

including carbon monoxide and particulate matter.

3. Section 110 of the Act, 42 U.S.C. § 7410, requires each State to submit a plan (the State Implementation Plan or “SIP”) to the Administrator of U.S. EPA (“Administrator”) providing for the implementation, maintenance, and enforcement of the NAAQS for carbon monoxide (“CO”) and particulate matter (PM), and containing, among other things, regulations limiting visible emissions from sources within each State.

4. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), in applicable part, authorizes the Administrator, to issue an order requiring a person to comply with the requirements of such plan, whenever the Administrator, based on any information available to her, finds that such person has violated or is in violation of these requirements.

5. On May 31, 1972 (37 Fed. Reg. 10842), U.S. EPA approved Wisconsin Administrative Code NR 154.14, governing carbon monoxide emissions, as part of the federally enforceable SIP for Wisconsin.

6. On March 9, 1983 (48 Fed. Reg. 9860), U.S. EPA approved Wisconsin Administrative Code NR 154.11 governing particulate emissions, as part of the federally enforceable SIP for Wisconsin.

7. The federally approved Wisconsin SIP is the implementation plan within the meaning of Section 110 of the Act, 42 U.S.C. § 7410.

8. On October 29, 1998, Complainant filed an Amended Complaint against Respondent, which is incorporated herein by reference. The Amended Complaint proposes a civil penalty of \$113, 508.

9. The Amended Complaint alleges in Count 1 that Iroquois exceeded the twenty

(20) percent opacity limit set forth at NR 154.14(2).

10. The Amended Complaint alleges in Count 2 that Iroquois exceeded the limit for CO emissions, because such emissions were not incinerated at 1300° F for 0.3 seconds.

11. The Amended Complaint alleges in Count 3 that Iroquois exceeded the PM emissions rate set forth at NR 154.11(3)(a)1.

12. The Amended Complaint states a claim upon which relief may be granted against Iroquois, pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d) and 40 C.F.R. § 22.13.

II. GENERAL TERMS OF SETTLEMENT

13. Iroquois admits the jurisdictional allegations in the Complaint.

14. Iroquois neither admits nor denies the factual allegations in the Complaint.

15. Iroquois consents to the assessment of the civil penalties provided in the Order below.

16. This CACO shall apply to and be binding upon Iroquois, its officers, directors, successors and assigns, including, but not limited to, subsequent purchasers.

17. Iroquois hereby waives its right to a judicial or administrative hearing or appeal on the Complaint.

18. Pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413 (“CAA”), the nature of the violations, Respondent’s commitment to perform two Supplemental Environmental Projects, and other relevant factors, U.S. EPA has determined that an appropriate civil penalty to settle this action is in the amount of FIFTY SEVEN THOUSAND ONE HUNDRED EIGHTY-EIGHT DOLLARS (\$57,188.00).

19. Iroquois consents to the issuance of the CACO hereinafter recited and consents

for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

20. Within thirty (30) days of execution of the CACO by the U.S. EPA Regional Administrator, Region 5, Iroquois shall submit a cashier's or certified check, to the order of the "Treasurer, United States of America," in the amount of \$57,188.00, to:

U.S. Environmental Protection Agency, Region 5
P.O. Lock Box 70753
Chicago, IL 60673

Iroquois shall provide a copy of the check to:

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, IL 60604

and

Gaylene Vasaturo (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, IL 60604

and

Farro Assadi (AE-17J)
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Chicago, IL 60604

Interest and late charges shall be paid as specified in Paragraph 22 herein.

21. The penalty specified in paragraph 18, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.

22. Pursuant to 31 U.S.C. § 3717, U.S. EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will thereafter begin to accrue on a civil penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 4 C.F.R. § 102.13(d) and (e).

23. Iroquois agrees to perform the two (2) Supplemental Environmental Projects (SEPs) as described below.

III. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

24. SEP #1: Iroquois Foundry shall replace the existing baghouse on the casting cleaning operation which is located in the Blast Department with a new and more efficient baghouse. Iroquois estimates that the new baghouse will have a control efficiency of 99 percent which will result in reducing the PM emissions from this operation by 11.2 tons per year. The new baghouse shall be installed and operational by July 15, 1999.

25. Iroquois estimates that the initial investment cost for installation of the new baghouse will be \$33,040. Iroquois further estimates that the annual operating cost increase for this baghouse will be \$3,095.

26. SEP #2: Iroquois Foundry shall install a core drying oven to allow for conversion

from alcohol-based core wash to water based core wash in Core Rooms 2 and 3. Iroquois estimates that conversion to water based core wash will reduce VOC emissions by 131.3 tons per year. The core drying oven with a water based core wash in Core Room 2 and 3 shall be installed and operational by June 1, 1999.

27. Iroquois estimates that the initial investment cost for installation of a core drying oven and water based core wash system will be \$104,754. Iroquois further estimates that once completed, the conversion will result in an annual operating cost reduction of \$19,810.75, for this process.

28. SEP Certification. Iroquois hereby certifies that it is not required to perform or develop the SEPs by any Federal, State or local law or regulation; nor is Iroquois required to perform or develop the SEPs by agreement, grant or as injunctive relief in this or any case. Iroquois further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEPs.

29. SEP Completion Report.

a.) Iroquois shall submit a SEP Completion Report to U.S. EPA by August 16, 1999.

The SEP Completion Report shall include the following information:

- (i) A description of each SEP as implemented, including design specifications and manufacturer's performance guarantee for the baghouse;
- (ii) Itemized costs, documented by copies of purchase orders, invoices, receipts, canceled checks, or daily field records;
- (iii) A description of any operating problems encountered and the solutions thereto;
- (iv) A description of the environmental and public health benefits resulting from

implementation of the SEP.

(v) Iroquois's certification as set out in Paragraph 29.

b.) Iroquois agrees that failure to submit the SEP Completion Report required by subsection a) above shall be deemed a violation of this CACO and Iroquois shall become liable for stipulated penalties pursuant to Paragraph 32.

c.) Iroquois shall submit the SEP Completion Report required by this CACO to Farro Assadi (AE-17J), U.S. Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois, 60604.

30. Iroquois shall maintain legible copies of documentation of the underlying research and data for any and all documents and reports submitted to U.S. EPA pursuant to this CACO, and Iroquois shall provide the documentation of such underlying data to U.S. EPA within seven (7) business days of receiving a request for such information. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to U.S. EPA pursuant to this CACO, Iroquois shall, by its officers, sign and certify as follows:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

31. Iroquois agrees that U.S. EPA may inspect its facility at Browntown, Wisconsin at any time, upon reasonable notice, in order to confirm that the SEPs are being undertaken in conformity with the representations made herein and in the SEP Completion Report.

32. Acceptance of SEP Report

a. After receipt of the SEP Completion Report described in Paragraph 29 above, U.S. EPA will notify Iroquois, in writing, regarding: i) any deficiencies in the SEP Report itself along with a grant of an additional 30 days for Iroquois to correct any deficiencies; or (ii) indicate that U.S. EPA concludes that the project has been completed satisfactorily or (iii) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with Paragraph 33 herein.

b. If U.S. EPA elects to exercise option (i) above, i.e., if the SEP Report is determined to be deficient, but U.S. EPA has not yet made a final determination about the adequacy of SEP completion itself, U.S. EPA shall permit Iroquois the opportunity to object in writing to the notification of deficiency given pursuant to this Paragraph within 10 days of receipt of such notification. U.S. EPA and Iroquois shall have an additional 30 days from the receipt by U.S. EPA of the notification of objection to reach agreement on changes necessary to the SEP Report. If agreement cannot be reached on any such issue within this 30 day period, U.S. EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to Iroquois, which decision shall be final and binding upon Iroquois. Iroquois agrees to comply with any requirements imposed by U.S. EPA as a result of any failure to comply with the terms of this CACO. In the event the SEP is not completed as contemplated herein, as determined by U.S. EPA, stipulated penalties shall be due and payable by Iroquois to U.S. EPA in accordance with Paragraph 33 herein.

33. Stipulated Penalties. In the event that Iroquois fails to comply with any of the terms or provisions of this CACO relating to the performance of the SEPs described above

and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEPs described above, Iroquois shall be liable for stipulated penalties according to the provisions set forth below:

a.) Except as provided in subsection b), immediately below, if SEP #1 is not completed satisfactorily pursuant to this CACO, Iroquois shall pay a stipulated penalty to the United States in the amount of \$17,000 for such failure, and if SEP #2 is not completed satisfactorily pursuant to this CACO, Iroquois shall pay a stipulated penalty to the United States in the amount of \$27,000. However, if U.S. EPA determines that: 1) Iroquois has made a good faith, timely effort to implement the SEP; and 2) Iroquois has certified, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Iroquois shall not be liable for any stipulated penalty for such SEP.

b.) If SEP#1 and SEP #2 are satisfactorily completed, but Iroquois spent less than 90 percent of the amount of money estimated to be spent for either SEP, Iroquois shall pay a stipulated penalty to the United States in the amount of \$5,000 for such SEP.

c.) For failure to timely complete the SEP, as set forth above, Iroquois shall pay a stipulated penalty in the amount of \$100 for each late day until the SEP is completed.

d.) For failure to submit the SEP Completion Report required in Paragraph 29 above, Iroquois shall pay a stipulated penalty in the amount of \$50 for each late day until the report is submitted.

e.) The determination of whether the SEP has been satisfactorily completed and whether Iroquois has made a good faith, timely effort to implement the SEP shall be in the sole discretion of U.S. EPA, which discretion shall be exercised in a reasonable manner under the

circumstances.

f.) Stipulated penalties relating to the performance of, or expenditures on the SEP described above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

g.) Iroquois shall pay such stipulated penalties within fifteen (15) days of receipt of written demand by U.S. EPA for such penalties. Method of payment shall be, and interest and late charges shall be paid, in accordance with the penalty payment provisions set forth above.

IV. GENERAL PROVISIONS

34. This CACO constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113 of the Clean Air Act for the civil violations alleged in the Amended Complaint. However, nothing in this CACO relieves Iroquois from compliance with all applicable Federal laws and regulations administered by U.S. EPA.

35. Nothing in this CACO shall be construed as prohibiting, altering, or in any way limiting the ability of the U.S. EPA to seek any other remedies or sanctions available by virtue of Iroquois's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Iroquois's violation of any applicable provision of law.

36. Each undersigned representative of the parties to this CACO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CACO and to execute and legally bind that party to it.

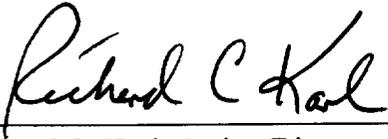
37. Each party shall bear its own costs and attorney's fees in connection with this action resolved by the CACO.

38. This document constitutes an "enforcement response" as that term is used in the

Clean Air Act Civil Penalty Policy for the purposes of determining Iroquois's "full compliance history" as addressed in Section 113(e) of the Clean Air Act, 42 U.S.C. § 7413(e).

39. The effective date of this CACO will be the date on which it is signed by the Acting Regional Administrator.

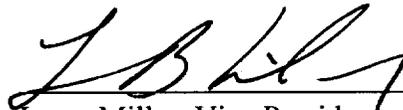
For Complainant:



Richard C. Karl, Acting Director
Air and Radiation Division
U.S. EPA, Region 5

Date: 3-19-99

For Iroquois:



Larry Miller, Vice President
Iroquois Foundry Company, Inc.

Date: 3/10/99

In the Matter of Iroquois Foundry Company, Inc.
Docket No. 5-CAA-98-017

CONSENT ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Consent Order. Iroquois Foundry Company, Inc. is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon filing of this CACO with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. 22.18(c).

Dated: March 22, 1999



David A. Ullrich
Acting Regional Administrator
U.S. EPA Region 5

CERTIFICATE OF SERVICE

I hereby certify that the Original of the attached Consent Agreement and Consent Order was filed with the Regional Hearing Clerk, and that true and accurate copies were caused to be mailed to:

Office of Administrative Law Judges
U.S. Environmental Protection Agency
401 M Street, S.W. (A-110)
Washington, D.C. 20460

Larry Miller, Vice President
Iroquois Foundry Company
P.O. Box 98
Highway 11 & County Highway M
Browntown, Wisconsin 53522

Phillip D. Gray, Vice President
Environmental Affairs
Citation Corp
2 Office Park Circle, Suite 204
Birmingham, Alabama 35223

CERTIFIED MAIL NUMBER P664397135

Dated: 3/23/99

Shanee Rucker
Shanee Rucker, Secretary
Air and Radiation Division
United States Environmental
Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604
(312) 886-6086

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