



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GREAT LAKES NATIONAL PROGRAM OFFICE
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 26 2010

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marian Gammon
Environmental Compliance Manager
ArcelorMittal Warren, Inc.
2234 Main Avenue, SW
Warren, Ohio 44482

Dear Ms. Gammon:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number CAA-05-2010-0016 with ArcelorMittal Warren, Inc. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 26 2010.

Pursuant to paragraph 28 of the CAFO, ArcelorMittal Warren, Inc. must pay the civil penalty within 30 days of MAR 26 2010. Your check must display the docket number CAA-05-2010-0016, and the billing document number 2751003A017.

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

Sincerely,

William MacDowell
Chief
AECAS (MN/OH)

Enclosure

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2010-0016
)	
ArcelorMittal Warren, Inc.)	Proceeding to Assess a Civil Penalty
Warren, Ohio,)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
<hr/>)	

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)(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, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is ArcelorMittal Warren, Inc. (AM or Respondent), a corporation doing business in Ohio.
4. Under 40 C.F.R. § 22.13(b), 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).
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

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penalty, and agrees to comply with the terms of the 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 the 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

9. Section 502(a) of the Clean Air Act (the Act), 42 U.S.C. § 7661(a), requires that a major source operate with a permit issued pursuant to an approved 40 C.F.R. Part 70 operating permit program (Title V).

10. The State of Ohio's Title V operating permit program was granted approval on August 15, 1995, 60 Fed. Reg. 42045, with an effective date of October 1, 1995.

11. On October 16, 2007, 72 Fed. Reg. 58523, with an effective date of November 15, 2007, U.S. EPA approved the Ohio Administrative Code (OAC) Chapter 3745-17-07(B)(2)(a) as part of the federally enforceable Ohio State Implementation Plan (Ohio SIP).

12. OAC Chapter 3745-17-07(B)(2)(a) states there shall be no visible particulate emissions from any charging operations except for a period of time not to exceed one hundred twenty-five seconds during any five consecutive charges.

13. On October 16, 2007, 72 Fed. Reg. 58523, with an effective date of November 15, 2007, U.S. EPA approved OAC Chapter 3745-17-07(B)(2)(b) as part of the federally enforceable Ohio SIP.

14. OAC Chapter 3745-17-07(B)(2)(b) states that at no time shall there be visible particulate emissions from more than ten per cent of the offtake piping.

15. The Title V regulations at 40 C.F.R. § 70.6(b)(1) specify that all terms and conditions in a permit issued under the Part 70 program, including any provisions designed to limit a source's potential to emit, are enforceable by U.S. EPA under the Act.

16. Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), the Administrator of EPA may assess civil penalties of up to \$25,000 per day for each violation of the Act. Under the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19, that amount was increased to \$32,500 per day of violation, up to a total of \$270,000, for violations that occurred between March 15, 2004 and January 11, 2009, and up to \$37,500 per day of violation, up to a total of \$295,000, for violations that have occurred on or after January 12, 2009.

Factual Allegations and Alleged Violations

17. AM owns and operates a by-products coke oven battery at its Warren, Ohio facility.

18. On December 18, 2002, the Ohio Environmental Protection Agency issued Title V Permit Number 02-78-00-0648 for the facility. A Title V Administrative Permit Amendment was issued by Ohio EPA on December 30, 2002.

19. The coke oven battery at AM's Warren, Ohio facility is identified as B901 in AM's Title V Permit No. 02-78-00-0648.

20. AM's Title V permit at Part III.A.I.1 incorporates OAC Chapter 3745-17-07(B)(2)(a).

21. On November 3, 2008, AM certified and submitted a Method 303 Report that demonstrated that on October 10 and 29, 2008, Unit B901 at the facility exceeded the charging operations visible particulate emission limit in Part III.A.I.1 of its Title V permit and the Ohio SIP at OAC Chapter 3745-17-07(B)(2)(a).

22. The charging operations visible particulate emission exceedances on October 10

and 29, 2008, were violations of AM's Title V permit, the Ohio SIP, Section 110 of the Act, 42 U.S.C. § 7410, and Section 502 of the Act, 42 U.S.C. § 7661a.

23. AM's Title V permit at Part III.A.I.1 incorporates OAC Chapter 3745-17-07(B)(2)(b).

24. On November 3, 2008, AM certified and submitted a Method 303 Report that demonstrated that on October 10, 2008, Unit B901 at the facility exceeded the offtake piping visible particulate emission limit in Part III.A.I.1 of its Title V permit and the Ohio SIP at OAC Chapter 3745-17-07(B)(2)(b).

25. The offtake piping visible particulate emission exceedance on October 10, 2008, was a violation of AM's Title V permit, the Ohio SIP, Section 110 of the Act, 42 U.S.C. § 7410, and Section 502 of the Act, 42 U.S.C. § 7661a.

26. On February 20, 2009, U.S.EPA issued a Notice and Finding of Violation to AM regarding the violations alleged in this CAFO. On March 30, 2009, AM provided a response to U.S. EPA regarding the allegations in the Notice and Finding of Violation.

CIVIL PENALTY

27. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and AM's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$27,079.50.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$27,079.50 civil penalty by electronic funds transfer, payable to the "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, NY 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 the case name, the docket number of this CAFO and the billing document number.

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

30. If Respondent 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.

31. Pursuant to 31 C.F.R. § 901.9, 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. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must 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

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

33. 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 or Respondent's ability to assert any defenses thereto.

34. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. 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 administered by Complainant.

35. Respondent certifies that it is complying fully with the visible particulate emission requirements for the charging operations and offtake piping in its Title V permit No. 02-78-00-0648 at its Warren, Ohio facility.

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 Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

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

38. 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.

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.


41. This CAFO shall automatically terminate upon Respondent's compliance with paragraph 28 above; provided, however, that the resolution described in paragraph 32 above

shall survive termination of this CAFO.

42. This CAFO shall become effective immediately upon filing with the Regional Hearing Clerk.

ArcelorMittal Warren, Inc., Respondent


MARCH 5, 2010
Date



Keith A. Nagel, General Manager
Environmental Affairs & Real Estate
ArcelorMittal USA, Inc.

United States Environmental Protection Agency, Complainant

3/22/10
Date



Cheryl Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J0)

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

ArcelorMittal Warren, Inc.

Docket No. CAA-05-2010-0016

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.

3/25/10
Date

Walter W. Kavalide
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

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Docket No.

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that mailed by Certified Mail, Receipt No. _____, the second original to Respondent, addressed as follows:

Marian Gammon
Environmental Compliance Manager
ArcelorMittal Warren, Inc.
2234 Main Avenue, SW
Warren, Ohio 44482

I also certify that I mailed a correct copy by first class, United States mail, addressed as follows:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Ed Fasco, APC Supervisor
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

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On this 26 day of Mar, 2010.

Loretta Shaffer
Loretta Shaffer
AECAS, (MN/OH)

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