

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

PELLA CORPORATION

Facility ID# 73-01-012
Page County

ADMINISTRATIVE CONSENT ORDER
NO. 2008-AQ-10

TO: Pella Corporation
Denny Van Zanten, VP, President & COO of Wood Division
1500 Highway 59 South
Shenandoah, Iowa 51601

Pella Corporation
Corporation Service Company, Registered Agent
729 Insurance Exchange Building
Des Moines, Iowa 50309

SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Pella Corporation for the purpose of resolving air quality violations at its Shenandoah plant. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Reid Bermel, Air Quality Bureau
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-4899

Relating to legal requirements:

Arne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-6243

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

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I. JURISDICTION

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

II. STATEMENT OF FACTS

1. Pella Corporation has a facility located at 1500 Highway 59 South in Shenandoah, Iowa. This facility is one of Pella Corporation's five facilities in Iowa. Pella Corporation employs 600 people in Shenandoah and manufactures windows and patio doors. Sources of emissions to the outside atmosphere at this facility include paint booths, paint kitchens, drying ovens, flash ovens, cooling ovens, and UV Coaters. This facility is considered a major source for purposes of the Title V Operating Permit Program.

PAST ENFORCEMENT HISTORY:

2. On November 15, 1999, DNR issued an as-built notice to Pella Corporation's Carroll facility (Facility No. 14-01-010) for constructing by-pass stacks without first obtaining air quality construction permits.

3. On June 1, 2000, DNR issued a non-compliance letter to Pella Corporation's Pella facility (Facility No. 63-02-003) for three unpermitted air emission units.

4. On January 8, 2001, DNR issued a non-compliance letter to Pella Corporation's Pella facility for two unpermitted air emission units.

5. On February 16, 2006, DNR issued a Notice of Violation letter to Pella Corporation's Story City facility (Facility No. 85-03-007) for three new paint booths and three new cure ovens installed in December 2004 prior to receipt of air quality construction permits. DNR did not receive the required air quality construction permit applications for this equipment until December 6, 2005.

6. On April 17, 2006, DNR issued an as-built notice to Pella Corporation's Carroll facility (Facility No. 14-01-010) for unpermitted air emission equipment installed in January 2005. DNR did not receive the required air quality construction permit application for this equipment until March 31, 2006.

CURRENT ENFORCEMENT HISTORY:

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7. On January 9, 2008, Pella Corporation's Shenandoah facility submitted permit applications for three new paint booth and three new cure ovens. In these permit applications, Pella Corporation requested emission limits necessary to limit the Shenandoah facility's emissions below the Prevention of Significant Deterioration of Air Quality (PSD) Program thresholds. The permit applications also requested Hazardous Air Pollutant (HAP) emission limits necessary to keep the facility a minor source for purposes of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Surface Coating of Wood Building Products, 40 CFR Part 63, Subpart QQQQ.

8. On April 9, 2008, prior to issuance of the required permits, DNR permit engineering staff visited Pella Corporation's Shenandoah facility and observed that the three paint booths and three cure ovens had been constructed. A Notice of Violation letter dated April 14, 2008, was sent Pella Corporation for these violations.

9. On April 15, 2008, DNR issued air quality construction permits for the three paint booths and three cure ovens.

III. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

2. Pursuant to Iowa Code sections 455B.133 and 455B.134(3)(a), 567 IAC 22.1(1) requires that a person who constructs, installs, reconstructs or alters equipment or control equipment must first obtain an air quality construction permit from DNR, unless an exemption applies. Further, General Condition G19 of Pella Corporation's Shenandoah Title V Operating Permit contains the same provisions. Pella Corporation constructed three paint booths and three cure ovens at its Shenandoah facility prior to obtaining the required construction permits. No exemption applies to the affects units. The above facts indicate violations of these provisions.

V. ORDER

THEREFORE, the DNR orders and Pella Corporation agrees to do the following:

1. Comply with air quality construction permit requirements in the future; and
2. Pay a penalty of \$4,700.00 within 30 days of the date the Director signs this administrative consent order.

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VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this chapter, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty of \$4,700.00. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Pella Corporation's failure to go through the proper construction permitting steps prevented the DNR from evaluating these sources' environmental impact prior to installation. However, the DNR had decided not to assess an economic benefit since Pella did not operate the ovens or booths.

Gravity of the Violation – Pella Corporation has a history of non-compliance concerning the requirement to obtain a construction permit prior to installation or modification of a new or existing unit. Moreover, construction prior to obtaining required permits also threatens the integrity of the permitting and air quality program. Based on the above considerations, \$2,200.00 is assessed for this factor.

Culpability – Pella Corporation has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Pella Corporation is fully aware of the requirement to have a construction permit issued prior to initiating new construction, having obtained permits in the past for all five of its Iowa facilities. In addition, Pella Corporation received four as-built notices, and received a Notice of Violation for failing to obtain a construction permit. Based on the above-considerations, \$2,500.00 is assessed for this factor.

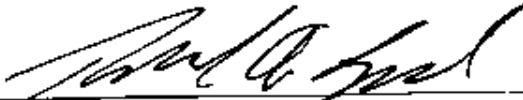
VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Pella Corporation. For this reason, Pella Corporation waives its rights to appeal this order or any part thereof.

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VIII. NONCOMPLIANCE

Failure to comply with this order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 31 day of
March, 2008.



for PELLA CORPORATION
73-01-012; Anne Preziosi; Reid Bernel; EPA; VII.A.1; VII.A.2

Dated this 12th day of
March, 2008.