

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0995-AIR-E **TCEQ ID:** RN100218205 **CASE NO.:** 36076

RESPONDENT NAME: Matrix Metals LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Richmond Foundry, 126 Collins Road, Richmond, Fort Bend County</p> <p>TYPE OF OPERATION: Steel foundry</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received March 17, 2008, alleging that the Respondent's activities released red dust every day. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 8, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Robert Bridges, Plant Manager, Matrix Metals LLC, 126 Collins Road, Richmond, Texas 77469 Mr. Jessie C. Payne, EHS Manager, Matrix Metals LLC, 126 Collins Road, Richmond, Texas 77469 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: March 17, 2008</p> <p>Date of Investigation Relating to this Case: April 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: June 2, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>Failure to obtain authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2. Specifically, it was documented Arc Furnace No. 1 and Arc Furnace No. 2 were operating without a permit [30 TEX. ADMIN. CODE § 116.770(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$9,675</p> <p>Total Deferred: \$1,935 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,740</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted a permit application to operate Arc Furnace No. 1 and Arc Furnace No. 2 on April 29, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, submit an Operating Permit Application Compliance Plan and Schedule ("OP-ACPS)" form to the Air Permits Division Title V Operating Permits Division for the inclusion of a compliance plan in Title V Federal Operating Permit O-02121. The compliance plan shall establish timelines for the proper New Source Review permitting procedures and Best Available Control Technology ("BACT") requirements, incorporation of all regulations applicable to the arc furnaces in Title V Federal Operating Permit O-02121, and any public notice requirements;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the New Source Review permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification for Ordering Provision a., and that either authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2 has been obtained or that operation of these furnaces has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.</p>

Additional ID No(s): FG0044H



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	9-Jun-2008			
	PCW	18-Jun-2008	Screening	18-Jun-2008	EPA Due 10-Jan-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Matrix Metals LLC
Reg. Ent. Ref. No.	RN100218205
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36076	No. of Violations	1
Docket No.	2008-0995-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	29.0% Enhancement	<i>Subtotals 2, 3, & 7</i> \$2,175

Notes: An enhancement is recommended for having one NOV for same or similar violations, two NOVs for non-similar violations, and one agreed final enforcement order containing a denial of liability.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$857
 Approx. Cost of Compliance \$3,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$9,675
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$9,675
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$9,675
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$1,935
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,740
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Screening Date 18-Jun-2008

Docket No. 2008-0995-AIR-E

PCW

Respondent Matrix Metals LLC

Policy Revision 2 (September 2002)

Case ID No. 36076

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100218205

Media [Statute] Air

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

An enhancement is recommended for having one NOV for same or similar violations, two NOVs for non-similar violations, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 18-Jun-2008	Docket No. 2008-0995-AIR-E	PCW		
Respondent Matrix Metals LLC		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36076		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN100218205				
Media [Statute] Air				
Enf. Coordinator Samuel Short				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 116.770(a) and Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description	<input type="text" value="Failed to obtain authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2. Specifically, during an investigation conducted on April 15, 2008, it was documented Arc Furnace No. 1 and Arc Furnace No. 2 were operating without a permit."/>			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	<input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
			Percent	<input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>			
			Adjustment	<input type="text" value="\$7,500"/>
			Subtotal	<input type="text" value="\$2,500"/>
Violation Events				
	Number of Violation Events	<input type="text" value="3"/>	Number of violation days	<input type="text" value="64"/>
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	x		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			Violation Base Penalty	<input type="text" value="\$7,500"/>
	<input type="text" value="Three monthly events are recommended calculated from the April 15, 2008 investigation date to the June 18, 2008 screening date."/>			
Good Faith Efforts to Comply			0.0% Reduction	<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	x		(mark with x)	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
			Violation Subtotal	<input type="text" value="\$7,500"/>
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$857"/>	Violation Final Penalty Total	<input type="text" value="\$9,675"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$9,675"/>

Economic Benefit Worksheet

Respondent Matrix Metals LLC
Case ID No. 36076
Reg. Ent. Reference No. RN100218205
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$3,000	1-Sep-2003	18-May-2009	5.72	\$857	n/a	\$857
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2.
 Begin date is the date the permit was due and the end date is the date the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$857

Compliance History

Customer/Respondent/Owner-Operator:	CN602243305 Matrix Metals LLC	Classification: AVERAGE	Rating: 6.27
Regulated Entity:	RN100218205 RICHMOND FOUNDRY	Classification: AVERAGE	Site Rating: 6.27
ID Number(s):	AIR OPERATING PERMITS PERMIT 2121	AIR OPERATING PERMITS ACCOUNT NUMBER FG0044H	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD987997582		
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) 83047		
	AIR NEW SOURCE PERMITS PERMIT 1814A		
	AIR NEW SOURCE PERMITS PERMIT 14398A		
	AIR NEW SOURCE PERMITS ACCOUNT NUMBER FG0044H		
	AIR NEW SOURCE PERMITS AFS NUM 4815700011		
	AIR NEW SOURCE PERMITS PERMIT 84879		
Location:	126 COLLINS RD, RICHMOND, TX, 77469	Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 18, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 09, 2003 to June 09, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Samuel Short	Phone:	512-239-5363

Site Compliance History Components

- | | |
|--|-------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Matrix Metals LLC |
| 4. If Yes, who was/were the prior owner(s)? | Cooper Industries, Inc. |
| 5. When did the change(s) in ownership occur? | 04/27/2004 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 09/26/2004 ADMINORDER 2004-0385-AIR-E
 Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: As owner and operator of the Plant, Matrix Metals is alleged to have failed to submit an annual compliance certification within 30 days after the end of the June 22, 2002 to June 21, 2003 certification period.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/03/2003	(250491)
2	04/29/2004	(269403)

3	11/15/2004	(340653)
4	12/10/2004	(343865)
5	12/10/2004	(297200)
6	02/08/2005	(348107)
7	11/04/2005	(432026)
8	12/15/2006	(509039)
9	01/30/2007	(538088)
10	02/28/2007	(541558)
11	01/08/2008	(595722)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	04/28/2004	(269403)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
Description:	Failure to conduct benchmark monitoring for all four quarters in 2003 and for the first quarter in 2004.			
Self Report?	NO		Classification:	Moderate
Rqmt Prov:	PERMIT MSGP Part III, Section A(5)(h)			
Description:	Failure to conduct quarterly visual monitoring for all quarters in 2002, 2003, and the first quarter in 2004.			
Self Report?	NO		Classification:	Moderate
Rqmt Prov:	PERMIT MSGP Part III, Section A(7)(b)			
Description:	Failure to conduct the annual comprehensive compliance evaluation in 2002 and 2003.			
Self Report?	NO		Classification:	Moderate
Rqmt Prov:	PERMIT MSGP Part III, Section D(1)(b)			
Description:	Failure to conduct annual effluent limitation (hazardous metals) sampling for 2002 and 2003.			
Date	12/10/2004	(297200)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.146(1)			
Rqmt Prov:	OP O-02121, General Terms & Conditions OP O-02121, Special Terms & Conditions 2.A.			
Description:	Failure to conduct the annual visual observations within the specified time frame. Category B19.g.(1)			
Date	12/15/2006	(509039)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)			
Description:	Failure to maintain a complete copy of NSR Permits 1814 and 7985 on-site.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter H 116.770 5C THC Chapter 382, SubChapter D 382.085(b)			
Description:	Failure to obtain a permit for arc furnaces EPN D and E.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.145(2)(A)			
Description:	Failure to submit a complete deviation report.			

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MATRIX METALS LLC
RN100218205

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-0995-AIR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Matrix Metals LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a steel foundry at 126 Collins Road in Richmond, Fort Bend County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 7, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Six Hundred Seventy-Five Dollars (\$9,675) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Seven Hundred Forty Dollars (\$7,740) of the administrative penalty and One Thousand Nine Hundred Thirty-Five Dollars

(\$1,935) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted a permit application to operate Arc Furnace No. 1 and Arc Furnace No. 2 on April 29, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to obtain authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2, in violation of 30 TEX. ADMIN. CODE § 116.770(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 15, 2008. Specifically, it was documented Arc Furnace No. 1 and Arc Furnace No. 2 were operating without a permit.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Matrix Metals LLC, Docket No. 2008-0995-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, submit an Operating Permit Application Compliance Plan and Schedule ("OP-ACPS)" form to the Air Permits Division Title V Operating Permits Division for the inclusion of a compliance plan in Title V Federal Operating Permit O-02121. The compliance plan shall establish timelines for the proper New Source Review permitting procedures and Best Available Control Technology ("BACT") requirements, incorporation of all regulations applicable to the arc furnaces in Title V Federal Operating Permit O-02121, and any public notice requirements;
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the New Source Review permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification for Ordering Provisions 2.a. and that either authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2 has been obtained or that operation of these furnaces has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent; or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Matrix Metals LLC
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

11/24/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Robert Bridges
Signature

11/25/08
Date

ROBERT BRIDGES
Name (Printed or typed)
Authorized Representative of
Matrix Metals LLC

PLANT MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

