

ILLINOIS POLLUTION CONTROL BOARD  
June 17, 1993

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 93-86
	)	(Enforcement)
MIDDLEBY CORPORATION,	)	
a Delaware 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 on behalf of the People of the State of Illinois, by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Middleby Corporation, located in Elgin, Kane County, Illinois. The complaint alleges that Middleby Corporation has violated Sections 9(a) and (b) of the Environmental Protection Act ("Act"), 415 ILCS 5/9(a) and 5/9(b) (1992), and, 35 Ill. Adm. Code 201.142 and 201.143 of the Board's regulations.

Pursuant to Section 31(a)(1) of the Act, a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on May 10, 1993. Notice of the waiver was published by the Board on May 24, 1993; 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 May 10, 1993. The Stipulation sets forth facts pertaining to the nature, operations, and circumstances surrounding the claimed violation. Middleby Corporation, admits to past violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and 5/9(b) (1992), and, 35 Ill. Adm. Code 201.142 and 201.143, and agrees to pay a civil penalty of Six Thousand Dollars (\$6,000.00). Middleby Corporation further agrees to cease and desist from the alleged violations.

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.

0143-0201

ORDER

1. The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Middleby Corporation, concerning violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and 5/9(b) (1992), and, 35 Ill. Adm. Code 201.142 and 201.143, by Middleby Corporation, located in Elgin, Kane County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
2. Middleby Corporation, shall pay the sum of Six Thousand Dollars (\$6,000.00) within 30 days of the date of this order. Such payment must be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Illinois Environmental Protection Trust Fund, and must 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

Middleby Corporation, shall also write its Federal Employer's 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 5/1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1992)), 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. Middleby Corporation shall cease and desist from the alleged violations.

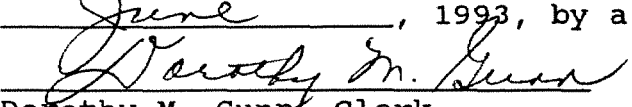
IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for appeal of final orders of the Board 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.)

Board Member Meyer dissented.

0143-0202

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 17<sup>th</sup> day of June, 1993, by a vote of 6-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board