

Service List

Midwest Trailer Manufacturing, LLC
c/o Mitchell Leman, Registered Agent
2000 Kentville Road
Kewanee, IL 61443

CERTIFICATE OF SERVICE

I, Audrey Avila, an Assistant Attorney General, certify that on the 22nd day of June, 2023, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List by certified mail with return receipt.

/s/ Audrey Avila
Audrey Avila
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7046
Audrey.Avila@ilag.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement – Land)
MIDWEST TRAILER MANUFACTURING,)	
LLC, an Illinois limited liability company,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of the Respondent, MIDWEST TRAILER MANUFACTURING, LLC, an Illinois limited liability company, as follows:

COUNT I
CONDUCTING A HAZARDOUS WASTE STORAGE OPERATION WITHOUT A RESOURCE CONSERVATION AND RECOVERY ACT (“RCRA”) PERMIT

1. This Complaint 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”), against MIDWEST TRAILER MANUFACTURING, LLC, an Illinois limited liability company (“Respondent” or “Midwest Trailer”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

2. The Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2022), and is charged, *inter alia*, with the duty of enforcing the Act and regulations promulgated by the Illinois Pollution Control Board.

3. At all times relevant to this Complaint, Midwest Trailer was and is an Illinois limited liability company in good standing with the Illinois Secretary of State.

4. From at least December 10, 2015, or a date or dates better known to Midwest Trailer, and continuing through the date of filing of this Complaint, Midwest Trailer manufactures steel dump trailers for semi-trucks at 2000 Kentville Road, Kewanee, Henry County, Illinois (“Facility”).

5. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

6. As part of its operations at the Facility, Midwest Trailer cleans paint equipment used at its two paint booths, which results in paint and other material that it stores on-site at the Facility (“Waste Paint Related Materials”).

7. On September 26, 2019, the Illinois EPA inspected the Facility (“September 2019 Inspection”). At that time, at the north end of the building at the Facility, adjacent to one of the paint booths there were approximately 16 drum containers that did not have labels identifying the contents or the accumulation start dates, which is the date on which materials were first placed in the containers.

8. On September 26, 2019 near the second paint booth, there was at least one drum container that was not properly closed and did not have a label identifying the contents or the accumulation start date. This drum and the drum containers adjacent to the first paint booth were on wooden pallets over paper that had been taped to the floor.

9. During the September 2019 Inspection, a Midwest Trailer representative informed the Illinois EPA that the drums were placed on wooden pallets to detect if the drums were leaking. Paper taped on the floor leading from the paint booths to the storage areas was stained with what

appeared to be Waste Paint Related Materials generated in the paint booths. It appeared that the Waste Paint Related Materials leaked onto the floor covered by the paper as the drums were transferred from the paint booths to the storage area.

10. During the September 2019 Inspection, a Midwest Trailer representative informed the Illinois EPA that some of the drums contained Waste Paint Related Materials generated from the cleaning of paint equipment used at its two paint booths, but they did not know the contents of all the drums. The Midwest Trailer representative informed the Illinois EPA that Midwest Trailer had not sent any drum containers offsite to determine the contents of the containers or to dispose of the contents of the containers since it began operating the Facility in December 2015.

11. Waste manifests and invoices from Safety-Kleen show that on January 17, 2020, Safety-Kleen removed from the Facility seventeen drums containing methyl ethyl ketone with “hazardous waste codes” D001 and D035. On February 11, 2020, Safety-Kleen removed from the Facility seven drums containing methyl ethyl ketone with “hazardous waste codes” D001 and D035. On April 7, 2020, Safety-Kleen removed from the Facility one drum containing methyl ethyl ketone with “hazardous waste codes” D001 and D035. On June 3, 2020, Safety-Kleen removed from the Facility six drums containing methyl ethyl ketone with “hazardous waste codes” D001 and D035. On September 25, 2020, Safety-Kleen removed from the Facility five drums containing methyl ethyl ketone with “hazardous waste codes” D001 and D035. On June 18, 2020, Safety-Kleen removed from the Facility one drum containing Waste Paint Related Materials with “hazardous waste” codes D001, D005, D006, D007, F003, and F005.

12. Section 21(f) of the Act, 415 ILCS 5/21(f) (2022), provides, in pertinent part, as follows:

No person shall:

* * *

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or

(2) in violation of any regulations or standards adopted by the Board under this Act; . . .

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

14. Midwest Trailer, an Illinois limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

15. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides the following definition:

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities . . .

16. The contents of the drums at the Facility are discarded material and are therefore “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022).

17. Section 721.102 of the Illinois Pollution Control Board (“Board”) Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part as follows:

- a) Solid waste.
 - 1) A solid waste is any discarded material that is not excluded pursuant to Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131 or 35 Ill. Adm. Code 720.130 and 720.134.
 - 2) Discarded Material
 - A) A discarded material is any material that is described as follows:
 - i) It is abandoned, as described in subsection (b) of this Section;
* * *
- b) A material is a solid waste if it is abandoned in one of the following ways:
 - 1) It is disposed of;
 - 2) It is burned or incinerated; or
 - 3) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated;

* * *

18. The Waste Paint Related Materials contained in drums at the Facility were accumulated and stored at the Facility in lieu of being abandoned by being disposed of, burned, or incinerated and are therefore “discarded material” as defined in Section 721.102(a)(2) and (b)(3) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a)(2) and (b)(3).

19. As discarded material, the Waste Paint Related Materials contained in drums at the Facility are “solid waste,” as that term is defined in Section 721.102(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102(a), as they are not excluded pursuant to Section 721.104(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.104(a), and are not excluded pursuant to Section 720.130 and 720.131 or Section 720.130 and 720.134 of the Board

Waste Disposal Regulations, 35 Ill. Adm. Code 720.130 and 720.131 or Section 720.130 and 720.134.

20. Section 3.220 of the Act, 415 ILCS 5/3.220 (2022), provides the following definition:

“Hazardous waste” means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

21. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. 721.103, provides, in pertinent part, as follows:

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:
 - 1) It is not excluded from regulation as a hazardous waste pursuant to Section 721.104(b); and
 - 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C. . . .
 - B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

* * *
 - D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part and has not been excluded from this subsection (a)(2) pursuant to 35 Ill. Adm. Code 720.120 and 720.122, subsection (g) of this Section, or subsection (h) of this Section;

* * *

22. Subpart C of Part 721 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code Part 721 Subpart C, provides methods for determining hazardous waste by characteristics, including ignitability, corrosivity, reactivity, and toxicity (“characteristically hazardous waste”).

23. Section 721.121(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.121(b), provides as follows:

- b) A solid waste that exhibits the characteristic of ignitability has the USEPA hazardous waste number of D001.

24. Section 721.124 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.124, provides, in pertinent part, as follows:

- a) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846, as incorporated by reference in 35 Ill. Adm. Code 720.111(a), the extract from a representative sample of the waste contains any of the contaminants listed in the table in subsection (b) of this Section at a concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this Section.

BOARD NOTE: The reference to the “EP toxicity test” in 35 Ill. Adm. Code 808.410(b)(4) is to be understood as referencing the test required by this Section.

- b) A solid waste that exhibits the characteristic of toxicity has the USEPA hazardous waste number specified in the following table that corresponds to the toxic contaminant causing it to be hazardous.

MAXIMUM CONCENTRATION OF CONTAMINANTS FOR
THE TOXICITY CHARACTERISTIC

USEPA Hazardous Waste No.	Contaminant	CAS Number Note	Regulatory Level (mg/ℓ)
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	*	*	*	
D005		Barium	7440-39-3	100.0
D006		Cadmium	7440-43-9	1.0
D007		Chromium	7440-47-3	5.0
D035		Methyl ethyl ketone	78-93-3	200.0

25. Subpart D of Part 721 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code Part 721 Subpart D, provides that solid waste is a hazardous waste if it is listed in Subpart D. Further, Section 721.131 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.131, provides a list of hazardous wastes from non-specific sources (“F-listed hazardous waste”).

26. Section 721.131(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.131(a), provides, in pertinent part, as follows:

- a) The following solid wastes are listed hazardous wastes from non-specific sources, unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Appendix I of this Part.

USEPA Hazardous Waste No.	Industry and Hazardous Waste	Hazard Code
	* * *	
F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate...	(I)
	* * *	
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone...	(I, T)
	* * *	

27. The D001, D035, D005, D006, and D007 solid wastes contained in drums at the Facility that Safety-Kleen determined to be characteristically hazardous waste pursuant to Sections 721.121(b) and 721.124 in Subpart C of Part 721 of the Board Waste Disposal Regulations, 35 Ill Adm. Code 721.121(b) and 721.124. The characteristically hazardous wastes are not excluded from regulation as a hazardous waste pursuant to Section 721.104(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.104(b). As such, the characteristically hazardous wastes in drums at the Facility are “hazardous waste” as that term is defined in Section 3.220 of the Act, 415 ILCS 5/3.220 (2022), and in Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. 721.103.

28. The F003 and F005 solid wastes contained in drums at the Facility that Safety-Kleen determined to be F-listed solid waste are hazardous waste pursuant to Section 721.131(a) in Subpart D of Part 721 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.131(a). The F-listed solid wastes are not excluded from regulation as a hazardous waste pursuant to Section 721.104(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.104(b). The F-listed solid wastes are not excluded from the lists in Subpart D of Part 721 of the Board Waste Disposal Regulations pursuant to 35 Ill. Adm. Code 720.120 and 720.122. As such, the F-listed solid wastes in drums at the Facility are “hazardous waste” as that term is defined in Section 3.220 of the Act, 415 ILCS 5/3.220 (2022), and in Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.103.

29. Section 3.480 of the Act, 415 ILCS 5/3.480 (2022), provides the following definition:

“Storage” means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

30. Midwest Trailer's accumulation of waste in drums at the Facility constitutes "storage" as that term is defined in Section 3.480 of the Act, 415 ILCS 5/3.480 (2022).

31. Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), provides, in pertinent part, as follows:

a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:

- 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
- 2) In violation of any condition imposed by a RCRA permit.

* * *

32. Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110, provides, in pertinent part, the following definitions:

"Generator" (RCRA) means any person, by site location, whose act or process produces hazardous waste.

"Hazardous waste" (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" or "HWM facility" (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

"HWM facility" (RCRA) means hazardous waste management facility.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the RCRA or UIC program.

"Permit" means an authorization, license, or equivalent control document issued to implement this Part and 35 Ill. Adm. Code 703, 704, and 705. "Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any

permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

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

“RCRA permit” (RCRA) means a permit required pursuant to Section 21(f) of the Act.

“Storage” (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

33. The Illinois EPA never issued Midwest Trailer a RCRA permit authorizing the storage of hazardous waste at the Facility.

34. Midwest Trailer, an Illinois limited liability company, is a “person” as that term is defined in Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110.

35. On or before December 10, 2015, or from a date or dates better known to Midwest Trailer, and continuing to at least September 26, 2019, Midwest Trailer was a “person” conducting a “hazardous waste storage” operation at a “hazardous waste management facility” without a “RCRA permit”, as those terms are defined in Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110.

36. On or before December 10, 2015, or from a date or dates better known to Midwest Trailer, and continuing to at least September 26, 2019, Midwest Trailer was required by Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), to obtain a RCRA permit prior to conducting a hazardous waste storage operation at the Facility.

37. As of December 10, 2015, or from a date or dates better known to Midwest Trailer, and continuing to at least September 26, 2019, Midwest Trailer conducted a hazardous

waste storage operation at the Facility without a RCRA permit, in violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a).

38. By violating Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), Midwest Trailer thereby also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, MIDWEST TRAILER MANUFACTURING, LLC, 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 has violated Section 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2022), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a);

3. Ordering Respondent to cease and desist from any future violations of Section 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2022), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a);

4. Assessing against Respondent a civil penalty not to exceed Twenty-Five Thousand Dollars (\$25,000.00) per day of violation for each violation of Section 21(f)(1) and (2) of the Act, 415 ILCS 5/21(f)(1) and (2) (2022), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a), pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

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.

COUNT II
STORING HAZARDOUS WASTE AT A FACILITY THAT DOES NOT MEET THE
REQUIREMENTS OF THE ENVIRONMENTAL PROTECTION ACT

1-38. Complainant re-alleges and incorporates herein paragraphs 1 through 38 of Count I as paragraphs 1 through 38 of this Count II.

39. Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), provides as follows:

No person shall:

* * *

Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

40. By storing hazardous waste at the Facility without a RCRA permit, Midwest Trailer stored waste at a facility that does not meet the requirements of the Act and of regulations and standards thereunder, and thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, MIDWEST TRAILER MANUFACTURING, LLC, 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 has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2022);
3. Ordering Respondent to cease and desist from any future violations of Section 21(e)

Of the Act, 415 ILCS 5/21(e) (2022);

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.

COUNT III
FAILURE TO CONDUCT A HAZARDOUS WASTE DETERMINATION

1-29. Complainant re-alleges and incorporates herein paragraphs 1 through 11, 13 through 28, and 32 through 33 of Count I as paragraphs 1 through 29 of this Count III.

30. Section 21(i) of the Act 415 ILCS 5/21(i) (2022), provides as follows:

No person shall:

* * *

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

31. As a result of Midwest Trailer's operations at its Facility, Midwest Trailer is a "generator" of "hazardous waste", as those terms are defined in Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 702.110.

32. As a generator of hazardous waste, Midwest Trailer is subject to the requirements of 35 Ill. Adm. Code Part 722 of the Board Waste Disposal Regulations, entitled Standards Applicable to Generators of Hazardous Waste, and Section 21(i) of the Act 415 ILCS 5/21(i) (2022).

33. Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

722.111, provides as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

34. On or before December 10, 2015, or from a date or dates better known to Midwest Trailer, and continuing to at least September 26, 2019, Midwest Trailer failed to conduct a hazardous waste determination on the solid waste generated from its operations.

35. By failing to conduct a hazardous waste determination on the solid waste generated from Midwest Trailer's operations, Midwest Trailer violated Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111.

36. By violating Section 722.111 of the Board Waste Disposal Regulations, 35 Ill.

Adm. Code 722.111, Midwest Trailer thereby also violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, MIDWEST TRAILER MANUFACTURING, LLC, 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 has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2022), and Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111;
3. Ordering Respondent to cease and desist from any future violations of Section 21(i) of the Act, 415 ILCS 5/21(i) (2022), and Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111;
4. Assessing against Respondent a civil penalty not to exceed Twenty-Five Thousand Dollars (\$25,000.00) per day of violation for each violation of Section 21(i) of the Act, 415 ILCS 5/21(i) (2022), and Section 722.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);
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.

COUNT IV
FAILURE TO CONDUCT A SPECIAL WASTE DETERMINATION

1-32. Complainant re-alleges and incorporates herein paragraphs 1 through 11, 13 through 30, and 32 through 33 of Count I, and paragraph 31 of Count III as paragraphs 1 through 32 of this Count IV.

33. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022), provides, in pertinent part, as follows:

No person shall:

* * *

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(2) in violation of any regulations or standards adopted by the Board under this Act;

34. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), provides as follows:

a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

35. Section 808.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.110, provides the following definition, in pertinent part:

* * *

“Special waste” means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245. (Section 3.45 of the Act.)

* * *

36. Section 3.475 of the Act, 415 ILS 5/3.475 (2022), provides the following definition, in pertinent part:

“Special waste” means any of the following:

* * *

- b) hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in Section 722.111 of Title 35 of the Illinois Administrative Code, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with Section 726.212 of Title 35 of the Illinois Administrative Code and proven to be nonhazardous;

* * *

37. On or before December 10, 2015, or from a date or dates better known to Midwest Trailer, and continuing to at least September 26, 2019, Midwest Trailer failed to conduct a special waste determination on the waste generated and stored at its Facility from its operations.

38. By failing to conduct a special waste determination on the waste generated and stored at its Facility from its operations, Midwest Trailer thereby violated Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a).

39. By violating Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), Midwest Trailer's generation and storage of waste at the Facility did not meet the requirements of the Act or regulations and standards thereunder, and thereby also violated Section 21(d)(2) of the Act 415 ILCS 5/21(d)(2) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, MIDWEST TRAILER MANUFACTURING, LLC., 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 has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808/121(a);
3. Ordering Respondent to cease and desist from any future violations of Section

21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a);

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
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois

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

BY: /s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

AUDREY AVILA
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, IL 60602
(773) 590-7046
Primary email: Audrey.Avila@ilag.gov
Secondary email: Maria.Cacaccio@ilag.gov