

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

Complainant,)

v.)

No.)
(Enforcement – Air)

CHICAGO TIRE, INC., an Illinois)
corporation, and CHICAGO)
INDUSTRIAL RETREADERS, INC.,)
an Illinois corporation,)

Respondents.)

NOTICE OF FILING

PLEASE TAKEN NOTICE that on Wednesday, August 14, 2019, Complainant, PEOPLE OF THE STATE OF ILLINOIS, through the undersigned, filed with the Clerk of the Illinois Pollution Control Board, a true and correct copy of the attached Complaint and hereby served upon you. You are hereby notified that you may be required to attend a hearing at a date set by the Board.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that your failure to file an answer to this Complaint within 60 (sixty) 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 (20ILCS 3515/1 *et seq.*) to correct the alleged pollution.

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

/s/ Elizabeth Dubats

Assistant Attorney General

Environmental Bureau

69 W. Washington Street, 18th Floor

Chicago, Illinois 60602

(312) 814-2069

edubats@atg.state.il.us

CERTIFICATE OF SERVICE

I, Elizabeth Dubats, Assistant Attorney General, do certify that I caused to be served this 14th Day of August, 2019, the Notice of Filing and Complaint in this matter upon the persons listed below via certified mail with return receipt mailed from 100 W. Randolph Street, Chicago, Illinois 60602.

Chicago Tire Inc.
c/o Gintaras P. Cepenas, Registered Agent
6436 S. Pulaski Road
Chicago, Illinois 60629-5134

Chicago Industrial Retraders, Inc.
c/o Martynas A. Trakis, Registered Agent
16001 S. Van Drunen Road
South Holland, Illinois 60473-1283

/s/ Elizabeth Dubats
Elizabeth Dubats

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 by KWAME RAOUL, Attorney)
 General of the State of Illinois,)
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 Complainant,)
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 CHICAGO TIRE, INC., an Illinois)
 corporation, and CHICAGO)
 INDUSTRIAL RETREADERS, INC.,)
 an Illinois corporation,)
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 Respondents.)

No.
 (Enforcement – Air)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondents, CHICAGO TIRE, INC., an Illinois corporation, and CHICAGO INDUSTRIAL RETREADERS, INC., an Illinois corporation (“Respondents”), as follows:

COUNT I
CONSTRUCTING EMISSIONS SOURCES WITHOUT A PERMIT

1. This count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018), against CHICAGO TIRE, INC.
2. This count is brought on behalf of the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion, pursuant to Section 31(d) of the Act, 415 ILCS 5/31(d) (2018), against CHICAGO INDUSTRIAL RETREADERS, INC.

3. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act.

4. At all times relevant to this Complaint, Respondent, CHICAGO TIRE, INC., was and is an Illinois corporation in good standing with the Illinois Secretary of State.

5. At all times relevant to this Complaint, Respondent, CHICAGO INDUSTRIAL RETREADERS, INC., was and is an Illinois corporation in good standing with the Illinois Secretary of State.

6. At all times relevant to this Complaint, the Respondents owned and operated a retread production facility engaged in retreading used truck tires and selling new and used truck tires, located at 16001 S. Van Drunen Road, South Holland, Cook County Illinois ("Facility").

7. On August 23, 2017, the Illinois EPA inspected the Facility. At the time of the inspection, the Respondents' Facility had three buffing machines, a rubber grinding system with collection trailer, and three vulcanization chambers in operation.

8. The buffing machines, rubber grinding system, and vulcanization chambers are capable of emitting particulate matter into the environment.

9. Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), 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.

10. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.

11. The Respondents, corporations, are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

12. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides the following definition:

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

13. Particulate matter is solid matter and therefore a “contaminant” as defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

14. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), 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.

15. The buffing machines, rubber grinding system, and vulcanization chambers are capable of causing or contributing to air pollution because they emit particulate matter, and therefore contaminants, into the atmosphere.

16. Before August 23, 2017, on a date or dates better known to the Respondents, the Respondents constructed buffing machines, a rubber grinding system, and vulcanization chambers at the Facility.

17. As of the date of the filing of this Complaint, the Illinois EPA has not issued a construction permit to the Respondents for the buffing machines, rubber grinding system, or vulcanization chambers in operation at the Facility.

18. Section 201.142 of the 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 Sections 201.146 or Section 201.170(b) of this Part.

19. 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": the presence in the atmosphere of one or more air 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.

"Commence": the act of entering into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modifications.

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

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

"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 and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

20. The installation of the buffing machines, a rubber grinding system, and vulcanization chambers at the Facility constitutes “construction” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

21. Particulate matter is matter 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.

22. 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.

23. Buffing machines, rubber grinding systems, and vulcanization chambers are capable of emitting particulate matter, a specified contaminant, into the atmosphere, and are therefore “emissions sources” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

24. On information and belief, the buffing machines, rubber grinding system, and vulcanization chambers were constructed at the Facility after April 14, 1972, on dates best known to the Respondents, and therefore constitute “new emission sources,” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

25. By failing to obtain a construction permit prior to constructing the buffing machines, rubber grinding system, and vulcanization chambers at the Facility, the Respondents

have violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), 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 the Respondents, CHICAGO TIRE, INC. and CHICAGO INDUSTRIAL RETREADERS, INC., for the following relief:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that the Respondents have violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
- C. Ordering the Respondents to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
- D. Assessing against the Respondents 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;
- E. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against the Respondents; and
- F. Granting such other relief as the Board deems appropriate and just.

COUNT II
OPERATING EMISSION SOURCES WITHOUT A PERMIT

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 and 18 through 24 of Count I, as paragraphs 1 through 23 of this Count II.

24. 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.

25. The buffing machines, rubber grinding system, and vulcanization chambers are new emission sources of a type for which a construction permit is required.

26. From a date or dates prior to August 23, 2017, on dates better known to the Respondents, the Respondents began operating buffing machines, rubber grinding system, and vulcanization chambers at the Facility.

27. As of the date of the filing of this Complaint, the Illinois EPA has not issued an operating permit to the Respondents for the buffing machines, rubber grinding system, or vulcanization chambers in operation at the Facility.

28. On June 28, 2019, Respondent, CHICAGO INDUSTRIAL RETREADERS, INC. registered the Facility with the Illinois EPA as a Registration of Smaller Sources ("ROSS") source pursuant to Section 201.175 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.175.

29. From a date or dates prior to August 23, 2017 better known to the Respondents, until June 28, 2019, the Respondents operated the buffing machines, rubber grinding system, and

vulcanization chambers at the Facility without applying for and obtaining an operating permit issued by the Illinois EPA.

30. By causing or allowing the operation of the buffing machines, rubber grinding system, and vulcanization chambers at the Facility without applying for and obtaining an operating permit issued by the Illinois EPA, the Respondents have violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, CHICAGO TIRE, INC. and CHICAGO INDUSTRIAL RETREADERS, INC., for the following relief:

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

B. Finding that the Respondents have violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

C. Ordering the Respondents to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

D. Assessing against the Respondents 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;

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

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

COUNT III
FAILURE TO SUBMIT ANNUAL EMISSIONS REPORTS

1-16: Complainant realleges and incorporates by reference herein paragraphs 1 through 8, and 10 through 16 of Count I, and paragraph 28 of Count II, as paragraphs 1 through 16 of this Count III.

17. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides as follows:

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.

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

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports when necessary to accomplish the purposes of the Act and this Chapter.

19. Section 254.132(a) of the Illinois EPA 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).

20. Section 254.137(a) of the Illinois EPA 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.

21. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

22. The Respondents are each an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

23. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

24. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

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

25. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

26. The Respondents’ Facility is a “stationary source” comprised of “emission units” that emit “air pollutants” as those terms are defined in Sections 211.6370, 211.1950, and

211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

27. The Respondents, as owners or operators of emissions units, are required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), to submit Annual Emissions Reports (“AERs”) to the Illinois EPA each year by May 1 for the preceding calendar year.

28. As of the date of the filing of this Complaint, the Respondents have never submitted an AER for the Facility.

29. From at least May 1, 2017 through June 28, 2019, on a date or dates better known to the Respondents, the Respondents failed to submit an AER to the Illinois EPA.

30. By failing to submit AERs for the Facility, the Respondents violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, CHICAGO TIRE, INC. and CHICAGO INDUSTRIAL RETREADERS, INC., for the following relief:

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

B. Finding that the Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code

201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

C. Ordering the Respondents to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

D. Assessing against the Respondents 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;


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

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

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:


ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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