

By: *Kelly A. Mac* Date: _____

BEFORE THE

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5/11/2022

OHIO ENVIRONMENTAL PROTECTION AGENCY

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DIRECTORS OFFICE

In the Matter of:

Howmet Aerospace Inc.	:	<u>Director's Final Findings</u>
1600 Harvard Avenue	:	<u>and Orders</u>
Cuyahoga Heights, Ohio 44105	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Howmet Aerospace 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 facility (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 Title V facility (Facility ID# 1318170314) located at 1600 Harvard Avenue, in Cuyahoga Heights, Ohio (Cuyahoga County). The current Title V Operating Permit (TV PTO) P0128863 for this facility was issued on December 14, 2020 and has the expiration date of August 23, 2024. Respondent operates numerous emissions units (EUs) as this facility including furnaces, presses, and etching lines.

2. ORC § 3704.05(C) and (J) 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.

3. ORC § 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rule 3745-21-25 was adopted by the Director pursuant to ORC Chapter 3704.

4. Ohio Administrative Code (OAC) Rule 3745-15-07 states "The emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance."

5. Terms and conditions of TV PTO P0128863 for EU P033, a Titanium Etch System, states that the particulate emissions (PE) shall not exceed 0.551 lb/hr. PE includes, but is not limited to, acid mist.

6. Cleveland Division of Air Quality (CDAQ) is the contractual representative for Ohio EPA in air quality matters within Cuyahoga County.

7. On or about the middle of June 2020, CDAQ and Ohio EPA started to receive citizen complaints concerning deposition from the facility causing staining to a neighboring house and several vehicles in the area. The complainants submitted pictures which showed staining on their tenant's vehicle as well as the siding of their house. On August 12, 2020, CDAQ conducted a complaint investigation and witnessed staining on sidewalks and curbs in the vicinity of the facility.

8. At the end of June 2020, Respondent conducted visible emissions observation and PE tests on EUs P086 (Large Wheelabrator), P102 (Soaker Furnace) and P432 (Torch Pit). In addition, in August of 2020, Respondent conducted a stack test on EU P094 (Titanium Grinding Booth). The results of the June 2020 and August 2020 tests demonstrated that Respondent was in compliance with the terms and conditions of its TV PTO.

9. In July of 2020, CDAQ contacted Respondent to inform them of the complaints and discuss the potential causes of the deposition. In August of 2020, Respondent began conducting an internal investigation of complaint allegations including pulling samples from several suspected facility sources. In addition, Respondent reached out to the complainant in an attempt to address the concerns. As a result of these conversations, Respondent paid to have the surface of the tenant's car fixed. By March 23, 2021, Respondent made repairs on the Large Wheelabrator, including new filter bags and maintenance on the pulsators.

10. In July of 2021, Respondent hired a consultant, TRC, to investigate the possible causes of the staining and to provide potential solutions to reduce or eliminate the problem. In August of 2021, TRC provided a preliminary report to Respondent identifying the potential sources and causes of the staining as well as options for improving operations to eliminate the problem.

11. On July 20, July 22, August 2 and August 9, 2021, CDAQ conducted inspections at and around the facility to determine compliance with the terms and conditions of Respondent's TV PTO and to further investigate the complaints of orange staining. CDAQ observed and confirmed the presence of the orange staining on vehicles and property around the facility. CDAQ found no violations of Ohio Air Pollution Control laws or regulations during these inspections. As a result of the July inspections, by letter dated July 29, 2021, CDAQ requested that Respondent conduct stack testing on EUs P030 (Press 50000 – Bldg. 206) and P033 (Titanium Etch System – Bldg. 206).

12. On August 23, 2021, Respondent conducted stack testing on EUs P030 and on August 26, 2021, on P033. The results of the stack test were received on October 6, 2021 and showed that EU P030 was in compliance but EU P033 was not in compliance with the emissions limit established in the TV PTO. Specifically, the results showed that the PE were 1.69 lbs/hr which exceeds the permit limit of 0.551 lbs/hr; in violation of the terms and conditions of the TV PTO and ORC § 3704.05(C) and (J).

13. By letter date October 20, 2021, CDAQ sent Respondent a Notice of Violation (NOV) for the violations referenced in Finding No. 12 of these Orders.

14. On October 19 and November 3, 2021, Ohio EPA, CDAQ and Respondent held conference calls to discuss the steps that Respondent has completed and will be taking to address the deposition issues and failed stack test.

15. On November 3, 2021, Respondent submitted a NOV response and corrective action plan to CDAQ and Ohio EPA. On November 22, 2021, Ohio EPA, CDAQ and Respondent met at the facility to observe the changes made in the Titanium building processes.

16. On November 11, 2021, Respondent submitted an Intent to Test for a retest of EU P033. On December 10, 2021, Respondent conducted a retest of EU P033. On January 7, 2022, Respondent submitted a stack test report that demonstrated that EU P033 was in compliance with the emissions limit established in the TV PTO.

17. As a result of CDAQs investigations since June of 2020 and the deposition and staining on the neighboring house and the tenant's vehicle and on the vehicles of a business near the facility, the Director has determined that Respondent caused or is causing a public nuisance, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G).

18. 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:

1. Within forty-five (45) days from the effective date of these Orders, Respondent shall submit an Intent to Test (ITT) to CDAQ for EUs P091, P092, P093 and P094. Within thirty (30) days after the submittal of the ITT, Respondent shall perform stack testing on the outlets of EUs P091, P092, P093 and inlet and outlet of P094 in accordance with the test methods identified in the TV PTO. Stack testing is dependent on utility work needed to raise electrical lines; if utility work cannot be completed to support this deadline, Howmet shall submit an extension request to Ohio EPA with the reason for the extension.

2. Within thirty (30) days following the stack test, Respondent shall submit a report of the results of the stack testing in accordance with Section X. If the stack test shows failing results, Respondent shall, within thirty (30) days of submittal of the test report, submit a detailed compliance plan to Ohio EPA which addresses the violation(s).

3. Beginning with the first full week after the effective date of these Orders and continuing for a year, Respondent shall conduct weekly Method 9 readings for the stacks for EUs P091, P092, P093, and P094, P030, and P033 and weekly Method 22 monitoring for the rooftop of Building 206 Titanium Department, while the emissions units are operating. Respondent shall submit a monthly report of the readings to CDAQ and Ohio EPA by second Monday of each month.

a. Respondent shall document in the report any issues with taking the Method 9/Method 22 readings. In the event the Method 9/Method 22 opacity readings exceed the opacity standards, Respondent shall submit, for Ohio EPA and CDAQ approval, a detailed plan of action within sixty (60) days following receipt of the Method 9/Method 22 testing results. If Respondent determines that exceedances of the Method 9/Method 22 opacity readings are caused by some type of interference as outlined in the Method 9/Method 22 testing protocols, Respondent shall include this in the detailed plan of action.

b. In the event the Ohio EPA observes and documents further deposition offsite, Ohio EPA will notify Respondent in writing of Ohio EPA's observations. Respondent shall submit a detailed plan of action within sixty (60) days following receipt of the notification of offsite deposition or submit a written determination that the deposition is not related to Respondent's operations. If Ohio EPA does not agree with Respondent's determination, Ohio EPA will notify Respondent in writing of Ohio EPA's final determination, and Respondent shall submit the detailed plan of action within thirty (30) days following receipt of Ohio EPA's final determination.

c. After six months of initiating the Method 9/ Method 22 monitoring, Respondent may request, for Ohio EPA approval, a reduced Method 9/Method 22 schedule.

4. Within ninety (90) days from the effective date of these Orders, Respondent

shall evaluate the corrective action performed in accordance the corrective action plan submitted by Respondent as described in Finding 15 of these Orders and submit a report, in accordance with Section X, which provides an analysis/evaluation of those improvements resulting from the corrective action.

5. Respondent shall pay the amount of twenty-seven thousand nine hundred dollars (\$27,900) 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" seventeen thousand dollars (\$17,000). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

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

6. In lieu of paying ten thousand nine hundred dollars (\$10,900) of a civil penalty, Respondent shall, within thirty (30) days after the effective date of these Orders, remit ten thousand nine hundred dollars (\$10,900) to the Cleveland Division of Air Quality to fund a supplemental environmental program (SEP). This SEP will provide funding for a lawn and garden rebate program to replace existing gasoline-powered lawn equipment with electric equipment to assist with improvement in air quality. This SEP payment shall be by official check in the amount of ten thousand nine hundred dollars (\$10,900) made payable to "City of Cleveland Treasurer" at - Division of Treasury, 601 Lakeside Ave., Room 115, Cleveland, 44114, noting the Lawn Program.

7. Should the Respondent fail to fund the SEP within the required time frame set forth in Order No. 6, the Respondent shall immediately submit the amount of this SEP payment (\$10,900) to Ohio EPA as a civil penalty. If the payment is submitted as a civil penalty, the payment shall be submitted by official check made payable to "Treasurer, State of Ohio" and submitted to Carol Butler, or her successor, together with a letter identifying 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 when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all

obligations under these Orders, these obligations have been embedded in operation permits where appropriate, and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01 (JJ) and for a corporation it is a corporate officer who is in charge of a principal business function of Respondent.

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 are required to be submitted electronically by Respondent via the Air Services Portal. Respondent shall email James Kavalec at James.Kavalec@epa.ohio.gov and Jesse Brillinger at jbrillinger@clevelandohio.gov when the documents have been uploaded.

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.

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 Respondents 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



5/11/2022

Laurie A. Stevenson
Director

Date

AGREED:

Howmet Aerospace Inc.



05/03/2022

Signature

Date

R. Gutierrez
Printed or Typed Name

PRESIDENT HOWMET AEROSPACE STRUCTURES
Title