

ILLINOIS POLLUTION CONTROL BOARD  
February 26, 1986

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 85-132  
 )  
GENERAL FIRE EXTINGUISHER )  
CORPORATION, a Delaware )  
Corporation doing business )  
in Illinois, )  
 )  
Respondent. )

MR. JOSEPH J. ANNUNZIO, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

KATZ, FRIEDMAN, SCHUR & EAGLE (MR. STANLEY EISENSTEIN, OF COUNSEL) APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W. J. Nega):

This matter comes before the Board on a single-count Complaint filed on August 30, 1985, as amended on September 25, 1985, by the Illinois Environmental Protection Agency (Agency) which alleged that the Respondent failed to: (1) show accumulation dates on its 55-gallon drums containing hazardous waste; (2) maintain records that show if employees are trained to work with hazardous wastes; (3) have an emergency contingency plan in case of an accident involving hazardous waste; (4) submit an emergency contingency plan to local emergency response organizations; and (5) seal 55-gallon drums containing hazardous waste so as to avoid spillage from the drums in violation of 35 Ill. Adm. Code 722.134(a)(2), 725.116, 725.151 and 725.153 and Section 21(i) of the Illinois Environmental Protection Act (Act).

A hearing was held on December 17, 1985, at which no members of the public were present. (R. 2). The parties also filed their Stipulation and Proposal for Settlement on December 17, 1985.

The Respondent, the General Fire Extinguisher Corporation (GFEC), is located at 1685 Shermer Road in Northbrook, Cook County, Illinois and is a corporation organized and existing under the laws of Delaware doing business in the State of Illinois. GFEC is in the business of manufacturing fire extinguishers which involves mixing various dry chemical powders and making the metal canisters that these dry chemical powders go into. Before the mixed dry chemicals are placed into the metal canisters, the inside of the canisters are thoroughly cleaned.

Various solvents are used to rid the inside of the canisters of contaminated grease or oil. Pertinently, 1,1,1-Trichloroethane, a hazardous waste as defined by Section 3 of the Act, is sometimes used as a chemical solvent to degrease the canisters. After the cleaning process is completed, these chemicals become waste which must be properly disposed of. (Stip. 2).

The hazardous nature of the solvent that the Respondent sometimes utilizes (i.e., 1,1,1-Trichloroethane) is delineated in 35 Ill. Adm. Code 721.131 which reads, in pertinent part, as follows:

SECTION 721.131 Hazardous Wastes From  
Nonspecific Sources

| Industry & EPA<br>Hazardous Waste<br>Number | Hazardous Waste       | Hazard Code |
|---|-----------------------|-------------|
| F002  | 1,1,1-Trichloroethane | (T)         |

The Federal Resource Conservation and Recovery Act (RCRA) mandates an inspection of all facilities which generate, store, or dispose of hazardous waste. The Agency, which is duly authorized to make such inspections, administers the enforcement functions vis-a-vis RCRA and concomitant state standards in Illinois. Accordingly, on March 25, 1984, June 14, 1984, and February 8, 1985, Agency investigators visited the Respondent's facilities to conduct site inspections as mandated by RCRA provisions. At the inspections on March 25, 1984 and June 14, 1984, the Agency investigator observed that: (1) the drums containing hazardous waste found at the site did not have accumulation dates placed on them; (2) the drums containing hazardous wastes had open bunges and spillage could be observed in the container accumulation area; (3) the company had no contingency plan formulated in case of an accident involving hazardous waste; and (4) there were no records that showed if the Respondent's employees were trained in working with hazardous waste. (Stip. 2-3). Moreover, the Agency inspection on February 8, 1985, showed that there were still no records to show if GFEC's employees were trained in working with hazardous waste and a contingency plan for hazardous waste accidents was not yet formed. Additionally, the February 8, 1985, investigation revealed that a drum containing hazardous waste found at the site failed to have the requisite accumulation dates on it. (Stip. 3).

In reference to these observed violations, 35 Ill. Adm. Code 722.134 (Standards Applicable to Generators of Hazardous Waste) provides, in relevant part, as follows:

- a) A generator may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status provided that:

- 1) The waste is placed in containers and the generator complies with Subpart I of 35 Ill. Adm Code 725....;
- 2) The date upon which each period of accumulation begins is clearly marked and visible for inspections on each container;
- 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and
- 4) The generator complies with the requirements for owners and operators in Subpart C and D in 35 Ill. Adm. Code 725 and with 35 Ill. Adm. Code 725.116.

Moreover, Section 21(i) of the Act provides, in pertinent part, that:

No person shall:

- i. Conduct any process or engage in any act which produces hazardous waste in violation of any regulations or standards adopted by the Board under subsections (a) and (c) of Section 22.4 of this Act.

The parties have stipulated that: (1) the Respondent's failure to show accumulation dates on its 55-gallon drums containing hazardous waste is a violation of the Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (Interim Status Standard) of 35 Ill. Adm. Code 722.134(a)(2) and Section 21(i) of the Act; (2) the Respondent's failure to seal its 55-gallon drums that contain hazardous waste so as to avoid spillage from the drums is in violation of the Interim Status Standard of 35 Ill. Adm. Code 725.273 and Section 21(i) of the Act; (3) the Respondent's failure to maintain records that show if employees are trained to work with hazardous waste is a violation of the Interim Status Standard of 35 Ill. Adm. Code 725.116 and of Section 21(i) of the Act; (4) the Respondent's failure to have an emergency contingency plan is a violation of the Interim Status Standard of 35 Ill. Adm. Code 725.151 and Section 21(i) of the Act; and (5) the Respondent's failure to submit an emergency contingency plan to local emergency response organizations is a violation of the Interim Status Standard of 35 Ill. Adm. Code 725.153 and Section 21(i) of the Act. (Stip. 3-4).

The Agency has emphasized that, at all pertinent times, the Respondent was "very close" to being a very small generator of hazardous waste as defined in 35 Ill. Adm. Code 721.105(a) which reads as follows:

Section 721.105 Special Requirements for  
Hazardous Waste Generated by  
Small Quantity Generators

- a) A generator is a small quantity generator in a calendar month if he generates less than 1000 kilograms of hazardous waste in that month. 35 Ill. Adm. Code 700 explains the relation of this to the 100 kg/mo exception of 35 Ill. Adm. Code 809.

Although the specific quantity of hazardous waste generated by the Respondent was not stated either in the stipulation itself or in the hearing record, it was implied in the hearing record (R. 4-5) by both parties' representatives that the amount of hazardous waste generated was, at the present time, below the 100 kilogram (220 pound) per month exception delineated in 35 Ill. Adm. Code 809.210 which reads as follows:

Section 809.210 General Exemption from  
Special Hauling Permit  
Requirements

Any person who generates a total quantity of special waste 220 pounds (100 kilograms) or less in any calendar month for disposal, storage or treatment within Illinois is exempt from the permit requirements of this Subpart and from the manifest provisions in Subpart E of this Part. This exemption shall not constitute a defense to a violation of any provision of the Act or any applicable disposal, storage or treatment requirement of 35 Ill. Adm. Code 807.

While the usage of the term "very close" is somewhat ambiguous in that it does not specifically indicate whether the amount of hazardous waste generated was under 100 kilograms per month or over 100 kilograms per month, the fact that the Respondent entered into the proposed settlement agreement and stipulated as to violations of applicable provisions and agreed to pay a penalty of \$5,500.00 indicates that the amount of hazardous waste generated was over the applicable limit. (Stip. 4; R. 4-5). Moreover, it is agreed that the instant case deals with past violations of applicable regulations and it is believed that the regulations no longer apply to GFEC as long as it infrequently uses 1,1,1-Trichloroethane and as long as it continues to be a small user of this product. (R. 4-6).

The proposed settlement agreement provided that the Respondent admitted the aforementioned violations and agreed to: (1) cease and desist from further violations; (2) authorize the Agency to inspect the Respondent's premises at any reasonable time; and (3) pay a stipulated penalty of \$5,500.00 into the Environmental Protection Trust Fund within 30 days of the date of the Board's Order. (Stip. 4-6).

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 settlement agreement acceptable under 35 Ill. Adm. Code 103.180. The Respondent's facility is suitable to the area in which it is located provided that hazardous waste is appropriately handled. GFEC's facility, which employs about 10 individuals and provides a needed service, clearly has a social and economic value when properly operated and when hazardous waste is properly stored. Additionally, it was technically practicable and economically reasonable to have complied with the relevant Interim Status Standards in the handling of hazardous waste. Appropriate handling and storage of hazardous waste is manifestly necessary to protect the health, general welfare, and physical property of people and can be readily accomplished by compliance with applicable standards.

On December 20, 1984 in R84-10, the Board adopted specialized procedures to be followed in RCRA cases. Although this is a RCRA enforcement action, the Board does not need to follow the specialized procedures of Section 103.260 et seq. in that there is no necessity to order the issuance or modification of a RCRA permit.

The Board finds that the Respondent, the General Fire Extinguisher Corporation, has violated 35 Ill. Adm. Code 722.134(a)(2), 725.116, 725.151, and 725.153 and Section 21(i) of the Act. The Respondent will be ordered to cease and desist from further violations and to pay a stipulated penalty of \$5,500.00 into the Environmental Protection Trust Fund.

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

#### ORDER

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

1. As admitted in the Stipulation, the Respondent, the General Fire Extinguisher Corporation, has violated 35 Ill. Adm. Code 722.134(a)(2), 725.116, 725.151, and 725.153 and Section 21(i) of the Illinois Environmental Protection Act.


2. The Respondent shall cease and desist from all further violations.
3. As per the stipulated agreement between the parties, the Agency is authorized to inspect the Respondent's premises, at any reasonable time to insure appropriate compliance with applicable regulations and the Act.
4. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the stipulated penalty of \$5,500.00 which is to be sent to:

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

5. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on December 17, 1985, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 26<sup>th</sup> day of February, 1986, by a vote of 7-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board