

PUBLIC NOTICE: 09-01

**NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND
OPPORTUNITY TO COMMENT**

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

**ACTION: NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT
AND OPPORTUNITY TO COMMENT**

**SUMMARY: EPA IS PROVIDING NOTICE OF PROPOSED ADMINISTRATIVE
PENALTY ASSESSMENT FOR ALLEGED VIOLATIONS OF THE CLEAN WATER
ACT. EPA IS ALSO PROVIDING NOTICE OF OPPORTUNITY TO COMMENT ON
THESE PROPOSED PENALTY ASSESSMENT.**

**UNDER 33 U.S.C. §1319(G), EPA IS AUTHORIZED TO ISSUE ORDERS ASSESSING
CIVIL PENALTIES FOR VARIOUS VIOLATIONS OF THE ACT. EPA MAY ISSUE
SUCH ORDERS AFTER THE COMMENCEMENT OF A CLASS I OR CLASS II
PENALTY PROCEEDING. EPA PROVIDES PUBLIC NOTICE OF THESE PROPOSED
ASSESSMENT PURSUANT TO 33 U.S.C. §1319(G)(4)(A).**

CLASS II PROCEEDINGS ARE CONDUCTED UNDER EPA'S "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS", 40 CODE OF FEDERAL REGULATIONS PART 22. THE PROCEDURES THROUGH WHICH THE PUBLIC MAY SUBMIT WRITTEN COMMENT ON A PROPOSED CLASS II COMPLAINT OR PARTICIPATE IN A CLASS II PROCEEDING, AND THE PROCEDURES BY WHICH A RESPONDENT MAY REQUEST A HEARING, ARE SET FORTH IN THE CONSOLIDATED RULES. THE DEADLINE FOR SUBMITTING PUBLIC COMMENT ON A PROPOSED CLASS II ORDER IS THIRTY (30) DAYS AFTER THE DATE OF PUBLICATION OF THIS PUBLIC NOTICE.

ON THE DATE IDENTIFIED BELOW, EPA COMMENCED THE FOLLOWING CLASS II PROCEEDING FOR THE ASSESSMENT OF PENALTIES: IN THE MATTER OF KIMBER MANUFACTURING, INC., 1 LAWTON STREET, YONKERS, NEW YORK 11705 THE OWNER AND/OR OPERATOR OF THE FACILITY LOCATED AT 1 LAWTON STREET, YONKERS, NEW YORK 11705, DOCKET NO. CWA-02-2008-3402; PROPOSED PENALTY: \$85,000.00, FOR FAILURE TO OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM DISCHARGE PERMIT AND FOR FAILURE TO MONITOR AND REPORT AS REQUIRED BY SAID PERMIT.

FOR FURTHER INFORMATION: PERSONS WISHING TO RECEIVE A COPY OF EPA'S CONSOLIDATED RULES, REVIEW THESE COMPLAINTS OR OTHER DOCUMENTS FILED IN THESE PROCEEDINGS, COMMENT UPON THE PROPOSED

ASSESSMENTS, OR OTHERWISE PARTICIPATE IN ANY OF THESE PROCEEDINGS, SHOULD CONTACT THE REGIONAL HEARING CLERK IDENTIFIED ABOVE. UNLESS OTHERWISE NOTED, THE ADMINISTRATIVE RECORD FOR THESE PROCEEDINGS IS LOCATED IN THE EPA REGIONAL OFFICE IDENTIFIED ABOVE, AND THE FILES WILL BE OPEN FOR PUBLIC INSPECTION DURING NORMAL BUSINESS HOURS. ALL INFORMATION SUBMITTED BY THE RESPONDENT IS AVAILABLE AS PART OF THE ADMINISTRATIVE RECORD, SUBJECT TO PROVISIONS OF LAW RESTRICTING PUBLIC DISCLOSURE OF CONFIDENTIAL INFORMATION.

IN ORDER TO PROVIDE OPPORTUNITY FOR PUBLIC COMMENT, EPA WILL ISSUE NO FINAL ORDER ASSESSING A PENALTY IN THESE PROCEEDINGS PRIOR TO THIRTY (30) DAYS FROM THE DATE SPECIFIED BELOW.

DATED: OCTOBER 8, 2008

**DORE LAPOSTA, DIRECTOR
DIVISION OF ENFORCEMENT AND
COMPLIANCE ASSISTANCE**