

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Clarion Boards LLC	:	
P.O. Box 340	:	The Air Pollution Control Act
143 Fiberboard Road	:	
Shippenville, PA 16254-0340	:	

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 25<sup>th</sup> day of November 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Clarion Boards, LLC.

The Department has found and determined the following Findings:

A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119, *as amended*, 35 P.S. §§ 4001-4015 (“Air Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

B. Clarion Boards LLC is a limited liability company registered to do business in the Commonwealth of Pennsylvania that maintains a mailing address of P.O. Box 340, Shippenville, PA 16254-0340 (“Clarion Boards”).

C. Clarion Boards owns and operates a medium and high-density fiberboard production plant located at 143 Fiberboard Road, Shippenville, PA 16254-0340 in Paint Township, Clarion County (“Facility”).

D. At the Facility, Clarion Boards owns and operates, among other air contamination sources: an EPI Energy Unit and Fiber Drying System (“Source ID 101”), which is comprised of press emissions and emissions from an EPI Combustor (“EPI Combustor”); and a Dry Dust Handling & Fuel Feed System (“Source ID 119”).

E. At the Facility, Clarion Boards owns and operates several air cleaning devices, including: a wet scrubber (“Wet Scrubber”); the EPI combustor electrostatic precipitator (“Electrostatic Precipitator”); a Durr regenerative thermal oxidizer (“Durr RTO”), which controls emissions from Source ID 101 and the EPI Combustor; and the System 19 baghouse (“System 19 Baghouse”), which controls emissions from Source ID 119.

F. On December 31, 2014, the Department issued Plan Approval No. 16-0132K (“Plan Approval K”) to Clarion Boards for the removal of the total press enclosure of Source ID 101 while still capturing emissions from the press area.

G. On January 19, 2016, the Department renewed the Title V Operating Permit No. 16-00132 authorizing Clarion Boards’ operation of Source ID 101, among other air contamination sources and air cleaning devices (“Permit”). The Permit was amended on August 7, 2019.

H. Clarion Boards operates and maintains a continuous emission monitoring system on the exhaust stack of the Durr RTO that measures nitrogen oxide (“NOx”) emissions in pounds per hour (“Emission Result ID 1548”).

I. During the Second Quarter of 2017, Clarion Boards reported to the Department the data availability for Emission Result ID 1548 as follows:

<b>Emission Result ID 1548</b>	<b>Minimum Data Availability Requirement</b>	<b>Actual Data Availability</b>
<i>Time Period</i>	<i>% Required</i>	<i>% Valid</i>
April	90% on rolling 24 hr. basis	7.22%
May	90% on rolling 24 hr. basis	0%
June	90% on rolling 24 hr. basis	2.78%
Quarter	95% of all hours in quarter	20.15%

J. During the Third Quarter of 2017, Clarion Boards did not submit timely monitoring data to the Department and reported to the Department the data availability for Emission Result ID 1548 as follows:

<b>Emission Result ID 1548</b>	<b>Minimum Data Availability Requirement</b>	<b>Actual Data Availability</b>
<i>Time Period</i>	<i>% Required</i>	<i>% Valid</i>
September	90% on rolling 24 hr. basis	57.92%
Quarter	95% of all hours in quarter	87.05%

K. During the Fourth Quarter of 2017, Clarion Boards reported to the Department the data availability for Emission Result ID 1548 as follows:

<b>Emission Result ID 1548</b>	<b>Minimum Data Availability Requirement</b>	<b>Actual Data Availability</b>
<i>Time Period</i>	<i>% Required</i>	<i>% Valid</i>
November	90% on rolling 24 hr. basis	85%
Quarter	95% of all hours in quarter	93.25%

L. During the Fourth Quarter of 2018, Clarion Boards reported to the Department the data availability for Emission Result ID 1548 as follows:

<b>Emission Result ID 1548</b>	<b>Minimum Data Availability Requirement</b>	<b>Actual Data Availability</b>
<i>Time Period</i>	<i>% Required</i>	<i>% Valid</i>
November	90% on rolling 24 hr. basis	85%
Quarter	95% of all hours in quarter	93.75%

M. During the Third and Fourth Quarters of 2017, the Fourth Quarter of 2018, and the First Quarter of 2019, Clarion Boards reported NOx emissions from the Durr RTO, monitored by

Emission Result ID 1548, to the Department that exceeded 46.0 pounds per hour based on a rolling 24-hour average.

N. Beginning August 2017 and continuing each consecutive month until August 2018, and again in January 2019 and February 2019, Clarion Boards reported to the Department excess NOx emissions from the Durr RTO, monitored by Emission Result ID 1548, based on a consecutive 12-month period.

O. On March 23, 2017, the Department issued Plan Approval No. 16- 0132L (“Plan Approval L”) to Clarion Boards for, among other things, the replacement of the EPI Combustor with a new Ness dust burner (“Ness Dust Burner”), the replacement of the Durr RTO with a Tann regenerative thermal oxidizer (“Tann RTO”), and the construction of four Jenbacher reciprocating engines (“Engines”).

P. On February 22, 2018, the Department conducted an inspection and reviewed records at the Facility. Records revealed the last stack test for non-methane volatile organic compounds (“NMVOC”) performed at the inlet and outlet of the Durr RTO was November 5, 2015.

Q. On April 25, 2018, the Department conducted an inspection at the Facility and discovered the press emissions from Source ID 101 and the EPI Combustor were exhausting directly to the atmosphere.

R. On June 12, 2018, Clarion Boards began operating the Engines pursuant to Plan Approval L.

S. On June 19, 2018, Clarion Boards conducted a stack test for NMVOC emissions from the outlet of the Durr RTO.

T. On November 2, 2018, Clarion Boards took the EPI Combustor out of service pursuant to Plan Approval L.

U. On November 14, 2018, Clarion Boards began operating the Ness Dust Burner pursuant to Plan Approval L.

V. On April 16, 2019, the Department conducted an inspection of the Facility and discovered that the bag leak detection system was not installed on the System 19 Baghouse, and there were no records of the daily visible emissions check and verification of the bag leak detection system operating.

W. On April 24, 2019, Clarion Boards updated its recordkeeping to include daily visible emission checks and verification of bag leak detection system.

X. On May 24, 2019, Clarion Boards began operating the bag leak detection system on System 19 Baghouse.

Y. On August 12, 2019, Clarion Boards ceased press operations at the Facility and took the Durr RTO out of service pursuant to Plan Approval L.

Z. On September 5, 2019, Clarion Boards resumed press operations at the Facility, began operating the Tann RTO, and directed the press emissions to the Ness Dust Burner and Tann RTO pursuant to Plan Approval L.

#### **Applicable Law**

AA. Clarion Boards is a “person,” as that term is defined in Section 3 of the Air Act, 35 P.S. § 4003.

BB. Source ID 101 and Source ID 119 are each an “air contamination source,” as that term is defined in Section 3 of the Air Act, 35 P.S. § 4003, and 25 Pa. Code § 121.1.

CC. The Wet Scrubber, the Electrostatic Precipitator, the Durr RTO, the Ness RTO and the System 19 Baghouse are each an “air cleaning device,” as that term is defined in 25 Pa. Code § 121.1.

DD. Pursuant to the requirements of 25 Pa. Code § 127.25, a person may not cause or permit the operation of a source subject to plan approval requirements, unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the application and conditions in the plan approval issued by the Department.

EE. Pursuant to the requirements of 25 Pa. Code § 127.444, a person may not cause or permit the operation of a source unless the source and air cleaning devices are operated and maintained in accordance with the condition in the operating permit issued by the Department.

FF. In accordance with the Permit, Section D, Source EPI Energy Unit & Fiber Drying System, Condition No. 005(f):

1. A NO<sub>x</sub> monitor shall be installed in the exhaust stack for the Durr RTO and shall provide information on NO<sub>x</sub> emissions in pounds per hour and tons per year.
2. The monitor shall be operated and maintained in accordance with the latest version of the Department’s Continuous Source Monitoring Manual.
3. The continuous monitoring shall be conducted in accordance with 25 Pa. Code Chapter 139 and as approved by the Department.

GG. Pursuant to 25 Pa. Code § 139.101(12), Clarion Boards is required to meet at least one of the following minimum data availability requirements for Emission Result ID 1548:

1. In each calendar month, at least 90% of the time periods for which an emission standard or an operational parameter applies shall be valid; or

2. In each calendar quarter, at least 95% of the hours shall be valid.

HH. Pursuant to 25 Pa. Code § 139.101(5), Clarion Boards is required to maintain records containing monitoring information for Emission Result ID 1548 and report that data to the Department as specified in the latest version of the Department's Continuous Source Monitoring Manual.

II. In accordance with the Permit, Section D, Source EPI Energy Unit & Fiber Drying System, Condition No. 002(b), the NOx emissions from the outlet of the Durr RTO shall not exceed 46 pounds per hour based on a rolling 24-hour average and 113.9 tons per year based on a consecutive 12-month period.

JJ. In accordance with the Permit, Section C, Condition No. 003(a), a stack test for NMVOC shall be conducted at the outlet of the scrubber/inlet of the Durr RTO, and the outlet of the Durr RTO within 12 to 24 months of the last test.

KK. In accordance with the Permit, Section D, Source EPI Energy Unit & Fiber Drying System, Condition No. 005, emissions from Source ID 101 and the EPI Combustor shall be controlled by the Durr RTO.

LL. In accordance with Plan Approval K, Section D, Source ID 119, Condition No. 002(c)(3), Clarion Boards shall record the daily emission check, defined as once per calendar day and verify that the bag leak detection system is operating.

MM. In accordance with Plan Approval K, Section D, Source ID 119, Condition No. 003(b), Clarion Boards shall install and operate a bag leak detection system.

## **Unlawful Conduct**

NN. Clarion Boards' failure to comply with the data availability requirements for Emission Result ID 1548 as described in Paragraphs I through L, above, violates 25 Pa. Code §§ 127.444 and 139.101(12), and the Permit.

OO. Clarion Boards' failure to submit timely monitoring data to the Department as described in Paragraph J, above, violates 25 Pa. Code §§ 127.444 and 139.101(5), and the Permit.

PP. Clarion Boards' failure to comply with the NO<sub>x</sub> emissions limit of 46 pounds per hours based on a rolling 24-hour average as described in Paragraph M, above, violates 25 Pa. Code § 127.444 and the Permit.

QQ. Clarion Boards' failure to comply with the NO<sub>x</sub> emissions limit of 113.9 tons per year based on a consecutive 12-month period as described in Paragraph N, above, violates 25 Pa. Code § 127.444 and the Permit.

RR. Clarion Boards' failure to conduct a stack test for NMVOC at the outlet of the scrubber/inlet of the Durr RTO, and the outlet of Durr RTO within 12 to 24 months of the last test as described in Paragraph P, above, violates 25 Pa. Code § 127.444 and the Permit.

SS. Clarion Boards' failure to control the press emissions from Source ID 101 and the EPI Combustor with the Durr RTO as described in Paragraph Q, above, violates 25 Pa. Code § 127.444.

TT. Clarion Boards' failure to install and operate a bag leak detection system on the System 19 Baghouse as described in Paragraph V, above, violates 25 Pa. Code § 127.25.



UU. Clarion Boards' failure to record the daily visible emissions check and verification of leak detection system for the System 19 Baghouse as described in Paragraph W, above, violates 25 Pa. Code § 127.25.

VV. On March 22, 2018, the Department issued a Notice of Violation to Clarion Boards notifying Clarion Boards of the violations identified in Paragraph RR, above.

WW. On July 31, 2018, the Department issued a Notice of Violation to Clarion Boards notifying Clarion Boards of the violations identified in Paragraph SS, above.

XX. The violations described in Paragraphs NN through UU, above, constitute unlawful conduct under Section 8 of the Air Act, 35 P.S. § 4008; a statutory nuisance under Section 13 of the Air Act, 35 P.S. § 4013; and subject Clarion Boards to civil penalty liability under Section 9.1 of the Air Act, 35 P.S. § 4009.1.

YY. As of the date of this CACP, Clarion Boards has corrected the violations identified in Paragraphs NN through UU, above.

After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Clarion Boards as follows:

1. Assessment. In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 9.1 of the Air Act, 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of **\$229,955**, which Clarion Boards hereby agrees to pay.
2. Civil Penalty Settlement. Clarion Boards consents to the assessment of a civil penalty assessed in Paragraph 1, which shall be paid in full upon signing this CACP. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs NN

through UU, above. The payment shall be made by corporate check or the like payable to “Commonwealth of Pennsylvania Clean Air Fund” and sent to Eric A. Gustafson, Regional Manager, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335.

3. Findings.

a. Clarion Boards agrees that the Findings in Paragraphs A through YY are true and correct and, in any matter or proceeding involving Clarion Boards and the Department, Clarion Boards shall not challenge the accuracy or validity of these Findings.

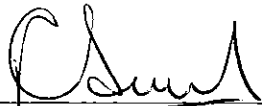
b. The Parties do not authorize any other person to use the Findings in this CACP in any matter or proceeding.

4. Reservation of Rights. The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Clarion Boards reserves the right to challenge any action which the Department may take but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties hereto have caused this CACP to be executed by their duly authorized representatives. The undersigned representative of Clarion Boards certifies under penalty of law, as provided by 18 Pa. C.S. § 4904, that he is authorized to execute this CACP on behalf of Clarion Boards; that Clarion Boards consents to the entry of this CACP as an ASSESSMENT of the Department; that Clarion Boards hereby knowingly waives any right to a hearing under the statutes referenced in the CACP; and that Clarion Boards knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental

Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Clarion Boards' attorney certifies only that the agreement has been signed after consulting with counsel.

**FOR CLARION BOARDS LLC:**

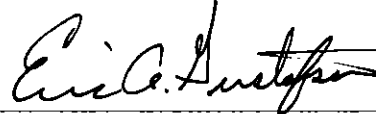


Christian Schweitzer  
Managing Member

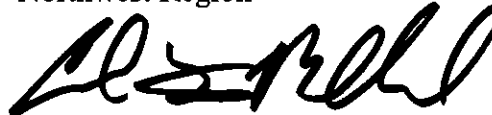
*Waived*

Name  
Attorney for Clarion Boards LLC

**FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:**



Eric A. Gustafson  
Regional Manager  
Air Quality Program  
Northwest Region



Carl D. Ballard  
Assistant Counsel