

**ALLEGHENY COUNTY HEALTH DEPARTMENT  
ADMINISTRATIVE HEARINGS**

HARSCO METALS AND ATI FLAT  
ROLLED PRODUCTS HOLDINGS, LLC

Appellants,

v.

ALLEGHENY COUNTY HEALTH  
DEPARTMENT,

Appellee.

Proceedings Pursuant to Article  
XXI (“Air Pollution Control”) at  
facility:

Harsco Natrona Facility  
Federal St. Gate #10  
Natrona, PA 15065

**ALLEGHENY COUNTY HEALTH DEPARTMENT’S REPLY IN  
OPPOSITION TO APPELLANTS’ PETITION/REQUEST FOR STAY**

Appellee, Allegheny County Health Department (hereinafter “ACHD”), by and through its counsel, files the following Reply in Opposition to Appellants’ Petition/Request for Stay, and, in support thereof, states as follows:

ATI Flat Rolled Products Holdings, LLC (hereinafter “ATI”) is a steel mill located in Brackenridge, Pennsylvania. Slag is a by-product of ATI’s steel making operations and is drawn-off into “pots” during the steel making process. All of the slag from ATI’s operations is transported by a rail line to Harsco Metals (hereinafter “Harsco”) for processing. Harsco is located in Natrona, Pennsylvania and is less than one mile from ATI. Upon arrival at Harsco, the pots of crusted molten slag are dumped into pits where it is cooled with water for later processing. Fugitive dust is generated during these operations.

Opal Court is a residential street in Harrison Township and is located on the hill directly above Harsco’s operations (hereinafter referred to as “Opal Court neighborhood”). Over the past several years, fugitive dust from Harsco’s operations has deposited in the Opal Court neighborhood. On March 24, 2017, the ACHD issued Notices of Violations (NOV) against

Harsco and ATI. (A copy of the NOV's are attached hereto as Ex. "A" and "B"). The NOV's were issued following an investigation by ACHD inspectors of deposition complaints received from residents of the Opal Court neighborhood. During their investigation, ACHD inspectors observed on February 21<sup>st</sup>, 24<sup>th</sup> and 28<sup>th</sup>, 2017, dust on children's toys and play equipment and residents' vehicles. (Photographs are attached to the March 24, 2017 NOV's). Based on its investigation, the ACHD concluded that the Harsco/ATI operations were the source of the deposition in the Opal Court neighborhood. The March 24, 2017 NOV's further required that Harsco and ATI submit a "compliance plan which is aimed at eliminating the fallout particulate which has affected neighboring residential communities by May 4, 2017." Following a meeting with Harsco and ATI, the ACHD agreed to extend the date for the submittal of the compliance plan. On June 5, 2017, Harsco submitted a compliance plan which included operation changes and training enhancements that were intended to reduce the generation of fugitive dust during Harsco's operations.

Following the issuance of the March 24, 2017 NOV's, and after the implementation of Harsco's compliance plan, the ACHD continued to receive deposition complaints and ACHD inspectors observed dust fall in the Opal Court neighborhood on May 15 and 19, 2017, June 1 and 15, 2017, August 2 and 8, 2017, September 28, 2017, October 5 and 20, 2017, and December 2, 2017. On January 29, 2018, the ACHD held a meeting with Harsco and ATI to discuss the continued violations relating to the deposition in the Opal Court neighborhood. During that meeting, Deborah Calderazzo, ATI's Director of Environmental Health & Safety, stated that ATI was retaining an expert to evaluate Harsco's operations and that the expert would be submitting their report on the recommendations. The ACHD was informed in April 2018, that ATI's expert's recommendations included installing a new water nozzle system to suppress

the dust during Harsco’s operations. However, the ACHD was not provided a copy of the expert’s report and was not advised as to when, or if, the plan would be implemented. During this time, the ACHD inspectors continued to receive complaints from residents and observed dust in the Opal Court neighborhood on April 30, 2018, and May 22, 2018.

Finally, after receiving no assurance from ATI or Harsco as to when the nozzle system would be implemented, the ACHD proceeded with issuing an enforcement order on May 29, 2018. The Order required that Harsco and ATI “submit by **June 30, 2018**, a revised compliance plan to the ACHD which will eliminate all fallout particulate which has impacted neighboring residential communities” and implement the compliance plan within 20 days of approval by the ACHD. Harsco and ATI would then have 120 days after the implementation of the compliance plan to determine the effectiveness of the plan. ATI and Harsco have submitted petition/request<sup>1</sup> to stay the May 29, 2018 Order.

Article XI, § 1111.C (“Hearings and Appeals), of the ACHD Rules and Regulations provides that when deciding whether or not to grant a stay of proceedings, and in determining the length of the stay, the Hearing Officer shall consider factors including, but not limited to, the following:

1. Irreparable harm to the petitioner;
2. The likelihood of the petitioner prevailing on the merits; and
3. The likelihood of injury to the public or other parties, such as the permittee in third-party appeals.

For the following reasons, Appellants fail to meet these requirements and their petition/request for stay must be dismissed.

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<sup>1</sup> ATI has submitted a Petition for Stay and Harsco has included a Request for Stay in its Notice of Appeal.

A. **Appellants will not suffer irreparable harm by complying with the May 29, 2018 Order**

Appellants contend that they will suffer irreparable harm if the stay is not granted. The only alleged harm identified by Appellants is that they “may” be subject to an enforcement action at some point in the future if they fail to meet the requirements of the May 29, 2018 Order. (ATI Pet. for Stay at ¶ 8). This claim of harm is premature as the ACHD has not issued any orders relating to a violation of the May 29, 2018 Order. If the ACHD issues an enforcement order due to Appellants’ failure to comply with the Order, Appellants are not precluded from filing an appeal of the enforcement order. Until the ACHD has actually issued such an order, Appellants have suffered no harm.

Additionally, Harsco and ATI have been working on a revised compliance plan for several months and have already complied with the first requirement in the May 29, 2018 Order by submitting a compliance plan by June 30, 2018. The compliance plan provides for the installation of a spray header system for controlling dust. (A copy of the compliance plan is attached hereto as Ex. “C”). According to the plan, installation of the spray header system in one of the pits was completed on June 15, 2018, and “Harsco has begun work on an expansion to a full-scale trial for all pits at the Natrona operation.” This schedule is consistent with the ACHD’s May 29, 2018 Order which required that the compliance plan be implemented within 20 days of the ACHD’s approval<sup>2</sup> of the plan. Therefore, because Appellants have already submitted a compliance plan and started installing the spray header system, Appellants have not suffered any irreparable harm by complying with the Order.

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<sup>2</sup> As of the date of the submission of this Response, the ACHD has not issued an approval of the plan.

**B. Appellants will not prevail on the merits**

Over the past eighteen months, the ACHD inspectors observed 16 dust depositions in the Opal Court neighborhood. The ACHD determined that the Harsco operations were the source of the depositions based on visual observations of the Harsco/ATI operations and the deposition observed in the Opal Court neighborhood by the ACHD inspectors. This determination is further supported by statements received by residents that they were either offered or given a \$50.00 voucher by Harsco as a compensation to wash and clean their vehicles due to fallen particulate matter. See Notice of Violations, 3/24/2017, Exhibits “A” and “B”. Conversely, Appellants fail to offer any evidence in their petition/request to support a finding that they are likely to prevail on the merits. Accordingly, Appellants’ petition/request for stay must be dismissed.

ATI claims in its Petition that it has no control over the Harsco operations and has no responsibility for the dust fall. However, Harsco processes all of the slag from ATI’s operations and ATI is the only supplier of slag material at Harsco’s Natrona facility. Further, Harsco is located on property owned by ATI and less than one mile separates the two facilities. Because ATI is the sole source of the slag that is causing the deposition in the Opal Court neighborhood, ATI has control over Harsco’s operations and its dust control measures. This position is supported by Harsco’s “Fugitive Dust Control Plan Procedures,” which was last revised on January 18, 2017. The plan states that “exceptions” to the dust control plan will be made “in response to a request by ATI for pots to be returned to the melt shop” and “a request by ATI for the dirt car to be returned to the melt shop.” (A copy of Harsco’s “Fugitive Dust Control Plan Procedures” is attached hereto as Exhibit “D”). The fact that Harsco is required to deviate from its dust control plan based on demands from ATI supports a finding that ATI has control over Harsco’s operations.

**C. The likelihood of injury to the public**

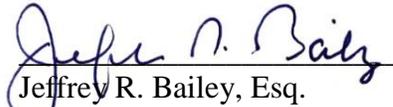
The ACHD has received numerous complaints from residents in the Opal Court neighborhood regarding the dust fall from Harsco's operations. The previous compliance plan submitted in June 2017 by Harsco failed to eliminate the dust fall. In order to prevent continued deposition in the Opal Court neighborhood, it is imperative that there is no further delay in Appellants implementing the revised compliance plan. It would be a significant hardship on the residents of the Opal Court neighborhood if they had to endure additional months of dust fall. Additionally, the reason for requiring that the compliance plan be implemented according to the schedule provided in the May 29, 2018 Order is to assure that there would be enough dry months to evaluate the effectiveness of the plan. During the rain/snow season, which commonly starts in mid-October, it is difficult to determine whether there has been dust fall due to dust being washed away by rain or masked by snow. By following the schedule provided by the ACHD, it would allow part of July and all of August to evaluate the effectiveness of the Appellants' compliance plan.

**D. Conclusion**

Appellants submitted a compliance plan and started the installation of a spray header system for controlling dust. As a result, Appellants will suffer no irreparable harm by continuing with the requirements of the May 29, 2018 Order. Allowing Appellants to delay the implementation of the compliance plan by more than a month will result in additional harm to residents of the Opal Court neighborhood. Accordingly, for the reasons set forth above, Appellants' petition/request for stay must be dismissed.

Dated: July 6, 2018

Respectfully submitted,

A handwritten signature in blue ink that reads "Jeffrey R. Bailey". The signature is written in a cursive style with a large initial "J".

Jeffrey R. Bailey, Esq.  
Pa. I.D. No. 203023  
ACHD Assistant Solicitor

Michael A. Parker, Esq.  
Pa. I.D. No. 90979  
ACHD Solicitor

Allegheny County Health Department  
Air Quality Program  
301 39th Street, Bldg. No. 7  
Pittsburgh, PA 15201-1891  
Phone: (412) 578-8102  
Fax: (412) 578-8144

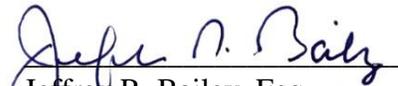
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Allegheny County Health Department's Reply in Opposition to Appellants' Petition/Request for Stay has been served upon the following via electronic mail this 6<sup>th</sup> day of July, 2018:

Max Slater, Esq.  
Administrative Hearing Officer  
Allegheny County Health Department  
542 4<sup>th</sup> Avenue  
Pittsburgh, PA 15219  
Max.Slater@AlleghenyCounty.US

Michael H. Winek, Esq.  
Babst, Calland, Clements and Zomnir, P.C.  
Two Gateway Center  
Pittsburgh, PA 15222  
mwinek@babstcalland.com  
(Counsel for Appellant ATI Flat Rolled Products Holdings, LLC)

Jessica Sharrow Thompson, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
US Steel Tower  
600 Grant St., 44th Floor  
Pittsburgh, PA 15219  
jsharrow@eckertseamans.com  
(Counsel for Appellant Harsco Metal)

  
Jeffrey R. Bailey, Esq.  
Pa. I.D. No. 203023  
ACHD Assistant Solicitor

COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

Notice of Violation / Settlement Offer

March 24, 2017

CERTIFIED MAIL – 91 7199 9991 7035 3622 2259

Mr. Glenn D. Hundertmark  
Environmental Manager / North America  
Harsco Metals  
300 Seven Fields Blvd., Suite 300  
Seven Fields, PA 16046

**RE: Notice of Violation / Settlement Offer #170302** – Harsco Natrona Facility, Federal St. Gate #10, Natrona, PA, 15065, – Article XXI, §2105.49 Fugitive Emissions and §2101.11 Prohibition of Air Pollution, February 28, 2017.

Dear Mr. Hundertmark:

The Department and Harsco Metals had a meeting on February 9, 2017, to discuss Harsco's process operations and activities relating to previous deposition complaints received by the Department. Since this meeting, the Department received additional residential deposition complaints on February 20<sup>th</sup>, 24<sup>th</sup> and 28<sup>th</sup>, 2017 from the Opal Court neighborhood in Harrison Township which were followed-up with Department Air Quality investigations. As you are aware, the Opal Court neighborhood is located north of the Harsco/ATI operations at Karns Road, Natrona Heights.

The Department representatives observed during the visits on February 21<sup>st</sup>, 24<sup>th</sup> and 28<sup>th</sup>, 2017, dust on children's toys and play equipment and residents' vehicles as shown in the attached pictures. Notably, at the conclusion of the visits, the Department representatives were even able to observe dust on the Department's vehicle that was parked in the Opal Court neighborhood for only about 1 hour. The dust observed on residents' and the Department's vehicles is consistent with slag fugitives from Harsco/ATI operations at Karns Road, Natrona Heights.

Based on its investigation, the Department has determined that the Harsco/ATI operations is the source of the deposition in the Opal Court neighborhood. The Department based this determination on visual observations of the Harsco/ATI operations and the deposition found in the Opal Court neighborhood.



KAREN HACKER, MD, MPH, DIRECTOR  
ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM

301 39<sup>TH</sup> STREET • CLACK HEALTH CENTER • BUILDING 7  
PITTSBURGH, PA 15201-1811  
PHONE (412) 578-8103 • FAX (412) 578-8144  
24-HR (412) 687-ACHD (2243) • WWW.ACHD.NET

Exhibit "A"

This determination is further supported by statements received by complainants during the site visit by the Department representatives on Tuesday, February 21, 2017, that they were either offered or given a \$50.00 voucher by Harsco as a compensation to wash and clean their vehicles due to fallen particulate matter.

Please be advised that these conditions are a violation of *Article XXI, Allegheny County Health Department, Rules and Regulations, Air Pollution Control; §2105.49*, which read as follows:

**§2105.49 FUGITIVE EMISSIONS** *{effective February 1, 1994; as amended effective October 20, 1995}*

- a. The person responsible for a source of fugitive emissions, in addition to complying with all other applicable provisions of this Article shall take all reasonable actions to prevent fugitive air contaminants from becoming air-borne. Such actions may include, but are not limited to:
  - 1. The use of asphalt, oil, water, or suitable chemicals for dust control;
  - 2. The paving and maintenance of roadways, parking lots and the like;
  - 3. The prompt removal of earth or other material which has been deposited by leaks from transport, erosion or other means;
  - 4. The adoption of work or other practices to minimize emissions;
  - 5. Enclosure of the source; and
  - 6. The proper hooding, venting, and collection of fugitive emissions.

Further, the conditions noted above are a violation of Article XXI, §§ 2101.11.a.3, b.1, and c, which state as follows:

**§2101.11 PROHIBITION OF AIR POLLUTION**

- a. It shall be a violation of this Article to fail to comply with, or to cause or assist in the violation of, any requirement of this Article, or any order or permit issued pursuant to authority granted by this Article. No person shall willfully, negligently, or through the failure to provide and operate necessary control equipment or to take necessary precautions, operate any source of air contaminants in such manner that emissions from such source:

\* \* \* \*

- 3. May reasonably be anticipated to endanger the public health, safety, or welfare.

\* \* \* \*

- b. It shall be a violation of this Article for any person to:

- 1. Operate, or allow to be operated, any source in such manner as to allow the release of air contaminants into the open air or to cause air pollution as defined in this Article, except as is explicitly permitted by this Article;

\* \* \* \*

- c. It shall be a violation of this Article for any person to cause a public nuisance, or to cause air, soil, or water pollution resulting from any air pollution emission. No person who operates, or allows to be operated, any air contaminant source shall allow pollution of the air, water, or other natural resources of the Commonwealth and the County resulting from such source.

**This letter constitutes notice of the alleged violations and the Department offers to settle these alleged violations without the cost and burden of litigation, by:**

- 1. Payment of a civil penalty of \$33,350.00 to be received by this office by April 27, 2017. Payment shall be made by check payable to the "Allegheny County Clean Air Fund".**
- 2. Submittal of a compliance plan which is aimed at eliminating the fallout particulate which has affected neighboring residential communities by May 4, 2017.**
- 3. Submittal of any findings as to the cause of the emission episodes on the above mentioned days by May 4, 2017.**

**In the event you choose not to accept the offer by April 27, 2017, the Department will assess a civil penalty in the full amount of \$41,675.00, in accordance with Article XXI, §2109.06(a)(2), Civil Proceedings. For more details on the Department's civil proceedings please see Article XXI, §2109.06, CIVIL PROCEEDINGS, at the following Web address: <http://www.achd.net/air/pubs/pdf/Article21.pdf>**

**If you choose to accept this offer, a civil penalty payment in the amount of \$33,350.00, by check payable to the "Allegheny County Clean Air Fund," must be received by this office, to my attention at the above address, no later than April 27, 2017, and the submittal of the compliance plan and findings must be submitted by May 4, 2017.**

**Payment to be sent to:**

**Jayme Graham, Manager, Air Quality Program  
Allegheny County Health Department  
301 39th Street – Bldg. #7  
Pittsburgh, PA 15201-1811**

**If such penalty payment is made in accordance with this offer, the County, by this letter, hereby agrees to accept such penalties in full satisfaction of the violations alleged herein, without any final determination of law or fact. Notwithstanding the fact that there has not been a final determination of law or fact, in the event that you shall commit future violations of the ACHD Rules and Regulations, the Department shall not be precluded from considering any past violations that were subject to consent agreements or settlement offers, in any future penalty determinations, pursuant to Article XXI, §2109.06(b)(1)(2).**

The amount of the civil penalty payment from which has been offered to settle these alleged violations is based on the nature, severity, and the frequency of the alleged violations, on the potential summary criminal penalties upon conviction of up to \$2,500 per violation per day, and on the potential civil penalties of up to \$25,000 per day. Also considered are such factors as the health effects of the pollutants involved, the apparent willful or inadvertent nature of the violations, any potential impacts on the public, any actions taken or being taken by you (that may have been reported to the County) to minimize the violations or to prevent future violations, the level of success of such actions, and your compliance history.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. If you have any questions, please call the Department's representative, James R. Bollinger, at 412-578-8186 or e-mail [james.bollinger@alleghenycounty.us](mailto:james.bollinger@alleghenycounty.us).

Sincerely,

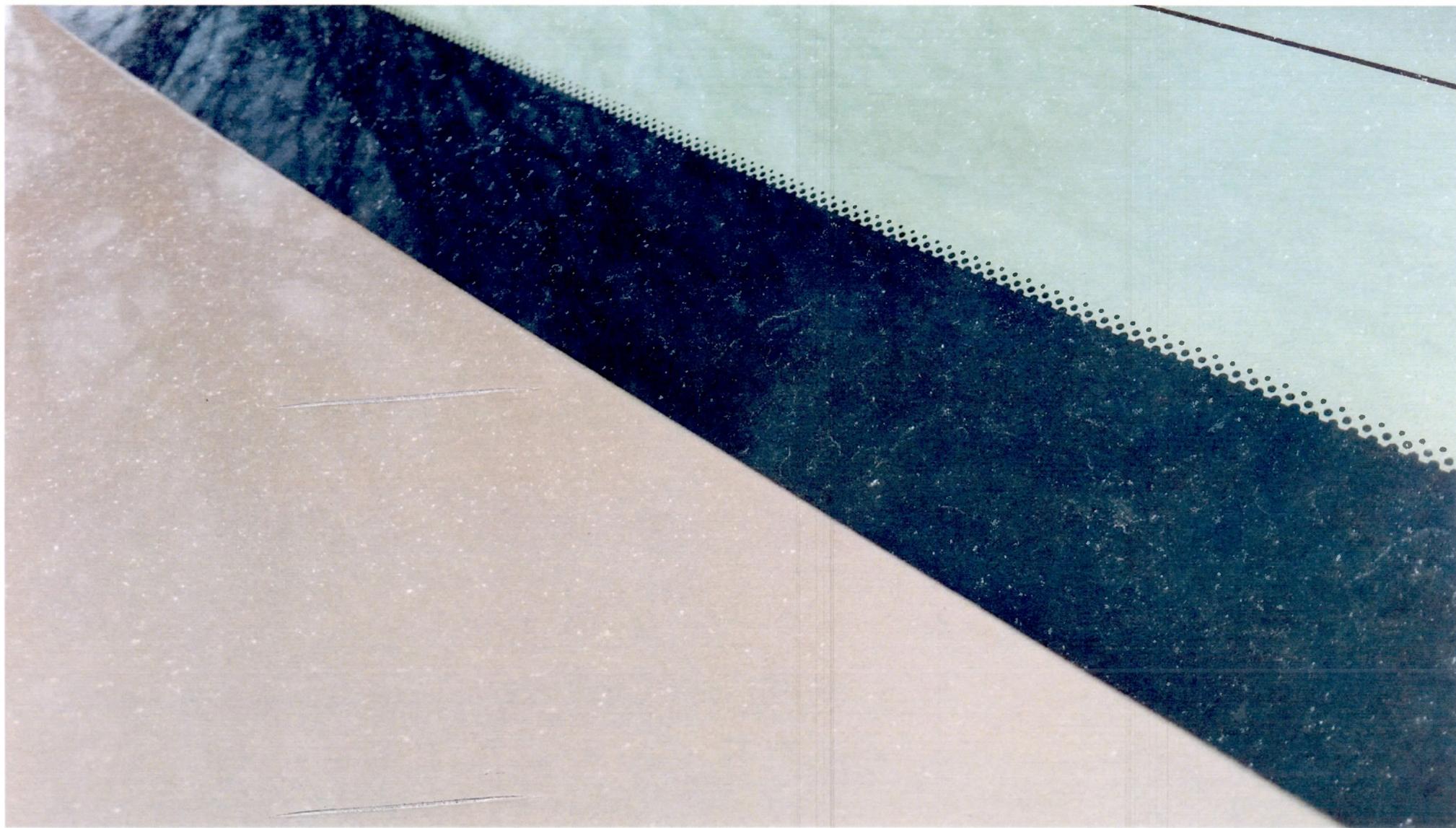


Jayme Graham, Manager  
Air Quality Program

cc: D. DeLuca, Enforcement Section Chief  
J. Bollinger, Air Quality Inspector, EPT  
N. Basher, Inspector Supervisor  
SOV File

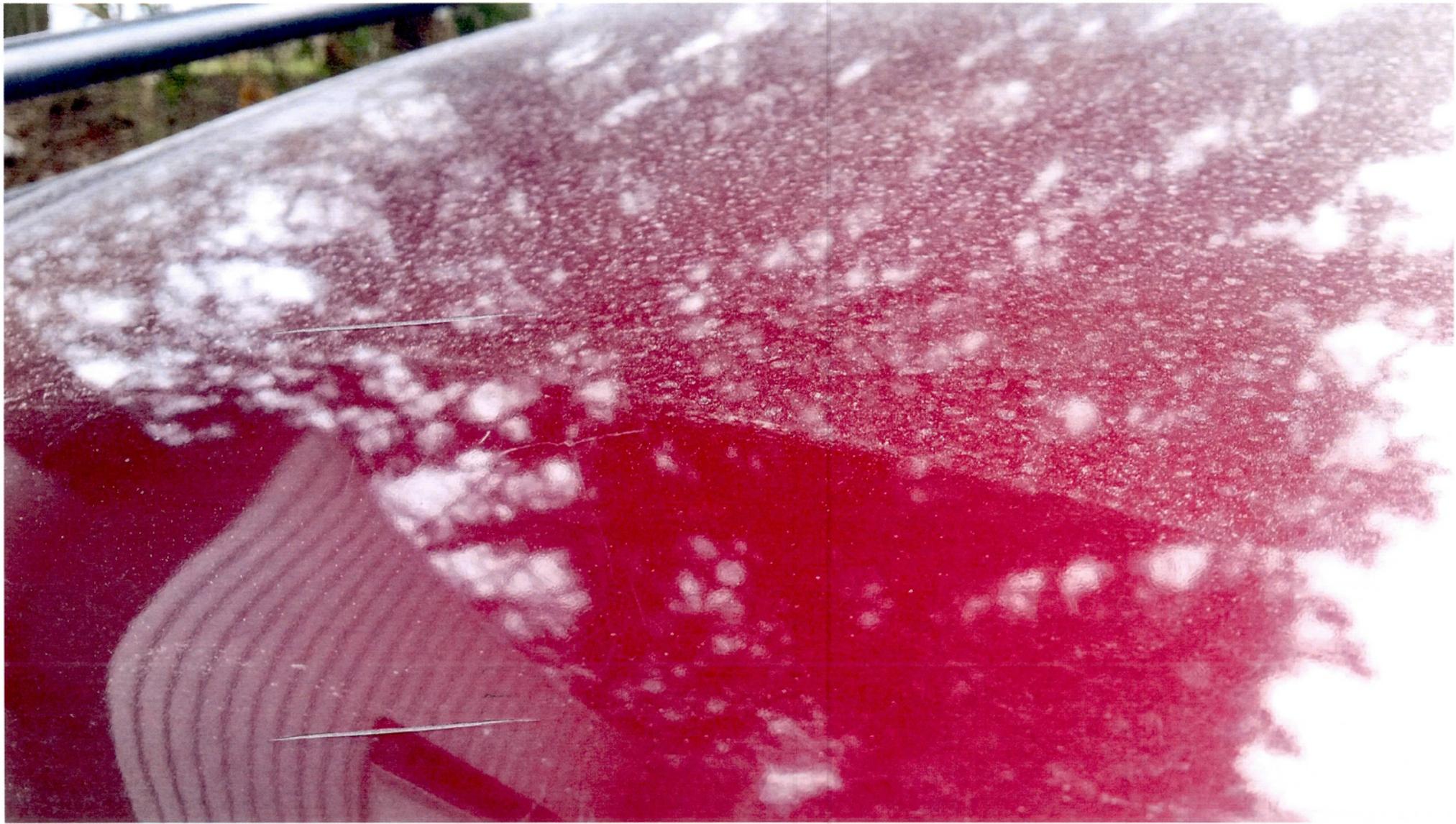


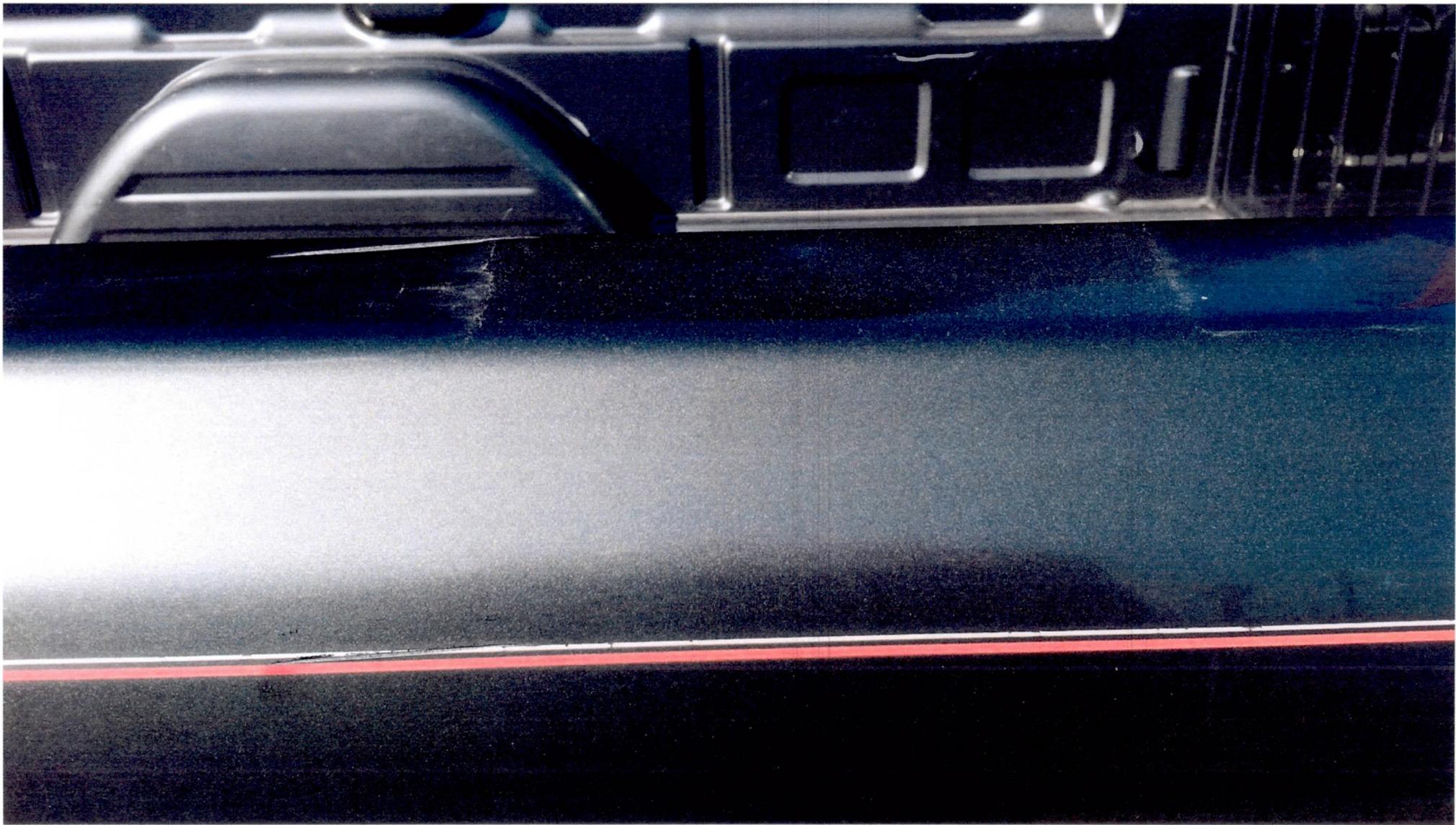














ALLEGHENY COUNTY HEALTH DEPARTMENT

AIR QUALITY PROGRAM

24-HR. COMPLAINT LINE: 412-687-ACHD (2243)

AIR QUALITY PROGRAM  
301 39TH STREET, BLDG. 7  
PITTSBURGH, PA A15201-1811

412-578-8103  
FAX: 412-578-8144  
[WWW.ACHD.NET/AIR](http://WWW.ACHD.NET/AIR)



**Allegheny County Health Department**  
**Najeeb Basher**  
Inspection Supervisor

Air Quality Program  
301 39th Street, Bldg. 7  
Pittsburgh, PA 15201

412-578-8135  
FAX: 412-578-8144  
najeeb.basher@alleghenycounty.us

COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE

## Notice of Violation / Settlement Offer

March 24, 2017

CERTIFIED MAIL – 91 7199 9991 7035 3622 2266

Ms. Deborah L. Calderazzo  
Director, Environmental Affairs  
ATI Flat Rolled Products Holdings, LLC  
100 River Road  
Brackenridge, PA 15014

**RE: Notice of Violation / Settlement Offer #170303** – ATI Flat Rolled Products Holdings, LLC, 100 River Road, Brackenridge, PA 15014, – Article XXI, §2105.49 Fugitive Emissions and §2101.11 Prohibition of Air Pollution, February 28, 2017.

Dear Ms. Calderazzo,

Please be advised that the Department and Harsco Metals had a meeting on February 9, 2017, to discuss Harsco's process operations and activities relating to previous deposition complaints received by the Department. Since this meeting, the Department received additional residential deposition complaints on February 20<sup>th</sup>, 24<sup>th</sup> and 28<sup>th</sup>, 2017 from the Opal Court neighborhood in Harrison Township which were followed-up with Department Air Quality investigations. As you are aware, the Opal Court neighborhood is located north of the Harsco/ATI operations at Karns Road, Natrona Heights.

The Department representatives observed during the visits on February 21<sup>st</sup>, 24<sup>th</sup> and 28<sup>th</sup>, 2017, dust on children's toys and play equipment and residents' vehicles as shown in the attached pictures. Notably, at the conclusion of the visits, the Department representatives were even able to observe dust on the Department's vehicle that was parked in the Opal Court neighborhood for only about 1 hour. The dust observed on residents' and the Department's vehicles is consistent with slag fugitives from Harsco/ATI operations at Karns Road, Natrona Heights.



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Exhibit "B"

Based on its investigation, the Department has determined that the Harsco/ATI operations is the source of the deposition in the Opal Court neighborhood. The Department based this determination on visual observations of the Harsco/ATI operations and the deposition found in the Opal Court neighborhood. This determination is further supported by statements received by complainants during the site visit by the Department representatives on Tuesday, February 21, 2017, that they were either offered or given a \$50.00 voucher by Harsco as a compensation to wash and clean their vehicles due to fallen particulate matter.

The Department has further determined that ATI either caused or assisted in the fugitive emissions by requiring Harsco to conduct operations during inopportune times when emissions from the Harsco operations were more likely to cause deposition in the Opal Court neighborhood.

Please be advised that these conditions are a violation of *Article XXI, Allegheny County Health Department, Rules and Regulations, Air Pollution Control; §2105.49*, which read as follows:

**§2105.49 FUGITIVE EMISSIONS** *{effective February 1, 1994; as amended effective October 20, 1995}*

- a. The person responsible for a source of fugitive emissions, in addition to complying with all other applicable provisions of this Article shall take all reasonable actions to prevent fugitive air contaminants from becoming air-borne. Such actions may include, but are not limited to:
  - 1. The use of asphalt, oil, water, or suitable chemicals for dust control;
  - 2. The paving and maintenance of roadways, parking lots and the like;
  - 3. The prompt removal of earth or other material which has been deposited by leaks from transport, erosion or other means;
  - 4. The adoption of work or other practices to minimize emissions;
  - 5. Enclosure of the source; and
  - 6. The proper hooding, venting, and collection of fugitive emissions.

Further, the conditions noted above are a violation of Article XXI, §§ 2101.11.a.3, b.1, and c, which state as follows:

**§2101.11 PROHIBITION OF AIR POLLUTION**

- a. It shall be a violation of this Article to fail to comply with, or to cause or assist in the violation of, any requirement of this Article, or any order or permit issued pursuant to authority granted by this Article. No person shall willfully, negligently, or through the failure to provide and operate necessary control equipment or to take necessary precautions, operate any source of air contaminants in such manner that emissions from such source:

\* \* \* \*

- 3. May reasonably be anticipated to endanger the public health, safety, or welfare.

\* \* \* \*

- b. It shall be a violation of this Article for any person to:
1. Operate, or allow to be operated, any source in such manner as to allow the release of air contaminants into the open air or to cause air pollution as defined in this Article, except as is explicitly permitted by this Article;

\* \* \* \*

- c. It shall be a violation of this Article for any person to cause a public nuisance, or to cause air, soil, or water pollution resulting from any air pollution emission. No person who operates, or allows to be operated, any air contaminant source shall allow pollution of the air, water, or other natural resources of the Commonwealth and the County resulting from such source.

**This letter constitutes notice of the alleged violations and the Department offers to settle these alleged violations without the cost and burden of litigation, by:**

1. **Payment of a civil penalty of \$12,500.00 to be received by this office by April 27, 2017. Payment shall be made by check payable to the "Allegheny County Clean Air Fund".**
2. **Submittal of a compliance plan which is aimed at eliminating the fallout particulate which has affected neighboring residential communities by May 4, 2017.**

In the event you choose not to accept the offer by April 27, 2017, the Department will assess a civil penalty in the full amount of \$15,625.00, in accordance with Article XXI, §2109.06(a)(2), Civil Proceedings. For more details on the Department's civil proceedings please see Article XXI, §2109.06, CIVIL PROCEEDINGS, at the following Web address: <http://www.achd.net/air/pubs/pdf/Article21.pdf>

If you choose to accept this offer, a civil penalty payment in the amount of \$12,500.00, by check payable to the "Allegheny County Clean Air Fund," must be received by this office, to my attention at the above address, no later than April 27, 2017, and the submittal of the compliance plan must be submitted by May 4, 2017.

**Payment to be sent to:**

**Jayme Graham, Manager, Air Quality Program  
Allegheny County Health Department  
301 39th Street – Bldg. #7  
Pittsburgh, PA 15201-1811**

If such penalty payment is made in accordance with this offer, the County, by this letter, hereby agrees to accept such penalties in full satisfaction of the violations alleged herein, without any final determination of law or fact. Notwithstanding the fact that there has not been a final determination of law or fact, in the event that you shall commit future violations of the ACHD Rules and Regulations, the Department shall not be precluded from considering any past violations that were subject to consent agreements or settlement offers, in any future penalty determinations, pursuant to Article XXI, §2109.06(b)(1)(2).

The amount of the civil penalty payment from which has been offered to settle these alleged violations is based on the nature, severity, and the frequency of the alleged violations, on the potential summary criminal penalties upon conviction of up to \$2,500 per violation per day, and on the potential civil penalties of up to \$25,000 per day. Also considered are such factors as the health effects of the pollutants involved, the apparent willful or inadvertent nature of the violations, any potential impacts on the public, any actions taken or being taken by you (that may have been reported to the County) to minimize the violations or to prevent future violations, the level of success of such actions, and your compliance history.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. If you have any questions, please call the Department's representative, James R. Bollinger, at 412-578-8186 or e-mail [james.bollinger@alleghenycounty.us](mailto:james.bollinger@alleghenycounty.us).

Sincerely,

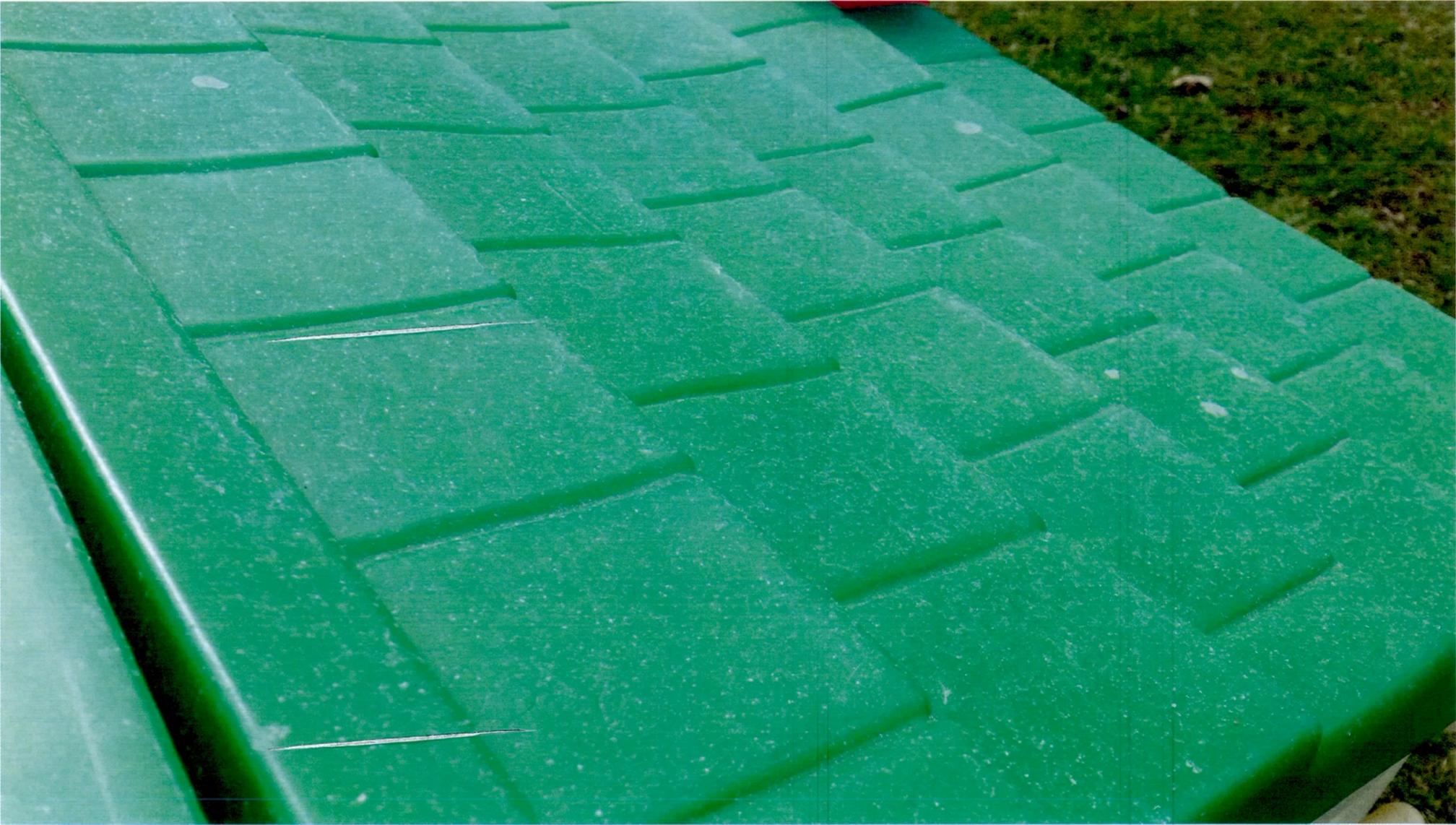


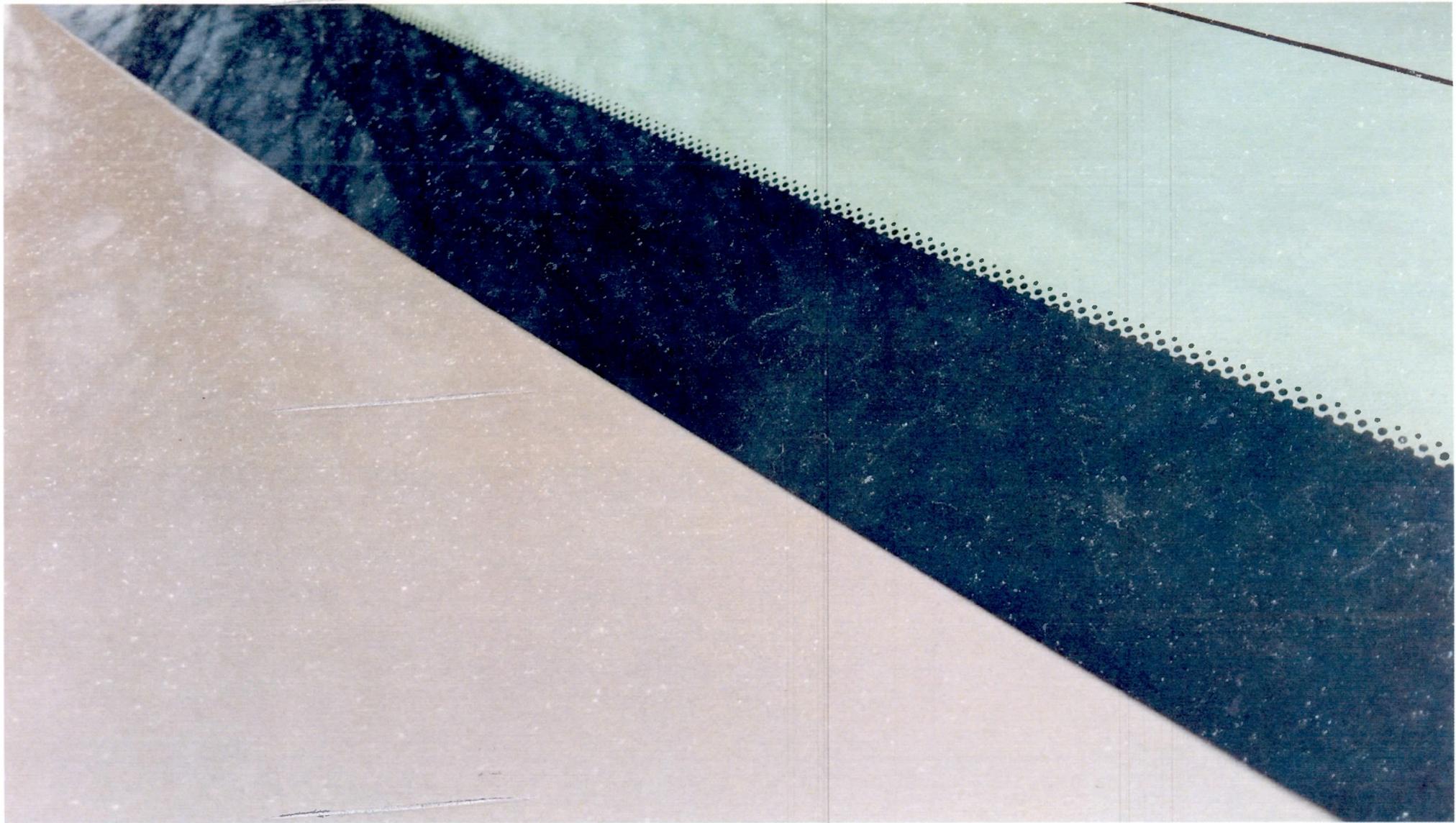
Jayme Graham, Manager  
Air Quality Program

cc: D. DeLuca, Enforcement Section Chief  
J. Bollinger, Air Quality Inspector, EPT  
N. Basher, Inspector Supervisor  
Lauren S. McAndrews, Esq.  
SOV File



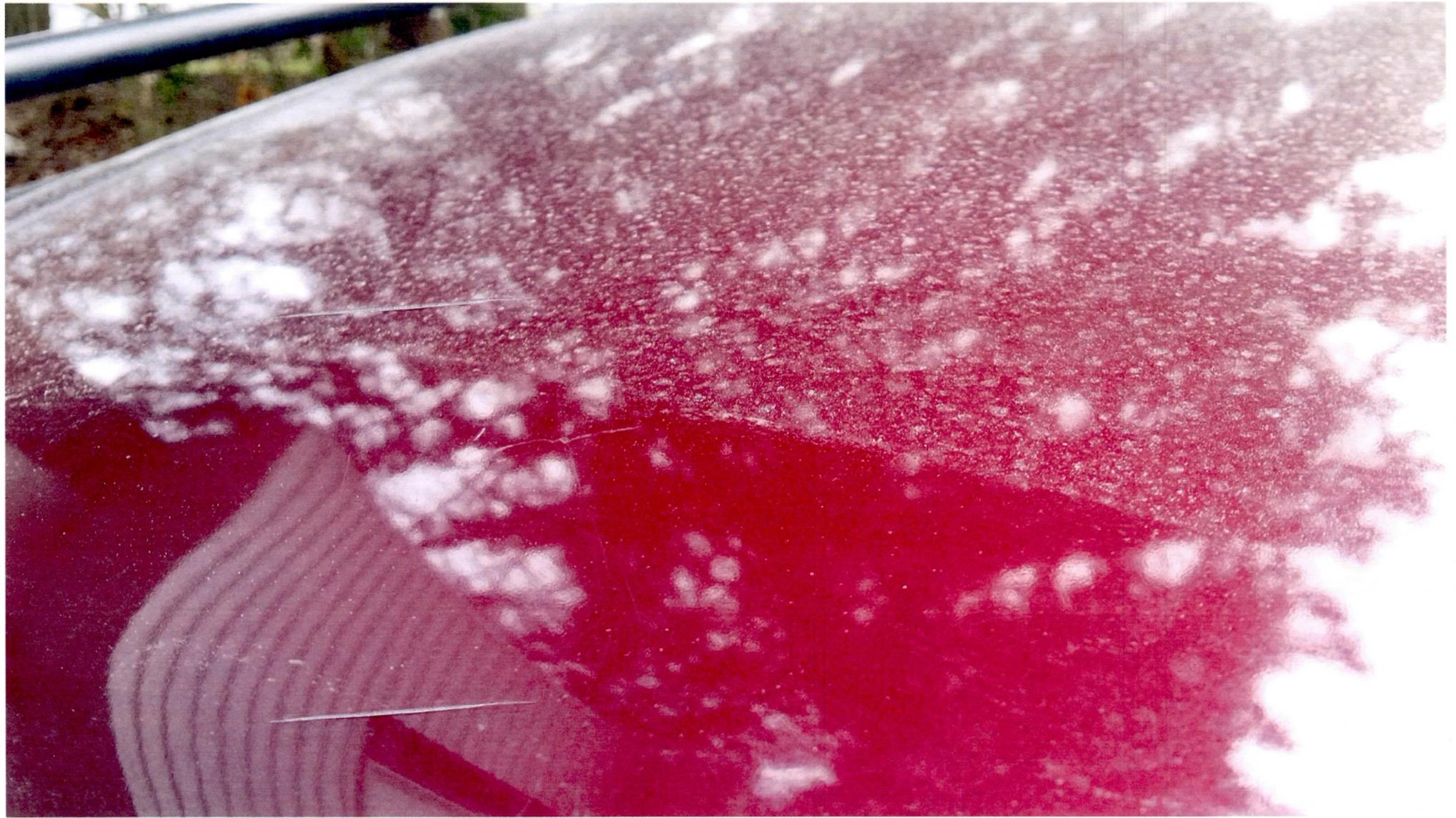
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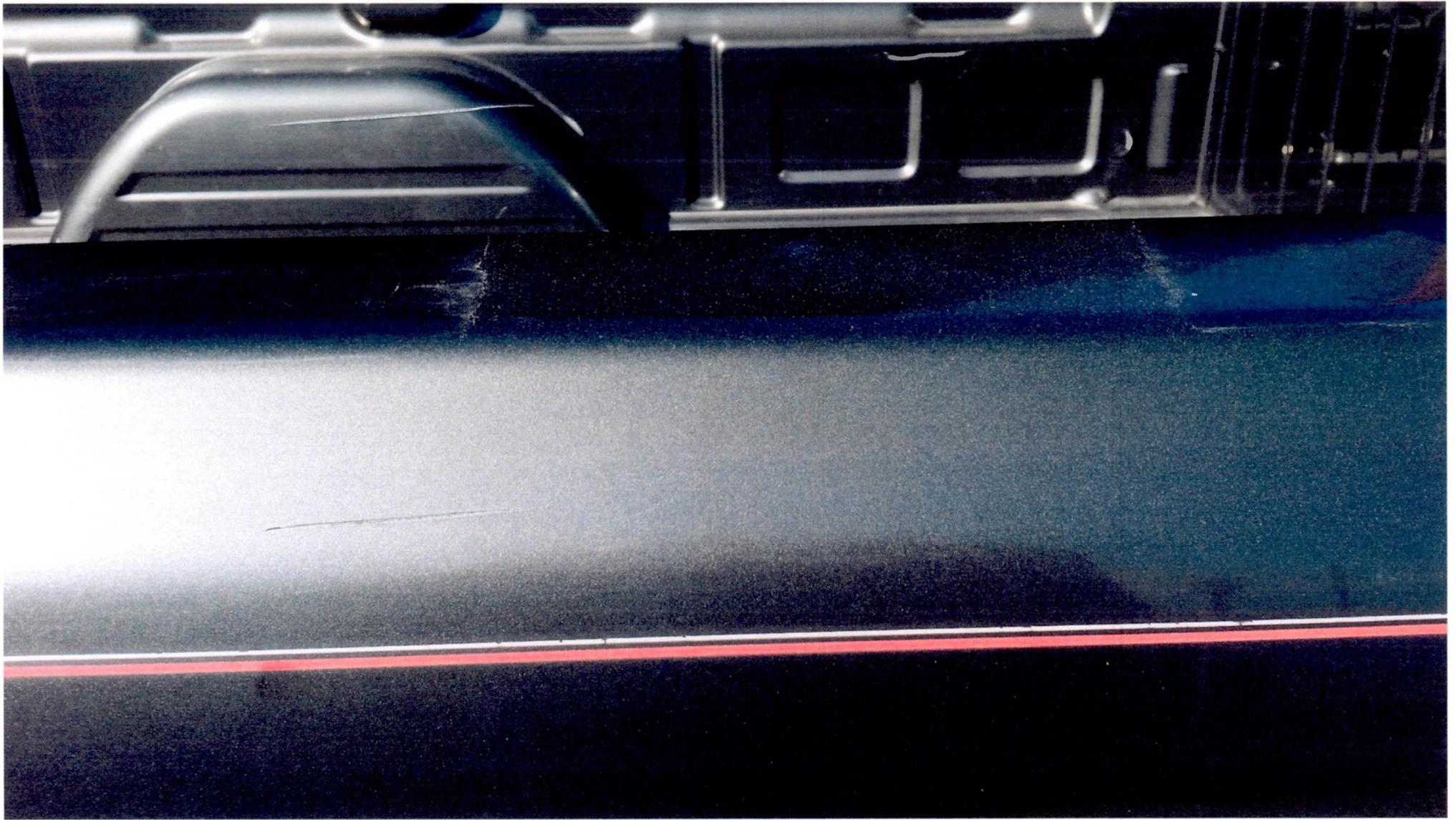














ALLEGHENY COUNTY HEALTH DEPARTMENT

AIR QUALITY PROGRAM

24-HR. COMPLAINT LINE: 412-687-ACHD (2243)

AIR QUALITY PROGRAM  
301 39TH STREET, BLDG. 7  
PITTSBURGH, PA A 15201-1811

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**Allegheny County Health Department**  
**Najeeb Basher**  
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June 29, 2018

CERTIFIED MAIL 9407 1108 9876 5014 1447 31

Jayne Graham  
Manager, Air Quality Program  
Allegheny County Health Department  
301 39<sup>th</sup> St. Building #7  
Pittsburgh, PA 15201-1811

**HARSCO**  
METALS & MINERALS

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**JUL 02 2018**

**ALLEGHENY COUNTY HEALTH DEPT.  
AIR QUALITY PROGRAM**

RE: Administrative Order for Compliance Issued May 29, 2018 to Harsco Metals and ATI Flat Rolled Products Holdings, LLC

Dear Ms. Graham:

This letter responds to your Administrative Order for Compliance (“Order”) issued May 29, 2018 to Harsco Metals (“Harsco”) and ATI Flat Rolled Products Holdings, LLC (“ATI”). The Order requires that “Harsco and ATI shall submit by June 30, 2018 a revised compliance plan to the ACHD which will eliminate all fallout particulate which has impacted neighboring residential communities.” This submittal is made on behalf of Harsco and ATI.

We must first note that we do not agree that facts have been alleged in the March 24, 2017 Notice of Violation (“NOV”) or the Order that would support a finding that the stated violations occurred or that any or all of the fallout particulate was within the companies’ control. As such, we do not believe it is possible for the companies to submit a plan to eliminate “all fallout particulate which has impacted neighboring residential communities.” Further, the June 30 deadline allowed very little time from issuance of the Order to develop a plan. Accordingly, each company filed an appeal of the Order that the ACHD received yesterday.

Nonetheless, in the interest of moving forward in a constructive manner, without admission and with full reservation of all rights, the Full-Scale Spray Header System Trial Plan, set out as Attachment 1, represents our good faith effort to comply with the plan submittal requirement of the Order to the extent possible at this time. The plan reflects Harsco’s implementation (that is already in-progress) of a full-scale trial of the new spray header system described in Harsco’s May 29, 2018 notice to ACHD, set out as Attachment 2.

Exhibit “C”

Should you have any questions, require additional information, or wish to discuss this matter, please contact me at 724.741.6662 or [GHundertmark@harsco.com](mailto:GHundertmark@harsco.com).

Sincerely,



Glenn D Hundertmark  
Environmental Manager

Enclosures

Cc: Deborah Calderazzo, ATI Flat Rolled Products Holdings, LLC (*via email*)

## ATTACHMENT 1

### Full-Scale Spray Header Trial Plan

In our May 29, 2018 trial plan (please see [Attachment 2](#)), Harsco provided notice of a new spray header system for a single-pit trial. Initial feedback from the trial indicates the technology may have the potential to improve overall dust control. We are continuing to evaluate whether the additional spray water creates any potentially unsafe condition. Nevertheless, Harsco has begun work on an expansion to a full-scale trial for all pits at the Natrona operation.

With all pits subject to the new system, a full-scale trial will provide the ability to track reported deposition events in nearby neighborhoods to determine whether a corresponding decrease or elimination of reported events occurs. Additionally, the full-scale trial rollout will more quickly realize any increased dust control the new system may ultimately provide.

As noted in our May 29 plan, the spray header system significantly changes how, when, and how much water is delivered to the slag for cooling, potentially requiring operational adjustments to avoid excess water at the pits -- a significant safety concern -- and may extend cooling time, requiring additional space allocation for slag cooling. As such, the timeframes set out here are subject to change based on the results of the trial related to safety, operational, and/or environmental concerns.

Harsco began the single-pit installation as described in its May 29 plan and completed installation by June 15. The May 29 plan called for one week to test the system and two weeks to implement the trial (i.e., expected to end on or around July 6). Several improvements to the system have been implemented as a result of the trial, including the addition of heat shields for system piping and the addition of a fourth nozzle to expand the coverage of the spray pattern across the pit.

Assuming no unacceptable safety concerns arise, Harsco will continue to move directly into implementation of the full-scale trial, including system design, ordering, installation, and testing, plus an initial implementation period, expected to be completed on or around August 6, at which time the long-term trial will begin.

Upon completion of initial implementation, Harsco will revise its Fugitive Dust Control Plan Procedures to include operating procedures for the spray header system and existing equipment.

It is expected that the system will require operation through a variety of meteorological and seasonal conditions to determine if a corresponding reduction occurs in reported deposition events in nearby neighborhoods.

## ATTACHMENT 2

### Single-Pit Spray Header Trial Plan<sup>1</sup>

Harsco has been asked by ATI to explore using a spray header system for controlling dust during watering and post-watering of slag. At present, Harsco utilizes four Fan-Driven Foggers (FDF) during pot dumping, two FDF during active watering, and four FDF during pushing of the pits. Depending on the visual characteristics of the slag in the pit, one FDF may be used during post-watering\* activities. Currently, each FDF is capable of delivering up to 29 gallons per minute.

\* Post-watering is defined as that time when active application of water via the water cannons has ceased and the contents of the pit are permitted to absorb the ponded water to the point where steam (an indication of the temperature of the slag) has dropped to a point of safe handling. Depending on many variables (volume of slag, presence of steel, temperature of pit contents and ambient air), this process can take several hours.

Based on discussions with ATI and Spraying Systems Company, Harsco will agree to the following trial:

1. Conceptual trial
  - a. One existing dumping pit, with selection of pit to be made during trial setup
  - b. One spray header complete with 3 nozzles (model 50200); header height and nozzle spacing to be field located
  - c. Replacing the active watering and post-watering periods of the current process with a “quenching/cooling” process during which the spray header will be activated.
    - i. During the trial, the portions of the Fugitive Dust Control Plan Procedures applicable to watering and post-watering periods will be superseded by the use of the spray header system during the quenching/cooling process.
2. Timing
  - a. Completed installation on or before June 15 (assumes decision to proceed by 5/31/18)
  - b. Estimated -- One week for testing the spray header system
  - c. Estimated – Up to two weeks for implementing the trial
3. Evaluation of Effect on Steam Plume
  - a. On and off-site field observation of the effect spray curtain has on the steam plume (are the sprays containing the steam plume)
  - b. Depending on the result of observations, process adjustments may be made, within the parameters described above, followed by additional observations.
  - c. For this trial, **no evaluation will be made** of effect on control of dust, onsite or offsite

*(continued)*

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<sup>1</sup> Submitted via email from Glenn Hundertmark on May 29, 2018.

Attachment 2, page 2

Excess water in the pits may contribute to dangerous eruptions, a concern Harsco takes very seriously. The spray header system has the engineered capacity to deliver 96 gpm (three nozzles at 32 gpm each, at 100 psi) and is anticipated to be active over several hours during each quenching/cooling period. Other sources of water delivery to the pits during the trial will be managed to attempt to avoid excess water volume at the pits. However, given the many variables affecting this outcome, Harsco will closely monitor the trial for impacts on safety and will adjust as necessary. If it is determined that the additional safety concerns cannot be overcome, the trial will cease.

Harsco Metals Minerals  
300 SEVEN FIELDS BLVD STE 300  
SEVEN FIELDS PA 16046-4356

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Allegheny County Health Department  
Jayme Graham - Manager Air Quality Program  
301 39TH ST  
BUILDING NO 7  
PITTSBURGH PA 15201-1811



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FOLD ALONG THIS LINE

	<b><i>Fugitive Dust Control Plan Procedures</i></b>	Work Instruction #:
Page 1 of 5	<b>Approver. Joe Nardone</b>	Revision Date: 1-18-17 Glenn Hundertmark

## Fugitive Dust Control Plan

### I. Pot Dumping/Bumping

- A. A minimum of three (3) fully functioning Fan Driven Foggers (FDF) must be available and used. If in doubt, use four (4).
- B. The FDFs available for use must be directly adjacent the operating pit.
- C. This process cannot proceed unless being observed by hooker (or other).
- D. Check Wind Speed/Direction Alarm (Alarm) for **green** light. If Alarm is '**green**' proceed with dumping. If Alarm is '**red**', proceed only after following 'Exceptions' section below.
- E. At least one (1) FDF must be directed over the bumping block, taking the wind direction and speed into account. The purpose of which is to intercept dust as it is generated by the bumping.
- F. At least two (2) FDF must be directed over the dumping area, taking the wind direction and speed into account. The purpose of which is to intercept dust as it is generated by dumping.
- G. The number of pots should be limited to no more than 10 per pit.
- H. All FDF that are to be utilized must be fully activated prior to dumping/bumping.
- I. The crane operator should attempt to knock down and level the pit as much as practicable to ensure even watering/cooling.

### II. Pit Watering – process of applying water to hot slag for the purposes of cooling and quenching

- A. Upon completing last pot dump, apply water (on and off) with fire nozzle for a period of no less than two (2) hours
- B. Inspect pit for slag that is or will fall (degrade into powder). Activate at least one (1) FDF (with or without fan). The purpose is to intercept dust created by steam volcanoes during the watering process.

Exhibit "D"

	<b><i>Fugitive Dust Control Plan Procedures</i></b>	Work Instruction #:
Page 2 of 5	<b>Approver. Joe Nardone</b>	Revision Date: 1-18-17 Glenn Hundertmark

- C. After a minimum of two (2) hours, allow pit to further quench for a period of no less than two (2) hours.
- D. After a minimum of at least six (6) hours, the loader may begin pushing pit while being observed by hooker (or other).

### III. Pit Pushing – process of pushing slag into wind row for loading into stockpile

- A. A minimum of two (2) fully functioning FDF must be available and used. If in doubt, use more.
- B. The FDFs available for use must be directly adjacent the operating pit.
- C. This process cannot proceed unless being observed by hooker (or other).
- D. Check Wind Speed/Direction Alarm (Alarm) for **green** light. If Alarm is '**green**' proceed with pushing. If Alarm is '**red**', proceed only after following 'Exceptions' section below.
- E. If any emissions are noted by hooker (or other), stop the process and reinitiate watering practice for a period of no less than one (1) hour.
- F. Repeat steps A through E until no dust emissions are observed from pushing.

### IV. Pit Digging – process of unloading slag from pit into stockpile

- A. When unloading slag from the pit into the MR stockpile, keep bucket as low as practicable to avoid dust generation.
- B. If dust is generated, stop process and apply water.
- C. DO NOT MIX HOT SLAG WITH WET SLAG (or vice versa) as this generates excessive dust.

### V. MR Plant – process of unloading stockpiles and loading MR plant

- A. When feeding MR plant, keep bucket as low as practicable to avoid dust generation.
- B. If dust is generated, stop process and apply water.

	<b><i>Fugitive Dust Control Plan Procedures</i></b>	Work Instruction #:
Page 3 of 5	<b>Approver. Joe Nardone</b>	Revision Date: 1-18-17 Glenn Hundertmark

- C. DO NOT MIX HOT SLAG WITH WET SLAG (or vice versa) as this generates excessive dust.

## VI. Paved Roads

- A. Paved roads shall be flushed on an as-needed basis
- B. Ensure berms of paved roads permit water to run-off road
- C. Avoid allowing paved roads to fully dry before applying additional water

## VII. Unpaved Roads

- A. Unpaved roads shall be watered on an as-needed basis
- B. Avoid allowing unpaved roads to fully dry before applying additional water
- C. Apply chemical suppressant as directed by management

## VIII. Open/Travel Areas

- A. Open/travel areas shall be watered on an as-needed basis
- B. Use water truck and/or FDF to apply water
- C. Never allow open/travel areas to fully dry before applying additional water

## IX. Dirt Car

- A. Water dirt car for a time no less than one (1) hour
- B. Check Wind Speed/Direction Alarm (Alarm) for **green** light. If Alarm is '**green**' proceed with clamming. If Alarm is '**red**', proceed only after following 'Exceptions' section below.
- C. If dust is generated, stop process and apply water.

	<b><i>Fugitive Dust Control Plan Procedures</i></b>	Work Instruction #:
Page 4 of 5	<b>Approver. Joe Nardone</b>	Revision Date: 1-18-17 Glenn Hundertmark

## X. Exceptions

### A. Pot Dumping/Bumping Exceptions

a) Pots shall not be dumped/bumped when Alarm is 'red' unless directed by management or their designee. This is typically in response to a request by ATI for pots to be returned to the melt shop.

b) When Alarm is 'red' and pots must be dumped, activate all four (4) FDF Note: this deviates from normal pot dumping protocol.

### B. Pit Pushing Exceptions

a) Pits shall not be pushed when Alarm is 'red' unless only one (1) pit is empty.

b) A minimum of three (3) fully functioning FDF must be available and used. Note: this deviates from normal pit pushing protocol.

c) This process cannot proceed unless being observed by hooker (or other).

### C. Dirt Car Exceptions

a) Dirt cars shall not be clammed when Alarm is 'red' unless directed by management or their designee. This is typically in response to a request by ATI for the dirt car to be returned to the melt shop.

## Document History

<u>Date</u>	<u>Description of Change</u>
1-18-17	Original Document

