

ILLINOIS POLLUTION CONTROL BOARD  
November 6, 1975

ABITIBI CORPORATION, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 75-207  
 )  
 ENVIRONMENTAL PROTECTION )  
 AGENCY, )  
 )  
 Respondent. )

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

Petitioner Abitibi Corporation, (Abitibi), filed its original Petition for Variance in this matter on May 19, 1975, seeking relief until June 30, 1975, from the requirements of Rule 205(f) of Chapter 2: Air Pollution, of the Pollution Control Board, (Board), Rules and Regulations. PCB Regs. Ch. 2, Rule 205(f). In an Amended Petition filed on June 30, 1975, Abitibi additionally requested relief from Rules 205(f) and 103(b)(2) from June 30, 1975 until December 31, 1975.

On July 10, 1975, the Board entered an Interim Order requiring further information from Petitioner addressing the issues raised in the United States Supreme Court case of Train v. NRDC, 43 U.S.L.W. 4467 (U.S., April 16, 1975). After filing a waiver of the 90-day statutory decision period on August 7, 1975, Abitibi filed additional information, in compliance with our July 10, 1975 Interim Order, on August 20, 1975.

An Agency Recommendation addressing Abitibi's original Variance Petition was filed on June 25, 1975. An Amended Recommendation was received from the Agency on October 8, 1975. A hearing was held in this matter on October 8, 1975, where the parties entered by Stipulation the stenographic record of an informal hearing on the same issues, held by the U. S. Environmental Protection Agency on August 28, 1975. That record was filed on October 9, 1975.

Abitibi operates a plant on the south side of Chicago, at which it employs approximately 100 people in the manufacture of woodgrain and other tile board paneling. At that plant Abitibi applies coating to wood-fiber hardboard to produce the finished paneling product. The process consists of:

1. application of a prime or fill coat, ("the white coat," R. 28), which is applied in a roller-coater process, after which the board is baked in an infra-red electric oven to dry the primer coat;

2. After a 24-hour curing period, the board is again sanded, the board is sprayed and a basic ground coat is applied to give color, after which the board again goes through an infra-red electric oven;

3. After being printed, the board is then given a top varnish coat, after which it is passed through a gas-fired, infra-red oven for the final curing process, (R. 31).

Total hydrocarbon emissions from these various processes average approximately 315 pounds per hour. Although not all of the hydrocarbons emitted are photochemically reactive, the parties agreed that emissions from Abitibi's Chicago plant significantly exceed the allowable limit under Rule 205(f) of eight pounds per hour. Although the record here does not indicate when it was issued, Abitibi procured an operating permit from the Agency for its Chicago plant, which will not expire until April 4, 1978. As a condition of that permit, Abitibi was to have followed a compliance program designed to achieve compliance with Rule 205(f) by May 30, 1975. That compliance plan was based on a conversion to water-base coatings for use in its hardboard coating operation.

At the time of its initial Variance Petition, Abitibi stated that it would be unable to achieve compliance by the May 30, 1975 date. Abitibi stated that its water-base coating compliance plan would not work, despite a long-term extensive development and research program, without additional capital expenditure for increased drying capacity. Abitibi concluded that a new drying oven would be needed for the base coating system, and that such oven would not be available for use until the end of 1975. (The record fully supports the extent of the efforts undertaken by Abitibi to achieve compliance without this additional capital expenditure.) At the time of the initial Variance Petition, Abitibi projected the use of exempt solvents from June 30, 1975 until December 31, 1975, so that only a one-month Variance would be needed.

However, Abitibi thereafter discovered that no exempt solvents were suitable for use in its manufacturing process; various quality control problems prohibited the use of such exempt coatings without the additional drying capacity of the new oven. Abitibi therefore requested that its Variance from 205(f) extend from May 31, 1975 to December 31, 1975. Additionally, apparently as the result of statements from the Agency's first Recommendation filed June 25, 1975, Abitibi also requested a Variance from Rule 103(b)(2), concerning the validity of its operating permit.

The record is clear on the extent of Abitibi's good faith attempts to achieve compliance with Rule 205(f) by May 30, 1975. At considerable expense, Abitibi, with the cooperation of its suppliers, developed and tested a considerable number of coatings formulations designed for compliance with that rule, and tested those formulations under both laboratory and production conditions. In some cases, the tests involved the processing of thousands of panel units through Abitibi's production facilities; because these tests have been unsuccessful, and the resulting paneling products did not meet quality control standards, Abitibi's expense in these tests was considerable. After it became apparent that these attempts would not be successful, Abitibi committed itself to considerable capital expenditure in a further attempt to achieve compliance, (R. 47). The new oven for use with the primer coat line will cost approximately \$65,000.00.

In the additional information filed pursuant to our July 10, 1975 Order, addressing the Train case, supra., Abitibi again modified its request for Variance. Apparently based on this Board's previous interpretations of the Train case, and on data concerning ozone levels in Chicago during the summer months, Abitibi limited its request for Variance to the period between Board action on this case and December 31, 1975, (additional information, filed August 20, 1975, at 3). Abitibi noted that the Board would not be acting on its Variance request until at least mid-September, 1975, and that the Variance would not be effective during a period when ozone concentrations in excess of national Ambient Air Quality Standards have historically been encountered. Abitibi further stated that, since compliance with Rule 205(f) will be attained by December 31, 1975, emissions from the Abitibi plant will not contribute to future ozone episodes, (id.).

We agree with Petitioner that the Train case does not bar the grant of a Variance in this instance. High concentrations of ambient ozone are directly related to solar radiation, and the highest levels of ozone occur in Illinois during the months of July, August and September, when solar energy is the most intense and daylight hours are the longest. Illinois Environmental Protection Agency, 1974 Annual Air Quality Report, 147 (September, 1975). In fact, in its Annual Report, the Agency only reports ozone levels for the Chicago area for those months.

While there can be no question that violations of the 0.08 ppm standard for ozone do occur during July, August and September, such violations do not occur during winter months, when sufficient sunlight to trigger the ozone-producing reactions is not available. This Board has previously stated as its interpretation of the Train case the requirement that any Variance will not allow the source in question to cause or contribute to a violation of the national Ambient Air Quality Standard. During the months of November and December, which will be the effective months of the instant Variance, such violations do not occur for the photochemical oxidant standard. It is therefore evident that, during the period of the Variance requested here, Abitibi will not cause or contribute to any such violation. Thus, we are not precluded from granting this Variance and approving Abitibi's compliance plan under the Train case, despite violations of the Ambient Air Quality Standard for photochemical oxidants during the summer months. See, King-Seeley v. EPA, PCB 75-159 (April 24, 1975) (Interim Order); Great Lakes Carbon v. EPA, PCB 75-85 (May 22, 1975).

In both its initial and Amended Recommendation, the Agency asks that the Board deny any Variance from Rule 103(b)(2), concerning operating permits. The Agency's contention that such a Variance is not needed where a substantive Variance has been granted is in keeping with prior Board decisions, and is accepted here. In addition, the Agency requests that this Variance be conditioned on a requirement that Abitibi reapply for all necessary construction and operating permits, despite the fact that the previously issued operating permit, (discussed above), will not expire until April 4, 1978. The Agency claims that the previously issued permit was obtained by Abitibi on the basis of its previous compliance plan, and that it should be required to reapply for a new permit, incorporating the compliance plan which we are approving here. We agree. The compliance plan approved by the Board here constitutes a significant departure from that contemplated by the Agency when the original permit was issued, in terms of both mode of compliance and compliance target date.

In light of Abitibi's previous good faith attempt to achieve compliance, we feel that a performance bond of \$10,000.00 will serve to assure the completion of the compliance program envisioned here.

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. Petitioner Abitibi Corporation is granted a Variance from Rule 205(f) of Chapter 2: Air Pollution, of the Pollution Control Board Rules and Regulations, for its Chicago plant, from the date of this Order until December 31, 1975, subject to the following conditions:

A. Within thirty (30) days of the date of this Order, Petitioner shall post a performance bond in a form acceptable to the Environmental Protection Agency, in the amount of Ten Thousand Dollars (\$10,000.00), to be posted with the:

Environmental Protection Agency  
Control Program Coordinator  
2200 Churchill Road  
Springfield, Illinois 62706

B. Within thirty (30) days of the date of this Order, Petitioner shall re-apply to the Illinois Environmental Protection Agency for all applicable construction and operating permits for its Chicago plant.

C. On the 10th day of November, 1975, December, 1975, and January, 1976, Petitioner shall submit to the Environmental Protection Agency at the address given above a written report detailing its progress towards compliance with Rule 205(f) under the compliance plan approved herein.

D. Within thirty (30) days of the date of this Order, Petitioner shall execute and forward to the Environmental Protection Agency at the address specified above, a certification of acceptance in the following form:

I, (We), \_\_\_\_\_ having  
read the Order of the Illinois Pollution  
Control Board in Case No. PCB 75-207, under-  
stand and accept said Order, realizing that  
such acceptance renders all terms and conditions  
thereto binding and enforceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

2. That portion of the Variance Petition  
and Amended Petition seeking a Variance from  
Rule 103(b)(2) of Chapter 2: Air Pollution, of  
the Pollution Control Board Rules and Regulations,  
and those portions of the Petition and Amended  
Petition seeking Variance from Rule 205(f) from  
May 30, 1975, to the date of this Order, are  
dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution  
Control Board, hereby certify the above Opinion and Order were  
adopted on the 6<sup>th</sup> day of November 1975 by a vote of 4-0 .

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