



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ROANOKE ELECTRIC STEEL CORPORATION D.B.A. STEEL DYNAMICS – ROANOKE BAR DIVISION EPA ID NO. VAD003122553

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Roanoke Electric Steel Corporation, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “<90-day Accumulation Area” means an area used for the accumulation of hazardous waste by a generator on-site for 90 days or less without a permit or without having interim status, provided that certain additional requirements specified at 40 CFR § 262.34(a)(1) are met.
2. “Administrative Process Act” or “APA” means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
3. “Board” means the Virginia Waste Management Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
4. “BRRO” means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
5. “CFR” means the Code of Federal Regulations, as incorporated into the Regulations.

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6. “Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled, as defined by 40 CFR § 260.10.
7. “Contingency Plan” means a plan that describes the actions facility personnel must take to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
8. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
9. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
10. “DOT” means the United States Department of Transportation, an agency of the United States.
11. “Generator” means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
12. “Hazardous Waste” means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
13. “LQG” means large quantity generator, a hazardous waste generator that generates 1,000 kilograms (2,200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).
14. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
15. “Order” means this document, also known as a Consent Order.
16. “RES” means the Roanoke Electric Steel Corporation, d.b.a. Steel Dynamics – Roanoke Bar Division, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. RES is a “person” within the meaning of Va. Code § 10.1-1400.
17. “Satellite Accumulation Area” means an area used for the accumulation of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator or the process generating the waste, as specified in 40 CFR § 262.34(c)(1).
18. “Site” or “Facility” means the steel manufacturing facility at 102 Westside Boulevard in Roanoke, Virginia that is owned and operated by RES.

19. “Solid Waste” means any discarded material meeting the definition provided in 40 CFR § 261.2.
20. “Storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere, as defined by 40 CFR § 260.10.
21. “Transportation” means the movement of hazardous waste by air, rail, highway, or water, as defined by 40 CFR § 260.10.
22. “Transporter” means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water, as defined by 40 CFR § 260.10.
23. “Universal waste” means any of the hazardous wastes meeting the definition provided in 40 CFR § 273.9 that are subject to the universal waste requirements of 40 CFR Part 273, including batteries as described at 40 CFR § 273.2, pesticides as described at 40 CFR § 273.3, mercury-containing equipment as described at 40 CFR § 273.4, and lamps as described at 40 CFR § 273.5.
24. “Used oil”, as defined at 40 CFR § 279.1, 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.
25. “Va. Code” means the Code of Virginia (1950), as amended.
26. “VAC” means the Virginia Administrative Code.
27. “Virginia Waste Management Act” means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
28. “VHWMR” or “Regulations” means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

SECTION C: Findings of Fact and Conclusions of Law

1. RES owns and operates a steel manufacturing facility at 102 Westside Boulevard in

Roanoke, Virginia. Operations at this site are subject to the Virginia Waste Management Act and the Regulations.

2. RES submitted a RCRA Subtitle C Site Identification Form (received August 18, 1980) that gave notice of regulated waste activity at the Facility as a LQG of hazardous waste. RES was issued EPA ID No. VAD003122553 for the Facility.
3. RES is LQG of hazardous waste at the Facility. Hazardous wastes generated at this facility include electric arc furnace dust, a K061 listed waste as described in 40 CFR §261.32; spark trap and crane dust, a K061 listed waste as described in 40 CFR §261.32; a toxicity characteristic waste (D006, D007, D008) as described in 40 CFR § 261.24; crushed aerosol cans from product marking/painting, an ignitability characteristic waste (D001) as described in 40 CFR § 261.21 (D001); used oil; spent solvents from parts washers, a toxicity characteristic waste (D039) as described in 40 CFR § 261.24; spent lead acid batteries; and universal wastes (fluorescent bulbs, alkaline batteries, mercury containing equipment).
4. On September 17 and 20, 2010, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. A 55-gallon container (used for storing the residual contents of used aerosol paint spray cans, which is a hazardous waste, after the cans are punctured by a device attached to the container) in a satellite accumulation area was not labeled with the words “hazardous waste”. A label with those words was affixed to that container during the inspection.
 - b. Used oil is accumulated in containers, totes, and in a 1,000-gallon above ground storage tank. Not all used oil containers were labeled with the words “used oil”.
 - c. RES did not notify the Department of its newest <90-day accumulation area (an area where hazardous baghouse dust is loaded on to rail cars) which had been in operation since December 13, 2009.
 - d. There were no inspection logs for the newest <90-day accumulation area.
 - e. The Facility Contingency Plan has not been updated since 2007. Since then, there have been changes (i.e., new employees/response coordinators, a new hazardous waste accumulation area, new baghouse installation) that are not included in the current Contingency Plan
 - f. A homemade stove without any designed maximum BTU capacity had been used to burn used oil.
5. 40 CFR § 262.34(c)(1)(ii) states that in Satellite Accumulation Areas a generator may

accumulate as much as 55 gallons of hazardous waste provided that he marks the containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

6. 40 CFR § 279.22(c)(1) states that containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil”.
7. 9 VAC 20-60-262(B)(4) states that for < 90-day accumulation areas established after March 1, 1988, generators shall notify the Department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR § 262.34 prior to or immediately upon the establishment of each for < 90-day accumulation area. This notification shall specify the exact location of the accumulation area at each site.
8. 40 CFR § 265.174 states that the owner or operator must conduct inspections at least once each week at areas where hazardous waste containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
9. 40 CFR § 265.54 states that the contingency plan must be reviewed, and immediately amended, if necessary, whenever: (a) applicable regulations are revised; (b) the plan fails in an emergency; (c) the facility changes – in its design, construction, operation, maintenance, or other circumstances – in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency; (d) the list of emergency coordinators changes; or (e) the list of emergency equipment changes.
10. 40 CFR § 279.23 states that generators may burn used oil in used oil-fired space heaters provided that: (a) the heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators; (b) the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and (c) the combustion gases from the heater are vented to the ambient air.
11. On October 25, 2010, based on the inspection and follow-up information, the Department issued a Notice of Violation to RES for the violations described in paragraph C(4), above.
12. On November 12, 2010, RES submitted a written response to the NOV contesting certain regulatory interpretations specified in the NOV.
13. Representatives of DEQ and RES met on December 12, 2010 and March 11, 2011 to discuss the NOV and RES’ written response to the NOV. During the meeting, RES representatives elaborated on the points made in the November 12, 2010 written response to the NOV.
14. Based on the violations described in Paragraph C(4) above, the Board concludes that RES has violated VHWMR and the Virginia Waste Management Act, as noted above. More

specifically, as noted above, the Board concludes that RES has violated 40 CFR § 262.34(c)(1)(ii), 40 CFR § 279.22(c)(1), 9 VAC 20-60-262(B)(4), 40 CFR § 265.174, 40 CFR § 265.54, and 40 CFR § 279.23, as described in paragraph C(4), above.

15. RES has submitted documentation that verifies that the violations described in paragraph C(4)(a) has been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders RES, and RES agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$5,500.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

RES shall include its Federal Employer Identification Number (FEIN) (54-0585263) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of RES for good cause shown by RES, or on its own motion pursuant to the Administrative Process Act after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

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3. For purposes of this Order and subsequent actions with respect to this Order only, RES admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. RES consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. RES declares that it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by RES to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. RES shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. RES shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. RES shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which RES intends to assert will

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result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and RES. Nevertheless, RES agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. RES petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to RES.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve RES from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by RES and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of RES certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind RES to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of RES.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, RES voluntarily agrees to the issuance of this Order.

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And it is so ORDERED this 25th day of August, 2011.

Robert J. Weld

Robert J. Weld, Regional Director
Department of Environmental Quality

Roanoke Electric Steel Corporation voluntarily agrees to the issuance of this Order.

Date: 7/15/11 By: T. Joe Crawford

Roanoke Electric Steel Corporation.

Commonwealth of Virginia

City/County of Roanoke

The foregoing document was signed and acknowledged before me this 15th day of

July, 2011, by T. Joe Crawford.

Judy S. Breeze
Notary Public

226028
Registration No.

My commission expires: 4/30/14

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. **Used Oil Container Labeling**

By 30 days after the effective date of this Order, RES shall submit photographs and documentary evidence demonstrating that the used oil containers at the Facility are labeled in accordance with 40 CFR § 279.22(c)(1).

2. **Accumulation Area Notification**

By 30 days after the effective date of this Order, RES shall notify the Department in writing of the establishment of the <90-day accumulation area referenced in Paragraph C(4)(c) above and document that accumulation area in the RES operating record in accordance with 9 VAC 20-60-262(B)(4).

3. **Inspection Logs**

By 30 days after the effective date of this Order, RES shall submit copies of inspection logs for at least six continuous weeks in 2011 for the <90-day accumulation area referenced in Paragraph C(4)(c) above in accordance with 40 CFR § 265.174.

4. **Used Oil-Fired Space Heater**

By 30 days after the effective date of this Order, RES shall notify the Department in writing that it has discontinued use of the homemade stove referenced in Paragraph C(4)(f) above that was being used as a used oil-fired space heater.

5. **Contingency Plan Update**

By 30 days after the effective date of this Order, RES shall submit a revision to the facility Contingency Plan in accordance with 40 CFR § 265.54.

6. **Contact**

Unless otherwise specified in this Order, RES shall submit all requirements of Appendix A of this Order to:

Robert Steele
Enforcement Specialist Senior
VA DEQ –Blue Ridge Regional Office
3019 Peters Creek Road
Roanoke, VA 24019

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