



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**JUN 12 2013**

**PROMPT REPLY REQUESTED WITHIN 60 DAYS**  
**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Walter Coke, Inc.  
Attn: Robert D. Mowrey, Esq.  
Kazmarek Mowrey Cloud Laseter LLP  
1100 Peachtree Street  
Suite 650  
Atlanta, Georgia 30309

Re: Supplemental Request for Information Pursuant to Section 104 of CERCLA for the 35<sup>th</sup> Avenue Superfund Site (Site) in and around Birmingham, Jefferson County, Alabama.

Dear Mr. Mowrey:

The purpose of this letter is to request that Walter Coke, Inc. (the Company) respond to the enclosed Information Request. The U.S. Environmental Protection Agency is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants or hazardous wastes on or about the above-referenced Site. This investigation requires inquiry into the identification, nature and quantity of materials generated, treated, stored or disposed of at, or transported to the Site and the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from the Site.

The 35<sup>th</sup> Avenue Superfund Site is comprised of portions of the Fairmont, Collegeville, and Harriman Park communities (Residential Properties), Five Mile Creek and the 34<sup>th</sup> Street North Ditch, all of which are located in and around Birmingham, Jefferson County, Alabama. The Company operates in Birmingham, Alabama at 3500 35th Ave N (Facility) which is located in or around the 35<sup>th</sup> Avenue Superfund Site. The EPA believes that the Company may have information about the potential air emission sources of the Facility that may assist the Agency in its investigation of the Site. Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9604, the Company is hereby requested to respond to the Information Request set forth in Enclosure A hereto.

While the EPA seeks the Company's cooperation in this investigation, compliance with the Information Request is required by law. **Failure to respond fully and truthfully to the Information Request within 60 days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by the EPA pursuant to Section 104(e) of CERCLA.** This statute, as modified by the Debt Collection Improvement Act of 1996, 40 C.F.R. Part 19, permits the EPA to seek the imposition of penalties of up to thirty-seven thousand five hundred dollars (\$37,500.00) for each day of continued non-compliance. Please be further advised that provision of false, fictitious or fraudulent



statements or representations to the Information Request may subject the Company to criminal penalties under 18 U.S.C. §1001. This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501, et seq.

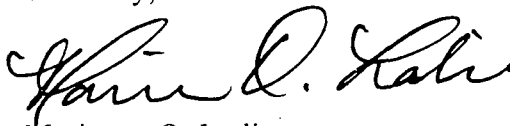
The Company's response to this Information Request should be mailed to:

Marianne O. Lodin  
U.S. Environmental Protection Agency  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Due to the seriousness of the problem at the Site and the legal ramifications of the Company's failure to respond properly, the EPA strongly encourages the Company to give this matter immediate attention and to respond to this Information Request within the time specified below. If you have any specific legal or technical questions relating to this Information Request, you may consult with the EPA prior to the time specified above. **Please direct all questions to 1-888-550-8406 regarding any legal or technical questions. Provide your name and contact number and you will receive a return call within 48 hours.**

Thank you for your cooperation in this matter.

Sincerely,



Marianne O. Lodin  
Associate Regional Counsel  
Office of Environmental Accountability

Enclosure

## Information Request Regarding 35<sup>th</sup> Avenue Superfund Site

### Instructions

1. Answer Every Question Completely.

A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer.

Precede each answer with the corresponding number of the question and the subpart to which it corresponds.

3. Provide the Best Information Available.

Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to you will be considered non-compliance with this Information Request.

4. Identify the Sources of Each Answer.

For each and every question contained herein, identify (see Definitions) all persons consulted in the preparation of the answer. Also identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.

5. Abide By Your Continuing Obligation to Provide/Correct Information.

If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

6. Understand How to Request Confidential Treatment of Your Information.

The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- A. The portions of the information alleged to be entitled to confidential treatment;

- B. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. Measures taken by you to guard against the undesired disclosure of the information to others;
- D. The extent to which the information has been disclosed to others and the precautions taken in connection therewith;
- E. Pertinent confidentiality determinations, if any, by EPA or other federal agencies and a copy of any such determinations or reference to them, if available; and
- F. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Be Aware of Potential Disclosure to EPA Contractors.

Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Information Request.

8. Mark Any Personal Privacy Information.

Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Answer Despite Objections to Questions.

If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "you" or "Company" or "Respondent" shall mean Walter Coke.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The term "contaminants of concern" are the chemical substances found at the 35<sup>th</sup> Avenue Superfund Site that include, arsenic, lead, and polycyclic aromatic hydrocarbons (PAHs).
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
5. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
6. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
7. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

8. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

9. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

### Questions

1. Identify the person(s) responding to these questions on behalf of the Respondent.
2. For every question contained herein, identify all persons consulted in the preparation of responses.
3. For every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the response that contain information responsive to the question, and provide true and accurate copies of all such documents.
4. Provide the name, title, address, and phone number of the individual to whom any future correspondence regarding this matter should be directed.

Operations: Information responsive to Questions 5, 6 and 7 below should be provided for (1) the currently operating air emissions sources and (2) air emissions sources which were operated at the facility from January 1, 2003 through December 31, 2012, including those sources which may no longer be operating. The historical operation information should be separated into individual time periods which are reflective of facility operations during that period. Any time the facility modified its operation (e.g. obtained modifications to air permits), had changes in air emissions source configurations and parameters would need to be taken into consideration when providing information by time period. For example, it may be possible to identify a facility configuration that would be representative of the years 2003-2005 and another for 2006 to current.

5. Identify all potential air emissions sources for the following contaminants of concern (COC): arsenic, lead and PAHs at your facility and include a physical description of the source (e.g., boiler stack, coal pile, etc.). For each air emission source identified, identify the type of release point: point source (e.g., stacks), area source (e.g., low-level emissions with no plume rise), and volume source (e.g., releases from a three-dimensional volume, such as conveyor belts or piles).
6. Emissions Source Release Parameters. For each of the air emission sources identified in response to Question 5, answer the following:
  - a. Identify the location of each source (Universal Transverse Mercator (UTM) or latitude/longitude coordinates, including datum) and elevation above mean sea level (m).
  - b. For point sources, identify the following:
    - a. Stack height (m)
    - b. Stack diameter (m)
    - c. Stack exit velocity (m/s)

- d. Stack exit temperature (K)
  - c. Identify the location and dimensions of buildings located near the point source. These should also be shown on a plant layout map or plot-plan.
  - d. For area sources, provide the following:
    - a. Dimensions of area source (length and width in m)
    - b. Orientation angle of rectangular area relative to north (degrees clockwise from north)
    - c. Height above ground of area source (m)
  - e. For volume sources, provide the following:
    - a. Initial lateral dimension of volume source (m)
    - b. Initial vertical dimension of volume source (m)
    - c. Height above ground of area source (m)
7. Emissions Information. Answer the following questions for arsenic, lead and PAHs.
- a. State the actual emission rates for each COC (grams/sec)
  - b. If actual emissions rates are not available, information should be provided to calculate emission rates based on process operation parameters and emission factors (e.g., for a boiler, type of fuel, fuel consumption rate, heat input rate, amount of COCs in fuel, etc.)
  - c. Describe the physical/chemical characteristics of each particulate or semi-volatile COC emissions
    - i. Particle size distribution (microns)
    - ii. Mass fraction in each particle size category (0-1)
    - iii. Particle density for each category (g/cm<sup>3</sup>)
    - iv. Mass-mean aerodynamic particle diameter (microns)