

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,) PCB No. 2012-
) (Enforcement - Land)
vs.)
)
INDUSTRIAL ENCLOSURE)
CORPORATION, an Illinois corporation,)
)
Respondent.)

NOTICE OF FILING

TO: John F. Palmer
Industrial Enclosure Corporation
Registered Agent
619 North Loucks Street
Aurora, Illinois 60505

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on August 16, 2011, I filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.


Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "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,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY: 
ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312) 814-3816

DATE: August 16, 2011

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
) PCB No. 2012-
v.) (Enforcement-Land)
)
Industrial Enclosure Corporation, an)
Illinois corporation,)
)
Respondent.)

COMPLAINT

Complainant, 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, complains of Respondent, INDUSTRIAL ENCLOSURE CORPORATION, an Illinois corporation, as follows:

COUNT I

**CONDUCTING A HAZARDOUS WASTE STORAGE
OPERATION WITHOUT A RCRA PERMIT**

1. This Complaint is brought on behalf of the People of the State of Illinois by Lisa Madigan, the 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 (2010).
2. The Illinois EPA is an administrative agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.
3. At all times relevant to the Complaint, Industrial Enclosure Corporation ("Respondent") is an Illinois corporation in good standing with the Illinois Secretary of State.

Respondent manufactures steel and aluminum boxes of various sizes for use as electrical enclosures at its manufacturing facility located at 619 N. Loucks, Aurora, Kane County, Illinois (“Facility”). Respondent has been in business at the Facility since 1977.

4. At the Facility, steel is received in the form of sheets and undergoes the fabrication process of cutting, forming, drilling, tapping, and grinding. After welding, the majority of the fabricated steel boxes are manually cleaned and then finished with a powder coating applied in a spray booth and cured in an oven. A small portion of the steel boxes are finished with a liquid coat of paint.

5. Three waste streams are generated at the facility. The first two waste streams are generated from Respondent’s liquid spray painting operations as spray gun operators clean the guns and as excess paint is being accumulated. The third waste stream is generated when spent filters from the liquid spray booth are dried in the ovens associated with the powder coating process and are then placed in the dumpster for disposal.

6. Respondent is currently regulated as a small quantity generator of hazardous waste and generates approximately 110 gallons per month of spray paint-related waste from the cleaning of its spray painting equipment and the disposal of excess paint. The hazardous waste manifests used for shipping the waste off-site list waste codes D007, D008, F003, and F005.

7. On June 17, 2010, the Illinois EPA, Rockford Regional Office conducted an unannounced Resource Conservation and Recovery Act (“RCRA”) Compliance Evaluation Inspection of Respondent and observed the following:

- (a) The facility’s generator status was not updated by filing USEPA Form 8700-12 *RCRA Subtitle C Site Identification Form*;

(b) Respondent did not retain copies of its hazardous waste manifests with the signature of the receiving facility;

(c) Respondent did not properly designate one receiving facility permitted to receive the wastes on the manifests. The waste was going to Heritage-Crystal Cleans' Detroit, Michigan facility, but Box 8 of Respondent's manifests contained the address of the Heritage-Crystal Clean LLC facility in Indianapolis, Indiana, and the U.S. EPA identification number for a Heritage-Crystal Clean facility in Illinois;

(d) Respondent did not identify the waste codes in Box 13 of the January 20, 2010 manifest;

(e) No emergency response information was posted that is required to be posted by generators of hazardous waste;

(f) Respondent did not list the spray paint as one of the hazardous waste codes on Box 13 of the manifests even though the flash point for the spray paint is 22°F, which makes it an ignitable waste;

(g) Respondent did not retain a copy of its 2007 Hazardous Waste Annual Report, required due to Respondent's 2007 Short Term LQG status, in its operating record;

(h) Respondent did not make hazardous waste determination for the filter used in the spray booth operation. The filters were not certified as non-special waste;

(i) Respondent did not make a special waste determination on powder coat paint waste generated at the powder coat booths before managing the powder coat paint waste as non-special waste;

(j) The 2-gallon pails used for collecting waste generated at the spray paint booth were not labeled "hazardous waste;"

(k) The five drums of paint waste in the hazardous waste accumulation area were not marked to identify the contents of the drums;

(l) No "hazardous waste" labels were put on any of the five drums in the hazardous waste accumulation area;

(m) No accumulation dates were written on the five drums in the hazardous waste accumulation area;

(n) One drum in the hazardous waste accumulation area was not properly closed;

(o) Respondent did not conduct weekly inspections of the containers in its hazardous waste accumulation area;

(p) The drums of hazardous waste were staged so closely together in the hazardous waste accumulation area that they could not be properly inspected for leaks or deterioration.

8. On July 20, 2010, pursuant to Section 31(a) (1) of the Act, 415 ILCS 5/31(a) (1) (2010), the Illinois EPA issued a Violation Notice ("VN") letter to Respondent.

9. On August 25, 2010, pursuant to Section 31(a) (1) of the Act, 415 ILCS 5/31(a) (1) (2010), Respondent responded to the VN and proposed a Compliance Commitment Agreement ("CCA").

10. On September 14, 2010, the Illinois EPA rejected the CCA.

11. Respondent submitted additional responses to the VN on September 16, 2010, October 7, 2010, November 8, 2010, December 9, 2010, and January 6, 2011.

12. On December 30, 2010, a Notice of Intent to Pursue Legal Action (“NIPLA”) was issued to Respondent.

13. On January 20, 2011, a second NIPLA was sent to Respondent due to an address error on the first NIPLA sent on December 30, 2010.

14. On February 20, 2011, pursuant to Section 31(a) (1) (c) of the Act, 415 ILCS 5/31(a) (1) (c) (2010), Respondent requested a meeting with the Illinois EPA.

15. On February 23, 2011, the Illinois EPA and Respondent met to discuss the violations and future compliance measures.

16. Section 21(f) (1) and (2) of the Act, 415 ILCS 5/21(f) (1) and (2) (2010), titled, Prohibited Acts, provides as follows:

No person shall:

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

1. Without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
2. In violation of any regulations or standards adopted by the Board under this Act;

17. Section 703.121(a) (1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) (1), titled, RCRA Permits, provides, in pertinent part, as follows:

(a) No person may conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation as follows:

- (1) Without a RCRA permit for the HWM (hazardous waste management) facility....

18. Section 722.110 of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 722.110, titled, Purpose, Scope, and Applicability, provides as follows:

- g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to the compliance requirements and penalties prescribed in Title VIII and XII of the Environmental Protection Act if that person does not comply with this Part.

19. Section 721.102 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, titled, Definition of Solid Waste, provides as follows:

- a) Solid Waste
 - 1) A solid waste is any discarded material...
 - 2) A discarded material is any material which is:
 - A) Abandoned, as explained in subsection (b) below;
or
- b) A material is a solid waste if it is abandoned in one of the following ways:
 - 1) It is disposed of;
 - 3) It is accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

20. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.103, titled, Definition of Hazardous Waste, provides as follows:

- (a) A solid waste, defined in Section 721.102, is a hazardous waste if the following is true of the waste:
 - (2) It meets any of the following criteria:
 - (A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part...

(D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part....

21. Section 721.121(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

721.121(b), titled, Characteristic of Ignitability, provides as follows:

(b) A solid waste that exhibits the characteristic of ignitability has the USEPA hazardous waste number of D001.

22. Section 721.124(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

721.124 (b), titled, Toxicity Characteristic, provides as follows:

(b) A solid waste that exhibits the characteristic of toxicity has the USEPA hazardous waste number specified in the following table that corresponds to the toxic contaminant causing it to be hazardous.

MAXIMUM CONCENTRATION OF CONTAMINANTS FOR THE TOXICITY CHARACTERISTIC

USEPA Hazardous Waste No.	Contaminant
D007	Chromium
D008	Lead

23. Section 721.131(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

721.131(a), titled, Hazardous Wastes from Nonspecific Sources, provides as follows:

(a) The following solid wastes are listed hazardous wastes from non-specific sources....

USEPA Hazardous Waste No.	Contaminant
F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures and blends containing, before use, only the

	<p>above spent non-halogenated solvents; and all spent solvent mixtures and blends containing, before use, one or more of the above non-halogenated solvents and a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.</p>
<p>F005</p>	<p>The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures and blends, containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.</p>

24. Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

702.110, titled, Definitions, provides as follows:

“Board” means the Illinois Pollution Control Board.

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit EPA identification number (CAMU) into which remediation wastes are placed.

“Environmental Protection Agency” or “EPA” or “USEPA” (RCRA and UIC) means the United States Environmental Protection Agency.

“Generator” means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

“Hazardous waste” means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Manifest” (RCRA and UIC) means the shipping document originated and signed by the generator that contains the information required by Subpart B of 35 Ill. Adm. Code 722.

“On-site” (RCRA) means on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the rights-of-way. Non-contiguous properties owned by the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

“Operator” means the person responsible for the overall operation of a facility.

“Owner” means the person that owns a facility or part of a facility.

“Permit” means an authorization, license, or equivalent control document issued to implement this Part and 35 Ill. Adm. Code 703, 704, and 705.

“Permit” includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC “Emergency Permit” (35 Ill. Adm. Code 703.221 and 704.163). “Permit” does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

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

“RCRA” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

“Storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“USEPA” or “EPA” means the United States Environmental Protection Agency.

25. Section 720.110 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

720.110, titled, Definitions, provides as follows:

“Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

“Destination facility” means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

“EPA hazardous waste number” or “USEPA hazardous waste number” means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

“EPA identification number” or “USEPA identification number” means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

“Facility” means the following: All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

“Small quantity generator” means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

26. Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2010) and 35 Ill. Adm. Code 702.110.

27. Respondent is a “generator,” “owner,” and “operator” as those terms are defined by 35 Ill. Adm. Code 702.110.

28. Respondent uses the structure and land at the site to store hazardous wastes. Therefore, the land and structures at the site is a “Facility” as that term is defined by 35 Ill. Adm. Code 720.110.

29. Beginning in 1977 and continuing to the present date, Respondent generated “solid waste” as that term is defined by 35 Ill. Adm. Code 721.102.

30. The waste generated by Respondent is “hazardous waste” as defined by 35 Ill.

Adm. Code 721.121(b), 721.124(b), and 721.131(a):

- Solid waste exhibiting the characteristic of ignitability—Hazardous Waste No. D001;
- Chromium solid waste exhibiting the characteristic of toxicity—Hazardous Waste No. D007;
- Lead solid waste exhibiting the characteristic of toxicity—Hazardous Waste No. D008;
- Spent non-halogenated solvents waste exhibiting the characteristic of toxicity—Hazardous Waste No. F003; and
- Spent non-halogenated solvents waste exhibiting the characteristic of toxicity—Hazardous Waste No. F005.

31. Respondent conducted a hazardous waste storage operation at the Facility without a RCRA permit.

32. By storing hazardous waste at the Facility without a RCRA permit, Respondent violated Section 21(f) (1) and (2) of the Act, 415 ILCS 5/21 (f) (1) and (2) (2010), and Section 703.121(a)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a)(1).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this 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 21(f) (1) and (2) of the Act, 415 ILCS 5/21(f) (1) and (2) (2010) and Section 703.121(a)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a)(1);

3. Ordering Respondent to cease storing hazardous waste at the Facility.

4. Ordering Respondent to cease and desist from any further violations of the Act and pertinent Board Waste Disposal Regulations;
5. Ordering Respondent to take all action necessary to comply with provisions of the Act and Board Waste Disposal Regulations;
6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each day of violation of Section 21(f) (1) and (2) of the Act, 415, ILCS 5/21(f) (1) and (2) (2010);
7. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
8. Granting such relief as the Board deems appropriate and just.

COUNT II

FAILURE TO PROPERLY PREPARE THE HAZARDOUS WASTE MANIFESTS

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 31 of Count I, as paragraphs 1 through 31 of this Count II.

32. Section 722.120(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(a), titled, General Requirements, provides, in pertinent part, as follows:

- a) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions))...

33. 40 CFR Part 262, *Appendix to Part 262—Uniform Hazardous Waste Manifest and Instructions*, provides, in pertinent part, as follows:

Item 13. Waste Codes

Enter up to six federal and state waste codes to describe each waste stream identified in Item 9b...

34. Respondent failed to properly prepare its hazardous waste manifests. Specifically, information in Box 8 (Designated Facility Name, site address, facility phone number, and USEPA ID number) and Box 13 (Waste Codes) of the manifests reviewed during the June 17, 2010, inspection were not entered correctly. An incorrect address and U.S. EPA ID number were entered in Box 8 rather than the address and ID number for the destination TSD facility. Waste codes in Box 13 omitted D001 and may not have been fully representative of the waste. The January 20, 2010, manifest for a 110 gallon shipment of waste paint related material had no waste codes in Box 13.

35. By failing to properly prepare its hazardous waste manifests, Respondent violated Section 722.120(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(a), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II:

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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010) and Section 722.120(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(a);

3. Ordering Respondent to properly prepare its hazardous waste manifests;
4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;
5. Ordering Respondent to take all action necessary to comply with provisions of the Act and Board Waste Disposal Regulations;
6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);
7. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
8. Granting such relief as the Board deems appropriate and just.

COUNT III

FAILURE TO PROPERLY DESIGNATE ONE RECEIVING FACILITY ON THE HAZARDOUS WASTE MANIFESTS

- 1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I, as paragraphs 1 through 30 of this Count III.
31. Section 722.120(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(b), titled, General Requirements, provides, in pertinent part, as follows:
 - b) A generator must designate on the manifest one receiving facility that is permitted to handle the waste described on the manifest.
32. Respondent failed to properly designate one receiving facility permitted to receive the wastes on the hazardous waste manifests that were reviewed during the June 17, 2010, inspection.

33. By failing to properly designate one receiving facility permitted to receive the wastes on the manifests that were reviewed during the June 17, 2010, inspection, Respondent violated Section 722.120(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(b), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/42(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this 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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010), and Section 722.120(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.120(b);

3. Ordering Respondent to properly designate on the manifests one receiving facility permitted to receive the wastes;

4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;

5. Ordering Respondent to take all action necessary to comply with provisions of the Act and Board Waste Disposal Regulations;

6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);

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

8. Granting such relief as the Board deems appropriate and just.

COUNT IV

**FAILURE TO MAINTAIN A COPY OF THE
HAZARDOUS WASTE ANNUAL REPORT**

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I, as paragraphs 1 through 30 of this Count IV.

31. Section 722.141(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.141(a), titled, Annual Reporting, provides, in pertinent part, as follows:

- (a) A generator that ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of an annual report to the Agency by March 1 for the preceding calendar year...

32. Section 722.140(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.140(b), titled, Recordkeeping, provides, in pertinent part, as follows:

- b) A generator must keep a copy of each Annual Report and Exception Report for a period of at least three years from the due date of the report (March 1).

33. Respondent failed to keep a copy of the 2007 Hazardous Waste Annual Report in its operating record.

34. By failing to keep a copy of the 2007 Hazardous Waste Annual Report in its operating record, Respondent violated Section 722.140(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.140(b), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, on this Count IV:

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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010), and Section 722.140(b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.140(b);
3. Ordering Respondent to retain copies of its Hazardous Waste Annual Reports in its operating record for a period of at least three years from the due dates of the reports;
4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;
5. Ordering Respondent to take all action necessary to comply with the provisions of the Act and Board Waste Disposal Regulations;
6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);
7. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
8. Granting such relief as the Board deems appropriate and just.

COUNT V

**FAILURE TO CONDUCT A HAZARDOUS
WASTE DETERMINATION**

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I, as paragraphs 1 through 30 of this Count V.

31. Section 722.111(a) and (b), of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111(a) and (b), titled, Hazardous Waste Determination, provides, in pertinent part, as follows:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

32. Respondent failed to conduct a hazardous waste determination on the spent spray booth filters generated at the liquid spray booth.

33. By failing to conduct a hazardous waste determination on the spent spray booth filters generated at the liquid spray booth, Respondent violated Section 722.111(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111(a) and (b), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this 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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010), and Section 722.111(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 722.111(a) and (b);

3. Ordering Respondent to conduct a hazardous waste determination on the spent spray booth filters generated at the liquid spray booth;
4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;
5. Ordering Respondent to take all action necessary to comply with the provisions of the Act and Board Waste Disposal Regulations;
6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);
7. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
8. Granting such relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO MAKE A SPECIAL WASTE DETERMINATION

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I, as paragraphs 1 through 30 of this Count VI.

31. Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), titled, Generator Obligations, provides, in pertinent part, as follows:

- a) Each person who generates waste shall determine whether the waste is a special waste.

32. Respondent failed to make a special waste determination on the powder coat paint waste generated at the powder coat booths and on the spent spray booth filters generated at the liquid spray booth.

33. By failing to make a hazardous waste determination on the powder coat paint waste generated at the powder coat booths and on the spent spray booth filters generated at the liquid spray booth, Respondent violated Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VI:

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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010), and Section 808.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a);

3. Ordering Respondent to make a special waste determination on the powder coat paint waste generated at the powder coat booths and on the spent spray booth filters generated at the liquid spray booth;

4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;

5. Ordering Respondent to take all action necessary to comply with the provisions of the Act and Board Waste Disposal Regulations;

6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);

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

8. Granting such relief as the Board deems appropriate and just.

COUNT VII

**FAILURE TO PREPARE A GENERATOR
NON-SPECIAL WASTE CERTIFICATION**

1-30. Complainant realleges and incorporates herein by reference paragraphs 1 through 30 of Count I, as paragraphs 1 through 30 of this Count VII.

31. Section 808.121(b) (3) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a), titled, Generator Obligations, provides, in pertinent part, as follows:

b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:

3) The Agency has determined pursuant to this Part that the waste is not a special waste.

32. Respondent managed powder coat paint waste and spent spray booth filters as non-special waste without first preparing a generator non-special waste certification.

32. By failing to first prepare a generator non-special waste certification before managing powder coat paint waste and spent spray booth filters as non-special waste, Respondent violated Section 808.121(b) (3) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b) (3), and thereby also violated Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VII:

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 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010), and Section 808.121(b) (3) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(b) (3);

3. Ordering Respondent to prepare a generator non-special waste certification prior to managing powder coat paint waste and spent spray booth filters as non-special waste;

4. Ordering Respondent to cease and desist from any further violations of the Act and Board Waste Disposal Regulations;

5. Ordering Respondent to take all action necessary to comply with the provisions of the Act and Board Waste Disposal Regulations;

6. Assessing against the Respondent, pursuant to Section 42(b) (3) of the Act, 415 ILCS 5/42(b) (3) (2010), a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) per day for each and every violation of Section 21(f) (2) of the Act, 415 ILCS 5/21(f) (2) (2010);

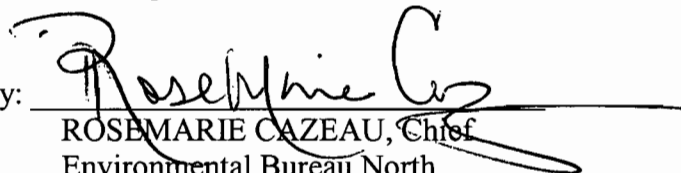
7. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

8. Granting such 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 North
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CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 16th day of August 2011, the foregoing Notice of Filing, Complaint, and a Certificate of Service, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB