



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 30 2019

REPLY TO THE ATTENTION OF

VIA E-MAIL

Phillip M. Bender
Partner-PA
Ring Bender LLP
925 Liberty Avenue, 8th Floor
Pittsburgh, PA 15222

Email: pbender@ringbenderlaw.com

Dear Mr. Bender:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the American Iron Oxide Company (Amrox) and Magnetics International Incorporated (MII) case, docket no. CAA-05-2019-0035. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on September 30, 2019.

Pursuant to paragraph 25 of the CAFO, Amrox and MII must pay the civil penalty within 90 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel, at (312) 886-6831.

Sincerely,

Natalie M. Tin for

Nathan Frank, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Regional Hearing Clerk/via electronic mail
Cynthia King/via electronic mail

Phil Perry, Chief
Air Compliance Branch, Office of Air Quality
Indiana Department of Environmental Management
Via electronic mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2019-0035
)	
American Iron Oxide Company)	Proceeding to Assess a Civil Penalty
Portage, Indiana; and)	Under Section 113(d) of the Clean Air Act,
)	
Magnetics International Incorporated)	42 U.S.C. § 7413(d)
Burns Harbor, Indiana)	
)	
Respondent.)	
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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 Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondents are American Iron Oxide Company (Amrox) and Magnetics International Incorporated (MII), corporations that were doing business in Indiana.
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. Respondents consent 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. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations in this CAFO.

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

Statutory and Regulatory Background

9. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants at 40 C.F.R. Part 63, Subpart CCC, at 40 C.F.R. §§ 63.1155 through 63.1166 (the Steel Pickling NESHAP).

10. The owner or operator of an existing affected facility was required to comply with the requirements of the Steel Pickling NESHAP by June 22, 2001.

11. The Steel Pickling NESHAP requires, among other things, that the owner or operator meet the operational standards of 40 C.F.R. § 63.1159(a), the maintenance requirements of 40 C.F.R. § 63.1160(b)(2), the stack testing requirements of 40 C.F.R. § 63.1161, and the monitoring requirements of 40 C.F.R. § 63.1162.

12. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015, and \$47,357 per day of violation up to a total of \$378,852 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

13. 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.

14. 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.

Factual Allegations and Alleged Violations

15. For the period beginning prior to October 1, 2014 and up to May 8, 2017, Amrox owned and operated an existing hydrochloric acid regeneration plant located in Portage, Indiana.

16. For the period beginning prior to October 1, 2014 and up to May 8, 2017, MII owned and operated an existing hydrochloric acid regeneration plant located in Burns Harbor, Indiana.

17. The Amrox and MII plants were major sources of HAPs or were located at facilities that were major sources of HAPs and were subject to the requirements of the Steel Pickling NESHAP.

18. On December 3, 2014, and on March 7, 2016, EPA issued Amrox and MII Requests for Information pursuant to Section 114 of the CAA, 42 U.S.C. § 7414.

19. On February 17, 2015, Amrox and MII responded to the December 3, 2014 Request. On April 28, 2016, Amrox and MII responded to the March 7, 2016 Request.

20. On June 28, 2016, based on Amrox's and MII's responses to the Requests for Information, EPA issued a Finding of Violation (FOV) to Amrox and MII for violations of the

operational, maintenance, testing and monitoring requirements of the Steel Pickling NESHAP at the Portage and Burns Harbor plants.

21. After issuance of the FOV, EPA met with Amrox and MII to discuss the violations.

22. On May 8, 2017, both Amrox and MII were dissolved and the facilities sold to PVS Steel Services (PVS). As of May 8, 2017, neither Amrox nor MII have an ownership or operating interest in the Portage or Burns Harbor plants.

23. Under the PVS sales agreement, a holding company, SSW Holdings, Inc. (SSW), is responsible for winding down Amrox and MII, including resolving any pre-sale obligations and liabilities owed by Amrox and MII. SSW is authorized to enter into agreements and stipulations on behalf of Amrox and MII.

Civil Penalty

24. 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 Respondents' cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.00.

25. Within 90 days after the effective date of this CAFO, Respondent must pay a \$ 50,000.00 civil penalty by electronic payment. For electronic funds transfer, make 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 Respondents' names and the docket number of this CAFO.

26. Respondents must send a notice of payment that states Respondents' names and the docket number of this CAFO to EPA at the following addresses when they pay the penalty:

Attn: Compliance Tracker (ECA-18J)
Air Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Cynthia A. King (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

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

28. 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.

29. Respondents 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 attorney 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

30. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: (Cynthia King) King.Cynthia@epa.gov (for Complainant), and (Phillip M. Bender) pbender@ringbenderlaw.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

31. This CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in this CAFO.

32. The effect of the settlement described in paragraph 31, above, is conditioned upon the accuracy of SSW's representations to EPA, as memorialized in paragraphs 22 and 23 of this CAFO.

33. 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.

34. This CAFO does not affect Respondents' responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 31, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

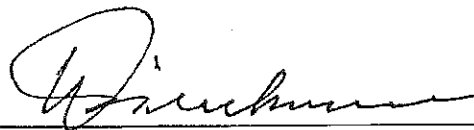
35. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

36. The terms of this CAFO bind Respondents, their successors and assigns.

37. 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.
38. Each party agrees to bear its own costs and attorney fees in this action.
39. This CAFO constitutes the entire agreement between the parties.

American Iron Oxide Company and Magnetics International, Inc., Respondent

Date 9/18/19



BY SSW HOLDINGS INC. FOR RESPONDENTS
AMERICAN IRON OXIDE COMPANY AND
MAGNETICS INTERNATIONAL, INC.

Walter Sieckmann
CEO, SSW Holdings Inc.

United States Environmental Protection Agency, Complainant

9/20/2019
Date

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

Consent Agreement and Final Order

In the Matter of: American Iron Oxide Company and Magnetics International, Inc.

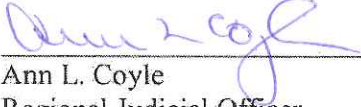
Docket No. CAA-05-2019-0035

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.

9/26/19

Date



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

Consent Agreement and Final Order

In the matter of: American Iron Oxide Company and Magnetics International Incorporated

Docket Number: CAA-05-2019-0035

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA 05 2019 0035 which was filed on 9/30/2019, in the following manner to the following addressees:

Copy by E-mail to Respondent: Phillip M. Bender
pbender@ringbenderlaw.com

Copy by E-mail to Attorney for Complainant: Cynthia King
king.cynthia@epa.gov

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Copy by E-mail to Indiana Department of Environmental Management: Phil Perry
pperry@idem.in.gov

Dated: September 30, 2019


LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5