

ILLINOIS POLLUTION CONTROL BOARD

October 4, 1973

ENVIRONMENTAL PROTECTION AGENCY)
COMPLAINANT)
)
)
V.) PCB 72-52
)
)
FORTY-EIGHT INSULATIONS, INC.)
RESPONDENT)
)

MICHAEL A. BENEDETTO, JR., ASSISTANT ATTORNEY GENERAL, on behalf of the ENVIRONMENTAL PROTECTION AGENCY.
WILSON BURNELL OF O'BRIEN, BURNELL, PUCKETT & BARNETT on behalf of FORTY-EIGHT INSULATIONS, INC.

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This action involves a rehearing of an original complaint filed by the Environmental Protection Agency against Forty-Eight Insulations, Inc., the owner and operator of a mineral wool manufacturing facility located in the village of North Aurora. The facility includes two slag melting cupolas, two wool collection chambers, two curing ovens, and two cooling sections.

As a result of proceedings and documents tendered, the Board entered an opinion on March 22, 1973. This opinion held that the Board found violations only in the #1 wool room of the Respondent. The #2 wool room, #1 and #2 cooling rooms, and #1 and #2 cupolas were found to be within compliance. On April 12, 1973, the Environmental Protection Agency filed a petition for rehearing. The petition took issue with only one area of the Board's opinion. This area related to the Respondent's #2 wool room.

The heart of the matter is whether the Board rendered its opinion in violation of the Pollution Control Board rules 329 and 331. The Agency contends that Respondent's answers to interrogatories were used in the formation of the Board's opinion; and that said answers were not legally introduced as evidence; and as a result the Agency was precluded from cross-examination on this document. The evidence pertained to Respondent's stack test on #2 wool room.

On May 10, 1973, the Board held and ordered that the Agency's

objections were valid and the case would be referred to the original hearing officer for further hearings.

The Board must address itself to only one major question:

What is the validity of the results of Respondent's #2 wool room stack test?

A rehearing was scheduled for August 24, 1973, at which time the data from Respondent's #2 wool room stack test was entered into the record (Record page 29) as Respondent's Exhibit #1. This test was conducted by an employee of Forty-Eight Insulations, Inc. The entire proceedings of the rehearing was a discussion of the validity of this test.

Much testimony was elicited and both parties agreed (Record pages 28, 32) that the stack test was not run at isokinetic conditions. It is again the Board's opinion (as it was in the original order) on this case that the possible errors introduced into the test procedure are not significant enough to make the test invalid. The only testimony which can rebut the stack test is the Agency's "calculated emission factors."

The Board feels that due to the evidence generated in the original hearing (Complainant's Exhibit 3) (Respondent's Exhibit 8, 8a), the calculated emission factors are very much in question. We therefore have two tests, both of which are open to question. The data is summarized as follows:

Emissions from Wool Room #2

A) By Respondent's Stack Test	4.94 lbs/hr.
B) By Agency Calculations	11.70 lbs/hr.
C) By Allowable Emissions	5.86 lbs/hr.

The Board has held in previous cases (PCB 71-69) that an opposing party is entitled to dispute emission data by means of its own stack test. The Board further holds that when both the emission calculations and the stack tests are open to "equal question of reliability," we will give preference to the actual stack test.

On the basis of the above the Board will affirm the order of March 22, 1973.

This Opinion constitutes the findings of fact and the conclusions of law of the Board.

* The Agency calculation was adjusted by a direct ratio to keep all values on the same process weight basis. Although not exactly accurate, it is sufficient for clarification.

ORDER

IT IS THE ORDER of the Pollution Control Board that Respondent's wool room #2 has been found to be in compliance, and that the March 22, 1973 (PCB 72-52) opinion is affirmed and will stand as written.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order were adopted on the 4th day of October, 1973, by a vote of 5 to 0.

Christan L. Moffett

