

SERVICE LIST

Via Certified Mail

C. T. Corporation System
208 S. LaSalle Street
Chicago, Illinois 60604-1135

Via Regular U.S. Mail

Charles F. Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, Illinois 61105-1389

CERTIFICATE OF SERVICE

I, Christine S. Bucko, an Assistant Attorney General in this case, do certify that on this 31st day of May 2000, I caused to be served the foregoing Notice of Filing and Complaint upon C. T. Corporation System, as listed on the attached Service List by Certified Mail and depositing same in the U.S. Mail depository located at 100 West Randolph Street, Chicago, Illinois, in an envelope with sufficient postage prepaid; and Charles F. Helsten, Hinshaw & Culbertson, as listed on the attached Service List by Regular U.S. Mail and depositing same in the U.S. Mail depository located at 100 West Randolph Street, Chicago, Illinois, in an envelope with sufficient postage prepaid.



CHRISTINE S. BUCKO

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAY 31 2000

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS)
)
Complainant,)
)
vs-)
)
TOYAL AMERICA, INC., formerly known)
as ALCAN-TOYO AMERICA, INC.,)
a foreign corporation,)
)
Respondent.)

PCB No. 00-211

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, complains of Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICAN, INC., as follows:

COUNT I

AIR POLLUTION

1. This complaint is brought by the Attorney General on his own motion and upon the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (1998).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 the Act, 415 ILCS 5/4 (1998), and charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC. ("Toyal"), is a foreign corporation, authorized to do business in Illinois since 1987, and is currently in good standing.

4. At all times relevant to this Complaint, Toyal has been and is currently a manufacturer of several types of aluminum products,

including powder, paste and flakes for the automotive, defense, refractory brick and health care industries. Toyal's manufacturing plant is located at 17401 S. Broadway, Lockport, Will County, Illinois ("Facility"), a severe nonattainment area for ozone.

5. Toyal's aluminum powders are produced by heating metallic aluminum to a liquid state, atomizing the molten aluminum by pumping it through a nozzle, and cooling the resultant aerosol back to the solid state. This material is then sorted through a variety of screens before packaging. Aluminum paste is generated by processing aluminum powder, mineral spirits and a small amount of organic acid in ball mills. The milled slurry is then screened for sizing and excess solvent is removed with a filter press. Aluminum flake powder is produced by removing the remaining solvent from the paste via a vacuum dryer. These various manufacturing processes utilize approximately 83 pieces of equipment and various materials that produce volatile organic material ("VOM") emissions. These processes also produce wastes that exhibit the hazardous characteristic of ignitability.

6. Section 9(a) of the Act, 415 ILCS 5/9(a) (1998), 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.

7. Section 201.141 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

8. Section 3.02 of the Act, 415 ILCS 5/3.02 (1998), provides the following definition:

"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.

9. Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), provides the following definition:

"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.

10. Toyal is a "Person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

11. Section 3.06 of the Act, 415 ILCS 5/3.06 (1998), provides the following definition:

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

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

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

"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.

13. Toyal's facility contains the following emission sources, which emit or are capable of emitting VOM, a "specified air contaminant," to the atmosphere and therefore is an "emission source" as those terms as defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102:

A-Unit Aluminum Paste Process:

Charge Tank-A (SO-1), A-Mills (SO-2), Discharge Tank-A (SO-3), Bottom Tank-A (SO-4), Filter Presses-A (SO-5), Transfer Al-Drum (SO-6), Transfer Mixer-Drums (SO-7), and three (3) tanks (SO-8, SO-9 and SO-10);

B-Unit Aluminum Paste Process:

Charge Tank-B (SO-11), B-Mills (SO-12), Top Tank-B (SO-13), Oversize Screw Conveyor-B (SO-14), Oversize Tank-B (SO-15), Screened Tank-B (SO-16), Bottom Tank (SO-18), Filter Presses (SO-19), Ferro Filter (SO-20), Mixer-Aluminum Paste Drum (SO-21), and four (4) tanks (SO-22, SO-23, SO-24 and SO-25);

C-Unit Aluminum Paste Process:

Charge Tank-C (SO-26), Ball Mill C&D (SO-27), Discharge Tank-C (SO-28), Trough-C (SO-29), Screened Tank-C (SO-30), Oversize Tank-C (SO-31), Magnetic Ferro-Filters-C (SO-33), Predecanter Tank-C (SO-34), Decanter Tanks-C (SO-35), Filter Presses-C (SO-36), Mixer-Aluminum Paste-C (SO-37) and three (3) tanks (SO-38, SO-39 and SO-40);

D-Unit Aluminum Paste Process:

Charge Tank-D (SO-41), Ball Mill-D (SO-42), Discharge Tank-D (SO-43), Trough-D (SO-44), Screened Tank-D (SO-45), Oversize Tank-D (SO-46), Magnetic Ferro-Filters-D (SO-48), Pre-decanter Tank-D (SO-49), Decanter Tanks-D (SO-50), Filter Presses-D (SO-51), Mixer-Aluminum Paste-D (SO-52) and two (2) tanks (SO-53 and SO-54);

Solvent Distillation Process:

Condenser (SO-55) and two (2) tanks (SO-56 and SO-57);

Drum Cleaning Process:

Vacuum Pump/Demister (SO-58) and Ventilation fan (SO-59);

Aluminum Flake Dryer Process:

Vacuum Dryer/Dust Filter/Condenser (SO-60) and Mixer (SO-61);

FX Paste Process:

Charge Tank (SO-62), Discharge Tank (SO-63), Mixer/Drumming (SO-64), two (2) tanks (SO-65 and SO-66) and Vacuum Pump (SO-67);

Atomizer-2:

Melting Furnace (SO-71) and Atomizing Nozzle/Primary Cyclone /Secondary Cyclone/ Final Product Collector (SO-72);

Atomizer-1:

Melting Furnace (SO-79) and Atomizing Nozzle/Primary Cyclone /Secondary Cyclone/Final Product Collector (SO-80);

Sigma Mixer:

Sigma Mixer/Condenser/Vacuum Pump (SO-81), Mixer-Drum (SO-82) and Receiving Tank (SO-83).

14. Toyal utilizes equipment and raw materials which produce maximum theoretical emissions ("MTE") of 100 tons or more of volatile organic material ("VOM") per calendar year and/or have the potential to emit ("PTE") 25 tons or more of VOM per year. Therefore, under Section 218.980 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.890, Toyal is subject to the control requirements of Section 218.986.

15. Subpart TT: Other Emission Units of the Board Air Pollution Regulations defines the control requirements for Toyal's VOM emissions. Section 218.986(a), 35 Ill. Adm. Code 218.986(a), provides as follows:

Every owner or operator of an emission unit subject to this Subpart shall comply with the requirements of subsection (a), (b), (c), (d), or (e) below:

- (a) Emission capture and control equipment which achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent from each emission unit . . . (Board Note: For the purpose of this provision, an emission unit is any part or activity at a source of a type that by itself is subject to control requirements in other

Subparts of this Part or 40 CFR 60, incorporated by reference in Section 218.112, e.g. a coating line, a printing line, a process unit, a wastewater system, or other equipment, or is otherwise any part or activity at a source.)

16. From at least March 15, 1995 to the present, Toyal has failed to reduce its uncontrolled VOM emissions from each of its emission units, noted in Paragraph 13 above, at its facility to the required 81 percent.

17. VOM is a "Contaminant" as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (1998) and a "Specified Air Contaminant" as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

18. From at least March 15, 1995 to the present, Toyal has caused, allowed or threatened air pollution in Illinois by emitting VOM, a specified air contaminant, in excess of standards for its facility.

19. Toyal, by its conduct described above, has knowingly and repeatedly violated Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Sections 201.141 and 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141 and 218.986(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board ("Board") enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

1. Authorize a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Sections 201.141 and 218.986(a) of the Board

Air Pollution Regulations, 35 Ill. Adm. Code 201.141 and 218.986(a);

3. Order Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Sections 201.141 and 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141 and 218.986(a);

4. Assess against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

COUNT II

AIR POLLUTION - VIOLATION OF VOM BOARD STANDARD

1-15. Complainant realleges and incorporates by reference herein Paragraphs 1 through 15 of Count I as Paragraphs 1 through 15 of this Count II.

16. Section 3.03 of the Act, 415 ILCS 5/3.03 (1998), provides the following definition:

"AIR POLLUTION CONTROL EQUIPMENT" means any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere. Air pollution control equipment includes, but is not limited to, landfill gas recovery facilities.

17. On June 23, 1998, Toyal was issued a construction permit No. 98060014 for air pollution control equipment: a regenerative catalytic

oxidizer. This permit provided for testing to determine both destruction efficiency across the afterburner and the overall control efficiency provided by the combination of the capture system and afterburner within 180 days of initial startup.

18. From at least December 23, 1998, to the present, Toyal has caused, allowed or threatened violation of Board air emission regulations by failing to demonstrate that the emission capture and control equipment: a regenerative catalytic oxidizer, achieves an overall reduction of uncontrolled VOM of at least 81 percent from the following sources as noted in Construction Permit No. 98060014: FX paste process, the D-mill, the C-mills, the C & D mill tank vents, B-mills, B-mill top tank, and the A-mill bottom tank.

19. From at least March 15, 1995 to the present, Toyal has caused, allowed or threatened violations of Board air emission regulations by failing to achieve an overall reduction of uncontrolled VOM of at least 81% from each emissions unit specified in Paragraph 13 above.

20. Toyal, by its conduct described above, has knowingly and repeatedly violated Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

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

2. Find that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a);

3. Order Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (1998) and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a);

4. Assess against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

COUNT III

RCRA VIOLATION - OPERATING WITHOUT A PERMIT

1-5. Complainant realleges and incorporates by reference herein Paragraphs 1 through 5 of Count I as Paragraphs 1 through 5 of this Count III.

6. Toyal's manufacturing processes produce four types of wastes, to wit: 1) aluminum paste/mineral spirits, 2) petroleum distillates, 3) filters, personal protective equipment, and floor sweepings and 4) paint and laboratory waste.

7. On February 23, 1999, the Agency conducted an inspection of

Toyal's facility. The inspector observed about 300-55 gallon drums of aluminum paste/mineral spirits waste, which is generated from unusable products and cooling tower residue, in and next to Toyal's hazardous waste storage building ("East Accumulation Area"). This waste is assigned EPA Hazardous Waste Number D001.

8. On February 23, 1999, the Agency inspector also observed about 900-55 gallon drums next to a 6,000 gallon storage tank ("Northwest Accumulation Area"). Both the drums and storage tank contained petroleum distillates waste, which is generated from the aluminum flake and paste manufacturing processes, as well as from cleaning of floors and equipment. This waste is assigned EPA Hazardous Waste Number D001.

9. On February 23, 1999, the Agency inspector further observed about 10-55 gallon drums of filter, personal protective equipment and floor sweepings waste, which is generated from material processing, in and next to the hazardous waste storage building ("East Accumulation Area"). This waste is assigned EPA Hazardous Waste Number D001.

10. Section 3.53 of the Act, 415 ILCS 5/3.53 (1998), defines "Waste" as meaning:

[A]ny garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities . . .

11. Section 3.15 of the Act, 415 ILCS 5/3.15 (1998), provides the following definition:

"HAZARDOUS WASTE" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may . . . pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, trans-

ported, 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.

12. Section 721.102 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.012, provides, in pertinent part, as follows:

Section 721.102 Definition of Solid Waste

a) Solid Waste

- 1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.
- 2) A discarded material is any material which is:
 - A) Abandoned, as explained in subsection (b) below . . .

b) Materials are solid waste if they are abandoned by being:

- 1) Disposed of; or
- 2) Burned or incinerated; or
- 3) Accumulated, stored or treated (but not recycled before or in lieu of being abandoned by being disposed of, burned or incinerated).

13. Section 721.103 of the Board's Waste Disposal regulations, 35 Ill. Adm. Code 721.103, provides, in pertinent part, as follows:

Section 721.103 Definition of Hazardous Waste

a) A solid waste, as defined in Section 721.102, is a hazardous waste if:

- 1) It is not excluded from regulation as a hazardous waste under Section 721.104(b); and
- 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part. . .

14. Section 721.121 of Subpart C: Characteristics of Hazardous

Waste of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.121, provides, in pertinent part, as follows:

Section 721.121 Characteristic of Ignitability

- a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:
 - 1) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60°C (140°F).
 - 2) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard. . .
- b) A solid waste that exhibits the characteristic of ignitability, has the EPA hazardous Waste Number of D001.

15. The contents of the drums and storage tank described in Paragraphs 7, 8 and 9 of this Count III are "solid waste" as that term is defined in 35 Ill. Adm. Code 721.102.

16. The contents of the drums and storage tank described in Paragraphs 7, 8 and 9 of this Count III are "hazardous waste" by reason of the characteristic of ignitability under Sections 721.103 and 721.121 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.103 and 721.121, and are listed under the EPA Hazardous Waste Number D001.

17. Section 720.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 720.110, provides the following definitions:

"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 (e.g., one or more landfills, surface impoundments or combinations of them).

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

18. Section 702.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.110, provides the following definitions:

"Hazardous waste management facility ("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".

19. The Respondent is the owner and operator of a facility which stores hazardous waste and therefore is a "hazardous waste management facility," as that terms is defined in 35 Ill. Adm. Code 702.110.

20. Sections 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(1998) provide as follows:

No person shall:

- 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;

21. Section 703.121 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

Section 703.121 RCRA Permits

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or

2) In violation of any condition imposed by a RCRA permit.

22. On February 23, 1999, the Agency inspector found that the 300-55 gallon drums containing hazardous waste had been stored at the East Accumulation Area of Toyal's facility.

23. The holding of hazardous waste on-site prior to disposal of or storing elsewhere constitutes "storage", as that term is defined in 35 Ill. Adm. Code 720.110.

24. Toyal was required by Sections 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(1998), and Section 703.121 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121, to obtain a RCRA permit in order to conduct a hazardous waste storage operation.

25. On February 23, 1999 and continuing to the present, Toyal did not possess a RCRA permit to conduct a hazardous waste storage, disposal or treatment operation.

26. By the actions described herein, Toyal has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(1998), and 35 Ill. Adm. Code 703.121, by conducting a hazardous waste storage operation without a RCRA permit.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(1998), and 35 Ill. Adm. Code 703.121;
3. Ordering Respondent to cease and desist from any further

violations of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (1998), and 35 Ill. Adm. Code 703.121;

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day during which the violations have occurred;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(1998), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

COUNT IV

RCRA VIOLATION - INADEQUATE AISLE SPACE

1-19. Complainant realleges and incorporates by reference herein Paragraphs 1 through 19 of Count III as Paragraphs 1 through 19 of this Count IV.

20. Sections 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1998) provide as follows:

No person shall:

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

* * *

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

21. Part 725 of the Board Waste Disposal Regulations, entitled, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, contains Subpart C: Preparedness and Prevention. Section 725.135 is found in this Subpart

and provides as follows:

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

22. On February 23, 1999, an Agency inspector observed inadequate aisle space to allow unobstructed movement at the East Accumulation Area, which measured 50 feet by 80 feet and contained the 300-55 gallon drums of aluminum paste/mineral spirits hazardous waste described in Paragraph 7 above.

23. On February 23, 1999, an Agency inspector observed inadequate aisle space to allow unobstructed movement at the Northwest Accumulation Area, which contains a 6,000 gallon storage tank and 900-55 gallon drums of petroleum distillates hazardous waste described in Paragraph 8 above.

24. Toyal, by failing to maintain adequate aisle space in the East and Northwest Accumulation Areas of its facility, violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1998), and Section 725.135 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

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

2. Finding that Respondent has violated Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.135;

3. Ordering Respondent to cease and desist from any further violations of Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.135;

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day during which the violations have occurred;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(1998), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

COUNT V

RCRA VIOLATION -
FAILURE TO AMEND CONTINGENCY PLAN

1-20. Complainant realleges and incorporates by reference herein Paragraphs 1 through 20 of Count IV as Paragraphs 1 through 20 of this Count V.

21. Part 725 of the Board Waste Disposal Regulations, entitled, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, contains Subpart D: Contingency Plan and Emergency Procedures. Section 725.154 is found in this Subpart and provides in pertinent part as follows:

The contingency plan must be reviewed and immediately amended, if necessary, whenever:

* * *

d) The list of emergency coordinators changes. . .

22. On February 23, 1999, an Agency inspector found that the emergency coordinator identified in Toyal's contingency plan was no

longer employed by the facility.

23. Toyal, by failing to amend its contingency plan regarding its emergency coordinator, violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1998), and Section 725.154(d) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.154(d).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.154(d);
3. Ordering Respondent to cease and desist from any further violations of Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.154(d);
4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day during which the violations have occurred;
5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(1998), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Grant such other relief as the Board deems appropriate and just.

COUNT VI

RCRA VIOLATION -
TANK SYSTEM:SECONDARY CONFINEMENT

1-20. Complainant realleges and incorporates by reference herein Paragraphs 1 through 20 of Count IV as Paragraphs 1 through 20 of this Count VI.

21. Part 725 of the Board Waste Disposal Regulations, entitled, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, contains Subpart J: Tank Systems. Section 725.293, entitled, "Containment and Detection of Releases", is found in this Subpart and provides in pertinent part as follows:

e) In addition to the requirements of subsections [725.293] (b), (c), and (d), secondary containment systems must satisfy the following requirements:

2) Vault system must be:

* * *

D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete. . . .

24. On February 23, 1999, an Agency inspector found that the 6,000 gallon hazardous waste storage tank in the Northwest Accumulation Area had a vault secondary containment system, which did not have an impermeable interior coating or lining that is compatible with the stored waste and that would prevent migration of waste into cracks or voids in the concrete.

25. Toyal, by failing to have an impermeable interior coating or lining that is compatible with the stored waste and that would prevent migration of waste into cracks or voids in the concrete in its

secondary containment system for its hazardous waste storage tank violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1998), and Section 725.293(e)(2)(D) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.293(e)(2)(D).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA, INC., for the following relief:

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

2. Finding that Respondent has violated Section 21(f)(2) of the Act and 35 Ill. Adm. Code 725.293(e)(2)(D);

3. Ordering Respondent to cease and desist from any further violations of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 725.293(e)(2)(D);

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day during which the violations have occurred;

5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(1998), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Grant such other relief as the Board deems appropriate and just.

COUNT VII

RCRA VIOLATION - TANK SYSTEM:INSPECTION DOCUMENTATION

1-20. Complainant realleges and incorporates by reference herein

Paragraphs 1 through 20 of Count IV as Paragraphs 1 through 20 of this Count VII.

21. Part 725 of the Board Waste Disposal Regulations, entitled, Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, contains Subpart J: Tank Systems. Section 725.295, entitled, "Inspections", is found in this Subpart and provides in pertinent part as follows:

- a) The owner or operator shall inspect, where present, at least once each operating day:
 - 1) Overfill/spill control equipment. . .
 - 2) The aboveground portion of the tank system. . .
 - 3) Data gathered from monitoring equipment. . .
 - 4) The construction materials and the area immediately surrounding the externally accessible portion of the tank system. . .
- b) The owner or operator shall inspect cathodic protection systems. . .
- c) The owner or operator shall document in the operating record of the facility an inspection of those items in subsections (a) and (b).

22. On February 23, 1999, an Agency inspector found that Toyal's inspections, if any, of the hazardous waste tanks storage system have not been documented.

23. Toyal, by failing to document its inspections, if any, violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1998), and Section 725.295(c) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.295(c).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, TOYAL AMERICA, INC., formerly known as ALCAN-TOYO AMERICA,

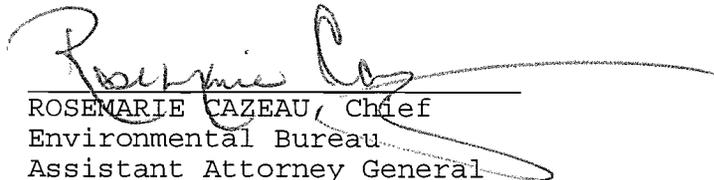
INC., for the following relief:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.295(c);
3. Ordering Respondent to cease and desist from any further violations of Sections 21(f)(2) of the Act and 35 Ill. Adm. Code 725.295(c);
4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day during which the violations have occurred;
5. Order Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(1998), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Grant such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN,
Attorney General of the
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