



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 27 2017

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Michael S. McMahon
Owens Corning Roofing and Asphalt, LLC
890 West Smith Road
Medina, Ohio 44256
Email: mmcmahon@mdllp.net

Dear Mr. McMahon:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Owens Corning Roofing and Asphalt, LLC, docket no. CAA-05-2017-0017. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on March 27, 2017.

Pursuant to paragraph 51 of the CAFO, Owens Corning Roofing and Asphalt, LLC must pay the civil penalty within 30 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 Nidhi O'Meara, Associate Regional Counsel, (312) 886-0568.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Frank", written over a horizontal line.

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

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Nidhi O'Meara/C-14J
Robert Hodanbosi/Ohio EPA
Sam Rubens/Akron Regional Air Quality Management

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CAA-05-2017-0017
)
Owens Corning Roofing and) Proceeding to Assess a Civil Penalty
Asphalt, LLC) Under Section 113(d) of the Clean Air
Medina, Ohio) 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 Owens Corning Roofing and Asphalt, LLC (Owens Corning), 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

Title V Permit Program

9. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution.

10. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) state 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.

11. In accordance with Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), EPA promulgated regulations establishing the minimum elements of a Title V permit program to be administered by any air pollution control agency. See 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

12. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d) requires each State to submit to EPA a permit program meeting the requirements of Title V.

13. 40 C.F.R. Part 70, Appendix A states that the effective date of the State of Ohio operating permit program is September 12, 2001.

14. 40 C.F.R. § 70.6(b)(1) states that all terms and conditions in a Title V permit are enforceable by EPA.

15. 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 \$295,000 for CAA violations that occurred after January 12, 2009 through December 6, 2013; 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 a civil penalty of up to \$45,268 per day of violation up to a total of \$362,141 for CAA violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), See also 40 C.F.R. Part 19 and Civil Monetary Penalty Inflation Adjustment Rule, 81 Fed. Reg. 43091 (July 1, 2016) (to be codified at 40 C.F.R. Part 19).

16. 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.

17. 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

Factual Allegations

18. Owens Corning owns and operates an asphalt processing and asphalt roofing manufacturing facility located at 890 West Smith Road, Medina, Ohio (Facility).

19. The Facility consists of various asphalt blowing stills/convertors, including Emission Unit P006 (Convertor #4) and Emission Unit P007 (Convertor #5).

2006 Title V Permit

20. Ohio Environmental Protection Agency (Ohio EPA) issued a Final Title V Permit, effective March 1, 2006, (2006 Title V Permit) to the Respondent (Permittee) for its Facility on February 22, 2006.

21. Part III, Condition P006-A.I.1 of the 2006 Title V Permit states that the emission limit for hydrogen chloride (HCl) from Convertor #4 is 5.27 pounds per hour (lbs/hr) and 16.44 tons per year (tpy).

22. Part III, Condition P007-A.I.1 of the 2006 Title V Permit states that the emission limit for HCl from Convertor #5 is 5.27 lbs/hr and 16.44 tpy.

2011 Title V Permit

23. Ohio EPA issued a Renewal Part 70 Operating Permit, No. P0106884, effective August 1, 2011, (2011 Title V Permit) to the Respondent for its Facility on July 11, 2011.

24. Condition C.10.b)(1)a of the 2011 Title V Permit states that the emission limit for HCl from Convertor #4 is 5.27 lbs/hr and 16.44 tpy.

25. Condition C.10.b)(1)a of the 2011 Title V Permit states that the emission limit for HCl from Convertor #5 is 5.27 lbs/hr and 16.44 tpy.

2013 Title V Permit

26. Ohio EPA issued a Final Air Pollution Control Title V Permit, No. P0115546, effective November 4, 2013 (2013 Title V Permit) to the Respondent for its Facility on November 4, 2013.

27. Condition C.9.b)(1)a of the 2013 Title V Permit states that the emission limit for HCl from Converter #4 is 5.27 lbs/hr and 16.44 tpy.

28. Condition C.9.b)(1)a of the 2013 Title V Permit states that the emission limit for HCl from Converter #5 is 5.27 lbs/hr and 16.44 tpy.

Converter #4 and Converter #5

29. Emissions generated at Convertors #4 and #5 are controlled by a single thermal incinerator.

30. In September 2015, Owens Corning conducted emission testing at the thermal incinerator which controls emissions from Convertors #4 and #5 to demonstrate compliance with allowable mass emission rates at Convertors #4 and #5 (2015 Emission Test).

31. The results of the 2015 Emission Test showed that the combined HCl mass emission rate from Convertors #4 and #5 was 32.06 lbs/hr.

32. Based on the 2015 Emission Test, Owens Corning exceeded its HCl emissions limits of 5.27 lbs/hr and 16.44 tpy at Converter #4.

33. Based on the 2015 Emission Test, Owens Corning exceeded its HCl emissions limits of 5.27 lbs/hr and 16.44 tpy at Converter #5.

34. Owens Corning provided information on the volume of ferric chloride catalyst added to the batches at Convertors #4 and #5 during the 2015 Emission Test.

35. Owens Corning provided information on the volume of ferric chloride catalyst added to each batch at Convertors #4 and #5 from May 1, 2011 through February 4, 2016.

36. On or about February 4, 2016, after making adjustments to Convertors #4 and #5, Owens Corning conducted additional emission testing at the thermal incinerator which

controls emissions from Convertors # 4 and #5 to demonstrate compliance with allowable mass emissions rates at Convertors #4 and #5.

37. The results of the February 4, 2016 emission testing showed that as of February 4, 2016, Owens Corning was in compliance with the HCl mass emission limits for Convertors #4 and #5.

38. From on or about May 1, 2011 through on or about February 4, 2016, based on its ferric chloride catalyst usage at Convertor #4, Owens Corning exceeded the HCl emission limit of 5.27 lbs/hr at Convertor #4.

39. From on or about May 1, 2011 through on or about February 4, 2016, based on its ferric chloride catalyst usage at Convertor #5, Owens Corning exceeded the HCl emission limit of 5.27 lbs/hr at Convertor #5.

40. On January 15, 2016, EPA issued a NOV to the Respondent, alleging that the Respondent had violated the CAA, its implementing regulations, and its 2006, 2011 and 2013 Title V Operating Permits at Convertors #4 and #5.

41. EPA also sent a copy of the January 15, 2016 NOV to Ohio EPA.

42. On or about September 15, 2016, Ohio EPA issued an administrative modification (Permit Number P0121041) to Owens Corning that increased the HCl emission limits to 23.73 lbs/hr and 99.40 tpy for Convertor #4.

43. On or about September 15, 2016, Ohio EPA issued an administrative permit modification (Permit Number P0121041) to Owens Corning that increased the HCl emission limits to 23.73 lbs/hr and 99.40 tpy for Convertor #5.

Alleged Violations

Convertor #4 - Count 1

44. The preceding paragraphs are incorporated by reference.

45. On or about May 1, 2011 through February 4, 2016, Respondent violated Section 502 of the CAA, 40 C.F.R. Part 70, and its 2006, 2011 and 2013 Title V Permits by exceeding the HCl emission limits at Converter #4.

46. Respondent's violation of Section 502 of the CAA, 40 C.F.R. Part 70, and its 2006, 2011 and 2013 Title V Permits at Converter #4 subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 113(d) of the CAA, for each day of violation.

Converter #5 – Count 2

47. The preceding paragraphs are incorporated by reference.

48. On or about May 1, 2011 through February 4, 2016, Respondent violated Section 502 of the CAA, 40 C.F.R. Part 70, and its 2006, 2011 and 2013 Title V Permits by exceeding the HCl emission limits at Converter #5.

49. Respondent's violation of Section 502 of the CAA, 40 C.F.R. Part 70, and its 2006, 2011 and 2013 Title V Permits at Converter #5 subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 113(d) of the CAA, for each day of violation.

Civil Penalty

50. 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, prompt return to compliance and agreement to perform a supplemental environmental project (SEP), Complainant has determined that a civil penalty to settle this action for \$90,000 is appropriate.

51. Within 30 days after the effective date of this CAFO, Respondent must pay a \$90,000 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent 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.

52. 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-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Nidhi K. O'Meara (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

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

54. If Respondent does not timely pay 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.

55. 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 attorney's 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).

Supplemental Environment Project

56. In accordance with the March 10, 2015 Update to the 1988 Supplemental Environmental Project (SEP) Policy, Respondent must complete a SEP designed to protect the environment and public health by installing innovative technology to reduce HCl emissions from Convertors #4 and #5.

57. Respondent must complete the SEP as follows at its Medina, Ohio Facility.
- a. Respondent will design, fabricate, install and continuously operate a HCl Reduction System in connection with Convertors #4 and #5, prior to the thermal incinerator.
 - b. The design and equipment for this HCl Reduction System may consist but not be limited to some combination of:
 - i. Owner designed "knock-out"/scrubber devices;
 - ii. Mist eliminator box;

- iii. Ducting Modifications;
 - iv. Piping and drains;
 - v. Cooling water or thermal fluid supply and demand;
 - vi. “Air to air” heat exchangers;
 - vii. “Liquid to air” heat exchangers;
 - viii. “Liquid to liquid” heat exchangers;
 - ix. Spill containment;
 - x. Air and sampling equipment; and
 - xi. Explosion relief and fire suppression equipment.
- c. The HCl Reduction System must continuously achieve an HCl emissions reduction. For purposes of this CAFO and any permit for Convertors #4 and #5, the term “continuously” means that the HCl Reduction System shall operate on Convertors #4 and #5 while producing any batches that contain ferric chloride as a catalyst.
- d. The HCl Reduction System must achieve at least a 60% reduction in HCl emissions compared to the HCl emissions that could have been emitted in 2015 during maximum production. For purposes of this CAFO, and any permit for Convertors #4 and #5, the emissions reduction factor shall be calculated by comparing¹ the hourly HCl emissions from the September 2015 stack test to the HCl testing performed as required by this SEP.
- e. If the SEP achieves an emissions reduction factor of at least 60%, Respondent shall identify the relevant operational parameters to be monitored in order to

¹ $Emission\ Reduction\ Factor = \left(\frac{September\ 2015\ stack\ test - Testing\ required\ by\ the\ SEP}{September\ 2015\ stack\ test} \right) \times 100$

demonstrate that the HCl Reduction System operates continuously, as provided in Paragraph 57(c). Respondent shall incorporate such parameters and an annual HCl emissions limit into any permit for Convertors #4 and #5 for the facility.

- f. For the purposes of this CAFO and any permit, the annual HCl emission limit shall be determined by reducing the 2015 maximum production level of HCl emissions from Convertors #4 and #5 by the emissions reduction factor. The 2015 maximum production level of HCl emissions (applying the 2015 September stack results) was 140.4 tpy.

58. The SEP must be completed and the HCl Reduction System must be continuously operating within 52 weeks after this CAFO becomes effective. The SEP will include the following milestones/tasks, at a minimum:

SEP Activity/Task	Completion Date
a. SEP Approval/Funding	4-6 weeks after this CAFO becomes effective
b. Baseline Engineering Assessment	8-32 weeks after this CAFO becomes effective
c. System/Equipment Design and Review	24-36 weeks after this CAFO becomes effective
d. Sourcing/Fabrication	20-36 weeks after this CAFO becomes effective
e. Installation/Start-up	42-50 weeks after this CAFO becomes effective
f. Test/Fine-Tune/Retest	20-48 weeks after this CAFO becomes effective

g. Conduct a performance test to determine emissions reduction of the HCl Reduction System, as required by paragraphs 59 through 62 of this CAFO.	48 weeks after the CAFO become effective
h. Evaluation/Improvements, including a determination that the operation of the HCl Reduction System is technically feasible (will not cause fire, explosion or other catastrophic failure).	52 weeks after this CAFO becomes effective
i. Continuous operation of HCl Reduction System.	52 weeks after this CAFO becomes effective
j. Should the HCl Reduction System installation and test demonstrate technical feasibility to achieve HCl emissions reduction in excess of 60% as calculated in Paragraph 57(d), Respondent will submit a permit application to Ohio EPA, with a copy to EPA, seeking a modification to the Permit to Install and the Title V permit that requires, at a minimum: (1) The use of the HCl Reduction System on Convertors #4 and/or #5 while producing any batches that contain ferric chloride as a catalyst are in operation; and (2) A modification to the Annual HCl emission limits for Convertors #4 and #5 based on demonstrated HCl Reduction System emissions reduction as determined in Paragraph 57(f). (3) A requirement to limit ferric chloride addition rate to the rate per batch established during the performance test; and (4) A requirement to monitor and keep records of the ferric chloride addition rate during each batch.	52 weeks after this CAFO becomes effective

59. Respondent must conduct a performance test in accordance with the HCl testing methods used during the September 2015 Stack Test: quantify the emission rate of HCl in pounds per hour and pounds per batch; calculate the emissions reduction for HCl; and determine the

associated operating parameters, including ferric chloride addition rate during each batch. During the testing, since Convertors #4 and #5 emit through a common stack, Respondent must: (1) operate both Convertors #4 and #5 at maximum conditions; and (2) complete a full test (three runs, at least one batch cycle length each).

60. By no later than 60 days prior to the performance test at Convertors #4 and #5, Respondent must submit to EPA for its review and approval, a proposed testing protocol that describes the methods and procedures for testing required by paragraph 59 of this CAFO.

61. Respondent shall not conduct the performance test required by paragraph 59 of this CAFO, until receiving EPA's written approval. EPA may approve or disapprove with comments the proposed testing protocol. Within 15 days of receipt of EPA's disapproval with comments, Respondent must submit to EPA a revised testing protocol responding to and addressing EPA's comments. To the extent that EPA fails to approve or disapprove the test protocol within 15 days after submittal, such additional days after 15 days shall be added to any deadlines in this CAFO applicable to Respondent.

62. No later than 52 weeks after this CAFO becomes effective, Respondent shall submit a certified report to EPA confirming that the HCl Reduction System will continuously achieve an emissions reduction of at least 60% and identify the specific emission rate. Respondent shall submit the complete performance test report, including, but not limited to the emission rate of HCl in pounds per hour and pounds per batch, the emissions reduction of HCl, and the ferric chloride addition rate during the performance test.

63. Respondent must spend at least \$240,000 to complete this SEP. The total costs shall include, at a minimum:

Description	Cost
Hard design improvements	\$55,000
Construction	\$130,000
Testing	\$35,000
Construction and Testing Support	\$20,000
TOTAL COSTS	\$240,000

64. EPA may inspect the facility at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

65. Respondent must maintain copies of the underlying research and data for all reports submitted to EPA pursuant to this CAFO. Respondent must provide the documentation of any underlying research and data to EPA within seven days of EPA's request for the information.

66. Respondent must submit a monthly status report regarding progress made on each task described in Paragraph 58 of this CAFO, within 15 days after the end of each month.

67. Respondent must submit a SEP completion report to EPA within 30 days after the completion of the last task described in paragraphs 58 and 59 of this CAFO. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO;

- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible); and
- f. If the HCl reduction factor exceeds 60% (as calculated in Paragraph 57(d)), identification of the relevant operational parameters to be monitored and determination of the annual HCl emissions limit for Convertors #4 and #5 as determined in Paragraph 57 (f).

68. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 52 of this CAFO. A copy of the all notices and reports required by this CAFO must also be sent to Ms. Nidhi O'Meara via first-class mail or electronic mail to omeara.nidhi@epa.gov.

69. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

70. Following receipt of the SEP completion report described in paragraph 67 of this CAFO, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraphs 72 and/or 75 of this CAFO.

71. If EPA exercises the option in paragraph 70.b. of this CAFO, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties

cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraphs 72 and/or 75 of this CAFO.

72. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in paragraph 72(b) of this CAFO, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule of tasks in paragraph 58 of this CAFO, Respondent must pay a stipulated penalty of \$183,711. This amount is in addition to the civil penalty paid in accordance to paragraph 50 of this CAFO.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and Respondent certifies, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 63 of this CAFO, Respondent will not be liable for any stipulated penalty under paragraph 72(a) of this CAFO.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 63 of this CAFO, Respondent must pay a stipulated penalty of \$45,928. This amount is in addition to the civil penalty paid in accordance to paragraphs 50 of this CAFO.
- d. If Respondent did not submit timely the SEP completion report or any other report required by paragraphs 60, 62 and/or 66 of this CAFO, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$500	1 st through 14 th day
\$750	15 th through 30 th day
\$1,000	31 st day and beyond

73. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

74. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraphs 51 and 52, and will pay interest and nonpayment penalties on any overdue amounts.

75. If Respondent does not achieve an emissions reduction factor of 80% or better for HCl with the HCl Reduction System, as calculated by paragraph 57(d) and (f) of the CAFO, Respondent must also pay stipulated penalties to the United States as follows:

- a. If the SEP achieves an emissions reduction factor of 80% or better for HCl, no additional stipulated penalty will be due under this paragraph.
- b. If the SEP achieves an emissions reduction factor of 70% to 79% for HCl,
 - i. And Respondent spent at least 90 percent of the amount set forth in paragraph 63 of the CAFO, Respondent must pay a stipulated penalty of \$22,967. This amount is in addition to the civil penalty paid in accordance to paragraph 50 of this CAFO.
 - ii. If the Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 63 of the CAFO, Respondent must pay a stipulated penalty of \$22,967 in addition to the stipulated penalty set forth in paragraph 72(c) of the CAFO. This amount is in addition to the civil penalty paid in accordance with paragraph 50 of this CAFO.
 - iii. If the Respondent did not complete the SEP satisfactorily according the requirements of the CAFO, including the schedule of tasks in paragraph 58 of the CAFO, Respondent must only pay the stipulated penalty set forth in paragraph 72(a) of the CAFO.
- c. If the SEP achieves an emissions reduction factor of 60% to 69% for HCl,
 - i. And Respondent spent at least 90 percent of the amount set forth in paragraph 63 of the CAFO, Respondent must pay a stipulated penalty of \$43,930. This amount is in addition to the civil penalty paid in accordance to paragraph 50 of this CAFO.
 - ii. If the Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 63 of the CAFO, Respondent must pay a stipulated penalty of \$43,930 in addition to the stipulated penalty set forth in paragraph 72c. of the CAFO. This amount is in addition to the civil penalty paid in accordance with paragraph 50 of this CAFO.

- iii. If the Respondent did not complete the SEP satisfactorily according to the requirements of the CAFO, including the schedule of tasks in paragraph 58 of the CAFO, must only pay the stipulated penalty set forth in paragraph 72(a) of the CAFO.
- d. If the SEP achieves an emissions reduction factor of 0% to 59% for HCl or is not technically feasible, pursuant to paragraph 58(h), Respondent must pay a stipulated penalty of \$183,711. In such an event, the Respondent does not have to pay stipulated penalties set forth in paragraph 72 of this CAFO. This amount is in addition to the civil penalty paid in accordance with paragraph 50 of this CAFO.

76. Respondent must pay any stipulated penalties due under paragraphs 72 and 75 of this CAFO, within 15 days of receiving EPA's written demand for the stipulated penalties. Respondent will use the method of payment specified in paragraphs 51 and 52, and will pay interest and nonpayment penalties on any overdue amounts.

77. Any public statement that Respondent makes referring to the SEP must include the following language: "Owens Corning Roofing and Asphalt LLC undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Owens Corning Roofing and Asphalt LLC for violations of the Clean Air Act and its Air Permit issued by the Ohio Environmental Protection Agency."

Certifications

78. With regard to the SEP, Respondent certifies to the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that Respondent in good faith estimates that the cost to implement the SEP is at least \$240,000;
- b. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

- c. That the SEP is not a project that Respondent was planning or intending to construct, perform, or implement other than in settlement of the violations resolved in this Respondent;
- d. That Respondent has not received and will not receive credit for the SEP in any other enforcement action;
- e. That Respondent will not receive reimbursement for any portion of the SEP from another person or entity;
- f. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP;
- g. Respondent is not a party to any open federal financial assistance transactions that is funding or could fund the same activity as the SEP described in this CAFO;

General Provisions

79. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective attorneys: omeara.nidhi@epa.gov (for Complainant), and mmcmahon@mdllp.net (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

81. 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.

82. 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 80 of this CAFO, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

83. To the best of its knowledge, Respondent certifies that it is complying fully with the CAA and other applicable federal, state and local laws.

84. 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).

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

86. 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.

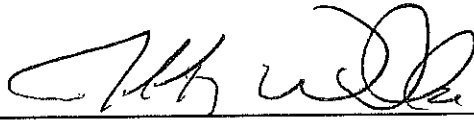
87. Each party agrees to bear its own costs and attorney’s fees in this action.

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

Owens Corning Roofing and Asphalt, LLC, Respondent

3/17/17

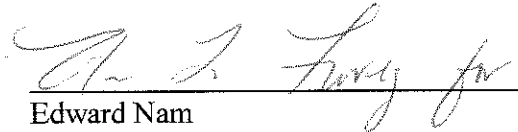
Date



Jeffery S. Wilke
V.P. and Assistant General Counsel
Labor, Employment and Regulatory Law

United States Environmental Protection Agency, Complainant

3/23/17
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order

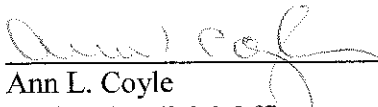
In the Matter of: Owens Corning Roofing and Asphalt, LLC

Docket No. CAA-05-2017-0017

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.

MARCH 24, 2017
Date



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

Consent Agreement and Final Order
In the matter of: Owens Corning Roofing and Asphalt, LLC
Docket Number: CAA-05-2017-0017

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2017-0017, which was filed on ^{3/27/2017} in the following manner to the following addressees:

Copy by E-mail to
Attorney for Complainant: Nidhi O'Meara
omeara.nidhi@epa.gov

Copy by E-mail to
Attorney for Respondent: Michael S. McMahon
mmcmahon@mdllp.net

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

Dated: March 27, 2017

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