



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 21 2016

REPLY TO THE ATTENTION OF

VIA EMAIL

Mr. Joe Alter
Vice President, General Counsel and Corporate Secretary
AK Steel Corporation
913 Bowman Street
Mansfield, Ohio 44901
joe.alter@aksteel.com

Re: Consent Agreement and Final Order
AK Steel Corporation (OHD 004 157 418)
Docket No: **RCRA-05-2016-0017**

Dear Mr. Alter:

Attached please find a copy of the signed fully-executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The original was filed on September 21, 2016, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$50,000 in the manner prescribed in paragraphs 50 through 52 of the CAFO, and reference all checks with the docket number **RCRA-05-2016-0017**. Your payment is due within 30 calendar days of the effective date of the effective date of the CAFO. Also, attached is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Gary J. Victorine".

Gary J. Victorine, Chief
RCRA Branch

Attachments

cc: Ms. Colleen Weaver (w/CAFO), Ohio Environmental Protection Agency Control Agency
colleen.weaver@epa.ohio.gov

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

AK Steel Corporation
913 Bowman Street
Mansfield, Ohio

U.S. EPA ID #: OHD 004 157 418
Respondent.



Docket No. RCRA-05-2016-0017

Proceeding to Commence and Conclude
an Action to Assess a Civil Penalty
Under Section 3008(a) of the Resource
Conservation and Recovery Act,
42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is AK Steel Corporation, a corporation doing business in the State of Ohio.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in Paragraphs 1 through 8 and 10 in this CAFO and neither admits nor denies the factual allegations and legal conclusions in Paragraphs 12 through 49 in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with the requirements of RCRA that are identified in this CAFO.

Statutory and Regulatory Background

12. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, or dispose of hazardous waste or used oil, pursuant to Sections 3001 – 3007, 3013, and 3014, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934, and 6935.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, U.S. EPA may assess a civil penalty of up to \$37,500 per day for each violation of Subtitle C of RCRA that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

At all times relevant to this CAFO, except as noted:

17. Respondent was and is the "owner" or "operator," as those terms are defined under OAC 3745-50-10(93) and (94) [40 C.F.R. § 260.10], of a facility located at 913 Bowman Street, Mansfield, Ohio (Facility), with operations that include the production of automotive carbon and

coated steels, including stainless steels.

18. Respondent was and is a corporation doing business in the State of Ohio, and was and is a “person” as defined by OAC 3745-50-10(98) [40 C.F.R. § 260.10], and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

19. Respondent’s Facility consisted and consists of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

20. Respondent’s Facility was and is a “facility,” as that term is defined under OAC 3745-50-10(46) [40 C.F.R. § 260.10].

21. Respondent operated and operates two electric arc furnaces (EAFs) at the Facility that produce steel. Emission control dust from EAF exhaust (EAF dust) was and is captured by baghouse filters and accumulated in large inverted silo bins elevated above concrete pads located in enclosed structures with four corrugated sheet metal walls and garage doors on each of two opposing sides (loading area enclosures).

22. The EAF dust was and is loaded onto trucks within the loading area enclosures from the inverted silo bins and transported for off-site disposal as hazardous waste with U.S. EPA hazardous waste number K061.

23. During the loading process, some of the EAF dust released from the inverted silo bins fell onto the concrete pad, the truck and other surfaces within the loading area enclosures or became airborne and over time settled onto the concrete pad, the truck, and other surfaces within the loading area enclosures.

24. Respondent vacuumed or vacuums or otherwise collects EAF dust that is released from the inverted silo bin into the interior of the loading area enclosures and transfers it to roll-

off boxes.

25. The EAF dust that is released from the inverted silo bins was and is a “waste” as that term is defined under OAC 3745-51-02 [“solid waste” as that term is defined under 40 C.F.R. § 261.2].

26. The EAF dust that is released into the interiors of the loading area enclosures was and is a “hazardous waste” as that term is defined under OAC CH. 3745-51 [40 C.F.R. Part 262], with EPA hazardous waste number K061.

27. Respondent’s accumulation of hazardous waste K061 in vacuum boxes and roll off boxes constituted and constitutes hazardous waste “storage,” as that term is defined under OAC 3745-50-10(A)(122) [40 C.F.R. § 260.10].

28. Respondent was and is a “generator,” as that term is defined under OAC 3745-50-10(53) [40 C.F.R. § 260.10].

29. Respondent produced and produces more than 1,000 kg of hazardous waste as that term is defined in OAC CH. 3745-51 [40 C.F.R. Part 261] at the Facility per month and was and is a large quantity generator.

30. Respondent is subject to the applicable hazardous waste management program for the State of Ohio.

31. On November 2, 2009 through November 4, 2009, U.S. EPA conducted a Compliance Evaluation Inspection of the AK Mansfield Site (the Inspection).

32. On October 17, 2012, U.S. EPA issued a Notice of Intent to File Civil Administrative Complaint, and Notice of Violation to Respondent alleging certain violations of RCRA discovered during the Inspection.

33. On February 1, 2013, Respondent submitted to U.S. EPA a written response to the

Notice of Violation.

34. The State of Ohio has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

35. Respondent did not and does not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

36. Respondent and U.S. EPA have executed seven tolling agreements covering the allegations in this CAFO. The Sixth Amended tolling agreement provided that the period from October 15, 2014 through September 30, 2016, shall not be included in computing the running of the statute of limitations potentially applicable to the violations summarized below.

Count 1: Storage of Hazardous Waste without a Permit or Interim Status.

37. Paragraphs 1 through 36 of this CAFO are incorporated herein as though set fully forth in this paragraph.

38. Pursuant to OAC CHs. 3745-50 *et seq.* [40 C.F.R. Parts 260 *et seq.*], and 3005(a) of RCRA, 42 U.S.C. § 6925(a), the treatment, storage, or disposal of hazardous waste without a permit or interim status is prohibited.

39. Pursuant to OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)], and subject to certain exceptions, a generator of hazardous waste may, for ninety days or less, accumulate hazardous waste on-site, without having a hazardous waste permit or interim status, provided that the generator complies with all applicable conditions of OAC 3745-52-34(A) [40 C.F.R. § 265.34(a)].

40. If the conditions of OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)] are not met, then the generator must apply for an operator permit under OAC 3745-50-40 to 3745-50-66 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13].

41. Respondent failed to comply with the applicable conditions for generators in OAC 3745-52-34(A) [40 C.F.R. § 262.34(a)] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste, as specified in Paragraphs 42-44.

42. **Failure to Minimize the Possibility of Releases.** Pursuant to OAC 3745-52-34(A)(4) and OAC 3745-65-31 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.31], generator facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. Respondent failed to operate and maintain the Facility to minimize the possibility of releases of hazardous waste in the following ways:

- a. On November 3, 2009, the U.S. EPA inspector observed hazardous waste K061 located on the ground near the South side outside door of the Baghouse #9 K061 truck loading area.
- b. The U.S. EPA inspector also observed holes located on the South wall of the K061 truck loading area.
- c. The garage door, located on the North side of the Baghouse #9 K061 truck loading area did not close all of the way and light appeared to be showing through the opening.
- d. During the loading of K061 into a roll-off container affixed to the bed of a transport truck, on November 4, 2009, U.S. EPA's inspector observed dust rising out of the opening where the piping was inserted through the tarp and also observed dust rising out of the front opening in the tarp.

- e. Sampling results, performed by the National Enforcement Investigations Center show that K061 dust was not being fully contained and was exiting the loading areas. Evidence of K061 was found in samples 1, 1A, 1B, 1C, 2, 3, 4, 5, 5A, 5B, and 5C.
- f. Respondent's failure to maintain and operate the Facility so as to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment is a failure to comply with the conditions of OAC 3745-52-34(A)(4) and OAC 3745-65-31 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.31].

43. **Failure to Provide Adequate Training.** OAC 3745-52-34(A)(4) and OAC 3745-65-16(A)(1) [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.16(a)(1)] require that facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of OAC CHs. 3745-65 to 3745-69 and 3745-265.

- a. In addition, OAC 3745-65-16(A)(2) [40 C.F.R. § 265.16(a)(2)] requires that the program of classroom instruction or on-the-job training be directed by a person trained in hazardous waste management procedures, including *inter alia* contingency plan implementation, relevant to the positions in which they are employed.
- b. In addition, OAC 3745-65-16(A)(3) [40 C.F.R. § 265.16(a)(3)] requires, at a minimum, that the training program be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them

with emergency procedures, emergency equipment, and emergency systems, including, *inter alia*, where applicable: (1) procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; (2) communications or alarm systems; (3) response to fires or explosions; and (4) shutdown of operations.

- c. In addition, OAC 3745-65-16(D)(3) [40 C.F.R. § 265.16(d)(3)] requires that a written description be maintained of the type and amount of both introductory and continuing training that will be given to each person filling positions related to hazardous waste management.
- d. At the time of the November 2009 inspection, AK Steel's training records did not include documentation showing that the annual instruction included contingency plan implementation.
- e. At the time of the November 2009 inspection, the training program did not include several elements of the requirements of the RCRA Personnel Training, where applicable: 1) procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; 2) communications or alarm systems; 3) response to fires or explosions; ; and 4) shutdown of operations.
- f. Respondent's failure to maintain records of documentation showing that the annual instruction included contingency plan implementation and failure to include all elements of the requirements of the RCRA Personnel Training is a failure to comply with the conditions of OAC 3745-52-34(A)(4) and OAC 3745-65-16(A)(2) and (A)(3) and 3745-65-16(D)(3)) [40 C.F.R. § 262.34(a)(4); 40 C.F.R. §§ 265.16(a)(2) - (a)(3), and 265.16(d)(3)].

44. **Failure to Include All Required Elements within Contingency Plan.** OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)] and OAC 3745-65-52(C) [40 C.F.R. § 265.52(c)] require that a hazardous waste facility contingency's plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services pursuant to OAC 3745-65-37 [40 C.F.R. § 265.37]. OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)] and OAC 3745-65-52(E) [40 C.F.R. § 265.52(e)] require that a hazardous waste facility's contingency plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment), where this equipment is required. This list must be kept up to date and must include the location and a physical description of each item on the list, and a brief outline of its capabilities. OAC 3745-52-34(A)(4) [40 C.F.R. § 262.34(a)(4)] and OAC 3745-65-53 [40 C.F.R. § 265.53] require that a hazardous waste facility's contingency plan must be submitted to all local police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services.

- a. At the time of the inspection, Respondent's contingency plan did not describe arrangements agreed to by local police departments, fire departments, hospitals and State and Local emergency response teams to coordinate emergency services.
- b. At the time of the inspection, the contingency plan did not include a list of all emergency equipment at the facility and decontamination equipment, nor included the location and physical description of each item on the list and a brief outline of its capabilities.
- c. At the time of the inspection, the contingency plan had not been submitted to all

local police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services

- d. Respondent's failing to include all required elements within the contingency plan is a failure to comply with OAC 3745-52-34(A)(4), OAC 3745-65-52 (C) and (E), and OAC 3745-65-53 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. §§ 265.52 (c) and (e), and 265.53].

45. As set forth in Paragraphs 42-44 above, Respondent failed to comply with the conditions of OAC 3745-52-34 [40 C.F.R. § 262.34] necessary to exempt it from the requirement to obtain interim status or apply for and obtain a permit for the storage of hazardous waste; therefore, Respondent stored hazardous waste without a permit or interim status in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at OAC 3745-50-40 to 3745-50-66; 3745-54 to 3745-57; 3745-205 and 3745-256 [40 C.F.R. Part 264, 40 C.F.R. §§ 270.1(c), 270.10(a) and (d), and 270.13].

Count 2 – Failure to contain Lamps in Proper Containers.

46. Paragraphs 1 through 45 are incorporated by reference as if fully presented in this paragraph.

47. OAC 3745-273-13(D)(1) [40 C.F.R. § 273.13(d)(1)] requires that a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonable foreseeable conditions.

48. At the time of the inspection, two containers, storing used fluorescent light bulbs in

Respondent's universal waste storage area, were open.

49. Respondent's failure to store used fluorescent light bulbs, universal waste, in closed containers violated OAC 3745-273-13(D)(1) [40 C.F.R. § 273.13(d)(1)].

Civil Penalty

50. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$50,000. In determining the penalty amount, Complainant took into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

51. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty for the RCRA violations by the method specified in either Paragraph 51.a or 51.b below:

- a. by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Or, for checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must state the case title and the docket number of this CAFO.

b. by electronic funds transfer, payable to "Treasurer, United States of America,"

and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the case title and the docket number of this CAFO.

52. A transmittal letter stating Respondent's name, the case title and the case docket number must accompany the payment if payment is made by check. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Jamie Paulin (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Terence Branigan (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

53. This civil penalty is not deductible for federal tax purposes.

54. If Respondent does not timely pay the civil penalty or any stipulated penalties due under Paragraph 59 below, U.S. EPA may bring an action to collect any unpaid portion of the

penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

Compliance Provisions

55. In the manner and frequency specified below, Respondent shall conduct inspections to assess compliance with the most recent version of SOP#: KDO-029 (BH Dump Trailer Loading). Each inspection shall determine whether Respondent's contractor is properly conducting each requirement of Section 4.2 through 4.4 (Procedure for Dump Trailer Loading of K061) of SOP#: KDO-029. Respondent shall conduct one inspection of one loading operation in each of the four successive 3-month periods following the effective date. Thereafter, Respondent shall conduct one inspection of one loading operation in each of the following two successive 12-month periods.

56. Respondent shall not amend SOP#: KDO-029 in a manner that: (i) eliminates the requirement to place the vacuum truck hose under the tarp flap of a dump trailer to capture airborne dust during K061 loading events; or (ii) makes the procedure for Dump Trailer Loading of K061 specified in the current version of SOP #: KDO-029 process any less effective in preventing the escape of airborne K061 from the dump trailer during loading events than the

procedure specified in SOP #: KDO-029 (Rev. 5), Revision Date: 1/21/2013.

57. If during an inspection, Respondent determines that Respondent's contractor is not properly conducting one or more requirements, Respondent shall promptly implement corrective action to address the deficiency and ensure ongoing compliance.

58. Within 30 days of each inspection, Respondent shall provide a report to U.S. EPA, via e-mail to paulin.jamie@epa.gov. The report shall state the date of the inspection, and shall identify in checklist format each requirement of the inspection, and whether such requirement was properly conducted during the inspection. If a requirement was not properly conducted and Respondent implemented corrective action, the report shall identify the corrective action. Such report shall also describe all modifications made to SOP#: KDO-029 since the previous report required by this paragraph, and shall include a copy of the SOP as modified.

59. If Respondent violates any requirement of this CAFO relating to conducting inspections of compliance with SOP#: KDO-029 and submitting reports of such inspections, Respondent must pay the following stipulated penalties to the United States:

(a) If Respondent does not timely complete the inspections required by Paragraph 55 of this CAFO, Respondent must pay penalties in the following amounts for each day after the inspection was due until it completes the inspection:

<u>Penalty Per Violation Per Day</u>	<u>Period of Violation</u>
\$100	1 st through 14 th day
\$200	15 th through 30 th day
\$500	31 st day and beyond

(b) If Respondent does not timely submit the report required by Paragraph 58 of this CAFO, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty Per Violation Per Day</u>	<u>Period of Violation</u>
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\$100	1 st through 14 th day
\$200	15 th through 30 th day
\$500	31 st day and beyond

60. Respondent must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand of the penalties. Respondent will use the method of payment specified in Paragraph 51 above for payment of the civil penalty, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

General Provisions

61. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO, including the violations alleged in the Notice of Intent to File Civil Administrative Complaint and Notice of Violation dated October 17, 2012.

62. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

63. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

64. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, U.S. EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

65. The terms of this CAFO bind Respondent, its successors, and assigns.

66. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

67. Each party agrees to bear its own costs and attorney's fees in this action.

68. This CAFO constitutes the entire agreement between the parties.

69. Consistent with the "Standing Order Authorizing E-Mail Service of Order and Other

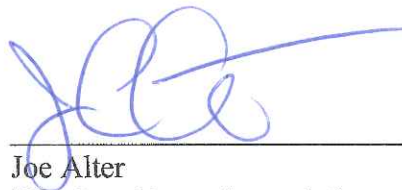
Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: **branigan.terence@epa.gov** (for Complainant), and **joe.alter@aksteel.com** (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

70. This CAFO shall terminate when Respondent has satisfied all of the terms and conditions of this CAFO.

AK Steel Corporation, Respondent

8/23/16

Date



Joe Alter
Vice President, General Counsel and Corporate
Secretary
AK Steel Corporation

United States Environmental Protection Agency, Complainant

9/14/16

Date



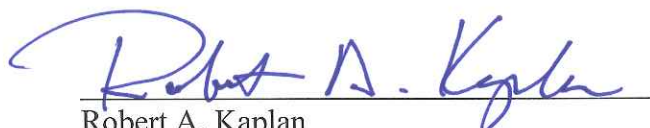
for Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
AK Steel Corporation
Docket No. RCRA-05-2016-0017

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9/18/15
Date


Robert A. Kaplan
Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: AK Steel Corporation
Docket Number: **RCRA-05-2016-0017**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number RCRA-05-2016-0017, which was filed on September 21, 2016 in the following manner to the following addressees:


Copy by E-Mail to Respondent: Mr. Joe Alter
Vice President, General Counsel and Corporate Secretary
joe.alter@aksteel.com

Copy by E-mail to
Attorney for Complainant: Terence Branigan
branigan.terence@epa.gov

Copy by E-mail to
EPA enforcement staff contact: Jamie Paulin
jamie.paulin@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: September 21, 2016



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5