

By: *Vicky A. Mack* Date: _____

BEFORE THE

7/14/2020

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

**Eramet Marietta, Inc.
16705 State Route 7
Marietta, Ohio 45750**

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**Director's Final Findings
and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Eramet Marietta, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facilities (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility located at 16705 State Route 7, in Marietta, Washington County, Ohio. This facility manufactures electrometallurgical ferroalloy products and it is identified by Ohio EPA facility ID 0684020006.
2. Emission unit ("EU") P908 (Submerged Arc Furnace #12) at the facility is the subject of these Orders and it is subject to Ohio EPA rules and regulations.
3. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions.

4. ORC § 3704.05(J)(2), in part, prohibits any person from violating any applicable requirement of a Title V permit.

5. Title V operating permit P0091078 for the facility became effective on April 1, 2019.

6. The National Emissions Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese (40 CFR Part 63, Subpart XXX) are incorporated as applicable requirements in the Title V permit for EU P908.

7. 40 C.F.R. § 63.1623(a)(1)(ii) requires owners or operators of an existing ferromanganese and/or silicomanganese production facility not to discharge exhaust gases from each electric arc furnace operation containing particulate matter in excess of 25 milligrams per dry standard cubic meter ("mg/dscm").

8. On November 5, 2019, Respondent completed the performance test for the particulate matter emissions rate from EU P908.

9. The report of the test results was received by Ohio EPA Southeast District Office ("SEDO") on December 11, 2019. The particulate matter emission rate was 39.3 mg/dscm. The particulate emission rate for EU P908 exceeded the 25 mg/dscm limit, in violation of the terms and conditions of Title V P0091078, ORC § 3704.05(C) and ORC § 3704.05(J)(2).

10. On December 18 and 19, 2019, Respondent completed a second performance test for the particulate matter emissions rate from EU P908.

11. The report of the test results was received by SEDO on January 13, 2020. The particulate matter emission rate was 29.4 mg/dscm. The particulate emission rate for EU P908 exceeded the 25 mg/dscm limit, in violation of the terms and conditions of Title V P0091078, ORC § 3704.05(C) and ORC § 3704.05(J)(2).

13. On January 13 and July 17, 2020, SEDO sent notice of violation ("NOV") letters to Respondent for the violations listed above and requested Respondent to submit a compliance plan and schedule.

14. In March of 2020, Respondent completed a third performance test for the particulate matter emissions rate from EU P908. The report of the test results was received by SEDO on April 14, 2020. The particulate matter emission rate was 31.6 mg/dscm. The particulate emission rate for EU P908 exceeded the 25 mg/dscm limit, in violation of the terms and conditions of Title V P0091078, ORC § 3704.05(C) and ORC § 3704.05(J)(2). A NOV was issued to Respondent on April 30, 2020.

15. On April 28, 2020, Respondent conducted a retest and the results of that test were 12.9 mg/dscm, demonstrating compliance with the 25 mg/dscm limit.

16. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

Respondent shall pay the amount of twenty-seven thousand dollars (\$27,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-seven thousand dollars (\$27,000). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be submitted through the Ohio EPA's eBusiness Center: Air Services web service and emailed to James Kavalec at James.Kavalec@epa.ohio.gov; Devan Roof at Devan.Roof@epa.ohio.gov; or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein and all violations of ORC Chapter 3704 known to Ohio EPA or ARAQMD up through the effective date of these Orders.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:
Ohio Environmental Protection Agency**

Laurie A. Stevenson

7/14/2020

Laurie A. Stevenson
Director

Date

**AGREED:
Eramet Marietta, Inc.**

Dean A. Douglass

July 1, 2020

Signature

Date

Dean A. Douglass, CEO

Printed or Typed Name and Title