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STATE OF ILLINOIS  
Pollution Control Board  
WASHINGTON, D.C.

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30 COUNTRIES

July 19, 2002

VIA U.S. MAIL

*P.C.#1*

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601


**Re: *Proposed Site-Specific Air Pollution Regulations Applicable to Horween  
Leather Company of Chicago, Illinois  
R02-20 (Site-Specific Rulemaking – Air)***

Dear Ms. Gunn:

Enclosed please find an original and eleven copies of Post-Hearing Comments for the above-captioned case, which we request that you please file.

Also, please return file stamped copies to me in the self-addressed stamped envelope. Thank you very much.

Very truly yours,



Roy M. Harsch

RMH/dml  
Enclosures  
CH02/22198401.1

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JUL 22 2002

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**IN THE MATTER OF:**

**PROPOSED SITE-SPECIFIC  
AIR POLLUTION REGULATIONS  
APPLICABLE TO HORWEEN LEATHER  
COMPANY OF CHICAGO, ILLINOIS  
35 Ill. Adm. Code 211.6170**

**R02-20  
(Site-Specific Rulemaking - Air)**

**STATE OF ILLINOIS  
Pollution Control Board**

*P.C.#1*

**NOTICE OF FILING**

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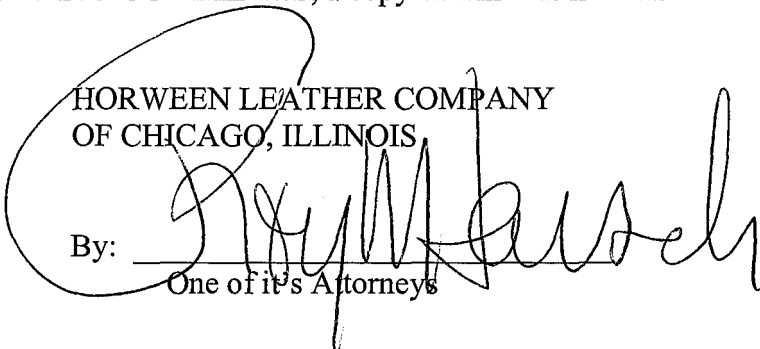
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**PLEASE TAKE NOTICE** that I have today filed with the Office of the Clerk of the Pollution Control Board the **POST-HEARING COMMENTS**, a copy of which is herewith served upon you.

HORWEEN LEATHER COMPANY  
OF CHICAGO, ILLINOIS

By:   
One of its Attorneys

Dated: July 19, 2002

GARDNER, CARTON & DOUGLAS  
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CLERK'S OFFICE

JUL 22 2002

STATE OF ILLINOIS  
*Pollution Control Board*

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
)  
PROPOSED SITE SPECIFIC ) R02-20  
AIR POLLUTION REGULATIONS ) (Site-Specific Rulemaking - Air)  
APPLICABLE TO HORWEEN )  
LEATHER COMPANY OF )  
CHICAGO, ILLINOIS )  
35 Ill. Adm. Code 218.112 and 218.929 )

**POST-HEARING COMMENTS**

Horween Leather Company ("Horween") hereby submits to the Illinois Pollution Control Board ("Board") these post-hearing comments following the June 26, 2002 Hearing pursuant to 35 Ill. Adm. Code Part 102, Subpart B and Sections 27 and 28 of the Illinois Environmental Protection Act, 415 ILCS 5/27-5/28 ("Act"). As stated in its original Petition and throughout the Hearing, Horween requests that the Board issue a site-specific rule from 35 Ill. Adm. Code 211.6170 and 218.926 to change the control requirements as applied to a small amount of new specialty leathers that Horween would like to produce that currently can not be produced in compliance with either the general leather or specialty leather coating rules. The requested rule change would allow Horween to continue to produce its existing specialty leathers pursuant to the existing regulations, and develop new specialty leather products in compliance with environmental law pursuant to these requested regulations. Horween hopes that the additional information provided in these comments allows the Board to grant the rule suggested by the Illinois Environmental Protection Agency ("IEPA"), as modified by Horween.

**Discussion**

Horween believes that the record presently before the Board supports the requested revision as posed in the draft rule submitted by IEPA as a pre-hearing Exhibit related to Gary

Beckstead's testimony. *See Hearing Transcript 49:9-49:13 and 59:9-59:16.* At Hearing, there were no new substantive issues raised.<sup>1</sup>

Accordingly, based on a thorough review of the record, there are only two outstanding issues that must be resolved by the Board prior to proceeding to First Notice in this matter. *Hearing Transcript 49:2-49:4.* First, the Board must determine whether to require Horween to install High Pressure Low Volume ("HPLV") Spray Equipment as a condition of the proposed rule. *Id.* Second, the Board must determine whether to require Horween to significantly expand its current recordkeeping requirements. *Id.* In addition to the two outstanding issues for the Board to decide, Horween would also like to clarify the Board's record regarding the delisting of Ethylene Glycol Butyl Ether ("EGBE") from the list of Hazardous Air Pollutants ("HAP").

**I. The Board Should Not Require Horween To Install HPLV Spray Equipment Because It is Not Reasonably Available Control Technology.**

Horween contends that the Board should not require Horween to install HVLP spray equipment to manufacture the newly proposed specialty leathers because the equipment is not Reasonably Available Control Technology ("RACT") as applied to its leather finishing operations. *See Hearing Transcript 128:20-130:13.* Section 172(c)(1) of the Clean Air Act, 42 USC 7502(c)(1), requires that State Implementation plans ("SIPs") for nonattainment areas provide for the implementation of reasonably available control measures ("RACM") including emission reductions obtained through the adoption of RACT. The United States Environmental Protection Agency ("U.S. EPA") has historically defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. *See 44 Fed. Reg.*

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<sup>1</sup> At hearing the Board raised the issue of the appropriateness of the existing heading in the requested relief. Following the Hearing, counsels for the parties conferred with the Hearing Officer and submitted a joint request on July 1, 2002 proposing an amendment to the heading. Based upon the parties understanding the heading issue will be dealt with when the Board proceeds to First Notice.

53762 (September 17, 1979). By regulation, the Illinois Pollution Control Board has adopted the U.S. EPA's historical definition of RACT. *See 35 IAC 211.5370.*

There are two criteria that must be satisfied to determine RACT: (1) technological feasibility and (2) economic feasibility. Unlike case-by-case determinations made by the U.S. EPA for Best Available Control Technology ("BACT") or the Lowest Achievable Emission Rate ("LAER") under the Clean Air Act's New Source Review Program, RACT determinations typically have been prescribed by State and local rules and regulations.

The determination of technological feasibility must focus on factors specific to the source and should not be an evaluation of the feasibility of control measures for the entire source category. The evaluation should be restricted to the particular processes to be controlled by a single technology application. Thus, the technological feasibility analysis should not be an attempt at technology-forcing for the industry, but an attempt to compare the most similar sources to identify RACT for the sources.

With regard to economic feasibility, a RACT determination should include the consideration of the cost of reducing emissions and the difference in costs between the particular source for which RACT is being determined and other similar sources that have implemented emission reductions. If necessary, a facility should include affordability in its analysis of economic feasibility.

It was this review that originally led the IEPA to agree with Horween and the Board to ultimately adopt the specialty leather subcategory in R93-14. *See Hearing Transcript 52:15-55:21.* Horween demonstrated that it was not technically feasible and/or economically reasonable to meet the general RACT leather coating limitation of 3.5 lbs. per gallon or install capture and control equipment at its Chicago plant. *Id.* This remains true today and just as applicable to the small quantity of new specialty leathers that Horween would hope to produce. U.S. EPA's most recent RACT determination is the approval of the Prime Tanning Company's RACT limitation in Maine. *65 Fed. Reg. 20749, 20751 (April 18, 2000).* The relief jointly proposed by Horween and the IEPA is based in substantial part on this RACT determination.

However, U.S. EPA's staff has reportedly tried to further limit this relief to the use of HVLP spray guns.

The IEPA's suggested use of HVLP spray equipment as RACT fails because the equipment is technologically and economically infeasible. To start, the "HVLP" nozzles recommended by the IEPA do not meet the current definition of HVLP in the Illinois Pollution Board Regulations. *See Hearing Transcript 63:2-64:16*. Next, even the HVLP manufacturer recommended by the IEPA lacks any understanding of the application or use of HVLP in the leather manufacturing industry. *See Hearing Transcript 134:18-135:9*. Finally, after extensive testing by Horween in response to IEPA and U.S. EPA's concerns, Horween determined that it could not make its proposed specialty leather products with the recommended HVLP spray nozzles. *See Hearing Transcript 21:20-25:13 and 40:5-40:12*.

Moreover, the IEPA admits that the requirement to install HVLP on a specialty leather coating line is technology-forcing, which is not RACT. *See Hearing Transcript 135:21-136:19*. In addition, although Prime Tanning Company may use HVLP spray nozzles on two of its lines at its facility in Maine, even IEPA agrees that Prime Tanning Company's operations are fundamentally different. *See Hearing Transcript 131:13-131:14*. Specifically, Prime Tanning Company produces upholstery leather predominantly for the automotive industry. *See Hearing Transcript 67:23-68:13*. Because the leather produced by Prime Tanning Company is not for high quality shoes like Horween's leather production, Prime Tanning Company's products and operations are fundamentally different. *See Hearing Transcript 38:19-38:20 (HVLP spray guns are generally used for garment and upholstery leathers, not shoe leather)*. As stated above, technological feasibility should be determined by comparing the most similar sources to identify RACT. Consequently, although these sources both make leather products, the type of products manufactured and the processes used to manufacture those products are significantly different. Therefore, the use of HVLP spray nozzles at Prime Tanning Company does not define RACT for Horween.

With regard to economic feasibility, Horween's direct testimony clearly shows that requiring Horween to install HVLP spray guns would require Horween to significantly redesign its facility. *Hearing Transcript 22:16-22:20 and 25:3-25:13*. Furthermore, the redesign of the facility to install untested technology, even if only for only one year as proposed by the IEPA, would be entirely cost prohibitive and does not make any economic sense. *Id.* In fact, the necessary facility changes may defeat the entire purpose of manufacturing the new products if Horween cannot find a market for those products. Finally, the use of HVLP spray nozzles may not even result in VOM emission reductions. *Hearing Transcript 23:12-23:13*.

Therefore, based on the foregoing, Horween requests that the Board adopt the final Site Specific Rule by deleting Section 218.929(c)(4) from IEPA's proposed rule to exclude the requirement to install HVLP spray guns because it is not RACT.

**II. The Board Should Not Require Increased Recordkeeping Requirements For The Limited Production of Additional Specialty Leathers Because Current Recordkeeping Requirements Are Adequate.**

The Board should not require Horween to substantially increase its recordkeeping requirements for the increased manufacturing of a small amount of new specialty leathers because the current recordkeeping requirements are adequate. As both Horween and the IEPA have testified, the IEPA and the U.S. EPA have previously approved Horween's current recordkeeping system to demonstrate compliance with VOM and HAP emission limitations. *Hearing Transcript 33:15-37:22 and 60:21-61:1*. In fact, the U.S. EPA has recently affirmed that Horween's current recordkeeping system will also meet the new Leather Coating NESHAP standard's recordkeeping requirements. *Hearing Transcript 37:4-37:13*.

Furthermore, Horween understands that IEPA's request for batch by batch recordkeeping derives from the U.S. EPA's concern that it's field inspectors will not be able "to verify and confirm or deny Horween's monthly [emission] estimates." *Hearing Transcript 60:9-61:11*. However, as explained during the Hearing, U.S. EPA's concern is illegitimate based on the

limited number of VOM compounds at issue and the maximum actual emissions from those compounds per year. *Hearing Transcript 73:8-73:17 and 79:20 -80:8*. Specifically, there are only two compounds that are used on multiple types of leathers manufactured at the facility. *Id.* These compounds were identified as Ucosolar dyes and Unithane 9107. *Id.* Although it is true that these compounds have uses that could have a minor impact on recordkeeping exactitude, these two compounds' maximum annual emissions are less than 4 tons per year. *Id.* Thus, establishing an extensive recordkeeping program for such a small amount of emissions is unnecessary and unjustified.

Furthermore, hiring an additional employee solely to keep records, as suggested by the Board, should not be accepted as a potential solution. *Hearing Transcript 127:22-127:24*. First, as discussed above, the level of emissions that concern IEPA and U.S. EPA are minimal. *Hearing Transcript 73:8-73:17 and 79:20 -80:8*. Second, as described during the Hearing, Horween does not know whether or not the proposed leathers still have a significant market based on the two year delay Horween has had to wait for approval to manufacture these leathers. *See Hearing Transcript 124:19-125:15*. Thus, any profit margin will be tight and any additional overhead may negate any economic reason to move forward with manufacturing the proposed products.

Therefore, based on the foregoing, Horween requests that the Board adopt the final Site Specific Rule by excluding the words "by batch" in Section 218.929(d)(1) of IEPA's proposed rule.

### **III. Delisting of EGBE.**

Horween would like to take this opportunity to clarify direct some testimony offered by Mr. Roy Harsch regarding the petition to U.S. EPA to delist EGBE. *Hearing Transcript at 119:12- 119:18*. In his testimony, Mr. Harsch stated that the Can Coaters' representative submitted a petition to the U.S. EPA to delist EGBE as a hazardous substance. *Id.* The organization that actually submitted the petition was the Chemical Manufacturers Association



("CMA"). 64 Fed. Reg. 42125 (August 3, 1999). CMA originally submitted the petition on August 29, 1997, but the petition was not published in the Federal Register until August 3, 1999. *Id.* This Federal Register notice identifies the extensive studies submitted by CMA to the U.S. EPA to support its petition to delist EGBE. *Id. at 42127.* However, to Horween's knowledge, the U.S. EPA has not yet taken any action on this petition.

### **Conclusion and Prayer for Relief**

In conclusion, Horween believes that there were no substantive issues raised at hearing apart from the two issues separating IEPA and Horween that are discussed above. Specifically, those issues are the use of HVLP spray guns and recordkeeping on a batch basis.

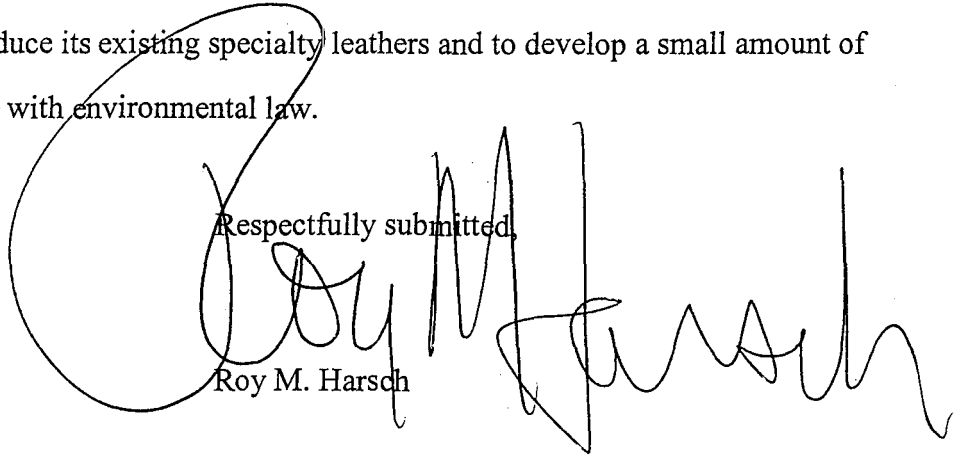
Horween understands that these remaining areas of conflict discussed in this post-hearing submission derive from the IEPA's attempt to encourage U.S. EPA's quick approval of this Site Specific Rule as a non-controversial SIP change. *Hearing Transcript 48:14-49:8.* We thank the IEPA for their intention because it is very important that Horween be granted the relief it has sought for over two years. However, as stated during the Hearing and supported in this post-hearing submission, Horween's requested relief is supported by federal and state laws and policies. Therefore, although an individual U.S. EPA engineer may personally disagree with the Site Specific Rule as proposed, there is no legal basis for the U.S. EPA to reject approval of the Site Specific Rule as proposed by Horween as a non-controversial SIP change.

WHEREFORE, Horween requests the Board grant a site-specific rule from compliance with 35 Ill. Adm. Code 211.6170 and 218.926 and add a new rule 218.929 as submitted by the IEPA and modified by Horween in this post-hearing submission. More specifically, Horween requests that the Board change the heading as agreed upon and sought in the joint request. Next, Horween requests that the Board proceed to a First Notice proposal on the proposed rule submitted by the IEPA as a pre-hearing Exhibit, with the deletion of the bolded language concerning HVLP spray nozzles and "by batch" recordkeeping. *See Hearing Transcript 49:9-49:13 and 59:9-59:16.* A Board decision consistent with this prayer for relief will allow

Horween to continue to produce its existing specialty leathers and to develop a small amount of new products in compliance with environmental law.

Respectfully submitted,

Roy M. Harsch

A large, handwritten signature in black ink, appearing to read "Roy M. Harsch". The signature is written in a cursive style with a large initial "R" and "H".

CH02/22198243.2

**CERTIFICATE OF SERVICE**

It is hereby certified that true copies of the foregoing **POST-HEARING COMMENTS**, were mailed, first class to each of the following on July 19, 2002:

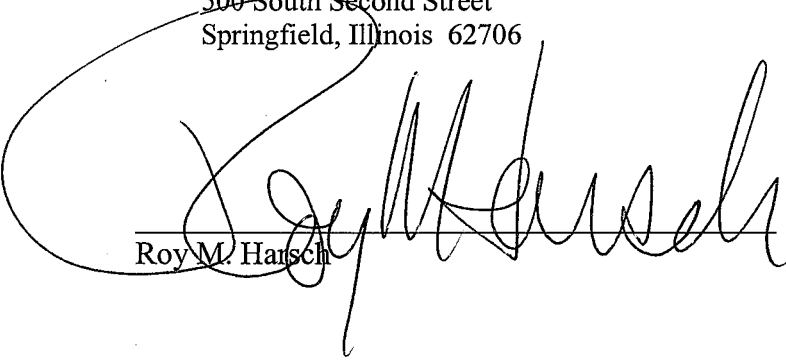
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Roy M. Haisch

CH02/22198397.1