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# PRESS RELEASE

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## For Immediate Release

Date: November 8, 1994  
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San Francisco, California

—ENVIRONMENTAL APPEALS BOARD REMANDS Region IX PSD PERMIT  
FOR MASONITE'S UKIAH FACILITY  
MAY MEAN A REDUCTION OF AT LEAST 125 TONS OF POLLUTION

In a decision that may mean a 125 ton pollution reduction from the Ukiah Valley's biggest stationary source, EPA's new Washington D.C. based Environmental Appeals Board overruled Region IX's PSD permit for Masonite's Ukiah facility for its failure to properly evaluate Best Available Control Technology. A three judge panel ruled on November 1, 1994, that Region IX erred when it failed to consider whether Masonite could retrofit an existing incinerator to control emissions from a process line that was already using low solvent coatings. (PSD Appeal No. 94-1) The Board confirmed that retrofitting the incinerator was technically feasible, and that given data in the record, it may be financially cost effective to eliminate another 125 tons of volatile organic compounds emitted from the facility.

The Board ruled on a petition brought by Citizens For A Healthy Ukiah ("CHU"), a community organization concerned about potential health impacts from the facility. Golden Gate University Law School's Environmental Law and Justice Clinic represented CHU. The petition concerned a permit given to Masonite for its Molded Product Line modification. Masonite began operating the line in 1990. In 1992 the Mendocino County Air Pollution

Control District ("MCAPCD") required a stipulated order of abatement under which Masonite was required to install a regenerative thermal oxidizer ("RTO") to control particulate emissions and odor from the MPL Press Line. EPA then concluded that Masonite, who had failed to apply for a PSD permit, should have applied before constructing the line and required an application to assure compliance with the Federal Clean Air Act.

The Board supported a broad definition of BACT that includes a combination of pollution reduction techniques and controls. It also ruled that Region IX erred in failing to evaluate fugitive PM-10 emissions from the unloading of wood chips together with other PM-10 sources. If quantifiable and significant, the Board ordered Region IX to conduct a BACT analysis for all increases in PM-10 emissions. The Board also ordered a BACT analysis for emissions from dryer ovens and a review of continuous electronic monitoring of the incinerator temperature to assure proper operation. While rejecting a more stringent emissions limit on the operations of the current incinerator, the Board interpreted the permit as requiring that the incinerator must be operated at its most efficient level and that if that is at greater levels than initially required, then it must continue to meet that performance level.

The Environmental Appeals Board is the final decision maker within the Environmental Protection Agency for appeals on permit and civil penalty decisions under all of the major environmental statutes. The Board was established on March 1, 1992 by President Bush's EPA Administrator William Reilly in recognition that administrative appeals were becoming more common and more important. The Board consists of three environmental appeals judges appointed by the Administrator, six staff attorneys, and three support personnel. They are Nancy B. Firestone, former EPA associate deputy administrator and previously deputy chief of the Environmental Enforcement Section of the Department of Justice; Ronald L. McCallum, former chief judicial officer of EPA; and Edward Reich, former legal advisor to the EPA administrator and acting assistant administrator and deputy assistant administrator of EPA's Office of Enforcement. Judge Reich wrote a 44 page decision in support of the Board's ruling.

It is now up to Region IX to reconsider the permit in light of the Board's ruling. Region IX must now consider expanding the RTO to control more emissions according to the

principles set by the Board. The Board stated that anyone still dissatisfied thereafter would have a court action as their only remedy.