

ILLINOIS POLLUTION CONTROL BOARD  
December 15, 1988

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 88-124  
 )  
RHEEM MANUFACTURING COMPANY, )  
 )  
Respondent. )

MR. GERALD THURSBY, ESQ., OF ROOKS, PITTS AND POUST APPEARED ON BEHALF OF THE RESPONDENT.

MR. GERALD T. KARR, ESQ., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon a complaint filed on August 11, 1988 on behalf of the Illinois Environmental Protection Agency (hereinafter "Agency"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against Rheem Manufacturing Company (hereinafter "Rheem"). The complaint alleges that Rheem violated Section 9(b) of the Act and 35 Ill. Adm. Code Sections 201.141 and 201.144 by operating the drum coating line at its manufacturing plant at 7600 S. Kedzie Avenue, Chicago, Cook County for the period of January 1, 1986 to November 30, 1987 without a valid Agency operating permit. It is also alleged that Rheem violated Section 9(a) of the Act and Sections 201.141 and 215.204(j) of the Board's Regulations by allowing volatile organic material emissions from its coating operation to exceed the limits contained in Section 215.204(j) for the period from January 1, 1986 to November 30, 1987.

Hearing on this matter was held November 29, 1988 in Chicago, Cook County. At hearing, the parties presented a Stipulation and Proposal for Settlement that had been submitted with the complaint. The Stipulation is attached and adequately addresses the facts in this matter. Accordingly, this opinion will not contain the customary discussion of the issues.

The Board notes that according to the Stipulation, Rheem is not admitting their liability for violations alleged in the Complaint. Also, it should be noted that Rheem discontinued the operation of the drum coating line as of November 30, 1987.

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the Stipulation and Proposal for Settlement acceptable under 35 Ill. Adm. Code 103.180. Accordingly, the Board orders Rheem to comply with the Order set forth herein.

ORDER

It is the Order of the Illinois Pollution Control Board that:

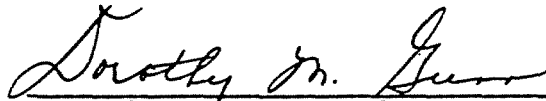
- 1) The Board hereby accepts the Stipulation and Proposal for Settlement executed by Rheem Manufacturing Company and the Illinois Environmental Protection Agency concerning Rheem's South Kedzie Avenue, Chicago, Drum Coating Line and filed with the Board on August 11, 1988. The Stipulation and the Proposal for Settlement is attached hereto.
- 2) Rheem Manufacturing Company by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, shall pay the sum of \$11,250.00 (Eleven thousand, two hundred and fifty dollars). The sum shall be paid within 30 days of the date the Respondent receive notice of this order. The payment shall be mailed to:

Fiscal Service Division  
Illinois Environmental  
Protection Agency  
2200 Churchill Road  
Springfield, IL 62706

- 3) The terms and conditions of the Stipulation and Proposed Settlement are incorporated into and made a part of this Order.

IT SO ORDERED.

I, Dorothy M Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 15<sup>th</sup> day of December, 1988, by a vote of 7-0.



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Dorothy M. Gunn, Clerk,  
Illinois Pollution Control Board



## STATEMENT OF FACTS

1. Complainant, Illinois Environmental Protection Agency, (hereinafter "Agency") is an administrative Agency established in the executive branch of the State government by Section 4 of the Illinois Environmental Protection Act (hereinafter "the Act"), Ill. Rev. Stat., ch. 111 , par. 1001, et seq. (1985), and charged, inter alia, with the duty of enforcing the Act, pursuant to Title VIII thereof and recovering civil penalties pursuant to Title XII thereof.

2. Rheem Manufacturing Company (hereinafter "Rheem"), has at all times pertinent hereto transacted business in the State of Illinois and is located at 7600 South Kedzie Avenue, Chicago, Cook County, Illinois.

3. Rheem formerly owned and operated a steel drum manufacturing facility. During the manufacturing process air dried, interior and exterior coatings are applied by either roll coating or spray coating.

4. All the coatings used by Rheem in its operation contained volatile organic materials (VOM).

5. Rheem operated its coating operation pursuant to an Agency operating permit issued pursuant to a variance proceeding. (Rheem Manufacturing Co. v. IEPA, PCB 83-79, January 14, 1984).

6. The permit issued to Rheem allowed operation of its coating operation without meeting the VOM emission limits contained in Section 215.204(j) until January 1, 1986.

7. Rheem was never issued a renewed operating permit after the operating permit issued pursuant to the variance proceeding expired on December 31, 1985.

8. Rheem continued to operate its drum coating operation until November 30, 1987 without an operating permit; at which time it ceased operation.

9. Rheem neither admits nor denies the violations of Sections 9(a) and 9(b) of the Act and 35 Ill. Adm. Code 201.141, 201.144 and 215.204(j) of the Board's Rules and Regulations alleged in Count I and II of the Complaint.

#### PROPOSAL FOR SETTLEMENT

As a result of the settlement discussions between the parties and of actions taken or to be taken by Respondent, the parties believe the public interest will be best served by resolution of this enforcement action under the terms and conditions provided herein. This proposal for settlement is expressly conditioned upon and effective only with the approval thereof in all respects by the Board.

All statements contained herein are agreed to for the purposes of settling this action only and shall be null and void and of no effect for any other purpose. In the event that the Board does not approve this proposal for settlement in its entirety, such statements shall be null and void for all purposes whatsoever.

## TERMS AND SETTLEMENT

Rheem and the Agency have agreed to the following Terms of Settlement. These terms shall be in full settlement of the action filed herein by the Agency and Respondent's liability for all violations alleged in the Complaint.

1. Respondent agrees to cease and desist from any and all violations of the Illinois Environmental Protection Act and Rules and Regulations of the Illinois Pollution Control Board at its drum manufacturing operations located at 7600 South Kedzie Avenue, Chicago, Cook County, Illinois.

2. Respondent agrees to apply for an Agency permit and notify the Office of the Attorney General, Environmental Control Division in the event it decides to re-start its drum coating operation.

3. The Parties enter into this Stipulation and Proposal for Settlement and Respondent agrees to pay a penalty specified in this paragraph in order to avoid the substantial costs, inconveniences and uncertainties of further litigation. In order to resolve this dispute and as a condition of settlement, Respondent agrees to pay a penalty of Eleven Thousand Two Hundred and Fifty (\$11,250.00) Dollars to the "Environmental Protection Trust Fund" within 30 days from the date on which the Board adopts a final order approving, accepting and incorporating this Stipulation and Proposal for Settlement.

Payment shall be made by certified check or money order payable to the Environmental Protection Trust Fund and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 62706

The Agency deems the payment to be appropriate to aid in the enforcement of the Act under the circumstances of this case.

WHEREFORE, Complaint and Respondent jointly request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

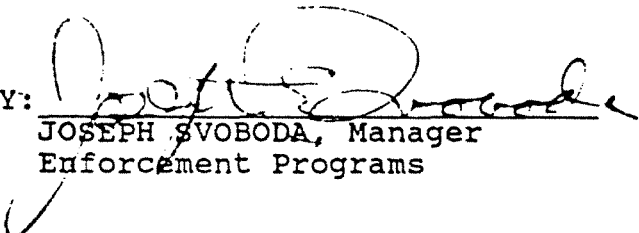
For Complainant:

For Respondent:

ILLINOIS ENVIRONMENTAL PROTECTION  
AGENCY

RHEEM MANUFACTURING COMPANY


BY:

  
JOSEPH SVOBODA, Manager  
Enforcement Programs

DATE:

8/2/88

gkst0n

  
July 29 1988



CERTIFICATE OF SERVICE

I, GERALD T. KARR, an attorney hereby certify that a true and accurate copy of the attached Notice of Filing, Complaint and Stipulation and Proposal for Settlement was served upon:

Clifton A. Lake  
ROOK, PITTS & POUST  
55 West Monroe Street  
Suite 1500  
Chicago, Illinois 60603

by placing same in an envelope and depositing in the the U.S. Mail, first-class postage pre-paid, from 100 West Randolph Street, Chicago, Illinois 60601 on this 11th day of August, 1988.

  
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GERALD T. KARR