

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)	
by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	No.
v.)	
)	
APOLLO PLASTICS CORPORATION,)	
an Indiana corporation)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that today, May 12, 2009, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that 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.

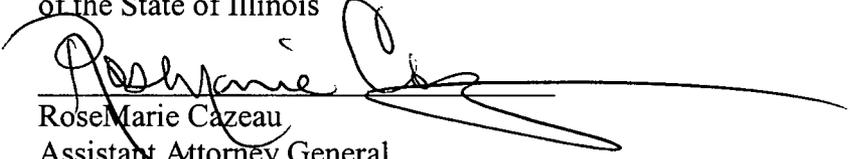
NOTIFICATION

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 pollution.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:



Rose Marie Cazeau
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-3094

Date: May 12, 2009

SERVICE LIST

Apollo Plastics Corporation
c/o Marilyn Jo Ripka
Registered Agent
5333 N. Elston Avenue
Chicago, Illinois 60630

Harvey M. Sheldon
Hindshaw & Culbertson LLP
222 North LaSalle Street
Suite 300
Chicago, Illinois 60601

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
ex rel. **LISA MADIGAN, Attorney**)
General of the State of Illinois,)
)
Complainant,)
)
vs.)
)
APOLLO PLASTICS CORPORATION,)
an Indiana corporation,)
)
Respondent.)

No.

COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, APOLLO PLASTICS CORPORATION, as follows:

COUNT I
FAILURE TO OBTAIN REQUISITE PERMITS BEFORE
CONSTRUCTION OF EMISSION UNIT

1. This Complaint is brought on behalf of the People ("Complainant") by the Attorney General on her own motion and upon the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4, and charged, *inter alia*, with the duty of enforcing the Act. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31.

3. At all times relevant to this Complaint, APOLLO PLASTICS

CORPORATION ("Apollo") was and is an Indiana corporation registered to do business in Illinois.

4. At all times relevant to this Complaint, Apollo has operated a facility located at 5333 North Elston Ave, Chicago, Cook County, Illinois 60630 ("Facility").

5. Apollo is a manufacturer of automobile dashboard components.

6. Current emission units at the Facility include two manual paint booths, three coating lines, one of which is controlled by a regenerative thermal oxidizer (RTO), twelve pad printers, twenty-six injection molding machines, and one parts washer.

7. The coatings utilized by Apollo in its manufacturing have volatile organic materials content greater than 3.2 lbs/gal for the color coating and 3.5 lbs/gal for the primer.

8. Apollo's operation of the Facility is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board Air Pollution Regulations"), and the Illinois EPA rules and regulations for air pollution are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois EPA Air Pollution Regulations").

9. Section 3.315 of the Act, 415 ILCS 5/3.315, 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.

10. As a registered business in Illinois, APOLLO PLASTICS CORP is a "person" under Section 3.315 of the Act, 415 ILCS 5/3.315.

11. Section 211.7150 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.7150, provides the following definition:

"VOLATILE ORGANIC MATERIAL (VOM)" or volatile organic compound means any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photo-chemical reactions.

12. Section 3.06 of the Act, 415 ILCS 5/3.06, contains the following definition:

"CONTAMINANT" is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

13. Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.102, contains the following definitions:

"EMISSION SOURCE": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"EXISTING EMISSION SOURCE": any emission source, the construction or modification of which has commenced prior to April 14, 1972.

"NEW EMISSION SOURCE": any emission source, 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 emission standards or other specific limitations.

14. VOM 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.

15. Because the Facility's emission units emit, or are capable of emitting

VOM, a specified air contaminant, they are emission sources as that term is defined in Section 201.102 of the Board Air Pollution Regulations 35 Ill. Adm. Code 201.102.

16. Section 9(b) of the Act, 415 ILCS 5/9(b):

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, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

17. 35 Ill. Adm. Code 201.142 provides as follows:

Construction Permit Required

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 Sections 201.146 or Section 201.170(b) of this Part.

18. Beginning in 2002, on dates best known to Apollo, Apollo constructed two pad printers and two injection molding machines at its facility. In 2004, on dates best known to Apollo, Apollo installed new spray guns at the Facility.

19. Apollo did not apply for or receive a construction permit from the Illinois EPA for its spray gun.

20. Apollo did not apply for or receive any construction permits from the Illinois EPA for its pad printers or its injection molding machines.

21. Apollo, by its conduct as alleged herein, violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142 and thereby Section 9(b) of the Act, 415 ILCS 5/9(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated 35 Ill. Adm. Code 201.142 and, thereby, Section 9(b) of the Act, 415 ILCS 5/9(b);
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT II
FAILURE TO OBTAIN REQUISITE PERMITS BEFORE
CONSTRUCTION OF EMISSION UNIT

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. 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 any 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.

20. Apollo did not apply for or receive an operating permit from the Illinois EPA for its spray guns.

21. Apollo did not apply for or receive any operation permits from the Illinois EPA for its pad printers or its injection molding machines.

22. Apollo, by its conduct as alleged herein, violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143 and, thereby, Section 9(b) of the Act, 415 ILCS 5/9(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count II:

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

2. Finding that the Respondent has violated 35 Ill. Adm. Code 201.143 and, thereby, Section 9(b) of the Act, 415 ILCS 5/9(b);

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

4. Taxing all costs in this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) including attorney, expert witness and consultant fees, against the Respondent; and

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

COUNT III
FAILURE TO OBTAIN A CLEAN AIR ACT PERMIT PROGRAM
PERMIT

1-12. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count III.

13. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b), provides as follows:

Prohibition

After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

14. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

“CAAPP permit” or “permit” (unless the context suggests otherwise) means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping.

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

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant

“Regulated Air Pollutant” means the following:

(1) Nitrogen oxides (NOx) or any volatile organic compound. . . .

15. Apollo's two manual paint booths, three coating lines, twelve pad printers, twenty-six injection molding machines, and one parts washer herein emit, or may emit VOM.

16. Apollo's Facility is a "stationary source" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1).

17. Apollo operates a stationary source and is an "owner or operator" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1).

18. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2), provides in pertinent part, as follows:

2. Applicability

a. Sources subject to this Section shall include:

1. Any major source as defined in paragraph (c) of this subsection.

* * * *

c. For purposes of this Section the term "major source" means any source that is:

* * * *

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or . . . to emit 25 tons or more per year in areas classified as "severe". . . .

19. Section 270.107 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 270.107(2008), provides as follows:

Applicability

This Part applies to the owner or operator of any source required to have an operating permit pursuant to Section 39.5 of the Act.

20. In 2001, when Apollo purchased the Facility, Apollo's Facility was located in a non-attainment area for ozone classified as severe.

21. Apollo's Facility is a "major stationary source" as that term is defined in Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(2)(c)(iii)(A). Therefore, Apollo is subject to the provisions of Section 39.5 of the Act, 415 ILCS 5/39.5, and applicable regulations.

22. Section 270.103 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 270.103, provides in pertinent part as follows:

Existing CAAPP Source

"Existing CAAPP source" means a CAAPP source that commenced operation prior to the effective date of the CAAPP.

23. Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x), provides as follows:

Applications and Completeness

x. The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with this subsection within 12 months after commencing operation of such source. The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or subsection 3(c) of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

24. From at least some time in January 2001, when Apollo purchased the Facility, the exact date which is better known to Apollo, until September 29, 2006, Apollo operated the Facility without having submitted the requisite CAAPP Permit

Application to the Illinois EPA.

25. From at least January 2001, when Apollo purchased the Facility, the exact date best known to Apollo, and continuing to the present, the Apollo has and continues to operate a CAAPP source without the requisite permit.

26. Apollo, by its conduct as alleged herein, violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count III:

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

2. Finding that the Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b);

3. Assessing against the 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;

4. Taxing all costs in this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees, against the Respondent; and

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

COUNT IV

FAILURE TO COMPLY WITH THE ILLINOIS POLLUTION CONTROL BOARD'S REGULATION FOR PLASTIC PARTS COATING

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count IV.

15. Section 9(a) of the Act, 415 ILCS 5/9(a), states:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

16. Section 218.204(n)(1) of the Board's Air Pollution Regulations, 35 Ill.

Adm. Code 218.204(n)(1), provides as follows:

Except as provided in section 218.205, 218.207, 218.208, 218.212, 218.215, and 218.216 of this subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emissions limitations for the specified coating...

(n) Plastic Parts Coating: Automotive/Transportation

(1) Interiors

(B) Air Dried

	Kg/l	lb/gal
(i) Color Coat	0.38	3.2
(ii) Primer	0.42	3.5

17. Beginning in at least January 2001, and continuing until December 2007, Apollo utilized coatings with a VOM content greater than 3.2 lbs/gal for color coat and 3.5 lbs/gal for primer.

18. By utilizing coatings with a VOM content greater than 3.2 lbs/gal for color coat and 3.5 lbs/gal for primer, Apollo violated Section 9(a) of the Act, 415 ILCS 5/9(a), and Section 218.204(n)(1) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(n)(1).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count IV:

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

2. Finding that the Respondent has violated Section 218.204(n)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.204(n)(1), and Section 9(a) of the Act, 415 ILCS 5/9(a);

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

3. Taxing against the Respondent, all costs in this action, including attorney, expert witness and consultant fees; and

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

COUNT V

FAILURE TO MAINTAIN REQUIRED RECORDS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I and paragraph 15 of Count IV as paragraphs 1 through 15 of this Count V.

16. From at least some time January 2001 and continuing to a date best known to Apollo, Apollo failed to keep records of the name and identification number of each coating as applied on each coating line and the weight of VOM per volume of each

coating as applied each day on each coating line.

17. Section 218.211(c) of the Board of Air Pollution Regulations, 35 Ill. Adm. Code 218.211(c), provides the following in pertinent part:

An owner or operator of a coating line subject to the limitations of Section 218.204 of this subpart other than Section 218.204(a)(2) or (a)(3) of this Subpart and complying by means of Section 218.204 of this Subpart shall comply with the following:

(2) On and after a date consistent with Section 218.106 of this Part or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

(A) The name and identification number of each coating as applied on each coating line;

(B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line;

18. Apollo's failure to maintain the required records is a violation of 35 Ill. Adm. Code 218.211(c).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter Judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated 35 Ill. Adm. Code 218.211(c);
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and applicable regulations, with an

additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

4. Taxing against the Respondent, all costs in this action, including attorney, expert witness and consultant fees; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO TIMELY SUBMIT AN EMISSION REDUCTION MARKET SYSTEM ("ERMS") BASELINE APPLICATION

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count VI.

15. Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), provides as follows:

The Agency shall design an emissions market system that will assist the State in meeting applicable post-1996 provisions under the CAA of 1990, provide maximum flexibility for designated sources that reduce emissions, and that take into account the findings of the national ozone transport assessment, existing air quality conditions, and resultant emissions levels necessary to achieve or maintain attainment.

16. Section 205.310 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.310, provides in pertinent part as follows:

ERMS Applications

The owner or operator of each participating source or new participating source shall submit to the Agency an ERMS application in accordance with the following schedule:

- (2) For any source that first becomes a participating source because its VOM emissions increase to 10 tons or greater during any seasonal allotment period beginning with 1999, on or before December 1 of the year of the first seasonal allotment period in which its VOM emissions are at least 10 tons, provided that this emission increase is not a major modification pursuant to 35 Ill. Adm. Code 203;

17. Section 205.130 of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 205.210, provides as follows:

"Participating source" means a source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has or will have seasonal emissions of at least 10 tons of VOM.

18. Apollo is a participating source, as that term is defined by 35 Ill. Adm.

Code 205.130.

19. Beginning during the 2004 seasonal allotment period, Apollo's seasonal VOM emissions were greater than 10 tons.

20. Apollo was required to submit its ERMS baseline application to the Illinois EPA no later than December 1, 2004. However, Apollo did not submit their ERMS baseline application until July 27, 2006.

21. Respondent, by its conduct as alleged herein, violated Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), and Section 205.310 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.310.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count VI:

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

2. Finding that the Respondent has violated Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), and Section 205.310 of 35 Ill. Adm. Code;

3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution

Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

4. Taxing all costs in this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees, against the Respondent; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT VII
FAILURE TO SUBMIT ANNUAL EMISSION REPORTS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I and paragraph 15 of Count IV as paragraphs 1 through 15 of this Count VII.

16. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

Reports

(a) The owner or operator of any emission source or air pollution control equipment shall submit to the Agency as a minimum, annual reports detailing the nature, specific source and total annual quantities of all specified air contaminant emissions, provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

17. Section 254.137(a) of the Illinois EPA's of Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

(a) All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

18. Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this

Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a)

19. As an owner or operator of emission units and air pollution control equipment, Apollo is required to submit an Annual Emissions Report to the Illinois EPA by May 1 of the year following the calendar year in which the emissions took place.

20. Apollo submitted the Annual Emission Reports for calendar years 2001 through 2006 on July 27, 2007.

21. Apollo failed to timely submit its annual emissions reports for the calendar years 2001 through 2006.

22. By its actions as alleged herein, Apollo has violated Sections 201.302(a), 254.137(a) and 254.132(a) of 35 Ill. Adm. Code, and thereby, violated Section 9(a) of the Act, 415 ILCS 5/9(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter a judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count VII:

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

2. Finding that the Respondents have violated Sections 201.302(a), 254.137(a) and 254.132(a) of 35 Ill. Adm. Code, and thereby, violated Section 9(a) of the Act, 415 ILCS 5/9(a);

3. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

4. Taxing all costs in this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) including attorney, expert witness and consultant fees, against the Respondents; and

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

COUNT VIII

FAILURE TO SUBMIT SEASONAL EMISSION REPORTS ("SERs")

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I and paragraph 15 of Count VI as paragraphs 1 through 15 of this Count VIII.

16. Section 205.300(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.300(a), provides as follows:

For each year in which the source is operational, the owner or operator of each participating source and new participating source shall submit, as a component of its Annual Emissions Report, seasonal emission information to the Agency for each seasonal allotment period after the effective date of this Part in accordance with the following schedule:

* * *

(2) For each participating source or new participating source that generates VOM emissions from 10 or more emission units, by November 30 of each year.

17. Section 254.137(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.137(b), provides as follows:

b) Seasonal Emissions Reports must be submitted for the preceding seasonal allotment period in accordance with the following schedule:

* * *

2) For each participating source or new participating source that generates VOM emissions from 10 or more emission units, by November 30 of each year.

18. Section 254.132(b) of the Illinois EPA Air Pollution Regulations, 35 Ill.

Adm. Code 254.132(b), provides as follows:

Failure to file a complete Seasonal Emissions Report by the applicable deadlines prescribed in Section 254.137(b) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 205.300.

19. For calendar years 2004 through 2007, Apollo failed to timely submit their Seasonal Emissions Report to the Illinois EPA. Apollo submitted Seasonal Emissions Reports for calendar years 2004-2006 on July 27, 2007, and for calendar year 2007 on January 29, 2008.

20. Apollo, by failing to timely submit Seasonal Emission Reports as alleged herein, violated Section 205.300(b)(2) of the Board Air Pollution Regulations, 35 Ill.205.300(b)(1) and Section 254.132(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(b), and, thereby, Section 9.8(b) of the Act, 415 ILCS 5/9.8(b).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter Judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count VIII:

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

2. Finding that the Respondent has violated Section 205.300(b)(2) of the Board Air Pollution Regulations, 35 Ill.205.300(b)(1) and Section 254.132(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(b), and, thereby, Section 9.8(b) of the Act, 415 ILCS 5/9.8(b).

3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 205.300(b)(2) of the Board Air Pollution Regulations, 35 Ill.205.300(b)(1) and Section 254.132(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(b), and, thereby, Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

4. Taxing against the Respondent, all costs in this action, including attorney, expert witness and consultant fees; and

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

COUNT IX

FAILURE TO HOLD ALLOTMENT TRADING UNITS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I and paragraph 15 of Count VI as paragraphs 1 through 15 of this Count IX.

16. Section 205.130 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.130, provides the following definitions:

Definitions

Unless otherwise specified within this Part, the definitions for the terms used in this Part shall be the same as those found in Section 39.5 of the Act [415 ILCS 5/39.5] and in 35 Ill. Adm. Code 211.

* * *

"Allotment Trading Unit (ATU)" means a tradable unit that represents 200 lbs of VOM emissions and is a limited authorization to emit 200 lbs of VOM emissions during the seasonal allotment period.

* * *

“Chicago Ozone Nonattainment Area” means the area composed of Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County.

* * *

“Participating source” means a source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.

* * *

“Transaction Account” means an account authorized by the Agency or its designee that allows an account officer to buy or sell ATUs.

17. Section 205.150(c)(1) of the Board’s Air Pollution Regulations, 35 Ill.

Adm. Code 205.150(c)(1), provides as follows:

At the end of each reconciliation period, on and after the dates specified Section 205.200 of this Part, each participating source shall:

(1) Hold ATU’s in an amount not less than its VOM emissions during the preceding seasonal allotment period, except as provided in Section 205.220, 205.225, 205.315, 205.320(e)(3) or (f) and 205.750 of this Part;

* * *

18. Apollo’s Facility in Chicago, Illinois is located within Cook County, Illinois, and is located within the “Chicago Ozone Nonattainment Area” as that term is defined in Section 205.130 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 205.130.

19. Apollo is a "participating source" as this term is defined in Section 205.130 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.130.

20. Because Apollo is a participating source, it is required to hold ATU's in its Transaction Account based on emissions reported in its Seasonal Emission Reports ("SERs").

21. From the year 2005 through 2007, Apollo did not hold ATU's in its Transaction Account for an amount not less than the level of VOMs emitted.

22. On July 10, 2008, the Illinois EPA issued a notice to Apollo requiring an ATU Purchase from ACMA for Excursion Compensation.

23. For the years 2005 through 2007, by failing to hold ATU's in its Transaction Account in an amount not less than its actual emissions, Apollo violated Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), and Section 205.150(c)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.150(c)(1).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter Judgment in favor of Complainant and against the Respondent, APOLLO PLASTICS CORP, on Count IX:

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

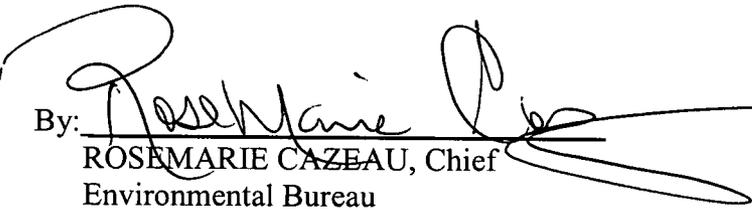
2. Finding that the Respondent has violated Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), and Section 205.150(c)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.150(c)(1).

3. Ordering the Respondent to provide the Illinois EPA with Emissions Excursion Compensation in accordance with the July 10, 2008 Notice.

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of Section 9.8(b) of the Act, 415 ILCS 5/9.8(b), and Section 205.150(c)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.150(c)(1), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Taxing against the Respondent, all costs in this action, including attorney, expert witness and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the State of Illinois

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

By: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

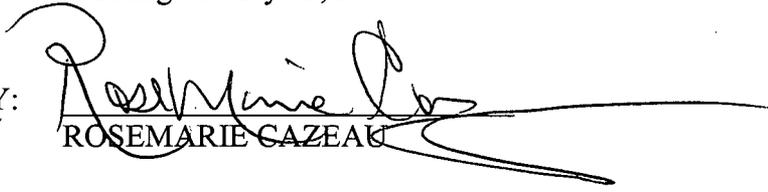
Of Counsel:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-6986

CERTIFICATE OF SERVICE

I, RoseMarie Cazeau, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on May 12, 2009.

BY:


ROSEMARIE CAZEAU