



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
DEC 30 2016

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Christopher Gionti, Operations Manager
Steel Dynamics, Inc.
2601 County Line Road 700 East
Columbia City, Indiana 46725
Email: david.hatchett@h2lawyers.com

Dear Mr. Gionti:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Steel Dynamics, Inc., docket no. CAA-05-2017-0007. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on December 30, 2016.

Pursuant to paragraph 61 of the CAFO, Steel Dynamics, Inc. must pay the civil penalty within 30 days of the filing date. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Susan Tennenbaum, Associate Regional Counsel, (312) 886-0273.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Frank".

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

Enclosure

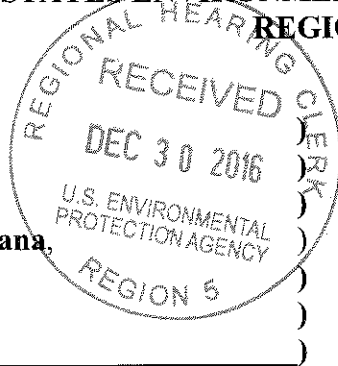
cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Susan Tennenbaum/C-14J
Phil Perry/IDEM (via electronic mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Steel Dynamics, Inc.
Columbia City, Indiana,

Respondent.



Docket No. CAA-05-2017-0007

Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air Act,
42 U.S.C. § 7413(d)

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 Steel Dynamics, Inc. (SDI), a corporation doing business in 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 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 or legal conclusions 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

The NESHAP for Electric Arc Furnace Steelmaking Facilities

9. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Electric Arc Furnace (EAF) Steelmaking Facilities at 40 C.F.R. Part 63, Subpart YYYYYY, 40 C.F.R. §§ 63.10680 through 63.10692, on December 28, 2007. 72 Fed. Reg. 74,111.

10. The NESHAP at 40 C.F.R. Part 63, Subpart YYYYYY, applies to an owner or operator of an EAF steelmaking facility that is an area source of HAP emissions. 40 C.F.R. § 63.10680(a).

11. The owner or operator of an existing affected source was required to comply with the requirements of 40 C.F.R. Part 63, Subpart YYYYYY, by June 30, 2008.

12. The NESHAP for EAF Steelmaking Facilities applies to each existing affected source. An affected source is each EAF steelmaking facility for which construction or reconstruction commenced on or before September 20, 2007. 40 C.F.R. § 63.10680(b)(1).

13. 40 C.F.R. § 63.10686(a) provides that owners or operators of subject facilities must install, operate, and maintain a capture system that collects the emissions from each EAF (including charging, melting, and tapping operations) and conveys the collected emissions to a control device for the removal of particulate matter (PM).

The NSPS for Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983

14. Section 111(b) of the Act, 42 U.S.C. § 7411(b), requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing federal standards of performance for new sources within the source category. These emission standards are known as the New Source Performance Standards (NSPS). EPA codified these standards at 40 C.F.R. Part 60.

15. 40 C.F.R. Part 60, Subpart A (NSPS Subpart A), contains the General Provisions for the NSPS.

16. The provisions of NSPS Subpart A apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility. 40 C.F.R. § 60.1(a).

17. 40 C.F.R. § 60.11(d) states, in pertinent part, that at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

18. On October 31, 1984, EPA promulgated the Standards of Performance for Steel Plants: Electric Arc Furnaces (EAF) and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983 at 40 C.F.R. Part 60, Subpart AAa (Subpart AAa). 49 Fed. Reg. 43, 845 (Oct. 31, 1984).

19. Subpart AAa applies to EAFs that commenced construction, modification, or reconstruction after August 17, 1983. 40 C.F.R. § 60.270a(b).

20. 40 C.F.R. § 60.274a(b) provides that “the owner or operator subject to the provisions of [40 C.F.R. Part 60, Subpart AAa] shall check and record on a once-per-shift basis the furnace static pressure (if DEC system is in use, and a furnace static pressure gauge is installed according to paragraph (f) of this section) and either: check and record the control system fan motor amperes and damper position on a once-per-shift basis; install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood; or install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the control device inlet and check and record damper positions on a once-per-shift basis.”

21. 40 C.F.R. § 60.274a(c) provides that when the owner or operator of an affected facility is required to demonstrate compliance with the standards under 40 C.F.R. § 60.272a(a)(3) and at any other time that the Administrator may require (under section 114 of the Act, as amended) either: the control system fan motor amperes and all damper positions, the volumetric flow rate through each separately ducted hood, or the volumetric flow rate at the control device inlet and all damper positions shall be determined during all periods in which a hood is operated for the purpose of capturing emissions from the affected facility subject to paragraph (b) of this section.”

22. 40 C.F.R. § 60.274a(c) provides that values of the fan amperage “[...] parameters as determined during the most recent demonstration of compliance shall be maintained at the appropriate level for each applicable period. Operation at other than baseline values may be subject to the requirements of §60.276a(c).”

23. 40 C.F.R. § 60.274a(g) states that “[...] The pressure determined during the most recent demonstration of compliance shall be maintained at all times when the EAF is operating

in a meltdown and refining period. Operation at higher pressures may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility.”

24. 40 C.F.R. § 60.276a(c) provides that “operation at a furnace static pressure that exceeds the value established under 40 C.F.R. § 60.274a(g) and either operation of control system fan motor amperes at values exceeding +/- 15 percent of the value established under 40 C.F.R. § 60.274a(c) or operation at flow rates lower than those established under 40 C.F.R. § 60.274a(c) may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility. Operation of such values shall be reported to the Administrator semiannually.”

Title V Permit Program

25. Title V of the Act, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution.

26. In accordance with Section 502(b) of the Act, 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. 32,295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

27. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the EPA a permit program meeting the requirements of Title V.

28. On May 16, 2002, EPA approved the State of Indiana’s operating permit program with an effective date of July 15, 2002. *See* 40 C.F.R. Part 70, Appendix A, and 67 Fed. Reg. 34,844 (May 16, 2002).

29. Section 502(a) of the Act, 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 Act, no source subject to Title V may operate except in compliance with a Title V permit.

30. 40 C.F.R. § 70.6(b)(1) provides that all terms and conditions in a Title V permit are enforceable by EPA.

SDI's Title V Permits

31. Indiana Department of Environmental Management (IDEM) issued an Administrative Amendment to a Part 70 Operating Permit, No 183-27131-00030, on February 16, 2009 (2009 Title V Permit).

32. IDEM issued a Significant Source Modification, No. 183-27145-00030, on December 21, 2012 (2012 Significant Source Modification Permit).

33. IDEM issued a Significant Permit Modification, No 183-27483-00030, on January 9, 2013 (January 2013 Title V Permit).

34. IDEM issued a Part 70 Operating Renewal Permit, No 183-31006-00030, on October 16, 2013 (October 2013 Title V Permit).

35. IDEM issued a Significant Permit Modification to a Part 70 Operating Permit, No. 183-34321-00030, on October 15, 2014 (2014 Title V Permit).

36. IDEM issued an Administrative Amendment to a Part 70 Operating Permit, No 183-35612-00030, on April 24, 2015 (April 2015 Title V Permit).

37. IDEM issued an Administrative Amendment to a Part 70 Operating Permit, No 183-35899-00030, on July 7, 2015 (July 2015 Title V Permit).

38. Condition D.1.5(b) of the January 2013 Title V Permit (and of subsequent permit revisions) states that the total carbon monoxide (CO) emissions from the EAF Baghouse stack (stack 1) and ladle metallurgical station (LMS) Baghouse stack (stack 43) shall not exceed 2.0 pounds per ton of steel produced and 600 pounds of carbon monoxide (CO) per hour, based on a three hour block average.

39. Condition D.1.5(a) of the 2009 Title V Permit states that filterable particulate

emissions from EAF-1a and EAF-1b shall be controlled by the EAF Baghouse.

40. Condition D.1.6(a)(1) of the 2012 Significant Source Modification Permit, the January 2013 Title V Permit, and of subsequent permit revisions states that the EAF Baghouse for particulate control shall be in operation and control filterable particulate emissions at all times that EAF-1a or EAF-1b is in operation.

41. Condition D.1.6(d) of the 2014 Title V Permit, and of subsequent permit revisions states that the meltshop shall be located in a total enclosure subject to general ventilation that maintains the meltshop at a lower than ambient pressure to ensure in-draft through any doorway opening. Ventilation air from the total enclosure shall be conveyed to the EAF Baghouse.

42. 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 and may assess 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 1, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

43. The Administrator may assess a penalty greater than \$320,000 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

44. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than \$320,000 is appropriate for an administrative penalty action.

45. 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.

46. 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

47. SDI owns and operates a stationary steel mini-mill at 2601 South County Road 700 East in Columbia City, Indiana (the Facility).

48. The EAFs at the Facility are subject to 40 C.F.R. Part 60, Subpart AAa, because they were constructed after August 17, 1983, and are subject to 40 C.F.R. Part 63, Subpart YYYYYY, of the NESHAP because the Facility is an area source for metal HAPs.

49. EPA conducted an inspection of the Facility on April 8, 2013. EPA returned to the facility on March 17, 2015 for additional observations.

50. EPA issued SDI an information request under Section 114 of the Act on April 28, 2014 (2014 Information Request). SDI submitted a response on August 4, 2014 (2014 Information Request Response).

CO Emission Limit Exceedance

51. SDI reported exceedances of the total CO emissions pounds per hour limit of the January 2013 Title V permit at the EAF Baghouse stack (stack 1) and LMS Baghouse stack (stack 43), based on a three-hour block average. The table below summarizes the number of exceedances of the 3-hour block average CO emission limit reported during 1st Q 2013 – 2nd Q

2015:

Quarter/Year	Total Number of Exceedances of the 3-Hour Block Average
1 st Q 2013	1
2 nd Q 2013	1
3 rd Q 2013	9
4 th Q 2013	150
1 st Q 2014	327
2 nd Q 2014	133
3 rd Q 2014	13
4 th Q 2014	4
1 st Q 2015	4
2 nd Q 2015	1

Monitoring

52. For compliance with NSPS Subpart AAa, SDI records fan amperage and furnace static pressure.

53. SDI's quarterly reports indicated that the operation of control system fan motor amperages deviated from the ± 15 percent of the value established during performance tests on approximately 452 instances from November 2010 through June 2014.

54. SDI's quarterly reports indicated that the furnace static pressure exceeded the value established during the performance test on approximately 116 instances from August 2010 through June 2014.

2015 Ventilation Study

55. SDI conducted a ventilation study in 2015, in response to the 2014 Information Request, in accordance with a protocol approved by EPA.

56. On March 19 and 20, 2016, in preparation of SDI's May 22, 2015 Ventilation and Monitoring Report, an SDI observer noted visible emissions coming from the melt shop.

Alleged Violations

57. By exceeding the CO emissions limit from the EAF Baghouse stack (stack 1) and LMS Baghouse stack (stack 43), SDI violated Condition D.1.5(b) of the January 2013 Title V Permit and subsequent permit revisions.

58. By operating at a furnace static pressure that exceeds the value established under 40 C.F.R. § 60.274a(g) and operating the fan motor amperes at values exceeding +/- 15 percent of the value established under 40 C.F.R. § 60.274a(c), SDI violated 40 C.F.R. § 60.11(d) and failed to demonstrate compliance with 40 C.F.R. § 60.274a(c) and (g).

59. By discharging gases from the melt shop that exhibited visible emissions, SDI violated Condition D.1.6(d) of the 2014 Title V Permit, and subsequent permit revisions, and 40 C.F.R. § 63.10686(a).

Civil Penalty

60. 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 in resolving this matter, Complainant has determined that an appropriate civil penalty to settle this action is \$432,554.

61. Within 30 days after the effective date of this CAFO, Respondent must pay a \$432,554 civil penalty by either check or Automated Clearinghouse (ACH).

62. For checks sent by regular U.S. Postal Service mail, send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

63. For checks sent by express mail, send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

64. The check must note Respondent's name and the docket number of this CAFO.

65. For Automated Clearinghouse (ACH) also known as REX or remittance express, make ACH electronic funds transfer payable to "Treasurer, United States of America," and send to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

66. In the comment area of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

67. 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-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Susan Tennenbaum (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

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

69. If Respondent does not pay timely 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.

70. 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 attorneys' 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).

General Provisions

71. 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: tennenbaum.susan@epa.gov (for Complainant), and david.hatchett@h2lawyers.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

73. 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. The parties are separately entering into an Administrative Consent Order for injunctive relief.

74. 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 72, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

75. Respondent certifies that it is complying fully with 40 C.F.R. § 63.10686(a), 40 C.F.R. § 60274a(c) and (g) and Condition D.1.6(d) of Respondent's 2014 Title V permit and of subsequent permit revisions.

76. 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).

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

78. 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.

79. Each party agrees to bear its own costs and attorneys' fees in this action.

80. This CAFO constitutes the entire agreement between the parties with respect to federal civil penalties for the violations alleged in this CAFO.

Steel Dynamics Inc., Respondent


12/13/2016
Date



Christopher Gionti, Operations Manager
SDI - Structural & Rail Division

United States Environmental Protection Agency, Complainant

12/28/16
Date



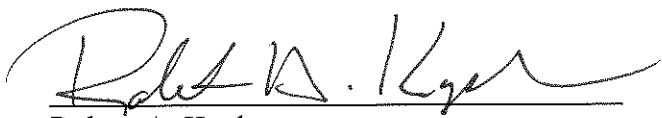
for Edward Nam
Acting Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Steel Dynamics Inc., Columbia City
Docket No. CAA-05-2017-0007

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.

12/30/14
Date


Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Steel Dynamics, Inc.
Docket Number: CAA-05-2017-0007

CERTIFICATE OF SERVICE


I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2017-0007, which was filed on 12/30/2016 in the following manner to the following addressees:

Copy by E-mail to Respondent: Christopher Gionti
david.hatchett@h2lawyers.com

Copy by E-mail to Attorney for Complainant: Susan Tennenbaum
tennenbaum.susan@epa.gov

Copy by E-mail to Attorney for Respondent: David Hatchett
david.hatchett@h2lawyers.com

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

Dated: December 30, 2016 
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5