



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB - 3 2020

ELECTRONIC SERVICE
VIA EMAIL

REPLY TO THE ATTENTION OF

Gerald Cook
Operations Manager
ArcelorMittal Columbus, LLC
1800 Watkins Road
Columbus, Ohio 43207

Re: ArcelorMittal Columbus, LLC, Columbus, Ohio, Consent Agreement and Final Order
Docket Nos. MM-05-2020-0002 EPCRA-05-2020-0004 CERCLA-05-2020-0002

Dear Mr. Cook:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on February 3, 2020.

Please pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$25,901 in the manner prescribed in paragraph 53, and reference your check with the billing document number 2752030B003 and the docket number CERCLA-05-2020-0002.

Please pay the Emergency Planning and Community Right-to-Know Act civil penalty in the amount of \$73,720 in the manner prescribed in paragraph 55 and reference your check with the docket number EPCRA-05-2020-0004.

Your payments are due on March 4, 2020.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Robert S. Guenther, Associate Regional Counsel, at (312) 886-0566. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

MM-05-2020-0002

CERCLA-05-2020-0002

In the Matter of:

Docket No.

EPCRA-05-2020-0004

ARCELORMITTAL)
COLUMBUS, LLC,)
COLUMBUS, OHIO,)
Respondent.)

Proceeding to Assess a Civil Penalty Under
Section 109(b) of the Comprehensive
Environmental Response, Compensation and
Liability Act and Section 325(b)(2) of the
Emergency Planning and Community Right-
to-know Act



CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9609(b), section 325(b)(2) of the Emergency Planning and Community Right-to-know Act of 1986 (EPCRA), 42 U.S.C. § 11045(b)(2), and sections 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, by lawful delegation, the Chief of the Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is ArcelorMittal Columbus, LLC, a limited liability company doing business in the State of Ohio.

4. According to 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, an 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 the assessment of the civil penalty specified in this CAFO, and to the terms of the CAFO.

Jurisdiction and Waiver of the Right to Hearing

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

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and section 304 of EPCRA, 42 U.S.C. § 11004, provide a mechanism to alert federal and state agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the governments' response to an emergency and pose serious threats to human health and the environment.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

11. Section 304(a)(1) of EPCRA, 42 U.S.C. § 11004(a)(1), requires that the owner or operator of a facility must immediately provide notice, as described in section 304(b) of EPCRA, 42 U.S.C. § 11004(b), if a release of an extremely hazardous substance in quantities equal to or greater than a reportable quantity occurs from a facility at which hazardous chemicals are

produced, used or stored and such release requires notice under section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

12. Under section 304(b) of EPCRA, 42 U.S.C. § 11004(b), notice required under section 304(a) of EPCRA, 42 U.S.C. § 11004(a), must be given immediately after the release by the owner or operator of a facility to the state emergency response commission (SERC) of any state likely to be affected by a release and to the local emergency planning committee (LEPC) for any area likely to be affected by the release.

13. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator of the facility must provide to the LEPC written follow-up emergency notice setting forth and updating the information required under section 304(b), 42 U.S.C. § 11004(b).

14. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and section 325(b)(2) of EPCRA, 42 U.S.C. § 11045(b)(2), authorize U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA section 103 and EPCRA section 304. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. part 19 increased these statutory maximum penalties to \$37,500 per day of violation for violations that occurred after January 12, 2009, and up to \$57,317 per day of violation for violations that occurred after November 2, 2015, and assessed after February 6, 2019.

Allegations of Fact and Liability

15. Respondent, a limited liability company, is a “person” as that term is defined under section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

16. Respondent, a limited liability company, is a "person" as that term is defined under section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17. At all times relevant to this CAFO, Respondent was an owner or operator of a facility that produces hot-dipped galvanized sheet steel located at 1800 Watkins Road, Columbus, Ohio (the facility).

18. At all times relevant to this CAFO, Respondent was in charge of the facility.

19. Respondent's facility consists of a building, structure, installation, equipment, pipe or pipeline, storage container or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.

20. Respondent's facility is a "facility" as that term is defined under section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. Respondent's facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

22. Respondent's facility is a "facility" as that term is defined under section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

23. Sulfuric acid (CAS #7664-93-9) is a "hazardous substance" according to section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

24. Sulfuric acid has a reportable quantity of 1000 pounds, as indicated at 40 C.F.R. part 302, table 302.4.

25. Sulfuric acid is an "extremely hazardous substance" according to section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

26. Sulfuric acid has a reportable quantity of 1000 pounds, as indicated at 40 C.F.R. part 355, appendix A.

27. At all times relevant to this CAFO, sulfuric acid was produced, used or stored at Respondent's facility.

28. On October 27, 2018, at or about 7:00 a.m., Respondent discovered a release occurring from Respondent's facility of more than 12,273 pounds of sulfuric acid (the release).

29. During the release, approximately 12,273 pounds of sulfuric acid spilled, leaked, emitted, discharged, or escaped into the environment.

30. In a 24-hour period, the release of sulfuric acid exceeded 1000 pounds.

31. The release is a "release" as that term is defined under section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

32. The release is a "release" as that term is defined under section 329(8) of EPCRA, 42 U.S.C. § 11049(8).

33. Respondent had knowledge of the release on October 27, 2018, at approximately 7:00 a.m.

34. The release was one for which notice was required under section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

35. The release also required notice under section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

36. The release was likely to affect the State of Ohio.

37. At all times relevant to this CAFO, the State Emergency Response Commission of the Ohio Environmental Protection Agency was the SERC for the State of Ohio under section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

38. The release was likely to affect Franklin County, Ohio.
39. At all times relevant to this CAFO, the Office of Emergency Preparedness of the City of Columbus, Ohio, Department of Public Health was the LEPC for the City of Columbus, Ohio, under section 301(b) of EPCRA, 42 U.S.C. § 11001(b).
40. Respondent notified the NRC of the release on October 29, 2018, at 12:00 noon.
41. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.
42. Respondent's failure to immediately notify the NRC of the release is a violation of section 103(a) of CERCLA, 42 U.S.C. § 9603(a).
43. Respondent notified the SERC of the release at 9:00 a.m. on October 28, 2018.
44. Respondent did not immediately notify the SERC as soon as Respondent had knowledge of the release.
45. Respondent's failure to immediately notify the SERC of the release is a violation of section 304(b) of EPCRA, 42 U.S.C. § 11004(b).
46. Respondent notified the LEPC of the release at 9:00 a.m. on October 28, 2018.
47. Respondent did not immediately notify the LEPC as soon as Respondent had knowledge of the release.
48. Respondent's failure to immediately notify the LEPC of the release is a violation of section 304(b) of EPCRA, 42 U.S.C. § 11004(b).
49. Respondent provided written follow-up emergency notice of the release to the LEPC on April 30, 2019.
50. Respondent did not provide the LEPC written follow-up emergency notice of the release as soon as practicable after the release occurred.

51. Respondent's failure to provide written follow-up emergency notice to the LEPC as soon as practicable after the release occurred is a violation section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

Civil Penalty

52. Complainant has determined that an appropriate civil penalty to settle this action is \$25,901 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

53. Within 30 days after the effective date of this CAFO, Respondent must pay a \$25,901 civil penalty for the CERCLA violation. Respondent must pay the penalty by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

The check must note the caption of this case, the billing document number (to be assigned) and the docket number of this CAFO.

54. Complainant has determined that an appropriate civil penalty to settle the EPCRA violations is \$73,720. In determining the penalty amount, Complainant considered the nature,

circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations and any other matters as justice may require. Complainant also considered U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

55. Within 30 days after the effective date of this CAFO, Respondent must pay a \$73,720 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

The check must note the caption of this case and the docket number of this CAFO.

56. A transmittal letter, stating Respondent's name, the case name, Respondent's complete address, the case docket numbers and the billing document number, if any, must accompany the payments. Respondent must send a copy of the checks and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3511

James Entzminger (SE-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Robert S. Guenther (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

58. If Respondent does not timely pay 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. Complainant agrees that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

59. 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 amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

60. The parties consent to service of this filed CAFO by e-mail at the following valid e-mail addresses: guenther.robert@epa.gov (for Complainant) and Gerald.Cook@arcelormittal.com (for Respondent).

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

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

63. Respondent certifies that it is complying with section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and sections 304(b) & (c) of EPCRA, 40 U.S.C. § 11004(b) & (c).

64. This CAFO does not affect Respondent's responsibility to comply with CERCLA, EPCRA or other applicable federal, state and local laws and regulations.

65. This CAFO is a final order for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

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

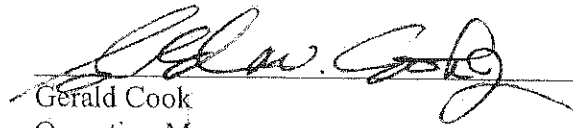
67. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

68. Each party agrees to bear its own costs and attorney's fees in this action.

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

ArcelorMittal Columbus, LLC, Respondent

1/13/2020
Date


Gerald Cook
Operation Manager
ArcelorMittal Columbus, LLC

In the Matter of: ArcelorMittal Columbus, LLC, Columbus, Ohio


Docket No. MM-05-2020-0002

EPCRA-05-2020-0004 CERCLA-05-2020-0002


U.S. Environmental Protection Agency, Complainant

Michael E. Hans
for JEE

1-27-20
Date


Jason El Zein, Chief
Emergency Response Branch 1
U.S. Environmental Protection Agency
Region 5

1/27/2020
Date

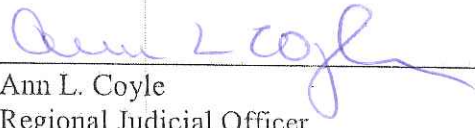

Douglas Ballotti, Director
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: ArcelorMittal Columbus, LLC, Columbus, Ohio
Docket No. MM-05-2020-0002 EPCRA-05-2020-0004 CERCLA-05-2020-0002

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.

1/29/2020
Date


Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: ArcelorMittal Columbus LLC, Columbus, Ohio
Docket No. MM-05-2020-0002 EPCRA-05-2020-0004 CERCLA-05-2020-0002

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on February 3, 2020 in the following manner to the addressees:

Copy by E-mail to
Respondent:

Mr. Gerald Cook
Operations Manager
ArcelorMittal Columbus
1800 Watkins Road
Columbus, OH 43207
Gerald.Cook@arcelormittal.com

Copy by E-mail to
Attorney for Complainant:

Robert S. Guenther
Guenther.robert@epa.gov

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
Coyle.ann@epa.gov

Dated: February 3, 2020



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5