

1

ANSWER: Respondent admits the allegations of paragraph 4.

5. The NESHAP for Halogenated Solvent Cleaning applies to each individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses any solvent containing methylene chloride (CAS No. 75-09-2), perchloroethylene (CAS No. 127-18-4), trichloroethylene (CAS No. 79-01-6), 1,1,1-trichloroethane (CAS No. 71-55-6), carbon tetrachloride (CAS No. 56-23-5) or chloroform (CAS No. 67-66-3), or any combination of these halogenated HAP solvents, in a total concentration greater than 5 percent by weight, as a cleaning and/or drying agent. The concentration of these solvents may be determined using EPA test method 18, material safety data sheets, or engineering calculations. Wipe cleaning activities, such as using a rag containing halogenated solvent or a spray cleaner containing halogenated solvent are not covered under the provisions of this subpart.

ANSWER: Respondent admits the allegations of paragraph 5.

6. Wisconsin Plating's vapor degreaser, Emission Unit P35, uses trichloroethylene in a concentration greater than 5 percent by weight; therefore Emission Unit P35 is subject to the requirements at 40 C.F.R. Part 63 Subpart T.

ANSWER: Respondent admits the allegations of paragraph 6.

7. The NESHAP, at 40 C.F.R. 63.463(e)(1), states that each owner or operator of a solvent cleaning machine shall conduct monitoring of each control device used to comply with § 63.463 of this subpart as provided in § 63.466.

ANSWER: Respondent admits the allegations of paragraph 7.

8. The NESHAP, at 40 C.F.R. 63.463(e)(2)(i), states that if a freeboard refrigeration device is used to comply with these standards, the owner or operator shall ensure that the chilled air blanket temperature (in °F), measured at the center of the air blanket, is no greater than 30 percent of the solvent's boiling point.

ANSWER: Respondent admits the allegations of paragraph 8.

9. The NESHAP, at 40 C.F.R. 63.466(a), states that except as provided in paragraph (g) of this section, each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the equipment standards in §63.463(b)(1)(i), (b)(2)(i), (c)(1)(i), (c)(2)(i), (g)(1),

or (g)(2) shall conduct monitoring and record the results on a weekly basis for the control devices, as appropriate, specified in paragraphs (a)(1) through (5) of this section.

ANSWER: Respondent admits the allegations of paragraph 9.

10. The NESHAP, at 40 C.F.R. 63.466(a)(1), states that if a freeboard refrigeration device (FRD) is used to comply with these standards, the owner or operator shall use a thermometer or thermocouple to measure the temperature at the center of the air blanket during the idling mode.

ANSWER: Respondent admits the allegations of paragraph 10.

11. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

ANSWER: Respondent admits the allegations of paragraph 11.

12. Section 113(d) (1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

ANSWER: Respondent admits the allegations of paragraph 12.

13. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violation alleged in the complaint.

ANSWER: Respondent admits the allegations of paragraph 13.

General Allegations

14. Wisconsin Plating owns and operates a vapor degreaser at 620 Stannard Street in Racine, Wisconsin.

ANSWER: Respondent admits the allegations of paragraph 14.

15. On July 18, 2007, Wisconsin Plating submitted their semi-annual report for the NESHAP, indicating there were six (6) occurrences where the temperature of the FRD was not recorded.

ANSWER: Respondent admits the allegations of paragraph 15.

COUNT I

16. Complainant incorporates paragraphs 1 through 15 of the Complaint, as if set forth in this paragraph. located on a single site or on contiguous or adjacent sites and which are owned by the same person, entity, or corporation.

ANSWER: Respondent incorporates the answers to paragraphs 1 through 15 by reference as though set forth here in full.

17. Respondent failed to monitor and record the temperature of the FRD for Emission Unit P35 for the six weeks listed below.

1. Week of February 26, 2007
2. Week of March 5, 2007
3. Week of April 2, 2007
4. Week of May 14, 2007
5. Week of June 11, 2007
6. Week of June 25, 2007

ANSWER: Respondent denies that it failed to monitor the temperature of the FRD for emission. For further affirmative answer Respondent states that during the weeks in question Respondent does not believe it was using the FRD.

18. Respondent's failure to monitor and record the temperature of the FRD for Emission Unit P35 is a violation of § 63.463(e)(1) and § 63.466(a).

ANSWER: Respondent denies the allegations of paragraph 18 and each of them.

19. On March 7, 2008, EPA issued a Finding of Violation (FOV) to Respondent regarding the violations described herein.

ANSWER: Respondent admits the allegations of paragraph 19.

20. On March 26, 2008, EPA and Respondent held a conference to discuss the March 7, 2008 FOV.

ANSWER: Respondent admits the allegations of paragraph 20.

Proposed Civil Penalty

Respondent denies any civil penalty is due, required or appropriate and contests the proposed penalties.

Opportunity to Request a Hearing

Respondent hereby requests a hearing to contest all of the material facts in this Complaint and to contest the amount of the proposed penalty as provided for in Section 22.17 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits.

Settlement Conference

Respondent hereby requests an informal conference to discuss the facts of this case and to arrive at a settlement.

Respectfully submitted,

**WISCONSIN PLATING WORKS OF
RACINE, WISCONSIN**

By: _____



Christopher T. Nowotarski
One of Respondent's attorneys

Christopher Nowotarski
STONE POGRUND & KOREY LLC
Attorneys for Respondent
1 East Wacker Drive, Suite #2610
Chicago, IL 60601
T: 312-782-3636
F: 312-782-1482