

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF )

Steel Dynamics, Inc. )  
Butler, Indiana )

Administrative Consent Order

EPA-5-02-113(a)-06-IN

Proceeding Under )  
Section 113(a)(1) and (3), )  
and Section 114(a)(1) of )  
the Clean Air Act, )  
42 U.S.C. § 7413(a)(1) and )  
(3) and § 7414(a)(1) )

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U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

Administrative 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 Steel Dynamics, Inc. (SDI) under Section 113(a)(1) and (3), and Section 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1) and (3), and § 7414(a)(1).

Statutory and Regulatory Background

New Source Performance Standards

2. The Administrator of U.S. EPA may promulgate regulations establishing standards of performance for new sources (New Source Performance Standard or NSPS) under Section 111 of the Act, 42 U.S.C. § 7411.

3. Under Section 111 of the Act, the Administrator promulgated the NSPS for steel plants at 40 C.F.R. §§ 60.270a through 60.276a. The NSPS for steel plants applies to electric arc furnaces and argon-oxygen decarburization vessels constructed after August 17, 1983.

4. The NSPS, at 40 C.F.R. § 60.272a(a)(2), requires that the owner or operator of SDI not cause to be discharged into the atmosphere from an electric arc furnace (EAF) any gases which exit from a control device and exhibit 3 percent opacity or greater.

5. 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 NSPS regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

#### Prevention of Significant Deterioration

6. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

7. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration of air quality (PSD) standards pursuant to Subtitle I, Part C of the Act. These regulations are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403). These regulations apply to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable under the Act.

8. Section 171 of the Act, 42 U.S.C. § 7471, requires states to include provisions in their SIPs that comply with the requirements of the PSD Program and the regulations promulgated thereunder.

9. In accordance with Section 110(c) of the CAA, 42 U.S.C. § 7410(c), and 40 C.F.R. § 52.21(a), on August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP, and delegated to the Indiana Department of Environmental Management (IDEM) authority to review and process PSD permit applications and to implement the PSD program. 45 Fed. Reg. 52,741, as amended at 53 Fed. Reg. 18,985, codified at 40 C.F.R. § 52.793.

10. To assure "prevention of significant deterioration", the regulations at 40 C.F.R. § 52.21(i) require issuance of a PSD construction permit before a major stationary source is constructed.

11. 40 C.F.R. § 52.23 states, among other things, that failure to comply with any provision of 40 C.F.R. Part 52, or with any permit condition pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Act.

12. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an order

requiring compliance to any person who has violated or is violating a SIP or permit. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

#### Section 114 Authority

13. The Administrator of U.S. EPA may require any person who owns or operates an emission source to sample emissions and provide information required by the Administrator 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**

14. SDI owns and operates a steel mini-mill at 4500 County Road 59, Butler, Indiana.

15. SDI's Butler facility is located in DeKalb County, Indiana which has been designated an attainment or unclassifiable area under the Act.

16. SDI is a major stationary source, which has the potential to emit 250 tons per year or more of any pollutant subject to regulation under the Act.

17. SDI owns and operates an EAF for use in the production of carbon steels. Therefore, SDI is subject to the NSPS for steel mills at 40 C.F.R. § 60.270a.

18. 40 C.F.R. § 60.270a(a)(2) establishes an opacity limit of 3 percent.

19. On October 7, 1994, the Indiana Department of Environmental Management (IDEM) issued PSD permit CP033-3692 to SDI, which outlined emission limits for SDI's EAF. This permit included an oxides of nitrogen (NOx) limit of 0.51 pounds per ton.

20. On June 25, 1997, IDEM issued PSD permit CP033-8091 when, among other things, SDI added a second EAF to its Butler facility. This permit included a NOx limit of 0.51 pounds per ton and an opacity limit of 3 percent.

21. Emissions from SDI's EAFs are subject to the NOx and opacity limits outlined in PSD permits CP033-3692 and CP033-8091.

22. On September 27, 2001, U.S. EPA issued to SDI a finding of violation and notice of violation (FOV/NOV) alleging that

based on continuous opacity monitoring data listed on SDI's Quarterly Opacity Monitor and Downtime Reports from 1998 and 1999, SDI violated the NSPS for steel mills by causing to be discharged into the atmosphere from an EAF gases which exit from a control device and exhibit 3 percent opacity or greater.

23. The September 2001 FOV/NOV also alleged that based on stack tests results from tests conducted on November 17-20, 1998, and February 2-3, 1999, SDI violated its PSD permit and therefore the SIP's PSD requirements by failing to comply with permit limitations for NOx outlined in PSD permits CP033-3692 and CP033-8091 issued by IDEM to its facility.

24. On November 15, 2001, representatives of SDI and U.S. EPA discussed the September 27, 2001 FOV/NOV. SDI and U.S. EPA simultaneously enter into this administrative consent order and Consent Agreement and Final Order No. CAA-05-3003-0001, involving SDI's Columbia City steel mill. *btw*

#### Compliance Program

25. Beginning on the effective date of this Order, SDI must achieve, demonstrate and maintain compliance with the NSPS for steel mills, and PSD permits CP033-3692 and CP033-8091 at its Butler, Indiana, facility.

26. Beginning on the effective date of this Order, SDI must comply with the Operation and Maintenance (O&M) Plan for handling daily operation and maintenance of its baghouse and related equipment, and its response to and reporting of malfunctions. The O&M Plan is included as Attachment 1 to this Order, which is incorporated into and is an enforceable part of this Order.

27. Within 75 days of the effective date of this Order, SDI must perform a stack test on its EAF stack to determine continuing compliance with the NOx emissions limit of 0.51 pounds per ton. SDI shall submit the protocol for the NOx stack test to U.S. EPA for approval at least 45 days prior to the scheduled stack test. U.S. EPA and SDI shall have a conference call or meeting no later than 21 days prior to the scheduled stack test, or at a date closer to the stack test if mutually agreed to by the parties, to discuss the protocol for the NOx stack test. SDI shall submit the stack test results to U.S. EPA within 30 days after completing the stack test.

28. Beginning on the effective date of this Order until this Order expires as set forth in paragraph 39, SDI must submit to U.S. EPA copies of opacity reports submitted on a quarterly

basis to IDEM.

29. SDI 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**

30. To avoid protracted litigation, and for the purposes of this proceeding only, SDI admits the jurisdictional allegations, and neither admits nor denies any factual allegations or legal conclusions in this Order or in the FOV/NOV. Nothing in this Order shall be construed as an admission of liability by SDI.

31. This Order does not affect SDI's responsibility to comply with other local, state, and federal laws and regulations.

32. This Order does not restrict U.S. EPA's authority to enforce the SIP, SDI's PSD permits CP033-3692 and CP033-8091, Section 111 of the Act, or any other section of the Act.

33. 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 SDI's alleged violation of the NSPS for steel mills or alleged violation of PSD permits CP033-3692 and CP033-8091.

34. Failure to comply with this Order may subject SDI to penalties of up to \$27,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

35. The terms of this Order are binding on SDI, its assignees and successors. SDI 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 SDI has given the notice.

36. 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.

37. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

38. SDI agrees to the terms of this Order.

39. This Order is effective on the date of signature by the Director of the Air and Radiation Division and service thereof. This Order will expire one year from the effective date, if SDI has complied with all of its terms.

IN THE MATTER OF STEEL DYNAMICS, INC.

9-30-02

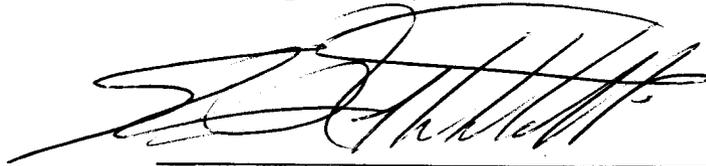
Date



\_\_\_\_\_  
Mark Millett, Vice President  
Steel Dynamics, Inc.

10/8/2002

Date



\_\_\_\_\_  
Steve Rothblatt, Acting Director  
Air and Radiation Division

Enclosure

ATTACHMENT 1  
OPERATION AND MAINTENANCE PLAN

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative Consent Order EPA-5-02-113(a)-06-IN, including Attachment 1, by Certified Mail, Return Receipt Requested, to:

Barry A. Smith  
Steel Dynamics, Inc.  
4500 County Road 59  
Butler, Indiana 46721

David L. Hatchett, Esquire  
Baker & Daniels  
300 North Meridian Street, Suite 2700  
Indianapolis, Indiana 46204

I also certify that I sent a copy of the Administrative Consent Order, EPA -5-02-113(a)-06-IN, by First Class Mail to:

Mr. David McIver, Chief  
Air Section  
Office of Enforcement  
Indiana Department of Environmental Management  
100 North Senate, Room 1001  
Indianapolis, Indiana 46206-6015

on the 11<sup>th</sup> day of October 2002.

Betty Williams  
Betty Williams, Secretary  
AECAS (IL/IN)

REGIONAL OFFICE  
PROFESSIONAL AGENCY  
US E.P.A.  
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CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0178 4650 Barry A. Smith  
7001 0320 0006 0178 4148 David L. Hatchett Esq.

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