

1. This Administrative Order on Consent (“AOC” or “Order”) for compliance is issued to the West Virginia Manufacturing, LLC (“WVA Manufacturing” or “Respondent”), under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement & Compliance Assurance Division, EPA Region 3.
2. Section 309(a) of the Act provides, among other things, that: “Whenever, on the basis of information available to [EPA], [EPA] finds that any person is in violation of any condition or limitation [implementing section 301, 302, 306, 307, 308, 318, or 405 of this title] in a

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permit issued under section [402] ... of this title, ... [EPA] shall issue an order requiring such person to comply with such condition or limitation” See 33 U.S.C. § 1319(a)(3).

3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.
4. The EPA has consulted with the West Virginia Department of Environmental Protection (“WVDEP”) regarding this action and, subsequent to the Effective Date, the EPA will provide a copy of this fully executed AOC to the appropriate WVDEP representative.

II. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this AOC.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this AOC.
7. The provisions of this AOC shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
8. Respondent shall bear its own costs and attorneys’ fees in connection with this proceeding and associated with the implementation or enforcement of this AOC, including any costs related to resolution of any dispute arising regarding this AOC.
9. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. § 1251 – 1389, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, the EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction, to enforce the provisions of this AOC, following the Effective Date, as defined below.
10. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the EPA’s authority to seek compliance with any applicable

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laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251 – 1389, or any regulations promulgated thereunder.

11. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701 – 706.
12. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
13. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this AOC and to execute and legally bind the Respondent.
14. By signing this AOC, Respondent acknowledges that this AOC may be available to the public and represents that, to the best of Respondent's knowledge and belief, this AOC does not contain any confidential business information or personally identifiable information from Respondent.
15. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
16. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the tasks set forth in Section V of this AOC (Compliance Order) is deemed restitution, remediation, or required to come into compliance with the law.

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III. STATUTORY AND REGULATORY BACKGROUND

17. Section 301 of the CWA, 33 U.S.C. § 1311, prohibits the discharge of any pollutant from a point source to a water of the United States, except in compliance with, among other things, a NPDES permit issued pursuant to Section 402 of the CWA.
18. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States.
19. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source’.” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(12).
20. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 40 C.F.R. § 122.2. See also 33 U.S.C. § 1362(6).
21. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), WVDEP is authorized to administer the NPDES program in the State of West Virginia.
22. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within the State of West Virginia for NPDES permit violations.

IV. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

23. Respondent, West Virginia Manufacturing, LLC is a “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5), that manufactures alloys.
24. At all times relevant to this AOC, Respondent discharged stormwater and wastewater from Respondent’s manufacturing activities at its facility located on Route 60 East in Alloy, West Virginia (the “Facility”) into the Kanawha River.
25. At all times relevant to this AOC, Respondent’s discharges of stormwater and wastewater from its manufacturing activities have been subject to National Pollutant Discharge Elimination System (“NPDES”) Permit No. WV000167 (the “NPDES 2022 Permit”), and Multi-Sector General Water Pollution Control Permit with General Permit No. WV0111457 and General Permit Registration No. WVG612001 (the “Stormwater Permit”). The NPDES 2022 Permit that was issued on July 26, 2022, and became effective on September 1, 2022, regulates discharges from the Facility into the Kanawha River. The

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Stormwater Permit—issued on April 21, 2021, regulates stormwater discharges from the Facility.

26. Respondent is authorized to discharge pollutants, in the form of stormwater and wastewater from the Facility to waters of the United States only in accordance with the terms and conditions of the Permits.
27. At all times relevant to this AOC, the Respondent discharged stormwater and wastewater into the Kanawha River, through a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
28. The Kanawha River is a permanent water, a Traditional Navigable Water, and a water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
29. On November 14, 2023, representatives of the EPA and WVDEP conducted an inspection of the Facility for purposes of determining compliance with the Permits (the “Inspection”).

Count 1

Failure to engage in Good Housekeeping Regarding Silica Fume Piles at the Facility

30. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
31. Section B.17.A.2.a.3 of the Stormwater Permit states “[t]he [Stormwater Pollution Prevention Plan (“SWPPP”)] shall include a preventative maintenance program that involves inspection and maintenance of stormwater prevention devices.”
32. Section C.1 of the NPDES 2022 Permit states, in pertinent part, “[t]he permittee shall practice good housekeeping including maintaining facility grounds. There shall be no scattered parts, equipment, debris, etc.”
33. Section C.14 of the NPDES 2022 Permit states “[t]he permittee [shall] implement and maintain the approved stormwater pollution prevention plan [SWPPP] for the site The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity. In addition, the plan shall describe and ensure the implementation practices which are used to reduce pollutants in storm water discharges associated with the industrial activity at the facility and to assure compliance with the terms and conditions of this permit.”
34. Section 5.4 of the SWPPP addresses good housekeeping practices, to prevent “...materials from entering the surface waters and allowing material to come into contact with the soil” Section 5.4 of the SWPPP also indicates that silica fume must be maintained on concrete pads and off the top of any containment structures.
35. Additionally, West Virginia Department of Environmental Protection Order No. SW-21-004 (as amended on June 16, 2022) required the SWPPP final practices or measures to control storm water discharges from silica fume material that is located on the outside

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concrete storage pads.

36. During the Inspection, the EPA Inspection Team did not observe any wattles or structures directing flow from the concrete pads to the retention pond. Further, the EPA did not observe a space between the concrete barriers and the silica fume piles. In some cases, the silica fume piles appeared to be placed on top of or over the containment barriers (concrete jersey barriers), making it more likely that silica fume may overtop/migrate past these containment structures.
37. During the Inspection, the EPA Inspection Team observed several additional elements of the SWPPP were not implemented:
 - a) An inlet in proximity to the sand house building appeared to be compromised with material undermining the filter bag.
 - b) An inlet in proximity to the sand house building did not appear to have protection.
 - c) An inlet northeast of the sand house building did not appear to have protection.
 - d) An inlet east of the sand house building in proximity to the silica fume piles appeared to have material dried on top.
 - e) An inlet with check dams in proximity to the silica fume piles appeared to have filter bags only partially surrounding the inlet.
 - f) An inlet in proximity to the Furnace 3 building did not appear to have protection.
 - g) Various inlets in proximity to the office building did not appear to have protection.
38. Based on the allegations in the Paragraphs above, at the time of the Inspection Respondent violated permit sections: 1) Section B.17.A.2.a.3 of the Stormwater Permit; and 2) Section C.1 and Section C.14 of the NPDES 2022 Permit by failing to properly contain silica fume piles and/or implement the SWPPP at the Facility, in violation of the Permits issued under Section 402 of the Act, 33 U.S.C. § 1342, and the CWA.

V. COMPLIANCE ORDER

Therefore, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:

39. Inlet Protection. Within forty-five (45) days of the Effective Date of the AOC, the Respondent shall install and maintain stormwater management devices to protect any and all of the stormwater inlets at the Facility. Respondent shall provide verification in the form of photographs to the EPA upon completion of this requirement.

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40. Silica Fume Piles Removal.

- a) The Respondent shall use best efforts to reduce the volume of all outdoor silica fume piles from the Facility in accordance with the schedule in Table 1; provided, however, that the Respondent shall ensure that the Facility has completed the removal of all silica fume from permanent outside storage by no later than December 31, 2028, except as authorized under Paragraphs 39(b):

	2025	2026	2027	2028
Fume stored onsite (tons)	30,000 total (20,000 stored outside)	24,000 total (15,000 stored outside)	15,000 total (6,000 stored outside)	6,000 total (0 stored outside)
Fume forecasted for removal (tons)	9,000	9,000	9,000	9,000

- b) The Respondent may request an adjustment to the removal schedule set forth in Paragraph 39(a) due to a change in market conditions that reduces or prohibits the sale of silica fume from the Facility. Within thirty (30) days of becoming aware that the Facility will not be able to comply with the December 31, 2028, date of having all fume removed from outside storage, the Respondent shall provide written notice to EPA requesting an adjustment to the schedule. The notice shall include (i) the reason for delay in silica fume removal and (ii) the proposed revised removal schedule. EPA shall review Respondent's request and (1) approve, (2) disapprove, or (3) propose a revision to the revised removal schedule.
- c) The Respondent shall submit to EPA semi-annual reports (the reports shall be submitted by July 31 and January 31 of each calendar year) that provide (i) the amount of outside silica fume removed from the Facility during the preceding six (6) month period, (ii) the estimated amount of silica fume remaining outside at the Facility, and (iii) the projected amount of silica fume to be removed from outside storage at the Facility in the next six (6) month period.
41. Respondent shall submit to EPA a notice within thirty (30) days of completing the tasks identified in Paragraphs 38 (Inlet Protection) and 39 (Silica Fume Piles Removal).

VI. PROCEDURES FOR SUBMISSIONS

42. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR 122.22(d), that reads as follows:

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I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed _____

Title: _____

Date: _____

43. Respondent may assert a business confidentiality claim covering part of all of the information which this AOC requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If, at the time any information is submitted to the EPA, Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

44. Unless otherwise directed in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this AOC via email to:

Email: greenwald.michael@epa.gov

Mr. Michael Greenwald
NPDES Enforcement Officer
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3

AND

R3_ORC_mailbox@epa.gov
Attn: Lauren Zarrillo

Any information submitted electronically shall be submitted in a widely recognized electronic format.

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VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC

45. Upon completion of all items required by the CAP and a determination of completeness of each item, Respondent shall submit to EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondent has maintained compliance with this AOC for the term of this AOC; and
 - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this AOC.
46. If, following review of any Certification of Compliance and Request for Termination of this AOC, the EPA agrees that Respondent has adequately complied with all requirements of this AOC, then EPA may, in its unreviewable discretion, provide written notification of termination of this AOC.
47. The EPA, at all times, reserves the right to unilaterally terminate this Order in its unreviewable discretion.

VIII. AOC MODIFICATIONS

48. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by the EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this AOC shall not relieve Respondent of any obligation under this AOC and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this AOC, in its sole and unreviewable discretion.

XI. EFFECTIVE DATE

49. This AOC will become effective upon the Respondent's receipt of a fully-executed copy of this AOC.

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For: West Virginia Manufacturing, LLC

Date: 05-Nov-2025

By:

Signed by:

Monica Magnien

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Monica Magnien, General Counsel, Americas

Date: 05-Nov-2025

By:

Signed by:

Johan Grobbelaar

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Johan Grobbelaar, VP Operations North America

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SO ORDERED:

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

By: _____

[Digitally signed and dated]

Acting Director

Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency, Region 3

(dated via electronic timestamp)

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REGION 3

PHILADELPHIA, PA 19103

In the Matter of:

U.S. EPA Docket No. CWA-03-2026-0012DN

**West Virginia Manufacturing, LLC
Route 60 East
Alloy, WV 25002**

RESPONDENT,

**ADMINISTRATIVE ORDER ON CONSENT
PURSUANT TO 33 U.S.C. § 1319(a)**

**West Virginia Manufacturing, LLC
Route 60 East
Alloy, WV 25002
NPDES Permit # WV0000167
NPDES Permit # WVG612001**

FACILITY.

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent, was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the Administrative Order on Consent. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing Order for Compliance to each of the following persons, in the manner specified below, at the following addresses:

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Copies served via UPS and email to:

David M. Loring, Esq.
Arentfox Schiff LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois, 60606
David.loring@afslaw.com

Copies served via email to:

Lauren Zarrillo
Assistant Regional Counsel
U.S. EPA, Region 3
zarrillo.lauren@epa.gov

Michael Greenwald
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
greenwald.michael@epa.gov

[Digital Signature and Date]

Regional Hearing Clerk
U.S. EPA, Region 3