



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 25 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark Marquis, Corporate Executive Officer
Marquis Energy - Wisconsin, LLC
11953 Prairie Industrial Parkway
Hennepin, Illinois 61327

Re: In the Matter of: Marquis Energy - Wisconsin, LLC - Necedah, Wisconsin
Docket No. CAA-05-2014-0056

Dear Mr. Marquis:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Marquis Energy - Wisconsin, LLC. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 25 2014.

Pursuant to paragraph 48 of the CAFO, Marquis Energy - Wisconsin, LLC must pay the civil penalty within 30 days of SEP 25 2014. Your check or electronic funds transfer must display the case name, case docket number CAA-05-2014-0056

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel, 312-886-6831.

Sincerely,

A handwritten signature in cursive script that reads "Nathan A. Frank for".

Nathan A. Frank, P.E.
Air Enforcement and Compliance Assurance Branch,
(IL/IN)

Enclosure

cc: Regional Hearing Clerk/E-19J
Regional Judicial Officer/C-14J
Cynthia King/C-14J
Bill Baumann/Wisconsin Department of Natural Resources

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) **Docket No. CAA-05-2014-0056**
)
Marquis Energy - Wisconsin, LLC)
Necedah, Wisconsin)
Respondent.)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Marquis Energy - Wisconsin, LLC (Marquis or Respondent), a limited liability corporation doing business in Wisconsin. Marquis owns and/or operates a facility located at N 9585 State Road 80 in Necedah, Wisconsin (the Facility).

4. Under 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

5. Marquis consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

6. Marquis admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations or legal conclusions in this CAFO.

7. Marquis waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Applicable Statutory and Regulatory Background

9. Section 110(a)(1) of the Act, 42 U.S.C. § 7410(a)(1), requires each state to adopt and submit to the EPA for approval a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS). Under Section 110(a)(2)(C) of the Act, 42 U.S.C. § 7410(a)(2)(C), each SIP must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. Pursuant to Section 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113.

10. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated in a SIP, is a requirement of the SIP, and is federally enforceable under Section 113, 42 U.S.C. § 7413.

11. On January 18, 1995, EPA approved the Wisconsin Administrative Code NR 406 Construction Permits effective February 17, 1995, 60 Fed. Reg. 3543, as part of the Wisconsin SIP.

12. On November 19, 2007, November 22, 2010, and June 28, 2011, the Wisconsin Department of Natural Resources (WDNR) issued federally-enforceable air pollution control construction permits (Permits) 07-JAJ-218, 09-POY-205, and 11-POY-079, respectively, to Marquis for the Facility. Permit conditions presented in a particular permit are typically unchanged in subsequent permits.

13. Condition I.A.3.b.2 of Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 requires that the primary chamber of the recuperative thermal oxidizer (RTO) be maintained between 1400°F to 1500°F or maintained at a level to meet all applicable requirements for volatile organic compounds (VOCs) as determined by the most recent compliance test.

14. Condition I.A.5.b.2 of Permits 09-POY-205 and 11-POY-079 requires that the thermal oxidizer temperature be maintained within the range needed to maintain compliance with all applicable requirements for carbon monoxide. The temperature shall be at or above 1400° F unless an alternative minimum temperature is shown to be needed to maintain compliance.

15. Condition I.A.6.b.6 of Permit 11-POY-079 requires that the thermal oxidizer temperature be maintained within the range needed to maintain compliance with all applicable requirements for acetaldehyde. The temperature shall be at or above 1400°F unless an alternative minimum temperature is shown to be needed to maintain compliance.

16. Condition I.A.7.b.8 of Permit 11-POY-079 requires that the thermal oxidizer temperature be maintained within the range needed to maintain compliance with all applicable

requirements for formaldehyde. The temperature shall be at or above 1400°F unless an alternative minimum temperature is shown to be needed to maintain compliance.

17. Condition I.D.1.b.3 of Permits 09-POY-205 and 11-POY-079 requires that the pressure drop across the packed bed water scrubber and the make-up water flow rate be maintained per manufacturer specifications, the most recent compliance test, or as approved by WDNR in writing to maintain all applicable requirements for volatile organic compounds.

18. Condition I.D.2.b.3 of Permit 11-POY-079 requires that the pressure drop across the packed bed water scrubber and the make-up water flow rate be maintained per manufacturer specifications, the most recent compliance test, or as approved by WDNR in writing to maintain all applicable requirements for acetaldehyde.

19. Condition I.D.1.c.4 of Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 requires that the circulation pump and packing of the packed bed water scrubber to be inspected monthly.

20. Condition I.D.2.c.3 of Permit 11-POY-079 requires that the circulation pump and packing of the packed bed water scrubber be inspected monthly.

21. Condition I.D.1.c.5 of Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 requires that the permittee keep records of all inspections, checks and any maintenance or repairs performed on the packed bed water scrubber.

22. Condition I.D.2.c.4 of Permit 11-POY-079 requires that the permittee keep records of all inspections, checks and any maintenance or repairs performed on the packed bed water scrubber.

23. Condition I.B.1.c.3 of Permits 09-POY-205 and 11-POY-079 requires that the permittee record the pressure drop across the baghouse (Grain Receiving/Handling/Storage, Control Device C20) at the beginning of each operating shift.

24. Condition I.C.1.b.3 of Permits 09-POY-205 and 11-POY-079 requires that the pressure drop across the baghouse control device (Hammer Milling, Control Device C30) be maintained between 0.25 and 8 inches water column, or an alternative range approved in writing.

25. Condition I.C.1.c.3 of Permits 09-POY-205 and 11-POY-079 requires that the permittee record the pressure drop across the baghouse (Hammer Milling, Control Device C30) at the beginning of each operating shift.

26. Condition I.F.1.b.1 of Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 requires that the baghouse control device (DDGS Cooling, Control Device C70) be in line and operated at all times the process is in operation.

27. Condition I.F.1.b.3 of Permits 09-POY-205 and 11-POY-079 requires that the pressure drop across the baghouse control device (DDGS Cooling, Control Device C70) be maintained between 0.25 and 8 inches water column, or an alternative range approved in writing.

28. Condition I.F.1.c.3 of Permits 09-POY-205 and 11-POY-079 requires that the permittee record the pressure drop across the baghouse (DDGS Cooling, Control Device C70) at the beginning of each operating shift.

29. Condition I.G.1.b.1 of Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 requires that the baghouse control device (DDGS Storage/Loading, Control Device C90) be in line and operated at all times the process is in operation.

30. Condition I.G.1.c.3 of Permits 09-POY-205 and 11-POY-079 requires that the permittee record the pressure drop across the baghouse (DDGS Storage/Loading, Control Device C90) at the beginning of each operating shift.

31. NR 424.03(1)(a)4 of the Wisconsin SIP states that this section is applicable to all other process lines from which organic compound emissions are never greater than 6.8 kilograms (15 pounds) in any day and never greater than 1.4 kilograms (3.1 pounds) in any hour.

32. NR 424.03(2)(b) and (c) of the Wisconsin SIP states that process lines to which the section is applicable and where construction or modification commenced on or after August 1, 1979, shall either control organic emissions by at least 85% or use the latest available control techniques and operating practices demonstrating best current technology.

Factual Allegations and Alleged Violations

33. Marquis owns and operates the Facility.

34. Marquis produces ethanol at the Facility.

35. On June 29, 2011, EPA performed an inspection of the Facility.

36. On October 12, 2011, EPA issued an information request to Marquis pursuant to Section 114 of the Act, 42 U.S.C. § 7414 (Information Request).

37. Marquis provided a response to the Information Request on January 16, 2012.

38. Marquis violated Permits 07-JAJ-218, 09-POY-205 and 11-POY-079, the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by failing to meet the minimum temperature at the RTO established at the most recent compliance test to maintain compliance with requirements for VOCs, carbon monoxide, acetaldehyde, and formaldehyde on multiple occasions from July, 2010 through November, 2011.

39. Marquis violated Permits 09-POY-205 and 11-POY-079, the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by exceeding the maximum pressure drop across the scrubbers established during the most recent compliance test to maintain compliance with requirements for VOCs and acetaldehyde on multiple occasions from February 8, 2011 through September 25, 2011.

40. Marquis violated Permits 07-JAJ-218, 09-POY-205, and 11-POY-079 the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by failing to perform and/or record required monthly inspections at the scrubber from July 2010 through November 2011.

41. Marquis violated Permits 09-POY-205 and 11-POY-079, the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by failing to record the pressure drop across baghouses C20, C30, C70, and C90 on multiple occasions from December, 2010 through October, 2011.

42. Marquis violated Permits 07-JAJ-218, 09-POY-205, and 11-POY-079, the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by failing to operate baghouses C70 and C90 at all times the associated process was in production on multiple occasions from July, 2010 to November, 2011.

43. Marquis violated Permit 09-POY-205, the Wisconsin SIP, and Section 110 of the Act, 42 U.S.C. § 7410, by failing to maintain a pressure drop across baghouses C30 and C70 between 0.25 and 8 inches water column on multiple occasions from December, 2010 to March, 2011.

44. Marquis violated NR 424.03(2)(b) and Section 110 of the Act, 42 U.S.C. § 7410, by allowing the packed bed water scrubber (Control Device C40) to operate while ejecting water from the stack (Stack S40) during standard operations at the facility during EPA's inspection on June 29, 2011.

45. Marquis violated NR 424.03(2)(b) and Section 110 of the Act, 42 U.S.C. § 7410, by allowing three pressure relief valves (PRVs) located at the top of three separate fermentation tanks to actively vent the contents of the fermentation tanks directly to the atmosphere during EPA's June 29, 2011 inspection and by periodically operating the packed bed scrubber with a pressure drop across the packed bed that would be expected to result in the PRVs located on the fermentation tanks to directly vent VOCs and hazardous air pollutants directly to the atmosphere from July, 2010 to September, 2011.

46. Marquis violated NR 424.03(2)(b) and Section 110 of the Act, 42 U.S.C. § 7410 by operating the packed bed scrubber control system with a high alarm setpoint of 22 inches of water, which is greater than the maximum differential pressure, 19.3 inches of water, established during the most recent performance test in January, 2011.

Civil Penalty

47. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, Marquis's cooperation, self-reporting, and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$100,000.

48. Within 30 days after the effective date of this CAFO, Marquis must pay a \$100,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name, the docket number of this CAFO and the billing document number.

49. Respondent must send a notice of payment that states Respondent’s name, the docket number of this CAFO and the billing document number to the Compliance Tracker, Air Enforcement and Compliance Assurance Branch and to Cynthia A. King at the following addresses when it pays the penalty:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Cynthia A. King (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

50. This civil penalty is not deductible for federal tax purposes.

51. If Respondent does not timely pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

52. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

53. This CAFO resolves only Marquis's liability for federal civil penalties for the violations alleged in this CAFO.

54. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

55. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws. Except as provided in paragraph 53, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.


56. Respondent certifies that, based upon information and belief formed after reasonable inquiry, it is complying fully with all applicable permit requirements and the Wisconsin SIP.

57. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

58. The terms of this CAFO bind Respondent, its successors and assigns.
59. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
60. Each party agrees to bear its own costs and attorneys' fees in this action.
61. This CAFO constitutes the entire agreement between the parties.
62. This CAFO shall become effective immediately upon filing with the Regional Hearing Clerk and shall terminate when the Respondent has paid the penalty.

Marquis Energy – Wisconsin, LLC, Respondent

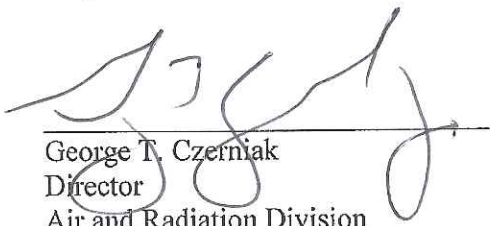
9/9/14
Date



Mark Marquis
Corporate Executive Officer
Marquis Energy - Wisconsin, LLC

United States Environmental Protection Agency, Complainant

9/15/14
Date



George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5


Consent Agreement and Final Order
In the Matter of: Marquis Energy – Wisconsin, LLC
Docket No.

CAA-05-2014-0056

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-22-2014
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the Matter of: Marquis Energy - Wisconsin, LLC
Docket No. CAA-05-2014-0056

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA05 2014 0056 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mark Marquis, Corporate Executive Officer
Marquis Energy - Wisconsin, LLC
11953 Prairie Industrial Parkway
Hennepin, Illinois 61327

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Bill Baumann, Section Chief
Compliance Enforcement and Emission Inventory Section
Bureau of Air Management
Wisconsin Department of Natural Resources
PO Box 7921
Madison, Wisconsin 53707-7921

On the 25 day of September 2014.


Loretta Shaffer, Admin. Prog. Asst.
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7676 2434