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EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
) DOCKET NO. CAA-10-2016-0117
)
PNW Wind Down LLC, formerly)
known as Omak Wood Products LLC,) **CONSENT AGREEMENT**
)
Omak, Washington,)
)
Respondent.)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d).

1.2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and PNW Wind Down LLC, formerly known as Omak Wood Products LLC (“Respondent”), agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of the CAA is proposed to be assessed.

2.3. On April 16, 2015, EPA issued a Notice of Violation to Respondent, and notified the Confederated Tribes of the Colville Reservation.

2.4. The complete factual and jurisdictional basis for proposing the assessment of a civil penalty is set forth in the Notice of Violation, dated April 16, 2015, and is incorporated herein by reference.

2.5. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$37,500 per day of violation.

III. TERMS OF SETTLEMENT

3.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

3.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

3.3. As required by Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), EPA has taken into account the size of the business, the economic impact of the penalty on the business, Respondent’s full compliance history and good faith efforts to comply, the duration of the

violations as established by any credible evidence, payment by Respondent of penalties previously assessed for the same violations, the economic benefit of noncompliance, the seriousness of the violations, and such other factors as justice may require. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle all of the allegations in the Notice of Violation is \$89,000 (the "Assessed Penalty").

3.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order.

3.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <https://www.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must note on the check the title and docket number of this action.

3.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 3.5, on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
luna.teresa@epa.gov

Aaron Lambert
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
lambert.aaron@epa.gov

3.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect the Assessed Penalty under the CAA. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

3.8. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall be responsible for payment of the following amounts:

3.8.1. Interest. Any unpaid portion of the Assessed Penalty shall bear interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2) from the effective date of the Final Order, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order contained herein.

3.8.2. Attorneys' Fees, Collection Costs, Nonpayment Penalty. Pursuant to 42 U.S.C. § 7413(d)(5), should Respondent fail to pay the Assessed Penalty and interest on a timely basis, Respondent shall also be required to pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be ten percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of such quarter.

3.9. This Consent Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

3.10. The Assessed Penalty, including any additional costs incurred under Paragraph 3.8, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

3.11. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

3.12. Except as described in Paragraph 3.8, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

3.13. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

3.14. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

3.15. Respondent consents to any conditions specified in this Consent Agreement.

3.16. The above provisions in Part III are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

6/23/2016

FOR RESPONDENT:



Kurt Liebich, Vice President
PNW Wind Down LLC

DATED:

6/27/2016

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO. CAA-10-2016-0117
)	
PNW Wind Down LLC, formerly)	
known as Omak Wood Products, LLC)	FINAL ORDER
)	
Omak, Washington,)	
)	
Respondent.)	

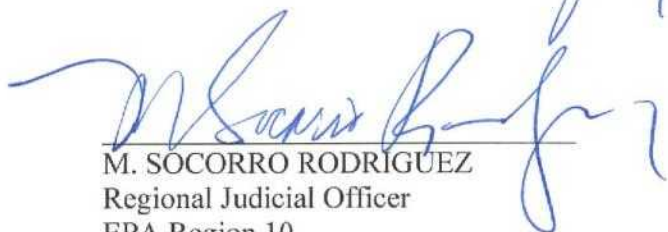
1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under the CAA for the violations alleged in the Notice of Violation incorporated into the Consent Agreement at Paragraph 2.4. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder and any applicable implementation plan requirements.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 12th day of July, 2016.



M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: PNW Wind Down LLC, Docket No.: CAA-10-2016-0117**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Kris Leefers, Esq.
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Kurt Liebich, Vice President
PNW Wind Down LLC
200 E. Mallard Drive
Boise, Idaho 83706

DATED this 12 day of July, 2016.



TERESA LUNA
Regional Hearing Clerk
EPA Region 10



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

APR 16 2015

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply to: OCE-127

Certified Mail - Return Receipt Requested

CT Corporation System
Registered Agent for
Omak Wood Products LLC
505 Union Avenue SE, Suite 120
Olympia, Washington 98501

Re: Notice of Violation issued to Omak Wood Products LLC

Dear Registered Agent:

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Notice of Violation ("NOV") to Omak Wood Products LLC ("OWP") in accordance with Section 113 of the Clean Air Act ("CAA"), 42 U.S.C. § 7413, regarding OWP's wood products manufacturing facility located at 1100 Eighth Avenue East, Omak, Washington ("Facility"). EPA has determined that OWP has violated the Federal Rules for Reservations, 40 C.F.R. Part 49, Subparts C and M, the Administrative Compliance Order on Consent dated April 4, 2014, its Title V permit, and the operating permit provisions of the CAA, including Section 502 of the CAA, 42 U.S.C. § 7661a. These violations are described in more detail in the enclosed NOV.

We believe the violations alleged in the NOV are serious and we encourage OWP to correct these violations as expeditiously as possible. We are prepared to meet with representatives of OWP to further discuss the violations. If OWP wishes to request an opportunity to confer on this NOV, please contact Aaron Lambert at 206-553-5122 or lambert.aaron@epa.gov within ten days of receipt of this letter. Please also contact Aaron Lambert if you have any technical questions regarding this NOV. In the alternative, you may have your attorney contact Kris Leefers, Assistant Regional Counsel, at 206-553-1532 or Leefers.Kristin@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward J. Kowalski".

Edward J. Kowalski
Director

Enclosure

cc: Mr. Richard Yarbrough
President, Omak Wood Products, LLC

Mr. Gary Passmore
Confederated Tribes of the Colville Reservation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)
Omak Wood Products LLC,) **NOTICE OF VIOLATION**
Omak, Washington,)
Respondent.)

Pursuant to Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413, the U.S. Environmental Protection Agency (“EPA”), through the Director of the Office of Compliance and Enforcement, upon the basis of available information, hereby issues the following Notice of Violation (“NOV”) to Omak Wood Products LLC (“Respondent”). The NOV alleges violations of the CAA at the wood products manufacturing facility operated by Respondent in Omak, Washington, including violations of the Federal Air Rules for Reservations, 40 C.F.R. Part 49, Subparts C and M, provisions of the April 4, 2014 Administrative Compliance Order on Consent, and the National Emissions Standards for Hazardous Air Pollutants, 40 C.F.R. Part 63, Subpart JJJJJ.

I. STATUTORY AND REGULATORY AUTHORITIES

1. Pursuant to Sections 301(a) and (d)(4) of the CAA, 42 U.S.C. §§ 7601(a) and (d)(4), EPA has adopted a Federal Implementation Plan (“FIP”) that includes air quality regulations that apply to air pollution sources on Indian Reservations in Idaho, Oregon, and Washington, which are codified at 40 C.F.R. Part 49, Subparts C and M. These rules are known

as the Federal Air Rules for Indian Reservations in Region 10 ("FARR") and became effective on June 7, 2005.

2. The FIP for the Confederated Tribes of the Colville Reservation is identified at 40 C.F.R. §§ 49.9951 through 49.9960. The FARR provisions that apply on the Colville Indian Reservation are incorporated by reference at 40 C.F.R. § 49.9960(a) through (m).

3. The FARR includes, among other things, a rule limiting visible emissions found at 40 C.F.R. § 49.124. The rule limiting visible emissions is incorporated by reference into the FIP for the Colville Indian Reservation at 40 C.F.R. § 49.9960(b).

4. On March 21, 2011, EPA promulgated National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources at 40 C.F.R. Part 63, Subpart JJJJJ.

II. GENERAL FINDINGS

5. Respondent is a corporation incorporated in the State of Delaware and doing business in the State of Washington.

6. Respondent is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

7. Respondent currently operates and has operated a wood products manufacturing facility located at 1100 Eighth Avenue East in Omak, Washington ("Facility"), since at least September 2013.

8. The Facility is located within the exterior boundary of the Colville Reservation.

9. The Facility includes a wood-waste fueled boiler ("Boiler #1"), which is an "air pollution source," as defined at 40 C.F.R. § 49.123.

10. The Facility is an area source of hazardous air pollutants (“HAPS”) subject to Title III of the CAA.

11. On April 4, 2014, EPA issued an Administrative Compliance Order on Consent (ACOC) to Respondent regarding compliance with the CAA and its regulations.

12. EPA administers the Non-Title V operating permit program on the Colville Reservation under regulations promulgated by EPA at 40 C.F.R. § 49.139.

13. Respondent was issued a Non-Title V operating permit, permit number R10NT500501, on July 2, 2013 (“Non-Title V Permit”).

14. The Facility is a major air pollution source subject to Title V of the CAA and 40 C.F.R. Part 71.

15. EPA administers the Title V operating permit program on the Colville Reservation under regulations promulgated by EPA at 40 C.F.R. Part 71.

16. Respondent was issued a Title V operating permit, permit number R10T5-WA-03-01M2, on July 2, 2013 (“Title V Permit”).

17. Respondent operates an industrial boiler and is an Affected Source subject to requirements of 40 C.F.R. Part 63, Subpart JJJJJJ.

III. VIOLATIONS

Violation 1 - FARR

18. 40 C.F.R. § 49.124(d)(1) states that visible emissions from an air pollution source must not exceed 20% opacity, averaged over any consecutive six-minute period, unless paragraphs (d)(2) or (d)(3) of the section apply to the air pollution source.

19. 40 C.F.R. § 49.124(d)(2) states that the visible emissions from an air pollution source may exceed the 20% opacity limit if the owner or operator of the air pollution source

demonstrates to the Regional Administrator's satisfaction that the presence of uncombined water, such as steam, is the only reason for the failure of an air pollution source to meet the 20% opacity limit.

20. 40 C.F.R. § 49.124(d)(3) states that the visible emissions from an oil-fired boiler or solid fuel-fired boiler that continuously measures opacity with a continuous opacity monitoring system may exceed the 20% opacity limit during start-up, soot blowing, and grate cleaning for a single period of up to 15 consecutive minutes in any eight consecutive hours, but must not exceed 60% opacity at any time.

21. The Facility does not meet the requirements for an exemption from the visible emissions requirements of 40 C.F.R. § 49.124(d)(1) pursuant to either 40 C.F.R. § 49.124(d)(2) or (d)(3).

22. On July 22, 2014, Respondent conducted observations of the visible emissions from Boiler #1 at the Facility and documented visible emissions greater than 20% opacity, averaged over a consecutive six-minute period.

23. On July 23, 2014, Respondent conducted observations of the visible emissions from Boiler #1 at the Facility and documented visible emissions greater than 20% opacity, averaged over a consecutive six-minute period.

24. Accordingly, Respondent violated 40 C.F.R. §49.124(d)(1), incorporated by reference at 40 C.F.R. § 49.9960(b), on July 22 and July 23, 2014.

Violation 2 - ACOC

25. Paragraph 26.c of the ACOC requires Respondent to conduct an emission test of the particulate matter ("PM") emissions from Boiler #1 that meets the requirements of Attachment A of the ACOC.

26. Attachment A of the ACOC requires that Respondent measure the PM emissions from Boiler #1 using EPA Reference Method 5.

27. Attachment A of the ACOC requires that Respondent measure the visible emissions from Boiler #1 for the duration of each PM test run, using EPA Reference Method 9.

28. From July 22 through July 24, 2014, Respondent conducted nine PM emissions tests of Boiler #1 using EPA Reference Method 5, each of which lasted 60 minutes or more in duration.

29. From July 22 through July 24, 2014, Respondent measured the visible emissions from Boiler #1 using EPA Reference Method 9 while running the EPA Reference Method 5 PM emissions tests described in Paragraph 26. Each of the EPA Reference Method 9 visible emissions tests lasted for less than the duration of the EPA Reference Method 5 PM emissions tests.

30. Accordingly, Respondent violated Paragraph 26.c of the ACOC from July 22 to July 24, 2014.

Violation 3 - ACOC

31. Paragraph 28.a of the ACOC requires Respondent to hire an independent, third party to conduct a visible emissions observation of the emissions from Boiler #1 using EPA Reference Method 9.

32. Paragraph 28.b of the ACOC requires Respondent to submit a copy of the visible emission observation report to EPA within 30 days after the end of the calendar month in which a visible emission observation required by Paragraph 28.a of the ACOC is conducted.

33. On July 23, 2014, an independent, third party conducted visible emissions observation of the emissions from Boiler #1 in accordance with Paragraph 28.a of the ACOC.

34. On September 19, 2014, Respondent submitted the visible emissions observation report via electronic mail.

35. Respondent submitted the visible emissions observation report required by Paragraph 28.b of the ACOC after the deadline of August 30, 2104.

36. Accordingly, Respondent violated Paragraph 28.b of the ACOC from August 30 to September 19, 2014.

Violation 4 – Non-Title V Permit

37. Section 3.1 of the Non-Title V Permit states that each month, the permittee shall calculate and record facility-wide monthly and rolling 12-month total emissions (tons) for all HAPS-emitting activities at the Facility.

38. Information submitted to EPA on March 5, 2015, by Respondent, for the purpose of renewing the Title V Permit for the Facility, indicated that emissions from the veneer dryer board cooling section are vented directly to the atmosphere, and not to the boilers' combustion chamber as required by the Title V Permit.

39. Respondent has not calculated or recorded any emissions from the veneer dryer board cooling section.

40. Accordingly, Respondent violated Section 3.1 of the Non-Title V Permit from approximately September 30, 2013 to the present.

Violation 5 – Non-Title V Permit

41. Section 4.1 of the Non-Title V Permit states that once each year, on or before August 24, the permittee shall, along with the annual registration required by 40 C.F.R. § 49.138(e)(2), submit to EPA a report containing the monthly rolling 12-month emission calculations for the previous calendar year.

42. Respondent has not reported any emissions from the veneer dryer board cooling section from approximately September 30, 2013 to December 31, 2013.

43. Accordingly, Respondent violated Section 4.1 of the Non-Title V Permit on August 24, 2014.

Violation 6 – Title V Permit

44. Paragraph III.A.1.a of the Title V Permit states monthly dryer emissions shall be determined by multiplying the dryer emission factor by the recorded monthly veneer dryer production rate and dividing by 2000 pounds per ton.

45. Respondent's calendar year 2013 emission report, submitted pursuant to the Title V Permit, dated November 14, 2014, indicates Respondent failed to account for the uncontrolled veneer dryers' board cooling emissions, as described in Paragraph 38 above, when determining monthly veneer dryer emissions.

46. Accordingly, Respondent violated Paragraph III.A.1.a of the Title V Permit from approximately September 30, 2013 to the present.

Violation 7 – Title V Permit

47. Paragraph III.A.1.b of the Title V Permit states all veneer dryer emissions shall be vented to one or both boilers' combustion chambers at all times that veneer dryers operate.

48. Information submitted to EPA on March 5, 2015, by Respondent, for the purpose of renewing the Title V permit, indicates emissions from the veneer dryer board cooling section are vented directly to the atmosphere, and not the boilers' combustion chamber as required by the Title V permit.

49. Accordingly, Respondent violated Paragraph III.A.1.b of the Permit from approximately September 30, 2013 to the present.

Violation 8 – Title V Permit

50. Paragraph III.A.1.e of the Title V Permit states that the boilers, veneer dryers and boiler multiclone and wet scrubbers at the Facility shall be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions at all times; that good air pollution control practices include, but are not limited to, maintaining the veneer dryer door seals to minimize emissions; and that determination of whether acceptable operating and maintenance procedures are being used will be based on information available which may include, but is not limited to, testing and monitoring results, opacity observations, review of operating and maintenance procedures and inspection of the source.

51. Respondent submitted its Annual Compliance Certification, dated January 30, 2015, ("Compliance Certification"), as required by the Title V Permit, indicating that deviations from Section III.A.1.e of the Title V Permit took place on October 16, 2014.

52. Respondent failed to use acceptable operating and maintenance procedures, as required by Paragraph III.A.1.e of the Title V Permit.

53. Accordingly, Respondent violated Paragraph III.A.1.e of the Title V Permit on October 16, 2014.

Violation 9 – Title V Permit

54. Section III.A.1.f of the Title V Permit states the total hourly production rate of either veneer dryer shall not exceed 16,320 sf/hour, 3/8" basis. Any physical change or change in the method of operation of the facility necessary to realize this production rate may be subject to additional permitting requirements.

55. Respondent submitted its Compliance Certification indicating that deviations from Section III.A.1.f of the Title V Permit took place for a period of 24 hours on July 11, July 31, September 24, and October 7, 2014.

56. Accordingly, Respondent violated Section III.A.1.f of the Title V Permit on July 11, July 31, September 24, and October 7, 2014.

Violation 10 – Title V Permit

57. Section III.A.1.g of the Title V Permit states that at any time the veneer dryers are vented to the boiler's combustion chambers, the 6-minute average opacity from the boiler wet scrubbers' stacks shall not exceed 5 percentage points added to the average opacity recorded during the most recent PM and PM 10 emission testing as determined using EPA Reference Method 9.

58. Respondent submitted its Compliance Certification indicating that deviations from Section III.A.1.g of the Title V Permit took place for a period of one hour and twenty minutes on July 22, 2014, and for one hour and fifteen minutes on July 23, 2014.

59. Accordingly, Respondent violated Section III.A.1.g of the Title V Permit on July 22 and July 23, 2014.

Violation 11 – Title V Permit

60. Section III.A.1.i of the Title V Permit states that at any time that the veneer dryers are vented to a boiler's combustion chambers, the temperature of the boiler exhaust (instantaneous reading) shall not be less than the lowest temperature recorded during any of the facility's volatile organic compound, PM, or PM 10 emission testing for that emission unit, where the test demonstrated compliance with the applicable emission limits for each of the three pollutants in each test run.

61. Respondent submitted its Compliance Certification indicating that deviations from Section III.A.1.i of the Title V Permit took place from January 18 to December 31, 2014.

62. Accordingly, Respondent violated Section III.A.1.i of the Title V Permit from January 18 to December 31, 2014.

Violation 12 – Title V Permit

63. Section III.A.1.j of the Title V Permit states at any time the veneer dryers are vented to a boiler's combustion chamber, the pressure drop across the boiler scrubber shall not be less than the lowest pressure drop recorded during any of the facility's PM and PM 10 emission testing for the emission unit, where the test demonstrated compliance with the applicable emission limits for each of the two pollutants in each test run.

64. Respondent submitted its Compliance Certification indicating that deviations from Section III.A.1.j. of the Title V Permit took place from January 18 to December 31, 2014.

65. Accordingly, Respondent violated Section III.A.1.j of the Title V Permit from January 18 to December 31, 2014.

Violation 13 – Title V Permit

66. Section III.A.3.b of the Title V Permit states that at all times the boilers operate, the oxygen levels in each boiler's exhaust shall be monitored continuously and recorded hourly.

67. Respondent submitted its Compliance Certification indicating that deviations from Section III.A.3.b of the Title V Permit took place from June 26 to June 30, 2014.

68. Accordingly, Respondent violated Section III.A.3.b of the Title V Permit from June 26 to June 30, 2014.

Violation 14 – Title V Permit

69. Paragraph VII.A.1 of the Title V Permit states all instances of deviations from permit requirements must be clearly identified in Six-Month monitoring reports.

70. Respondent's Six-Month monitoring reports for the second half of 2013 and the first and second halves of 2014 did not report any deviations from the Title V Permit related to veneer dryers' board cooling emissions.

71. Accordingly, Respondent violated Paragraph VII.A.1 of the Title V Permit from on January 30, 2014, July 31, 2014, and January 30, 2015.

Violation 15 – Title V Permit

72. Paragraph VII.B.2.c of the Title V Permit states the status of compliance with each term and condition of the permit for the period covered by the certification, based on the method or means designated. The certification shall identify each deviation and take it into account in the compliance certification.

73. Respondent certified continuous compliance with Paragraph III.A.1.b of the Title V Permit, regarding veneer dryers' board cooling emissions to the boiler, for calendar years 2013 and 2014.

74. Accordingly, Respondent violated Paragraph VII.B.2.c of the Title V Permit for calendar years 2013 and 2014.

Violation 16 – Title V Permit

75. Paragraph IX.A of the Title V Permit states the permittee shall pay an annual permit fee in accordance with the procedures outlined in Paragraph IX.B-F of the Title V Permit.

76. Paragraph IX.B of the Title V Permit requires full payment of the annual permit fee no later than November 15 of each year.

77. Paragraph IX.F.1 of the Title V Permit states the annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all "regulated pollutants (for fee calculation)" emitted from the source by the presumptive emission fee (in dollars/ton) in effect at the time of calculation.

78. Paragraph IX.F.2 of the Permit defines "actual emissions" as the actual rate of emissions in tons per year of any regulated pollutant (for fee calculation), as defined in 40 C.F.R. § 71.2, emitted from a Part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year.

79. Respondent's calendar year 2013 emission report, submitted pursuant to the Title V Permit, dated November 14, 2014, indicates Respondent failed to account for the uncontrolled veneer dryers' board cooling emissions, as described in Paragraph 38 above, when determining the full amount of Title V annual emissions fee for calendar year 2013.

80. Accordingly, Respondent violated Paragraph IX.A of the Title V Permit on November 15, 2014.

Violation 17 - NESHP

81. Respondent operates Boiler #1 which is a biomass-fired boiler subject to the National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boiler Area Sources, 40 C.F.R. Part 63, Subpart JJJJJ.

82. 40 C.F.R. § 63.11223(a) requires Respondent to conduct a performance tune-up of Boiler #1 according to 40 C.F.R. § 63.11223(b).

83. 40 C.F.R. § 63.11196(a)(1) requires Respondent to achieve compliance with the requirements of 40 C.F.R. Part 63, Subpart JJJJJJ no later than March 21, 2014.

84. In response to EPA's November 24, 2014, information request, Respondent submitted a boiler performance tune-up report for Boiler #1, dated July 25, 2014.

85. Accordingly, Respondent violated 40 C.F.R. § 63.11196 from March 21 to July 25, 2014.

Violation 18 - NESHAP

86. Respondent's current Title V permit application materials indicate that it has the authority to operate an additional boiler at the Facility ("Boiler #2") which is a biomass-fired boiler subject to the National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boiler Area Sources, 40 C.F.R. Part 63 Subpart JJJJJJ, with heat input capacity of 10 MMBtu/hour or greater.

87. 40 C.F.R. § 63.11201(c) and Table 2 of 40 C.F.R. § 63.11201 require that existing biomass-fired boilers with heat input capacity of 10 MMBtu/hour or greater have a one-time energy assessment performed by a qualified energy assessor.

88. 40 C.F.R. § 63.11196(a)(3) requires that if the existing affected boiler is subject to the energy assessment requirement, you must achieve compliance with the requirements of 40 C.F.R. Part 63, Subpart JJJJJJ, no later than March 21, 2014.

89. Respondent has not conducted an energy assessment of Boiler #2.

90. Accordingly, Respondent violated 40 C.F.R. §§ 63.11201(c), 63.11196(a)(3), and Table 2 of 40 C.F.R. § 63.11201 from March 21, 2014 to present.

Violation 19 - NESHAP

91. Respondent operates Boiler #1 which is an existing biomass-fired boiler, as defined in 40 C.F.R. Part 63 Subpart JJJJJJ, with heat input capacity of 10 MMBtu/hour or greater.

92. 40 C.F.R. § 63.11201(c) and Table 2 of 40 C.F.R. § 63.11201 require that existing biomass-fired boilers with heat input capacity of 10 MMBtu/hr or greater have a one-time energy assessment performed by a qualified energy assessor.

93. 40 C.F.R. § 63.11196(a)(3) requires that if the existing affected boiler is subject to the energy assessment requirement, you must achieve compliance with the requirements of 40 C.F.R. Part 63, Subpart JJJJJJ, no later than March 21, 2014.

94. In response to EPA's November 24, 2014, information request, Respondent submitted an Energy Assessment Report for Boiler #1, dated May 7, 2014.

95. Accordingly, Respondent violated 40 C.F.R. § 63.11196(a)(3) from March 21 to May 7, 2014.

Violation 20 - NESHAP

96. 40 C.F.R. § 63.11225(a)(4) requires Respondent to submit a notice of compliance status report (NOCSR) by July 19, 2014, that includes the information and certification(s) of compliance in 40 C.F.R. § 63.11225(a)(4)(i)-(v), as applicable, signed by a Responsible Official.

97. 40 C.F.R. § 63.11237 defines Responsible Official to mean responsible official as defined in 40 C.F.R. § 70.2.

98. 40 C.F.R. § 70.2 defines Responsible Official, for a corporation, to mean: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions

for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or (ii) The delegation of authority to such representatives is approved in advance by the permitting authority.

99. Respondent's Title V Permit identifies Mr. Richard Yarbrough as the Responsible Official.

100. On September 22, 2014, Respondent submitted a NOCSR signed by Ms. Connie Chaney.

101. Ms. Chaney does not meet the definition of Responsible Official.

102. Accordingly, Respondent violated 40 C.F.R. § 63.11225(a)(4) from July 19, 2014 to present.

Violation 21 - CAA

103. On November 24, 2014, EPA issued an information request pursuant to Section 114 of the CAA requiring Respondent to submit a revised source test report within 30 days of the information request.

104. Respondent submitted a revised source test report on January 20, 2015, that did not contain the information required by EPA's information request.

105. Accordingly, Respondent violated Section 114 of the CAA from December 25, 2014 to present.

IV. ENFORCEMENT

106. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes EPA to take any of the following actions whenever, on the basis of available information, EPA finds that any person has violated or is in violation of any requirement of the CAA:

- a. Issue an order requiring such person to comply with the requirements of the CAA;
- b. Issue an administrative penalty order in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for civil administrative penalties of up to \$25,000 per day of violation;
- c. Bring a civil action in accordance with Section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties of not more than \$25,000 per day for each violation.

107. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2471, as amended by 31 U.S.C. § 3701, and as provided in 40 C.F.R. Part 19, the amounts specified in the forgoing paragraphs increase to \$37,500 per day for each violation occurring on and after January 13, 2009.

108. Section 113(c) of the CAA, 42 U.S.C. § 7413(c), authorizes EPA to request the Attorney General to commence a criminal action for knowing violations of the CAA.

109. Under Section 306 of the CAA, the regulations promulgated thereunder (40 C.F.R. Part 32), and Executive Order 11738, facilities to be used in federal contracts, grants, and loans must be in full compliance with the CAA and all regulations promulgated pursuant to it. Violation of the CAA may result in the subject facility being declared ineligible for participation in any federal contract, grant, or loan.

110. Section 120 of the CAA, 42 U.S.C. § 7420, authorizes EPA to assess penalties for

noncompliance aimed at recovering the economic benefits which the violator has received by operating the facility out of compliance.

111. This NOV does not waive or limit EPA's right to any remedy available to it under the CAA.

112. This NOV shall become effective immediately upon issuance.

Issued this 16~~th~~ day of April, 2015.



Edward J. Kowalski, Director
Office of Compliance and Enforcement