

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 2024-025
	)	(Enforcement - Air)
KHALID SIDDIQUI, an individual; and	)	
55TH FOOD MART INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

To: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the Complainant’s Motion to Deem Facts Admitted and for Summary Judgment., a true and correct copy of which is attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,  
KWAME RAOUL, Attorney General of the State of  
Illinois

By: /s/ Molly Kordas  
Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General’s Office  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(773) 590-7047  
[Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)

Dated: July 17, 2024

Service List

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
60 E. Van Buren, Suite 630  
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[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)

55<sup>th</sup> Food Mart, Inc.  
c/o Ramzi Ahmed, Registered Agent  
8637 Moody Avenue, Unit 1  
Burbank, IL 60459-2038  
(Via U.S. Mail)

Khalid Siddiqui  
1535 W. Grand Avenue  
Chicago, IL 60642-6335  
(Via U.S. Mail)

**CERTIFICATE OF SERVICE**

I, Molly Kordas, an Assistant Attorney General, do certify that on this 17th day of July 2024, I caused to be served a copy of the foregoing Notice of Filing and Motion to Deem Facts Admitted and for Summary Judgment, upon the persons listed on the attached Service List via methods described.

/s/ Molly Kordas  
Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7047  
[Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-25
	)	(Enforcement - Air)
KHALID SIDDIQUI, an individual; and	)	
55TH FOOD MART INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

**MOTION TO DEEM FACTS ADMITTED AND FOR SUMMARY JUDGMENT**

Now comes the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, pursuant to Sections 103.204 and 101.516 of the Illinois Pollution Control Board’s Procedural Rules, 35 Ill. Adm. Code 103.204 and 101.516, and hereby moves for the entry of an order deeming all material facts in the Complainant’s Complaint as admitted against the Respondents KHALID SIDDIQUI and 55TH FOOD MART INC. as to Count I of the Complaint. Further, the Complainant moves this Illinois Pollution Control Board (“Board”) for summary judgment as to Count I of the Complaint against the Respondents KHALID SIDDIQUI and 55TH FOOD MART INC. In support thereof, the Complainant states as follows:

1. On October 23, 2023, the Complainant filed its Complaint against the Respondents KHALID SIDDIQUI (“Siddiqui”) and 55TH FOOD MART INC. (“55th Food Mart”), (collectively, “Respondents”), for alleged violations that occurred at their gasoline dispensing facility located at 2006 West Garfield Boulevard, Chicago, Cook County, Illinois (the “Facility”). The Complainant alleged that the Respondents failed to timely decommission the

Facility's vapor collection and control system and timely submit reports in violation of Section 9(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/9(a) (2022), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C).

2. On December 28, 2023, the Complainant filed its Proof of Service of the October 23, 2023 Complaint with the Board.

3. The Proof of Service indicated that Respondent Siddiqui had been served with the Complaint on December 4, 2023, and Respondent 55th Food Mart had been served with the Complaint on December 20, 2023. A true and correct copy of the Proof of Service is attached hereto as Exhibit 1.

4. As of the date of the filing of this Motion, the Respondents have not filed an Answer, nor otherwise pled, to the Complaint.

5. Section 103.204(d) and (e) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and (e), provides as follows:

- (d) Except as provided in subsection (e), the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.
- (e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

6. By failing to answer the Complaint on or before February 2, 2024, and by failing to file a motion staying the 60-day period in which to file an Answer as required by Section 103.204(d) and (e) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and (e), Respondent Siddiqui has admitted the material allegations asserted in the Complaint.

7. By failing to answer the Complaint on or before February 20, 2024, and by failing to file a motion staying the 60-day period in which to file an Answer as required by Section 103.204(d) and (e) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and (e), Respondent 55th Food Mart has admitted the material allegations asserted in the Complaint.

8. The Complainant therefore requests that the Board enter an order finding that pursuant to Section 103.204(d) and (e), 35 Ill. Adm. Code 103.204(d) and (e), the Respondents have admitted all material allegations asserted in the Complaint.

9. The Complainant's Complaint sufficiently states facts establishing the following violations of the Act and Board Air Pollution Regulations against the Respondents:

Count I: Failure to Timely Decommission Vapor Collection and Control System and Submit Reports: Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C).

10. Section 101.516(b) of the Board's Procedural Regulations, 35 Ill. Adm. Code 101.516(b), provides as follows:

- (b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

11. If the Board finds that the Respondents have admitted all material allegations in the Complainant's Complaint, then the record shows that there is no issue of material fact remaining for review. Therefore, pursuant to Section 101.516(b) of the Board's Procedural

Regulations, 35 Ill. Adm. Code 101.516(b), the Complainant is entitled to summary judgment in its favor as a matter of law.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, respectfully requests that the Board issue an order in favor of the Complainant and against the Respondents KHALID SIDDIQUI and 55TH FOOD MART INC., as follows:

- A. Finding all material allegations in the Complaint admitted against the Respondents;
- B. Finding that the Respondents violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);
- C. Granting summary judgment in favor of the Complainant and against the Respondents on Count I of the Complaint; and
- D. Assessing a civil penalty in the amount of at least Ten Thousand Dollars (\$10,000.00) against the Respondents for their violations of the Act and Board Air Pollution Regulations.

**COMPLAINANT'S ARGUMENT IN SUPPORT OF ITS PROPOSED REMEDY**

The November 2, 2023 Board Order in this cause provides, in pertinent part:

Accordingly, the Board further directs the hearing officer to advise the parties that in summary judgment motions and responses, at hearing, and in briefs, each party should consider: (1) proposing a remedy for a violation, if any (including whether to impose a civil penalty), and supporting its position with facts and arguments that address any or all of the Section 33(c) factors; and (2) proposing a civil penalty, if any (including a specific total dollar amount and the portion of that amount attributable to the respondent's economic benefit, if any, from delayed compliance), and supporting its position with facts and arguments that address any or all of the Section 42(h) factors...

Pursuant to the November 2, 2023 Board Order, the Complainant is proposing a remedy for the Respondents' violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C).

The Complainant therefore requests that the Board assess a civil penalty against the Respondents.

**Impact on the Public Resulting from the Respondents' Alleged Non-Compliance**

In determining whether a civil penalty is warranted, the Board must consider the factors set forth in Section 33(c) of the Act, 415 ILCS 5/33(c) (2022). *Toyal Am., Inc. v. Illinois Pollution Control Board*, 2012 IL App (3d) 100585, ¶ 28 (3d Dist. 2012). The factors provided in Section 33(c) bear on the reasonableness of the circumstances surrounding the violation. *People v. John Prior d/b/a Prior Oil Co. and James Mezo d/b/a Mezo Oil Co.*, (PCB 02-177), Slip Op. at 29 (May 6, 2004). Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and



5. any subsequent compliance.

In response to these factors, the Complainant states the following:

1. Human health and the environment were threatened by emissions of volatile organic compounds at the Facility caused by the Respondents' violations. Additionally, the Illinois EPA's information gathering responsibilities were hindered by the Respondents' violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Timely decommissioning of the Facility's vapor collection and control system, and timely submission of a decommissioning checklist, certification, and test results to the Illinois EPA, are both technically practicable and economically reasonable.
5. The Respondents have subsequently complied with the Act and the Board Air Pollution Regulations.

In consideration of these factors, the Board should assess a civil penalty in the amount of at least Ten Thousand Dollars (\$10,000.00) against the Respondents for the Respondents' violation of the Act and Board Air Pollution Regulations.

#### **Explanation of Civil Penalty Requested**

Section 2(b) of the Act, 415 ILCS 5/2(b) (2022), provides:

It is the purpose of this Act, as more specifically described in later sections, to establish a unified, state-wide program supplemented by private remedies, to restore, protect and enhance the quality of the environment, *and to assure that adverse effects upon the environment are fully considered and borne by those who cause them.* (Emphasis added.)

The primary purpose of civil penalties is to aid in the enforcement of the Act. *See People v. McHenry Shores Water Co.*, 295 Ill. App. 3d 628, 638 (2d Dist. 1998). Civil penalties should

reflect the severity of the violation(s) of the Act. *Southern Illinois Asphalt Company, Inc. v. Pollution Control Board*, 60 Ill. App. 2d 204, 208 (5th Dist. 1975). However, the Act authorizes civil penalties regardless of whether violations resulted in actual pollution. *ESG Watts, Inc. v. Illinois Pollution Control Board*, 282 Ill. App. 3d 43, 52 (4th Dist. 1996). Moreover, the award of a civil penalty “serves the legislative purpose of aiding enforcement of the Act, for through penalties upon those who blatantly disregard applicable rules and regulations, others, who might consider cutting corners at the expense of the environment, are deterred.” *Wasteland, Inc. v. Illinois Pollution Control Board*, 118 Ill. App. 3d 1041, 1055 (3d Dist. 1983) (subsequently cited by the First District; *see e.g. Standard Scrap Metal Co. v. Pollution Control Board*, 142 Ill. App. 3d 655, 665 (1st Dist.1986)).

Section 42 of the Act provides guidance for calculating civil penalties for violations of the Act. In particular, Section 42(a) of the Act, 415 ILCS 5/42(a) (2022), provides in pertinent part, as follows:

- (a) Except as provided in this Section, any person that violates any provision of this Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any order of the Board pursuant to this Act, shall be liable for a civil penalty of not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues;

#### **Consideration of Section 42(h) Factors**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), provides as follows:

In determining the appropriate civil penalty to be imposed..., the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

- (1) the duration and gravity of the violation;
- (2) the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act

and regulations thereunder or to secure relief therefrom as provided by this Act;

- (3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
- (4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
- (5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
- (6) whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
- (7) whether the respondent has agreed to undertake a 'supplemental environmental project,' which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
- (8) whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Complainant states as follows:

1. The Respondents failed to timely decommission the Facility's vapor collection and control system on or before December 31, 2016 and failed to timely submit a decommissioning checklist, certification, and test results to the Illinois EPA on or before January 30, 2017. The violations began on January 1, 2017 and January 31, 2017, respectively, and were resolved on June 27, 2024, when the Respondents sent a decommissioning checklist, certification, and test results to the Illinois EPA. The Respondents violated the Act and Board Air Pollution Regulations for over seven years.

2. The question of good faith, or the lack thereof, is pertinent to a determination of sanctions. *Wasteland, Inc. v. Pollution Control Board*, 118 Ill.App.3d 1041 (3d Dist., 1983). Here, the Respondents failed to act diligently in this matter, as evidenced by the Respondents' failure to timely decommission the Facility's vapor collection and control system and timely submit a decommissioning checklist, certification, and test results to the Illinois EPA. As a result, the Respondents caused, threatened, or allowed the discharge or emission of VOCs, a contaminant, into the environment.

3. The Ten Thousand Dollar (\$10,000.00) civil penalty requested by the Complainant includes any economic benefit that the Respondents may have accrued as a result of their noncompliance.

4. In the absence of a civil penalty sufficient to deter other persons similarly situated under the Act, no regulated entity "would ever be inclined to comply with Illinois' environmental requirements." *See Standard Scrap Metal Co.*, 142 Ill.App.3d at 664. Accordingly, a significant civil penalty is warranted. As such, a civil penalty in the amount of at least Ten Thousand Dollars (\$10,000.00) will serve to deter further violations by the Respondents and to otherwise aid in enhancing voluntary compliance with the Act and Board Air Pollution Regulations by the Respondents and other persons similarly subject to the Act and Board Air Pollution Regulations.

5. To the Complainant's knowledge, Respondent 55th Food Mart has had no previously adjudicated violations.

6. Respondent Siddiqui has had at least one previously adjudicated violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 218.586(i)(1)(B) and

218.586(i)(2)(C) of Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(C).

7. Self-disclosure is not at issue in this matter.
8. The Respondents did not offer to perform a supplemental environmental project.
9. A Compliance Commitment Agreement was not at issue in this matter.

In furtherance of the purposes of the Act "to assure that adverse effects upon the environment are fully considered and borne by those who cause them," 415 ILCS 5/2(b) (2022), and based on the duration of the violations and the Respondents' lack of diligence to comply with Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C), the Board should assess against the Respondents a civil penalty of no less than Ten Thousand Dollars (\$10,000.00).

Based on the facts of this case and consideration of Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), the Board should assess the Respondents a civil penalty in the amount of at least Ten Thousand Dollars (\$10,000.00).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, respectfully requests that the Board grant its Motion to Deem Facts Admitted and for Summary Judgment against the Respondents, KHALID SIDDIQUI and 55TH FOOD MART INC., and award the relief requested herein, and take such other action as the Board deems to be appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
by KWAME RAOUL, Attorney General  
of the State of Illinois

BY: /s/ Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., Suite 1800  
Chicago, Illinois 60602  
Tel: (773) 590-7047  
Primary: [Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)  
Secondary: [Maria.Cacaccio@ilag.gov](mailto:Maria.Cacaccio@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 2024-025
	)	(Enforcement - Air)
KHALID SIDDIQUI, an individual; and	)	
55TH FOOD MART INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

**MOTION TO DEEM FACTS ADMITTED AND FOR SUMMARY JUDGMENT**

**EXHIBIT 1**

**PROOF OF SERVICE**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
 by KWAME RAOUL, Attorney )  
 General of the State of Illinois, )  
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 Complainant, )  
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 KHALID SIDDIQUI, an individual; and )  
 55TH FOOD MART INC., an Illinois )  
 corporation, )  
 )  
 Respondents. )

PCB No. 2024-025  
(Enforcement - Air)

**NOTICE OF FILING**

To: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Proofs of Service of Complainant's Complaint upon Respondents Khalid Siddiqui and 55<sup>th</sup> Food Mart Inc., true and correct copies of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,  
KWAME RAOUL, Attorney General of the State of  
Illinois

By: /s/ Molly Kordas  
Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(773) 590-7047  
[Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)

Dated: December 28, 2023



Service List

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
60 E. Van Buren, Suite 630  
Chicago, IL 60601  
[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)

55<sup>th</sup> Food Mart, Inc.  
c/o Ramzi Ahmed, Registered Agent  
8637 Moody Avenue, Unit 1  
Burbank, IL 60459-2038  
(Via U.S. Mail)

Khalid Siddiqui  
1535 W. Grand Avenue  
Chicago, IL 60642-6335  
(Via U.S. Mail)

**CERTIFICATE OF SERVICE**

I, Molly Kordas, as Assistant Attorney General, do certify that on this 28th day of December 2023, I caused to be served a copy of the foregoing Notice of Filing and Proof of Service of Complainant's Complaint, upon the person listed on the attached Service List via methods described.

/s/ Molly Kordas  
Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7047  
[Molly.Kordas@ilag.gov](mailto:Molly.Kordas@ilag.gov)

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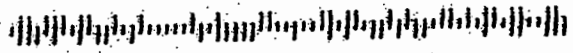
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Molly Kordas  
Assistant Attorney General  
Office of the Illinois Attorney General  
Environmental Bureau  
69 W. Washington, 18th Floor  
Chicago, IL 60602

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Khalid Siddiqui  
1535 W. Grand Avenue  
Chicago, IL 60642-6335



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Molly Kordas  
Assistant Attorney General  
Environmental Bureau  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602



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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

55<sup>th</sup> Food Mart Inc.  
c/o Ramzi Ahmed  
8637 Moody Avenue, #1  
Burbank, IL 60459-2038



9590 9402 7806 2152 7395 96

2. Article Number (Transfer from service label)

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3. Service Type

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- Adult Signature Restricted Delivery
- Certified Mail®
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- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
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December 20, 2023, 11:06 am

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