

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

PENNENVIRONMENT, INC.,

Plaintiff,

Civil Action No.

vs.

ARCELORMITTAL MONESSEN LLC, and
ARCELORMITTAL USA LLC,

Defendants.

COMPLAINT

INTRODUCTION

1. This is a citizen enforcement suit brought by a non-profit environmental organization, on behalf of its individual members, to redress and prevent ongoing Clean Air Act violations that negatively affect the health and lives of Pennsylvania residents by exposing them to harmful air pollutants on a regular basis.

2. Defendants ArcelorMittal USA LLC (“ArcelorMittal USA”) and ArcelorMittal Monessen LLC (“ArcelorMittal Monessen”) own and operate the Monessen Coke Plant (or “the Plant”) in Monessen, Pennsylvania. (ArcelorMittal USA and ArcelorMittal Monessen are collectively referred to herein as “ArcelorMittal.”)

3. ArcelorMittal has repeatedly violated, is violating, and will continue to violate the federal Clean Air Act (“CAA”), the Pennsylvania State Implementation Plan (“SIP”), and the Plant’s CAA operating permit at the Plant.

4. ArcelorMittal’s violations include: emitting air pollutants into the atmosphere in excess of numeric emission limits; failing to perform required monitoring; creating

conditions of air pollution and malodor in the communities surrounding the Plant; and operating the Plant in ways that violate various other emissions standards and limitations.

5. Plaintiffs are unaware of any actions taken by the Defendants that are sufficient to eliminate future violations of the types alleged in Counts I through VIII, and absent an appropriate order from this Court, Defendants will continue to violate the Act as described in Counts I through VIII. Plaintiffs intend this action to encompass post-Complaint violations of the types alleged in Counts I through VIII.

6. Neither the federal nor the state government has prevented ArcelorMittal from violating the Act at the Plant since the Plant restarted its operations in 2014.

THE CITIZEN SUIT PROVISION OF THE CLEAN AIR ACT

7. Congress declared that the purpose of the Clean Air Act is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

8. In the “citizen suit” provision of the CAA, Congress authorized any person to commence a civil action against any person who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of an emission standard or limitation under the CAA. 42 U.S.C. § 7604(a)(1).

9. The CAA definition of “emission standard or limitation” includes, *inter alia*: any standard or limitation established “under any permit issued under Title V of the CAA” and “any permit term or condition” (42 U.S.C. § 7604(f)(4)); any standard or limitation established under an applicable State Implementation Plan (42 U.S.C. § 7604(f)(4)); and any “emission limitation, standard of performance or emission standard...which is in effect under this chapter” (42 U.S.C. § 7604(f)(1)).

10. In this action, Plaintiffs claim ArcelorMittal has violated, is violating, and will

continue to violate the operating permit for the Plant issued under Title V of the CAA, standards and limitations contained in the Pennsylvania SIP, and federally-established emission limitations and standards of performance that relate to coke plants.

11. The CAA citizen suit provides district courts with jurisdiction to “enforce” emission standards and limitations, and to impose an appropriate civil penalty on the violator of those emission standards and limitations. 42 U.S.C. § 7604(a).

PARTIES

12. Plaintiff PennEnvironment, Inc. (“PennEnvironment”) is a non-profit Pennsylvania corporation with over 11,000 members, including 194 members in Washington and Westmoreland Counties.

13. PennEnvironment advocates for clean air, clean water, and the preservation of Pennsylvania’s natural resources.

14. Among other activities in pursuit of these goals, PennEnvironment researches and distributes analytical reports on environmental issues, advocates before legislative and administrative bodies, engages in litigation when necessary, and conducts public education programs.

15. PennEnvironment brings this suit on behalf of its individual members who are adversely affected by the Plant’s excess emissions of particulate matter, hydrogen sulfide, sulfur dioxide, and other air pollutants, and by other violations of emission standards and limitations at the Plant.

16. The Plant’s violations have deleterious impacts on public health and the environment in the areas where Plaintiff’s members live, work, and recreate.

17. “Person” in the CAA is defined to include “corporation.” 42 U.S.C. § 7602(e). PennEnvironment is a corporation and thus a “person” under the CAA.

18. Defendant ArcelorMittal USA is one of the largest steel producers in North America.

19. Defendant ArcelorMittal USA is a subsidiary of ArcelorMittal S.A., which is headquartered in Luxembourg.

20. ArcelorMittal S.A. is the world's largest steel producer.

21. On page 14 of its "2014 ArcelorMittal USA Factbook," ArcelorMittal USA states that it owns and operates the Monessen Coke Plant.

22. On page 75 of its "Sustainability and Corporate Responsibility Report 2014," ArcelorMittal USA identifies the Monessen Coke Plant as one of the facilities that it operates.

23. The Clean Air Act operating permit for the Plant issued under Title V of the CAA is in the name of ArcelorMittal Monessen.

24. Defendants are corporations and thus "persons" within the meaning of section 302(e) of the Act, 42 U.S.C. § 7602(e).

JURISDICTION, VENUE, AND NOTICE

25. Subject matter jurisdiction is conferred upon this Court by 33 U.S.C. § 7604(a) (CAA citizen suit jurisdictional provision) and 28 U.S.C. § 1331 (federal question jurisdiction).

26. Venue lies in this District pursuant to 42 U.S.C. § 7604(c)(1) (CAA citizen suit venue provision), and 28 U.S.C. § 1391(e) (federal venue provision) because the Plant is a stationary source located within this District.

27. Plaintiffs gave Defendants notice of the violations alleged in this Complaint more than 60 days prior to commencement of this lawsuit by a letter (the "Notice Letter") mailed to: Timothy Maurice, who is the Plant Manager of ArcelorMittal Monessen, and

Marc Jeska, who is the President of ArcelorMittal USA. Both Mr. Maurice and Mr. Jeska received the Notice Letter. A copy of the Notice Letter is attached as Exhibit 1. The Notice Letter is incorporated by reference herein.

28. Plaintiffs also mailed a copy of the Notice Letter to CT Corporation as Pennsylvania registered agent for ArcelorMittal USA.

29. Each Defendant received the Notice Letter. A copy of each return receipt is attached in Exhibit 2.

30. Copies of the Notice Letter were also mailed to the Administrator of the U.S. Environmental Protection Agency (“EPA”), the Regional Administrator of the EPA for Region III, the Secretary of the Pennsylvania Department of Environmental Protection (“PADEP”), the Director of the Bureau of Air Quality at PADEP, and the Governor of the Commonwealth of Pennsylvania.

31. Each of the addressees identified in the preceding paragraph received the Notice Letter. A copy of each return receipt is attached as Exhibit 3.

32. The Notice Letter satisfies the pre-suit notice requirements of the CAA, pursuant to 42 U.S.C. § 7604(b).

33. Since the Plant restarted in April 2014, neither the Commonwealth of Pennsylvania nor EPA has commenced a civil action against ArcelorMittal in court to enforce an emission standard or limitation at the Plant.

THE MONESSEN COKE PLANT

34. The Plant is located in Monessen, along the Monongahela River in the southwest region of Pennsylvania.

35. The Plant is situated on 45 acres.

36. The Plant is a conventional coke production and by-product recovery facility.

37. The Plant re-started coke and related carbon by-product production in April 2014, after being on “hot idle” for almost five years.

38. Products made at the Plant include furnace coke, coke breeze, coal tar, light oil, and liquid ammonium sulfate.

39. Among other components, the Plant has two coke batteries comprising 56 coke ovens; a by-products recovery process plant; a boiler operations plant; and a barge unloading area.

40. There are 120 to 160 people employed at the Plant.

41. The Plant has the capacity to produce approximately 370,000 tons of coke per year.

42. The Plant emits hydrogen sulfide into the atmosphere.

43. The Plant emits sulfur dioxide into the atmosphere.

44. The Plant emits particulate matter into the atmosphere.

45. The Monessen Public Library is located across the street from the Plant on Donner Avenue, and a Monessen supermarket, Foodland, is less than one-half mile from the Plant, also on Donner Avenue.

46. According to the EPA, 6,088 people live within one mile of the Plant, and 30,565 people live within three miles of the Plant.

THE PLANT IS SUBJECT TO THE PROVISIONS OF ITS TITLE V PERMIT

47. Subject to EPA approval and oversight, the Commonwealth of Pennsylvania administers an Operating Permits Program under Title V of the CAA, 42 U.S.C. §§ 7661-7661f.

48. EPA approved Pennsylvania’s Operating Permits Program effective 8/29/96.

49. PADEP administers the Operating Permits Program and issues Title V permits in Westmoreland County. The Plant is located in Westmoreland County.

50. The operations of the Monessen Coke Plant are subject to Permit No. 65-00853, which was issued by PADEP.

51. PADEP issued Permit No. 65-00853 (“the Title V Permit”) pursuant to Title V of the Clean Air Act.

52. The effective date of the Title V Permit is January 30, 2014, and it expires on January 30, 2019.

53. The Title V Permit was issued in the name of ArcelorMittal Monessen.

54. ArcelorMittal did not appeal the issuance of the Title V Permit.

55. The Title V Permit provides, in Section B.#007, “The permittee shall comply with the conditions of this permit” and “[n]oncompliance with this permit constitutes a violation of the Clean Air Act.”

56. The Title V Permit provides, in Section B. #007, that noncompliance with the permit is “grounds for” an “enforcement action.”

57. All terms and conditions in the Title V Permit are federally enforceable.

58. The Title V Permit provides, in Section B. #008, “It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.”

59. ArcelorMittal understands that it is obligated to comply with the terms of the Title V permit.

60. Any violation of the terms and conditions of the Title V Permit is a violation of the federal Clean Air Act.

61. 42 U.S.C. § 7661a(a) states, “After the effective date of any permit program

approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate ... a major source ... except in compliance with a permit issued by a permitting authority under this subchapter.”

**THE PLANT IS SUBJECT TO THE PROVISIONS OF THE
PENNSYLVANIA STATE IMPLEMENTATION PLAN**

62. The Pennsylvania State Implementation Plan (“SIP”) is a set of state laws and regulations designed to protect air quality in Pennsylvania.

63. One purpose of the Pennsylvania SIP is to achieve compliance with federally promulgated national ambient air quality standards (“NAAQS”).

64. SIPs are required by Section 110 of the CAA, 42 U.S.C. § 7410, and must be approved by the EPA. Pennsylvania’s SIP was approved by EPA.

65. The Monessen Coke Plant is subject to provisions of the Pennsylvania SIP.

66. The Title V permit incorporates certain provisions of the Pennsylvania SIP.

THE PLANT IS SUBJECT TO FEDERAL STANDARDS

67. The Plant is subject to certain federal programs enacted in the CAA and implemented by EPA regulations.

68. The Plant contains two coke oven gas boilers.

69. The Plant’s coke oven gas boilers are “new sources” of air pollution within the meaning of Section 111(a)(2) of the CAA, 42 U.S.C. § 7411(a)(2), and “affected facilities” within the meaning of 40 C.F.R. § 60.2.

70. The Title V Permit incorporates 40 C.F.R. Part 60, Subpart Db (“Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units”) of the federal New Source Performance Standards (“NSPS”), which are national, technology-based emission standards and limitations promulgated pursuant to CAA Section 111, 42

U.S.C. § 7411.

71. The Plant is also subject to national emission standards for hazardous air pollutants (“NESHAPs”) promulgated by EPA pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d). Specifically, the Plant’s coke oven batteries are subject to 40 C.F.R. Part 63, Subpart L (“National Emission Standards for Coke Oven Batteries”), and the Plant’s coke byproduct recovery plant is subject to 40 C.F.R. Part 61, Subpart L (“National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants”), Subpart V (“National Emission Standards for Equipment Leaks (Fugitive Emission Sources)”), and Subpart FF (“National Emission Standards for Benzene Waste Operations”). The Title V Permit incorporates the national emission standards identified in this paragraph.

THE PLANT IS REQUIRED TO REPORT VIOLATIONS TO PADEP AND EPA

72. ArcelorMittal Monessen submits two types of Compliance Certification Forms relating to the Plant’s compliance status.

73. One type of Compliance Certification Form for the Plant – the “Annual Compliance Certification Form” – is submitted by ArcelorMittal Monessen once a year to PADEP’s Regional Air Program Manager and EPA Region III.

74. The Annual Compliance Certification Form is sometimes referred to as the “Long Form.”

75. The Annual Compliance Certification Form for the Plant identifies each term or condition of the Title V Permit that is the basis of the certification.

76. The Annual Compliance Certification Form states the compliance status of each of the identified terms and conditions of the Title V Permit that is the basis of the certification.

77. In the Annual Compliance Certification Form, ArcelorMittal Monessen indicates the compliance status of Title V Permit terms and conditions by checking one of two boxes on the form: “Continuous” or “Intermittent”.

78. In the Annual Compliance Certification Form, ArcelorMittal Monessen states the means of determining the compliance status of Title V Permit terms.

79. Another type of Compliance Certification Form is submitted by ArcelorMittal Monessen twice a year to PADEP’s Regional Air Program Manager (the “Semi-annual Compliance Certification Form”). The Semi-annual Compliance Certification Form is sometimes referred to as the “Short Form.”

80. The Semi-annual Compliance Certification Form states, in part, “ArcelorMittal Monessen LLC/Monessen Coke Plt has been in continuous compliance with all applicable requirements of permit # 65-00853, determined by the method(s) of compliance specified in said permit, except for the following deviations, exceedances and excursions.”

81. The Pennsylvania Code, in 025 Pa. Code § 121.1, defines “deviation” as:

“An activity that occurred at a source owned or operated in this Commonwealth by the applicant, permittee or related party within the 5 years prior to the date of submission of the compliance review form but not prior to July 9, 1992, that has not been formally documented by the Department or another authorized enforcement or regulatory agency in this Commonwealth which exceeds applicable emission limits or otherwise did not conform to the act, regulations promulgated thereunder, plan approvals, permits or orders of the Department. The identification of a deviation on a compliance review form does not constitute a waiver of a defense to liability under the law for the activity disclosed. The term includes, but is not limited to, the following:

- (i) Unauthorized, accidental or emergency releases of air pollutants.
- (ii) Malfunctions of equipment, the maintenance of which is necessary to meet plan approval requirements or emission limitations.

(iii) Instances of exceeding permit terms or conditions or regulatory requirements found during routine plant maintenance, whether or not the Department is aware of the situation.

(iv) Instances of exceeding permit terms or conditions or regulatory requirements recorded by continuous monitoring equipment.

(v) Other departures from the requirements of the act, regulations adopted under the act, terms or conditions of operating permits or plan approvals and Department orders by the applicant or a related party.

The “act” referenced in the definition of “deviation” is the “Air Pollution Control Act (35 P.S. §§ 4001-4014),” which includes the Pennsylvania SIP and the Title V operating permit program.

82. The Semi-annual Compliance Certification Form for the Plant identifies each term or condition of the Title V Permit for which there is a deviation, exceedance, or excursion. These terms or conditions are identified in a column titled, “Sect./Cond.#.”

83. The Semi-annual Compliance Certification Form for the Plant identifies the Pennsylvania Code section of the Pennsylvania Clean Air Act that is the regulatory basis for the term or condition of the Title V Permit for which there is a deviation, exceedance, or excursion. The regulatory basis is identified in a column titled, “Citation #.”

84. The Semi-annual Compliance Certification Form for the Plant identifies the source of the deviation, exceedance, or excursion. The source information is contained in a column titled, “Source.”

85. The Semi-annual Compliance Certification Form for the Plant identifies the cause of the deviation, exceedance, or excursion in a column titled, “Noncompliance.”

86. The Semi-annual Compliance Certification Form for the Plant identifies the monitoring method used to determine the deviation, exceedance, or excursion in a column titled, “Monitoring Method(s).”

87. The Semi-annual Compliance Certification Form for the Plant identifies the date (and sometimes the time) on which the deviation, exceedance, or excursion occurred, in a column titled, "Date."

88. The Semi-annual Compliance Certification Form for the Plant states the duration of the deviation, exceedance, or excursion in a column titled, "Duration." Sometimes the duration is stated as "unknown."

89. The Semi-annual Compliance Certification Form for the Plant states the action taken by the Plant in response to the deviation, exceedance, or excursion, in a column titled, "Corrective Action(s)."

90. PADEP requires Semi-annual and Annual Compliance Certification Forms pursuant to 25 Pa. Code § 127.511 and 25 Pa. Code § 127.513, respectively. "25 Pa. Code § 127.513" appears under the title of both types of Compliance Certification Forms.

91. An ArcelorMittal Monessen "responsible official" signs a "Certification of Truth, Accuracy and Completeness" for both types of Compliance Certification Forms.

92. The "Certification of Truth, Accuracy and Completeness" for both types of Compliance Certification Forms states, "Subject to the penalties of Title 18 Pa. C.S. Section 4904 and 35 P.S. Section 4009(b)(2), I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this form are true, accurate, and complete."

93. Paul Champagne, Plant Manager of the Monessen Coke Plant, signed the Certification of Truth, Accuracy and Completeness for the Semi-annual Reports dated 7/30/2014 and 1/30/2015 as the "responsible official" for ArcelorMittal Monessen. Timothy Maurice, Interim Plant Manager, signed the Certification of Truth, Accuracy and Completeness for the Semi-annual Report dated 8/31/2015 as the "responsible

official” for ArcelorMittal Monessen. Paul Champagne signed the Certification of Truth, Accuracy and Completeness for the Annual Report dated 1/30/15 as the “responsible official” for ArcelorMittal Monessen.

94. A true copy of the Plant’s Annual Compliance Certification Form for 2014 is attached as Exhibit 4.

95. True copies of the Plant’s Semi-annual Compliance Certification Forms for the periods 1/1/2014-6/30/2014, 7/1/2014-12/31/2014, and 1/1/2015-6/30/2015 are attached as Exhibit 5.

96. The version of the Semi-annual Compliance Certification Form for the period 1/1/2015-6/30/2015 that PADEP provided to Plaintiffs included highlighted sections.

97. The Plant’s Compliance Certification Forms show that the Plant violated its emission limits for sulfur dioxide (SO₂), hydrogen sulfide (H₂S), particulate matter (PM), and opacity, collectively, over 225 times between April of 2014 and June 30, 2015.

98. Each permit term and condition cited in the Semi-annual Compliance Certification Forms as having been subject to deviations, exceedances, or excursions is also identified in the Annual Compliance Certification Form as having a compliance status of “Intermittent.”

**PADEP STATED IN INSPECTION REPORTS AND NOTICES
OF VIOLATIONS THAT THE PLANT VIOLATED EMISSION LIMITS**

99. PADEP personnel from the Bureau of Air Quality have conducted inspections of the Plant.

100. PADEP does not send an inspector to the Plant every time a citizen contacts PADEP to complain about air emissions from the Plant.

101. On those occasions when PADEP has sent an inspector to the vicinity of the Plant in response to a citizen complaint, days have often passed between the time of the complaint and the inspector's arrival.

102. PADEP personnel have prepared written reports about their inspections of the Plant. Inspection reports of the Plant have been written on Inspection Report forms prepared by PADEP.

103. Inspection Report forms have a section titled "Compliance Status" that provides four boxes that can be checked: "In," "Out," "Pending," and "Awaiting Co. Report." When the "Out" box is checked, this means the facility was out of compliance.

104. Beginning April 2014, PADEP personnel who have conducted inspections of the Plant have checked the "Out" box in the "Compliance Status" section of the Inspection Report at least 17 times.

105. Plaintiffs believe there are more Inspection Reports that have not been made publicly available on which the "Out" box in the "Compliance Status" section has been checked by PADEP personnel.

106. In its Inspection Reports for Plant inspections, PADEP stated the basis for finding the Plant was out of compliance.

107. ArcelorMittal is aware of the findings in the PADEP Inspection Reports for the Plant.

108. A representative of ArcelorMittal Monessen signed and dated the PADEP's Inspection Reports for the Plant.

109. The PADEP Bureau of Air Quality has issued Notices of Violation to ArcelorMittal Monessen regarding the Plant.

110. ArcelorMittal has been disappointed in the performance of the Monessen Coke Plant since the Plant's 2014 restart. ArcelorMittal believes the Plant has been challenged by issues such as opacity exceedances at the No. 1 battery combustion stack.

ADVERSE EFFECTS OF THE POLLUTANTS EMITTED BY THE PLANT

111. Hydrogen sulfide (H₂S) is a colorless and flammable gas.

112. H₂S has a "rotten egg" smell.

113. H₂S is both an irritant and a chemical asphyxiant, and has adverse effects on both oxygen utilization and the central nervous system.

114. Low concentrations of H₂S irritate the eyes, nose, throat, and respiratory system (*e.g.*, they can cause a burning sensation or tearing of eyes, coughing, and/or shortness of breath), and can cause asthmatics to experience breathing difficulties.

115. H₂S is extremely hazardous.

116. The Plant's H₂S concentrations in coke oven gas have been measured at levels as high as eight times the permitted limit.

117. Exposure to sulfur dioxide (SO₂) can cause respiratory illness, other adverse effects on breathing, alterations in pulmonary defenses, and aggravation of existing cardiovascular disease.

118. Children, the elderly, and people with asthma, cardiovascular disease, or chronic lung disease (such as bronchitis or emphysema) are particularly susceptible to the adverse health effects of SO₂.

119. Sulfates are secondary particles formed from SO₂ emissions.

120. Sulfates are associated with acidification of lakes and streams, accelerated corrosion of buildings and monuments, reduced visibility, and adverse health effects.

121. SO₂ poses significant health threats.

122. Exceedances of the Plant's limits for particulate matter (PM) have lasted for as long as nine days at a time.

123. PM, also known as soot, is a complex mixture of extremely small particles and liquid droplets.

124. PM is made up of components such as acids (*e.g.*, nitrates and sulfates), organic chemicals, metals, and soil or dust particles.

125. PM exposure has been linked to premature death in people with heart or lung disease, non-fatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms (such as irritation of the airways, coughing, or difficulty breathing).

126. PM causes haze.

127. The settling of PM on ground or water contributes to acidification, to nutrient depletion and imbalance, and to reductions in ecosystem diversity.

DEFENDANTS' VIOLATIONS OF THE CLEAN AIR ACT

128. Each type of violation alleged in Counts I through VIII occurred more than once, and therefore was "repeated" within the meaning of 42 U.S.C. § 7604(a)(1).

129. Plaintiffs believe that additional information from ArcelorMittal Monessen's Compliance Certification Forms, PADEP Inspection Reports, and other sources not yet publicly available will reveal additional violations under each count listed below.

COUNT I: Failure to Operate the Desulfurization Plant

130. Plaintiffs incorporate ¶¶ 1-129.

131. The Monessen Coke Plant has a device for removing hydrogen sulfide (H₂S) from the coke oven gas (COG). This device is known as the coke oven gas desulfurization plant ("the Desulfurization Plant").

132. The Desulfurization Plant is an “air cleaning device” as defined in 25 Pa. Code § 121.1.

133. Removal of H₂S from COG reduces the amount of H₂S and sulfur dioxide (SO₂) released to the atmosphere when the COG is burned as fuel or in flares. SO₂ is formed and released to the atmosphere when H₂S is combusted.

134. Two sections of the Title V Permit require the Plant to operate the Desulfurization Plant while the coke oven batteries are in operation: Section B.#007(b) (which incorporates 25 Pa. Code § 127.25 of the Pennsylvania SIP) and Section C.VI.#022 (which incorporates 25 Pa. Code § 127.444 of the Pennsylvania SIP).

135. The failure to operate the Desulfurization Plant while the coke oven batteries are in operation is a violation of these provisions of the Title V Permit, and also a violation of the Pennsylvania SIP itself, as is set forth in 25 Pa. Code § 127.25 and 25 Pa. Code § 127.444.

136. On 6/20/14 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

137. ArcelorMittal calculated that, as a result of the 6/20/14 outage, the Plant emitted 2.7 tons of SO₂ in excess of what would have been emitted had the Desulfurization Plant been operating.

138. From 8/19/14 until 9/12/14, the Plant did not operate the Desulfurization Plant while the coke batteries operated.

139. ArcelorMittal calculated that, as a result of the 8/19/14 to 9/12/14 outage, the Plant emitted 90.1 tons of SO₂ in excess of what would have been emitted had the Desulfurization Plant been operating.

140. On 1/29/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

141. On 2/12/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

142. On 3/25/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

143. ArcelorMittal calculated that, as a result of the outages on 1/29/15, 2/12/15, and 3/25/15, the Plant emitted 3.5 tons of SO₂ in excess of what would have been emitted had the Desulfurization Plant been operating.

144. On 5/19/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

145. On 5/31/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

146. On 6/1/15 and 6/2/15 there was a period during which the Plant did not operate the Desulfurization Plant while the coke batteries operated.

147. From 6/14/15 until 7/4/15 the Plant did not operate the Desulfurization Plant while the coke batteries operated.

148. Excess amounts of SO₂ were emitted as a result of the Desulfurization Plant outages described in ¶¶ 144 through 147, above, but Plaintiff has been unable to discover through publicly available documents the excess amounts emitted.

149. The Desulfurization Plant outages described in ¶¶ 136 through 147 were reported to PADEP by ArcelorMittal Monessen pursuant to a 2005 consent agreement between ArcelorMittal Monessen and PADEP.

150. By not operating the Desulfurization Plant on the dates set forth in ¶¶ 136, 138, 140-142, and 144-147, ArcelorMittal violated Section B.#007(b) of the Title V Permit.

151. By not operating the Desulfurization Plant on the dates set forth in ¶¶ 136, 138, 140-142, and 144-147, ArcelorMittal violated Section C.VI. #022 of the Title V Permit.

152. By not operating the Desulfurization Plant on the dates set forth in ¶¶ 136, 138, 140-142, and 144-147, ArcelorMittal violated 25 Pa. Code § 127.25 of the Pennsylvania SIP.

153. By not operating the Desulfurization Plant on the dates set forth in ¶¶ 136, 138, 140-142, and 144-147, ArcelorMittal violated 25 Pa. Code § 127.444 of the Pennsylvania SIP.

154. By not operating the Desulfurization Plant on the dates set forth in ¶¶ 136, 138, 140-142, and 144-147, ArcelorMittal violated the CAA.

COUNT II: Creation of “Air Pollution”

155. Plaintiffs incorporate ¶¶ 1-154.

156. Section C.I. #001 of the Plant’s Title V Permit (which incorporates 25 Pa. Code § 121.7 of the Pennsylvania SIP) provides: “No person may permit air pollution as that term is defined in the act.”

157. Pennsylvania Code, 25 Pa. Code § 121.1, defines “air pollution” as: “The presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances, waste or other matter in a place, manner or concentration inimical or which may be inimical to public health, safety or welfare or which is or may be

injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.”

158. Since the Plant restarted in 2014, citizens have contacted PADEP to complain about odors, haze, soot, and other conditions of air pollution emanating from the Plant.

159. PADEP personnel prepare reports of citizen complaints regarding the Plant.

These complaint reports are publicly available from PADEP, though information identifying the complainant is redacted. ArcelorMittal has had access to these complaint reports.

160. On the following dates, the citizen complaints in ¶¶ 160a-160rrrr were made to PADEP about the Plant:

COMPLAINT PARAGRAPH NUMBER	DATE	POLLUTANT COMPLAINED ABOUT	DESCRIPTION FROM COMPLAINT	LOCATION (if reported)	DURATION or START TIME (if reported)
160a	4/18/14	Odor	“terrible odor”	Walsh St., Monongahela	
160b	4/23/14	PM, odor	“haze and a bad odor”	Sampson Ave., Monongahela	
160c	4/23/14	Odor	“bad odor...everything stinks”, “burning eyes/throat”	Virginia Dr., Donora	“all day, all night”
160d	4/24/14	Odor	“strong odor”	Carroll Township	
160e	5/9/14	Odor	“bad odor”	Sampson Ave., Monongahela	
160f	5/20/14	PM, odor	“fine particulate matter...odor problem”	Orchard Ave., Monongahela	“stacks smoking continually”
160g	6/19/14	Odor	“rotten eggs”	Wood St., Donora	
160h	7/1/14	PM	“soot”	Walch Rd., Monongahela	
160i	7/2/14	PM	“soot”	Walch Rd., Monongahela	

160j	7/3/14	PM	“soot”	Walch Rd., Monongahela	
160k	7/23/14	PM	“soot”; “coke particles in DF jar & pool”	Walch St., Monongahela	
160l	9/8/14	Odor	“odor from coke works”	Walch St., Monongahela	
160m	9/22/14	Odor	“sulfur smell”, “asthma impact”	Walch St., Monongahela	
160n	9/22/14	PM, odor	“soot corrosive to new railing”	Donora Rd., Monongahela	
160o	10/10/14	“pollution from mill”	“too much pollution”	Carroll Township	
160p	10/20/14	Odor	“odor from plant”	Orchard Ave., Monongahela	
160q	11/13/14	Odor	“smell and noise”	Carroll Township	
160r	11/14/14	Odor	“smell... is increasing and intensifying”, “COPD impact”	Culler Ave., Monongahela	
160s	11/24/14	Odor	“can’t walk dog”	Center St., Monongahela	
160t	11/24/14	Odor	“stink”	Monessen	
160u	11/24/14	Odor	“rotten eggs”	Carroll Township	
160v	11/24/14	Odor, PM	“particulates”	Richard Ave., Monongahela	
160w	11/25/14	Odor	“horrible smell”	Belle Vernon	“every day”
160x	11/26/14	“Air pollution”	“can’t breathe”	Carroll Township	
160y	12/1/14	Odor	“odor”	Belle Vernon	
160z	12/1/14	Odor	“burning metallic smell”	Donner Ave., Monessen	
160aa	12/2/14	Odor	“sulfur”	Donner Ave., Monessen	“Morning”
160bb	12/6/14	Odor		Rt. 837, Monongahela	
160cc	12/8/14	Odor	“the smell was so bad you couldn’t believe it”	Castner Ave., Donora	
160dd	12/9/14	Odor	“asthma impacts”	Nash Ave., Monessen	“late night, early morning”
160ee	12/31/14	Odor	“burnt rubber and	Donora	2:30 p.m.

			rotten eggs”		
160ff	1/6/15	Odor	“on 1–10 scale, it was an 11 at 10 pm”	Donora	4:00 p.m. – late evening
160gg	1/10/15	Odor	“scale of 1-10 it was a 20”	Donora	3:30 p.m. – late evening
160hh	1/12/15	Odor		Donora	7:30 a.m.
160ii	1/18/15	Odor	“nasty rotten eggs mixed with burned rubber”	Donora	Morning and on
160jj	1/26/15	Odor	“It is a 10”	Carroll Township	8:00 p.m.
160kk	1/29/15	Odor	“unbearable”	Carroll Township	9:00 p.m.
160ll	1/29/15	Odor	“very bad”	Eldorado Bar, Rt. 837, Monongahela	
160mm	2/2/15	Odor	“like tar”	Monongahela	
160nn	2/2/15	Odor	“stinking all day”	Carroll Township	“all day”
160oo	2/7/15	Odor		Monongahela	
160pp	2/7/15	Odor	“bad smells”	Donora	
160qq	2/7/15	Odor	on 1–10 scale “was a 10”	Donora	
160rr	2/8/15	Odor	“smelling terrible”	Monongahela	“all weekend”
160ss	2/8/15	Odor	“bad smells”	Donora	“morning”
160tt	2/9/15	Odor	“could smell...with windows closed”	Monongahela	24 hrs
160uu	2/9/15	Odor, PM	“smokefest”	Carroll Township	“all weekend”
160vv	3/9/15	Odor	“10 on scale of 1-10”	Donora	11:30 p.m.
160ww	3/16/15	Odor	“terrible”	Carroll Township	7:50 a.m.
160xx	3/18/15	Odor	“smell woke us up”	Monessen	4:30 a.m.
160yy	3/25/15	Odor, PM	“offensive odors and fallout”	Monessen	ongoing since April 2014
160zz	3/26/15	Odor	“very heavy smell...obnoxious”	Carroll Township	
160aaa	3/26/15	Odor	“very heavy smell of coal”	Carroll Township	“morning”
160bbb	3/30/15	Odor		Monessen	9:00 p.m.
160ccc	3/31/15	Odor		Monessen	5:30 a.m.
160ddd	4/2/15	Odor	“like gunpowder”	Carroll Township	“all day”

160eee	4/3/15	Odor	“lingering”	Monessen	5:30 a.m.
160fff	4/4/15	Odor		Monessen	9:30 p.m.
160ggg	4/5/15	Odor	“awful”	Monessen	9:00 p.m.
160hhh	4/6/15	Odor	“nasty rubbery/rotten eggs smell”	Monessen	5:30 a.m.
160iii	4/7/15	Odor	“AQ is horrible”	Carroll Township	
160jjj	4/20/15	Odor		Monessen	
160kkk	4/21/15	Odor		Monessen	7:00 a.m.
160lll	5/4/15	Odor	“terrible sulfur smell”	Carroll Township	“all this week”
160mmm	5/4/15	Odor	“really strong”	Monessen	6:30 a.m.
160nnn	5/6/15	Odor		Carroll Township	
160ooo	5/8/15	Odor	“headache”	Monessen	5:20 a.m.
160ppp	5/12/15	Odor	“smell...getting stronger and stronger”	Monessen	9:00 a.m.
160qqq	5/18/15	Odor	“bad sulfur smell, affecting health of family”	Carroll Township	“all weekend”
160rrr	5/19/15	Odor	“nasty”	Monessen	11:00 a.m.
160sss	5/23/15	Odor, PM	“black cloud”	Fisher Heights, Monongahela	8:00 a.m.
160ttt	5/25/15	Odor		Monessen	7:00 p.m.
160uuu	5/26/15	Odor		Carroll Township	
160vvv	5/31/15	Odor	“strong tar odor”	Carroll Township	
160www	6/7/15	Odor	“worse throughout the day”	Monessen	3:00 a.m.
160xxx	6/8/15	Odor		Monessen	12:00 p.m.
160yyy	6/8/15	Odor	“stench”	Eldorado Bar, Rt. 837, Monongahela	Night-time
160zzz	6/9/15	Odor	“getting worse through the night”	Monessen	3:00 a.m.
160aaaa	6/14/15	Odor		Monessen	8:36 p.m.
160bbbb	6/27/15	Odor	“nasty smell ... worse throughout the day ... hard to breathe”	Donora	8:30 a.m. - all day
160cccc	6/28/15	Odor	“ridiculous smell”	Donora	8:00 a.m. - all day
160dddd	7/9/15	Odor	“nasty smell ...	Donora	1:40 p.m.

			becoming worse”		
160eeee	7/10/15	Odor	“smell”	Donora	12:00 p.m.
160ffff	7/24/15	Odor	“smell started to come in my house...”	Donora	5:05 a.m.
160gggg	7/31/15	Odor	“The smell reached Donora this morning at 8 am.”	Donora	8:00 a.m.
160hhhh	8/5/15	Odor	“strong smell”	Donora	8:00 a.m.
160iiii	8/8/15	Odor	“Noticed the the smell at 2 pm ... and it became [worse] at 10 pm”	Donora	2:00 p.m. - after 10pm
160jjjj	8/9/15	Odor	“the smell”	Donora	9:00 a.m.
160kkkk	8/13/15	Odor	“The smell started to develop at 6 am ... and it is really strong right now.”	Donora	6:00 a.m.
160llll	8/14/15	Odor	“disgusting smell”	Donora	11:00 p.m.
160mmmm	8/17/15	Odor	“The sulfur smell saturated my whole house since 3am and it lasted till 8 am. I couldn’t sleep again!!!”	Donora	3:00 a.m.
160nnnn	8/24/15	Odor	“disgusting smell”	Donora	11:00 p.m.
160oooo	8/25/15	Odor	“very strong odor”	Donora	10:45 a.m.
160pppp	8/28/15	Odor	“awful smell”	Donora	5:30 p.m.
160qqqq	9/1/15	Odor	“... couldn’t sleep because of the nasty odor from the plant. ... the rotten egg smell was observed from 2:30 am ... on a scale from 1 to 10 it was 20”	Donora	2:30 a.m. – 7:30 a.m.
160rrrr	9/15/15 – 9/16/15	Odor	“nasty smell got in my house at 10:30 pm ... and didn’t leave until 7:30 am”	Donora	10:30 p.m. – 7:30 a.m.

161. The information in ¶¶ 160a-160rrrr is contained in PADEP complaint reports about the Plant.

162. Within the PADEP complaint reports, for each complaint listed in ¶¶ 160a-160rrrr above, PADEP lists the “Responsible Party” as “ArcelorMittal Monessen Coke Works Plant.”

163. The following citizen complaints about the Plant were made directly to PennEnvironment:

COMPLAINT PARAGRAPH NUMBER	DATE	POLLUTANT COMPLAINED ABOUT	COMPLAINT	LOCATION	DURATION or START TIME (if reported)
163a	5/31/15	Odor, PM	“strong smell of sulfur”	Monessen	All day
163b	6/8/15	PM, soot	“Coke works were really bad, a lot of soot”	Monongahela	10:00 a.m.
163c	6/14/15	PM	“pollution was really bad”	Monongahela	In the p.m.
163d	6/15/15	PM, soot	“A lot of soot”	Monongahela	
163e	6/17/15	PM, soot	“A lot of soot”	Monongahela	
163f	6/18/15	PM, soot	“A lot of soot”	Monongahela	
163g	6/19/15	PM	“pollution was really bad”	Monongahela	In the p.m.
163h	6/21/15	PM, soot	Photos of: black pool filter as a result of pollution from the Plant, black dust and pollution along pool deck, and black pool water. “Before the plant opened it was never like this when we opened the pool. Our water was crystal clear and as you can see now, it’s not.”	Monongahela	
163i	6/25/15	PM, soot	“A lot of soot”	Monongahela	
163j	6/26/15	PM, soot	Photos of black dust and debris in pool water. “My pool with the sut [sic] from the	Monongahela	All day and night

			mill after a night of burning.”		
163k	6/29/15	PM, soot	“A lot of soot”	Monongahela	
163l	7/1/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163m	7/2/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163n	7/4/15	Odor		Donora	All day
163o	7/8/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163p	7/9/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163q	7/13/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163r	7/14/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163s	7/15/15	PM	“pollution was really bad”	Monongahela	In the a.m.
163t	7/20/15	PM, soot	Photo provided: “Here is the coke dust on top of our [pool] cover this morning.”	Monongahela	All day
163u	7/21/15	Odor, PM	“strong smell of sulfur”	Monessen	All day
163v	7/25/15	PM	“... large amount of dust and PM on my vehicle and around the home when it had not been there the day before. Happened almost overnight.”	Monongahela	All day
163w	7/26/15	PM	“Again a large amount of black dust and debris on vehicle.”	Monongahela	All day
163x	7/30/15	Odor	“Horrible smell downtown ... I could barely breathe.”	Monessen	Morning - 2:00 p.m.
163y	8/3/15	PM, soot	“A lot of soot, the most in a long time.”	Monongahela	All day
163z	10/1/15	Odor	“Horrible sulfur smell all night long ... no sleep and wake up with sinus	Monessen	All night

			headaches...”		
163aa	10/2/15	Odor	“Got zero sleep last night because of the smell ... my whole house smells.”	Monessen	All night

164. The following was reported to PADEP by ArcelorMittal, on the dates listed:

COMPLAINT PARAGRAPH NUMBER	DATE	POLLUTANT REPORTED	CAUSE OR LOCATION (if reported)	DURATION or START TIME (if reported)
164a	10/27/14	PM	Emergency quenching operation at Plant	9:00 a.m.
164b	10/28/14	PM	Emergency quenching operation at Plant	24 hrs
164c	10/29/14	PM	Emergency quenching operation at Plant	24 hrs
164d	10/30/14	PM	“	24 hrs
164e	10/31/14	PM	“	24 hrs
164f	11/1/14	PM	“	24 hrs
164g	11/2/14	PM	“	24 hrs
164h	11/3/14	PM	“	24 hrs
164i	11/4/14	PM	“	24 hrs

165. On the dates listed in ¶¶ 160a-160rrrr and 163a-164i, ArcelorMittal violated Section C.I. #001 of the Plant’s Title V Permit (which incorporates 25 Pa. Code § 121.7 of the Pennsylvania SIP) by permitting “air pollution.”

166. On the dates listed in ¶¶ 160a-160rrrr and 163a-164i, above, ArcelorMittal violated 25 Pa. Code § 121.7 of the Pennsylvania SIP by permitting “air pollution.”

167. On the dates listed in ¶¶ 160a-160rrrr and 163a-164i, above, ArcelorMittal violated the CAA by permitting “air pollution.”

COUNT III: Unlawful Fugitive Emissions

168. Plaintiffs incorporate ¶¶ 1-167.

169. Section C.I. #002(c) of the Plant's Title V permit (which incorporates 25 Pa. Code § 123.1 of the Pennsylvania SIP) provides that a person responsible for sources including coke oven batteries, stockpiling of materials, and the use and maintenance of roads and streets, "shall take all reasonable actions to prevent particulate matter from becoming airborne."

170. On 7/11/14, the Plant generated fugitive dust in the Coal Stock Pile Area.

171. On 10/18/14, the Plant allowed fugitive emissions to cross the Plant's property boundary.

172. On 10/28/14, the Plant emitted fugitive air contaminants into the outdoor atmosphere from roads throughout the Plant.

173. On 12/19/14, the Plant emitted fugitive dust into the outdoor atmosphere. The fugitive dust emission was the result of a road drag-out.

174. On 2/10/15, the Plant generated fugitive dust that crossed the property boundary.

175. On 3/13/15, the Plant generated fugitive dust that crossed the property boundary.

176. On 3/16/15, the Plant deposited earth or other material onto the street and generated fugitive dust (road drag-out) beyond the facility boundary.

177. On 3/20/15, the Plant allowed fugitive emissions coming from the coke oven area to cross the Plant's property line.

178. On 6/22/15, the Plant generated fugitive dust that crossed the property boundary.

179. On 6/23/15, the Plant generated fugitive dust (road drag-out) beyond the facility boundary.

180. PADEP issued Notices of Violations to ArcelorMittal Monessen for each of the fugitive emission events described in ¶¶ 170-179. These Notices of Violations stated that ArcelorMittal Monessen violated Section C.I. #002(c) of the Title V Permit.

181. ArcelorMittal violated Section C.I. #002(c) of the Title V Permit and 25 Pa. Code § 123.1 of the Pennsylvania SIP by generating fugitive emissions on the dates set forth in, and as described in, ¶¶ 170-179.

182. ArcelorMittal violated the Clean Air Act by generating fugitive emissions on the dates set forth in, and as described in, ¶¶ 170-179.

COUNT IV: Malodorous Air Contaminants

183. Plaintiffs incorporate ¶¶ 1 through 182.

184. Section C.I. #006 of the Plant's Title V permit (which incorporates 25 Pa. Code § 123.31 of the Pennsylvania SIP) provides: "A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated."

185. A malodor is defined in 25 Pa. Code § 121.1 as "an odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public."

186. PADEP personnel documented specific instances of objectionable malodors from the Plant on 1/14/15, 2/10/15, and 3/13/15.

187. Plaintiffs are unaware of any instance in which PADEP has issued a Notice of Violation for a malodor emitted from the Plant when a PADEP inspector was not physically present to experience the malodor.

188. Had a PADEP inspector inspected the Plant or the off-site location of reported malodors at or closer to the time citizens complained about odors from the Plant, PADEP would more often have found objectionable malodors to have been caused by the Plant.

189. ArcelorMittal violated Section C.I. #006 of the Title V Permit on 1/14/15, 2/10/15, and 3/13/15 by permitting malodorous air contaminants into the atmosphere that were found to be objectionable by PADEP.

190. ArcelorMittal violated 25 Pa. Code § 123.31 of the Pennsylvania SIP on 1/14/15, 2/10/15, and 3/13/15 by permitting malodorous air contaminants into the atmosphere that were found to be objectionable by PADEP.

191. ArcelorMittal violated the CAA on 1/14/15, 2/10/15, and 3/13/15 by permitting malodorous air contaminants into the atmosphere that were found to be objectionable by PADEP.

COUNT V: Excess Opacity

192. Section C.I. #007 of the Plant's Title V permit (which incorporates 25 Pa. Code § 123.41 of the Pennsylvania SIP) provides: "A person may not permit 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 three minutes in any 1 hour.
- (2) Equal to or greater than 60% at any time."

193. On 4/15/14, the opacity from Stack 1 emissions at the Plant measured over 20% for 34.75 minutes in one hour.

194. On 4/28/14, the opacity from Stack 1 emissions at the Plant measured over 20% for 46.25 minutes in one hour, and over 60% for 21 minutes in one hour.

195. On 5/1/14, the opacity from Stack 1 emissions at the Plant measured over 20% for 16.5 minutes in one hour, and over 60% for 6.25 minutes in one hour.

196. From 5/1/14-5/2/14, the opacity from coke oven pushing emissions at the Plant measured over 20% for 96 minutes.

197. On 6/27/14, the opacity from coke oven pushing emissions at the Plant measured over 20% for 24 minutes in one hour.

198. On 7/16/14, the opacity from Stack 1B emissions at the Plant measured over 20% for 18.75 minutes in one hour.

199. On 10/1/14, the opacity from Stack 1B emissions at the Plant measured over 20% for 3.5 minutes in one hour.

200. On 10/28/14, the opacity from Stack 2 emissions at the Plant measured over 20% for 12.25 minutes in one hour.

201. On 12/2/14, the opacity from Stack 1B emissions at the Plant measured over 20% for 13.75 minutes in one hour.

202. On 1/14/15, the opacity from White Stack 2 emissions at the Plant measured over 20% for 12.25 minutes in one hour.

203. On 1/22/15, the opacity from Tan Stack 1 emissions at the Plant measured over 20% for 25.5 minutes in one hour and over 60% for 12 minutes in one hour.

204. On 2/12/15, the opacity from Tan Stack 1 emissions at the Plant measured over 20% for 22.5 minutes in one hour and over 60% for 4 minutes in one hour.

205. On 3/13/15, fugitive emissions at the Plant exceeded the opacity limit. Publicly available documents do not specify the time period or whether the 20% limit or the 60% limit was violated.

206. On 3/14/15, the opacity from Tan Stack 1 & coke oven emissions at the Plant measured over 20% for 25.5 minutes in one hour and over 60% for 7.5 minutes in one hour.

207. On 3/15/15, the opacity from Tan Stack 1 & coke oven emissions at the Plant measured over 20% for 25.5 minutes in one hour and over 60% for .75 minutes in one hour.

208. On 3/16/15, the opacity from Tan Stack 1 & coke oven emissions at the Plant measured over 20% for 6.5 minutes in one hour.

209. On 3/20/15, coke oven area emissions at the Plant exceeded the opacity limit. Publicly available documents do not specify the time period or whether the 20% limit or the 60% limit was violated.

210. On 3/22/15, the opacity from Tan Stack 1 emissions at the Plant measured over 20% for 17.25 minutes in one hour and over 60% for 0.5 minutes in one hour.

211. On 3/25/15, the opacity from Tan Stack 1 emissions at the Plant measured over 20% for 12.5 minutes in one hour and over 60% for 1.25 minutes in one hour.

212. On 3/29/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 12.75 minutes in one hour.

213. On 4/2/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 18.5 minutes in one hour and over 60% for 2 minutes in one hour.

214. On 4/6/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 17.5 minutes in one hour and over 60% for 1 minute in one hour.

215. On 4/14/15, the opacity from Battery Pushing Operations at the Plant measured over 20% for 6 seconds from coke oven battery "B23/1," 10 seconds from coke oven batter "C23/2", and 13 seconds from coke oven battery "B25/1."

216. On 4/15/15, the opacity from Battery Pushing Operations at the Plant measured over 20% for 5 seconds from coke oven battery "C2/1."

217. On 4/15/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 33 minutes in one hour.

218. On 4/23/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 19.75 minutes in one hour and over 60% for 2 minutes in one hour.

219. On 5/4/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 29 minutes in one hour and over 60% for 4.25 minutes in one hour.

220. On 5/20/15, the opacity from Stack 2 emissions at the Plant exceeded the opacity limit for 6.25 minutes during a 30 minute reading and 0.5 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

221. On 5/26/15, the opacity from Stack 2 emissions at the Plant exceeded the opacity limit for 3.5 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

222. On 5/27/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 9.25 minutes in one hour.

223. On 5/29/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 16.25 minutes in one hour.

224. On 6/2/15, the opacity from White Stack 2 emissions at the Plant measured over 20% for 9.75 minutes in one hour.

225. On 6/9/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 29.5 minutes in one hour and over 60% for 4.25 minutes in one hour.

226. On 6/11/15, the opacity from Stack 2 emissions at the Plant measured over 20% for 3.5 minutes in one hour.

227. On 6/14/15, the opacity from Stack 1 emissions at the Plant measured over 20% for 35.75 minutes in one hour and over 60% for 2 minutes in one hour.

228. On 6/16/15, the opacity from Stack 1 emissions at the Plant exceeded the opacity limit for 30.25 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

229. On 6/17/15, the opacity from Stack 2 emissions at the Plant exceeded the opacity limit for 1.5 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

230. On 6/18/15, the opacity from Stack 1 emissions at the Plant exceeded the opacity limit for 22.25 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

231. On 6/22/15, the opacity from Stack 1 and Stack 2 emissions at the Plant exceeded the opacity limit for 37.75 minutes in one hour and 1.5 minutes in one hour respectively. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

232. On 6/23/15, the opacity from Stack 1 emissions at the Plant exceeded the opacity limit for 28.25 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

233. On 6/25/15, the opacity from Stack 2 emissions at the Plant exceeded the opacity limit for .75 minutes in one hour. Publicly available documents do not specify whether the 20% limit or the 60% limit was violated.

234. On 7/1/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

235. On 7/5/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

236. On 8/12/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

237. On 8/16/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

238. On 9/1/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

239. On 9/2/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

240. On 9/15/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

241. On 9/16/15, opacity emissions at the Plant exceeded the opacity limit. Publicly available documents offer no additional details of the violation.

242. The information contained in ¶¶ 193-241 was obtained from ArcelorMittal's Compliance Certification Forms, PADEP inspection reports, Pennsylvania's Environment Facility Application Compliance Tracking System "eFACTS" data, or all three sources.

243. On each of the dates set forth in ¶¶ 193-241, above, ArcelorMittal violated C.I. #007 of the Plant's Title V Permit by permitting emissions with an opacity equal to or greater than 20% for a period or periods aggregating more than three minutes in any one hour, and/or equal to or greater than 60% at any time.

244. On each of the dates set forth in ¶¶ 193-241, above, ArcelorMittal violated 25 Pa. Code § 123.41 of the Pennsylvania SIP by permitting emissions with an opacity equal to or greater than 20% for a period or periods aggregating more than three minutes in any one hour, and/or equal to or greater than 60% at any time.

245. On each of the dates set forth in ¶¶ 193-241, above, ArcelorMittal violated the CAA by permitting emissions with an opacity equal to or greater than 20% for a period or periods aggregating more than three minutes in any one hour, and/or equal to or greater than 60% at any time.

COUNT VI: Hydrogen Sulfide Violations

246. Section C.I. #011(a) of the Plant’s Title V Permit provides: “The owner or operator may not permit the flaring or combustion of a coke oven byproduct gas which contains sulfur compounds, expressed as equivalent hydrogen sulfide, in concentrations greater than 45 grains per 100 dry standard cubic feet. The sulfur compounds, expressed as equivalent hydrogen sulfide, emitted into the outdoor atmosphere from any tail gas sulfur recovery equipment utilized in a coke oven gas desulfurization system approved by the Department shall be included in the determination of these concentrations.”

247. Section C.I. #010(b) of the Plant’s Title V Permit provides: “The owner or operator may not permit the flaring or combustion of a coke oven byproduct gas which contains sulfur compounds, expressed as equivalent hydrogen sulfide, in concentrations greater than 50 grains per 100 dry standard cubic feet. The sulfur compounds, expressed as equivalent hydrogen sulfide, emitted into the outdoor atmosphere from any tail gas sulfur recovery equipment utilized in a coke oven gas desulfurization system approved by the Department shall be included in the determination of these concentrations.”

248. On the dates listed below, the Plant flared or combusted coke oven byproduct gas with equivalent hydrogen sulfide concentrations in the following amounts:

COMPLAINT PARAGRAPH NUMBER	DATE	H₂S CONCENTRATION (gr. H₂S/100 dscf COG)
248a	4/14/14	210
248b	4/15/14	215
248c	4/16/14	415

248d	4/17/14	305
248e	4/18/14	115
248f	4/23/14	140
248g	4/25/14	156
248h	4/26/14	148
248i	4/27/14	63
248j	4/29/14	76
248k	5/2/14	68
248l	5/9/14	92
248m	5/14/14	53
248n	5/15/14	81
248o	5/17/14	67
248p	5/19/14	68
248q	5/21/14	71
248r	5/24/14	87
248s	5/29/14	83
248t	5/30/14	68
248u	6/2/14	56
248v	6/3/14	100
248w	6/4/14	81
248x	6/5/14	102
248y	6/6/14	77
248z	6/7/14	69
248aa	6/10/14	81
248bb	6/11/14	130
248cc	6/12/14	142
248dd	6/13/14	133
248ee	6/14/14	118
248ff	6/15/14	143
248gg	6/17/14	51
248hh	6/20/14	330
248ii	6/23/14	148
248jj	6/27/14	63
248kk	6/28/14	107
248ll	6/29/14	78
248mm	6/30/14	115
248nn	7/1/14	53
248oo	7/2/14	90
248pp	7/3/14	87
248qq	7/7/14	107
248rr	7/8/14	105
248ss	7/10/14	98
248tt	7/11/14	130
248uu	7/12/14	117
248vv	7/13/14	120
248ww	7/14/14	147

248xx	7/15/14	148
248yy	7/16/14	120
248zz	7/17/14	92
248aaa	7/18/14	101
248bbb	7/19/14	137
248ccc	7/20/14	150
248ddd	7/21/14	142
248eee	7/22/14	147
248fff	7/23/14	117
248ggg	7/24/14	123
248hhh	7/25/14	68
248iii	7/26/14	97
248jjj	7/29/14	52
248kkk	8/19/14	85
248lll	8/20/14	235
248mmm	8/21/14	275
248nnn	8/22/14	265
248ooo	8/23/14	275
248ppp	8/24/14	235
248qqq	8/25/14	240
248rrr	8/26/14	250
248sss	8/27/14	260
248ttt	8/28/14	260
248uuu	8/29/14	240
248vvv	8/30/14	245
248www	8/31/14	245
248xxx	9/1/14	255
248yyy	9/2/14	260
248zzz	9/3/14	245
248aaaa	9/4/14	235
248bbbb	9/5/14	235
248cccc	9/6/14	245
248dddd	9/7/14	250
248eeee	9/8/14	265
248ffff	9/9/14	240
248gggg	9/10/14	260
248hhhh	9/11/14	105
248iiii	9/12/14	100
248jjjj	9/19/14	150
248kkkk	9/22/14	60
248llll	9/25/14	104
248mmmm	9/29/14	77
248nnnn	5/19/15	154
248oooo	5/22/15	340
248pppp	5/28/15	305
248qqqq	5/29/15	85

248rrrr	5/30/15	60
248ssss	5/31/15	75
248tttt	6/1/15	60
248uuuu	6/2/15	67
248vvvv	6/3/15	79
248wwww	6/4/15	160
248xxxx	6/5/15	125
248yyyy	6/6/15	215
248zzzz	6/7/15	235
248aaaaa	6/8/15	135
248bbbbbb	6/9/15	185
248ccccc	6/10/15	330
248dddddd	6/11/15	125
248eeeeee	6/12/15	160
248fffff	6/13/15	315
248ggggg	6/14/15	320
248hhhhh	6/15/15	455
248iiiiii	6/16/15	365
248jjjjj	6/17/15	265
248kkkkk	6/18/15	340
248lllll	6/19/15	365
248mmmmm	6/20/15	320
248nnnnn	6/21/15	305
248ooooo	6/22/15	335
248ppppp	6/23/15	345
248qqqqq	6/24/15	345
248rrrrr	6/25/15	355
248sssss	6/26/15	325
248ttttt	6/27/15	200
248uuuuu	6/28/15	310
248vvvvv	6/29/15	340
248wwwww	6/30/15	335

249. On each of the dates listed in ¶¶ 248a-248wwwww, above, ArcelorMittal violated the 45 gr/dscf limit in Section C.I. #011(a) of the Plant's Title V Permit.

250. On each of the dates listed in ¶¶ 248a-248wwwww, above, ArcelorMittal violated the 50 gr/dscf limit in Section C.I. #010(b) of the Plant's Title V Permit.

251. On the dates listed below, the Plant flared or combusted coke oven byproduct gas with equivalent hydrogen sulfide concentrations in the following amounts:

COMPLAINT PARAGRAPH NUMBER	DATE	H ₂ S CONCENTRATION (gr. H ₂ S/100 dscf COG)
251a	4/19/14	50
251b	5/16/14	49
251c	6/25/14	47
251d	6/26/14	47

252. On each of the dates listed in ¶¶ 251a-251d, above, ArcelorMittal violated the 45 gr/dscf limit in Section C.I. #011(a) of the Plant’s Title V Permit.

253. ArcelorMittal violated the CAA on each date listed in ¶¶ 248a-248www and 251a-251d, above, by exceeding the H₂S limits in the Plant’s Title V Permit.

COUNT VII: Hydrogen Sulfide Monitoring Violations

254. Section C.III. #015(a) of the Title V Permit requires ArcelorMittal “to install, operate, and maintain a Continuous H₂S Monitoring Device to measure and quantify sulfur compound concentrations, expressed as equivalent hydrogen sulfide (H₂S), in the desulfurization byproduct coke oven gas (COG)” at the Plant.

255. The Plant does not have a Continuous H₂S Monitoring Device of the type described in Section C.III. #015(a) of the Title V Permit. The Plant has not had a Continuous H₂S Monitoring Device of the type described in Section C.III. #015 of the Title V Permit since the Plant re-started on April 10, 2014.

256. ArcelorMittal has been in continuous violation of Section C.III. #015(a) of the Title V Permit from the date of the Plant’s re-start on April 10, 2014, by failing to install, operate, and maintain a Continuous H₂S Monitoring Device of the type described in Section C.III. #015(a) of the Title V Permit.

257. Section C.VI. #022 of the Plant’s Title V Permit provides: “A person may not cause or permit the operation of a source subject to this article unless the source and air cleaning devices identified in the application for the plan approval and operating permit

and the plan approval issued to the source are operated and maintained in accordance with specifications in the application and conditions in the plan approval and operating permit issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.”

258. ArcelorMittal has been in continuous violation of Section C.VI. #022 of the Title V Permit from the date of the Plant’s re-start on April 10, 2014, by failing to install, operate, and maintain a Continuous H₂S Monitoring Device of the type described in Section C.III. #015(a) of the Title V Permit.

259. ArcelorMittal’s failure to install, operate, and maintain a continuous H₂S monitor of the type described in Section C.III. #015(a) of the Title V Permit constitutes a continuous violation of the CAA, from the date of the Plant’s re-start on April 10, 2014.

COUNT VIII: Sulfur Dioxide Violations

260. Section D.I. #001(a) of the Plant’s Title V Permit provides: “The SO_x emissions (as SO₂) as measured in the combined boiler exhaust stack shall not exceed 63 pounds per hour (lbs/hr) or 275 tons per year (tpy).”

261. The chart below includes complaint ¶¶ 261a-261h listing dates and emission levels of SO₂ per hour as measured in the combined boiler exhaust stack at the Plant:

COMPLAINT PARAGRAPH NUMBER	DATE	AMOUNT EMITTED (lbs/hr SO₂)
261a	6/15/14	67
261b	6/20/14	117
261c	6/23/14	68
261d	7/11/14	70
261e	7/13/14	65
261f	7/14/14	80
261g	7/15/14	78
261h	7/19/14	74

261i	7/20/14	86
261j	7/21/14	74
261k	7/22/14	78
261l	7/23/14	64
261m	7/24/14	65
261n	8/20/14	106
261o	8/21/14	94
261p	8/22/14	111
261q	8/23/14	88
261r	8/24/14	78
261s	8/25/14	97
261t	8/26/14	106
261u	8/27/14	115
261v	8/28/14	118
261w	8/29/14	115
261x	8/30/14	115
261y	8/31/14	115
261z	9/1/14	128
261aa	9/2/14	130
261bb	9/3/14	119
261cc	9/4/14	107
261dd	9/5/14	105
261ee	9/6/14	122
261ff	9/7/14	119
261gg	9/8/14	127
261hh	9/9/14	113
261ii	9/10/14	125
261jj	5/19/15	83
261kk	5/22/15	183
261ll	5/28/15	119

262. ArcelorMittal violated Section D.I. #001(a) of the Plant's Title V Permit by emitting SO₂ as measured in the Plant's combined boiler exhaust stack in excess of 63 pounds lbs/hr. on each of the dates set forth in ¶¶ 261a-261ll.

263. ArcelorMittal violated the CAA by emitting SO₂ as measured in the combined Plant's boiler exhaust stack in excess of 63 pounds lbs/hr on each of the dates set forth in ¶¶ 261a-261ll.

**PENNVIRONMENT MEMBERS ARE HARMED
BY DEFENDANTS' VIOLATIONS**

264. Members of PennEnvironment live near, own property near, and spend time shopping and recreating near the Plant.

265. At least one PennEnvironment member lives less than 1,000 feet from the Plant. Other members live less than 1.5 miles from the Plant.

266. PennEnvironment members reside in the towns of Monessen, Monongahela, and Donora.

267. As of October 2015, at least 100 citizen complaints (including many filed by PennEnvironment members) had been made to the PADEP about airborne odors, smoke, soot, and debris coming from the Plant.

268. Many of the citizen complaints made to PADEP cite a "rotten egg smell" to describe odors coming from the Plant.

269. Citizens who filed complaints about the Plant reside in Monessen or in one of six neighboring towns: Monongahela, Donora, Belle Vernon, Charleroi, Wickerham Manor-Fisher, and New Eagle.

270. Plaintiff's members experience noxious odors emitted from the Plant, including rotten egg odors, sewer-like odors, sulfur smells, and tar and gasoline-type odors.

271. Plaintiff's members experience difficulty breathing, exacerbated asthma, and other respiratory irritation that they attribute to emissions from the Plant.

272. Plaintiff's members have had airborne soot from the Plant deposited on their property. The soot gets inside their homes, is aesthetically displeasing, is difficult to clean, and may corrode metal and other surfaces. Plaintiffs' members have a reasonable fear that the soot from the Plant is unhealthy to contact or to breathe.

273. Plaintiff's members believe the conditions and symptoms described in ¶¶ 268-272 are caused by the Plant's air emissions and violations, based on one or more of the following factors: the proximity of the Plant to their homes or to the places where they experience these impacts; the wind direction at the time they experience these impacts; visual observations of smoke, soot, or dust emissions from the Plant; the fact that the odors they experience are consistent with materials used or produced at the Plant; and the absence of any other possible sources of such emissions or odors in the area.

274. The pollutants the Plant emitted during the alleged violations cause the types of symptoms and conditions Plaintiff's members have experienced.

275. The onset of the symptoms and conditions Plaintiff's members have experienced coincides with the date of the re-opening of the Plant in April 2014.

276. Plaintiff's members want to breathe as little air pollution from the Plant as possible, and certainly do not want to breathe illegally emitted air pollutants.

277. Plaintiff's members are reasonably concerned that the air pollution from the Plant's violations threatens their health and their families' health.

278. The odors and soot emitted from the Plant diminish Plaintiff's members' enjoyment of their homes, backyards, and neighborhoods.

279. The air pollution from the Plant's violations causes Plaintiff's members to visit the city of Monessen and its downtown area less frequently than they otherwise would.

280. Plaintiff's members are harmed by monitoring violations at the Plant, as the failure to properly monitor the emission of air pollutants denies them valuable information about the Plant's true impact on the surrounding area and the Plant's compliance or non-compliance with emission limits.

281. The actual and threatened harm to Plaintiff's members would be redressed by an injunction or other relief that prevents or deters further violations of emission standards and limitations, or that remediates harm that has already been caused to local communities.

RELIEF REQUESTED

Plaintiffs request that this Court:

- a. Declare Defendants to have violated and to be in violation of the Clean Air Act, the Pennsylvania SIP, and the Plant's Title V operating permit on each of the dates and by committing each of the violations described in Counts I through VIII;
- b. Order Defendants to comply with the Clean Air Act, the Pennsylvania SIP, the Plant's Title V operating permit, and to refrain from further violations of the emission standards and limitations specified in the Plant's Title V operating permit, and the Pennsylvania SIP;
- c. Order Defendants to implement measures to remedy, mitigate, or offset the harm to public health and the environment caused by the violations alleged above;
- d. Assess an appropriate civil penalty against Defendants of up to \$37,500 per day for each violation of the Act and applicable permits and regulations, as provided by 42 U.S.C. §§ 7413(e) and 7604(a) and (g);
- e. Award Plaintiffs their costs of litigation (including reasonable attorney and expert witness fees), as provided by 42 U.S.C. § 7604(d);
- f. Order such other relief as the Court deems appropriate.

Dated: October 8, 2015



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