



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 11 2018

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Abigail Duncan  
Environmental Engineer  
Century Aluminum of Kentucky, LLC  
1627 State Route 2715  
Hawesville, Kentucky 42348

Re: Century Aluminum of Kentucky, LLC, KYD049062375  
Consent Agreement and Final Order, Docket No. RCRA-04-2018-4013(b)

Dear Ms. Duncan:

Enclosed, please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk. The timing of all other obligations required by the CA/FO also begin on the effective date of the CA/FO.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590 or by email at [lamberth.larry@epa.gov](mailto:lamberth.larry@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth  
Chief, Enforcement and Compliance Branch  
RCR Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2018-4013(b)
	)	
Century Aluminum of Kentucky	)	
General Partnership	)	
1627 State Route 2715	)	Proceeding Under Section 3008(a) of the
Hawesville, Kentucky 42348	)	Resource Conservation and Recovery Act,
EPA ID No.: KYD049062375	)	42 U.S.C. § 6928(a)
	)	
Respondent	)	
_____	)	

**CONSENT AGREEMENT**

**I. NATURE OF THE ACTION**

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of the Kentucky Revised Statutes (KRS) Title XVIII, Chapter 224, Subchapter 46-Hazardous Waste *et seq.* (2006) [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939g], and the regulations promulgated pursuant thereto and set forth at Title 401 of the Kentucky Administrative Regulations (K.A.R.) Chapters 30 through 38, 43 and 44 (2006) [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of KRS subchapters 224.46 *et seq.* (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925] and 401 K.A.R. Chapters 30-38, 43 and 44 (2006) [40 C.F.R. Parts 260 through 270 & 279].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

## II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Century Aluminum of Kentucky General Partnership, a general partnership registered under the laws of Kentucky. Respondent is the owner and operator of a primary aluminum manufacturer located at 1627 State Route 2715 in Hawesville, Kentucky (the Facility).

## III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Commonwealth of Kentucky (Kentucky) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized Kentucky program are found at KRS § 224.46-012 *et seq.* (2006) and 401 K.A.R. Chapters 30 through 38, 43 and 44 (2006).
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Kentucky has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted Kentucky authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and Kentucky.
9. As Kentucky's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized Kentucky program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to Kentucky before issuance of this CA/FO.
11. KRS § 224.46-510(1) (2006) [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at 401 K.A.R. Chapter 32 (2006)<sup>1</sup> [40 C.F.R. Part 262 (2016)].

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<sup>1</sup> Kentucky's newly adopted Generator Improvements Rule regulations are currently under review by EPA and have not yet been authorized. Accordingly, this CA/FO will refer to the latest version of Kentucky's authorized regulations and their federal analogs effective in 2016, prior to the effective date of the federal Generator Improvements Rule.

12. KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at 401 K.A.R. Chapter 34 (2006) (permitted) and 401 K.A.R. Chapter 35 (2006) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to 401 K.A.R. 31:010 Section 2 (2006) [40 C.F.R. § 261.2], a “solid waste” is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to 401 K.A.R. 31:005 Section 3 (2006) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in 401 K.A.R. 31:010 Section 3(b) (2006) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by 401 K.A.R. 31:010 Section 4 (2006) [40 C.F.R. § 261.4(b)]
15. Pursuant to 401 K.A.R. 31:010 Section 3(b)1. (2006) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20] solid wastes that exhibit any of the characteristics identified in 401 K.A.R. 401 K.A.R. 31:030 Sections 2-5 (2006) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.
16. Pursuant to 401 K.A.R. 401 K.A.R. 31:030 Section 1 and 3 (2006) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
17. Pursuant to 401 K.A.R. 31:30 Sections 1 and 5 (2006) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 K.A.R. 31:030 Section 5 (2006) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
18. Pursuant to 401 K.A.R. 31:30 Sections 1 and 5 (2006) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to 401 K.A.R. 31:030 Section 5 (2006) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for lead is identified with the EPA Hazardous Waste Number D008.
19. Pursuant to 401 K.A.R. 31:005 Section 1(111) (2006), “generator” means any person, by site, whose act or process produces waste. (See KRS § 224.01-010(13) (2006))
20. Pursuant to 401 K.A.R. 31:005 Section 1(93)(a) (2006) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.” A facility may consist of several treatment, storage or disposal units (e.g., one or more landfills, surface impoundments, or combinations of them).
21. Pursuant to 401 K.A.R. 30:005 Section 1(22) (2006), a “person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association,

federal agency, state agency, city, commission, political subdivision of the Commonwealth of Kentucky, or any interstate body. (See KRS § 224.01-010(17))

22. Pursuant to 401 K.A.R. 30:005 Section 1(20 and 19) (2006) [40 C.F.R. § 260.10], an “owner” is “any the person who owns an on-site or off-site waste facility or any part of a facility” and an “operator” is “any person responsible for the overall operation of a facility, including any private contractor conducting operational activities at a federal facility.”
23. Pursuant to 401 K.A.R. 30:005 Section 1(28) (2006) [40 C.F.R. § 260.10], “storage” means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes. (See KRS 224.01-010(28))
24. Pursuant to 401 K.A.R. 35:005 Section 1(273) (2006), “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen material which provides structural support.
25. Pursuant to 401 K.A.R. 44:005 Section 1(15) (2006) [40 C.F.R. § 260.10 (2016)], “used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
26. Pursuant to 401 K.A.R. 32:010 Section 2 (2006) [ 40 C.F.R. § 262.11 (2016)], a person who generates a waste, as defined in 401 K.A.R. 31:010 Section 2 (2006) [ 40 C.F.R. § 261.2], must determine if that waste is a hazardous waste following the methods articulated in 401 K.A.R. 32:010 Section 2 (2006) [ 40 C.F.R. § 262.11 (2016)].
27. Pursuant to 401 K.A.R. 32:030 Section 5(1) (2006) [40 C.F.R. § 262.34(a) (2016)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator (LQG) and may accumulate hazardous waste on site for 90 days or less without a permit or without having interim status, as required by KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the management requirements listed in 401 K.A.R. 32:030 Section 5(1) (2006) [40 C.F.R. § 262.34(a)(1)-(4) (2016)] (hereinafter referred to as the “LQG Permit Exemption”).
28. Pursuant to 401 K.A.R. 32:030 Section 5(1)(a)2. (2006) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 401 K.A.R. 35:190 (2006) [40 C.F.R. Part 265, Subpart J], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tank systems is required to comply with the tank standards of 401 K.A.R. 35:190 (2006) [40 C.F.R. Part 265, Subpart J].
29. Pursuant to 401 K.A.R. 32:030 Section 5(1)(c) (2006) [40 C.F.R. § 262.34(a)(3) (2016)], which is a condition of the LQG Permit Exemption, a generator is required to label or clearly mark each container and tank accumulating hazardous waste on-site with the words: “Hazardous Waste.”
30. Pursuant to 401 K.A.R. 32:030 Section 5(1)(a)2. (2006) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 401 K.A.R. 35:190 Section 3(1) (2006) [40 C.F.R. § 265.192(a), and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

31. Pursuant to 401 K.A.R. 32:030 Section 5(1)(a)2. (2006 [40 C.F.R. § 262.34(a)(1)(ii)(2016)], which incorporates 401 K.A.R. 35:190 Section 6 (2006) [40 C.F.R. § 265.195(e)], and is a condition of the LQG Permit Exemption, a generator accumulating hazardous waste in tanks must conduct daily inspections of tank ancillary equipment that is not provided with secondary containment.
32. Pursuant to 401 K.A.R. 32:030 Section 5(3)(a) (2006) [40 C.F.R. § 262.34(c)(1) (2016)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with 401 K.A.R. 32:030 Section 5(1)(a) (2006) [40 C.F.R. § 262.34(a) (2016)], provided that the generator complies with the satellite accumulation area conditions listed in 401 K.A.R. 32:030 Section 5(3)(a) 1.-2. (2006) [40 C.F.R. § 262.34(c)(1)(i)-(ii) (2016)] (hereinafter referred to as the “SAA Permit Exemption”).
33. Pursuant to 401 K.A.R. 32:030 Section 5(3)(a)1. (2006) [40 C.F.R. § 262.34(c)(1)(i) (2016)], which incorporates 401 K.A.R. 35:180 Section 4(1) (2006) [40 C.F.R. § 265.173(a)], and is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed when waste is not being added or removed.
34. Pursuant to 401 K.A.R. 44:020 Section 3(2) (2006) [40 C.F.R. § 279.22(b)(1)], containers and aboveground tanks used to store used oil at the generator must be in good condition (no severe rusting, apparent structural defects or deterioration).
35. Pursuant to 401 K.A.R. 44:020 Section 3(3)(a) (2006) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

#### **IV. EPA ALLEGATIONS AND DETERMINATIONS**

36. Respondent is a “person” as defined in 401 K.A.R. 31:005 Section 1(203) (See KRS 224.01-010(17)).
37. Respondent is the “owner and operator” of a “facility” located at 1627 State Route 2715 in Hawesville, Kentucky, as those terms are defined in 401 K.A.R. 30:005 Section 1(194 and 192) (2006) and 401 K.A.R. 31:005 Section 1(93)(a) (2006).
38. Respondent is a “generator” of “hazardous waste” as those terms are defined in 401 K.A.R. 31:005 Section 1(111) (2006) (See KRS 224.01-010(13)) [40 C.F.R. § 260.10] and 401 K.A.R. 31:005 Section 1(311) (2006) (See KRS § 224.01-010(31)(b)). [40 C.F.R. § 261.3].
39. Respondent operates a primary aluminum smelter.
40. Respondent, as a result of its practices and operations at the Facility, is a LQG, as that term is defined in 401 K.A.R. 32:030 Section 5(1) (2006) [40 C.F.R. § 262.34(a) (2016)], at all times relevant to this CA/FO.

41. Respondent, as a result of its practices and operations at the Facility, is a generator of used oil, as that term is defined in 401 K.A.R. 43:005 Section 1(254) (2006) [40 C.F.R. § 273.9], at all times relevant to this CA/FO.
42. On August 9-10, 2017, the EPA and Kentucky Department for Environmental Protection (the “inspection team”) conducted a RCRA compliance evaluation inspection (CEI) at the facility. The EPA’s findings of the CEI were documented in a report mailed to Respondent, dated January 22, 2018.
43. At the time of the CEI, the inspection team observed numerous 1-gallon cans of paint that were abandoned in a locked shed. Respondent didn’t know if the paint waste was a hazardous waste nor did Respondent know how long the paint waste had been stored in the shed. At some point after the inspection, Respondent conducted a hazardous waste determination, and determined the paint waste to be a hazardous waste. On January 1, 2018, Respondent disposed of approximately 530 lbs. of waste paint, as a hazardous waste.
44. The EPA therefore alleges that Respondent violated KRS 224.46-510(2) (2006) and 401 K.A.R. 31:010 Section 2 (2006) [40 C.F.R. § 262.11 (2016)], by failing to make a hazardous waste determination on paint waste stored in the paint storage shed.
45. At the time of the CEI, the inspection team observed a waste mixture of coke and water accumulated at the bottom of the cooling tower. Based on analytical records reviewed by the inspection team, dated from 2014 and 2017, the waste mixture is D002/D007/D008 characteristic hazardous waste. The cooling tower was storing a hazardous waste and was therefore acting as a tank. Respondent failed to manage the tank as a hazardous waste tank, including failing to meet RCRA tank standards, tank labeling requirements, tank integrity testing requirements, and daily tank inspection requirements.
46. The EPA therefore alleges that Respondent violated KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption given in 401 K.A.R. 32:030 Section 5(1)(a)2. (2006) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], by not complying with the tank standards of 401 K.A.R. 35:190 (2006) [40 C.F.R. Part 265, Subpart J].
47. The EPA therefore alleges that Respondent violated KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth at 401 K.A.R. 32:030 Section 5(1)(c) (2006) [40 C.F.R. § 262.34(a)(3) (2016)], by not labeling or clearly marking the tank accumulating hazardous waste on-site with the words: “Hazardous Waste.”
48. The EPA therefore alleges that Respondent violated KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth at 401 K.A.R. 32:030 Section 5(1)(a)2. (2006) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 401 K.A.R. 35:190 Section 3(1) (2006) [40 C.F.R. § 265.192(a)], and which requires a generator accumulating hazardous waste in tanks to obtain a written tank assessment reviewed and certified by a qualified Professional Engineer, attesting that the

system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste.

49. The EPA therefore alleges that Respondent violated KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the LQG Permit Exemption set forth at 401 K.A.R. 32:030 Section 5(1)(a)2. (2006) [40 C.F.R. § 262.34(a)(1)(ii) (2016)], which incorporates 401 K.A.R. 35:190 Section 6 (2006) [40 C.F.R. § 265.195(e)], and which requires a generator accumulating hazardous waste in tanks to conduct daily inspections of tank ancillary equipment that is not provided with secondary containment.
50. At the time of the CEI, the inspection team found one open 13-gallon SAA container storing aerosol cans at the Green Carbon Building and two open 30-gallon SAA containers storing aerosol cans at the Mobile Equipment Garage.
51. The EPA therefore alleges that Respondent violated KRS § 224.46-520(1) (2006) [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption set forth in 401 K.A.R. 32:030 Section 5(3) (2006) [40 C.F.R. § 262.34(c)(1)(i) (2016)], by not complying with the container management requirements of 401 K.A.R. 35:180 Section 4(1) (2006) [40 C.F.R. § 265.173(a)].
52. At the time of the CEI, the inspection team observed two 55-gallon drums of used oil at the Used Oil Building and the Hydraulic Shop that were not labeled with the words "Used Oil."
53. The EPA therefore alleges that Respondent violated K.A.R. 44:020 Section 3(3)(a) (2006) [40 C.F.R. § 279.22(c)(1)], by storing used oil in containers that were not labeled or marked clearly with the words "Used Oil."
54. At the time of the CEI, the inspection team observed one 55-gallon drum of used oil that was dented and in poor condition.
55. The EPA therefore alleges that Respondent violated 401 K.A.R. 44:020 Section 3(1) (2006) [40 C.F.R. § 279.22(b)(1)], which requires that containers and aboveground tanks used to store used oil at the generator must be in good condition (no severe rusting, apparent structural defects or deterioration).

## V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

56. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
57. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.



58. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
59. Respondent consents to the issuance of this specified compliance order.
60. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
61. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
62. 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 CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
63. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
64. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
65. Each party will pay its own costs and attorneys' fees.
66. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

## **VI. WORK TO BE PERFORMED**

67. Within 30 days of the effective date of this CA/FO, Respondent consents to submit a Work Plan to address the storage of the mixture of coke and water accumulated at the bottom of the cooling tower and comply with the tank standards in 401 K.A.R. 35:190 (2006) [40 C.F.R. Part §265.191 thru 196]. At a minimum the Work Plan must address the tank standards and include the following:
  - a. Stringent design standards and installation requirements for new tanks
  - b. Specifications for secondary containment and leak detection systems
  - c. General operating requirements
  - d. Inspection requirements: frequency and scope
  - e. Response to spills or leaks
  - f. Requirements for tanks that are unfit for use
  - g. Date of installation and operation
68. The Work Plan submitted to the EPA pursuant to this CA/FO shall include a detailed schedule for all work to be performed.

## VII. PAYMENT OF CIVIL PENALTY

69. Respondent consents to the payment of a civil penalty in the amount of THIRTY-EIGHT THOUSAND NINE HUNDRED DOLLARS (\$38,900), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
70. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
**Fines and Penalties**  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court

Riverdale, Maryland 20737  
Contact: John Schmid, (202) 874-7026  
REX (Remittance Express): 1-866-234-5681

71. Respondent shall submit a copy of the payment each payment to the following individuals:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

And to:

Héctor M. Danois, Environmental Engineer  
Hazardous Waste Compliance and Enforcement Section  
Enforcement and Compliance Branch  
RCR Division, US EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8909

72. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
  - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
  - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
73. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

## **VIII. PARTIES BOUND**

74. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
75. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
76. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

## **IX. RESERVATION OF RIGHTS**

77. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
78. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
79. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

## **X. OTHER APPLICABLE LAWS**

80. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

## **XI. SERVICE OF DOCUMENTS**

81. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Joan Redleaf Durbin  
Associate Regional Counsel  
Office of RCRA/CERCLA Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9544

82. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Century Aluminum  
ATTN: Office of General Counsel  
One South Wacker Drive, Suite 1000  
Chicago, IL 60606

## **XII. SEVERABILITY**

83. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

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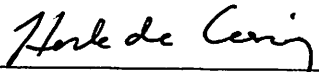
**XIII. EFFECTIVE DATE**

84. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

***In the matter of Century Aluminum of Kentucky General Partnership Docket No. RCRA-04-2018-4013(b):***


**AGREED AND CONSENTED TO:**

**Century Aluminum of Kentucky General Partnership**

By:   
Henk De Coning, Plant Manager  
Century Aluminum of Kentucky General Partnership

Dated: 8/28/2018

**United States Environmental Protection Agency**

By:   
Larry L. Lamberth, Chief  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Dated: 09/10/18

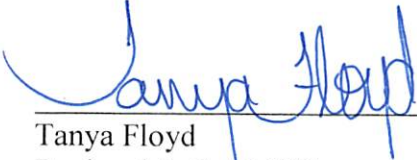
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

IN THE MATTER OF:	)	DOCKET NO.: RCRA-04-2018-4013(b)
	)	
Century Aluminum of Kentucky	)	
General Partnership	)	
1627 State Route 2715	)	Proceeding Under Section 3008(a) of the
Hawesville, Kentucky 42348	)	Resource Conservation and Recovery Act,
EPA ID No.: KYD049062375	)	42 U.S.C. § 6928(a)
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

**BEING AGREED, IT IS SO ORDERED** this 11<sup>th</sup> day of September 2018.

BY:   
\_\_\_\_\_  
Tanya Floyd  
Regional Judicial Officer  
EPA Region 4

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Century Aluminum of Kentucky General Partnership, Docket Number: RCRA-04-2018-4013(b), and have served the parties listed below in the manner indicated:

Joan Redleaf-Durbin  
Associate Regional Counsel  
Office of RCRA, OPA and UST Legal Support  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(Via EPA's electronic mail)

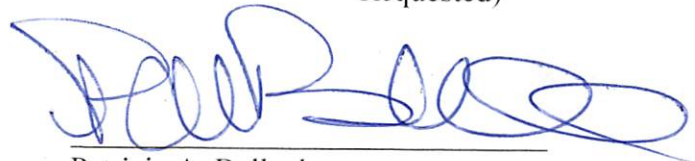
Quantindra Smith  
Enforcement and Compliance Branch  
RCR Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(Via EPA's electronic mail)

Héctor M. Danois  
Hazardous Waste Enforcement and Compliance Section  
Enforcement and Compliance Branch  
RCR Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(Via EPA's electronic mail)

Dennis J. Conniff  
Emily McKinney  
Frost Brown Todd, LLC  
400 West Main Street, 32<sup>nd</sup> Floor  
Louisville, Kentucky 40202  
(Via Certified Mail - Return Receipt Requested)

Century Aluminum  
ATTN: Office of General Counsel  
One South Wacker Drive, Suite 1000  
Chicago, IL 60606  
(Via Certified Mail - Return Receipt Requested)

Date: 9-11-18



Patricia A. Bullock  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511