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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

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REGION III PHILADELPHIA
EPA REGION III OFFICE

IN THE MATTER OF:)	
)	
ArcelorMittal Weirton LLC)	
)	
Respondent)	Docket Number
)	CAA-03-2016-0077
)	
100 Pennsylvania Avenue)	Proceeding Pursuant to
Weirton, WV 26062)	Sections 113(a) and (d)
)	of the Clean Air Act, as
Facility)	amended, 42 U.S.C.
)	§ 7413(a) and (d)
)	

CONSENT AGREEMENT

I. Preliminary Statement

1. This administrative Consent Agreement is entered into by and between the Complainant, the Director of the Air Protection Division, United States Environmental Protection Agency, Region III (“EPA” or “Complainant”), and ArcelorMittal Weirton LLC (“AMW” or “Respondent”), pursuant to Section 113(a) and (d) of the Clean Air Act (“CAA” or the “Act”), as amended, 42 U.S.C. § 7413(a) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (the “Consolidated Rules of Practice”). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13, provide, in pertinent part, that when parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

2. This Consent Agreement and the accompanying Final Order (collectively referred to as the “CAFO”) address the alleged violation by AMW of requirements found in Section 8.1.10.c.iii of its CAA Title V operating permit (concerning scrubber inspection requirements for the HCL-Tank) at its steel finishing plant located in Weirton, West Virginia.

II. General Provisions

3. Sections 113(a) and (d) of the Act, 42 U.S.C. §§ 7413(a) and (d), authorize the Administrator of EPA to issue an administrative order assessing a civil administrative penalty whenever, on the basis of any information available to the Administrator, the Administrator finds

that any person has violated, or is in violation of, any requirement, rule, plan, order, waiver, or permit promulgated, issued, or approved under Subchapters I, IV, V and VI [also referred to as Titles I, IV, V and VI] of the Act. The authority to issue the accompanying Final Order has been duly delegated to the Regional Judicial Officer, EPA Region III.

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO and agrees not to contest EPA's jurisdiction with respect to the issuance, execution and enforcement of this CAFO.

5. Respondent neither admits nor denies the specific findings of fact and conclusions of law set forth in this CAFO, except as otherwise stated in Paragraph 4, above.

6. Respondent consents to the issuance of this CAFO and agrees to comply with the terms and conditions set forth therein, including the payment of the indicated civil penalty as set forth in this CAFO.

7. Respondent agrees to pay its own costs and attorney fees.

8. Respondent agrees that this CAFO shall apply to, and be binding upon, Respondent, its officers, directors, servants, employees, agents, successors and assigns.

9. For the purposes of this proceeding, Respondent hereby expressly waives its right to a hearing with respect to any issue of law or fact set forth in this CAFO, including the finality and/or validity thereof. Respondent hereby expressly waives its right to contest the factual allegations and legal conclusions set forth in Section III, "Findings of Fact and Conclusions of Law," of this Consent Agreement and any right to appeal the accompanying Final Order.

10. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to matters where the first alleged violation occurred no more than 12 months prior to initiation of an 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.

11. The Administrator and the Attorney General, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

III. Findings of Fact and Conclusions of Law

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:

Statutory and Regulatory Background

13. EPA is authorized by Section 113 of the Act, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally enforceable permits, including Title V operating permits.

14. Title V of the CAA, 42 U.S.C. § 7661 *et. seq.*, established an operating permit program for major sources of air pollution. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator a permit program meeting the requirements of Title V.

15. Pursuant to Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations providing for the establishment of Title V permitting programs at 40 C.F.R. Part 70.

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

17. EPA granted full approval to the West Virginia Title V operating permit program on October 3, 2001 (66 Fed. Reg. 50,325), and the program became effective on November 19, 2001. *See also* 40 C.F.R. Part 70, Appendix A.

18. The West Virginia Department of Environmental Protection (“WVDEP”) is a Permitting Authority for Title V purposes as defined in Section 501(4) of the CAA, 42 U.S.C. § 7661(4).

19. The state regulatory requirements concerning West Virginia’s Title V CAA permitting program are contained in 45CSR§30.

General Background

20. AMW is a Delaware limited liability company doing business in the State of West Virginia, and is a fully owned subsidiary of ArcelorMittal USA LLC, which is headquartered in Chicago IL.

21. AMW is a “person” as defined by Section 302(e) of the Act. 42 U.S.C. § 7602(e).

22. At all times relevant to the violation alleged in this CAFO, AMW has been the owner and operator of a steel finishing plant located at 100 Pennsylvania Avenue, Weirton, WV 26062 (“Facility”).

23. At all times relevant to the violation alleged in this CAFO, the Facility has been a Title V facility as defined at 45CSR§§30-2.26 and 2.45.

24. The Facility was issued a Title V Major Source operating permit by WVDEP (Permit No. R30-02900001-2012) on January 31, 2012 (with a minor modification on April 28, 2015), which will expire on January 31, 2017 (“Title V Permit”).

25. The Facility is subject to the provisions of 40 C.F.R. Part 63, Subpart CCC – National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCL Process Facilities and Hydrochloric Acid Regeneration Plants. As a Title V facility, the Facility is also subject to the state Title V operating permit provisions in 45CSR§30.

26. Pursuant to Section 2.13 of the Title V Permit, “[t]he permittee must comply with all conditions of this permit.” The Section also specifies that permit noncompliance constitutes a violation of the West Virginia Code and the CAA and is enforceable by either WVDEP or EPA.

Missed scrubber inspection for the HCL-Tank

27. Section 8.1.10.c.iii (Limitations and Standards for HCL-Tank) of the Title V Permit states that for the HCL-Tank, “[i]nspection of the scrubber shall be conducted on intervals of at least once every 6 months.”

28. By letter dated September 15, 2015, AMW submitted to EPA Region III and WVDEP a semi-annual Title V compliance certification form (“Compliance Certification”), signed by the General Manager of AMW, for the time period of January 1, 2015 – June 30, 2015. The Compliance Certification noted that no scrubber inspection of the HCL-Tank was conducted during the period from January 1, 2015 – September 15, 2015. Upon further investigation, AMW determined that the inspection was actually conducted on August 10, 2015 but only documented during the subsequent investigation.

29. AMW’s failure to inspect the scrubber every six months as required is a violation of Section 8.1.10 of the Title V Permit and of Sections 113 and 502(a) of the CAA.

IV. Settlement Recitation, Settlement Conditions and Civil Penalty

30. Complainant and Respondent enter into this CAFO in order to settle and resolve all violations specifically set forth in Section III of this Consent Agreement.

31. In settlement of the allegations in Section III, Findings of Fact and Conclusions of Law, of this Consent Agreement and in consideration of each provision of this CAFO, Respondent consents to the assessment and payment of a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00) within the time and manner specified herein.

32. The settlement amount of Twenty-Five Thousand Dollars (\$25,000.00) is based upon Complainant's consideration and application of the statutory penalty factors set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e) (which include the size of the business, economic impact of the penalty, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the economic benefit of noncompliance, the payment of penalties previously assessed for same violation, the seriousness of violation and such other matters as justice may require), and EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991), as indexed for inflation in keeping with 40 C.F.R. Part 19 (Adjustment to Civil Monetary Penalties for Inflation). Complainant has determined that Respondent's payment of this civil penalty shall resolve the violation set forth in Section III of this Consent Agreement.

33. Respondent shall pay the civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) no later than thirty (30) days after the effective date of this CAFO in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO.

34. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. §13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

35. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this executed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

36. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

37. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

38. Thus, in accordance with the above provisions, to avoid the assessment of interest, late payment penalties, and handling charges on the penalty set forth herein, Respondent must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this CAFO.

39. Payment of the penalty in Paragraph 31 shall be made by cashier's check, certified check, or electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments shall be made payable to "Treasurer, United States of America," and shall reference the above case caption and docket number (CAA-03-2016-0077).

40. Instructions for submitting payment of the penalty using the methods, or combination of methods, described above are provided at the following EPA website addresses: <http://www2.epa.gov/financial/additional-instructions-making-payments-epa> <http://www2.epa.gov/financial/makepayment>.

41. Within 24 hours of payment of any penalty amount, Respondent shall send copies of any corresponding check or written notification confirming any electronic transfer through wire transfer, ACH, or internet payment to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029; to J. Robert Stoltzfus, Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and to Amelie Isin (3AP20), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.

42. Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this CAFO.

43. Payment of the penalty specified in Paragraph 31 in the manner set forth in this Consent Agreement and payment of any applicable interest, handling costs and/or late payment charges as set forth above shall constitute satisfaction of all civil claims for penalties for the specific violations alleged in Section III of this Consent Agreement. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations administered by EPA.

44. Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this CAFO in the appropriate United States District Court in accordance with Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.

V. Reservation of Rights

45. This CAFO resolves only the civil penalty claims for the specific violation alleged in Section III of this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this CAFO be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the Act, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VI. Effective Date

46. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk of EPA Region III.

VII. Entire Agreement

47. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO. Nothing in this CAFO shall be construed to affect or limit in any way the obligation of Respondent to comply with all federal, state and local laws and regulations governing any activity required by this CAFO.

VIII. Execution

48. The person signing this Consent Agreement on behalf of Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent, to the terms and conditions of this CAFO.

The foregoing Consent Agreement in the Matter of ArcelorMittal Weirton LLC, Docket No. CAA-03-2016-0077, is Hereby Stipulated, Agreed, and Approved for Entry.

For Respondent, ArcelorMittal Weirton LLC:

07/06/2016
Date

Brian Jensen
Name:
Title:
ArcelorMittal Weirton LLC

Respondent's Federal Tax Identification Number: 56-2435202

For Complainant, Environmental Protection Agency, Region III:

7/22/16
Date

J. Robert Stoltzfus
J. Robert Stoltzfus
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Accordingly, the Air Protection Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the accompanying Final Order and thereby ratify this Consent Agreement and the terms and provisions herein.

7/27/2016
Date

David Arnold
David Arnold, Acting Director
Air Protection Division
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

**ArcelorMittal Weirton LLC
100 Pennsylvania Avenue
Weirton, West Virginia 26062,**

Respondent.

EPA Docket No. CAA-03-2016-0077

FINAL ORDER

**Proceeding under Sections 113(a) and
(d) of the Clean Air Act, as amended, 42
U.S.C. Sections 7413(a) and (d)**

FINAL ORDER

Complainant, the Director of the Air Protection Division, U.S. Environmental Protection Agency, Region III, and Respondent, ArcelorMittal Weirton LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.


Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Clean Air Act Stationary Source Civil Penalty Policy (dated October 25, 1991) and the statutory factors set forth in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Section 113 of the Clean Air Act, 42 U.S.C. § 7413, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **TWENTY-FIVE THOUSAND DOLLARS**

(\$25,000.00), in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

July 28, 2016
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III