

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

Sep 11, 2024

2:26 pm

**U.S. EPA REGION 5
HEARING CLERK**

In the Matter of:)	Docket No. CAA-05-2024-0047
)	
Maeder Brothers Quality Wood Pellets, Inc.)	Proceeding to Assess a Civil Penalty
)	Under Section 113(d) of the Clean Air Act,
Weidman, Michigan,)	42 U.S.C. § 7413(d)
)	
Respondent.)	
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Maeder Brothers Quality Wood Pellets, Inc., a corporation doing business in Michigan.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Sections 101(a) and (d) of the CAA, 42 U.S.C. § 7601(a), (d), provide authority for the U.S. EPA to administer provisions of the CAA as to Indian tribes, including through the approval of tribal implementation plans similar to State implementation plans, and through direct regulation by EPA.

10. On July 1, 2011, pursuant to the authority under Sections 101(a) and (d)(4) of the CAA, U.S. EPA promulgated the Federal Minor New Source Review (“NSR”) Program in Indian Country at 40 C.F.R. §§ 49.151-49.165. 76 FR 38788.

11. Pursuant to 40 C.F.R. § 49.152(d), “Indian country” is defined as all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

12. Pursuant to 40 CFR § 49.151(b)(1), the Federal Minor NSR Program in Indian Country satisfies the requirements of Section 110(a)(2)(c) of the CAA, 42 U.S.C. § 7410(a)(2)(c), by establishing a pre-construction permitting program for all new and modified minor sources and minor modifications at major sources located in Indian Country.

13. Pursuant to 40 CFR §49.161(a)(3), if the U.S. EPA has not approved a tribal implementation plan or granted delegation to a Tribal agency, the U.S. EPA is will directly administer all aspects of this Federal Minor NSR Program in Indian Country under Federal authority.

14. Under Section 113(a) of the CAA, 42 U.S.C. § 7413(a), the Administrator of EPA (the Administrator) may issue an administrative penalty order to any person who has violated a permit issued under the CAA.

15. The Administrator may assess a civil penalty of up to \$57,617 per day of violation up to a total of \$460,926 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

16. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

17. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

18. Maeder is a corporation and is therefore a "person" as defined in Section 102(e) of the CAA, 42 U.S.C. § 602(e).

19. At all times relevant to this CAFO, Maeder owned and operated a wood pellet manufacturing facility at 5180 W. Weidman Road, Weidman, MI 48893 ("Facility").

20. The Facility is located on the Saginaw Chippewa Isabella Reservation which is "Indian country" for the purposes of the Federal Minor NSR Program in Indian Country.

21. On July 12, 2018, U.S. EPA Region 5 issued a Part 49 Minor NSR Permit, 2018-49MISC-002 ("the Permit") to Maeder Brothers Quality Wood Pellets Inc. for the Facility.

22. Section II(A)(9) of the Permit states “The Permittee shall not operate hammermill 2 unless the cartridge filter is installed, maintained, and operated in accordance with an EPA approved [Malfunction Abatement Plan (“MAP”)].”

23. Section II(A)(11) of the Permit states “At all times, including start-up, shut-down, and malfunction, the permittee shall maintain and operate all sources, including associated air pollution control equipment regulated by this permit in a manner consistent with good air pollution control practices for minimizing emissions. This includes, but is not limited to, operating emission units and the particulate matter control systems in accordance with the manufacturer’s guidelines and following the instructions included in the owners’ operations manual.”

24. Section II(B)(1)(h) of the Permit states “The Permittee shall calculate the monthly and previous 12-month CO, PM, PM₁₀, PM_{2.5}, and VOC emissions for the facility in [tons per year].”

25. Section II(C)(2)(d) of the Permit states “The Permittee shall promptly report to EPA any deviation from any permit requirements, including those attributable to upset conditions, the probable cause of such deviation, and any corrective actions or preventative measures taken. ‘Promptly’ shall mean within 30 business days of the deviation.”

26. Section II(C)(2)(e) of the Permit states “The Permittee shall submit a report of oven dried tons (“ODT”) per year of hardwood throughput and the hours of operation of the facility monitoring required by the permit annually, by March 1st of the following year, including the type and frequency of monitoring and a summary of results obtained by monitoring.”

27. At all times relevant to this CAFO, Maeder was subject to the provisions in the Permit.

28. On July 20, 2022, U.S. EPA conducted an inspection of the Facility (“inspection”).

29. At the time of the inspection of the Facility, staff from Maeder stated to U.S. EPA that the cartridge filter for hammermill 2 had been removed from service.

30. At the time of the inspection of the Facility, staff from Maeder stated that fines from bagging are vented to an outside three-sided enclosure. U.S. EPA observed wood residue escaping from the enclosure.

31. On July 25, 2022, U.S. EPA requested all documentation required by the Permit from August 11, 2018, to the date of request.

32. On August 29, 2022, Maeder provided its MAP. The MAP required the cartridge filter of hammermill 2 to have a daily air pressure check, weekly filter replacement, and semi-annual cleaning.

33. For calculations of total CO and VOC emissions for the Facility, Maeder submitted emission rates from hammermill 1, hammermill 2, the dryer, the burner, and the cooler in units of pounds per ODT, pounds per Millions of BTU (MMBTU), and pounds per ton. Maeder did not calculate monthly and previous 12-month CO and VOC emissions for the Facility in tons per year.

34. Maeder did not submit any documentation of any reports to U.S. EPA of deviations from Permit requirements, or of past annual reports to U.S. EPA on ODT per year of hardwood throughput and the hours of operation of the Facility.

35. On June 9, 2023, Maeder sold the Facility.

36. On August 23, 2023, EPA issued a Finding of Violation to Maeder citing violations of Section II(A)(9), Section II(A)(11), Section II(B)(1)(h), Section II(C)(2)(d), and Section II(C)(2)(e) of the Permit.

37. On September 20, 2023, Maeder informed EPA that it had last operated the cartridge filter associated with hammermill 2 on approximately January 9, 2020. Maeder further informed EPA that it had last operated the Facility on October 20, 2022.

38. From January 9, 2020, to October 20, 2022, Maeder violated Section II(A)(9) of the Permit by operating hammermill 2 without the cartridge filter being installed, maintained, and operated in accordance with its EPA-approved MAP.

39. From July 20, 2022, to October 20, 2022, Maeder violated Section II(A)(11) of the Permit by venting fines from the bagging emission unit directly into an outside enclosure, thereby not operating this emissions unit in a manner consistent with good air pollution control practices for minimizing emissions.

40. From October 2019 to October 2022, Maeder violated Section II(B)(1)(h) of the Permit by failing to calculate monthly and previous 12-month CO and VOC emissions for the Facility in tons per year.

41. From January 9, 2020, to October 20, 2022, Maeder violated Section II(C)(2)(d) of the Permit by not promptly reporting to U.S. EPA any deviations from its Permit requirements, such as the removal of the cartridge filter associated with hammermill 2.

42. From March 2, 2020, to June 8, 2023, Maeder violated Section II(C)(2)(e) of the Permit by not submitting annual reports to U.S. EPA of ODT per year of hardwood throughput and the hours of operation of the Facility for calendar years 2019, 2020, 2021, and 2022.

Civil Penalty

43. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, and Maeder's cooperation and ability to pay, Complainant has determined that an appropriate civil penalty to settle this action is \$2,000.

44. Penalty Payment. Respondent agrees to:

- a. pay the civil penalty of \$2,000 within 30 days after the effective date of this CAFO.
- b. Pay the civil penalty using any method provided in the table below.

Payment Method	Payment Instructions
<p>Automated Clearinghouse (ACH) payments made through the US Treasury</p>	<p>US Treasury REX/Cashlink ACH Receiver ABA: 051036706 Account Number: 310006, Environmental Protection Agency CTX Format Transaction Code 22 – checking</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the CAFO docket number.</p>
<p>Wire transfers made through Fedwire</p>	<p>Federal Reserve Bank of New York ABA: 021030004 Account Number: 68010727 SWIFT address: FRNYUS33 33 Liberty Street New York, NY 10045 Beneficiary: US Environmental Protection Agency</p> <p>In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.</p>
<p>Payments made through Pay.gov</p> <p>Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments.</p>	<ul style="list-style-type: none"> • Go to Pay.gov and enter “SFO 1.1” in the form search box on the top left side of the screen. • Open the form and follow the on-screen instructions. • Select your type of payment from the "Type of Payment" drop down menu. • Based on your selection, the corresponding line will open and no longer be shaded gray. Enter the CAFO docket number into the field
<p>Cashier’s or certified check payable to “Treasurer, United States of America.”</p> <p>Please notate the CAFO docket number on the check</p>	<p>For standard delivery:</p> <p>U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979078 St. Louis, Missouri 63197-9000</p> <p>For signed receipt confirmation (FedEx, UPS, Certified Mail, etc):</p> <p>U.S. Environmental Protection Agency Government Lockbox 979078 3180 Rider Trail S. Earth City, Missouri 63045</p>

45. Within 24 hours of the payment of the civil penalty, Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Sue Landsittel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
Landsittel.sue@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

46. This civil penalty is not deductible for federal tax purposes.

47. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

48. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10

percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

49. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Landsittel.sue@epa.gov (for Complainant), and christi@maederwoodpellets.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

50. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

51. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

52. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 50, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

53. Respondent certifies that it is no longer the owner or operator of the Facility and therefore no longer subject to Permit requirements for the Facility.

54. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

55. The terms of this CAFO bind Respondent, its successors and assigns.

56. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

57. Each party agrees to bear its own costs and attorney's fees in this action.
58. This CAFO constitutes the entire agreement between the parties.

Maeder Brothers Quality Wood Pellets, Respondent

9.3.24

Date

Christi Densmore

Christi Densmore, President
Maeder Brothers Quality Wood Pellets, Inc.

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS Digitally signed by MICHAEL
HARRIS
Date: 2024.09.10 11:12:53 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Maeder Brothers Quality Wood Pellets Inc
Docket No. CAA-05-2024-0047

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5