

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-112
)	(Enforcement – Air)
INCOBRASA INDUSTRIES, LTD.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING AND SERVICE

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take notice that today, June 7, 2019, I have filed with the Clerk of the Illinois Pollution Control Board Complainant's Motion for Leave to File Second Amended Complaint, and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: /s/ Jamie D. Getz
Jamie D. Getz
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, IL 60602
312-814-6986
jgetz@atg.state.il.us

CERTIFICATE OF SERVICE

People of the State of Illinois v. Incobrasa Industries, Ltd., PCB 15-112 (Enforcement – Air)

I, Jamie D. Getz, do hereby certify that, today, June 7, 2019, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the Notice of Filing and Complainant's Motion for Leave to File Second Amended Complaint on each of the parties listed below:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274
Carol.Webb@illinois.gov

Don Brown
Clerk of the Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

LaDonna Driver
Edward Dwyer
Melissa S. Brown
HeplerBroom LLC
3150 Roland Ave.
PO Box 5776
Springfield, IL 62703-577
Email Address
LaDonna.Driver@heplerbroom.com
Edward.Dwyer@heplerbroom.com
Melissa.Brown@heplerbroom.com

/s/ Jamie D. Getz

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-112
)	(Enforcement – Air)
INCOBRASA INDUSTRIES, LTD.,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINANT’S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

NOW COMES COMPLAINANT, People of the State of Illinois, pursuant to Section 103.206(d) of the Illinois Pollution Control Board’s (“Board”) procedural rules, 35 Ill. Adm. Code 103.206(d), and moves the Board for leave to file its Second Amended Complaint, a true and correct copy of which is attached hereto as Exhibit A. In support of this motion, Complainant states as follows:

1. Section 103.206(d) of the Board’s procedural rules, 35 Ill. Adm. Code 103.206(d), provides as follows:

If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for permission to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another person, the party who wishes to file the pleading must move the Board for permission to file the pleading.

2. On December 19, 2014, Complainant filed its Complaint against Respondent, Incobrasa Industries, Ltd., an Illinois corporation, alleging violations of the Illinois Environmental Protection Act (“Act”), Board regulations, and permit conditions at a soybean processing and biodiesel manufacturing facility owned and operated by Respondent.

3. On July 7, 2015, the Hearing Officer granted Complainant's Motion for Leave to File First Amended Complaint and accepted the First Amended Complaint for hearing.

4. Since the time of the Board's acceptance of the First Amended Complaint, the Illinois EPA has referred new violations of the Act, Board regulations, and permit conditions at the Facility that is the subject of the pending enforcement action.

5. The Board's practice is to liberally allow amendments to complaints. Mayer v. Lincoln Prairie Water Co., PCB 11-22, slip op. at 4 (May 2, 2013). The Board relies on four factors in determining whether to allow an amendment to the pleadings:

(1) whether the proposed amendment would cure a defect in the pleadings; (2) whether the proposed amendment would prejudice or surprise other parties; (3) whether the proposed amendment is timely; and (4) whether there were previous opportunities to amend the pleading.

Mayer, PCB 11-22, slip op. at 4-5 (May 2, 2013) (quoting Freedberg v. Ohio Natl., 2012 Ill. App. (1st) 110938 (2012).

6. The Second Amended Complaint meets the requirements set forth by the Freedberg factors. Specifically, Respondent would not be prejudiced or surprised by the filing of the Second Amended Complaint. Respondent engaged in pre-enforcement discussions and correspondence with Illinois EPA regarding the subject matter of the violations. Throughout these proceedings, Respondent has agreed to continue the enforcement matter pending the filing of a Second Amended Complaint with allegations relating to these matters.

7. Additionally, the proposed Second Amended Complaint is timely and there was no previous opportunity to amend the pleading. Section 31 of the Act provides the process by which Illinois EPA must notify the entity of the alleged violations and authorizes the opportunity to respond. Illinois EPA may not refer those violations to the Attorney General's Office for enforcement until the Section 31 process has been exhausted or the entity waives the process. In

this case, Respondent did waive the Section 31 process and the Attorney General's Office commenced drafting the Second Amended Complaint immediately upon referral by the Illinois EPA.

8. Finally, the Board should accept the Second Amended Complaint in order to expedite the handling of this case by the Board. The allegations involve the same parties, same facility, and same air pollution control permits that are the subject of the First Amended Complaint. The amendment will combine these alleged violations into a single matter for consideration by the Board.

9. On June 4, 2019, counsel for Complainant and Respondent conferred as to this motion, and Respondent has no opposition to the Board accepting the Second Amended Complaint for hearing.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order granting this motion, allowing the filing of the Second Amended Complaint, and granting such other relief as the Board deems proper.

BY: /s/ Jamie D. Getz
STEPHEN J. SYLVESTER
JAMIE D. GETZ
DANIEL I. ROTTENBERG
Assistant Attorneys General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-2087/6986/3816
ssylvester@atg.state.il.us
jgetz@atg.state.il.us
drottenberg@atg.state.il.us

EXHIBIT A:
Second Amended Complaint

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 15-112
)	(Enforcement – Air)
INCOBRASA INDUSTRIES, LTD.,)	
an Illinois corporation,)	
)	
Respondent.)	

SECOND AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, INCOBRASA INDUSTRIES, LTD., an Illinois corporation, as follows:

**COUNT I
FAILURE TO INSTALL AND OPERATE
A CONTINUOUS EMISSIONS MONITORING SYSTEM**

1. This Second Amended Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Respondent, INCOBRASA INDUSTRIES, LTD. (“Respondent”), an Illinois corporation, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018).

2. The Illinois EPA is an administrative agency of the State of Illinois created by Section 4 of the Act, 415 ILCS 5/4 (2018), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Second Amended Complaint, Respondent has owned and operated a soybean processing and biodiesel manufacturing facility located at 540 East US Highway 24, Gilman, Iroquois County, Illinois (“Facility” or “Source”).

4. In 2005, on a date best known to Respondent, Respondent commenced operation of a boiler at the Facility known as “Boiler A”.

5. Boiler A is a natural gas-fired, steam generating unit and has a heat input capacity from fuels combusted in the steam generating unit of greater than 100 million British Thermal Units per hour (“mmBtu/hr”). Boiler A combusts only natural gas. Boiler A emits or is capable of emitting nitrogen oxides (“NO_x”), carbon monoxide (“CO”), particulate matter (“PM”), sulfur dioxide (“SO₂”), and volatile organic material (“VOM”).

6. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), provides as follows:

(d) No person shall:

- (1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or
- (2) 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 (A) without a permit granted by the Agency whenever a permit is required pursuant to (i) this Act or Board regulations or (ii) Section 111, 112, 165, or 173 of the Clean Air Act or federal regulations adopted pursuant thereto or (B) in violation of any conditions imposed by such permit. Any denial of such a permit or any conditions imposed in such a permit shall be reviewable by the Board in accordance with Section 40 of this Act.

7. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides as follows:

“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.

8. Respondent is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

9. Section 111 of the Clean Air Act, 42 U.S.C. § 7411, establishes the New Source Performance Standards (“NSPS”). The NSPS regulations are codified in Title 40, Part 60 of the Code of Federal Regulations (“NSPS Regulations”). The Illinois EPA administers the NSPS for subject sources in Illinois pursuant to a delegation agreement with the United States Environmental Protection Agency (“USEPA”).

10. Section 60.1(a) of NSPS Subpart A, 40 C.F.R. § 60.1(a), provides, in relevant part, as follows:

...[T]he provisions of this part apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

11. Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2, provides the following definitions:

Affected facility means, with reference to a stationary source, any apparatus to which a standard is applicable.

Owner or operator means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant.

12. The NSPS Regulations applicable to Industrial-Commercial-Institutional Steam Generating Units are found in Subpart Db of Title 40, Part 60 (“Subpart Db”).

13. Section 60.40b(a) of NSPS Subpart Db, 40 C.F.R. § 60.40b(a), provides as

follows:

- (a) The affected facility to which this subpart applies is each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted in the steam generating unit of greater than 29 megawatts (MW) (100 million British thermal units per hour (MMBtu/hr)).

14. NSPS Subpart Db is applicable to Boiler A pursuant to Section 60.40b(a) of Subpart Db, 40 C.F.R. § 60.40b(a) and is therefore an “affected facility” as that term is defined in Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2.

15. Respondent is the “owner or operator” of Boiler A as that term is defined in Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2.

16. Section 60.44b(a) of NSPS Subpart Db, 40 C.F.R. § 60.44b(a), provides as follows:

- (a) Except as provided under paragraphs (k) and (l) of this section, on and after the date on which the initial performance test is completed or is required to be completed under § 60.8, whichever date comes first, no owner or operator of an affected facility that is subject to the provisions of this section and that combusts only coal, oil, or natural gas shall cause to be discharged into the atmosphere from that affected facility any gases that contain NO_x (expressed as NO₂) in excess of the following emission limits: [emission limits omitted]

17. Boiler A, an affected facility that combusts only natural gas, is subject to the NO_x standards provided by Section 60.44b of NSPS Subpart Db, 40 C.F.R. § 60.44b.

18. Section 60.48b(b), (c), and (e) of the NSPS Subpart Db, 40 C.F.R. § 60.48b(b), (c), and (e), provides as follows:

* * *

- (b) Except as provided under paragraphs (g), (h), and (i) of this section, the owner or operator of an affected facility subject to a NO_x standard under § 60.44b shall comply with either paragraphs (b)(1) or (b)(2) of this section.

- (1) Install, calibrate, maintain, and operate CEMS for measuring NOX and O2 (or CO2) emissions discharged to the atmosphere, and shall record the output of the system; or
- (2) If the owner or operator has installed a NOX emission rate CEMS to meet the requirements of part 75 of this chapter and is continuing to meet the ongoing requirements of part 75 of this chapter, that CEMS may be used to meet the requirements of this section, except that the owner or operator shall also meet the requirements of § 60.49b. Data reported to meet the requirements of § 60.49b shall not include data substituted using the missing data procedures in subpart D of part 75 of this chapter, nor shall the data have been bias adjusted according to the procedures of part 75 of this chapter.
- (c) The CEMS required under paragraph (b) of this section shall be operated and data recorded during all periods of operation of the affected facility except for CEMS breakdowns and repairs. Data is recorded during calibration checks, and zero and span adjustments.

* * *

- (e) The procedures under § 60.13 shall be followed for installation, evaluation, and operation of the continuous monitoring systems.

19. From at least June 18, 2012 through on or about May 9, 2013, Respondent operated Boiler A without a Continuous Emission Monitoring System (“CEMS”), thereby violating Section 60.48b(b), (c), and (e) of NSPS Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e).

20. By violating Section 60.48b(b), (c), and (e) of NSPS Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count I:

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

2. Finding that the Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Section 60.48b(b), (c), and (e) of NSPS Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e);
3. Ordering Respondent to cease and desist from any future violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Section 60.48b(b), (c), and (e) of NSPS Subpart Db, 40 C.F.R. § 60.48b(b), (c) and (e);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II
FAILURE TO SUBMIT EXCESS EMISSION REPORTS

1-18. Complainant realleges and incorporates herein by reference paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. Section 60.49b NSPS Subpart Db, 40 C.F.R. § 60.49b, provides, in relevant part, as follows:

- (h) The owner or operator of any affected facility in any category listed in paragraphs (h)(1) or (2) of this section is required to submit excess emission reports for any excess emissions that occurred during the reporting period.

* * *

- (2) Any affected facility that is subject to the NOX standard of § 60.44b, and that:

- (i) Combusts natural gas, distillate oil, gasified coal, or residual oil with a nitrogen content of 0.3 weight percent or less; or
- (ii) Has a heat input capacity of 73 MW (250 MMBtu/hr) or less and is required to monitor NOX emissions on a continuous basis under § 60.48b(g)(1) or steam generating unit operating conditions under § 60.48b(g)(2).

* * *

- (w) The reporting period for the reports required under this subpart is each 6 month period. All reports shall be submitted to the Administrator and shall be postmarked by the 30th day following the end of the reporting period.

20. Section 60.48b(g) of NSPS Subpart Db, 40 C.F.R. § 60.48b(g), provides as

follows:

- (g) The owner or operator of an affected facility that has a heat input capacity of 73 MW (250 MMBtu/hr) or less, and that has an annual capacity factor for residual oil having a nitrogen content of 0.30 weight percent or less, natural gas, distillate oil, gasified coal, or any mixture of these fuels, greater than 10 percent (0.10) shall:
 - (1) Comply with the provisions of paragraphs (b), (c), (d), (e)(2), (e)(3), and (f) of this section; or
 - (2) Monitor steam generating unit operating conditions and predict NOX emission rates as specified in a plan submitted pursuant to § 60.49b(c).

21. Boiler A is an affected facility with a heat input capacity of less than 250 mmBtu/hr and an annual capacity factor for natural gas greater than ten percent. Respondent is therefore required to monitor Boiler A NO_x emissions on a continuous basis under Section 60.48b(g)(1) of Subpart Db, 40 C.F.R. § 60.48b(g)(1). Because Boiler A is also subject to the NO_x standards of Section 60.44b, Respondent was required to submit excess emission reports for each six month period.

22. In or around January 2014, Respondent submitted an excess emission report covering the period of July 2013 through December 2013. At no time did Respondent submit excess emissions reports covering the period between the commencement of operation of Boiler A and June 2013.

23. By failing to submit excess emissions reports between commencement of operation of Boiler A and June 2013, Respondent violated Section 60.49(b)(h) and (w) of NSPS Subpart Db, 40 C.F.R. § 60.49b(h) and (w), thereby violating Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 60.49b(h) and (w) of NSPS Subpart Db, 40 C.F.R. § 60.49b(h) and (w);
3. Ordering Respondent to cease and desist from any future violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 60.49b(h) and (w) of NSPS Subpart Db, 40 C.F.R. § 60.49b(h) and (w);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT III
FAILURE TO FILE A WRITTEN EPISODE ACTION PLAN

1-5. Complainant realleges and incorporates herein by reference paragraphs 1 through 3 and 7 through 8 of Count I as paragraphs 1 through 5 of this Count III.

6. Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), provides as follows:

Acts prohibited. 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 violate regulations or standards adopted by the Board under this Act.

7. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

8. VOM is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

9. The Facility emits or is capable of emitting at least 418.30 tons/year of VOM.

10. Pursuant to the authority granted in Sections 10 and 27 of the Act, 415 ILCS 5/10 and 5/27 (2018), the Illinois Pollution Control Board (“Board”) has promulgated rules and regulations to control air pollution in Illinois, codified at 35 Ill. Adm. Code, Subtitle B, Chapter 1 (“Board Air Pollution Regulations”).

11. Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

244.141, provides, in relevant part, as follows:

All persons responsible for the operation of a facility of a type set forth in Section 244.142 shall have on file with the Agency written episode action plans (plans), consistent with safe operating procedures, for reducing the levels of air contaminants during yellow alerts, red alerts and emergencies. These plans shall be designed to reduce air contaminants in accordance with the provisions of these rules and shall be on forms designed by the Agency....

12. Section 244.142(c) of the Board Air Pollution Regulations, 35 Ill. Adm. Code

244.142(c), titled "Facilities for which Action Plans are Required," provides as follows:

Facilities emitting more than 91 Mg/yr or 249 kg per operating day (100 tons per year or 550 pounds per operating day) of sulfur dioxide, carbon monoxide, nitrogen oxides, particulate matter, organic material or of any other air contaminant designated by the Agency as harmful to human health.

13. The Facility emits more than 100 tons per year of VOM. Respondent is therefore required to have on file with the Illinois EPA a written episode action plan.

14. On or around February 21, 2013, Respondent submitted its episode action plan to the Illinois EPA.

15. By failing to submit its episode action plan to Illinois EPA from at least June 18, 2012 through on or around February 21, 2013, Respondent violated Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 244.141.

16. By violating Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 244.141, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 244.141;
3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2018), and Section 244.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 244.141;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV
FAILURE TO SUBMIT NESHAP NOTIFICATIONS

- 1-6. Complainant realleges and incorporates herein by reference paragraphs 1 through 3 and 6 through 8 of Count I as paragraphs 1 through 6 of this Count IV.
7. Respondent uses and emits Hexane, an organic solvent, at the Facility for extraction of oil from soybeans.
8. Section 112 of the Clean Air Act, 42 U.S.C. § 7412, establishes the National Emission Standards for Hazardous Air Pollutants (“NESHAP”). NESHAP regulations are codified in Title 40, Part 63 of the Code of Federal Regulations (“NESHAP Regulations”). The

Illinois EPA administers NESHAP for subject sources in Illinois pursuant to a delegation agreement with the USEPA.

9. Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a), provides the following definitions:

Major source. The term “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

Stationary source. The term “stationary source” shall have the same meaning as such term has under section 7411(a) of this title.

Hazardous air pollutant. The term “hazardous air pollutant” means any air pollutant listed pursuant to subsection (b) of this section.

Owner or operator. The term “owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

10. Section 111(a) of the Clean Air Act, 42 U.S.C. § 7411(a), provides the following definition:

The term “stationary source” means any building, structure, facility, or installation which emits or may emit any air pollutant. Nothing in subchapter II of this chapter relating to nonroad engines shall be construed to apply to stationary internal combustion engines.

11. The Facility is a “stationary source” as that term is defined by Section 111(a) of the Clean Air Act, 42 U.S.C. § 7411(a).

12. Respondent, who owns and operates the Facility, is the “owner or operator” as that term is defined by Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a).

13. Section 112(b) of the Clean Air Act, 42 U.S.C. § 7412(b), lists Hexane as a hazardous air pollutant (“HAP”).

14. The Facility emits or has the potential to emit ten (10) tons per year or more of Hexane, and is therefore a “major source” as that term is defined by Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a).

15. Part 63, Subpart GGGG of Title 40 of the Code of Federal Regulations establishes NESHAP for Solvent Extraction for Vegetable Oil Production (“Subpart GGGG”).

16. Section 63.2832(a) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2832(a), provides as follows:

- (a) You are an affected source subject to this subpart if you meet all of the criteria listed in paragraphs (a)(1) and (2) of this section:
 - (1) You own or operate a vegetable oil production process that is a major source of HAP emissions or is collocated within a plant site with other sources that are individually or collectively a major source of HAP emissions.
 - (i) A vegetable oil production process is defined in § 63.2872. In general, it is the collection of continuous process equipment and activities that produce crude vegetable oil and meal products by removing oil from oilseeds listed in Table 1 to § 63.2840 through direct contact with an organic solvent, such as a hexane isomer blend.
 - (ii) A major source of HAP emissions is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.
 - (2) Your vegetable oil production process processes any combination of eight types of oilseeds listed in paragraphs (a)(2)(i) through (viii) of this section:
 - (i) Corn germ;
 - (ii) Cottonseed;

- (iii) Flax;
- (iv) Peanut;
- (v) Rapeseed (for example, canola);
- (vi) Safflower;
- (vii) Soybean; and
- (viii) Sunflower.

17. The Facility uses a vegetable oil production process that is a major source of emissions of Hexane, a HAP, and processes soybeans, and is therefore an “affected source” as defined by Section 63.2832(a) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2832(a).

18. Respondent is required to comply with the provisions of NESHAP Subpart GGGG as set forth by Section 63.2382(a) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2382(a).

19. Section 63.2860 of NESHAP Subpart GGGG, 40 C.F.R. § 63.2860, provides, in relevant part, as follows:

You must submit the one-time notifications listed in paragraphs (a) through (d) of this section to the responsible agency:

- (a) Initial notification for existing sources. For an existing source, submit an initial notification to the agency responsible for these NESHAP no later than 120 days after the effective date of this subpart.

* * *

- (d) Notification of compliance status. As an existing, new, or reconstructed source, you must submit a notification of compliance status report to the responsible agency no later than 60 days after determining your initial 12 operating months compliance ratio. If you are an existing source, you generally must submit this notification no later than 50 calendar months after the effective date of these NESHAP (36 calendar months for compliance, 12 operating months to record data, and 2 calendar months to complete the report). If you are a new or reconstructed source, the notification of compliance status is generally due no later than 20 calendar months after initial startup (6 calendar months for the initial startup period,

12 operating months to record data, and 2 calendar months to complete the report)....

20. Section 63.2861 of NESHAP Subpart GGGG, 40 C.F.R. § 63.2861, provides, in relevant part, as follows:

After the initial notifications, you must submit the reports in paragraphs (a) through (d) of this section to the agency responsible for these NESHAP at the appropriate time intervals:

- (a) Annual compliance certifications. The first annual compliance certification is due 12 calendar months after you submit the notification of compliance status. Each subsequent annual compliance certification is due 12 calendar months after the previous annual compliance certification. The annual compliance certification provides the compliance status for each operating month during the 12 calendar months period ending 60 days prior to the date on which the report is due....

21. Respondent failed to submit to the Illinois EPA a notification of compliance status or annual compliance certifications for the years 2004 through 2011.

22. By failing to timely submit initial NESHAP notifications, and by failing to submit notification of NESHAP compliance status and annual compliance certifications for the years 2004 through 2011, Respondent violated Sections 63.2860(a) and (d) and 63.2861(a) of NESHAP Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a).

23. By violating Sections 63.2860(a) and (d) and 63.2861(a) of NESHAP Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count IV:

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

2. Finding that the Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 63.2860(a) and (d) and 63.2861(a) of NESHAP Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a);

3. Ordering Respondent to cease and desist from any future violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and Sections 63.2860(a) and (d) and 63.2861(a) of NESHAP Subpart GGGG, 40 C.F.R. §§ 63.2860(a) and (d) and 63.2861(a);

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

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT V
FAILURE TO KEEP RECORDS

1-29. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I and paragraphs 7 through 18 of Count IV as paragraphs 1 through 29 of this Count V.

30. Section 60.49b(g) of NSPS Subpart Db, 40 C.F.R. § 60.49b(g), provides, in relevant part, as follows:

(g) Except as provided under paragraph (p) of this section, the owner or operator of an affected facility subject to the NOX standards under § 60.44b shall maintain records of the following information for each steam generating unit operating day:

* * *

- (2) The average hourly NOX emission rates (expressed as NO₂) (ng/J or lb/MMBtu heat input) measured or predicted;
- (3) The 30-day average NOX emission rates (ng/J or lb/MMBtu heat input) calculated at the end of each steam generating unit operating day from the measured or predicted hourly nitrogen oxide emission rates for the preceding 30 steam generating unit operating days;
- (4) Identification of the steam generating unit operating days when the calculated 30-day average NOX emission rates are in excess of the NOX emissions standards under § 60.44b, with the reasons for such excess emissions as well as a description of corrective actions taken;
- (5) Identification of the steam generating unit operating days for which pollutant data have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken;
- (6) Identification of the times when emission data have been excluded from the calculation of average emission rates and the reasons for excluding data;
- (7) Identification of “F” factor used for calculations, method of determination, and type of fuel combusted;
- (8) Identification of the times when the pollutant concentration exceeded full span of the CEMS;
- (9) Description of any modifications to the CEMS that could affect the ability of the CEMS to comply with Performance Specification 2 or 3; and
- (10) Results of daily CEMS drift tests and quarterly accuracy assessments as required under appendix F, Procedure 1 of this part.

31. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records for Boiler A as required by Section 60.49b(g)(2) of NSPS Subpart Db, 40 C.F.R. § 60.49b(g)(2) through (10).

32. Section 63.2862(d) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d), provides, in relevant part, as follows:

(d) After your source has processed listed oilseed for 12 operating months, and you are not operating during an initial startup period as described in § 63.2850(c)(2) or (d)(2), or a malfunction period as described in § 63.2850(e)(2), record the items in paragraphs (d)(1) through (5) of this section by the end of the calendar month following each operating month:

- (1) The 12 operating months rolling sum of the actual solvent loss in gallons as described in § 63.2853(c).
- (2) The weighted average volume fraction of HAP in extraction solvent received for the previous 12 operating months as described in § 63.2854(b)(3).

33. From at least June 18, 2012 through a date better known to Respondent, Respondent did not record the 12 operating months rolling sum of the actual solvent loss in gallons or the weighted average volume fraction of HAP in extraction solvent received for the previous 12 operating months, in violation of Section 63.2862(d)(1) and (2) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d)(1) and (2).

34. By violating Section 60.49b(g)(2) through (10) of NSPS Subpart Db, 40 C.F.R. § 60.49b(g)(2) through (10), and Section 63.2862(d)(1) and (2) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d)(1) and (2), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), Section 60.49b(g)(2) through (10) of NSPS Subpart Db, 40 C.F.R. §

60.49b(g)(2) through (10), and Section 63.2862(d)(1) and (2) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d)(1) and (2);

3. Ordering Respondent to cease and desist from any future violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), Section 60.49b(g)(2) through (10) of NSPS Subpart Db, 40 C.F.R. § 60.49b(g)(2) through (10), and Section 63.2862(d)(1) and (2) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2862(d)(1) and (2);

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

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VI
VIOLATING CAAPP PERMIT RECORDKEEPING CONDITIONS

1-47. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 19 of Count I, paragraphs 19 through 22 of Count II, paragraphs 7 through 15 of Count III and paragraphs 7 through 22 of Count IV as paragraphs 1 through 47 of this Count VI.

48. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), provides as follows:

Prohibitions.

It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated

as not being federally enforceable in the permit pursuant to paragraph (m) of subsection 7 of this Section.

49. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

“CAAPP Permit” or “permit” (unless the context suggests otherwise) means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

“Major source” means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph 2(c) of this Section.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining “source,” a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987, or such pollutant emitting activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination as to whether any group of stationary sources are located on contiguous or adjacent properties, and/or are under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

50. Respondent is the “owner or operator” of the Facility, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018).

51. The Facility is a “CAAPP Source,” a “Major source,” and a “Stationary source” as those terms are defined by Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2018).

52. On November 25, 2002, Illinois EPA issued Respondent CAAPP permit 98070042, which authorizes operation of the Facility. On February 2, 2006, Illinois EPA issued Respondent a revised CAAPP Permit 98070042 (“CAAPP Permit”), which incorporates revised emissions calculations and operational changes.

53. Condition 7.4.8(a) of the CAAPP Permit provides as follows:

- (a) The permittee shall install, operate, and maintain a continuous monitoring system on Boiler A for NO_x emissions in accordance with the applicable requirements of 40 CFR 60.48(b) (*sic*: 60.48b), including the following:
 - i. This system shall be operated during all periods of operation of the boiler except for continuous monitoring system breakdowns and repairs. Data is to be recorded during calibration checks, and zero and span adjustment [40 CFR 60.48b(c)]
 - ii. The procedures under 40 CFR 60.13 shall be followed for installation, evaluation and operation of the monitoring system. [40 CFR 60.48b(e)]

54. By failing to install, operate, and maintain a CEMS on Boiler A for NO_x emissions in accordance with the applicable requirements of 40 C.F.R. § 60.48b, Respondent violated Condition 7.4.8(a) of the CAAPP Permit.

55. Condition 5.2.6 of the CAAPP Permit, provides, in relevant part, as follows:

Episode Action Plan

- (a) If the source is required to have an episode action plan pursuant to 35 IAC 244.142, the Permittee shall maintain at the source and have on file with the Illinois EPA a written episode action plan (plan) for reducing the levels of emissions during yellow alerts, red alerts, and emergencies, consistent with safe operating procedures. The plan shall contain the information specified in 35 IAC 244.144.

* * *

(d) For sources required to have a plan pursuant to 35 IAC 244.142, a copy of the original plan and any subsequent revisions shall be sent to:

i. Illinois EPA, Compliance Section....

56. By failing to file with the Illinois EPA a written episode action plan from at least June 18, 2012 through February 21, 2013, Respondent violated Condition 5.2.6 of the CAAPP Permit.

57. Condition 7.3.10(a) of the CAAPP Permit provides as follows:

(a) No later than April 12, 2004, the Permittee shall comply with the reporting and notification requirements of 40 CFR 63.2860, whenever the extraction solvent being used contains n-hexane or other HAP.

58. By failing to comply with the reporting and notification requirements set forth in Section 63.2860(a) and (d) of NESHAP Subpart GGGG, 40 C.F.R. § 63.2860(a) and (d), Respondent violated Condition 7.3.10(a) of the CAAPP Permit.

59. Condition 7.4.9 of the CAAPP Permit provides, in relevant part, as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected boilers to demonstrate compliance with Conditions 5.5.1, 7.4.5 and 7.4.6, pursuant to Section 39.5(7)(b) of the Act:

* * *

(d) The Permittee shall maintain records of the following items for Boiler A:

i. Records for continuous monitoring system and other required instrumentation on the boiler, including recorded data and records of maintenance, calibration, and operational activity associated with the system.

* * *

iii. Records to be kept for each operating day, pursuant to the NSPS, 40 CFR 60, Subpart Db:

* * *

- C. The average hourly NO_x emission rates (expressed in lb/million Btu heat input) measured or if parametric monitoring is approved, records shall be kept of NO_x emissions as predicted by parametric monitoring [40 CFR 60.49b(g)(2)];
- D. The 30-day average NO_x emission rates (lb/million Btu heat input) calculated at the end of each operating date from the measured or if parametric monitoring is approved, records shall be kept of NO_x emissions as predicted by parametric monitoring, hourly NO_x emission rates for the preceding 30 operating days [40 CFR 60.49b(g)(3)];
- E. Identification of the operating date when the calculated 30-day average NO_x emission rates are in excess of the NO_x emissions standards under 40 CFR 60.44b, with the reasons for such excess emissions as well as a description of corrective actions taken [40 CFR 60.49b(g)(4)];
- F. Identification of the operating days for which pollutant data have not been obtained, including reasons for not obtaining sufficient and a description of corrective actions taken [40 CFR 60.49b(g)(5)];
- G. Identification of the times when emission data have been excluded from the calculation of the average emission rates and the reasons for excluding data [40 CFR 60.49b(g)(7)];
- H. Identification of the times when the pollutant concentration exceeds full span of the continuous monitoring system [40 CFR 60.49b(g)(8)];
- I. Description of any modification to the continuous monitoring system that could affect the ability of the continuous monitoring system to comply with Performance Specification 2 or 3 [40 CFR 60.49b(g)(9)];
- J. Results of daily CEMS drift tests and quarterly accuracy assessments as required under Appendix F, Procedure 1 of 40 CFR 60 [40 CFR 60.49b(g)(10)]

60. Respondent failed to maintain records for Boiler A to demonstrate compliance with Conditions 5.5.1, 7.4.5 and 7.4.6 of the CAAPP Permit, thereby violating Conditions 7.4.9(d)(i) and (iii)(C) through (J) of the CAAPP Permit.

61. Condition 7.4.9(b) of the CAAPP Permit provides as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected boilers to demonstrate compliance with Conditions 5.5.1, 7.4.5 and 7.4.6, pursuant to Section 39.5(7)(b) of the Act:

* * *

- (b) Emissions of NO_x, CO, PM/PM₁₀, SO₂, and VOM from Boiler A, based on operating data from the boiler and emission monitoring data (NO_x) or appropriate emission factors, with supporting calculations (tons/month and tons/year)...

62. From at least June 18, 2012 through a date better known to Respondent,

Respondent failed to maintain records of monthly and rolling 12-month SO₂ emissions from Boiler A, thereby violating Condition 7.4.9(b) of the CAAPP Permit.

63. Condition 7.1.9 of the CAAPP Permit provides, in relevant part, as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected grain handling operation to demonstrate compliance with conditions 5.5.1, 7.1.5 and 7.1.6, pursuant to Section 39.5(7)(b) of the Act:

- (a) Grain Processed (bushels/month and bushels/year)

* * *

- (d) PM emissions from the affected grain handling operation (tons/month and tons/year) with supporting calculations

64. From at least June 18, 2012 through a date better known to Respondent,

Respondent failed to maintain a record of a running 12-month total of the quantity of grain processed and the running 12-month total of PM emissions from the Facility's grain handling operations, in violation of Condition 7.1.9(a) and (d) of the CAAPP Permit.

65. Condition 7.2.9(a) of the CAAPP Permit provides, in relevant part, as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected material handling units to demonstrate compliance with Conditions 5.5.1, 7.2.5 and 7.2.6, pursuant to Section 39.5(7)(b) of the Act:

- (a) Condition of equipment at least once per day and key operating parameters for air pollution control equipment, at least once per day;

66. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records of the condition of equipment and the key operating parameters of air pollution control equipment at least once per day, in violation of Condition 7.2.9(a) of the CAAPP Permit.

67. Condition 7.3.9 of the CAAPP Permit provides, in relevant part, as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected extractor to demonstrate compliance with Conditions 5.5.1, 7.3.5 and 7.3.6, pursuant to Section 39.5(7)(b) of the Act:

a. The Permittee shall maintain records of the following items for the affected extractor:

i. The Permittee shall keep records of the monitoring activity conducted pursuant to Condition 7.3.8.

ii. Operating records for the affected extractor:

* * *

B. Amount of extraction solvent used from inventory records (tons/month and tons/year);

* * *

D. Operating hours (hours/month);

* * *

iv. Emission records for the affected extractor:

A. VOM and HAP emissions (tons/month and tons/year); and

B. Monthly HAP Compliance ratio, with supporting calculations;

68. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records for the affected extractor regarding the amount of extraction solvent used from inventory records (tons/month and tons/year), operating hours (hours/month), VOM and HAP emissions (tons/month and tons/year), and monthly HAP Compliance ratio, with supporting calculations, in violation Condition 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B) of the CAAPP Permit.

69. Condition 7.5.9 of the CAAPP Permit provides as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected grain dryers to demonstrate compliance with Conditions 5.5.1, 7.5.5 and 7.5.6, pursuant to Section 39.5(7)(b) of the Act:

- (a) Amount of fuel combusted (mmscf/month and mmscf/year); and
- (b) Emissions of NO_x, PM, SO₂, and VOM from the affected grain dryers, based on fuel consumption and the applicable emission factors, with supporting calculations (tons/month and tons/year).

70. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records of monthly and running 12-month totals of the amount of fuel combusted, and emissions of NO_x, PM, SO₂, and VOM, from the Facility's grain dryer operations, in violation of Condition 7.5.9(a) and (b) of the CAAPP Permit.

71. Condition 7.6.9 of the CAAPP Permit provides, in relevant part, as follows:

In addition to the records required by Condition 5.6, the Permittee shall maintain records of the following items for the affected oil refinery hotwell to demonstrate compliance with Conditions 5.5.1, 7.6.5(a) and 7.6.6, pursuant to Section 39.5(7)(b) of the Act:

- (a) Annual pour weight (tons/month);

* * *

- (c) VOM and HAP emissions with supporting calculations
(tons/month and tons/year)

72. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records of the running 12-month annual pour weight and the monthly and running 12-month VOM and HAP emissions generated during oil refinery hotwell operations, in violation of Condition 7.6.9(a) and (c) of the CAAPP Permit.

73. Condition 5.6.3(a) of the CAAPP Permit provides as follows:

The Permittee shall maintain a record of the maximum aggregate annual emissions of fugitive VOM from process system flanges, seals, valves, etc. during both normal and upset modes of operation, estimated based on the applicable emission factors and formulas specified by Condition 5.9.3, with supporting calculations, so as to demonstrate compliance with the limits in Condition 5.5.

74. From at least August 7, 2014 through a date better known to Respondent, Respondent failed to maintain a record of the maximum aggregate annual emissions of fugitive VOM from process system flanges, seals, and valves in violation of Condition 5.6.3(a) of the CAAPP Permit.

75. Condition 5.7.1 of the CAAPP Permit provides as follows:

The Permittee shall promptly notify the Illinois EPA, Compliance Section, of deviations of the source with the permit requirements as follows, pursuant to Section 39.5(7)(f)(ii) of the Act. Reports shall describe the probable cause of such deviations, and any corrective actions or preventive measures taken.

76. From at least August 7, 2014 through a date better known to Respondent, Respondent failed to notify the Illinois EPA that it failed to maintain the records required by Conditions 5.6.3(a) and 7.3.9(a)(ii)(B) of the CAAPP Permit, thereby violating Condition 5.7.1 of the CAAPP Permit.

77. By violating Conditions 7.4.8(a), 5.2.6, 7.3.10(a), 7.4.9(d)(i) and (iii)(C) through (J), 7.4.9(b), 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.5.9(a) and

(b), 7.6.9(a) and (c), 5.6.3(a), and 5.7.1 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.8(a), 5.2.6, 7.3.10(a), 7.4.9(d)(i) and (iii)(C) through (J), 7.4.9(b), 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.5.9(a) and (b), 7.6.9(a) and (c), 5.6.3(a), and 5.7.1 of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.8(a), 5.2.6, 7.3.10(a), 7.4.9(d)(i) and (iii)(C) through (J), 7.4.9(b), 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.5.9(a) and (b), 7.6.9(a) and (c), 5.6.3(a), and 5.7.1 of the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.8(a), 5.2.6, 7.3.10(a), 7.4.9(d)(i) and (iii)(C) through (J), 7.4.9(b), 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D) and (iv)(A) and (B), 7.5.9(a) and (b), 7.6.9(a) and (c), 5.6.3(a), and 5.7.1 of the CAAPP Permit;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VII
EMISSIONS IN EXCESS OF CAAPP PERMIT FEE LIMITS

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, and paragraphs 48 through 52 of Count VI as paragraphs 1 through 13 of this Count VII.

14. Condition 5.5.1 of the CAAPP Permit provides as follows:

Permitted Emissions for Fees

The annual emissions from the source, not considering insignificant activities as addressed by Section 3.0 of this permit, shall not exceed the following limitations. The overall source emissions shall be determined by adding emissions from all emission units. Compliance with these limits shall be determined on a calendar year basis. These limitations (Condition 5.5.1) are set for the purpose of establishing fees and are not federally enforceable.

Permitted Emissions of Regulated Pollutants

Pollutant	Tons/Year
Volatile Organic Material (VOM)	418.30
Sulfur Dioxide (SO ₂)	0.24
Particulate Matter (PM)	58.50
Nitrogen Oxides (NO _x)	38.00
HAP, not included in VOM or PM	----
Total	515.04

15. In 2012, the Facility emitted 522.646738 tons of VOM and 69.071217 tons of PM. In 2011, the Facility emitted 422.1 tons of VOM and 61.04 tons of PM. In 2009, the Facility emitted 428.39 tons of VOM and 77.94 tons of PM. In 2008, the Facility emitted 75.1 tons of PM. In 2007, the Facility emitted 71.9 tons of PM.

16. By emitting more than 418.30 tons of VOM in 2012, 2011 and 2009, and by emitting more than 58.50 tons of PM in 2012, 2011, 2009, 2008 and 2007, Respondent violated Condition 5.5.1 of the CAAPP Permit.

17. By violating Condition 5.5.1 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VII:

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

2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of the CAAPP Permit;

3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of the CAAPP Permit;

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VIII
VIOLATING CONSTRUCTION PERMIT CONDITIONS

1-8. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I and paragraph 7 of Count III as paragraphs 1 through 8 of this Count VIII.

9. On July 25, 2006, the Illinois EPA issued to Respondent Construction Permit 06050042 for the construction of emission sources and pollution control equipment for a new biodiesel plant at the Facility (“Biodiesel Plant”). On January 1, 2007, or on a date better known to Respondent, Respondent started up operations of the Biodiesel Plant. Revised Construction Permit 06050042, authorizing increased vegetable oil processing, was issued to Respondent on July 21, 2011.

10. The Biodiesel Plant emits or is capable of emitting HAP and VOM.

11. On August 10, 2007, the Illinois EPA issued Respondent Construction Permit 07050034, authorizing the construction of a new natural gas-fired boiler (“Boiler B”) at the Facility.

12. Boiler B emits or is capable of emitting NOx and CO.

13. Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), provides as follows:

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, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

14. The HAP and VOM emitted by the Biodiesel Plant, and the CO and NO_x emitted by Boiler B are each “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

15. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), 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.

16. The emissions from the Biodiesel Plant and Boiler B constitute the presence of contaminants in the atmosphere that are capable of causing or contributing to “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2018).

17. Condition 1.1.9 of Construction Permit 07050034 provides as follows:

The Permittee shall maintain records of the following items:

- (a) Natural gas usage for the affected boiler (ft³/month and ft³/year);
- (b) NO_x and CO emissions from the affected boiler, tons month and tons/year, based on fuel consumption and the applicable emission factors, with supporting calculations.

18. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain records of monthly and rolling 12-month natural gas usage and monthly and rolling 12-month emissions of NO_x and CO from Boiler B, in violation of Condition 1.1.9(a) and (b) of Construction Permit 07050034.

19. By violating Condition 1.1.9(a) and (b) of Construction Permit 07050034, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

20. Condition 2.1.8(d) of Construction Permit 06050042 provides as follows:

- (d) The Permittee shall maintain records of the following items:
 - i. Amount of vegetable oil used (tons/month and tons/year);
 - ii. Amount of alcohol (Methanol) used (tons/month and tons/year);
 - iii. HAP content of vegetable oil (% by weight); and
 - iv. VOM and HAP emissions with supporting calculations (tons/month and tons/year).

21. From at least June 18, 2012 through a date better known to Respondent, Respondent failed to maintain a record of vegetable oil used annually, the quantity of methanol used monthly and annually, and the HAP content of vegetable oil at the Biodiesel Plant, in violation of Condition 2.1.8(d)(i) through (iii) of Construction Permit 06050042.

22. From at least June 18, 2012 through at least August 7, 2014, the precise date better known to Respondent, Respondent failed to maintain 12-month rolling annual records of VOM and HAP emissions from the Biodiesel Plant, in violation of Condition 2.1.8(d)(iv) of Construction Permit 06050042.

23. Condition 2.2.4(a)(vi) of Construction Permit 06050042 provides as follows:
The Permittee shall maintain the following records related to leaking components:

- (a) The Permittee shall fulfill applicable recordkeeping requirements of the NSPS, including maintaining the following records:

* * *

- (vi) Records on at least an annual basis of the VOM and HAP emissions attributable to affected components, with supporting documentation and calculations.

24. From at least August 7, 2014 through a date better known to Respondent, Respondent failed to maintain records on at least an annual basis of the VOM and HAP emissions attributable to the Biodiesel Plant's pumps, valves, flanges and other affected

components, with supporting documentation and calculations, in violation of Condition 2.2.4(a)(vi) of Construction Permit 06050042.

25. Condition 1.6(b) of Construction Permit 06050042 provides as follows:

- (b) If there is an exceedance of or deviation from the requirements of this permit that is not addressed by reporting required by the NSPS or NESHAP, the Permittee shall submit a report to the Illinois EPA within 30 days after the exceedance/deviation. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or deviation and efforts to reduce emissions and future occurrences.

26. Respondent failed to submit a report to the Illinois EPA within 30 days of failing to maintain the records required by Conditions 2.1.8(d)(iv) and 2.2.4(a)(vi) of Construction Permit 06050042, thereby violating Condition 1.6(b) of Construction Permit 06050042.

27. By violating Conditions 2.1.8(d)(i) through (iv), 2.2.4(a)(vi), and 1.6(b) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VIII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Condition 1.1.9(a) and (b) of Construction Permit 07050034, and Conditions 2.1.8(d)(i) through (iv), 2.2.4(a)(vi), and 1.6(b) of Construction Permit 06050042;
3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Condition 1.1.9(a) and (b) of Construction Permit

07050034, and Conditions 2.1.8(d)(i) through (iv), 2.2.4(a)(vi), and 1.6(b) of Construction Permit 06050042;

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

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IX
EXCEEDING NO_x EMISSION LIMITS DURING BOILER A OPERATIONS

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, and paragraphs 48 through 52 of Count VI as paragraphs 1 through 13 of this Count IX.

14. Condition 7.4.6.(a) of the CAAPP Permit provides as follows:

Emissions from Boiler A shall not exceed the following limits:

<u>Pollutant</u>	<u>Emissions</u>	
	<u>Lbs/Hr</u>	<u>Tons/Yr</u>
PM/PM10	0.79	3.46
NO _x	3.74	16.38
VOM	2.08	9.10
CO	7.58	33.22

These limits are based on the maximum firing rate (104 mmBtu/hr), emission factors (for PM), manufacturer's guaranteed data on emissions (for NO_x, CO, and VOM), and continuous operation.

15. From July 4 through December 31, 2013, January 2 through June 13, 2014, October 9 through December 28, 2014, January 5 through June 25, 2015, September 15 through

25, 2015, October 8, 11, and 19, 2015, December 18 through 31, 2015, January 1 through 12, 2016, January 14 through February 4, 2016, February 16 through 17, 2016, and April 12, 2016, or on such other dates better known to Respondent, Respondent caused or allowed the emission of NOx into the environment in excess of 3.74 lb/hr during Boiler A operations, in violation of the emissions limit set forth in Condition 7.4.6(a) of the CAAPP Permit.

16. Condition 7.4.10 of the CAAPP Permit provides as follows:

The Permittee shall promptly notify the Illinois EPA, Compliance Section, of deviations of the affected boilers with the permit requirements as follows, pursuant to Section 39.5(7)(f)(ii) of the Act. Reports shall describe the probable cause of such deviations, and any corrective actions or preventative measures taken:

- a. If there an exceedance of the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a written report to the Illinois EPA within 30 days after the exceedance. This report shall include the type and quantity or emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.

17. Respondent failed to notify Illinois EPA within 30 days after each emission of NOx into the environment in excess of the 3.74 lb/hr, and failed to notify the Illinois EPA of the probable cause of such deviations, and corrective actions or preventative measures taken by Respondent, in violation of Condition 7.4.10 of the CAAPP Permit

18. By violating Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count IX:

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 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT X
FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE
MONITORING REPORTS – CAAPP PERMIT CONDITION 8.6.1

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, paragraphs 48 through 53 and 59 of Count VI, and paragraphs 14 through 15 of Count IX as paragraphs 1 through 17 of this Count X.

18. Condition 8.6.1 of the CAAPP Permit provides as follows:

If monitoring is required by any applicable requirements or conditions of this permit, a report summarizing the required monitoring results, as specified in the conditions of this permit, shall be submitted to the Air Compliance Section of the Illinois EPA every six months as follows [Section 39.5(7) of the Act]:

Monitoring Period

January – June

July – December

Report Due Date

September 1

March 1

All instances of deviations from permit requirements must be clearly identified in such reports. All such reports shall be certified in accordance with Condition 9.9.

19. Condition 7.4.8 of the CAAPP Permit requires continuous monitoring of NO_x emissions from Boiler A. Condition 7.4.9 of the CAAPP Permit requires Respondent to keep accurate records of those monitoring results.

20. On various dates, for the reporting periods beginning July 2013 through at least June 2015, Respondent failed to identify in its Monitoring Reports deviations for NO_x emissions generated during Boiler A operations that exceeded the NO_x emission limitation contained in Section 7.4.6(a) of the CAAPP Permit, as required by Condition 7.4.9 of the CAAPP Permit.

21. By failing to identify in its Monitoring Reports deviations for NO_x emissions generated during Boiler A operations that exceeded the NO_x emission limitation contained in Condition 7.4.6(a) of the CAAPP Permit, as required by Condition 7.4.9 of the CAAPP Permit, Respondent violated Condition 8.6.1 of the CAAPP Permit.

22. By violating Condition 8.6.1 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count X:

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

2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT XI
FAILURE TO OBTAIN A CONSTRUCTION PERMIT

- 1-9. Complainant realleges and incorporates herein by reference paragraphs 1 through 3 and 7 through 8 of Count I, paragraphs 7 and 10 of Count III, and paragraphs 13 and 15 of Count VIII as paragraphs 1 through 9 of this Count XI.
10. On December 16, 2015, Respondent approved a purchase order for the purchase of a new natural-gas fired boiler, thereby initiating the process to design, construct, and deliver the boiler for installation at the Facility.
11. On October 18, 2016, Respondent submitted a permit application to Illinois EPA requesting the issuance of a construction permit to facilitate the installation of a new natural gas-fired boiler at the Facility (“Boiler C”).
12. On November 28, 2016, Illinois EPA issued to Respondent construction permit 16100013, authorizing the construction of Boiler C.

13. Boiler C emits or is capable of emitting NO_x, CO, PM, SO₂, and VOM.

14. The NO_x, CO, PM, SO₂, and VOM emitted by Boiler C are each “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

15. Boiler C emits, or is capable of emitting, contaminants into the atmosphere, and is therefore capable of causing or contributing to “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2018).

16. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

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.

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

“Air Contaminant”: Any solid, liquid, or gaseous matter, any odor or any form of energy that is capable of being released into the atmosphere from an emission source.

“Commence”: the act of entering into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modifications.

“Construction”: Commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

“Emission Source”: Any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“Modification”: any physical change in, or change in the method of operations of, an emission source or of air pollution control equipment which increases the amount of any specified air contaminant emitted by such source or equipment or which results in the emission of any specified air contaminant not previously emitted. It shall be presumed that an increase in the use of raw materials, the time of operation or the rate of production will change the amount of any specified air

contaminant emitted. Notwithstanding any other provisions of this definition, for purposes of permits issued pursuant to Subpart D, the Illinois Environmental Protection Agency (Agency) may specify conditions under which an emission source or air pollution control equipment may be operated without causing a modification as herein defined, and normal cyclical variations, before the date operating permits are required, shall not be considered modifications.

“New Emission Source”: Any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: Any air contaminant as to which this Subtitle contains emissions standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

18. The approval of the purchase order for Boiler C at the Facility constitutes “Commence[ing] Construction,” as those terms are defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

19. Boiler C, which emits or is capable of emitting NO_x, CO, PM, SO₂, and VOM, which are each a “Specified Air Contaminant,” is an “Emission Source” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

20. Respondent commenced construction of Boiler C after April 14, 1972, and Boiler C is therefore a “New Emission Source” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

21. By failing to obtain a construction permit from the Illinois EPA for its construction of a new boiler at its Facility as alleged herein, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT XII
FAILURE TO MAINTAIN BOILER A

1-15. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, and paragraphs 14 through 15 of Count IX as paragraphs 1 through 15 of this Count XII.

16. On or about September 15, 2015, an oxygen sensor utilized by the Facility to optimize fuel-to-air combustion during operation of Boiler A failed, resulting in NO_x emissions in excess of 3.74 lb/hr.

17. On December 18, 2015, a blockage located within Boiler A impeded air flow during boiler operations, resulting in NO_x emissions in excess of 3.74 lb/hr.

18. On February 1, 2016, Respondent operated all sources of steam consumption during Boiler A operations, resulting in NOx emissions in excess of 3.74 lb/hr.

19. On February 16 and 17, 2016, Respondent operated Boiler A without necessary adjustments to operations, resulting in NOx emissions in excess of 3.74 lb/hr.

20. On April 12, 2016, two boiler tubes located within Boiler A failed, resulting in NOx emissions in excess of 3.74 lb/hr.

21. Condition 9.2.2 of the CAAPP Permit provides as follows:

The Permittee shall maintain all equipment covered under this permit in such a manner that the performance or operation of such equipment shall not cause a violation of applicable requirements.

22. By failing to maintain Boiler A so as to not cause a violation of the NOx emission limits as set forth in Condition 7.4.6(a) of the CAAPP Permit, Respondent violated Condition 9.2.2 of the CAAPP Permit.

23. By violating Condition 9.2.2 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XII:

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

2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit;

3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit;

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT XIII
OPERATION OF BOILER A
DURING A PERIOD OF BREAKDOWN IN EXCESS OF PERMIT LIMITS

1-20. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 14 through 15 of Count IX, and paragraphs 16 through 20 of Count XII as paragraphs 1 through 20 of this Count XIII.

21. Condition 9.2.3 of the CAAPP Permit provides as follows:

No person shall cause, threaten, or allow the continued operation of any emission unit during malfunction or breakdown of the emission unit or related air pollution control equipment if such operation would cause a violation of an applicable emission standard, regulatory requirement, ambient air quality standard or permit limitation unless such malfunction or breakdown is allowed by a permit condition [39.5(6)(c) of the Act.].

22. On September 15 and December 18, 2015, February 1, 16, and 17, 2016, and April 12, 2016, or on such other dates better known to Respondent, Respondent caused or allowed the continued operation of Boiler A so as to cause a violation of Condition 7.4.6(a) during a period of malfunction, in violation of Condition 9.2.3 of the CAAPP Permit.

23. By violating Condition 9.2.3 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XIII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT XIV
FAILURE TO OPERATE BOILER A IN A MANNER
CONSISTENT WITH GOOD AIR POLLUTION CONTROL PRACTICE

1-24. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 14 through 15 of Count IX, and paragraphs 16 through 20 of Count XII as paragraphs 1 through 24 of this Count XIV.

25. Condition 7.4.5 of the CAAPP Permit provides, in pertinent part, as follows:

* * *

- c. At all times, the Permittee shall maintain and operate boiler that is subject to the NSPS, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions, pursuant to 40 CFR 60.11(d).
- d. The Permittee shall operate and maintain the boiler, including associated air pollution control equipment, in a manner consistent with good air pollution control practice, as follows. These operating conditions were established in Permit 04080059.
 - i. At all times, including periods of startup, shutdown, malfunction or breakdown, operate as practicable to minimize emissions.

26. On August 26, 2004, Illinois EPA issued Respondent Construction Permit 04080059, authorizing the construction of Boiler A.

27. Condition 3 of Construction Permit 04080059 provides as follows:

The Permittee shall operate and maintain the boiler, including associated air pollution control equipment, in a manner consistent with good air pollution control practice, as follows:

- a. At all times, including periods of startup, shutdown, and malfunction or breakdown, operate as practicable to minimize emissions.
- b. Conduct routine inspection and perform appropriate maintenance and repairs to facilitate proper functioning of boiler and minimize or prevent malfunctions and breakdowns.
- c. Install, calibrate and maintain required monitoring systems and instrumentation according to the supplier's specifications or as otherwise necessary to assure reliable operation of such devices.
- d. Written procedures for the operation, maintenance, and monitoring of the boiler shall be kept in the boiler control room.

28. By causing or allowing the blockage within Boiler A which impeded air flow during boiler operations, the improper operation of all sources of steam consumption during operation of Boiler A, and the failure to properly implement procedures when NOx emissions

generated during Boiler A operations approached NOx emissions limitations such that Boiler A exceeded CAAPP Permit emissions limitations, Respondent failed to maintain and operate Boiler A in a manner consistent with good air pollution control practice for minimizing emissions as set forth in Condition 3 of Construction Permit 04080059.

29. By failing to operate and maintain Boiler A in a manner consistent with good air pollution control practice as set forth Condition 3 of Construction Permit 04080059, Respondent violated Condition 7.4.5(d)(i) of the CAAPP Permit.

30. Section 60.11(d) of NSPS Subpart A, 40 C.F.R. § 60.11(d), provides as follows:

- (d) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

31. By failing to operate and maintain Boiler A during periods of malfunction in a manner consistent with good air pollution control practice for minimizing emissions, Respondent violated Section 60.11(d) of NSPS Subpart A, 40 C.F.R. § 60.11(d).

32. By violating Section 60.11(d) of NSPS Subpart A, 40 C.F.R. § 60.11(d), Respondent violated Condition 7.4.5(c) of the CAAPP Permit.

33. By violating Condition 7.4.5(c) and (d)(i) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

34. By violating Section 60.11(d) of NSPS Subpart A, Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XIV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 60.11(d) of NSPS Subpart A, 40 C.F.R. § 60.11(d), and Conditions 7.4.5(c) and (d)(i) of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 60.11(d) of NSPS Subpart A, 40 C.F.R. § 60.11(d), and Conditions 7.4.5(c) and (d)(i) of the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.5(c) and (d)(i) of the CAAPP Permit;
6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
7. Granting such other relief as the Board deems appropriate and just.

COUNT XV
FAILURE TO SUBMIT DEVIATION REPORTS

1-24. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 14 through 15 of Count IX, paragraphs 16 through 20 of Count XII, and paragraphs 25 through 28 of Count XIV as paragraphs 1 through 24 of this Count XV.

25. Condition 5.7.1 of the CAAPP Permit provides, in relevant part, as follows:

The Permittee shall promptly notify the Illinois EPA, Compliance Section, of deviations of the source with the permit requirements as follows, pursuant to Section 39.5(7)(f)(ii) of the Act. Reports shall describe the probable cause of such deviations, and any corrective actions or preventive measures taken.

26. Respondent failed to timely submit complete and accurate deviation reports notifying Illinois EPA of deviations of the conditions of Construction Permit 04080059, whose requirements are incorporated by Condition 7.4.5 of the CAAPP Permit, and failed to timely submit to Illinois EPA deviation reports informing Illinois EPA of NO_x emissions that were in violation of Condition 7.4.6(a) of the CAAPP Permit.

27. By failing to timely submit complete and accurate deviation reports of violations of Conditions 7.4.5 and 7.4.6(a) of the CAAPP Permit, Respondent violated Condition 5.7.1 of the CAAPP Permit.

28. By violating Condition 5.7.1 of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit;
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT XVI
FAILURE TO TIMELY PROVIDE
COMPLETE AND ACCURATE NOTIFICATIONS – NSPS SUBPARTS A AND NNN

1-26. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I, paragraph 7 of Count III, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, and paragraphs 9 through 16 of Count VIII as paragraphs 1 through 26 of this Count XVI.

27. The NSPS Regulations applicable to Standards of Performance for VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations are found in Subpart NNN of Title 40, Part 60 (“Subpart NNN”).

28. Section 60.660 of NSPS Subpart NNN, 40 C.F.R. § 60.660, provides, in relevant part, as follows:

- (a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that is part of a process unit that produces any of the chemicals listed in § 60.667 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c).
- (b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after December 30, 1983:
 - (1) Each distillation unit not discharging its vent stream into a recovery system.
 - (2) Each combination of a distillation unit and the recovery system into which its vent stream is discharged.
 - (3) Each combination of two or more distillation units and the common recovery system into which their vent streams are discharged.

29. The Biodiesel Plant at the Facility produces glycerol as a co-product, which is listed in Section 60.667 of NSPS Subpart NNN, 40 C.F.R. § 60.667.

30. NSPS Subpart NNN is applicable to the Biodiesel Plant pursuant to Section 60.660 of NSPS Subpart NNN, 40 C.F.R. § 60.660. The Biodiesel Plant is therefore an “affected facility” as that term is defined in Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2.

31. Respondent is the “owner or operator” of the Biodiesel Plant, an affected facility, as that term is defined in Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2.

32. Section 60.665(a) of Subpart NNN, 40 C.F.R. § 60.665(a), provides as follows:

- (a) Each owner or operator subject to § 60.662 shall notify the Administrator of the specific provisions of § 60.662 (§ 60.662(a), (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.662 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a

change and, upon implementing the change, a performance test shall be performed as specified by § 60.664 within 180 days.

33. Section 60.662 of Subpart NNN, 40 C.F.R. § 60.662, provides as follows:

Each owner or operator of any affected facility shall comply with paragraph (a), (b), or (c) of this section for each vent stream on and after the date on which the initial performance test required by § 60.8 and § 60.664 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall either:

- (a) Reduce emissions of TOC (less methane and ethane) by 98 weight-percent, or to a TOC (less methane and ethane) concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater; or
- (b) Combust the emissions in a flare that meets the requirements of § 60.18; or
- (c) Maintain a TRE index value greater than 1.0 without use of VOC emission control devices.

34. Respondent is the owner and operator of the Biodiesel Plant, an affected facility, and is therefore required to comply with Section 60.662 of NSPS Subpart NNN, 40 C.F.R. § 60.662.

35. Respondent failed to timely inform Illinois EPA of the specific provisions of Section 60.662 of NSPS Subpart NNN with which it elected to comply, in violation of Section 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a).

36. On a date better known to Respondent, Respondent elected to use an alternate provision of Section 60.662 of NSPS Subpart NNN, 40 C.F.R. § 60.662, by maintaining the requisite Total Resource Effectiveness (“TRE”) index value without the use of VOM emission controls to ensure compliance NSPS Subpart NNN requirements.

37. Respondent failed to notify Illinois EPA at least 90 days before implementing an alternative compliance method and, upon implementing the alternate compliance method, failed to conduct a performance test within 180 days, in violation of Section 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a).

38. Section 60.7(a) of NSPS Subpart A, 40 C.F.R. § 60.7(a), provides as follows:

Notification and record keeping

(a) Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:

(1) A notification of the date construction (or reconstruction as defined under § 60.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.

(2) [Reserved]

39. Respondent failed to submit to Illinois EPA a notification of date of construction of the Biodiesel Plant, which is subject to NSPS Subpart NNN, in violation of Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1).

40. By violating Sections 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

41. Condition 2.1.2(a) of Construction Permit 06050042, provides in pertinent part, as follows:

i. The distillation units in the Biodiesel plant are affected facilities subject to the New Source Performance Standards (NSPS), 40 CFR 60, Subpart NNN, Standards of Performance of Volatile Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

- ii. For these affected facilities the Permittee shall comply with all applicable provisions of 40 CFR 60, Subpart NNN and related requirements in 40 CFR 60, Subpart A, General Provisions.

42. Condition 2.1.9(a) of Construction Permit 06050042 provides as follows:

The Permittee shall fulfill all applicable notification and reporting requirements of the NESHAP and NSPS for the units in the Biodiesel plant.

43. By violating Section 60.665(a) of NESHAP Subpart NNN, 40 C.F.R. § 60.665(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042.

44. By violating Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

45. Condition 5.2.5(a) of the CAAPP Permit provides, in pertinent part, as follows:

Should this stationary source become subject to a regulation under 40 CFR Parts 60, 61, or 63, or 35 IAC after the date issued of this permit, then the owner or operator shall, in accordance with the applicable requirement(s), comply with the applicable requirements by the date(s) specified and shall certify compliance with the applicable requirements of such regulation(s) as part of the annual compliance certification, as required by 40 CFR Part 70 or 71.

46. By violating Sections 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

47. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XVI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Section 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;
3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Section 60.665(a) of NSPS Subpart NNN, 40 C.F.R. § 60.665(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;
6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XVII
FAILURE TO TIMELY SUBMIT
COMPLETE AND ACCURATE SEMI-ANNUAL REPORTS – NSPS SUBPART NNN

1-36. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I, paragraph 7 of Count III, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, and paragraphs 27 through 31, 33 through 34, 41 through 42, and 45 of Count XVI as paragraphs 1 through 36 of this Count XVII.

37. Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), provides, in relevant part, as follows:

Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.660(c)(4), (c)(5), or (c)(6) or § 60.662 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

38. From at least January 1, 2007 through at least through December 31, 2015, Respondent failed to timely submit to the Illinois EPA complete and accurate Semi-Annual Reports for the Biodiesel Plant.

39. By failing to timely submit to the Illinois EPA complete and accurate Semi-Annual Reports for the Biodiesel Plant, Respondent violated Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l).

40. By violating Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

41. By violating Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Respondent violated Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042.

42. By violating Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

43. By violating Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

44. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XVII:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.665(l) of NSPS Subpart NNN, 40 C.F.R. § 60.665(l), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, and an

additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XVIII
FAILURE TO TIMELY PROVIDE
COMPLETE AND ACCURATE NOTIFICATIONS – NSPS SUBPARTS A AND RRR

1-41. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I, paragraph 7 of Count III, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, and paragraphs 27 through 39, 42, and 45 of Count XVI as paragraphs 1 through 41 of this Count XVIII.

42. The NSPS Regulations applicable to Standards of Performance for VOC Emissions from Synthetic Organic Chemical Manufacturing Industry Reactor Processes are located in Subpart RRR of Title 40, Part 60 (“Subpart RRR”).

43. Section 60.700 of NSPS Subpart RRR, 40 C.F.R. § 60.700, provides, in relevant part, as follows:

- (a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that is part of a process unit that produces any of the chemicals listed in § 60.707 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c) of this section.

- (b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after June 29, 1990:
 - (1) Each reactor process not discharging its vent stream into a recovery system.
 - (2) Each combination of a reactor process and the recovery system into which its vent stream is discharged.
 - (3) Each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged.

* * *

44. The Biodiesel Plant at the Facility produces glycerol as a co-product, which is listed in Section 60.707 of NSPS Subpart RRR, 40 C.F.R. § 60.707.

45. NSPS Subpart RRR is applicable to the Biodiesel Plant pursuant to Section 60.700 of NSPS Subpart RRR, 40 C.F.R. § 60.700. The Biodiesel Plant is therefore an “affected facility” as that term is defined in Section 60.2 of NSPS Subpart A, 40 C.F.R. § 60.2.

46. Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), provides as follows:

Each owner or operator subject to § 60.702 shall notify the Administrator of the specific provisions of § 60.702 (§ 60.702(a), (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.702 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.704 no later than 180 days from initial start-up.

47. By failing to notify Illinois EPA at least 90 days before implementing an alternate compliance method and, upon implementing the alternate compliance method, failing to conduct a performance test within 180 days, as specified by NSPS requirements, Respondent violated Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a).

48. By failing to submit to Illinois EPA a notification of date of construction of the Biodiesel Plant, which is subject to NSPS Subpart RRR, Respondent violated Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1).

49. By violating Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

50. By violating Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Condition 2.1.9(a) of Construction Permit 06050042.

51. By violating Condition 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

52. By violating Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), and Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

53. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XVIII:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.705(a) of NSPS Subpart

RRR, 40 C.F.R. § 60.705(a), Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.705(a) of NSPS Subpart RRR, 40 C.F.R. § 60.705(a), Section 60.7(a)(1) of NSPS Subpart A, 40 C.F.R. § 60.7(a)(1), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Condition 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XIX
FAILURE TO TIMELY SUBMIT
COMPLETE AND ACCURATE SEMI-ANNUAL REPORTS – NSPS SUBPART RRR

1-47. Complainant realleges and incorporates herein by reference paragraphs 1 through 11 of Count I, paragraph 7 of Count III, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, paragraphs 27 through 39, 42, and 45 of Count XVI, and paragraphs 42 through 47 of Count XVIII as paragraphs 1 through 47 of this Count XIX.

48. Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), provides as follows:

Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.700(c)(2), (c)(3), or (c)(4) or § 60.702 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

49. Section 60.700(c)(2) of NSPS Subpart RRR, 40 C.F.R. § 60.700(c)(2) provides, in relevant part, as follows:

(1) Exemptions from the provisions of paragraph (a) of this section are as follows:

* * *

(2) Each affected facility that has a total resource effectiveness (TRE) index value greater than 8.0 is exempt from all provisions of this subpart except for §§ 60.702(c); 60.704(d), (e), and (f); and 60.705(g), (l)(1), (l)(6), and (t).

50. On a date better known to Respondent, Respondent elected to maintain the requisite TRE index value so as to comply with the requirements of NSPS Subpart RRR, as provided for by Section 60.700(c)(2) of NSPS Subpart RRR, 40 C.F.R. § 60.700(c)(2).

51. From at least January 1, 2007 through at least through March 30, 2017, Respondent failed to timely submit to the Illinois EPA complete and accurate Semi-Annual

Reports for the Facility, containing required recorded information, in violation of Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l).

52. By violating Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

53. By violating Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Respondent violated Condition 2.1.9(a) of Construction Permit 06050042.

54. By violating Condition 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

55. By violating Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

56. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XIX:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section

60.705(l) of NSPS Subpart RRR, 40 C.F.R. § 60.705(l), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Condition 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XX
FAILURE TO SUBMIT COMPLETE AND ACCURATE
COMPLIANCE CERTIFICATIONS FOR 2013 AND 2014

1-15. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count IV, paragraphs 48 through 52 of Count VI, and paragraphs 14 through 15 of Count IX, as paragraphs 1 through 15 of this Count XX.

16. Condition 9.8 of the CAAPP Permit provides as follows:

Requirements for Compliance Certification

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit annual compliance certifications. The compliance certifications shall be submitted no later than May 1 or more frequently as specified in the applicable requirements or by permit condition. The compliance certifications shall be submitted to the Air

Compliance Section, Air Regional Field Office, and USEPA Region 5 – Air Branch. The addresses for the submittal of the compliance certifications are provided in Condition 8.6.4 of this permit.

- a. The certification shall include the identification of each term or condition of this permit that is that is the basis of the certification; the compliance status; whether compliance was continuous or intermittent; the method(s) used for determining the compliance status of the source; both currently and over the reporting period consistent with the conditions of this permit.
- b. All compliance certifications shall be submitted to USEPA Region 5 in Chicago as well as to the Illinois EPA.
- c. All compliance reports required to be submitted shall include a certification in accordance with Condition 9.9.

17. On March 19, 2014, Respondent submitted an Annual Compliance Certification (“ACC”) to Illinois EPA stating that the Facility operated in continuous compliance with all CAAPP permit requirements during calendar year 2013. The ACC stated that NO_x emissions generated during operation of Boiler A in 2013 were in continuous compliance with all No_x emission limitations set forth within the CAAPP Permit.

18. By submitting its ACC for operating year 2013 to the Illinois EPA certifying that it was in continuous compliance with all No_x emission limitations set forth within the CAAPP Permit when No_x emissions generated during Boiler A operations exceeded the 3.74 lb/hr No_x emission limitation set forth in Condition 7.4.6(a) of in the CAAPP Permit, Respondent violated Condition 9.8(a) of the CAAPP Permit.

19. On April 15, 2015, Respondent submitted an ACC to Illinois EPA stating that the Facility operated in continuous compliance with all CAAPP permit requirements during calendar year 2014. The ACC stated that No_x emissions generated during operation of Boiler A in 2014

were in continuous compliance with all Nox emission limitations set forth within the CAAPP Permit.

20. By submitting its ACC for operating year 2014 to the Illinois EPA certifying that it was in continuous compliance with all Nox emission limitations set forth within the CAAPP Permit when Nox emissions generated during Boiler A operations exceeded the 3.74 lb/hr Nox emission limitation set forth in Condition 7.4.6(a) of the CAAPP Permit, Respondent violated Condition 9.8(a) of the CAAPP Permit.

21. By violating Condition 9.8(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XX:

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

2. Finding that the Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit;

3. Ordering Respondent to cease and desist from any future violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit;

5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT XXI
FAILURE TO TIMELY CONDUCT AN INITIAL BOILER TUNE-UP

1-22. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, and paragraph 45 of Count XVI as paragraphs 1 through 22 of this Count XXI.

23. Part 63, Subpart DDDDD of Title 40 of the Code of Federal Regulations provides NESHAP for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (“Subpart DDDDD”).

24. Section 63.4790 of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7490, provides as follows:

- (1) This subpart applies to new, reconstructed, and existing affected sources as described in paragraphs (a)(1) and (2) of this section.
 - (1) The affected source of this subpart is the collection at a major source of all existing industrial, commercial, and institutional boilers and process heaters within a subcategory as defined in § 63.7575.
 - (2) The affected source of this subpart is each new or reconstructed industrial, commercial, or institutional boiler or process heater, as defined in § 63.7575, located at a major source.
 - (1) A boiler or process heater is new if you commence construction of the boiler or process heater after June 4, 2010, and you meet the applicability criteria at the time you commence construction.
 - (1) A boiler or process heater is reconstructed if you meet the reconstruction criteria as defined in § 63.2, you commence

reconstruction after June 4, 2010, and you meet the applicability criteria at the time you commence reconstruction.

(1) A boiler or process heater is existing if it is not new or reconstructed.

(e) An existing electric utility steam generating unit (EGU) that meets the applicability requirements of this subpart after the effective date of this final rule due to a change (e.g., fuel switch) is considered to be an existing source under this subpart.

25. Boiler A is an existing affected source and subject to the terms and provisions of NESHAP Subpart DDDDD.

26. Section 63.7495 of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7495, provides, in pertinent part, as follows:

(1) If you have a new or reconstructed boiler or process heater, you must comply with this subpart by April 1, 2013, or upon startup of your boiler or process heater, whichever is later.

(1) If you have an existing boiler or process heater, you must comply with this subpart no later than January 31, 2016, except as provided in § 63.6(i).

* * *

27. Respondent was required to comply with NESHAP Subpart DDDDD by January 31, 2016 as provided by Section 63.7495 of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7495.

28. Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7510(e), provides as follows:

What are my initial compliance requirements and by what date must I conduct them?

* * *

- (e) For existing affected sources (as defined in §63.7490), you must complete the initial compliance demonstrations, as specified in paragraphs (a) through (d) of this section, no later than 180 days after the compliance date that is specified for your source in §63.7495 and according to the applicable provisions in §63.7(a)(2) as cited in Table 10 to this subpart, except as specified in paragraph (j) of this section. You must complete an initial tune-up by following the procedures described in §63.7540(a)(10)(i) through (vi) no later than the compliance date specified in §63.7495, except as specified in paragraph (j) of this section. You must complete the one-time energy assessment specified in Table 3 to this subpart no later than the compliance date specified in §63.7495.

- 29. Respondent was required to perform an initial tune-up of Boiler A within 180 days after the specified compliance date, which was by January 31, 2016.
- 30. Respondent performed the initial tune-up of Boiler A, on April 21, 2016.
- 31. Respondent failed to timely perform an initial tune-up of Boiler A, in violation of Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7510(e).
- 32. By violating Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7410(e), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).
- 33. By violating Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7410(e), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.
- 34. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXI:

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

2. Finding that the Respondent has violated Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7510(e), and Condition 5.2.5(a) of the CAAPP Permit;

3. Ordering Respondent to cease and desist from any future violations of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 9.1(d) and 39.5(6)(a) (2018), Section 63.7510(e) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7510(e), and Condition 5.2.5(a) of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXII
FAILURE TO TIMELY SUBMIT A COMPLETE AND ACCURATE NOTIFICATION
OF FACILITY'S COMPLIANCE STATUS WITH NESHAP SUBPART DDDDD

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI,

paragraph 45 of Count XVI, and paragraphs 23 through 31 of Count XXI as paragraphs 1 through 30 of this Count XXII.

32. Section 63.7545 of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545 provides, in relevant part, as follows:

1. You must submit to the Administrator all of the notifications in §§63.7(b) and (c), 63.8(e), and (f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

* * *

1. If you are required to conduct an initial compliance demonstration as specified in § 63.7530, you must submit a Notification of Compliance Status according to §63.9(h)(2)(ii). For the initial compliance demonstration for each boiler or process heater, you must submit the Notification of Compliance Status, including all performance test results and fuel analyses, before the close of business on the 60th day following the completion of all performance test and/or other initial compliance demonstrations for all boiler or process heaters at the facility according to § 63.10(d)(2). The Notification of Compliance Status report must contain all the information specified in paragraphs (e)(1) through (8) of this section, as applicable. If you are not required to conduct an initial compliance demonstration as specified in § 63.7530(a), the Notification of Compliance Status must only contain the information specified in paragraphs (e)(1) and (8) of this section and must be submitted within 60 days of the compliance date specified at §63.7495(b).

* * *

- (6) A signed certification that you have met all applicable emission limits and work practice standards.

* * *

- (8) In addition to the information required in § 63.9(h)(2), your notification of compliance status must include the following certification(s) of compliance, as applicable, and signed by a responsible official:

- (1) “This facility completed the required initial tune-up for all of the boilers and process heaters covered by 40 CFR part 63 subpart DDDDD at this site according to the procedures in § 63.7540(a)(10)(i) through (vi).”

* * *

33. Section 63.9(h) of NESHAP Subpart A, 40 C.F.R. § 63.9(h), provides, in pertinent part, as follows:

(h) Notification of Compliance Status.

- (1) The requirements of (h)(2) through (h)(4) of this section apply when an affected source becomes subject to a relevant standard.
- (2)(i) Before a title V permit has been issued to the owner or operator of an affected source, and each time a notification of compliance status is required under this part, the owner or operator of such source shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy, attesting to whether the source has complied with the relevant standard. The notification shall list—
- (A) The methods that were used to determine compliance;
- (B) The results of any performance tests, opacity or visible emission observations, continuous monitoring system

- (CMS) performance evaluations, and/or other monitoring procedures or methods that were conducted;
- (C) The methods that will be used for determining continuing compliance, including a description of monitoring and reporting requirements and test methods;
 - (D) The type and quantity of hazardous air pollutants emitted by the source (or surrogate pollutants if specified in the relevant standard), reported in units and averaging times and in accordance with the test methods specified in the relevant standard;
 - (E) If the relevant standard applies to both major and area sources, an analysis demonstrating whether the affected source is a major source (using the emissions data generated for this notification);
 - (F) A description of the air pollution control equipment (or method) for each emission point, including each control device (or method) for each hazardous air pollutant and the control efficiency (percent) for each control device (or method); and
 - (G) A statement by the owner or operator of the affected existing, new, or reconstructed source as to whether the source has complied with the relevant standard or other requirements.

* * *

34. On March 31, 2016, Respondent submitted a Notification of Compliance Status to the Illinois EPA. However, the Notification of Compliance Status failed to contain all of the information required by, and therefore violated, Section 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. § 63.9(h)(2).

35. Respondent failed to timely submit to Illinois EPA a complete and accurate Notification of Compliance Status certifying the Facility had met all applicable emission limits and work practice standards, and completed the required initial tune-up for Boiler A, which is covered by NESHAP Subpart DDDDD, in violation of Section 63.7545(e)(6) and (8)(i) of

NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i).

36. Section 63.4(a) of NESHAP Subpart A, 40 C.F.R. § 63.4(a), provides as follows:

(1) Prohibited activities

(1) No owner or operator subject to the provisions of this subpart must operate any affected source in violation of the requirements of this part. Affected sources subject to and in compliance with either an extension of compliance or an exemption from compliance are not in violation of the requirements of this part. An extension of compliance can be granted by the Administrator under this part; by a State with an approved permit program; or by the President under Section 112 (i)(4) of the Act.

(2) No owner or operator subject to the provisions of this part shall fail to keep records, notify, report, or revise reports as required under this part.

* * *

37. By failing to timely submit to Illinois EPA a complete and accurate Notification of Compliance Status pursuant to the requirements set forth by Section 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. § 63.9(h)(2), and Section 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i), Respondent violated Sections 63.4(a) of NESHAP Subpart A, 40 C.F.R. § 63.4(a).

38. By violating Section 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i), and Sections 63.4(a) and 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

39. By violating Section 63.7545(e)(6) and 8(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(1), and Sections 63.4(a) and 63.9(h)(2) of NESHAP Subpart A,

40 C.F.R. §§ 63.4(a) and 63.9(h)(2), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

40. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXII:

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

2. Finding that the Respondent has violated Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i), Sections 63.4(a) and 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2), and Condition 5.2.5(a) of the CAAPP Permit;

3. Ordering Respondent to cease and desist from any future violations of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Section 63.7545(e)(6) and (8)(i) of NESHAP Subpart DDDDD, 40 C.F.R. § 63.7545(e)(6) and (8)(i), Sections 63.4(a) and 63.9(h)(2) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h), and Condition 5.2.5(a) of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXIII
FAILURE TO SUBMIT A COMPLETE AND ACCURATE NOTIFICATION OF
COMPLIANCE STATUS WITH NESHAP SUBPART DDDDD
FOR BOILER "A" OPERATIONS

1-34. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraph 45 of Count XVI, paragraphs 23 through 31 of Count XXI, and paragraphs 32, 33, and 36 of Count XXII as paragraphs 1 through 34 of this Count XXIII.

35. On March 31, 2016, Respondent submitted to the Illinois EPA a Notification of Compliance Status stating that the requisite Boiler A tune-up specified by NESHAP requirements was not performed. Further, the notification failed to include a statement certifying the Facility had met all applicable emission limits and work practice standards or that the Respondent had completed the required initial tune-up for all Boiler A operations.

36. By failing to include a statement in the Notification of Compliance Status that the Facility had met all applicable emission limitations and work practice standards or that the Respondent had completed the required initial tune-up for all Boiler A operations, Respondent violated Section 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. § 63.9(h)(2)(i)(A), (C), and (G).

37. By violating Section 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. § 63.9(h)(2)(i)(A), (C), and (G), Respondent violated Section 63.4(a) of NESHAP Subpart A, 40 C.F.R. § 63.4(a).

38. By violating Sections 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2) (i)(A), (C), and (G), Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2018).

39. By violating Section 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

40. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXIII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated and Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Sections 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G), and Condition 5.2.5(a) of the CAAPP Permit;
3. Ordering Respondent to cease and desist from any future violations of Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) and 39.5(6)(a) (2018), Sections 63.4(a) and

63.9(h)(2)(i)(A), (C), and (G) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a) and 63.9(h)(2)(i)(A), (C), and (G), and Condition 5.2.5(a) of the CAAPP Permit;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018), and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXIV
FAILURE TO MONITOR SCRUBBANT FLOW RATE AND PRESSURE DROP
REQUIRED BY CONSTRUCTION PERMIT 06050042

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 5 and 7 through 8 of Count I, paragraph 7 of Count III, and paragraphs 9 through 16 and 25 of Count VIII as paragraphs 1 through 17 of this Count XXIV.

18. Condition 2.1.7 of Construction Permit 06050042 provides as follows:

The Permittee shall monitor (i.e., measure and automatically record) the following information for each scrubber in the control system:

- a. Scrubbant flow rate (gallons/minute, hourly average); and
- b. Pressure drop.

19. From January 1, 2007 through August 22, 2016, Respondent failed to monitor, as that term is defined by Condition 2.1.7 of Construction Permit 06050042, scrubbant flow rate in gallons per minute during oil absorber operations and failed to monitor scrubber pressure drop during operation of oil and water absorbers.

20. By failing to properly measure and record scrubbant flow rate and pressure drop during Biodiesel Plant operations, Respondent violated Condition 2.1.7 of Construction Permit 06050042.

21. Condition 1.5 of Construction Permit 06050042 provides as follows:

All records and logs required by this permit shall be retained at a readily accessible location at the source for at least three years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request. Any records retained in an electronic format (e.g. computer) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA request for records during the course of a source inspection.

22. By failing to maintain records as required by Condition 2.1.7 of Construction Permit 06050042, Respondent violated Condition 1.5 of Construction Permit 06050042.

23. On March 9, 2017, Respondent submitted to Illinois EPA a deviation report informing the Illinois EPA that, beginning January 1, 2007 through August 22, 2016, Respondent failed to properly measure and record scrubbant flow rate and pressure drop during Biodiesel Plant operations.

24. By failing to submit to the Illinois EPA deviation reports within 30 days after violating Condition 2.1.7 of Construction Permit 06050042, Respondent violated Condition 1.6(b) of Construction Permit 06050042.

25. By violating Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 060500052, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXIV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 06050042;
3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 06050042;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;
5. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT XXV
FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE
SEMI-ANNUAL EMISSIONS REPORTS RELATIVE TO AGITATOR OPERATIONS

1-33. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraph 7 of Count III, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, and paragraphs 41, 42, and 45 of Count XVI as paragraphs 1 through 33 of this Count XXV.

34. Part 63, Subpart UU of Title 40 of the Code of Federal Regulations provides NESHAP for Equipment Leaks – Control Level 2 Standards (“Subpart UU”).

35. Section 63.1019 of NESHAP Subpart UU, 40 C.F.R. § 63.1019, provides, in relevant part, as follows:

- (a) The provisions of this subpart apply to the control of air emissions from equipment leaks for which another subpart references the use of this subpart for such air emission control. These air emission standards for equipment leaks are placed here for administrative convenience and only apply to those owners and operators of facilities subject to a referencing subpart. The provisions of 40 CFR part 63, subpart A (General Provisions) do not apply to this subpart except as noted in the referencing subpart.
- (b) Equipment subject to this subpart. The provisions of this subpart and the referencing subpart apply to equipment that contains or contacts regulated material. This subpart applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, and closed vent systems and control devices used to meet the requirements of this subpart.

36. Connectors at the Facility are subject to the provisions of NESHAP Subpart UU as set forth by Section 63.1019 of Subpart UU, 40 C.F.R. § 63.1019.

37. Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), provides as follows:

- (b) Periodic Reports. The owner or operator shall report the information specified in paragraphs (b)(1) through (b)(8) of this section, as applicable, in the Periodic Report specified in the referencing subpart.
 - (1) For the equipment specified in paragraphs (b)(1)(i) through (b)(1)(v) of this section, report in a summary format by equipment type, the number of components for which leaks were detected and for valves, pumps and connectors show the percent leakers, and the total number of components monitored. Also include the number of leaking components that were not repaired as required by § 63.1024, and for valves and connectors, identify the number of components that are determined by § 63.1025(c)(3) to be nonrepairable.

- (i) Valves in gas and vapor service and in light liquid service pursuant to § 63.1025(b) and (c).
- (ii) Pumps in light liquid service pursuant to § 63.1026(b) and (c).
- (iii) Connectors in gas and vapor service and in light liquid service pursuant to § 63.1027(b) and (c).
- (iv) Agitators in gas and vapor service and in light liquid service pursuant to § 63.1028(c).
- (v) Compressors pursuant to § 63.1031(d).

* * *

38. Part 63, Subpart FFFF of Title 40 of the Code of Federal Regulations provides NESHAP for Miscellaneous Organic Chemical Manufacturing (“Subpart FFFF”).

39. Section 63.2435(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2435, provides as follows:

You are subject to the requirements in this subpart if you own or operate miscellaneous organic chemical manufacturing process units (MPCU) that are located at, or are part of, a major source of hazardous air pollutants (HAP) emissions as defined in section 112(a) of the Clean Air Act (CAA).

40. The Biodiesel Plant at the Facility contains equipment that constitute MPCU. The Facility is therefore subject to Subpart FFFF as set forth by Section 63.2435(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2435(a).

41. Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), provides as follows:

- (e) Compliance report. The compliance report must contain the information specified in paragraphs (e)(1) through (10) of this section.

* * *

- (9) Applicable records and information for periodic reports as specified in referenced subparts F, G, H, SS, UU, WW, and GGG of this part and subpart F of 40 CFR part 65.

42. For the reporting periods for January through June 2012 through July through December 2016, Respondent submitted to the Illinois EPA Semi-Annual Emissions Reports that omitted required information relative to agitator operations at the Facility including, but not limited to, leak detection and repair (“LDAR”) information with regard to connectors.

43. On February 27, 2017, Respondent submitted to Illinois EPA revised Semi-Annual Emissions Reports that included all required information relative to agitator operations at the Facility.

44. By failing to timely submit to the Illinois EPA complete and accurate Semi-Annual Emissions Reports, Respondent violated Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), and Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9).

45. Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), provides as follows:

* * *

(d) General reporting requirements.

- (1) Notwithstanding the requirements in this paragraph or paragraph (e) of this section, and except as provided in § 63.16, the owner or operator of an affected source subject to reporting requirements under this part shall submit reports to the Administrator in accordance with the reporting requirements in the relevant standard(s).

46. By violating Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), and Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2420(e)(9),

Respondent failed to submit reports in accordance with NESHAP reporting requirements, in violation of Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d).

47. By violating Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

48. By violating Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042.

49. By violating Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

50. By violating Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

51. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXV:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Section 63.1039(b)(1) of NESHAP Subpart UU, 40 C.F.R. § 63.1039(b)(1), Section 63.2520(e)(9) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(9), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXVI

FAILURE TO TIMELY SUBMIT NESHAP SUBPART FFFF INITIAL NOTIFICATION

1-37. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraph 7 of Count III, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 and 25 of Count VIII, paragraphs 42 and 45 of Count XVI, paragraph 36 of Count XXII, and paragraphs 38 through 40 of Count XXV as paragraphs 1 through 37 of this Count XXVI.

38. Section 63.5 of NESHAP Subpart A, 40 C.F.R. § 63.5 provides, in relevant part, as follows:

(b) *Requirements for existing, newly constructed and reconstructed sources.*

- (1) A new affected source for which construction commences after proposal of a relevant standard is subject to the standards for new affected sources, including compliance dates. An affected source for which reconstruction commences after proposal of a relevant standard is subject to the standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

* * *

- (3) After the effective date of any relevant standard promulgated by the Administrator under this part, no person may, without obtaining written approval in advance from the Administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section, do any of the following:

- (i) Construct a new affected source that is major-emitting and subject to such standard;

* * *

- (d) *Application for approval of construction or reconstruction.* The provisions of the section implement section 112(i)(1) of the Act.

- (1) *General application requirements.*

- (i) An owner or operator who is subject to the requirements of paragraph (b)((3) of this section must submit to the Administrator an application for the approval of the construction or reconstruction. The application must be submitted as soon applicable before actual construction or reconstruction begins. The application for construction or reconstruction may be used to fulfill the initial notification requirements of §63.9(b)(5). The owner or operator may submit the application for approval well in advance of the date of actual construction or reconstruction begins in order to ensure a timely review by the Administrator and that the planned date to begin will not be delayed.
- (ii) A separate application shall be submitted for each construction or reconstruction. Each construction for construction or reconstruction shall include at a minimum:

* * *

- (D) An identification of the relevant standard that is the basis of the application.
- (E) The expected date of the beginning of actual construction or reconstruction.
- (F) The expected completion date of the construction or reconstruction.

39. Section 63.9(b) of NESHAP Subpart A, 40 C.F.R. § 63.9(b), provides, in pertinent part, as follows:

(b) Initial notifications.

- (1) (i) The requirements of this paragraph apply to the owner or operator of an affected source when such source becomes subject to a relevant standard.

* * *

(iii) Affected sources that are required under this paragraph to submit an initial notification may use the application for approval of construction or reconstruction under § 63.5(d) of this subpart, if relevant, to fulfill the initial notification requirements of this paragraph.

- (2) The owner or operator of an affected source that has an initial startup before the effective date of a relevant standard under this part shall notify the Administrator in writing that the source is subject to the relevant standard. The notification, which shall be submitted not later than 120 calendar days after the effective date of the relevant standard (or within 120 calendar days after the source becomes subject to the relevant standard), shall provide the following information:
 - (i) The name and address of the owner or operator;
 - (ii) The address (i.e., physical location) of the affected source;
 - (iii) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date;
 - (iv) A brief description of the nature, size, design, and method of operation of the source and an identification of the types of emission points within the affected source subject to the relevant standard and types of hazardous air pollutants emitted; and
 - (v) A statement of whether the affected source is a major source or an area source.

40. Section 63.2515(a) of Subpart FFFF, 40 C.F.R. § 63.2515(a), provides, in pertinent part, as follows:

You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(e), (f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

41. Respondent failed to submit to Illinois EPA within 120 days of becoming subject to NESHAP Subpart FFFF notification requirements a notification providing the relevant standard that is the basis of the notification, the expected date of the beginning of actual construction, and the expected completion date of construction.

42. By failing to timely submit to Illinois EPA a complete and accurate initial notification that the Facility was constructing a source subject to NESHAP Subpart FFFF,

Respondent violated Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and § 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a).

43. By violating Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

44. Condition 1.6(a) of Construction Permit 06050042 provides as follows:

- (a) Reports of exceedances or deviations from NSPS and NESHAP requirements shall be submitted in accordance with applicable regulations of NSPS and NESHAP.

45. By violating Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Respondent violated Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042.

46. By violating Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

47. By violating Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

48. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXVI:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5(6)(a) (2018), Sections 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F) and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F), and 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and Section 63.2515(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(a), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042, and an

additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXVII
SUBMISSION OF UNTIMELY, INCOMPLETE AND INACCURATE
NOTIFICATION OF INITIAL COMPLIANCE STATUS REPORT

1-37. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraph 7 of Count III, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, paragraphs 42 and 45 of Count XVI, paragraph 33 of Count XXII, and paragraphs 38 through 40 and 45 of Count XXV as paragraphs 1 through 37 of this Count XXVII.

38. Section 63.2520(d) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(d), provides, in pertinent part, as follows:

(d) Notification of compliance status report. You must submit a notification of compliance status report according to the schedule in paragraph (d)(1) of this section, and the notification of compliance status report must contain the information specified in paragraph (d)(2) of this section.

(1) You must submit the notification of compliance status report no later than 150 days after the applicable compliance date specified in § 63.2445.

- (2) The notification of compliance status report must include the information in paragraphs (d)(2)(i) through (ix) of this section.
 - (i) The results of any applicability determinations, emission calculations, or analyses used to identify and quantify HAP usage or HAP emissions from the affected source.
 - (ii) The results of emissions profiles, performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate initial compliance according to §§ 63.2455 through 63.2485. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures.
 - (iii) Descriptions of monitoring devices, monitoring frequencies, and the operating limits established during the initial compliance demonstrations, including data and calculations to support the levels you establish.
 - (iv) All operating scenarios.
 - (v) Descriptions of worst-case operating and/or testing conditions for control devices.
 - (vi) Identification of parts of the affected source subject to overlapping requirements described in § 63.2535 and the authority under which you will comply.
 - (vii) The information specified in § 63.1039(a)(1) through (3) for each process subject to the work practice standards for equipment leaks in Table 6 to this subpart.
 - (viii) Identify storage tanks for which you are complying with the vapor balancing alternative in § 63.2470(e).
 - (ix) Records as specified in § 63.2535(l)(1) through (3) of process units used to create a PUG and calculations of the initial primary product of the PUG.

39. Section 63.2445(a)(2) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2445(a)(2), provides as follows:

- (a) If you have a new affected source, you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

* * *

- (2) If you startup your new affected source after November 10, 2003, then you must comply with the requirements for new sources in this subpart upon startup of your affected source.

40. Respondent was required to submit its notification of compliance status report to Illinois EPA by June 1, 2007, 150 days after startup of the Biodiesel Plant, as specified by Sections 63.2520(d) and 63.2445(a)(2) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2445(a)(2).

41. On September 7, 2007, Respondent submitted to Illinois EPA its notification of compliance status report.

42. By failing to timely submit a notification of compliance status report, Respondent violated Section 63.2520(d) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(d).

43. Section 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. § 63.2535, provides, in pertinent part, as follows:

For any equipment, emission stream, or wastewater stream subject to the provisions of both this subpart and another subpart, you may elect to comply only with the provisions as specified in paragraphs (a) through (l) of this section. You also must identify the subject equipment, emission stream, or wastewater stream, and the provisions with which you will comply, in your notification of compliance status report required by §63.2520(d).

44. The notification of compliance status report submitted by Respondent on September 7, 2007 failed to specify the subject equipment, emission stream, or wastewater stream subject to the provisions of NESHAP Subpart FFFF and the compliance options specified by Section 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. § 63.2535, with which Respondent intended to comply.

45. On February 17, 2017, Respondent submitted a complete and accurate notification of compliance status.

46. Because Respondent failed to identify the parts of its operations subject to both NESHAP Subpart FFFF and Subpart RRR and the authorities under which Respondent intended to comply, Respondent remained subject to the requirements of each overlapping regulatory requirement as described in 40 C.F.R. §63.2525 until February 17, 2017.

47. From June 1, 2007 through February 17, 2017, by failing to specify within its notification of compliance status report the subject equipment, emission stream, or wastewater stream subject to the provisions of NESHAP Subpart FFFF, and the compliance options provided in 40 C.F.R. § 63.2535 with which it would comply, Respondent violated Section 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. § 63.2535, and Sections 63.9(h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d).

48. By violating Sections 63.2520(d) and 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, and Sections 63.9(h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

49. By violating Sections 63.2520(d) and 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, and Sections 63.9 (h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Respondent violated Condition 2.1.9(a) of Construction Permit 06050042.

50. By violating Condition 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

51. By violating Sections 63.2520(d) and 63.2535 of Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, and Sections 63.9 (h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

52. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXVII:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d), and 39.5.6(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5.6(a), Sections 63.9(h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Sections 63.2520(d) and 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d), and 39.5.6(a) of the Act, 415 ILCS 5/9(b), 9.1(d), and 39.5.6(a), Sections 63.9(h)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.9(h)(2) and 63.10(d), Sections 63.2520(d) and 63.2535 of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2520(d) and 63.2535, Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and

9.1(d) (2018), and Condition 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXVIII
FAILURE TO TIMELY SUBMIT A COMPLIANCE REPORT
TO DEMONSTRATE COMPLIANCE WITH NESHAPS
WHEN UTILIZING AN ALTERNATE COMPLIANCE METHOD

1-37. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraph 7 of Count III, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, paragraphs 36, 42 and 45 of Count XVI, and paragraphs 38 through 40 and 45 of Count XXV as paragraphs 1 through 37 of this Count XXVIII.

38. Section 63.2520 of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520, provides, in pertinent part, as follows:

(e) Compliance report. The compliance report must contain the information specified in paragraphs (e)(1) through (10) of this section.

* * *

(10) Notification of process change.

- (i) Except as specified in paragraph (e)(10)(ii) of this section, whenever you make a process change, or change any of the information submitted in the notification of compliance status report or a previous compliance report, that is not within the scope of an existing operating scenario, you must document the change in your compliance report. A process change does not include moving within a range of conditions identified in the standard batch, and a nonstandard batch does not constitute a process change. The notification must include all of the information in paragraphs (e)(10)(i)(A) through (C) of this section.
 - (A) A description of the process change.
 - (B) Revisions to any of the information reported in the original notification of compliance status report under paragraph (d) of this section.
 - (C) Information required by the notification of compliance status report under paragraph (d) of this section for changes involving the addition of processes or equipment at the affected source.

* * *

- (ii) You must submit a report 60 days before the scheduled implementation date of any of the changes identified in paragraph (e)(10)(ii)(A), (B), or (C) of this section.
 - (A) Any change to the information contained in the precompliance report.
 - (B) A change in the status of a control device from small to large.
 - (C) A change from Group 2 to Group 1 for any emission point except for batch process vents that meet the conditions specified in § 63.2460(b)(6)(i).

39. Section 63.2455(a) and (b) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2455(a) and (b), provide as follows:

- (a) You must meet each emission limit in Table 1 to this subpart that applies to your continuous process vents, and you must meet each applicable requirement specified in paragraphs (b) through (c) of this section.

- (b) For each continuous process vent, you must either designate the vent as a Group 1 continuous process vent or determine the total resource effectiveness (TRE) index value as specified in § 63.115(d), except as specified in paragraphs (b)(1) through (3) of this section.
 - (1) You are not required to determine the Group status or the TRE index value for any continuous process vent that is combined with Group 1 batch process vents before a control device or recovery device because the requirements of § 63.2450(c)(2)(i) apply to the combined stream.
 - (2) When a TRE index value of 4.0 is referred to in § 63.115(d), TRE index values of 5.0 for existing affected sources and 8.0 for new and reconstructed affected sources apply for the purposes of this subpart.
 - (3) When § 63.115(d) refers to “emission reductions specified in § 63.113(a),” the reductions specified in Table 1 to this subpart apply for the purposes of this subpart.

40. On a date better known to Respondent, Respondent began to maintain the requisite TRE index value during Biodiesel Plant operations instead of complying with Section 63.2455(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2455(a).

41. Maintaining the requisite TRE index value during Biodiesel Plant operations instead of complying with Section 63.2455(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2455(a), constitutes a process change for purposes of compliance reporting.

42. On October 3, 2016, Respondent informed Illinois EPA that Respondent maintains the requisite TRE index value during Biodiesel Plant operations, instead of complying with Section 63.2455(a) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2455(a), to ensure compliance with NESHAP Subpart FFFF requirements.

43. Respondent failed to timely submit to the Illinois EPA a Compliance Report notifying it of the change in the method of compliance with NESHAP Subpart FFFF from Section 63.2455(a) to Section 63.2455(b).

44. By failing to timely submit to the Illinois EPA a Compliance Report notifying it of the change of method of compliance with NESHAP Subpart FFFF from Section 63.2455(a) to Section 63.2455(b), Respondent violated Section 63.2520(e)(10)(i) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10)(i).

45. By violating the reporting requirement set forth in Section 63.2520(e)(10)(i) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10)(i), Respondent violated Section 63.10(d)(1) of NESHAP Subpart A, 40 C.F.R. § 63.10(d)(1).

46. On February 16, 2016, Respondent performed an emissions test without providing notice to Illinois EPA.

47. Section 63.115 of NESHAP Subpart G, 40 C.F.R. § 63.115, provides, in pertinent part, as follows:

(a) For purposes of determining vent stream flow rate, total organic HAP or total organic carbon concentration or TRE index value, as specified under paragraph (b), (c), or (d) of this section, the sampling site shall be after the last recovery device (if any recovery devices are present) but prior to the inlet of any control device that is present and prior to release to the atmosphere.

(1) Method 1 or 1A of 40 CFR part 60, appendix A, as appropriate, shall be used for selection of the sampling site.

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter.

* * *

(d) To determine the TRE index value, the owner or operator shall conduct a TRE determination and calculate the TRE index value according to the procedures in paragraph (d)(1) or (d)(2) of this section and the TRE equation in paragraph (d)(3) of this section.

* * *

(2) Except as provided in paragraph (d)(1) of this section, vent stream flow rate, net heating value, TOC emission rate, and total organic

HAP emission rate shall be measured and calculated according to the procedures in paragraphs (d)(2)(i) through (v) of this section and used as input to the TRE index value calculation in paragraph (d)(3) of this section.

* * *

- (ii) The molar composition of the vent stream, which is used to calculate net heating value, shall be determined using the following methods:
 - (A) Method 18 of 40 CFR part 60, appendix A to measure the concentration of each organic compound.
 - (B) American Society for Testing and Materials D1946-77 to measure the concentration of carbon monoxide and hydrogen.
 - (C) Method 4 of 40 CFR part 60, appendix A, to measure the moisture content of the vent stream.

48. Respondent failed to utilize Method 18 during its February 16, 2016 performance test, in violation of the requirements set forth in Section 63.115(d)(2) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2).

49. By failing to comply with the testing requirements set forth in Section 63.115(d)(2) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2), Respondent violated Section 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2455(b).

50. Section 63.2515(c) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2515(c), provides as follows:

- (c) Notification of performance test. If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1). For any performance test required as part of the initial compliance procedures for batch process vents in table 2 to this subpart, you must also submit the test plan required by § 63.7(c) and the emission profile with the notification of the performance test.

51. Respondent failed to submit a notification of intent to perform a performance test at least 60 calendar days before the performance test was scheduled to begin, in violation of Section 63.2515(c) of Subpart FFFF, 40 C.F.R. § 63.2515(c).

52. By violating Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

53. By violating Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Condition 2.1.9(a) of Construction Permit 06050042.

54. By violating Condition 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(d) (2018).

55. By violating Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), and Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

56. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXVIII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5(6)(a), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;
3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5(6)(a), Section 63.10(d) of NESHAP Subpart A, 40 C.F.R. § 63.10(d), Section 63.115(d)(2)(ii) of NESHAP Subpart G, 40 C.F.R. § 63.115(d)(2)(ii), Sections 63.2515, 63.2520(e)(10)(i) and 63.2455(b) of NESHAP Subpart FFFF, 40 C.F.R. §§ 63.2515, 63.2520(e)(10)(i) and 63.2455(b), Condition 5.2.5(a) of the CAAPP Permit, and Condition 2.1.9(a) of Construction Permit 06050042;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Condition 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT XXIX
FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE
SEMI-ANNUAL REPORTS-NESHAP SUBPART FFFF

1-44. Complainant realleges and incorporates herein by reference paragraphs 1 through 8 of Count I, paragraph 7 of Count III, paragraphs 7 through 14 of Count IV, paragraphs 48 through 52 of Count VI, paragraphs 9 through 16 of Count VIII, paragraphs 36, 42 and 45 of Count XVI, paragraph 36 of Count XXII, paragraphs 38 through 40 and 45 of Count XXV, paragraph 44 of Count XXVI, and paragraphs 38 through 42 of Count XXVIII as paragraphs 1 through 44 of this Count XXIX.

45. Beginning July 2007 through the date of filing of this Second Amended Complaint, on dates better known to Respondent, Respondent failed to submit to the Illinois EPA complete and accurate semi-annual compliance reports setting forth operational and emissions data, and deviations resulting from Biodiesel Plant operations during each reporting period.

46. By failing to submit to the Illinois EPA complete and accurate semi-annual compliance reports setting forth operational and emissions data, and deviations resulting from Biodiesel Plant operations during each reporting period, Respondent violated Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10).

47. By violating Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), Respondent violated Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d).

48. By violating Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), and Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Respondent violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

49. By violating Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), and Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Respondent violated Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042.

50. By violating Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2018).

51. By violating Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), and Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Respondent violated Condition 5.2.5(a) of the CAAPP Permit.

52. By violating Condition 5.2.5(a) of the CAAPP Permit, Respondent violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count XXIX:

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

2. Finding that the Respondent has violated Sections 9(b), 9.1(d), and 39.5.6(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5.6(a), Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042;

3. Ordering Respondent to cease and desist from any future violations of Sections 9(b), 9.1(d), and 39.5.6(a) of the Act, 415 ILCS 5/9(b), 9.1(d) and 39.5.6(a), Sections 63.4(a)(2) and 63.10(d) of NESHAP Subpart A, 40 C.F.R. §§ 63.4(a)(2) and 63.10(d), Section 63.2520(e)(10) of NESHAP Subpart FFFF, 40 C.F.R. § 63.2520(e)(10), Condition 5.2.5(a) of the CAAPP Permit, and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2018), and Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violations continue;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.2.5(a) of the CAAPP Permit;

6. Ordering the Respondent to pay all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the State of Illinois

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

BY: /s/ Elizabeth Wallace
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:
STEPHEN J. SYLVESTER
JAMIE D. GETZ
DANIEL I. ROTTENBERG
Assistant Attorneys General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-2087/6986/3816
ssylvester@atg.state.il.us
jgetz@atg.state.il.us
drottenberg@atg.state.il.us