

Count V: Failure to keep records in violation of 40 C.F.R. §§ 60.49b(g)(2) - (10), 63.2862(d)(1) and (2); and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2018).

Count VI: Violating Clean Air Act Permit Program (CAAPP) recordkeeping conditions in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 5.2.6, 5.6.3(a), 5.7.1, 7.1.9(a) and (d), 7.2.9(a), 7.3.9(a)(ii)(B) and (D), 7.3.10(a), 7.4.8(a), 7.4.9(b), and (iv)(A) and (B), 7.4.9(d)(i) and (iii)(C) - (J), 7.5.9(a) and (b), and 7.6.9(a) and (c) of revised CAAPP Permit 98070042.

Count VII: Emitting in excess of CAAPP Permit fee limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.5.1 of revised CAAPP Permit 98070042.

Count VIII: Violating construction permit requirements in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and Conditions 1.6(b), 2.1.8(d)(iv) and 2.2.4(a)(vi) of Construction Permit 06050042.

Count IX: Exceeding nitrogen oxides (NO_x) emission limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Conditions 7.4.6(a) and 7.4.10 of the CAAPP Permit.

Count X: Failure to timely submit complete and accurate monitoring reports in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 8.6.1 of the CAAPP Permit.

Count XI: Failure to obtain a construction permit in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), and 35 Ill. Adm. Code 201.142.

Count XII: Failure to maintain a boiler in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.2 of the CAAPP Permit.

Count XIII: Operating a boiler during a period of breakdown in excess of permit limits in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.2.3 of the CAAPP Permit.

Count XIV: Failure to operate and maintain a boiler in a manner consistent with good air pollution control practice in violation of 40 C.F.R. § 60.11(d), Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018), and Conditions 7.4.5(c) and 7.4.5(d)(i) of the CAAPP Permit.

Count XV: Failure to timely submit complete and accurate deviation reports in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 5.7.1 of the CAAPP Permit.

Count XVI: Failure to timely provide complete and accurate notifications in violation of 40 C.F.R. §§ 60.665(a), 60.7(a)(1); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XVII: Failure to timely submit complete and accurate semi-annual reports in violation of 40 C.F.R. § 60.665(l); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XVIII: Failure to timely provide complete and accurate notifications in violation of 40 C.F.R. §§ 60.7(a)(1) and 60.705(a); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XIX: Failure to timely submit complete and accurate Semi-Annual Reports in violation of 40 C.F.R. § 60.705(l); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XX: Failure to submit complete and accurate compliance certifications in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2018), and Condition 9.8(a) of the CAAPP Permit.

Count XXI: Failure to timely perform initial tune-up of a boiler in violation of 40 C.F.R. § 63.7510(e); Sections 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXII: Failure to timely submit a complete and accurate notification of compliance status in violation of 40 C.F.R. § 63.4(a); Section 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIII: Failure to submit a complete and accurate notification of compliance status in violation of 40 C.F.R. §§ 63.4(a), 63.9(h)(2)(i)(A), (C), and (G); Sections 9.1(d)(1) and 39.5(6)(a) of the Act, 415 ILCS 5/9.1(d)(1), 39.5(6)(a) (2018); and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIV: Failure to properly measure and record scrubbing flow rate and pressure drop in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2018), Conditions 1.5, 1.6(b), and 2.1.7 of Construction Permit 06050042.

Count XXV: Failure to timely submit complete and accurate semi-annual emissions reports in violation of 40 C.F.R. §§ 63.10(d), 63.1039(b)(1) and 63.2520(e)(9); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 2.1.2(a)(ii) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVI: Failure to timely submit complete and accurate initial notification in violation of 40 C.F.R. §§ 63.4(a)(2), 63.5(d)(1)(ii)(D), (E), and (F); 63.9(b)(1)(iii) and (2)(iii), (iv), and (v), and § 63.2515(a); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVII: Failure to timely submit a notification of compliance status report in violation of 40 C.F.R. §§ 63.9(h)(2), 63.10(d), 63.2520(d), and 63.2535; Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXVIII: Failure to submit a timely compliance report in violation of 40 C.F.R. §§ 63.10(d)(1), 63.115(d)(2), 63.2455(b), 63.2515(c) and 63.2520(e)(10)(i); Sections 9(b), 9.1(d) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d) 39.5(6)(a) (2018); Condition 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

Count XXIX: Failure to timely submit complete and accurate semi-annual reports in violation of 40 C.F.R. §§ 63.4(a)(2), 63.10(d), and 63.2520(e)(10); Sections 9(b), 9.1(d), and 39.5(6)(a) of the Act, 415 ILCS 5/9(b), 9.1(d), 39.5(6)(a) (2018); Conditions 1.6(a) and 2.1.9(a) of Construction Permit 06050042; and Condition 5.2.5(a) of the CAAPP Permit.

On April 17, 2020, the People and Incobrasa filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Times Republic* on June 6, 2020. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Incobrasa's operations. Section 103.302 also requires that the parties stipulate to facts

called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Incobrasa does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Incobrasa agrees to pay a civil penalty of \$750,000 within 30 days after the date of this order. The People and Incobrasa have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Incobrasa must pay a civil penalty of \$750,000 no later than Monday, August 17, 2020, which is the first business day following the 30th day after the date of this order. Incobrasa must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the face of the certified check or money order.

3. Incobrasa must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Incobrasa must send a copy of the certified check or money order and any transmittal letter to:

Stephen J. Sylvester
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).


5. Incobrasa must cease and desist from future violations of the Act, Board regulations, and permits that were the subject matter of the second amended complaint.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2018); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
People of the State of Illinois Attn: Stephen J. Sylvester 69 W. Washington St., Suite 1800 Chicago, IL 60602 ssylvester@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Incobrasa Industries, Ltd. Attn: Melissa S. Brown and LaDonna Driver 3150 Roland Ave. Springfield, IL 62703-577 melissa.brown@heplerbroom.com LaDonna.Driver@heplerbroom.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 16, 2020, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board