

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1973

JOHNSON AND JOHNSON)
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 v.) PCB 73-71
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 ENVIRONMENTAL PROTECTION AGENCY)
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OPINION OF THE BOARD (by Mr. Dumelle)

This opinion is in support of an order entered June 28, 1973, denying the Agency's Motion for Reconsideration filed with the Board on June 19, 1973. The Petitioner filed an answer asking denial on June 26.

The major issue of the motion deals with the Board opinion of May 31, 1973, which interprets the definition of "process weight" as found in Rule 201 of the Air Regulations to include the carrier paper used by Johnson and Johnson. The Agency argues that the carrier paper is not introduced into the process, but merely is "an implement" to transport the "raw materials through a process and as such goes into the process and come out identically the same" (Para. 18(f) of Motion). The precedent of the instant case is unique to the facts of this case.

The Agency lists a great many examples to show that its proposed definition is correct. It cites painting, pickling, caustic cleaning, plating, roller coating of cans, and foundry shakeout as examples where the weight of the object to be painted or cleaned or plated, etc. is not computed in the process weight.

However, the essential link is not made between the Agency definition of process weight and the Board enactment of the regulation. The Board opinion in R70-15 is silent. The affidavits, by Dr. John Roberts of the Agency, formerly at Argonne National Laboratory, and William Zenisek, also of the Agency, attempt to show that the Agency interpretations of process weight are necessary in order to meet Federal ambient air quality standards. They may both be correct, but that does not show that the Board had their definition in mind when it enacted Rule 201 and 203(a), (b) and (c).

Since these Rules grew out of the older Rule 3-3.111 of the 1967 Illinois Air Regulations, which in turn came from the Bay Area (San Francisco) Code, some connection should be shown that the Agency-desired definition has been in fact followed in these predecessor codes.

The Board has looked in vain for such a connection. The authoritative work by Stern, Air Pollution, Vol. III, Second Edition, does not define "process weight" beyond listing the usual exclusions for non-solid fuels and combustion air (p. 625). The Air Pollution Engineering Manual of the Los Angeles County Air Pollution Control District (1967) lists Rule 2(j) as follows:

Process Weight Per Hour. "Process Weight" is the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not... (p. 831).

The testimony of Dr. L.R. Babcock in R70-15 on March 10, 1971 has been examined, but also does not shed light upon what is and what is not "process weight".

Thus, in this case, we deny the Motion to Reconsider, in the belief that the carrier paper has been "introduced into" the process. We apply the interpretation to this case only at this time. The Agency, within 90 days, shall examine the actual application of the "process weight" definition in the Bay Area and LAAPCD jurisdictions and provide that experience to the Board in a brief. Further action as to the regulation can be taken by the Board after this additional material is furnished.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 19th day of July, 1973 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board