

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

FILED

Aug 07, 2025

10:03 am

**U.S. EPA REGION 5
HEARING CLERK**

In the Matter of:)	Docket No. CAA-05-2025-0039
)	
Nacme Steel Processing, LLC)	Proceeding to Assess a Civil Penalty
Chicago, Illinois)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. §§ 22.1(a)(2), 22.13(b) and 22.18(b).
2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.
3. Respondent is Nacme Steel Processing, LLC (Nacme), a limited liability company, doing business in Illinois. Respondent is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) pursuant to 40 C.F.R. § 22.18(b)(2) and (3) without the adjudication of any issues of law or fact.
5. Respondent agrees to comply with the terms of this CAFO.

B. Jurisdiction

6. The EPA has taken this action to address the violations alleged in this CAFO pursuant to Sections 113(a)(3)(A) and 113(d) of the CAA, 42 U.S.C. § 7413(a)(3)(A) and 7413(d).

7. The EPA and the United States Department of Justice have jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

8. On January 24, 2023, the EPA issued to Respondent a Notice of Violation/Finding of Violation (NOV/FOV) and provided a copy of the NOV/FOV to Illinois EPA, providing notice to Respondent and IEPA that the EPA found that Respondent had committed the alleged violations described in Section E of this CAFO, and providing Respondent an opportunity to confer with the EPA. On March 23, 2023, representatives of Respondent and the EPA conferred regarding the NOV/FOV.

9. The Regional Judicial Officer of Region 5 is authorized to ratify the Consent Agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

C. Statutory and Regulatory Background

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

11. On December 17, 1992, EPA approved Illinois' Federally Enforceable State Operating Permit (FESOP) Program as part of the federally enforceable Illinois State Implementation Plan (SIP). 57 *Fed. Reg.* 59928 (Dec. 17, 1992).

12. Under 40 C.F.R. § 52.23, any permit limitation or condition contained within a permit issued under an EPA-approved program that is incorporated into a SIP is federally enforceable under Section 113 of the CAA, 42 U.S.C. § 7413.

13. On May 31, 1972, EPA approved 35 Illinois Administrative Code §§ 201.102 and 201.142 as part of the federally enforceable Illinois SIP. 37 *Fed. Reg.* 10862 (May 31, 1972).

14. On June 7, 2016, the Illinois Environmental Protection Agency (IEPA) issued Nacme a FESOP (ID number 031600FWL, Application number 05100052).

15. Condition 9a of the FESOP states, in pertinent part, that “[t]his permit is issued based on negligible emissions of hydrogen chloride (HCl) from the steel coil pickling line and three hydrochloric acid storage tanks. For this purpose, HCl emission shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year. These limits are based on the maximum production rate, the most recent stack test data and the following operational limits:

- i. Steel Coil Throughput: 120 tons/hour, 89,000 tons/month, 1,050,000 tons/year;
- ii. Hydrochloric Acid Usage: 2,510 lbs/hour, 6300 tons/month, 11,000 tons/year;
- iii. Maximum HCl concentration in pickling tanks: 16%;
- iv. Maximum pickling tank temperature: 190°F;
- v. Scrubber make-up water flow no less than 1.88 gallons/minute; and
- vi. Pressure drop across the scrubber no more than 11.7” w.c.

D. Stipulated Facts

16. Nacme owns and operates a steel pickling facility at 429 W. 127th Street, Chicago, Illinois 60628 (the Facility).

17. At the Facility, Nacme owns and operates a continuous steel coil pickling line that includes four HCl tanks connected in series controlled by a scrubber. Nacme owns or operates an

“emission source” within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1).

Therefore, Nacme is subject to the requirements of Section 114(a)(1).

18. On December 9, 2021, EPA conducted an inspection of the Facility to evaluate compliance with the CAA.

19. On March 21, 2022, under Section 114(a) of the CAA, 42 U.S.C. § 7414(a), EPA issued a request to provide information pursuant to the CAA (Information Request) to Nacme.

20. On May 19, 2022, in response to EPA’s Information Request, Nacme provided EPA with records of pressure drop, temperature of the pickling tanks, steel coil throughput, scrubber manufacturer’s recommendations, and HCl usage from January 1, 2018, to December 10, 2021.

21. On January 24, 2023, EPA issued to Nacme a notice and finding of violation (NOV/FOV) alleging that, among other things, Nacme violated its FESOP by exceeding the maximum pickling tank temperature limitation.

22. On March 23, 2023, representatives of Nacme and EPA discussed the January 24, 2023, NOV/FOV.

23. On April 20, 2023, EPA issued a Section 114 information request to Nacme, requesting that Respondent conduct a performance test for HCl and particulate matter (PM) at the inlet and outlet of the pickling line scrubber.

24. On July 20 and 21, 2023, Nacme conducted the performance test (2023 Performance Test) at the pickling line scrubber while operating the pickling line and scrubber at parameter values which Respondent wishes to establish in a revised FESOP.

25. On August 17, 2023, Nacme submitted a performance test report entitled “Total Particulate Matter and Hydrogen Chloride Control Efficiency Test Report – National Material

Processing, LLC, Plant 1, Steel Coil Pickling Line West Scrubber System” for the 2023 Performance Test (2023 Performance Test Report). The 2023 Performance Test Report showed that Nacme complied with its FESOP HCl emissions limitation of 10 tons/year while operating at adjusted pickling tank and scrubber operating parameters.

E. Allegations

26. Nacme violated condition 9(a)(iv) of its FESOP by exceeding the maximum pickling tank temperature of 190°F in the pickling tanks on 6,085 occasions, from September 25, 2018, to December 10, 2021.

F. Terms of Consent Agreement

27. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
- a. admits to the jurisdictional allegations in this CAFO;
 - b. neither admits nor denies the allegations stated in Section E of this CAFO;
 - c. consents to the assessment of a civil penalty as stated below;
 - d. consents to any conditions specified in this CAFO;
 - e. waives any right to contest the allegations set forth in Section E of this CAFO; and
 - f. waives its right to appeal this CAFO.
28. For the purposes of this proceeding, Respondent:
- a. agrees this CAFO states a claim upon which relief may be granted against Respondent;
 - b. acknowledges this proceeding constitutes an enforcement action for purposes of considering Respondent’s compliance history in any subsequent enforcement actions;
 - c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
 - d. waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c);

- e. waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement; and
- f. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

29. Based on an analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C.

§ 7413(e), the facts of this case, and Respondent's cooperation, the EPA has determined that an appropriate civil penalty to settle this action is \$49,900.

30. Respondent agrees to pay a civil penalty in the amount of \$49,900 ("Assessed Penalty") within thirty (30) days after the date the Final Order ratifying this Consent Agreement is filed with the Regional Hearing Clerk ("Filing Date").

31. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

32. When making a payment, Respondent shall:

- a. Identify every payment with Respondent's name and the docket number of this CAFO, CAA-05-2025-0039,
- b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Carlene Dooley
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
dooley.carlene@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

33. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this CAFO, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7413(d)(5), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is, the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.
- b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of handing collection.
- c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

34. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this CAFO, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.

35. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

36. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

37. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees that this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

38. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal authority to bind the party they represent to this CAFO.

39. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate and complete for each such submission, response and statement. Respondent acknowledges that there may be significant penalties for knowingly submitting false information, including the possibility of fines and/or imprisonment under 18 U.S.C. §§ 1001 and 1519.

40. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

G. Effect of Consent Agreement and Final Order

41. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: dooley.carlene@epa.gov (for the EPA), and dsusler@nmlp.com (for Respondent).

42. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged in this CAFO.

43. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to this matter with the exception of the administrative compliance order, docket number EPA-5-24-113(a)-IL-08 issue December 17, 2024.

44. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

45. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, authorized representatives, successors, and assigns.

46. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

47. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

48. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

49. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give

Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

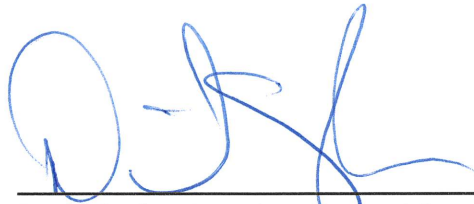
H. Effective Date

50. This CAFO will be effective on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

Nacme Steel Processing, LLC, Respondent

7/15/2025

Date



David Susler, Associate General Counsel
Nacme Steel Processing, LLC

United States Environmental Protection Agency, Complainant

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Nacme Steel Processing, LLC
Docket No. CAA-05-2025-0039

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5