

IN THE MATTER OF:)
)
JMC Steel Group, Inc.)
Wheatland Tube Division,)
) Respondent)
)
Wheatland Tube Plant)
1 Council Avenue)
Wheatland, PA 16161)
) Facility)
_____)
)

Docket Number
CAA-03-2016-0030

Proceeding Pursuant to
Sections 113(a) and (d)
of the Clean Air Act, as
amended, 42 U.S.C.
§ 7413(a) and (d)

CONSENT AGREEMENT

I. Preliminary Statement

1. This administrative Consent Agreement is entered into by and between the Complainant, the Director of the Air Protection Division, United States Environmental Protection Agency, Region III (“EPA” or “Complainant”), and JMC Steel Group, Inc., Wheatland Tube Division (“JMC” or “Respondent”), pursuant to Section 113(a) and (d) of the Clean Air Act (“CAA” or the “Act”), as amended, 42 U.S.C. § 7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (the “Consolidated Rules of Practice”). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13, provide, in pertinent part, that when parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

2. This Consent Agreement and the accompanying Final Order (collectively referred to as the “CAFO”) address the alleged violations by JMC of requirements found in its CAA Title V Operating Permit, Section C (Site Level Requirements), I. (Restrictions), Condition #004 (Limitations) concerning opacity limits and Section D (Source Level Requirements), Source 113, VI. (Work Practice Requirements), Condition #004(e) concerning work practices at its tubular steel products manufacturing plant located in Wheatland, Pennsylvania.

II. General Provisions

3. Sections 113(a) and (d) of the Act, 42 U.S.C. §§ 7413(a) and (d), authorize the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this CAFO.

5. Respondent neither admits nor denies the specific findings of fact and conclusions of law set forth in this CAFO, except as otherwise stated in Paragraph 4, above.

6. Respondent consents to the issuance of this CAFO and agrees to comply with the terms and conditions set forth therein, including the payment of the indicated civil penalty as set forth in this CAFO.

7. Respondent agrees to pay its own costs and attorney fees.

8. Respondent agrees that this CAFO shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

9. For the purposes of this proceeding, Respondent hereby expressly waives its right to a hearing with respect to any issue of law or fact set forth in this CAFO, including the finality and/or validity thereof. Respondent hereby expressly waives its right to contest the factual allegations and legal conclusions set forth in Section III, "Findings of Fact and Conclusions of Law," of this Consent Agreement and any right to appeal the accompanying Final Order.

10. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to matters where the first alleged violation occurred no more than 12 months prior to initiation of an administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

11. The Administrator and the Attorney General, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

III. Findings of Fact and Conclusions of Law

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:

Statutory and Regulatory Background

13. EPA is authorized by Section 113 of the Act, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable permits, including Title V operating permits.

14. Title V of the CAA, 42 U.S.C. § 7661, established an operating permit program for major sources of air pollution. Section 502(d) of the CAA, 42 U.S.C. § 7661(d), provides that each state must submit to the Administrator a permit program meeting the requirements of Title V.

15. Pursuant to Section 502(b) of the CAA, 42 U.S.C. § 7661(b), the Administrator promulgated regulations providing for the establishment of Title V permitting programs at 40 C.F.R. Part 70.

16. Section 502(a) of the CAA, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

17. EPA granted full approval to the Pennsylvania Title V operating permit program on July 30, 1996 (61 FR 39597), and the program became effective on August 29, 1996. *See also* 40 C.F.R. Part 70, Appendix A.

18. The Pennsylvania Department of Environmental Protection ("PADEP") is a Permitting Authority for Title V purposes as defined in Section 501(4) of the CAA, 42 U.S.C. § 7661(4).

19. The state regulatory requirements concerning Pennsylvania's Title V CAA permitting program are primarily found at 25 Pa. Code §§ 127.501 through 127.543.

20. Pursuant to 25 Pa. Code § 127.512, each permit issued to a Title V facility shall contain the minimum permit terms and conditions set forth in §127.512, which includes a provision stating that "[t]he permittee shall comply with conditions of the operating permit." 25 Pa. Code § 127.512(c)(1).

General Background

21. JMC, also known as the John Maneely Company, is a Delaware corporation doing business in the Commonwealth of Pennsylvania.

22. JMC is a “person” as defined by Section 302(e) of the Act. 42 U.S.C. § 7602(e).

23. At all times relevant to the violations alleged in this CAFO, JMC has been the owner and operator of a tubular steel products manufacturing plant located at 1 Council Avenue, Wheatland, PA 19161 (“Facility”).

24. At all times relevant to the violations alleged in this CAFO, the Facility has been a Title V facility as defined at 25 Pa. Code § 121.1.

25. The Facility was issued Title V Permit No. 43-00182 by PADEP on July 1, 2010. The permit was to expire on June 30, 2015. As JMC has filed a timely and complete permit renewal application, the Title V permit has continued in effect until a new Title V permit has been issued. 25 Pa. Code § 127.505(d) and Section 503(d) of the CAA, 42 U.S.C. § 7661b(d).

Opacity Limit Violations

26. Section C (Site Level Requirements), I. (Restrictions), Condition #004 of the Title V permit (“Condition #004”) applies to both Sources 102 (Galvanizing Kettle #1) and 103 (Galvanizing Kettle #2) and sets forth that “[a] person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

- a. Equal to or greater than 20% for a period or periods aggregating more than three (3) minutes in any 1 hour.
- b. Equal to or greater than 60% at any time.”

27. By letter dated January 30, 2014, JMC submitted to EPA Region III and PADEP a Title V compliance certification form (“2013 Compliance Certification”), signed by the Environmental Manager of JMC, for the 2013 calendar year. This compliance certification noted exceedances of the opacity limits of Respondent’s Title V permit for the year 2013.

28. The 2013 Compliance Certification noted that the Facility had opacity levels exceeding the 20% limit from Source 102 on August 2, 2013 and October 8, 2013 and from Source 103 on April 11, 2013, May 2, 2013, July 12, 2013, August 9, 2013, August 15, 2013, September 15, 2013, October 18, 2013, November 15, 2013, and December 13, 2013.

29. By letter dated January 20, 2015, JMC submitted to EPA Region III and PADEP a Title V compliance certification form (“2104 Compliance Certification”), signed by the

Environmental Manager of JMC, for the 2014 calendar year. This compliance certification noted exceedances of the opacity limits of Respondent's Title V permit for the year 2014.

30. The 2014 Compliance Certification noted that the Facility had opacity levels exceeding the 20% limit from Source 103 on February 14, 2014, March 7, 2014, March 27, 2014, June 19, 2014, July 7, 2014, July 14, 2014, July 24, 2014, and August 7, 2014.

31. JMC's failure to comply with the specified opacity limits on the dates identified above constitutes a violation of Section C (Site Level Requirements), I. (Restrictions), Condition #004 of the Title V permit and also a violation of Sections 113 and 502(a) of the CAA.

Work Practice Violations

32. Section D (Source Level Requirements), Source 113 #1 ID Blow Station), VI. (Work Practice Requirements), Condition #004(e) of the Title V permit ("Condition #004(e)") states that "[t]he permittee shall maintain the pressure drop across the fabric collector at all times between 2" and 8" water gauge when the source and control device are in operation."

33. The 2013 Compliance Certification also noted deviations from the work practice requirements of Condition #004(e) of the Respondent's Title V permit for the year 2013.

34. The 2013 Compliance Certification noted that the Facility at Source 113 had failed to maintain the specified pressure drop range for the fabric collector while the source and control device were in operation from July 1, 2013 to July 15, 2013.

35. The 2014 Compliance Certification also noted deviations from the work practice requirements of Condition #004(e) of the Respondent's Title V permit for the year 2014.

36. The 2014 Compliance Certification noted that the Facility at Source 113 had failed to maintain the specified pressure drop range for the fabric collector while the source and control device were in operation on February 25, 2014.

37. JMC's failure to maintain the specified pressure drop range for the fabric collector while the source and control device are in operation on the dates identified above constitutes a violation of Section D (Source Level Requirements), Source 113, VI. (Work Practice Requirements), Condition #004(e) of the Title V permit and also a violation of Sections 113 and 502(a) of the CAA.

IV. Settlement Recitation, Settlement Conditions and Civil Penalty

38. Complainant and Respondent enter into this CAFO in order to settle and resolve all violations specifically set forth in Section III of this Consent Agreement.

39. In settlement of the allegations in Section III, Findings of Fact and Conclusions of Law, of this Consent Agreement and in consideration of each provision of this CAFO, Respondent consents to the assessment and payment of a civil penalty in the amount of Fifty-seven Thousand Dollars (\$57,000.00) within the time and manner specified herein.

40. The settlement amount of Fifty-seven Thousand Dollars (\$57,000.00) is based upon Complainant's consideration and application of the statutory penalty factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e) (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall resolve the violations set forth in Section III of this Consent Agreement.

41. Respondent shall pay the civil penalty of Fifty-seven Thousand Dollars (\$57,000.00) no later than thirty (30) days after the effective date of this CAFO in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO.

42. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

43. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this executed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

44. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

45. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

46. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this CAFO.

47. Payment of the penalty in Paragraph 39 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments shall be made payable to "Treasurer, United States of America," and shall reference the above case caption and docket number (CAA-03-2016-0030).

48. Instructions for submitting payment of the penalty using the methods, or combination of methods, described above are provided at the following EPA website addresses:
<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>
<http://www2.epa.gov/financial/makepayment>.

49. Within 24 hours of payment of any penalty amount, Respondent shall send copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029; to J. Robert Stoltzfus, Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Natalia Vazquez (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

50. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this CAFO.

51. Payment of the penalty specified in Paragraph 39 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

52. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this CAFO in the appropriate United States District Court in accordance with Section 113(d) (5) of the Act, 42 U.S.C. § 7413(d)(5). Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil

penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

53. This CAFO resolves only the civil penalty claims for the specific violations alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this CAFO be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VI. Effective Date

54. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk of EPA Region III.

VII. Entire Agreement

55. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO. Nothing in this CAFO shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this CAFO.

VIII. Execution

56. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this CAFO.

The foregoing Consent Agreement in the Matter of JMC Steel Group, Inc., Docket No. CAA-03-2016-0030, is Hereby Stipulated, Agreed, and Approved for Entry.

For Respondent, JMC Steel Group, Inc.:

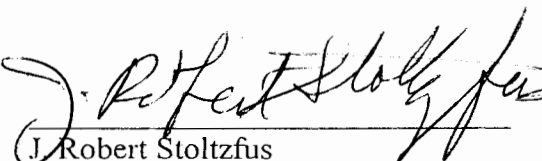
12-22-15
Date


Name: *Tim Feeney*
Title: *General Manager*
JMC Steel Group, Inc.

Respondent's Federal Tax Identification Number: 23-1327437

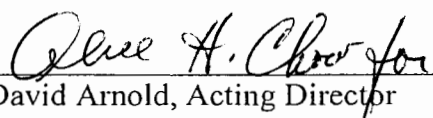
For Complainant, Environmental Protection Agency, Region III:

12/30/15
Date


J. Robert Stoltzfus
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the accompanying Final Order and thereby ratify this Consent Agreement and the terms and provisions herein.

01/04/15
Date


David Arnold, Acting Director
Air Protection Division
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 1910

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**JMC Steel Group, Inc.
Wheatland Tube Division
1 Council Avenue
Wheatland, Pennsylvania 16161,**

Respondent.

EPA Docket No. CAA-03-2016-0030

FINAL ORDER

**Proceeding under Sections 113(a) and
(d) of the Clean Air Act, as amended, 42
U.S.C. Sections 7413(a) and (d)**

FINAL ORDER

Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency, Region III, and Respondent, JMC Steel Group, Inc., Wheatland Tube Division have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

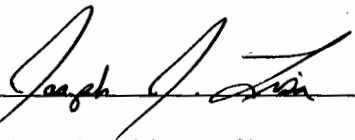
Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991) and the statutory factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **FIFTY-SEVEN THOUSAND DOLLARS**

(\$57,000.00), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Jan. 5, 2016
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III