

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 15-114
)	(Enforcement - Water)
AMERICAN STEAMSHIP COMPANY,)	
a New York corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2012), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2012). In support of this motion, Complainant states as follows:

1. On December 19, 2014, a two-count Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), against the Respondent alleging water pollution and a violation of the National Pollutant Discharge Elimination System (“NPDES”) Permit program.

3. The parties have reached agreement on all outstanding issues in PCB No. 15-114.

4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2)

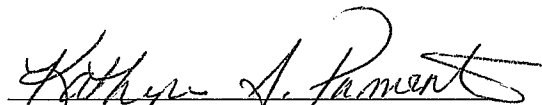
of the Act, 415 ILCS 5/31(c)(2) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2012) and such other relief as the Board deems proper.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General, State of Illinois

BY:



Kathryn A. Pament
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-0608

DATE: March 26, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
)	
v.)	PCB NO. 15-114
)	(Enforcement - Water)
AMERICAN STEAMSHIP COMPANY,)	
a New York corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and AMERICAN STEAMSHIP COMPANY (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2012), alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On December 19, 2014, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012),

against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2012).

3. At all times relevant to the Complaint, Respondent has been and is a New York corporation, whose principal place of business is located in New York. Respondent is not registered with the Illinois Secretary of State's Office as a foreign corporation, though at all times relevant to this Complaint, it has done business in the State of Illinois. Respondent is a Great Lakes vessel transportation company located at 500 Essjay Road, Williamsville, New York, whose Great Lakes fleet consists of self-unloading vessels that range in length from 635-feet to 1,000 feet. Respondent transports a variety of dry-bulk commodities including iron ore pellets, coal and limestone aggregates, and its single-trip vessel-carrying capacity ranges from 24,000 to 81,000 gross tons.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act:

Count I: Water Pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

Count II: Violation of the National Pollutant Discharge Elimination System ("NPDES") Permit Program pursuant to Section 12(f) of the Act, 415 ILCS 5/12(f) (2012).

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within

Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

Respondent undertook a multi-pronged plan (the "Compliance Plan") to address the violations alleged by the Illinois Attorney General's office in its December 19, 2014 Complaint. A copy of Respondent's Compliance Plan is attached hereto as Attachment A. Respondent has completed each component of its Compliance Plan and stated that it has implemented systemic changes to address potential future compliance challenges.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2012).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;

3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. On December 19, 2013, Respondent had a vessel docked at 3259 East 100th Street, Chicago, Cook County, into which coal was being loaded for transport. On that date, during the loading process, a deckhand of Respondent utilized a hose to melt ice that had frozen cargo hatch covers on the deck of the ship. During the ice melting process, Respondent washed approximately 80 pounds of coal residue from the deck of the vessel directly into the Calumet River. The Complainant alleges that the environment was thereby threatened, and such discharge tended to cause a nuisance.

2. There is social and economic benefit to the Respondent's operations.
3. The Respondent's operations were and are suitable for the area in which they were and are conducted.
4. Reducing discharges or emissions from the Respondent's vessels is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2012), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a Asupplemental environmental project,@ which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Complainant alleges that on December 19, 2013, a deckhand of the Respondent utilized a hose to wash approximately 80 pounds of coal residue from the deck of one of its vessels directly into the Calumet River.
2. The Respondent was diligent in attempting to come back into compliance with the Act, once the Illinois EPA notified it of its noncompliance.
3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Five Thousand Four Hundred Dollars (\$5,400.00) will serve to deter further violations and aid in future voluntary compliance with the Act.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was proposed by Respondent, but rejected by the Illinois EPA.

V. TERMS OF SETTLEMENT

A. **Penalty Payment**

1. The Respondent shall pay a civil penalty in the sum of Five Thousand Four Hundred Dollars (\$5,400.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **Interest and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties

shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. Respondent shall timely complete and maintain documentation of its proper observance of Illinois EPA regulations with respect to discharges into state waters, as described in Compliance Activity #3 of its Compliance Plan, attached hereto and incorporated herein as Attachment A.

2. In addition to any other authorities, the Illinois EPA, its employees and

representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's vessels which are the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act.

4. The Respondent shall cease and desist from future violations of the Act that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$5,400.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on December 19, 2014. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;

- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Kathryn A. Pamenter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

Michael Roubitchek
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Noel Bassett
Vice President of Operations
American Steamship Company
Centerpointe Corporate Park
500 Essjay Road
Williamsville, New York 14221

G. Enforcement and Modification of Stipulation

Upon the entry of the Board=s Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

H. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS

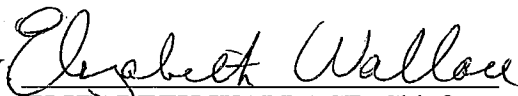
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY


LISA MADIGAN

Attorney General, State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

LISA BONNETT, Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 3/23/15

DATE: 3/18/15

AMERICAN STEAMSHIP COMPANY

By: Noel Bassett
Its: Vice President of Operations

DATE: _____

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

LISA MADIGAN
Attorney General, State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

LISA BONNETT, Director
Illinois Environmental Protection Agency

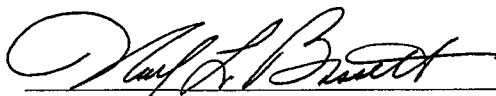
BY: _____
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau

BY: _____
JOHN J. KIM
Chief Legal Counsel

DATE: _____

DATE: _____

AMERICAN STEAMSHIP COMPANY



By: Noel Bassett
Its: Vice President of Operations

DATE: 3/16/15

ATTACHMENT A TO STIPULATION FOR PROPOSAL AND SETTLEMENT

**American Steamship Company:
LAKES CONTENDER
Compliance Plan**

Compliance Activity #1:

- Description: Ensure awareness by all ASC fleet Captains and Chief Engineers of the potential for de-icing activities at a loading or unloading facility to result in the accidental discharge of residual cargo into the water surrounding a vessel.
- Measure: Advise all Captains and Chief Engineers of the IL EPA Notice of Violation.
- Completion Date: Completed March 4, 2014. Presentation made during ASC's annual Spring Vessel Manager's Meeting in Williamsville, NY to all Captains and Chief Engineers.

Compliance Activity #2:

- Description: Establish a fleet-wide Company policy for the proper management of Dry Cargo Residue (DCR) in accordance with all applicable United States Coast Guard regulations.
- Measure: Prepare a formal Dry Cargo Residue management plan.
- Completion Date: Completed March 1, 2014 – copy attached.

Compliance Activity #3

- Description: Document proper observance of IL EPA regulations with respect to discharges into state waters.
- Measure: Make a notation in the vessel's log books for all ships that call on docks or facilities in the state of Illinois attesting to the fact that all provisions of the Dry Cargo Residue Management Plan and policy have been adhered to.
- Completion Date: Ongoing.

All Proposed Compliance Activities have been completed, or continue to be implemented indefinitely, as of the date of the execution of the Stipulation for Proposal and Settlement.



**Dry Cargo Residue
Management Plan
American Steamship Company
Barge LAKES CONTENDER**

**American Steamship Company
Centerpointe Corporate Park
500 Essjay Road
Williamsville, NY 14221-8226
(716) 635-0222**



1 March, 2014

Dry Cargo Residue Management Plan

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1 March 2014

Record Of Changes

Revision Number	Date Of Revision	Revision Description	Name Of Person Making Revision	Date Revision Submitted To USCG For Approval	Date Of Approval
		.			
		.			
		.			
		.			



1 March 2014

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Record Of Changes - 4



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1.0 Operational Procedures

1.1 Minimization of Cargo Spillage During Loading

Loading of cargo is where the highest probability of spilling cargo on deck exists. This is heavily influenced by the efficiency of the facility's cargo loading equipment and skill of their operators.

When the vessel arrives at a facility for loading the mate on watch will verbally consult with the facility dockman face to face or via radio to remind the facility to exercise caution when loading in order to reduce the spillage of cargo on deck. The facility will be reminded of stricter federal regulations as an important element of this requirement.

The facility will be requested to start the loading process gradually until the vessel is sure that the placement of loading equipment is optimized to reduce or eliminate cargo spillage.

During loading the mate on watch will carefully monitor the cleanliness of the main deck and take action to reduce or eliminate cargo spillage, including shutting down the transfer if necessary.

1.2 Minimization of Cargo Spillage During Discharge

The discharge of cargo is where the highest probability of spilling cargo in the tunnel exists and some on deck beneath the boom. This is primarily affected by the design and efficiency of the vessels unloading equipment.

When starting the off-load process, the conveyorman, gateman or other personnel will open the required gates and start the off-load process slowly. The speed of the offload will be increased and the tunnel monitored for cargo spillage from the belt. Conveyor Department personnel will carefully monitor the offload in the tunnel and advise the mate on watch of the extent of cargo spillage in that part of the vessel

The mate on watch will monitor the extent of cargo spillage underneath or in the vicinity of the boom.



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All vessel unloading equipment in the tunnel and on deck, including belts and rollers will be maintained to ensure it operates as efficiently as possible. The Chief Engineer will be notified if there is excess spillage from unloading equipment.

1.3 Recovery of Spilled Cargo On Deck

Cargo spilled on deck will be attended to by the mate and crew on watch. If necessary the crew will employ shovels and brooms to recover cargo. Recovered cargo will be returned to the holds.

The use of tarps beneath the boom may be employed if necessary. The deck may be washed with hoses after a broom clean condition is attained and only when the vessel is three miles from shore.

1.4 Recovery of Spilled Cargo in the Tunnel

Cargo spilled in the tunnel will be attended to by the conveyorman and other crewmembers. If necessary the crew will employ shovels and brooms to recover cargo. Recovered cargo will be returned to the conveyor belt

The tunnel will be periodically washed by hose to minimize dust. Wash water will be discharged over the side only when the vessel is three miles from shore..

1.5 Terminal Specific Procedures

Detroit Edison St. Clair, MI – The spillage of any coal cargo onto the dock and water between the vessel and facility hopper is very sensitive. The vessel will utilize tarps if necessary to eliminate any spillage.

1.6 Discharges Necessary for the Safety of Vessel or Crew

Nothing in this manual or federal regulations will preclude the discharge of any cargo for the safety or stability of the vessel.

1.7 Dust Minimization

Water spray will be used to minimize fugitive dust when appropriate.



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2.0 Roles & Responsibilities

2.1 Company Roles & Responsibilities

Assistant Vice President Fleet Operations

This person is responsible for;

- Keeping up to date on state and federal regulations and communicating company policies, as well as state and federal regulatory requirements to company personnel, Masters and Chief Engineers on a timely basis.
- Maintaining and updating this manual as necessary.
- Receiving all questions from the fleet regarding dry cargo residue management and evaluating and authorizing any operational procedures that may deviate from company policy, or state and federal regulations.

2.2 Vessel Roles & Responsibilities

Master

- Ensuring the weather deck and tunnel are maintained in a condition of cleanliness as specified in this manual
- Communicating operational needs that may deviate from this manual to the Assistant VP Fleet Operations
- Taking action as necessary to ensure the safety and stability of the vessel.

Chief Engineer

- Maintaining all cargo handling equipment in optimal condition.
- Responding to reports of equipment malfunction and adjusting irt as necessary to reduce or eliminate the generation of cargo residue.
- Communicating the condition of cargo handling equipment and any operational limits caused by equipment malfunction to the vessel Master.



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Conveyorman

- Operate the cargo handling equipment safely and efficiently and in accordance with this manual.
- Report the condition of cleanliness of the tunnel to the mate on watch.
- Clean tunnel decks and structures as necessary to meet the requirements of this manual.

Deck Crew

- Report the condition of cleanliness of the main deck to the mate on watch.
- Clean main decks and structures as necessary to meet the requirements of this manual.

2.3 Periodic Review, Amendment & Audit Procedures

Vessel superintendants and company shoreside operations personnel will note the cleanliness of decks and/or tunnels during routine vessel visits.

An evaluation of deck and tunnel cleanliness will be include as part of the external audits which are conducted twice each season on each vessel.



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3.0 Reporting & Recordkeeping

The master, owner, operator, or person in charge of any commercial ship loading, unloading, or discharging bulk dry cargo in the United States' waters of the Great Lakes and the master, owner, operator, or person in charge of a U.S. commercial ship transporting bulk dry cargo and operating anywhere on the Great Lakes, excluding non-self propelled barges that are not part of an integrated tug and barge unit, must ensure that a written record is maintained on the ship that fully and accurately records information on each loading or unloading operation on the United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes, involving bulk dry cargo; and each discharge of bulk dry cargo residue that takes place in United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes.

Until February 28, 2015, records must be kept on Coast Guard Form CG-33, which can be found at http://www.uscg.mil/hq/cg5/cg522/cg5224/dry_cargo.asp.

Copies of the records must be forwarded to the Coast Guard at least once each quarter, no later than the 15th day of January, April, July, and October. The record copies must be provided to the Coast Guard using only one of the following means:

- E-mail to DCRRecordkeeping@USCG.mil;
- Fax to 202-372-1928, ATTN: DCR RECORDKEEPING; or
- Mail to U.S. Coast Guard: Commandant (CG-OES), ATTN: DCR RECORDKEEPING, 2703 Martin Luther King Jr. Avenue SE., Stop 7126, Washington, DC 20593-7126.

After February 28, 2015, the use of Form CG-33 is optional. However, records must still be certified by the master, owner, operator, or person in charge; must be kept in written form on board the ship for at least 2 years; and must be made available for Coast Guard inspection upon request.



1 March 2014

U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-33 Rev. (02-08)		BULK DRY CARGO RESIDUE REPORTING FORM						OMB Number 1825-0072 Expires:					
MASTER'S CERTIFICATION:						OFFICIAL/IMO NO.							
For Cargo Loading & Unloading Operations						VESSEL NAME:							
Date	Cargo Involved ¹	Operation (check one)		Facility Name	Control Measures Used ² (see list of codes)		Time Spent to Implement Control Measure (hrs)	Estimated Residue to be Discharged (m ³)	Discharge Start		Discharge Stop		Vessel Speed (kts)
		Load	Unload		Facility	Vessel			Date/Time(D/T) Ship's Position (Lat/Long)	Date/Time(D/T) Ship's Position (Lat/Long)			
									D/T:	D/T:			
									Lat:	Lat:			
									Long:	Long:			
									D/T:	D/T:			
									Lat:	Lat:			
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									Long:	Long:			

Please see footnotes on next page

Remarks:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 15 minutes. You may submit any comments concerning the accuracy of this estimate or any suggestions for reducing the burden to: Comment/In (CG-5232), U.S. Coast Guard Room 1400, 2100 Second Street SW, Washington, D.C. 20593-0001

Reset



1 March 2014

NOTES:

- ¹ Cargo Involved: Provide the common name of the cargo (e.g., coal, taconite, sand, limestone, grain, salt, etc.)
When multiple cargo types are discharged, please create a separate entry for each type
- ² Control Measures: Enter the code(s) below for each dry cargo residue control measure(s) used during cargo handling operations, Return to Form for both cargo facilities (if known), and for your vessel.
- ³ Estimated residue after loading and unloading operations to be discharged in accordance with 33 CFR 151.69

Cargo Involved	Facility Control Measures		Vessel Control Measures	
	Code	Measure	Code	Measure
iron ore	A	Enclosed conveyor	1	Enclosed conveyor
taconite	B	Troughed conveyor	2	Troughed conveyor
scale	C	Conveyor skirts	3	Conveyor skirts
coal/coke	D	Belt Scrapers	4	Belt Scrapers
grain	E	Water/mist for dust control	5	Water/mist for dust control
seed	F	Conveyor capacity indicators	6	Conveyor capacity indicators
wood pulp	G	Deck remote controls of conveyors	7	Deck remote controls of conveyors
potash	H	Stop conveyor while ship or belt is repositioned	8	Stop conveyor while ship or belt is repositioned
fertilizer	I	Delay loading/unloading during high wind	9	Delay loading/unloading during high wind
limestone	J	Radio Communication between dock and loader	10	Radio Communication between deck and loader
sand/gravel	K	Crew training on procedures to reduce residue	11	Crew training on procedures to reduce residue
dolomite	L	Lmt vertical angle of conveyor boom	12	Lmt vertical angle of conveyor boom
clay	M	Plow feeder	13	Broom & shovel (to return to hold or shore)
aggregates	N	Loading chute, incl. Telescoping or conveyors	14	Tarps to collect residue(to return to hold or shore)
salt	O	Chemical surfactants	15	Cargo hold vibrator
gypsum	P	Suction pumped cargo, slurry transport, pneumatic or screw conveyors	16	Watertight gate seal
cement	Q	Other (describe measure on "Remarks" line on front of form)	17	Cargo hold lining (teflon or kevlar)
Other			18	Minimize hatch removal during poor weather
			19	Careful cargo hold gate operation
			20	Other (describe measure on "Remarks" line on front of form)

Cargo	Density (lbs/ft ³)	Equivalent Volume for 350 lbs of DCR	Volume in m ³
Coal	50	7 ft ³	0.2
Limestone	150	2.3 ft ³	0.07
Taconite	222	1.6 ft ³	0.05

Note: One 5 gallon bucket is equivalent to 0.019 m³
1 cubic ft = 0.0283 m³



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5.0 Regulatory Requirements

5.1 Vessels Deck Kept Broom Clean In Transit

The master, owner, operator, or person in charge of any commercial vessel must ensure that the vessel's deck is kept broom clean whenever the vessel is in transit.

5.2 Dry Cargo Residue Management Plan

The master, owner, operator, or person in charge of any commercial vessel must ensure that a dry cargo residue management plan is on board the vessel, is kept available for Coast Guard inspection, and that all operations are conducted in accordance with the plan. A waste management plan meeting the requirements of 33 CFR 151.57 satisfies this requirement, so long as it provides all the information required by this regulation. If the plan is maintained electronically, at least one paper copy of the plan must be on board for use during inspections.

5.3 Procedures and Equipment

The plan must describe the specific measures the vessel employs to ensure the minimization of bulk dry cargo residue discharges, and, at a minimum, must list or describe—

1. Equipment on board the vessel that is designed to minimize bulk dry cargo spillage during loading and unloading;
2. Equipment on board the vessel that is available to recover spilled cargo from the decks and transfer tunnels and return it to the holds or to unloading conveyances;
3. Operational procedures employed by the vessel's crew during the loading or unloading of bulk dry cargoes to minimize cargo spillage onto the decks and into the transfer tunnels and to achieve and maintain the broom clean deck condition required by the regulation;



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4. Operational procedures employed by the vessel's crew during or after loading or unloading operations to return spilled bulk dry cargo residue to the vessel's holds or to shore via an unloading conveyance;
5. How the vessel's owner or operator ensures that the vessel's crew is familiar with any operational procedures described by the plan;
6. The position title of the person on board who is in charge of ensuring compliance with procedures described in the plan;
7. Any arrangements between the vessel and specific ports or terminals for the unloading and disposal of the vessel's bulk dry cargo residues ashore; and
8. The procedures used and the vessel's operating conditions to be maintained during any unavoidable discharge of bulk dry cargo residue into the Great Lakes.
9. In determining whether a commercial vessel or person is in compliance with the regulation, Coast Guard personnel may consider—
 - a. The extent to which the procedures described in the vessel's DCR management plan reflect current industry standard practices for vessels of comparable characteristics, cargoes, and operations;
 - b. The crew's demonstrated ability to perform tasks for which the DCR management plan holds them responsible;
 - c. Whether equipment described in the DCR management plan is maintained in proper operating condition; and
 - d. The extent to which the crew adheres to the vessel's DCR management plan during actual dry cargo loading and unloading operations and DCR discharge operations.



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5.4 Reporting

The master, owner, operator, or person in charge of any commercial ship loading, unloading, or discharging bulk dry cargo in the United States' waters of the Great Lakes and the master, owner, operator, or person in charge of a U.S. commercial ship transporting bulk dry cargo and operating anywhere on the Great Lakes, excluding non-self propelled barges that are not part of an integrated tug and barge unit, must ensure that a written record is maintained on the ship that fully and accurately records information on:

1. Each loading or unloading operation on the United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes, involving bulk dry cargo; and
2. Each discharge of bulk dry cargo residue that takes place in United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes. For each loading or unloading operation, the record must describe:
 - a. The date of the operation;
 - b. Whether the operation involved loading or unloading;
 - c. The name of the loading or unloading facility;
 - d. The type of bulk dry cargo loaded or unloaded;
 - e. The method or methods used to control the amount of bulk dry cargo residue, either onboard the ship or at the facility;
 - f. The time spent to implement methods for controlling the amount of bulk dry cargo residue; and
 - g. The estimated volume of bulk dry cargo residue created by the loading or unloading operation that is to be discharged.
3. For each discharge, the record must describe:
 - a. The date and time the discharge started, and the date and time the discharge ended; The ship's position, in latitude and longitude, when the discharge started and when the discharge ended; and
 - b. The ship's speed during the discharge.



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- c. Until February 28, 2015, records must be kept on Coast Guard Form CG-33, which can be found at http://www.uscg.mil/hq/cg5/cg522/cg5224/dry_cargo.asp.
- d. Copies of the records must be forwarded to the Coast Guard at least once each quarter, no later than the 15th day of January, April, July, and October. The record copies must be provided to the Coast Guard using only one of the following means:
- (i) E-mail to DCRRecordkeeping@USCG.mil;
 - (ii) Fax to 202-372-1928, ATTN: DCR RECORDKEEPING; or
 - (iii) Mail to U.S. Coast Guard: Commandant (CG-OES), ATTN: DCR RECORDKEEPING, 2703 Martin Luther King Jr. Avenue SE., Stop 7126, Washington, DC 20593-7126.
- e. After February 28, 2015, the use of Form CG-33 is optional. However, records must still be certified by the master, owner, operator, or person in charge; must be kept in written form on board the ship for at least 2 years; and must be made available for Coast Guard inspection upon request.

5.5 Definitions

Broom Clean means a condition in which the vessel's deck shows that care has been taken to prevent or eliminate any visible concentration of bulk dry cargo residues, so that any remaining bulk dry cargo residues consist only of dust, powder, or isolated and random pieces, none of which exceeds 1 inch indiameter. Later on the CG expands on "broom clean," noting that one association (LCA) said the standard should be "shovel clean." The CG response is "We chose the term "broom clean" because of its descriptive value in conveying an image of the performance level we want vessels to achieve. This Final Rule does not prescribe the actual tools or procedures by which a vessel achieves it; that information will be set out in the vessel's DCR Management Plan." LCA also noted that under certain conditions and weather, it will be difficult if not impossible to attain broom clean. The CG agrees "that in bad or very cold weather, or because of operational conditions, it maybe more difficult than usual to attain broom cleanliness ... We have tried to design a reasonable requirement that can be executed by people of



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varying physical capabilities under widely varying conditions, in what is fundamentally an industrial setting. We have also tried to design a regulation that can be easily and fairly enforced by our inspectors without the use of scales or micrometers ... What we want to see on a vessel's deck is evidence that care has been taken to prevent or eliminate deck DCR. We understand and expect that the results will vary, but we expect that the results will indicate that the vessel's DCR Management Plan has been written and carried out to obtain the best DCR minimization across the full range of variable that affect the vessel."

Bulk dry cargo residues means nonhazardous and non-toxic residues, regardless of particle size, of dry cargo carried in bulk, including limestone and other clean stone, iron ore, coal, salt, and cement. It does not include residues of any substance known to be toxic or hazardous, such as nickel, copper, zinc, lead, or materials classified as hazardous in provisions of law or treaty

Commercial vessel - means a commercial vessel loading, unloading, or discharging bulk dry cargo in the U.S. waters of the Great Lakes, or a U.S. commercial vessel transporting bulk dry cargo and operating any whereon the Great Lakes; but it does not include a non-self-propelled barge unless it is part of an integrated tugand barge unit.

Comparable characteristics, cargos, and operations - means similar vessel design, size, age, crew complement, cargos, operational routes, deck and hold configuration, and fixed cargo transfer equipment configuration.

Industry Standard Practices - means practices that ensure the proper installation, maintenance, and operation of shipboard cargo transfer and DCR removal equipment, proper crew training in DCR minimization procedures and cargo transfer operations, and proper supervision of cargo transfer operations to minimize DCR accumulation on or in a commercial vessel.

Minimization - means the reduction, to the greatest extent practicable, of any bulk cargo residue discharge from the vessel. Thunder Bay National Marine Sanctuary means the site on or near Lake Huron designated by NOAA as the boundary that forms an approximately rectangular area by extending along the ordinary high water mark between the northern and southern boundaries of Alpena County,



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cutting across the mouths of rivers and streams, and lake-ward from those points along latitude line to longitude 83 degrees west. The coordinates of the boundary are:

45°12'25.5"N 083°23'18.6W

45°12'25.5"N 083°00'00"W

44°51'30.5"N 083°00'00"W

44°51'30.5"N 083°19'17.3"W

Final Rule Does Not Preempt State Laws - Neither the Interim Rule nor this Final Rule “expressly preempts” State laws relating to DCR discharges. Carriers must comply not only with USCG DCR regulations, but with “all applicable Federal and State laws regulating DCR discharges. The CG “will work with States and carriers to make sure carriers are informed of any State laws that could impose more restrictions on DCR than are imposed by this Final Rule.”



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6. Company, Vessel Specific & Fleet Information

6.1 Vessel Information

Vessel	Official Number	Build Year	Length	Breadth	Depth
AMERICAN COURAGE	606421	1979	634.80'	68'	40'
BUFFALO	596352	1978	634.80'	68'	40'
SAM LAUD	564002	1975	634.80'	68'	40'
ADAM E. CORNELIUS	550520	1973	680'	78'	42'
JOHN J. BOLAND	550954	1973	680'	78'	45'
AMERICAN FORTITUDE	265246	1953	690'	70'	37'
H. LEE WHITE	556460	1974	704'	78'	45'
AMERICAN MARINER	619736	1980	715.5'	78'	45'
AMERICAN VICTORY	251093	1943	730'	75'	39.25'
AMERICAN VALOR	265621	1953	767'	70'	36'
ST. CLAIR	571875	1976	770'	92'	52'
AMERICAN CENTURY	635289	1981	1,000'	105'	56'
AMERICAN INTEGRITY	592377	1978	1,000'	105'	56'
BURNS HARBOR	618479	1980	1,000'	105'	56'



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INDIANA HARBOR	610401	1979	1,000'	105'	56'
WALTER J. MCCARTHY	585852	1977	1,000'	105'	56'
AMERICAN SPIRIT	595539	1978	1,004'	105'	50'
KEN BOOTHE SR/ LAKES CONTENDER *This VSP is valid for this ATB unit when they are connected	1232691 CG110891812 32691 CGI155555	2011 2012	135' 740'	50' 78'	26' 45'



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6.2 Contact Information

DIAL 911 for all outside emergency response in port in the United States

6.3.1 Company Contact Information

Assistant Vice President – Fleet Operations		
Tom Anderson	24 Hour Number	(224) 535-1603
	Office	(716) 635-1391
	Cell	(224) 535-1603
	Fax	(312) 499-7416

6.2.2 Coast Guard Contact Information

VHF-FM radios are the preferred method for reporting emergencies from vessels on the water. **Cellular phones are an acceptable secondary means** of calling the Coast Guard.

During an emergency, if within VHF range send a MAYDAY message;

Emergency Radio Call Procedures:

1. Make sure radio is on
2. Select channel 16
3. Press/hold the transmit button
4. Clearly say: MAYDAY MAYDAY MAYDAY
5. Also give:
 - Vessel name and/or description
 - Position and/or location
 - Nature of emergency
 - Number of people on board
6. Release transmit button
7. Wait for 10 seconds - if NO response repeat "MAYDAY" call.

9th Coast Guard District	
9th District Command Center	(216) 902-6117 (216) 902-6118
Sector Buffalo	(716) 843-9527
Sector Detroit	(313) 568-9524
Sector Lake Michigan	(414) 747-7182



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Sector Sault Ste. Marie	(906) 635-3233
Marine Safety Unit Cleveland	(216) 701-5989
Marine Safety Unit Toledo	(419) 392-0324
Marine Safety Unit Chicago	(630) 986-2155
Marine Safety Unit Duluth	(218) 522-0707
U.S. National Response Center	1 (800) 424-8802
Canada Marine Reporting Center	1 (800) 265-0237

6.2.3 Vessel Contact Information

Vessel	ADAM E. CORNELIUS
Call Sign	WCY9870
Official Number	550520
SAT (voice) 24 Hour Number	(312) 499-7979
SAT alternate voice	(312) 499-7980

Vessel	AMERICAN CENTURY
Call Sign	WSB2018
Official Number	635289
SAT (voice) 24 Hour Number	(312) 499-7995
SAT alternate voice	(312) 499-7996

Vessel	AMERICAN COURAGE
Call Sign	WAR7324
Official Number	606421
SAT (voice) 24 Hour Number	(312) 499-7965
SAT alternate	(312) 499-7966



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Vessel	AMERICAN FORTITUDE
Call Sign	WE6970
Official Number	265246
SAT (voice) 24 Hour Number	(312) 499-7967
SAT alternate	(312) 499-7968

Vessel	AMERICAN INTEGRITY
Call Sign	WAQ3521
Official Number	592377
SAT (voice) 24 Hour Number	(312) 499-7993
SAT alternate	(312) 499-7994

Vessel	AMERICAN MARINER
Call Sign	WQZ7791
Official Number	619736
SAT (voice) 24 Hour Number	(312) 499-7985
SAT alternate	(312) 499-7986

Vessel	AMERICAN SPIRIT
Call Sign	WCX2417
Official Number	595539
SAT (voice) 24 Hour Number	(312) 499-7989
SAT alternate	(312) 499-7990

Vessel	AMERICAN VALOR
Call Sign	WE6279
Official Number	265621
SAT (voice) 24 Hour Number	(312) 499-7977
SAT alternate	(312) 499-7978



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Vessel	AMERICAN VICTORY
Call Sign	WR3225
Official Number	251093
SAT (voice) 24 Hour Number	(312) 499-7969
SAT alternate	(312) 499-7970

Vessel	BUFFALO
Call Sign	WXS6134
Official Number	596352
SAT (voice) 24 Hour Number	(312) 499-7973
SAT alternate	(312) 499-7974

Vessel	BURNS HARBOR
Call Sign	WDC6027
Official Number	618479
SAT (voice) 24 Hour Number	(312) 499-7963
SAT alternate	(312) 499-7964

Vessel	H. LEE WHITE
Call Sign	WZD2465
Official Number	556460
SAT (voice) 24 Hour Number	(312) 499-7983
SAT alternate	(312) 499-7984

Vessel	INDIANA HARBOR
Call Sign	WXN3191
Official Number	610401
SAT (voice) 24 Hour Number	(312) 499-7997
SAT alternate	(312) 499-7998



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Vessel	JOHN J. BOLAND
Call Sign	WZE4539
Official Number	550954
SAT (voice) 24 Hour Number	(312) 499-7981
SAT alternate	(312) 499-7982

Vessel	SAM LAUD
Call Sign	WZC7602
Official Number	564002
SAT (voice) 24 Hour Number	(312) 499-7971
SAT alternate	(312) 499-7972

Vessel	WALTER J. MCCARTHY
Call Sign	WXU3434
Official Number	585952
SAT (voice) 24 Hour Number	(312) 499-7991
SAT alternate	(312) 499-7992

Vessel	ST. CLAIR
Call Sign	WZA4027
Official Number	571875
SAT (voice) 24 Hour Number	(312) 499-7987
SAT alternate	(312) 499-7988

Vessel	KEN BOOTHE SR/ LAKES CONTENDER
Call Sign	WDF6728
Official Number	1232691
SAT (voice)	(312) 499-7975
SAT alternate	(312) 499-7976



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AMERICAN SOCIETY OF
CIVIL ENGINEERS
1801 L STREET, N.W.
WASHINGTON, D.C. 20036
202-462-2600
www.asce.org

CERTIFICATE OF SERVICE

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 26th day of March, 2015, the attached Notice of Electronic Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon (a) American Steamship Company, through its corporate representative and counsel as indicated on the Notice of Filing, by placing a true and correct copy in an envelope addressed as set forth on said Notice of Filing, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m and (b) upon Bradley Halloran *via email*.


KATHRYN A. PAMENTER