



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
AIR, ENERGY AND MATERIALS SUSTAINABILITY
DIVISION OF AIR ENFORCEMENT

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Commissioner

PAUL BALDAUF
Asst. Commissioner

IN THE MATTER OF :
:
MCWANEDUCTILE New Jersey – : ADMINISTRATIVE CONSENT ORDER
A DIVISION OF MCWANE, INC. :
:
183 Sitgreaves Street :
Phillipsburg, NJ 08865 :
:
EA ID # NEA220001-85441 :

This Administrative Consent Order is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. (the "Act"), and duly delegated to the Manager, Bureau of Air Compliance & Enforcement-Northern pursuant to N.J.S.A. 13:1B-4.

FINDINGS

- 1. MCWANE, INC. owns and operates the facility known as MCWANE DUCTILE – NEW JERSEY, A DIVISION OF MCWANE, INC. (hereinafter "MCWANE") owns and operates a facility located at 183 Sitgreaves Street, Block 1901, Lot 3 and Block 2001, Lot 1, Phillipsburg, Warren County, New Jersey (ID# 85441) ("Facility").
2. As a result of an investigation conducted on September 16, 2021, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-5.2(a), no person shall cause, suffer, allow or permit to be emitted into the outdoor atmosphere substances in quantities which shall result in air pollution as defined herein. Air pollution is the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards.

Description of Noncompliance: MCWANE permitted burnt metal type odors from the Phillipsburg facility to be emitted into the outdoor atmosphere in quantities which resulted in air pollution on September 16, 2021.

3. Based on the facts set forth in paragraph 2, the Department alleges that MCWANE has violated the Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto specifically N.J.A.C. 7:27-5.2(a). This violation shall be recorded as part of the permanent enforcement history of MCWANE at the above location and will be considered as offenses for future penalty determinations.
4. Therefore, the Department alleges that MCWANE is liable for civil administrative penalties totaling \$2,000 for the violations referenced in paragraphs 2 and 3 pursuant to N.J.S.A. 25:2C-19 and N.J.A.C. 7:7A-3.1 et seq.
5. The Department issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (“AONOCAPA”), EA ID# PEA210002-85441, to MCWANE for the violation referenced in paragraphs 2-4.
6. As a result of an investigation conducted on December 14, 2021, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), emissions from the cupola E1 must be directed to the afterburner CD3 and baghouse CD8 at all times when the cupola is operating, including the time after the cupola shutdown, until the bag house fan is shutdown.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP200001, UI, OS Summary, Ref.#37 by operating the cupola while bypassing the baghouse system. Fugitive particulate emissions were witnessed on December 14, 2021 directly escaping to the atmosphere from the door opening located above the charging door.

7. Based on the facts set forth in paragraph 6, the Department alleges that MCWANE has violated the Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto specifically N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e). This violation shall be recorded as part of the permanent enforcement history of MCWANE at the above location and will be considered as offenses for future penalty determinations.
8. Therefore, the Department alleges that MCWANE is liable for civil administrative penalties totaling \$6,000 for the violations referenced in paragraphs 6 and 7 pursuant to N.J.S.A. 25:2C-19 and N.J.A.C. 7:7A-3.1 et seq.
9. The Department issued an AONOCAPA, EA ID# PEA220001-85441, to MCWANE for the violation referenced in paragraphs 6-8.

10. As a result of an investigation conducted on May 31, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-5.2(a), no person shall cause, suffer, allow or permit to be emitted into the outdoor atmosphere substances in quantities which shall result in air pollution as defined herein. Air pollution is the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards.

Description of Noncompliance: MCWANE permitted burnt metal type odors from the Phillipsburg facility to be emitted into the outdoor atmosphere in quantities which resulted in air pollution on March 24, 2022.

11. Based on the facts set forth in paragraph 10, the Department alleges that MCWANE has violated the Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto specifically N.J.A.C. 7:27-5.2(a). This violation shall be recorded as part of the permanent enforcement history of MCWANE at the above location and will be considered as offenses for future penalty determinations.
12. Therefore, the Department alleges that MCWANE is liable for civil administrative penalties totaling \$2,500 for the violations referenced in paragraphs 10 and 11 pursuant to N.J.S.A. 25:2C-19 and N.J.A.C. 7:7A-3.1 et seq.
13. The Department issued an AONOCAPA, EA ID# PEA220004-85441, to MCWANE for the violation referenced in paragraphs 10-12.
14. MCWANE filed timely hearing requests with respect to AONOCAPAs EA ID#, PEA210002-85441, PEA220001-85441 and PEA220004-85441.
15. As a result of an investigation on September 27, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(d) and (e), emissions from the Melt Center Launder, Ladle and Casting Machine shall be controlled by the Baghouse.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by operating while bypassing the Melt Center Baghouse control system. Emissions from the transfer ladle were found to be bypassing the collection system resulting in fugitive particulate emissions which were witnessed directly escaping to the atmosphere from above the transfer ladle observation platform.

16. As a result of an investigation on September 28, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), emissions from the cupola E1 must be directed to the afterburner CD3 and baghouse CD8 at all times when the cupola is operating, including the time after the cupola shutdown, until the bag house fan is shutdown.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (U1, Ref.# 37), by operating the cupola while bypassing the baghouse control system. Specifically, fugitive particulate emissions were witnessed directly escaping to the atmosphere from the cupola shroud and rooftop.

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), opacity from the Melt Center Baghouse shall be 10% or less except for a period of thirty minutes during startup and shutdown when opacity shall not exceed 20% exclusive of condensed water vapor.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (U3, Ref.# 2), by operating the Melt Center Baghouse at greater than 10% opacity.

17. As a result of an investigation on October 7, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(d) and (e), emissions from the Melt Center Launder, Ladle and Casting Machine shall be controlled by the Baghouse.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by allowing visible emissions to bypass the Melt Center Baghouse control system. Emissions from the transfer ladle were found to be bypassing the collection system resulting in fugitive particulate emissions which were witnessed directly escaping to the atmosphere from above the transfer ladle observation platform.

18. As a result of an investigation on October 11, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), emissions from the cupola E1 must be directed to the afterburner CD3 and baghouse CD8 at all times when the cupola is operating, including the time after the cupola shutdown, until the bag house fan is shutdown.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (U1, OS Summary, Ref.# 37), by operating the cupola while bypassing the baghouse control system. Specifically, fugitive particulate emissions were witnessed directly escaping to the atmosphere from the cupola shroud and rooftop.

19. As a result of an investigation on October 12, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(d) and (e), emissions from the Melt Center Launder, Ladle and Casting Machine shall be controlled by the Baghouse.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by operating while bypassing the Melt Center Baghouse control system. Emissions from the transfer ladle were found to be bypassing the collection system resulting in fugitive particulate emissions which were witnessed directly escaping to the atmosphere from above the transfer ladle observation platform.

20. As a result of an investigation on October 14, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(d) and (e), emissions from the Melt Center Launder, Ladle and Casting Machine shall be controlled by the Baghouse.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by operating while bypassing the Melt Center Baghouse control system. Emissions from the transfer ladle were found to be bypassing the collection system resulting in fugitive particulate emissions which were witnessed directly escaping to the atmosphere from above the transfer ladle observation platform.

21. As a result of an investigation conducted on October 20, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(d) and (e), emissions from the Melt Center Launder, Ladle and Casting Machine shall be controlled by the Baghouse.

Description of Noncompliance: MCWANE failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by operating while bypassing the Melt Center Baghouse control system. Fugitive particulate emissions were witnessed directly escaping to the atmosphere from the door opening located above the charging door, the roof of the cupola and the platform above the charge bucket.

22. As a result of an investigation on September 13, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.3(d) and N.J.A.C. 7:27-22.3(e), a permittee shall ensure that any source operation and any other activity covered by the operating permit, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (FC, Ref.# 9), on September 13, 2022. Specifically, as reported in your 2022 Annual Compliance Certification/6 Month Deviation Report, at about 4:46 PM, a front-end loader pushed water from the roadway onto the slag drop-out pit. This resulted in water covering molten iron and slag, which caused an explosion. The explosion rattled the building, causing dust to shake off. Dust potentially crossed over the facility property line for about 3 minutes.

23. As a result of an investigation on October 18, 19, 21 and 26, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.3(d) and N.J.A.C. 7:27-22.3(e), a permittee shall ensure that any source operation and any other activity covered by the operating permit, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (Emission Unit U3), on October 18, 19, 21 and 26, 2022. Specifically, as reported in your 2022 Annual Compliance Certification/6 Month Deviation Report, on the above listed dates, the NJDEP inspector stopped by the facility. A site tour was conducted, and smoke was intermittently observed escaping from the melting area of various intensities. At times, smoke was observed escaping the Melt Center Baghouse (U3) exhaust stack.

24. As a result of an investigation on November 2, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), emissions from the cupola E1 must be directed to the afterburner CD3 and baghouse CD8 at all times when the cupola is operating, including the time after the cupola shutdown, until the bag house fan is shutdown.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U1, OS Summary, Ref.# 37), on November 2, 2022. Specifically, as reported in your 2022 Annual Compliance Certification/6 Month Deviation Report, at about 8:01 AM, the

Cupola Baghouse (U1) emission fan was manually reduced to 0% instead of 50%. This shut off the fan and resulted in smoke escaping for about 3 minutes.

25. As a result of an investigation on November 29, 2022, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), Pressure Drop Across the Baghouse ≥ 1 and Pressure Drop Across the Baghouse ≤ 10 inches w.c. for baghouse CD5.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U2, OS Summary, Ref.# 4) on November 29, 2022. Specifically, as reported in your 2022 Annual Compliance Certification/6 Month Deviation Report, at about 3:20 PM, the Core Floor Baghouse pressure drop was observed to be 10.1 inches water column. The permit limit is 10.0 inches water column.

26. As a result of an investigation on January 12, 13 and 16, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(c), Pressure Drop Across the Baghouse ≥ 1 and Pressure Drop Across the Baghouse ≤ 10 inches w.c. for baghouse CD5.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U2, OS Summary, Ref.# 4), on January 12, 13 and 16, 2023. Specifically, as reported in your 2023 1st Half 6 Month Deviation Report, on January 12, 13 and 16, 2023 it was discovered that the core floor baghouse pressure drop was above the permit limit during operations. Upon investigation, the pressure lines to the pressure gauge were observed to be plugged up. The lines were cleaned, and an actual reading was observed to be in the permit limit range, though that did not occur until after core floor production had ended for the day.

27. As a result of an investigation on January 17, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), afterburner CD3 temperature at the exit of the combustion chamber ≥ 1400 deg F, except for the first 15 minutes after startup and the first 30 minutes following a production interruption. For the purpose of this reference, startup is when scrap metal is first charged to the cupola and the blast air is turned on to commence melting for the day. A production interruption is when the blast air is turned off. CD3 shall be equipped with an alarm or other warning system that alerts the operator when the temperature at the exit of the combustion chamber drops below 1400 deg F.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U1, OS Summary, Ref.# 40), on January 17, 2023. Specifically, as reported in your 2023 1st

Half 6 Month Deviation Report, at about 4:18 AM, the facility lost electrical power to a transformer, which shut down the melting production. Upon restoring power, melting restarted at about 1:10 PM. The stack temperature had not reached 1400 deg F by 1:40 PM (30 minutes after restarting). It was decided to continue to run the cupola rather than have a production interruption since there had been material in the cupola for about 9 hours during the power loss. The cupola reached the stack temperature of at least 1400 deg F by 2:01 PM, resulting in operating beyond the 30-minute time interval by an additional 21 minutes.

28. As a result of an investigation on March 6, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), Pressure Drop Across the Baghouse ≥ 1 and Pressure Drop Across the Baghouse ≤ 10 inches w.c. for baghouse CD5.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U2, OS Summary, Ref.# 4), on March 6, 2023. Specifically, as reported in your 2023 1st Half 6 Month Deviation Report, at about 2:00 PM, the Core Floor Baghouse (U2) was observed to not have been turned on while the core floor production was occurring for the day. The baghouse was immediately turned on upon discovery. It is estimated that the core floor operated for 9 hours (5 AM - 2 PM) without the baghouse turned on.

29. As a result of an investigation on March 27, 28, 29 and 31, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), Pressure Drop Across the Baghouse ≥ 1 and Pressure Drop Across the Baghouse ≤ 10 inches w.c. for baghouse CD5.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U2, OS Summary, Ref.# 4), on March 27, 28, 29 and 31, 2023. Specifically, as reported in your 2023 1st Half 6 Month Deviation Report, at about 8:45 AM on 3/29/2023 the Core Floor Baghouse (U2) was observed to be operating below the minimum pressure drop (1.0 inches W.C.). Upon investigation, the bags in the baghouse were changed out over the previous weekend (3/25/2023). For the next production day (3/27/2023), the millwright turned on the baghouse and the air cleaning system, which knocked off the pre-kote material off the bags, which resulted in the low pressure drop.

30. As a result of an investigation on March 27, 28, 29 and 31, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), Pressure Drop Across the Baghouse ≥ 4 and Pressure Drop Across the Baghouse ≤ 22 inches w.c. for baghouse CD10.

Description of Noncompliance: You failed to comply with your permit, BOP220002 (U15, OS Summary, Ref.# 4) from January 1, 2023 through June 30, 2023. Specifically, as reported in your 2023 1st Half 6 Month Deviation Report, the pressure drop across the bin vent for the silo has observed to be around 0.4 inches W.C., which is below the permit minimum limit of 4.0 inches W.C.

31. As a result of an investigation on September 13, 2023, the Department alleges that MCWANE failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:27-22.3(d) and N.J.A.C. 7:27-22.3(e), a permittee shall ensure that any source operation and any other activity covered by the operating permit, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.

Description of Noncompliance: On September 13, 2023, McWane failed to fulfill all conditions and provisions of Operating Permit BOP220002, (Subject Item U3), by operating while bypassing the Melt Center Baghouse control system. Emissions from the casting floor were found to be bypassing the collection system resulting in fugitive particulate emissions which were witnessed directly escaping to the atmosphere. This was witnessed above the charging scale area platform where a dropped plastic curtain was pulled aside and a large fan was blowing emissions directly out the doorway.

32. The Department has determined that MCWANE is liable for civil administrative penalties totaling \$239,300 for the violations referenced in paragraphs 2 to 31.
33. In order to resolve these matters without trial or adjudication, or admission of liability, MCWANE has agreed to entry of this ACO and to be bound by its terms and conditions. By entering into this ACO, MCWANE does not admit to any finding, fact, fault, or liability under any statute or regulation concerning MCWANE's operations.

ORDER

NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:

A. HEARING REQUEST

34. By execution of this ACO, MCWANE hereby withdraws, with prejudice, its requests for administrative hearings before the Office of Administrative Law regarding enforcement actions listed in AONOCAPAs EA ID# PEA210002-85441, PEA220001-85441, and PEA220004-85441.

B. COMPLIANCE SCHEDULE

35. MCWANE shall take whatever actions are necessary, subject to public safety and worker health, to achieve and maintain compliance with its permit, N.J.A.C. 7:27-5.2(a), N.J.A.C. 7:27-22.16(a) and N.J.A.C. 7:27-22.3(e), including but not limited to the following:
- a. Operating all equipment and conducting all operations in accordance with MCWANE's Air Pollution Permit BOP220002, including, but not limited to, directing all emissions from Cupola (E1) to the corresponding control device(s) at all times.
 - b. McWane has taken the following action to address alleged sources of fugitive emissions observed during inspections in September and October of 2022:
 - i. McWane has replaced all filter cartridges in the Cement Silo Bin Vent (IS3);
 - ii. McWane has identified and repaired existing gaps in building siding;
 - iii. McWane has implemented a proposed new Building Maintenance Program to ensure building siding remains in good repair. McWane shall abide by this program going forward to ensure Work Orders are timely issued so that the building siding remains in good repair.
 - iv. McWane has installed all new bags and replaced damaged cages in cells two and four of the Melt Center Baghouse Stack (CD4).
 - v. McWane operated the existing Bull Ladle (E4) Hood and Transfer Ladle (E5) Hood in accordance with identified optimization protocols to minimize emissions during the addition of Magnesium and Silicon in the Ductile Iron treatment process – including the new Transfer Ladle (E5) Hood attachment implemented on October 20, 2022;
 - vi. McWane has installed and is now operating a new Transfer Ladle (E5) Hood to provide optimized capture of emissions generated during the addition of Magnesium and Silicon in the Ductile Iron treatment process;
 - vii. McWane has installed and operated a new replacement in kind Escher;
 - viii. McWane has trained all operators in new procedures given modifications to the Transfer Ladle (E5) Hood and Escher;
 - ix. McWane installed covers for the long runner from the cupola to minimize emissions from the long runner. McWane shall replace these covers as needed to ensure optimized capture of emission from the long runner by the collection hood until the temporary new hoods are installed and determined to be effective in capturing the emissions from the long runner.

- c. Implement equipment modifications for odor and particulate mitigation to reduce odors and particulates emanating from the Facility,
 - i. McWane has assessed potential sources of particulates and odors and has concluded that improved capture and further control of fugitive emission sources will assist in mitigating offsite impacts. This assessment is based upon internal reviews and enforcement actions over the past several years by the Department. The projects identified for further reductions in fugitive emissions through improved capture and closing off potential fugitive emission routes are as follows:
 1. Redesigning and replacing bubble ladle hood,
 2. Redesigning and replacing bull ladle back draft hood,
 3. Rebuilding/replacing wall above slag conveyor,
 4. Partially enclosing drain out area below safety tuyere,
 5. Modifying hood above long runner,
 6. Replacing ductwork to drain out bed,
 7. Redesigning and replacing transfer ladle hood, and
 8. Remove disabled roof top exhausters in casting and seal the roof.
 - ii. McWane shall implement the above projects to reduce fugitive emissions associated with odors and particulates and prepare a plan to maintain the equipment to minimize fugitive emissions pursuant to the following schedule and milestone completion dates:
 1. Within 30 days of the ACO Effective Date, issue Purchase Orders for engineering work for (i) redesigning and replacing bull ladle hood (ii) redesigning and replacing bull ladle back draft hood, (iii) rebuilding/replacing wall above slag conveyor, (iv) partially enclosing drain out area below safety tuyere, (v) modifying hood above long runner (vi) replacing ductwork to drain out bed, and (vii) redesigning and replacing transfer ladle hood.
 2. Within 120 days of the ACO Effective Date, McWane shall obtain vendor bids, select contractors, and issue Purchaser Orders for the following projects: (i) replacing bubble ladle hood, (ii) replacing bull ladle back draft hood, and (iii) removing wall fans and rebuild/replace wall above slag conveyor.
 3. Within 120 days of the ACO Effective Date, McWane shall obtain vendor bids, select contractors, and issue Purchase Orders for the following projects: (i) partially enclose drain out area below safety tuyere, (ii) modifying hood above long runner, (iii) replacing ductwork to drain out bed, and (iv) replacing transfer ladle hood.

4. Within 170 days of the ACO Effective Date (will be planned for July shut down), McWane shall (i) remove disabled roof top exhausters in casting and seal the roof, (ii) replace bubble ladle hood, (iii) replace bull ladle back draft hood, and (iv) remove wall fans and rebuild/replace wall above slag conveyor, and (v) partially enclose drain out area below safety tuyere.
 5. Within 180 days of the ACO Effective Date, McWane shall obtain design drawings to modify the long runner hood.
 6. Within 345 days of the ACO Effective Date (will be planned for December into January shutdown), McWane shall (i) replace ductwork to drain out bed, (ii) replace transfer ladle hood, and modify the long runner hood.
- iii. McWane shall complete commissioning, debugging, and testing as necessary within 30 days of the construction/installation completion date of each of the above changes/equipment. This shall include updated training of plant operators regarding operations of the new equipment.
 - iv. McWane shall begin operating selected changes/equipment within 30 days of completing commissioning, debugging, and testing.
 - v. After the projects set forth in c.ii.4 have been completed and operations commenced, MCWANE shall reassess the status of fugitive emissions by conducting periodic (no less than weekly) inspections around the melt center building to determine if visual emissions are escaping the building.
 - vi. MCWANE shall submit a report to the Department within thirty (30) days after completion of the projects in c.ii.4 above setting forth the following:
 1. Summarizing the projects completed
 2. Whether visible fugitive emissions have been observed escaping the building
 3. If visible emissions are observed escaping the building frequently or over prolonged periods of time, identify whether the remaining projects are expected to address such, and,
 4. If visible fugitive emissions that are observed will not be addressed by the remaining projects, what additional measures are required to reduce emissions escaping the building and a schedule for such.

- vii. MCWANE shall submit a second report to the Department within thirty (30) days after completion of the projects in c.ii.6 above setting forth the following:
 - 1. Summarizing the projects completed,
 - 2. Whether fugitive emissions have been observed escaping the building
 - 3. If visible emissions are observed escaping the building frequently or over prolonged periods of time, whether the remaining projects are expected to address such, and,
 - 4. If visible emissions that are observed will not be addressed by the remaining projects, what additional measures are required to reduce emissions escaping the building and a schedule for such.
- viii. MCWANE shall advise the Department in writing within eighteen (18) months of the ACO Effective Date whether additional projects are necessary and, if so, identify such project(s) with a proposed schedule which shall be incorporated into this ACO.
- d. MCWANE shall cause the following sliding/overhead/plastic covered doors proximate to melting and casting operations, listed below to be kept closed between the period when the cupola baghouse fans startup and oxygen drops below 20 percent as measured at the Cupola Baghouse exhaust stack, until the end of melting operations when the oxygen remains at or above 20 percent, except for
 - i. the periods of time, when the ambient temperature is at or exceeds a RealFeel® temperature of 75 degrees Fahrenheit in zip code 08865, as reported by AccuWeather, pursuant to the following schedule: (a) If the RealFeel® temperature is at or exceeds 75 degrees Fahrenheit before 12:30 pm McWane may open the doors listed below in d.1. (b) If the doors are opened that day, at 12:30 PM, McWane must reevaluate the temperature, and if the RealFeel® temperature is below 75 degrees Fahrenheit, McWane must close the doors listed below in d.1 until McWane either ceases melting operations as set forth above or if the RealFeel® temperature is at or exceeds 75 degrees Fahrenheit, McWane may open the doors listed in d.1.
 - ii. repair of damage to the doors or adjoining structure and replacement and maintenance of the doors, or
 - iii. the periods of egress or ingress of individuals and/or inventory through said doors.

- I. South wall of building:
 - #18- casting door south of the oven entrance, next to the linear conveyor
 - #19- waste water treatment plant overhead door, south of casting

North wall of building:
#85- melting overhead door
#29- casting overhead door
#97- lime deck door

- iv. After completion of all of the above projects and further assessment of the status of fugitive emissions, MCWANE may propose to the Department the elimination of some or all of the door closures listed above based on an assessment of the effectiveness of the door closure on controlling the escape of fugitive emissions, which proposal shall only be effective after Department review and written approval.
36. MCWANE recognizes that nothing in this ACO effects its ongoing obligation to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders. If MCWANE is not able to achieve compliance by taking the above actions, MCWANE is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

C. PROGRESS REPORTS

37. MCWANE shall submit progress reports to the Department beginning 30 days after the Effective Date of this ACO, and subsequently within 15 days of the end of each calendar quarter. Each report shall explain the status of MCWANE's compliance with this ACO and shall include, but not be limited to, the following:
- a. Identification of the Facility and reference to this ACO;
 - b. Status of compliance with the schedule set forth in Section B. Compliance Schedule above, permitting and planning approvals and any work at the Facility and process to date;
 - c. Identification of difficulties or problems encountered during reporting period and actions taken to rectify;
 - d. Identification of activities planned for the next reporting period;
 - e. Required and actual completion dates for each item required by this ACO;
 - f. An explanation of any non-compliance with the compliance schedule; and
 - g. An evaluation of all corrective measures implemented to date.

D. STIPULATED PENALTIES

38. While this ACO remains in effect, if the Department or any Warren County inspector, subject to Department review, verifies an odor or particulate complaint(s) using the procedures set forth in 39 N.J.R. 3999(c) as set forth therein originating from MCWANE and resulting in a violation of N.J.A.C. 7:27-5.2(a), MCWANE, shall pay stipulated penalties to the Department for each such violation as follows:

Base penalty as follows adjusted according to N.J.A.C 27A-3.10(m)5.

\$3,500 per day for violations one through three (1-3);

\$10,000 per day for violations four through six (4-6);

\$15,000 per day for any remaining violations

MCWANE reserves its rights pursuant to N.J.S.A. 26:2C-19.2 to assert an affirmative defense for any odor complaint cited pursuant to this ACO.

39. MCWANE shall pay stipulated penalties to the Department, as set forth below, for failure to comply with the requirements contained in paragraph 35(d) of this ACO unless the Department has notified MCWANE in writing that a stipulated penalty will not be assessed for violations of the compliance schedule pursuant to the force majeure provisions of this ACO.

Failure to comply with the provisions of this ACO	Per Calendar Day
Offense 1-5	\$500
Offense 5 or more	\$1000

40. MCWANE shall pay stipulated penalties to the Department, as set forth below, for failure to comply with the requirements contained in paragraph 37 of this ACO unless the Department has notified MCWANE in writing that a stipulated penalty will not be assessed for violations of the compliance schedule pursuant to the force majeure provisions of this ACO.

Calendar Days After Due Date	Per Calendar Day
1-7	\$500
8-14	\$1000
15 or more	\$2500

41. Within 45 calendar days after MCWANE's receipt of a written demand from the Department for stipulated penalties, MCWANE shall submit a check to the Department as outlined in paragraph 43 below.

42. If MCWANE fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70 or assess civil administrative penalties for violations of the above provisions.

43. The payment of stipulated penalties does not alter MCWANE's responsibility to complete all requirements of this ACO.

DEP retains the right, while this ACO remains in effect, to assess any and all violations pursuant to the Act. MCWANE reserves its rights pursuant to N.J.S.A. 26:2C-19.2 to assert an affirmative defense for any odor complaint cited pursuant to this ACO.

D. PENALTIES

44. This ACO resolves all violations of the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq and the regulations promulgated thereto known to the Department as of the Effective Date which includes the violations set forth in paragraphs 2-31 in the above Findings. In settlement thereof, MCWANE shall pay a penalty of \$177,082 by check made payable to the Treasurer, State of New Jersey and remitted to the Division of Revenue at the address stated on the enclosed invoice within twenty (20) days of the Department execution of this ACO. Nothing in this ACO shall preclude the Department from taking enforcement action against MCWANE for any matters unknown to the Department that occurred prior to the Effective Date, or any violations occurring after the Effective Date.

E. FORCE MAJEURE

45. If any event occurs that is beyond the control of MCWANE and which MCWANE believes will or may cause delay in the achievement of the compliance schedule provisions of this ACO, MCWANE shall notify the Department in writing within seven (7) calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, MCWANE shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. MCWANE shall take all necessary action to prevent or minimize any such delay.
46. The Department may adjust the deadlines in the compliance schedule of this ACO for a period no longer than the delay if the Department finds that:
 - a. MCWANE has complied with the notice requirements of paragraph 39;
 - b. Any delay or anticipated delay has been or will be caused by a force majeure event including but not limited to fire, flood, riot, strike, or other circumstances beyond the control of MCWANE; and
 - c. MCWANE has taken all necessary actions to prevent or minimize the delay.
47. If the Department denies MCWANE's force majeure request, MCWANE may be subject to stipulated penalties as set forth in this ACO. The burden of proving that any delay is caused by circumstances beyond the control of MCWANE and the length of any such delay attributable to those circumstances rest with MCWANE. Increases in the cost or

expenses incurred by MCWANE in fulfilling the requirements to this ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Contractor's breach shall not automatically constitute force majeure.

F. GENERAL PROVISIONS

48. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq. (commonly referred to as A-901).
49. The Department does not waive its right to consider any violations set forth above as an offense in determining penalties in any future enforcement action.
50. This ACO shall be binding on MCWANE, including its parent company, McWane Inc., its respective officers, employees, agents, successors, assigns, and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.
51. This ACO shall be fully enforceable as a final Agency Order in the New Jersey Superior Court pursuant to R. 4:67-6.
52. MCWANE agrees not to contest the terms or conditions of this ACO except that MCWANE may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce this ACO's provisions.
53. In any subsequent administrative or judicial action initiated by the Department for injunctive relief or civil penalties relating to the matters covered by this ACO, MCWANE shall not contest either the Court's jurisdiction or the Department's jurisdiction over any matters covered by this ACO. MCWANE shall not assert any defenses or claims based upon principles of waiver, res judicata, collateral estoppel, issue preclusion, claim splitting, entire controversy, or any other defense based on the contention that the claim raised by the Department in the subsequent proceeding were not brought, or should have been brought, in the instant action.
54. This ACO shall not relieve MCWANE from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.
55. It is the intent of the parties that the requirements contained in this ACO will govern until a new permit is obtained by MCWANE. It is also the intent of the parties that provisions in paragraph 35 under the compliance schedule section, and paragraph 37 under the Progress Report section will be included in subsequent permit for MCWANE. MCWANE consents to, and covenants not object /contest to the inclusion of the requirements contained in paragraph 35 under the compliance schedule section, and paragraph 37 under the Progress Report section of this ACO in any subsequent permitting application.

56. No modification or waiver of this ACO shall be valid except by written amendment duly executed by MCWANE and the Department or by the Department's written modification pursuant to the force majeure provisions herein.
57. Unless otherwise specifically provided herein, MCWANE shall submit all documents required by this ACO, except penalty payments, to the Department by electronic mail, certified mail, return receipt requested, overnight mail, or by hand delivery with an acknowledgement of receipt form for the Department's signature to:

Manager
Division of Air Enforcement
Bureau of Air Compliance & Enforcement – Northern
7 Ridgedale Avenue
Cedar Knolls, NJ 07927
Jeffrey.Meyer@dep.nj.gov

The date the Department receives the electronic mail, certified mail, overnight mail, or executes the acknowledgement will be the date the Department uses to determine MCWANE's compliance with this ACO.

58. Unless otherwise specifically provided herein, any communication made by the Department to MCWANE pursuant to this ACO shall be sent to:

MCWANE DUCTILE – New Jersey
183 Sitgreaves Street
Phillipsburg, NJ 08865
Attn: Keith Mallett, Executive V.P./General Manager
Keith.Mallett@mcwaneductile.com

59. MCWANE shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving MCWANE of its obligations under its permit(s), this ACO, the Air Pollution Control regulations, and/or the Air Pollution Control Act.
60. In addition to the Department's statutory and regulatory rights to enter and inspect, MCWANE shall allow the Department and its authorized representatives access to the Facility at all times for the purpose of determining compliance with this ACO.
61. Nothing in this ACO shall preclude the Department from taking enforcement action against MCWANE for matters not set forth in the findings of this ACO.
62. No obligations or penalties imposed by this ACO are intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties

are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.

63. MCWANE shall give written notice of this ACO to any successor in interest thirty (30) days prior to transfer of ownership or control of the facility or facilities which are the subject of this ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of MCWANE's facility. In addition, the parties agree that any contract, lease, deed or any other agreement that MCWANE enters into to convey the property/facility that is subject of this ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume the obligations imposed by this ACO.
64. The Department reserves all statutory and common law rights to require MCWANE to take additional action(s) if the Department determines that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this ACO shall constitute a waiver of any statutory or common law right of the Department to require such additional measures should the Department determine that such measures are necessary.
65. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
66. If any provision of this ACO is found invalid or unenforceable, the remainder of this ACO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this ACO if, after such finding, it determines that the remaining ACO does not serve the purpose for which it is intended.
67. This ACO represents the entire integrated agreement between the Department and MCWANE on the matters contained herein.
68. The Department reserves the right to terminate this ACO in the event MCWANE violates its terms. The Department shall provide written notice to MCWANE for the basis of its action to terminate the ACO, and MCWANE shall have twenty (20) days in which to respond to the Department's notice and provide evidence of compliance and/or evidence as to why the ACO should not be terminated. The Department will thereafter issue a Final Decision as to whether the ACO shall terminate. Upon receipt of a Final Decision terminating the ACO, MCWANE shall have twenty (20) days in which to file a request for a hearing to contest DEP's decision to terminate the ACO. Any hearing on termination of the ACO shall be limited to the issues related to such termination, and no other aspects of this ACO or any of the Findings described in this ACO shall be subject to adjudication in that proceeding. The Department reserves the right to take any additional enforcement action it deems necessary.
69. This ACO shall terminate upon receipt by MCWANE of written notice from the Department that all requirements of this ACO have been satisfied.

70. This ACO may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Administrative Consent Order.
71. The Effective Date of this ACO shall be the date that both MCWANE and the Department have executed this ACO.

MCWANE DUCTILE NJ – A DIVISION OF
MCWANE INC.

Date: 3/28/24

By: 

Name: Keith Mallett

Title: VP/GM

By this signature, I certify that I have full authority to execute this document on behalf of McWane Ductile NJ – A Division of McWane Inc.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Date: 4/9/24

By: 

Name: Jeffrey Meyer

Title: MANAGER

By this signature, I certify that I have full authority to execute this document on behalf of the New Jersey Department of Environmental Protection.