

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-
	)	(Enforcement - Air)
IMPERIAL ZINC CORP.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Persons on Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Complaint, a true and correct copy of which is attached hereto and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

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.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

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

By: /s/ Kevin Garstka  
KEVIN GARSTKA  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(773) 590-7029  
[Kevin.Garstka@ilag.gov](mailto:Kevin.Garstka@ilag.gov)

**Service List**

Imperial Zinc Corp.  
Steven N. Malitz, Registered Agent  
161 N. Clark Street, Suite 4200  
Chicago, IL 60601  
(Via Certified Mail with return Receipt)

Ann M. Zwick  
Smith Gambrell & Russell LLP  
311 S. Wacker Drive, Suite 3000  
Chicago, IL, 60606  
[azwick@sgrlaw.com](mailto:azwick@sgrlaw.com)  
(Via Email)

**CERTIFICATE OF SERVICE**

I, Kevin Garstka, an Assistant Attorney General, certify that on the 27<sup>th</sup> day of September, 2024, I caused to be served the foregoing Notice of Filing and Complaint on the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 115 S. LaSalle Street. Chicago, Illinois 60602 and electronic mail.

/s/ Kevin Garstka  
KEVIN GARSTKA  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7029  
[Kevin.Garstka@ilag.gov](mailto:Kevin.Garstka@ilag.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 24-
	)	(Enforcement - Air)
IMPERIAL ZINC CORP.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois (“Complainant”), complains of Respondent, IMPERIAL ZINC CORP., an Illinois corporation (“Respondent”), as follows:

**COUNT I**  
**CONSTRUCTING AN EMISSION SOURCE WITHOUT THE REQUISITE PERMIT**

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Respondent, pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2022).

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 (2022), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent has been and is an Illinois corporation in good standing with the Illinois Secretary of State.

4. Respondent is a secondary zinc processor that produces zinc and zinc alloys. Respondent's production consists of zinc scrap processing, zinc alloy production, and pure zinc processing.

5. Respondent conducts its operations in two manufacturing buildings, building 1001 and building 1031, both located next to one another on contiguous property under a single permit at 1031 East 103<sup>rd</sup> Street in Chicago, Cook County, Illinois ("Facility").

6. As of the date of filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

7. On July 16, 2021, Illinois EPA issued the Facility Lifetime Operating Permit 72090141 ("2021 LOP"), which replaced an earlier revised LOP issued in March 2021. Respondent's LOP was initially issued on December 21, 2001 ("2001 LOP").

8. The 2001 LOP authorized Respondent to operate the following equipment at the Facility: 16 Pot Furnaces (East, West, 1 through 8, 13, A, B, C, E, and F), two Rotary Sweat Furnaces 1 and 2, two Zinc Kettles North and South, one Zinc/Aluminum Reverberatory Furnace, two Crucible Furnaces, one Reverberatory Furnace Pure Zinc, one Zinc Reverberatory Furnace 1990-1, one Zinc Melt Furnace Reverberatory, one Sweat Furnace Reverberatory with Afterburner, one MPH Furnace, and three Baghouses.

9. Respondent's operations at the Facility emit or are capable of emitting particulate matter ("PM") into the environment.

10. On March 17, 2008, a fire at the Facility damaged the following equipment, which were removed from operation: 16 Pot Furnaces (East, West, 1 through 8, 13, A, B, C, E, and F), two Rotary Sweat Furnaces 1 and 2, two Zinc Kettles North and South, one

Zinc/Aluminum Reverberatory Furnace, one Reverberatory Furnace Pure Zinc, one Sweat Furnace Reverberatory with Afterburner, one MPH Furnace, and three Baghouses.

11. In Spring of 2009, Respondent gradually began to replace some of the operating equipment damaged in the fire with new units.

12. In Spring 2009, or on a date best known to Respondent, Respondent installed new Pot Furnaces F and G and began operating the units.

13. In Spring 2010, or on a date best known to Respondent, Respondent installed new Pot Furnaces E and H and began operating the units.

14. In Fall/Winter 2010, or on a date best known to Respondent, Respondent installed new Pot Furnaces A, B, C, D, and an MPH Furnace and began operating the units.

15. Respondent installed new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace without first applying for or obtaining the requisite construction permit from the Illinois EPA.

16. From 2010 to the present date, or dates best known to Respondent, Respondent continues to operate new Pot Furnaces A, B, C, D, and E, and the MPH Furnace.

17. From Spring 2009 to August 30, 2020, or dates best known to Respondent, Respondent operated new Pot Furnaces F and G.

18. From Spring 2010 to August 30, 2020, or dates best known to Respondent, Respondent operated new Pot Furnace H.

19. New Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace emit or has or had the potential to emit PM into the environment.

20. Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), provides as follows:

No person shall:

- (b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2022), 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.

22. Respondent, an Illinois corporation, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2022).

23. Section 3.165 of the Act, 415 ILCS 5/3.165 (2022), provides the following definition:

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

24. PM is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2022).

25. Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), 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.

26. The operations at the Facility are capable of causing or contributing to “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), because

they emit, or are capable of emitting, contaminants into the atmosphere 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.

27. New Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace are capable of causing or contributing to “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2022), because each unit emits, or is capable of emitting, contaminants into the atmosphere 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.

28. Section 201.142 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146 or Section 201.170(b) of this Part.

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

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

“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.



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

30. The installation of new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace at the Facility starting in 2009 constitutes “construction” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

31. PM is matter capable of being released into the atmosphere from an emission source, and is therefore an “air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

32. Subtitle B (Air Pollution), of Title 35 (Environmental Protection) of the Illinois Code of Administrative Regulations contains specific limits on PM, and therefore PM is a “specified air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

33. New Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace are capable of emitting PM, a “specified air contaminant,” into the atmosphere, and are therefore “emission sources” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

34. New Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace were constructed at the Facility after April 14, 1972 and therefore each constitutes a “new emission source” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

35. By commencing construction of the following “new emission sources”, new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace, at the Facility without obtaining

a construction permit issued by the Illinois EPA, Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, IMPERIAL ZINC CORP., an Illinois corporation, with respect to Count I:

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

2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering the Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Five Thousand Dollars (\$5,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

**COUNT II**  
**OPERATING AN EMISSION SOURCE WITHOUT THE REQUISITE PERMIT**

1-34. Complainant re-alleges and incorporates by reference paragraphs 1 through 34 of Count I, as paragraphs 1 through 34 of this Count II.

35. The operation of new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace were not authorized by Respondent's LOP 72090141 issued on December 21, 2001.

36. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

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

37. Respondent was required to obtain a construction permit for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace pursuant to Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and was therefore required to obtain an operating permit from Illinois EPA for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace pursuant to Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

38. From 2010, or dates best known to Respondent, until August 6, 2020, Respondent Operated new Pot Furnaces A, B, C, D, and E, and the MPH Furnace without the requisite operating permit.

39. From Spring 2009, or dates best known to Respondent, until August 6, 2020, Respondent operated new Pot Furnaces F and G without the requisite operating permit.

40. From Spring 2010, or dates best known to Respondent, until August 6, 2020, Respondent operated new Pot Furnace H without the requisite operating permit.

41. By operating the following “new emission sources”, Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace, without applying for or obtaining the requisite operating permit from Illinois EPA, Respondent violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code. 201.143, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

42. Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2022), provides, in pertinent part, as follows:

- (a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

\* \* \*

- (j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

43. Respondent was required to obtain a construction permit for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace pursuant to Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and was therefore required to pay a construction permit fee to the Illinois EPA for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace pursuant to Section 9.12(a) of the Act, 415 ILCS 5/9.12(a) (2022).

44. On or around Spring 2009, and continuing until 2020, or dates best known to Respondent, Respondent failed to pay a construction permit fee to the Illinois EPA for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace.

45. By failing to pay a construction permit fee to the Illinois EPA for new Pot Furnaces A, B, C, D, E, F, G and H, and the MPH Furnace, Respondent thereby violated Section 9.12(a) of the Act, 415 ILCS 5/9.12(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, IMPERIAL ZINC CORP., an Illinois corporation, with respect to Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 9(b) and 9.12(a) of the Act, 415 ILCS 5/9(b) and 9.12(a) (2022), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. Ordering the Respondent to cease and desist from any future violations of Section 9(b) and 9.12(a) of the Act, 415 ILCS 5/9(b) and 9.12(a) (2022), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and
6. Granting other such relief as the Board deems appropriate and just.

**COUNT III**  
**FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE ANNUAL**  
**EMISSIONS REPORTS**

1-15. Complainant re-alleges and incorporates herein by reference paragraphs 1 through 9 and 21 through 26 of Count I as paragraphs 1 through 15 of this Count III.

16. Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), 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.

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

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 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 when necessary to accomplish the purposes of the Act and this Chapter.

18. Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b), provides as follows:

Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

19. Respondent is required to have an operating permit in accordance with 35 Ill. Adm. Code 201 and is not subject to subsection (a) of Section 254.102 of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(a), and therefore meets the applicability criteria contained in Section 254.102(b) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b).

20. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

21. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

22. Section 211.4370 of the 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.”

23. Respondent, who operates the Facility, is an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

24. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

25. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, provides the following definition:

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

26. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

27. The Facility consists of two buildings, which are each a “stationary source”, where Respondent operated 16 Pot Furnaces (East, West, 1 through 8, 13, A, B, C, D, E, F, G, H), two Rotary Sweat Furnaces 1 and 2, two Zinc Kettles North and South, one Zinc/Aluminum Reverberatory Furnace, two Crucible Furnaces, one Reverberatory Furnace Pure Zinc, one Zinc Reverberatory Furnace 1990-1, one Zinc Melt Furnace Reverberatory, one Sweat Furnace Reverberatory with Afterburner, one MPH Furnace, and three Baghouses and currently operates four Scrap Pots, two Rotary Furnaces, one Zinc Immersion Tube Furnace, Alloy Pots (A, B, C, D, E, I, and J), one East Furnace, and one Reverberatory Furnace, which are each an “emission unit” capable of emitting PM, which is an “air pollutant” as those terms are defined in Sections 211.6370, 211.1950, and 211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

28. Beginning on a date or dates better known to Respondent, and continuing to the date of the filing of this Complaint, Respondent, as the “owner or operator” of “emissions units”, was required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit complete and accurate



Annual Emissions Reports (“AERs”) detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions to the Illinois EPA each year by May 1 for the preceding calendar year.

29. By May 1, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019, Respondent was required to submit to the Illinois EPA complete and accurate AERs for calendar years 2009 through 2018.

30. On May 6, 2010, Respondent submitted to the Illinois EPA its AER for calendar year 2009, with inaccurate emissions data for PM.

31. On May 4, 2011, Respondent submitted to the Illinois EPA its AER for calendar year 2010, with inaccurate emissions data for PM.

32. On May 4, 2012, Respondent submitted to the Illinois EPA its AER for calendar year 2011, with inaccurate emissions data for PM.

33. On May 3, 2013, Respondent submitted to the Illinois EPA its AER for calendar year 2012, with inaccurate emissions data for PM.

34. On May 6, 2014, Respondent submitted to the Illinois EPA its AER for calendar year 2013, with inaccurate emissions data for PM.

35. On May 5, 2015, Respondent submitted to the Illinois EPA its AER for calendar year 2014, with inaccurate emissions data for PM.

36. On May 2, 2016, Respondent submitted to the Illinois EPA its AER for calendar year 2015, with inaccurate PM emissions data.

37. On May 4, 2017, Respondent submitted to the Illinois EPA its AER for calendar year 2016, with inaccurate emissions data for PM.

38. On May 8, 2018, Respondent submitted to the Illinois EPA its AER for calendar year 2017, with inaccurate emissions data for PM.

39. On May 16, 2019, Respondent submitted to the Illinois EPA its AER for calendar year 2018, with inaccurate emissions data for PM.

40. On January 31, 2020, Respondent submitted to the Illinois EPA corrected AERs with new emissions data for PM for calendar years 2009 through 2018.

41. On May 9, 2023, Respondent submitted to the Illinois EPA corrected AERs with new emissions data for PM for calendar years 2017 and 2018.

42. By failing to timely submit complete and accurate AERs for calendar years 2009 through 2018, Respondent violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a). Respondent thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, IMPERIAL ZINC, CORP., an Illinois corporation, with respect to Count III:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2022), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

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

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

**COUNT IV**  
**FAILURE TO PROVIDE RECORDS AT INSPECTION**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 9, and 20 through 26 of Count I, and paragraph 16 of Count III, as paragraphs 1 through 17 of this Count IV.

18. On October 10, 2019, the Illinois EPA inspected the Facility (“October 2019 Inspection”).

19. Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301, provides as follows:

The owner or operator of any emission source or air pollution control equipment shall maintain, as a minimum: records detailing all activities pursuant to any compliance program and project completion schedule pursuant to Subpart H; records detailing all malfunctions, breakdowns or startups pursuant to Subpart I and records of all monitoring and testing conducted pursuant to Subpart J, plus records of all monitoring and testing of

any type whatsoever conducted with respect to specified air contaminants. All such records shall be made available to the Agency at any reasonable time.

20. Condition 6 of the 2001 LOP 72090141, provides as follows:

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

21. At the October 2019 Inspection, Respondent failed to produce records and logs of monthly natural gas usage, monthly records of the process rates for throughput, and deviation reports as requested by the Illinois EPA.

22. On October 10, 2019, and other dates best known to Respondent, Respondent failed to retain records and logs of monthly natural gas usage, monthly records of the process rates for throughput, and deviation reports in an accessible location to make them available for inspection by the Illinois EPA as required pursuant to Condition 6 of the 2001 LOP 72090141 and Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301.

23. By failing to retain records and logs of monthly natural gas usage, monthly records of the process rates for throughput, and deviation reports in an accessible location to make them available for inspection by the Illinois EPA, Respondent violated Condition 6 of the 2001 LOP 72090141.

24. By failing to retain records and logs of monthly natural gas usage, monthly records of the process rates for throughput, and deviation reports in an accessible location to make them available for inspection by the Illinois EPA, Respondent violated Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301.

25. By violating Condition 6 of the LOP 72090141, Respondent constructed, installed, or operated any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, so as to violate conditions imposed by a permit, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

26. By violating Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301, Respondent caused or threatened or allowed the discharge or emission of PM into the environment so as to violate a regulation adopted by the Board, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, IMPERIAL ZINC, CORP., an Illinois corporation, with respect to Count IV:

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

2. Finding that Respondent has violated Section 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2022), Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301, and Condition 6 of the 2001 LOP 72090141;

3. Ordering Respondent to cease and desist from any future violations of Section 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2022), Section 201.301 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.301, and Condition 6 of the 2001 LOP 72090141;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, pertinent regulations, and permit condition, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

**COUNT V**  
**LIFETIME OPERATING PERMIT VIOLATIONS**

1-17. Complainant re-alleges and incorporates by reference paragraphs 1 through 9, and 20 through 26 of Count I, and paragraph 18 of Count IV, as paragraphs 1 through 17 of this Count V.

18. Condition 5(a) of the 2001 LOP 72090141 provides as follows:

The Permittee shall maintain monthly records of the following items:

(a) Process rates for each group of equipment (ton/month and ton/year)

19. At the October 2019 Inspection, Respondent failed to produce monthly records of the process rates for throughput.

20. On October 10, 2019, and other dates best known to respondent, Respondent failed to maintain monthly records of the process rates for throughput as required pursuant to Condition 5(a) of the 2001 LOP 72090141.

21. By failing to maintain monthly records of the process rates for throughput, Respondent violated Condition 5(a) of the 2001 LOP 72090141.

22. Section 5(b) of the 2001 LOP 72090141, provides as follows:

The Permittee shall maintain monthly records of the following items:

(b) Natural gas usage (million scf/month and million scf/year)

23. At the October 2019 Inspection, Respondent failed to produce monthly records of natural gas usage.

24. On October 10, 2019, and other dates best known to Respondent, Respondent failed to maintain monthly records of natural gas usage as required pursuant to Condition 5(b) of the 2001 LOP 72090141.

25. By failing to maintain monthly records of natural gas usage at the Facility, Respondent violated Condition 5(b) of the 2001 LOP 72090141.

26. Condition 7 of the 2001 LOP 72090141, provides as follows:

If there is an exceedance of the requirements of this permit as determined by the records required by this permit, the permittee shall submit a report to the Illinois EPA's Compliance Section in Springfield, Illinois within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts reduce emissions and future occurrences.

27. At the October 2019 Inspection, Respondent failed to produce deviation reports indicating the exceedances from the requirements of the 2001 LOP 72090141.

28. On October 10, 2019, and other dates best known to Respondent, Respondent failed to submit deviation reports to the Illinois EPA of exceedances from the requirements of the 2001 LOP 72090141 as required pursuant to Condition 7 of the 2001 LOP 72090141.

29. By failing to timely submit exceedance reports to the Illinois EPA, Respondent violated Condition 7 of the 2001 LOP 72090141.

30. By violating Conditions 5(a) and (b), and (7) of the 2001 LOP 72090141, Respondent constructed, installed, or operated any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air

pollution, so as to violate conditions imposed by a permit, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, IMPERIAL ZINC, CORP., an Illinois corporation, with respect to Count V:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), and Conditions 5(a) and (b), and 7 of the 2001 LOP 72090141;
3. Ordering Respondent to cease and desist from any future violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2022) and Conditions 5(a) and (b), and 7 of the 2001 LOP 72090141;
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, pertinent regulations, and permit conditions, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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

Respectfully submitted,

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

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

BY: /s/ Stephen J. Sylvester  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

*Of Counsel:*

Kevin Garstka  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(773) 590-7029  
Primary: Kevin.Garstka@ilag.gov  
Secondary: Maria.Cacaccio@ilag.gov