



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

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael S. McCauley, Esq
Quarles & Brady L.L.P
411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4497

Dear Mr. McCauley:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Domtar Port Edwards Mill (Domtar), CAA Docket No CAA-05-2009-0001. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on October 24, 2008.

Pursuant to paragraph 46 of the CAFO, Domtar must pay the civil penalty within 30 days of October 24, 2008. Your check must display the case docket number, CAA-05-2009-0001, and the billing document number, 2750903A001.

Please direct any questions regarding this case to Mark Palermo, Associate Regional Counsel, (312) 886-6082.

Sincerely,


Bonnie Bush, Chief
Air Enforcement and Compliance Assurance
Section (MI/WI)

Enclosure

cc: William Baumann, Chief
Combustion Process
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster Street
P.O. Box 7921

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

OCT 24 2008

RECEIVED

Tom Woletzl, Supervisor
Wisconsin Department of Natural Resources
473 Griffith Avenue
Wisconsin Rapids, Wisconsin 54494

RECEIVED
OCT 24 2008

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)	Docket No. CAA-05-2009-0001
)	
Domtar A.W. Corporation)	Proceeding to Assess a Civil Penalty
Port Edwards, Wisconsin)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
<hr/>		

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 Act), 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 Air and Radiation Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Domtar A.W. Corporation, a corporation doing business in Wisconsin, and its corporate affiliates (Domtar).

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 entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the 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 the CAFO. Nothing in this CAFO shall be construed as an admission of liability by Respondent in any other proceeding now pending or hereafter commenced.

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. Under Section 112 of the Act, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pulp and Paper Industry at 40 C.F.R. Part 63, Subpart S (Pulp and Paper NESHAP).

10. The Pulp and Paper NESHAP, at 40 C.F.R. § 63.444(a)(1), requires the owner or operator of an existing sulfite affected source to control Hazardous Air Pollutant (HAP) emissions from the following equipment:

- (i) Each digester system vent;
- (ii) Each evaporator system vent;
- (iii) Each pulp washing system.

11. The Pulp and Paper NESHAP at 40 C.F.R. § 63.444(c) requires that the total HAP emissions from both the equipment systems listed in Paragraph 10 above, and the vents, wastewater, and condensate streams from the control device used to reduce HAP emissions shall be controlled. Under 40 C.F.R § 63.444(c)(2), each magnesium-based or ammonium based

sulfite pulping process shall:

- (i) Emit no more than 2.2 lbs of total HAP or methanol per ton of Oven Dried Pulp (ODP); or
- (ii) Remove 87 percent or more by weight of the total HAP or methanol.

12. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations of the Act that occurred from January 31, 1997 through March 15, 2004, and 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.

13. Section 113(d)(1) of the Act 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.

14. 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.

Complainant's Factual Allegations and Alleged Violations

15. Domtar owns and operated a magnesium-based sulfite pulping process at its pulp mill located at 100 Wisconsin River Drive, Port Edwards, Wisconsin ("Port Edwards Mill"). The Port Edwards Mill was closed and ceased operations on June 27, 2008.

16. Domtar is a "person" as that term is defined under Section 302(e) of the Act, 42 U.S.C. § 7602(e), which includes a corporation.

17. Domtar is an “owner” and was an “operator” of the Port Edwards Mill, as those terms are used under Section 112 of the Act, 42 U.S.C. § 7412.

18. At all times relevant to this complaint, the Port Edwards Mill operated sulfite processes that used wood to produce pulp, paper, and paperboard.

19. The Port Edwards Mill is a plant site that is a major source of HAP under 40 C.F.R. § 63.2.

20. The Port Edwards Mill is an “affected source” under the Pulp and Paper NESHAP.

21. The Port Edwards Mill has several process units: Sulfite Recovery process (P30), #1 Red Liquor Washer (P33), #2 Red Liquor Washer (P34), and Red Liquor Washer Filtrate Tanks (P35).

22. P30 is a sulfite recovery process which includes a recovery boiler, three batch digesters, evaporators, and various ancillary equipment associated with the use and recovery of sulfite liquor.

23. P30 is comprised of “digester” and “evaporator” systems, as those terms are defined under 40 C.F.R. § 63.441.

24. P33, P34, and P35 comprise a “pulp washing system,” as that term is defined under 40 C.F.R. § 63.441.

25. Each of the processes identified in Paragraph 21 has a stack vent that vents the HAP methanol to the atmosphere. These stack vents are subject to the Pulp and Paper NESHAP and its HAP emission control requirements under 40 C.F.R. §§ 63.444(c).

26. Methanol emissions from P30 that would otherwise exit to the atmosphere via the P30’s stack are captured and condensed by the Port Edward’s Mill’s “blow heat/hot water accumulator,” “surface condenser,” and “inter-condenser.” Methanol condensed by these

components is sewered to the Port Edwards Mill wastewater treatment facility (“condensate/wastewater”). After the condensate/wastewater leaves the process, methanol contained in the condensate/wastewater volatilizes into the atmosphere.

27. The Port Edwards Mill’s blow heat/hot water accumulator, surface condenser, and inter-condenser are each a “control device” of P30’s vent stream, as that term is used under 40 C.F.R. §§ 63.444(c).

28. The HAP emissions from the condensate/wastewater streams from Port Edwards Mill’s blow heat/hot water accumulator, surface condenser, and inter-condenser are subject to Pulp and Paper NESHAP emission limitations under 40 C.F.R. § 63.444(c).

29. On January 7, 2005, EPA issued an information request to the Port Edwards Mill pursuant to Section 114 of the Act, 42 U.S.C. § 7414, requesting the Port Edwards Mill to conduct stack tests and sampling and methanol emissions analysis of condensate/wastewater from all control devices.

30. In lieu of conducting stack tests to comply with the January 7, 2005, Information Request, Domtar requested and EPA agreed to consider results from stack tests conducted on August 15, 2001 as representative of the Port Edwards Mill’s current stack emissions. On August 15, 2001, the Port Edwards Mill conducted stack tests at the four stack vents identified under Paragraph 25. The stack tests provided the following HAP emissions results:

P30 (Sulfite Recovery) Vent	0.54 lbs/ton ODP
P33 (# 1 Washer) Vent	0.47 lbs/ton ODP
P34 (#2 Washer) Vent	0.06 lbs/ton ODP
P35 (Filtrate Tank) Vent	0.46 lbs/ton ODP

The total stack vent emissions result for the August 15, 2001 stack tests is 1.53 lbs/ton ODP.

31. In submissions dated May 12, 2005, and June 29, 2005, the Port Edwards Mill submitted a protocol for control device condensate/wastewater stream sampling and analysis to comply with the January 7, 2005, Section 114 Information Request and to determine compliance with the HAP emission standards under 40 C.F.R. §§ 63.444(b) and (c). EPA approved the protocol in a letter dated July 8, 2005.

32. On August 17, 2005, in accord with the approved protocol described in Paragraph 31 above, the Port Edwards Mill conducted sampling of condensate/wastewater streams from blow heat/hot water accumulator, surface condenser, and inter-condenser.

33. In a submittal dated October 12, 2005, the Port Edwards Mill submitted, in response to the January 7, 2005 Information Request, results of analysis, conducted in accord with the approved protocol described in Paragraph 31, above, of the condensate/wastewater sampling conducted on August 17, 2005. The sampling and analysis resulted in a 1.42 lbs/ton ODP estimated methanol emission rate from the condensate/wastewater streams of the blow heat/hot water accumulator, surface condenser, and inter-condenser. The condensate/wastewater test results submitted by the Port Edwards Mill, together with the August 15, 2001 stack test results described in Paragraph 30, failed to demonstrate continuous compliance with the NESHAP emission limit of 2.2 lbs/ton ODP.

34. On December 8, 2005, EPA issued to the Port Edwards Mill a Finding of Violation (FOV) of 40 C.F.R. § 444(c)(2) based on the methanol emissions results submitted as identified in Paragraphs 30 and 33, above.

35. In a submittal dated November 30, 2006, the Port Edwards Mill submitted additional stack testing and condensate/wastewater sampling and analysis information from tests conducted after the FOV.

36. On December 28, 2006, EPA sent to the Port Edwards Mill a Section 114 Information Request requiring Domtar to submit all stack testing and condensate/wastewater sampling and analysis information obtained or collected after August 15, 2001.

37. In response to the Section 114 Information Request identified in Paragraph 36 above, Domtar provided additional stack testing and condensate/wastewater sampling and analysis information in a submission dated February 1, 2007. The submission identified test reports indicating lbs/ton ODP results for stack tests conducted on April 7 and 8, 2004, July 7, 2004, February 21 and 22, 2006, May 3, 2006, August 30 and 31, 2006, and December 19, 20, 21, & 22, 2006.

38. In a submission dated May 10, 2007, Domtar submitted to EPA condensate/wastewater sampling and analysis results for tests done on February 20, 27 and 28, 2007.

39. In a submission dated October 4, 2007, Domtar submitted to EPA stack test results for stack tests conducted for P30 on June 1, 2007, and August 22, 2007.

40. The Port Edwards Mill ceased operation in June 2008.

Count 1

41. Complainant incorporates paragraphs 1 through 40 of this Complaint, as if set forth in this paragraph.

42. Based upon stack testing and condensate sampling and analysis submitted to date, Domtar exceeded the 2.2 pounds of methanol per ton of ODP emission limit under 40 C.F.R. § 63.444(c)(2) and has not demonstrated that it removes 87 percent or more by weight of the total HAP or methanol. Therefore, Domtar has violated the limit prescribed by 40 C.F.R. § 63.444(c)(2).

43. The conduct or events giving rise to violation of 40 C.F.R. § 63.444(c)(2) likely have continued or recurred past the date of the December 8, 2005, FOV and Domtar has not established that continuous compliance has been achieved.

44. Each day Domtar has violated is a separate day of violation for purposes of assessing a penalty under Section 113(d) of the Act .

Civil Penalty

45. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$90,000.

46. Within 30 days after the effective date of this CAFO, Respondent must pay a \$90,000 civil penalty by sending a cashier's or certified check payable to the "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the case name, docket number of this CAFO and the billing document number.

47. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

Mark J. Palermo, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

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

50. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

General Provisions

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

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

53. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 51, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

54. This CAFO constitutes an "enforcement response" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 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 attorneys' fees in this action.

58. This CAFO constitutes the entire agreement between the parties.

Domtar A.W. Corporation, Respondent

OCTOBER 9TH 2008.

Date



Gilles Pharand

Senior Vice President, Law & Corporate Affairs

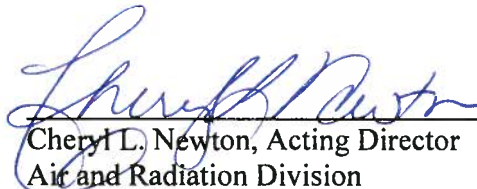
~~Domtar Inc.~~

and Assistant Secretary

United States Environmental Protection Agency, Complainant

10/16/08

Date



Cheryl L. Newton, Acting Director

Air and Radiation Division

U.S. Environmental Protection

Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Domtar A.W. Corporation

Docket No. CAA-05-2009-0001

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PROTECTION AGENCY**

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.

10/21/08
Date

Walter W. Kovalich
Lynn Buhl
Regional Administrator
U.S. Environmental Protection
Agency, Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY
OCT 16 2008
OFFICE OF REGIONAL
COUNSEL

In the Matter of:
Domtar A.W. Corporation, Port Edwards, Wisconsin
Docket No. CAA-05-2009-0001

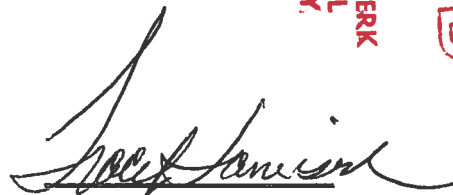
Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that mailed by Certified Mail, Receipt No. _____, the second original to Respondent and to Respondent's Counsel, addressed as follows:

David S. Ulrich
Superintendent, Environmental Services
Domtar Industries Inc.
100 Wisconsin River Drive
Port Edwards, Wisconsin 54469

Michael S. McCauley, Esq
Quarles & Brady L.L.P
411 East Wisconsin Avenue
Milwaukee, Wisconsin 553202-4497

on the 24 day of October 2008.


Tracy Jamison
AECAS (MI/WI)

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