

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Wisconsin Department of) **Administrative Consent Order**
Administration)
University of Wisconsin) **EPA-5-00-113(a)-WI-2**
Eau Claire, Wisconsin)
)
Proceeding Under Sections)
113(a)(1) and 114(a)(1) of)
the Clean Air Act, 42 U.S.C.)
§§ 7413(a)(1) and 7414(a)(1))

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to the Wisconsin Department of Administration (WDA) and the University of Wisconsin located in Eau Claire, Wisconsin under Sections 113(a)(1) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(1) and 7414(a)(1).

Statutory and Regulatory Background

2. Each State must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

3. On March 9, 1983, U.S. EPA approved Wisconsin Administrative Code § NR 154.11¹ as part of the federally enforceable state implementation plan (SIP) for Wisconsin. 48 Fed. Reg. 9860 (March 9, 1983).

4. Wisconsin Administrative Code § 154.11(4)(b)1 provides, in part, that no person shall cause, allow, or permit the emission of particulate matter to the ambient air from any power or heating plant or fuel-burning installation with maximum heat input more than one million BTU per hour and constructed on or before April 1, 1972, in excess of 0.60 pounds of particulate matter per million BTU input to any stack.

¹ The State of Wisconsin has subsequently recodified this regulation at Wisconsin Administrative Code § 415.06(1).

5. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an Order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

6. Under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), the Administrator of U.S. EPA may require any person who owns or operates an 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. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

7. WDA owns and operates a heating plant at the University of Wisconsin located in Eau Claire, Wisconsin.

8. The University of Wisconsin, Eau Claire heating plant, a fuel burning installation, is comprised of two coal-fired boilers and one natural gas-fired boiler. Both coal-fired boilers are a source of particulate matter emissions. Therefore, the University of Wisconsin, Eau Claire heating plant, is subject to the SIP provision at Wisconsin Administrative Code § NR 154.11(4)(b)1.

9. WDA owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, WDA is subject to the requirements of Section 114(a)(1).

10. On March 28, 2000, U.S. EPA issued a notice of violation to the WDA alleging that its University of Wisconsin, Eau Claire heating plant violated the particulate matter emission limitations mandated by Wisconsin SIP (Wisconsin Administrative Code § 154.11(4)(b)1) and its permit (permit no. 618027080-P01, issued September 11, 1998) while operating boiler unit no. 2. This allegation is based on the results of a stack test conducted on February 5, 1999. The State of Wisconsin performed a subsequent stack test of the UW Eau Claire boiler unit no. 2 on December 15, 1999. This subsequent testing demonstrated compliance below the applicable permit limit of 0.6 lb/MMBTU. The performance results were 0.311 lb/MMBTU at 69% of the boiler's rated steam capacity.

11. On May 1, 2000 and May 3, 2000, representatives of the WDA and U.S. EPA discussed the March 28, 2000 notice of violation, pursuant to Section 113 of the Clean Air Act.

Compliance Program

12. As of the effective date of this Order, WDA must achieve, demonstrate, and maintain continuous compliance with the particulate matter emission limit of 0.60 pounds per million BTU of heat input from its coal-fired boilers at the University of Wisconsin, Eau Claire heating plant.

13. As an interim measure until the new baghouse is installed and operational, WDA will adhere to a steam production load limitation for UW Eau Claire boiler unit no. 2 in accordance with an agreement with WDNR and U.S. EPA as follows: based upon the December 15, 1999 stack test of boiler unit no. 2 coupled with the previous positive history of compliance testing results and operation of this unit and its sister unit, boiler unit no. 1, WDNR and U.S. EPA will allow boiler unit no. 2 to be operated on coal-firing up to the tested load plus a 10% margin. This directive translates to an interim/temporary load limit on boiler no. 2 of 45,504 pounds per hour (pph) of steam generation by coal-only firing on a 3-hour average. Any operation requiring boiler unit no. 2 to exceed the three hour average of 45,504 pph must be met only by firing the surplus load above 45,504 pph with clean fuel (natural gas or fuel-oil) heat input source. This directive shall remain in effect as an interim measure restriction on boiler unit no. 2 until such time as additional compliant stack testing of this unit is accomplished at 80% or more of rated boiler capacity or until a new baghouse is installed and operational on this unit.

14. In order to assure long term continuous compliance, the WDA shall implement the following measures at the University of Wisconsin, Eau Claire heating plant:

(a) By August 1, 2000, WDA shall retain a consulting engineer to evaluate the installation of a new baghouse to control particulate and visible emissions from the heating plant at the University of Wisconsin's Eau Claire Campus.

(b) By October 1, 2000, WDA shall have a complete report from the engineering consultant, based on which, WDA will request funding from the State Building Commission for construction of the new baghouse.

(c) By October 15, 2000, WDA shall submit a copy of the engineering consultant report to U.S. EPA, along with a letter describing the new baghouse that will be installed at the Eau Claire heating plant to assure long-term continuous compliance.

(d) Contingent upon Wisconsin State Building Commission (SBC) approval of the new baghouse for UW Eau Claire, the State of Wisconsin will hire a design consultant for the construction of the new baghouse and will bid-out the construction work. This contingent condition will be removed as soon as SBC approval is granted (October or November 2000).

(e) By January 1, 2001, an engineering/construction firm shall be hired according to State bidding rules for the construction of the new baghouse.

(f) By December 1, 2001, construction of the new baghouse shall be completed.

(g) By February 1, 2002, compliance testing of the new baghouse shall be completed.

(h) The U.S. EPA recognizes that the dates set forth in this paragraph are based on the WDA's current best estimate. Any change of the above schedule shall be made in the form of a written request accompanied with documentation submitted by the WDA substantiating its inability to meet any part of the schedule. The U.S. EPA will reasonably consider such a request to determine if changes to the schedule are warranted.

15. Upon installation of a new baghouse for UW Eau Claire, WDA will develop a Compliance Assurance Monitoring (CAM) plan for this facility that will incorporate, at a minimum, an emission leak detection device such as a triboelectric device to monitor the continuous performance integrity of the new baghouse.

MONITORING AND REPORTING REQUIREMENTS

16. Until a new baghouse is installed and operating for UW Eau Claire boiler unit no. 2 and under the authority of Section 114 of the Act, 42 U.S.C. § 7414, WDA shall maintain hourly steam production and fuel consumption for this boiler unit, in order to demonstrate compliance with this boiler unit's interim load restriction specified in paragraph 13 of this order. WDA shall submit quarterly reports documenting the highest 3-hour average operating load on boiler unit no. 2 for each day of operation and identifying all exceedances of the applicable operating limit specified in paragraph 13.

17. WDA shall submit quarterly progress reports, no later than fifteen (15) days after the end of each calendar quarter, detailing the compliance status with each item listed in this Order.

18. All reports required by this Order shall be sent to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604.

General Provisions

19. This Order does not affect the WDA's responsibility to comply with other local, State, and Federal laws and regulations.

20. This Order does not restrict U.S. EPA's authority to enforce the Wisconsin SIP, or any section of the Act.

21. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, and U.S. EPA's authority under Section 114 of the Act, 42 U.S.C. § 7414, for the WDA's violation of the Wisconsin SIP.

22. Failure to comply with this Order may subject the WDA to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

23. The terms of this order are binding on the WDA, its assignees and successors. The WDA must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that the WDA has given the notice.

24. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action.

25. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

26. The WDA agrees to the terms of this Order.

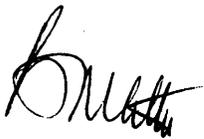
27. This Order is effective on the date of signature by the Director of the Air and Radiation Division and will expire one (1) year after WDA complies with all the terms of this order.

9/11/00
Date



Robert N. Brandherm,
Administrator
Division of Facilities Development

9-29-00
Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF SERVICE

I hereby certify that final ADMINISTRATIVE COMPLIANCE ORDER No. EPA-5-00-113(a)-WI-2 was sent via certified mail, return receipt requested, to the respondent by placing it in the custody of the United States Postal Service addressed as follows:

Ernest J. Spring
State Power Plant Engineer
Wisconsin Department of Administration
Post Office Box 7866
Madison, Wisconsin 53707-7866

I also certify that I sent copies of the Administrative Consent Order EPA Order No. EPA-5-00-113(a)-WI-2, by First Class Mail to:

Edward Main
Legal Counsel
Wisconsin Department of Administration
Post Office Box 7864
Madison, Wisconsin 53707-7866

Tom Woletz, Regional Leader
Wisconsin Department of Natural Resources
1300 W. Clairemont
P.O. Box 4001
Eau Claire, Wisconsin 54702

9/29/00

Date

P140 897059

Certified Mail Number

Shanee Rucker

Shanee Rucker, Secretary
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604