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CLERK'S OFFICE

JUN 27 2005

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

June 23, 2005

PCB 05-219

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Conair Corporation***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Kristen Laughridge  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

KL/pp  
Enclosures

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**JUN 27 2005**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 CONAIR CORPORATION, a )  
 Delaware corporation, )  
 )  
 Respondent. )

PCB No. 05-219  
(Enforcement)

**NOTICE OF FILING**

To: CONAIR CORPORATION  
c/o C T Corporation System, R..A.  
208 S. Lasalle Street, Suite 814  
Chicago, IL 60604-1101

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and 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 this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

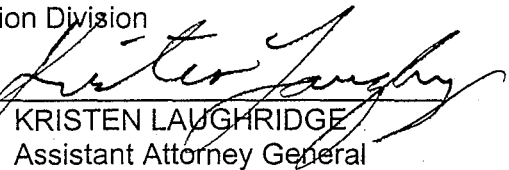
Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:

  
KRISTEN LAUGHRIDGE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 23, 2005

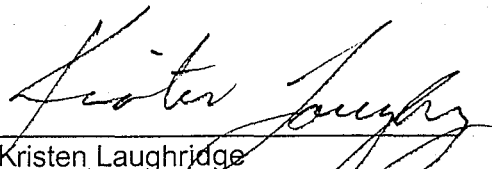
**CERTIFICATE OF SERVICE**

I hereby certify that I did on June 23, 2005, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: CONAIR CORPORATION  
c/o C T Corporation System, R..A.  
208 S. Lasalle Street, Suite 814  
Chicago, IL 60604-1101

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

  
Kristen Laughridge  
Assistant Attorney General

This filing is submitted on recycled paper.

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

JUN 27 2005

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
CONAIR CORPORATION, a )  
Delaware corporation, )  
 )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 05-219  
(Enforcement)

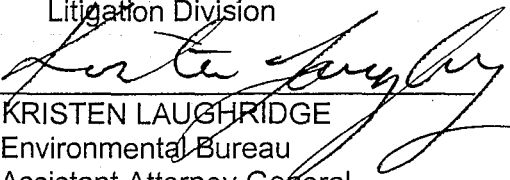
**ENTRY OF APPEARANCE**

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KRISTEN LAUGHRIDGE, Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of record.

Respectfully submitted,

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

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

BY:   
KRISTEN LAUGHRIDGE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 23, 2005

RECEIVED  
CLERK'S OFFICE

JUN 27 2005

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

|                                  |   |
|----------------------------------|---|
| PEOPLE OF THE STATE OF ILLINOIS, | ) |
|                                  | ) |
|                                  | ) |
| Complainant,                     | ) |
|                                  | ) |
| vs.                              | ) |
|                                  | ) |
| CONAIR CORPORATION, a Delaware   | ) |
| corporation,                     | ) |
| Respondent.                      | ) |

No. PCB No. 05-  
(Enforcement -

219

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CONAIR CORPORATION, as follows:

COUNT I

CONSTRUCTION AND OPERATION WITHOUT AN AIR POLLUTION PERMIT

1. This count is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, the Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Sections 31 of the Illinois Environmental Protection Act ("the 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. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (1998), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. The Respondent, Conair Corporation ("Conair"), is a Delaware corporation, and has been doing business in good standing in Illinois since April 12, 1989. Conair does business in Illinois as Conair Packaging Company, Babylliss Pro, Professional Products Division and One'n Only.

5. The Respondent owns and operates a facility at 205 Shelhouse Drive, Rantoul, Champaign County, Illinois ("facility"). The facility manufactures and packages personal care products for other companies. The facility has a work force of approximately 220 people, operating five to six days a week.

6. The facility has a Lifetime Small Source Permit, permit number PN86010068, issued by Illinois EPA on February 22, 1996.

7. Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides:

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;

8. Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides:

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 Section 201.146 or Section 201.170(b) of this Part.

9. Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

201.143, provides:

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.

10. On March 24, 2004, Illinois EPA, performed a multi-media inspection and air permit review at the facility. In approximately July 1991, the facility had added two Italian aerosol can-filling production lines ("lines") without a permit from Illinois EPA Bureau of Air. Air releases at this facility come from purging of the lines with oxygen to purge excess unused propellant into the environment.

11. The Respondent added a reject aerosol can-puncturing unit without a permit. In this unit, the rejected cans are punctured and propellant is expelled into the environment.

12. By constructing the lines and the reject aerosol can-puncturing unit that contribute to air pollution and are new emission sources, without a permit from the Illinois EPA, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002) and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

13. By operating the lines and the reject aerosol can-puncturing unit that contribute to air pollution and are a new emission source without a permit from the Illinois EPA, the Respondent violated of Section 9(b) of the Act, 415 ILCS 5/9(b) (2002) and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:



- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

**COUNT II**

**HAZARDOUS AND SPECIAL WASTE VIOLATIONS**

1-6. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count II.

7. Section 21 of the Act, 415 ILCS 5/21 (2002), provides, in pertinent part, as follows:

No person shall:

\* \* \*

e. Dispose, treat, store or abandon any waste . . . except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

\* \* \*

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

- 1. without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and

full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or

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

\* \* \*

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

8. Section 22.48(a) of the Act, 415 ILCS 5/22.48(a) (2002), provides as follows:

- (a) An industrial process waste or pollution control waste not within the exception set forth in subdivision (2) of subsection (c) of Section 3.475 of this Act must be managed as special waste unless the generator first certifies in a signed, dated, written statement that the waste is outside the scope of the categories listed in subdivision (1) of subsection (c) of Section 3.475 of this Act.

9. Section 3.220 of the Act, 415 ILCS 5/3.220 (2002), provides 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, or pursuant to Board regulations.

\* \* \*

10. Section 3.475 of the Act, 415 ILCS 5/3.475 (2002), provides, in pertinent part, as follows:

"Special Waste" means any of the following:

\* \* \*

- (c) industrial process waste or pollution control waste, except:
  - (1) Any such waste certified by its generator, pursuant to Section 22.48 of this Act, not to be any of the following:
    - (A) a liquid, as determined using the paint filter test....
    - (B) regulated asbestos-containing waste materials....

- (C) polychlorinated byphenyls (PCB's)..
- (D) an industrial process waste or pollution control waste...
- (E) a waste material generated by processing recyclable metals by shredding and required to be managed as a special waste...

11. Section 722.134 of the Board's Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 722.134, provides, in pertinent part, as follows:

- a) Except as provided in subsection (d), (e), (f), (g), (h), or (i) of this Section, a generator is exempt from all the requirements in 35 Ill. Adm. Code 725.Subparts G and H, except for 35 Ill. Adm. Code 725.211 and 725.214, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the following conditions are fulfilled:
  - 1) The waste is placed in or on one of the following:
    - A) In containers, and the generator complies with 35 Ill. Adm. Code 725.Subparts I, AA, BB, and CC;
 

\* \* \*
  - 2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
  - 3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste"; and
  - 4) The generator complies with the requirements for owners or operators in 35 Ill. Adm. Code 725.Subparts C and D and with 35 Ill. Adm. Code 725.116 and 728.107(a)(5).
 

\* \* \*
- c) Accumulation near the point of generation.
  - 1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 35 Ill. Adm. Code 721.133(e) in containers at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process generating the waste without a permit or interim status and without complying with subsection (a) of this Section, provided the generator does the following:
    - B) Marks the generator's containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

12. Section 725.273 of the Board Hazardous Waste Operating Regulations, 35 Ill.

Adm. Code 725.273, provides, in pertinent part, as follows:

- a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

13. Section 733.144(e) of the Board's Standards For Universal Waste Management

Regulations, 35 Ill. Adm. Code 733.144(e), provides:

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

\* \* \*

- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste--Lamps", "Waste Lamps" or "Used Lamps".

14. Section 808.121(a) of the Board's Solid Waste and Special Waste Hauling

Regulations, 35 Ill. Adm. Code 808.121(a), provides as follow:

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

15. On March 19, 2004, Illinois EPA conducted a RCRA Compliance Evaluation

Inspection at the facility to determine the regulatory status of the facility and the facility's compliance with the Act and Board Regulations. The inspector reviewed disposal documentation, the contingency plan, and training records at the facility. Furthermore, the inspector walked through the facility with the facility's Safety Coordinator.

16. Four drums of wastes from the production of aerosol hair spray were located behind the facility building. None of the drums had a hazardous waste label or an accumulation date on them. A fiber drum located near the aerosol production line, was approximately 3/4 full of defective product cans. The fiber drum was uncovered and did not have a hazardous waste label.

17. Packages containing waste fluorescent bulbs were not labeled with the phrase "Universal Waste-Lamps", "Waste Lamps" or "Used Lamps."

18. The Respondent has not been shipping the hazardous aerosol line waste off site within 90 days, and has not been inspecting the containers of hazardous waste from defective aerosol cans weekly.

19. The Respondent has not determined whether the rejected waste aerosol containers were special waste, nor certified in a written statement that the containers were outside the scope of categories listed in section (1) of subsection (c) of Section 3.475 of the Act.

20. By failing to label the drums outside the facility "hazardous waste" and affixing an accumulation date, Respondent has violated Section 722.134(a)(2) and (a)(3) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.134(a)(2), (a)(3).

21. By failing to label the fiber drum near the aerosol production line "hazardous waste," Respondent has violated Section 722.134(c) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.134(c).

22. By failing to label the packages containing waste fluorescent bulbs with the phrase "Universal Waste-Lamps", "Waste Lamps" or "Used Lamps," Respondent has violated Section 733.144(e) of the Board's Standards For Universal Waste Management Regulations, 35 Ill. Adm. Code 733.144(e).

23. By failing to cover the fiber drum near the aerosol production line, the Respondent has violated Section 725.273(a) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.273(a).

24. By failing to manage the discarded waste aerosol containers as special waste nor certify in a written statement that the waste was outside the scope of section (1) of subsection (c) of Section 3.475 of the Act, Respondent has violated Section 22.48 of the Act,

415 ILCS 5/22.48 (2002) and Section 808.121(a) of the Board's Solid Waste and Special Waste Hauling Regulations, 35 Ill. Adm. Code 808.121(a).

25. By storing hazardous waste in a manner that does not meet the standards of the Act or Board Regulations, Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e)(2002).

26. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

**COUNT III**

**HAZARDOUS WASTE MANAGEMENT VIOLATIONS**

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count III. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count III.

20. Section 725.113 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.113, provides, in pertinent part, as follows:

- a) Waste analysis:
  - 1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 725.213(d), the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.  
\* \* \*
- b) The owner or operator shall develop and follow a written waste analysis plan that describes the procedures that the owner or operator will carry out to comply with subsection (a) of this Section. The owner or operator shall keep this plan at the facility....

21. Section 725.114(c) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.114(c), provides as follows:

- c) Unless exempt under subsection (a)(1) or (a)(2) above, a sign with the legend, "Danger--Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility and at other locations in sufficient numbers to be seen from any approach to this active portion. The sign must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger--Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

22. Section 725.173(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.173(a), provides, in pertinent part, as follows

- a) The owner or operator shall keep a written operating record at the facility.  
\* \* \*

23. During the RCRA Compliance Evaluation Inspection, Illinois EPA reviewed documents maintained at the facility and looked for documents that are required to be maintained at the facility.

24. The Respondent did not have on-site analysis results indicating that a detailed chemical and physical analysis of the facility wastes had been done, a written waste analysis plan, nor a written operating record containing information such as the quantity and location of each hazardous waste, method of treatment, and the results of the waste analysis.

25. The Respondent did not have signs with the legend "Danger-Unauthorized Personnel Keep Out" posted at each entrance in sufficient numbers to be seen from any approach and legible from a distance of at least 25 feet.

26. By failing to have on site analysis results indicating that a detailed chemical and physical analysis of the facility wastes had been done, Respondent has violated Section 725.113(a)(1) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.113(a)(1).

27. By failing to develop and follow a written analysis plan that describes the procedures to perform a chemical and physical analysis of the facility wastes, Respondent has violated Section 725.113(b) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.113(b).



28. By failing to maintain a written operating record containing the information required in Section 725.173(b), Respondent has violated Section 725.173(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.173(a).

29. By failing to post signs with the legend "Danger-Unauthorized Personnel Keep Out" posted at each entrance in sufficient numbers to be seen from any approach and legible from a distance of at least 25 feet, Respondent has violated Section 725.114(c) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.114(c).

30. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and

- F. Grant such other and further relief as the Board deems appropriate.

#### COUNT IV

##### HAZARDOUS WASTE EMPLOYEE TRAINING VIOLATIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count IV. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count IV.

20. Section 725.116 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.116, provides:

- a)
- 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.
  - 2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.
  - 3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems, including where applicable:
    - A) Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment;
    - B) Key parameters for automatic waste feed cut-off systems;
    - C) Communications or alarm systems;

- D) Response to fires or explosions;
  - E) Response to groundwater contamination incidents; and
  - F) Shutdown of operations.
- b) Facility personnel must successfully complete the program required in paragraph (a) of this section upon the effective date of these regulations or six months after the date of their employment or assignment to a facility or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section.
- c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.
- d) The owner or operator must maintain the following documents and records at the facility:
- 1) The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;
  - 2) A written job description for each position listed under paragraph (d)(1) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education or other qualifications and duties of facility personnel assigned to each position;
  - 3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section;
  - 4) Records that document that the training or job experience required under paragraphs (a), (b) and (c) of this section has been given to and completed by facility personnel.

21. During the RCRA Compliance Evaluation Inspection, Illinois EPA reviewed documents maintained at the facility and looked for documents that are required to be maintained at the facility.

22. There was no documentation at the facility indicating that required training for hazardous waste received by all facility personnel, that facility personnel were trained within six

months of being hired into or transferred to a new position dealing with hazardous waste, that facility personnel were taking part in an annual review of the training, nor documentation with the job title, name, description, training or experience for each position related to hazardous waste.

23. By failing to administer the required training for hazardous waste to the facility personnel, Respondent has violated Section 725.116(a) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.116(a).

24. By failing to train facility personnel who have been newly hired or transferred to a position dealing with hazardous waste, Respondent has violated Section 725.116(b) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.116(b).

25. By failing to have an annual review of the training for the facility personnel, Respondent has violated Section 725.116(c) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.116(c).

26. By failing to maintain documentation that listed the job title, name, description, and training, Respondent has violated Section 725.116(d) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 725.116(d).

27. By failing to comply with the requirements of Section 725.116, Respondent has violated Section 722.134(a) of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.134(a).

28. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

#### COUNT V

#### HAZARDOUS WASTE PERMIT VIOLATIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count V. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count V.

20. Section 702.110 of the Board's RCRA and UIC Permit Programs Regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

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

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

21. Section 703.121 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm.

Code 703.121, provides in pertinent part, as follows:

- a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:
  - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or  
\* \* \*
- b) An owner or operator of a HWM unit must have permits during the active life (including the closure period) of the unit. An owner or operator of a surface impoundment, landfill, land treatment unit, or a waste pile unit that received wastes after July 26, 1982, or that certified closure (according to 35 Ill. Adm. Code 725.215) after January 26, 1983, must have a post-closure care permit, unless it demonstrates closure by removal or decontamination, as provided under Sections 703.159 and 703.160, or obtains enforceable documents containing alternative requirements, as provided under Section 703.161. If a post-closure care permit is required, the permit must address applicable 35 Ill. Adm. Code 724 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements.

22. Section 703.150 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm.

Code 703.150, provides, in pertinent part, as follows:

- a) The owner or operator of an existing HWM facility or of an HWM facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit Part A of the permit application to the Agency no later than the following times, whichever comes first:  
\* \* \*
- 2) Thirty days after the date the owner or operator first becomes subject to the standards in 35 Ill. Adm. Code 725 or 726; or

23. By storing hazardous waste at the facility for greater than 90 days, the facility is considered a hazardous waste storage facility under Section 722.134 of the Board's Hazardous Waste Operating Regulations, 35 Ill. Adm. Code 722.134. Therefore, the facility is required to have a RCRA permit under Section 703.123 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.123.

24. By not applying for a RCRA permit within 30 days of first becoming a hazardous waste storage facility, thereby subject to the standards in 35 Ill. Adm. Code 725 or 726, Respondent has violated Section 703.150 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.150.

25. By storing hazardous waste without a RCRA permit, including during the active life of the facility, Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(2002), and Section 703.121(a)(1) and (b) of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121(a)(1), (b).

26. By storing hazardous waste in violation of regulations adopted by the Board, Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2002).

27. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;

- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

**COUNT VI**

**HAZARDOUS WASTE REPORTING VIOLATIONS**

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count VI. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count VI.

20. Section 722.141(a) of the Board's Standards for Generators of Hazardous Waste Regulations, 35 Ill. Adm. Code 722.141(a), provides, in pertinent part, as follows:

- a) A generator who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States shall prepare and submit a single copy of an annual report to the Agency by March 1 for the preceding calendar year. The annual report must be submitted on a form supplied by the Agency, and must cover generator activities during the previous calendar year....

21. Section 722.142 of the Board's Standards for Generators of Hazardous Waste Regulations, 35 Ill. Adm. Code 722.142, provides, in pertinent part, as follows:

- a) Generators of greater than 1000 kilograms of hazardous waste in a calendar month.
  - 1) A generator of greater than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.
  - 2) A generator of greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the Agency



if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter...

22. Section 725.175 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.175, provides, in pertinent part, as follows:

The owner and operator shall prepare and submit a single copy of an annual report to the Agency by March 1 of each year. The report form and instructions supplied by the Agency must be used for this report. The annual report must cover facility activities during the previous calendar year...

\* \* \*

23. During the RCRA Compliance Evaluation Inspection, Illinois EPA reviewed hazardous waste reporting for the facility.

24. The Respondent generates over 2,200 pounds of hazardous waste per month.

25. The Respondent shipped hazardous waste off-site to a facility within the United States, and failed to submit an annual report to the Illinois EPA for the year 2003.

26. By failing to submit an annual report to the Illinois EPA for the off-site shipment of hazardous waste for the year 2003, Respondent has violated Section 722.141(a) of the Board's Standards for Generators of Hazardous Waste Regulations, 35 Ill. Adm. Code 722.141(a).

27. A copy of manifests IL 10685490 and IL 10752502, with the signature of the owner or operator of the designated facility that the hazardous waste was delivered to, was not received by the Illinois EPA from the Respondent within 35 days of the date the hazardous waste was received by the transporter.

28. The Respondent did not make the required contact with the designated facility to determine the status of the hazardous waste, nor did the Respondent file an Exception Report

with the Illinois EPA when they did not receive a signed copy of the manifests within 45 days of the transporter receiving the hazardous waste.

29. By not making the required contact with the owner or operator after not receiving a signed copy of the manifests within 35 days of the transporter receipt, nor filing an Exception Report with the Illinois EPA after 45 days of not receiving a copy of the signed manifests, Respondent has violated Section 722.142(a)(1) and (a)(2) of the Board's Standards for Generators of Hazardous Waste Regulations, 35 Ill. Adm. Code 722.142(a)(1), (a)(2).

30. The Respondent did not submit an annual hazardous waste report for the year 2003.

31. By failing to submit an annual hazardous waste report, Respondent has violated Section 725.175 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.175.

32. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

#### **PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

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

B. Finding that the Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and

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

### COUNT VII

#### HAZARDOUS WASTE CONTINGENCY PLAN VIOLATIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count VII. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count VII.

20. Section 725.152 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.152, provides in pertinent part, as follows:

- a) The contingency plan must describe the actions facility personnel must take to comply with Sections 725.151 and 725.156 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.  
\* \* \*
- c) The plan must describe arrangements agreed to by local police department, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services, pursuant to Section 725.137.
- d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see Section 725.155), and this list must be kept up to date. Where more than one person is listed one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

- e) The plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment] where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

21. Section 725.153 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.153, provides, in pertinent part, as follows

A copy of the contingency plan and all revisions to the plan must be:

- a) Maintained at the facility; and
- b) Submitted to all local police departments, fire departments, hospitals and state and local emergency response teams that may be called upon to provide emergency services.

22. Section 725.155 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.155, provides, in pertinent part, as follows:

At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

Comment: The emergency coordinator's responsibilities are more fully spelled out in § 725.156. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of waste(s) handled by the facility and type and complexity of the facility.

23. The contingency plan had numerous deficiencies: no description of actions facility personnel must take in response to fires, explosions, or any planned or unplanned

release of hazardous constituents into the environment, no description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, no list of names, addresses, and phone numbers (home and office) of all persons qualified to act as emergency coordinators, and no list of all emergency equipment and decontamination equipment at the facility nor a physical description or brief outline of each equipment's capabilities.

24. The Respondent failed to submit a copy of the contingency plan to all local police departments, fire departments, hospitals, and emergency response teams that may be called upon to provide emergency services.

25. The Respondent failed to designate an emergency coordinator who was thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility and the facility layout.

26. By failing to have in the contingency plan a description of actions facility personnel must take in response to fires, explosions, or any planned or unplanned release of hazardous constituents into the environment, Respondent has violated Section 725.152(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.152(a).

27. By failing to include in the contingency plan a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, Respondent has violated Section 725.152(c) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.152(c).

28. By failing to have in the contingency plan a list of names, addresses, and home and office phone numbers of all persons qualified to act as emergency coordinators, Respondent has violated Section 725.152(d) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.152(d).

29. By failing to include in the contingency plan a list of all emergency equipment and decontamination equipment at the facility nor a physical description or brief outline of each equipment's capabilities, Respondent has violated Section 725.152(e) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.152(e).

30. By failing to submit a copy of the contingency plan to all local police departments, fire departments, hospitals, and emergency response teams that may be called upon to provide emergency services, Respondent has violated Section 725.153 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.153.

31. By failing to have an emergency coordinator who was thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility and the facility layout was not named for the facility, Respondent has violated Section 725.155 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.155.

32. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

### **COUNT VIII**

#### **FAILURE TO NOTIFY EMERGENCY PERSONNEL**

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count VIII. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count VIII.

20. Section 725.133 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.133, provides as follows:

All facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, where required, must be

tested and maintained as necessary to assure its proper operation in time of emergency.

21. Section 725.137 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.137, provides, in pertinent part, as follows:

The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:

- 1) Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes;

22. There were no records at the facility documenting the testing of facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, nor records indicating that an attempt was made to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes.

23. By failing to test facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, Respondent has violated Section 725.133 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.133.

24. By failing to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and



associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes, Respondent has violated Section 725.137 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.137.

25. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

**COUNT IX**

**FAILURE TO PERFORM EQUIPMENT INSPECTIONS**

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count IX. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count IX.

20. Section 725.274 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.274, provides as follows:

The owner or operator shall inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

21. Section 725.115 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.115, provides, in pertinent part, as follows:

- a) The owner or operator shall inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing or may lead to the conditions listed below. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
  - 1) Release of hazardous waste constituents to the environment, or
  - 2) A threat to human health.
- b) Written schedule.
  - 1) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.
  - 2) The owner or operator shall keep this schedule at the facility.
  - 3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the

inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use...

\* \* \*

d) The owner or operator shall record inspections in an inspection log or summary. The owner or operator shall keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made and the date, and nature of any repairs or other remedial actions.

22. There were no records documenting that the containers of hazardous waste from defective aerosol cans were inspected weekly, nor that the facility was being inspected for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to a release of a hazardous waste. Furthermore, there was no written schedule for inspecting all monitoring, safety and emergency equipment and the operator did not record the required inspections in a log or summary.

23. By failing to inspect the containers of hazardous waste from defective aerosol cans weekly, Respondent has violated Section 725.274 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.274.

24. By failing to inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to a release of a hazardous waste, Respondent has violated Section 725.115(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.115(a).

25. By failing to develop and follow written schedule for inspecting all monitoring, safety and emergency equipment, Respondent has violated Section 725.115(b) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.115(b).

26. By failing to record the required inspections in a log or summary, Respondent has violated Section 725.115(d) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.115(d).

27. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT X

CLOSURE PLAN VIOLATIONS

1-19. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 of Count I as paragraphs 1 through 6 of this Count X. Complainant realleges and incorporates herein by reference paragraphs 7 through 19 of Count II as paragraphs 7 through 19 of this Count X.

20. Section 725.212(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.212(a), provides as follows:

- a) Written plan. Within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility shall have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

21. Section 725.242(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.242(a), provides ,in pertinent part, as follows:

- a) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.278, 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102...

\* \* \*

22. Section 725.243 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.243, provides, in pertinent part, as follows:

An owner or operator of each facility shall establish financial assurance for closure of the facility.

23. The Respondent did not have a written closure plan or a written estimate of the cost of closing the facility. Furthermore, Respondent has not established appropriate financial assurance for the closure of the facility.

24. By failing to have a written closure plan, Respondent has violated Section 725.212(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.212(a).

25. By failing to have a written estimate of the cost of closing the facility, Respondent has violated Section 725.242(a) of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.242(a).

26. By failing to establish appropriate financial assurance for the closure of the facility, Respondent has violated Section 725.243 of the Board's Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities Regulations, 35 Ill. Adm. Code 725.243.

27. By engaging in an act which produces hazardous waste in violation of Board Regulations, Respondent has violated Section 21(i) of the Act, 415 ILCS 5/21(i) (2002).

**PRAYER FOR RELIEF**

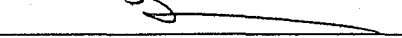
WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, CONAIR CORPORATION:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

Respectfully submitted,

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:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

OF COUNSEL  
KRISTEN LAUGHRIDGE  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
217/557-5767  
Dated: 6/23/05