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CLERK'S OFFICE

**MAY 31 2005**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
ILLINOIS TOOL WORKS, INC., a )  
Delaware corporation, )  
)  
Respondent. )

PCB No. 05-201  
(Enforcement - Air)

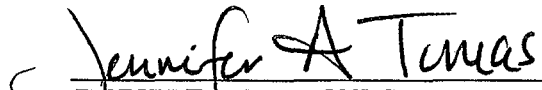
NOTICE OF FILING

To: See Attached Service List.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board Complainant's Complaint for Civil Penalties, a copy of which is herewith 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.

LISA MADIGAN  
Attorney General  
State of Illinois

  
JENNIFER A. TOMAS

May 31, 2005

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COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, ILLINOIS TOOL WORKS, INC., a Delaware corporation, as follows:

COUNT I  
CONSTRUCTING AIR EMISSION SOURCES WITHOUT A PERMIT

1. This Complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA").

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), and is an action for civil penalties.

4. At all times relevant to this Complaint, Illinois Tool Works, Inc. ("ITW") was and is a Delaware corporation, licensed by the Illinois Secretary of State to conduct business in Illinois.

5. ITW operates a plastics injection molding facility located at 195 Algonquin Road, Des Plaines, Cook County, Illinois ("Site").

6. ITW produces stamped metal and molded plastic fasteners and components. This process involves regulated emissions of volatile organic materials ("VOM") such as plastic resin material, vanishing oil, plastisols, and clean-up solvent. Emission sources at the facility include the Plastic Injection Molding Department (67 injection molding machines), Metal Stamping Department (16 metal stamping machines), Bumper Department (5 production lines), Wipe Cleaning with Solvent Operation, Natural Gas-Fired Boilers (2) and Cold Cleaning Solvent Parts Washers (4).

7. On March 13, 1998, the Illinois EPA issued a lifetime operating permit to ITW. At that time, information submitted to the Illinois EPA by ITW indicated that ITW was operating below the potential to emit ("PTE") VOM threshold of 25 tons per year.

8. On July 22, 2002, ITW submitted a Federally Enforceable State Operating Permit ("FESOP") application to the Illinois EPA. The information contained in the application indicated to the Illinois EPA that at some time in the past, on dates better know to the Respondent, ITW had become a major source, with a PTE greater than 25 tons per year of VOM, and had constructed and operated various emission sources, including injection molding machines, metal stamping presses, and degreasers, without the required construction and operating permits.

9. Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 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;

\* \* \*

10. Respondent's emissions sources are capable of emitting VOM, a contaminant injurious to human health and the atmosphere, and therefore are capable of causing or contributing to air pollution.

11. Sections 3.115, 3.165 and 3.315 of the Act, 415 ILCS 5/3.115, 5/3.165 and 5/3.315 (2002), provide the following definitions, respectively:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

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

"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.

12. ITW is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

13. VOM is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

14. Section 201.142 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

15. Section 201.102 of the Board Air Pollution

Regulations, 35 Ill. Adm. Code 201.102, provides the following definitions:

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

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

"New Emission Source": Any emission source, the construction or modification of which is commenced on or after April 14, 1972.

"Specified Air Contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

16. VOM is a "specified air contaminant" as that term is defined in Section 201.102 of the Board Air Pollution Regulations.

17. Between 1998 and 2003, the exact dates being better known to ITW, ITW installed and began operating metal stamping presses, injection molding machines and open molding operations at its facility in Des Plaines, Illinois. This new equipment constituted "construction" of "new emission sources" as those terms are defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

18. ITW failed to obtain required construction permit(s) from the Illinois EPA prior to constructing the new emission sources at the Site.

19. ITW's new emission sources were not exempted from the State permitting requirements by the Illinois EPA pursuant to Section 201.146 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.146.

20. By constructing new emission sources without obtaining any construction permits from the Illinois EPA, ITW violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ILLINOIS TOOL WORKS, INC., for the following relief:

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 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. 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 civil



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

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

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

## COUNT II

### FAILURE TO OBTAIN OPERATING PERMITS FOR NEW EMISSION SOURCES

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 13, 15 through 17, and 19 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

#### Operating Permits for New Sources

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157 as shall be specified in the construction permit.

19. Between 1998 and 2003, the exact dates being better known to ITW, ITW installed and began operating emission equipment at its Site.

20. Between 1998 and 2003, the exact dates being better known to ITW, and continuing until May 19, 2004, ITW operated the new emission sources at the Site without obtaining an operating permit from the Illinois EPA.

21. ITW, by its actions and omissions as alleged herein, violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ILLINOIS TOOL WORKS, INC., for the following relief:

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 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. 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 civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

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

**COUNT III**

**FAILURE TO SUBMIT TIMELY ANNUAL EMISSIONS REPORTS**

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and 11 through 13 of Count I as paragraphs 1 through 11 of this Count III.

12. 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 contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

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

"Air Pollution Control Equipment": Any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere.

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

"Owner or Operator": Any person who owns, leases, controls or supervises an emission source or air pollution control equipment.

14. Section 201.302(a) of the Board Air Pollution

Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

- a. The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

15. ITW is an "owner or operator" of an "emission source" as those terms are defined in Section 201.102.

16. ITW is not exempt from the provisions of Section 201.302(a) of the Board Air Pollution Regulations, and therefore obligated to submit annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions.

17. Section 254.137(a) of the Board Air Pollution

Regulations provides as follows:

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

18. Section 254.132(a) of the Board Air Pollution

Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

- a. Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

19. ITW failed to submit complete and accurate Annual Emission Reports ("AERs") from 1992 through 2002. Although ITW did submit reports during those years, they failed to accurately reflect all emissions from the source. ITW did not submit complete and accurate reports until February 6, 2004.

20. By failing to submit complete AERs for the years 1992 through 2002 until February 6, 2004, Respondent violated Sections 201.302(a), 254.137(a) and 254.132(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code Sections 201.302(a), 254.137(a) and 254.132(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ILLINOIS TOOL WORKS, INC., for the following relief:

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 9(a) of the Act, 415 ILCS 5/9(a) (2002), and Sections 201.302(a), 254.137(a) and 254.132(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.137(a) and 254.132(a);
3. 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 civil

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

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

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

**COUNT IV**  
**FAILURE TO OBTAIN A CLEAN AIR ACT PERMIT PROGRAM (CAAPP)**  
**PERMIT**

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 8, 10 through 13, and paragraph 17 of Count I as paragraphs 1 through 13 of this Count IV.

14. On February 6, 2004, May 14, 2004 and February 17, 2005, ITW submitted information to the Illinois EPA attempting to document that its PTE for VOM is less than 25 tons per year. The Illinois EPA believes ITW's calculations are incorrectly performed.

15. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

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

"CAAPP source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

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

"Potential to emit" 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 restrictions 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 enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

16. ITW owns or operates a stationary source as defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002).

17. Section 39.5(2) of the Act, 415 ILCS 39.5(2) (2002), provides in pertinent part as follows:

2. Applicability.

a. Sources subject to this Section shall include:

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

\* \* \*

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

\*

\*

\*

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

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

18. The ITW Site is located in an area classified as "severe" nonattainment for ozone.

19. Between 1998 and 2003, the exact date better known to ITW, ITW's PTE increased to 25 tons or more of VOM per year and ITW became a major source under Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(2)(c)(iii)(A)(2002), and was required to obtain a CAAPP permit from the Illinois EPA.

20. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002), provides in pertinent part as follows:

6. Prohibition

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\*

b. . . no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.



21. Beginning on a date between 1998 and 2003, the exact date better known to ITW, and continuing until May 19, 2004, ITW operated a major source without the requisite CAAPP permit.

22. By operating a major source without the requisite CAAPP permit, ITW violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, ILLINOIS TOOL WORKS, INC., for the following relief:

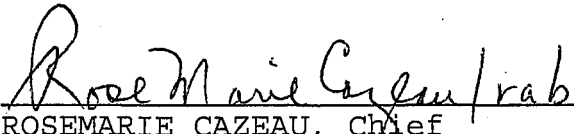
1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002);
3. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
4. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Respondent; and

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

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

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

By:

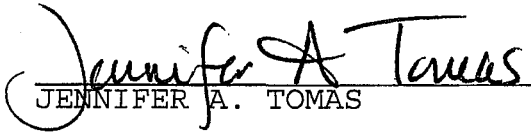
  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

Jennifer A. Tomas  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph Street, Suite 2001  
Chicago, Illinois 60601  
(312) 814-0609

CERTIFICATE OF SERVICE

I, JENNIFER A. TOMAS, an Assistant Attorney General, certify that on the 31<sup>st</sup> day of May 2005, I caused to be served by Certified Mail, Return Receipt Requested, the foregoing Complaint to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

  
JENNIFER A. TOMAS