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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 DUPAGE MACHINE PRODUCTS, INC.,)
 a Delaware corporation,)
)
 Respondent.)

PCB NO. 04 - 101
(Enforcement - Air)

NOTICE OF FILING


TO: See Attached Service List

PLEASE TAKE NOTICE that on December 23rd, 2003, the Office of the Illinois Attorney General filed with the Illinois Pollution Control Board a Complaint, 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.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY: 
 MITCHELL L. COHEN
 Assistant Attorney General
 Environmental Bureau
 188 W. Randolph St., 20th Floor
 Chicago, Illinois 60601
 (312) 814-5282

THIS IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

David R. Knuepfer
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Glendale Heights, IL 60139-2092

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 23 2003

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney)
General of the State of Illinois,)
)
Complainant,)
)
v.)
)
DUPAGE MACHINE PRODUCTS, INC., a)
Delaware corporation,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 04 - 101
(Enforcement - Air)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, DUPAGE MACHINE PRODUCTS, INC., a Delaware corporation, as follows:

COUNT I

FAILURE TO MAINTAIN RECORDS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to the complaint, Respondent, DuPage Machine Products, Inc. ("DuPage"), is and was a Delaware corporation registered to do business in the State of Illinois.

4. At all times relevant to this complaint, DuPage is and was the owner and operator of the plant located at 99 International Boulevard, Glendale Heights, DuPage County, Illinois ("facility"). DuPage's president and registered agent is David R. Knuepfer.

5. 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.

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

7. DuPage manufactures a variety of screw products. During the manufacturing process, cutting oil is applied to the screw products. The oil is rinsed from the various screws in a vapor degreaser.

8. DuPage's operation of its facility is subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board

Air Pollution Regulations"), and the Illinois EPA rules and regulations for air pollution are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois EPA Air Pollution Regulations").

9. DuPage's operation of its facility is subject to the rules and regulations promulgated by the United States Environmental Protection Agency ("USEPA"). The USEPA's regulations for National Emissions Standards For Hazardous Air Pollutants for Source Categories for Halogenated Solvent Cleaning ("USEPA NESHAP Regulations") are found in Title 40, Chapter I, Subchapter C, Part 63, Subpart T Of the United States Code of Federal Regulations.

10. DuPage was issued a Federally Enforceable State Operating Permit ("FESOP") no. 97050122 on December 22, 1997. The FESOP was issued based on DuPage's use of a hazardous air pollutant ("HAP") in its vapor degreaser, which is subject to the USEPA NESHAP Regulations. FESOP no. 97050122 expired on December 22, 2002. DuPage filed another FESOP application, and the Illinois EPA granted the new permit March 31, 2003.

11. On March 28, 2002, the Illinois EPA's Field Operations Section inspected DuPage's facility. During the inspection several violations of the USEPA NESHAP Regulations were noted.

12. After another inspection on June 3, 2002, the Illinois EPA issued Violation Notice ("VN") A-2002-00152 to DuPage for

failure to maintain records of degreaser solvent usage, failure to submit annual reports for the degreaser for the calendar years 1997 through 2001, and failure to submit Annual Emissions Reports ("AERs") for the calendar years 1997 through 2001.

13. DuPage responded with a proposed Compliance Commitment Agreement ("CCA") on June 21, 2002. In its CCA, DuPage claimed, without providing the Illinois EPA with supporting documentation, that it was in compliance with the applicable regulations. DuPage also requested a meeting with the representatives of the Illinois EPA. However, the representatives of DuPage failed to attend the meeting on the scheduled date.

14. On August 29, 2002, the Illinois EPA issued a Notice of Intent to Pursue Legal Action ("NITPLA") to DuPage. DuPage failed to respond to the NITPLA within thirty days. By letter dated October 25, 2002, DuPage, through a consultant, requested an extension of time to respond to the NITPLA and to meet with the Illinois EPA. By letter dated October 30, 2002, DuPage submitted a response to the VN and NITPLA. This response was late and insufficient.

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

No person shall:

- b. Construct, install, or operate any equipment, facility, vehicle, vessel or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type

designated by Board regulations, without a permit granted by the Illinois EPA, or in violation of any condition imposed by such permit.

16. Section 9.1(d)(2) of the Act, 415 ILCS 5/9.1(d)(2) (2002), provides, in pertinent part, as follows:

No person shall:

- (2) Construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulations under sections 11, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended except in compliance with the requirements of such sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken without a permit granted by the Agency or in violation of any condition imposed by such permit.

17. Section 63.467(b) of the USEPA NESHAP Regulations, 40 C.F.R. 63.467(b) (2003), provides as follows:

- (b) Each owner or operator of a batch of vapor or in-line solvent cleaning machine complying with section 63.463 shall maintain records specified in paragraphs (b)(1) through (b)(4) of this section either in electronic or written form for a period of 5 years.
 - (1) The results of the control device monitoring required under section 63.466.
 - (2) Information on actions taken to comply with section 63.463(e) and (f). This information shall include records of written and verbal orders for replacement of parts, a description of repairs made and additional monitoring conducted to demonstrate that monitored parameters have returned to accepted levels.
 - (3) Estimates of annual solvent consumption for each solvent cleaning machine.
 - (4) If a carbon absorber is used to comply with

these standards, records of the dates and results of the weekly measurement of the halogenated HAP carbon solvent concentration in the carbon absorber exhaust as required in section 63.466(e).

18. Conditions 6(b)(v)(A) and (B) of DuPage's FESOP no. 97050122 provide as follows:

- v. The Permittee shall maintain the following records effective upon the issuance of this permit.
 - A. Monthly and annual solvent usage in pounds or tons.
 - B. Which solvent is used.

19. DuPage failed to maintain and keep the records that were required by Section 63.467(b) of the USEPA NESHAP Regulations, 40 C.F.R. 63.467(b)(2003), and conditions 6(b)(v)(A) and (B) of FESOP no. 97050122. The required records were not available during the Illinois EPA's inspection, nor were the required records produced from the time of inspection until October 30, 2002. The records produced by DuPage on October 30, 2002 were inadequate, because they were only summaries, not the complete records that were required.

20. By failing to maintain and keep the required records, DuPage has violated Sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.467(b) of the USEPA NESHAP Regulations, 40 C.F.R. 63.467(b)(2003), and conditions 6(b)(v)(A) and (B) of FESOP no. 97050122.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS,

respectfully requests the Board find in favor of the Complainant and against Respondent, DUPAGE MACHINE PRODUCTS, INC., on this Count I and enter an order:

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

2. Finding that Respondent has violated Sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.467(b) of the USEPA NESHAP Regulations, 40 C.F.R. 63.467(b)(2003), and conditions 6(b)(v)(A) and (B) of FESOP no. 97050122;

3. Ordering Respondent to cease and desist from further violations of Sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.467(b) of the USEPA NESHAP Regulations, 40 C.F.R. 63.467(b)(2003), and conditions 6(b)(v)(A) and (B) of FESOP no. 97050122;

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

5. Taxing against Respondent all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT II

FAILURE TO SUBMIT ANNUAL REPORT

1. - 16. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of Count II.

17. Section 63.468(f) of the USEPA NESHAP Regulations, 40 C.F.R. 63.468(f) (2003), provides as follows:

(f) Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of section 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 requirements specified in the 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 the solvent cleaning machine have received training on the proper operation of the solvent cleaning machine and their control devices sufficient to pass the test required in section 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 the section can be combined into a single report for each facility.

18. Condition 7(b) of DuPage's FESOP no. 97050122 provides as follows:

- b. The Permittee shall submit an annual report for

the batch vapor degreaser by February 1 of the year following the one for which the report is being required pursuant to 40 CFR 63.468(f). The report shall include the following:

- i. A signed statement from the source owner or his designee stating " All operators of the solvent cleaning machine have received training on the proper operation of the solvent cleaning machine and their control devices sufficient to pass the test required in section 63.463 (d) (10)."
- ii. An estimate of solvent consumption for each solvent cleaning machine during the reporting period.

19. DuPage failed to submit annual reports for its solvent usage and its operator training to the Illinois EPA for calendar years 1997 through 2001. Due to this lack of reporting, the Illinois EPA was unable to completely assess DuPage's compliance status.

20. By failing to submit records for the years 1997 to 2001, DuPage has violated Sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.468(f) of the USEPA NESHAP Regulations, 40 CFR 63.468(f)(2003), and condition 7(b) of FESOP no. 97050122.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board find in favor of the Complainant and against Respondent, DUPAGE MACHINE PRODUCTS, INC., on this Count II and enter an order:

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

2. Finding that Respondent has violated sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.468(f) of the USEPA NESHAP Regulations, 40 CFR 63.468(f)(2003), and condition 7(b) of FESOP no. 97050122;

3. Ordering Respondent to cease and desist from further violations of Sections 9(b) and 9.1(d)(2) of the Act, 415 ILCS 5/9(b) and 9.1(d)(2)(2002), Section 63.468(f) of the USEPA NESHAP Regulations, 40 CFR 63.468(f)(2003), and condition 7(b) of FESOP no. 97050122;

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

5. Taxing against Respondent all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT III

FAILURE TO SUBMIT SEMI-ANNUAL REPORTS

1. - 16. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of Count III.

17. Section 63.468(h) of the USEPA NESHAP Regulations, 40 C.F.R. 63.468(h) (2003), provides, in pertinent part, as follows:

- (h) Each owner or operator of a batch or in-line solvent cleaning machine shall submit an exceedance report to the Administrator semi-annually 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....Exceedance reports shall be delivered or postmarked by the 30th day following each of the 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 section 63.463(e) and (f). This information shall include records of written and verbal orders for replacement of parts, a description of 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 exceedance of a parameter has occurred, or piece of equipment has not been inoperative, out of control, repaired ,or adjusted, such information shall be stated in the report.

18. Condition 7(c) of DuPage's FESOP no. 97050122 provides, in pertinent part, as follows:

- c. The permittee shall submit an exceedance report for the batch vapor degreaser to the Illinois EPA semi- annually [40 CFR 63.468(h)] except when, the Illinois EPA 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....Exceedance

reports shall be delivered or postmarked by the 30th day following each of the calendar half or quarter as appropriate. The exceedance report shall include the applicable information:

- i. The record required by condition 6(b) (iv).
- ii. If an exceedance has occurred, the reason for the exceedance and a description of the actions taken, to minimize or prevent future exceedance.
- iii. If no exceedance of a parameter has occurred, or piece of equipment has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report.

19. DuPage failed to submit semi-annual exceedance reports to the Illinois EPA for the calendar years 1997 through 2001. Due to this lack of reporting, the Illinois EPA was unable to completely assess DuPage's compliance status.

20. By failing to submit semi-annual reports for the years 1997 through 2001, DuPage has violated Sections 9(b) and 9.1(d) (2) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2) (2002), Section 63.468(h) of the USEPA NESHAP Regulations, 40 CFR 63.468(h) (2003), and condition 7(c) of FESOP no. 97050122.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board find in favor of the Complainant and against Respondent, DUPAGE MACHINE PRODUCTS, INC., on this Count III and enter an order:

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

2. Finding that Respondent has violated Sections 9(b) and 9.1(d) (2) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2) (2002), Section 63.468(h) of the USEPA NESHAP Regulations, 40 CFR 63.468(h) (2003), and condition 7(c) of FESOP no. 97050122;

3. Ordering Respondent to cease and desist from further violations of Sections 9(b) and 9.1(d) (2) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2) (2002), Section 63.468(h) of the USEPA NESHAP Regulations, 40 CFR 63.468(h) (2003), and condition 7(c) of FESOP no. 97050122;

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

5. Taxing against Respondent all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IV

FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSION REPORTS

1. - 16. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of Count IV.

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

No person shall:

- (a) Cause or threaten to allow 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, so as to violate regulations or standards adopted by the Board under this Act.

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

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

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

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

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

- (a) All Annual Emissions Report are due by May 1 of the year following the calendar year in which the emissions took place.

21. DuPage failed to timely submit complete and accurate

AERs for calendar years 1993 through 2001. The AERs submitted by DuPage did not contain annual HAP emissions. DuPage did not submit revised AERs containing the required information until October 30, 2002.

22. By failing to timely submit complete and accurate AERs, DuPage has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and Sections 201.302(a), 254.132(a), and 254.137(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a), and 254.137(a).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board find in favor of the Complainant and against Respondent, DUPAGE MACHINE PRODUCTS, INC., on this Count IV and enter an order:

1. Authorizing a hearing in this matter at which time the 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) (2002), and Sections 201.302(a), 254.132(a), and 254.137(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a), and 254.137(a);

3. Ordering Respondent to cease and desist from further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and Sections 201.302(a), 254.132(a), and 254.137(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a),

and 254.137(a);

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


5. Taxing against Respondent all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

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

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

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

MITCHELL L. COHEN
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, IL 60601
(312) 814-5282

CERTIFICATE OF SERVICE

I, MITCHELL COHEN, an Assistant Attorney General, certify that on the 23rd day of December, 2003, I caused to be served by First Class Mail the foregoing Complaint 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.


MITCHELL L. COHEN