

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

84CV4459DT

1984 SEP 11 10 17 AM

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FORD MOTOR COMPANY,)
)
Defendant.)

CIVIL ACTION NO.

COMPLAINT

Plaintiff, the United States of America, by its undersigned attorneys, by the authority of the Attorney General and at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), alleges:

NATURE OF THE ACTION

1. This is a civil action brought under Section 113(b)(2) of the Clean Air Act, 42 U.S.C. §7413(b)(2). Plaintiff seeks an order:

- (i) enjoining the Defendant, Ford Motor Company, from operating eight vinyl coating lines at its facility in Mount Clemens, Michigan in violation of the Clean Air Act and the applicable air pollution control regulations which are part of the federally approved and federally enforceable Michigan State Implementation Plan ("Michigan SIP");

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- (ii) requiring Defendant to comply fully with the applicable Michigan SIP; and
- (iii) assessing civil penalties against Defendant for violations of the Clean Air Act and the Michigan SIP.

JURISDICTION, AUTHORITY, NOTICE, AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1345 and Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b).

3. Authority to bring this action is vested in the United States Department of Justice pursuant to 28 U.S.C. §§516 and 519, and 42 U.S.C. §7605.

4. Notice of the commencement of this action has been given to the Michigan Department of Natural Resources, as required by Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b).

5. This Court has jurisdiction over Defendant and venue properly lies in this District pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), and 28 U.S.C. §1391(c). Defendant is a Delaware corporation doing business in the State of Michigan. The violations alleged below occurred within this District.

NATURE OF DEFENDANT'S FACILITY

6. Defendant owns and operates a vinyl production facility located at 151 Lafayette, Mount Clemens, Michigan (the "Mount Clemens facility").

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7. The Mount Clemens facility has production printers in operation on each of nine vinyl coating lines (numbers 1, 2, 3, 5, 7, 8, 9, 10, and 11). These printers apply various coatings to vinyl products for decorative and protective effects.

8. The coatings used by the production printers at the Mount Clemens facility contain solvents made of volatile organic compounds ("VOC"). Six of the printing lines (Numbers 1, 2, 3, 5, 9 and 10) have been and are being operated without any pollution control equipment. In the absence of control equipment, substantially all of the VOC are volatilized and emitted to the atmosphere during the operation of the printing line.

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THE MICHIGAN SIP

9. On February 8, 1979, the Administrator of U.S. EPA promulgated, pursuant to Section 109 of the Clean Air Act, 42 U.S.C. §7409, a combined primary and secondary National Ambient Air Quality Standard for ozone, 40 C.F.R. §50.9. Promulgation of this standard signified, pursuant to Section 109, that the attainment and maintenance of the standard are, in the judgment of the Administrator of U.S. EPA, requisite to protect the public health and the public welfare. 44 Fed. Reg. 8220 (1979).

10. Ozone is a pervasive pollutant. In significant concentrations it may be, among other things, an irritant to mucous membranes which can reduce lung function and aggravate existing respiratory disorders. It may also increase the incidences of respiratory and heart diseases and fatality rates. 44 Fed. Reg. 8203-04 (1979). Ozone is formed by a series of chemical reactions when VOC and oxides of nitrogen are exposed to ambient temperature and sunlight.

11. To achieve the National Ambient Air Quality Standard for ozone, each State was required, pursuant to Section 110 of the Clean Air Act, 42 U.S.C. §7410, to adopt and submit to U.S. EPA for approval a State Implementation Plan ("SIP"), which provided for the implementation, maintenance and enforcement of the National Air Ambient Quality Standard for ozone and which contained regulations limiting emissions from sources within each State that contribute to ozone formation. Each SIP was to result in the attainment and maintenance of the National Ambient Air Quality Standard within established time limits.

12. On May 6, 1980, the Administrator of U.S. EPA approved R 336.1610 ("Rule 610") of the Michigan Administrative Code, Air Pollution Control Commission, General Rules, which regulation thereupon became part of the federally enforceable Michigan SIP. 45 Fed. Reg. 29780, 29801 (1980), codified in

40 C.F.R. §52.1172. The Administrator approved an amendment to Rule 610 on July 26, 1982. 47 Fed. Reg. 32116 (1982), codified in 40 C.F.R. §52.1170(c)(56).

13. Michigan SIP Rule 610 limits emissions of VOC by vinyl coating lines. It provides in pertinent part: "It is unlawful for a person to cause or allow the emission of volatile organic compounds from the coating of . . . vinyl . . . from any existing coating line, in excess of the equivalent emission rates as shown in table 63." Table 63, as set forth in Rule 610(6), provides that the maximum allowable emission rate for coatings of vinyl, after December 31, 1982, is 4.5 "pounds of volatile organic compounds emitted per gallon of coating (minus water) as applied." Pursuant to Rule 610(6), the 4.5 pounds per gallon limitation may not be exceeded at any time.

14. Michigan SIP Rule 610(3) applies to production printing lines 1, 2, 3, 5, 7, 8, 9 and 10 at the Mount Clemens facility and limits VOC emissions from each of these lines to 4.5 pounds of VOC per gallon of coating (minus water) as applied.

THE NOTICE OF VIOLATION

15. On April 19, 1984, the Director of the Air Management Division, Region V, U.S. EPA, by duly delegated authority, pursuant to Section 113(a) of the Clean Air Act, 42 U.S.C. §7413(a), issued a Notice of Violation, notifying Defendant that vinyl coating lines 1, 2, 3, 5, 7, 8, 9 and 10 at its Mount Clemens, Michigan

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facility were emitting VOC in excess of the allowable emission rates set forth in, and in violation of, Michigan SIP Rule 610. The Notice of Violation stated that the average daily value for all coatings used on lines 1, 2, 3, 5, 9 and 10 was 6.32 pounds VOC per gallon of coating, minus water; the average daily value of coatings for line 7 was 6.94 pounds VOC per gallon of coating, minus water; and the average daily value of coatings for line 8 was 6.34 pounds VOC per gallon of coating, minus water.

16. A copy of the April 19, 1984, Notice of Violation was sent to the Michigan Department of Natural Resources, pursuant to Section 113(a)(2) of the Clean Air Act, 42 U.S.C. §7413(a)(2).

17. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), the Administrator of U.S. EPA may commence a civil action for an injunction or the assessment of a civil penalty of not more than \$25,000 per day of violation, or both, whenever any "person" violates any requirement of an applicable SIP more than thirty days after having been notified by the Administrator that such person is violating the requirement. "Person" is defined in Section 302(e) of the Clean Air Act, 42 U.S.C. §7602(e), to include a corporation.

FIRST CLAIM FOR RELIEF

(Vinyl Coating Line 1)

18. Plaintiff repeats each allegation of paragraphs 1 through 17.

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19. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 1 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

20. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 1 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

21. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 1.

SECOND CLAIM FOR RELIEF

(Vinyl Coating Line 2)

22. Plaintiff repeats each allegation of paragraphs 1 through 17.

23. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 2 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

24. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 2 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

25. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 2.

THIRD CLAIM FOR RELIEF

(Vinyl Coating Line 3)

26. Plaintiff repeats each allegation of paragraphs 1 through 17.

27. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 3 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

28. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 3 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

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29. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 3.

FOURTH CLAIM FOR RELIEF

(Vinyl Coating Line 5)

30. Plaintiff repeats each allegation of paragraphs 1 through 17.

31. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 5 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

32. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 5 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

33. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 5.

FIFTH CLAIM FOR RELIEF

(Vinyl Coating Line 7)

34. Plaintiff repeats each allegation of paragraphs 1 through 17.

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35. Vinyl coating line 7 at the Mount Clemens facility is equipped with an air pollution control system. However, the control system is not sufficiently efficient to allow Ford to achieve compliance with Michigan SIP Rule 610.

36. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 7 in such a manner that VOC emissions have continued to be in excess of the limitation established in Michigan SIP Rule 610.

37. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 7 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

38. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 7.

SIXTH CLAIM FOR RELIEF

(Vinyl Coating Line 8)

39. Plaintiff repeats each allegation of paragraphs 1 through 17.

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40. Vinyl coating line 8 at the Mount Clemens facility is equipped with an air pollution control system. However, the control system is not sufficiently efficient to allow Ford to achieve compliance with Michigan SIP Rule 610.

41. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 8 in such a manner that VOC emissions have continued to be in excess of the limitation established in Michigan SIP Rule 610.

42. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 8 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

43. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 8.

SEVENTH CLAIM FOR RELIEF

(Vinyl Coating Line 9)

44. Plaintiff repeats each allegation of paragraphs 1 through 17.

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45. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 9 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

46. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 9 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

47. Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 9.

EIGHTH CLAIM FOR RELIEF

(Vinyl Coating Line 10)

48. Plaintiff repeats each allegation of paragraphs 1 through 17.

49. Following the issuance of the April 19, 1984 Notice of Violation, and continuing for more than 30 days thereafter, Defendant has operated vinyl coating line 10 in such a manner that VOC emissions have continued to exceed 4.5 pounds per gallon of coating applied (minus water), in violation of Michigan SIP Rule 610.

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50. Pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. §7413(b), Defendant's violations of the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 10 render Defendant liable for a civil penalty of up to \$25,000 per day for each day of violation.

51 Unless restrained by order of this Court, Defendant will continue to violate the requirements of Michigan SIP Rule 610 with respect to vinyl coating line 10.

WHEREFORE, Plaintiff, United States of America, respectfully prays that:

A. This Court enter a permanent injunction, enjoining Defendant, Ford Motor Company, its officers, agents, servants, employees and those persons in active concert or participation with them, from operating any vinyl coating line at its Mount Clemens, Michigan facility in violation of Michigan SIP Rule 610 or from otherwise violating the Michigan SIP or the Clean Air Act;

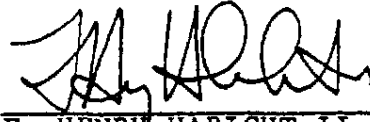
B. This Court order Defendant, Ford Motor Company, to immediately undertake and expeditiously complete such affirmative actions as are necessary to assure that each vinyl coating line at its Mount Clemens, Michigan facility is operated at all times in compliance with Michigan SIP Rules 610 and all other applicable requirements of the Michigan SIP and the Clean Air Act;

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C. This Court impose civil penalties up to a maximum of \$25,000 per day against Ford Motor Company for each violation of Michigan SIP Rule 610 at each coating line at its Mount Clemens, Michigan facility; and

D. The Court award Plaintiff its costs and disbursements of this action and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources
Division
United States Department of
Justice
Washington, D.C. 20530

LEONARD R. GILMAN
United States Attorney
Eastern District of Michigan



GENEVA HALLIDAY
Assistant United States Attorney
817 Federal Building
231 W. Lafayette
Detroit, Michigan 48226
(313) 226-2163

URL 10129

Joel M. Gross

JOEL M. GROSS
Attorney, Environmental
Enforcement Section
Land and Natural
Resources Division
United States Department of
Justice
Washington, D.C. 20530
(202) 633-2802

Regina M. Kossek

REGINA M. KOSSEK
Attorney, U.S. Environmental
Protection Agency, Region V
230 South Dearborn Street
Chicago, Illinois 60604
(312) 886-6833

URL 10130.