

ILLINOIS POLLUTION CONTROL BOARD  
April 9, 1992

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 92-24
	)	(Enforcement)
MODINE MANUFACTURING COMPANY,	)	
a Wisconsin corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board upon a complaint filed February 11, 1992 on behalf of the People of the State of Illinois ("People"), by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Modine Manufacturing Company, a Wisconsin Corporation near Ringwood, McHenry County, Illinois. The complaint alleges that Modine Manufacturing Company has violated Section 9(a) and (b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1009(a) and (b), 35 Ill. Adm. Code 212.321, 215.204(j)(3) and 201.143 of the Board's rules and regulations, and Condition #2a of permit # 73020677.

Pursuant to Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1031(a)(1), a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on February 11, 1992. Notice of the waiver was published by the Board on March 30, 1992; no objection to grant of the waiver was received. Waiver of hearing is granted by the Board via today's Opinion and Order.

A Stipulation and Settlement Agreement was filed by the parties on February 11, 1992. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Modine Manufacturing Company neither admits nor denies the alleged violations. Modine Manufacturing Company agrees to pay a civil penalty of Twenty Thousand Dollars (\$20,000.00).

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d 283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill. App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. 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 the Modine Manufacturing Company, concerning its operations located near Ringwood, McHenry County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The Modine Manufacturing Company shall pay the sum of Twenty Thousand Dollars (\$20,000.00) 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

Modine 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, (Ill. Rev. Stat. 1991, ch. 120, par. 10-1003), as now or hereafter amended, from the date of 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) Modine Manufacturing Company shall cease and desist from the alleged violations.

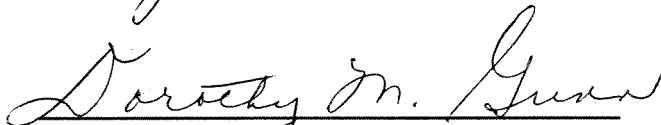
Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111½, par. 1041, provides for appeal of final

Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 9<sup>th</sup> day of April, 1992, by a vote of 6-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board