



5. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

6. Section 110 of the Act, 42 U.S.C. § 7410, requires each State to develop an implementation plan for the purpose of attaining and maintaining the National Ambient Air Quality Standards (NAAQS).

7. Pursuant to Section 110(c) of the Act, 42 U.S.C. § 7410(c), on June 29, 1990, U.S. EPA approved the revised Reasonably Available Control Technology (RACT) rules for Volatile Organic Material (VOM) as part of the Federally enforceable implementation plan for the State of Illinois (Illinois SIP). The revised RACT rules for VOM are set forth at 40 C.F.R. § 52.741.

8. The Federal regulations found at 40 C.F.R. § 52.741(e), and the State regulations found at 35 Ill. Admin. Code §§ 218.204-214, set forth rules for coating operations.

9. 40 C.F.R. § 52.741(e)(1)(I)(C) and 35 Ill. Admin. Code § 218.204(c) contain a VOM content limitation for paper coating of 2.9 pounds of VOM per gallon of coating, as applied. Compliance with this limitation was required by July 1, 1991.

10. On September 9, 1994, 35 Ill. Admin. Code Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, was approved by the Administrator of the U.S. EPA (59 Fed. Reg. 46569), replacing the Federal revisions to the

Illinois SIP found at 40 C.F.R. § 52.741, effective October 11, 1994.

11. On February 13, 1996, revisions to 35 Ill. Admin. Code Part 218.204-214 were approved by the Administrator of the U.S. EPA (61 Fed. Reg. 5511). The revisions included a new VOM content limitation for paper coating of 2.3 pounds of VOM per gallon of coating, as applied, found at 35 Ill. Admin. Code § 218.204(c). Compliance with this limitation was required by March 15, 1996.

12. The Federal regulations found at 40 C.F.R. § 52.741(h)(5), and the State regulations found at 35 Ill. Admin. Code §§ 218.405-406, set forth rules for heatset web offset lithographic printing operations.

13. On November 8, 1995, the Administrator of the U.S. EPA approved revisions to 35 Ill. Admin. Code Part 218, including revisions to the lithographic printing regulations found at 35 Ill. Admin. Code §§ 218.407-411, effective January 8, 1996. 60 Fed. Reg. 56238.

14. 35 Ill. Admin. Code § 218.411 requires a heatset web offset lithographic printing source to submit a declaration of exemption from or compliance with the lithographic printing rules found at 35 Ill. Admin. Code §§ 218.407-410, along with all test results and calculations demonstrating exemption or compliance by March 15, 1996.

15. Banta operates at the Facility eight lithographic printing and paper coating lines.

16. Emissions from the inks and coatings applied by the lithographic printing and paper coating lines at the Facility contain "air pollutants" within the meaning of Section 302(g) of the Act, 42 U.S.C. § 7602(g).

17. Actual emissions from the coatings applied by the paper coating operations at the Facility exceed the threshold of 15 pounds of VOM per day. and therefore, and are subject to the regulations for coating operations set forth in the Illinois SIP at 35 Ill. Admin. Code §§ 218.204-214.

18. Actual emissions from the coatings applied by the paper coating operations at the Facility are subject to the regulations for coating operations set forth in the Illinois SIP at 35 Ill. Admin. Code §§ 218.204-214.

19. Maximum theoretical emissions from the inks applied by the lithographic printing operations at the Facility exceed the threshold of 100 tons of VOM per year before the application of any capture and control devices.

20. Maximum theoretical emissions from the inks applied by the lithographic printing operations at the Facility are subject to the regulations for lithographic printing operations set forth in the Illinois SIP at 35 Ill. Admin. Code §§ 218.405-411.

21. Section 113(a) of the Act, 42 U.S.C. § 7413(a),

requires, among other things, that, whenever the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, the Administrator shall notify the person and the State in which the SIP applies of such finding.

22. On September 18, 1997, the Administrator issued to Banta a Notice of Violation (NOV) pursuant to Section 113(a) of the Act, 42 U.S.C. § 7413(a), for violations of the Illinois SIP.

23. On September 18, 1997, the Administrator notified the State of Illinois that Banta had violated the requirements of the Illinois SIP.

24. On November 5, 1997, representatives of Respondent and U.S. EPA met to discuss the violations alleged in the NOV.

25. On July 29, 1998, the Administrator issued to Banta a second NOV pursuant to Section 113(a) of the Act, 42 U.S.C. § 7413(a), for additional violations of the Illinois SIP.

26. On July 29, 1998, the Administrator notified the State of Illinois that Banta had violated the requirements of the Illinois SIP.

27. On September 10, 1998, representatives of Respondent and U.S. EPA met to discuss the violations alleged in the second NOV.

28. Any person who has violated or is violating any requirement or prohibition of an applicable SIP is subject to an

enforcement action. Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**COUNT I**

29. Paragraphs 1-28 are incorporated herein by reference.

30. Banta applied adhesives with a daily weighted average VOM content in excess of the allowable limit of 2.9 pounds per gallon on lines #2-9 at the Facility on at least 45 occasions from October 11, 1994 through March 14, 1996. See attached Table of Violations (Attachment A).

31. Banta applied adhesives with a daily weighted average VOM content in excess of the allowable limit of 2.3 pounds per gallon on lines #2-9 at the Facility on at least 34 occasions from March 15, 1996 through December 31, 1997. See attached Table of Violations (Attachment A).

32. Banta's applications of a noncompliant coating, as described in Paragraphs 30 and 31, constitute violations of 35 Ill. Admin. Code § 218.204(c).

33. Each of Banta's violations of 35 Ill. Admin. Code § 218.204(c) constitutes a violation of the Illinois SIP and, among other things, subjects Banta to the assessment of a civil penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**COUNT II**

34. Paragraphs 1 through 33 of this Complaint are hereby referenced as if fully set forth herein.

35. Banta failed to submit a complete certification of compliance with or exemption from the heatset web offset lithographic printing operations rules set forth at 35 Ill. Admin. Code §§ 218.407-411 for lines #2-9 at the Facility.

36. Banta's failure to certify compliance or exemption, as described in Paragraph 35, constitutes a violation of 35 Ill. Admin. Code § 218.411.

37. Banta's violation of 35 Ill. Admin. Code § 218.411 constitutes a violation of the Illinois SIP and, among other things, subjects Banta to the assessment of a civil penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY**

38. Section 113(d) of the Act, 42 U.S.C. § 7413(d), and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, provides, among other things, that the Administrator may, following the 30 day period after the issuance of the Notice of Violation under Section 113(a) of the Act, 42 U.S.C. § 7413(a), assess against a person a civil penalty of up to \$27,500 per day of violation, up to a maximum administrative civil penalty of \$220,000, whenever the Administrator finds that such person is violating any requirement or prohibition of an applicable SIP.

The Administrator's authority is limited to matters where the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. On August 20, 1998, the Administrator and the Attorney General jointly determined that this matter was appropriate for administrative resolution.

39. Section 113(e)(1) of the CAA, 42 U.S.C. § 7413(e)(1), requires the Administrator to take the following factors into consideration when determining the amount of any penalty to be assessed under Section 113: the size of Respondent's business; the economic impact of the proposed penalty on Respondent's business; Respondent's full compliance history and good faith efforts to comply; the duration of the violations alleged in the Complaint 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.

40. Based upon the facts alleged in this Complaint and after consideration of the factors discussed above as they relate to Respondent and to the facts and circumstances of Respondent's

violations, including information provided by Respondent to U.S. EPA, U.S. EPA hereby proposes to issue to Respondent a Final Order Assessing Administrative Civil Penalties in the amount of \$75,850. The amount of the civil penalty was determined based upon an analysis of the evidence now known to Complainant, relevant to the alleged violations and to the statutory penalty criteria, in consideration of the statutory penalty criteria and U.S. EPA's "Clean Air Act Stationary Source Penalty Policy" (Penalty Policy), dated October 25, 1991, and the Memorandum Clarifications to the October 25, 1991, Clean Air Act Stationary Source Civil Penalty Policy, dated January 17, 1992, copies of which are enclosed with this Complaint.

41. The CAA requires that, when determining an appropriate penalty, U.S. EPA must consider the economic benefit a violator derives from the alleged violations. In this case, there is minimal economic benefit, and the U.S. EPA in its discretion has decided not to assess an economic benefit component.

42. In accordance with the CAA, U.S. EPA has considered the seriousness of Respondent's violations. A factor reflecting the seriousness of the violations has been derived by determining the largest exceedance of an applicable limit that occurred between October 11, 1994 and December 31, 1997. Accordingly, the proposed penalty includes a component corresponding to the actual or potential environmental harm from the violations.

43. In considering the seriousness of the violation, U.S. EPA also considered the air quality status of the area in which the Respondent's Facility is located. Respondent's Facility is located in a severe nonattainment area for ozone, a pollutant to which VOM is a precursor. 40 C.F.R. § 81.314. Accordingly, the proposed penalty includes a component corresponding to the actual or potential harm from a violation in a severe nonattainment area for ozone.

44. In accordance with the CAA, U.S. EPA has considered the duration of the violations in assessing the actual or possible harm resulting from such violations. The violations described in Count I occurred on at least 64 days between October 11, 1994 and December 31, 1997. The violation described in Count II occurred on March 15, 1996, and continues to the present; however, U.S. EPA, in its discretion, is assessing penalties for only one day of violation. Thus, the penalty includes a duration of violation component for each Count.

45. In accordance with the CAA, U.S. EPA has considered the importance of non-emission requirements such as testing, monitoring, recordkeeping and reporting. The violation described in Count II, failure to submit a certification of compliance or exemption, is a non-emission violation. Thus, the penalty includes a component reflecting the non-emission violation.

46. In accordance with the CAA, U.S. EPA has considered the size of Respondent's business in determining the appropriate penalty. Respondent has advised U.S. EPA that the net current assets for its Elk Grove Village, Illinois facility are \$9,714,000. Accordingly, the penalty includes a component reflecting the size of the Respondent's business.

47. In determining an appropriate civil penalty in accordance with the CAA, U.S. EPA has considered Respondent's compliance history and its good faith efforts to comply. Because U.S. EPA is aware of no prior citations for violations of environmental statutes by Respondent, the proposed penalty has not been enhanced based on this factor.

48. In accordance with the CAA, U.S. EPA has considered the economic impact of the penalty on Respondent's business. Based on the best information available to U.S. EPA at this time, including information submitted to U.S. EPA by Respondent, the proposed penalty of \$75,850 reflects a current presumption of Respondent's ability to pay the penalty and to continue in business.

49. The penalty proposed in this Complaint has been developed based on the best information available to U.S. EPA at this time, and may be adjusted if the Respondent establishes bonafide issues of ability to pay or other defenses relevant to the appropriateness of the penalty.

50. Respondent shall pay the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and shall deliver it, with a transmittal letter identifying the name of the case and docket number of this Complaint to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

Respondent shall also include on the check the name of the case and the docket number. Respondent simultaneously shall send copies of the check and transmittal letter to:

Vivian Doyle (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

and

Mary McAuliffe (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**OPPORTUNITY TO REQUEST A HEARING**

51. Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2), requires the Administrator of U.S. EPA to provide to any person against whom the Administrator proposes to assess a penalty an opportunity to request a hearing on the proposed penalty.

Accordingly, Banta has the right to request a hearing to contest any material fact alleged in the Complaint or to contest the appropriateness of the amount of the proposed penalty. In order to request a hearing, Banta must specifically make such request in Banta's Answer, as discussed in Paragraphs 52 through 57, below. Any hearing which Banta requests regarding the Complaint will be held and conducted in accordance with the provisions of the Consolidated Rules.

**ANSWER**

52. To avoid being found in default, Banta must file a written Answer to this Complaint with the Regional Hearing Clerk (R-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, within 30 calendar days of Banta's receipt of this Complaint. In computing any period of time allowed under this Complaint, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays and Federal holidays shall be included, except when a time period expires on such, in which case the deadline shall be extended to the next business day.

53. Banta's Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint, or must state clearly that Banta has no knowledge regarding a particular factual allegation which Banta cannot admit, deny or explain, in which case the allegation will be

deemed denied.

Banta's Answer shall also state with specificity:

- a. The circumstances or arguments which Banta alleges constitute grounds for defense;
- b. The facts that Banta intends to place at issue; and
- c. Whether Banta requests a hearing as discussed in paragraph 51.

54. Failure to respond to any factual allegation in this Complaint shall constitute admission of the alleged fact.

55. Banta must send a copy of its Answer and of any documents subsequently filed in this action to Mary McAuliffe, Associate Regional Counsel (C-14J), U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Banta may telephone Ms. McAuliffe at (312) 886-6237.

56. If Banta fails to file a written Answer within 30 calendar days of its receipt of this Complaint, the Administrator of U.S. EPA may issue a Default Order pursuant to 40 C.F.R. § 22.17(a). Issuance of a Default Order will constitute a binding admission of all allegations made in the Complaint and a waiver of Banta's right to a hearing. The civil penalty proposed herein shall become due and payable without further proceedings 60 days after the Default Order becomes the Final Order of the Administrator pursuant to 40 C.F.R. § 22.27 or § 22.31.

57. Failure to comply with an administrative penalty order subjects Banta to the provisions relating to the imposition of

interest, penalty and enforcement expenses set forth at Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). Interest will accrue at the rate established pursuant to 26 U.S.C. § 6621(a)(2). The U.S. EPA will also apply a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Banta's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter. In addition, Banta will be required to pay, in addition to all other penalties and interest, the United States' enforcement expenses, including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings. In such a collection proceeding, the validity, amount, and appropriateness of the administrative penalty assessed shall not be subject to review.

#### **SETTLEMENT CONFERENCE**

58. Whether or not Banta requests a hearing, Banta may request an informal conference to discuss the facts of this action and to arrive at a settlement. To request a settlement conference, write to Vivian Doyle, Air Enforcement and Compliance Assurance Branch (AE-17J), Air and Radiation Division, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone Ms. Doyle at (312) 353-7996.

59. Banta's request for an informal settlement conference

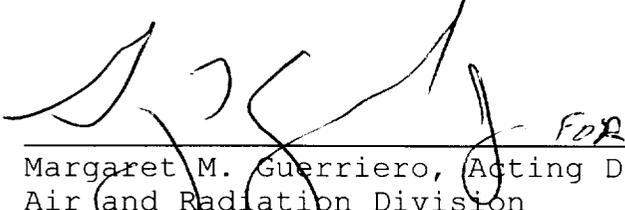
does not extend the thirty calendar day period during which Banta must submit a written Answer to this Complaint. Banta may pursue simultaneously the informal settlement conference and adjudicatory hearing processes. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. However, U.S. EPA will not reduce the penalty simply because such a conference is held. Any settlement that may be reached as a result of such a conference shall be embodied in a Consent Order. Banta's agreement to a Consent Order issued pursuant to 40 C.F.R. § 22.27 shall constitute a waiver of Banta's right to request a hearing on any matter stipulated to therein.

**CONTINUING OBLIGATION TO COMPLY**

60. Neither assessment nor payment of an administrative civil penalty shall affect Banta's continuing obligation to comply with the CAA or any other Federal, State or local law or regulation.

Date

9/24/99

  
 \_\_\_\_\_ FOR  
 Margaret M. Guerriero, Acting Director  
 Air and Radiation Division  
 U.S. Environmental Protection  
 Agency, Region 5  
 West Jackson Boulevard  
 Chicago, Illinois 60604-3590

**CAA-5-99-046**

RECEIVED

In the Matter of Banta Direct Marketing, Inc.

Docket No: **CAA-5-99-046**

'99 SEP 29 P2:50

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that I hand delivered the original of the foregoing Administrative Complaint, the Consent Agreement and Final Order, and the Administrative Order to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed accurate and true copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy 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 it in the custody of the United States Postal Service addressed as follows:

Ms. Linda E. Benfield  
Foley & Lardner  
Firststar Center  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202-5367

I also certify that a copy of the Administrative Complaint, the Consent Order, and Administrative Order were sent by First

Class Mail to: **CAA-5-99-046**

Tim Yost, Plant  
Banta Direct Marketing, Inc.  
2075 Busse Road  
Elk Grove Village, Illinois 60007

David Kolaz, Manager  
Compliance and Systems Management Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62702

Harish Narayan, Acting Regional Manager  
Region I  
Illinois Environmental Protection Agency  
1701 First Avenue  
Suite 1202  
Maywood, Illinois 60153

on the 21<sup>st</sup> Day of September 1999.

Betty Williams  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P 140 778973

**CAA-5-99-046**