



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

MAR 24 2005

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bob Kujawinski, President
Cleveland Corporation
42810 North Greenbay Road
Zion, Illinois 60099

Re: In the Matter of Cleveland Corporation, Zion, Illinois

Dear Mr. Kujawinski:

Enclosed is a fully executed original of an Administrative Consent Order.

If you have any technical questions about this Administrative Consent Order, please contact Ms. Bonnie Bush, of my staff, at (312) 353-6684. Any legal questions should be directed to Ms. Cynthia Kawakami at (312) 886-0564. Thank you for your cooperation.

Sincerely yours,

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

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

Enclosure

cc: Julie Armitage, Acting Section Chief
Compliance and Systems Management Section
Illinois Environmental Protection Agency

Harish Narayen, Acting Regional Manager
Region I
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Cleveland Corporation) **Administrative Consent Order**
)
Proceeding Under Sections) **EPA-5-05-113(a)-05-IL**
113(a)(3) and 114(a)(1) of the Clean Air)
Act, 42 U.S.C. §§ 7413(a)(3) and)
7414(a)(1))
_____)

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Cleveland Corporation ("Cleveland"), under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a).

Statutory and Regulatory Background

2. The Administrator of U.S. EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the Act, 42 U.S.C. § 7412.
3. Under Section 112 of the Act, the Administrator promulgated the NESHAP for Secondary Aluminum Production at 40 C.F.R. Part 63, Subpart RRR (Subpart RRR). The NESHAP for Secondary Aluminum Production applies to Group Two furnaces and sweat furnaces, as defined in Subpart RRR.
4. 40 C.F.R. § 63.1500 provides that the Subpart RRR regulations are applicable to any person who owns or operates a secondary aluminum production facility, as defined in § 63.1503.
5. Subpart RRR, at 40 C.F.R. § 63.1503, defines a Group 2 furnace as a furnace of any design that melts, holds, or processes only clean charge and that performs no fluxing or performs fluxing using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.
6. Subpart RRR, at 40 C.F.R. § 63.1503, defines a sweat furnace as a furnace used exclusively to reclaim aluminum from scrap that contains substantial quantities of iron by

using heat to separate the low-melting point aluminum from the scrap while the higher melting-point iron remains in solid form.

7. Subpart RRR, at 40 C.F.R. § 63.1510, provides that the owner or operator of a Group 2 furnace must record a description of the materials charged to each furnace, including any nonreactive, non-HAP-containing/non-HAP generating fluxing materials or agents.
8. Subpart RRR, at 40 C.F.R. § 63.1510, provides that the owner or operator of a Group 2 furnace must submit a certification of compliance with the applicable operational standard for charge materials in 40 C.F.R. § 63.1506(o), for each 6-month reporting period, and that contains the information that is specified in 40 C.F.R. § 63.1516(b)(2)(v).
9. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.
10. The Administrator of U.S. EPA may require any person who owns or operates an emission source to record specific information regarding materials charged to each furnace, and provide certification of compliance with the applicable operational standard for charge materials, as prescribed by Subpart RRR, [under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1)]. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

General

11. Cleveland owns and operates a scrap yard, located at 42810 North Green Bay Road, Zion, Lake County, Illinois, 60099, ("Cleveland facility" or "the facility").
12. Cleveland engages in secondary aluminum production at its facility and uses a Group Two furnace to extract aluminum from aluminum scrap that is clean charge. Therefore, Cleveland is subject to the requirements of the Act and the NESHAP for Secondary Aluminum Facilities at Subpart RRR.
13. Cleveland's Group Two furnace is an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), and, therefore, Cleveland is subject to the requirements of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1).
14. On May 12, 2004, U.S. EPA Environmental Engineer, Bonnie Bush, conducted a Subpart RRR inspection of the Cleveland facility.
15. During the inspection, Inspector Bush observed that Cleveland owned and operated a

furnace that, at the time of the inspection, was described by Cleveland representative, Mr. Kujawinski, as a "sweat furnace."

16. Based upon Mr. Kujawinski's representations at the time of the inspection and the information contained in Cleveland's Illinois Environmental Protection Agency permit indicating that Cleveland was operating a sweat furnace, U.S. EPA issued a Finding of Violation (FOV) to Cleveland on September 21, 2004, alleging that Cleveland violated the NESHAP for Secondary Aluminum Production with regard to a sweat furnace, as follows:
 - a. Cleveland allegedly violated 40 C.F.R. §§ 63.1511(a) and 63.1512(f) when it failed to conduct an initial performance test at its sweat furnace, by March 24, 2003, to demonstrate that it met the emission standard for D/F, as specified in 40 C.F.R. § 63.1505(f)(2).
 - b. Cleveland allegedly violated 40 C.F.R. § 63.1511(a) when it failed to submit a site-specific test plan that is required prior to conducting a performance test.
 - c. Cleveland allegedly violated 40 C.F.R. § 63.1506(h) when it operated a sweat furnace with an afterburner, and failed to maintain an operating temperature established by performance testing, or a temperature above 1600°F if a performance test was not conducted.
 - d. Cleveland allegedly violated 40 C.F.R. § 63.1510(g) when it operated a sweat furnace with an afterburner, and failed to monitor and record afterburner temperature and conduct afterburner inspections.
 - e. Cleveland allegedly violated 40 C.F.R. § 63.1510(a) when, as the owner or operator of an existing affected source or emission unit, it failed to monitor all control equipment and processes.
 - f. Cleveland allegedly violated 40 C.F.R. § 63.1510(d) when it failed to inspect each capture/collection system for its sweat furnace once a year and record the results.
 - g. Cleveland allegedly violated 40 C.F.R. § 63.9(b)(2) when it failed to submit an initial notification to the Administrator.
 - h. Cleveland allegedly violated 40 C.F.R. § 63.1515(b) when it failed to submit a notification of compliance status within 60 days of the March 24, 2003, compliance date.
 - i. Cleveland allegedly violated 40 C.F.R. § 63.1517(a) when, as required by 40 C.F.R. § 63.10(b), it failed to maintain files of all information, including all reports and notifications, required by the general provisions of Subparts A and RRR.

- j. Cleveland allegedly violated 40 C.F.R. §§ 63.1510(b), 63.1517(a), and 63.10(b) when it failed to maintain an OM&M plan, as described at 40 C.F.R. § 63.1510(b).
- k. Cleveland allegedly violated 40 C.F.R. §§ 63.1516(a), 63.1517(a), and 63.6(e)(3) when it failed to maintain an SSM Plan.
17. On November 3, 2004, Cleveland met with U.S. EPA representatives, pursuant to Section 113 of the Act, 42 U.S.C. § 7413 to discuss the September 21, 2004 FOV, and provided information that clarified that the furnace used in its secondary aluminum production was a Group Two furnace, and not a "sweat furnace."
18. During the November 3, 2004, conference, U.S. EPA learned that, with regard to Cleveland's Group Two furnace, Cleveland had not submitted a certification of compliance with the applicable operational standard for charge materials in 40 C.F.R. § 63.1506(o), for each 6-month reporting period, and that contains the information that is specified in 40 C.F.R. § 63.1516(b)(2)(v), as was required by Subpart RRR, at 40 C.F.R. § 63.1510.
19. Cleveland further indicated shortly after the November 3, 2004 conference, however, that it intended to operate the afterburner on its Group Two furnace, in accordance with the standard for sweat furnaces set forth at § 63.1505(f)(1), the operating conditions for sweat furnaces set forth at § 63.1506(h), the Act, and all appropriate regulations.
20. Subsequently, both parties engaged in further discussion and agreed to resolve the violations for Cleveland's Group Two Furnace, discovered during the Section 113 conference, without litigation, in accordance with the terms of this Agreed Order.

Compliance Program

21. Within thirty (30) days after the effective date of this Order, Cleveland must submit a certification of compliance with the applicable operational standard for charge materials for a Group Two furnace, at 40 C.F.R. § 63.1506(o), for the period from March 24, 2003 through the effective date of this Order, and that contains the information that is specified in 40 C.F.R. § 63.1516(b)(2)(v), as was required by Subpart RRR, at 40 C.F.R. § 63.1510.
22. Cleveland agrees to achieve, demonstrate, and maintain compliance with the NESHAP for Secondary Aluminum Production (Subpart RRR), for a sweat furnace, as of the effective date of this Order, consistent with the requirements of this Order and all applicable provisions of the Act and regulations under Subparts A and RRR that apply to sweat furnaces.

[a.] Cleveland must operate and maintain an afterburner on its sweat furnace with a

design residence time of 0.8 seconds or greater and an operating temperature of 1600°F or greater, in accordance with Subpart RRR at 40 C.F.R. § 63.1505(f)(1).

[b.] In accordance with the requirements of Subpart RRR, at 40 C.F.R. § 63.1506(a)(3), Cleveland must operate its sweat furnace and control equipment as prescribed by 40 C.F.R. § 63.1506(h).

[c.] In accordance with Subpart RRR, at 40 C.F.R. § 63.1510(b), Cleveland must prepare and implement for its sweat furnace, a written operation, maintenance, and monitoring (OM&M) plan, which must be submitted to the permitting authority within sixty (60) days of the effective date of this Order, and must include the information specified by 40 C.F.R. § 63.1510(b).

[d.] Cleveland must comply with all monitoring requirements regarding its control equipment and processes at the sweat furnace, in accordance with Subpart RRR, at 40 C.F.R. § 63.1510.

[e.] In accordance with 40 C.F.R. § 63.1510(d)(2), Cleveland must inspect the capture/collection system at least once a year to ensure that the system is operating in accordance with the operating requirements in 40 C.F.R. § 63.1506(c), and must record the results of each inspection.

[f.] Cleveland must monitor and record afterburner temperature and conduct afterburner inspections according to the requirements in Subpart RRR at 40 C.F.R. § 63.1510(g).

[g.] In accordance with Subpart RRR, at 40 C.F.R. § 63.1515(b), Cleveland must submit a notification of compliance status report within sixty (60) days of the effective date of this Order.

[h.] In accordance with Subpart RRR, at 40 C.F.R. § 63.1516(a), Cleveland must develop and implement a written plan as described in this section and 40 C.F.R. § 63.6(e)(3), containing specific procedures to be followed for operating and maintaining the source during periods of startup, shutdown, and malfunction, and including corrective actions to address malfunctions. Cleveland shall report failures to follow these procedures.

[i.] In accordance with Subpart RRR, at 40 C.F.R. § 63.1516(b), Cleveland must submit semi-annual excess emissions/summary reports, as described in this section.

[j.] In accordance with Subpart RRR, at 40 C.F.R. § 63.1517(a), as required by 40 C.F.R. § 63.10(b), Cleveland shall maintain files of all information, including all reports and notifications, required by the general provisions of Subpart A and this subpart.

[k.] In accordance with Subpart RRR at 40 C.F.R. §§ 63.1510(b), 63.1517(a), and

[k.] In accordance with Subpart RRR at 40 C.F.R. §§ 63.1510(b), 63.1517(a), and Subpart A at 40 C.F.R. § 63.10(b), Cleveland shall maintain an OM&M plan, as described at 40 C.F.R. § 63.1510(b).

[l.] In accordance with Subpart RRR at 40 C.F.R. §§ 63.1516(a), 63.1517(a), and Subpart A at 40 C.F.R. § 63.6(e)(3), Cleveland shall maintain a SSM Plan.

[m.] Cleveland must send all reports required by this Order to:

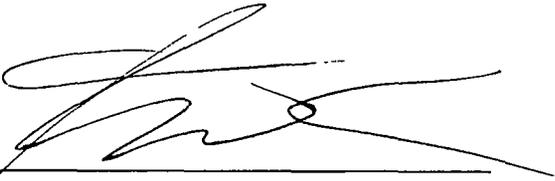
Attention: Compliance Tracker (AE-17J)
 Air Enforcement and Compliance Assurance Branch
 U.S. EPA, Region 5
 77 West Jackson Boulevard
 Chicago, Illinois 60604.

General Provisions

23. This Order does not affect Cleveland's responsibility to comply with other local, state, and federal laws and regulations.
24. This Order does not restrict U.S. EPA's authority to enforce Section 112 of the Act, or any other section of the Act.
25. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Cleveland's violation of the NESHAP for Secondary Aluminum Production .
26. Failure to comply with this Order may subject Cleveland to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).
27. The terms of this Order are binding on Cleveland, its assignees and successors. Cleveland must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Cleveland has given the notice.
28. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.
29. U.S. EPA may use any information submitted under this Order in an administrative, civil

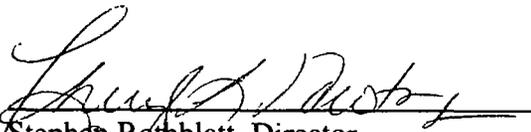
- 30. Cleveland agrees to the terms of this Order.
- 31. This Order is effective on the date of signature by the Director of the Air and Radiation Division.

3/22/05
Date



Bob Kujawinski, President
Cleveland Corporation

3/24/05
Date



Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative Consent Order, EPA Order No. EPA-5-05-113(a)-05-IL, by Certified Mail, Return Receipt Requested, to:

Bob Kujawinski, President
Cleveland Corporation
42810 North Greenbay Road
Zion, Illinois 60099

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No. EPA-5-05-113(a)-05-IL, by First Class Mail to:

Julie Armitage, Acting Section Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62072

Harish Narayan, Acting Regional Manager
Region I
Illinois Environmental Protection Agency
9511 West Harrison
Des Plaines, Illinois 60016

on the 25th day of March 2005.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000602952249