

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
)
ArcelorMittal Cleveland, Inc.)
) NPDES Appeal No. 11-01
)
Permit No. OH0000957)
)
_____)

SURREPLY BRIEF OF EPA REGION 5

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State of Ohio Environmental Protection Agency

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STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

December 29, 2003

RE: Section 301(g) Variance Approval
Request for Wheeling-Pittsburgh Steel
Steubenville South Plant

Ms. Rebecca Harvey
77 West Jackson Boulevard
Chicago, Illinois 60604

Dear Ms. Harvey:

The Wheeling Pittsburgh Steel Corporation (WPSC) has requested that the Section 301(g) variance be renewed for their Steubenville South Plant (NPDES # OH0011355). Ohio EPA has updated our analysis of this variance which was originally granted in 1987 for ammonia and total phenolics. We have found that the existing variance limits are much higher than necessary at this time. Based upon reported monitoring data over the last five years, we are proposing much lower variance limits for ammonia. These proposed limits are as follows:

Proposed Ammonia Limits at Outfall 601 (in kg/day)

<u>Season</u>	<u>30-day average</u>	<u>Daily maximum</u>
Summer	25.7	35.2
Winter	27.5	42.9

Since the data shows that the Steubenville South Plant should be able to meet the BAT limits for total phenolics, we are not proposing variance-based limits for this parameter. Our analysis of the current variance, current treatment plant performance, and determination of BAT, BPT, and water quality-based effluent limits is attached. We are requesting your review and approval of this proposal as soon as possible so that the renewal of the permit for this facility, which has been expired since 1997, can be issued. If you have any questions about the attached analysis, please contact Mike McCullough at (614) 644-4824. Thank you.

Sincerely,

Lisa J. Morris, Chief
Division of Surface Water

attachment

cc: Mike McCullough, Ohio EPA
Randy Spencer, Ohio EPA

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

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The 301(g) Variance

In the existing permit for the Wheeling Pittsburgh Steel Steubenville South Plant (WPS Steubenville South), the limits for ammonia and phenolics are based upon a variance approved in accordance with Section 301(g) of the Clean Water Act on March 11, 1987.

(See Table 1 for the existing permit limits for ammonia and total

phenolics.) Section 301(g) allows the U.S. EPA Administrator, with the concurrence of the State, to modify BAT (Best Available Technology Economically Achievable) limits found in the Federal Effluent Guidelines (FEG) for certain pollutants, provided that the discharge will meet BPT (Best Practicable Control Technology Available) limits and any applicable WQBELs. In addition, granting the variance cannot result in the need for any additional controls on other point or non-point sources of pollution. Section 301(g) does not mention any specific cost or achievability tests for granting the variance, and U.S. EPA has never promulgated any regulations for the review of these variances. The pollutants that are listed under this variance provision include ammonia-nitrogen and total phenolics.

With this draft permit, Ohio EPA is proposing much lower variance limits for ammonia and recommending to remove the variance for total phenolics based upon the data reported over the last five years. Table 2 shows the discharge levels for ammonia and total phenolics for 1991-1992 and 1998-2002. This data illustrates that ammonia loadings discharged from outfall 601¹ have not changed significantly since 1992, and that reported loadings continue to be well below the existing permit limits shown in Table 1. Figure 1 on the following page also seems to indicate that ammonia loadings have become more stable or less variable over the past three to four years.

Table 1. Existing Permit Limits for Ammonia and Phenolics

Parameter	30-day average	daily maximum
Ammonia (kg/day)	113.4	226.8
Total Phenolics (kg/day)	0.45	0.90

Table 2. Comparison of Ammonia and Phenolics Loadings: 1991-1992 vs. 1998-2002

	Ammonia-Nitrogen (kg/day)		Total Phenolics (kg/day)		
	1991-1992	1998-2002		1991-1992	1998-2002
		Summer	Winter		
No. of observations	57	120	130	58	250
50 th percentile	7.9	0	6.7	0.003	0.003
95 th percentile	19.6	22.3	23.5	0.036	0.024
Range	1.9 to 98.1	0 to 32.6	0 to 36.4	0.000 to 0.036	0 to 1.6

¹ In the existing permit, outfall 620 is a calculated outfall combining the discharges from outfalls 601 and 610. Monitoring data for ammonia and phenolics have been reported under outfall 620, and the limits for these parameters have been applied to outfall 620. However, WPS has eliminated outfall 610, and as a result, future limits will be applied at outfall 601, and this document only refers to outfall 601 in an attempt to avoid confusion.

For total phenolics, the 1998-2002 data shows a high value of 1.6 kg/day. However, Ohio EPA determined that this value as well one other value were outliers in the dataset, and eliminated them from further consideration. The concentrations reported which were used to calculate these two loadings were more than 12 times the next highest value in one case, and almost four and one-half times the next highest value for the other outlier. When these outliers are eliminated, the summary statistics for total phenolics loadings from 1998 through 2002 are as follows:

- maximum: 0.115 kg/day
- 50th percentile: 0.0027 kg/day
- 95th percentile: 0.021 kg/day

Figure 2 provides additional evidence that total phenolics loadings have been less than 0.02 kg/day, with few exceptions, during the past five years.

BPT and BAT Limits

BPT and BAT limits are calculated based upon the quantity of product manufactured per day. In the NPDES permit renewal application, WPS Steubenville South estimated that 8,200,000 pounds (or 3,727,273 kilograms) would be produced from processes that discharge wastewater through outfall 601. Table 3 shows the BPT and BAT limits for this facility using the Federal Effluent Guidelines found in 40 CFR 420.32(a) and 40 CFR 420.33(a), respectively.

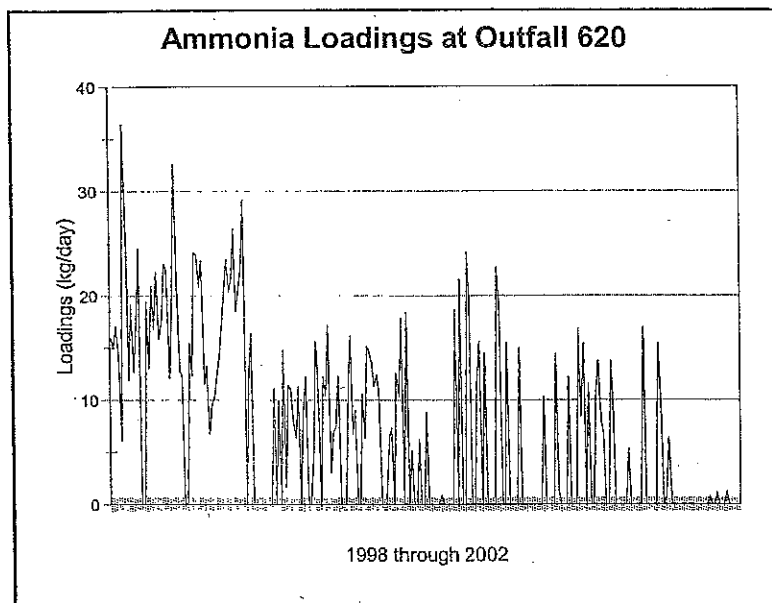


Figure 1. Ammonia Loadings

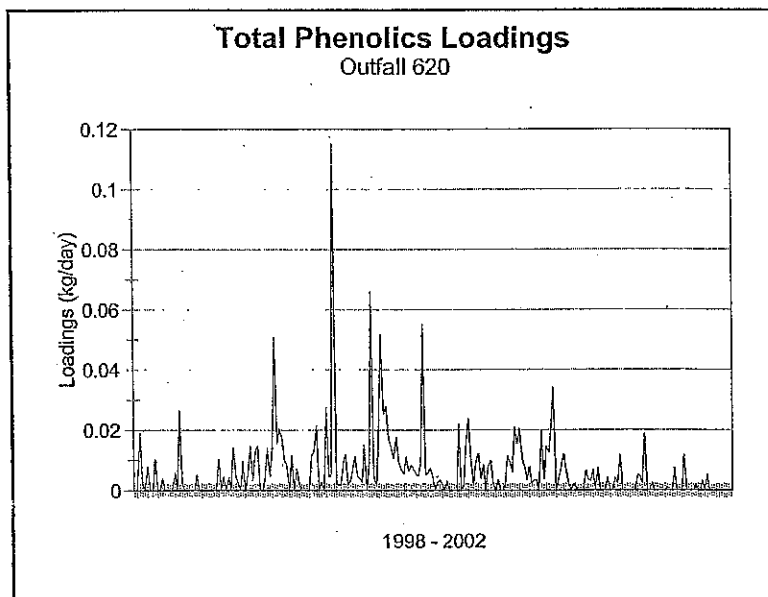


Figure 2. Total Phenolics Loadings

Table 3. BPT and BAT Loading Limits

Parameter	Effluent Limitations (40 CFR 420) (in kg/1000 kg of product)		Loading Limits (in kg/day)	
	Daily maximum	30-day average	Daily maximum	30-day average
<i>Ammonia</i>				
BPT	0.161	0.0537	600	200
BAT	0.00876	0.00292	32.6	10.9
<i>Phenols (4AAP)</i>				
BPT	0.00626	0.00210	23.3	7.83
BAT	0.0000584	0.0000292	0.22	0.11

Determination of Water Quality-Based Effluent Limits

The effluent from outfall 601 flows through external outfall 004 prior to being discharged to the Ohio River. The first step in determining the "WQBEL" or allowable loading for ammonia at outfall 601 is to calculate the WQBELs at outfall 004. In order to calculate the water quality-based effluent limits (WQBELs) for ammonia at outfall 004, the following data have been used:

- ten percent of the Ohio River 7Q10 flow rate is used for all calculations since the 30Q10 flow is not available. This results in a very conservative waste load allocation and a more restrictive WQBEL for average criteria;
- STORET background data from the Pike Island monitoring station located downstream from WPS has been used for temperature and pH; and
- the flow at outfall 004 is 23.5 MGD, or 36.4 cfs.

The waste load allocations or WQBELs for average ammonia criteria are calculated as follows:

$$\begin{aligned}
 \text{WLA} &= \frac{[\text{water quality criterion} \times (\text{effluent discharge} + \text{upstream flow}) - (\text{Upstream flow} \times \text{background water quality})]}{\text{effluent flow}} \\
 \text{summer average WLA} &= \frac{[1.4 \text{ mg/l} \times (36.4 \text{ cfs} + 580 \text{ cfs}) - (580 \text{ cfs} \times 0.06 \text{ mg/l})]}{36.4 \text{ cfs}} \\
 &= 22.75 \text{ mg/l} \\
 \text{winter average WLA} &= \frac{[8.1 \text{ mg/l} \times (36.4 \text{ cfs} + 580 \text{ cfs}) - (580 \text{ cfs} \times 0.1 \text{ mg/l})]}{36.4 \text{ cfs}} \\
 &= 135.6 \text{ mg/l} \\
 \text{summer acute WLA} &= \frac{[13 \text{ mg/l} \times (36.4 \text{ cfs} + 580 \text{ cfs}) - (580 \text{ cfs} \times 0.06 \text{ mg/l})]}{36.4 \text{ cfs}} \\
 &= 219 \text{ mg/l}
 \end{aligned}$$

$$\begin{aligned} \text{winter acute WLA} &= [13 \text{ mg/l} \times (36.4 \text{ cfs} + 580 \text{ cfs}) - (580 \text{ cfs} \times 0.06 \text{ mg/l})] / 36.4 \text{ cfs} \\ &= 219 \text{ mg/l} \end{aligned}$$

In order to determine the allowable loadings at outfall 601 based upon these WQBELs, the other sources of ammonia loadings at outfall 004 must be identified and estimated. Besides the process wastewaters from outfall 601, outfall 004 also receives boiler blowdown from outfall 607, non-contact cooling water, and stormwater. Ammonia loadings for boiler blowdown and non-contact cooling water have been estimated as follows:²

Boiler Blowdown

- The average flow is 0.08 MGD based upon 1997 WPS NPDES permit renewal application.
- The long-term average concentration is 11.4 mg/l based upon 1997 WPS NPDES permit renewal application.
- The resulting ammonia loading is 3.45 kg/day.

Non-contact cooling water

- The average flow is 23.2 MGD after subtracting average flow from outfall 601 (0.19 MGD) and boiler blowdown (0.08 MGD).
- An average concentration of 1.01 mg/l has been used for the non-contact cooling water based upon intake data included in the 1997 WPS NPDES permit renewal application. Ohio EPA believes that this is very likely a high estimate of ammonia concentration, and will result in a conservative allowable loading for ammonia at outfall 601.
- The resulting ammonia loading is 88.7 kg/day.

The allowable ammonia loadings at outfall 601 can now be calculated by subtracting the estimated loadings from boiler blowdown and non-contact cooling water from waste load allocation (or WQBEL) at outfall 004. The allowable loadings at outfall 601 are as follows:

$$\begin{aligned} \text{summer 30-day average} &= (22.75 \text{ mg/l} \times 3.785 \times 23.5 \text{ MGD}) - 3.45 \text{ kg/day} - 88.7 \text{ kg/day} \\ &= 1932 \text{ kg/day} \end{aligned}$$

$$\begin{aligned} \text{winter 30-day average} &= (135.6 \text{ mg/l} \times 3.785 \times 23.5 \text{ MGD}) - 3.45 \text{ kg/day} - 88.7 \text{ kg/day} \\ &= 11,969 \text{ kg/day} \end{aligned}$$

$$\begin{aligned} \text{summer daily maximum} &= (219 \text{ mg/l} \times 3.785 \times 23.5 \text{ MGD}) - 3.45 \text{ kg/day} - 88.7 \text{ kg/day} \\ &= 19,388 \text{ kg/day} \end{aligned}$$

$$\begin{aligned} \text{winter daily maximum} &= (219 \text{ mg/l} \times 3.785 \times 23.5 \text{ MGD}) - 3.45 \text{ kg/day} - 88.7 \text{ kg/day} \\ &= 19,388 \text{ kg/day} \end{aligned}$$

² Stormwater contributions of ammonia at outfall 004 have not been included in the determination of allowable loadings at outfall 601.

Calculation of Alternative Variance Limits

In order to calculate limits which are more appropriate for ammonia, Ohio EPA analyzed the data from 1998 through 2002 using techniques for determining projected effluent quality (PEQ). The 50th percentile loadings for ammonia for this time period suggest a significant difference between the summer and winter discharges (0 kg/day for summer and 6.7 kg/day for winter), while the 95th percentile loadings for summer and winter are very similar.

Calculation of the PEQs resulted in a PEQ average only slightly higher for the summer season while the PEQ maximum for winter is significantly higher than for summer. Ohio EPA determined that the PEQ maximums for the summer vs. winter seasons were different enough that alternative variance limits should be established for both seasons. PEQ values for summer were determined using Method A as described in the Ohio EPA modelling guidance because it provided the best fit for the data.³ Each of the PEQ values was then increased by 20 percent to determine the proposed limit in order to allow for analytical and production variability. The PEQ values and the proposed alternative limits for ammonia are shown in Table 4. The daily maximum limits are greater than the maximum reported values during 1998 through 2002.

Table 4. PEQ Values and Proposed Limits for Ammonia (kg/day)

Season	PEQ Values		Proposed Limits (PEQ + 20%)		Maximum Value (1998-2002)
	Average	Maximum	30-day Average	Daily Maximum	
Summer	21.4	29.4	25.7	35.2	32.6
Winter	22.9	35.8	27.5	42.9	36.4

Ohio EPA is not proposing alternative variance limits for total phenolics. Based upon the data discussed previously, Ohio EPA believes that WPS Steubenville South should not have difficulty meeting the BAT limits for total phenolics.

Summary of Analysis

Table 5 summarizes the information which has been considered in determining the proposed limits for ammonia and total phenolics. Ohio EPA is proposing significantly lower limits for ammonia based upon the reported monitoring data during the past five years. As shown in the table, the proposed limits are lower than the BPT limits and much lower than the allowable loading limits based upon the estimated

³ Ohio EPA guidance for "Calculating PEQ: Determining a Discharger's Effluent Quality" states that Method B should be used for datasets with more than ten observations such as the ammonia dataset, provided there are no problems which prevent the accurate application of this method. In this case, the use of Method B results in a low R-squared value for the summer season, indicating that Method B is not appropriate for PEQ derivation. Under these circumstances, the guidance indicates that Method A should be used to determine PEQ, and utilizes the maximum daily value and multipliers to calculate the PEQs.

WQBELs at outfall 004. Alternative variance limits are not proposed for total phenolics since the reported data for the past five years (with the exception of two outliers) is well below the BAT limits.

Table 5. Summary of Variance Analysis*

Parameter	Existing Limits	BPT Limits	BAT Limits	WQBEL**	Proposed Limits
<i>Ammonia</i>					
Summer 30-day aver.	113.4	200	10.9	1932	25.7
Winter 30-day aver.				11,969	27.5
Summer Daily max.	226.8	600	32.6	19,388	35.2
Winter Daily max.				19,388	42.9
<i>Total Phenolics</i>					
30-day aver.	0.45	7.83	0.11		0.11
Daily max.	0.90	23.3	0.22		0.22

* All limits are expressed in kilograms per day.

** WQBELs, or water quality based effluent limits for ammonia have been determined as the allowable loadings at outfall 601 in order to meet the WQBELs at outfall 004.

Sur. Br. Exhibit 2

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National Pollutant Discharge Elimination System (NPDES) Permit Program

FACT SHEET

Regarding an NPDES Permit To Discharge to Waters of the State of Ohio
for **Wheeling Pittsburgh Steel - Steubenville South**

Public Notice No.: 03-09-026
Public Notice Date: September 23, 2003
Comment Period Ends: October 23, 2003

OEPA Permit No.: **0ID00034*FD**
Application No.: (OH #) **OH0011355**

Name and Address of Applicant:

Wheeling Pittsburgh Steel Corporation
1134 Market Street
Wheeling, West Virginia 26003

Name and Address of Facility Where Discharge Occurs:

Wheeling-Pittsburgh Steel Corporation
Steubenville South Plant
McLister Avenue
Mingo Junction, Ohio 43938
Jefferson County

Receiving Water: **Cross Creek**
Jumbo Run
Ohio River

Subsequent
Stream Network: **Ohio River**
Mississippi River

Introduction

Development of a Fact Sheet for NPDES permits is mandated by Title 40 of the Code of Federal Regulations, Section 124.8 and 124.56. This document fulfills the requirements established in those regulations by providing the information necessary to inform the public of actions proposed by the Ohio Environmental Protection Agency, as well as the methods by which the public can participate in the process of finalizing those actions.

This Fact Sheet is prepared in order to document the technical basis and risk management decisions that are considered in the determination of water quality based NPDES Permit effluent limitations. The technical basis for the Fact Sheet may consist of evaluations of promulgated effluent guidelines, existing effluent quality, instream biological, chemical and physical conditions, and the relative risk of alternative effluent limitations. This Fact Sheet details the discretionary decision-making process empowered to the Director by the Clean Water Act and Ohio Water Pollution Control Law (ORC 6111). Decisions to award variances to Water Quality Standards or promulgated effluent guidelines for economic or technological reasons will also be justified in the Fact Sheet where necessary.

This permit renewal is proposed for a term of approximately **four years**, expiring on **January 31, 2008**. This schedule will allow the Wheeling Pittsburgh Steel - Steubenville South permit to be on a similar schedule with the other facilities within the same watershed basin.

specified for outfall 605, with the exception that outfall 611 is sampled only when an emergency overflow occurs. WPS has not reported a discharge from this outfall for at least the last five years.

Outfall 620

Outfall 620 is a calculated station used to report the summation of pollutants discharged from internal monitoring outfalls 601 and 610. The limits and monitoring requirements for outfall 620 are shown in Table 11-620, and are based upon the FEG, the Ironmaking Subcategory found in 40 CFR Parts 420.32(a) and 420.33(a). Loading limits for suspended solids, total cyanide, lead, phenolic 4AAP, and zinc have been re-calculated based upon the production estimate of 8,200,000 pounds per day, and are somewhat more stringent than the limits in the existing permit.

In the existing permit, the limits for ammonia and phenolics are based upon a variance approved in accordance with Section 301(g) of the Clean Water Act on March 11, 1987. Section 301(g) allows the U.S. EPA Administrator, with the concurrence of the State, to modify BAT (Best Available Technology Economically Achievable) limits found in the FEG for certain pollutants, provided that the discharge will meet BPT (Best Practicable Control Technology Available) limits and any applicable WQBELs. With this draft permit, Ohio EPA is proposing much lower limits for both ammonia and total phenolics based upon the data reported over the last five years. In order to calculate limits which are more appropriate for ammonia, Ohio EPA analyzed the data using techniques for determining projected effluent quality (PEQ). Each of these values was then increased by 20 percent to determine the proposed limit in order to allow for analytical and production variability. The table below shows that WPS should no difficulty complying with these limits, and that these limits are well below the BPT limits. In addition, the proposed limits are well below any WQBELs calculated for the 1987 variance, which estimated a daily maximum WQBEL limit of 1320 kilograms per day. Also, using STORET temperature and pH data from the Pike Island Lock downstream from WPS, and using 10 percent of the 7Q10 Ohio River flow, results in a very conservative 30-day average WQBEL of 2024 kilograms per day.

Parameter	PEQ ave.	PEQ max.	Proposed Limits (PEQ +20%)		---BPT Limits---		Maximum Value
			30-day ave.	daily max.	30-day ave.	daily max.	
Ammonia (kg/day)							
Summer	16.3	25.3	25.7	35.2	200	600	32.6
Winter	22.9	35.8	27.5	42.9	200	600	36.4

For phenolics, the draft permit proposes to incorporate the BAT limits from the Federal Effluent Guidelines. The data over the last five years shows that two values were higher than the proposed daily maximum loading limit of 0.22 kilograms per day; Ohio EPA determined that these two values were outliers since they were more than six times greater than next highest value. Ohio EPA believes that WPS should not have difficulty in complying with the BAT limits for phenolics.

Outfall 630

Outfall 630 is a calculated station used to report the summation of pollutants discharged from internal monitoring outfalls 605 and 611. The limits and monitoring requirements for outfall 630 are shown in Table 12-630, and are based upon the FEG for the basic oxygen furnace found in 40

Table 12-611. Final Effluent Limits and Monitoring Requirements for Outfall 611

Parameter	Units	Effluent Limits				Basis ^b
		-----Concentration-----		--Loading (kg/day) ^a --		
		30 Day Average	Daily Maximum	30 Day Average	Daily Maximum	
Flow	MGD	-----	Monitor	-----	-----	M ^c
Suspended Solids	mg/l	-----	Monitor	-----	-----	BPT
pH	S.U.	-----	Monitor	-----	-----	BPT/BPJ
Lead	µg/l	-----	Monitor	-----	-----	BAT
Zinc	µg/l	-----	Monitor	-----	-----	BAT

Table 12-620. Final Effluent Limits and Monitoring Requirements for Outfall 620

Parameter	Units	Effluent Limits				Basis ^b
		-----Concentration-----		--Loading (kg/day) ^a --		
		30 Day Average	Daily Maximum	30 Day Average	Daily Maximum	
Flow	MGD	-----	Monitor	-----	-----	M ^c
Suspended Solids	mg/l	--	--	96.9	291.5	BPT
Ammonia-Nitrogen	mg/l					
Summer		--	--	25.7	35.3	301(g)
Winter		--	--	27.5	42.9	301(g)
Cyanide, Total	mg/l	--	--	3.26	6.52	BAT
Lead	µg/l	--	--	0.33	0.98	BAT
Phenolic 4AAP	µg/l	--	--	0.11	0.22	BAT
Zinc	µg/l	--	--	0.49	1.47	BAT

^a Effluent loadings based on average daily production of 8,200,000 pounds/day, or 3,727,273 kilograms/day.
^{b,c,d} See page 59 for definitions of acronyms and abbreviations (footnote "b"), and explanations of footnotes "c" and "d".

Table 12-630. Final Effluent Limits and Monitoring Requirements for Outfall 630

Parameter	Units	Effluent Limits				Basis ^b
		-----Concentration-----		--Loading (kg/day) ^a --		
		30 Day Average	Daily Maximum	30 Day Average	Daily Maximum	
Flow	MGD	----- Monitor -----				M ^c
Suspended Solids	mg/l	--	--	162.4	487.1	BPT/AD
Lead	µg/l	--	--	0.98	2.93	BAT/AD
Zinc	µg/l	--	--	1.47	4.40	BAT/AD

^a Effluent loadings based on existing permit loadings.

^{b,c,d} See page 56 for definitions of acronyms and abbreviations (footnote "b"), and explanations of footnotes "c" and "d".

Table 12-631. Final Effluent Limits and Monitoring Requirements for Outfall 631

Parameter	Units	Effluent Limits				Basis ^b
		-----Concentration-----		--Loading (kg/day) ^a --		
		30 Day Average	Daily Maximum	30 Day Average	Daily Maximum	
Flow	MGD	----- Monitor -----				M ^c
Lead	µg/l	--	--	2.90	--	BAT

^{b,c,d} See below for definitions of acronyms and abbreviations (footnote "b"), and explanations of footnotes "c" and "d".

- ^b **Definitions:**
- ABS** = Antibalancing Rule (OAC 3745-33-05(E) and 40 CFR Part 122.44(I));
 - AD** = Antidegradation (OAC 3745-1-05);
 - BAT** = Best Available Technology economically achievable, Federal Effluent Guidelines, 40 CFR Part ____;
 - BPJ** = Best Professional Judgment;
 - BPT** = Best Practicable control Technology currently available, Federal Effluent Guidelines, 40 CFR, Part ____;
 - EP** = Existing Permit;
 - M** = Division of Surface Water Guidance #2, "National Pollutant Discharge Elimination System: Determination of Sampling Frequency Formula for Industrial Waste Discharges" recommends monitoring for this parameter;
 - PD** = Plant Design Criteria;

Sur. Br. Exhibit 3

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FEB 24 2004

R-19J

Lisa J. Morris, Chief
Division of Surface Water
Ohio Environmental Protection Agency
Post Office Box 1049
Columbus, Ohio 43216-1049

Dear Ms. Morris:

This is in response to your letter of December 29, 2003, to Rebecca Harvey of my staff requesting the review and approval of a 301(g) variance request by the Wheeling-Pittsburgh Steel Corporation for their Steubenville South Plant. Upon review of the variance request, I am in agreement with the Ohio Environmental Protection Agency's proposed limits for ammonia and the denial of a variance for phenols. I approve the granting of a 301(g) variance for ammonia in response to that request.

Very truly yours,

/s/ original signed by
Bharat Mathur

Thomas V. Skinner
Regional Administrator

2-6-04

2/18/04
Sur. Br. Exhibit 3

Sur. Br. Exhibit 4



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels Jr.
Governor

Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

August 3, 2011

Mr. Kevin Pierard, Branch Chief
NPDES Programs Branch
Water Division, WN-16J
U.S. Environmental Protection Agency
77 W Jackson Blvd
Chicago, IL 60604-3590

Dear Mr. Pierard:

Re: NPDES Permit No. IN0000205
301(g) Variance Application
ArcelorMittal Indiana Harbor West
East Chicago, Indiana
Lake County

My staff has reviewed the application submitted by ArcelorMittal Indiana Harbor West for the continuance of the variance under Section 301(g) of the Clean Water Act from the more stringent Best Available Technology (BAT) Effluent Limitations Guidelines (ELGs) for the non-conventional pollutants ammonia (as N) and phenols (4AAP) in the wastewater discharges from the H3 & H4 Blast Furnaces and Sinter Plant at ArcelorMittal Indiana Harbor West. The final application was received on May 10, 2011, from ArcelorMittal for the continuance of the variance previously approved by the U.S. EPA in a letter dated March 3, 1986. The existing 301(g) variance limited ammonia (as N) and phenols (4AAP) on a net basis at Outfalls 009, 010, and 011. Due to redirection of the wastestreams from the Blast Furnaces and Sinter Plant from the three outfalls to only Outfall 009, the Proposed Modified Effluent Limitations (PMELs) proposed in the variance application requested that the net limitations for ammonia (as N) and phenols (4AAP) be applied as gross limitations at Internal Outfall 509.

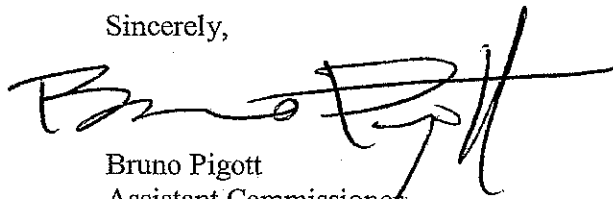
The 301(g) variance application was reviewed to determine if it is complete by using the completeness checklist contained in the Technical Guidance Manual for the regulations promulgated pursuant to section 301(g) of the Clean Water Act developed by U.S. EPA. The proposed modified effluent limits (PMELs) in the reissued permit that will replace the otherwise applicable effluent limitations based on the BAT ELGs, will remain as fixed net limits at Outfalls 009, 010 and 011. While the PMELs for the individual outfalls will be redistributed, the cumulative total effluent limit for ammonia and phenol for the three outfalls is the same as the total PMEL approved by EPA on March 3, 1986.

The proposed continuance of the 301(g) variance meets the following conditions of a 301(g) variance for ammonia (as N) and phenols (4AAP):

- (1) The PMELs will meet the categorical BPT Technology Based Effluent Limits (TBELs) or applicable Water Quality-Based Effluent Limitations (WQBELs), whichever are more stringent;
- (2) The PMELs will not result in any additional requirements on other point or non-point sources;
- (3) The PMELs will not interfere with the attainment or maintenance of water quality which will protect public water supplies, aquatic life and recreational activities; and,
- (4) The PMELs will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Therefore, the Indiana Department of Environmental Management, Office of Water Quality, has tentatively approved the PMELs for ammonia (as N) and phenols (4AAP), because the PMELs will result in compliance with Indiana water quality standards and because all Section 301(g) conditions listed above will be met. These recommendations are subject to public review and comment on the proposed NPDES permit. If you have any questions about these recommendations, please contact Richard Hamblin at 317/232-8696 or at rhamblin@idem.in.gov.

Sincerely,



Bruno Pigott
Assistant Commissioner
Office of Water Quality

Sur. Br. Exhibit 5

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
)
ArcelorMittal Cleveland, Inc.)
) NPDES Appeal No. 11-01
)
Permit No. OH0000957)
)
_____)

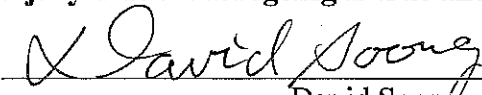
DECLARATION OF DAVID SOONG

I, David Soong, hereby state as follows:

1. The statements provided herein are based on my personal knowledge and are submitted in support of the *Surreply Brief* to be submitted in connection with the matter captioned above.
2. I am an environmental engineer in the NPDES Programs Branch at the United States Environmental Protection Agency, Region 5 (Region 5).
3. I was personally involved in Region 5's decision not to object to the Indiana Department of Environmental Management's (IDEM) issuance of a renewed NPDES permit IN0000205 to ArcelorMittal Indiana Harbor West (ArcelorMittal) effective in 2011.
4. It is my understanding that one of the factors involved in Region 5's decision not to object to the effluent limitations assigned to outfalls 009, 010, and 011 in the renewed NPDES permit was that Region 5 applied the "water bubble" concept in 40 C.F.R. § 420.03 to the proposed effluent limitations for those outfalls.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 5, 2011:



David Soong