

Code § 211.122. See also 35 Ill. Adm. Code Part 266;

x. "Raw Material Data Base" shall mean the record keeping system whereby the pertinent information concerning all raw material received at the Facility for processing in the refining and/or smelt/slag treatment modes is logged and maintained;

y. "Recipe" shall mean the chemical composition of a Furnace Charge or Smelting Heat;

z. "Residue" shall mean any material remaining in a Furnace after completion of a Furnace Mode;

aa. "Secondary Capture System and Control Device" shall mean the hood, duct work, fans, and baghouse that control all fugitive emissions that escape from the Furnaces or are otherwise produced by activities in the Facility;

bb. "Smelting Heat" shall mean one or more Furnace Charges excluding any Residue in that Furnace from any previous smelting mode processed in that furnace;

cc. (1) "Stack Test" shall mean a measurement of the amount of any pollutant including, but not limited to, particulate matter and lead, emitted by a source of air emissions, that is conducted in accordance with U.S. EPA-approved test methods found at 40 C.F.R. Part 60, Appendix A;

(2) "Baseline Stack Test" shall mean the initial testing of combined Furnace Nos. 1 and 3, and combined Furnace Nos. 2 and 4, and/or combined Furnace Modes for those units, following any modification to the process and/or air pollution control equipment;

dd. "State" shall mean the State of Illinois and all its departments, agencies and

instrumentalities;

ee. "United States" shall mean the United States of America and all its departments, agencies and instrumentalities;

ff. "U.S. EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

III. APPLICABILITY

6. The provisions of this Consent Decree shall apply to and be binding upon Defendant and Defendant's agents, officers, directors, employees, successors, assigns, contractors, and consultants solely in their capacities as such. Defendant shall be responsible for the acts of its agents, officers, directors, employees, successors, assigns, contractors, and consultants, who violate, cause or permit Defendant to violate the terms of this Consent Decree.

7. No change in ownership or corporate status shall in any way alter the responsibilities of Defendant under this Consent Decree. In the event of any conveyance of title, easement, or other interest in the Facility, Defendant shall continue to meet all obligations under this Consent Decree.

8. In the event that Defendant proposes to sell or transfer any real property or operations subject to this Consent Decree, Defendant shall notify U.S. EPA and IEPA in the manner specified in 40 C.F.R. § 270.72(a) prior to the conveyance of title, easement, or any other interest, including a leasehold interest. Defendant shall make the purchasing party's compliance with the Consent Decree a condition of any sale of any portion of the Hartford Facility that is subject to this Consent Decree.

9. Defendant shall notify each contractor retained to perform work required by this

Consent Decree of each of the requirements of this Consent Decree relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines. Defendant shall further require that each such contractor notify in writing each subcontractor retained to perform work required by this Consent Decree of the requirements of this Consent Decree applicable to the work to be performed by such subcontractor.

10. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of the Defendant's officers, directors, employees, agents, servants, and successors and assigns to take actions necessary to comply with the provisions hereof. Nothing in this Paragraph shall diminish the Defendant's rights under Section XIV (Force Majeure) or any other available legal defenses.

IV. CLEAN AIR ACT COMPLIANCE

11. **Buildings and Sheds**

- a. Defendant operates on the west side of the Facility's Dust Injection System Hall, an approximately 50,000 square foot building dedicated to the storage of fines ("Fines Building").
- b. Any fines not stored in the Fines Building shall be stored in another building or a closed container.
- c. Beginning with the date of entry of this Consent Decree, Defendant shall not charge materials purchased as fines to any Furnace by any means other than the Dust Injection System.
- d. Defendant shall pay a stipulated penalty of \$500 per day for any violations of any provision of this Paragraph.

12. Designated Modes of Furnace Operation

a. Defendant has designated each of its four Furnaces to operate in specific process Modes, as follows: Mode 1 - Slag Treatment; Mode 2 - Refining (Cold Charge); Mode 3 - Smelting (Smelt); and Mode 4 - Injection.

b. Defendant's operations shall comply with the production process depicted on the chart at Appendix A.

c. Defendant shall limit production for all four of its Furnaces to 900 tons per day: Provided, should Defendant, at its discretion, utilize fewer than four Furnaces at any one time, Defendant's daily maximum production shall be equal to the maximum capacity of the Furnaces being utilized, as depicted on the chart at Appendix A.

13. Fugitive Emissions Control

a. Defendant shall comply with all the terms of the Facility's IEPA-approved Fugitive Emissions Control Program dated September 1993, as revised (incorporated herein by reference). Specifically, Defendant shall:

(1) continue to implement all measures as outlined in the approved Fugitive Emissions Control Program;

(2) maintain daily records of all actions taken pursuant to the approved Fugitive Emissions Control Program and the results thereof. Daily records shall be retained for a period of five (5) years; and

(3) submit to IEPA and U.S. EPA within seven (7) working days of the end of each calendar month a fugitive emissions report, which shall contain any and all records

indicating or demonstrating the Defendant's failure to adhere to the approved fugitive emissions control program, including, but not limited to, the dates of such failure, the duration of such failure, the reasons for such failure, and all actions taken to correct such failure.

b. The results of the fugitive emissions control program shall be available for inspection and copying by IEPA and U.S. EPA; and

c. Upon demand by U.S. EPA, Defendant shall pay a stipulated penalty of \$500 per day for each day that a fugitive emission report is not timely submitted, and \$1,000 per day for each day that such a submitted report fails to contain any information required by Paragraph 13.a.(3). Upon receipt of a fugitive emission report indicating that Defendant has failed to comply with the Fugitive Emissions Control Program, U.S. EPA, taking into consideration the factors set forth in Paragraph 13.a.(3), may demand that Defendant pay a stipulated penalty of \$500 per day for each violation set forth in the report.

14. Furnace Emission Limitations

a. Furnace Nos. 1, 2, and 3 at the Facility were operated prior to May 31, 1972, and are "existing emission sources" within the meaning of IPCB Rule 101, 35 Ill. Adm. Code § 212.322. Furnace No. 4 at the Facility was constructed after May 31, 1972, and is a "new emission source" within the meaning of IPCB Rule 101, 35 Ill. Adm. Code § 212.321. However, under Defendant's current operational and emissions control programs, Furnace No. 1 is paired with Furnace No. 3 as a "Process Emission Unit" (discussed in more detail in the CPMMS Protocol (Appendix D)) and Furnace No. 2 is paired with Furnace No. 4 as a "Process Emission Unit." As such, for purposes of this Consent Decree only, the combined emissions from Furnace Nos. 1 and 3 will be subject to 35

Ill. Adm. Code § 212.322, and the combined emissions from Furnace Nos. 2 and 4 will be subject to 35 Ill. Adm. Code § 212.321. Chemetco, at its discretion, may separate Furnace Nos. 2 and 4, with the result that the emission limit for Furnace No. 2 would once again be subject to 35 Ill. Adm. Code § 212.322: Provided, such action may be undertaken only in accordance with the Clean Air Act and its implementing regulations, including the State of Illinois SIP, 40 C.F.R. § 52.720-52.742.

b. Defendant shall comply with each of the following emission limitations at all times.

(1) The opacity limitation for visible emissions from each Furnace's control device, vent, or emission point (stack), as required by 35 Ill. Adm. Code § 212.123(a);

(2) The total particulate emissions limitation for each Process Emissions Unit (as established pursuant to 35 Ill. Adm. Code § 212.321 or § 212.322, as applicable. See Paragraph 14.a.) during each process mode, including Furnace charging and tapping emissions.

c. The Process Weight Rate calculation shall not include the Residue as part of the Furnace Charge.

d. During any 12-month period described in Paragraph 20.a., Defendant shall be subject to stipulated penalties of \$500 per day for each day of violation of Paragraph 14.b.(1) not caused by a Malfunction.

15. Secondary Capture System and Control Device

a.(1) Within 60 days following the entry of this Consent Decree, Defendant shall submit for U.S. EPA's review and approval a detailed proposal for assessing and/or improving the efficiency of the Secondary Capture System and Control Device for the Foundry. The proposal shall

address the various components of the Foundry, including, but not limited to, the integrity of the roof, supporting structure, walls, duct work and baghouse.

(2) Defendant shall complete the assessment within 120 days of Defendant's receipt of U.S. EPA's written approval of the assessment proposal.

(3) A report of the results of the assessment shall be submitted to U.S. EPA and IEPA within thirty (30) calendar days following completion of the assessment. The report shall include modification descriptions, schedules for implementation, and cost estimates.

b. Defendant shall operate the Secondary Capture System and Control Device in a manner that meets all applicable emission limitations, including the opacity limitation for visible emissions as required by 35 Ill. Adm. Code § 212.123(a).

c. Within 180 days following entry of this Consent Decree, Defendant shall install pressure drop monitors for each of the eight compartments of the baghouse.

(1) Defendant shall insure that each pressure drop monitor includes a continuous monitoring and recording device that allows pressure drop monitoring of the baghouse compartments by the operators in the control room.

(2) Defendant shall establish a baseline range of operation for pressure drop, and operate the baghouse at all times within the baseline range.

(3) Defendant shall record and maintain at the Facility, for three years after installation of the last installed pressure drop monitor, the date, time, and duration, of all time periods that the baghouse operates outside of the baseline range, and the cause of and methods used to correct such deficiency.

d. Beginning 240 days following the entry of this Consent Decree, Defendant shall achieve and maintain zero visible fugitive emissions from the Foundry.

e. A violation of any provision of this Paragraph not caused by a Malfunction shall subject Defendant to stipulated penalties of \$500 per day for each violation.

16. Baseline Stack Testing

a. Baseline Stack Testing shall be performed for all mode scenarios depicted on the chart at Appendix A pursuant to the Stack Test Protocol set forth in Appendix B.

b. Within 30 days following U.S. EPA's certification of the Continuous Particulate Mass Monitor System under Paragraph 18.c., Defendant shall conduct the Baseline Stack Tests on its Furnaces.

c. During the Baseline Stack Tests, Defendant shall confirm the calibration curve for the Continuous Particulate Mass Monitoring System installed and certified pursuant to the Continuous Mass Monitoring Plan required by Paragraph 18.a.

d. Defendant shall establish baseline operating ranges of pressure drop for the control device systems of each Furnace and of scrubber nozzle pressure for all new active air pollution control equipment.

e. Defendant may establish new baseline operating ranges for the control devices during subsequent Stack Tests, if any, provided the Stack Tests indicate compliance with all applicable limits. U.S. EPA shall be notified of any additional Stack Tests sixty (60) days prior to commencement of such tests.

f. Defendant shall require its contractor(s) to submit the results of, and a final

report on, all Stack Tests to IEPA and U.S. EPA at the same time that the contractor(s) submits such results and report to Defendant, but not later than thirty (30) days after completion of each Stack Test. Defendant's Stack Test results and final report shall include the following for each test run:

- (1) The Mode being tested;
- (2) The Process Weight Rate with supporting calculations;
- (3) The allowable particulate matter emission rate in pounds per hour (lbs/hr), calculated pursuant to Paragraph 14.b.(2) of this Consent Decree.
- (4) For Baseline Stack Tests, the actual controlled emissions rate of particulate matter;
- (5) The actual concentration of particulate matter in pounds per day; and
- (6) Copies of the continuous monitoring charts for pressure drops and scrubbant nozzle pressure rates across each control device.

g. Defendant shall allow IEPA and U.S. EPA, without warning or advance notice, to inspect the Furnace Charges and conduct any sampling of the Charges that either IEPA or U.S. EPA deems necessary during Stack Tests.

h. Defendant shall pay stipulated penalties of \$1,000 per day per Furnace for each day that:

- (1) A Baseline Stack Test is not completed in a timely manner; and
- (2) A stack test report is not timely submitted, or fails to contain any information required by the Stack Test Protocol (Appendix B) or Paragraph 16.f, respectively, of this Consent Decree.

17. Raw Materials Management System.

a. Within 180 days following the entry of this Consent Decree, Defendant, in accordance with the Raw Materials Management System Protocol (Appendix C), shall develop, utilize and maintain a computer-based Raw Material Data Base Program to calculate and record the Daily Weighted Average of zinc and lead percentages for each recipe for each Furnace Charge.

b. Defendant shall pay stipulated penalties of \$500 per day for each violation of Paragraph 17.a.

18. Continuous Mass Monitoring of Particulates. The schedule and enforcement methodology set forth in this Paragraph shall apply to Defendant's installation and utilization of a Continuous Particulate Mass Monitoring System ("CPMMS"). Such a monitoring system has not previously been utilized in the United States on a system similar to Chemetco's.

a. Within 120 days following the entry of this Consent Decree, Defendant shall submit for review and approval by U.S. EPA a Continuous Particulate Mass Monitoring Plan. Such plan shall satisfy all the elements of the protocol for installing, certifying, operating, maintaining, and reporting from the CPMMS. (See Appendix D).

b. Within 60 days following Defendant's receipt of U.S. EPA's approval of the plan submitted pursuant to Paragraph 18.a., Defendant shall install, calibrate, operate and maintain a CPMMS on each of the emission points (stacks) servicing the Facility's four Furnaces and their air pollution control devices. Defendant also shall provide a means of computing and recording the allowable particulate emission rate in pounds per hour for each "Process Emission Unit" using the equations set forth at 35 Ill. Adm. Code §§ 212.321 and 212.322, as applicable. See Paragraph 14.a.