

BEFORE THE POLLUTION CONTROL BOARD

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AUG 09 2004

STATE OF ILLINOIS
Pollution Control Board

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

Complainant,)

v.)

CFM U.S. CORPORATION f/k/a)
THE VERMONT CASTINGS MAJESTIC)
PRODUCTS COMPANY a Delaware)
Corporation,)

Respondent.)

PCB No. 05-26
(Enforcement - Air)

NOTICE OF FILING

TO: Ms. Mary A Gade
Ms. Cynthia A. Faur
Sonnenschein Nath & Rosenthal
8000 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

PLEASE TAKE NOTICE that I have today filed the **Complaint, Stipulation and Proposal for Settlement, and Motion to Request Relief From Hearing Requirement** with the Office of the Clerk of the Illinois Pollution Control Board, true and correct copies of which are attached hereto and herewith served upon you.

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

BY: Michael C. ParTEE

MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069

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MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), and Section 103.300 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 103.300. In support of its Motion, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

* * *

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the

State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

(a) *Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act*

3. On August 9, 2004, the same date as this Motion, a Complaint and Stipulation and Proposal for Settlement with Respondent were both filed with the Board.

4. No hearing is currently scheduled in this case.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act.

Respectfully submitted,

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

BY:



MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069

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 THE VERMONT CASTINGS MAJESTIC)
 PRODUCTS COMPANY a Delaware)
 Corporation,)
)
 Respondent.)

PCB No. 05-26
 (Enforcement - Air)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, CFM U.S. CORPORATION f/k/a THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, a Delaware corporation, pursuant to 35 Ill. Adm. Code 103.302, do hereby agree to this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for acceptance. The parties stipulate that the statement of facts contained herein represents a fair summary of the evidence and testimony that would be introduced by the parties if a hearing were held. The parties further stipulate that the facts contained herein are made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation nor any of the facts stipulated herein shall be used for any purpose in this or any other proceeding, except to enforce the terms hereof by the parties to this Stipulation, and as otherwise provided herein. If the Board accepts and enters this

Stipulation, the parties agree to be bound by it and not to contest its validity in any subsequent proceeding to implement or enforce its terms, except for purposes of interpretation as provided for under Section VI (Forum) herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, et seq. (2002).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into this Stipulation and to legally bind them to it. This Stipulation may be signed in counterparts, all of which shall be considered one settlement.

III.

STATEMENT OF FACTS

A. Parties

1. Simultaneous with the filing of this Stipulation, a Complaint was filed 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

against Respondent pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002).

3. At all times relevant to the Complaint, Respondent, CFM U.S. CORPORATION f/k/a THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, was and is a Delaware corporation authorized to transact business in the State of Illinois.

B. Description of Respondent's Facilities

1. Skokie Facility

a. At all times relevant to the Complaint, Respondent, doing business as CFM HARRIS SYSTEMS, INC., owned and operated two buildings that are adjacent to each other, one located at 7500 North St. Louis Avenue, Skokie, Cook County, Illinois, and the other located at 3501 West Howard Street, Skokie, Cook County, Illinois (collectively, the "Skokie facility").

b. Respondent assembled fireplace doors and screens and manufactured and coated wood fireplace mantles at its Skokie facility from about 1998 until about March 2004 when it closed.

c. Respondent constructed a powder coating line with a cure oven at its Skokie facility in about 1999.

d. Complainant contends that Respondent operated from about 1998 until May 2002 without submitting to the Illinois EPA an operating program to reduce fugitive particulate matter

emissions from internal road traffic and parking areas at its Skokie facility.

e. Complainant contends that Respondent failed to certify to the Illinois EPA upon start-up in about 1998 that its wood coating line was exempt from applicable emission limitations.

f. Complainant contends that Respondent failed to submit complete Annual Emission Reports for its Skokie facility for the years 1998 through 2001.

g. Complainant also contends that Respondent failed to obtain a construction permit from the Illinois EPA prior to constructing a powder coating line with cure oven.

2. Lincolnwood Facility

a. At all times relevant to the Complaint, Respondent, doing business as CFM HARRIS SYSTEMS, INC., owned and operated a building located at 7084 North McCormick Boulevard, Lincolnwood, Cook County, Illinois ("Lincolnwood facility").

b. Respondent cast and coated concrete fireplace logs and coated metal fireplace accessories at its Lincolnwood facility from about August 1998 until early 2004 when it closed.

c. On July 13, 1998, the Illinois EPA issued lifetime operating permit no. 98040098 to Respondent for a coating operation utilizing a cure oven at its Lincolnwood facility.

d. Complainant contends that Respondent failed to submit to the Illinois EPA an operating program to reduce

fugitive particulate matter emissions from traffic areas at its Lincolnwood facility from about August 1998 until May 2002.

e. Complainant contends that Respondent applied coatings containing VOM in excess of 3.3 pounds per gallon from about August 1998 to 2002.

f. Complainant contends that Respondent failed to collect and maintain required information regarding the coatings, coating thinners, and solvents used in its coating operation from about August 1998 through June 2002, including but not limited to the types, VOM content, actual usage rates and amounts, and VOM emissions from each coating used at its Lincolnwood facility.

g. Complainant also contends that Respondent failed to submit complete Annual Emission Reports for its Lincolnwood facility from about August 1998 through 2001.

C. Allegations of Non-Compliance

The Complainant alleges that the Respondent violated the following provisions of the Act, Board and Illinois EPA regulations, and lifetime operating permit no. 98040098:

1. Skokie Facility:

Count I: Failure to submit an operating program for fugitive particulate matter emissions in violation of Section 9(a) of the Act (415 ILCS 5/9(a) (2002)) and Section 212.309(a) of Board's Air Pollution Regulations (35 Ill. Adm. Code 212.309(a));

Count II: Failure to certify exemption from Board's wood furniture coating regulations in

violation of Section 9(a) of the Act and Section 218.211(b)(2) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.211(b)(2));

Count III: Failure to submit complete annual emission reports in violation of Section 9(a) of the Act, Section 201.302(a) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.302(a)), and Part 254 of the Illinois EPA's Air Pollution Regulations (35 Ill. Adm. Code Part 254); and

Count IV: Constructing air pollution emission source without a construction permit in violation of Section 9(b) of the Act (415 ILCS 5/9(b) (2002)) and Section 201.142 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.142).

2. Lincolnwood Facility:

Count V: Failure to submit an operating program for fugitive particulate matter emissions in violation of Section 9(a) of the Act and Section 212.309(a) of the Board's Air Pollution Regulations;

Count VI: Use of noncompliant coatings in violation of Sections 9(a) and (b) of the Act, Section 218.204(j)(2)(B) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.204(j)(2)(B)), and Special Condition 3(a) of Respondent's lifetime operating permit no. 98040098;

Count VII: Failure to maintain operating records in violation of Sections 9(a) and (b) of the Act, Section 218.211(c)(2) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.211(c)(2)), and Special Conditions 7(a)(i) through (v) of Respondent's lifetime operating permit no. 98040098; and

Count VIII: Failure to submit complete annual emission reports in violation of Section 9(a) of the Act, Section 201.302(a) of the Board's Air Pollution Regulations, and Part 254 of the Illinois EPA's Air Pollution Regulations.

D. Non-admission of Alleged Violations

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this case and listed herein.

IV.

APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken to enforce this Stipulation the failure of any of its officers, directors, agents or employees to take such action as shall be required to comply with the provisions of this Stipulation.

V.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the Respondent's responsibility to comply with any other federal, State or local laws or regulations, including, but not limited to, the Act, Board and Illinois EPA regulations, and applicable Illinois EPA-issued permits.

VI.

FORUM

The parties agree that the forum of any action commenced for the purposes of interpretation and enforcement of the terms and conditions of this Stipulation shall be the Circuit Court of Cook County, Illinois.

VII.

SEVERABILITY

It is the intent of the parties that the provisions of this Stipulation shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with State or federal law, and therefore unenforceable, the remaining provisions shall remain in full force and effect.

VIII.

FACTS AND CIRCUMSTANCES BEARING UPON THE
REASONABLENESS OF THE ALLEGED VIOLATIONS

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

(c) In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:

(i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

(ii) the social and economic value of the pollution source;

(iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

(iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and

(v) any subsequent compliance.

In response to the factors set forth in Section 33(c) of the Act, the parties state as follows:

1. This case largely involves paperwork violations of the air pollution provisions of the Act, Board and Illinois EPA regulations, and Respondent's lifetime operating permit no. 98040098. Air pollution constitutes a serious threat to human health and the environment. A violation of the paperwork and permitting requirements frustrates the State's enforcement program and its ability to protect against environmental damage. In addition, Respondent caused or allowed the release of excess VOM emissions to the environment as a result of its use of noncompliant coatings.

2. The manufacture of fireplace accessories, when done in accordance with the Act, Board and Illinois EPA regulations, and permit requirements, has social and economic value.

3. The priority and location of the facility was suitable for the area in which it was located.

4. Compliance with the requirements of the Act, Board and Illinois EPA regulations, and Respondent's lifetime operating

permit no. 98040098 was technically practicable and economically reasonable.

5. Subsequent to the time frame of the alleged violations, the Respondent has acted in compliance with the Act, Board and Illinois EPA regulations, and lifetime operating permit no. 98040098.

IX.

CONSIDERATION OF THE SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

Civil penalties.

* * *

(h) In determining the appropriate civil penalty to be imposed under subdivisions (a), (b) (1), (b) (2), (b) (3), or (b) (5) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

(1) the duration and gravity of the violation;

(2) the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

(3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by lowest cost alternative for achieving compliance;

(4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act; and

(5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

(6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and

(7) whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally obligated to perform.

In response to the above factors set forth in Section 42(h) of the Act, the parties state as follows:

1. The Complainant contends that the duration of each violation varies, but is generally from 1998 to 2001 or for a period of about three years. The Complainant contends that the gravity of the violations was high because the subject facility is located in an ozone nonattainment area and because Respondent's failure to comply with paperwork requirements and its use of noncompliant coatings compromised the integrity of the State's enforcement program.

2. Following the time frame of the violations, the Respondent exhibited due diligence by remedying the violations and exhibited due diligence in its methods of operation by complying with the requirements of the Act, Board and Illinois regulations, and lifetime operating permit no. 98040098.

3. Because of a delay in compliance with requirements, the parties stipulate that approximately half of the \$46,000.00 civil

penalty against the Respondent goes to negate the economic benefit accrued as a result of the delay in compliance.

4. The Complainant contends that the civil penalty to be paid by the Respondent will serve to deter any future violations of the Act, Board and Illinois EPA regulations, and permit requirements, and will enhance voluntary compliance with State and federal environmental laws. The Complainant further contends that approximately half of the \$46,000.00 civil penalty against the Respondent is deterrence-based.

5. Respondent represents that it has no previously adjudicated violations of the Act.

6. Respondent did not voluntarily self-disclose, in accordance with Section 42(i) of the Act, the alleged violations to the Illinois EPA.

7. Respondent has not agreed to undertake a supplemental environmental project in settlement.

X.

TERMS OF SETTLEMENT

A. Penalty

1. The Respondent shall pay a civil penalty of Forty-Six Thousand Dollars (\$46,000.00) within 30 calendar days after the date upon which the Board issues a final order accepting this Stipulation.

2. The Respondent's civil penalty payment shall be made by check, money order or electronic funds transfer, payable to the

Illinois EPA for deposit in the Environmental Protection Trust Fund ("EPTF") and shall be sent by first class mail, unless submitted by electronic funds transfer, and delivered to:

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

3. The name, case number, and Respondent's Federal Employer Identification Number ("FEIN"), 98-0167018, shall appear on the face of the check or money order. A copy of the check, money order or record of electronic funds transfer and the transmittal letter shall be sent to:

Michael C. Partee (or other designee)
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

4. For purposes of payment and collection, the Respondent's attorney may be reached at the following address:

Mary A. Gade
Sonnenschein, Nath & Rosenthal
8000 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

5. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees, as determined by the Circuit Court.

B. Interest on Penalties

1. As required by Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein, at the

maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2004).

2. Interest on any unpaid penalty shall begin to accrue from the date the penalty is due and continue to accrue to the date full payment is received by the Illinois EPA.

3. Where partial payment is made on the penalty amount that is due, such partial payment shall be first applied to any interest on the unpaid penalty then owing.

4. All interest on the penalty owed the Complainant shall be paid by check, money order or electronic funds transfer payable to the Illinois EPA for deposit in the EPTF at the above-indicated address. The name, case number, and Respondent's FEIN shall appear on the face of the check or money order. A copy of the check, money order or record of electronic funds transfer and the transmittal letter shall be sent to:

Michael C. Partee (or other designee)
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

C. Future Use

Notwithstanding any other language in this Stipulation to the contrary, the Respondent agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action as proof of a past adjudication of violation of the Act and the Board and Illinois EPA regulations for all violations alleged in the complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and (i) and/or 5/42(h)

(2002). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action, any allegations that these alleged violations were adjudicated.

D. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board and Illinois EPA regulations that were the subject matter of the Complaint as outlined in Section III.C of this Stipulation.

E. Release from Liability

1. In consideration of the Respondent's payment of a \$46,000.00 penalty and any accrued interest thereon, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act, Board and Illinois EPA regulations, and Respondent's lifetime operating permit no. 98040098 that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in the Complainant's Complaint filed simultaneous with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of State, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and

d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

2. Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), or entity other than Respondent.

F. Enforcement of Settlement

1. Upon the acceptance of this Stipulation by the Board, any party hereto, upon motion, may reinstate these proceedings solely for the purpose of enforcing the terms and conditions of this Stipulation. This Stipulation is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. The Respondent agree that notice of any subsequent proceeding to enforce this Stipulation may be made by mail and waives any requirement of service of process.

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WHEREFORE, the parties, by their representatives, enter into this Stipulation and submit it to the Board that it may be accepted and entered.

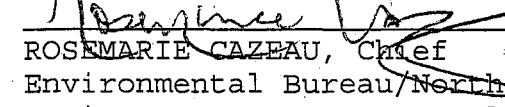
AGREED:

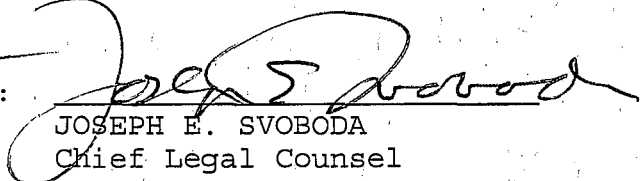
FOR THE COMPLAINANT:

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau/North
Assistant Attorney General

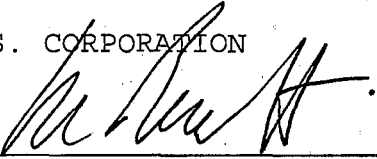
BY: 
JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: 7/19/04

DATE: 7/12/04

FOR THE RESPONDENT:

CFM U.S. CORPORATION

BY: 

ITS: PRESIDENT

DATE: 7/28/04

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, a Delaware corporation, as follows:

A. VIOLATIONS AT RESPONDENT'S FACILITY
IN SKOKIE, COOK COUNTY, ILLINOIS

COUNT I

FAILURE TO SUBMIT AN OPERATING PROGRAM
FOR FUGITIVE PARTICULATE MATTER EMISSIONS

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 in proceedings before the Illinois Pollution Control Board ("Board").

3. At all times relevant to the Complaint, Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, was and is a Delaware corporation authorized to transact business in the State of Illinois.

4. THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY changed its name to CFM U.S. CORPORATION on or about February 25, 2004.

5. At all times relevant to the Complaint, Respondent, doing business as CFM HARRIS SYSTEMS, INC., owned and operated two buildings that are adjacent to each other, one located at 7500 North St. Louis Avenue, Skokie, Cook County, Illinois, and the other located at 3501 West Howard Street, Skokie, Cook County, Illinois (collectively, the "Skokie facility").

6. Respondent assembled fireplace doors and screens and manufactured and coated wood fireplace mantles at its Skokie facility from about 1998 until about March 2004 when it closed.

7. Respondent's Skokie facility emitted fugitive particulate matter to the atmosphere from internal road traffic and parking areas.

8. From about 1998 until May 2002, Respondent operated without submitting to the Illinois EPA an operating program to reduce fugitive particulate matter emissions from internal road traffic and parking areas at its Skokie facility.

9. Respondent's Skokie facility was subject to the Act and the regulations promulgated by the Board and Illinois EPA in Title 35, Subtitle B of the Illinois Administrative Code.

10. 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.

11. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), provides as follows:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

12. The particulate matter emitted from Respondent's Skokie facility was a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

13. The particulate matter emitted from Respondent's Skokie facility was present in the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property and, therefore, constituted "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2002).

14. Section 212.306 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.306, provides as follows:

Traffic Areas.

All normal traffic pattern access areas surrounding storage piles specified in Section 212.304 of this

Subpart and all normal traffic pattern roads and parking facilities which are located on mining or manufacturing property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Sections 212.309, 212.310 and 212.312 of this Subpart.

15. The internal road traffic and parking areas at Respondent's Skokie facility constituted "traffic areas" as defined in Section 212.306 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.306.

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

Acts prohibited. 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;

17. Section 212.309(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), provides as follows:
Operating Program.

- (a) The emission units described in Sections 212.304 through 212.308 and Section 212.316 of this Subpart shall be operated under the provisions of an operating program, consistent with the requirements set forth in Sections 212.310 and 212.312 of this Subpart, and prepared by the owner or operator and submitted to the Agency for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.

18. By failing to submit to the Illinois EPA an operating program to reduce fugitive particulate matter emissions from

traffic areas at its Skokie facility from about 1998 until May 2002, Respondent violated Section 212.309(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a).

19. By violating Section 212.309(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), Respondent also 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 an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT II

FAILURE TO CERTIFY EXEMPTION FROM
BOARD'S WOOD FURNITURE COATING REGULATIONS

1-9. Complainant realleges and incorporates by reference herein paragraphs 1 through 9 of Count I as paragraphs 1 through 9 of this Count II.

10. Respondent constructed emission sources at its Skokie facility between 1997 and 1998, including a curing oven, burn-off oven, and wood coating line.

11. Respondent used coatings, and coating thinners and solvents in its wood coating line, which resulted in the emission of volatile organic materials ("VOM") to the atmosphere from the Skokie facility.

12. Respondent operated the curing oven, burn-off oven, and wood coating line from about 1998 until about March 2004.

13. At the time Respondent started operating its wood coating operations in about 1998, Respondent was required to notify the Illinois EPA that said operations were exempt from the Board's Air Pollution Regulations for wood furniture coating at Part 218 of the Board's Air Pollution Regulations under 35 Ill. Adm. Code.

14-15. Complainant realleges and incorporates by reference herein paragraphs 10 and 11 of Count I as paragraphs 14 and 15 of this Count II.

16. The VOM emitted from Respondent's Skokie facility was a "contaminant" as that term is defined in Section 3.165 of the Act,

415 ILCS 5/3.165 (2002).

17. The VOM emitted from Respondent's Skokie facility was present in the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property and, therefore, constituted "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2002).

18. Complainant realleges and incorporates by reference herein paragraph 16 of Count I as paragraph 18 of this Count II.

19. Section 218.211(b) (2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(b) (2), provides as follows:

Recordkeeping and Reporting.

* * *

(b) Any owner or operator of a coating line which is exempted from the limitations of Section 218.204 of the Subpart because of Section 218.208(a) or (b) of this Subpart shall comply with the following:

* * *

(2) For sources exempt under Section 218.208(b) of this Subpart, by March 15, 1998, or upon initial start-up, the owner or operator of a coating line or a group of coating lines referenced in subsection (b) of this Section shall certify to the Agency that the source is exempt under the provisions of Section 218.208(b) of this Subpart. Such certification shall include:

(A) A declaration that the source is exempt from the limitations of Section 218.204(1) of this Subpart because of Section 218.208(b) of this Subpart; and

(B) Calculations which demonstrate that the source meets the criteria for

exemption because of Section
218.208(b) of this Subpart.

20. Section 218.208(b) of the Board's Air Pollution
Regulations, 35 Ill. Adm. Code 218.208(b), provides as follows:

Exemptions from Emission Limitations.

* * *

(b) Applicability for wood furniture coating

(1) The limitations of this Subpart shall apply to a source's wood furniture coating lines if the source contains process emission units, not regulated by Subparts B, E, F (excluding Section 218.204 (1) of this Subpart), H (excluding Section 218.405 of this Part), Q, R, S, T (excluding Section 218.486 of this Part), V, X, Y, or BB of this Part, which as a group both:

(A) Have a maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used; and

(B) Are not limited to less than 91 Mg (100 tons) of VOM per calendar year if no air pollution control equipment were used, through production or capacity limitations contained in a federally enforceable permit or SIP revision.

(2) The limitations of this Subpart shall apply to a source's wood furniture coating lines, on and after March 15, 1996, if the source contains process emission units, which as a group, have a potential to emit 22.7 Mg (25 tons) or more of VOM per calendar year and have not limited emissions to less than 22.7 Mg (25 tons) of VOM per calendar year through production or capacity limitations contained in a federally enforceable operating permit or SIP revision, and which:

(A) Are not regulated by Subparts B, E, F (excluding Section 218.204 (1) of this Subpart), H, Q, R, S, T (excluding Section 218.486 of this Part), V, X, Y, Z or BB of this Part; and

- (B) Are not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.
- (3) If a source ceases to fulfill the criteria of subsection (b) (1) or (b) (2) of this Section, the limitations of Section 218.204 (1) of this Subpart shall continue to apply to any wood furniture coating line which was ever subject to the limitations of Section 218.204 (1) of this Subpart.
- (4) For the purposes of subsection (b) of this Section, an emission unit shall be considered to be regulated by a Subpart if it is subject to the limitations of that Subpart. An emission unit is not considered regulated by a Subpart if it is not subject to the limits of that Subpart, e.g., the emission unit is covered by an exemption in the Subpart or the applicability criteria of the Subpart are not met.
- (5) Any owner or operator of a wood furniture coating line to which the limitations of this Subpart are not applicable due to the criteria in subsection (b) of this Section shall, upon request by the Agency or the USEPA, submit records to the Agency and the USEPA within 30 calendar days from the date of the request that document that the coating line is exempt from the limitations of this Subpart.

21. Respondent's wood coating line met the exemption criteria under Section 218.208(b) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.208(b).

22. However, in order to avoid the permitting requirement, Respondent was required to certify to the Illinois EPA upon initial start-up in about 1998 that its wood coating line was exempt

pursuant to Section 218.211(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(b)(2).

23. Respondent failed to certify to the Illinois EPA upon start-up in about 1998 that its wood coating line was exempt.

24. By failing to certify to the Illinois EPA upon start-up in about 1998 that its wood coating line was exempt, Respondent violated Section 218.211(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(b)(2).

25. By violating Section 218.211(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(b)(2), Respondent also 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 an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued

thereafter;

5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT III

FAILURE TO SUBMIT COMPLETE ANNUAL EMISSIONS REPORTS

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count II as paragraphs 1 through 13 of this Count III.

14. Respondent submitted Annual Emission Reports for its Skokie facility to the Illinois EPA for the years 1998 through 2001, but Respondent did not include emissions of wood coatings, coating thinners, and solvents in any of these reports.

15-19. Complainant realleges and incorporates by reference herein paragraphs 14 through 18 of Count II as paragraphs 15 through 19 of this Count III.

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

- (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.

21. Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to File a Complete Report.

(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).

22. By failing to include emissions of wood coatings, coating thinners, and solvents in its Annual Emission Reports for its Skokie facility for the years 1998 through 2001, Respondent failed to submit complete reports to the Illinois EPA for these years.

23. By failing to submit complete Annual Emission Reports to the Illinois EPA for the years 1998 through 2001, Respondent violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Part 254 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code Part 254.

24. By violating Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Part 254 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code Part 254, Respondent also 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 an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT IV

CONSTRUCTING AIR POLLUTION EMISSION SOURCE WITHOUT CONSTRUCTION PERMIT

- 1-9. Complainant realleges and incorporates by reference herein paragraphs 1 through 9 of Count I as paragraphs 1 through 9 of this Count IV.
10. Respondent also constructed a powder coating line with a cure oven in about 1999 at its Skokie facility.
11. The powder coating line with cure oven that Respondent constructed in about 1999 at its Skokie facility had the capability of causing or contributing nitrous oxides ("NO_x"), carbon monoxide

("CO") and VOM to the atmosphere.

12. On May 30, 2000, the Illinois EPA issued construction permit no. 00030009 to Respondent for the powder coating line with cure oven at its Skokie facility.

13-14. Plaintiff realleges and incorporates by reference herein paragraphs 10 and 11 of Count I as paragraphs 13 and 14 of this Count IV.

15. NO_x, CO and VOM are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

16. The powder coating line with cure oven had the capability to emit one or more of these contaminants to the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property and, therefore, as to constitute "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2002).

17. 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 Agency, or in violation of any conditions imposed by such permit;

18. Section 201.142 of the Board's Air Pollution

Regulations, 35 Ill. Adm. Code 201.142, provides, in relevant part, as follows:

Construction Permit Required.

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,

19. Section 201.102 of the Board's Air Pollution

Regulations, 35 Ill. Adm. Code 201.102, provides, in relevant part, as follows:

Definitions

* * *

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

* * *

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

20. The powder coating line with cure oven at Respondent's Skokie facility, which was constructed after April 14, 1972, was a "new emission source" as that term is defined in Section 201.102 of the Board's Air Pollution Regulations.

21. Respondent failed to obtain a construction permit from the Illinois EPA prior to causing or allowing the construction of this new emission source in about 1999.

22. By failing to obtain a construction permit from the Illinois EPA prior to causing or allowing construction of this new emission source in about 1999, Respondent violated Section 9(b) of the Act and Section 201.142 of the Board's Air Pollution Regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on this Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

B. VIOLATIONS AT RESPONDENT'S FACILITY
IN LINCOLNWOOD, COOK COUNTY, ILLINOIS

COUNT V

FAILURE TO SUBMIT AN OPERATING PROGRAM
FOR FUGITIVE PARTICULATE MATTER EMISSIONS

1-4. Complainant realleges and incorporates by reference herein paragraphs 1 through 4 of Count I as paragraphs 1 through 4 of this Count V.

5. At all times relevant to the Complaint, Respondent, doing business as CFM HARRIS SYSTEMS, INC., owned and operated a building located at 7084 North McCormick Boulevard, Lincolnwood, Cook County, Illinois ("Lincolnwood facility").

6. Respondent cast and coated concrete fireplace logs and coated other metal fireplace accessories at its Lincolnwood facility from about August 1998 until early 2004 when it closed.

7. Respondent's Lincolnwood facility emitted fugitive particulate matter to the atmosphere from a pile of aggregate and parking areas.

8. From about August 1998 until May 2002, Respondent operated without submitting to the Illinois EPA an operating program to reduce fugitive particulate matter emissions from the pile of aggregate and parking areas.

9. Respondent's Lincolnwood facility was subject to the Act and the regulations promulgated by the Board and Illinois EPA in Title 35, Subtitle B of the Illinois Administrative Code.

10-11. Complainant realleges and incorporates by reference herein paragraphs 10 and 11 of Count I as paragraphs 10 and 11 of

this Count V.

12. The particulate matter emitted from Respondent's Lincolnwood facility was a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

13. The particulate matter emitted from Respondent's Lincolnwood facility was present in the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property and, therefore, constituted "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2002).

14. Complainant realleges and incorporates by reference herein paragraph 14 of Count I as paragraph 14 of this Count V.

15. The the pile of aggregate and parking areas at Respondent's Lincolnwood facility constituted "traffic areas" as defined in Section 212.306 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.306.

16-17. Complainant realleges and incorporates by reference herein paragraphs 16 and 17 of Count I as paragraphs 16 and 17 of this Count V.

18. By failing to submit to the Illinois EPA an operating program to reduce fugitive particulate matter emissions from traffic areas at its Lincolnwood facility from about August 1998 until May 2002, Respondent violated Section 212.309(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a).

19. By violating Section 212.309(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), Respondent also 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 an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT VI

USE OF NONCOMPLIANT COATINGS

1-9. Complainant realleges and incorporates by reference herein paragraphs 1 through 9 of Count V as paragraphs 1 through 9 of this Count VI.

10. On July 13, 1998, the Illinois EPA issued lifetime operating permit no. 98040098 to Respondent for a painting operation utilizing a cure oven at its Lincolnwood facility.

11. Respondent started the painting operation at its Lincolnwood facility in about August 1998.

12. Respondent used coatings, coating thinners, and solvents in its painting operation, which resulted in the emission of VOM to the atmosphere from its Lincolnwood facility.

13. From about August 1998 until 2000, Respondent applied coatings in its painting operation that contained approximately 5.96 pounds of VOM per gallon of coating.

14-15. Complainant realleges and incorporates by reference herein paragraphs 10 and 11 of Count I as paragraphs 14 and 15 of this Count VI.

16. The VOM emitted from Respondent's Lincolnwood was a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

17. The VOM emitted from Respondent's Lincolnwood facility was also present in the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to

unreasonably interfere with the enjoyment of life or property and, therefore, constituted "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2002).

18. Complainant realleges and incorporates by reference herein paragraph 16 of Count I as paragraph 18 of this Count VI.

19. Complainant realleges and incorporates by reference herein paragraph 17 of Count IV as paragraph 19 of this Count VI.

20. Section 218.204(j)(2)(B) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(j)(2)(B), provides, in relevant part, as follows:

Emission Limitations.

Except as provided in Sections 218.205, 218.207, 218.208, 218.212, 218.215 and 218.216 of this Subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. Except as provided in Section 218.204(1), compliance with the emission limitations marked with an asterisk in this Section is required on and after March 15, 1996, and compliance with emission limitations not marked with an asterisk is required until March 15, 1996. The following emission limitations are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator, except where noted. Compounds which are specifically exempted from the definition of VOM should be treated as water for the purpose of calculating the "less water" part of the coating composition. Compliance with this Subpart must be demonstrated through the applicable coating analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.211(c) of this Subpart except where noted. (Note: The equation presented in Section 218.206 of this Part shall be used to calculate emission limitations for determining compliance by add-on controls, credits for transfer efficiency, emissions trades and cross-line averaging.) The emission limitations are as follows:

* * *

(j) Miscellaneous Metal Parts and Products Coating

* * *

(2) Extreme performance coating

* * *

(B) Baked	0.42 [kg/l]	(3.5) [lb/gal]
	0.40 [kg/l]*	(3.3) [lb/gal]*

21. Special Condition 3(a) of Respondent's lifetime

operating permit no. 98040098 provided as follows:

This permit is subject to standard conditions attached hereto and the following special condition(s):

* * *

(3) Pursuant to 35 Ill. Adm. Code 218.204(j)(4)(B) [sic] and 218.986(b), no owner or operator of a coating line shall apply at any time any coating in which the VOM content (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator, exceeds the following emission limitations:

(a) Baked Extreme Performance Metal Coating shall not exceed 3.3 lb/gal;

22. The coatings applied in Respondent's painting operations from about August 1998 to 2000 contained approximately 5.96 pounds of VOM per gallon of coating, which exceeded the 3.3 pounds of VOM per gallon limit in Section 218.204(j)(2)(B) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(j)(2)(B), and in Special Condition 3(a) of Respondent's lifetime operating permit no. 98040098.

23. By applying coatings with VOM that exceeded 3.3 pounds per gallon from about August 1998 to 2000, Respondent violated

Section 218.204(j)(2)(B) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(j)(2)(B), and Special Condition 3(a) of Respondent's lifetime operating permit no. 98040098.

24. By violating Section 218.204(j)(2)(B) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.204(j)(2)(B), and Special Condition 3(a) of Respondent's lifetime operating permit no. 98040098, Respondent also violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT VII

FAILURE TO MAINTAIN OPERATING RECORDS

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count VI as paragraphs 1 through 13 of this Count VII.

14. Respondent did not collect and maintain specific information regarding the coatings, coating thinners and solvents used in its painting operation from about August 1998 through June 2002, including but not limited to the types, VOM content, actual usage rates and amounts, and VOM emissions therefrom.

15-20. Complainant realleges and incorporates by reference herein paragraphs 14 through 19 of Count VI as paragraphs 15 through 20 of this Count VII.

21. Section 218.211(c)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(c)(2), provides as follows:

Recordkeeping and Reporting.

(c) Any owner or operator of a coating line subject to the limitations of Section 218.204 of this Subpart other than Section 218.204(a)(2) or (a)(3) of this Subpart and complying by means of Section 218.204 of this Subpart shall comply with the following:

(2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

- (A) The name and identification number of each coating as applied on each coating line;
- (B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line;
- (C) On and after March 15, 1998, for coating lines subject to the limitations of Section 218.204(1)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line and certified product data sheets for each coating; and
- (D) On and after March 15, 1998, for wood furniture coating spray booths subject to the limitations of Section 218.204(1)(4)(A) of this Subpart, the weight of VOM per weight of solids in each strippable spray booth coating as applied each day on each spray booth and certified product data sheets for each coating.

22. Special Conditions 7(a)(i) through (v) of Respondent's lifetime operating permit no. 98040098 provide as follows:

This permit is subject to standard conditions attached hereto and the following special condition(s):

* * *

- (a) The Permittee shall collect, calculate and record the following information on at least a monthly basis:
 - (i) A list giving the name and identification number of each coating, solvent, clean-up solvent, and any other material used containing VOM and/or HAP;
 - (ii) VOM content in pounds VOM per gallon of coating as applied (minus water and any compounds which are specifically exempt from the definition of VOM) for

each coating used;

- (iii) Actual usage rate of each material containing VOM and/or HAP, in gallons per month;
- (iv) The calculated monthly and annual usage, in pounds of VOM and pounds of each HAP; and [sic]
- (v) Emissions of VOM, total combined HAPs, and of single HAPs on a monthly basis and 12 month running total basis in pounds per month, and tons per year.

23. By failing to collect and maintain the information specified under Section 218.211(c)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(c)(2), and Special Conditions 7(a)(i) through (v) of Respondent's lifetime operating permit no. 98040098 from about August 1998 through June 2002, Respondent violated these provisions of the Board's Air Pollution Regulations and Respondent's lifetime operating permit no. 98040098.

24. By violating Section 218.211(c)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.211(c)(2), and Special Conditions 7(a)(i) through (v) of Respondent's lifetime operating permit no. 98040098, Respondent also violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on 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 violated the Act and regulations as alleged herein;
3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees 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.

COUNT VIII

FAILURE TO SUBMIT COMPLETE ANNUAL EMISSIONS REPORTS

- 1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count VI as paragraphs 1 through 13 of this Count VIII.
14. Respondent submitted Annual Emission Reports for its Lincolnwood facility to the Illinois EPA for the years 1998 through 2001, but Respondent did not include emissions of coating thinners and solvents in any of these reports.

15-19. Complainant realleges and incorporates by reference herein paragraphs 14 through 18 of Count VI as paragraphs 15 through 19 of this Count VIII.

20-21. Complainant realleges and incorporates by reference herein paragraphs 20 and 21 of Count III as paragraphs 20 and 21 of this Count VIII.

22. By failing to include emissions from coating thinners and solvents in its Annual Emission Reports to the Illinois EPA for the years 1998 through 2001, Respondent violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Part 254 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code Part 254.

23. By violating Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Part 254 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code Part 254, Respondent also 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 an order in favor of Complainant and against Respondent, CFM U.S. CORPORATION formerly known as THE VERMONT CASTINGS MAJESTIC PRODUCTS COMPANY, on this Count VIII:

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

2. Finding that Respondent violated the Act and regulations as alleged herein;

3. Ordering Respondent to cease and desist from any further violations of the Act and regulations;

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation of the Act and regulations, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which each violation continued thereafter;

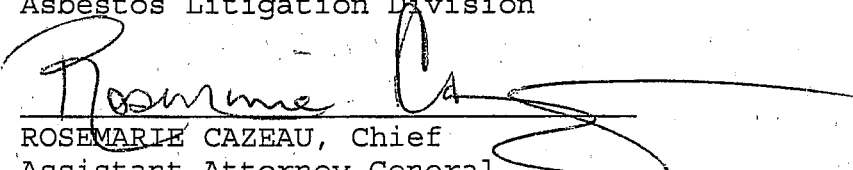
5. Awarding to Complainant its costs and reasonable attorney's fees pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002); and

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

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

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

BY:


ROSEMARIE CAZEAU, Chief
Assistant Attorney General
Environmental Bureau/North

OF COUNSEL:

MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069

CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of the Notice of Filing, Complaint, Stipulation and Proposal for Settlement, and Motion to Request Relief From Hearing Requirement were sent by certified mail with return receipt requested to the person listed on the Notice of Filing on August 9, 2004.

BY: Michael C. ParTEE
MICHAEL C. PARTEE

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

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

BY: Michael C. ParTEE
MICHAEL C. PARTEE