



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

REPLY TO THE ATTENTION OF:

MAR 31 2008

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joe Russell, Plant Manager
Wabash Alloys, LLC
4525 West Old Highway 24
Wabash, Indiana 46922

Dear Mr. Russell:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Wabash Alloys, LLC. CAA Docket No. CAA-05-2008-0011. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 31 2008.

Pursuant to paragraph 25 of the CAFO, Wabash Alloys, LLC must pay the \$10,000 civil penalty within 30 days of the date the CAFO was filed, MAR 31 2008. The check must display the case docket number, CAA-05-2008-0011, and the billing document number, 27508034011.

Please direct any questions regarding this case to Thomas Krueger, Associate Regional Counsel, at (312) 886-0562.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable".

Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Craig Henry, Acting Section Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. CAA-05-2008-0011
)	
Wabash Alloys, LLC)	Proceeding to Assess a Civil
Wabash, Indiana,)	Penalty under Section 113(d)
)	of the Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
)	

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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 Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) 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 (2004).
2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA).
3. Respondent is Wabash Alloys, LLC (Wabash), a corporation doing business at 525 West Old Highway 24, Wabash, 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. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

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

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

Statutory and Regulatory Background

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

Factual Allegations

10. Wabash owns and operates a secondary aluminum production facility at 525 West Old Highway 24, Wabash, Indiana (the “facility”).

11. Wabash uses aluminum scrap as raw material in its aluminum production process and performs scrap drying at the facility. Therefore Wabash is subject to the NESHAP for secondary aluminum production facilities at 40 C.F.R. §§ 63.1500 through 63.1519.

12. Wabash operates a scrap dryer #5 that utilizes an afterburner and a lime-injected fabric filter to control emissions from the scrap dryer.

13. On October 20, 2005, Wabash submitted a self-disclosure pursuant to U.S. EPA’s “Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations,” dated April 11, 2000 (Audit Policy).

14. Wabash's October 20, 2005, self-disclosure stated that from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005, Wabash failed to accurately record the afterburner temperature and baghouse inlet temperature for scrap dryer #5.

15. Wabash's October 20, 2005, self-disclosure stated that from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005, Wabash failed to record the afterburner temperature and baghouse inlet temperature for scrap dryer #5 in 15 minute block averages and in 3 hour block averages.

16. On February 28, 2006, Wabash submitted a semi-annual report as required by 40 C.F.R. §§ 63.1516(b) providing, among other things, information on the failure to accurately record the afterburner temperature and baghouse inlet temperature for scrap dryer #5 from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005.

17. On February 28, 2006, Wabash submitted a semi-annual report as required by 40 C.F.R. §§ 63.1516(b) providing, among other things, information on the failure to record the afterburner temperature and baghouse inlet temperature for scrap dryer #5 in 15 minute block averages and in 3 hour block averages from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005.

Alleged Violations

18. The NESHAP for secondary aluminum production facilities at 40 C.F.R. § 63.1510(g)(2)(ii) requires that a scrap dryer using an afterburner to control emissions must record the temperature of the afterburner in 15 minute block averages and must determine and record 3 hour block averages.

19. Based on the information contained in Wabash's October 20, 2005, self-disclosure and February 28, 2006, semi-annual report, U.S. EPA determined that Wabash failed to record the temperature of the afterburner in 15 minute block averages and must determine and record 3 hour block averages from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005.

20. Wabash violated the NESHAP for secondary aluminum production facilities at 40 C.F.R. § 63.1510(g)(2)(ii).

21. The NESHAP for secondary aluminum production facilities at 40 C.F.R. § 63.1510(h)(2)(i) requires that a scrap dryer using lime-injected fabric filter to control emissions must record the temperature of the fabric filter inlet gases in 15 minute block averages and must determine and record 3 hour block averages.

22. Based on the information contained in Wabash's October 20, 2005, self-disclosure and February 28, 2006, semi-annual report, U.S. EPA determined that Wabash failed to record the temperature of the fabric filter inlet gases in 15 minute block averages and must determine and record 3 hour block averages from approximately 5:31 p.m on September 19, 2005 until 7:00 a.m. on October 14, 2005.

23. Wabash violated the NESHAP for secondary aluminum production facilities at 40 C.F.R. § 63.1510(h)(2)(i).

Civil Penalty

24. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and in the Audit Policy, U.S. EPA and Wabash agree that an appropriate civil penalty to settle this action is \$10,000.

25. Wabash must pay the \$10,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

26. Wabash must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

27. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check.

Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Thomas Krueger, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

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

29. If Wabash does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of

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

30. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Wabash will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Wabash will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

General Provisions

31. Wabash certifies that it is complying fully with 40 C.F.R. §§ 63.1510(g)(2)(ii) and 63.1510(h)(2)(i) of the NESHAP for secondary aluminum production facilities at its Wabash, Indiana facility.

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

33. The effect of the settlement described in paragraph 32 is conditional upon the accuracy of the Respondent's representations to U.S. EPA, as memorialized in paragraph 31 of this CAFO.

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

35. This CAFO does not affect Wabash's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 32 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

36. This CAFO constitutes an "enforcement response" as that term is used in

“U.S. EPA’s Clean Air Act Stationary Source Civil Penalty Policy” to determine Wabash’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

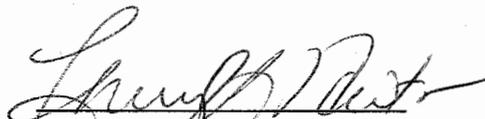
38. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

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

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

U.S. Environmental Protection Agency, Complainant

3/27/08
Date

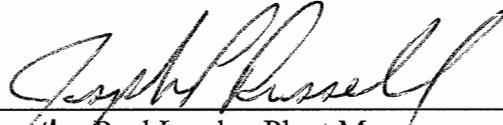

Cheryl L. Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CAA-05-2008-0011

Wabash Alloys, LLC, Respondent

3-24-08

Date



Joe Russell / ~~Paul Lemke~~, Plant Manager
Wabash Alloys, LLC

CAA-05-2008-0011

CONSENT AGREEMENT AND FINAL ORDER

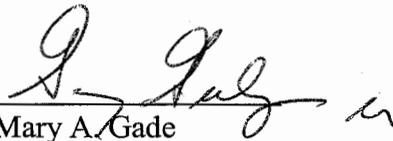
Wabash Alloys, LLC

Docket No. CAA-05-2008-0011

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This final order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

3/28/08
Date


Mary A. Gade
Regional Administrator
U.S. Environmental Protection
Agency, Region 5

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In the Matter of Wabash Alloys, LLC
Docket No: CAA-05-2008-0011

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2008-0011 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Wabash Alloys, LLC and Wabash Alloy LLC's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Joe Russell, Plant Manager
Wabash Alloys, LLC
4525 West Old Highway 24
Wabash, Indiana 46922

Patricia F. Sharkey, Esq.
McGuire Woods LLP
77 W. Wacker Drive
Chicago, Illinois 60601-1818

on the 31st day of March, 2008.

I, also certify that a copy of the CAFO was sent by first class mail to:

Craig Henry, Acting Section Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue / Mail Code 60-02
Indianapolis, Indiana 46204


Betty Williams, Secretary
AECAS (IL/IN)

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