



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act, And The Emergency Planning Community Right to Know Act

On January 19, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Middle District of Pennsylvania in the lawsuit entitled *United States and Commonwealth of Pennsylvania Department of Environmental Protection v. American Zinc Recycling Corporation*, Civil Action No. 3:21-cv-00098-RDM.

If entered, the Consent Decree would resolve the Plaintiffs' claims against American Zinc Recycling Corp. ("AZR" or "Defendant") related to AZR's zinc reclamation and processing facility located in Palmerton, Pennsylvania. Plaintiff United States' federal claims are based on a number of statutory provisions, including the Clean Air Act, 42 U.S.C. § 7413(b); the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6928(a) and (g); the Clean Water Act, 33 U.S.C. §§ 1319(b) and 1321(b)(7)(c); and the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045(c). Plaintiff Commonwealth of Pennsylvania has alleged claims under several state statutes and regulations, including the Pennsylvania Air Pollution Control Act ("APCA"), 35 P.S. §§ 4004 and 4006.1; the Pennsylvania Title V Program, 25 Pa. Code §§ 127.401-464 and 127.501-127.543; the Pennsylvania Solid Waste Management Act ("SWMA"), 35 P.S. §§ 6018.104 and 6018.503; and the Clean Streams Law, 35 P.S. §§ 691.5 and 691.307.

The Consent Decree requires AZR to perform a number of actions to address its violations of the various environmental statutes. With regard to its Clean Air Act, APCA, and Title V violations, AZR will install a new bag leak detection system in the product collectors at each of its four kilns at the facility, and a new emergency generator at one kiln. In addition, the company will continuously monitor various pollutant parameters at its kilns and product collectors, and will implement new air emission stack tests. To redress its RCRA and SWMA

violations, AZR will ensure that only compliant wastes are placed into its waelzing and calcining kilns, and will implement various measures to ensure that it remains in compliance with RCRA lead storage requirements. It will also implement a number of new operating procedures and hazardous waste management and storage plans. In connection with its Clean Water Act and Clean Streams Law violations, the Consent Decree requires AZR to perform investigations of stormwater, process water, and non-contact cooling water systems at the Palmerton Facility. AZR will implement the facility’s Stormwater Pollution Prevention Plan and other stormwater control measures. AZR must also revise and/or correct the Palmerton facility’s Integrated Preparedness, Prevention, and Contingency Plan as well.

As a further remedy, the Consent Decree requires AZR to pay a civil penalty of \$3,300,000, which will be evenly split between the United States and the Commonwealth. As the Palmerton facility is currently under an existing environmental consent decree that the proposed Consent Decree is intended to replace, a motion to terminate the existing consent decree will be filed when the Plaintiffs move to enter the proposed Consent Decree after the required public comment period.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Commonwealth of Pennsylvania Department of Environmental Protection v. American Zinc Recycling Corp.*, D.J. Ref. No. 90-11-3-11529/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$60.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the Consent Decree without the appendices, the cost is \$34.00.

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