

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:	:
	:
WVA Manufacturing, LLC	: U.S. EPA Docket No. CAA-03-2021-0067
P.O. Box 158	:
Alloy, WV 25002	: Proceeding under Section 113(d) of the Clean
	: Air Act, 42 U.S.C. § 7413(d)
Respondent.	:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and WVA Manufacturing, LLC (“Respondent”) (collectively the “Parties”), pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and 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. Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the Clean Air Act (or the “Act”) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).
5. On October 14, 2020, the U.S. Environmental Protection Agency, Region III issued Respondent a Notice of Violation and Opportunity to Confer (“NOVOC”) pursuant to Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1), and provided a copy to

the State of West Virginia Department of Environmental Protection Division of Air Quality.

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
12. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.
13. EPA and Respondent have executed and entered into a Tolling Agreement which establishes that the period commencing January 1, 2021 and ending on April 30, 2021 (inclusive) will not be included in computing the running of any statute of limitations that might be applicable to this action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
15. At all times relevant to the violations alleged herein, Respondent was Delaware limited liability company with a principle place of business located on Route 60 near Alloy, West Virginia in Fayette County.
15. At all times relevant to the violations alleged herein, Respondent was a "person" within the meaning of Section 113(a) of the Act, 42 U.S.C. § 7413(a) and as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

16. At all times relevant to the violations alleged herein, Respondent owned and operated a ferroalloy production facility located at or near Alloy, West Virginia (the “Facility”).
17. The Facility includes multiple electric arc furnaces; sizing and materials handling equipment; and associated controls. The Facility has the potential to operate twenty-four (24) hours per day, 7 days per week, fifty-two (52) weeks per year, and is a major source of HAPs and other air pollutants.
18. The State of West Virginia issued Respondent a federally enforceable Permit to Operate the Facility, Permit Number: R30-01900001-2012, effective July 17, 2012; which was renewed as Permit Number: R30-01900001-2017, effective on October 2, 2017, and subsequently modified (i.e., minor modification) on April 24, 2018 (“WVA’s Title V Permit”).
19. At Condition 2.13.1 under “General Conditions – *Duty to Comply*”, WVA’s Title V Permit provides:

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the West Virginia Code and the Clean Air Act and is grounds for enforcement action by the Secretary or EPA; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

Section 5.1.f.1. of West Virginia’s 45CSR30 Requirements for Operating Permits regulation is cited as the authority for this condition.

20. WVA’s Title V Permit includes applicable requirements of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation.
 21. WVA’s Title V Permit is organized as follows: Section 3.0 includes requirements that are applicable facility-wide, Section 4.0 includes requirements that are applicable to boilers, Section 5.0 includes requirements applicable to electric submerged arc furnaces, and Section 6.0 includes requirements applicable to microsilica operations.
 22. Under Section 3.0 “Facility-Wide Requirements – *Limitations and Standards*”, WVA’s Title V Permit provides:
 - 3.1.9. No person shall cause, suffer, allow or permit emission of smoke and/or particulate matter into the open air from any process source operation which is greater than twenty (20) percent opacity, except as noted in subsections 45CSR§7- 3.2 (See Section 3.1.10), 3.3, 3.4, 3.5, 3.6, and 3.7 (See Section 3.1.12).
- Section 3.1. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation is cited as an authority for this condition.
23. Under Section 3.0 “Facility-Wide Requirements– *Limitations and Standards*”, WVA’s Title V Permit provides:

3.1.10. The provisions of Section 3.1.9 [45CSR§7-3.1] shall not apply to smoke and/or particulate matter emitted from any process source operation which is less than forty (40) percent opacity for any period or periods aggregating no more than five (5) minutes in any sixty (60) minute period.

Section 3.2. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation is cited as the authority for this condition.

24. Under Section 3.0 “Facility-Wide Requirements– *Limitations and Standards*”, WVA’s Title V Permit provides, specifically for Group 6 (Silo 7, Silo 14, DS-1 and DS-2):

3.1.11. No person shall cause, allow or permit visible emissions from any storage structure(s) associated with any manufacturing process(es) that pursuant to Section 3.1.14 [45CSR§7-5.1] is required to have a full enclosure and be equipped with a particulate matter control device. The loading and unloading of the above silos are not subject to standards of 45CSR§7-3.7, but are subject to the standard of 45CSR§7-5.1 to minimize emissions of fugitive particulate matter.

Section 3.7. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation is cited as the authority for this condition.

25. Under Section 3.0 “Facility-Wide Requirements– *Limitations and Standards*”, WVA’s Title V Permit provides:

3.1.14. No person shall cause, suffer, allow, or permit any manufacturing process generating fugitive particulate matter to operate that is not equipped with a system to minimize the emissions of fugitive particulate matter. To minimize means that a particulate capture or suppression system shall be installed to ensure the lowest fugitive particulate emissions reasonably achievable.

Section 5.1. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation is cited as an authority for this condition.

26. Under Section 3.0 “Facility-Wide Requirements– *Limitations and Standards*”, WVA’s Title V Permit provides:

3.1.16. The provisions of Sections 3.1.9, 3.1.10, and 3.1.14 [45CSR§§7-3.1, 3.2, and 5.1] shall not apply to particulate matter emitted from the operation of a ferroalloy electric submerged arc furnace in existence prior to June 1, 1993 during blowing taphole events, poling, and oxygen lancing operations. Poling emissions shall not exceed five (5) minutes in duration during any poling operation.

Section 5.3. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation is cited as the authority for this condition.

27. Under Section 3.0 “Facility-Wide Requirements– *Monitoring Requirements*”, WVA’s Title V Permit provides, except for open stockpiles and haul roads:

3.2.1.a. The permittee shall perform monthly Method 22 visible emission observations for particulate matter emission activities for the emission sources identified as Groups 002, 004, 005, and 006 in the Emission Unit Table, Section 1.1. These visible emission observations shall be conducted for 6 minute time intervals to determine if any of the subject emission points have visible emissions and if so, determine the opacity of the emissions. If any of the subject emission points have visible emissions exceeding the regulatory limit of twenty percent (20%) opacity, then a 45CSR7 A evaluation shall be conducted immediately after the violation of the regulatory limit unless the permittee can demonstrate a valid reason that the time frame should be extended. A 45CSR7A evaluation shall not be required if the condition resulting in the excess visible emissions is corrected within 24 hours and the units are operated at normal operating conditions.

Section 5.1.c. of West Virginia's 45CSR30 Requirements for Operating Permits is cited as the authority for this condition.

28. Under Section 5.0 "Electric Submerged Arc Furnaces Requirements [Electric Submerged Arc Furnace Numbers 3 (003-01), 6 (003-03), 7 (003-04), 9 (003-05), 14 (003-06), 15 (003-07), and 16 (003-08); Group 003; Dust Collector ID(s) (0005, 0006, 0007, 0008, 0012, 0013 and 0014), and emission point ID(s) (Stacks 009, 010, 011, 012, 015, 016, 017, 026, and 029) – *Limitations and Standards*", WVA's Title V Permit provides, specifically for Furnace 15:

5.1.3. Visible emissions from all operations directly associated with furnace number 15 (including furnace charging, refining, tapping, and ladle additions,) shall not equal or exceed 20% opacity [Section 5.1.18.a] (45CSR§7-4.7.a). In accordance with 45CSR7 and 45CSR7A, opacity observations at the baghouse discharge points, the roof monitor above furnace number 15, and from all external ductwork handling gases from furnace number 15 shall not be as dark as or darker in shade than 20% opacity. Opacity observations shall not be averaged in determining compliance with this visible emission limitation. This visible emission standard shall not be applicable during blowing taphole events, poling, oxygen lancing. Poling emissions shall not exceed five (5) minutes in duration during any poling operation.

Construction and Major Modification of Major Stationary Source of Air Pollutants for the Prevention of Significant Deterioration (45CSR14) permit condition A.3 is cited as the authority for this condition.

29. Under Section 5.0 "Electric Submerged Arc Furnaces Requirements [Electric Submerged Arc Furnace Numbers 3 (003-01), 6 (003-03), 7 (003-04), 9 (003-05), 14 (003-06), 15 (003-07), and 16 (003-08); Group 003; Dust Collector ID(s) (0005, 0006, 0007, 0008, 0012, 0013 and 0014), and emission point ID(s) (Stacks 009, 010, 011, 012, 015, 016, 017, 026, and 029) – *Limitations and Standards*", WVA's Title V Permit provides, specifically for Furnace 15:

5.1.4. Visible emissions from casting and associated operations following removal of the ladle(s) from the tapping station (including ladle switching, slag handling and reladling) shall not exceed the 20% opacity except that visible emissions from such operations shall not equal or exceed 40% opacity for an aggregate 5 minutes in any 60 minute period.

Construction and Major Modification of Major Stationary Source of Air Pollutants for the Prevention of Significant Deterioration (45CSR14) permit condition A.4 is cited as the authority for this condition.

30. Under Section 5.0 "Electric Submerged Arc Furnaces Requirements [Electric Submerged Arc Furnace Numbers 3 (003-01), 6 (003-03), 7 (003-04), 9 (003-05), 14 (003-06), 15 (003-07), and 16 (003-08); Group 003; Dust Collector ID(s) (0005, 0006, 0007, 0008, 0012, 0013 and 0014), and emission point ID(s) (Stacks 009, 010, 011, 012, 015, 016, 017, 026, and 029) – *Monitoring Requirements*", WVA's Title V Permit provides:

5.2.3.a. Initially, the Method 22 test shall be performed once every four (4) months for two years for each operating furnace for one complete tap cycle, regardless if a poling, blowing taphole or oxygen lance operation is captured, for fugitive particulate emission. In conducting the opacity observations of the shop building, the observer must limit his or her field of view to the area of the shop building roof monitor that corresponds to the placement of the affected submerged arc furnaces. If there are no visible emissions detected, then Alloy Facility may perform semi-annual visible emission readings for each operating furnace for one complete

tap, regardless if a poling, blowing taphole or oxygen lance operation is captured. The tap and pouring cycle shall be defined as from the initiation of the tap until the ladle is returned to the pit and the tapping hood is closed, after the completion of the pouring. If any of the subject emission points have visible emissions equal to or exceeding twenty percent (20%) opacity, then a 45CSR7 A evaluation shall be conducted immediately after the violation of the regulatory limit unless the permittee can demonstrate a valid reason that the time frame should be extended. A 45CSR7A evaluation shall not be required if the condition resulting in the excess visible emissions is corrected within 24 hours and the units are operated at normal operating conditions. If visible emissions are detected during the semi-annual frequency, the permittee shall revert back to performing the visible emission readings every four (4) months for two years. If no visible emissions are detected during this period, then the permittee may proceed with semi-annual visible emissions.

5.2.3.b. A record of each visible emissions observation shall be maintained, including any data required by 40 C.F.R. 60 Appendix A, Method 22 or Method 9, whichever is appropriate. The record shall include, at a minimum, the date, time, name of the emission unit, the applicable visible emissions requirement, the results of the observation, and the name of the observer. Records shall be maintained on site for a period of no less than five (5) years stating any maintenance or corrective actions taken as a result of the weekly inspections, and the times the fugitive dust control system(s) are inoperable and any corrective actions taken.

Section 5.1.c. of West Virginia’s 45CSR30 Requirements for Operating Permits is cited as the authority for this condition.

- 31. On March 8, 2019, EPA issued WVA an information request letter (“IRL”) pursuant to Section 114(a) of the Act, 42 U.S.C. §7414(a).
- 32. WVA provided responses to EPA’s IRL on April 11, 2019, May 31, 2019, June 25, 2019 and January 17, 2020 (“WVA’s IRL Response”).

**Count I
Failure to Comply with SIP Opacity Limitations**

- 33. The information and allegations in the preceding Paragraphs of this Consent Agreement are incorporated herein by reference.
- 34. On the dates and for the processes identified in the table below, Respondent conducted opacity evaluations of roof monitors which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity for more than five (5) minutes, or forty (40) percent opacity or more, in a sixty (60) minute period:

Date	Furnace #	>20% for > 5min	= or > 40%
2/5/2016	Furnace No. 7		X
5/13/2016	Furnace No. 7		X
5/13/2016	Furnace No. 6		X
9/13/2016	Furnace No. 7		X
5/27/2017	Furnace No. 14	X	X
9/20/2017	Furnace No. 3		X
6/20/2018	Furnace No. 7	X	X
10/12/2018	Furnace No. 7		X

- 35. According to the opacity evaluation data sheets provided as part of Respondent’s IRL Response, none of the exceedances identified in the table in the preceding paragraph occurred during blowing taphole events, poling, or oxygen lancing operations.

36. Respondent’s acts or omissions described in Paragraphs 34 and 35 constitute eight (8) violations of Sections 3.1 and 3.2 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1, 3.1.9., 3.1.10, and/or 3.1.14 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a.
37. On September 15, 2016, Respondent conducted an opacity evaluation of the roof monitor for **Furnace No. 15** which showed smoke and/or particulate matter emissions: equal to or in excess of twenty (20) percent; greater than twenty (20) percent opacity for more than five (5) minutes, and forty (40) percent opacity or more in a sixty (60) minute period.
38. According to the opacity evaluation data sheet provided as part of WVA’s IRL Response, the exceedances identified in the preceding paragraph did not occur during blowing taphole events, poling, or oxygen lancing operations.
39. Respondents acts or omissions described in Paragraphs 37 and 38 constitute a violation of Sections 3.1 and 3.2 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1, 3.1.14, 5.1.3. and/or 5.1.4 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a.
40. In failing to comply with Sections 3.1 and 3.2 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as corresponding conditions of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, Respondent is subject to the assessment of penalties under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).

Count II
Failure to Minimize Emissions of Fugitive Particulate Matter

41. The information and allegations in the preceeding Paragraphs of this Consent Agreement are incorporated herein by reference.
42. On the dates identified in the table below, Respondent conducted monthly Method 22 visual emissions observations at **No. 14 Silo** which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity:

Date
1/12/2016
2/2/2016
3/8/2016
5/4/2016
6/13/2016
7/15/2016
8/9/2016
1/9/201[7]
2/8/2017
3/30/2017
4/19/2017
5/30/2017
6/6/2017
7/20/2017

9/19/2017
10/4/2017
12/6/2017
1/5/2018
2/12/2018
4/4/2018
7/23/2018
8/10/2018
9/12/2018
12/12/2018

- 43. Respondent’s acts or omissions described in Paragraph 42 constitute a violation of Section 5.1 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1, 3.1.11, and/or 3.1.14 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, from January 12, 2016 through December 12, 2018.
- 44. On the dates identified in the table below, Respondent conducted monthly Method 22 visual emissions observations from **Emission Unit 004-09** (baghouse dust handling for Furnace No. 3) which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity:

Date
3/29/2016
5/6/2016
6/9/2016
7/27/2016
1/6/2017
2/8/2017
3/14/2017
4/3/2017
6/8/2017
8/22/2017
9/19/2017
10/31/2017
11/29/2017
1/5/2018
3/9/2018
4/30/2018
6/12/2018
7/19/2018
8/23/2018
9/27/2018

- 45. Respondent’s acts or omissions described in Paragraph 44 constitute a violation of Section 5.1 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1 and/or 3.1.14 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, from March 29, 2016 through September 27, 2018.
- 46. On the dates identified in the table below, Respondent conducted monthly Method 22 visual emissions observations from **Emission Unit 005-01** (slag handling for Furnace No.3) which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity:

DATE
7/26/2016
9/13/2016
5/16/2017
9/21/2017
10/4/2017
11/15/2017
1/10/2018
2/19/2018
8/8/2018
10/23/2018
12/14/2018

- 47. Respondent’s acts or omissions described in Paragraph 46 constitute a violation of Section 5.1. of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1 and/or 3.1.14 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, from July 26, 2016 through December 14, 2018.
- 48. On the dates identified in the table below, WVA conducted monthly Method 22 visual emissions observations from **Emission Unit 006-03** (ladle dig-out) which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity:

DATE
4/20/2016
7/13/2016
8/5/2016
9/21/2016
2/3/2017
11/27/2018

- 49. Respondent’s acts or omissions described in Paragraph 48 constitute a violation of Section 5.1 of West Virginia’s 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1 and/or 3.1.14 of WVA’s Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, from April 20, 2016 through November 27, 2018.
- 50. On the dates identified in the table below, WVA conducted monthly Method 22 visual emissions observations from **Emission Unit 006-02** (ladle lining dust collector) which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity:

DATE
6/9/2016
2/7/2017
9/18/2017
10/31/2017
11/14/2017
1/16/2018
2/19/2018

51. Respondent's acts or omissions described in Paragraph 50 constitute a violation of Section 5.1 of West Virginia's 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1 and/or 3.1.14 of WVA's Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, from June 9, 2016 through February 19, 2018.
52. On March 28, 2016, WVA conducted monthly Method 22 visual emissions observations at the **Process Unit 7C DC** (Dust Collector) which showed smoke and/or particulate matter emissions greater than twenty (20) percent opacity.
53. Respondent's acts or omissions described in Paragraph 52 constitute a violation of Section 5.1 of West Virginia's 45CSR7 Control of Particulate Matter SIP regulation as well as Condition(s) 2.13.1, 3.1.9., 3.1.10, and/or 3.1.14 of WVA's Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, on March 28, 2016.
54. In failing to comply with Section 5.1 of West Virginia's 45CSR7 Control of Particulate Matter SIP regulation as well as corresponding conditions of WVA's Title V permit and Section 502 of the Act, 42 U.S.C. § 7661a, Respondent is subject to the assessment of penalties under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).

CIVIL PENALTY

55. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **ONE HUNDRED AND EIGHTY-TWO THOUSAND THREE HUNDRED AND FIFTY dollars (\$182,350)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
56. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 113(e)(1) of the Clean Air Act, 42 U.S.C. § 7413(e)(1), including, the following: the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation and such other factors as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy which reflects the statutory penalty criteria and factors set forth at Section 113(e)(1) of the Clean Air Act, 42 U.S.C. § 7413(e)(1), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
57. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, Docket No: CAA-03-2021-0067;

- b. All checks shall be made payable to the “United States Treasury”;
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent’s check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA, Region III ([MAILCODE])
1650 Arch Street
Philadelphia, PA 19103-2029
Abramson.Jennifer@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

- 58. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
- 59. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent’s legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

60. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties 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).
61. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case 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.
62. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent 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).
63. If Respondent fails to make a full and complete payment of the civil penalty in accordance with this Consent Agreement and Final Order, the entire unpaid balance of the penalty shall become immediately due and owing. Failure by Respondent to pay the Clean Air Act civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
64. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

65. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
66. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about

respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

67. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

68. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Air Act, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

69. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

70. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

71. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her

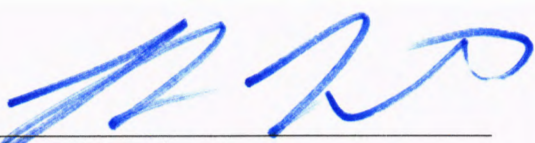
designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

72. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: WVA Manufacturing, LLC

Date: 4/19/21

By: 

Brian D' Amico
Director and Secretary
WVA Manufacturing, LLC

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin
Director, Enforcement and Compliance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA – Region III

In the Matter of: WVA Manufacturing, LLC

EPA Docket No. CAA-03-2021-0067

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

In the Matter of:

**WVA Manufacturing, LLC
P.O. Box 158
Alloy, WV 25002,**

Respondent.**EPA Docket No. CAA-03-2021-0067****FINAL ORDER**

**Proceeding under Section 113(d) of the
Clean Air Act, 42 U.S.C. § 7413(d)**

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, WVA Manufacturing, 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 upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 25, 1991 Clean Air Act Stationary Source Civil Penalty Policy, and the statutory factors set forth in Section 113(e)(1) of the Clean Air Act, 42 U.S.C. § 7413(e)(1).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of ***ONE HUNDRED AND EIGHTY-TWO THOUSAND THREE HUNDRED AND FIFTY dollars (\$182,350)***, in

accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

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.

Date

.
.

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