

RECEIVED
REGISTRATION DIVISION
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Segerdahl Corporation
Wheeling, Illinois

Respondent.

) Docket No. 01 JUL 18 P1 59 CAA-5-2001-014
)
) Proceeding to Assess an
) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. § 7413(d)
)

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Segerdahl Corporation (Segerdahl), a corporation doing business in the State of Illinois.

Statutory and Regulatory Background

4. The federal regulations at 40 C.F.R. § 52.741, approved on June 29, 1990, revised the Reasonably Available Control Technology (RACT) rules for Volatile Organic Material (VOM) contained in the Illinois SIP, effective July 30, 1990. The federal revisions to the Illinois SIP were promulgated pursuant to Section 110(c) of the Act and are part of the federally

enforceable implementation plan for the State of Illinois.

5. On September 9, 1994, 35 Ill. Admin. Code Part 218: *Organic Material Emission Standards and Limitations for the Chicago Area*, was approved by the Administrator of the U.S. EPA (59 Fed. Reg. 46569), replacing the federal revisions to the Illinois SIP found at 40 C.F.R. § 52.741, effective October 11, 1994.

6. The federal regulations found at 40 C.F.R. § 52.741(e), and the State regulations found at 35 Ill. Admin. Code §§ 218.204-214, set forth rules for paper coating line operations.

7. 40 C.F.R. § 52.741(e)(1)(i)(C) and 35 Ill. Admin. Code § 218.204(c) contain a VOM content limitation for paper coating of 2.9 pounds of VOM per gallon of coating, as applied. Compliance with this limitation was required by July 1, 1991.

8. On February 13, 1996, revisions to 35 Ill. Admin. Code Part 218.204-214 were approved by the U.S. EPA Administrator (61 Fed. Reg. 5511). The revisions included a new VOM content limitation for paper coating of 2.3 pounds of VOM per gallon of coating, as applied, found at 35 Ill. Admin. Code § 218.204(c). Compliance with this limitation was required on or after March 15, 1996.

9. 40 C.F.R. § 52.741(e)(2)(i) and 35 Ill. Admin. Code § 218.207 require that a source demonstrate compliance by verifying: (1) capture system and control device that provides 81% reduction in the overall emissions of VOM from the coating line; and (2) that the control device has a 90% efficiency.

10. The federal regulations found at 40 C.F.R. § 52.741(h)(5), and the state regulations found at 35 Ill. Admin. Code §§ 218.405-406, set forth rules for heatset web offset lithographic printing operations.

11. On November 8, 1995, the Administrator of the U.S. EPA approved revisions to 35 Ill. Admin. Code Part 218, including revisions to the lithographic printing regulations found at 35 Ill. Admin. Code §§ 218.407-411, effective January 8, 1996. 60 Fed. Reg. 56238.

12. 35 Ill. Admin. Code § 218.411 requires a heatset web offset lithographic printing source to submit a declaration of exemption from or compliance with the lithographic printing rules found at 35 Ill. Admin. Code §§ 218.407-410, along with all test results and calculations demonstrating exemption or compliance by March 15, 1996.

13. Section 113(a) of the Act, 42 U.S.C. § 7413(a), requires, among other things, that whenever the Administrator

finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, the Administrator shall notify the person and the state in which the SIP applies of such finding.

14. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$25,000 per day of violation up to a total of \$200,000 for Illinois SIP violations that occurred prior to January 31, 1997, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1). The Debt Collections Improvements Act of 1996 increased the statutory maximum penalty to \$27,500 per day of violation up to a total of \$220,000 for Illinois SIP violations that occurred on or after January 31, 1997. 31 U.S.C. § 3701 and 40 C.F.R. Part 19.

15. 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. 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 violations alleged in this complaint.

General Allegations

17. Paragraphs 1-16 are incorporated herein by reference.
18. Respondent is doing business in the State of Illinois.
19. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).
20. Respondent's Wheeling, Illinois facility contains seven lithographic printing and paper coating lines.
21. Emissions from the inks and coatings applied by the lithographic printing and paper coating lines at the Wheeling, Illinois facility contain "air pollutants" within the meaning of Section 302(g) of the Act, 42 U.S.C. § 7602(g).
22. Actual emissions from the coatings applied by the paper coating operations at the Wheeling, Illinois facility exceed the threshold of 15 pounds of VOM per day and, therefore, are subject to the regulations for coating operations set forth in the Illinois SIP at 35 Ill. Admin. Code §§ 218.204-214.
23. Maximum theoretical emissions from the inks applied by the lithographic printing operations at the Wheeling, Illinois facility exceed the threshold of 100 tons of VOM per year before

the application of any capture and control devices and, therefore, are subject to the regulations for lithographic printing operations set forth in the Illinois SIP at 35 Ill. Admin. Code §§ 218.405-411.

Count I

24. Complainant incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph.

25. Based upon the VOM emission information provided by Segerdahl, Segerdahl applied adhesives on lines #20 through #26 with a daily weighted average VOM content in excess of the allowable limit of 2.3 pounds per gallon from October 1994, the first date that the Illinois SIP VOM rules became federally enforceable, through August 1999.

26. Segerdahl failed to conduct timely capture efficiency tests on one of the coating lines that exceeded the Illinois SIP requirements in order to demonstrate compliance with 81% reduction in the overall emissions of VOM.

27. Segerdahl's failure to conduct timely capture efficiency tests, constitutes a violation of 35 Ill. Admin. Code § IAC 218.207 and the Act for each day that such failure continued.

28. On July 29, 1999, the Administrator issued to Segerdahl

a Notice Of Violation (NOV) pursuant to Section 113(a) of the Act, 42 U.S.C. § 7413(a), for violations of the Illinois SIP and the Act.

29. On July 29, 1999, the Administrator notified the State of Illinois that Segerdahl had violated the requirements of the Illinois SIP and the Act.

30. On August 25, 1999, U.S. EPA and Segerdahl held a conference to discuss the violations alleged in the NOV.

31. Segerdahl's violation of the Illinois SIP and the Act renders Segerdahl subject to the assessment of a civil penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

Proposed Civil Penalty

32. The Administrator must consider the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), when assessing an administrative penalty under Section 113(d) of the Act.

33. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of **\$31,500**. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint

is a copy of the penalty policy.

34. Complainant developed the proposed penalty based on the best information available to Complainant at this time.

Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

35. 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" (the Consolidated Rules) at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

36. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

37. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Karl Karg, Associate Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Karl Karg at (312) 886-7948. Karl Karg's address is:

Karl Karg (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

38. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

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

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Karl Karg and to:

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

Opportunity to Request a Hearing

39. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 40 through 45 below.

Answer

40. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 36, above, and must serve copies of the written answer on the other parties.

41. If Respondent chooses to file a written answer to the

complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

42. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

43. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

44. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 39 above.

45. If Respondent does not file a written answer within 30

calendar days after receiving this complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

46. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Karl Karg at the address or phone number specified in paragraph 38, above.

47. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal

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REGISTRATION

In the Matter of Segerdahl Corporation

Docket No. **CAA-5-2001-014**

'01 JUL 18 P1:59

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number **CAA-5-2001-014** to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies 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" at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed

as follows: Russell Eggert, Esq.
Meyer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603-3441

John Tumbarelli, Director of Manufacturing
Segerdahl Corporation
1351 Wheeling Road
Wheeling, Illinois 60090

John Perkaus, Esq.
Segerdahl Corporation
1351 S. Wheeling Road
Wheeling, Illinois 60090

Julie Armitage, Acting Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Harish Narayen, Acting Regional Manager
Region I
Illinois Environmental Protection Agency
9511 West Harrison Street
Desplaines, Illinois 60016

on the 18th day of June, 2001.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70993400000003987139

CAA-9-2001-014