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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 FELLOWES MANUFACTURING COMPANY, )  
 a/k/a FELLOWES, INC., an Illinois )  
 corporation, )  
 )  
 Respondent. )

04-  
 PCB No. 193  
 (Enforcement-Air)

NOTICE OF FILING

TO: Ms. Susan Harris  
 Sidley, Austin, Brown and Wood  
 Bank One Plaza  
 10 South Dearborn Street  
 Chicago, Illinois 60603

PLEASE TAKE NOTICE that I have today filed the Complaint with the Office of the Clerk of the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and herewith served upon you. Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to advise you that 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. Pursuant to 415 ILCS 5/31(c)(1), I am required to advise you that financing may be available through the Illinois Environmental Facilities Financing Act to correct the violations.

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

BY: Bridget M. Carlson  
 BRIDGET M. CARLSON  
 Assistant Attorney General  
 Environmental Bureau  
 188 West Randolph Street, Suite 2001  
 Chicago, Illinois 60601  
 (312)814-2069  
 Attorney No. 99000

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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 ("Illinois EPA"), complains of the Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, INC., as follows:

COUNT I

FAILURE TO OBTAIN A CONSTRUCTION PERMIT

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 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 this Complaint, Fellowes

Manufacturing Company, a/k/a Fellowes, Inc. ("Fellowes") is and was an Illinois corporation in good standing.

4. At all times relevant to this complaint, Fellowes engaged in the manufacture, assembly, and packaging of office supplies, as well as the manufacture of cardboard boxes with or without printed images, at its manufacturing plant located at 1789 Norwood Avenue, Itasca, DuPage County, Illinois ("facility").

5. Fellowes began operating its facility prior to 1990 on a date better known to it, and from that time operations at the facility included 15 injection molding machines and two flexographic printing lines. Beginning in 1995, Fellowes operated two additional flexographic printing lines.

6. Fellowes' operation of its 15 injection molding machines and its four flexographic printing lines results in the emission of volatile organic materials ("VOMs"), also known as volatile organic compounds ("VOCs").

7. Respondent'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").

8. Sections 9(b) of the Act, 415 ILCS 5/9(b) (2002), provide 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 Agency, or in violation of any conditions imposed by such permit.

9. Section 201.142 of the 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 Sections 201.146 or Section 201.170(b) of this Part.

10. Section 3.315 of the Act, 415 ILCS 5/3.315(2002), contains 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.

11. Respondent Fellowes, is a "person" as that term is

defined in Section 3.315 of the Act, 415 ILCS 5/3.315(2002).

12. Section 3.165 of the Act, 415 ILCS 5/3.165(2002), provides as follows:

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

13. VOM is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165(2002).

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

"Emission source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"Specified air contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

15. VOM 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.

16. Fellowes' 15 injection molding machines and its four flexographic printing lines are "emission source[s]" as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

17. Fellowes, on dates better known to it, installed four flexographic printing lines and 15 injection molding machines in its facility in the late 1980's or early 1990's.

18. Fellowes did not obtain construction permits from the Illinois EPA prior to installing any of its 19 emission sources.

19. By failing to obtain construction permits prior to the installation of its four flexographic printing lines and 15 injection molding machines, Fellowes violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 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 judgment in favor of Complainant and against Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, 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 Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering Respondent to cease and desist from further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 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 promulgated thereunder, with an

additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees of the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002); and

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

## COUNT II

### FAILURE TO OBTAIN A STATE OPERATING PERMIT

1. - 16. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and paragraphs 10 through 17 of Count I as paragraphs 1 through 16 of this Count II.

17. 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.

18. Since sometime prior to 1990, the actual dates being better known to Fellowes, through April 1, 2003, Fellowes has

been operating two flexographic printing lines and 15 injection molding machines without the required State operating Permit.

19. From 1995 through April 1, 2003, Fellowes has been operating an additional two flexographic printing lines without the required State operating permit.

20. By operating its 15 injection molding machines and the four flexographic printing lines without a State operating permit until April 1, 2003, Fellowes violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

21. By violating Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, Fellowes violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter judgment in favor of Complainant and against Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, 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 Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

3. Ordering Respondent to cease and desist from further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 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 promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees of the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(2002); and

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

### COUNT III

#### FAILURE TO SUBMIT A CLEAN AIR ACT PERMIT PROGRAM APPLICATION

1. - 16. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and paragraphs 10 through 17 of Count I as paragraphs 1 through 16 of this Count III.

17. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2002), provides as follows:

- b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

18. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002), contains the following definition:

"Major source" means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph 2(c) of this Section.

19. Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(2)(c)(iii)(A) (2002), provides, in pertinent part as follows:

c. For purposes of this Section the term "major source" means any source that is:

\* \* \*

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme" . . .

20. DuPage County is designated as "severe" non-attainment for ozone.

21. Since at least March 1995, the effective date of the Clean Air Act Permit Program ("CAAPP"), Fellowes has had the potential to emit more than 25 tons per year of VOMs from its facility.

22. Fellowes' facility is a "major source" as that term is

defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1)(2002).

23. As a major source, Fellowes was required to submit a CAAPP permit application to the Illinois EPA no later than September 1995, but failed to do so until July 2002.

24. By failing to timely submit an application for a CAAPP permit, Fellowes violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter judgment in favor of Complainant and against Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, 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 Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002);

3. Ordering Respondent to cease and desist from further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2002);

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. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees of the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002); and

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

#### COUNT IV

##### CONSTRUCTION OF A MAJOR STATIONARY SOURCE IN VIOLATION OF NEW SOURCE REVIEW

1. - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and paragraphs 10 through 18 of Count I, and paragraph 21 of Count III as paragraphs 1 through 18 of this Count IV.

19. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), 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.

20. Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201, provides, in pertinent part, as follows:

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources of major modifications of sources that emit volatile organic material or nitrogen oxides....

21. Section 203.206(b)(1)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.206(b)(1)(C), provides, in pertinent part, as follows:

b. The following constitute a major stationary source:

1. For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit volatile organic material in amount equal to or greater than the following:

\* \* \*

C. 25 tons per year in an area classified as severe nonattainment for ozone...

22. Sometime during 1995, on dates better known to it, Fellowes constructed two flexographic printing lines each with the potential to emit greater than 25 tons per year of the contaminant VOM.

23. The addition of Fellowes two additional flexographic printing lines created a potential net emissions increase of 101

tons per year of the contaminant VOM.

24. The two flexographic printing lines constructed by Fellowes are major stationary sources as that term is defined in Section 203.206(b)(1)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.206(b)(1)(C).

25. Fellowes constructed two major stationary sources without first obtaining a construction permit and without demonstrating compliance with the Board's regulations pertaining to New Source Review in violation of Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201.

26. By violating Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201, Fellowes violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter judgment in favor of Complainant and against Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, 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 Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201;

3. Ordering Respondent to cease and desist from further

violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 203.201 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 203.201;

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. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees of the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(2002);

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

#### COUNT V

##### FAILURE TO SUBMIT ANNUAL EMISSIONS REPORTS

1. - 17. Complainant realleges and incorporates by reference herein paragraphs 1 through 8 and paragraphs 10 through 17 of Count I, and paragraph 19 of Count IV as paragraphs 1 through 17 of this Count V.

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 in 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 where necessary to accomplish the purposes of the Act and this Chapter.

19. Section 254.132(a) of the Illinois EPA 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 a violation of this Part and 35 Ill. Adm. Code 201.302(a).

20. Since 1992, Fellowes as an owner operator, has been required to submit Annual Emissions Reports ("AERs") to the Illinois EPA by May 1 of each year.

21. Fellowes failed to submit AERs for calendar years 1992 through 2001, until October 14, 2002.

22. By failing to timely submit AERs for the calendar years 1992 through 2001, Fellowes 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).

23. By violating 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), Fellowes violated Section 9(a) of the Act,



415 ILCS 9(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter judgment in favor of Complainant and against Respondent, FELLOWES MANUFACTURING COMPANY, a/k/a FELLOWES, INC., on this Count V 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), 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 further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), 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 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. Ordering Respondent to pay all costs of this action,

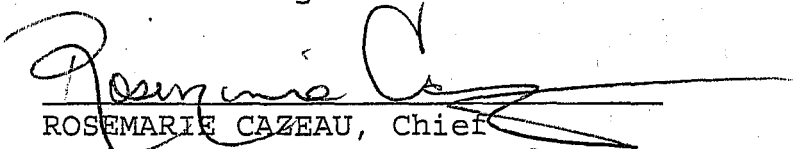
including attorney, expert witness and consultant fees of the State in its pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(2002);

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  
Assistant Attorney General  
Environmental Bureau North

Of Counsel:  
BRIDGET M. CARLSON  
Assistant Attorney General  
Environmental Bureau North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601  
(312)814-0608

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the Complaint was sent by certified mail with return receipt requested to each of the persons listed on the Notice of Filing on May 6, 2004.

BY: Bridget M. Carlson  
BRIDGET M. CARLSON

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on May 6, 2004:

Pollution Control Board, Attn: Clerk  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

BY: Bridget M. Carlson  
BRIDGET M. CARLSON