

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF AN
ADMINISTRATIVE ORDER
CONCERNING:
INTALCO ALUMINUM LLC

AGREED ORDER 16449

To:

Ron Jorgensen
Intalco Aluminum LLC
4050 Mountain View Road
Ferndale, WA 98248 USA

INTRODUCTION

This is an Agreed Order (Order) between the Department of Ecology (Ecology) and Intalco Aluminum LLC (Intalco), to permit and install one wet scrubber to treat emissions from Intalco's primary aluminum smelter to initiate compliance with the one-hour State and National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂) in the vicinity of the smelter.

RECOGNITION OF ECOLOGY'S JURISDICTION

This Order is issued pursuant to the authority vested in Ecology by the Federal Clean Air Act (FCAA), 42 U.S.C. sec 7401, et seq., regulations issued under the FCAA, and Chapter 70.94 Revised Code of Washington (RCW).

RCW 70.94.141(3) in conjunction with RCW 70.94.331(1) authorizes Ecology to issue administrative orders "as necessary to effectuate the purposes of the act" and enforce those orders.

Intalco agrees to undertake all actions required of it by the terms and conditions of this Order and not to contest Ecology's jurisdiction and authority to administer this Order. Intalco agrees not to appeal this Order.

Nothing in this Order shall in any way relieve Intalco of its obligations to comply with the requirements of its Air Operating Permit No. 000295-0 or any other requirements of the law. Nor shall anything in this Order limit Ecology's authority to enforce the provisions of the aforementioned Permit.

FINDINGS OF FACT

Intalco is a primary aluminum smelter located in Whatcom County, Washington within the Cherry Point area, an area zoned for heavy industrial use. Pursuant to 42 U.S.C. 7401 et seq., the Cherry Point area currently is undergoing a 3-year monitoring program for one-hour sulfur dioxide (SO₂) to ascertain whether portions within the Cherry Point area exceed the National Ambient Air Quality Standards (NAAQS). This monitoring program began January 1, 2017. Thus far, the monitoring data indicates an area around Intalco (the Area) is at risk for being designated non-attainment for SO₂. Intalco is a contributor of SO₂ emissions in the Cherry Point

area. Due to Intalco's recent monitoring data for SO₂ emissions, Ecology has strongly encouraged Intalco to consider investments in pollution control equipment, which will reduce SO₂ emissions and return the Area into attainment with the NAAQS as promptly as is appropriate.

Under a separate program, Ecology must define and implement emissions reductions targets under the Federal Regional Haze Rule. The Regional Haze Rule targets reductions in SO₂ emissions, but over a longer timeframe. The need for SO₂ pollution control equipment may therefore arise even if the Area is designated in attainment or unclassifiable under the NAAQS program.

This Order outlines Intalco's proposal to install one wet SO₂ scrubber if the Area is designated non-attainment for SO₂ by the U.S. Environmental Protection Agency (EPA) under the NAAQS program. The court requires EPA to finalize a designation to classify the Area air quality under the NAAQS program as either attainment, non-attainment, or unclassifiable in December 2020. Ecology will have an opportunity to provide input to EPA on how to designate the area. The agreement in this Order, to install a wet SO₂ scrubber, may become part of a formal attainment strategy. Any additional actions that may need to be taken will be addressed outside of this Order.

ACTIONS

For the reasons detailed above, and in accordance with RCW 70.94.141, it is agreed that Intalco shall take the following actions as set forth below. Intalco has participated in defining these actions and the dates by which they shall be completed. Intalco shall also submit required permit applications and documents to all relevant government agencies for any approvals necessary to meet the schedule for installation and operation of the wet scrubber.

1. Initiation and Completion of the Project.

If EPA designates the Area non-attainment, Intalco agrees to install and begin operating one wet SO₂ scrubber on a baghouse stack agreed to by Ecology and Intalco. Intalco will undertake the following activities in accordance with the indicated schedule:

<i>Scheduled Activity</i>	<i>Target Completion Date</i>
Submit a complete NOC application including the wet scrubber design and engineering report	October 31, 2020
Start fabrication and procurement	The later of 30 days from NOC approval or May 31, 2021
Start construction	The later of 9 months from NOC approval or January 31, 2022
Complete wet scrubber installation	The later of 19 months from NOC approval or December 31, 2022

2. Additional Pollution Controls.

If the Area air quality indicates that additional pollution control measures are required to meet NAAQS, Intalco and Ecology will determine how to address these requirements outside of this Order.

3. Regional Haze Rule.

If EPA designates the Area attainment or unclassifiable in 2020, Intalco will have no obligations under this Order to install a wet scrubber in compliance with National Ambient Air Quality Standards. Emissions reduction targets consistent with the Regional Haze Rule requirements will be developed jointly by Intalco and Ecology and are not part of this Order. Any SO₂ reductions achieved under this Order will be submitted to EPA as part of Ecology's Regional Haze SIP.

4. Changed Business Conditions.

Notwithstanding anything else in this Order, in the event that Intalco announces the closure or curtailment of one of its three potlines (A, B, or C line, or any combination or equivalent measure thereof), then upon thirty days' prior written notice to Ecology, this Order and Intalco's obligations hereunder will become null and void.

5. Changes to the Order.

Intalco or Ecology may request, at any time, a change to the conditions of this Order, and Ecology expressly reserves the right to approve any such requests.

EFFECTIVE DATE

This Order is effective on the date the agreement has been signed by both parties.

TERMINATION OF THE AGREED ORDER

Upon the completed installation of one wet scrubber, the requirements of this Agreed Order shall be deemed to be satisfied and shall have no further effect on Intalco.

FAILURE TO COMPLY

Per RCW 70.94.141(3), RCW 70.94.331(1) and RCW 70.94.431, failure to comply with any of the provisions of this Agreed Order without first obtaining written approval from Ecology for a change to the Agreed Order as specified in Paragraph IV.5 of this Agreed Order may subject Intalco to enforcement action by Ecology, including the issuance of civil penalties of up to \$10,000 per day per violation.

THIRD PARTY RIGHT TO APPEAL

By signing this Agreed Order, Intalco may not appeal this Agreed Order, however, a third party may.

A party other than Intalco has a right to appeal this Order to the Pollution Control Hearings

Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21 B RCW and Chapter 371 -08 WAC. "Date of receipt" is defined in RCW 43.21 B.001 (2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form – by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43 .21 B RCW and Chapter 371 -08 W AC.

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21 B.320.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Judy Schwieters
Department of Ecology
Industrial Section
PO Box 47600
Olympia, WA 98504-7600

Phone: (360) 407-6942
Email: judith.schwieters@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW – Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedures Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Laws and Rules**
<http://leg.wa.gov/LawsandAgencyRules/pages/default.aspx>

SIGNATURES

Agreed by:

James DeMay, P.E.
Industrial Section Manager
Department of Ecology

Ron Jorgensen
Plant Manager
Intalco Aluminum LLC

Date

Date