

FILED

March 4, 2026

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U.S. EPA REGION 7
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BLVD.
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

In the Matter of)

AllMetal Recycling, LLC)

Respondent.)

Proceedings under Section 309(a) of the
Clean Water Act, 33 U.S.C. § 1319(a)

) Docket No. CWA-07-2025-0118

) ADMINISTRATIVE ORDER ON
) CONSENT

Jurisdiction

1. This Administrative Order on Consent (“Order”) is issued pursuant to the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1319(a)(3), to AllMetal, LLC (“Respondent”).

2. The EPA and Respondent enter into this Section 309(a)(3) Order for the purpose of carrying out the objective of the CWA, 33 U.S.C. § 1251 *et seq.*, to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3. It is the parties’ intent through entering into this Order to address Respondent’s violations of its National Pollutant Discharge Elimination System (“NPDES”) permit for discharges of industrial stormwater. As set forth in this Order, the parties have reached agreement regarding the timeframes for Respondent to attain compliance with the CWA and their NPDES permit.

4. By entering into this Order, Respondent (1) consents to and agrees not to contest the EPA’s authority or jurisdiction to issue and enforce this Order, (2) consents to personal service by electronic mail, (3) agrees to undertake all actions required by the terms and conditions of this Order, and (4) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual or legal allegations in this Order, except that Respondent admits the jurisdictional allegations herein. 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 Order on Consent, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

5. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this Order, including any costs related to resolution of any dispute arising regarding this Order.

Parties

6. The authority to take action under Section 309(a) of the CWA, 33 U.S.C. § 1319(a), is vested in the Administrator of the EPA. The Administrator has delegated this authority to the Regional Administrator, EPA Region 7, who in turn has delegated the authority under Section 309(a) to the Director of the Enforcement and Compliance Assurance Division of EPA Region 7 (collectively referred to as the “Complainant”) with concurrence of the Regional Counsel.

7. Respondent is and was at all relevant times a limited liability corporation under the laws of the state of Kansas.

Statutory and Regulatory Framework

8. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

9. The CWA prohibits the discharge of “pollutants” from a “point source” to a “navigable water,” as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

10. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

11. To implement Section 402 of the CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. § 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

12. Pursuant to Section 402(p) of the CWA, the EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

13. 40 C.F.R. § 122.21(a) requires dischargers of pollutants from industrial facilities to apply for an NPDES permit.

14. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

15. 40 C.F.R. § 122.26(b)(14) defines “stormwater discharge associated with industrial activity” as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw material storage areas at an industrial plant.”

16. Included in the categories of facilities considered to be engaging in “industrial activity” are facilities under Standard Industrial Classifications (“SIC”) Codes 5015 and 5093. See 40 C.F.R. § 122.26(b)(14)(vi).

17. The Kansas Department of Health and Environment (“KDHE”) is the agency within the state of Kansas that has been authorized by the EPA to administer the federal NPDES program pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations.

18. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

EPA’s General Allegations

19. Respondent is a “person,” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

20. At all times relevant for this action, Respondent is or was the owner and/or operator of the property located at 800 E. 21st St. N., Wichita, Kansas 67214 (“Facility”). The Facility operates under SICs 5015 and 5093 and conducts metal recycling operations.

21. The Facility is on a parcel that is approximately 20 acres. The stream, labeled Drainage Canal by the USGS, bisects the site and receives precipitation runoff from the Facility. The Drainage Canal has seasonal flow.

22. The Drainage Canal is a relatively permanent water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

23. The Drainage Canal flows into Chisholm Creek, a perennial stream. The KDHE lists this section of Chisholm Creek as impaired for drinking water, aquatic life, and swimming and boating designated uses. Identified issues include bacteria and other microbes, degraded aquatic life, nitrogen and phosphorus, and salts.

24. Chisholm Creek is a perennial water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

25. Chisholm Creek flows into the Arkansas River. The KDHE lists the receiving section of Arkansas River, or state waterbody KS-110300133, as impaired for drinking water, aquatic life, fish and shellfish consumption, and swimming and boating designated uses. The identified issues include bacteria and other microbes, degraded aquatic life, nitrogen,

phosphorous, and Polychlorinated Biphenyls. There are existing Total Maximum Daily Loads plans to restore water quality for this waterbody.

26. The Arkansas River is an interstate water and traditional navigable water and is therefore a “navigable water” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

27. Stormwater from the Facility contains “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

28. The Facility has “stormwater discharges associated with industrial activity” as defined by 40 C.F.R. § 122.26(b)(14) and is a “point source” as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

29. Stormwater runoff from industrial activity at the Facility results in the addition of pollutants from a point source to navigable waters and thus is the “discharge of a pollutant” as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

30. Respondent’s discharge of pollutants, including discharges of stormwater associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(ii), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

31. The KDHE issues the General NPDES Permit for Storm Water Discharges Associated with Industrial Activity (“Kansas General Permit”).

32. On June 28, 2017, Respondent submitted a renewal NOI for permit number KSR001081 to KDHE to maintain the authorization to discharge at the Facility. Effective November 1, 2021, through October 31, 2026. KDHE assigned permit number KSR001081 to Respondent.

33. On December 12, 2024, the EPA performed an Industrial Stormwater Inspection (“EPA Inspection”) of the Facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent’s compliance with the CWA and transmitted a copy of the report to the facility on February 18, 2025.

EPA’s Findings of Violation

The paragraphs above are re-alleged and incorporated herein by reference.

Count 1

Inadequate Stormwater Pollution Prevention Plan

34. Part 2 of the Permit requires the Respondent to develop and implement a Stormwater Pollution Prevention Plan (“SWPPP”). The SWPPP shall be specific to the industrial

activity and site characteristics and contain stormwater management controls, managerial/administrative Best Management Practices (“BMPs”), structural control BMPs, and non-structural control BMPs appropriate for the facility.

35. Part 2.4.6 of the Permit requires the Respondent to re-evaluate and modify in a timely manner, but in no case more than 90 days after, the KDHE, EPA, or permittee's inspections (including the regular comprehensive site compliance evaluation required herein) indicate deficiencies in the SWPPP or any BMP.

36. Part 2 of the Permit identifies all the required elements of the SWPPP which include, but are not limited to: facility description, pollution prevention team, description of potential pollutant sources, measures and controls, comprehensive site compliance evaluation, monitoring and record keeping requirements, and SWP2 plan update and modification.

37. The EPA’s review of the Facility’s SWPPP found that the Facility failed to include, among other things:

- a. Accurate conditions at the Facility;
- b. Complete records like monitoring, inspections, employee training, and maintenance logs;
- c. Update the SWPPP within 90 days after the permittee’s inspection indicate deficiencies in the SWPPP or any BMP; and
- d. A complete and accurate site map, description of potential pollutant sources, inventory of exposed materials, sampling data, spill prevention and response measures, measures and controls and risk identification.

38. Based on observations during the EPA Inspection, a review of information provided by Respondent, and other relevant information, the Facility’s SWPPP is inadequate and/or Respondent failed to update the Facility’s SWPPP as required by Part 2 of the Permit.

39. Respondent’s failure to develop an adequate and accurate SWPPP and/or to modify the SWPPP are violations of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

Count 2

Failure to Implement SWPPP

40. Part 2.1 of the Respondent’s Permit requires the Respondent to develop and fully implement a Stormwater Pollution Prevention Plan. The purpose of the SWPPP is to ensure the design, implementation, management, and maintenance of BMPs in order to reduce the amount of pollutants in stormwater discharges associated with industrial activities at the facility. The SWPPP shall evaluate BMPs from each of three major classes: managerial/administrative structural controls, and non-structural controls.

41. During the EPA Inspection, the inspector observed the following failures to design and implement BMPs, good housekeeping, and spill prevention practices in accordance with the SWPPP and Permit:

- a. Material handling, material storage, and other process areas were not maintained in a clean and orderly manner;
- b. Spilled and leaked coolant was on the ground, in drainage pathways, and inside the Outfall 1 drainage structure;
- c. Coolant-coated materials were stored outdoors uncontained allowing coolant to be tracked across the site;
- d. Batteries were stored outdoors, uncontained, and exposed to stormwater;
- e. Leaked fluids from equipment and vehicles were on the ground;
- f. Stockpiles of soil, turnings, scrap, and fines were located near storm sewer inlets and stream embankments without BMPs to reduce the amount of pollutants discharged;
- g. Debris from site activity was migrating down the embankment towards the stream;
- h. Totes and tanks of liquid wastes stored outdoors without spill prevention or control measures;
- i. Numerous storm sewer inlets did not have BMPs to reduce the discharge of potential pollutants at the site; and
- j. Waste, garbage, and floatable debris were noted exposed to stormwater across the site.

42. Respondent's alleged failure to adequately maintain BMPs is a violation of the conditions of the Respondent's Permit, and as such is a violation of Section 402 of the CWA, 42 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count 3

Failure to Conduct and/or Document Inspections and Comprehensive Evaluations

43. Part 2.4.3.d of the Permit requires that the permittee inspect the Facility at appropriate intervals, but at a minimum a quarterly basis. The Permit requires that an inspection report shall be completed for each inspection which shall include: the inspection date, inspection personnel, scope of the inspection, major observations, and any revisions needed in the SWPPP. The inspection report shall include completion dates for correction of all deficiencies. Records of inspections shall be maintained on-site or in a readily accessible location for at least three years after the date of the inspection.

44. Part 2.4.4 of the Permit requires that a comprehensive site compliance evaluation shall be conducted and documented at least once a year.

45. Based on information provided to the EPA, Respondent either failed to conduct quarterly inspections or was unable to produce inspection records from September 2021 to March 2024.

46. Based on information available to the EPA, Respondent either failed to conduct annual comprehensive site compliance evaluations or was unable to produce in evaluation records from September 2021 to December 2023.

47. Respondent's failure to conduct and/or document inspections and evaluations are violations of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

Count 4

Failure to Conduct and/or Document Visual Examinations of Stormwater Quality

48. Part 2.4.5.a of the Respondent's permit requires Respondent to, at a minimum of once per year, perform and document a visual examination of a stormwater discharge associated with industrial activity from each identified stormwater outfall.

49. Respondent failed to conduct any visual examinations of stormwater discharge from each identified stormwater outfall from January 2021 to December 2023.

50. Respondent failed to conduct any visual examinations of stormwater discharge from Outfall 2 from January 2024 to December 2024.

51. Respondent's failure to conduct and/or document visual examinations of stormwater discharge are violations of the conditions or limitations of the Permit issued pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p).

Order for Compliance on Consent

52. Based on the EPA Findings set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the EPA hereby ORDERS the Respondent, and the Respondent hereby AGREES, to take the actions described below.

53. Respondent shall take whatever actions are necessary to correct the deficiencies and eliminate and prevent recurrence of the violations cited above, and to come into compliance with all the applicable requirements of its Permit.

54. In accordance with this Order and within ninety (90) days of the Effective Date, Respondent shall submit a Work Plan to EPA approved by a qualified consultant detailing the actions necessary to bring the SWPPP and Facility into compliance with the Permit. At minimum, the Work Plan shall include:

- a. The methods for ensuring the development and implementation of a SWPPP training program that meets the requirements of the Permit;
- b. The implementation of the current BMPs and any additional BMPs necessary to bring the Facility into compliance with the Permit; and
- c. The methods to prevent coolant-coated materials and coolant from entering stormwater runoff.

55. In accordance with this Order and within ninety (90) days of the Effective Date, Respondent shall provide the EPA with an updated and accurate SWPPP for the Facility which shall include:

- a. An accurate list and description of all BMPs currently implemented at the Facility;
- b. A list and description of all additional BMPs required to ensure compliance with the Permit;
- c. Accurate map(s) which depict the location of all implemented BMPs and flow of stormwater discharge from the Facility;
- d. A description of all drainage and belowground conveyance structures; and
- e. Any other element required by the Permit.

56. After review of Respondent's submittals required by this Order, the EPA may provide written comments and suggestions regarding such submittals. Where necessary, Respondent shall address the comments and resubmit deliverables for EPA review within twenty (20) days of receipt of EPA's disapproval. Review and comment on the submissions by the EPA does not relieve Respondent of the responsibility to comply with the Permit, the CWA, applicable State law, or this Order.

57. In accordance with this Order, the Respondent shall take all necessary actions within ninety (90) days of the Respondent's submission of a work plan, as outlined in paragraph 54 above, to correct the deficiencies and eliminate and prevent recurrence of the violations cited above, and to come into compliance with all of the applicable requirements of its industrial stormwater Permit and the CWA.

58. After review of Respondent's submittals required by this Order, the EPA may determine that additional information is needed and/or additional corrective measures or deadlines are necessary and may modify this Order or initiate a separate enforcement action, as appropriate.

Reports/Submissions

59. Submittals. All documents required to be submitted to EPA by this Order, including the certification statement below, shall be submitted by electronic mail to:

Hannah Lewis or assigned alternate
Lewis.Hannah@epa.gov
U.S. Environmental Protection Agency Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219

60. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically to the EPA shall be submitted in hard-copy to the address provided above.

61. All documents required to be submitted pursuant to this Order shall also be submitted by electronic mail to KDHE to the address provided below:

William Carr
William.j.carr@ks.gov
Kansas Department of Health and Environment
1000 SW Jackson Street
Topeka, Kansas 66612

62. Quarterly Reporting. Respondent shall submit quarterly reports describing the actions it has taken to ensure continued compliance with the terms of its Permit and this Order. These reports are due beginning three (3) months after the Effective Date and every quarter thereafter until the Order is terminated. Each report shall include, at a minimum:

- a. A description of implementation and/or revision of the SWPPP during the previous quarter;
- b. Copies of all inspections, evaluations, monitoring, and examinations required by the Permit;
- c. A description of work and other actions taken to construct structural controls and/or implement other controls, in the previous quarter; and
- d. Copies of all relevant documentation regarding the activities described pursuant to subparagraphs (a), (b), and (c), including, but not limited to, formal and informal enforcement actions, etc.

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

63. Respondent's failure to comply with the terms of this Section 309(a)(3) Administrative Order on Consent may result in liability for statutory civil penalties under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should the EPA commence an action seeking penalties for violations of this Compliance Order, a United States

District Court may impose civil penalties if the court determines that Respondent has violated the Act and failed to comply with the terms of the Order.

64. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

65. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 et seq., all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the CWA, 33 U.S.C. § 1319(b), (c), (d), or (g), for any violation cited in this Order. Issuance of this Order shall not be deemed an election by the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

66. Nothing in this Order shall limit the EPA's right to obtain access to, and/or to inspect Respondent's Facility, and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

Severability

67. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judiciary authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Effective Date

68. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA.

Modification

69. At the EPA's sole discretion, extensions of the compliance schedules / deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to the Order. The EPA's consent for a requested extension will not be unreasonably withheld. All other modifications to this Order may only be made by mutual agreement of the parties, pursuant to a written amendment signed by each party.

Termination

70. Upon EPA's determination that Respondent has completed all tasks required pursuant to this Order, Respondent shall submit to the EPA a Certification of Compliance and Request for Termination of this Order. Such certification and request shall include:

- a. a certification that Respondent has maintained compliance with this Order for the term of this Order; and
- b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with this Order.

71. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA determines that any requirement has not been completed and implemented in accordance with this Order, the EPA will notify Respondent in writing, provide a written summary of deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies. If so required, the EPA may also require Respondent to submit a revised Certification of Compliance and Request for Termination of this Order.

72. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA agrees that Respondent has adequately complied with all requirements of this Order, then the EPA may, in its unreviewable discretion, provide written notification of termination of this Order.

73. Notwithstanding any of the above, the EPA may terminate this order upon written notice issued by an authorized representative of the EPA.

**For the Complainant
United States Environmental Protection Agency Region 7:**

Date

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

ANGELA
STILLWAGON

Digitally signed by
ANGELA STILLWAGON
Date: 2026.03.03
08:22:19 -06'00'

Angela Stillwagon
Assistant Regional Counsel
Office of Regional Counsel

For the Respondent

AllMetal Recycling, LLC:

Signature: 

Date: February 27, 2026

Morgan B. Koon
Name

Member/General Counsel
Title

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that a true and correct copy of the foregoing Administrative Order on Consent was sent this day in the following manner to the addressees:

Copy via E-mail to Representatives for Complainant:

Angela Stillwagon
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7
stillwagon.angela@epa.gov

Hannah Lewis
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency Region 7
Lewis.Hannah@epa.gov

Copy via E-mail to KDHE:

William Carr
Kansas Department of Health and Environment
William.j.Carr@ks.gov

Dated this _____ day of _____, _____

Regional Hearing Clerk
Amy Gonzales
U.S. Environmental Protection Agency
R7_Hearing_Clerk_Filings@epa.gov