

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUL 28 2003

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
INTERMATIC INCORPORATED, a)
Delaware corporation,)
)
Respondent.)

PCB 04- 13
(Enforcement-Air)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on July 28, 2003, we filed with the Illinois Pollution Control Board a Complaint and Appearance, a true and correct copy of which is attached and hereby served upon you.


Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

Financing to correct the violations alleged may be available through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1, et seq.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:



Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
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0-3-S

SERVICE LIST

Intermatic Incorporated
c/o Leonard E. Vinyard, Registered Agent
Intermatic Plaza
Spring Grove, Illinois 60081

Mr. Ralph Tassone
Director of OSHA and EPA Compliance
Intermatic Incorporated
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Spring Grove, Illinois 60081-9698

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American Environmental International
725 W. University Drive
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, INTERMATIC INCORPORATED, as follows:

COUNT I

FAILURE TO OBTAIN A CONSTRUCTION PERMIT

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

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.

3. Respondent, INTERMATIC INCORPORATED ("Intermatic"), is a Delaware corporation registered to do business in Illinois and headquartered at 7777 Winn Road, Spring Grove, McHenry County, Illinois.

4. Intermatic operates a manufacturing facility at its

headquarters location, where it manufactures electrical items such as low voltage lighting, professional lighting, photo controllers, surge suppressor strips, and timers.

5. In its manufacturing process, Intermatic uses, among other things, two degreasers, five sheet-fed offset printing presses, three pad printing presses, seven silk screen printers, a washer, three paint booths, a natural gas curing oven, two natural gas boilers, punch presses, screw making machines, gas fired heaters, tool room grinders, soldering stations, a waver solder line, a thermal form mold machine, a powder paint hand booth for parts clean-up, and 52 injection molding machines.

6. Intermatic has a Clean Air Act Permit Program ("CAAPP") permit, no. 96030112, ("CAAPP permit"), issued by the Illinois EPA on October 18, 2000. The CAAPP permit, among other things, limits Intermatic's emissions to 15 tons of volatile organic material between May 1 and September 30 of each year.

7. 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.

8. Intermatic is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

9. 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.

10. Volatile organic materials are "contaminants" as defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

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

12. Section 9 of the Act, 415 ILCS 5/9(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.

13. Section 201.142 of the Illinois Pollution Control Board Air Pollution Regulations ("Board regulations") provides as follows:

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

14. Section 201.102 of the Board regulations, 35 Ill. Adm. Code 201.102, provides the following pertinent definitions:

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

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

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

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

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

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

15. At a time better known to Intermatic, but prior to November 2000, Intermatic constructed four sheet-fed offset printers presses at its facility. On November 15, 2000, Intermatic constructed a fifth sheet-fed offset printing press at its facility.

16. The sheet-fed offset printing presses have the potential to emit and do emit volatile organic materials ("VOM") as defined in 35 Ill. Adm. Code 211.7150.

17. VOM are specified air contaminants as defined in 35 Ill. Adm. Code 201.102.

18. The sheet-fed offset printing presses were capable of causing or contributing to air pollution through their emission of contaminants, including VOM, into the atmosphere.

19. The sheet-fed offset printing presses were each an "emission source" and a "new emission source" as defined in 35 Ill.

Adm. Code 201.102.

20. Intermatic, at all times relevant to this Complaint, was an "owner or operator" as defined in 35 Ill. Adm. Code 201.142.

21. Intermatic did not, at any time relevant to this complaint, have a permit to construct the five sheet-fed offset printing presses.

22. The construction of emission sources as alleged in this count without a permit from the Agency constituted a violation of 415 ILCS 5/9(b) (2002) and 35 Ill. Adm. Code 201.142.

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

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent violated Section 9(b) of the Act and 35 Ill. Adm. Code 201.142;
3. Ordering Respondent to cease and desist from further violations of Section 9(b) of the Act and 35 Ill. Adm. Code 201.142;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation;

5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT II
FAILURE TO MODIFY A CLEAN AIR ACT PERMIT

1 - 13. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 and 15 through 17 of Count I as paragraphs 1 through 13 of Count II.

14. Section 39.5 of the Act, 415 ILCS 5/39.5 (2002), governing the Clean Air Act Permit program in the State of Illinois, provides, in pertinent part, as follows:

1. Definitions

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

* * *

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

* * *

"Regulated air pollutant" means the following:

- (1) Nitrogen Oxides (NOx) or any volatile organic compound.

* * *

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

Section 112(b) of the Clean Air Act.

* * *

2. Applicability

- a. Sources subject to this Section shall include:
 - i. Any major source as defined in paragraph (c) of this subsection.
- c. For the purposes of this Section the term "major source" means any source that is:

* * *

- iii. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme";

* * *

6. Prohibitions

* * *

- 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.

15. Volatile organic materials are regulated air pollutants under Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002).

16. The Intermatic facility is located in a county designated by U.S. EPA as severe nonattainment for ozone.

17. The Intermatic facility has the potential to emit

greater than 25 tons per year of volatile organic materials.

18. The Intermatic facility is a "stationary source" and a "major source" pursuant to Section 39.5(2)(c)(iii) of the Act, 415 ILCS 5/39.5(2)(2002).

19. Intermatic was, at all times relevant to this Complaint, the "owner and operator" of a major stationary source pursuant to Section 39.5(2) of the Act, 415 ILCS 5/39.2 (2002).

20. As a major source, the Intermatic facility is a Clean Air Act Permit Program ("CAAPP") source by operation of 415 ILCS 5/39.5(2)(2002).

21. The CAAPP permit upon issuance authorized operation of four of the sheet-fed offset printing presses at the Intermatic facility. At a time better known to Intermatic, Intermatic operated the fifth sheet-fed offset printing press without first modifying its CAAPP permit to obtain authorization for the fifth printing press.

22. By operating the fifth offset sheet-fed offset printing press without submitting the CAAPP permit application to the Illinois EPA to modify its CAAPP permit, Intermatic violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002).

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

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

herein;

2. Finding that Respondent violated Section 39.5(6)(b) of the Act;

3. Ordering Respondent to cease and desist from further violations of the Act and Board regulations;

4. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of each violation;

5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT III
FAILURE TO COMPLY WITH EMISSION REDUCTION
MARKETING SYSTEM REQUIREMENTS

1 - 20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count II and as paragraphs 1 through 20 of Count III.

21. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a)(2002), provides, in pertinent part, 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 violation any other applicable requirements.

22. Section 205.200 of the Board regulations, 35 Ill. Adm. Code

205.200, provides, in pertinent part, as follows:

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.

23. Section 205.150 of the Board regulations, 35 Ill. Adm. Code

205.150, provides, in pertinent part, as follows:

- a) The VOM emissions control period is the seasonal allotment period, which is from May 1 through September 30, annually.
- b) The reconciliation period is from October 1 to December 31, annually. During each reconciliation period, participating sources and new participating sources shall:
 - 1) Compile data of actual VOM emissions during the immediately preceding seasonal allotment period; and
 - 2) Submit its seasonal emissions component of its Annual Emissions Report, in accordance with Section 205.300 of this Part.
- c) 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, except as provided in Sections 205.220, 205.225, 205.315, 205.320(e)(3) or (f) and 205.750 of this Part; or
 - 2) Hold ATUs in an amount not less than 1.3 times its seasonal emissions attributable to a major modification during the preceding seasonal allotment period, if a participating source commences operation of a major modification pursuant to 35 Ill. Adm. Code 203 on or after May 1, 1999. Additionally, such source must hold ATUs in accordance with subsection (c)(1) of this Section for VOM emissions not attributable to this major modification during the preceding seasonal allotment period.

24. Section 205.205(a) of the Board regulations, 35 Ill. Adm. Code 205.205(a), provides, in pertinent part, as follows:

Any source that otherwise meets the criteria for participating sources shall be exempt from the requirements of this Part if the source accepts a 15 tons per seasonal allotment period limit on its VOM emissions in its CAAPP permit for each seasonal allotment period in which the source would be required to participate in ERMS.

25. Section 6.2 of the CAAPP permit provides as follows:

Emissions of VOM from the source during the seasonal allotment period from May 1 through September 30 of each year shall not exceed 15 tons, not including VOM emissions from insignificant emission units and activities as identified in Section 3 of this permit. This limitation is established at the request of the source to exempt it from the requirements of 35 IAC Part 205, Emissions Reduction Market System (ERMS), pursuant to 35 IAC 205.205.

26. Section 205.720 of the Board regulations, 35 Ill. Adm. Code 205.720, provides, in pertinent part, as follows:

The Agency shall obtain emissions excursion compensation from any participating source or new participating source that does not hold ATUs in accordance with Section 205.150(c) or (d) of this Part by the conclusion of the reconciliation period. For any emissions excursion during 1999 by a participating or new participating source that was not issued a CAAPP permit before May 1, 1998, all references in subsections (b)(1) and (b)(3), (c) and (e) of this Section to 1.2 times the emissions excursion shall be 1.0 times the emissions excursion.

27. At all times relevant to this complaint, Intermatic was a source subject to the requirements of Part 205 because it was a CAAPP source that had seasonal emissions of VOM in excess of 10 tons in a seasonal allotment period after 1999.

28. In order to maintain an exemption from the Emissions Reduction Market System ("ERMS") requirements under 35 Ill. Adm. Code 205.205 and Condition 6.2 of the CAAPP permit, Intermatic was to have

limited its emissions of VOM so as not to exceed 15 tons each year during the seasonal allotment period from May 1 through September 30.

29. For the calendar year 2000, Intermatic emitted in excess of 17 tons of VOM during the seasonal allotment period.

30. Because Intermatic had VOM emissions in excess of 15 tons during the seasonal allotment period for 2000, it lost exempt status pursuant to 35 Ill. Adm. Code 205.205(a).

31. At no time relevant to this complaint did Intermatic hold sufficient allotment trading units for its VOM emissions. Further, Intermatic has not made emissions excursion compensation pursuant to 35 Ill. Adm. Code 205.720.

32. Intermatic, by its acts and omissions described herein, has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a)(2002), 35 Ill. Adm. Code 205.150(c) and Section 6.2 of the CAAPP permit.

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

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent violated Section 39.5(6)(a) of the Act, 35 Ill. Adm. Code 205.150(c) and Condition 6.2 of the CAAPP permit;
3. Ordering Respondent to cease and desist from further violations of the Act and Board regulations;
4. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each violation of the Act for each and every

day of each violation;

5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT IV
CONSTRUCTION OF A MAJOR MODIFICATION TO A
SOURCE WITHOUT COMPLYING WITH
NEW SOURCE REVIEW REQUIREMENTS

1 - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 11 and 14 through 20 of Count I as paragraphs 1 through 18 of Count IV.

19. Section 9 of the Act, 415 ILCS 5/9(2002), provides, in pertinent part, 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 the regulations or standards adopted by the Board under this Act.

20. Section 203.208 of the Board regulations, 35 Ill. Adm. Code 203.208, provides, in pertinent part, as follows:

A net emissions increase is the amount by which the sum of any increase in actual emissions from a particular physical change or change in method of operation at a source, and any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable, exceeds zero.

21. Section 203.209 of the Board regulations, 35 Ill. Adm. Code

203.209, provides, in pertinent part, as follows:

- b) For areas classified as serious or severe nonattainment for ozone, an increase in emissions of volatile organic material or nitrogen oxides shall be considered significant if the net emissions increase of such air pollutant from a stationary source located within such area exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

22. Section 203.201 of the Board regulations, 35 Ill. Adm. Code 203.201, provides as follows:

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.

23. Section 203.207 of the Board regulations, 35 Ill. Adm. Code 203.207, provides as follows:

- a) Except as provided in subsection (c), (d), (e) or (f) below, a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area, shall constitute a major modification of a source.

24. Section 203.203 of the Board regulations provides, in pertinent part, as follows:

- a) A construction permit is required prior to actual construction of a major new source or major modification.
- b) Applications for construction permits required under this Section shall contain sufficient information to demonstrate compliance with 35 Ill. Adm. Code 201 and the requirements of this Part including, but not limited to, Subpart C.

25. The addition of the fifth offset printing press resulted in a net emissions increase, as defined in 35 Ill. Adm. Code 203.208, of

volatile organic materials.

26. The addition of the fifth offset printing press resulted in a net emissions increase of greater than 25 tons when aggregated with all other net increases in emissions of a period of five consecutive calendar years, thus rendering the net emissions increase a severe net emissions increase, as defined by 35 Ill. Adm. Code 203.209(b).

27. As a severe net emissions increase, the addition of the fifth offset printing press constituted a major modification of a source pursuant to 35 Ill. Adm. Code 203.207.

28. At no time relevant to this complaint did Intermatic comply with the requirements of 35 Ill. Adm. Code 203.203(a) and (b) prior to the construction of the fifth offset printing press.

29. Intermatic, by its acts and omissions described herein, has 415 ILCS 5/9(a), 35 Ill. Adm. Code 203.201, and 35 Ill. Adm. Code 203.203(a) and (b).

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

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

2. Finding that Respondent violated Section 9(a) of the Act, 35 Ill. Adm. Code 203.201, and 35 Ill. Adm. Code 203.203(a) and (b);

3. Ordering Respondent to cease and desist from further violations of the Act and the Board regulations;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and

regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation;

5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT V
FAILURE TO COMPLY WITH EMISSION LIMITATION

1 - 21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count III and as paragraphs 1 through 21 of Count V.

22. Condition 5.5.1 of the CAAPP permit provides as follows:

The annual emissions for 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
Nitrogen Oxides (NOx)	6.91
Particulate Matter (PM)	1.65
Sulfur Dioxides (SO ₂)	0.05
Volatile Organic Material (VOM)	10.10
HAP, not included in VOM or PM	--
TOTAL	18.71

23. Intermatic indicated, on its Annual Emission Report (AER)

for the year 2000 that the facility emitted 39.63 tons of VOM.

24. The emission of 39.63 tons of VOM in the year 2000 constituted a violation of Condition 5.5.1 of the CAAPP permit.

25. The violation of Condition 5.5.1 of the CAAPP permit constituted a violation of Section 39.5(6) (a) of the Act, 415 ILCS 5/39.5(6) (a) (2002).

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

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

2. Finding that Respondent violated Section 39.5(6) (a) of the Act and condition 5.5.1 of the CAAPP permit;

3. Ordering Respondent to cease and desist from further violations of the Act, the Board regulations and its CAAPP permit;

4. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of each violation;

5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT VI

FAILURE TO COMPLY WITH IDLING EMISSION LIMITATION

1 - 21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count III as paragraphs 1 through 21 of Count VI.

22. Section 9.1(d) (1) of the Act, 415 ILCS 5/9.1(d) (1) (2002), provides as follows:

No person shall:

1. Violate any provisions of Sections 111, 112, 165, or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto;

23. Section 63.463(b) (2) (ii) of the Code of Federal Regulations, 40 CFR 63.463(b) (2) (ii), provides as follows:

- (2) each owner or operator of a batch vapor cleaning machine with a solvent/air interface area greater than 1.21 square meters (13 square feet) shall comply with the requirements specified in either paragraph (b) (2) (i) or (b) (2) (ii) of this section.

* * *

- (ii) Demonstrate that their solvent cleaning machine can achieve and maintain an idling emission limit of 0.22 kilograms per hour per square meter (0.045 pounds per hour per square foot) of solvent/air interface area as determine using the procedures in §63.465(a) and appendix A of this part.

24. Condition 7.1.5(b) of the CAAPP permit provides, in pertinent part, as follows:

- b. Pursuant to 40 CFR 63.463(b) (2), except as provided in 40 CFR 63.464, each owner or operator of an existing or new batch vapor cleaning machine with a solvent/air interface area greater than .121 square meters (13 square feet) shall comply with the requirements specified in either 40 CFR 63.463(b) (2) (i) or in the Condition below (see also 40 CFR 63.463(b) (2) (ii)).

Demonstrate that their solvent cleaning machine

can achieve and maintain an idling emission limit of 0.22 kilograms per hour per square meter (0.045 pounds per hour per square foot) of solvent /air interface area as determined using the procedures in Condition 7.1.7(b) (see also 63.465(a)) and appendix A to 40 CFR part 63 [40 CFR 63.463(b) (2) (ii)].

25. Section 63.463 of the Code of Federal Regulations ("CFR"), 40 CFR 63.463 is within that category of federal regulations enforceable under Section 9.1 of the Act, 415 ILCS 5/9.1 (2002).

26. At all times relevant to this Complaint, Intermatic owned and operated a vapor degreaser that used solvent containing volatile organic materials and was of the type regulated by 40 CFR 63.463(b) (2) and Condition 7.1.5(b) of the CAAPP permit.

27. At no time relevant to this complaint has Intermatic demonstrated compliance with the idling emissions limits of 40 CFR 63.463(b) (2) (ii) and Condition 7.1.5(b).

28. The failure to provide said demonstration constitutes a violation of Sections 9.1(d) (1) and 39.5(6) (a) of the Act, 415 ILCS 5/9.1(d) (1) and 39.5(6) (a) (2002), 40 CFR 63.463(b) (2) (ii) and Condition 7.1.5(b) of the CAAPP permit.

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

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent violated Sections 9.1(d) (1) and 39.5(6) (b) of the Act, 40 CFR 63.463(b) (2) (ii) and Condition 7.1.5(b)

of the CAAPP permit;

3. Ordering Respondent to cease and desist from further violations of the Act and Board regulations;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation, for each violation of Section 9.1 of the Act and regulations promulgated thereunder;

5. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each and every day of violation of Section 39.5(6) of the Act and regulations promulgated thereunder;

6. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT VII

FAILURE TO PROPERLY MAINTAIN AND OPERATE CARBON ADSORBER

1 - 23. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 and paragraph 25 of Count VI and as paragraphs 1 through 23 of Count VII.

24. Section 63.463(e)(2)(vii) of the Code of Federal Regulations provides as follows:

- vii. If a carbon adsorber in conjunction with a lip exhaust or other exhaust internal to the cleaning machine is used to comply with these standards, the owner or operator shall comply with the following requirements:

- (A) Ensure that the concentration of organic solvent in the exhaust from this device does not exceed 100 parts per million of any halogenated HAP compound as measured using the procedure in §63.466(e). If the halogenated HAP solvent concentration in the carbon adsorber exceeds 100 parts per million, the owner or operator shall adjust the desorption schedule or replace the disposable canister, if not a regenerative system, so that the exhaust concentration of halogenated HAP solvent is brought below 100 parts per million.
- (B) Ensure that the carbon adsorber bed is not bypassed during desorption.
- (C) Ensure that the lip exhaust is located above the solvent cleaning machine cover so that the cover closes below the lip exhaust level.

25. Condition 7.1.8(a)(ii)(C) of the CAAPP permit provides:

Pursuant to 40 CFR 63.463(e)(2)(vii), if a carbon adsorber in conjunction with a lip exhaust is used to comply with 40 CFR 63 Subpart T, the owner or operator shall comply with the requirements specified in 7.1.8(a)(ii)(C)(I) through (A)(ii)(C)(III) (see also 40 CFR 63.463(e)(2)(vii)(A) through (e)(2)(vii)(C)).

- I. Ensure that the concentration of organic solvent in the exhaust from this device does not exceed 100 parts per million of any halogenated HAP compound as measured using the procedure in Condition 7.1.8(e) (see also 63.446(e)). If the halogenated HAP solvent concentration in the carbon adsorber exhaust exceeds 100 parts per million, the owner or operator shall adjust the desorption schedule or replace the disposable canister, if not a regenerative system, so that the exhaust concentration of halogenated HAP solvent is brought below 100 parts per million [40 CFR 63.463(e)(2)(vii)(A)].
- II. Ensure that the carbon adsorber bed is not bypassed during desorption [40 CFR 63.463(e)(2)(vii)(B)].
- III. Ensure that the lip exhaust is located

above the solvent cleaning machine cover so that the cover closes below the lip exhaust level [40 CFR 63.463(e)(2)(vii)(C)].

26. Section 218.105(d)(2)(A)(iii) of the Board regulations, 35 Ill. Adm. Code 218.105(d)(2)(A)(iii), provides as follows:

An owner or operator:

A. That uses an afterburner or carbon adsorber to comply with any Section of Part 218 shall use Agency and USEPA approved continuous monitoring equipment which is installed calibrated, maintained, and operated according to vendor specifications at all times the afterburner or carbon adsorber is in use except as provided in subsection (d)(3) of this Section. The continuous monitoring equipment must monitor the following parameters:

iii. For each carbon adsorber, the VOM concentration of each carbon adsorption bed exhaust or the exhaust of the bed next in sequence to be desorbed.

27. The vapor degreaser operated by Intermatic includes a carbon adsorber to reduce volatile organic material emissions from the vapor degreaser.

28. Intermatic failed to adequately maintain the carbon adsorber such that the carbon adsorber malfunctioned beginning some time in 2000 until February 2001.

29. The failure to adequately maintain the carbon adsorber constituted a violation of 40 CFR 63.463(e)(2)(vii) and Condition 7.1.8(a)(ii)(C) of the CAAPP permit and Sections 9.1(d)(1) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d)(1) and 39.5(6)(a)(2002).

30. At no time relevant to this complaint has Intermatic provided continuous monitoring of the carbon adsorber system as required by and in violation of 35 Ill. Adm. Code 218.105(d)(2)(A)(iii) and Section 9.1(d)(1) of the Act, 415 ILCS

5/9.1(d)(1)(2002).

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

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent violated Sections 9.1(d)(1) and 39.5(6)(a) of the Act, 40 CFR 63.463(e)(2)(vii), 35 Ill. Adm. Code 218.105(d)(2)(A)(iii) and Condition 7.1.8(a)(ii)(C) of the CAAPP permit;
3. Ordering Respondent to cease and desist from further violations of the Act and Board regulations;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation, for each violation of Section 9.1 of the Act and regulations promulgated thereunder;
5. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each and every day of violation of Section 39.5(6) of the Act and regulations promulgated thereunder;
6. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and
7. Granting such additional relief as the Board deems appropriate and just.

COUNT VIII
FAILURE TO SUBMIT IDLING EMISSION LIMIT EXCEEDANCE
REPORTS AND COMPLIANCE CERTIFICATIONS

1 - 23. Complainant realleges and incorporates by reference herein paragraphs 1 through 23 of Count VII and as paragraphs 1 through 23 of Count VIII.

24. Section 63.463 of the CFR, 40 CFR 63.463, provides, in pertinent part, as follows:

- e) Each owner or operator of a solvent cleaning machine complying with paragraph (b), (c), (g), or (h) of this section shall comply with the requirements specified in paragraphs (e)(1) through (4) of this section.

* * *

- 4) The owner or operator shall report all exceedances and all corrections and adjustments made to avoid an exceedance as specified in 63.468(h).

* * *

- f) Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the idling emission limit standards in paragraphs (b)(1)(ii), (b)(2)(ii), (c)(1)(ii), or (c)(2)(ii) of this section shall comply with the requirements specified in paragraphs (f)(1) through (f)(5) of this section.

* * *

- 5) The owner or operator shall report all exceedances and all corrections and adjustments made to avoid an exceedance as specified in §63.468(h).

25. Section 63.468 of the CFR, 40 CFR 63.468, provides, in pertinent part, as follows:

- f) Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of §63.463 shall submit an annual report by February 1 of the year following the one for which the reporting

is being made. This report shall include the requirements specified in paragraphs (f)(1) through (f)(3) of this section.

- 1) A signed statement from the facility owner or his designee stating that, "All operators of solvent cleaning machines have received training on the proper operation of solvent cleaning machines and their control devices sufficient to pass the test required in §63.463(d)(10)."
- 2) An estimate of solvent consumption for each solvent cleaning machine during the reporting period.
- 3) The reports required under paragraphs (f) and (g) of this Section can be combined into a single report for each facility.

* * *

h) Each owner or operator of a batch vapor or in-line solvent cleaning machine shall submit an exceedance report to the Administrator semiannually except when, the administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source or, an exceedance occurs. Once an exceedance has occurred the owner or operator shall follow a quarterly reporting format until a request to reduce reporting frequency under paragraph (i) of this section is approved. Exceedance reports shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate. The exceedance report shall include the applicable information in paragraphs (h)(1) through (3) of this section.

- (1) Information on the actions taken to comply with § 63.463 (e) and (f). This information shall include records of written or verbal orders for replacement parts, a description of the repairs made, and additional monitoring conducted to demonstrate that monitored parameters have returned to accepted levels.
- (2) If an exceedance has occurred, the reason for the exceedance and a description of the actions taken.
- (3) If no exceedances of a parameter have occurred, or a piece of equipment has not been inoperative,

out of control, repaired, or adjusted, such information shall be stated in the report.

26. Condition 7.1.10 of the CAAPP permit provides, in pertinent part, as follows:

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

- a. The owner or operator shall report all exceedances and all corrections and adjustments made to avoid an exceedance as specified in Condition 7.1.10(d) (see also 40 CFR 63.463(e)(4)).
- b. Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the idling emission limit standards in Condition 7.1.5(b) (see also 40 CFR 63.463(b)(1)(ii), (b)(2)(ii), (c)(1)(ii), or (c)(2)(ii)) shall report all exceedances on all corrections and adjustments made to avoid an exceedance as specified in Condition 7.1.10(d) (see also 40 CFR 63.468(h)).
- c. Pursuant to 40 CFR 63.468(f), each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of Conditions 7.1.5(a) and (b) (see also 40 CFR 63.463) shall submit an annual report by February 1 of the year following the one for which the reporting is being made. This report shall include the requirements specified in Conditions 7.1.10(c)(i) through (c)(iii) (see also 40 CFR 63.468(f)(1) through (f)(3)).
 - i. A signed statement from the facility owner or his designee stating that, "All operators of solvent cleaning machines have received training on the proper operation of solvent cleaning machines and their control devices sufficient to pass the test required in Condition 7.1.5(d)(x) (see also 40 CFR 63.463(d)(10))" [40 CFR 63.468(f)(1)].
 - ii. An estimate of solvent consumption for each solvent cleaning machine during the reporting period [40 CFR 63.468(f)(2)].
 - iii. The reports required under Condition 7.1.10(c) (see also 40 CFR 63.468(f) and (g)) can

be combined into a single report for each facility [40 CFR 63.468(f)(3)].

- d. Pursuant to 40 CFR 63.468(h), each owner or operator of a batch vapor or in-line solvent cleaning machine shall submit an exceedance report to the Illinois EPA or USEPA semiannually except when, the Illinois EPA or USEPA determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source or, an exceedance occurs. Once an exceedance has occurred the owner or operator shall follow a quarterly reporting format until a request to reduce reporting frequency under Condition 7.1.10(e) (see also 40 CFR 63.468(i)) is approved. Exceedance reports shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriated. The exceedance report shall include the applicable information in Conditions 7.1.10(d)(i) through (iii) (see also 40 CFR 63.468(h)(1) through (3)).
 - i. Information on the actions taken to comply with 7.1.8(a) and (b) and 7.1.7(a) (see also 40 CFR 63.463(e) and (f)). This information shall include records of written or verbal orders for replacement parts, a description of the repairs made, an additional monitoring conducted to demonstrate that monitored parameters have returned to accepted levels. [40 CFR 63.468(h)(1)].
 - ii. If an exceedance has occurred, the reason for the exceedance and a description of the action taken [40 CFR 63.468(h)(2)].
 - iii. If no exceedances of a parameter have occurred, or a piece of equipment has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report [40 CFR 63.468(h)(3)].

27. Intermatic failed to timely submit complete reports on exceedances of the idling emission limit for the years 1998, 1999, 2000 and 2001 as required by and in violation of 40 CFR 63.463, 40 CFR 63.468(f) and Condition 7.1.10(a), (b) and (d) of the CAAPP permit.

28. Intermatic failed to timely submit complete compliance certification reports for the years 1998, 1999, 2000 and 2001 as

required by, and in violation of, 40 CFR 63.468(f) and Condition 7.1.10(c) of the CAAPP permit.

29. The violations alleged in paragraphs 27 and 28, above, also constitute violations of Section 9.1(d)(1) and 39.5(6)(b) of the Act, 415 ILCS 5/9.1(d)(1) and 39.5(6)(b)(2002).

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

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

2. Finding that Respondent violated Sections 9.1(d)(1) and 39.5(6)(b) of the Act, 40 CFR 63.463, 40 CFR 63.468; and Condition 7.1.10 of the CAAPP permit;

3. Ordering Respondent to cease and desist from further violations of the Act and federal and Board regulations;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation, for each violation of Section 9.1 of the Act and regulations promulgated thereunder;

5. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000) for each and every day of violation of Section 39.5(6) of the Act and regulations promulgated thereunder;

6. Ordering Respondent to pay all costs including attorney,

expert witness and consultant fees expended by the State in pursuit of this action; and

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

COUNT IX
FAILURE TO SUBMIT ANNUAL COMPLIANCE CERTIFICATIONS

1 - 21. Complainant realleges and incorporates by reference herein paragraphs 1 through 21 of Count III as paragraphs 1 through 21 of this Count IX.

22. Section 9.8 of the CAAPP permit provides as follows:

Pursuant to Section 39.5(7)(p)(5) 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. . . .

a. The certification shall include the identification of each term or condition of this permit that is the basis of the certification; the compliance status; whether compliance was continuous or intermittent; the method(s) used for determining the compliance status of the source, both currently and over the reporting period consistent with the conditions of this permit.

23. Intermatic failed to timely submit a complete annual compliance certification in 2000 because the annual compliance certification submitted by Intermatic did not disclose all noncompliance within the applicable time period.

24. Intermatic failed to submit an annual compliance certification by the required date for 2001.

25. The failure alleged above in paragraphs 23 and 24 constitute a violation of Section 39.5(6)(a) of the Act, 415 ILCS

39.5(6) (a) (2002) and Section 9.8 of the CAAPP permit.

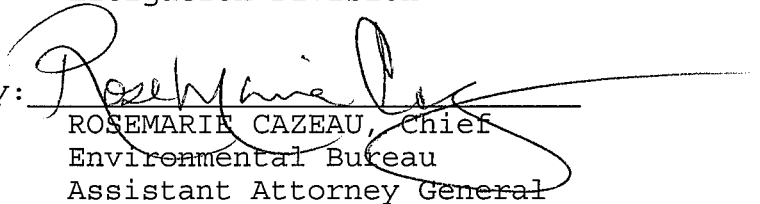
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order for Complainant and against Respondent, Intermatic, with respect to this Count IX:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent violated 415 ILCS 39.5(6) (a) and Section 9.8 of the CAAPP permit;
3. Ordering Respondent to cease and desist from further violations of the Act and the Board regulations;
4. Assessing against Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each and every day of violation;
5. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in pursuit of this action; and
6. Granting such additional relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN
Attorney General
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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Pollution Control Board

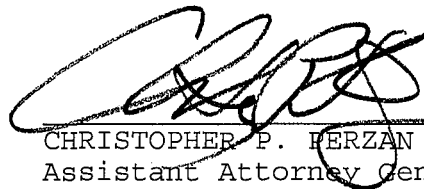
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
INTERMATIC INCORPORATED, a)
Delaware Corporation,)
)
Respondent.)

PCB 04-13
(Enforcement-Air)

APPEARANCE

I hereby file my appearance in this proceedings, on behalf of the
Complainant, People of the State of Illinois.



CHRISTOPHER P. PERZAN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
312 814-3532

CERTIFICATE OF SERVICE

I, CHRISTOPHER P. PERZAN, an Assistant Attorney General, certify that on the 28th day of July, 2003, I caused to be served by Registered Certified Mail, Return Receipt Requested, the foregoing Complaint and Appearance to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.


CHRISTOPHER P. PERZAN