

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF	)	
ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 08-
	)	(Enforcement - Air)
CFC INTERNATIONAL, INC., a	)	
Delaware corporation,	)	
	)	
Respondent.	)	

COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, CFC INTERNATIONAL, INC., a Delaware corporation, as follows:

**COUNT I**

CONSTRUCTING AIR EMISSION SOURCES WITHOUT A PERMIT

1. This Complaint 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 the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006), and is an action for civil penalties.

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2006), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation authorized to transact business in the State of Illinois. As of June, 2006, Respondent is a division of Illinois Tool Works Inc., a Delaware corporation.

4. Respondent operates a coated film processing facility located at 500 State Street, Chicago Heights, Cook County, Illinois ("Site" or "Chicago Heights Facility").

5. At the Site, Respondent coats rolls of plastic film using mixing, blending and coating operations. Respondent sells the coated film to its customers, who transfer the coatings to their products or laminate them on to a substrate for decorative, protective or informative purposes.

6. The processes at the Chicago Heights Facility involve regulated emissions of volatile organic materials ("VOMs") and hazardous air pollutants ("HAPs") such as solvents and thinners.

7. Emission sources at the Chicago Heights Facility include the Milling Operations [three (3) ball mills and three (3) horizontal mills], Mixing and Blending Operations [one (1) mixing tank and seven (7) vat stands], all controlled by a baghouse; Mixing and Blending Operations [two (2) kady mills and two (2) sand mills], all controlled by a dust collector; and Coating Units [twelve (12) flexographic printing presses and three (3) rotogravure printing presses], controlled by two oxidizers.

8. Respondent's operations at the Chicago Heights Facility are subject to the Act and the Illinois Pollution Control Board ("Board") rules and regulations for air pollution, which are found in Title 35 of the Illinois Administrative Code, Subtitle B, Chapter I ("Board Air Pollution Regulations").

9. In addition to the Chicago Heights Facility, Respondent also operated a facility at 5400 East Avenue, Countryside, Cook County, Illinois ("Countryside Facility"), which ceased operation in the spring of 2006. In May and June 2006, Respondent moved two (2) flexographic printing presses, two (2) Intaglio printing presses, one (1) non-heatset lithographic printing press,

and four (4) ink jet printers from its Countryside Facility to the Chicago Heights Facility.

10. Section 9(b) of the Act, 415 ILCS 5/9(b) (2006), 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;

11. Sections 3.115, 3.165 and 3.315 of the Act, 415 ILCS 5/3.115, 5/3.165 and 5/3.315 (2006), provide the following definitions, respectively:

"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.

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

"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.

12. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

13. VOMs and HAPs are "contaminants" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

14. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides 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, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

15. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

201.102, provides the following definitions:

"Construction": Commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

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

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

"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.

16. VOMs and HAPs are "specified air contaminants" as that term is defined in Section 201.102 of the Board Air Pollution Regulations.

17. The equipment identified in Paragraph 9 which was moved to the Chicago Heights Facility consists of emission sources capable of emitting VOMs and HAPs, therefore Respondent "constructed" "new emission sources" as these terms are defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

18. On June 20, 2006, Respondent filed a construction permit application for the equipment moved from the Countryside Facility to the Chicago Heights Facility. A construction permit was issued by the Illinois EPA on January 16, 2007.

19. Respondent failed to timely obtain the required construction permit from the Illinois EPA prior to constructing the new emission sources at the Chicago Heights Facility.

20. Respondent's new emission sources were not exempted from the State permitting

requirements by the Illinois EPA pursuant to Section 201.146 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.146.

21. By constructing new emission sources without timely obtaining construction permits from the Illinois EPA, Respondent violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, CFC INTERNATIONAL, INC., on Count I for the following relief:

1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2006), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Order Respondent to cease and desist from any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2006), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
4. Assess against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Grant such other relief as the Board deems appropriate and just.

**COUNT II**  
**OPERATING NEW EMISSION SOURCES WITHOUT A CAAPP PERMIT**

1-11. Complainant re-alleges and incorporates by reference herein paragraphs 1 through

9, 11 and 12, of Count I as paragraphs 1 through 11 of this Count II.

12. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2006), provides as follows:

Clean Air Act Permit Program

6. Prohibition

\* \* \*

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements.

13. Section 39.5 of the Act, 415 ILCS 5/39.5 (2006), provides the following definitions:

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

"CAAPP Permit" . . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

14. Between May and June 2006, Respondent installed and began operating several pieces of equipment that it transferred from its Countryside Facility to its Chicago Heights Facility as follows:

- a) Two (2) Intaglio printing presses were installed in May 2006; one of the presses never operated, the other operated through June 2006;
- b) Two (2) flexographic printing presses were installed in June 2006; one of the presses operated only in June and August 2006 and the other operated throughout 2006; and
- c) Of the four (4) inkjet printers transferred, one was installed and operated

in May 2006, one was installed and operated in June and July 2006, one was moved but never installed, and one was decommissioned.

15. The above-referenced equipment was included in the CAAPP permit for the Countryside Facility, but it was not included in the Chicago Heights Facility CAAPP permit.

16. On January 25, 2005, the Respondent filed its CAAPP renewal application for the Chicago Heights Facility with the Illinois EPA.

17. On December 13, 2007, the Illinois EPA granted Respondent a renewal CAAPP permit, which allows Respondent to operate the equipment moved from Respondent's Countryside Facility to the Chicago Heights Facility.

18. From at least May 2006, the exact date better known by Respondent, and continuing until December 13, 2007, Respondent operated new emission sources at the Chicago Heights Facility without a CAAPP permit.

19. Respondent, by its actions and omissions as alleged herein, violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, CFC INTERNATIONAL, INC., on Count II for the following relief:

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

2. Find that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2006);

3. Order Respondent to cease and desist from any further violations of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2006);

4. Assess against the Respondent a civil penalty of Ten Thousand Dollars

(\$10,000.00) per day for each day of violation;

5. Grant such other relief as the Board deems appropriate and just.

**COUNT III**  
**CONTINUING OPERATION AFTER FAILING TO TIMELY SUBMIT A CAAPP**  
**PERMIT RENEWAL APPLICATION**

1-12. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 11 and paragraph 13 of Count II as paragraphs 1 through 12 of this Count III.

13. Respondent is an owner/operator of a CAAPP source, and obtained an initial CAAPP permit for the Chicago Heights Facility pursuant to the Clean Air Act Permit Program as those terms are defined in Section 39.5 of the Act, 415 ILCS 5/39.5 (2006).

14. Respondent was issued an initial CAAPP Permit Number 95120155 on April 21, 2000, with an expiration date of April 21, 2005.

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

6. Prohibitions

\* \* \*

- 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.

16. Section 39.5(5)(n) of the Act, 415 ILCS 5/39.5(5)(n) (2006), provides as follows:

5. Applications and Completeness.

- n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.

17. Respondent was required to submit its CAAPP permit renewal application no



later than July 21, 2004, nine months prior to the expiration date of its CAAPP Permit No. 95120155.

18. The Agency received the Respondent's permit application on January 25, 2005, which is 188 days late.

19. On December 13, 2007, the Illinois EPA issued the renewal CAAPP permit to Respondent.

20. By failing to submit its CAAPP permit renewal application in a timely manner and by operating the Chicago Heights Facility from April 21, 2005, when the original CAAPP permit expired, to December 12, 2007, without the requisite CAAPP permit, Respondent violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, CFC INTERNATIONAL, INC., on Count III for the following relief:

1. Authorize a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Find that Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2006);
3. Order Respondent to cease and desist from any further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2006);
4. Assess against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

5. Grant 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  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

JENNIFER A. TOMAS  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0609

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
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Complainant, )  
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v. ) PCB No. 08-  
 ) (Enforcement-Air)  
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CFC INTERNATIONAL, INC., )  
a Delaware corporation, )  
 )  
Respondent. )

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2006), moves that the Illinois Pollution Control Board ("Board") grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006). In support of this motion, Complainant states as follows:


1. The Complaint in this matter alleges violations of Sections 9(b), 39.5(6)(a), and 39.5(6)(b) of the Act, 415 ILCS 5/9(b), 39.5(6)(a), and 39.5(6)(b) (2006), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2006).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

BY:   
JENNIFER A. TOMAS  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Ste. 1800  
Chicago, Illinois 60602  
(312) 814-0609

DATE: May 30, 2008

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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Respondent. )

**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 CFC International, Inc. ("Respondent"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The Complainant, Illinois EPA, and Respondent ("parties to this Stipulation") agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties to this Stipulation if a hearing were held. The parties to this Stipulation further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party to this Stipulation has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent

proceeding to implement or enforce their terms.

### I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties to this Stipulation consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2006).

### II. AUTHORIZATION

The undersigned representatives for the Complainant, the Illinois EPA and Respondent certify that they are fully authorized to enter into the terms and conditions of this Stipulation and to be legally bound by it.

### III. STATEMENT OF FACTS

#### A. Parties to this Stipulation

1. On \_\_\_\_\_, 2008, 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006), against the Respondent.

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 (2006).

3. At all times relevant to the Complaint, Respondent was and is a Delaware corporation authorized to transact business in the State of Illinois. As of June, 2006, Respondent is a division of Illinois Tool Works Inc., a Delaware corporation.

**B. Site Description**

1. Respondent operates a coated film processing facility located at 500 State Street, Chicago Heights, Cook County, Illinois ("Site" or "Chicago Heights Facility").

2. The processes at the Chicago Heights Facility involve regulated emissions of volatile organic materials ("VOMs") and hazardous air pollutants ("HAPs") such as solvents and thinners.

4. In addition to the Chicago Heights Facility, Respondent also operated a facility at 5400 East Avenue, Countryside, Cook County, Illinois ("Countryside Facility"), which ceased operation in the spring of 2006. In May and June 2006, Respondent moved two (2) flexographic printing presses, two (2) Intaglio printing presses, one (1) non-heat set lithographic printing press, and four (4) ink jet printers from its Countryside Facility to its Chicago Heights Facility.

**C. Allegations of Non-Compliance**

Complainant and Illinois EPA contend that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: Constructing Air Emission Sources without a Permit, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2006), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

Count II: Operating New Emission Sources without a Clean Air Act Permit Program (CAAPP) Permit, in violation of Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2006); and

Count III: Continuing Operation After Failing to Timely Submit a CAAPP Permit Renewal Application, in violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2006).

**D. Admission of Violations**

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

**E. Compliance Activities to Date**

1. On June 20, 2006, Respondent filed a construction permit application for the equipment moved from the Countryside Facility to the Chicago Heights Facility. A construction permit was issued by the Illinois EPA on January 16, 2007.

2. On December 13, 2007, the Illinois EPA issued Respondent a renewal CAAPP permit, which allows Respondent to operate all equipment currently located at the Chicago Heights facility including the equipment moved from Respondent's Countryside Facility to the Chicago Heights Facility.

**IV. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant, the Illinois EPA 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 pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns 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 responsibilities of the Respondent to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

**VI. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2006), provides as follows:

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:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. 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;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties to this Stipulation state the following:

1. The character and degree of the injury to human health and the environment was minimal as the equipment moved from Respondent's Countryside Facility to its Chicago Heights Facility was previously permitted by the Illinois EPA.

2. Respondent's Chicago Heights Facility has social and economic benefit.

3. Respondent's Chicago Heights Facility is suitable for the area in which it is located.

4. It is both technically practicable and economically reasonable to obtain construction and operating permits prior to moving air emission sources from one facility to another and to timely file a CAAPP permit renewal application.

5. Respondent has subsequently complied with the permit requirements of the Act and the Board Regulations by filing for and obtaining the necessary CAAPP permit from the Illinois EPA.

#### **VII. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2006), provides as follows:

In determining the appropriate civil penalty to be imposed under 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 the 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;
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 required to perform.

In response to these factors, the parties to this Stipulation state the following:

1. In May and June 2006, Respondent moved air emission sources from its Countryside Facility to its Chicago Heights Facility. On June 20, 2006, Respondent filed a construction permit application for the equipment moved from the Countryside Facility to the Chicago Heights Facility. A construction permit was issued by the Illinois EPA on January 16, 2007. On December 13, 2007, the Illinois EPA issued Respondent a renewal CAAPP permit, which allows Respondent to operate the equipment currently located at the Chicago Heights facility including the equipment moved from Respondent's Countryside Facility to the Chicago Heights Facility. Respondent states that this equipment utilized compliant coatings in its operations.

2. Respondent was diligent in attempting to come back into compliance

with the Act and Board regulations.

3. Little if any economic benefit was gained by the Respondent through its non-compliance. The penalty obtained negates any economic benefit that may have accrued as a result of Respondent's non-compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Sixty Thousand Dollars (\$60,000) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent was the subject of a 1992 enforcement action, 91 CH 2435, for operating without the requisite permits and violating the Board's New Source Review regulations. This enforcement action was resolved with a Consent Order and Respondent paid a civil penalty of one hundred twenty-five thousand dollars (\$125,000.00). Respondent states that the terms of the Consent Order did not indicate that its contents could be used in a future enforcement action as a past adjudication of violations of the Act by Respondent.

6. Respondent did self-disclose the construction and operating permit violations for the equipment moved from the Countryside Facility to the Chicago Heights Facility, but not the CAAPP permit renewal violation.

7. The settlement of this matter does not include a supplemental environmental project.

## **VIII. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Sixty Thousand Dollars (\$60,000.00) within thirty (30) days from the date the Board adopts and

accepts this Stipulation. The penalty described in this Stipulation shall be paid by certified check or money order payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund ("EPTF") and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number ("FEIN") shall appear on the check. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jennifer A. Tomas  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

Chris Pressnall  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003. Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check or money order, payable to the Illinois EPA, designated to

the EPTF and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Mark Steger, Esq.  
Holland & Knight  
131 S. Dearborn Street, 30<sup>th</sup> Fl.  
Chicago, Illinois 60603  
312-715-5753  
mark.steger@hklaw.com

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

**B. Compliance Plan**

Respondent shall comply with all the terms and conditions of its renewal CAAPP permit and timely comply with all requirements of the CAAPP in the future.

**C. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.E, below, the Respondent hereby 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 Regulations promulgated thereunder 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). 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 Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$60,000 penalty and any specified costs and accrued interest, to comply with the Compliance Plan as contained in Section VIII.B, to Cease and Desist as contained in Section VIII.D, and upon the Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations 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 Complainant's Complaint filed on \_\_\_\_\_, 2008. 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.

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, or entity other than the Respondent.

**F. Right of Entry**

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's Chicago Heights Facility which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

**G. Correspondence, Reports and Other Documents**

Any and all correspondence and any other documents required under this Stipulation, except for payments pursuant to Sections VIII.A ("Penalty Payment") of this Stipulation, shall be submitted as follows:



As to the Complainant

Jennifer A. Tomas  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

As to the Illinois EPA

Chris Pressnall  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent

Mark Steger, Esq.  
Holland & Knight  
131 S. Dearborn Street, 30<sup>th</sup> Fl.  
Chicago, Illinois 60603

CFC International, Inc.  
James H. Wooten, Jr.,  
Registered Agent  
3600 W. Lake Avenue  
Glenview, Illinois 60026

**H. Modification of Stipulation**

The parties to this Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.G. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized

representatives of each party, and then accompany a joint motion to the Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

**I. Enforcement of Board Order**

1. Upon the entry of the Board's Order approving and accepting this Stipulation and Proposal for Settlement, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties to this Stipulation agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then no party to this Stipulation is bound by the terms herein.

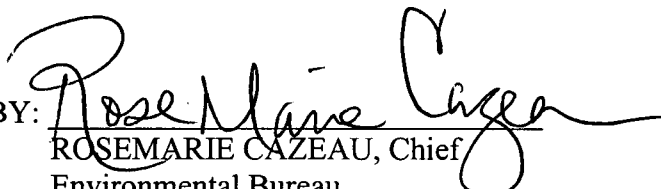
4. It is the intent of the Complainant, Illinois EPA and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

WHEREFORE, Complainant, Illinois EPA and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General  
State of Illinois

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

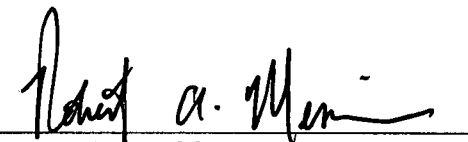
BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 5/28/08

THE ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

DOUGLAS P. SCOTT, Director

Illinois Environmental Protection Agency

BY:   
ROBERT A. MESSINA  
Chief Legal Counsel

DATE: 5/27/08

CFC INTERNATIONAL, INC.

BY: Philip M. Greish Jr.

Name: PHILIP M. GREISH JR  
(Print)

Title: EVP

DATE: May 20, 2008

ENTERED:

\_\_\_\_\_  
JUDGE

DATE: \_\_\_\_\_