



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

SEP 30 2011

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Mark Trapp  
Plant Manager  
Warren Steel Holdings, LLC  
4000 Mahoning Avenue  
Warren, OH 44483

Re: In the matter of Warren Steel Holdings, LLC, Docket No. **CAA-05-2011-0063**

Dear Mr. Trapp:

I have enclosed the Complaint filed by the U.S. Environmental Protection Agency against Warren Steel Holdings, LLC (Warren Steel) under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), at 40 C.F.R. Part 22.

As provided in the Complaint, if you would like to request a hearing, you must do so in your answer to the Complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-19J), EPA, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604 within 30 days of your receipt of this Complaint, a default order may be issued and the proposed civil penalty will become due 30 days later. If you choose to file an answer, you also must mail a copy of it to Susan Prout, Associate Regional Counsel (C-14J), U.S. EPA, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Susan Prout, Associate Regional Counsel, at (312) 353-1029.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton".

Cheryl L. Newton  
Director  
Air and Radiation Division

Enclosure

cc: Regional Hearing Clerk  
U.S. EPA, Region 5

Kurt A. Kissling, Esq.  
Pepper Hamilton, LLP

Ed Perez  
Ohio EPA, Northeast District Office

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

In the Matter of:	)	Docket No. CAA-05-2011-0063
	)	
Warren Steel Holdings, LLC	)	Proceeding to Assess a Civil Penalty
Warren, Ohio,	)	Under Section 113(d) of the Clean Air Act
	)	42 U.S.C. § 7413(d)
<u>Respondent.</u>	)	

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Complaint

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

1. This is an administrative action to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
2. The Complainant is, by lawful delegation, the Director of the Air Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, Chicago, Illinois.
3. The Respondent is Warren Steel Holdings, LLC ("Warren Steel" or "Respondent"), a corporation doing business in Ohio.

Statutory and Regulatory Background

4. Under Section 111 of the Act, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983 ("NSPS AAa") at 40 C.F.R. §§ 60.270a-60.276a.
5. The NSPS AAa applies to each electric arc furnace (EAF) constructed, modified or reconstructed after August 17, 1983. See 40 C.F.R. § 60.270a
6. The NSPS AAa provides no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from an EAF any gases which exit from a control device and exhibit 3 percent opacity or greater. See 40 C.F.R. § 60.272a(a)(2).

7. The NSPS AAa provides no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from an EAF any gases which exit from a shop and, due solely to the operations of any affected EAF, exhibit 6 percent opacity or greater. *See* 40 C.F.R. § 60.272a(a)(3).

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

9. EPA approved the Ohio Administrative Code (OAC) Chapters 3745-31-02 and 3745-31-05, among others, as part of the federally enforceable Ohio State Implementation Plan (SIP) effective March 10, 2003. 68 Fed. Reg. 2909 (January 22, 2003).

10. The OAC Chapter 3745-31-02 requires owners or operators of an air emissions source to obtain a PTI prior to construction of a new or modified air emissions source. It also requires the Director of the Ohio Environmental Protection Agency ("Ohio EPA") to act on such a PTI in accordance with OAC Rule 3745-31-05. It also requires the transferee of any PTI to assume personally the responsibilities of the original permit holder-transferor. This rule was revised with a Federal effective date of March 10, 2003. 68 Fed. Reg. 2909 (January 22, 2003).

11. Pursuant to the OAC Chapter 3745-31-05, the director of Ohio EPA shall issue a PTI or plan approval, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio EPA, or both, if he determines that the installation or modification and operation of the air contaminant source will not prevent or interfere with the attainment or maintenance of applicable ambient air quality standards and not result in a violation of any applicable laws.

12. Warren Steel's PTI No. 02-1019 Condition V.F. states that visible particulate emissions shall not be discharged into the atmosphere from the dust-handling system and exhibit ten (10) percent opacity or greater.

13. The Administrator of EPA (the "Administrator") may assess a civil penalty of up to \$25,000 per day for each violation occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring on or after January 31, 1997, and up to and including March 15, 2004; up to \$32,500 per day for each such violation occurring on or after March 16, 2004, through January 12, 2009; and up to \$37,500 per day for each such violation occurring on or after January 13, 2009, pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

14. Section 113(d)(1) of the Act 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

15. 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 complaint.

#### **General Allegations**

16. Warren Steel owns or operates a facility that is located at 4000 Mahoning Avenue in Warren, Trumbull County, Ohio.

17. The Warren Steel facility consists of, among other emission units, an electric arc furnace (EAF), a ladle refining furnace (LRF), a fabric filter control device and a control system dust handling system.

18. The Warren Steel facility is a steel plant that produces carbon, alloy, or specialty metals.

19. On June 4, 1998, the Ohio EPA issued PTI No. 02-1019 to CSC Limited, the previous owner of the Warren Steel facility.

20. At all times relevant to the violations alleged herein, Warren Steel was the transferee of PTI No. 02-1019.

21. In January 2000, CSC Limited filed for Chapter 11 bankruptcy protection.

22. In April 2001, CSC Limited permanently shut down all of its steel-making operations at 4000 Mahoning Avenue in Warren, Ohio. On February 22, 2002, the CSC Limited facility in Warren, Ohio was liquidated and sold at auction.

23. In or around 2007, the facility at 4000 Mahoning Avenue in Warren, Ohio was refurbished, rewired, and the melt shop and continuous caster restarted.

### **Count I**

24. Complainant incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph.

25. On August 23, 2008 and February 7, 2009, Warren Steel violated Condition V.F. of its PTI No. 02-1019 by discharging visible particulate emissions into the atmosphere from the dust handling system at ten (10) percent opacity or greater.

26. On February 4, 2010, EPA issued a Notice of Violation (NOV) to Warren Steel for violating the requirements of the Ohio SIP and Warren Steel's PTI number 02-1019, at its Warren, Ohio facility.

**Count II**

27. Complaint incorporates paragraphs 1 through 23 of this Complaint, as if set forth in this paragraph.

28. On August 23, 2008, Warren Steel violated 40 C.F.R. § 60.272a(a)(2) by discharging visible particulate emissions into the atmosphere from the EAF/LRF fabric filter control device outlet at 3 percent opacity or greater.

29. On August 23, 2008, Warren Steel violated 40 C.F.R. § 60.272a(a)(3) by discharging visible particulate emissions into the atmosphere from the EAF shop or caster building, due to operations of the emissions units, including the EAF, LRF, fluxhoppers, alloy receiving/conveying/loading system or continuous caster at 6 percent opacity or greater.

30. On July 2, 2009, EPA issued a Finding of Violation (FOV) to Warren Steel for failing to comply with NSPS AAa, at its Warren, Ohio facility.

31. On March 24, 2010, EPA and Warren Steel met during a Section 113 conference to discuss the July 2, 2009, FOV, and the February 4, 2010, NOV.

**Proposed Civil Penalty**

32. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint of \$264,550.

33. Complainant determined the proposed civil penalty according to the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e). Complainant evaluated the facts and circumstances of this case with specific reference to EPA's Clean Air Act Stationary Source

Civil Penalty Policy, dated October 25, 1991 (penalty policy). Enclosed with this Complaint is a copy of the penalty policy.

34. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if Respondent establishes *bona fide* issues of ability to pay or other defenses relevant to the penalty's appropriateness.

#### **Rules Governing This Proceeding**

35. The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Consolidated Rules"), at 40 C.F.R. Part 22, govern this proceeding to assess a civil penalty. Enclosed with the Complaint served on Respondent is a copy of the Consolidated Rules.

#### **Filing and Service of Documents**

36. Respondent must file with the EPA Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

37. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Susan Prout, Associate Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Ms. Prout, at (312) 353-1029. Ms. Prout's address is:

Susan Prout (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

**Penalty Payment**

38. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America," and by delivering the check to:

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

39. Respondent must include the case name, docket number, and billing document number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to the Regional Hearing Clerk and Susan Prout at the addresses given above and to:

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

**Answer and Opportunity to Request a Hearing**

40. If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that it is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a

hearing, Respondent must file a written Answer within thirty (30) days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted in accordance with the Consolidated Rules.

41. In counting the 30-day period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day period expires on a Saturday, a Sunday or a federal legal holiday, the time period extends to the next business day.

42. To file an Answer, Respondent must file the original written Answer and one copy with the Regional Hearing Clerk at the address given above.

43. Respondent's written Answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation.

44. Respondent's Answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

45. If Respondent does not file a written Answer within 30 days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations.

Respondent must pay any penalty assessed in a default order, without further proceedings, thirty

(30) days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

**Settlement Conference**

46. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts alleged in the Complaint and to discuss a settlement. To request an informal settlement conference, Respondent may contact Susan Prout at (312) 353-1029.

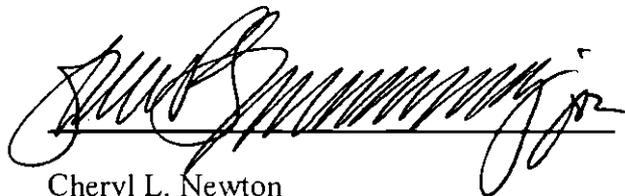
47. Respondent's request for an informal settlement conference does not extend the 30-day period for filing a written Answer to this Complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing proceeding. Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

**Continuing Obligation to Comply**

48. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

9/30/11

Date



Cheryl L. Newton  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

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PROTECTION AGENCY

In the Matter of: Warren Steel Holdings, LLC

Docket No. **CAA-05-2011-0063**

**CERTIFICATE OF SERVICE**

I, Betty Williams, certify that I hand delivered the original and one copy of the Complaint, docket number CAA-05-2011-0063 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed a correct copy of the Administrative Complaint, a copy of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22, and a copy of the penalty policy described in the Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Mr. Kurt Kissling by placing them in the custody of the United States Postal Service addressed as follows:

I also certify that I sent a copy of the Administrative Complaint, by first-class mail to:

Ed Fasco, APC Manager  
Northeast District Office, Division of Air Pollution Control  
Ohio Environmental Protection Agency  
2110 E. Aurora Rd.  
Twinsburg, Ohio 44087

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On the 30<sup>th</sup> day of September, 2011.

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Betty Williams  
Betty Williams  
Administrative Program Assistant  
AECAB/AECAS/PAS

CERTIFIED MAIL RECEIPT NUMBER 700916800007672 8119