

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

REGION 5

IN THE MATTER OF

WISMARQ CORPORATION,

RESPONDENT

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DOCKET NO. EPA-5-99-113(a)-WI-5

STATUTORY AUTHORITY

The following Order is issued pursuant to Sections 113(a) and 114 of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a) and 7414.

REGULATORY BACKGROUND

1. The Administrator of the United States Environmental Protection Agency (U.S. EPA) approved Wisconsin Administrative Code NR 422.06 on August 15, 1994, at 59 Fed. Reg. 41709, as part of the federally enforceable State Implementation Plan (SIP) for Wisconsin, pursuant to Section 110(a) of the Act, 42 U.S.C. §7410(a).
2. NR 422.06 (2) limits the emission of volatile organic compounds (VOCs) to 0.31 kilograms per liter of coating (2.6 pounds per gallon), excluding water, delivered to each coating applicator from prime and topcoat or single coat operations.
3. NR 422.04(2) states that the surface coating emission limitations shall be achieved by one of several options, including: (a) the application of low solvent content coating technology or (b) incineration or catalytic oxidation, provided that 90 percent of the non-methane (VOCs measured as total combustible carbon) which enter the incinerator or oxidation unit are oxidized to non-organic compounds.
4. Metal coil surface coating operations that are sources of VOC emissions, and are constructed, reconstructed or modified after January 5, 1981, become subject to the New Source Performance Standards for Metal Coil Surface Coating, set forth at 40 C.F.R., Subpart TT, §§ 60.460 - 60.466.
5. The regulation at 40 C.F.R. § 60.462 states that an owner or operator subject to this provision shall not cause to be discharged into the atmosphere more than 10 percent of the VOCs applied each calendar month.

6. Section 113(a) of the Act, 42 U.S.C. § 7413(a), states that whenever the Administrator of the U.S. EPA finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, the Administrator shall notify that person and the State in which the plan applies of such finding.
7. Section 113(a) of the Act, 42 U.S.C. § 7413(a), authorizes the Administrator to issue an order requiring such person to comply with the requirements or prohibitions of an implementation plan.
8. Section 114(a) of the Act, 42 U.S.C. § 7414(a), authorizes the Administrator to require any person who owns or operates any emission source to establish and maintain records of emissions; install, use, and maintain equipment for the monitoring of such emissions; sample emissions; and provide other information relative to such emissions, as may be reasonably required.

STATEMENT OF FACTS

9. Wismarq Corporation, a Wisconsin corporation, is the owner and operator of a metal coil coating line, Coating Line #1, which is a source of VOC emissions. Thus, it is subject to the requirements of the Wisconsin SIP set forth at NR 422.04(2) and 422.06(2).
10. Wismarq Corporation modified its coil coating Line # 1 in 1996 to incorporate an additional coating station. This modification made Line #1 subject to the New Source Performance Standards (NSPS) for metal coil surface coating, which are set forth at 40 C.F.R. Subpart TT, §§ 60.460 - 60.466. This regulation provides that an owner or operator subject to this provision shall not cause to be discharged into the atmosphere more than 10 percent of the VOCs applied each calendar month by its coating line.
11. On August 13, 1997, David Kee, Director, Air and Radiation Division, Region 5, issued a Notice of Violation and a Finding of Violation, pursuant to Section 113 of the Act, 42 U.S.C. § 7413, to Wismarq Corporation, alleging violation of Wisconsin SIP rules NR 422.04(2) and 422.06(2) and the New Source Performance Standards set forth at 40 C.F.R. § 60.462, based on the results of a stack test conducted on September 27, 1996. This stack test demonstrated that Wismarq was achieving a destruction efficiency of 65.8% at the incinerator serving Line #1. A copy of the Notice and Finding of Violation were sent to the State of Wisconsin.
12. Wismarq Corporation subsequently submitted the results of a stack test conducted on March 7, 1997, which purported to demonstrate that its incinerator destroyed VOCs with a 90.7 % destruction efficiency.
13. On September 26, 1997, U.S. EPA filed an administrative complaint against Wismarq, seeking penalties for the failure to comply with the Wisconsin SIP and the New Source Performance Standards between the September 27, 1996 and March 7, 1997 stack tests.
14. Subsequent to the filing of the administrative complaint, U.S. EPA discovered that the March 7, 1997 stack test was conducted pursuant to Reference Method 25A and that the VOC emissions during the test were at least 150 parts per million. However, U.S. EPA guidance entitled, "EPA's VOC test Methods 25 and

25A" dated October 25, 1993, instructs that Reference Method 25A is only acceptable in situations where VOC emissions are less than 50 parts per million. Reference Method 25 should be used in all other instances.

15. U. S. EPA's September 1998 discovery that the March 7, 1997 stack test was performed pursuant to Method 25A was communicated to Wismarq Corporation on or about September 17, 1998, and was later confirmed in a conversation with Administrative Law Judge Thomas W. Hoya, who was serving as a mediator between the parties.
16. U.S. EPA and Wismarq Corporation decided to resolve the issue of the reference method to be used through the issuance of this Order requiring additional testing, and through the settlement of the administrative complaint issued by U.S. EPA under the terms set forth in the accompanying consent agreement and consent order (CACO), which complements this Order.

ORDER

After thorough investigation of all relevant facts, taking into account the seriousness of the violations and efforts made by Wismarq Corporation to comply with applicable regulations, it is determined that the actions hereby ordered and agreed to are reasonable and meet the requirements of Sections 113(a)(1) and 114 of the Act, 42 U.S.C. §§7413(a) and 7414.

THEREFORE, IT IS HEREBY AGREED AND ORDERED THAT:

17. As of the effective date of this Order, the metal coil coating line #1, and the associated incinerator at the Wismarq Corporation facility in Oconomowoc, Wisconsin shall be operated to maintain continuous compliance with Wisconsin SIP rules NR 422.04(2) and 422.06(2) and the New Source Performance Standards set forth at 40 C.F.R. , Subpart TT, §§ 60.460 - 60.466.
18. In order to maintain compliance, Wismarq shall implement the following measures:
 - (a) Within 120 days of the effective date of this Order, Wismarq shall conduct a destruction efficiency test on the incinerator serving coating Line #1 that meets the following requirements:
 - (i) The test shall be conducted using U.S. EPA Reference Methods 1-4 and 25 for VOC emissions. These methods can be found at 40 C.F.R. Part 60, Appendix A.
 - (ii) The emission tests shall be conducted while operating with VOC content coatings which are representative of Line #1's normal operation, since its modification in 1996.
 - (iii) Each emission test shall consist of three runs, with each run being a minimum of 60 minutes, during which coating Line #1 is operating at maximum capacity, in terms of line speed and throughput, for the representative coating(s).

- (iv) Any other VOC emission test runs, conducted or attempted, at any time after entry of this Order through the date of the submittal of the results, shall be documented and included in the final report.

- (v) A test protocol shall be submitted to WDNR and U.S. EPA at least 45 days prior to the test. This protocol shall reflect all of the testing conditions required by this Order and shall include notification of the scheduled test date. U.S. EPA and WDNR shall be notified as soon as possible of any and all changes in the planned test date, but no later than 15 days prior to the date the test will actually be run. Personnel designated by the Agencies shall be permitted to observe all testing, ask questions of testing personnel, and make whatever records, including photographs and tape recordings (upon notification), as are deemed necessary by the agency personnel. The testing protocol shall, at a minimum, include the following:
 - a. Name and VOC content of coating(s) used during the testing;
 - b. Material Safety Data Sheets for coating(s) used during testing;
 - c. Sampling port locations and dimensions of cross-section;
 - d. Sampling point description; and,
 - e. Brief description of sampling procedures, including equipment and diagram.

- (vi) The results of all emission testing shall be submitted in a bound report to U.S. EPA and WDNR within 30 days after completion of the testing, for U.S. EPA's review pursuant to the provisions of Paragraph 24 of this Order. The report shall contain the following minimum information:
 - a. Emission results, including sample calculations;
 - b. Name and VOC content of coating(s) used during the testing;
 - c. Material Safety Data Sheets for coating(s) used during testing;
 - d. Sampling port locations and dimensions of cross-section;
 - e. Sampling point description;
 - f. Brief description of sampling procedures, including equipment and diagram;
 - g. Description of sampling procedures (planned and accidental) that deviated from any standard method;
 - h. Brief description of analytical procedures;
 - i. Description of analytical procedures (planned and accidental) that deviated from any standard method;
 - j. Raw field data (original, not computer printouts); and,
 - k. Related correspondence.

GENERAL PROVISIONS

19. All submissions and notifications to U.S. EPA under this Order shall be sent to the address listed in Paragraph 22.
20. Nothing contained in this Order shall affect the responsibility of Wismarq to comply with all applicable Federal, State or local laws or regulations, including Section 303 of the Act, 42 U.S.C. § 7603.
21. Nothing in this Order shall be construed to restrict, in any way, U.S. EPA's authority under Section 114 of the Act, 42 U.S.C. § 7414.
22. The provisions of this Order shall apply to and be binding upon Wismarq, its officers, directors, agents, servants, employees and any successor(s) in interest. Wismarq shall give written notice of this Order to any successor(s) in interest prior to transfer of ownership, and shall simultaneously send a copy of such written notice to:

Chief, Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard (AE-17J)
Chicago, Illinois 60604-3590
23. The information required to be maintained or submitted pursuant to this Order is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq.*
24. U.S. EPA may approve, disapprove, require revisions to, or modify the report submitted for Agency review pursuant to this Order. If U.S. EPA requires revisions, Respondent shall submit a revised report within 7 business days of receipt of U.S. EPA's notification of required revisions.
25. If the report submitted pursuant to this Order demonstrates that Respondent is not compliant with either Wisconsin SIP rules NR 422.04(2) and 422.06(2) or the New Source Performance Standards set forth at 40 C.F.R. § 60.462, Respondent shall submit a Schedule of Compliance, which shall detail any and all actions that Respondent shall take to return to compliance with applicable regulatory standards, and the dates by which it proposes to do so. Respondent shall include in its Schedule of Compliance an additional destruction efficiency test that meets the requirements of Paragraph 18 of this Order, which demonstrates compliance with Wisconsin SIP rules NR 422.04(2) and 422.06(2) and the New Source Performance Standards set forth at 40 C.F.R. § 60.462.
26. If the report submitted pursuant to this Order demonstrates noncompliance with the regulatory provisions cited in the preceding paragraph, Respondent may be subject to additional enforcement action pursuant to Sections 113 and 114 of the Act, 42 U.S.C. §§ 7413 (a) and 7414.

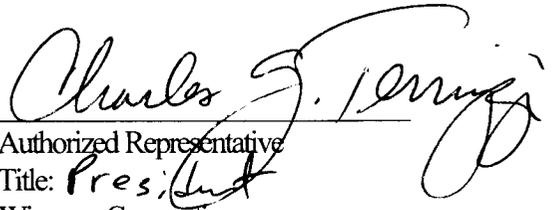
27. This Order is effective on the date of signature by the Director, of the Air and Radiation Division, and shall terminate upon Respondent's receipt of written notice from U.S. EPA that the Agency accepts that the results of the stack test to be conducted pursuant to this Order demonstrate compliance, as of the test date, with Wisconsin SIP rules NR 422.04(2) and 422.06(2) and the New Source Performance Standards set forth at 40 C.F.R. § 60.462.

Date 12/3/98



Steven Rothblatt, Acting Director
Air and Radiation Division

Date 11/30/98



Authorized Representative
Title: President
Wismarq Corporation