

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2004

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	PCB 05-26
CFM U.S. CORPORATION f/k/a THE	)	(Enforcement - Air)
VERMONT CASTINGS MAJESTIC	)	
PRODUCTS COMPANY, a Delaware	)	
corporation,,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On August 9, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against CFM U.S. Corporation. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns CFM U.S. Corporation's fireplace screen and door assembly and coated wood fireplace mantle manufacturing facility at two adjacent properties at 7500 North St. Louis Avenue and 3501 West Howard Street, in Skokie, Cook County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that CFM U.S. Corporation violated Section 9(a) and (b) of the Act (415 ILCS 5/9(a) and (b) (2002)) and 35 Ill. Adm. Code 201.142, 201.302(a), 212.309(a), 218.204(j)(2)(B), and 218.211(b)(2) and (c)(2); and special conditions 7(a)(i) through (a)(v) of lifetime operating permit no. 98040098.

The People further allege that CFM U.S. Corporation violated these provisions by (1) failing to submit an operating program for fugitive particulate matter emissions; (2) failing to certify exemption from the wood furniture coating regulations; (3) failing to submit complete annual emissions reports; (4) constructing an air pollutant emission source without a permit; (5) failing to submit an operating program for fugitive particulate emissions; (6) using non-compliant coatings; (7) failing to maintain operating records; and (8) failing to submit complete annual emissions reports.

On August 9, 2004, the People and CFM U.S. Corporation filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), which requires that the public have an opportunity to

request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Skokie Review/Pioneer Press* on September 2, 2004. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2002); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of CFM U.S. Corporation's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2002)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

CFM U.S. Corporation neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$46,000. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended* by P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. CFM U.S. Corporation agrees to pay a civil penalty of \$46,000, which the parties stipulate is at least as great as CFM U.S. Corporation's economic benefit from delayed compliance, if any.

The People and CFM U.S. Corporation have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

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

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. CFM U.S. Corporation must pay a civil penalty of \$46,000 no later than November 6, 2004, which is the 30th day after the date of this order. CFM U.S. Corporation must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and CFM U.S. Corporation's federal employer identification number must be included on the certified check or money order.
3. CFM U.S. Corporation must send the certified check or money order to:

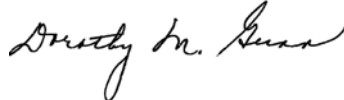
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. CFM U.S. Corporation must cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 7, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board