

ILLINOIS POLLUTION CONTROL BOARD
December 2, 1993

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 93-92
)	(Enforcement)
ELKAY MANUFACTURING COMPANY,)	
an Illinois Corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a complaint filed May 10, 1993, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Elkay Manufacturing Company (Elkay), an Illinois Corporation located at 2700 South 17th Avenue, Broadview, Cook County, Illinois. The complaint alleges that Elkay violated Section 21(i) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/21(i), and 35 Ill. Adm. Code 722.141(a) of the Board's rules.

Pursuant to 415 ILCS 5/31(a)(1), a joint motion requesting relief from the Act's hearing requirement was filed by the parties on October 22, 1993. Notice of the waiver was published by the Board on November 6, 1993; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

On October 22, 1993, the Stipulation and Settlement Agreement was filed with the Board. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Elkay admits the alleged violations. The Settlement Agreement provides that Elkay will pay a civil penalty of seven thousand dollars (\$7000.00).

The Board finds the Settlement Agreement substantively acceptable under 35 Ill. Adm. Code 103.180. However, pursuant to Section 103.180(c), we are suggesting a revision and redirecting the payment of the \$7,000 penalty from the Hazardous Waste Trust Fund to the Environmental Protection Trust Fund. The Board is generally authorized to approve the payment of penalties for violations of the Act or corresponding regulations to the Environmental Protection Trust Fund (415 ILCS 5/42(a)), and, inter alia, is specifically authorized to approve payment of penalties to the Hazardous Waste Trust Fund for violations of Section 22.2(k) of the Act. (415 ILCS 5/22.2(k).) Though the instant case involves violations of "hazardous waste" reporting requirements, the complaint does not allege a violation of 22.2(k), but instead is

brought pursuant to Section 21(i) of the Act and 35 Ill. Adm. Code 722.141(a). As such, the \$7,000 penalty shall be designated to the Environmental Protection Trust Fund.

This Settlement Agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations including, but not limited to the Act, and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Elkay Manufacturing Company, concerning its operations located in Broadview, Cook County, Illinois. The Stipulation and Settlement Agreement is incorporated by reference as though fully set forth herein.
- 2) The Elkay Manufacturing Company shall pay the sum of seven thousand dollars (\$7000.00) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

Elkay Manufacturing Company shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

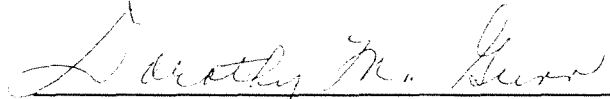
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- 3) Elkay Manufacturing Company shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, "Motion for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 2nd day of December, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board