



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 26 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Anthony W. Bartley, Treasurer
Superior Forge & Steel Corporation
1207 Muriel Street
Pittsburgh, Pennsylvania 15203

Dear Mr. Bartley:

Enclosed is a countersigned and file-stamped Consent Agreement and Final Order (CAFO) which resolves Superior Forge & Steel Corporation and case docket number CAA-05-2013-0045. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 26 2013.

Pursuant to paragraph 27 of the CAFO, Superior Forge & Steel Corporation must pay the civil penalty within 30 days of the date the CAFO was filed, on SEP 26 2013. Your check or electronic funds transfer must display the case name Superior Forge & Steel Corporation and the docket number CAA-05-2013-0045.

Additionally, a countersigned original of the Administrative Consent Order is enclosed.

Please direct any questions regarding this case to Mark Palermo, Associate Attorney, at (312) 886-6082.

Sincerely,

Charles Hall for BD

Brian Dickens
Chief
Air Enforcement & Compliance Assurance (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Mark Palermo/C-14J
Mark Budge, Ohio EPA – NWDO

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2013-0045
)	
Superior Forge & Steel Corporation)	Proceeding to Assess a Civil Penalty
Lima, Ohio)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action 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)(2) and (3) 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. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Superior Forge & Steel Corporation ("Superior"), a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the CAA, U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Area Sources: Electric Arc Furnace Steelmaking Facilities (EAF Steelmaking Facilities) at 40 C.F.R. §§ 63.10680 through 63.10692 (the “Subpart YYYYYY NESHAP”). The Subpart YYYYYY NESHAP applies to an “EAF steelmaking facility”, which is defined as “a steel plant that produces carbon, alloy, or specialty steels using an EAF” (40 C.F.R. § 63.10692).

10. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10681(a), requires existing affected sources to achieve compliance with the applicable provisions of the Subpart YYYYYY NESHAP by June 30, 2008 (i.e., “the compliance date”).

11. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10686(a), requires the owner or operator of an affected source to install, operate, and maintain a capture system that collects the emissions from each EAF (including charging, melting, and tapping operations) and conveys the collected emissions to a control device for the removal of particulate matter (PM).

12. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10686(b), prohibits the owner or operator of an affected source from discharging or causing the discharge into the atmosphere from an EAF any gases which: (1) exit from a control device and contain in excess of 0.0052

grains of PM per dry standard cubic foot (gr/dscf); and (2) exit from a melt shop and, due solely to the operations of any affected EAF, exhibit 6 percent opacity or greater.

13. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10686(d), requires the owner or operator of an affected source to conduct performance tests to demonstrate initial compliance with the applicable emissions limits of the NESHAP (i.e., 0.0052 gr/dscf limit for PM and opacity limit under 40 C.F.R. § 63.10686(b)) within 180 days of the compliance date.

14. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10685, provides for certain restrictions and requirements for the control of contaminants from scrap. Under 40 C.F.R. § 63.10685(a), an owner or operator of an affected source must comply with the pollution prevention plan requirements under 40 C.F.R. § 63.10685(a)(1) or the restricted metal scrap requirements under 40 C.F.R. § 63.10685(a)(2). Where an affected source uses scrap containing motor vehicle scrap, the owner or operator must meet one of three compliance options under 40 C.F.R. § 63.10685(b). Under 40 C.F.R. § 63.10685(b)(4), where the owner or operator of an affected source uses scrap that does not contain motor vehicle scrap, the owner or operator must: 1) certify in the affected source's notification of compliance status that it does not use motor vehicle scrap; and 2) maintain records of documentation that the affected source's scrap does not contain motor vehicle scrap.

15. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10685(c), requires the owner or operator of an affected source to keep records to demonstrate compliance with the requirements in 40 C.F.R. §§ 63.10685(a)(1) and (a)(2), applicable sections of (b)(1) through (b)(3) and (b)(4).

16. The Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10685(c)(3), requires the owner or operator of an affected sources to submit semiannual reports to the Administrator for

the control of contaminants from scrap according to the requirements in 40 C.F.R. § 63.10(e).

The report must clearly identify any deviation from the requirements in 40 C.F.R. § 63.10685(a) and (b) and the corrective action taken. The owner or operator must identify which compliance option in 40 C.F.R. § 63.10685(b) applies to each scrap provider, contract, or shipment.

17. Pursuant to 40 C.F.R. § 63.10690(a) of the Subpart YYYYY NESHAP, the owner or operator of an affected source must comply with certain requirements of the NESHAP General Provisions (40 C.F.R. Part 63, Subpart A).

18. The NESHAP General Provisions, at 40 C.F.R. § 63.9(b)(2), requires the owner or operator of an affected source under the Subpart YYYYY NESHAP to notify the Administrator in writing that it is subject to the Subpart YYYYY NESHAP within 120 calendar days of the effective date of the standard, or by April 26, 2008.

19. The Subpart YYYYY NESHAP, at 40 C.F.R. § 63.10690(b), requires the owner or operator of an affected source to submit a notification of compliance status required under 40 C.F.R. § 63.9(h) within 60 days of the compliance date for: 1) the pollution prevention plan requirements in 40 C.F.R. § 63.10685(a)(1); the restrictions on metallic scrap in 40 C.F.R. § 63.10685(a)(2); 3) the mercury requirements in 40 C.F.R. § 63.10685(b); and 4) the capture system requirements in 40 C.F.R. § 63.10686(a).

20. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for NESHAP violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for NESHAP violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

21. 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 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.

22. 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 CAFO.

Complainant's Factual Allegations and Alleged Violation

23. Superior owns and operates an EAF Steelmaking Facility at 1820 McClain Road in Lima, Ohio (Lima Facility).

24. The Superior EAF Steelmaking Facility is subject to requirements of the Subpart YYYYYY NESHAP, at 40 C.F.R. §§ 63.10680 through 63.10692.

25. The Superior facility is an existing affected source because the owner or operator of Superior "commenced construction... of the affected source on or before September 20, 2007," pursuant to the Subpart YYYYYY NESHAP, at 40 C.F.R. § 63.10680(b)(1).

26. Superior has violated the Subpart YYYYYY NESHAP with respect to operation of its EAF Steelmaking Facility at its Lima Facility:

- A. Count 1 - Since June 30, 2008, Superior has failed to install, operate, and maintain a capture system that collects the emissions from its EAF that includes charging and tapping operations, in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under 40 C.F.R. § 63.10686(a).
- B. Count 2 - The results of a performance test conducted February 25, 2008 on emissions from Superior's EAF control device indicated emission of PM that exceeded 0.0052 gr/dscf. Superior did not demonstrate compliance with the limit of 0.0052 gr/dscf under 40 C.F.R. § 63.10686(b)(1) until May 9, 2013.

From June 30, 2008 through May 9, 2013, Superior failed to comply with the PM emission limit of 0.0052 gr/dscf for its EAF control device, in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under 40 C.F.R. § 63.10686(b)(1).

- C. Count 3 - Between December 27, 2008 and May 9, 2013, Superior failed to conduct a performance test to demonstrate initial compliance with the applicable PM emissions limit of 0.0052 gr/dscf at its EAF control device, in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under 40 C.F.R. § 63.10686(d).
- D. Count 4 - Since June 30, 2008, Superior has failed to certify and maintain sufficient records of documentation that its scrap does not contain motor vehicle scrap, failed to maintain sufficient records demonstrating compliance with requirements for the use of only restricted scrap under 40 C.F.R. § 63.10685(a)(2), and failed to submit semiannual reports demonstrating compliance with the Subpart YYYYYY NESHAP's scrap contaminant restriction requirements in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under 40 C.F.R. §§ 63.10685(b)(4) and 63.10685(c).
- E. Count 5 - Since April 26, 2008, Superior has failed to submit an initial notification required under 40 C.F.R. § 63.9(b)(2), and since August 29, 2008, Superior has failed to submit the required notification of compliance status under 40 C.F.R. § 63.10690(b) in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and its implementing regulations under 40 C.F.R. §§ 63.9(b)(2) and 63.10690(b).

Civil Penalty

27. Based on 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 and agreement to enter into an Administrative Compliance Order under Section 113(a) of the CAA, 42 U.S.C. § 7413(a), requiring a compliance program to bring Superior to a prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$267,168.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$267,168 civil penalty by electronic funds transfer, payable to “Treasurer, United States of America,” and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO..

29. Respondent must send a notice of payment that states Respondent’s name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

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

Mark Palermo (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

30. This civil penalty is not deductible for federal tax purposes.

31. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the

collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

32. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

34. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

35. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 33, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

36. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

37. The terms of this CAFO bind Respondent, its successors and assigns.

38. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

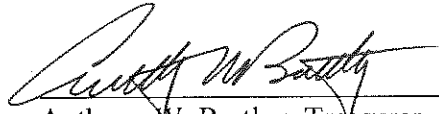
39. Each party agrees to bear its own costs and attorneys fees in this action.

40. This CAFO constitutes the entire agreement between the parties.

Superior Forge & Steel Corporation, Respondent

9-20-2013

Date

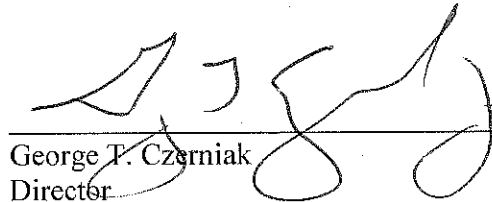


Anthony W. Bartley, Treasurer
Superior Forge & Steel Corporation

United States Environmental Protection Agency, Complainant

9/24/13

Date



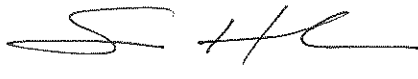
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Superior Forge & Steel Corporation
Docket No. **CAA-05-2013-0045**

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.

9-26-13
Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

CAA-05-2013-0045

CERTIFICATE OF MAILING

I, Loretta Shafer, certify that I sent the Administrative Consent Order, EPA-5-13-113(a)-OH-04, by certified mail, return receipt requested, to:

Anthony W. Bartley
Superior Forge & Steel Corporation
1207 Muriel Street Pittsburgh, Pennsylvania 15203

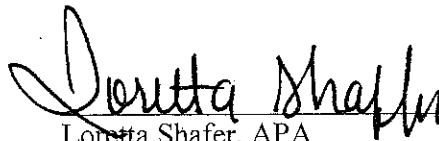
I also certify that I sent a copy of the Administrative Consent Order, EPA-5-13-113(a)-OH-04, by first-class mail to:

Mark Budge, Manager
Air Pollution Group
Ohio EPA, NWDO
347 North Dunbridge Road
Bowling Green, Ohio 43402

Jerry Fuller, P.E.
Ventura Engineering
7610 Olentangy River Road
Columbus, Ohio 43235

Joseph R. Brendel, Esq.
Clark Hill | Thorp Reed
One Oxford Center
301 Grant Street, 14th Fl.
Pittsburgh, Pennsylvania 15219

On the 26 day of September 2013.



Loretta Shafer, APA
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 5763

RECEIVED
GENERAL DELIVERY
U.S. MAIL
SEP 26 2013