



GAUTENG PROVINCE
AGRICULTURE AND RURAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

Chief Directorate: Compliance and Enforcement
Enquiries: Suzan Raboshaba
Tel: 011 240 3006
[email address]
suzan.raboshaba@gauteng.gov.za
Reference: AMSAVW
Vanderbijlpark

Mr Henri-Pierre Orsoni
General Manager
ArcelorMittal South Africa LTD Vanderbijlpark Works
P.O. Box 2
Delfos Boulevard,
Vanderbijlpark
1900

Tel: 016 889 3126

BY HAND

Dear Sir

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") IN RESPECT OF OPERATING ACTIVITIES LISTED IN TERMS OF SECTION 21 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT AIR QUALITY ACT NO 39 OF 2004 ("NEMAQA") AND THE NON-COMPLIANCE TO THE CONDITIONS OF THE ENVIRONMENTAL AUTHORIZATION FOR THE COKE OVEN CLEAN GAS AND WATER PROJECT REF: GAUT 002/02-03/138, AT THE REMAINING EXTENT OF PORTION 1 OF VANDERBIJLPARK 550 IQ OF EMFULENI LOCAL MUNICIPALITY

1. DECISION

I, Abimbola Olowa, in my capacity as a Grade 1 Environmental Management Inspector (hereafter referred to as the EMI) having considered the matter, am of the view that you, ArcelorMittal South Africa LTD Vanderbijlpark Works represented by Henri-Pierre Orsoni in your capacity as General Manager, as the person who has unlawfully commenced with listed activities on Site, have failed to adhere to the provisions of the law in respect of the commenced activities on the Site. The Compliance Notice I am issuing you relates to your non-compliance with Section 22 of the NEMAQA by unlawfully undertaking listed activities without the necessary Atmospheric Emission License and non-compliance with the conditions of the environmental authorisation with ref: **GAUT 002/02-03/138** issued to ArcelorMittal South Africa LTD Vanderbijlpark Works and dated 21 March 2004.

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2. INTRODUCTION

2.1. I refer to the following:

- 2.1.1. The inspection conducted on 13 March 2018 to verify the listed activities undertaken;
- 2.1.2. The audit report for the Coke Oven Clean Gas and Water Project with Ref: GAUT 002/02-03/138 and dated, 21 March 2004 and 12 September 2016;
- 2.1.3. The representation and follow-up inspection conducted on 6 June 2018; and
- 2.1.4. The inspection letter from Sedibeng District Municipality to ArcelorMittal South Africa LTD Vanderbijpark Works dated, 27 June 2017.

2.2. Please note that your representations dated 6 June 2018 were considered but no compelling reasons were found as to why this Compliance Notice should not be issued.

3. REPRESENTATION RECEIVED

3.1. With regard to most of the issues raised in your representation dated 6 June 2018 please take note of the following responses below;

Representations received	Response
<p>1. Foundry – Combustion installation at the Foundry - AMSAVW submits that the aforesaid activity is authorised under Category 4, subcategory 4.10: Foundries. AMSAVW further indicates that the thermal treatment is an integral part of the Foundry Process which is implemented in the finishing stage. AMSAVW also highlights that heat treatment is conducted in a small furnace and in the case of operations at AMSAVW, natural gas is used as a fuel source which according to AMSAVW has negligible environmental impact when compared to the overall AMSAVWW emissions.</p>	<p>The submission that the heat treatment is an integral part of the foundry process cannot be accepted. This is because the mobile furnace used at the Foundry is not connected to nor does it form part of the Foundry in the sense that its non-availability would stop the functioning of the Foundry.</p> <p>With respect to the assertion that the heat treatment has been ongoing since the initial inception of the AEL, the Department disagrees with this based on the following:</p> <ul style="list-style-type: none"> a. The furnace had not been in use at the time the AEL was issued. b. Mr Johan Hattingh specifically indicated that the furnace in issue had been located outside the Foundry before being brought into the Foundry. c. During the AEL renewal inspection at the Facility it was indicated that the process of combustion installation at the Foundry had been outsourced to an independent contractor until sometime in 2015. <p>In our view this combustion installation (the furnace) is not a unit process of the Foundry.</p> <p>The negligible environmental impact does not in our view supercede the requirement to have a licence for an activity in place prior to undertaking such activity.</p>

<p>2. AMSAVW is of the view that these combustion facilities are mobile sources which are excluded from the ambit of the Listed Activities for point source emission. Also that these various combustion installations are licensed under section 5.3: Unit Process or Processes of the AEL. AMSAVW further indicates that this matter was confirmed at a meeting held with the licensing authority on the 23rd of September 2011 and as confirmed in the minutes of the meeting between the Authorities and AMSAVW Vanderbijlpark on the 23rd September 2011. AMSAVW also asserts that this activity (heat treatment) has been ongoing since the initial inception of the AEL and due to the negligible environmental impact there is no imminent danger to the environment.</p>	<p>The letter dated 27 June 2017 confirms that the Foundry Manager informed the authorities that, the function performed by the combustion installation at the Foundry was outsourced to an independent contractor. Further that it was only in 2015 when AMSAVW started using the combustion installation at the Foundry.</p> <p>This was highlighted during the meeting held with AMSAVW on the 6th of June 2018 that the aforesaid combustion installation furnace was located outside the Foundry and was not used for foundry activities at the time the AEL was issued.</p> <p>This shows that the combustion installation furnace has not been an integral part of the Foundry neither could it have been part of the various combustion installations which were excluded from the listed activities for point source emissions licensed under section 5.3.</p> <p>It is therefore our view that this combustion installation is a new activity and has therefore been operating without the required licence.</p>
<p>3. It should be noted that the MCC is a facility where tar is distilled, which is a by-product from coke batteries where the carbonisation takes place. No carbonisation or gasification takes place at the MCC plant." This process is also included in paragraph 12 of the AEL issued to AMSAVW dated 22/02/2012.</p>	<p>The Department accepts the representation by AMSAVW wherein it indicates that the process taking place in the tar distillation plant differs from the allegation made in the PCN dated 9 May 2018 (AMSAVW is operating a combustion process for the purpose of carbonisation and coal gasification in the MCC plant).</p>
<p>4. AMSAVW has experienced challenges regarding the operation of this plant. On the 15th of March 2012, the Department was informed of the progress of the unanticipated temporary shut-down of elementary Sulphur Plant, which is an integral component of the coke oven gas cleaning facilities at the works. Feedback on the status of the plant has been communicated to the Department via external audit reports submitted on an annual basis since 2012. The actions have been undertaken by the AMSAVW's project management team as indicated in para 19 of the representation.</p>	<p>The Department acknowledges the representation made and the action plan for the commissioning of the sulphur cleaning plan as indicated on page 12 paragraph three (3) of the letter dated 6 June 2018 which written as follows "the timeline for project completion is 2.5 years from order placement, of which the detailed engineering design will be executed in the first 10 months, followed by a procure, manufacture, construct/install and commissioning duration period of 20 months (long lead items). However, during the duration of the construction process of sulphur cleaning plant, flaring of uncleaned gas must be avoided.</p>

4. DETAILS OF NON-COMPLIANCE

4.1. The activity which commenced illegally on-site are as follows:

Listed Activity and associated minimum emission standards identified in terms of section 21 of the National Environmental Management Air Quality Act no 39 of 2004	
Category 4, Metallurgical Industry sub-category 4.2. Combustion Installation	AMSAVV is operating a Gas Combustion Installation at the Foundry for purposes of moulding casting materials without the requisite licence.
Description: Combustion Installations not used primarily for steam raising and electricity generation (except drying).	
Application: All combustion installations (except test or experimental).	

5. INSTRUCTION OR STEPS TO BE TAKEN

In terms of this Compliance Notice, I require you to do the following:

- 5.1. Within 48 hours of receipt of this Compliance Notice, cease operating the gas combustion furnace used in the Foundry until the required licence is obtained.
 - 5.2. There should be no further operation of any combustion installation facility that is not listed in the AEL issued in 2012 until it has been included in the new license.
6. Although conducting listed activities without the required Atmospheric Emission License is illegal in terms of section 22 and 51 of the NEMAQA you are entitled to submit an application for rectification for this unlawful conduct in terms of Section 22A of the NEMAQA. In this regard, I may decide to vary conditions (5.1) above in the event that such application is submitted.
7. Should you decide to submit the application, as indicated in Paragraph 6 above, you are advised to contact Air Quality Licensing unit of Sedibeng District Municipality on Tel: (016) 450 3233 or Email: Michaeln@Sedibeng.gov.za for further information regarding this process.

8. PROCEDURAL ARRANGEMENTS

8.1. Kindly take note of the following in relation to this Compliance Notice as provided for in NEMA:

8.1.1. If you would like me to vary this Compliance Notice or to extend the period to which it relates, you may make written representations to me within 14 (fourteen) days of receipt of this Compliance Notice

8.1.2. You may lodge an Objection to this Compliance Notice in terms of section 31M of NEMA. If you wish to lodge an Objection to this Compliance Notice, you may do so by lodging the Objection, in writing, to the MEC for GDARD within 30 (thirty) days of receipt of this notice and lodge it as follows:

By hand: For Attention: The Appeal Administrator: Ms Tsholofelo Mere, 23rd floor
Umnotho House, 56 Eloff Street, Marshalltown, Johannesburg
Compliance Notice against ArcelorMittal South Africa Ltd Vanderbijpark Works

By Email: tsholofelo.mere@gauteng.gov.za

By post: MEC: Gauteng Agriculture and Rural Development
P. O. Box 8769
Johannesburg
2000

- 8.1.3. Should you decide to lodge an Objection, you may also make representations to the MEC to suspend the operation of this Compliance Notice pending finalisation of the Objection;
- 8.1.4. Irrespective of any representations you may make to me or to the MEC, you must comply with this Compliance Notice within the time stated in the Notice unless the MEC agrees to suspend the operation of the Compliance Notice.

9. FAILURE TO COMPLY WITH THIS COMPLIANCE NOTICE

- 9.1. Should you fail to comply with this Compliance Notice, you will have committed an additional offence in terms of section 49A(1)(k) of NEMA.
- 9.2. Kindly take note that the designated EMIs from this Department are given wide powers in terms of the NEMA to investigate whether you have complied with or are complying with this Compliance Notice, and to exercise certain powers in order to enforce any contravention thereof, including but not limited to the power to seize items used in the commission of the offence as well as the power of arrest.

10. OFFENCES AND PENALTIES

- 10.1. The commencement, undertaking or conducting of a listed activity without an environmental authorisation constitutes an offence as set out in terms of section 49A(1)(a) of the NEMA.
 - 10.2. Upon conviction for such an offence, as set out in Section 49B(1) of the NEMA, a person is liable to a fine not exceeding R 10 million or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.
11. I wish to make it clear that the instructions contained herein are made in the interest of responsible environmental management and with a view to a co-operative resolution of the issue.

If you are unclear about any aspect of this Compliance Notice, please contact the person indicated for enquiries in writing as soon as possible.

Signed on this 28th day of August 2018 at Johannesburg



Ms. Abimbola Olowa
Grade 1 Environmental Management Inspector

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ACKNOWLEDGEMENT OF RECEIPT:

Received by Mr/Ms _____

On behalf of the company

Joha H. H. H. H.

On this 30

day of

Aug

2018, at

16:10

Signature: _____