dough-like consistency, and is conveyed through a series of rolling mill lines. After milling, the sheets of tile are waxed, buffed and forced-air cooled. Finally, they are dye-cut in a press to the desired size. Broken chips of tile from one line are added to the sheets in process on the other lines to achieve the proper appearance.

Emissions from the weigh scales and hoppers, as well as the Banbury mixers, are ducted through a cyclone and baghouse. Waste materials collected in the cyclone are recycled to the Banbury mixers, and baghouse collections are deposited directly into plastic bags. (Prior to November, 1973, collections from the baghouse were routed first into bins, and then into plastic bags for disposal.) The rolling mill lines are serviced by hoods, fans, and ducting to collect the exhaust air and control particulate emissions. Hand and power vacuums are available throughout the process.

Kentile's plant was inspected on March 13, 1973 by an Agency engineer. As a result of that inspection the Agency informed Kentile on August 1, 1973 that it might be in violation of several of the Board's asbestos regulations. Following Kentile's September 5, 1973 response to the Agency, the plant was re-investigated on October 22, 1973. Further inspections of Kentile's plant were made during the period following the filing of the complaint in this matter.

During the initial inspection, on March 13, 1973, it was noted by the Agency inspector that Kentile's baghouse emptying procedure allowed asbestos-containing dust to spill out in areas near the base of the baghouse. An October, 1973 inspection noted that asbestos-containing waste was not being vacuumed immediately; further, the portable dust collection bin in use with the baghouse was not properly labled, as containing asbestos. (These deficiencies had been corrected by the time of a January 28, 1974, inspection.) The October, 1973 inspection also disclosed that the scavenger service bin used to dispose of asbestos waste was not enclosed or covered. (This problem was resolved by April, 1974.) The Agency does not contend that Kentile's housekeeping was deficient as to vacuuming or proper disposal except at the time of the inspections.

At the time of the March and October, 1973, inspections, tile in chip form, intended for recycling, was stored in piles near the weigh scale area and outside the plant enclosure. Scrap tile, not intended for recycling, was dumped unenclosed into the scavenger bin. Although Kentile does not accept the Agency contention that these practices constituted violations of Rule 621(d), because the asbestos was at this point bound into the product—as opposed to being in a free form—it has nonetheless followed Agency recommendations and now stores reusable tile chips in stainless steel containers, and disposes of all scrap tile in plastic lined drums for sanitary landfill disposal.

Exhaust air from certain of the rolling mill operations is not routed through either the baghouse or the cyclone. Based on observation during the Agency inspections noted above, the complaint charged that these operations, i.e., the exhaust from which is vented directly into the atmosphere, were a violation of Rule 651(a). Sampling of these emissions, however, in February, 1974, disclosed that no asbestos fibers at all were emitted from these operations.

On November 26, 1973, ten days after the complaint in this matter had been filed, Kentile applied for a Rule 622 asbestos permit. The Agency permit engineer and the Agency permit reviewing engineer, being unaware of the inspections forming the basis for the Agency's complaint in this matter, or of the complaint itself, issued such a permit to Kentile by a letter dated December 7, 1973. Shortly thereafter, however, Kentile's application for an operating permit pursuant to Rule 103 of the Board's air pollution regulations was rejected on the basis of the inspections discussed above. The letter rejecting this second permit application from Kentile was sent by the Agency's permit section on January 21, 1974.

STIPULATION and SETTLEMENT

The stipulation entered by the parties to this action indicates that Kentile's Chicago plant is currently in full compliance with the Board's asbestos regulations. This fact, coupled with the adequate settlement of the charges alleged in the complaint, render the Stipulation of Fact and Proposal for Settlement acceptable as a resolution of this matter.

Kentile has stipulated to the fact that it did not possess the required operating permits during the period June 30, 1972 to November 16, 1973 (the date of filing of the complaint). Such an admission operates to prove the Agency's allegations as to Section 9(b) of the Act and Rule 622. Violations of the permit requirements in those sections are clearly present.

The Agency, in the stipulation and settlement, dropped all allegations of housekeeping deficiencies as to the vacuuming and disposal of asbestos-containing wastes, except insofar as such violations may have been present when the various inspections were made. While the violations on those occasions may have been minor, they were considered as violations of Rule 621(d).

As a result of stack tests made during the course of this proceeding, the Agency dropped those allegations in the complaint as to Rule 651(a). There is apparently no emission problem with the Kentile plant.

As to the complaint's allegation of a violation of Rule 652, which requires proper exhaust air ducting, the stipulation and settlement does not contain sufficient facts to find the violation. Although Kentile has made one minor change in its exhaust system for a portion of the milling operations, that change was in response to an Agency suggestion, and cannot provide the basis for a finding of violation. The change simply **allows** the exhaust air from the "mottle addition station" to be ducted so that stack samples, if necessary, can be taken. All asbestos being processed at that point has been bound into the final product and is not of the free variety. The exhaust air from that process has simply been vented through a stack into the ambient atmosphere, as opposed to the prior practice which involved no venting or collection of such air at all.

The Stipulation of Fact and Proposal of Settlement indicates clearly that Kentile has complied with all Agency recommendations as to asbestos-containing material handling, whether or not compliance with such recommendations might have been strictly necessary to achieve compliance with the Board's asbestos regulations. This fact, together with the Agency's statements in the stipulation itself, and at the hearing, operate to make the stipulated penalty of \$3,000 acceptable to the Board. The purposes of the Act and the Regulations, as regards the control of asbestos emissions, have undoubtedly been achieved through Kentile's cooperation in achieving compliance and in arriving at the settlement in this matter.

Further, the Board will accept the Agency's stipulation that relief in the form of a cease and desist order is rendered unnecessary by Kentile's good faith in this matter, and that, should the Board approve the settlement, an operating permit will be issued to Kentile forthwith.

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 Kentile Floors, Inc., is found to have operated its Chicago floor tile manufacturing facility in violation of Section 9(b) of the Environmental Protection Act and Rule 622 of the Board's Air Pollution Rules and Regulations, in that it did not, during the period June 30, 1972 to November 16, 1973 possess the required permit for manufacturing from the Illinois Environmental Protection Agency. Kentile is further found to have violated the provisions of Rules 621(d) of the Board's Air Pollution Rules and Regulations by virtue of the housekeeping deficiencies detailed in the accompanying Opinion.
2. Those portions of the complaint in this matter alleging violations of Rules 651(a) and 652 are dismissed.

3. Respondent Kentile Floors, Inc., shall pay as a penalty for the above cited violations the sum of \$3,000. Payment shall be made within 35 days of the adoption of this Order, payment to be made by a certified check or money order to:

State of Illinois
Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion & Order were adopted on the 13th day of March, 1975 by a vote of 4 to 0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board