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JAN 22 2009
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APOLLO PLASTICS CORPORATION

Petitioner

v.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

No. PCB 09-36

(Permit Appeal-Air)

NOTICE OF FILING

To: See attached service list.

PLEASE TAKE NOTICE that on January 22, 2009, we filed with the Illinois Pollution Control Board an original and nine (9) copies of a Restated Petition for Review, pursuant to 415 ILCS 5/40.2(a), in the above-referenced matter on behalf of Apollo Plastics Corporation, a copy of which is hereby served upon you.

DATED: January 22, 2009

Respectfully submitted,

APOLLO PLASTICS CORPORATION

By: 

One of Its Attorneys

Harvey M. Sheldon, Esq.
Hinshaw & Culbertson LLP
222 North LaSalle Street
Suite 300
Chicago, IL 60601
(312) 704-3000

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ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

No. PCB 09-36

(Air-Permit Appeal)

REVISED PETITION FOR REVIEW OF THE AGENCY'S FAILURE TO TIMELY ACT

UPON THE APPLICATION OF PETITIONER FOR A

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT

NOW COMES, Petitioner Apollo Plastics Corporation ("Apollo"), by and through its attorneys, Harvey M. Sheldon and Hinshaw & Culbertson LLP, pursuant to Section 40.2(a) of the Illinois Environmental Protection Act, 415 ILCS 5/40.2(a) (the "Act") and Section 105.302(c) of the Illinois Administrative Code, 35 Ill. Adm. Code § 105.302(c), and petitions the Board for review of the Illinois Environmental Protection Agency's (the "Agency") failure to timely act on Apollo's Air Operating Permit application. In support hereof, Apollo states as follows:

1. This Revised Petition is a restatement of Count I of the Petition for Hearing originally filed November 25, 2008. This restatement is pursuant to the Order of the Board entered January 8, 2009, in which the Board directed Petitioner to file amended petitions by February 9, 2009 presenting each Count of the original Petition as a separate petition.

2. Pursuant to Section 504 of the Clean Air Act, 42 USC § 7661b(c), and Section

39.5 of the Act, Apollo submitted an application for an initial FESOP on a CAAPP application form to the Agency for its facility located in Chicago, Illinois in 2006.

3. On or about October 27, 2006 the Agency sent a notice to Apollo informing Apollo that its CAAPP application was complete pursuant to Section 39.5 of the Act. (See attached CAAPP Application Completeness Determination and Source Fee Determination, which is Exhibit A hereto).

4. Pursuant to 415 ILCS 5/39.5(5)(j), the Agency shall act on initial CAAPP applications within two (2) years after the date of a completed application. The two (2) year time period for Agency action begins to run from the date that a complete application was submitted.

5. As of the date of this Petition, two years have passed, however the Agency has failed to take any action on Apollo's initial CAAPP application for a FESOP.

5. Apollo can demonstrate that based upon the information that is or should be a part of the Agency's record, the operations for which the FESOP is sought will not cause a violation of the Illinois Environmental Protection Act or relevant rules.

6. Where, as here, the agency fails to act within two (2) years, its failure to act is treated as a final permit action for purposes of judicial review pursuant to Sections 40.2 and 41 of the Act. 415 ILCS 5/39.5(5)(j). Apollo, therefore, files this Petition for Hearing, pursuant to Section 40.2(a) of the Act and Section 105.304 of the Illinois Administrative Code, 35 Ill. Adm. Code § 105.304. This filing is within thirty-five (35) days of the expiration of the two year period provided for agency action.

WHEREFORE, Apollo petitions the Board for review and a hearing on the Illinois Environmental Protection Agency's failure to take timely action on Apollo's application for a FESOP under the CAAPP Permit program.

DATED: January 22, 2009

Respectfully submitted,

APOLLO PLASTICS CORPORATION

By: 

One of its Attorneys

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

217/785-5151

CAAPP APPLICATION COMPLETENESS DETERMINATION AND SOURCE FEE DETERMINATION

APPLICANT

Apollo Plastics Corporation
Attn: Larry Polleck
5333 North Elston Avenue
Chicago, Illinois 60630

Date of Determination: October 27, 2006
Application/Permit No.: 06090078
I.D. Number: 031600FMK
Date Received: September 29, 2006
Source Name:
Location of Source: 5333 North Elston Avenue, Chicago, 60630

Dear Mr. Polleck:

This letter provides notification that your Clean Air Act Permit Program (CAAPP) application received on the date indicated above, has been determined by the Illinois EPA to be complete pursuant to Section 39.5(5) of the Illinois Environmental Protection Act (Act).

As provided in Section 39.5(18) of the Act, a CAAPP source shall pay a fee. Attached is the annual fee bill for this CAAPP source as determined from information included in your application, on Form 292-CAAPP - FEE DETERMINATION FOR CAAPP PERMIT. Payment of the fee is due within 45 days of the billing date indicated on the billing statement.

Notwithstanding the completeness determination, the Illinois EPA may request additional information necessary to evaluate or take final action on the CAAPP application. If such additional information affects your allowable emission limits, a revised Form 292-CAAPP-FEE DETERMINATION FOR CAAPP PERMIT must be submitted with the requested information. The failure to submit to the Illinois EPA the requested information within the time frame specified by the Illinois EPA, may force the Illinois EPA to deny your CAAPP application pursuant to Section 39.5 of the Act.

If you have any questions regarding this matter, please contact the Division of Air Pollution Control Permit Section at 217/782-2113.

Sincerely,

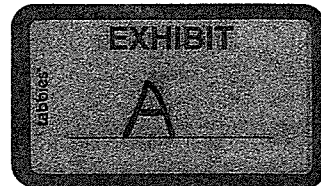
Donald E. Sutton, P.E. (handwritten signature) MTR

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:YMC:psj

Enclosure(s)

cc: FOS, Region 1
Application File
Compliance & Systems Management Section



Sent 11/17/06
Check # 024657

CERTIFICATE OF SERVICE

I, Kathryn Messina, hereby certify that I caused copies of the attached NOTICE OF FILING, and REVISED PETITION FOR REVIEW to be served on:

SERVICE LIST

Clerk of the Board
Attn: Mr. John Therriault
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(Via Hand Delivery)

Christopher Grant, Esq.
Assistant Attorney General
Environmental Protection Division
69 West Washington Street, 18th Fl.
Chicago, IL 60602

Julie Armitage, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
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Springfield, Illinois 62794

Maureen Wozniak, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794

by United States Mail, first-class postage affixed thereto, at 222 N. LaSalle Street, Chicago, Illinois 60601, first-class postage prepaid on JANUARY 22, 2008.

