

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Aluminum Smelting and Refining Co.	:	
1601 Brown Road	:	Director*s Final
Denmark, Ohio 44004	:	Findings and Orders

I. JURISDICTION

These Director*s Final Findings and Orders (Orders) are hereby issued to the Aluminum Smelting and Refining Company (Owner) pursuant to the authority vested in the Director of Environmental Protection (director) pursuant to Ohio Revised Code (ORC) Section 3734.05(A)(5) and Ohio Administrative Code (OAC) Rule 3745-29-19(N).

II. PARTIES

These Orders shall apply to and be binding upon the Owner of the Aluminum Smelting and Refining Company facility and successors in interest liable under Ohio law. No change in ownership shall in any way alter the Owner's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the regulations promulgated thereunder.

IV. FINDINGS

1. Aluminum Smelting and Refining Company is the Owner of the Aluminum Smelting and Refining Company facility (Facility) which is located at 1601 Brown Road in Denmark Township, Ashtabula County, Ohio. The Facility is a captive industrial waste landfill as that term is defined in OAC Rule 3745-29-01(A).
2. The Ohio Environmental Protection Agency (Ohio EPA) issued the Owner a permit-to-install (PTI) on May 21, 1981.

3. The Owner received a license from the Ashtabula County Health Department and began operations in 1981.
4. OAC Rule 3745-29-19(N) states:

"The owner or operator shall submit to the director, upon every tenth anniversary of the effective date of a permit to install that approved initial construction of the facility, an analysis demonstrating that the design, construction, and final closure plan of the industrial solid waste landfill facility continue to constitute best available technology."
5. The Owner was required to submit their best available technology (BAT) demonstration to the Director by May 21, 2001.
6. On July 10, 2001, Ohio EPA sent the Owner a Notice of Violation (NOV) for not submitting their BAT demonstration on time.
7. On August 2, 2001, Ohio EPA received the Owner's BAT demonstration. This 10-year update demonstrated that the Facility does not meet BAT including design, construction, final closure/post-closure plan, and financial assurance. The Owner stated within this demonstration that a PTI application would be submitted to Ohio EPA by November 9, 2001. Ohio EPA has not received a PTI application from the Owner to upgrade the Facility.
8. ORC Section 3734.05(A)(5) states:

"The Director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgement, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated information to the director within one hundred eighty days after the effective date of the order."
9. The May 21, 1981, PTI was approved with minimal engineering components and the owner/operator has not updated the facility design, construction, and final closure plan to comply with the 1990 rules. Therefore, the facility does not have a BAT liner system proposed for unfilled areas of the facility. The facility is not designed to include a

barrier layer, flexible membrane liner, drainage layer, or leachate collection system. Nor does the facility incorporate a BAT cap system to minimize infiltration. The facility's cap design does not include a barrier layer, drainage layer, or frost protection layer. The entire facility has no proposed surface water control structures and the 1981 PTI does not include any QA/QC plan for construction or any material specifications for any of the soils that are proposed for use in construction. Also, the facility does not have a final closure plan in accordance with OAC Rule 3745-29-11, nor does the owner/operator have any financial assurance in accordance with OAC Rules 3745-29-15, 3745-29-16, or 3745-29-17. Therefore, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination.

V. ORDERS

1. Pursuant to OAC Rule 3745-29-19(N) and ORC Section 3734.05(A)(5), the Owner is hereby ordered to submit a PTI application within 180 days of the effective date of these Orders, containing updated engineering detail plans, specifications, and information regarding the facility and its method of operation, for evaluation under rules adopted under ORC Sections 3734.02(A) and 3734.12(D).
2. Nothing in these Orders shall be construed to authorize any waiver from the requirements of any other applicable federal or state laws or regulations. These Orders shall not be interpreted to release the owner/operator from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

IT IS SO ORDERED:

Christopher Jones, Director
Ohio Environmental Protection Agency