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JUL 0 3 2000

BEFORE THE ILLINOIS POL

STATE OF ILLINOIS Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General ) of the State of Illinois,

Complainant,

vs.

METALS TECHNOLOGY CORPORATION, an Illinois Corporation, Respondent.

PCB No. 00-1 (Enforcement)

## NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that I have today filed with the Illinois Pollution Control Board the Complainant's Complaint for Civil Penalties and Certificate of Service, on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS.

JAMES E. RYAN Attorney General State of Illinois

BY:

Assistant Attorney General

Environmental Bureau

188 West Randolph Street, 20th Fl.

Chicago, IL 60601

312/814-3816

DATE: July 3, 2000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

# SERVICE LIST

Vincent S. Oleszkiewicz, Esq. Baker & McKenzie One Prudential Plaza 130 East Randolph Street Chicago, IL 60601

Jerome V. Bell, Jr. Vice President Metals Technology Corporation 120 North Schmale Road Carol Stream, IL 60188

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# BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JUL 0 3 2000

PEOPLE OF THE STATE OF ILLINOIS, ) by JAMES E. RYAN, Attorney General )	STATE OF ILLINOIS  Pollution Control Board
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Complainant,	
vs.	PCB No. 04-1 (Enforcement)
METALS TECHNOLOGY CORPORATION, ) an Illinois Corporation, )	
Respondent. )	

### COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, JAMES E. RYAN, Attorney General of the State of Illinois, complains of Respondent, METALS TECHNOLOGY CORPORATION, an Illinois corporation, as follows:

### COUNT I

# FAILURE TO OBTAIN A CONSTRUCTION PERMIT BEFORE CONSTRUCTING EQUIPMENT CAPABLE OF CAUSING OR CONTRIBUTING TO AIR POLLUTION

- 1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois ("Complainant"), on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and conditions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2000).
- 2. The Illinois EPA is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2000), and charged, inter alia, with the duty of enforcing the Act.

- 3. At all times relevant to the complaint, Respondent, METALS TECHNOLOGY CORPORATION ("Respondent" or "MTC"), is and was an Illinois corporation duly organized and existing under the laws of the State of Illinois and in good standing.
- 4. Since January 1995 or a date better known to Respondent, Respondent is and was the owner and operator of a facility located at 120 North Schmale Poad, Carol Stream, County of DuPage, Illinois ("facility").
- 5. At its facility, Respondent heat-treats metal parts in small furnaces to anneal or temper the metal, cleans the parts in open-top vapor degreases, and if necessary, sandblasts the parts to make them smooth. The treated and cleaned metal parts are then shipped back to the manufacturer or to a distributor.
- 6. Respondent's process equipment includes, in pertinent part, the following:
  - a. Two (2) open-top, trichloroethylene ("TCE") solvent vapor degreasers which operate an average of 24 hours per day, six days per week. One degreaser (DG-2) operated unpermitted from January 1986, or a date better known to MTC, until June 1, 1999, when it ceased operation. The other degreaser, (DG-1), operated unpermitted from January 1996, or a date better known to MTC, until the filing of this Complaint.
  - b. Three (3) heat treating furnaces which operate an average of 24 hours per day, six days per week. The three

furnaces operated unpermitted from January 1986, or a date better known to MTC, until May 5, 1999, when MTC obtained an operating permit from the Illinois EPA.

- c. Two (2) TCE storage tanks with a throughput of 9.7 gallons per day. The two tanks operated unpermitted from January 1986 or a date better known to MTC until the filing of this Complaint.
- 7. TCE is a known human carcinogen.
- 8. Respondent's degreasers and/or storage tanks have the potential to emit TCE into the atmosphere at a rate of 25 tons per year or more.
- 9. On January 4, 1999, the Illinois EPA's Emergency
  Response Unit received a complaint from the Carol Stream Fire
  Department regarding the emission of visible flames and soot from a smoke stack at MTC's facility.
- 10. On February 8, 1999, in response to the complaint, a representative of the Illinois EPA performed an inspection of MTC's facility.
- 11. On May 3, 1999, the Illinois EPA cited Respondent for its failure to prevent the emissions of soot, smoke and visible flames from its smoke stacks on January 4, 1999; failure to obtain construction and operating permits for its process equipment; failure to submit a Clean Air Act Permit Program application; failure to submit an Emission Reduction Market System application; and failure to demonstrate compliance with

the National Emission Standard for Hazardous Air Pollutants applicable to open-top, vapor degreasers which utilize TCE.

12. Section 9(b) of the Act, 415 ILCS 5/9(b) (2000), provides, in pertinent part, as follows:

Acts prohibited.

No person shall:

- b. Construct, install, or operate any equipment, facility . . . capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;
- 13. Sections 3.02, 3.06 and 3.26 of the Act, 415 ILCS 5/3.02, 5/3.06 and 5/3.26 (2000), provide the following definitions:

"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.

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

"PERSON" is any individual, partnership, copartnership, firm, company, limited liability company, corporation, associate, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

- 14. Respondent is a "person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2000).
  - 15. TCE is a "contaminant" as that term is defined in

Section 3.06 of the Act, 415 ILCS 5/3.06 (2000).

16. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides, in pertinent part, as

follows:

Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment . . . without first obtaining a construction permit from the Agency, except as provided in [the] Section 201.146 [exemptions from state permit requirements].

17. Section 201.102 of the Board Air Pollution Regulations,

35 Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

"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 of emitting specified air contaminants to the atmosphere.

"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. Section 211.7150 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.7150, provides the following definition:

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid,

metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

- 19. TCE, a halogenated compound of carbon, is a "VOM" as that term is defined by Section 211.7150 of the Board Air Pollution Regulations.
- 20. VOM is a "specified air contaminant" as that term is defined in Sections 211.7150 and 201.102, respectively, of the Board Air Pollution Regulations.
- 21. Respondent commenced installation of process equipment at its facility after April 14, 1972, and therefore it "constructed" a "new emission source" as these terms are defined by Section 201.102 of the Board Air Pollution Regulations.
- 22. Respondent failed to obtain a construction permit from the Illinois EPA before constructing a new emission source.
- 23. Respondent's new emission source was not exempted from the State permitting requirements by the Illinois EPA under Section 201.146 of the Board Air Pollution Regulations.
- 24. By constructing a new emission source without a construction permit from the Illinois EPA, Respondent violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2000).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count I:

- Authorizing a hearing on this matter at which time the Respondent will be required to answer the violations alleged herein;
- 2. Finding that Respondent violated Section 9(b) of the Act, and 35 Ill. Adm. Code 201.142;
- 3. Ordering the Respondent to cease and desist from further violations of Section 9(b) of the Act and 35 Ill. Adm. Code 201.142;
- 4. Assessing a civil penalty upon Respondent of Fifty
  Thousand Dollars (\$50,000.00) for each violation of the Act and
  pertinent regulations promulgated thereunder, with an additional
  penalty of Ten Thousand Dollars (\$10,000.00) for each day during
  which the violation continues;
- 5. Taxing all costs of this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees against the Respondent; and
- 6. Granting such other relief as the Board deems appropriate and just.

#### COUNT II

# FAILURE TO OBTAIN AN OPERATING PERMIT BEFORE CAUSING OR ALLOWING THE OPERATION OF A NEW AIR POLLUTION EMISSION SOURCE

- 1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count II.
- 22. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides, in pertinent part, as

follows:

Operating Permit for New Sources

No person shall cause or allow the operation of any new emission source or any new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit.

- 23. Respondent failed to obtain an operating permit from the Illinois EPA before operating a new emission source of VOM in January 1996 or a date better known to Respondent.
- 24. By operating a new emission source without an operating permit from the Illinois EPA, Respondent violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2000).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count II:

- 1. Authorizing a hearing on this matter at which time the Respondent will be required to answer the violations alleged herein;
- 2. Finding that Respondent violated Section 9(b) of the Act, and 35 Ill. Adm. Code 201.143;
  - 3. Ordering the Respondent to cease and desist from

further violations of Section 9(b) of the Act, and 35 Ill. Adm. Code 201.143;

- 4. Assessing a civil penalty upon Respondent of Fifty
  Thousand Dollars (\$50,000.00) for each violation of the Act and
  pertinent regulations promulgated thereunder, with an additional
  penalty of Ten Thousand Dollars (\$10,000.00) for each day during
  which the violation continues;
- 5. Taxing all costs of this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees against the Respondent; and
- 6. Granting such other relief as the Board deems appropriate and just.

#### COUNT III

# FAILURE TO OBTAIN A CONSTRUCTION PERMIT FOR A MAJOR STATIONARY SOURCE OF A HAZARDOUS AIR POLLUTANT, LOCATED IN A SEVERE NONATTAINMENT AREA FOR OZONE

- 1-21. Complainant realleges and incomposates by reference herein paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count III.
- 22. Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201, provides, in pertinent part, as follows:

### Prohibition

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for

ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit [VOM] or nitrogen oxides. Revisions to this Part which were adopted to implement the Clean Air Act Amendments of 1990 shall not apply to any new major stationary source or major modification for which a permit application was submitted . . . November 15, 1992 for nitrogen oxides and [VOM] for sources located in all ozone nonattainment areas.

- 23. DuPage County is located in a severe nonattainment area for ozone.
- 24. Section 203.112 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.112, provides, in pertinent part, the following definition:

Building, Structure and Facility

The terms "building", "structure", and "facility" include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively) incorporated by reference in 35 Ill. Adm. Code 720.111.

- 25. Section 203.136 of the Board Air Pollution Regulations,
- 35 Ill. Adm. Code 203.136, provides the following definition:

Stationary Source

"Stationary Source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act or this Chapter or by USEPA under the Clean Air Act (42 U.S.C. 7401 et seq.).

26 Respondent's facility is a "facility," and a

"stationary source" as those terms are defined in Sections 203.112 and 203.136, respectively, of the Board Air Pollution Regulations.

- 27 Section 203.206 of the Board Air Pollution Regulations,
- 35 Ill. Adm. Code 203.206, provides the following definition:

Major Stationary Source

- (a) For purposes of this Part, the term "major stationary source" shall exclusively mean "building, structure and facility," as those terms are defined in Section 203.113 of this Part.
- (b) The following constitute a major stationary source:
  - (1) For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater than the following:

(C) 25 tons per year in an area classified as severe nonattainment for ozone;

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

(3) For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit nitrogen oxides in an amount equal to or greater than the following, unless United States Environmental Protection Agency (USEPA) has made a finding under Sections 110 and 182(f) of the Clean Air Act that controlling of emissions of nitrogen oxides from such source shall not be required:

\* \*

(C) 25 tons per year in an area classified as severe nonattainment for ozone, and

- 28 Respondent's facility constitutes a "major stationary source" under Section 203.206 of the Board Air Pollution Regulations because it has the potential to emit 25 tons per year or more of VOM and is located in a severe nonattainment area for ozone.
- 29. Respondent failed to obtain a construction permit before constructing a new major stationery source.
- 30. By constructing a new major stationary source without a construction permit from the Illinois EPA, Respondent violated Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2000).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count III:

- 1. Authorizing a hearing on this matter at which time the Respondent will be required to answer the violations alleged herein;
- 2. Finding that Respondent violated Section 9(b) of the Act, 35 Ill. Adm. Code 203.201;
- 3. Ordering the Respondent to cease and desist from further violations of Section 9(b) of the Act and 35 Ill. Adm. Code 203.201;
- 4. Assessing a civil penalty upon Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and

pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which the violation continues;

- 5. Taxing all costs of this action pursuant to Section 42(f) of the Act including attorney, expert witness and consultant fees against the Respondent; and
- 6. Granting such other relief as the Board deems appropriate and just.

#### COUNT IV

# FAILURE TO TIMELY SUBMIT A CLEAN AIR ACT PERMIT PROGRAM APPLICATION

- 1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count IV.
- 12. Section 9(a) of the Act, 415 ILCS 5/9(a) (2000), provides as follows:

# No person shall:

- contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;
- 13. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(b) (2000), provides as follows:
  - 6. Prohibition
    - b. After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall

operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

14. Section 39.5 of the Act, 415 ILCS 5/39.5 (2000), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act,

"CAAPP permit". . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping.

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

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

"Regulated Air Pollutant" means the following:

- 1. . . any volatile organic compound. . . .
- 15. Section 39.5 of the Act, 415 ILCS 5/39, provides, in pertinent part, as follows:

Clean Air Act Permit Program

- 2. Applicability
  - a. Sources subject to this Section shall include:
    - i. Any major source as defined in paragraph

- (c) of this subsection.
- c. For purposes of this Section the term "major source" means any source that is:
  - i. A major source under Section 112 of the Clean Air Act, which is defined as:
    - A. . . . any stationary sources within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, per year (TPY) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act
    - iii. A major stationary source as defined in part D of Title I of the Clean Air Acc including:
      - A. For ozone nonattainment areas, sources with the potential to emit . . . volatile organic compounds or oxides of nitrogen . . [at] 25 tons or more per year in areas classified as "severe" . . .
- 5. Applications and Completeness.
  - a. An owner or operator of a CAAPP source shall submit its complete CAAPP application consistent with the Act and applicable regulations.
- 6. Prohibitions.
  - a. It shall be unlawful for any person 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 . . .

- 16. Section 112(b) of the Clean Air Act, 42 U.S.C. 7412(b)
- (2000), lists TCE as a "hazardous air pollutant."
- 17. Section 270.107 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 270.107, provides as follows:

Applicability

This Part applies to the owner or operator of any source required to have an operating permit pursuant to Section 39.5 of the Act.

- 18. The "effective date of the CAAPP" was March 7, 1995.
- 19. Section 270.301 of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 270.301, provides, in pertinent part, as follows:

# Application submittal

- (a) In order for a submittal to be deemed timely, an owner or operator of an existing CAAPP source shall submit to the Agency a complete initial CAAPP application in accordance with the schedule set forth in Section 270.201 of this Part. An owner or operator of an existing CAAPP source may voluntarily submit its initial CAAPP application prior to the date required in this Part, provided that CAAPP submittal to the Agency is subsequent to the date the Agency submits the CAAPP to USEPA for approval.
- (b) The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with Section 39.5(5) of the Act.
- (c) An owner or operator of a new CAAPP source must comply with all applicable construction permit

requirements.

20. Section 270.103 of the Board Air Pollution Regulations,

35 Ill. Adm. Code 270.103, provides in pertinent part as follows:

Existing CAAPP Source

"Existing CAAPP source" means a CAAPP source that commenced operation prior to the effective date of the CAAPP.

- 21. Section 4(g) of the Act, 415 ILCS5/4(g)(2000), provides as follows:
  - q. The Agency shall have the duty to administer, in accord with Title X of this Act, such permit and certification systems as may be established by this Act or by regulations adopted thereunder. The Agency may enter into written delegation agreements with any department, agency, or unit of State or local government under which all or portions of this duty may be delegated for public water supply storage and transport systems, sewage collection and transport systems, air pollution control sources with uncontrolled emissions of 100 tons per year or less and application of algicides to waters of the State. Such delegation agreements will require that the work to be performed thereunder will be in accordance with Agency criteria, subject to Agency review, and shall include such financial and program auditing by the agency as may be required.
- 22. Section 211.7150 of the Board Air Pollution
  Regulations, 35 Ill. Adm. Code 211.7150, provides in pertinent
  part, the following definition:

Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" mean any compounds of carbon. . . which participates in atmospheric photochemical reactions.

23. Section 270.105 of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 270.105, provides the following definition:

"New CAAPP source" means a CAAPP source that is not an existing CAAPP source.

- 24. Respondent's facility is a "new CAAPP source" as that term is defined in Section 270.105 of the Illinois EPA Air Pollution Regulations.
- 25. Each piece of equipment described herein emits or may emit VOM, a "regulated air pollutant," as defined by Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2000).
- 26. The Respondent owns a facility that emits or may emit a regulated pollutant. Therefore, Respondent is a "stationar, source" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2000).
- 27. The Respondent operates a stationary source and is an "owner or operator" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2000).
- 28. The Respondent's facility is located in a severe non-attainment area for ozone.
- 29. The Respondent's facility is a "major stationary source" as that term is defined in Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39 5(2)(c)(iii)(A)(2000). Therefore, the Clean Air Act Permit Program, set forth in Section 39.5 of the Act, 415 ILCS 5/39.5 et seq. (2000) and 35 Ill. Adm. Code 270.107, the corresponding Part 270 Illinois EPA Rules, 35 Ill.

Adm. Code 270 et seq., pursuant to the Section 270.107 of the Illinois EPA Rules, 35 Ill. Adm. Code 270.107, are applicable to the Respondent's facility.

- 30. The Respondent was required to submit a CAAPP Application by March 7, 1996. However, the Respondent did not submit its complete CAAPP Application until July 13, 1999.
- 31. From March 7, 1996 to July 13, 1999, the Respondent operated two open-top TCE solvent vapor degreasers, three heat-treating furnaces and two TCE storage tanks without having first obtained a CAAPP Application.
- 32. From March 7, 1996 to July 13, 1999, the Respondent operated a new CAAPP source without submitting a complete CAAPP permit application and obtaining a CAAPP permit, Pursuant to Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2000), and Section 270.301(a), 35 Ill. Adm. Code 270.301(a).
- 33. The Respondent, by its conduct as alleged herein, violated Sections 9(a) and 39.5(6)(b) of the Act, 415 ILCS 5/9(a) and 5/39.5(6)(b)(2000), and Section 270.301(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 270.301(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count IV:

1. Authorizing a hearing on this matter at which time the Respondent will be required to answer the violations alleged herein;

- 2. Finding that Respondent violated Sections 9(a) and 39.5 (6)(b)of the Act, and 35 Ill. Adm. Code 270.301;
- 3. Ordering Respondent to cease and desist from further violations of Sections 9(a) and 39.5(6)(b) of the Act and 35 Ill. Adm. Code 270.301.
- 4. Assessing a civil penalty upon Respondent of Fifty
  Thousand Dollars (\$50,000.00) for each violation of the Act and
  pertinent regulations promulgated thereunder, with an additional
  penalty of Ten Thousand Dollars (\$10,000.00) for each day during
  which the violation continues;
- 5. Taxing all costs of this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees against the Respondent; and
- 6. Granting such other relief as the Board deems appropriate and just.

### COUNT V

# FAILURE TO TIMELY SUBMIT AN EMISSION REDUCTION MARKET SYSTEM APPLICATION

- 1-12. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 of Count I and paragraph 12 of Count IV as paragraphs 1 through 12 of this Count V.
- 13. Section 9.8(b) of the Act, 415 ILCS 5/9.8(b) (2000), provides as follows:

Emissions reduction market system.

- b. The Agency shall design an emissions market system that will assist the State in meeting applicable post-1996 provisions under the [Clean Air Act Amendments] of 1990, provide maximum flexibility for designated sources that reduce emissions, and that takes into account the findings of the national ozone transport assessment, existing air quality conditions, and resultant emissions levels necessary to achieve or maintain attainment.
- 14. Section 205.310 of the Board Air Pollution
  Regulations, 35 Ill. Adm. Code 205.310, provides, in pertinent
  part, as follows:

## ERMS Applications

- (a) The owner or operator of each participating source or new participating source shall submit to the Agency an ERMS application in accordance with the following schedule:
  - (1) For a participating source with baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Subpart, by March 1, 1998;
- 15. Section 39.5 of the Act, 415 ILCS 5/39.5 (2000), provides the following definitions:

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

- 16. Section 205.200 of the Board Air Pollution Regulations,
- 35 Ill. Adm. Code 205.200 provides as follows:

Participating Source

The requirements of this Part shall apply to any source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999. Each participating source shall hold ATUs, as specified in Section 205.150(c) of this Part, in accordance with the following schedule:

- a) For any participating source that has baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Part, beginning with the 1999 seasonal allotment period;
- b) For any source that first becomes a participating source because its VOM emissions increase to 10 tons per season or more in any seasonal allotment period beginning with 1999 and this emissions increase is not a major modification pursuant to 35 Ill. Adm. Code 203, beginning with the first seasonal allotment period after such increased emissions occurred; or
- c) For any source that will first be subject to the requirements of this Part because of a VOM emissions increase at any time on or after May 1, 1999 that constitutes a major modification pursuant to 35 Ill. Adm. Code 203, upon commencing operation of this modification.
- 17. Section 205.130 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 215.130, provides, in pertinent part, the following definitions:

"Participating source" means a source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.

"Chicago ozone nonattainment area" means the area composed of Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in

Kendall County.

- 18. Respondent's facility is a source operating prior to May 1, 1999 located in the "Chicago ozone nonattainment area" and its baseline emissions exceeded 10 tons of VOM. Therefore, Respondent is a participating source subject to the requirements defined in Sections 205.130 and 205.200 of the Board Air Pollution Regulations.
- 19. On April 26, 1999, Respondent filed a claim of exemption from the ERMS program with the Illinois EPA.
- 20. The Respondent was required to submit their ERMS baseline application by March 1, 1998. However, the Respondent did not file a claim of exemption from the ERMS program with the Illinois EPA until April 26, 1999.
- 21. From March 1, 1998 to April 26, 1999, the Respondent operated the two open-top TCE solvent vapor degreasers, three heat treating sources and two TCE storage tanks without having first submitted an ERMS Application.
- 22. The Respondent, by its conduct as alleged herein, violated Section 9.8 (b) of the Act and 35 Ill. Adm. Code 205.310.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count V:

1. Authorizing a hearing on this matter at which time the

Respondent will be required to answer the violations alleged herein;

- 2. Finding that Respondent violated Section 9.8(b) of the Act, and 35 Ill. Adm. Code 205.310;
- 3. Ordering the Respondent to cease and desist from further violations of Section 9.8(b) of the Act and 35 Ill. Adm. Code 205.310;
- 4. Assessing a civil penalty upon Respondent of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during +which the violation continues;
- 5. Taxing all costs of this action, pursuant to Section 42(f) of the Act including attorney, expert witness and consultant fees against Respondent; and
- 6. Granting such other relief as the Board deems appropriate and just.

#### COUNT VI

# FAILURE TO DEMONSTRATE COMPLIANCE WITH THE NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS APPLICABLE TO HALOGENATED SOLVENT CLEANING

- 1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 of Count I as paragraphs 1 through 11 of this Count VI.
  - 12. Respondent's open-top vapor decreases are subject to

the National Emission Standards for Hazardous Air Pollutants ("NESHAP") applicable to Halogenated Solvent Cleaning.

- 13. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2000), provides as follows:
  - d. No person shall:
    - 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 without a permit granted by the Agency or in violation of any conditions imposed by such permit. 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.
- 14. Section 112(b) of the Clean Air Act, 42 U.S.C. 7412(b) (2000), titled, <u>Hazardous air pollutants</u>, provides, in pertinent part, as follows:

List of pollutants -

1. Initial list.

The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

Trichloroethylene

15. Section 112(d) of the Clean Air Act, 42 U.S.C. 7412(d) (2000), provides, in pertinent part, as follows:

Emission standards -

1. In general.

The Administrator [of the U.S. EPA] shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation . . .

- 16. Pursuant to Section 112(d) of the Clean Air Act, 42 U.S.C. 7412(d) (2000), the U.S. EPA promulgated the NESHAPs in Title 40, Part 63, of the Code of Federal Regulations ("C.F.R.").
- 17. Subpart T of 40 C.F.R. Part 63 provides the NESPHAP for Halogenated Solvent Cleaning.
- 18. Section 63.460 of 40 C.F.R. provides, pertinent part, as follows:

Applicability and designation of source.

- (a) The provisions of this subpart apply to each individual batch vapor, in-line vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses any solvent containing . . . trichloroethylene . . .
- (c) Each solvent cleaning machine subject to this subpart that commences construction or reconstruction after November 29, 1993, shall achieve compliance with the provisions of this subpart immediately upon startup or by December 2, 1994, whichever is later.

19. Section 63.461 of 40 C.F.R. provides, in pertinent part, the following definition:

Batch cleaning machine means a solvent cleaning machine in which individual parts or a set of parts move through the entire cleaning cycle before new parts are introduced into the solvent cleaning machine. An open-top vapor cleaning machine is a type of batch cleaning machine.

Open-top vapor cleaning machine means a batch solvent cleaning machine that has its upper surface open to the air and boils solvent to create solvent vapor used to clean and/or dry parts.

- 20. Section 63.463 of 40 C.F.R., titled, <u>Batch vapor and in-line cleaning machine standards</u>, provides the emission standards with which the owner and/or operator of a batch cleaning machine must demonstrate compliance.
- 21. Respondent's decreases are "open-top vapor cleaning machines," and therefore, "batch cleaning machines" as these terms are defined at 40 C.F.R. 63.461.
- 22. By commencing construction or reconstruction of batch cleaning machines after November 29, 1993, Respondent's facility was required to demonstrate compliance with the Halogenated Solvent Cleaning NESHAP upon startup.
- 23. Respondent failed to demonstrate compliance with applicable NESHAP upon startup of its batch cleaning machines.
- 24. By failing to demonstrate compliance with the NESHAP upon startup, Respondent violated Section 63.463 of 40 C.F.R., and thereby, violated Section 9.1(d) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, MTC, on this Count VI:

- Authorizing a hearing on this matter at which time the Respondent will be required to answer the violations alleged herein;
- 2. Finding that Respondent violated Section 9.1(d) of the Act, and Section 63.463 of 40 C.F.R.;
- 3. Ordering the Respondent to cease and desist from further violations of Section 9.1(d) of the Act and Section 63.463 of 40 C.F.R.;
- 4. Assessing a civil penalty upon Respondent of Fifty
  Thousand Dollars (\$50,000.00) for each violation of the Act and
  pertinent regulations promulgated thereunder, with an additional
  penalty of Ten Thousand Dollars (\$10,000.00) for each day during
  which the violation continues;
- 5. Taxing all costs of this action pursuant to Section 42(f) of the Act including attorney, expert witness and consultant fees against the Respondent;

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

PEOPLE OF THE STATE OF ILLINOIS, JAMES E. RYAN, Attorney General of the State of Illinois

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

BY:

ROSEMARIE CAZEAU, Chief

Environmental Bureau

Assistant Attorney General

### OF COUNSEL:

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(312)814-5282

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### CERTIFICATE OF SERVICE

I, JOEL CABRERA, an Assistant Attorney General in this case, do certify that on this 3<sup>rd</sup> day of July 2000, I caused to be mailed the foregoing Complainant's Complaint for Civil Penalties and Notice of Filing, upon the person listed on the attached Service List by placing same in an envelope, postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois.

JOEL CABRERA

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