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STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney General)
of the State of Illinois,)

Complainant)

v.)

AARGUS PLASTICS, INC.,)
an Illinois corporation,)

Respondent.)

No. PCB 04-9
(Enforcement - Air)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on February 3, 2004, we filed with the Clerk of the Illinois Pollution Control Board, 100 West Washington Street, Suite 11-500, Chicago, Illinois 60601, an original and nine (9) copies of the Answer to Complaint of Aargus Plastic, Inc., a copy of which is attached hereto and hereby served upon you.

AARGUS PLASTICS, INC.

By Leo P. Dombrowski

Leo P. Dombrowski
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AARGUS PLASTICS, INC.,)
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AARGUS PLASTICS, INC.'S ANSWER AND DEFENSES TO COMPLAINT

Respondent, AARGUS PLASTICS, INC. ("Aargus"), by and through its attorneys, Wildman, Harrold, Allen & Dixon LLP, and FagelHaber LLC, answers the Complaint as follows:

COUNT I

1. This Complaint is brought on behalf of the People ("Complainant") by the Attorney General on her own motion and upon the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

ANSWER: Aargus admits that the State has brought a complaint against it, but denies that the State is entitled to its requested relief and denies all remaining allegations set forth in Paragraph 1.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31(2002).

ANSWER: Aargus admits that the IEPA is an administrative agency and that the State has brought a complaint against Aargus. Aargus denies that the State is entitled to its requested relief and denies all remaining allegations set forth in Paragraph 2.

3. At all times relevant to this Complaint, AARGUS PLASTICS, INC. ("Respondent") was and is an Illinois corporation duly organized and existing under the laws of the State of Illinois and is in good standing.

ANSWER: Admitted.

4. At all times relevant to this Complaint, Respondent has operated a facility located at 1415 Redeker Road, Des Plaines, Cook County, Illinois, 60016 ("facility").

ANSWER: Admitted (referred to herein as the "Facility.")

5. Respondent operates a polyethylene bag manufacturing plant at its facility.

ANSWER: Admitted that Aargus operated a polyethylene bag manufacturing plant at the Facility. Answering further, Aargus states that it moved its operation to 540 W. Allendale, Wheeling, Illinois in 2003.

6. As part of its operations at the facility, Respondent prints ink images onto polyethylene bags using flexographic printing presses.

ANSWER: Admitted that Aargus printed ink images onto polyethylene bags using flexographic printing presses.

7. The facility emits volatile organic material ("VOM") into the environment from 16 flexographic printing presses and associated dryers.

ANSWER: Admitted that the Facility emitted volatile organic material ("VOM") from 16 flexographic printing presses and some associated dryers.

8. Illinois EPA issued Clean Air Act Permit Program Operating Permit No. 95110088 ("CAAPP Permit 95001188") to Respondent, a Clean Air Act Permit Program source ("CAAPP source"), on February 10, 2000 pursuant to Section 39.5 of the Act, 415 ILLS 5/39.5 (2002). CAAPP Permit 95001188 expires on February 10, 2005.

ANSWER: Aargus admits that the IEPA issued CAAPP Permit 95001188 (the "CAAPP Permit") to Aargus on February 10, 2000. Answering further, Aargus states that it has moved to the Wheeling facility, which has been issued a FESOP. As part of the move, the IEPA terminated the CAAPP Permit.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

10. Respondent is a “person” as the term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

ANSWER: The allegations of Paragraph 10 are legal conclusions that require no answer.

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides the following definition:

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

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

12. VOM is a contaminant, as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

ANSWER: The allegations of Paragraph 12 are legal conclusions that require no answer.

13. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), 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.

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

14. Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

15. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2002), provides as follows:

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.

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

16. Section 211.4370 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

"Owner or Operator" means any person who owns, operates, leases, controls, or supervises a source, an emission unit, or air pollution control equipment.

ANSWER: Aargus admits that Complainant has quoted a portion of the Illinois Administrative Code (the "Code"). Aargus denies that it is liable under any part of the Code.

17. Section 218.401(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a), provides as follows:

No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line shall apply at any time any coating or ink unless the VOM content does not exceed the limitation specified in either subsection (a) (1) or (a) (2) below...

1) Forty percent VOM by volume of the coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM), or

- 2) Twenty-five percent VOM by volume of the volatile content in the coating and ink.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

18. Respondent is an operator of a subject flexographic printing line pursuant to Section 218.401(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.401(a).

ANSWER: The allegations of Paragraph 18 are legal conclusions that require no answer.

19. Condition 7.1.3.(c) of CAAPP Permit 95110088 provides as follows:

The Permittee shall only apply inks or coatings on the affected printing lines that comply with one of the following requirements pursuant to 35 IAC 218.401 (Flexographic Printing Regulations):

- i. Twenty-five percent VOM by volume of the volatile content in the ink and coating
- ii. Twenty-five percent VOM by volume of the volatile content in the ink and coating on a daily weighted average basis [35 IAC 218.401(b)(2)]
- iii. Forty percent VOM by volume of the coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM)...

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit. Aargus denies that it is liable under any part of the CAAPP Permit.

20. Pursuant to Section 218.106(c) of the Board Air Pollution Control Regulations, 35 Ill. Adm. Code 218.106(c), Respondent was to come into compliance with the Board Air Pollution Printing and Publishing Regulations (35 Ill. Adm. Code Part 218 Section H) by March 15, 1995.

ANSWER: The allegations of Paragraph 20 are legal conclusions that require no answer.

21. In 1998, Respondent claimed to be using inks that complied with the Board Air Pollution Regulations. In November 2001, Respondent informed Illinois EPA that it would require more time to find compliant inks and would not be able to achieve compliance until 2003.

ANSWER: Aargus admits that in 1998 it was using inks that complied with the Board Air Pollution Regulations. Answering further, Aargus states that in or about November 2001, it

informed IEPA that it would require additional time to find additional compliant inks, which it did soon thereafter. Aargus denies the remaining allegations of Paragraph 21.

22. Since at least March 15, 1995 and continuing to 2003 or dates better known to Respondent, Respondent has been applying inks to polyethylene bags at its facility that contain over 40% VOM by volume.

ANSWER: Aargus admits, that at certain times after March 15, 1995, it applied inks to polyethylene bags that contained over 40% VOM by volume. Aargus denies the remaining allegations of Paragraph 22.

23. Respondent, by its conduct alleged herein, has violated Sections 9(a) and 39.5(6)(b) of the Act, 415 ILCS 5/9(a) and 39.5(6)(b)(2002), Section 218.401(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a), and Condition 7.1.3.(c) of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 23 are legal conclusions that require no answer.

COUNT II

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 13, paragraphs 15 through 17, and paragraph 20 of Count I as paragraphs 1 through 17 of this Count II.

ANSWER: Aargus repeats and incorporates by reference its answers to Paragraphs 1-13, 15-17 and 20 of Count I as if fully set forth herein.

18. Section 9(b) of the Act, 415 ILCS 5/9(b)(2002), 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, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

19. Condition 7.1.13 of CAAPP Permit 95110088 provides, in pertinent part, as follows:

b. The flexographic printing lines shall comply with the following schedule of compliance to address compliance with the alleged violations of 35 IAC Part 218.401:

Milestone	Timing
The flexographic printing lines shall comply with the compliant ink and coating regulations listed in Condition 7.1.3(c)	No later than May 1, 2001 or any earlier date established in a Compliance Commitment Agreement (CCA), enforcement action or an accepted Compliance Plan
The Permittee shall achieve full compliance with any requirements resulting from resolution of any enforcement issues regarding the alleged violation of any enforcement issues regarding the alleged violation of 35 IAC 218.401.	No later than May 1, 2001 or any earlier date established in a Compliance Commitment Agreement (CCA), enforcement Action or an accepted Compliance Plan.

c. To comply with condition 7.1.3(b), the Permittee shall comply with the following schedule of compliance to address compliance with 35 IAC 218.401 for the affected flexographic printing lines:

Milestone	Timing
Construction of Custom-Made Ink Dryers Completed	No later than May 1, 2001
Printing Lines and Custom-Made Dryers fully operational and in complete compliance	No later than May 1, 2001

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit.

Aargus denies that it is liable under any part of the CAAPP Permit.

20. At the time Respondent applied for CAAPP Permit 9511088, Respondent was not in compliance with all applicable laws and regulations. As a condition of obtaining a permit, Respondent committed to taking certain actions to become fully compliant with the Board's flexographic printing regulations by May 1, 2001. One of those conditions was the use of compliant inks after May 1, 2001.

ANSWER: The allegations of Paragraph 20 are legal conclusions that require no answer.

21. As a result of Respondent's failure to use compliant inks as required by Section 218.401(a) of the Board's Air Pollution Regulations by May 1, 2001 and continuing until at least June 2002, Respondent violated Condition 7.1.3(b) and (c) of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 21 are legal conclusions that require no answer.

22. Condition 7.1.13 and of CAAPP Permit 95110088 provides, in pertinent part, as follows:

d. Submittal of Progress Reports

A Progress Report shall be submitted every six months beginning six months from the date of issuance of this permit. The Progress report shall contain at least the following:

- i. The required time frame for achieving the milestones in the schedules for compliance, and actual dates when such milestones were achieved.
- ii. An explanation of why any required time frame in the schedules of compliance were not met, and any preventative or corrective measures adopted.
- iii. Progress made in the most recent 6 month time period.

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit.

Aargus denies that it is liable under any part of the CAAPP Permit.

23. Respondent was required to submit its first Progress Report for its facility to Illinois EPA by August 10, 2000, its second Progress Report by February 10, 2001, its third Progress Report by August 10, 2001, and its fourth Progress Report by February 10, 2002. Respondent failed to submit any Progress Reports until March 28, 2002.

ANSWER: Aargus admits that it did not submit written progress reports until March 28, 2002, and further admits that it repeatedly advised the Agency of its compliance progress before that date.

24. Respondent, by its conduct alleged herein, has violated Sections 9(b) and 39.5(6)(b) of the Act, 415 ILCS 5/9(b) and 39.5(6)(b)(2002); and Conditions 7.1.13(b), (c), and (d) of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 24 are legal conclusions that require no answer.

COUNT III

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

ANSWER: Aargus repeats and incorporates by reference its answers to Paragraphs 1-15 of Count I as if fully set forth herein.

16. Illinois EPA issued Operating Permit No. 94020104 ("Permit 94020104") to Respondent on May 4, 1994. Pursuant to Section 39.5(4)(b) of the Act, 415 ILCS 5/39.5(4)(b) (2002), Permit 94020104 remained in effect until February 10, 2000.

ANSWER: Aargus admits the allegations contained in the first sentence of Paragraph 16. The allegations of the second sentence of Paragraph 16 are legal conclusions that require no answer.

17. Condition 1 of Permit 94020104 provides as follows:

1. Emissions and operations of the 17 flexographic printing presses shall not exceed the following limits:

<u>Material</u>	<u>Operating Hours</u> <u>(Hour/Year)</u>	<u>Material Usage</u> <u>(Lb/Hr)</u>	<u>VOM Content</u> <u>(Wt. %)</u>	<u>VOM Emissions</u>	
				<u>(Lb/Hr)</u>	<u>(Ton/Yr)</u>
Ink	8568	12	53	6.36	27.25
Alcohol	8568	4	100	4.0	17.14
					44.39

ANSWER: Aargus admits that Complainant has quoted a portion of Permit 94020104 (the "1994 Permit"). Aargus denies that it is liable under any part of the 1994 Permit.

18. Condition 7.1.6 of CAAPP Permit 95110088 provides as follows:

7.1.6 Emission Limitations

In addition to Condition 5.2.2 and the source wide emission limitations in Condition 5.5, the affected printing lines are subject to the following:

Emissions and operations of the flexographic printing presses shall not exceed the following limits:

<u>VOM Usage</u>		<u>VOM Emissions</u>	
<u>Lb/Month</u>	<u>Ton/Yr</u>	<u>Lb/Month</u>	<u>Ton/Yr</u>
7,500	44.39	7,500	44.39

These limits are based on maximum operating conditions and material balance. Compliance with annual limits shall be determined from a running 12 months of data.

ANSWER: Aargus admits that Complainant has quoted a portion of the 1994 Permit.

Aargus denies that it is liable under any part of the 1994 Permit.

19. For calendar years 1994 through 2000, Respondent emitted more than 44.39 tons per year of VOM from its facility.

ANSWER: Aargus admits that its Annual Emissions Reports showed that it emitted more than 44.39 tons per year of VOM for calendar years 1994 through 1999. Aargus denies that it emitted more than 44.39 tons for calendar year 2000.

20. Condition 5.5.1 of CAAPP Permit 95110088 provides as follows:

5.5.1 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)	45
Sulfur Dioxide (SO ₂)	1.01
Particulate Matter (PM)	0.05
Nitrogen Oxides (NO _x)	1.0
HAP, not included in VOM or PM	-----
Total	47.06

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit.

Aargus denies that it is liable under any part of the CAAPP Permit.

21. During calendar year 2000, Respondent's VOM emissions from its facility exceeded the 45 ton VOM limit set for the payment of air pollution site fees in CAAPP permit no. 95110088.

ANSWER: Denied. Answering further, Aargus states that during calendar year 2001 it emitted approximately 42 tons of VOM, and during calendar year 2002 it emitted approximately 14.5 tons of VOM. This severe downward trend demonstrates how Aargus's extensive compliance efforts have resulted in it emitting VOM far below its permitted limit.

22. Respondent, by its conduct alleged herein, has violated Sections 9(a) and 39.5(6)(b) of the Act, 415 ILCS 5/9(a) and 39.5(6)(b)12002; Condition 1 of Permit 94020104; and Conditions 5.5.1 and 7.1.6 of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 22 are legal conclusions that require no answer.

COUNT IV

1-15. Complainant realleges and incorporates by reference herein Paragraphs 1 through 13 and Paragraph 16 of Count I and Paragraph 18 of Count II as Paragraphs 1 through 15 of this Count IV.

ANSWER: Aargus repeats and incorporates by reference its answers to Paragraphs 1-13 and 16 of Count I and Paragraph 18 of Count II as if fully set forth herein.

16. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

Section 201.302 Reports

a) The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

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

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

“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.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

18. Respondent is the operator of an emission unit or emission source as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102. VOM is an air contaminant as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

ANSWER: The allegations of Paragraph 18 are legal conclusions that require no answer.

19. Section 254.303 of the Illinois EPA’s Air Pollution Regulations, 35 Ill. Adm. Code 254.303, provides, in pertinent part, as follows:

Section 254.303 Contents of Subpart C Annual Emissions Report

The Annual Emissions Report to be filed pursuant to this Subpart shall contain the following information:

- a) Source identification information:
 - 1) Source name, physical location and mailing address;
 - 2) SIC code;
 - 3) Source contact; and
 - 4) Source contact telephone number.
- b) Source-wide totals of actual emissions for all regulated air pollutants emitted by the source.
- c) The following certification statement, unless another statement is required to be submitted pursuant to the source’s permit: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and

complete.” The certification statement shall be signed and dated by the certifying individual and accompanied by the printed full name, title, and a telephone number of the certifying individual.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

20. Section 254.101 of the Illinois EPA’s Air Pollution Regulations, 35 Ill. Adm. Code 254.101, provides the following definition:

“Actual emissions” means the rate of emission of a regulated air pollutant from a source or an emission unit for the calendar year, seasonal period, day or other period of time, as specified, based on the best information available to the owner or operator of that emission unit. Actual emission rates include startup, shutdown or malfunction emissions. The calculation of actual emissions must follow an “emission determination method”. Where, for any reason, a source has measured any of its emissions, the source must report the measured total as its “actual emissions” for those pollutants rather than using an estimation method to derive the total for that period of time during which the measurements were taken.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

21. Section 211.5500 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.5500, provides the following definition:

- a) “Regulated air pollutant” means the following:
 - 1) Nitrogen oxides (NOx) or any volatile organic compound.
 - 2) Any pollutant for which a national ambient air quality standard has been promulgated.
 - 3) Any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act . . .

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

22. VOM is a regulated air pollutant as that term is defined in the Board's Air Pollution Regulations.

ANSWER: The allegations of Paragraph 22 are legal conclusions that require no answer.

23. Respondent submitted inaccurate Annual Emission Reports ("AERs") for its facility for the calendar years 1998 through 2001. The AERs that Respondent submitted reported emissions of VOM from its facility that were lower than actual emissions from its facility.

ANSWER: Denied.

24. Respondent, by its conduct alleged herein, has violated Section 9(b) of the Act, 415 ILLS 5/9(b)(2002), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.303 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.303.

ANSWER: The allegations of Paragraph 24 are legal conclusions that require no answer.

COUNT V

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 and paragraph 15 of Count I, paragraph 18 of Count II, and paragraphs 16 through 22 of Count IV as paragraphs 1 through 22 of this Count V.

ANSWER: Aargus realleges and incorporates by reference its answers to Paragraphs 1 through 13 and 15 of Count I, Paragraph 18 of Count II, and Paragraphs 16 through 22 of Count IV as if fully set forth herein.

23. Section 9.8(b) of the Act, 415 ILCS 5/9.8(b) (2002), provides as follows:

The Agency shall design an emissions market system that will assist the State in meeting applicable post-1996 provisions under the CAAA [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.

ANSWER: Aargus admits that Complainant has quoted a portion of the Act. Aargus denies that it is liable under any part of the Act.

24. Section 205.300(b)(1) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.300(b)(1), provides as follows:

In addition to any information required pursuant to 35 Ill. Adm. Code 254, the seasonal emissions component of the Annual Emissions Report shall contain the following information for the proceeding seasonal allotment period for each emission unit emitting or capable of emitting VOM, except that such information is not required for emission units excluded pursuant to Section 205.220 of the Part of for VOM emissions attributable to startup, malfunction or breakdown, as specified in Section 205.225 of this Part:

- 1) Actual seasonal emissions of VOM from the source;

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

25. Condition 6.7(a)(i) of CAAPP Permit 95110088 provides as follows:

For each year in which the source is operational, the Permittee shall submit, as a component of its Annual Emission Report, seasonal VOM emission information to the Illinois EPA for the seasonal allotment period. This report shall include the following information (35 IAC 205.300]:

- i. Actual seasonal emissions of VOM from the source;

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit. Aargus denies that it is liable under any part of the CAAPP Permit.

26. Section 205.130 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.130, provides the following definitions:

"Seasonal allotment period" means the period from May 1 through September 30 of each year.

"Seasonal emissions" means actual VOM emissions at a source that occur during a seasonal allotment period.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

27. Respondent's seasonal emission reports for 2000 and 2001 did not reflect its actual season emissions of VOM for its facility.

ANSWER: Aargus admits that, because of a miscalculation, its seasonal emission reports did not reflect its actual seasonal emissions. Answering further, Aargus states that it promptly submitted corrected seasonal emission reports to the Agency.

28. Condition 6.3(a) of CAAPP Permit Number 95110088 provides as follows:

6.3 Obligation to Hold Allotment Trading Units (ATUs)

a. Pursuant to 35 IAC 205.150(c)(1) and 205.720, and as further addressed by Condition 6.8, as of December 31 of each year, this source shall hold ATUs in its account in an amount not less than its VOM emissions during the preceding seasonal allotment period (May 1 - September 30) not including VOM emissions from the following, or the source shall be subject to emissions excursion compensation,” as described in Condition &.4.

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit.

Aargus denies that it is liable under any part of the CAAPP Permit.

29. Section 205.150(c)(1) of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 205.150(c)(1), provides as follows:

At the end of each reconciliation period, on and after the dates specified in Section 205.200 of this Part, each participating source shall:

1) Hold ATUs in an amount not less than its VOM emissions during the preceding seasonal allotment period . . .

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

30. Section 205.130 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 205.130, provides the following definition:

“Reconciliation period” means the period from October 1 through December 31 of each year during which the owner or operator of a participating source or new participating source must compile actual VOM emissions for the previous seasonal allotment period and may also buy or sell ATUs so that sufficient ATUs are held by the source by the conclusion of the reconciliation period.

ANSWER: Aargus admits that Complainant has quoted a portion of the Code. Aargus denies that it is liable under any part of the Code.

31. At the end of the reconciliation periods in 2000 and 2001, Respondent held fewer ATUs in its account than its VOM emissions from its facility for the 2000 and 2001 seasonal allotment periods.

ANSWER: Aargus admits that at the end of the reconciliation periods, it held fewer ATUs in its account than its VOM emissions from the Facility for the seasonal allotment periods. Answering further, Aargus states that it promptly corrected any shortfall.

32. Respondent, by its conduct as alleged herein, has violated Sections 9(b) and 39.5(6)(b) of the Act, 415 ILLS 5/9(b) and 39.5(6)(b)(2002); Sections 205.300(b)(1) and 205.150(c)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 205.300(b)(1) and 205.150(c)(1); and Conditions 6.7(a)(i) and 6.3(a) of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 32 are legal conclusions that require no answer.

COUNT VI

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 and paragraph 15 of Count I and paragraph 18 of Count II as paragraphs 1 through 15 of this Count vi.

ANSWER: Aargus realleges and incorporates by reference its answers to Paragraphs 1 through 13 and 15 of Count I and Paragraph 18 of Count II as if fully set forth herein.

16. Condition 9.8 of CAAPP Permit 95110088 provides, in pertinent part, as follows:

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.

ANSWER: Aargus admits that Complainant has quoted a portion of the Permit. Aargus denies that it is liable under any part of the Permit.

17. Respondent was required to submit its Annual Compliance Certification for calendar year 2000 to the Illinois EPA no later than May 1, 2001. Respondent did not submit its annual compliance certification to Illinois EPA for calendar year 2000 until November 6, 2001.

ANSWER: The allegations of the first sentence of Paragraph 17 are legal conclusions that require no answer. Aargus admits the allegations of the second sentence of Paragraph 17.

18. Respondent, by its conduct as alleged herein, has violated Sections 9(b) and 39.5(6)(b) of the Act, 415 ILLS 5/9(b) and 39.5(6)(b)(2002), and Condition 9.8 of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 18 are legal conclusions that require no answer.

COUNT VII

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count VI as paragraphs 1 through 15 of this Count VII.

ANSWER: Aargus realleges and incorporates by reference its answers to Paragraphs 1 through 15 of Count VI as if fully set forth herein.

16. Condition 5.7.1 of CAAPP Permit 95110088 provides, in pertinent part, as follows:

5.7.1 General Source-Wide Reporting Requirements.

The Permittee shall notify the Illinois EPA, Compliance Section of noncompliance with the permit requirements within 30 days, 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.

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit. Aargus denies that it is liable under any part of the CAAPP Permit.

17. Respondent has failed to notify Illinois EPA of many instances when it has failed to comply with CAAPP Permit 95110088 within 30 days of failure to comply. Respondent failed to notify Illinois EPA within 30 days of its use of noncompliant inks in the flexographic printing presses, its failure to achieve VOM emission limitations, its violations of Emission Market Reduction System Conditions, and its failure to timely submit compliance certifications.

ANSWER: Denied.

18. Respondent, by its conduct as alleged herein, has violated Sections 9(b) and 39.5 (6) (b) of the Act, 415 ILLS 5/9 (b) and 39.5(6) (b) (2002), and Condition 5.7.1 of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 18 are legal conclusions that require no answer.

COUNT VIII

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count VI as paragraphs 1 through 15 of this Count VIII.

ANSWER: Aargus realleges and incorporates by reference its answers to Paragraphs 1 through 15 of Count VI as if fully set forth herein.

16. Condition 9.2.1 of CAAPP Permit 95110088 provides, in pertinent part, as follows:

9.2.1 Duty to Comply

The Permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the CAA and the Act, and is grounds for any termination, revocation and reissuance, modification, or denial of a permit renewal application [Section 39.5(7)(o)(i) of the Act].

The Permittee shall meet applicable requirements that become effective during the permit term in a timely manner unless an alternate schedule for compliance with the applicable requirement is established.

ANSWER: Aargus admits that Complainant has quoted a portion of the CAAPP Permit.

Aargus denies that it is liable under any part of the CAAPP Permit.

17. Respondent has violated numerous conditions of CAAPP Permit 95110088 including using noncompliant inks in the flexographic printing presses, exceeding VOM emission limitations, violating Emission Market Reduction System Conditions, failing to timely submit compliance certifications, and failing to notify Illinois EPA within 30 days of noncompliance.

ANSWER: The allegations of Paragraph 17 are legal conclusions that require no answer.

18. Respondent, by its conduct as alleged herein, has violated Sections 9(b) and 39.5(6)(b) of the Act, 415 ILCS 5/9(b) and 39.5(6)(b)(2002), and Condition 9.2.1 of CAAPP Permit 95110088.

ANSWER: The allegations of Paragraph 18 are legal conclusions that require no answer.

WHEREFORE, the Respondent Aargus Plastics, Inc. denies that the Complainant is entitled to any relief against it whatsoever, and denies each and every allegation contained in the Complaint not specifically admitted herein. Having fully answered Complainant's Complaint, Aargus offers the following defenses in further response thereto:

First Defense

Complainant's Complaint fails to state a claim upon which relief can be granted.

Second Defense

The IEPA did not issue and serve a violation notice upon Aargus within 180 days after it became aware of the alleged violations, as required by Section 31(a)(1). Accordingly, the Board lacks jurisdiction over this matter.

Third Defense

Complainant's claims are barred, in whole or in part, by the applicable statute of limitations.

Fourth Defense

Complainant's claims are barred, in whole or in part, by the doctrine of laches because the Agency had known of the alleged violations for years, but waited until January 31, 2002 to issue and serve a Violation Notice upon Aargus.

Fifth Defense

Complainant's claims have been waived, in whole or in part, because Complainant knew or should have known of its rights to take enforcement action against Aargus, but relinquished those rights by failing to take action.

Sixth Defense

Complainant's claims are barred, in whole or in part, by the doctrine of estoppel because the Agency regularly inspected the Aargus facility, knew or should have known of the alleged violations, yet did not inform Aargus that it was allegedly violating applicable requirements. Consequently, the Agency authorized Aargus's practices and operations.

Seventh Defense

The alleged violations did not result in any economic benefit to Aargus.

Eighth Defense

The alleged violations did not result in any harm or threat of harm to the environment.

Ninth Defense

The alleged violations did not impair IEPA's administration of the air permit program.

Tenth Defense

Water-based inks do not represent RACT for printers like Aargus.

Eleventh Defense

The IEPA failed to fairly advise Aargus of the applicable requirements and did not provide fair notice of those requirements.

Twelfth Defense

The IEPA did not include in its Violation Notice any allegation that Aargus violated any requirement of the 1994 Permit. This portion of Count III is therefore barred by the Act.

Thirteenth Defense

The IEPA did not include in its Violation Notice any allegation regarding a failure on the part of Aargus to hold the appropriate number of ATUs at the end of the reconciliation period in 2001. This portion of Count V is therefore barred by the Act.

Fourteenth Defense

The IEPA did not include in its Violation Notice any allegation regarding a failure on the part of Aargus to timely submit its Annual Compliance Certification for calendar year 2000. Count VI is therefore barred by the Act.

Respectfully submitted,

By: 
One of the attorneys for AARGUS
PLASTICS, INC.

Dated: February 3, 2004

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