



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 22 2008

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

(AE-17J)

Joe Zanon, Plant Manager  
Wisconsin Veneer and Plywood, Inc.  
610 Railroad Street  
P.O. Box 140  
Mattoon, Wisconsin 54450

Re: Wisconsin Veneer and Plywood, Inc. .  
Mattoon, Wisconsin  
CAA Docket No. **CAA-05-2008-0038**

Dear Mr. Zanon:

Enclosed herein is a Complaint and Notice of Opportunity for Hearing filed against Wisconsin Veneer and Plywood, Inc., (WV&P), pursuant to Section 113(d) of the Clean Air Act (Act), 42 U.S.C. § 7413(d). We are alleging in the Complaint that WV&P has violated its Title V Operation Permit at its facility located in Mattoon, Wisconsin.

We call your attention to that part of the Complaint entitled "Opportunity to Request a Hearing." WV&P is required to respond to this Complaint within thirty (30) days of receipt, or the proposed civil penalty shall become due and payable sixty (60) days after a final order is issued upon default.

For additional information or clarification of any issues regarding this matter, you may contact Farro Assadi, Environmental Engineer (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1424. With legal questions you may contact Ms. Padmavati Bending, Associate Regional Counsel, (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8917.

Sincerely,

Cheryl L. Newton  
Acting Director  
Air and Radiation Division

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2008-0038</b>
	)	
<b>Wisconsin Veneer and Plywood, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Mattoon, Wisconsin</b>	)	<b>Under Section 113(d) of the Clean Air</b>
	)	<b>Act, 42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
	)	

**Complaint**

1. This is an administrative action for the assessment of a civil penalty brought pursuant to Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d).
2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, U. S. Environmental Protection Agency, Region 5, Chicago, Illinois.
3. The Respondent is Wisconsin Veneer and Plywood, Inc., (WV&P, the Facility), a corporation doing business in Mattoon, Wisconsin.

**Statutory and Regulatory Background**

4. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.
5. EPA granted final interim approval to the Wisconsin Title V operating permit program on March 6, 1995. 60 Fed. Reg. 12128. The program became effective on April 5, 1995. The Wisconsin Title V program was granted final full approval by EPA, effective November 30, 2001. 66 Fed. Reg. 62951. See 40 C.F.R. Part 70, Appendix A.
6. 40 C.F.R. § 70.1(b) provides that all sources subject to the regulations at Part 70 shall have a permit to operate that assures compliance by the source with all applicable

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requirements.

7. Wisconsin Department of Natural Resources (WDNR) issued the Air Pollution Operation Permit #459044300-P02 to WV&P on April 29, 2003 (Title V Permit, the Permit). The processes subject to the Permit include a wood fired boiler identified as B08 and associated multi-cyclones identified as C07 and C08 which were installed for the control of particulate matter and opacity emissions.

8. The Permit contains the following requirements applicable to the multi-cyclones mentioned above:

- i. Part I, Condition A (1)(b)(4) of the Permit states that the pressure drop across the multi-cyclones shall be maintained between 2.5 and 4.5 inches of water column.
- ii. Part I, Condition A(1)(c)(4) of the Permit requires that the Facility shall measure and record the pressure drop across the multi-cyclones once for every 8 hours of source operation or once per day, whichever yields the greater number of measurements.
- iii. Part I, Condition N (1)(a)(1) of the Permit requires that the results of the monitoring required by the Permit to be submitted to WDNR every six months.
- iv. Condition N(1)(a)(1)(d) states that all deviations from, and violations of applicable requirements shall be clearly identified in the semi-annual submittal.
- v. Part II, Conditions N.1.b.(2) and (3) of the Permit require that the Facility submit compliance certifications to WDNR and EPA and that the certifications include the compliance status of the source with respect to each term or condition

identified in the Permit and indicate if compliance was continuous or intermittent.

9. Section 113(a) of the Act provides the Administrator of EPA ("Administrator") with the authority to issue compliance and penalty orders against any person who has violated or is in violation of an applicable Implementation Plan or permit. That authority has been delegated to the Director, Air and Radiation Division, Region 5, EPA ("Director").

10. The Administrator may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

11. 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

12. 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 complaint.

#### **General Allegations**

13. Respondent owns and operates a wood veneer, plywood and lumber manufacturing facility located at 610 Railroad Street, in Mattoon, Wisconsin.

14. The processes at the Facility include a wood fired boiler identified as B08. The boiler is equipped with two multi-cyclones identified as C07 and C08 for the control of particulate matter and opacity emissions.

15. The Facility is subject to the Title V Permit issued by the State of Wisconsin.
16. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).
17. Respondent is an "owner and/or operator" as defined at Section 111(a)(5) of the Act, 42 U.S.C. § 7411(a)(5).
18. Respondent's wood fired boiler emits air pollutants, including particulate matter into the atmosphere.
19. On March 25, 2008, EPA issued a Finding of Violation ("FOV") to the Respondent for violations of the Title V Permit at its facility in Mattoon, Wisconsin.
20. On April 23, 2008, representatives of EPA met with Respondent to discuss the FOV.

#### **Count I**

21. Complainant incorporates paragraphs 1 through 20 of this complaint, as if set forth in this paragraph.
22. Records submitted by WV&P indicate that between January 1, 2004, to December 31, 2006, the pressure drop for multi-cyclone C07 was outside of the allowable range during 1,912 readings in violation of Part I, Condition A (1)(b)(4) of the Permit.
23. Records submitted by WV&P indicate that between January 1, 2004, to December 31, 2006, the pressure drop for multi-cyclone C08 was outside of the allowable range during 1,861 readings, in violation of Part I, Condition A (1)(b)(4) of the Permit.
24. The number of the out of range pressure drop readings mentioned above constitute a minimum of 637 days during which Part I, Condition A(1)(b)(4) was violated.

## **Count II**

25. Complainant incorporates paragraphs 1 through 24 of this complaint, as if set forth in this paragraph.

26. Despite the out of range readings that were recorded, semi-annual monitoring reports and compliance certifications submitted by WV&P for calendar years 2004 and 2005 certified continuous compliance with all the terms and conditions of the Permit, in violation of Part I, Condition N(1)(a)(1)(d) and Part II, Conditions N.1.b.(2) and (3) of the Permit.

27. WV&P submitted corrected semi-annual reports for the above period in February of 2007. Therefore, WV&P violated Part I, Conditions N(1)(a)(1)(d) and Part II, Conditions N.1.b.(2) and (3) of its Permit from July 2004 through January 2007.

### **Proposed Civil Penalty**

28. Complainant proposes that the Administrator assess a civil penalty of \$96,041 against Respondent for the violations alleged in this Complaint.

29. Complainant determined the proposed civil penalty according to the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e). Complainant evaluated the facts and circumstances of this case with specific reference to EPA's *Clean Air Act Stationary Source Civil Penalty Policy*, dated October 25, 1991 (Penalty Policy), and the memorandum "*Clarifications to the October 25, 1991, Clean Air Act Stationary Source Civil Penalty Policy*," dated January 17, 1992. The calculated penalty was adjusted for inflation in accordance to the instructions provided by the EPA memorandum, "*Modification to EPA Penalty Policies to Implement the Civil Monetary Penalty Inflation Adjustment Rule*" dated September 21, 2004.

30. Complainant developed the proposed penalty based on the best information

available to Complainant at this time. Complainant may adjust the proposed penalty if Respondent establishes *bona fide* issues of ability to pay or other defenses relevant to the penalty's appropriateness.

### **Rules Governing This Proceeding**

31. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* (the Consolidated Rules), at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

### **Filing and Service of Documents**

32. Respondent must file with the EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

33. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Ms. Padmavati Bending to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Padmavati Bending at (312) 353-8917.

Ms. Bending's address is:

Padmavati Bending (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

**Penalty Payment**

34. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

35. Respondent must include the case name, docket number and billing document number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to the Regional Hearing Clerk and Ms. Bending at the addresses given above, and to:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

**Answer and Opportunity to Request a Hearing**

36. If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a



hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

37. In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day period expires on a Saturday, Sunday or federal legal holiday, the time period extends to the next business day.

38. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address given above.

39. Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

40. Respondent's Answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing.

41. If Respondent does not file a written Answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all

factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order, without further proceedings, 30 days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

#### **Settlement Conference**

42. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts alleged in the Complaint and to discuss a settlement. To request an informal settlement conference, Respondent may contact Padmavati Bending at (312) 353-8917.


43. Respondent's request for an informal settlement conference does not extend the 30-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

#### **Continuing Obligation to Comply**

44. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

Date

9/22/08

  
Cheryl L. Newton  
Acting Director  
Air and Radiation Division

In the Matter of:  
Wisconsin Veneer and Plywood, Inc.  
Mattoon, Wisconsin  
Docket No. CAA-05-2008-0038

**CERTIFICATE OF SERVICE**

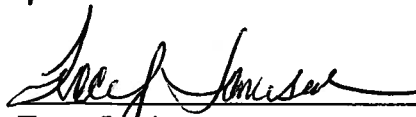
I, Tracy Jamison, certify that I hand delivered the original and one copy of the Complaint, docket number [ ] to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed copies of the Administrative Complaint, copies of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* at 40 C.F.R. Part 22, and copies of the penalty policy described in the Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Joe Zanon, Plant Manager  
Wisconsin Veneer and Plywood, Inc.  
610 Railroad Street  
P.O. Box 140  
Mattoon, Wisconsin 54450

And

Donald Gallo, Attorney at Law  
Reinhart Boerner VanDeuren S.C.  
N16 W23250 Stoneridge Drive  
Suite 1  
Waukesha, Wisconsin 53188

on the 22 day of September, 2008.

  
Tracy Jamison  
AECAS (MI/WI)

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