

**STATE OF TENNESSEE
AIR POLLUTION CONTROL BOARD**

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION CONTROL
)	
)	
TENNESSEE ALUMINUM PROCESSORS, INC.,)	
)	
)	
RESPONDENT.)	CASE NO. APC23-0107

**TECHNICAL SECRETARY’S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Department of Environment and Conservation (“Department”).

II.

Tennessee Aluminum Processors, Inc. (“Respondent”) is a domestic corporation authorized to do business in the State of Tennessee. The Respondent’s facility address is 7207 Hoover Mason Road, Mt. Pleasant, Tennessee 38474-1037. The Respondent’s registered agent for service of process is Jared C. Sweeney at the same address.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 (“Act”), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, (“Rules”). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

FACTS

VII.

On October 11, 2019, the Technical Secretary issued Conditional Major operating permit number 473927 (“Permit 473927”), (facility 60-0123), to the Respondent for a secondary aluminum smelting facility. On November 1, 2019, the Technical Secretary amended Permit 473927. Permit 473927 consists of the following air contaminant sources:

Source Number	Description
01	Two Aluminum Rotary Furnaces #1 & #2
06	Aluminum Rotary Furnace #4
07	Aluminum By-Product Crushing and Storage Operation including a Mobile Shredder in Storage Building
08	Gasoline Storage Tank

VIII.

Condition S1-I.B. of Permit 473927 states:

The rated input capacity for Furnace #1 is 8,250 pounds of dross/scrap per hour, on a daily average basis.

TAPCR 1200-03-09-.01(1)(d)

Compliance Method: Compliance with this operating limitation shall be assured by the recordkeeping required by **Condition S1-9**.

IX.

Condition S1-9. of Permit 473927 states:

The permittee shall record the following information for Furnaces #1 and #2 for each furnace operating cycle:

- (a) Hours operated
- (b) Amount of reactive flux used
- (c) Metal output (total tons per operating cycle)
- (d) Amount of dross charged (total tons per operating cycle)
- (e) Amount of used beverage cans (UBC) or medical tubes charged (total tons per operating cycle)
- (f) Amount of chips charged (total tons per operating cycle)
- (g) Amount of lithographic plates, painted siding, and clean scrap charged (total tons per operating cycle)
- (h) Total Charge (Dross and Scrap) (pounds per operating cycle)
- (i) Daily Average Material Input (pounds per hour)

Using the recorded information and the emission factors provided below, the permittee shall calculate the following information for each day the source is operated:

- (j) Total VOC emissions (pounds per operating cycle and tons per month)
- (k) Total HCl and Chlorine emitted (pounds per operating cycle and tons per month)
- (l) PM emissions (pounds per operating period and tons per month)

TAPCR 1200-03-10-.02(2)(a)

Compliance Method: The required information shall be recorded in a log (see example that follows, or use an equivalent format providing the same information). The log must be maintained at the source location and kept available for inspection by the Technical Secretary or a Division representative. This log must be retained in accordance with **Condition G14**.

X.

On February 25, 2022, the Technical Secretary issued Conditional Major construction permit number 979570 (“Permit 979570”), (facility 63-0123), to the Respondent for the modification to sources 01 and 06 identified in Paragraph **VII**. above and for the construction of source 09, Aluminum Smelting Furnace MPF-5. On March 11, 2022, the Technical Secretary amended Permit 979570.

XI.

Condition G12.B. of Permit 979570 states, in pertinent part:

The permittee shall not cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions shall include, but are not limited to, the following:

- (a) Use, where possible, of water or chemicals for control of dust in demolition of existing buildings or structures, construction operations, grading of roads, or the clearing of land;
- (b) Application of asphalt, water, or suitable chemicals on dirt roads, material stockpiles, and other surfaces which can create airborne dusts;
- (c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations . . .

XII.

Condition S1-1.C. of Permit 473927 states, in pertinent part:

The stated material input rate for the furnace shall not exceed 15,476 pounds per hour (lbs/hr) of aluminum scrap and/or dross on a daily average basis . . .

Compliance Method: The permittee shall maintain a daily log of the actual amount of Material Input and the hours of operation in a log, the format below (see example below). The log shall be retained in accordance with **Condition G10** . . .

XIII.

Condition S2-1.C. of Permit 979570 states, in pertinent part:

The stated material input rate for the furnace shall not exceed 22,222 pounds per hour (lbs/hr) of aluminum scrap and/or dross on a daily average basis . . .

Compliance Method: The permittee shall maintain a daily log of the actual amount of Material Input and the hours of operation in a log, the format below (see example below). The log shall be retained in accordance with **Condition G10** . . .

XIV.

Condition F1-2 of Permit 979570 states:

For each affected source or emission unit equipped with an add-on air pollution control device, the owner or operator must:

- (a) Design and install a system for the capture and collection of emissions to meet the engineering standards for minimum exhaust rates or facial inlet velocities as contained in the ACGIH Guidelines (incorporated by reference, see 40 CFR § 63.14);
- (b) Vent captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to a fabric filter; and
- (c) Operate each capture/collection system according to the procedures and requirements in the OM&M Plan.

This requirement is established pursuant to 40 CFR §63.1506(c).

XV.

Section 8 of the Respondent's OM&M Plan Maintenance Schedules states:

1510(b)7 Maintenance Schedule

Capture and Collection System:

Over the course of the last several years, TAP has gradually replaced the mild steel ductwork with stainless steel. With the elimination of the mild steel, problems with the ductwork are limited to minor material buildup at points of sharp changes in duct direction and transitions. The system is inspected at least annually. Fire retardant curtains are used to extend the hood dimensions. These curtains are inspected monthly and repaired as necessary.

XVI.

On April 6, 2023, Division personnel conducted an inspection at the Respondent's facility and discovered the following violations:

- The Respondent was calculating the input of dross/scrap per hour on a per cycle basis and not on a daily average basis for Furnaces 1, 2, and 4. On April 27, 2023, the Respondent provided records for the daily average material input rate. However, these records did not provide the specific hours of operation per day. Therefore, a compliance determination of the material input rate could not be made for conditions S1-1.B., S1-1.C., S2-1.C. of Permit 473927.

- The Respondent was using a jackhammer to crush dross and is handling process material outside, in the open-air, creating airborne dusts; thereby, not meeting the requirements in condition G12.B. of Permit 979570.
- The Respondent was not storing slag in a manner that ensured that fugitive emissions was captured when removed from the furnace(s), while cooling and off-gassing. Therefore, the Respondent was not meeting the requirements in condition F1-2 of Permit 979570.
- The Respondent had several damaged fire-retardant curtains on each furnace that need to be replaced. Therefore, the Respondent was not meeting the requirements in condition F1-2(c) of Permit 979570.

XVII.

On May 18, 2023, the Division issued a Notice of Violation (“NOV”) to the Respondent for the violations identified in Paragraph **XVI**. As corrective action for the violations identified above, the NOV required the following:

- The Respondent shall provide records for the input of dross/scrap per hour on a daily average basis, including the hours of operation per day, for the period of January 2022 through March 2023, for Furnaces 1, 2, and 4 within 30 days of receipt of the NOV.
- The Respondent shall submit an APC 115, Proposed Schedule of Corrective Action Form, detailing how the jackhammering of dross and handling of process material will be conducted in a manner that takes reasonable precautions to prevent particulate matter from becoming airborne within 30 days of receipt of the NOV.
- The Respondent shall submit an APC 115, Proposed Schedule of Corrective Action Form, for the replacement of damaged fire-retardant curtains within 30 days of receipt of this Notice of Violation.

As of the date of this Order, the Division has not received the above records and information.

VIOLATIONS

XVIII.

By failing to comply with conditions in Permit 979570, the Respondent violated Division Rule 1200-03-09-.01(1)(d), which states, in pertinent part:

Construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants must be in accordance with the approved construction permit application or notice of intent; the provisions and stipulations set forth in the construction permit, notice of coverage, or notice of authorization[.]

XIX.

By failing to comply with conditions in Permit 473927, the Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XX.

1. The Respondent is assessed a civil penalty of \$7,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Treasurer, State of Tennessee
Division of Fiscal Services - Consolidated Fees Section
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty. The case number, APC23-0107, should be clearly written on all correspondence.

2. The Respondent shall submit the corrective action identified in Paragraph **XVII.** to the Division within 30 days of receipt of the Order and Assessment of Civil Penalty.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The

Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The petition may be mailed or delivered to this address, or it may be sent to TDEC.Appeals@tn.gov. If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -326; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has the authority to assess additional damages incurred by the Department

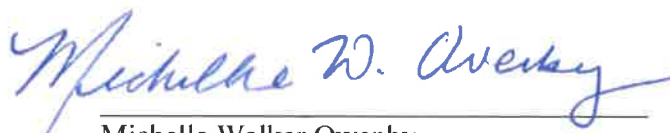
including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC23-0107, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on November 6, 2023.



Michelle Walker Owenby
Technical Secretary
Air Pollution Control Board

Reviewed by:



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