



March 23, 2017

Via Certified Mail, Return Receipt Requested

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Patrick McDonnell, Acting Secretary
PA Department of Environmental Protection
Rachel Carson State Office Building, 12th
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Harrisburg, PA 17105

Re: Notice of Intent to Sue for Clean Air Act Violations at the Specialty Steel and Products Facility at 100 River Road, Brackenridge, PA

Dear Sir or Madam, Plant Manager, Administrator Pruitt, Director Kelly, and Secretary McDonnell:

Pursuant to 42 U.S.C. § 7604(b), we are writing on behalf of the Group Against Smog and Pollution, PennEnvironment, and Clean Air Council to provide you with notice of intent to file suit for significant and ongoing violations of the Clean Air Act at the specialty steel and products facility located at 100 River Road, Brackenridge, Allegheny County, PA 15014 (the

Plant).¹ Allegheny Ludlum, LLC, ATI Flat Rolled Products Holdings, LLC, and/or Allegheny Technologies Incorporated (collectively referred to below as Allegheny Ludlum) own and/or operate the Plant and are thus responsible for these violations.²

Emissions from the Plant's two electric arc furnaces (EAFs) have violated and continue to violate limits from Minor Modification Installation Permit # 0059-I006, issued by the Allegheny County Health Department on November 8, 2002 (the 2002 Permit, attached as Exhibit 1). In its 2008 application to modify the 2002 Permit and in its comments on the draft "Title V" permit for the Plant, Allegheny Ludlum itself has admitted that the EAFs have not met the 2002 Permit's limits. Specifically, emissions from the EAFs have violated and continue to violate the 2002 Permit's "per-heat" limits for sulfur oxides, nitrogen oxides (NO_x), carbon monoxide (CO), and particulate matter (PM). Emissions from the EAFs also have violated and continue to violate the permit's annual limits for sulfur oxides and NO_x. For example, emissions tests show that one of the two EAFs has exceeded its annual NO_x limit of 41.96 tons by almost that same amount. Similarly, each EAF has emitted sulfur oxides more than double its annual limit of 6.97 tons.

These emissions have real-world consequences. Allegheny County is nonattainment for ozone and PM. NO_x is a precursor to ground-level ozone (or smog), which can trigger a variety of respiratory and cardiovascular problems (such as causing shortness of breath, aggravating lung diseases, and even leading to death from respiratory causes), particularly for children, the elderly, and people of all ages who have lung diseases such as asthma. *See* <https://www.epa.gov/ozone-pollution/health-effects-ozone-pollution>. With sulfur oxides, even short-term exposure can cause decreased lung function, increased respiratory distress, and other serious indicators of respiratory illness, especially in asthmatics, children, and the elderly. *See* 75 Fed. Reg. 35,520, 35,525-26 (June 22, 2010). Similarly, numerous scientific studies have linked PM exposure to a variety of problems, including premature death in people with heart or lung disease, heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms. *See* <https://www.epa.gov/pm-pollution/health-and->

¹ 40 C.F.R. § 54.3 requires that we provide the addresses of these future plaintiffs. The address for the Group Against Smog and Pollution is 1133 South Braddock Avenue, Suite 1A, Edgewood, PA 15218. PennEnvironment's address is 1429 Walnut Street, Suite 1100, Philadelphia, PA 19102 (with an additional office at 1831 Murray Ave., Suite 219, Pittsburgh, PA 15217). Clean Air Council's address is 135 S. 19th Street, Suite 300, Philadelphia, PA, 19103 (with a Pittsburgh office at 200 First Ave, Suite 200, Pittsburgh, PA 15222).

² In October 31, 2016 comments on the Plant's draft Clean Air Act Title V permit, Allegheny Ludlum, LLC indicated that it was the owner and operator of the Plant. Yet a February 10, 2017 Consent Order and Agreement with the Allegheny County Health Department (ACHD) states that ATI Flat Rolled Products Holdings, LLC owns and operates the Plant. According to the July 2013 application for the Plant's Title V permit, Allegheny Technologies Incorporated is the ultimate parent of the applicant(s). In addition, earlier documents (such as the 2002 permit at issue in this letter) indicate that the Plant was owned and operated by Allegheny Ludlum Corporation. According to the February 27, 2012 Form 10-K filed by Allegheny Technologies Incorporated, in late 2011 or early 2012, Allegheny Ludlum, LLC was formed from the merger of Allegheny Ludlum Corporation into ALC Merger, LLC, with the name of ALC Merger, LLC then changed to Allegheny Ludlum, LLC.

environmental-effects-particulate-matter-pm. And CO exposure can reduce the amount of oxygen that can be transported in the blood stream to critical organs like the heart and brain. *See* <https://www.epa.gov/co-pollution/basic-information-about-carbon-monoxide-co-outdoor-air-pollution#Effects>.

I. Emissions from the Plant's EAFs Have Violated the 2002 Permit's Limits.

The Allegheny County Health Department (ACHD) issued the 2002 Permit to authorize the replacement of the Plant's then-existing four EAFs with two new EAFs. 2002 Permit at 4. The 2002 Permit contains both annual (in tons/year) and "lbs/heat" limits for certain pollutants from the "DEC" and canopy baghouses, which control emissions from the two new EAFs.³ Baghouses are designed to control PM, but the EAFs do not have any separate controls for sulfur oxides, NO_x, or CO. The emissions from each of the two new EAFs are controlled by two DEC baghouses and one "canopy" baghouse. *See id.* at 4. Specifically, EAF 1 is controlled by DEC baghouses 1A and 1B and canopy baghouse D007.⁴ *Id.* at 15-16; 2011 EAF Emissions Testing Reports from Air/Compliance Consultants, Inc., Figure 1 at 17. EAF 2 is controlled by DEC baghouses 2A and 2B and canopy baghouse D004. *Id.* The annual and per-heat limits in the 2002 Permit are listed for DEC 1A and 1B combined, DEC 2A and 2B combined, D004 and D007. 2002 Permit at 17.

Importantly, the 2002 Permit currently does not contain limits for sulfur oxides, NO_x, CO, or volatile organic compound (VOC) emissions from the canopy baghouses, even though the post-installation emissions tests have shown that there are large emissions of these pollutants from D004 and D007 — as evidenced by the fact that, through the draft Title V permit, ACHD proposed to add significant limits for these pollutants from the canopy baghouses.⁵ In obtaining the 2002 Permit, Allegheny Ludlum failed to disclose the emissions of these pollutants from the canopy baghouses. In doing so and by emitting the pollutants from D004 and D007 without a permit, Allegheny Ludlum violated the ACHD Implementation Plan.⁶

³ The permit defines a "year" as "any 12 consecutive months" and defines a "heat" as "from beginning of furnace charge to end of furnace tap." 2002 Permit at 17.

⁴ The materials in our possession show that the D007 canopy baghouse also controls emissions from the facility's argon-oxygen decarburization vessel, continuous caster torch cutters, ladle trim, and raw materials handling.

⁵ The draft Title V permit contains the following annual limits for these pollutants from each canopy baghouse: 10.06 tons/year of sulfur oxides; 10.5 tons/year of NO_x; 102.78 tons/year of CO; and 6.44 tons/year of VOCs.

⁶ *See* Article XXI §§ 2102.04(a)(1) (requiring an installation permit before modification, replacement, or installation of any source); 2102.03(a) (requiring permit applications to provide "all information sufficient for the Department to commence evaluation of the subject source . . . and to determine all applicable requirements"); 2101.11(b)(1) (providing it is a violation to operate any source to release air contaminants except as explicitly permitted by Article XXI); 2110.11(b)(4) (providing it is a violation to submit an application form that is, in whole or part, inaccurate or incomplete).

The EAFs have violated — and continue to violate — the limits that the 2002 Permit does contain for emissions of sulfur oxides, NO_x, and CO from the DEC baghouses and PM from the canopy baghouses as follows:

A. Violations of the Permit’s Per-Heat Limits

The 2002 Permit contains lbs/heat limits for DEC 1A and 1B combined — and DEC 2A and 2B combined — of 5.82 for sulfur oxides, 35.06 for NO_x, and 123.2 for CO. 2002 Permit at 17. The 2002 Permit also contains a lbs/heat limit of 10.66 PM from either D004 or D007. *Id.* The emissions tests performed on the new EAFs in 2004,⁷ 2006, and 2011 show that the EAFs violated these per-heat limits as follows:

DEC 1A+1B (EAF 1) Combined lbs/heat Emissions

Pollutant	2002 Permit Limit	2004 Test	2006 Test	2011 Test
SO ₂ ⁸	5.82	17.08	15.43	18.24

DEC 2A+2B (EAF 2) Combined lbs/heat Emissions

Pollutant	2002 Permit Limit	2006 Test	2011 Test
SO ₂	5.82	19.79	12.84
NO _x	35.06	109.33	65.55
CO	123.2	130.80	70.84

D004 Canopy (EAF 2) lbs/heat Emissions

Pollutant	2002 Permit Limit	2006 Test	2011 Test
PM	10.66	116.73	9.63

The 2004 test results list the relevant lbs/heat emissions noted above, while the results from the 2006 and 2011 emissions tests do not. To calculate the per-heat emissions from the 2006 and 2011 tests, we multiplied the reported lbs/hr emission rate for each of several test runs by the reported heat duration for that test run — and then averaged the resulting lbs/heat values from the various test runs. The excerpts of the 2004, 2006, and 2011 test results that we used in our calculations are respectively attached as Exhibits 2, 3, and 4.⁹

⁷ Only EAF 1 was tested in 2004.

⁸ Although the 2002 Permit contains limits of 5.82 lbs/heat and 6.97 tons/year for emissions of “sulfur oxides” from the DEC baghouses, Allegheny Ludlum only tested for sulfur dioxide (SO₂). Thus, we have listed the pollutant here and below as SO₂. Because Allegheny Ludlum only tested for SO₂, it is likely that the sulfur oxide emissions from the EAFs were even higher than those listed here — thus resulting in even greater violations of the sulfur oxide limits than shown here.

⁹ In 2011, Allegheny Ludlum updated the results of the 2006 emission tests, recalculating many of the relevant numbers, apparently based on a change that Allegheny Ludlum made to the flow rates from the 2006 results. We have used those updated numbers in our calculations here, though we did not see any explanation for changing the 2006 results. Thus, we reserve the right to rely on the older 2006 results (without having to re-notice any of the claims that might depend on those older results) depending on what we learn in discovery in the lawsuit noticed in this letter.

B. Violations of the Permit's Annual Limits

The EAFs have also violated — and continue to violate — the 2002 Permit's annual limits for sulfur oxides and NO_x. The permit contains annual limits for DEC 1A and 1B combined — and DEC 2A and 2B combined — of 6.97 tons/year of sulfur oxides and 41.96 tons year of NO_x. 2002 Permit at 17. The emissions tests performed in 2004, 2006, and 2011 show that the EAFs violated these annual limits as follows:

DEC 1A+1B (EAF 1) Combined Annual Emissions (tons/year)

Pollutant	2002 Permit Limit	2004 Test	2006 Test	2011 Test
SO ₂	6.97	18.55	10.90	15.94

DEC 2A+2B (EAF 2) Combined Annual Emissions (tons/year)

Pollutant	2002 Permit Limit	2006 Test	2011 Test
SO ₂	6.97	14.04	10.76
NO _x	41.96	78.39	54.72

Using the information that Allegheny Ludlum reported in its emissions tests, we calculated the annual emissions above using the same methodology employed by Allegheny Ludlum in Appendix D from its June 2008 revised application to modify the limits from the 2002 Permit. More specifically, to determine the annual emissions, we multiplied the relevant emission rates (in pounds of pollutant per ton of steel, or lbs/ton) by the annual tons of steel production that Allegheny Ludlum reported for each EAF in 2004, 2006, and 2011.¹⁰ We then multiplied the resulting numbers by 1.2 because, as Allegheny Ludlum stated in a June 30, 2011 letter to ACHD regarding EAF emissions reported to the emissions inventory for 2010, “EAFs characteristically have highly variable emission rates,” and thus, “[t]o account for variability,” one must “apply a 20% safety factor to stack test results to represent annual emissions.” Allegheny Ludlum listed the relevant lbs/ton emission rates for its 2006 and 2011 tests, whereas it did not for the 2004 test results. To arrive at the lbs/ton emission rates for 2004, we divided the reported lbs/heat by EAF tap weight data (in tons of steel) provided in the emissions test results.

Even if one does not apply the 20% “safety factor,” the EAFs still would violate the annual limits as follows:

¹⁰ The reported steel production for 2004 and 2006 is attached as Exhibit 5. Allegheny Ludlum reported EAF steel production for 2011 in a January 25, 2012 letter from Deborah Calderazzo to James Thompson at ACHD. ACHD produced that letter and the accompanying production data to Clean Air Council. Because Allegheny Ludlum marked the 2011 production data as “confidential business information,” we are, out of an abundance of caution, not including the 2011 data with this notice letter. If Allegheny Ludlum or ACHD would like us to separately provide a copy of the 2011 data, we are happy to do so.

DEC 1A+1B (EAF 1) Combined Annual Emissions (tons/year, not including safety factor)

Pollutant	2002 Permit Limit	2004 Test	2006 Test	2011 Test
SO ₂	6.97	15.46	9.08	13.29

DEC 2A+2B (EAF 2) Combined Annual Emissions (tons/year, not including safety factor)

Pollutant	2002 Permit Limit	2006 Test	2011 Test
SO ₂	6.97	11.70	8.97
NO _x	41.96	65.32	45.60

In reality, the 2011 EAF violations were likely even more significant than those listed in the tables above due to Allegheny Ludlum’s use of unconventional and apparently unapproved testing methodology that year. The emissions testing from 2011 used fan curves to estimate the stack gas volumetric flow rate instead of the standard EPA Method 2 for Determination of Stack Gas Velocity and Volumetric Flow Rate.¹¹ The fan-curve methodology resulted in predominantly lower values than EPA Method 2 measurements for the locations tested. The stack gas volumetric flow rate is directly proportional to emission rates for each pollutant, and a lower flow rate would result in an underestimation of emission rates.

Further, we do not have the reported annual production of steel from the EAFs for any full year after 2011. Allegheny Ludlum reported production that did not reach the 2002 Permit’s maximum annual throughput of 536,267 tons of steel for the two EAFs combined. *See* 2002 Permit at 4. For example, Allegheny Ludlum reported that EAF 1 produced 181,418 tons of steel in 2004 and that EAF 1 and 2 combined produced 268,847 tons of steel in 2006. If the EAFs produced at their annual throughput limit, annual emissions of the above pollutants would be larger. In general and with respect to the amount of steel that the EAFs produced during the years in question, we reserve the right to revise our calculations and their methodology and assert additional violations (without having to re-notice those violations) based on information obtained in discovery in the lawsuit noticed in this letter.

There is no doubt that the violations of the 2002 Permit limits continue, as both ACHD and Allegheny Ludlum have specifically stated in the process for issuing the Title V permit for the Plant that the facility cannot meet the limits from the 2002 Permit. *See, e.g.,* 9/29/16 ACHD Technical Support Doc. for Draft Title V Permit at 9 (“[T]he permittee requested an increase in EAF emissions limits because of the EAFs’ inability to meet current emission limits”); 10/31/16 Ltr. from Allegheny Ludlum to ACHD at 26 (“... as demonstrated through our periodic stack testing, some of the proposed emission limitations [for the EAFs] are not attainable”). And, importantly, we are aware of no modifications or changes that Allegheny Ludlum has made with respect to the EAFs that would remedy the violations at issue here. Although the 2002 Permit required Allegheny Ludlum to test the EAF emissions in 2016 (see page 17 of the permit), the company failed to do so, thus preventing us from obtaining more recent information on the continuing violations. We understand that Allegheny Ludlum will soon perform emissions tests

¹¹ The 2002 Permit and the regulatory provisions cited in the Permit required Allegheny Ludlum to use Method 2, 2A, 2C, or 2D to determine flow rate or to seek EPA approval for an alternate method for determining flow rate. *See* 2002 Permit at 17-18; 2017 Consent Order and Agreement at 7-8, 10. We have not seen any evidence that Allegheny Ludlum has obtained this approval.

for the EAFs, and we reserve the right to revise our claims in our complaint (without providing a new notice of intent to sue) to take into account the results from the 2017 emissions tests.

The above-described violations harm, and will continue to harm, the health, recreational, aesthetic, economic, and other interests of the Group Against Smog and Pollution, PennEnvironment, Clean Air Council, and their members. These harms are traceable to the Plant's violations of the 2002 Permit limits, and enjoining the violations will redress the harms.

II. Authority to Bring Suit

Section 304 of the Clean Air Act authorizes citizens to sue for violations of an "emission standard or limitation under this chapter." 42 U.S.C. § 7604(a)(1). That section defines "emission standard or limitation under this chapter" in relevant part as "any permit term or condition . . . which is in effect . . . under an applicable implementation plan." *Id.* § 7604(f)(4). Here, the 2002 Permit limits that Allegheny Ludlum has violated are "permit term[s] or condition[s] . . . in effect . . . under [the] applicable implementation plan." Specifically, § 2102.04(a)(1)(A) of the ACHD regulations provides that it is a violation for any person to install, modify, or replace any source unless ACHD has first issued an installation permit for such source, and § 2102.04(b)(5)-(6) require applications for installation permits to demonstrate that they will comply with emission limits of a certain stringency. These sections of the ACHD regulations, which have been approved by EPA into the Allegheny County Implementation Plan (*see* 40 C.F.R. § 52.2020(c)(2)), are the underlying requirements for the limits in the 2002 Permit.

In the lawsuit noticed in this letter, the Group Against Smog and Pollution, PennEnvironment, and Clean Air Council will seek injunctive relief to require Allegheny Ludlum to prevent the violations discussed above from continuing to occur, penalties, recovery of costs of litigation and attorney's fees, and other appropriate relief, as allowed by Clean Air Act § 304. At least 60 days before filing suit, § 304 requires a citizen-suit plaintiff to provide notice of the violation of an emission limitation. 42 U.S.C. § 7604(b)(1)(A). This letter is that notice.

Please direct all communications regarding this notice letter to the undersigned. We are happy to discuss any aspect of the allegations in the letter and look forward to hearing from you if you believe any of the above information is incorrect or are interested in discussing settlement prior to our filing suit.

Sincerely,



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Enclosures

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