BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Agmet LLC
7800 Medusa Street
Oakwood Village, Ohio 44146

Respondent

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 Agmet LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) § 3734.13 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 Facility 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 3734. and the rules promulgated thereunder.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the

findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent operates a metal hydroxide recycling and metal oxide concentrate production facility located at 7800 Medusa Street, Oakwood Village, Cuyahoga County, Ohio 44146 (Facility). Respondent Agmet LLC was incorporated in the State of Delaware on March 6, 2008.

2. Respondent is a "person" as defined in ORC §3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent notified Ohio EPA of its hazardous waste activities and is assigned hazardous waste generator identification number OHD986976348.

4. Pursuant to Director's Final Findings and Orders to Respondent's predecessor in interest, Agmet Metals, Inc., dated July 26, 2000, Respondent's predecessor in interest submitted an application to the Director for a variance from classification as a waste for metal hydroxide bearing filtercake (Variance Material) resulting from dewatering (i.e. reclamation) of sludges generated from treatment of wastewater from electroplating operations (F006). A variance from classification as a waste was issued to Respondent's predecessor in interest for Variance Material on August 10, 2001 (2001 Variance).

5. On August 26, 2004, Respondent's predecessor in interest requested a modification to the 2001 Variance. A modified variance from classification as a waste was issued to Respondent's predecessor in interest on December 22, 2005 (2005 Variance) (Attachment 1).

6. On June 8, 2005, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent's predecessor in interest:

    a. Did not provide employees with annual refresher hazardous waste training, in violation of 2001 Variance Condition 2.q.;

    b. Did not manage as F006 hazardous waste certain small quantities of unusable residues generated by Respondent from storage or reclamation of Variance Material and related products, in violation of 2001 Variance Condition 2.v.;

    c. Did not properly label certain containers of unusable residues of Variance Material that, therefore, became hazardous waste, in violation of OAC rule 3745-52-34(A);

d. Did not store in closed containers, certain unusable residues of Variance Material that, therefore, became hazardous waste, in violation of OAC rule 3745-66-73;

e. Did not manage certain universal waste fluorescent lamps in closed, structurally sound containers, in violation of OAC rule 3745-273-13(D)(1);

f. Did not properly label certain containers containing universal waste fluorescent lamps, in violation of OAC rule 3745-273-14(E); and

g. Stored certain universal waste fluorescent lamps for greater than one year from their date of generation, in violation of OAC rule 3745-273-15(A).

7. By letter dated August 18, 2005, Ohio EPA notified Respondent's predecessor in interest of the results of this inspection.

8. By letter dated September 15, 2005, Respondent's predecessor in interest replied to Ohio EPA's August 18, 2005, letter. By letter dated October 17, 2005, Ohio EPA notified Respondent's predecessor in interest, that all the violations from the June, 2005, inspection, referenced in Finding Nos. 6.a. through 6.g., had been abated.

9. On June 6 and 8, 2007, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent's predecessor in interest:

a. Stored and disposed of certain small quantities of unusable residues of Variance Material that became F006 hazardous waste, in violation of ORC §3734.02(E) and (F);

b. Did not manage as F006 hazardous waste, certain small quantities of unusable residues generated by Respondent from storage or reclamation of Variance Material and related products, in violation of 2005 Variance Condition 2.v.;

c. Did not properly operate and maintain Facility equipment associated with the reclamation process so as to minimize loss or release of Variance Material and related products to the environment, in violation of 2005 Variance Condition 2.;

d. Did not prevent release and tracking of certain small quantities of Variance Material from the Bulk Storage Building, in violation of 2005 Variance Condition 2.m.;

e. Did not clean up spills of certain small quantities of Variance Material and manage that Material as F006 hazardous waste, in violation of 2005 Variance Condition 2.t.;

f. Did not maintain equipment associated with the reclamation process in good working order, in violation of 2005 Variance Condition 2.u.;

g. Did not implement spill response plans and document spills of variance materials, in violation of 2005 Variance Condition 2.o.;

h. Did not evaluate certain waste to determine if the waste is a hazardous waste, in violation of OAC rule 3745-52-11;

i. Did not properly label a container of hazardous waste, in violation of OAC rule 3745-52-34(A);

j. Did not store hazardous waste in a container which was closed, in violation of OAC rule 3745-66-73;

k. Did not train all employees responsible for handling Variance Material, in violation of 2005 Variance Condition 2.q.;

l. Did not manage certain small quantities of universal waste fluorescent lamps in closed containers, in violation of OAC rule 3745-273-13(D)(1); and

m. Did not properly label a container of used oil, in violation of OAC rule 3745-279-22(C).

10. By letter dated July 25, 2007, Ohio EPA notified Respondent's predecessor in interest of the results of this inspection.

11. By letter dated August 23, 2007, Respondent's predecessor in interest submitted documentation responding to Ohio EPA's July 25, 2007, letter.

12. By letter dated December 5, 2007, Ohio EPA notified Respondent's predecessor in interest that it had abated the violations referenced in Finding Nos. 9.l. and 9.m. of these Orders, but alleged that Respondent had unlawfully stored D002 hazardous waste at the Facility in violation of ORC §3734.02 (E) and (F), and

had failed to properly document inspections by not making notations of spills of certain small quantities of Variance Material at the Facility, in violation of Variance Condition 2.p.

13. By letter dated January 4, 2008, Respondent's predecessor in interest submitted documentation responding to Ohio EPA's December 5, 2007, letter. In particular, Respondent provided an analysis of why the alleged D002 waste was in fact unregulated material.

14. By letter dated April 4, 2008, Respondent notified Ohio EPA that the owner of Respondent's predecessor in interest had entered into an agreement to sell a portion of Agmet Metals, Inc. and create a new entity, that of Respondent Agmet LLC.

15. By letter dated November 19, 2008, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 9.i. and 9.j. of these Orders.

16. By letter dated January 5, 2009, Respondent submitted documentation responding to Ohio EPA's November 19, 2008, letter.

17. By letter dated February 11, 2009, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 9.f. of these Orders.

18. By letter dated March 10, 2009, Respondent submitted documentation responding to Ohio EPA's February 11, 2009 letter.

19. By letter dated March 30, 2009, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 9.c., 9.d., 9.g. and 9.k. and the violation of Variance Condition 2.p. referenced in Finding No. 12. of these Orders.

20. The Director has determined that the violation referenced in Finding No. 9.h. of these Orders did not exist and is therefore retracted.

21. On June 29, 2009, Ohio EPA conducted a compliance evaluation inspection at the Facility. No violations of the 2005 Variance, hazardous waste rules or laws were noted. By letter dated July 13, 2009, Ohio notified Respondent of the results of the inspection.

22. Based upon the information provided by Respondent and Respondent's predecessor in interest and previously referenced in Finding Nos. 11., 13., 16.

and 18. of these Orders, and observations made by Ohio EPA at the Facility on June 6 and June 8, 2007, the Director has determined that no further action is required of Respondent at this time, regarding the violations of Variance Conditions 2.v. and 2.t. and ORC §3734.02(E) and (F) referenced in Finding Nos. 9.a., 9.b., 9.e. and 12. of these Orders. Respondent removed all visible contamination resulting from the releases of the unusable residues of Variance Material that, therefore, became F006 hazardous waste at the Facility, and there was no indication that hazardous waste was released from the containers which were storing hazardous waste unlawfully.

23. The Director of Ohio EPA is in receipt of Respondent's January 6, 2010, memo indicating that the Respondent has made various improvements to its Facility which are intended to reduce the risk of releases of Variance Material to the environment, totaling approximately $475,000.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of $23,240.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:

    a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $18,592.00 in settlement of Ohio EPA's claims for civil penalties which will be deposited into the hazardous waste cleanup fund established pursuant to ORC §3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $18,592.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

    b. In lieu of paying the remaining $4,648.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $4,648.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer,

State of Ohio" for $4,648.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within seven days after failing to comply with Order No. 1.b., the amount of $4,648.00 in accordance with the procedures in Order No. 1.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks 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, the operation of Respondent's Facility

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 addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
2110 E. Aurora Road
Twinsburg, Ohio 44087

and Ohio EPA Central Office at the following addresses:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section
For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste storage and disposal areas as well as corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the

Director regarding such corrective action. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek closure and corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

March 24, 2010
Date

IT IS SO AGREED:

Agmet LLC

Signature

3-3-10
Date

Steve Jones
Printed or Typed Name

Chief Operating Officer
Title

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

Agmet Metals, Inc.	:	**Variance from Classification as a Waste**
7800 Medusa Street	:	
Oakwood Village, Ohio 44146	:	
	:	
5533 Dunham Road	:	
Maple Heights, Ohio 44138	:	
	:	
Applicant	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

This Variance from Classification as a Waste (Variance) is issued to Agmet Metals Inc. (Applicant) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02, 3734.14, 3745.01 and Ohio Administrative Code (OAC) rule 3745-50-23.

II. PARTIES BOUND

This Variance shall apply only to the Applicant and its successors in interest liable under Ohio law. No change in ownership of the Applicant or of the Facility shall in any way alter the Applicant's obligations under this Variance.

III. DEFINITIONS

1. Unless otherwise stated, all terms used in this Variance shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder. Whenever the terms listed below are used in this Variance, the following definitions shall apply:

a. "Accepted at the Facility" or "Accepting at the Facility" or "Accept at the Facility" shall mean that time when Variance Material meeting material specifications is unloaded from the transport vehicle and placed into the Applicant's bulk storage building at the Oakwood Village Facility or the Maple Heights Facility.

b. "Application" shall mean the response to the criteria listed in OAC rule 3745-50-24 (C) and supporting documents for a variance submitted by Applicant on July 17, 2000, October 30, 2000, January 25, 2001, April 6, 2001 and August 26, 2004, to the Director of Ohio EPA which is attached hereto and incorporated fully herein.

c. "Calcining or calcination" shall mean the decomposition of metal hydroxides by the removal of water and carbon dioxide using heat to form metal oxide product.

d. "Calciner" shall mean the unit in which calcination takes place.

e. "Metal Concentrate Variance Material" is Metal Concentrate that needs no calcination upon receipt at the Maple Heights Facility and is Product.

f. "F006 Filtercake" shall mean Variance Material that is rejected by Applicant because it cannot be reclaimed by Applicant.

g. "Facilities" shall mean the Oakwood Village Facility and the Maple Heights Facility together.

h. "Metal Concentrate" shall mean the metal bearing oxide product produced by the Applicant that is in part produced with Variance Material or Metal Concentrate Variance Material and is destined to be smelted to recover economically feasible nickel, copper, precious metal or tin values.

i. "Product" shall mean any metal bearing oxide concentrate, whether or not it contains Variance Material, as defined below, and is destined to be smelted to recover nickel, tin, precious metal or copper.

j. "Variance Material" shall mean metal hydroxide bearing filtercake generated from the dewatering (i.e., reclamation) of sludges generated from the treatment of wastewater from electroplating operations (F006) that is used to produce Metal Concentrate.

IV. FINDINGS

1. Applicant was incorporated on September 11, 1981, to do business in Ohio and is in good standing with the Office of the Secretary of State. Applicant is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Applicant operates and maintains a metal hydroxide recycling facility and metal oxide concentrate production facility located at 7800 Medusa Street, Oakwood Village, Ohio 44146 (Oakwood Village Facility) and a metal oxide concentrate product storage, processing and shipping facility at 5533 Dunham Road, Maple Heights, Ohio 44137 (Maple Heights Facility). The metals of value to the Applicant are predominantly nickel, cobalt, copper, tin and zinc.

3. Pursuant to Director's Final Findings and Orders of July 26, 2000, Applicant submitted an Application to the Director, on July 17, 2000 for a variance from classification as a waste for Variance Material and Metal Concentrate in accordance with OAC rule 3745-50-24 (C). Additional information to supplement the original application was submitted on October 30, 2000, January 25, 2001 and April 6, 2001. A variance from classification as a waste was issued to the Applicant on August 10, 2001.

4. On August 26, 2004, Applicant submitted additional information and requested a modification to their existing variance from classification as a waste to include tin-bearing hazardous secondary materials .

5. Applicant serves supplier customers in a variety of industries including the printed circuit board, copper metal finishing industry, chemical, alloy, plating, and fats and oils industries. The materials received from these industries include filtercakes, spent catalysts, grindings, solutions, filters and dusts, which each contain primarily nickel, cobalt, copper, tin and/or zinc.

6. The industrial process used by Applicant to reclaim metal hydroxide bearing materials is calcination. Calcination converts the metal hydroxide in the material to metal oxide, the metallic chemical form which is acceptable to smelters for processing. Calcination is also used in the mineral processing industry to prepare mined ores for smelting.

7. Customers of the Applicant operate electroplating lines that include wastewater treatment systems to treat wastewaters generated from the electroplating operation. A sludge containing approximately 2% solids is generated from the treatment of the wastewaters. This sludge meets the definition of hazardous waste code F006.

These customers reclaim the sludge by dewatering to yield a F006 metal hydroxide filtercake that typically contains 20% to 35% solids and is 6.45% to 17.5% total metal.

8. Variance Material that Applicant calcines and/or processes has economic value due to its nickel, copper, tin and/or precious metal content.

9. The nickel concentration of the Variance Material which Applicant reclaims is similar to that found in mined nickel ore. Naturally occurring nickel ore deposits economically feasible for mining generally contain 1% to 3% nickel. The Variance Material reclaimed by Applicant contains 1.2 % or greater nickel content on a dry weight basis. The similarity of the Variance Material to nickel ore and its value in the market place make Variance Material commodity-like.

10. The copper content of the Variance Material which the Applicant reclaims is similar to that found in mined copper ore. Naturally occurring copper deposits generally contain 1% or less of copper. The Variance Material reclaimed by Applicant contains 1.5% or greater copper content on a dry weight basis. The similarity of the Variance Material to copper ore and its value in the market place make Variance Material commodity-like.

11. The tin content of the Metal Concentrate Variance Material which the Applicant receives, exceeds 0.8% tin and is commodity-like. Eighty percent of the naturally occurring tin deposits are low grade deposits where the tin content is as low as 0.015%. In lode deposits, the ores often contain 0.8-1.0 wt.% of tin.

12. Applicant produces Metal Concentrate that contains tin, nickel, copper and/or precious metal values that are economically feasible for recovery and are marketed to smelters for its tin, nickel, copper, and/or precious metal content. The Metal Concentrate may be smelted solely to recover a single metal or smelted in series to recover several metals contained in the Metal Concentrate.

13. Applicant currently holds contractual agreements under which Applicant will supply Metal Concentrate to owners/operators of smelting operations who recover one or more metals contained in the Metal Concentrate. Applicant's Metal Concentrate must meet customer material specifications for metal concentration and contaminants.

14. The concentration of tin, nickel, copper, and/or precious metal that is economically feasible for recovery from Variance Material and Metal Concentrate is dependent on the metal content of reserves, the production rate of mined ore, and the market value of the metal.

15. Applicant reimburses supplier customers for the tin, nickel and/or copper contained in the Variance Material based on the tin, nickel and/or copper prices listed on the London Metals Exchange (LME). The value of the Metal Concentrate produced by the Applicant is also based on metal prices as listed on the LME.

16. Applicant's Facilities are designed and operated in a manner that minimizes the release of Variance Material and Metal Concentrate to the environment.

17. Applicant has developed and will implement the following plans and procedures: safety, site security, employee training, emergency response, spill response, facility inspections, material profiling acceptance criteria and material specifications.

18. The Application addresses the standards and criteria set forth in OAC rule 3745-50-24 (C) for issuing a variance from classification as a waste in the following manner:

    a. **The degree of processing the material has undergone and the degree of further processing that is required:**

    Applicant's supplier customers, who generate Variance Material, operate electroplating lines. These electroplating lines deposit the desired metal on a plating surface when the metal part is submerged into the metal bath. After metal deposition, the metal part is submerged in a series of rinse tanks, which contain predominately clean water. These tanks are designed to cleanse the surface of metal parts to remove residual plating chemicals. The rinse water is processed by wastewater treatment where it is commingled with other wastewater from different sections of the plating operation. The chemicals that are added to the commingled wastewater cause the metals to precipitate as a sludge during wastewater treatment. The sludge collects at the bottom of the tank.

    The supplier customers reclaim the sludge to remove water and form a filtercake . The filtercake typically contains between 20% and 35% solids and is non-free flowing.

    Upon receipt of the Variance Material at the Oakwood Village Facility or Maple Heights Facility, Applicant visually inspects the shipment and verifies the metal content of the material per its material profiling acceptance criteria and material specifications. The Variance Material is next unloaded in the storage building and may be mixed with nonhazardous metal bearing waste materials to achieve a feedstock blend with a desirable percent of moisture and percent of organics content. The organics such as fats and oils result from nonhazardous waste materials received from the food industry. The

appropriate percent moisture is necessary to control the heat balance in the calciner.

The Variance Material is moved from the storage building to the calciner on an enclosed conveyor. As previously stated, calcining is a common process used by the mineral processing industry to prepare metal bearing ores for smelting. Calcination releases water and carbon dioxide during heating and converts the metal hydroxides of the filtercake to metal oxides. This process takes place in a rotary calciner (a rotary kiln).

The Metal Concentrate is conveyed to a covered collection container by an enclosed conveyance system. The air pollution control system collects fine product dust particles that exit the calciner in the air stream. This material is also product and moved from the air pollution control equipment to the product collection container by an enclosed system.

The Metal Concentrate is sent directly to the contracted smelter, or to Applicant's Maple Heights Facility for storage, further blending to achieve specific smelter contract specifications, or shipping.

Metal Concentrate Variance Material containing higher concentrations of metal is not processed by calcination. The material is shipped to the Maple Heights Facility for processing and blending to achieve specific smelter specifications prior to shipment and reclamation.

b. The value of the material after it has been reclaimed.

Applicant submitted Exhibit C, Exhibit D and Exhibit CC in the application which demonstrate the value of Variance Material and Metal Concentrate. The value of the Variance Material and the Metal Concentrate is based on the price of nickel, tin and/or copper on the LME. In October 1998, the price of nickel was $1.76 per pound. In January 2000, the price of nickel per pound was $4.57. The price of copper was $0.67 per pound in October 1998 and $0.78 per pound in January 2000.

To ensure its supply of quality Variance Material, Applicant enters into contracts with all its supplier customers. Also, Applicant holds annual contracts with smelters to supply Metal Concentrate and has working relationships with tin suppliers located both inside and outside the United States.

c. The degree to which the reclaimed material is like an analogous raw material:

Variance Material

The Variance Material is valuable to Applicant for its nickel, copper, tin and/or precious metal content. The nickel content of Variance Material is typically similar to mined nickel ore. Generally, valuable naturally occurring nickel ore deposits contain 1% to 3% nickel. Nickel mines in Ontario and Manitoba yield ores that contain 1.18% and 2.63% nickel, respectively. Nickel Mountain in Oregon, the only commercially operated nickel mine in the United States, yields ore with a nickel content of 0.29% to 0.52%. Applicant buys Variance Material with a nickel content of 1.2% or greater on a dry weight basis. This is comparable to the ores taken from the Canadian mines and more than 2 times the nickel content of the ore taken from the Oregon mine.

Approximately two-thirds of the world's copper resources are porphyry deposits which generally contain 1% or less copper. The most extensive of these deposits are located in western Canada, southwestern United States, Mexico, and South America *(Encyclopedia of Chemical Technology*, Kirk-Othmer, Fourth Edition, 1993, Volume 7, pp. 381 to 426). The minimum copper content of the Variance Material wanted by the Applicant is 1.5% on a dry weight basis.

Applicant evaluates all Variance Material for contaminants that are unacceptable to them and its customers. Exhibit Q and Letter, dated August 26, 2004, lists Applicant's Variance Material specifications. Exhibit B and Exhibit FF contain Applicant's material profile evaluation form. Applicant requires new customers or previous customers with material composition changes to complete a material profile form. The review of the material specifications is done in conjunction with the material profile form. Exhibit Q details material specifications and maximum concentration levels for contaminants mercury, beryllium and cyanide for nickle and copper bearing Variance Material. Applicant verifies the metals content of Variance Material through ICP analysis or x-ray fluorescence.

Metal Concentrate

Applicant's final product, Metal Concentrate, destined for nickel smelting is analogous to ore concentrate prepared by smelters from mined nickel ore. Ore concentrate prepared by smelters contains a nickel content of 10% to 15% on a dry weight basis. Applicant's Metal Concentrate contains between 15% and 22% nickel. As Exhibit Q demonstrates, Applicant's product must contain a minimum annual average nickel content on a dry weight basis and specific contaminant levels for lead, chromium, cadmium, arsenic, and zinc to meet current smelter contract specifications. In addition, the product cannot contain beryllium or mercury, have an odor, or be radioactive.

Metal Concentrate containing 1% or greater copper content is comparable to mined copper resources. Copper resources generally contain 1% or less copper. Precious metal values may also be associated with Metal Concentrate processed primarily for its copper content. Copper bearing Variance Material is often generated by the circuit board industry which also uses precious metals to make its product.

Primary tin is mined predominately in China and smelted in China and Thailand. There are no tin mines in the United States. Eighty percent of the naturally occurring tin deposits are low grade deposits where the tin content is as low as 0.015%. In lode deposits, the ores often contain 0.8-1.0 wt.% of tin.

d. The extent to which an end market for the reclaimed material is guaranteed:

Applicant currently holds a contract with a nickel smelter for Applicant's Metal Concentrate. Applicant has held contracts with this customer since 1992 and has been granted annual contracts to deliver a specified quantity of product to this smelter per year. The smelter uses Applicant's product as feedstock in addition to the smelter's mined ore/concentrate to yield its nickel products. Also, Applicant has held annual contracts with two additional smelters for nickel and nickel/copper bearing Metal Concentrate. Applicant has working relationships with facilities both inside and outside the United States for its tin bearing Metal Concentrate. Applicant's Metal Concentrates have well-established values and end markets.

e. The extent to which the reclaimed material is handled to minimize loss:

The Application includes narrative information and Exhibits regarding the management of Variance Material and Metal Concentrate at the Oakwood Village Facility and the Maple Heights Facility. To ensure the proper handling of Variance Material and Metal Concentrate, the Applicant maintains and implements the following plans and procedures: spill response plan, emergency response, facility inspections, site security, safety, employee training, material profiling acceptance criteria and material specifications. In addition, the materials are stored in buildings designed to minimize loss to the environment.

Applicant provided engineering drawings of the bulk storage building used to store the Variance Material (Exhibit U of the Application) at the Oakwood Village Facility. The building is constructed with a reinforced concrete primary barrier coated with sealer compatible with the Variance Material, a secondary barrier system, and a leachate collection system. The floor of the storage building is sloped away from the doors. A trench drain system is located opposite to the doors of the building and is connected to a double pipe from the liner drains. Both of these pipe systems lead to a pump station. The drain system next leads to two storage tanks. Any piped liquid waste will be collected in the storage tanks. In addition, Applicant implements procedures to prohibit the tracking of Variance Material from the storage building by personnel and equipment.

The Variance Material is conveyed to the calciner using an enclosed system. Also, the Metal Concentrate is conveyed from the calciner and air pollution control equipment to a covered collection container using an enclosed system. Metal Concentrate is transported to smelters and to the Maple Heights Facility according to Department of Transportation (DOT) regulations.

The Applicant provided copies of its spill response plans and facility inspection report forms for the Facilities. The spill response plans include the following information: emergency contacts, areas of the facility where spills might occur, spill clean-up procedures, equipment decontamination procedures, and a spill report form. The form is completed each time a spill event happens. Also included is a list of spill response equipment the Applicant maintains at the Facilities.

The facility specific inspection procedures and report forms list the facility areas that are inspected. The formal inspections are performed twice a week by Applicant's Safety and Pollution Prevention Committee members. Each inspection is documented. The information recorded on the inspection report form includes: description of problem identified, person notified, clean-up method, priority level, and location of problem. Personnel in the storage, shipping, receiving and production areas perform inspections of their areas on a daily basis.

Applicant describes that the Oakwood Village Facility operates 24 hours per day, seven days per week. In the event that the facility closes, the plant supervisor secures the site. If a plant supervisor is unavailable, a contract firm will maintain security.

Applicant fully explains safety procedures and training that all employees must complete. Employees are trained upon hiring and once each calendar year. The training includes proper procedures for: material handling and labeling, shipping, DOT classification, packaging, transportation, respiratory and other employee protection, small quantity hazardous waste generator requirements, emergency response, respiratory protection, general safety rules, accident and injury procedures, good housekeeping, spill response, facility inspections, and recognizing industrial hazards.

f. Other relevant factors.

Other relevant factors regarding the reclamation of Variance Material is the recovery of natural nonrenewable resources, and the reduction of wastes and adverse environmental impacts due to the mining and processing of metal ores.

Vast amounts of energy, water, and chemicals are used to mine and process metals. Mined nickel ore generally contains 1% to 3% nickel. Therefore, to recover one ton of nickel from mined ore, between 33.3 and 100 tons of raw ore must be removed from the earth and processed. Approximately 32 tons to 99 tons of waste rock material is produced.

Copper reserves generally contain less than 1% copper. To recover one ton of copper, approximately 100 tons of copper ore must be mined. Also, this ore is surface mined and an equivalent tonnage of overburden as compared to ore gained is commonly generated.

To yield one ton of nickel from Variance Material, approximately 83 tons of Variance Material having a minimum concentration of 1.2 % nickel content would need to be reclaimed. Approximately 66 tons of Variance Material containing 1.5% copper is needed to gain one ton of copper. However, approximately 65% to 80% of the waste material generated from the calcining of Variance Material for either copper or nickel is water.

Applicant accepted and calcined 1,010 tons of Variance Material in 1999. As of September 2000, Applicant received 1,735 tons of Variance Material. From this Variance Material, approximately 32.9 tons of nickel was recovered from the Variance Material. To replace this amount of recovered nickel, 3294 tons of nickel ore would need to be mined and processed. Furthermore, given the current treatment and disposal options available, the metal values in the Variance Material would likely be lost by landfilling the material if not processed by a metals reclaimer such as Applicant.

The 1992 world economic nickel reserves were estimated to be 47.0×10^6 tons. At the 1992 world rate of mine production, these reserves would be expected to last at least until the year 2050. However, if the annual mine production increases at a rate that reflects a predicted increase in the world primary nickel consumption of 2% annually, these reserves could be depleted before 2030 (*Encyclopedia of Chemical Technology*, Kirk-Othmer, Fourth Edition, 1996, Volume 17, pp. 1 to16). The reclamation of Variance Material reduces the rate of ore mining and conserves a nonrenewable resource.

19. Based upon the information submitted by the Applicant in the Application, the Director finds that the Variance Material and Metal Concentrate Variance Material are not a waste as defined in OAC rule 3745-51-02 once Accepted at the Facility and the Metal Concentrate is not a waste as defined in OAC rule 3745-51-02, provided the conditions of this Variance are satisfied and the Applicant uses the Variance Material to produce Metal Concentrate and the Metal Concentrate is sent for further metal reclamation.

V. GENERAL CONDITIONS

1. All activities undertaken by Applicant pursuant to this Variance shall be performed in accordance with the requirements of all applicable federal, state and local laws, regulations and ordinances.

2. Applicant shall construct, operate, and maintain all of the equipment and Facilities associated with the reclamation process so as to minimize loss or release to the environment of Variance Material or Metal Concentrate as generally described in the Application. Nothing in the preceding sentence, however, shall prohibit Applicant from constructing, operating, maintaining, repairing, improving, enhancing, or changing equipment or the structures of the physical plant associated with the reclamation process so long as Applicant's equipment, structures and reclamation process remain generally consistent and functionally equivalent to those described in the Application. In addition, the Applicant shall comply with the following specific conditions:

   a. Applicant shall only Accept at the Facilities for reclamation Variance Material or Metal Concentrate Variance Material that meets the following material specifications for the given constituents:

      Dry Basis:

Nickel:	1.2 % minimum concentration, or
Copper:	1.5 % minimum concentration, or
Tin	10% minimum concentration

      Copper & Nickle Bearing Variance Material As Received:

Cyanide (total):	590 ppm maximum concentration;
Beryllium:	100 ppm maximum concentration; and
Mercury:	0.20 ppm maximum concentration

   b. Applicant shall complete a material profile form and perform laboratory analysis of supplier customer's Variance Material to determine if it is acceptable to Applicant for processing and meets material specifications for Variance Material given in Section V, Paragraph 2.a., above. Applicant shall reevaluate each supplier customer's Variance Material annually and when a significant change to supplier customer's process occurs. Applicant shall retain, on-site at the Oakwood Village Facility, completed material profile forms and laboratory analysis data for the duration that the supplier is a customer.

   c. Applicant shall verify by laboratory analysis and/or x-ray fluorescence that each shipment of Variance Material received meets the specifications for nickel, tin and/or copper content for Variance Material given in Section V, Paragraph 2.a., above, and by visual inspection that the Variance Material is dewatered, cohesive, and non-free flowing. The verification must be

documented and the documentation retained on-site at the Oakwood Village Facility by the Applicant for three years.

d. Applicant shall not Accept at the Facility as Variance Material F006 filtercake that does not meet the material specifications given in Section V, Paragraph 2.a., above, or that meets the material specifications but cannot be reclaimed by the Applicant for any reason.

e. Except as otherwise provided, Applicant shall inform supplier customers, in writing, that Variance Material sent to Applicant must be accompanied by a hazardous waste manifest (manifest), as defined in OAC rule 3745-50-10 (A)(66), and designated as hazardous waste, F006, in Ohio.

f. Except as otherwise provided, Applicant shall sign the manifest and comply with OAC rule 3745-65-71, Use of manifest system, regarding the manifest. Manifests shall be retained on-site at the Oakwood Village Facility for three years.

g. Except as otherwise provided, Applicant shall comply with OAC rule 3745-65-76, Unmanifested waste report, when Variance Material from a supplier customer is Accepted at the Facility with no accompanying manifest. Applicant shall send the required notice to the Ohio EPA according to Section XIII of this Variance.

h. Applicant shall retain a copy of the bill of lading or shipping paper that accompanied each shipment of Metal Concentrate Variance Material received from supplier customers for three years.

i. Applicant shall, within 24 hours, contact the supplier customer of the Variance Material or Metal Concentrate Variance Material when it receives Variance Material or Metal Concentrate Variance Material that does not meet the material specifications given in Section V, Paragraph 2.a., above, or that cannot be reclaimed by the Applicant for any reason and inform the supplier customer that the Variance Material or Metal Concentrate Variance Material shipment is rejected. Applicant shall document the reason why the Variance Material or Metal Concentrate Variance Material was rejected and the amount rejected. The documentation shall be retained on-site at the Oakwood Village Facility for three years.

j. The Applicant shall return rejected Variance Material and Metal Concentrate Variance Material as soon as possible to the supplier customer, or have it transported to a permitted hazardous waste storage, treatment, or disposal facility, or sent for legitimate recycling. Rejected Variance Material or Metal Concentrate Variance Material is F006 Filtercake and must be managed and transported as hazardous waste, code F006, in accordance with all applicable Ohio EPA hazardous waste laws. The Applicant may assume generator duties for the purpose of completing the manifest.

k. Applicant shall store the Variance Material only at its Oakwood Village Facility in a bulk storage building designed to minimize releases of Variance Material to the environment and to protect the Variance Material from the elements of weather. The bulk storage building shall be maintained with a complete roof, a crack free primary containment barrier compatible with the Variance Material, a secondary containment barrier, and a leachate collection system. The primary and secondary barrier systems shall be constructed and maintained to direct liquids to the leachate collection system.

l. Metal Concentrate Variance Material can be accepted and stored at the Maple Heights Facility in accordance with the provisions of this Variance.

m. Applicant shall maintain, revise as necessary, and implement procedures at the Oakwood Village Facility to control the release of Variance Material fugitive dust and the tracking of Variance Material from the bulk storage building by transport vehicles, equipment and personnel.

n. Applicant shall maintain, revise as necessary, and implement procedures to control the release of Metal Concentrate fugitive dust from collection containers at the Facilities and the storage building at the Maple Heights Facility.

o. Applicant shall maintain, revise as necessary, and implement the spill response plans for the Facilities provided in Exhibit V and Exhibit Y, respectively, of the Application. Applicant shall document the occurrence of any spill of Variance Material or Metal Concentrate and describe the cause of the spill and the action taken to remediate the spill. The Applicant shall retain the documentation on-site at the respective facility for three years.

p. Applicant shall maintain, and revise as necessary, facility inspection procedures and implement facility inspections of the Facilities as provided in

Exhibit V and Exhibit W, respectively, of the Application. The designated areas of the Facilities as noted on the Applicant's inspection forms shall be inspected a minimum of twice a calendar week. Each inspection shall be recorded on the inspection form and the form retained on-site at the respective facility for three years.

q. Applicant shall maintain, revise as necessary, and implement an employee training program regarding the procedures for spill response, facility inspections, Variance Material handling, Variance Material specifications, Metal Concentrate handling and emergency response. Each employee shall be trained upon hiring and once within every twelve months thereafter with regards to his or her duties as they pertain to spill response, facility inspections, Variance Material handling, Variance Material specifications and emergency response. Documentation of training shall be signed by the employee and retained on-site at the Oakwood Village Facility for three years.

r. Applicant shall record and retain, for as long as this Variance is effective, amounts of Variance Material and Metal Concentrate Variance Material received from each supplier customer, amounts of Metal Concentrate produced, amounts of Variance Material and Metal Concentrate Variance Material rejected from each supplier customer and amounts of Metal Concentrate rejected by Applicant's customers and the reasons why.

s. Applicant shall report the information required in Section V, Paragraph 2.r., above, to Ohio EPA according to Section XIII of this Variance on an annual basis by March 1st of each year. The first report will be due March 1, 2006. The information requested may be reported in a format of Applicant's choice.

t. Applicant shall manage and clean up any spills of Variance Material and manage cleanup residuals that cannot be reclaimed as hazardous waste, code F006.

u. Applicant shall maintain in good working order the condition and integrity of equipment used to handle, store, convey, contain and reclaim the Variance Material and Metal Concentrate. The equipment includes but is not limited to: tanks, containers, bulk storage buildings, secondary containment systems, leachate collection systems, loading and unloading areas, sumps, piping and conveyance systems, blending and sizing equipment, the calciner and associated equipment.

v. Applicant shall manage as hazardous waste, code F006, in accordance with all applicable Ohio EPA hazardous waste regulations, any unusable residues generated by the Applicant from the storage or reclamation of Variance Material and Metal Concentrate Variance Material.

w. Applicant shall cease Accepting at the Facility Variance Material when the indoor and outdoor Product storage capacity of the Maple Heights Facility is used to eighty percent of its capacity or when Product is stored at an off-site location.

x. Applicant shall provide a written notice to Ohio EPA, in accordance with Section XIII, within seven days after the date any of the events described in Section V, Paragraph 2.w., occur. The notification shall describe in detail the reasons for the occurrence of the event(s) and the approximate quantity of Product in storage.

y. Applicant can resume Accepting at the Facility Variance Material when it demonstrates to Ohio EPA that the conditions which gave rise to the event(s) described in Section V, paragraph 2.w. have changed and the Product is being moved to a nickel and/or copper smelter and no Product is stored at an off-site location or storage capacity of the Maple Heights Facility is less than eighty percent of its capacity. Applicant shall make this demonstration in writing and submit it to Ohio EPA, in accordance with Section XIII, not less than seven days prior to resuming Accepting at the Facility the Variance Material.

z. In the event that this Variance expires prior to a final action of the Director to renew or reissue this Variance, the Applicant may continue to operate in accordance with the terms and conditions of the expired variance until a new variance is issued or denied provided that:

   i. The Applicant submitted a complete application for a renewal variance at least one hundred eighty days before the expiration date of this Variance unless permission for a later submittal date has been authorized by the Director prior to the expiration date of this Variance, and

   ii. Through no fault of the Applicant a new variance has not been issued pursuant to OAC rule 3745-50-23 on or before the expiration date of the previous variance.

aa. Applicant shall provide a written notice to Ohio EPA, in accordance with Section XIII, within seven days after the date of the events described in Section XI, Paragraph 1. occur.

bb. Within 30 days after the date any of the events described in Section XI, Paragraph 1. occur, and/or the Applicant no longer engages in the management of Metal Concentrate at the Maple Heights Facility, Applicant shall prepare and submit to Ohio EPA a Sampling and Remediation Plan (SRP) that meets the requirements in OAC rules 3745-55-11(A) and (B)/3745-66-11 (A) and (B),3745-55-97/3745-66-97 and 3745-55-14/3745-66-14, for all areas at the Oakwood Village Facility and/or the Maple Heights Facility, as applicable, where Variance Material and Metal Concentrate is or was managed, stored, and reclaimed and where leachate from the storage of Variance Material is or was conveyed, managed, and/or collected.

cc. The SRP must be sent to Ohio EPA in accordance with Section XIII. The SRP is subject to Ohio EPA approval. Ohio EPA will notify Applicant, in writing, whether or not it approves of Applicant's SRP. If the SRP is not approved, Ohio EPA will identify the deficiencies or problems in the SRP, in writing. Applicant shall revise the SRP, or submit a new SRP, based on the findings and deficiencies noted in Ohio EPA's statement. At Applicant's request, Ohio EPA agrees to meet and discuss its findings and deficiencies prior to Applicant submitting the revised SRP. The revised or new SRP must be submitted to Ohio EPA for approval within 30 days of receipt of the written statement. If Ohio EPA modifies the unapproved SRP, the modified SRP becomes the approved SRP.

dd. Upon receipt of the approved SRP, Applicant shall implement the approved SRP, in accordance with the requirements of OAC rules 3745-66-11 (A) and (B), 3745-66-97 and 3745-66-14 and the specifications and schedule in the approved SRP.

ee. Within 30 days after completion of work required by the approved SRP, Applicant shall submit to Ohio EPA, for review and approval, a certification that the work was conducted in accordance with the approved SRP. The certification must be signed by Applicant and must follow the format in OAC rule 3745-50-42 (D). The signed certification must be submitted to Ohio EPA, in accordance with Section XIII. Ohio EPA retains the right to inspect the Facilities and take samples, photographs and notes, access process records, logs, invoices, analytical data, etc, prior to, during, and subsequent to certification of the SRP. If after inspection and review of the facility to

which the SRP applies, Ohio EPA does not conclude that the facility meets the conditions of the certified SRP, it shall deem the "certified" SRP invalid and cleanup of the facility inadequate.

ff. Ohio EPA shall prepare and submit a report to the Applicant describing why it invalidated the SRP certification and what the Applicant shall undertake in resolving the deficiencies or problems in order to comply with certification. Within 30 days of this notice, Applicant shall prepare and submit a revised SRP to Ohio EPA indicating how it intends to correct the deficiencies or problems. Upon receipt of approval of the revised SRP, Applicant shall, within 45 days, implement the revised SRP and submit a signed, revised certification of cleanup to Ohio EPA. As illustrated above, Ohio EPA retains the right to inspect the Facilities and Applicant's records to ascertain whether or not the Facilities have satisfactorily been cleaned up.

3. The August 10, 2001 Variance is hereby terminated.

VI. ACCESS TO INFORMATION

Applicant shall provide Ohio EPA, upon request and within a reasonable time frame, copies of all information relating to this Variance within its respective possession or control, or within the possession or control of its respective contractors or agents, including but not limited to documents and information related to the issuance, use and implementation of this Variance.

Applicant may assert a claim that documents and other information submitted to Ohio EPA pursuant to this Variance are confidential under the provisions of OAC rule 3745-50-30. If no such claim of confidentiality accompanies the documents and other information when submitted to Ohio EPA, the documents and other information may be made available to the public without notice to Applicant.

No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, laboratory or interpretive reports.

Nothing in this Section shall be construed as in any way limiting Ohio EPA's access, inspection and information gathering rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

VII. ACCESS TO SITES

Applicant shall provide Ohio EPA with access, at all reasonable times, including during normal business hours, to the Facilities. Access under this Variance shall be for the purpose of conducting any activity related to this Variance or Ohio EPA's regulatory responsibilities, including but not limited to, the following:

1. Monitoring the implementation or use of this Variance;

2. Conducting sampling;

3. Inspecting and copying records, contracts, and other documents and information related to the implementation or use of this Variance; and,

4. Verifying any data and other information submitted to Ohio EPA.

Nothing in this Section shall be construed as in any way limiting Ohio EPA's access, inspection and information gathering rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

VIII. OTHER APPLICABLE LAWS

All actions taken pursuant to this Variance shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. This Variance does not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Applicant.

IX. OTHER CLAIMS

Nothing in this Variance 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, the operation of Respondent's Facility.

X. REVOCATION

1. The following are causes for revoking a variance during its term:

a. Noncompliance by the Applicant with any condition of the variance;

b. The Applicant's failure in the application or during the variance issuance process to disclose fully all relevant facts, or the Applicant's misrepresentation of any relevant facts at any time; or

c. A determination that the facility is operated in a manner that endangers human health or the environment.

XI. TERMINATION

1. Unless otherwise terminated by the Director, this Variance shall terminate ten (10) years after the effective date of this Variance, or when any of the following events occur:

a. Applicant no longer owns or operates the Oakwood Village Facility.

b. Applicant no longer engages in the management of Variance Material at the Oakwood Village Facility.

XII. MODIFICATIONS

This Variance 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.

XIII. NOTICE

All documents required to be submitted by Applicant pursuant to this Variance shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
2110 Aurora Road
Twinsburg, Ohio 44087

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Regulatory Support Unit
Lazarus Government Center
P. O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Regulatory Support Unit
Lazarus Government Center
122 South Front Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XIV. RESERVATION OF RIGHTS

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

XV. WAIVER

Applicant consents to the issuance of this Variance and agrees to comply with the terms and conditions of this Variance.

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

Notwithstanding the preceding, Ohio EPA and Applicant agree that if this Variance is appealed by any other party to the Environmental Review Appeals Commission, or any

court, Applicant retains the right to intervene and participate in such appeal. In such an event, Applicant shall continue to comply with the terms and conditions of this Variance notwithstanding such appeal and intervention unless this Variance is stayed, vacated or modified.

XVI. EFFECTIVE DATE

The effective date of this Variance is the date this Variance is entered into the Ohio EPA Director's journal.

XVII. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Joseph P. Koncelik
Director

12-16-05
Date

IT IS SO AGREED:

Agmet Metals, Inc.

Signature

October 18, 2005
Date

Dana J. Cassidy
Printed or Typed Name

Vice President
Title