

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Nucor Steel-Arkansas, Division of Nucor Corporation
Hickman Mill
P.O. Box 30
Armored, AR 72310

LIS No.16- 081
Permit No. AR0045977
AFIN 47-00233

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (Order) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the Nucor Steel-Arkansas, Division of Nucor Corporation (Respondent) and the Arkansas Department of Environmental Quality (ADEQ or Department), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent operates a scrap steel mill called the “Hickman Mill” (facility) located at 7301 East County Road 142, Blytheville, Mississippi County, Arkansas.
2. Respondent’s Outfall 004 discharges combined waste streams into the Mississippi River.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
4. Pursuant to the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accordance with 33 U.S.C. § 1342(a).

5. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act (the Act) to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.

6. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

7. Ark. Code Ann. § 8-4-103(a)(1)(A) authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

9. NPDES Permit Number AR0045977 (Permit) was issued to the Respondent on April 29, 2011. The Permit became effective on July 1, 2011, and was modified with a modification effective date of May 1, 2012. The Permit expired on June 30, 2016. Respondent submitted an administratively complete renewal application on December 12, 2015 and the Permit was administratively continued.

10. Respondent's Outfall 004 discharge combines waste streams of treated process wastewater from the Hot Mill and the Cold Mill, and treated wastewater from the vacuum tank degasser process (contact and non-contact cooling tower blowdown, backwash from boiler feed water softener unit, reject water from boiler feed water reverse osmosis unit, and boiler blowdown).

11. The Cold Mill waste stream includes wastewater discharged from a single process that has nickel discharge limitations based on applicable effluent limitation guidelines (ELGs) in EPA's technology-based New Source Performance Standards for the Iron and Steel Point Source Category (NSPS). That is

combined with wastewater from other processes that do not have technology-based NSPS nickel limitations or that are not subject to NSPS. This combined Cold Mill wastewater discharge undergoes partial treatment before being discharged on a batch basis to a common wastewater treatment system where it is combined with the Hot Mill discharge. The combined Cold Mill and Hot Mill discharge then is discharged through Outfall 004.

12. The nickel discharge limits in the Permit are derived from technology-based ELGs for a single process at Respondent's facility, the cold reversing mill. The applicable NSPS ELGs for Respondent's cold reversing mill process are expressed in terms of pounds of nickel per ton of steel processed through the cold reversing mill. Because the NSPS ELG-based nickel limits were more stringent than water quality-based discharge limits for nickel, the NSPS ELG-based limits were used in the Permit.

13. The Permit requires Respondent to periodically sample its wastewater discharge, to analyze the samples for various parameters, including nickel concentrations, and to report the results of those analyses to ADEQ. However, for certain parameters, including nickel, the Permit does not require Respondent to report the results of the analysis if it falls below a certain concentration, known as the Minimum Quantification Level (MQL). Prior to 2011, the permit MQL for nickel was 40 ug/l, and thus Respondent did not report nickel results that were below the MQL. In the current Permit, MQL for nickel was changed to 0.5 ug/l.

14. Respondent reported exceedances of their permitted effluents limits for Total Recoverable Nickel to ADEQ on January 6, 2016, during a meeting requested by Respondent for the purpose of self-reporting the results of an internal audit. As explained to ADEQ, the exceedances for Total Recoverable Nickel were discovered during an internal audit conducted by the Respondent. The audit found Respondent had not been using the updated MQL for Total Recoverable Nickel analysis based on the Permit. Respondent stated that, because it had used the wrong MQL for Total Recoverable Nickel, it inadvertently reported and submitted incorrect Discharge Monitoring Reports (DMRs). Respondent reported the incorrect

DMRs had been submitted since the issuance of Respondent's Permit. ADEQ requested that Respondent submit corrected DMRs.

15. On January 28, 2016, ADEQ received Respondent's corrected DMRs and a Non-Compliance Report addressing the newly discovered Total Recoverable Nickel permitted effluent discharge limit violations.

16. On March 10, 2016, the Department conducted a review of certified corrected DMRs submitted by Respondent in accordance with the Permit.

17. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I Section A of the Permit from July 2011 through August 2016:

a. Fifty-four (54) violations for Total Recoverable Nickel; and

b. One (1) violation for Oil & Grease.

18. Each of the fifty-five (55) discharge limitation violations listed in Paragraph 17 above constitutes a separate permit violation for a total of fifty-five (55) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

19. According to Respondent, the total recoverable nickel permitted exceedances had no direct or indirect adverse impact on human health or the environment.

20. On March 7, 2016, Respondent and ADEQ met to discuss the actions Respondent was taking to investigate and correct the Total Recoverable Nickel violations in the effluent. Respondent agreed to develop and submit a Corrective Action Plan (CAP) to ADEQ with a milestone schedule and final compliance date based on developing an internal sampling plan to support revised nickel permit limits that more accurately reflect Respondent's operations, consistent with the applicable NSPS ELGs for nickel.

ORDER AND AGREEMENT

WHEREFORE, Respondent, while neither admitting nor denying the factual and legal allegations contained in this CAO and ADEQ stipulate and agree as follows:

1. Respondent shall immediately comply with all permitted effluent limits, unless a CAP is submitted as provided in Paragraph 2 of this Order and approved by ADEQ, in which case, Respondent shall comply with all permitted effluent limits no later than July 31, 2017, or within sixty (60) days after ADEQ's issuance of a final draft NPDES renewal permit, whichever is later.

2. If unable to immediately comply with all permitted effluent limits, Respondent shall, within thirty (30) calendar days of the effective date of this Order, submit to ADEQ for review and approval a comprehensive CAP developed by a Professional Engineer (P.E.) licensed in the state of Arkansas. The CAP shall, at minimum, include a reasonable milestone schedule with a date of final compliance consistent with the provisions of Paragraph 1 of this Order. The CAP shall detail the methods that will be used to correct the Total Recoverable Nickel permitted effluent violations listed in Findings of Fact paragraph 17 and prevent future violations of permit limits, which may be based solely on recalculation of Respondent's nickel permit limits and modification of Respondent's NPDES permit to more accurately reflect Respondent's actual operations consistent with the applicable NSPS ELG for nickel, including, by way of example only, contribution of nickel from other unregulated sources or additional treatment or operating practices to achieve compliance with the applicable NSPS ELG for nickel. Upon review and approval by ADEQ, Respondent shall comply with the terms contained in the approved CAP, including final compliance as provided in Paragraph 1 of this Order. The milestone schedule and final compliance provisions of the approved CAP shall be fully enforceable as terms of this Order.

3. On or before August 10, 2017, or within sixty (60) days after ADEQ's issuance of the draft NPDES renewal permit, whichever is later, Respondent shall submit a letter from a P.E. certified in the

state of Arkansas certifying that all of the corrective actions listed in the CAP have been completed and the facility is in compliance with the Total Recoverable Nickel effluent limitations of the Permit.

4. Respondent shall submit quarterly progress reports detailing the work completed, as outlined in the approved CAP, to achieve compliance with the effluent limits of the Permit. The first progress report shall be due thirty (30) days from the effective date of this Order and shall be submitted quarterly thereafter until the corrective actions specified in the approved CAP are complete.

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of TWENTY THOUSAND SIX HUNDRED DOLLARS (\$20,600.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment of the penalty shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department of Environmental Quality
Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs of collection.

6. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines, the Respondent consents and agrees to pay on demand to ADEQ stipulated penalties according to the following schedule:

- a. First day through fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of failure by Respondent to comply with the requirements of this Order.

7. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

8. ADEQ may grant an extension of any provision of this Order, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

9. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

10. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-day public comment period. Notwithstanding the public notice requirements, the

corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

11. Nothing in this Order shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

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12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 13 DAY OF October, 2016.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

Nucor Steel-Arkansas, Division of Nucor Corporation

BY:

Maryemily State
(Signature)

Maryemily State
(Typed or printed name)

TITLE: VP GM

DATE: 10/10/16