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NOV 12 2004

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CLEAN HARBORS SERVICES, INC., )  
 a Massachusetts corporation, )  
 )  
 Respondent. )

No. 05-91  
(Air - Enforcement)

To: C.T. Corporation System, Registered Agent  
208 South LaSalle Street  
Suite 814  
Chicago, Il. 60604-1101

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, November 12, 2004 filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and served upon you.

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.

Respectfully submitted,

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

BY: Paula Becker Wheeler  
PAULA BECKER WHEELER  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph St., 20<sup>th</sup> Flr.  
Chicago, IL 60601 (312) 814-1511

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PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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CLEAN HARBORS SERVICES, INC., )  
a Massachusetts corporation, )  
)  
Respondent. )

PCB No. 05-91  
(Air Enforcement)

**COMPLAINT FOR CIVIL PENALTIES**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CLEAN HARBORS SERVICES, INC., (hereinafter "Clean Harbors" or "Respondent"), as follows:

**COUNT I**

**FAILURE TO COMPLY WITH PERMIT REQUIREMENTS**

1. This Complaint is brought by the Attorney General on her own motion and at 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 (2002).

2. 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 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. Respondent is a Massachusetts corporation in good standing in the State of Illinois.

4. At all times relevant to this matter, Clean Harbors has operated a hazardous waste transfer, storage and disposal facility on approximately 53 acres of property located along Lake Calumet at 11800 South Stony Island Avenue, Cook County, Chicago, Illinois.

5. The hazardous waste transfer, storage and disposal facility is engaged in the treatment, transfer and/or disposal of hazardous wastes, including paint solvents, emergency response spill clean-ups, spent pesticides poisons, refinery wastes and household hazardous wastes. The company conducts three principal operations: 1) wastewater treatment and discharge, 2) fuels blending and storage and 3) the consolidation and transfer of hazardous and non-hazardous wastes.

6. Clean Harbors performs drum processing and fuel blending operations at its Chicago facility inside a building enclosure known as "Building 43." Drums containing various liquid or solid wastes are sent through a device known as the "Pegasus unit," which performs a drum crushing and compaction process. The Pegasus unit encloses individual drums, turns them on their side and augers out their remaining contents. The contents of the drums are processed into a slurry in a large blending tank and then transferred to the tank farm for additional blending.

7. Air emissions from Building 43 are collected at various points within the building enclosure and then ducted to a two-bed carbon adsorption system. In prior submissions made to the Illinois EPA, Clean Harbors has identified Building 43 as a significant source of emissions but has estimated that volatile organic material ("VOM") emissions, after controls, are less than 0.1 pounds per hour ("lb/hr") and 0.44 tons per year ("tpy").

8. The empty drums from the fuels blending operation are compacted and then removed from the Pegasus unit, where they are placed onto a conveyor that exits the building. The empty drums are ejected onto a roll-off pad into a dumpster located on the outside of Building 43. Clean Harbors has estimated that VOM emissions from the roll-off pad are less than 0.1 lb/hr and 0.44 tpy.

9. In addition to the drum processing and fuels blending operations, Clean Harbors also conducts hazardous waste container storage and flammable waste consolidation activities that occur within an enclosure designated as "Building 25." The hazardous waste container storage activities primarily consist of a flammable pour-off consolidation area. Three fume hoods collect emissions from these activities, which, in turn, are ducted to two carbon adsorbers in a dual-canister arrangement.

10. Clean Harbors also operates a flammable storage tank farm at the facility, which consists of at least nine (9) 11,025 gallon tanks and one (1) 19,880 gallon tank. Air emissions from the flammable storage tank farm are controlled by a closed vent system, which consists of nitrogen gas blanketing with vents that are ducted to two dual-bed carbon adsorption systems. The separate carbon adsorption systems are designated as a North system and a South system.

11. During the time period relevant to the allegations in this Count I, the fuel blending operations from Building 43, the roll-off pad for empty drums, the Building 25 storage building and three fume hoods, and the flammable storage tank farm were governed by the terms and conditions of a revised operating permit, Operating Permit No. 94100016, issued by the Illinois EPA on October 6, 2000, with an expiration date of October 6, 2005.

12. Special Condition 5 of Operating Permit No. 94100016 provides, in part, as

follows:

“This permit is issued based on negligible emissions of organic material and particulate matter from drum storage and dock, bulk solids storage pad, truck staging area, truck to truck transfer dock, drum crushing and compaction, flammable truck staging area, rail car unloading area, truck unloading platform, flammable storage tank farm, building #25 and #26 and five fume hoods, container handling dock, truck pad (unloading), roll off pad for empty drums, fuels blending operation controlled with 4 bed carbon adsorption system, 4 – 500,000 gallon wastewater storage tanks, organic wastewater treatment system including, Reactor 321 controlled with packed scrubber, precoat vacuum filter, filtrate collection tank, multimedia filter, dirty backwash tank, backwash water storage tank, filtrate collection tank 322, air stripper controlled with 2 carbon adsorption system, carbon unit; inorganic listed wastewater treatment system including Reactors 1, 2 and 3 controlled with packed scrubber, sludge conditioning tank, drum and lab pack consolidation tank, lab pack pour-off hood, 2 filter tanks, 2 plate and frame filter presses, 2 filtrate tanks, the FRP tank, and two lamella clarifiers. For this purpose, emissions of each contaminant from each emission source shall not exceed nominal emission rates of 0.1 lb/hr and 0.44 ton/year.”

13. Section 9(b) of the Act, 415 ILCS 5/9(a)(2002), entitled “Acts Prohibited,”

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

14. Section 3.315 of the Act, 415 ILCS 5/3.26(2002), provides as follows:

“Person” means 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.

15. Section 211 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code

211, provides, in pertinent part, as follows:

Section 211.370      Air Pollutant

"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.

Section 211.1930      Emission Rate

"Emission rate" means, if not otherwise stated in a specific provision, the total quantity of a particular specified air contaminant discharged into the atmosphere in any one-hour period.

Section 211.1950      Emission Unit

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

Section 211.4550      Person

"Person" means any individual; corporation; partnership; firm; association; trust; estate; public or private institution; group; state; municipality; political subdivision of a state; any agency, department or instrumentality of the United States; and any officer, agent or employee of any of the above.

Section 211.6370      Stationary Source

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

Section 211.7150      Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

16. Clean Harbors is a "person" as that term is defined under Section 3.315 of the Act, 415 ILCS 5/3.15 (2002), and Section 211.4550 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 211.4550.

17. Clean Harbors' manufacturing activities at the 11800 South Stony Island Avenue facility in Chicago constitutes a "stationary source" as that term is defined under Section 211.6370 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 211.6370.

18. The fuels blending operations from Building 43, the roll-off pad and dumpster for empty drums, the hazardous waste container storage activities from Building 25 and the flammable storage tank farm that is controlled by separate carbon adsorber systems each constitute an "emission unit" that emits "VOM" to the atmosphere as those terms are defined under Sections 211.1950 and 211.7150 of Title 35 respectively, 35 Ill. Adm. Code 211.1950 and 211.7150.

19. VOM is an "air pollutant" as that term is defined by Section 211.370 of Title 35, 35 Ill. Adm. Code 211.370.

20. On August 24, 2001, and again on April 12, 2002, and continuing until a date better known to Respondent, various openings to Building 43 (i.e., vents or windows, overhead doors, entrance-way doors, etc.) were sufficiently large enough to allow for emissions to escape the building during normal operation. On August 24, 2001, as part of the operation of the Pegasus unit within Building 43, emissions were observed exiting the enclosure when either of the two doors to the enclosure was opened.

21. On August 24, 2001, and again on April 12, 2002, and continuing until a date better known to Respondent, liquid wastes from the fuels blending process accumulated in the

bottom of the roll-off pad dumpster from the wet drums discarded by the Pegasus unit. Such liquid wastes would ultimately evaporate from the roll-off pad and result in uncontrolled VOM emissions.

22. On August 24, 2001, and continuing until a date better known to Respondent, the booth and hood arrangement used to duct emissions from the flammable pour-off consolidation booth was not drawing vapors into the control system, in part, because a large ventilation (or comfort) fan was blowing across the front of one of the hood openings. Thus, vapors were directed out of the booth. Even in the absence of the ventilation fan, the negative pressure exhibited by the capture system was minimal.

23. On August 24, 2001, and continuing until a date better known to Respondent, the ductwork from one of the two dual canister arrangements of the carbon adsorber system for Building 25 was leaking. The ductwork had previously been taped, however, the seal from the tape had been broken, allowing ambient air to be pulled into the control system.

24. On August 24, 2001, and continuing to a date better known to Respondent, the North carbon adsorption system for the flammable storage tank farm contained a sagging duct that connected two carbon bed containers and, a viscous type of liquid was leaking from the duct work.

25. On April 12, 2002 and continuing to a date better known to Respondent, there were elevated levels of VOM emissions from various locations throughout the flammable tank farm.

26. On April 12, 2002 and continuing to a date better known to Respondent, in one area of the flammable tank farm, there were elevated readings of VOM emissions from the



corrugated plastic pipe which ducts gases and associated emissions from the tanks to and between the carbon adsorber systems. During the same time frame in another area of the flammable tank farm, there were similar high readings from the plastic ductwork and the South carbon adsorber system. There were also elevated readings of VOM emissions at or near the safety relief valve of Tank No. 107, at or near Tank No. 104, at or near the sampling ports of the North carbon adsorber systems and in the vicinity of several flame arrestors for the various storage tanks.

27. On April 12, 2002 and continuing to a date better known to Respondent, the gravity-activated seals for most of the flame arrestors were eroded and large pressure fluctuations appeared to exist within the nitrogen blanketing system that could cause or contribute to inconsistencies in the monitoring and compliance assessment of the flammable storage tank farm.

28. By virtue of the aforementioned operational deficiencies, Clean Harbors failed to adequately capture and control VOM emissions from its hazardous waste storage container activities at Building 25, the drum processing and fuels blending activities at Building 43, the roll-off pad dumpster, and the flammable storage tank farm as required by Section 9(b) of the Act, 415 IL 5/9(b) (2002), and Special Condition 5 of Operating Permit No. 94100016.

29. Beginning on or before August 24, 2001 and continuing to a date better known to Respondent, by failing to adequately capture and control VOM emissions from the emission units identified in paragraph 18 above, Clean Harbors caused or allowed VOM emissions from the aforementioned emission units to be emitted in excess of 0.1 lb/hr.

30. By failing to comply with the permitted 0.1 lb/hr VOM emission limit governing the hazardous waste storage container activities at Building 25, the drum processing and fuels blending activities at Building 43, the roll-off pad dumpster, and the flammable storage tank farm, Clean Harbors violated Section 9(b) of the Act, 415 IL 5/9(b) (2002), and Special Condition 5 of Operating Permit No. 94100016.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this 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 Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Special Condition 5 of Operating Permit No. 94100016;
3. Ordering the Respondent to cease and desist from further violations of Section 9(b) of the Act, 415 ILCS 5/9(b)(2002), and Special Condition 5 of Operating Permit No. 94100016;
4. 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, and an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems just and appropriate.

## COUNT II

### **FAILURE TO COMPLY WITH POLLUTION CONTROL BOARD'S EMISSION STANDARDS FOR "OTHER EMISSION UNITS"**

1-28. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 and 14 through 29 of Count I above as paragraphs 1 through 28 of this Count II.

29. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), 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 other contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

30. Section 211 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 211, provides the following definition:

Section 211.4970 Potential to Emit

"Potential to emit" (PTE) means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable.

31. Section 218.100(a) of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.100(a), provides as follows:

- a. This Part contains standards and limitations for emissions of organic material and volatile organic material from stationary sources located in the Chicago area, which is comprised of Cook, DuPage, Kane, Lake, McHenry and Will Counties and Aux Sable Township or Goose Lake Township in Grundy County and Oswego Township in Kendall County.

32. Section 218.103 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code

218.103, provides as follows:

The provisions of this Part shall apply to all sources located in the Chicago area, which is 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.

a. The provisions of this Part shall become effective on July 1, 1991...

\* \* \*

33. Section 218.106 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code

218.106, provides, in pertinent part, as follows:

- a) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of all rules is required by July 1, 1991, or September 1, 1991, for all sources located in Cook, DuPage, Kane, Lake, McHenry or Will Counties, consistent with the appropriate provisions of Section 218.103 of this Subpart.
- b) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of this Part is required by November 26, 1993, for all sources located in Aux Sable Township or Goose Lake Township in Grundy County, or in Oswego Township in Kendall County.
- c) All emission units which meet the applicability requirements of Sections 218.402(a)(2), 218.611(b), 218.620(b), 218.660(a), 218.680(a), 218.920(b), 218.940(b), 218.960(b) or 218.980(b) of this Part, including emission units at sources which are excluded from the applicability criteria of Sections 218.402(a)(1), 218.611(a), 218.620(a), 218.920(a), 218.940(a), 218.960(a), or 218.980 of this Part by virtue of permit conditions or other enforceable means, must comply with the requirements of Subparts H, Z, AA, CC, DD, PP, QQ, RR or TT of this Part, respectively, by March 15, 1995. Any owner or operator of an emission unit which has already met the applicability requirements of Sections 218.402(a)(1), 218.611(a), 218.620(a), 218.920(a), 218.940(a), 218.960(a), 218.980(a) of this Part on or by the effective date of this subsection is required to comply with all compliance dates or schedules found in Sections 218.106(a) or 218.106(b), as applicable.

34. Section 218.980 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code

218.980, provides, in pertinent part as follows:

\* \* \*

b) Potential to emit:

- 1) A source is subject to this Subpart if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units, other than furnaces at glass container manufacturing sources and VOM leaks from components, that are:
  - A) Not regulated by Subparts B, E, F, H, Q, R, S, T, (excluding Section 218.486 of this Part), V, X, Y, Z, or BB of this Part, or
  - B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.
- 2) If a source is subject to this Subpart as provided above, the requirements of this Subpart shall apply to a source's VOM emission units, which are:
  - A) Not included within any of the categories specified in Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, BB, CC, DD, PP, QQ or RR of this Part, or which are not exempted from permitting requirements pursuant to 35 Ill. Adm. Code 201.146 (excluding Section 201.146(o) and (p)), or
  - B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines) plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

- C) If a source ceases to fulfill the criteria of subsections (a) and/or (b) of this Section, the requirement of this Subpart shall continue to apply to an emission unit which was ever subject to the control requirements of Section 219.986 [*sic*] of this Part does not exceed 4.5 Mg (5.0 tons) per calendar year.

35. Section 218.986 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.986, provides, in pertinent part, as follows:

Every owner or operator of an emission unit subject to this Subpart shall comply with the requirements of subsection (a), (b), (c), (d), or (e) below.

- a) Emission capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81 percent from each emission unit, or (Board Note: For the purpose of this provision, an emission unit is any part or activity at a source of a type that by itself is subject to control requirements in other Subparts of this Part or 40 CFR 60, incorporated by reference in Section 218.112, e.g., a coating line, a printing line, a process unit, a wastewater system, or other equipment, or is otherwise any part or activity at a source.)

\* \* \*

- C) An equivalent alternative control plan which has been approved by the Agency and the USEPA in a federally enforceable permit or as a SIP revision.

\* \* \*

36. Clean Harbors' manufacturing facility at 11800 South Stony Island Avenue is located in Cook County, Illinois and any emission units owned or operated by Clean Harbors that has satisfied the applicability requirements of the Board's Part 218 source categories was required to comply with the emission control, reporting and other requirements of Part 218 as of March 15, 1995.

37. In 2001, Clean Harbors' manufacturing facility reported VOM emissions of at least 15 tons per year ("tpy") and, in 2002, it reported at least 19 tpy of VOM emissions.

38. Numerous emission units at the manufacturing facility emit VOM emissions to the atmosphere, including the hazardous waste storage container activities at Building 24, the drum processing and fuels blending activities at Building 43, the roll-off pad dumpster, and the flammable storage tank farm, that are not regulated by B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, BB, CC, DD, PP, QQ or RR of the Board's Part 218 requirements, and that are not exempted from the applicable permitting requirements and are not included within any applicable exempt categories.

39. The combined total of potential VOM emissions from the emissions units identified in paragraph 18 above is greater than 25 tpy.

40. Because the numerous emission units referenced in paragraph 38 above meet the applicability requirements for "other Emission Units" under Section 218.980(b)(1), Clean Harbors was required to install controls or identify an equivalent alternative control plan with respect to each of the affected Subpart TT emission units in accordance with Section 218.986 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.986.

41. On August 24, 2001, and continuing to a date better known to Respondent, there were numerous operational deficiencies with the emission capture and control equipment associated with Clean Harbors' operation of its hazardous waste storage container activities at Building 25, the drum processing and fuels blending activities at Building 43, the roll-off pad dumpster and flammable storage tank farm. As a result of said deficiencies, Clean Harbors was not adequately controlling VOM emission from the affected Subpart TT emission units.

42. By failing to adequately control VOM emissions from its hazardous waste storage container activities at Building 25, the drum processing and fuels blending activities at Building

43, the roll-off pad dumpster and flammable storage tank farm, Clean Harbors has failed to install adequate controls or identify an equivalent alternative control plan for each of its affected Subpart TT emission units for a period beginning on or before August 24, 2001 and continuing through a date better known to Respondent.

43. By failing to comply with the emission standards for Other Emission Units under the Board's Part 218 regulations, Clean Harbors violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.986 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.986.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this 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 Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.986 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.986;

3. Ordering the Respondent to cease and desist from further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.986 of Title 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 218.986;

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



5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems just and appropriate.

**COUNT III**

**FAILURE TO COMPLY WITH NATIONAL EMISSION STANDARDS FOR  
HAZARDOUS AIR POLLUTANTS FROM OFF-SITE WASTE AND RECOVERY  
OPERATIONS - REQUIREMENTS FOR CLOSED-VENT SYSTEMS AND  
CONTROL DEVICES**

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 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002), provides, in pertinent part, as follows:

No person shall:

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

\* \* \*

14. Section 112(a) of the Clean Air Act, 42 USCA §7412, provides, in pertinent part, as follows:

a) Definitions - For purposes of this section, except subsection (r) -

3. STATIONARY SOURCE - The term "stationary source" shall have the same meaning as such term has under Section 111(a).

\* \* \*

6. HAZARDOUS AIR POLLUTANT - The term "hazardous air pollutant" means any air pollutant listed pursuant to subsection (b).

9. OWNER OR OPERATOR - The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

15. Section 111(a) of the Clean Air Act, 42 USCA §7411(a), provides, in pertinent part, as follows:

For purposes of this section:

- (3) The term "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant. Nothing in Title III of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.

16. Section 112(b) of the Clean Air Act, 42 USCA §7412, provides, in pertinent part, as follows:

- (1) INITIAL LIST - The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

<u>CAS Number</u>	<u>Chemical Name</u>
1336363	Polychlorinated Biphenyls
0	Cyanide Compounds

17. Section 112(e) of the Clean Air Act, 42 USCA §7412, provides, in pertinent part, as follows:

Emission Standards

- (1) In general

The Administrator shall promulgate regulation establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) of this section in accordance with the schedules provided in subsections (c) and (e) of this section. The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source

under subsection (i) of this section as the result of the authority provided by this sentence.

18. Section 112(f)(4) of the Clean Air Act, 42 USCA §7412(f)(4), provides, in pertinent part, as follows:

Prohibition

No air pollutant to which a standard under this subsection applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source...

\* \* \*

19. Part 63 of Title 40 of the Code of Federal Regulations, 40 C.F.R. Part 63 (2001), entitled, "National Emission Standards for Hazardous Air Pollutants for Source Categories," was promulgated by the United States Environmental Protection Agency pursuant to the authority of the aforementioned Section 112(e) of the Clean Air Act, 42 USCA §7412.

20. The Illinois EPA administers the National Emission Standards for Hazardous Air Pollutants for Source Categories promulgated at 40 C.F.R. Part 63 in accordance with delegated authority from the United States Environmental Protection Agency.

21. Section 63.680 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.6580 (2001), entitled, "National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations," provides, in pertinent part, as follows:

Applicability and designation of affected sources.

- a. The provisions of this subpart apply to the owner and operator of a plant site for which both of the conditions specified in paragraphs (a)(1) and (a)(2) of this section are applicable. If either one of these conditions does not apply to the plant site, then the owner and operator of the plant site are not subject to the provisions of this subpart.

- (1) The plant site is a major source of hazardous air pollutant (HAP) emissions as defined in 40 CFR 63.2.
  - (2) At the plant site is located one or more of operations that receives off-site materials as specified in paragraph (b) of this section and the operations is one of the following waste management operations or recovery operations as specified in paragraphs (a)(2)(i) through (a)(2)(vi) of this section.
    - i. A waste management operation that receives off-site material and the operation is regulated as a hazardous waste treatment, storage, and disposal facility (TSDF) under either 40 CFR part 264 or part 265.
- b. For the purpose of implementing this subpart, an off-site material is a material that meets all of the criteria specified in paragraph (b)(1) of this section but is not one of the materials specified in paragraph (b)(2) of this section.
- (1) An off-site material is a material that meets all of the criteria specified in paragraphs (b)(1)(i) through (b)(1)(iii) of this section. If any one of these criteria do not apply to the material, then the material is not an off-site material subject to this subpart.
    - (i) The material is a waste, used oil, or used solvent as defined in §63.681 of this subpart;
    - (ii) The waste, used oil, or used solvent is not produced or generated within the plant site, but the material is delivered, transferred, or otherwise moved to the plant site from a location outside the boundaries of the plant site; and
    - (iii) The waste, used oil, or used solvent contains one or more of the hazardous air pollutants (HAP) listed in Table 1 of this subpart based on the composition of the material at the point-of-delivery, as defined in §63.681 of this subpart.

22. Section 63.681 of Subpart DD, Title 40 of the Code of Federal Regulations, 40

C.F.R. 63.681 (2001), provides, in pertinent part, as follows:

Definitions:

*Closed-vent system* means a system that is not open to the atmosphere and is

composed of hard-piping, ductwork, connections, and, if necessary, fans, blowers or other flow-inducing devices that conveys gas or vapor from an emission point to a control device.

*Control device* means equipment used for recovering, removing, oxidizing, or destroying organic vapors. Examples of such equipment include but are not limited to carbon adsorbers condensers, vapor incinerators flares, boilers, and process heaters.

23. Section 63.693 of Subpart DD, Title 40 of the Code of Federal Regulations, 40

C.F.R. 63.693 (2001), provides, in pertinent part, as follows:

Closed-vent systems and control devices.

- (a) The provisions of this section apply to closed-vent systems and control devices used to control air emissions for which another standard references the use of this section for such air emission control.
- (b) For each closed-vent system and control device used to comply with this section, the owner or operator shall meet the following requirements:

\* \* \*

- (2) The owner or operator must use a control device that meets the requirements specified in paragraphs (d) through (h) of this section as applicable to the type and design of the control device selected by the owner or operator to comply with the provisions of this section.

\* \* \*

(d) Carbon adsorption control device requirements.

- (1) The carbon adsorption system must achieve the performance specifications in either paragraph (d)(1)(i) or (d)(1)(ii) of this section.
  - (i) Recover 95 percent or more, on a weight-basis, of the total organic compounds (TOC), less methane and ethane, contained in the vent stream entering the carbon adsorption system; or

- (ii) Recover 95 percent or more, on a weight-basis, of the total HAP listed in Table 1 of this subpart contained in the vent stream entering the carbon adsorption system.

24. Clean Harbors' manufacturing facility is engaged in waste management operations that receive "off-site materials" as that term is defined in accordance with Section 63.680(b)(1) of Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.380(b)(1)(2001).

25. Clean Harbors' manufacturing facility is an operation that is regulated as a hazardous waste Treatment, Storage, and Disposal Facility ("TSDF") under 40 CFR Part 264.

26. Clean Harbors is also a major source of Hazardous Air Pollutants ("HAPs"), emitting a variety of HAP emissions from its waste management operations, including Polychlorinated Biphenyls and compounds of Cyanide.

27. Because Respondent is a major source of HAP emissions and is also a regulated hazardous waste treatment, storage and disposal facility that receives off-site materials, it is subject to the provisions of Subpart DD of 40 C.F.R. Part 63 in accordance with 40 C.F.R. 63.680(a) and (b)(2001).

28. The two carbon adsorption systems that control VOM emissions from Building 25 each constitute a "control device" as that term is defined under Section 63.681 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.681 (2001), and are therefore subject to the carbon adsorption control device requirements of Section 63.693(d)(1) of Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.63(d)(1)(2001).

29. On August 24, 2001, and continuing until a date better known to Respondent, the booth and hood arrangement from the flammable pour-off consolidation booth was not drawing vapors into the control system, in part because of the operation of a large ventilation fan that

blew across the front of a hood opening. In addition, the ductwork for one of the carbon adsorbers (i.e., from the northernmost set of control systems) was leaking.

30. On August 24, 2001, a review of the inlet and outlet concentrations recorded by company personnel for the flammable pour-off monitoring operation associated with Building 25, revealed that the designated North and South canister systems were reporting control efficiencies of approximately fifty percent (50%).

31. As a result of the operational deficiencies in the capture and control system for Building 25 Clean Harbors failed to achieve the required ninety-five percent (95%) control efficiency as required by Subpart DD of 40 C.F.R. part 63. The resulting excess emissions from activities relating to Building 25 occurred for a period beginning on or before August 24, 2001, and continued until a date better known to Respondent.

32. On August 24, 2001, the field inspector also observed that the North carbon adsorption system for the flammable tank farm possessed a sagging duct that connected two carbon bed containers. The field inspector noted that a viscous type of liquid was leaking from the ductwork.

33. On April 12, 2002, there were elevated levels of VOM emissions emanating from affected Subpart DD equipment. There were high VOM emissions coming from the corrugated plastic piping associated with the North and South carbon adsorber systems as well as tank No. 104, Tank No. 107 and the vicinity of several flame arrestors. There were also deficiencies with the gravity-activated seals for most of the flame arrestors located on the storage tanks and observed large pressure fluctuations within the nitrogen blanketing system.

34. As a result of the operational deficiencies in the capture and control system for the flammable storage tank farm, Clean Harbors failed to achieve the required ninety-five percent (95%) control efficiency as required by Subpart DD of 40 C.F.R. Part 63. The resulting excess emissions from activities relating to the flammable storage tank farm occurred for a period beginning on or before August 24, 2001 and continued until a date better known to Respondent.

35. By failing to comply with the control efficiency requirements governing HAP emissions from Off-Site Waste and Recovery Operations in both its Building 25 and flammable storage tank farm operations, Clean Harbors violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.693(d)(1).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this 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 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.693(d)(1);
3. Ordering the Respondent to cease and desist from further violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.693(d)(1);
4. 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, and an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;



5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems just and appropriate.

#### COUNT IV

#### **FAILURE TO COMPLY WITH NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM OFF-SITE WASTE AND RECOVERY OPERATIONS - REPORTING REQUIREMENTS**

1-28. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 of Count I, and paragraphs 13 through 28 of Count III, as paragraphs 1 through 28 of this Count IV.

29. Section 63.697 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.697 (2001), entitled, "National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations," provides, in pertinent part, as follows:

##### Reporting Requirements

- a. Each owner or operator of an affected source subject to this subpart must comply with the notification requirements specified in paragraph (a)(1) of this section.
  1. The owner or operator of an affected source must submit notices to the Administrator in accordance with the applicable notification requirements in 40 C.F.R. 63.9 as specified in Table 2 of this subpart.

30. Section 63.9 of Subpart A, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.9(2001), entitled, "Notification Requirements," provides, in pertinent part, as follows:

- (b) Initial notifications.

- (1)(i) The requirements of this paragraph apply to the owner or operator of an affected source when such source becomes subject to a relevant standard.

\* \* \*

(h) Notification of compliance status.

- (1) The requirements of paragraphs (h)(2) through (h)(4) of this section apply when an affected source becomes subject to a relevant standard.

- (2)(i) Before a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard. . .

\* \* \*

- (2)(ii) The notification shall be sent before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard...

\* \* \*

31. On or about September 5, 2002, Clean Harbors notified the Illinois EPA of the applicability of Subpart DD to its manufacturing activities.

32. Clean Harbors had previously conducted various manufacturing activities including the flammable pour-off consolidation area of building 25 and the flammable tank farm, for an unknown period prior to providing the initial notification of applicability to the Illinois EPA. In doing so, Clean Harbors failed to timely notify the Illinois EPA of the applicability of Subpart DD at the time when its affected Subpart DD source became subject to those requirements.

33. On or about September 5, 2002, Clean Harbors notified the Illinois EPA of the compliance status of its affected Subpart DD source and, on November 17, 2003, was issued a Title V permit by the Illinois EPA.

34. Clean Harbors conducted various activities including the flammable pour-off consolidation area of Building 25 and the flammable tank farm, for a period of time better known to Respondent prior to providing a notification of compliance status to the Illinois EPA. In doing so, Clean Harbors failed to timely notify the Illinois EPA of the compliance status of its affected Subpart DD source at the time when such source became subject to Subpart DD.

35. By failing to provide both an initial notification and a notification of compliance status to the Illinois EPA in the manner described above, Clean Harbors violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), 40 C.F.R. 63.697(A)(10) and 40 C.F.R. 63.9(b)(1)(i) and (h)(2).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this 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 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), 40 C.F.R. 63.697(a)(1) and 40 C.F.R. 63.9(b)(1)(i) and (h)(2);
3. Ordering the Respondent to cease and desist from further violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), 40 C.F.R. 63.697(a)(1) and 40 C.F.R. 63.9(b)(1)(i) and (h)(2);

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

5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and

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

#### COUNT V

**FAILURE TO COMPLY WITH NATIONAL EMISSION STANDARDS FOR  
HAZARDOUS AIR POLLUTANTS FROM OFF-SITE WASTE AND RECOVERY  
OPERATIONS - REQUIREMENT FOR TANKS**

1-28. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 of Count I, and paragraphs 13 through 28 of Count III above, as Paragraphs 1 through 28 of this Count V.

29. Section 63.681 of Subpart DD, Title 40 of the Code of Federal Regulations 40 C.F.R. 63.681 (2001), entitled, "National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations," provides, in pertinent part, as follows:

Definitions:

*Off-site material management unit* means a tank, container, surface impoundment, oil-water separator, organic-water separator, or transfer system used to manage off-site material.

30. Section 63.683 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.683 (2001), provides, in pertinent part, as follows:

Standards: General

- (a) The general standards under this section apply to owners and operators of affected sources as designated in §63.680(c) of this subpart.
- (b) *Off-site management units*
  - 1. For each off-site material management unit that is part of an affected source, the owner or operator must meet the requirements in either paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section except for those off-site material management units exempted under paragraph (b)(2) of this section.
    - i) The owner or operator controls air emissions from the off-site material management unit in accordance with the applicable standards specified in §§63.685 through 63.689 of this subpart.

31. Section 63.685 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.685 (2001), provides, in pertinent part, as follows:

Standards: Tanks

- (a) The provisions of this section apply to the control of air emissions from tanks for which §63.683(b)(1)(i) of this subpart references the use of this section for such air emission control.

\* \* \*
- (g) The owner or operator who controls tank air emissions by venting to a control device shall meet the requirements specified in paragraphs (g)(1) through (g)(3) of this section.
  - 1. The tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:

\* \* \*
  - ii. Each opening in the fixed roof not vented to shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than

atmospheric pressure when the control device is operating, the closure devices shall be designed to operate such that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions.

- iii. The fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the off-site material to the atmosphere, to the extent practical, and will maintain the integrity of the equipment throughout its intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include organic vapor permeability, the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.

32. The several fixed roof tanks that are associated with Clean Harbors' flammable tank farm each constitute an "off-site material management unit" as that term is defined under Section 63.681 of Title 40 of the Code of Federal Regulations.

33. Clean Harbors ducts air emissions from its several fixed roof tanks associated with the flammable tank farm to two dual-bed carbon adsorption systems. The tanks are part of the affected Subpart DD source for which Clean Harbors must comply with the applicable standards specified in Section 63.685 through 63.689 of Title 40 of the Code of Federal Regulations.

34. On April 12, 2002, there were elevated levels of VOM emissions emanating from the affected Subpart DD fixed roof tanks. There were particularly high VOM emissions coming

from Tank No. 104, Tank No. 107 and in the vicinity of several flame arrestors. Several other fixed roof tanks had readings that were elevated and ranged between 30 and 100 parts per million.

35. Further on April 12, 2002, notwithstanding the venting of the fixed roof tanks to control device, the pressure in the vapor headspace underneath the fixed roof tanks was equal to or greater than atmospheric pressure when the control device was operating. Clean Harbor was therefore required to ensure that the closure device was designed to operate with no detectable organic emissions in accordance with Section 63.685(g)(1)(ii) of Title 40 of the Code of Federal Regulations.

36. By allowing the presence of detectable organic emissions from some of the fixed roof tanks of the flammable tank farm when the pressure in the vapor headspace underneath the roof tanks were equal to or greater than atmospheric pressure while the control device was operating, Clean Harbors violated 40 C.F.R. 63.685(g)(1)(ii)(2001).

37. On April 12, 2002, some of the gravity-activated seals for the flame arrestors were eroded and the corrugated plastic piping associated with the North and South carbon adsorber systems were the source of elevated VOM emissions. Clean Harbors was required to ensure that the fixed roof tank and closure devices were made of suitable materials for minimizing exposure of air emissions to the atmosphere and that the integrity of said equipment was maintained in accordance with Section 63.685(g) (1)(iii) of Title 40 of the Code of Federal Regulations.

38. By allowing the materials relating to some of the fixed roof tank and closure devices to degrade and their integrity to fail, Clean Harbors violated also Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.685(g)(1)(iii)(2001).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this 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 Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.685(g)(1)(ii) and (iii)(2001);

3. Ordering the Respondent to cease and desist from further violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.685(g)(1)(ii) and (iii)(2001);

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

5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and

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

#### COUNT VI

#### **FAILURE TO COMPLY WITH NATIONAL EMISSION STANDARDS FOR CONTAINERS**

1-28. Complainant realleges and incorporates by reference herein paragraphs 1 through 12 of Count I, and paragraphs 13 through 28 of Count III, as paragraphs 1 through 28 of this Count VI.



29. Section 63.681 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.681 (2001), entitled "National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations," provides, in pertinent part, as follows:

Definitions:

*Container* means a portable unit used to hold material. Examples of containers include but are not limited to drums, dumpsters, roll-off boxes, bulk cargo containers commonly known as "portable tanks" or totes," cargo tank trucks, and tank rail cars.

*Light material service* means the container is used to manage an off-site material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the off-site material is greater than 0.3 kilopascals (kPa) at 20°C is equal to or greater than 20 percent by weight.

30. Section 63.683 of Subpart DD, Title 40 of the Code of Federal Regulations, 40 C.F.R. 63.683 (2001), provides, in pertinent part, as follows:

Standards: General

- (a) The general standards under this section apply to owners and operators of affected sources a designated in §63.680(c) of this subpart.
- (b) *Off-site management units.*
  - 1. For each off-site material management unit that is part of an affected source, the owner or operator must meet the requirements in either paragraph (b)(1)(i), (b)(1)(ii) or (b)(1)(iii) of this section except for those off-site material management units exempted under paragraph (b)(2) of this section.

31. Section 63.688 of 40 C.F.R. Part 63, Subpart DD, provides, in pertinent part, as follows:

Standards: Containers

- (a) This section applies to owners and operators subject to this subpart and required to control air emissions from containers using Container Level 2 controls.
- (b) The owner or operator shall control air emissions from each container subject to this section in accordance with the following requirements, as applicable to the container...

\* \* \*

- (3) For a container having a design capacity greater than 0.46 cubic meters and the container is in light-material service as defined in §63681 of this subpart, the owner or operator must control air emissions from the container in accordance with the requirements in either paragraph (b)(3)(i) or (b)(3)(ii) of this section.
  - i. The owner or operator controls air emissions from the container in accordance with the standards for Container Level 2 controls as specified in 40 CFR Part 63, Subpart PP - National Emission Standards for Containers.

32. Section 63.920 of 40 C.F.R. Part 63, Subpart PP, entitled "National Emission Standards for Containers," provides, in pertinent part, as follows:

#### Applicability

The provisions of this subpart apply to the control of air emissions from containers for which another subpart of 40 CFR parts 60, 61 or 63 references the use of this subpart for such air emission control. These air emission standards for containers are placed here for administrative convenience and only apply to those owners and operators of facilities subject to the other subparts that reference this subpart.

33. Section 63.923 of 40 C.F.R. Part 63, Subpart PP, provides, in pertinent part, as follows:

#### Standards - Container Level 2 controls

- (a) This section applies to owners and operators subject to this subpart and required to control air emissions from containers using Container Level 2 controls.

\* \* \*

- (d) Whenever a regulated-material is in a container using Container Level 2 controls, the owner or operator shall install all covers and closure devices for the container, and secure and maintain each closure device in the closed position...

34. The drums used in Clean Harbors' drum processing activities in the consolidation booth of Building 25 each constitute a "container" that possess a design capacity of greater than 0.46 cubic meters and provide "light material service" as those terms are defined under Section 63.681 of Title 40 of the Code of Federal Regulations.

35. The drums associated with Clean Harbors' drum processing activities in the consolidation booth of Building 25 also constitute an "off-site material management unit" as that term is defined under Section 63.681 of Title 40 of the Code of federal regulations and must control emissions from said containers in accordance with the requirements of 40 C.F.R. 63.688(b)(3)(i) and 63.923(d).

36. On August 24, 2001, the containers from the consolidation booth of Building 25 were left open while the employees went to lunch.

37. Clean Harbors failed to secure the containers in a closed position at the aforementioned date and time in accordance with the requirements of Subparts DD and PP of 40 C.F.R. Part 63.

38. By failing to comply with the applicable requirements for containers engaged in Off-site Waste and Recovery Operations, Clean Harbors violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2000) and 40 C.F.R. 63.688(b)(3)(i) and 63.923(d)(2001).

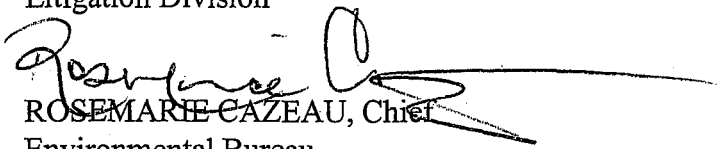
WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of the Complainant and against the Respondent, CLEAN HARBORS, on this Count VI:

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 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.688(b)(3)(i) and 63.923(d)(2001);
3. Ordering the Respondent to cease and desist from further violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(2002), and 40 C.F.R. 63.688(b)(3)(i) and 63.923(d)(2001);
4. 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, and an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Ordering the Respondent to pay all costs in this action, including attorney, expert witness and consulting fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Circuit Court deems just and appropriate.

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:



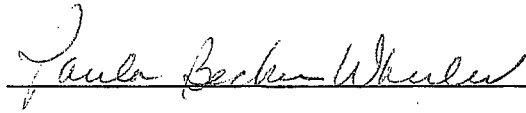
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CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 12th day of November, 2004, the foregoing Complaint and Notice of Filing upon the person listed on said Notice, by Certified Mail.



PAULA BECKER WHEELER