

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME ROAUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No.
	)	(Enforcement – _____)
SWENSON SPREADER, LLC,	)	
an Ohio limited liability company	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Persons on Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Complaint, a true and correct copy of which is attached hereto and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
KWAME ROAUL, Attorney General of the  
State of Illinois

By: /s/ Ellen F. O'Laughlin  
Ellen F. O'Laughlin  
Senior Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(312) 814-3094  
Ellen.olaughlin@ilag.gov

Date: May 5, 2022

**Service List**

Charles F. Helsten  
Hinshaw & Culbertson LLP  
100 Park Avenue, P.O. Box 1389, Rockford, IL 61101  
[chelsten@hinshawlaw.com](mailto:chelsten@hinshawlaw.com)

**CERTIFICATE OF SERVICE**

I, Ellen F. O’Laughlin, a Senior Assistant Attorney General, certify that on the 5<sup>th</sup> day of May, 2022, I caused to be served the foregoing Notice of Filing and Complaint on the party named on the attached Service List, by depositing the same in envelope with United States Postal Service at 100 W. Randolph, Chicago, Illinois 60601 by certified mail with return receipt and via electronic service.

/s/ Ellen F. O’Laughlin  
Ellen F. O’Laughlin  
Senior Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General’s Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-3094  
Ellen.olaughlin@ilag.gov



4. At all times relevant to the Complaint, Respondent has been and remains the operator of a snow and ice control equipment manufacturing facility located at 127 Walnut Street, Lindenwood, Ogle County, Illinois ("Facility").

5. At the Facility, Respondent manufactures truck mounted salt/liquid calcium chloride spreaders for ice and snow control by cutting, punching, and welding dimensional steel and then painting the assembled product using a powder coating booth with a curing oven or in a manual spray paint booth.

6. At the Facility, Respondent operates wet coating operations, powder coating operations, surface cleaning operations, a natural gas fired air make-up heater, a 1.56 million British thermal units per hour ("Btu/hour") natural gas fired boiler, and natural gas fired heaters.

7. Respondent's operations at the Facility emit or are capable of emitting volatile organic material ("VOM"), including xylene and ethyl benzene, nitrogen oxides, particulate matter, sulfur dioxide, and carbon monoxide into the environment.

8. On December 31, 2015, Illinois EPA issued Federally Enforceable State Operating Permit ("FESOP") No. 96030190 to Respondent for operations at the Facility. FESOP No. 96030190 authorized, among other things, the operation of the wet coating operations and powder coating operations referred to in paragraph 6.

9. On January 7, 2016 and May 30, 2019, Illinois EPA inspected the Facility ("January 2016 Inspection" and "May 2019 Inspection").

10. During the January 2016 Inspection, Respondent informed Illinois EPA that it had previously replaced a water wash down curtain draft scrubber permitted by FESOP No. 96030190 with a dry filtration system.

11. In early 2004, or on a date better known to Respondent, Respondent began operating the dry filtration system.

12. Respondent installed the dry filtration system without first obtaining a construction permit from Illinois EPA.

13. As of the date of filing this Complaint, Respondent continues to operate the dry filtration system at the Facility.

14. The dry filtration system is used to control particulate matter emissions on the wet coating operations.

15. Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), provides as follows:

No person shall:

\* \* \*

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

16. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

17. Respondent, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

18. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

19. VOM, including xylene and ethyl benzene, nitrogen oxides, particulate matter, sulfur dioxide, and carbon monoxide are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

20. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

21. The dry filtration system is designed to prevent “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), because it eliminates, prevents, reduces, or controls the emission of contaminants to the atmosphere.

22. Section 201.142 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146 or Section 201.170(b) of this Part.

23. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides the following definitions:

“Air Contaminant”: Any solid, liquid or gaseous matter, any odor or any form of energy that is capable of being released into the atmosphere from an emission source.

“Air Pollution Control Equipment”: any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere.

“Construction”: Commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

“New Air Pollution Control Equipment”: any air pollution control equipment, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: Any air contaminant as to which this Subtitle contains emissions standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

24. The installation of the dry filtration system at the Facility in early 2004 constitutes “construction” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

25. Particulate matter is capable of being released into the atmosphere from an emission source, and is therefore an “air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

26. Subtitle B (Air Pollution), of Title 35 (Environmental Protection) of the Illinois Code of Administrative Regulations contains specific limits on particulate matter, and therefore particulate matter is a “specified air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

27. The dry filtration system is capable of controlling the emission of particulate matter, a “specified air contaminant,” into the atmosphere, and is therefore “air pollution control equipment” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

28. The dry filtration system was constructed at the Facility after April 14, 1972, and therefore constitutes “new air pollution control equipment” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

29. By commencing construction of the dry filtration system at the Facility without obtaining a construction permit issued by the Illinois EPA, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, SWENSON SPREADER, LLC, an Ohio limited liability company, with respect to Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein.

2. Finding that Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

6. Granting other such relief as the Board deems appropriate and just.

**COUNT II**  
**OPERATING AN EMISSION SOURCE WITHOUT THE REQUISITE PERMIT**

1-28. Complainant realleges and incorporates by reference paragraphs 1 through 28 of Count I as paragraphs 1 through 28 of this Count II.

29. The operation of the dry filtration system was not authorized by FESOP No. 96030190 issued to Respondent on December 31, 2015.

30. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit.

31. Respondent was required to obtain a construction permit for the dry filtration system pursuant to Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and was therefore required to obtain an operating permit from Illinois EPA for the dry filtration system pursuant to Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

32. On June 16, 2020, Illinois EPA issued to Respondent Revised FESOP No. 96030190, which authorized the operation of the dry filtration system.

33. From at least 2004, or on a date better known to Respondent, to June 16, 2020, Respondent operated the dry filtration system without the requisite operating permit.

34. By operating the dry filtration system without the requisite operating permit, Respondent violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, SWENSON SPREADER, LLC, an Ohio limited liability company, with respect to Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and
6. Granting other such relief as the Board deems appropriate and just.

**COUNT III**  
**FESOP PERMIT VIOLATIONS**

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 and 13 through 20 of Count I, as paragraphs 1 through 19 of this Count III.

20. The wet coating operations at the Facility are capable of causing or contributing to “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), because they emit, or are capable of emitting, VOM and particulate matter into the atmosphere.

21. Condition 8(a)(ii) of FESOP No. 96030190 provides as follows:

Emissions from and operation of the wet coating operation at the source shall not exceed the following limits:

. . .

ii. Material Properties

<u>Material</u>	<u>Solids Content (% by Wt)</u>	<u>VOM Content (Lbs/Gal)</u>	<u>Single Hap Content (% by Wt)</u>	<u>Combined HAP Content (% by Wt)</u>
Solvents	--	6.84	45	70
Wet Coatings	74.3	6.00	37	45

22. During the May 2019 Inspection, the Illinois EPA inspector reviewed Respondent's records for calendar years 2017 and 2018.

23. A review of Respondent's records during the May 2019 Inspection disclosed that Respondent had been using a wet coating, LF-63325-P APB Primer, that exceeded the solids content limit of 74.3% by weight.

24. From 2017 through at least 2018, or a date better known to Respondent, Respondent used a wet coating that exceeded the solids content limit of 74.3% by weight.

25. By using a coating which exceeded the solids content limit of 74.3% by weight, Respondent violated Condition 8(a)(ii) of FESOP No. 96030190.

26. A review of Respondent's records during the May 2019 Inspection disclosed that Respondent had been using a wet coating, 428-M Black Primer, that exceeded the single hazardous air pollutant ("HAP"), xylene, content limit of 37% by weight, as well as the combined HAP, xylene and ethyl benzene, content limit of 45% by weight.

27. From 2017 through at least 2018, or a date better known to Respondent, Respondent used a wet coating that exceeded the single HAP content limit of 37% by weight, as well as the combined HAP content limit of 45% by weight.

28. By using a wet coating that exceeded the single HAP content of 37% and the combined HAP content limit of 45%, Respondent violated Condition 8(a)(ii) of FESOP No. 96030190.

29. Condition 14(a)(iii) of FESOP No. 96030190 provides as follows:

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

...

iii. The usage of each individual coating and solvent (gallons/month and gallons/year);

30. A review of Respondent's records during the May 2019 Inspection disclosed that Respondent's records failed to include tabulations of monthly or yearly usage by gallon of each individual wet coating and solvent.

31. From 2017 through at least 2018, or a date better known to Respondent, Respondent failed to maintain records of monthly or yearly usage by gallon of each individual wet coating and solvent as required by Condition 14(a)(iii) of FESOP No. 96030190.

32. By failing to maintain records of monthly or yearly usage by gallon of each individual wet coating and solvent as required by Condition 14(a)(iii) of FESOP No. 96030190, Respondent violated Condition 14(a)(iii) of FESOP No. 96030190.

33. Condition 14(a)(vi) of FESOP No. 96030190 provides, in relevant part, as follows:

The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

...

vi. The monthly and annual emissions of CO, NO<sub>x</sub>, PM, SO<sub>2</sub>, VOM and HAPs from the source, with supporting calculations (tons/month and tons/year).

34. During the May 2019 Inspection, Respondent failed to produce records of its monthly and annual emissions of single HAP and combined HAPs for 2017 and 2018.

35. From 2017 through at least 2018, or a date better known to Respondent, Respondent failed to maintain records of its monthly and annual emissions of single HAP and combined HAPs.

36. By failing to maintain records of its monthly and annual emissions of single HAP and combined HAPs, Respondent violated Condition 14(a)(vi) of FESOP No. 96030190.

37. Condition 8(d) of FESOP No. 96030190 provides as follows:

Compliance with annual limits shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 months total).

38. During the May 2019 Inspection, Respondent failed to produce records of its emissions of single HAP and combined HAPs to demonstrate compliance with annual limits determined monthly, using a running 12-month total, for 2017 and 2018.

39. From 2017 through at least 2018, or a date better known to Respondent, Respondent failed to maintain records of its emissions of single HAP and combined HAPs to demonstrate compliance with annual limits determined monthly, using a running 12-month total.

40. By failing to maintain records of its emissions of single HAP and combined HAPs to demonstrate compliance with annual limits determined monthly, using a running 12-month total, Respondent violated Condition 8(d) of FESOP No. 96030190.

41. Condition 16(a) of FESOP No. 96030190 provides as follows:

If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

42. From 2017 through at least 2018, or a date better known to Respondent, Respondent failed to submit deviation reports to the Illinois EPA for deviations from the requirements of FESOP No. 96030190 as alleged in paragraphs 21 through 40 of this Count III.

43. By failing to submit deviation reports, Respondent violated Condition 16(a) of FESOP No. 96030190.

44. By violating Conditions 8(a)(ii), 14(a)(iii), 14(a)(vi), 8(d), and 16(a) of FESOP No. 96030190, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, SWENSON SPREADER, LLC, an Ohio limited liability company, with respect to Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Conditions 8(a)(ii), 14(a)(iii), 14(a)(vi), 8(d), and 16(a) of FESOP No. 96030190;

3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Conditions 8(a)(ii), 14(a)(iii), 14(a)(vi), 8(d), and 16(a) of FESOP No. 96030190;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and condition of FESOP No. 96030190, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

6. Granting other such relief as the Board deems appropriate and just.

**COUNT IV**  
**FAILURE TO SUBMIT REQUIRED NOTIFICATIONS AND CERTIFICATION**

1-14. Respondent realleges and incorporates herein by reference paragraphs 1 through 9 and 16 through 19 of Count I, and paragraph 20 of Count III, as paragraphs 1 through 14 of this Count IV.

15. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020), provides as follows:

No person shall:

- (1) violate any provisions of Sections 111, 112, 165, or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto;

16. Section 112(d)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7412(d)(1), provides, in pertinent part, as follows:

The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation.

17. Pursuant to Section 112(d)(1) of the CAA, 42 U.S.C. § 7412(d)(1), the United States Environmental Protection Agency (“USEPA”) promulgated National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, which are found in Chapter 40, Part 63 of the Code of Federal Regulation, 40 C.F.R. Part 63.

18. The provisions of NESHAP are enforceable by the Illinois EPA pursuant to Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020).

19. General provisions of NESHAP are found in Title 40, Chapter I, Subchapter C, Part 63, Subpart A of NESHAP for Source Categories, 40 C.F.R. § 63.1 *et seq.*, and codify the general rules and regulations pertaining to national emission standards.

20. Section 63.2 of Subpart A of the NESHAP, 40 C.F.R. § 63.2, provides the following definitions:

*Owner or operator* means any person who owns, leases, operates, controls, or supervises a stationary source.

*Hazardous air pollutant* means any air pollutant listed in or pursuant to section 112(b) of the Act

*Stationary source* means any building, structure, facility, or installation which emits or may emit any air pollutant.

21. Respondent emits xylene and ethyl benzene and each is an air pollutant listed in Section 112(b)(1) of the Clean Air Act, 42 U.S.C. § 7412(b)(1), and each is therefore a HAP as that term is defined in Section 63.2 of Subpart A of the NESHAP, 40 C.F.R. § 63.2.

22. The Facility emits HAPs and is therefore a stationary source as that term is defined in Section 63.2 of Subpart A of the NESHAP, 40 C.F.R. § 63.2.

23. Respondent is the owner and operator of a stationary source subject to Part 63 of NESHAP, 40 C.F.R. Part 63.

24. On June 13, 2008, USEPA promulgated NESHAP for the Nine Metal Fabrication and Finishing Source Category that became effective on July 23, 2008 and are found at Title 40, Chapter I, Subchapter C, Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, 40 C.F.R. § 63.11514 *et seq.*

25. Section 63.11514(a) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11514(a), provides, in pertinent part, as follows:

(a) You are subject to this subpart if you own or operate an area source that is primarily engaged in the operations in one of the nine source categories listed in paragraphs (a)(1) through (9) of this section.

...

(2) Fabricated Metal Products;

...

26. Respondent's Facility is engaged in the operations of Fabricated Metal Products, making the Facility subject to Subpart XXXXX of the NESHAP, 40 C.F.R. § 63.11514 *et seq.*

27. Section 63.11519(a)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(1), provides, in pertinent part, as follows:

*(a) What notifications must I submit?—*

(1) Initial notification. If you are the owner or operator of an area source in one of the nine metal fabrication and finishing source categories, as defined in §63.11514 "Am I subject to this subpart?," you must submit the Initial Notification required by §63.9(b) "General Provisions," for a new affected source no later than 120 days after initial startup or November 20, 2008, whichever is later. For an existing affected source, you must submit the Initial Notification no later than July 25, 2011. Your Initial Notification must provide the information specified in paragraphs (a)(1)(i) through (iv) of this section.

28. Respondent's Facility is an existing affected source because it met the applicability criteria contained in Section 63.11514(a) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11514(a), on July 23, 2008.

29. On September 26, 2019, Respondent submitted the Initial Notification to Illinois EPA.

30. Respondent failed to submit to Illinois EPA the Initial Notification on or before July 25, 2011, as required by Section 63.11519(a)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(1).

31. By failing to submit the Initial Notification on or before July 25, 2011, Respondent violated Section 63.11519(a)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(1), and Respondent thereby violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2020).

32. Section 63.11519(a)(2) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(2), provides, in pertinent part, as follows:

*Notification of compliance status.* If you are the owner or operator of an existing affected source, you must submit a notification of compliance status on or before November 22, 2011. If you are the owner or operator of a new affected source, you must submit a notification of compliance status within 120 days after initial startup, or by November 20, 2008, whichever is later.

33. On September 26, 2019, Respondent submitted the notification of compliance status to Illinois EPA.

34. Respondent failed to submit the notification of compliance status to Illinois EPA on or before November 22, 2011, as required by Section 63.11519(a)(2) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(2).

35. By failing to submit the notification of compliance status to Illinois EPA on or before November 22, 2011, Respondent violated Section 63.11519(a)(2) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(a)(2), and Respondent thereby violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2020).

36. Section 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(b)(1), provides, in pertinent part, as follows:

(b) *What reports must I prepare or submit?—(1) Annual certification and compliance reports.* You must prepare and submit annual certification and compliance reports for each affected source according to the requirements of paragraphs (b)(2) through (7) of this section. The annual certification and compliance reporting requirements may be satisfied by reports required under other parts of the CAA, as specified in paragraph (b)(3) of this section.

37. For the calendar years 2012, 2013, 2015, 2016, and 2017, Respondent failed to submit to Illinois EPA the annual certification and compliance report required by Section 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(b)(1).

38. On September 26, 2019, Respondent submitted the annual certification and compliance reports to Illinois EPA for calendar years 2012, 2013, 2015, 2016, and 2017.

39. By failing to timely submit the annual certification and compliance report required by Section 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(b)(1), for calendar years 2012, 2013, 2015, 2016, and 2017, Respondent violated Section 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. § 63.11519(b)(1), and Respondent thereby violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, SWENSON SPREADER, LLC, an Ohio limited liability company, with respect to Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020), and Sections 63.11519(a)(1), 63.11519(a)(2), and 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. §§ 63.11519(a)(1), 63.11519(a)(2), and 63.11519(b)(1);

3. Ordering Respondent to cease and desist from any future violations of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020), and Sections 63.11519(a)(1), 63.11519(a)(2), and 63.11519(b)(1) of Subpart XXXXXX of the NESHAP, 40 C.F.R. §§ 63.11519(a)(1), 63.11519(a)(2), and 63.11519(b)(1);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
by KWAME RAOUL, Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: /s/ Stephen Sylvester  
STEPHEN SYLVESTER, Chief  
Environmental Bureau

Of Counsel:

Ellen O'Laughlin  
Audrey Avila  
Assistant Attorneys General  
Environmental Bureau  
69 West Washington Street, 18th Floor  
Chicago, Illinois 60602  
(773) 590-7837  
Primary: [ellen.olaughlin@ilag.gov](mailto:ellen.olaughlin@ilag.gov)  
Secondary: [Audrey.avila@ilag.gov](mailto:Audrey.avila@ilag.gov)  
Secondary: [maria.cacaccio@ilag.gov](mailto:maria.cacaccio@ilag.gov)