

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-07-0015
MEADWESTVACO SOUTH CAROLINA, LLC*	*	Enforcement Tracking No.
	*	AE-PP-05-0162
AI # 1514	*	
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Meadwestvaco South Carolina, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that operates a gum and wood chemicals facility at DeRidder, Beauregard Parish, Louisiana (“the Facility”).

II

On January 8, 2007, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-05-0162, which was based upon the following findings of fact:

On April 20 through 21, 2005, an inspection of the DeRidder Facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The facility is located at or near 400 Crosby Road in DeRidder, Beauregard Parish, Louisiana. The Respondent operated the facility under Title V Permit No. 0320-00003-V0 issued on July 3, 2002, which was administratively amended on April 30, 2003, December 10, 2003, and February 27, 2004, and other

air permits. The Respondent operates the facility under Title V Permit No. 0320-00003-V1 issued on January 12, 2006, which was administratively amended on February 20, 2006. The Department sent a Warning Letter dated August 5, 2005, to the Respondent. The Respondent sent a letter dated August 23, 2005, in response to the Warning Letter. The Respondent's response was taken into consideration.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to perform the annual ash and sulfur content analysis of the Reaction Oil fuel burned in the boilers in 2004. The Respondent later reported in the Part 70 General Condition R.3 report dated June 28, 2005, and in the Title V semiannual monitoring report dated September 29, 2005, that the Reaction Oil fuel burned in the Steam Generation Boilers (Emission Point 1-75) was not analyzed for the ash and sulfur content in calendar year 2004. The Respondent noted that the fuels were not analyzed for ash and sulfur content until April 2005. Each failure to analyze the boiler fuels for ash content and the sulfur content at least annually is a violation of State Only Specific Condition Nos. 13 and 14, respectively, of Title V Permit No. 0320-00003-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. Records for calendar year 2004 through April 16, 2005, provided by the Respondent, indicated that the Respondent failed to perform the weekly diagnostic checks of the oxygen analyzers for the Steam Generation Boiler Nos. 2, 3, and 4 (Emission Point No. 1-75) for several weeks in 2004 and in 2005 to ensure proper operation of the analyzers and to determine if the 'calibration feature' indicates that calibration is needed. The Respondent reported in the Part 70 General Condition R.3 report dated June 28, 2005, and in the Title V semiannual monitoring report dated September 29, 2005, that twelve (12) weeks were missed in 2004. The records received from the Respondent indicated approximately nine (9) additional occasions during the time period of January 1, 2005 through April 16, 2005, in which the weekly diagnostic checks of the Steam Generation Boiler Nos. 2, 3, and 4 oxygen analyzers were not performed. Each failure to perform weekly diagnostic checks to ensure proper operation of the analyzers and to determine if the 'calibration feature' indicates that

calibration is needed is a violation of State Only Specific Condition No. 10 of Title V Permit No. 0320-00003-V0 as administratively amended on February 27, 2004, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

{To clarify the foregoing, it should be noted that records given to the inspector at the time of the inspection indicated failure to perform weekly diagnostic checks of the oxygen analyzers for Steam Generation Boilers Nos. 2, 3, and 4 (Emission Point No. 1-75). However, the Respondent sent an email to the Department on February 15, 2007, which contained an attachment with records of weekly diagnostic checks of the oxygen analyzers for the Steam Generation Boilers. Therein, Respondent indicated that Steam Generation Boiler No. 4 had actually been out of operation since 2004. Therefore, there were 14 missed weekly diagnostic checks during calendar year 2004 through April 16, 2005 and those would have been checks of the oxygen analyzers for the Steam Generation Boilers Nos. 2 and 3.}

- C. Records provided by the Respondent indicated that the filter elements (bags) for the dust collectors (Emission Point Nos. 2-84, 3-88, 3A-88, and 2-94) were not inspected every six months. According to the Respondent's response dated August 23, 2005, the Part 70 General Condition R.3 report dated June 28, 2005, and the Title V semiannual monitoring report dated September 29, 2005, the six-month period ended in June 2004 with Emission Point No. 3-88 being inspected in July 2004 and Emission Point No. 3A-88 being inspected in August 2004. However, the records provided to the inspector indicated the following inspections were performed:
1. Emission Point No. 2-94 was inspected on December 22, 2003, with the next inspection not occurring until July 27, 2004.
 2. Emission Point No. 2-84 was inspected on June 29, 2004, with the next inspection not occurring until February 25, 2005.

3. Emission Point No. 3-88 was inspected on December 23, 2003, with the next inspection not occurring until August 10, 2004.
4. Emission Point No. 3A-88 was inspected on December 23, 2003, with the next inspection not occurring until August 10, 2004.

Based on the records provided to the inspector by the Respondent, the Respondent failed to perform the inspections of the filter elements (bags) for the dust collectors (Emission Point Nos. 2-84, 3-88, 3A-88, and 2-94) every six (6) months as required. Each failure to perform the inspections of the filter elements (bags) for the dust collectors for each emission point is a violation of State Only Specific Condition No. 4 of Title V Permit No. 0320-00003-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- D. The Respondent reported in the Louisiana General Condition XI.C and Part 70 General Condition R.3 report dated December 23, 2004, that the notification was not submitted within seven (7) calendar days of the initial use of a raw material. By letter dated September 28, 2004, the Respondent notified the Department of the use of new raw materials in accordance with State Only Specific Condition No. 19. The Respondent noted in the notification that the initial use of raw materials was on July 24, 2004. Therefore, the Respondent failed to submit the written notice of the use of a new raw material within seven (7) calendar days of initial use of the raw material in violation of State Only Specific Condition No. 19.g of Title V Permit No. 0320-00003-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On October 10, 2006, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

In an Administrative Amendment request dated September 22, 2003, the Respondent requested to amend Title V Permit No. 0320-00003-V0 to correct the nitrogen oxides (NO_x) emission factor for natural gas for the Steam Generation Boilers (Emission Point 1-75) listed in Appendix C. According to the Respondent, the emission factor for large wall-fired boilers with a heating capacity greater than 100 MMBtu/hour was used instead of the factor for small boilers with a heating capacity less than 100 MMBtu/hour. The facility noted that each steam generation boiler had a design capacity of 65

MMBtu/hour. In the Administrative Amendment to Title V Permit No. 0320-00003-V0 issued on December 10, 2003, the permitted NO_x emissions from the Steam Generation Boilers (Emission Point No. 1-75) were amended as a result of the lower NO_x emission factor. The failure to accurately quantify NO_x emissions from the Steam Generation Boilers (Emission Point No. 1-75) in the permit application and supplemental information used as the basis for Title V Permit No. 0320-00003-V0 is a violation of LAC 33:III.517.D.3.d, and Section 2057(A)(2) of the Act.

The following violation, although not included in the foregoing enforcement action, is included within the scope of the settlement herein.

The Respondent reported in the Title V Quarterly Monitoring Report dated June 28, 2005, that there was an increase in hydrogen sulfide/sulfurous emissions due to new emission factors that were based on a recent personnel and area monitoring of the Refinery Hotwell System (Emission Point No. 5-95). Monitoring was performed based on concern with potential employee exposure to hydrogen sulfide and other sulfurous compounds. According to the Respondent's report, there was an exceedance of the permitted emission rates for Emission Point 5-95. The Respondent noted that a vent line was constructed from the Refinery Hotwell System to an air pollution control device. The increased hydrogen sulfide and sulfurous emissions determined to be emitted from Emission Point 5-95 were unpermitted and therefore the additional emissions of each of the pollutants which were not permitted is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TEN THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$10,200.00), of which One Thousand One Hundred Fifty-Nine and 27/100 Dollars (\$1,159.27) represents the Department's

enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the above-referenced Notice of Potential Penalty, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against the Respondent. In any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as evidence of the violations alleged herein for the sole purpose of determining the Respondent's compliance history, but Respondent may present relevant mitigating factors for the Department's consideration.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Beauregard Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

MEADWESTVACO SOUTH CAROLINA, LLC

BY: CA
(Signature)

Carlos Arrambida
(Print)

TITLE: PLANT mgr.

THUS DONE AND SIGNED in duplicate original before me this 23 day of May, 20 07, at 12⁰⁰ pm.

Margaret Spencer Hines
NOTARY PUBLIC (ID # 022410)
Margaret Spencer Hines
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Mike D. McDaniel, Ph.D., Secretary

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 21st day of August, 20 07, at Baton Rouge, Louisiana.

Carolyn E. Bryant
NOTARY PUBLIC (ID # 04983)
Carolyn E. Bryant
(Print)

Approved: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary