## ILLINOIS POLLUTION CONTROL BOARD September 16, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 09-13
	)	(Enforcement - Air)
BEHR IRON & STEEL, INC., an Illinois	)	
corporation,	)	
-	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On September 5, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Behr Iron & Steel, Inc. (Behr Iron). The complaint concerns Behr Iron's scrap metal processing facility located at 208 Quaker Road in Rockford, Winnebago County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the complaint as meeting the applicable content requirements of the Board's procedural rules. *See* 35 Ill. Adm. Code 103.204. The Board further directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Behr Iron violated Sections 9(a), 9(b), and 9.1(d)(1) of the Act (415 ILCS 5/9(a), 9(b), 9.1(d)(1) (2006)), Sections 201.142, 201.143, and 201.302 of the Board's air pollution regulations (35 Ill. Adm. Code 201.142, 201.143, 201.302), and Sections 63.1501(b), 63.1511(a), 63.1511(b), and 63.1515(b) of the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) for secondary aluminum production (40 C.F.R. §§ 63.1501(a), 63.1511(a), 63.1511(b), 63.1515(b)).<sup>1</sup> The People further allege that Behr Iron violated these provisions by (1) failing to obtain a construction permit from the Illinois Environmental Protection Agency (Agency) prior to constructing emission sources and air pollution control equipment; (2) failing to obtain an operating permit from the Agency prior to operating emission sources and air pollution control equipment; (3) failing to timely submit complete and accurate annual emission reports (AERs) to the Agency; (4) failing to submit a

<sup>&</sup>lt;sup>1</sup> The NESHAP for secondary aluminum production (40 C.F.R. Part 63, Subpart RRR) was promulgated by the United States Environmental Protection Agency under Section 112 of the federal Clean Air Act (CAA) (42 U.S.C. § 7412). Section 9.1(d)(1) of the Act prohibits anyone from violating any federal regulation adopted under Section 112 of the CAA. Consequently, any violation of the secondary aluminum production NESHAP is also a violation of Section 9.1(d)(1) of the Act. *See* 415 ILCS 5/9.1(d) (2006).

site-specific test plan and conduct performance testing by the deadlines established in the NESHAP for secondary aluminum production; and (5) failing to submit a notification of compliance status report to the Agency.

On September 5, 2008, the People and Behr Iron also filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Behr Iron does not admit the alleged violations but agrees to pay a civil penalty of \$10,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

## IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 16, 2008, by a vote of 4-0.

In T. Thereian

John Therriault, Assistant Clerk Illinois Pollution Control Board