



and (j) of the Prevention of Significant Deterioration (PSD) regulations (40 C.F.R. §§ 52.21(a), (j)),<sup>2</sup> and specified terms and conditions of Behr Aluminum's Lifetime Operating Permit.

The People further allege that Behr Aluminum violated these provisions by (1) causing or allowing particulate matter (PM) emissions into the atmosphere in excess of the allowable emission rate; (2) failing to operate within conditions imposed by Behr Aluminum's Lifetime Operating Permit; (3) failing to timely test PM emissions from the rotary dryer and hammermill; (4) operating the hammermill and rotary dryer without the baghouse for purposes other than stack testing and outside of the time period allowed by Behr Aluminum's Lifetime Operating Permit; (5) failing to obtain a construction permit from the Illinois Environmental Protection Agency (Agency) prior to modifying its emissions sources by disconnecting the rotary dryer from the baghouse and causing PM emissions in excess of permitted PM emission limits; (6) failing to maintain records required by Behr Aluminum's Lifetime Operating Permit; (7) failing to submit a site-specific test plan to the Agency and to conduct initial performance by the deadlines established in the NESHAP for secondary aluminum production; (8) failing to timely submit a complete and accurate notification of compliance status report as required by the NESHAP for secondary aluminum production; (9) constructing a major stationary source located within an attainment area having the potential to emit (PTE) PM in excess of 100 tons per year, failing to perform a Best Available Control Technology (BACT) review, failing to apply for and obtain a PSD permit prior to constructing one rotary dryer without a baghouse, and failing to apply BACT to the rotary dryer; and (10) failing to submit to the Agency an application for a Clean Air Act Permit Program (CAAPP) permit within 180 days prior to disconnecting the dryer from the baghouse, and thereafter operating the source, thereby operating a CAAPP source without a CAAPP permit.

On September 5, 2008, the People and Behr Aluminum 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 Aluminum does not admit the alleged violations but agrees to pay a civil penalty of

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<sup>2</sup> The PSD regulations (40 C.F.R. § 52.21) were promulgated by USEPA under Section 165 of the CAA (42 U.S.C. § 7475). Section 9.1(d)(1) of the Act prohibits anyone from violating Section 165 of the CAA or any federal regulation adopted under Section 165. Therefore, any violation of Section 165 of the CAA or the PSD regulations is also a violation of Section 9.1(d)(1) of the Act. *See* 415 ILCS 5/9.1(d)(1) (2006). Section 9.1(d)(2) provides that no person shall "construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken without a permit granted by the Agency or in violation of any conditions imposed by such permit." 415 ILCS 5/9.1(d)(2) (2006).

\$140,000. In addition, Behr Aluminum agrees to fund a Supplemental Environmental Project (SEP) in the amount of \$100,000 to be used for reducing diesel emission pollution in Illinois.

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.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board