

Aluminum Products Manufacturer Fined \$716,440 for Air Pollution Violations

By: Dave Scriven-Young, Attorney at Peckar & Abramson, P.C.

(Originally published at: <http://illinoisenvironmentallaw.blogspot.com/2010/08/aluminum-products-manufacturer-fined.html>)

The Illinois Pollution Control Board recently issued an opinion in *People v. Toyal, Inc., Case No. PCB 00-211*, which concerned the defendant's operation of an aluminum products manufacturing facility located at 17401 South Broadway, Lockport, Will County, Illinois. The State's complaint related to the defendant's alleged failure to control emissions of volatile organic materials ("VOM") in violation of the Illinois Environmental Protection Act and environmental regulations. Count I of the complaint alleged that the defendant failed, as required, to achieve VOM reductions of at least 81% no later than March 15, 1995. Count II alleges that, by failing to control sources accordingly to industry standards, Toyal caused, allowed, or threatened air pollution.

There was no dispute that the defendant was out of compliance with VOM control standards from March 15, 1995 to April 30, 2003. There was also no dispute that the defendant has been in compliance since April 30, 2003. The dispute between the parties was over the appropriate penalty. The Board found that a penalty was appropriate based on several factors:

"In summary, the Board finds that the analysis of the Section 33 (c) factors warrants imposition of a remedy, including a penalty, for Toyal's eight year period of non-compliance. The character and degree of injury to the People's health, safety, and welfare was great, and of long duration. While Toyal certainly has social and economic value as a business and employer, that is undercut during the period of its emission of excess VOM emissions in a non-attainment area. Likewise, the suitability of its location is slightly undercut during the period of non-compliance. It was technically feasible and economically reasonable for Toyal to achieve compliance. To the extent Toyal may have had unusual difficulties, it was free to seek regulatory relief but did not avail itself of the opportunity to do so. The fact that Toyal has continued to be in compliance since 2003, following its eight year non-compliance period, definitely weighs in Toyal's favor."

The Board imposed a \$400,000 penalty plus \$316,440 to recapture the economic benefit that the defendant received from noncompliance. Thus, the total penalty was \$716,440.

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