

ILLINOIS POLLUTION CONTROL BOARD  
July 21, 2005

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 03-222
	)	(Enforcement - Air)
MECALUX ILLINOIS, INC.,	)	
	)	
Respondent.	)	
	)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On June 6, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Mecalux Illinois, Inc. (Mecalux) *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The People allege that Mecalux violated Section 9(a) and (b) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) and (b) (2004)) and Sections 201.141, 201.142, and 218.204 of the Board's regulations. On October 28, 2004, the People filed a four-count amended complaint. The amended complaint adds two additional counts alleging that Mecalux violated conditions of Mecalux's permits and Section 9(b) of the Act (415 ILCS 5/9(b) (2004)).

The People allege that Mecalux violated these permit conditions and provisions of the Act and Board regulations by using 537 gallons of a coating that exceeded the maximum allowable volatile organic material (VOM) content and by commencing construction of two coating lines without a permit. The complaint concerns Mecalux's metal storage system manufacturing and coating facility at 1600 North 25th Avenue, Melrose Park, Cook County.

On May 26, 2005, the People and Mecalux filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2004)). The stipulation includes a provision requiring Mecalux submit to the Agency within 30 days of the date of this order a modified federally enforceable state operating permit (FESOP) and for stipulated penalties if Mecalux fails to timely submit the FESOP. This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in several newspapers published by Pioneer Press including the *Melrose Park Herald*. The notice was published on June 1, 2005. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2004); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include

stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Mecalux's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2004)). The People and Mecalux have satisfied Section 103.302. Mecalux neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$45,000. In addition if Mecalux fails to timely submit the FESOP, Mecalux agrees to pay \$250 per violation for each day of violation until compliance is achieved. The Board accepts the stipulation and proposed settlement.

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

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Mecalux Illinois, Inc. must pay a civil penalty of \$45,000 no later than August 22, 2005. Mecalux Illinois, Inc. must pay the civil penalty by certified check or money order, payable to Illinois Environmental Protection Trust Fund. The case number, case name, and Mecalux Illinois, Inc.'s social security number or federal employer identification number must be included on the certified check or money order.
3. Mecalux Illinois, Inc. must send the certified check or money order to:
 

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
4. A copy of each certified check, money order, or electronic funds transfer and any transmittal letter shall be sent to:
 

Christopher Grant  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20th Floor  
Chicago, Il. 60601
5. Mecalux Illinois, Inc. must pay any stipulated penalties, provided for in the stipulation, in the same manner as the civil penalty as set forth in paragraphs two through four of this order.
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate

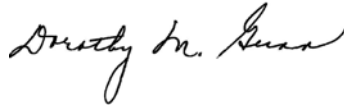
set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

7. Mecalux Illinois, Inc. must cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2004); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 21, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board