

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. _____
	)	(Water – Enforcement)
CRYSTAL COLD, LLC,	)	
an Illinois limited liability company,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: See 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 following Complaint, a copy of which is attached 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 RAOUL, Attorney General of the State of Illinois

By: s/Natalie Long  
NATALIE LONG  
Assistant Attorney General  
Environmental Bureau  
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Date: August 31, 2023

**Service List**

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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an Illinois limited liability company,	)	
	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, CRYSTAL COLD, LLC, an Illinois limited liability company, as follows:

**COUNT I  
CONDUCTING A HAZARDOUS  
WASTE-STORAGE OPERATION 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” or “Agency”), pursuant to the terms and provisions of 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 created by the Illinois General Assembly pursuant to Section 4 of the Act, 415 ILCS 5/4 (2022), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, CRYSTAL COLD, LLC (“Respondent”), at all times relevant to this Complaint, was and is an active limited liability company organized and existing under the laws of the State of Illinois and in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Respondent was and is the owner and operator of a refrigeration business located at 338N County Road 475E, Arthur, Douglas County, Illinois, 61911 (“Site”). The parcel number for the property is 02-07-35-200-02300.

5. Respondent operates a business at the Site that alters refrigerator and freezer units to run on propane or natural gas, and serves the Amish community and other customers.

6. The managers for Respondent are Homer L. Miller and Kenneth E. Hostetler.

7. On October 4, 2018, an Illinois EPA inspector (“Inspector”) conducted a Site inspection, and determined that Respondent had been discharging a solution that was one-third ammonia into the ditch alongside IL-133.

8. On March 13, 2019, Respondent notified Illinois EPA that it was no longer discharging the ammonia solution (“Ammonia Solution”), and was instead storing the Ammonia Solution in barrels to be picked up by a contractor for disposal as a D002 corrosive waste.

9. The Ammonia Solution is a D002 corrosive waste, and therefore a hazardous waste.

10. The contractor removed one drum of Ammonia Solution on March 6, 2019, and two additional drums of Ammonia Solution on August 26, 2019.

11. On November 18, 2019, an Illinois EPA Inspector performed a Resource Conservation and Recovery Act (“RCRA”) Compliance Evaluation Inspection to evaluate Respondent’s status as a hazardous waste generator, and to determine if Respondent was complying with all hazardous waste regulatory requirements.

12. Upon speaking with a representative of Respondent, the Illinois EPA Inspector was shown multiple plastic drums in the rear of the building filled with Ammonia Solution. The plastic drums were not labeled; the drums were not dated; and two drums were open.

13. At the time of the inspection, the representative stated that he did not know if the Ammonia Solution was removed as a hazardous waste, and he did not know the meaning of different waste classifications.

14. No manifests were available for the previous disposal of Ammonia Solution. The representative stated that it took approximately one year to generate eight drums of Ammonia Solution. The Inspector estimated that each drum contained more than 400 pounds of Ammonia Solution.

15. The Illinois EPA Inspector also observed eight metal drums of material that the representative referred to as "solvent" ("Solvent"). The metal drums were rusty, undated, and inadequately labeled.

16. The representative was unable to identify with specificity the contents of the drums containing Solvent. The Illinois EPA Inspector asked for a Material Safety Data Sheet for the Solvent, but the Respondent was unable to produce one for the Inspector's review.

17. When the Illinois EPA Inspector examined one of the drums, he located manufacturer and product information for the Solvent. The Illinois EPA Inspector called the manufacturer, whereupon the Inspector determined that in its concentrated form prior to use, the Solvent is a caustic cleaner with a pH of 11.5.

18. The Illinois EPA Inspector determined that the practice of Respondent was to store the Solvent in its concentrated form prior to use, and to dilute the Solvent for cleaning purposes.

After using the diluted Solvent, Respondent once more containerized the used Solvent in metal drums.

19. The Respondent had not determined if the used Solvent was a hazardous waste or a special waste.

20. The Respondent was not performing weekly inspections of the waste accumulation area.

21. The Respondent did not have a designated emergency coordinator or plan for explosions, fires, or releases of hazardous wastes.

22. The Respondent had not made arrangements with local authorities for responses to emergencies.

23. The Respondent did not have a permit for the storage of the Ammonia Solution or the used Solvent at the Site.

24. On June 18, 2020, Illinois EPA received an undated letter from Respondent, stating that the following remediation activities had been implemented: labeling of containers storing hazardous waste, with the label indicating the contents of the containers and accumulation start date; closing all containers of hazardous waste during accumulation, except when necessary to add or remove waste; commencing weekly inspections of the containers and storage area; storing a reduced amount of hazardous waste onsite; scheduling a meeting with local authorities to make arrangements in the event of an emergency; and initiating the process of performing a hazardous waste determination regarding the used Solvent.

25. On October 9, 2020, Respondent submitted to Illinois EPA a Liquid Waste Management Plan ("LWMP"). The LWMP identified the waste materials at the Site to be the Ammonia Solution, consisting of a solution of 28% Anhydrous Ammonia and water, with minimal

sodium chromate, stored in 55-gallon high density polyethylene (“HDPE”) drums; and the used Solvent, a solution of T.C. 850-CW Super Concentrate Cleaner and water, stored in 55-gallon HDPE drums.

26. On October 9, 2020, the Respondent submitted a hazardous waste determination for the used Solvent, concluding that the used Solvent is a hazardous waste.

27. Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), provides in relevant part as follows:

No person shall:

(f) Conduct any hazardous waste-storage . . . operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act [415 ILCS 5/39], or in violation of any condition imposed by such permit . . . ;

\* \* \*

28. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), provides in relevant part as follows:

“Person” is any . . . limited liability company . . . .

29. Respondent is an Illinois limited liability company. Because Respondent is an Illinois limited liability company, Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

30. Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

31. The Site is a “site” as defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2022), subject to the regulation and control of the Act and regulations thereunder.

32. Section 3.535 of the Act, 415 ILCS 5/3.535 (2022), provides in relevant part as follows:

“Waste” means any . . . discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities . . . .

33. The Ammonia Solution and the used Solvent are discarded liquid material that results from industrial and commercial operations.

34. The Ammonia Solution and the Solvent are “waste” as defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2022).

35. Section 3.220 of the Act, 415 ILCS 5/3.220 (2022), provides in relevant part as follows:

“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 [42 U.S.C. § 6921], or pursuant to Board regulations.

\* \* \*

36. Section 721.120 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.120, provides in relevant part as follows:

a) A solid waste, as defined in Section 721.102 . . . is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

\* \* \*

37. Section 721.102 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.102, provides in relevant part as follows:

a) Solid Waste

1) A solid waste is any discarded material . . . .

2) Discarded Material

A) A discarded material is any material that is described as follows:

i) It is abandoned, as described in subsection (b);

\* \* \*

b) A material is a solid waste if it is abandoned in one of the following ways:

1) It is disposed of;

\* \* \*

3) It is accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated;

\* \* \*

38. The Ammonia Solution is a “solid waste” as defined by Section 721.102 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.102.

39. The used Solvent is a “solid waste” as defined by Section 721.102 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.102

40. Section 721.122 of Subpart C to the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.122, provides in relevant part as follows:

a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using Method 9040C (pH Electrometric Measurement) in “Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a)

\* \* \*

- b) A solid waste that exhibits the characteristic of corrosivity has the USEPA hazardous waste number of D002.

41. The Ammonia Solution has the USEPA hazardous waste number of D002, and therefore exhibits the characteristic of corrosivity, pursuant to Section 721.122 of Subpart C to the Board's Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.122.

42. The Ammonia Solution is a hazardous waste as described in Section 721.120 of the Board's Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.120.

43. The used Solvent has a pH of greater than 13, and therefore exhibits the characteristic of corrosivity, pursuant to Section 721.122 of Subpart C to the Board's Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.122.

44. The used Solvent is a hazardous waste as described in Section 721.120 of the Board's Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 721.120.

45. The Ammonia Solution is "hazardous waste" as defined in Section 3.220 of the Act, 415 ILCS 5/3.220 (2022).

46. The used Solvent is "hazardous waste" as defined in Section 3.220 of the Act, 415 ILCS 5/3.220 (2022).

47. Section 3.185 of the Act, 415 ILCS 5/3.185 (2022), provides as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

48. Section 3.480 of the Act, 415 ILCS 5/3.480 (2022), provides as follows:

"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.

49. The Ammonia Solution and used Solvent were contained at the Site in such a manner as not to constitute disposal.

50. Because the Ammonia Solution and used Solvent were contained at the Site in such a manner as not to constitute disposal, the Ammonia Solution and used Solvent were “stored” at the Site as that term is defined by Section 3.480 of the Act, 415 ILCS 5/3.480 (2022).

51. Section 3.370 of the Act, 415 ILCS 5/3.370 (2022), provides as follows:

“RCRA permit” means a permit issued by the Agency pursuant to authorization received by the Agency from the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act of 1976, (P.L. 94-580) (RCRA) [42 U.S.C. § 6921 et seq.] and which meets the requirements of Section 3005 of RCRA and of this Act [42 U.S.C. § 6925].

52. Section 703.121 of the Board’s Resource Conservation and Recovery Act (“RCRA”) Permit Program Regulations, 35 Ill. Adm. Code 703.121, provides in pertinent part:

a) No person may conduct any hazardous waste storage . . . operation as follows:

1) Without a RCRA permit for the HWM (hazardous waste management) facility;

\* \* \*

b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit . . . .

\* \* \*

53. Section 702.110 of the Board’s RCRA Permit Program Regulations, 35 Ill. Adm. Code 702.110, provides in pertinent part as follows:

“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.

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

“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.

“RCRA” (RCRA) means the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

“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).

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

“HWM facility” (RCRA) means hazardous waste management facility.

54. As a result of Respondent’s operations at the Site, Respondent was and is a “person” conducting a “hazardous waste-storage” operation at a “hazardous waste management facility” without a “RCRA” permit, as those terms are used in Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121 of the Board’s RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121, and as defined in Section 702.110 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 702.110.

55. As a result of Respondent’s operations at the Site, Respondent is the “owner” or “operator” of an “hazardous waste management facility” at the Site, as those terms are used in Section 703.121 of the Board’s RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121, and as defined in Section 702.110 of the Board’s Regulations on Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 702.110.

56. Respondent does not have a RCRA permit authorizing it to conduct a hazardous waste-storage operation.

57. By operating a hazardous waste-storage operation without a RCRA permit, Respondent violated Section 703.121 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121, and Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121;

C. Ordering Respondent to cease and desist from any further violations of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121;

D. Assessing against Respondent a civil penalty not to exceed Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and

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

**COUNT II**  
**FAILURE TO PERFORM A**  
**HAZARDOUS WASTE DETERMINATION**

1.-57. Complainant re-alleges and incorporates herein by reference paragraphs 1 through 57 of Count I as paragraphs 1 through 57 of this Count II.

58. Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), provides as follows:

No person shall:

(f) Conduct any hazardous waste-storage . . . operation:

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

\* \* \*

59. Section 722.111 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111, provides in relevant part as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure that the waste is properly managed according to applicable RCRA regulations.

\* \* \*

60. Respondent failed to perform a hazardous waste determination of the used Solvent.

61. By failing to perform a hazardous waste determination of the used Solvent, Respondent violated Section 722.111 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111, and Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

- A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 722.111 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111;
- C. Ordering Respondent to cease and desist from any further violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 722.111 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111;
- D. Assessing against Respondent a civil penalty not to exceed Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation, pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2022);
- E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2022); and
- F. Ordering such other and further 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: /s/ Andrew Armstrong  
ANDREW B. ARMSTRONG, Chief  
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Date: August 31, 2023

**CERTIFICATE OF SERVICE**

I, Natalie Long, an Assistant Attorney General, certify that on the 31st day of August, 2023, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List, by email or electronic filing, as indicated on the attached Service List.

/s/ Natalie Long  
NATALIE LONG  
Assistant Attorney General

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

By: /s/ Natalie Long  
NATALIE LONG  
Assistant Attorney General

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Assistant Attorney General  
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