

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNENVIRONMENT, INC.

Plaintiff,

UNITED STATES OF AMERICA, and
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Civil Action No. 2:15-cv-01314-CRE

Plaintiff-Intervenors,

v.

ARCELORMITTAL MONESSEN LLC, and
ARCELORMITTAL USA LLC,

Defendants.

COMPLAINT IN INTERVENTION

Plaintiff, the United States of America, by authority of the Attorney General of the United States and acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), and the Pennsylvania Department of Environmental Protection (“PADEP”) (collectively “Plaintiff-Intervenors”), allege:

NATURE OF ACTION

1. This is a civil action against ArcelorMittal Monessen LLC (“ArcelorMittal” or “Defendant”) pursuant to Section 113(b) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(b), and Section 410 of the Pennsylvania Air Pollution Control Act, Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. § 4004(1).

2. Plaintiff-Intervenors seek injunctive relief and civil penalties for violations of the Act, Pennsylvania’s federally-approved State Implementation Plan (“SIP”), and ArcelorMittal’s

Title V Operating Permit at ArcelorMittal's coke plant in Monessen, Westmoreland County, Pennsylvania.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331 (Federal Question), 1345 (United States as Plaintiff), and 1355 (Fine, Penalty, or Forfeiture).

4. This Court has supplemental jurisdiction over the state law claims asserted by PADEP pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this District under Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations which are the basis of this Complaint occurred in this District and the facility at issue is operated by ArcelorMittal in this District.

NOTICES

6. Notice has been given to ArcelorMittal and the appropriate air pollution control agency in the Commonwealth of Pennsylvania as required by Section 113 of the Act, 42 U.S.C. § 7413.

DEFENDANT

7. ArcelorMittal is a Delaware limited liability corporation with its principal place of business in Pennsylvania.

8. ArcelorMittal owns and operates a facility in Monessen, Pennsylvania that produces metallurgical-grade coke and coke gas byproducts such as sodium phenolate, ammonium sulfate, naphthalene, and coal tar (the "Monessen Plant").

9. ArcelorMittal is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. §

7602(e).

STATUTORY AND REGULATORY BACKGROUND

10. The Clean Air Act establishes a regulatory scheme to protect and enhance the quality of the nation’s air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401(b)(1).

A. National Ambient Air Quality Standards

11. Section 108 of the Act, 42 U.S.C. § 7408, directs EPA to identify air pollutants that “may reasonably be anticipated to endanger public health or welfare” and to issue air quality criteria based on “the latest scientific knowledge” about the effects of the pollutants on public health and the environment. These pollutants are known as “criteria pollutants.”

12. Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to establish national ambient air quality standards (“national standards” or “NAAQS”) for criteria pollutants. The primary standard must be set at a level “requisite to protect the public health” with an adequate margin of safety, and the secondary standard is intended to protect “the public welfare.”

13. Particulate matter is one of six criteria pollutants for which EPA has promulgated national standards, due to its adverse effects on human health and the environment.

B. Pennsylvania State Implementation Plan (“SIP”)

14. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to adopt and submit to EPA for approval a plan that provides for the attainment, maintenance and enforcement of the NAAQS for each criteria pollutant in each air quality control region within the state. This plan is known as a state implementation plan or “SIP.” Section 110(a)(2)(A) of the Act, 42 U.S.C. § 7410(a)(2)(A), requires that each SIP include enforceable emissions limitations to assure attainment of the NAAQS.

15. After enforceable state emissions limitations are approved by EPA, these SIP provisions (or “SIP rules”) are federally enforceable under Sections 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b).

16. As required by the Act, Pennsylvania has adopted regulations to provide for the attainment, maintenance and enforcement of the national standards.

17. Opacity is a surrogate for particulate matter. It is measured as a percent. The greater the opacity, the more the background behind the emissions plume is obscured and the less light can come through the plume. If none of the background is obscured, the opacity is 0%. If the background is completely obscured, the opacity is 100%.

18. The Pennsylvania SIP prohibits “the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following: (1) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour. (2) Equal to or greater than 60% at any time.” 25 Pa. Code § 123.41.

19. The Pennsylvania SIP also prohibits “[v]isible fugitive air contaminants in excess of 20% opacity from an air cleaning device installed for the control of pushing emissions under a plan approval” except in circumstances not applicable here. 25 Pa. Code § 129.15.

20. At all times relevant to this Complaint, these provisions have been federally enforceable. See 40 C.F.R. § 52.2020(c)(1), 37 Fed. Reg. 10,842, 10,889 (May 31, 1972), and 44 Fed. Reg. 73,031 (Dec. 17, 1979).

C. Title V Operating Permits

21. Title V of the Act, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for certain sources, including “major sources.” The purpose of Title V is to ensure that all “applicable requirements” for compliance with the Act are collected in one place.

22. The Monessen Plant is a major source for purposes of Title V.

23. Pursuant to Section 502(a) of the Act, 42 U.S.C. § 7661a, it is unlawful for a major source to operate without or in violation of a permit issued pursuant to Title V of the Act, 42 U.S.C. § 7661 et seq. See also 40 C.F.R. § 70.7(b).

24. The Pennsylvania Title V operating permit program was approved by EPA on July 30, 1996. See 61 Fed. Reg. 39,597 (July 30, 1996). These regulations are currently codified at 25 Pa. Code §§ 127.401-127.464 and 127.501-543.

25. Pursuant to 25 Pa. Code 127.503(4)(i) and (10), the owner or operator of a major stationary source must submit a permit application that includes the citation and description of all applicable requirements and a certification of compliance with all applicable requirements. See also 40 C.F.R. § 70.5(a) and (c).

26. Pursuant to 25 Pa. Code § 127.512(c)(1), the owner or operator of a major stationary source must assure that the source operates in compliance with the terms and conditions of its permit. See also 40 C.F.R. § 70.1(b).

27. Pursuant to 25 Pa. Code § 127.513(5), the owner or operator of a major stationary source must submit a compliance certification annually or more frequently as specified in the applicable requirement or by the Pennsylvania Department of Environmental Protection (“PADEP”). See also 40 C.F.R. § 70.5(c).

28. Pursuant to its authority under Title V of the Act, the Department issued ArcelorMittal a Title V/State Operating Permit, No. 65-00853, on January 30, 2014, to operate emissions sources at the Monessen Plant (the “Title V Permit”).

29. The Title V Permit prohibits the emission of visible air contaminants with an opacity (a) equal to or greater than 20% for a period or periods aggregating more than three

minutes in an hour or (b) equal to or greater than 60% at any time. See Title V Permit, Section C, Condition #007.

30. The Title V Permit also prohibits “[v]isible fugitive air contaminants in excess of 20% opacity from an air cleaning device installed for the control of pushing emissions under a plan approval” except in circumstances not applicable here. Title V Permit, Section E, Condition #010(c).

FACTUAL BACKGROUND

A. The Monessen Plant

31. The Monessen Plant produces metallurgical-grade coke using the by-product process. The coke is sold for use in blast furnaces (and hence sometimes referred to as “furnace coke”).

32. Coke is produced by heating coal in coke ovens, in the absence of oxygen, until most of the volatile compounds are driven off. The remaining material is a carbon mass called coke. This process also produces coke oven gas (“COG”).

33. Coke ovens are long, narrow brick chambers. They are grouped together in “batteries” to conserve heat and space. There are two coke oven batteries at the Monessen Plant, numbered 1B and 2.

34. Each coke oven battery (and hence each oven) has three sides: “pusher” side, “coke” side, and “top” side.

35. In addition to the two coke oven batteries, the Monessen Plant has a by-products recovery plant, a desulfurization plant, a boiler operations plant, a biological wastewater treatment facility, and a barge unloading area. This case focuses on emissions from the coke oven batteries and the combustion stacks.

B. The Coking Process

36. The by-product process, used at the Monessen Plant, involves baking coal in ovens without oxygen.

37. First, the oven is filled with coal in a process known as charging. This involves positioning (or spotting) a “larry car” over the oven to be charged. Lids covering the four charging holes are removed and the oven is filled in stages with coal from hoppers in the larry car.

38. Next, a small door on the pusher side of the oven, called a “chuck door,” is opened. A “leveling bar” is run through the door to level out the piles of coal. Leveling promotes uniform coking and creates a small open space along the top of the oven, providing a path for COG generated during the coking process to exit the oven. After the oven is leveled, the chuck door is closed, and the lids are replaced on the charging holes.

39. Once the oven is charged, the coal is cooked (known as “coking”). As the coal is cooked, volatile matter in the coal is driven off (i.e. raw coke oven gas). The coal becomes coke when all (or virtually all) the volatiles in the coal have been driven off.

40. The operation of each oven is cyclic. There are enough ovens in a battery, however, to produce a nearly continuous flow of raw COG. This gas is removed from the ovens through an offtake system and transported to the by-products recovery plant, where the COG is processed to recover by-products, such as sodium phenolate, ammonium sulfate, naphthalene, and coal tar. Within the by-products recovery plant is the desulfurization plant, where sulfur compounds are removed. The “cleaned” COG is then returned to the coke oven batteries where it is burned to heat the ovens. At the Monessen Plant, the cleaned COG is also burned in on-site boilers (to produce steam for coke battery operations). Excess COG is flared.

41. At the end of the coking cycle, the coke is removed from the oven in a process known as “pushing.” When the coke is ready to be pushed, doors on both sides of the oven (the pusher and coke side doors) are removed. A pusher machine is positioned over the door on the pusher side. The machine uses a ram to push the coke into a “quench car.” The quench car carries the coke to a quench tower, where it is cooled with water.

42. The Monessen plant has a pushing emissions control system to control emissions during pushing operations. The system consists of a hood, ducts, and a baghouse. This system was installed pursuant to a plan approval issued by PADEP pursuant to, *inter alia*, Section 6.1(a) of the Air Pollution Control Act, 35 P.S. § 4006.1(a).

43. There are two combustion stacks at the Monessen Plant, one for the No. 1B battery and one for the No. 2 battery. The No. 1B battery is connected to the No. 1 combustion stack, and the No. 2 battery is connected to the No. 2 combustion stack.

C. EPA Inspections

44. On April 14-15, 2015, EPA conducted an announced inspection of the Monessen Plant. As part of this inspection, EPA observed visible emissions from several sources at the plant, including the No. 1 combustion stack and pushing operations.

45. On April 14, 2015, EPA inspectors observed the opacity of fugitive emissions during “pushes” of three ovens: B-23, C-23, and B-25. In each case, opacity was greater than 20%. The maximum opacity was 35% during the push of oven B-23 and 55% during pushes of ovens C-23 and B-25.

46. On April 15, 2015, EPA inspectors again observed the opacity of fugitive emissions from pushing operations. The inspectors observed the pushes of four ovens: C-2, B-4, C-4, and B-6. The opacity was greater than 20% during one of the pushes (oven C-2).

47. On April 15, 2015, an EPA inspector also observed emissions from the No. 1 combustion stack. The inspector, using EPA Reference Method 9, 40 C.F.R. part 60, Appendix A (“Method 9”), observed opacity equal to or greater than 20% for 34.75 minutes during a one-hour period.

48. In March 2016, an EPA inspector returned to the Monessen Plant to observe emissions testing. During this visit, on March 10, 2016, the inspector observed the opacity of fugitive emissions from pushing operations. Opacity during three of the six pushes observed exceeded the 20% limit.

49. During EPA’s two separate visits to the plant, the following violations were identified:

Date	Source	Inspector	Applicable Limit	Regulation	Highest opacity reading	Number of readings exceeding limit
4/14/2015	Pushing Oven B-23	Richard W. Eaton	20%	129.15(c)	35%	N/A
4/14/2015	Pushing Oven C-23	Richard W. Eaton	20%	129.15(c)	55%	N/A
4/14/2015	Pushing Oven B-25	Richard W. Eaton	20%	129.15(c)	55%	N/A
4/15/2015	No. 1 combustion stack	Richard W. Eaton	≥20% for periods aggregating > 3 min. in any 1 hour	123.41	45%	139 separate readings ≥20% during 60 minute period (equal to 34.75 minutes)
3/10/2016	Pushing Oven B2	James W. Hagedorn	20%	129.15(c)	80%	N/A
3/10/2016	Pushing Oven B4	James W. Hagedorn	20%	129.15(c)	40%	N/A
3/10/2016	Pushing Oven C10	James W. Hagedorn	20%	129.15(c)	25%	N/A

D. PADEP Inspections

50. Since April 1, 2014, when coke production at the plant resumed, PADEP has inspected the Monessen Plant dozens of times. These inspections have included observing the opacity of visible emissions from the No. 1 and No. 2 combustion stacks.

51. Table A is a summary of exceedances observed by PADEP of the opacity limit applicable to the No. 1 combustion stack (i.e. $\geq 20\%$ for a period or periods aggregating more than 3 minutes in any 1 hour or $\geq 60\%$ at any time, 25 Pa. Code § 123.41) through early September 2016.

Table A. Violations of opacity limit applicable to the No. 1 combustion stack through September 2, 2016

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
51a	4/28/2014	Gary M. Bronson	100%	188 readings during 60 minute period (equal to 47 minutes) were $\geq 20\%$ Of these, 86 readings were $\geq 60\%$
51b	5/1/2014	Gary M. Bronson	95%	65 readings during 23 minute period (equal to 16.25 minutes) were $\geq 20\%$ Of these, 25 readings were $\geq 60\%$
51c	7/16/2014	Gary M. Bronson	80%	87 readings during 31 minute period (equal to 21.75 minutes) were $\geq 20\%$ Of these, 29 readings were $\geq 60\%$
51d	12/2/2014	Gary M. Bronson	45%	56 readings during 32 minute period (equal to 14 minutes) were $\geq 20\%$
51e	12/31/2014	Gary M. Bronson	50%	46 readings during 30 minute period (equal to 11.5 minutes) were $\geq 20\%$
51f	1/22/2015	Gary M. Bronson	90%	105 readings during 34 minute period (equal to 26.25 minutes) were $\geq 20\%$ Of these, 51 readings were $\geq 60\%$
51g	2/12/2015	Gary M. Bronson	75%	94 readings during 35 minute period (equal to 23.5 minutes) were $\geq 20\%$

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
				Of these, 16 readings were $\geq 60\%$
51h	3/14/2015	Gary M. Bronson	90%	40 readings during 12 minute period (equal to 10 minutes) were $\geq 20\%$ Of these, 30 readings were $\geq 60\%$
51i	3/15/2015	Gary M. Bronson	65%	53 readings during 14 minute period (equal to 13.25 minutes) were $\geq 20\%$ Of these, 4 readings were $\geq 60\%$
51j	3/16/2015	Gary M. Bronson	55%	43 readings during 17 minute period (equal to 10.75 minutes) were $\geq 20\%$
51k	3/22/2015	Gary M. Bronson	60%	69 readings during 27 minute period (equal to 17.25 minutes) were $\geq 20\%$ Of these, 2 readings were $\geq 60\%$
51l	3/25/2015	Gary M. Bronson	65%	50 readings during 16 minute period (equal to 12.5 minutes) were $\geq 20\%$ Of these, 5 readings were $\geq 60\%$
51m	3/29/2015	Gary M. Bronson	50%	54 readings during 24 minute period (equal to 13.5 minutes) were $\geq 20\%$
51n	4/2/2015	Gary M. Bronson	75%	70 readings during 21 minute period (equal to 17.5 minutes) were $\geq 20\%$ Of these, 9 readings were $\geq 60\%$
51o	4/23/2015	Gary M. Bronson	70%	79 readings during 31 minute period (equal to 19.75 minutes) were $\geq 20\%$ Of these, 8 readings were $\geq 60\%$
51p	5/4/2015	Gary M. Bronson	95%	110 readings during 41 minute period (equal to 27.5 minutes) were $\geq 20\%$ Of these, 19 readings were $\geq 60\%$
51q	5/20/2015	Scott G. Wineman	35%	37 readings during 30 minute period (equal to 9.25 minutes) were $\geq 20\%$
51r	5/27/2015	Melissa Baggam		Per NOV, 37 readings during 60 minute period (equal to 9.25 minutes) were $\geq 20\%$
51s	5/29/2015	Scott G. Wineman	40%	65 readings during 60 minute period

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
				(equal to 16.25 minutes), were $\geq 20\%$
51t	6/14/2015	Gary M. Bronson	65%	148 readings during 60 minute period (equal to 37.75 minutes) were $\geq 20\%$ Of these, eight readings were $\geq 60\%$
51u	6/16/2015	Scott G. Wineman	65%	130 readings during 60 minute period (equal to 32.5 minutes) were $\geq 20\%$ Of these, 3 readings were $\geq 60\%$
51v	6/18/2015	Scott G. Wineman	50%	101 readings during 60 minute period (equal to 25.25 minutes) were $\geq 20\%$
51w	6/22/2015	Gary M. Bronson	80%	161 readings during 60 minute period (equal to 40.25 minutes) Of these, 26 readings were $\geq 60\%$
51x	6/23/2015	Scott G. Wineman	40%	125 readings during 60 minute period (equal to 31.25 minutes) were $\geq 20\%$
51y	7/1/2015	Gary M. Bronson	60%	144 readings during 60 minute period (equal to 36 minutes) were $\geq 20\%$ Of these, 2 readings were $\geq 60\%$
51z	8/12/2015	Melissa Baggam	35%	32 readings during 60 minute period (equal to 8 minutes) were $\geq 20\%$
51aa	8/13/2015	Anna Fabrizi	>60%	At least one reading $\geq 60\%$
51bb	9/2/2015	Gary M. Bronson	35%	71 readings during 60 minute period (equal to 17.75 minutes) were $\geq 20\%$
51cc	9/15/2015	Gary M. Bronson	40%	60 readings during 60 minute period (equal to 10 minutes) were $\geq 20\%$
51dd	9/16/2015	Gary M. Bronson	>80%	1 reading $\geq 60\%$
51ee	10/22/2015	Gary M. Bronson	45%	90 readings during 60 minute period (equal to 22.5 minutes) were $\geq 20\%$
51ff	1/7/2016	Gary M. Bronson	40%	28 readings during 60 minute period (equal to 7 minutes) were $\geq 20\%$
51gg	3/17/2016	Gary M. Bronson	40%	15 readings during 60 minute period (equal to 3.75 minutes) were $\geq 20\%$

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
51hh	3/24/2016	Anna Fabrizi	60%	22 readings during 60 minute period (equal to 5.5 minutes) were $\geq 20\%$ Of these, 1 reading was $\geq 60\%$
51ii	6/3/2016	Anna Fabrizi	60%	23 readings during 60 minute period (equal to 5.75 minutes) were $\geq 20\%$ Of these, 2 readings were $\geq 60\%$
51jj	6/14/2016	Philip Sapala	30%	18 readings during 60 minute period (equal to 4.5 minutes) were $\geq 20\%$
51kk	6/17/2016	Melissa Baggam	40%	36 readings during 60 minute period (equal to 9 minutes) were $\geq 20\%$
51ll	8/25/2016 From 1326 to 1426	Cary Miller	80%	119 readings during 60 minute period (equal to 29.75 minutes) were $\geq 20\%$ Of these, 21 readings were $\geq 60\%$
51mm	8/25/2016 From 1446 to 1536	Cary Miller	70%	169 readings during 60 minute period (equal to 42.25 minutes) were $\geq 20\%$ Of these, 12 readings were $\geq 60\%$
51nn	9/2/2016	Scott G. Wineman	25%	26 readings during 60 minute period (equal to 4.5 minutes) were $\geq 20\%$

52. Table B is a summary of the exceedances observed by PADEP of the opacity limit applicable to the No. 2 combustion stack (i.e. $\geq 20\%$ for a period or periods aggregating more than 3 minutes in any 1 hour or $\geq 60\%$ at any time, 25 Pa. Code § 123.41) through early September 2016.

Table B. Violations of opacity limit applicable to No. 2 combustion stack through September 8, 2016

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
52a	10/28/2014	Gary M. Bronson	60%	59 readings during 21 minute period (equal to 14.75 minutes) were $\geq 20\%$ Of these, 2 readings were $\geq 60\%$

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
52b	1/14/2015	Gary M. Bronson	45%	49 readings during 32 minute period (equal to 12.25 minutes) were $\geq 20\%$
52c	5/20/2015	Scott G. Wineman	30%	14 readings during 60 minute period (equal to 3.5 minutes) were $\geq 20\%$
52d	5/26/2015	Scott G. Wineman	23%	28 readings during 60 minute period (equal to 7 minutes) were $\geq 20\%$
52e	6/2/2015	Scott G. Wineman	40%	38 readings during 60 minute period (equal to 9.5 minutes) were $\geq 20\%$
52f	6/9/2015	Scott G. Wineman		130 readings during 60 minute period (equal to 32.5 minutes) were $\geq 20\%$
52g	6/17/2015	Melissa Baggam	40%	18 readings during 60 minute period (equal to 4.5 minutes) were $\geq 20\%$
52h	6/22/2015	Melissa Baggam	25%	18 readings during 60 minute period (equal to 4.5 minutes) were $\geq 20\%$
52i	6/25/2015	Melissa Baggam	50%	15 readings during 60 minute period (equal to 3.75 minutes) were $\geq 20\%$
52j	8/12/2015	Melissa Baggam	65%	4 readings $\geq 60\%$
52k	8/16/2015	Gary M. Bronson	85%	57 readings during 32 minute period (equal to 14.25 minutes) were $\geq 20\%$ Of these, 12 readings were $\geq 60\%$
52l	9/1/2015	Gary M. Bronson	70%	38 readings during 60 minute period (equal to 9.5 minutes) were $\geq 20\%$ Of these, 11 readings were $\geq 60\%$
52m	9/16/2015	Gary M. Bronson	75%	99 readings during 60 minute period (equal to 24.75 minutes) were $\geq 20\%$ Of these, 11 readings were $\geq 60\%$
52n	10/22/2015	Gary M. Bronson	90%	25 readings during 60 minute period (equal to 6.25 minutes) Of these, 8 readings were $\geq 60\%$
52o	10/26/2015	Gary M. Bronson	95%	70 readings during 60 minute period (equal to 17.5 minutes) were $\geq 20\%$

Paragraph No.	Date	Inspector	Highest opacity reading	Summary of results
				Of these, 20 readings were $\geq 60\%$
52p	3/7/2016	Anna Fabrizi	45%	13 readings during 60 minute period (equal to 3.25 minutes) were $\geq 20\%$
52q	3/22/2016	Cary Miller	70%	During 60 minute period, 1 reading $\geq 60\%$
52r	3/24/2016 From 0825 to 0925	Gary M. Bronson	75%	40 readings during 60 minute period (equal to 10 minutes) were $\geq 20\%$ Of these, 8 readings were $\geq 60\%$
52s	3/24/2016 From 1100 to 1200	Anna Fabrizi	45%	15 readings during 60 minute period (equal to 3.75 minutes) were $\geq 20\%$
52t	6/3/2016 From 0933 to 1033	Anna Fabrizi	80%	59 readings during 60 minute period (equal to 14.75 minutes) were $\geq 20\%$ Of these, 7 readings were $\geq 60\%$
52u	6/3/2016 From 1208 to 1308	Anna Fabrizi	40%	25 readings during 60 minute period (equal to 6.25 minutes) were $\geq 20\%$
52v	7/12/2016 From 1014 to 1114	Cary Miller	70%	2 readings $\geq 60\%$
52w	7/12/2016 From 1127 to 1227	Cary Miller	70%	3 readings $\geq 60\%$
52x	7/29/2016	Philip Sapala	25%	19 readings during 60 minute period (equal to 4.75 minutes) were $\geq 20\%$
52y	9/8/2016	Philip Sapala	40%	17 readings during 60 minute period (equal to 4.25 minutes) were $\geq 20\%$

GENERAL ALLEGATIONS

53. At all times relevant to the Complaint, ArcelorMittal has owned and operated the Monessen Plant.

54. The Monessen Plant is a coke production and by-product recovery facility.

55. The Monessen Plant is a “major source” for purposes of Title V of the Clean Air Act.

FIRST CLAIM FOR RELIEF

(Visible Emissions Violations – No. 1 Combustion Stack)

56. Paragraphs 1 through 55 are re-alleged and incorporated herein by reference.

57. The Pennsylvania SIP, 25 Pa. Code § 123.41, prohibits “the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following: (1) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour. (2) Equal to or greater than 60% at any time.”

58. This limit is incorporated in the Monessen Plant’s Title V Permit in Section C, Condition #007.

59. This limit applies to emissions from the No. 1 combustion stack at the Monessen Plant.

60. On numerous occasions since April 10, 2014 (when coke production at the Monessen Plant resumed), including but not limited to those dates and times listed in Paragraph 51, the opacity of visible emissions from the No. 1 combustion stack at the Monessen Plant was (a) equal to or greater than 20% for a period or periods aggregating more than three minutes in a one hour period and/or (b) equal to or greater than 60% at any time, in violation of the Pennsylvania SIP, the Monessen Plant’s Title V Permit, and the Act.

61. As a result of these violations, ArcelorMittal has illegally emitted particulate matter from the No. 1 combustion stack at the Monessen Plant.

62. Unless restrained by an order of the Court, ArcelorMittal’s violations of the Pennsylvania SIP, the Title V Permit, and the Act, as set forth in this Claim for Relief, are likely

to continue.

63. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), ArcelorMittal is liable for injunctive relief and civil penalties of up to \$37,500 per day for each violation occurring on or before November 2, 2015 and \$93,750 per day for each violation occurring after November 2, 2015. *See* 81 Fed. Reg. 43,091 (July 1, 2016).

SECOND CLAIM FOR RELIEF

(Visible Emissions Violations – No. 2 Combustion Stack)

64. Paragraphs 1 through 55 are re-alleged and incorporated herein by reference.

65. The Pennsylvania SIP, 25 Pa. Code § 123.41, prohibits “the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following: (1) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour. (2) Equal to or greater than 60% at any time.”

66. This limit is incorporated in the Monessen Plant’s Title V Permit in Section C, Condition #007.

67. This limit applies to emissions from the No. 2 combustion stack at the Monessen Plant.

68. On numerous occasions since April 10, 2014 (when coke production at the Monessen Plant resumed), including but not limited to those dates and times listed in Paragraph 52, the opacity of visible emissions from the No. 2 combustion stack at the Monessen Plant was (a) equal to or greater than 20% for a period or periods aggregating more than three minutes in a one hour period and/or (b) equal to or greater than 60% at any time, in violation of the Pennsylvania SIP, the Title V Permit, and the Act.

69. As a result of these violations, ArcelorMittal has illegally emitted particulate matter from the No. 2 combustion stack at the Monessen Plant.

70. Unless restrained by an order of the Court, ArcelorMittal's violations of the Pennsylvania SIP, the Monessen Plant's Title V Permit, and the Act, as set forth in this Claim for Relief, are likely to continue.

71. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), ArcelorMittal is liable for injunctive relief and civil penalties of up to \$37,500 per day for each violation occurring on or before November 2, 2015 and \$93,750 per day for each violation occurring after November 2, 2015. *See* 81 Fed. Reg. 43,091 (July 1, 2016).

THIRD CLAIM FOR RELIEF
(Visible Fugitive Emissions Violations – Pushing)

72. Paragraphs 1 through 55 are re-alleged and incorporated herein by reference.

73. The Pennsylvania SIP, 25 Pa. Code § 129.15, prohibits “[v]isible fugitive air contaminants in excess of 20% opacity from an air cleaning device installed for the control of pushing emissions under a plan approval from the Department” except under circumstances not applicable here.

74. This limit is included in the Title V Permit for the Monessen Plant in Section C, Condition #002(a)(8).

75. This limit applies to fugitive emissions from pushing operations.

76. On numerous occasions since April 10, 2014 (when coke production at the Monessen Plant resumed), including but not limited to those dates and times listed in Paragraph 49, visible fugitive air contaminants from the air cleaning device installed for the control of pushing emissions were in excess of 20% opacity, in violation of the Pennsylvania SIP, the Title V Permit, and the Act.

77. As a result of these violations, ArcelorMittal has illegally emitted particulate matter from pushing operations at the Monessen Plant.

78. Unless restrained by an order of the Court, ArcelorMittal's violations of the SIP, the Monessen Plant's Title V Permit, and the Act, as set forth in this Claim for Relief, are likely to continue.

79. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), ArcelorMittal is liable for injunctive relief and civil penalties of up to \$37,500 per day for each violation occurring on or before November 2, 2015 and \$93,750 per day for each violation occurring after November 2, 2015. *See* 81 Fed. Reg. 43,091 (July 1, 2016).

PRAYER FOR RELIEF

WHEREFORE, based on the allegations contained in paragraphs 1 through 79 above, Plaintiff-Intervenors request that this Court:

- A. Permanently enjoin Defendant from further violating the Act, the Pennsylvania SIP, and the Title V permit;
- B. Order Defendant to take appropriate actions to remedy, mitigate, and offset the harm to public health and the environment caused by violations of the Act, the Pennsylvania SIP, and the Title V permit;
- C. Assess a civil penalty against Defendant for each violation of the applicable provisions of the Act, the Pennsylvania SIP, and the Title V permit of up to \$37,500 per day for each violation occurring on or before November 2, 2015 and \$93,750 per day for each violation occurring after November 2, 2015;
- D. Award Plaintiff-Intervenors their costs of this action; and
- E. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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