

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No. RCRA-05-2024-0024
	)	
Akron Steel Treating Company	)	Consent Agreement and Final Order
Akron, Ohio	)	Under Section 3008(a) of the Resource
	)	Conservation and Recovery Act,
U.S. EPA ID No.: OHD981949332	)	42 U.S.C. § 6928(a)
	)	
Respondent.	)	
_____	)	

Consent Agreement and Final OrderPreliminary 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 the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Akron Steel Treating Company (ASTC), a corporation doing business in the State of Ohio.

4. 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).

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. Upon the filing of this CAFO with the Regional Hearing Clerk, 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 this CAFO and neither admits nor denies the factual allegations 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.

### **Statutory and Regulatory Background**

11. 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, and dispose of hazardous waste, pursuant to Sections 3001 through 3007, and 3013, among others, of RCRA, 42 U.S.C. §§ 6921 – 6927, 6934.

12. 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.

13. Any violation of regulations promulgated pursuant to Subtitle C of RCRA (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). U.S. EPA subsequently approved amendments to the Ohio hazardous waste program effective June 7, 1991 (56 Fed. Reg. 14203, April 8, 1991); effective August 19, 1991 (56 Fed. Reg. 28088, June 19, 1991); effective September 25, 1995 (60 Fed. Reg. 38502, July 27, 1995); effective December 23, 1996 (61 Fed. Reg. 54950, October 23, 1996); effective January 24, 2003 (68 Fed. Reg. 3429, January 24, 2003); effective January 20, 2006 (71 Fed. Reg. 3220, January 20, 2006); effective October 29, 2007 (72 Fed. Reg. 61063, October 29, 2007); effective March 19, 2012 (77 Fed. Reg. 15966, March 19, 2012); effective February 12, 2018 (83 Fed. Reg. 5948, February 12, 2018); and effective September 26, 2019 (84 Fed. Reg. 50766, September 26, 2019).

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, or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$121,275 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015, where the penalties are assessed on or after January 6, 2023, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

### **Factual Allegations**

16. Respondent owns and operates a facility at 336 Morgan Avenue, Akron, Ohio (“Facility”).

17. Respondent’s operations at the Facility consist of heat-treating carbon and stainless steel, as well as blasting the heat-treated steel parts to remove scale.

18. Ohio Admin. Code § 3745-50-10(A)(102), 40 C.F.R. § 260.10,<sup>1</sup> and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), define a “person” to include an individual, trust, firm, corporation, partnership or association.

19. Respondent is a “person” as defined by Ohio Admin. Code § 3745-50-10(A)(102), 40 C.F.R. § 260.10, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), because it is a corporation incorporated in and doing business in the State of Ohio.

20. Respondent is the “owner” or “operator,” as those terms are defined under Ohio Admin. Code § 3745-50-10(A)(96) and (95) and 40 C.F.R. § 260.10, of the Facility.

21. At all times relevant to this CAFO, Respondent’s Facility consisted of land and structures, other appurtenances, and improvements on the land, used for storing hazardous waste.

22. Respondent’s Facility is a “facility,” as that term is defined under Ohio Admin. Code § 3745-50-10(A)(48) and 40 C.F.R. § 260.10.

23. Respondent’s actions and processes at the Facility cause the generation of salt waste streams, which are “hazardous waste,” as that term is defined under Ohio Admin. Code §§ 3745-50-10(A)(57) and 3745-51-03 and 40 C.F.R. § 261.3.

---

<sup>1</sup> The citations to the rules contained in the Ohio Administrative Code are the federally enforceable regulations in the State of Ohio. References to the federal regulations are for ease of reference and are to the June 2016 version of the Code of Federal Regulations. U.S. EPA re-codified the generator rules into 40 C.F.R. § 262.17 on November 28, 2016. *See Hazardous Waste Generator Improvement Rule*, 81 Fed. Reg. 5808 (Nov. 28, 2016). The State of Ohio has not yet been authorized for the re-codified rules, and therefore, the re-codified rules are not federally enforceable in Ohio.

24. Respondent is a “generator” of hazardous waste, as that term is defined under Ohio Admin. Code § 3745-50-10(A)(54) and 40 C.F.R. § 260.10.

25. At all times relevant to this CAFO, Respondent did not have a permit to store hazardous waste at the Facility.

26. U.S. EPA conducted an inspection of the Facility on August 16, 2022, and obtained documents from Respondent during that inspection.

27. From at least 2020 through August 16, 2022, Respondent generated hazardous waste using its U.S. EPA identification number in amounts greater than 100 kilograms (kg) per month but less than 1,000 kg per month, qualifying it as a Small Quantity Generator under Ohio Admin. Code § 3745-52-34(D) through (F) and as defined in Ohio Admin. Code § 3745-50-10(A)(106) .

28. From at least 2020 through August 16, 2022, Respondent shipped the hazardous waste generated at the Facility off-site to a treatment, storage, or disposal facility within the United States.

29. At the time of U.S. EPA’s inspection, Respondent’s records showed that the most recent shipment of hazardous waste salt from the Facility occurred on August 23, 2021, nearly one year before U.S. EPA’s inspection. At the time of inspection, the U.S. EPA inspector observed thirty-five 55-gallon drums that were labeled as containing hazardous waste salt. According to an August 29, 2022, email from Respondent, these 55-gallon drums had been accumulating waste since approximately the week of September 6, 2021. In correspondence dated October 12, 2022, Respondent stated that all drums containing hazardous waste salt observed during the inspection were shipped off-site on September 8, 2022. Therefore,

Respondent stored hazardous waste salt on-site at the Facility for more than 180 days (from September 6, 2021 to September 8, 2022) without a permit.

30. Respondent did not receive an extension of the 180-day requirement with respect to the hazardous waste drums referenced in Paragraph 29 above.

31. Respondent's records show that, in 2020, Respondent accumulated hazardous waste at the Facility weighing more than 6,000 kg. Specifically, twenty-seven 55-gallon drums of hazardous waste weighing approximately 20,200 pounds, or 9,162 kg, were shipped off-site on February 4, 2020.

32. Paragraphs 29 through 31 above establish that Respondent was operating as a "Treatment Storage and Disposal Facility" under Ohio Admin. Code §§ 3745-65-01 through 3745-69-45, and 3745-256, for at least years 2020 and 2022.

33. During U.S. EPA's inspection of the Facility's automatic salt line, the inspector observed a satellite accumulation area (SAA) that consisted of one 55-gallon drum. The drum was not labeled. According to Respondent, this drum contained hazardous waste salt. The drum was open with no lid on it, and no waste was being added or removed from the drum at the time of inspection.

34. Adjacent to the SAA area, the U.S. EPA inspector observed another 55-gallon drum containing hazardous waste salt that had also been filled in the SAA. The Facility's Vice President of Sales stated that the drum had been stored at this location for less than 24 hours. The drum was not marked with an accumulation start date.

35. During U.S. EPA's inspection of the Facility's manual salt line, the inspector observed four 55-gallon drums on a blue pallet. According to ASTC representatives, these drums

contained hazardous waste salt. All four drums were closed, but none of the four drums were labeled as “Hazardous Waste” or marked with accumulation start dates.

36. During the inspection of the waste storage area, the U.S. EPA inspector observed thirty 55-gallon drums that were labeled as containing either “Martemper Salt,” “Used Martemper Salt,” or “Used Salt.” Martemper salt, used martemper salt, and used salt are all hazardous wastes. However, none of the thirty drums were labeled as “Hazardous Waste” or marked with accumulation start dates.

37. As of the date of U.S. EPA’s inspection, Respondent was missing a copy of one hazardous waste manifest from an off-site shipment that occurred in September 2020, and did not have the designated receiving facility-signed copies of three hazardous waste manifests from off-site shipments that occurred in February 2020 and August 2021. In correspondence dated August 29, 2022, Respondent provided documentation showing that it obtained copies of the four above-mentioned manifests with signatures from the designated facilities.

38. Respondent did not submit copies of these four above-referenced manifests to Ohio EPA within sixty days after acceptance by the transporter.

39. In correspondence from Respondent to U.S. EPA dated August 17, 2022, Respondent indicated that waste determination documentation was not available for any of the hazardous and non-hazardous waste streams identified during U.S. EPA’s inspection. On August 27, 2022, Respondent submitted correspondence indicating that all waste profiles were received from one of its hazardous waste transporters and were on-site.

40. During U.S. EPA’s inspection, the inspector observed that the location of the Facility’s fire extinguishers, spill control material, and fire alarms were not posted next to the telephone.

41. During U.S. EPA's inspection, the inspector observed seven 55-gallon drums in the Facility's waste storage area that contained hazardous waste salt, as stated by Respondent, and were stacked two rows high on pallets. The aisle space around these seven 55-gallon drums did not allow enough space for the unobstructed movement of personnel or emergency equipment.

42. During U.S. EPA's inspection of records, Respondent stated that inspections of the Facility's waste storage area were being conducted at least once per week but were not being documented.

43. During U.S. EPA's inspection of the Facility's large all-case line area, the inspector observed one 55-gallon drum on a secondary containment pan. According to ASTC representatives, the drum contained water and used oil that was skimmed off the quench process. The drum was not labeled as "Used Oil." There was another 55-gallon drum in the large all-case line area that, according to ASTC representatives, contained the same type of used oil that was skimmed off the quench process. This drum was also not labeled as "Used Oil."

44. During U.S. EPA's inspection of the small all-case line area, the inspector observed one 55-gallon drum labeled as "Skimmo Oil." According to an ASTC representative, this drum contained used oil skimmed off the quench process. The drum was not labeled as "Used Oil."

45. During the inspection of the Waste Storage Area, the EPA inspector observed forty-seven 55-gallon drums. ASTC representatives stated that eleven of the 47 drums contained skimmed used oil. Approximately half of the eleven drums were labeled as "Used Oil," and the other half were labeled as "Skimmo Oil" without a "Used Oil" label.

46. On April 25, 2023, U.S. EPA sent to Respondent a Notice of Potential RCRA Violations and Opportunity to Confer (Notice).



47. The Notice identified potential RCRA violations and requested information documenting any actions taken since U.S. EPA's inspection to address the areas of concern identified in the Notice.

48. Respondent responded to the Notice on May 19, 2023.

49. Thereafter, Respondent engaged with U.S. EPA to assess the matter and has agreed to the entry of this CAFO.

### **Alleged Violations**

#### **Count I: Failure to Accumulate Hazardous Waste for Less Than 180 Days, Exceedance of the Weight Limit for Hazardous Waste Accumulated On-Site, and Failure to Manage Hazardous Waste Satellite Accumulation Areas and Storage Containers Without a Permit,**

#### **Interim Status, or Approved Extension**

50. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

51. Pursuant to Ohio Admin. Code § 3745-52-34(D), a small quantity generator may accumulate hazardous waste on-site for 180 days or less without a permit unless the generator has been granted an extension of the 180-day period, provided that the generator complies with various conditions and requirements.

52. As set forth in Paragraph 29 above, Respondent stored hazardous waste salt on-site at the Facility for more than 180 days (from September 6, 2021, to September 8, 2022) without a permit and without receiving an extension of the 180-day period.

53. Respondent failed to ship off-site its generated hazardous waste within 180 days, without a permit or interim status, or an approved extension, in violation of Ohio Admin. Code § 3745-52-34(D).

54. Pursuant to Ohio Admin. Code § 3745-52-34(D)(1), a small quantity generator must ensure that the quantity of hazardous waste accumulated on-site never exceeds 6,000 kg.

55. As set forth in Paragraph 31 above, Respondent had more than 6,000 kg of hazardous waste on-site in 2020.

56. Respondent failed to accumulate less than 6,000 kilograms of hazardous waste on-site, in violation of Ohio Admin. Code § 3745-52-34(D)(1).

57. Pursuant to Ohio Admin. Code §§ 3745-52-34(C)(1)(a) and 3745-66-73(A), a generator must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

58. As set forth in Paragraph 33 above, one of Respondent's containers storing hazardous waste was left open with no lid, when no waste was being added or removed from the container, in violation of Ohio Admin. Code §§ 3745-52-34(C)(1)(a) and 3745-66-73(A).

59. Pursuant to Ohio Admin. Code § 3745-52-34(C)(1)(b), a generator must mark a container holding hazardous waste either with the words "Hazardous Waste" or other words identifying the contents.

60. As set forth in Paragraph 33 above, Respondent failed to label a container holding hazardous waste with the words "Hazardous Waste" or other words identifying the contents, in violation of Ohio Admin. Code § 3745-52-34(C)(1)(b).

61. Pursuant to Ohio Admin. Code § 3745-52-34(C)(2), a generator that accumulates either hazardous waste or acutely hazardous waste listed in paragraph (E) of Rule 3745-51-33 of the Administrative Code in excess of the amounts listed in paragraph (C)(1) of this rule (i.e., 55 gallons) at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (A) of this rule or other applicable provisions of

Chapter 3745-52 of the Administrative Code, which provides that a generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating. During the three-day period, the generator must continue to comply with paragraphs (C)(1)(a) and (C)(1)(b) of this rule.

62. As set forth in Paragraph 34 above, Respondent failed to mark the accumulation start date on a drum storing excess amounts of hazardous waste at or near a point of generation, in violation of Ohio Admin. Code § 3745-52-34(C)(2).

63. Pursuant to Ohio Admin. Code §§ 3745-52-34(D)(4) and 3745-52-34(A)(2)-(3), a small quantity generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins and must label or clearly mark each container holding hazardous waste with the words “Hazardous Waste.”

64. As set forth in Paragraphs 35 and 36 above, Respondent failed to mark hazardous waste containers holding hazardous waste with the date when the period of accumulation began and failed to label the containers with the words “Hazardous Waste,” in violation of Ohio Admin. Code §§ 3745-52-34(D)(4) and 3745-52-34(A)(2)-(3).

65. Pursuant to RCRA § 3005 and Ohio Admin. Code § 3745-52-34(D) and 3745-52-34(D)(1), a small quantity generator must apply for and obtain a permit to store hazardous waste before accumulating and/or conducting treatment of hazardous waste generated on-site for more than 180 days, and a small quantity generator accumulating more than 6,000 kg of hazardous waste on-site at any one time is considered an operator of a storage and/or treatment facility. These requirements also apply to owners and operators of hazardous waste storage facilities under Ohio Admin. Code §§ 3745-50-45(A) and 3745-50-41(A), (D).

66. As set forth in Paragraphs 29 through 36 above, Respondent stored hazardous waste at the Facility for more than 180 days without obtaining a permit and accumulated hazardous waste weighing more than 6,000 kilograms on-site, while failing to comply with the above-referenced conditions of hazardous waste SAA management and hazardous waste storage container requirements necessary to exempt it from the requirement to obtain a permit for generators of hazardous waste, in violation of RCRA § 3005 and Ohio Admin. Code §§ 3745-50-45(A) and 3745-50-41(A), (D).

**Count II: Failure to Keep Copies of Manifests and Document Late**

**Manifest Shipment Delivery**

67. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

68. Pursuant to Ohio Admin. Code § 3745-52-40(A), a small quantity generator must keep a copy of each manifest signed in accordance with Rule 3745-52-23(A) of the Ohio Administrative Code for three years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

69. As set forth in Paragraph 37 above, Respondent failed to keep copies of hazardous waste manifests, in violation of Ohio Admin. Code § 3745-52-40(A).

70. Pursuant to Ohio Admin. Code § 3745-52-42(B), a small quantity generator that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within sixty days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Ohio EPA.

71. As set forth in Paragraph 38 above, Respondent failed to submit a legible copy of the above-referenced manifests, with some indication that the generator had not received confirmation of delivery, to the Ohio EPA, within sixty days of the date the waste was accepted by the initial transporter, in violation of Ohio Admin. Code § 3745-52-42(B).

**Count III: Failure to Keep Documentation of Hazardous Waste Determinations**

72. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

73. Pursuant to Ohio Admin. Code § 3745-52-40(C), a generator must keep records of any test results, waste analyses, or other determinations made in accordance with Rule 3745-52-11 of the Ohio Administrative Code to support the generator's hazardous waste determinations for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

74. As set forth in Paragraph 39 above, Respondent failed to keep records of its waste determinations for at least three years from the date that the waste was last sent to off-site treatment, storage, or disposal, in violation of Ohio Admin. Code § 3745-52-40(C).

**Count IV: Failure to Post Emergency Equipment Information**

75. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

76. Pursuant to Ohio Admin. Code § 3745-52-34(D)(5)(b)(ii), a small quantity generator must post the following information next to the telephone: the locations of the fire extinguishers and spill control material and, if present, fire alarms.

77. As set forth in Paragraph 40 above, Respondent failed to post the required locations of the fire extinguishers, spill control material and fire alarms emergency equipment next to the phone, in violation of Ohio Admin. Code § 3745-52-34(D)(5)(b)(ii).

**Count V: Failure to Keep Sufficient Aisle Space**

78. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

79. Pursuant to Ohio Admin. Code §§ 3745-52-34(D)(4) and 3745-65-35, a small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of the above-mentioned purposes.

80. As set forth in Paragraph 41 above, Respondent failed to provide sufficient aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment in an emergency for the area surrounding these seven drums, in violation of Ohio Admin. Code §§ 3745-52-34(D)(4) and 3745-65-35.

**Count VI: Failure to Record Weekly Inspections of Hazardous Waste**

**Storage Containers**

81. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

82. Pursuant to Ohio Admin. Code §§ 3745-52-34(D)(2) and 3745-66-74, a small quantity generator must inspect areas where containers are stored, at least once during the period from Sunday to Saturday, looking for leaks and for deterioration of containers caused by

corrosion or other factors. The owner or operator must record inspections in an inspection log or summary.

83. As set forth in Paragraph 42 above, Respondent failed to record the weekly inspections of its hazardous waste storage containers in the Facility's waste storage area, in violation of Ohio Admin. Code §§ 3745-52-34(D)(2) and 3745-66-74.

#### **Count VII: Failure to Label Containers of Used Oil**

84. Complainant incorporates Paragraphs 1 through 49 of this CAFO as though set forth in this Paragraph.

85. Pursuant to Ohio Admin. Code § 3745-279-22(C)(1), a generator must ensure that containers and aboveground tanks used to store used oil at generator facilities are labeled or marked clearly with the words "Used Oil."

86. As set forth in Paragraphs 43 to 45 above, Respondent failed to ensure that containers and aboveground tanks used to store used oil at the Facility were labeled or marked clearly with the words "Used Oil," in violation of Ohio Admin. Code § 3745-279-22(C)(1).

#### **Civil Penalty**

87. 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 \$105,855. In determining the penalty amount, Complainant took into account the seriousness of the violations 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.

88. Respondent agrees to pay a civil penalty in the amount of \$105,855 ("Assessed Penalty") within thirty (30) days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

89. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website:

<https://www.epa.gov/financial/makepayment>. For additional instructions see:

<https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

90. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this Agreement, RCRA-05-2024-0024;

b. Concurrently with any payment or within 24 hours of any payment,

Respondent shall serve proof of such payment to the following person(s):

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5  
r5hearingclerk@epa.gov

Bryan Gangwisch  
Land Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
gangwisch.bryan@epa.gov and  
R5LECAB@epa.gov

Jolie McLaughlin  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
mclaughlin.jolie@epa.gov

U.S. Environmental Protection  
Agency Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to U.S. EPA requirements, in the



amount due, and identified with the appropriate docket number and Respondent's name.

91. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, U.S. EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.

- a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
- b. Handling Charges. Respondent will be assessed monthly a charge to cover U.S. EPA's costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, U.S. EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.

- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.

92. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, U.S. EPA may take additional actions. Such actions U.S. EPA may take include, but are not limited to, the following.

- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
- b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with U.S. EPA or engaging in programs U.S. EPA sponsors or funds, per 40 C.F.R. § 13.17.
- d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

93. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

94. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

95. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, U.S. EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that U.S. EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” U.S. EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide U.S. EPA with sufficient information to enable it to fulfill these obligations, U.S. EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to Milton Wise at U.S. EPA's Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the effective date of this CAFO, and U.S. EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

#### **General Provisions**

96. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: mclaughlin.jolie@epa.gov (for Complainant), and tfinn@ralaw.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

97. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

98. 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.

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

100. Respondent certifies that it is complying fully with the statutory and regulatory provisions alleged to have been violated in this CAFO.

101. 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).

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

103. 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.

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

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

**Akron Steel Treating Company, Respondent**

08/27/2024

\_\_\_\_\_  
Date

\_\_\_\_\_  
Matthew Moldvay  
President  
Akron Steel Treating Company

**United States Environmental Protection Agency, Complainant**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance  
Division

**In the Matter of:**  
**Akron Steel Treating Company**  
**Docket No. RCRA-05-2024-0024**

**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.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5