

REF
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

SEP 27 12:54

IN THE MATTER OF:)	Docket No. 5-CAA-'00-002
)	
Wisconsin Color Press, Inc.)	Proceeding to Assess an
Milwaukee, Wisconsin)	Administrative Penalty
)	under Section 113(d) of the
)	Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
_____)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On December 21, 1999, U.S. EPA filed the complaint in this action against Respondent Wisconsin Color Press, Inc. (Wisconsin Color Press). The complaint alleges that Wisconsin Color Press violated the federally-enforceable State Implementation Plan at its facility in Milwaukee, Wisconsin. The complaint alleges in Counts I through IV that Respondent failed to demonstrate compliance with the appropriate destruction efficiency or emission rate in Wis. Adm. Code NR 422.142(2) by performing initial compliance emission tests on the control devices for four lithographic printing presses by July 1, 1996 in violation of Wis. Adm. Code NR 422.142(5)(a). The complaint

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alleges in Counts V through VIII that Respondent failed to submit to the Wisconsin Department of Natural Resources written certification that the presses were in compliance with the applicable requirements of Wis. Adm. Code NR 422.142(4) and (5) by September 1, 1996 in violation of Wis. Adm. Code NR 422.142(6)(b)1.

3. Wisconsin Color Press filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Wisconsin Color Press admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Wisconsin Color Press waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. Wisconsin Color Press certifies that as of August 20, 1999, it was in full compliance with Wis. Adm. Code NR 422.142(5)(a) and Wis. Adm. Code NR 422.142(6)(b)1 and believes that it is still in compliance with these provisions.

7. The parties consent to the terms of this consent agreement and final order (CAFO).



8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of Respondent's good faith efforts to comply and to cooperate with Complainant and the litigation risks involved, U.S. EPA agrees to mitigate the proposed penalty of \$100,240 to \$56,707.

10. Wisconsin Color Press must pay the \$56,707 civil penalty with interest as specified in paragraph 14 below by cashier's or certified check payable to the "Treasurer, United States of America," in accordance with the payment schedule in paragraph 13 below.

11. Wisconsin Color Press must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:



Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Christine M. Liszewski, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. Wisconsin Color Press shall pay the \$56,707 penalty in four equal quarterly installments plus interest according to the following schedule:

- a. \$14,176.75 with interest as specified in paragraph 14 below within 90 days of the date this CAFO is filed with the Regional Hearing Clerk.
- b. \$14,176.75 with interest as specified in paragraph 14 below within 180 days of the date this CAFO is filed with the Regional Hearing Clerk.
- c. \$14,176.75 with interest as specified in paragraph 14 below within 270 days of the date this CAFO is filed with the Regional Hearing Clerk.
- d. \$14,176.75 with interest as specified in paragraph 14 below within 360 days of the date this CAFO is filed with the Regional Hearing Clerk.

14. Wisconsin Color Press shall pay interest on any unpaid portion of the \$56,707 penalty at a rate established by the Secretary of the Department of Treasury, pursuant to 31 U.S.C.

§ 3717, and published in the Federal Register quarterly.

Interest shall first begin to accrue 30 days after this CAFO is filed with the Regional Hearing Clerk.

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

16. If Wisconsin Color Press does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, 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 handling charges and nonpayment penalties are set forth in paragraphs 17 below. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

17. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Wisconsin Color Press will pay a \$15 handling charge each month that any portion of the penalty is overdue under the payment schedule in paragraph 13 above. Wisconsin Color Press will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

General Provisions

18. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

19. Nothing in this CAFO restricts U.S. EPA's authority to seek Wisconsin Color Press's future compliance with the Act and other applicable laws and regulations.

20. This CAFO does not affect Wisconsin Color Press's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

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

22. The terms of this CAFO bind Wisconsin Color Press, and its successors, and assigns.

23. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

24. Each party agrees to bear its own costs and fees in this action.

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25. This CAFO constitutes the entire agreement between the parties.

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CONSENT AGREEMENT AND FINAL ORDER
Wisconsin Color Press, Inc.
Docket No. 5-CAA-'00-002

U.S. Environmental Protection
Agency, Complainant

Date: 9-21-00

By: 
Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Wisconsin Color Press, Respondent

Date: _____

By: 
Frederick C. Cappetta, CEO
Wisconsin Color Press, Inc.

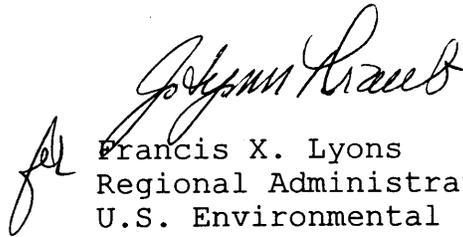
CONSENT AGREEMENT AND FINAL ORDER
Wisconsin Color Press, Inc.
Docket No. 5-CAA-'00-002

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

9/26/00



Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered an original of the Consent Agreement and Final Order (CAFO), docket number CAA-5-`00-002 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed an original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to the Wisconsin Color Press, Inc.'s Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Ms. Debra Slater, Esq.
Weiss Berzowski Brady & Donahue, LLP
700 N. Water Street - Suite 1500
Milwaukee, Wisconsin 53202-4273

cc: Lakshmi Sridharan, Regional Leader
Wisconsin Department of Natural Resources
Southeast Region
2300 North Dr. Martin Luther King Jr. Drive
P.O. Box 12435
Milwaukee, Wisconsin 53212

Honorable Carl C. Charneski
Administrative Law Judge
Office of Administrative Law Judges (1900L)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

on the 27 day of September, 2000.



Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER:

P140 897 056

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